

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

**AB-9736**

File: 20-515651 Reg: 17085971

CIRCLE K STORES INC.,  
dba Circle K #9438  
2114 Verdugo Boulevard,  
Glendale, CA 91020,  
Appellant/Licensee

v.

DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL,  
Respondent

Administrative Law Judge at the Dept. Hearing: Matthew G. Ainley

Appeals Board Hearing: February 7, 2019  
Ontario, CA

**ISSUED FEBRUARY 20, 2019**

Appearances: *Appellant:* Alexa L. Halloran, of Solomon Saltsman & Jamieson, as counsel for Circle K Stores Inc., doing business as Circle K #9438.  
*Respondent:* Jonathan Nguyen as counsel for the Department of Alcoholic Beverage Control.

**OPINION**

Circle K Stores Inc., doing business as Circle K #9438, appeals from a decision of the Department of Alcoholic Beverage Control<sup>1</sup> suspending its license for 15 days because its clerk sold an alcoholic beverage to a non-decoy minor, in violation of Business and Professions Code section 25658, subdivision (a).

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1. The decision of the Department, dated July 24, 2018, is set forth in the appendix.

## FACTS AND PROCEDURAL HISTORY

Appellant's off-sale beer and wine license was issued on March 1, 2012. On October 4, 2017, the Department filed an accusation charging that appellant's clerk, Jeanne Rask (the clerk), sold an alcoholic beverage to 20-year-old Michael Benson on April 8, 2017.

At the administrative hearing held on January 17, 2018, documentary evidence was received, and testimony concerning the sale was presented by Benson (the minor) and by Agent David Duran of the Department of Alcoholic Beverage Control. Appellant presented no witnesses.

Testimony established that on the date in question, Benson entered the licensed premises and selected two Rock Star energy drinks and an 18-pack of Bud Light beer in cans. He took the beer and the energy drinks to the counter and set them down. Benson asked Rask, the clerk, for a pack of Swisher Sweets, a tobacco product. Rask obtained the tobacco and set it down on the counter.

Agent Duran saw Benson enter the licensed premises and observed that Benson appeared youthful. Agent Duran had an unobstructed view as he watched Benson from outside the premises. When he saw Benson walking toward the counter with the beer, he entered and got in line behind him.

Rask rang up all of the products. She did not ask Benson to show any identification, nor did she inquire as to his age. Benson paid for the beer, the tobacco, and the energy drinks, then exited the premises.

Agent Duran exited and notified his partners. Collectively, they contacted Benson. Agent Duran asked Benson if he was 21. Benson said that he was. Agent

Duran asked to see Benson's identification and indicated that he was going to search him. Benson admitted that he was only 20 years old and showed the agents his actual California driver's license. Agent Duran searched Benson. He did not find any other form of identification, fake or real. Benson stated that he did not have and had never used a fake identification.

Agent Duran reentered the licensed premises and spoke to Rask. He informed her that she had sold alcohol to a minor. Rask indicated that she did not know to whom he was referring.

Agent Duran exited and escorted Benson to the front of the licensed premises. He had Benson stand near the doors. Agent Duran entered and contacted Rask a second time. He had her stand on the customer side of the counter and look out the door at Benson. Rask stated that Benson was a regular customer who had shown her identification in the past. She could not, however, recall anything about the identification.

Agent Duran exited and spoke to Benson, who once again denied ever using a fake identification. He offered to let the agents search him again. The agents did so; they could not find any fake identification. Benson was cited.

Agent Duran reentered the licensed premises and spoke to Rask a third time. He told her that she was going to be cited, at which point she became upset. Agent Duran offered Rask the opportunity to provide a written statement, but she declined. At no point did Rask claim that she believed Benson appeared to be over the age of 21.

Rask did not testify at the hearing.

After the hearing, the Department issued a decision determining the violation charged was proved and no defense was established. The decision imposed a penalty of 15 days' suspension.

