

ISSUED OCTOBER 7, 1998

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

George Fragoso	)	AB-6946
dba El Conquistador Restaurant)	
70190 Highway 111	)	File: 47-303623
Rancho Mirage, CA 92270,	)	Reg: 97039634
Appellant/Licensee,)	
	)	Administrative Law Judge
v.	)	at the Dept. Hearing:
	)	Rodolfo Echeverria
)	
DEPARTMENT OF ALCOHOLIC	)	Date and Place of the
BEVERAGE CONTROL,	)	Appeals Board Hearing:
Respondent.	)	July 8, 1998
	)	Los Angeles, CA
)	

George Fragoso, doing business as El Conquistador Restaurant (appellant) appeals from a decision of the Department of Alcoholic Beverage Control¹ which suspended his license for 35 days and indefinitely thereafter until appellant fully complies with the Department's request, dated January 27, 1997, for records, for appellant's bartender possessing a football pool card, and for appellant violating conditions on his license by failing to immediately produce a copy of the license conditions upon request by a peace officer, by allowing entertainment to be audible

¹The decision of the Department, dated September 11, 1997, is set forth in the appendix.

beyond the area under his control, by failing to provide at least one uniformed security guard in the parking lot of the premises between 11:30 p.m. and 12:20 a.m. and by failing to maintain and provide records reflecting gross sales of food and of alcoholic beverages, being contrary to the universal and generic public welfare and morals provisions of the California Constitution, article XX, §22, and Business and Professions Code §24200, subdivision (a), arising from violations of Business and Professions Code §23804 and Penal Code 337a.

Appearances on appeal include appellant George Fragoso, appearing through his representative, J.J.L.T. Royale, and the Department of Alcoholic Beverage Control, appearing through its counsel, Jonathon Logan.

FACTS AND PROCEDURAL HISTORY

Appellant's on-sale general eating place license was issued on June 7, 1996. Thereafter, the Department instituted an accusation against appellant charging the violations noted above.

An administrative hearing was held on July 8, 1997, at which time oral and documentary evidence was received. At that hearing, testimony was presented by Department investigator Dana L. Saladen concerning her observations at the premises on January 24, 1997.

Subsequent to the hearing, the Department issued its decision which determined that the allegations in the accusation had been proven.

Appellant thereafter filed a timely notice of appeal. Written notice of the

opportunity to file briefs in support of appellant's position was given on March 24, 1998. No brief has been filed by appellant. We have reviewed the notice of appeal and have found no information there which would aid our review.

The Appeals Board is not required to make an independent search of the record for error not pointed out by appellant. It was the duty of appellant to show to the Appeals Board that the claimed error existed. Without such assistance by appellant, the Appeals Board may deem the general contentions waived or abandoned. (Horowitz v. Noble (1978) 79 Cal.App.3d 120, 139 [144 Cal.Rptr. 710] and Sutter v. Gamel (1962) 210 Cal.App.2d 529, 531 [26 Cal.Rptr. 880, 881].)

CONCLUSION

The decision of the Department is affirmed.²

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

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

Any party, before this final decision becomes effective, may apply to the appropriate 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.