

BEFORE THE ALCOHOLIC BEVERAGE CONTROL APPEALS BOARD
OF THE STATE OF CALIFORNIA

AMIR A. & SIHAM H. KASSAB	)	AB-6896
dba Becky's Party Store)	
3595 Arizona Street	)	File: 20-282000
San Diego, CA 92104	)	Reg: 96038369
Appellants/Licensees,)	
	)	Administrative Law Judge
v.	)	at the Dept. Hearing:
	)	Rodolfo Echeverria
THE DEPARTMENT OF ALCOHOLIC)	
BEVERAGE CONTROL,	)	Date and Place of the
Respondent.	)	Appeals Board Hearing:
	)	October 1, 1997
_____	)	Los Angeles, CA

Amir A. Kassab and Siham H. Kassab, doing business as Becky's Party Store (appellants), appeal from a decision of the Department of Alcoholic Beverage Control, which revoked appellants' off-sale beer and wine license, for co-appellant Amir Kassab having sold an alcoholic beverage to a person under the age of 21 years, being contrary to the universal and generic public welfare and morals provisions of the California Constitution, article XX, §22, arising from a violation of Business and Professions Code §25658, subdivision (a).

This matter is before the Appeals Board upon a motion to dismiss filed by the Department.

Appearances on appeal include appellants Amir A. Kassab and Siham H. Kassab, appearing through their counsel, John W. Stump; and the Department of Alcoholic Beverage Control, appearing through its counsel, David B. Wainstein.

FACTS AND PROCEDURAL HISTORY

Appellants have been licensed since March 1993. The license history of appellants shows that twice in 1995, sales to persons under the age of 21 years occurred. Decisions were issued in each of the matters.

The present appeal concerns a decision dated May 29, 1997, wherein the Department of Alcoholic Beverage Control ordered appellants' license revoked for the sale of an alcoholic beverage to a person under the age of 21 years. A timely Notice of Appeal was filed on July 7, 1997. The present appeal awaits the ordering, payment, and delivery of transcripts before a hearing date will be set for oral argument before the Appeals Board.

On September 9, 1997, the Department of Alcoholic Beverage Control filed a motion to dismiss the appeal on the grounds that the Department issued a decision dated July 3, 1997, in an matter unrelated to the present appeal, revoking appellants' [herein] license.¹ The Department also alleged that, on August 21, 1997, the license was physically removed from appellants' custody as appellants apparently did not file an appeal in that unrelated matter.

¹A copy of the Motion to Dismiss and Declaration of Service of the Motion; the decision of the Department dated July 3, 1997, and a Certificate of [non] Filing of Appeal and Certificate of Posting the Notice of Suspension [Revocation] are set forth in the appendix.

On September 10, 1997, the Appeals Board sent to appellants and their counsel of record, notification of the motion to dismiss, with an invitation to file briefs with the Appeals Board in opposition to the motion to dismiss the present appeal. No brief has been filed.

On October 1, 1997, after due notice of the date and place of the oral argument hearing before the Appeals Board, the matter was duly called, with no response or appearance by appellants or anyone on their behalf.

CONCLUSION

After a review of the record, the Appeals Board determines that appellants are not licensees of the Department of Alcoholic Beverage Control and therefore, this present appeal is moot.

The motion to dismiss the appeal filed by the Department of Alcoholic Beverage Control is granted. The appeal is dismissed.²

BEN DAVIDIAN, CHAIRMAN
RAY T. BLAIR, JR., MEMBER
JOHN B. TSU, MEMBER
ALCOHOLIC BEVERAGE CONTROL
APPEALS BOARD

²This final decision is filed in accordance with Business and Professions Code §23088, and shall become effective 30 days following the date of the filing of this final decision as provided by §23090.7 of said code.

Any party may before this final decision becomes effective, apply to the appropriate district court of appeal, or the California Supreme Court, for a writ of review of this final decision in accordance with Business and Professions Code §23090 et seq.