Appellant then filed this appeal contending the ALJ erred in holding that appellant had failed to prove a defense of reliance on bona fide identification pursuant to Business and Professions Code section 25660.

#### DISCUSSION

Appellant contends the ALJ erred in holding that it had failed to prove its section 25660 defense. (See generally App.Br.) Appellant argues that its clerk had seen Benson's identification in the past. (*Ibid.*) Appellant points out that Benson admitted to showing identification at the premises to purchase tobacco, and that as of 2016, the legal age to purchase tobacco is 21. (*Ibid.*) According to appellant, this shows that "Ms. Rask had viewed Mr. Benson's identification, which stated that he was at least 21 years of age, in the past to purchase tobacco." (*Id.* at p. 5.) Appellant then suggests that despite Benson's testimony to the contrary and the agents' failure to find a fake identification on Benson's person, Benson must have shown a fake identification in the past and simply lied about it to avoid "mak[ing] his situation worse." (*Ibid.*)

Appellant maintains that a defense to the charge of the accusation was established under Business and Professions Code section 25660, which provides:

(a) Bona fide evidence of majority and identity of the person is any of the following:

(1) A document issued by a federal, state, county, or municipal government, or subdivision or agency thereof, including, but not limited to, a valid motor vehicle operator's license that contains the name, date of birth, description, and picture of the person.

(2) A valid passport issued by the United States or by a foreign government.

(3) A valid identification card issued to a member of the Armed Forces that includes a date of birth and a picture of the person.

(b) Proof that the defendant-licensee, or his or her employee or agent, demanded, was shown, and acted in reliance upon bona fide evidence in any transaction, employment, use, or permission forbidden by Section 25658, 25663, or 25665 shall be a defense to any criminal prosecution therefor or to any proceedings for the suspension or revocation of any license based thereon.

As an exception to the general prohibition against sales to minors, section 25660 must be narrowly construed. (*Lacabanne Properties, Inc. v. Alcoholic Bev. Control Appeals Bd. (Lacabanne)* (1968) 261 Cal.App.2d 181, 189 [67 Cal.Rptr. 734].) The statute provides an affirmative defense, and "[t]he licensee has the burden of proving . . . that evidence of majority and identity was demanded, shown and acted on as prescribed by . . . section 25660." (*Ibid.*; see also *Farah v. Alcoholic Bev. Control Appeals Bd.* (1958) 159 Cal.App.2d 335, 338-339 [324 P.2d 98])

Case law interpreting section 25660 makes clear that to provide a defense, reliance on the identification must be reasonable—that is, the result of an exercise of due diligence. (See, e.g., *Lacabanne, supra*, at p. 189; *5501 Hollywood, Inc. v. Dept. of Alcoholic Bev. Control* (1957) 155 Cal.App.2d 748, 753 [318 P.2d 820].) Reasonable reliance cannot be established unless the appearance of the person presenting identification indicates that he or she could be 21 years of age *and* the seller makes a reasonable inspection of the identification offered. (*5501 Hollywood, Inc., supra*, at pp. 753-754.)

While a licensee may rely on a prior showing of evidence of majority, the same reasonable reliance standard applies. (See *Lacabanne, supra*, at p. 190.) Between

1955 and 1959, section 25660 required that identification be shown *immediately prior* to the purchase of alcohol. The words "immediately prior" were deleted, however, in a 1959 statutory amendment. The California Attorney General opined:

[I]t must be concluded that by the elimination of the words "immediately prior" from section 25660 in the 1959 amendment, the time requirement for the presentation of documentary evidence has been altered. Thus the evidence of majority and identity need no longer be shown immediately prior to the alleged offense to constitute a valid defense. *However, it is clear that a defense is not made out unless it is proved that the required documentary evidence was demanded, that it was shown, and that the defendant-licensee, his agent or employee, was acting in good faith in reliance upon that prior showing at the time of the alleged violation.*

(36 Ops.Cal.Atty.Gen. 124, 126 (1960), emphasis added; see also *Lacabanne, supra*, at p. 190 [citing Attorney General opinion]; *7-Eleven, Inc.* (2011) AB-9081, at pp. 11-12 [holding section 25660 defense was proved where "minor was memorable and well-known to appellants," the clerk had "reasonably relied on the false identification on multiple prior occasions," and "the actual fake ID was available for examination" as evidence].)

