

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

**AB-9048**

File: 20-441008 Reg: 09070962

BASHEER MOSSLEH ABDO AMMARI, dba Benny's Market  
1854 Church Street, Oakland, CA 94621,  
Appellant/Licensee

v.

DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL,  
Respondent

Administrative Law Judge at the Dept. Hearing: none

Appeals Board Hearing: April 1, 2010  
San Francisco, CA

**ISSUED JULY 20, 2010**

Basheer Mossleh Abdo Ammari, doing business as Benny's Market (appellant), appeals from a decision of the Department of Alcoholic Beverage Control<sup>1</sup> which revoked his license for molesting a child and for being convicted of child molestation, violations of Business and Professions Code section 24200, subdivisions (a), (b), and (d), and Penal Code section 647.6, subdivision (a)(1).

Appearances on appeal include appellant Basheer Mossleh Abdo Ammari, appearing through his counsel, Richard D. Warren, and the Department of Alcoholic Beverage Control, appearing through its counsel, Robert Wieworka.

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<sup>1</sup>The Department's Decision Following Default, dated July 13, 2009, is set forth in the appendix.

## FACTS AND PROCEDURAL HISTORY

Appellant's off-sale beer and wine license was issued on August 22, 2006. On April 27, 2009, the Department filed a two-count accusation against appellant charging that, on May 17, 2007, appellant molested or annoyed a child under 18 years of age (count 1), and on February 6, 2008, appellant was convicted of child molestation, a public offense involving moral turpitude (count 2).

An accusation and notice of defense were served on appellant on April 27, 2009. When no response was received from appellant, the Department sent him a "warning letter" on May 14, 2009, advising him that he was in default and that a default judgment would be entered against him if he did not respond within 20 days. The Department received no notice of defense or other response, and it entered its Decision Following Default on July 13, 2009.

On July 16, 2009, appellant filed with the Department a Motion to Vacate Decision Following Default<sup>2</sup> and a Notice of Defense, both requesting the matter be set for hearing. Appellant also filed an appeal with this Board from the Decision Following Default.

The Department issued its Order<sup>3</sup> denying the Motion to Vacate on July 23, 2009. On August 10, 2009, appellant filed an appeal from that Order, asking that it be consolidated with the earlier-filed appeal from the Decision Following Default. The two appeals have been consolidated and will be treated as one appeal.

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<sup>2</sup>Appellant's Motion to Vacate Decision Following Default is included in the appendix.

<sup>3</sup>The Department's Order on Motion to Vacate Decision Following Default is set forth in the appendix.

## DISCUSSION

Written notice of the opportunity to file briefs in support of appellant's position was given on January 6, 2010, but appellant has not filed 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].)

The Board has reviewed the record provided of the criminal charges against appellant and his conviction based on his plea of "no contest." These unchallenged investigatory and judicial documents clearly provide substantial evidence to support the Department's findings and determinations. Since appellant did not file a brief, the Board has no basis to do anything other than affirm the Department's Decision Following Default.

The Department exercised its discretion when it denied appellant's Motion to Vacate, and the Board may not interfere with the Department's exercise of discretion unless an abuse is clearly shown. Appellant has not shown that the Order on Motion to Vacate Decision Following Default was an abuse of discretion by the Department, so the denial of the Motion to Vacate must also be affirmed.

ORDER

The Department's Decision Following Default and Order on Motion to Vacate Decision Following Default are affirmed.<sup>4</sup>

FRED ARMENDARIZ, CHAIRMAN  
TINA FRANK, MEMBER  
ALCOHOLIC BEVERAGE CONTROL  
APPEALS BOARD

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<sup>4</sup>This 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.