

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

RAFAEL SANCHEZ	)	AB-7157a
dba Pacheco's Latin Strip)	
650 South Atlantic Blvd.	)	File: 42-235621
Los Angeles, CA 90022,	)	Reg: 97042172
Appellant/Licensee,)	
	)	Administrative Law Judge
v.	)	at the Dept. Hearing:
	)	Sonny Lo
)	
DEPARTMENT OF ALCOHOLIC	)	Date and Place of the
BEVERAGE CONTROL,	)	Appeals Board Hearing:
Respondent.	)	May 4, 2000
	)	Los Angeles, CA

Rafael Sanchez, doing business as Pacheco's Latin Strip (appellant), appeals from a decision of the Department of Alcoholic Beverage Control¹ entered following an Appeals Board decision, which revoked his license, but stayed revocation conditioned upon an actual 30-day suspension and a two-year period of discipline-free operation, for having permitted the solicitation of drinks, being contrary to the universal and generic public welfare and morals provisions of the California Constitution, article XX, §22, arising from a violation of Department Rule 143 (4 Cal. Code Regs. §143.).

Appearances on appeal include appellant Rafael Sanchez, appearing through his counsel, Armando H. Chavira, and the Department of Alcoholic

¹*The Department's Decision Following Appeals Board Decision, dated November 29, 1999, is set forth in the appendix.*

Beverage Control, appearing through its counsel, John W. Lewis.

FACTS AND PROCEDURAL HISTORY

Appellant's on-sale beer and wine public premises license was issued on August 31, 1989. Thereafter, the Department instituted an accusation charging, in three counts, that appellant employed a woman to solicit drinks. Following an administrative hearing on April 16, 1998, the Department adopted the proposed decision of the ALJ which sustained two of the three counts of the accusation, those charging violations of Rule 143 and Penal Code §303, and ordered appellant's license revoked.

Concluding the Penal Code charge should also have been dismissed, the Appeals Board reversed the penalty, and remanded the case to the Department for reconsideration of the penalty.

Acknowledging the Appeals Board decision, the Department, after a review of the entire record, ordered the penalty which is the subject of the present appeal.

Written notice of the opportunity to file briefs in support of the appellant's position was given on January 26, 2000. No brief has been filed by appellant. 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].)

Our review of the record satisfied us that the Department's revised penalty order is consistent with the Board's remand order.

ORDER

The decision of the Department is affirmed.²

TED HUNT, CHAIRMAN
RAY T. BLAIR, JR., MEMBER
E. LYNN BROWN, 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.