Whether a licensee has made a reasonable inspection of an identification to determine if it is bona fide is a question of fact. (*Masani, supra*, at p. 1445; *5501 Hollywood, supra*, at pp. 753-754.) The standard of review is as follows:

We cannot interpose our independent judgment on the evidence, and we must accept as conclusive the Department's findings of fact. [Citations.] We must indulge in all legitimate inferences in support of the Department's determination. Neither the Board nor [an appellate] court may reweigh the evidence or exercise independent judgment to overturn the Department's factual findings to reach a contrary, although perhaps equally reasonable, result. [Citation.] The function of an appellate Board or Court of Appeal is not to supplant the trial court as the forum for consideration of the facts and assessing the credibility of witnesses or to substitute its discretion for that of the trial court. An appellate body reviews for error guided by applicable standards of review.

(*Masani, supra*, at p. 1437.)

Appellants offered virtually no evidence in support of a section 25660 defense. In both his testimony and his statements to agents at the licensed premises, Benson insisted he had never possessed or used a fake identification. (RT at p. 11 [direct testimony]; RT at p. 21, 30 [statements made to agents].) It is undisputed that no fake identification was found on Benson. (RT at p. 21; see generally App.Br.) While Benson did testify that he had shown his identification at the licensed premises on multiple occasions in the past to purchase cigarettes, he also testified that he had never used his identification to purchase alcohol. (RT at p. 11.) Benson's identification showed he was 20 years old on the date of the transaction. (RT at pp. 20-21.)

The sole evidence appellant offers in support of its section 25660 is a hearsay statement made by clerk Rask to Department agents. That hearsay statement, however, failed to establish that Rask had conducted any reasonable inspection of Benson's identification:

[BY MR. NGUYEN:] What happened next?

[AGENT BENSON:] I informed [Rask] that Michael Benson who she could see through the plate glass windows was a 20-year-old minor who she had sold alcoholic beverages to.

Q What was her response?

A She stated that he is a regular customer and that she had seen his I.D. on several occasions.

Q What did you do next?

A I asked her if she could recall what type of I.D. he possessed.

Q What was her response?

A She could not recall.

(RT at p. 24; see also RT at p. 31.) The point is worth emphasizing: Rask could not recall *any aspect* of Benson's identification—even the *type* of identification he

purportedly produced. (See RT at p. 24.) This undermines any claim that Rask made a reasonable inspection of Benson's identification.

Appellant attempts to buttress this evidence with unsupported innuendo. Appellant first insists Benson "had a propensity to lie," then concludes that Benson must therefore have used a fake identification in the past and simply lied about it. (App.Br., at p. 5.) This assertion is wholly unsupported. No fake identification was found during the agents' search of Benson's person, and clerk Rask had no recollection whatsoever of the identification she purportedly checked. Innuendo is not evidence. That appellant chose to rely on it merely highlights the weakness of its defense.

As the ALJ properly concluded:

The Respondent did not establish a defense pursuant to section 25660. The only hint that Benson may have used a fake ID was Rask's self-serving statement to the agents that she had seen an ID in the past. Other than this hearsay statement, there was no evidence introduced at the hearing about the fake ID Rask purportedly saw. In other words, the record is devoid of the sort of evidence necessary to support a section 25660 defense—the type of ID, the issuer, the date of birth, the physical descriptors, or the photo.

