

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

AB-8734

File: 20-286537 Reg: 06063244

CHEVRON STATIONS, INC., dba Chevron
3900 Pelendale Avenue, Modesto, CA 95364,
Appellant/Licensee

v.

DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL,
Respondent

Administrative Law Judge at the Dept. Hearing: John P. Mc Carthy

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

ISSUED MAY 22, 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 25 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 June 27, 2006, the Department filed an accusation against appellant charging that, on April 26, 2006, appellant's clerk, Paul Stanford (the clerk), sold an alcoholic beverage to

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

19-year-old Benjamin Johnson. Although not noted in the accusation, Johnson was working as a minor decoy.

At the administrative hearing held on June 6, 2007, documentary evidence was received, and testimony concerning the sale was presented by Johnson (the decoy). Will Helpley testified on behalf of appellant with respect to appellant's policies and practices directed at preventing sales of alcoholic beverages to minors.

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 filed a motion to augment the record with documents consisting of, and related to, any report of hearing and General Order No. 2007-09.

DISCUSSION

The Department has requested that this case be remanded to the Department for consideration of the ex parte communication issue. There being no objection from appellant, we shall remand the case to the Department pursuant to its 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.