

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

AB-8834

File: 20-413539 Reg: 07065123

KASHMIR TAX & BUSINESS SERVICES, dba Florin Chevron
4700 Florin Road, Sacramento, CA 95823,
Appellant/Licensee

v.

DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL,
Respondent

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

Appeals Board Hearing: July 2, 2009
San Francisco, CA

ISSUED DECEMBER 1, 2009

Kashmir Tax & Business Services, doing business as Florin Chevron (appellant), appeals from a decision of the Department of Alcoholic Beverage Control¹ which revoked its license for its clerk selling an alcoholic beverage to a police minor decoy, a violation of Business and Professions Code section 25658, subdivision (a), and the third such violation in less than three years.

Appearances on appeal include appellant Kashmir Tax & Business Services, appearing through its counsel, Rick Warren, and the Department of Alcoholic Beverage Control, appearing through its counsel, Dean R. Lueders.

¹The decision of the Department, dated February 20, 2008, is set forth in the appendix.

FACTS AND PROCEDURAL HISTORY

Appellant's off-sale beer and wine license was issued on August 27, 2004. On February 23, 2007, the Department filed an accusation charging that appellant's clerk sold an alcoholic beverage to 19-year-old Jeremy Weininger on October 23, 2006. Although not noted in the accusation, Weininger was working as a minor decoy for the Sacramento County Sheriff's Department at the time.

At the administrative hearing held on January 9, 2008, documentary evidence was received, and testimony concerning the sale was presented by Weininger (the decoy). The sole owner of the corporate licensee, Kashmir Sivia, testified about employee training.

Subsequent to the hearing, the Department issued its decision which determined that the violation charged was proved and no defense was established. Appellant filed a notice of appeal stating only the statutory grounds for appeal.

Written notice of the opportunity to file briefs in support of appellant's position was given on April 8, 2009, but appellant did not file a brief. The notice of appeal lacks sufficient information for this Board to ascertain the basis for appellant's appeal.

The Appeals Board is not required to make an independent search of the record for error not pointed out by appellant. It was appellant's duty to show the Board that the error existed. Without such assistance by appellant, the Appeals Board may deem the general contentions waived or abandoned. (*Horowitz v. Noble* (1978) 79 Cal.App.3d 120, 139 [144 Cal.Rptr. 710]; *Sutter v. Gamel* (1962) 210 Cal.App.2d 529, 531 [26 Cal.Rptr. 880, 881].)

We have reviewed the record, but found nothing that appeared to be reversible error. At the hearing, Sivia did not deny the illegal sale, or the previous sales, but only asked to have the penalty reduced to probation. The penalty of revocation in this instance is well within the discretion of the Department and we find no cause to interfere with the Department's determination.

ORDER

The decision of the Department is affirmed.²

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

²This final order is filed in accordance with Business and Professions Code section 23088, and shall become effective 30 days following the date of the filing of this order as provided by section 23090.7 of said code.

Any party, before this final order becomes effective, may apply to the appropriate court of appeal, or the California Supreme Court, for a writ of review of this final order in accordance with Business and Professions Code section 23090 et seq.