(Conclusions of Law, ¶ 7.) A clerk's single self-serving allusion to having seen identification at some point in the unspecified past—without any recollection of the identification itself—is wholly insufficient to establish reasonable reliance under section 25660. Appellant's defense must fail.

ORDER

The decision of the Department is affirmed.<sup>2</sup>

BAXTER RICE, CHAIRMAN  
PETER J. RODDY, MEMBER  
MEGAN MCGUINNESS, MEMBER  
ALCOHOLIC BEVERAGE CONTROL  
APPEALS BOARD

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2. 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.

# **APPENDIX**

**BEFORE THE  
DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL  
OF THE STATE OF CALIFORNIA**

IN THE MATTER OF THE ACCUSATION  
AGAINST:

CIRCLE K STORES INC  
CIRCLE K 9438  
2114 VERDUGO BLVD  
GLENDALE, CA 91020

VAN NUYS DISTRICT OFFICE

File: 20-515651

Reg: 17085971

AB: 9736

OFF-SALE BEER AND WINE - LICENSE

Respondent(s)/Licensee(s)  
under the Alcoholic Beverage Control Act.

**CERTIFICATION**

I, Dominique Williams, do hereby certify that I am a Senior Legal Analyst for the Department of Alcoholic Beverage Control of the State of California.

I do hereby further certify that annexed hereto is a true, correct and complete record (not including the Hearing Reporter's transcript) of the proceedings held under Chapter 5 of Part 1 of Division 3 of Title 2 of the Government Code concerning the petition, protest, or discipline of the above-listed license heretofore issued or applied for under the provisions of Division 9 of the Business and Professions Code.

IN WITNESS WHEREOF, I hereunto affix my signature on August 31, 2018, in the City of Sacramento, County of Sacramento, State of California.

  
Office of Legal Services

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ABC APPEALS BOARD

**BEFORE THE  
DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL  
OF THE STATE OF CALIFORNIA**

**IN THE MATTER OF THE ACCUSATION  
AGAINST:**

Circle K Stores Inc.  
dba Circle K 9438  
2114 Verdugo Blvd.  
Glendale, California 91020

Licensee(s).

**File No.: 20-515651**

**Reg. No.: 17085971**

**DECISION UNDER GOVERNMENT CODE SECTION 11517(c)**

The above-entitled matter having regularly come before the Department on July 24, 2018, for decision under Government Code Section 11517(c) and the Department having considered its entire record, including the transcript of the hearing held on January 17, 2018, before Administrative Law Judge Matthew G. Ainley, and the written arguments of the parties, and good cause appearing, the following decision is hereby adopted:

The Department seeks to discipline the Respondent's license on the grounds that, on or about April 8, 2017, the Respondent, through its agent or employee, sold, furnished, or gave alcoholic beverages to Michael Benson, an individual under the age of 21, in violation of Business and Professions Code section 25658(a).<sup>1</sup> (Exhibit 1.)

Oral evidence, documentary evidence, and evidence by oral stipulation on the record was received at the hearing. The matter was argued and submitted for decision on January 17, 2018.

**FINDINGS OF FACT**

1. The Department filed the accusation on October 4, 2017.
2. The Department issued a type 20, off-sale beer and wine license to the Respondent for the above-described location on March 1, 2012 (the Licensed Premises).
3. There is no record of prior departmental discipline against the Respondent's license.

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<sup>1</sup> All statutory references are to the Business and Professions Code unless otherwise noted.

