

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

AB-7482a

File: 20-274553 Reg: 99046152

THE SOUTHLAND CORPORATION, SHUN L. WANG, and SHU J. WANG
dba 7-Eleven Food Store
4647 Wilson Road, Bakersfield, CA 93309,
Appellants/Licensees

v.

DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL,
Respondent

Administrative Law Judge at the Dept. Hearing: Sonny Lo

Appeals Board Hearing: December 6, 2001
Los Angeles, CA

ISSUED JANUARY 29, 2002

The Southland Corporation, Shun L. Wang, and Shu J. Wang, doing business as 7-Eleven Food Store (appellants), appeal from a decision of the Department of Alcoholic Beverage Control¹ which suspended their license for 15 days for their clerk having sold an alcoholic beverage to a minor, 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).

Appearances on appeal include appellants The Southland Corporation, Shun L. Wang, and Shu J. Wang, appearing through their counsel, Ralph Barat Saltsman and Stephen Warren Solomon, and the Department of Alcoholic Beverage Control, appearing through its counsel, Matthew G. Ainley.

¹The decision of the Department, dated August 2, 2001, is set forth in the appendix.

FACTS AND PROCEDURAL HISTORY

This is the second appeal in this matter. In its initial consideration of this matter, the Appeals Board rejected appellants' contentions that there had been violations of Department Rule 141(b)(2) and (b)(5), but directed that the matter be remanded to the Department to permit discovery of the identities of any licensees charged with having sold alcoholic beverages to the decoy in question on the same night.

The Department, in turn, ordered the case remanded to Administrative Law Judge Sonny Lo, directing him to conduct a hearing to permit appellants to make an offer of proof as to what impact discovery has or may have on the case, and to thereafter conduct such further proceedings as he deemed necessary and appropriate.

Thereafter, following the submission by the Department of a declaration stating that no discoverable information exists, Judge Lo concluded that no further proceedings were necessary, and reimposed the 15-day suspension ordered in his original proposed decision.

Appellants have filed a timely notice of appeal, asserting only the statutory grounds for an appeal. Appellants have not filed a brief, despite notice from the Appeals Board that any brief was to be filed on or before October 19, 2001.

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].)

Nonetheless, we have reviewed the record in this matter, and are satisfied that the Department complied with this Board's original order of remand, and that its decision should be affirmed. Since there were no other sales to the decoy in question, there was no reason for further proceedings.

ORDER

The decision of the Department is affirmed.²

TED HUNT, CHAIRMAN
E. LYNN BROWN, MEMBER
ALCOHOLIC BEVERAGE CONTROL
APPEALS BOARD

² This 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.