

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

AB-8690

File: 20-286535 Reg: 05060834

CHEVRON STATIONS, INC., dba Chevron
1103 South Main Street, Manteca, CA 95337,
Appellant/Licensee

v.

DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL,
Respondent

Administrative Law Judge at the Dept. Hearing: John P. McCarthy

Appeals Board Hearing: January 15, 2009
San Francisco, CA

ISSUED JUNE 1, 2009

Chevron Stations, Inc., doing business as Chevron (appellant), appeals from a decision of the Department of Alcoholic Beverage Control¹ which suspended its license for 10 days for appellant's clerk selling an alcoholic beverage to a police minor decoy, a violation of Business and Professions Code section 25658, subdivision (a).

Appearances on appeal include appellant Chevron Stations, Inc., appearing through its counsel, Ralph B. Saltsman, Stephen W. Solomon, and Michael Akopyan, and the Department of Alcoholic Beverage Control, appearing through its counsel, Dean R. Lueders.

FACTS AND PROCEDURAL HISTORY

Appellant's off-sale beer and wine license was issued on August 3, 1993. On

¹The decision of the Department, dated March 16, 2007, is set forth in the appendix.

September 29, 2005, the Department filed an accusation against appellant charging that, on July 29, 2005, appellant's clerk, Dawna Hughes (the clerk), sold an alcoholic beverage to 17-year-old Annmarie Obligation. Although not noted in the accusation, Obligation was working as a minor decoy for the Manteca Police Department at the time.

At the administrative hearing held on January 10, 2007, documentary evidence was received, and testimony concerning the sale was presented by Obligation (the decoy) and by Micoles Obligation, a Manteca Police officer.

Subsequent to the hearing, the Department issued its decision which determined that the violation charged had been proven, and no defense had been established.

Appellant has filed an appeal making the following contention: the Department communicated ex parte with its decision maker. Appellant has also moved to augment the record with the addition of any report of hearing and related documents, and General Order No. 2007-09 and related documents.

The Department requests that this case be remanded to the Department for consideration of the ex parte issue. There being no objection from appellant, we shall grant the Department's request.

ORDER

This matter is remanded to the Department for an evidentiary hearing in accordance with the foregoing discussion.²

FRED ARMENDARIZ, CHAIRMAN
SOPHIE C. WONG, MEMBER
TINA FRANK, MEMBER
ALCOHOLIC BEVERAGE CONTROL
APPEALS BOARD

² This order of remand is filed in accordance with Business and Professions Code section 23085, and does not constitute a final order within the meaning of Business and Professions Code section 23089.