4. Michael Benson was born on October 2, 1996. On April 8, 2017, he was 20 years old.
5. On April 8, 2017, Benson entered the Licensed Premises. He selected two Rock Star energy drinks and an 18-pack of Bud Light beer in cans. He took the beer and the energy drinks to the counter and set them down. Benson asked the clerk, Jeanne Rask, for a pack of Swisher Sweets, a tobacco product. She obtained the tobacco and set it down on the counter.
6. Agent David Duran saw Benson enter the licensed premises and observed that Benson appeared youthful. Agent Duran had an unobstructed view as he watched Benson from outside the premises. When he saw Benson walking toward the counter with the beer, he entered and got in line behind him.
7. Rask rang up all of the products. She did not ask Benson to show any identification, nor did she inquire as to his age. Benson paid for the beer, the tobacco, and the energy drinks, then exited the premises.
8. Agent Duran exited and notified his partners. Collectively, they contacted Benson. Agent Duran asked Benson if he was 21. Benson said that he was. Agent Duran asked to see Benson's identification and indicated that he was going to search him. Benson admitted that he was only 20 years old and showed the agents his actual California driver license. Agent Duran searched Benson. He did not find any other form of identification (fake or real). Benson stated that he did not have and had never used a fake ID.
9. Agent Duran re-entered the Licensed Premises and spoke to Rask. He informed her that she had sold alcohol to a minor. Rask indicated that she did not know to whom he was referring.
10. Agent Duran exited and escorted Benson to the front of the Licensed Premises. He had Benson stand near the doors. Agent Duran entered and contacted Rask a second time. He had her stand on the customer side of the counter and look out the door at Benson. Rask stated that Benson was a regular customer who had shown her identification in the past. She could not, however, recall anything about the identification.
11. Agent Duran exited and spoke to Benson, who once again denied ever using a fake identification. He offered to let the agents search him again. The agents did so; they could not find any fake identification. Benson was cited.
12. Agent Duran re-entered the Licensed Premise and spoke to Rask a third time. He told her that she was going to be cited, at which point she became upset. Agent Duran offered Rask the

opportunity to provide a written statement, but she declined. At no point did Rask claim that she believed Benson appeared to be over the age of 21. Rask did not testify at the hearing.

13. On April 8, 2017, Benson was 6'6" tall and weighed 220 pounds. He had a beard (approximately three inches long) on his chin.

14. Except as set forth in this decision, all other allegations in the accusation and all other contentions of the parties lack merit.

### CONCLUSIONS OF LAW

1. Article XX, section 22 of the California Constitution and section 24200(a) provide that a license to sell alcoholic beverages may be suspended or revoked if continuation of the license would be contrary to public welfare or morals.
2. Section 24200(b) provides that a licensee's violation, or causing or permitting of a violation, of any penal provision of California law prohibiting or regulating the sale of alcoholic beverages is also a basis for the suspension or revocation of the license.
3. Section 25658(a) provides that every person who sells, furnishes, gives, or causes to be sold, furnished, or given away, any alcoholic beverage to any person under the age of 21 years is guilty of a misdemeanor.
4. Section 25660 provides a defense to any person who was shown and acted in reliance upon bona fide evidence of majority in permitting a minor to enter and remain in a public premises in contravention of section 25665, in making a sale forbidden by section 25658(a), or in permitting a minor to consume in an on-sale premises in contravention of section 25658(b). This section expressly states that "[b]ona fide evidence of majority and identity of the person is any of the following: (1) A document issued by a federal, state, county, or municipal government, or subdivision or agency thereof, including, but not limited to, a valid motor vehicle operator's license, that contains the name, date of birth, description, and picture of the person. (2) A valid passport issued by the United States or by a foreign government. (3) A valid identification card issued to a member of the Armed Forces that includes a date of birth and a picture of the person."
5. The defense offered by this section is an affirmative defense. As such, the licensee has the burden of establishing all of its elements, namely, that evidence of majority and identity was demanded, shown, and acted on as prescribed.<sup>2</sup> This section applies to IDs actually issued by

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<sup>2</sup> *Lacabanne Properties, Inc. v. Department of Alcoholic Beverage Control*, 261 Cal. App. 2d 181, 189, 67 Cal. Rptr. 734, 739 (1968); 27 Ops. Atty. Gen. 233, 236 (1956).

