

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

|                              |   |                          |
|------------------------------|---|--------------------------|
| RAFAELA LOBATO               | ) | AB-7047                  |
| dba Cabana Azul              | ) |                          |
| 16883 Avenue 168             | ) | File: 42-295301          |
| Woodville, California 93257, | ) | Reg: 97039574            |
| 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.                  | ) | March 4, 1999            |
|                              | ) | Sacramento, CA           |
|                              | ) |                          |

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Rafaela Lobato, doing business as Cabana Azul (appellant), appeals from a decision of the Department of Alcoholic Beverage Control<sup>1</sup> which revoked her on-sale beer and wine public premises license for various violations of the Alcoholic Beverage Control Act, including participation in a profit-sharing scheme of drink solicitation, the purchase of alcoholic beverages from an unlicensed seller, possession of distilled liquor on the licensed premises, and not having been the true owner of the licensed premises, all being contrary to the universal and generic public welfare and morals provisions of the California Constitution, article XX, §22, arising from violations of Business and

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<sup>1</sup>The decision of the Department, dated February 11, 1998, is set forth in the appendix.

Professions Code §24200.5; 25657, subdivision (a); 23402; 25607; 23300; and 23335.

Appearances on appeal include appellant Rafaela Lobato and the Department of Alcoholic Beverage Control, appearing through its counsel, Thomas Allen.

#### FACTS AND PROCEDURAL HISTORY

Appellant's on-sale beer and wine public premises license was issued on May 26, 1994. Thereafter, the Department instituted an accusation against appellant charging various violations of the Alcoholic Beverage Control Act.

An administrative hearing was held on December 18, 1997, at which time oral and documentary evidence was received. At that hearing, testimony was presented by witnesses for the Department of Alcoholic Beverage Control, in support of the charges of the accusation, and by witnesses on behalf of appellant, in her defense.

Subsequent to the hearing, the Department issued its decision which found the violations set forth above, and appellant filed a timely notice of appeal.

Written notice of the opportunity to file briefs in support of the appellant's position was given on October 8, 1998. Appellant's brief was originally due November 1, 1998. Her time was extended to December 1, 1998, but no brief has been received. Appellant was also notified of the date this matter would be heard.

We have reviewed the notice of appeal and have found insufficient assistance in that document which would aid in 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].)

We have reviewed the record and have found no reason why the decision of the Department should be overturned.

ORDER

The decision of the Department is affirmed.<sup>2</sup>

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

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<sup>2</sup> *This 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.*