

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

AB-7590a

File: 20-215120 Reg: 99047278

7-ELEVEN, INC., BALRAJ CHOPRA, and NEELAM CHOPRA
dba 7-Eleven Food Store #20336
16929 Roscoe Boulevard, Sepulveda, CA 91343,
Appellants/Licensees

v.

DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL,
Respondent

Administrative Law Judge at the Dept. Hearing: Ronald M. Gruen

Appeals Board Hearing: April 3, 2003
Los Angeles, CA

ISSUED MAY 22, 2003

This is the second appeal by 7-Eleven, Inc., Balraj Chopra, and Neelam Chopra, doing business as 7-Eleven Food Store #20336 (appellants), from a decision of the Department of Alcoholic Beverage Control¹ which ordered their license suspended for 15 days after finding that appellants violated Business and Professions Code section 25658, subdivision (a), through the sale of an alcoholic beverage to a minor decoy. In this appeal, appellants contend that the Department denied them due process by refusing to conduct further hearings following the Board's remand in its decision on the first appeal in order to permit them to discover the identity of other licensees who sold to that decoy during the same decoy operation. Additionally, appellants contend that

¹The decision of the Department, dated November 8, 2001, is set forth in the appendix.

the decision fails to comply with the mandate of the Board with respect to Rule 141(b)(2).

Appearances on appeal include appellants 7-Eleven, Inc., Balraj Chopra, and Neelam Chopra, 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.

FACTS AND PROCEDURAL HISTORY

The initial appeal in this matter followed a decision by the Department which sustained the sale-to-minor charge. The Board reversed the decision, and ordered the case remanded to the Department for further proceedings with respect to the issues concerning the standard to be applied in evaluating the appearance of the decoy, Kathryn Paschal, and appellants' entitlement to discovery of the identities of other licensees who may have made sales to the decoy in question on the same day as the sale by appellants' clerk.²

Upon remand, the Department entered an order remanding the matter to Administrative Law Judge Gruen. The order, entered July 9, 2001, directed the Department's compliance with appellants' discovery request, as limited by the Appeals

² In *Circle K, Inc.* (1999) AB-7080, the Board held that the Department erred in limiting its assessment of the decoy's appearance under Rule 141(b)(2) to physical appearance, and, in *The Circle K Corporation* (2000) AB-7031a, that a licensee charged with having sold an alcoholic beverage to a minor decoy was entitled to discovery of the names and addresses of other licensees, if any, who sold to the same decoy in the course of the same decoy operation.

Board, and further directed Judge Gruen:

“... to initially take further evidence and argument, by way of affidavit and briefing only, as to what new evidence [appellants] intend to offer at any further hearing ... and how such evidence is relevant to the proceeding. Following submission of any such additional evidence and argument, and any response from the Department, the Administrative Law Judge shall thereafter hold any further proceedings as he determines are necessary and appropriate, in his exclusive discretion.”

The present appeal arose from the Department’s adoption of Judge Gruen’s proposed decision submitted by him following such remand.

At oral argument before the Appeals Board, counsel for the Department stipulated to the reversal of the Department’s decision.

ORDER

Pursuant to stipulation, the decision of the Department is reversed. This matter is remanded to the Department for such further proceedings as may be appropriate.³

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

³ 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.