

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

AB-8755

File: 20-324611 Reg: 07065000

CHEVRON STATIONS, INC., dba Chevron 1581
4211 Sierra College Boulevard, Rocklin, CA 95677,
Appellant/Licensee

v.

DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL,
Respondent

Administrative Law Judge at the Dept. Hearing: Michael B. Dorais

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

ISSUED JUNE 4, 2009

Chevron Stations, Inc., doing business as Chevron 1581 (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 and Stephen W. Solomon, and the Department of Alcoholic Beverage Control, appearing through its counsel, Gerry J. Agerbek.

FACTS AND PROCEDURAL HISTORY

Appellant's off-sale beer and wine license was issued on March 21, 1997. The

¹The decision of the Department, dated September 20, 2007, is set forth in the appendix.

Department filed an accusation against appellant charging that appellant's clerk sold an alcoholic beverage to 19-year-old Lori Pierce on November 22, 2006. Pierce was working as a minor decoy for the Rocklin Police Department at the time.

At the administrative hearing held on July 17, 2007, documentary evidence was received and testimony concerning the sale was presented. The testimony established that the clerk looked at the decoy's valid California driver's license that showed her to be 19 years old, but sold her a six-pack of Coors Light beer.

Subsequent to the hearing, the Department issued its decision which determined that the violation charged was proved and no defense was established. Appellant filed an appeal contending the Department had no procedures in place at the time of the hearing to prevent ex parte communication between its litigating attorneys and its decision maker.

The Department requests that this case be remanded to it 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.