

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

TAXCO MEXICAN RESTAURANT	)	AB-7002
dba Taxco Mexican Food)	
14540 Van Owen Street	)	File: 47-041074
Van Nuys, CA 91405,	)	Reg: 97038873
Appellant/Licensee,)	
	)	Administrative Law Judge
v.	)	at the Dept. Hearing:
	)	John A. Willd
)	
DEPARTMENT OF ALCOHOLIC	)	Date and Place of the
BEVERAGE CONTROL,	)	Appeals Board Hearing:
Respondent.	)	January 6, 1999
	)	San Diego, CA

Taxco Mexican Restaurant, doing business as Taxco Mexican Food (appellant), appeals from a decision of the Department of Alcoholic Beverage Control¹ which revoked its license² for appellant's then president and sole shareholder, Jose Luis Ordonez, being convicted, on a plea of guilty, of the crime of money laundering, a crime involving moral turpitude, 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 (d).

¹The decision of the Department, dated December 18, 1997, is set forth in the appendix.

²The license was revoked "without prejudice to Sylvia Estrada Castro to apply for a license at the above premises, either as an individual or as a shareholder, and thereby give the Department an opportunity to determine whether or not under all the circumstances she is qualified to be a licensee." (Dept. decision at 4.)

Appearances on appeal include appellant Taxco Mexican Restaurant, appearing through its counsel, Edward Lopez and Robin Scroggie, and the Department of Alcoholic Beverage Control, appearing through its counsel, David Sakamoto.

FACTS AND PROCEDURAL HISTORY

Appellant's on-sale general public eating place license was issued on September 16, 1974. Thereafter, the Department instituted an accusation against appellant charging that, on or about April 23, 1996, Jose Luis Ordonez, appellant's then president and sole shareholder, pled guilty to a charge of money laundering in violation of Title 18, Section 1956(a)(3)(B) of the United States Code, a crime involving moral turpitude, in violation of Business and Professions Code §24200, subdivision (d). In addition, the accusation charged that Sylvia Ordonez, described as the current president and sole shareholder of appellant corporation, was not qualified, pursuant to Rule 58 (4 Cal.Code Regs., §58), to be a licensee because her spouse, Jose Luis Ordonez, was not qualified by virtue of his plea of guilty to a crime involving moral turpitude.

An administrative hearing was held on August 25, 1997, at which time oral and documentary evidence was received concerning the divorce of Jose Luis Ordonez (hereinafter "Jose") and Sylvia Ordonez (or Sylvia Estrada Castro, hereinafter "Sylvia") and the transfer or attempted transfer of all the corporate stock to Sylvia.

Subsequent to the hearing, the Department issued its decision which determined that the license should be revoked due to the guilty plea, of the then corporate president, to money laundering charges. The decision did not determine whether Jose and Sylvia were divorced or whether Sylvia was qualified to hold a license as an individual licensee.

Appellant thereafter filed a timely notice of appeal, but stated no specific grounds for the appeal. Written notice of the opportunity to file briefs in support of the appellant's position was given on October 8, 1998. No brief has been filed by appellant. We have reviewed the notice of appeal and have found nothing in that document that 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 the Appeals Board that an 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].)

It is especially unfortunate that appellant has filed no brief in this case, because the transcript and the Department decision are very confusing. It appears that Jose and Sylvia were divorced in Mexico in 1992, long before Jose's money laundering plea. If this is true, there would be no issue involving Rule 58 (requiring a licensee's spouse to be qualified to hold a license, even if the spouse is not on the license in question), which was the basis for count II of the accusation.

It is also unclear who owns the stock of appellant and when that stock was acquired. Jose Ordonez, in a statement dated August 11, 1997 (Exhibit 12), states that 100 shares were transferred to his ex-wife, Sylvia, on May 1, 1996. Those shares apparently made up 100 percent of the outstanding stock, but that is not clearly stated anywhere.

Assuming Sylvia is now the sole shareholder and is not disqualified from holding the license, she must file an application as the new sole shareholder so the Department

can determine whether she is qualified to hold a license. The ALJ provided for this in his order.

Unfortunately, the only issue for this board is whether or not the license should be revoked due to Jose's guilty plea to money laundering when he was president and sole shareholder. Pursuant to Business and Professions Code §24200, subdivision (d), that plea to a crime involving moral turpitude provides grounds for revocation of the license. We cannot, as the ALJ could not, confirm Sylvia as the licensee, since the change of ownership requires a new application and an investigation by the Department to determine if Sylvia is qualified to hold the license.

ORDER

The decision of the Department is affirmed.³

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

³This 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 order as provided by §23090.7 of said code.

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