

ISSUED APRIL 26, 2001

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

SHARAREH AFSHARI	)	AB-7588
dba Lakeside Deli)	
531 Summerfield Road	)	File: 20-286645
Santa Rosa, CA 95405,	)	Reg: 99045854
Appellant/Licensee,)	
	)	Administrative Law Judge
v.	)	at the Dept. Hearing:
	)	Arnold Greenberg
)	
DEPARTMENT OF ALCOHOLIC	)	Date and Place of the
BEVERAGE CONTROL,	)	Appeals Board Hearing:
Respondent.	)	February 15, 2001
	)	San Francisco, CA

Sharareh Afshari, doing business as Lakeside Deli (appellant), appeals from a decision of the Department of Alcoholic Beverage Control¹ which revoked his license for his clerk having made sales of alcoholic beverages to minors on October 17, 1999, and October 30, 1999, 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 Professions Code §25658, subdivision (a).

Appearances on appeal include appellant Sharareh Afshari, representing

¹The decision of the Department, dated February 17, 2000, is set forth in the appendix.

himself, and the Department of Alcoholic Beverage Control, appearing through its counsel, Robert Wieworka.

FACTS AND PROCEDURAL HISTORY

Appellant's off-sale beer and wine license was issued on September 13, 1993. Thereafter, the Department instituted an accusation against appellant charging sales of alcoholic beverages to minors, in violation of Business and Professions Code §25658, subdivision (a).

An administrative hearing was held on December 28, 1999, at which time oral and documentary evidence was received. At that hearing, testimony was presented which established that alcoholic beverages had been sold to minors on two occasions, one on October 17, 1999, and the second on October 30, 1999. In each case, the clerk who made the sell was Jennifer McGehee.² Subsequent to the hearing, the Department issued its decision which revoked appellant's license.

Appellant filed a timely notice of appeal, in which he stated that, as an absentee owner, he provides an extensive training program for his employees, and that McGehee went through his training procedure. Appellant did not challenge the fact that the two violations occurred.

The Department has now filed a motion to dismiss the appeal. It represents to the Board that, while this appeal was pending, appellant was again found to have violated Business and Professions Code §25658, subdivision (a), that his license was once again ordered revoked, and that the decision in that matter was

² In the transcript, the clerk's name is spelled "McGehee." In appellant's letter notice of appeal, the name is spelled "McGee."

not appealed and has become final. Under such circumstances, the Department states, this appeal is now moot, and should be dismissed.

Attached to the Department's moving papers is a copy of a decision in Registration No. 00048117, adopted by the Department on August 3, 2000, which reflects the violation and revocation order referred to by the Department.³

Appellant has not filed any opposition to the Department's motion, nor any brief in support of his appeal.

DISCUSSION

Based upon our review of the record and the Department's moving papers, we believe the Department's motion is well-taken. The appeal is dismissed.⁴

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

³ This decision, made following a default hearing when Afshari failed to appear, addressed a sale to a minor on November 18, 1999. The decision also referred to prior violations on March 20, 1998, and July 25, 1998. Adding the October 17 and October 30, 1999, violations, it appears that appellant was responsible, through the acts of his employees, for five sale-to-minor violations in nineteen months.

⁴ 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.