government agencies as well as those which purport to be.<sup>3</sup> A licensee or his or her employee is not entitled to rely upon an identification if it does not appear to be a bona fide government-issued identification or if the personal appearance of the holder of the identification demonstrates above mere suspicion that the holder is not the legal owner of the identification.<sup>4</sup> The defense offered by section 25660 is not established if the appearance of the minor does not match the description on the identification.<sup>5</sup>

6. Cause for suspension or revocation of the Respondent's license exists under Article XX, section 22 of the California State Constitution, and sections 24200(a) and (b) on the basis that on April 8, 2017, the Respondent's clerk, Jeanne Rask, inside the Licensed Premises, sold an alcoholic beverage to Michael Benson, a person under the age of 21, in violation of Business and Professions Code section 25658(a). (Findings of Fact ¶¶ 4-13.)

7. The Respondent did not establish a defense pursuant to section 25660. The only hint that Benson may have used a fake ID was Rask's self-serving statement to the agents that she had seen an ID in the past. Other than this hearsay statement, there was no evidence introduced at the hearing about the fake ID Rask purportedly saw. In other words, the record is devoid of the sort of evidence necessary to support a 25660 defense—the type of ID, the issuer, the date of birth, the physical descriptors, or the photo.

### PENALTY

The Department requested that the Respondent's license be suspended for a period of 15 days. The Respondent argued that a mitigated penalty was appropriate based on Michael Benson's age and appearance and on its five years of discipline-free operation.

With respect to Benson's appearance, counsel for the Respondent argued at the hearing that mitigation was warranted based upon the facts that he is "rather large," "has a low, very mature voice," presents himself as "somebody who is definitely over 21," is a regular customer of the store, and that he was "just six months shy of actually being 21." While the appearance of the minor is specifically identified in Rule 144<sup>6</sup> as a factor to be considered in aggravation, it is

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<sup>3</sup> *Dept. of Alcoholic Beverage Control v. Alcoholic Control Appeals Bd. (Masani)*, 118 Cal. App. 4th 1429, 1444-45, 13 Cal. Rptr. 3d 826, 837-38 (2004).

<sup>4</sup> *Masani*, 118 Cal. App. 4th at 1445-46, 13 Cal. Rptr. 3d at 838; *5501 Hollywood, Inc. v. Department of Alcoholic Beverage Control*, 155 Cal. App. 2d 748, 753, 318 P.2d 820, 823-24 (1957); *Keane v. Reilly*, 130 Cal. App. 2d 407, 411-12, 279 P.2d 152, 155 (1955); *Conti v. State Board of Equalization*, 113 Cal. App. 2d 465, 466-67, 248 P.2d 31.32 (1952).

<sup>5</sup> *5501 Hollywood*, 155 Cal. App. 2d at 751-54, 318 P.2d at 822-24; *Keane*, 130 Cal. App. 2d at 411-12, 279 P.2d at 155 (construing section 61.2(b), the predecessor to section 25660).

<sup>6</sup> All rules referred to herein are contained in title 4 of the California Code of Regulations unless otherwise noted.

not identified as a specific mitigating factor. That does not mean it cannot be considered, as the factors in aggravation and mitigation contained in Rule 144 are not exhaustive. However, it would be a rare case in which the appearance of a minor should be considered in mitigation. For example, it is possible that a licensee could present evidence showing that a minor appeared so much older than 21 that a responsible, diligent seller would be reasonable in not requesting proof of age from the minor. Indeed, Respondent asserts as much in its written argument following rejection of the proposed decision: “While it does not create a defense, the appearance of the purchaser can make it more *understandable*, and therefore less egregious, that a clerk believed a customer was over 21 and therefore neglected to check identification.” (Italics in original.)

The problem Respondent has in this case is that it failed to present any evidence to support its assertion that it was “understandable” to not ask Benson his age or to request identification, or to take any steps to prevent the sale of alcoholic beverages to him. Clerk Rask did not testify. Further, the only explanation she gave to Agent Duran for not requesting identification from Benson was that he was a regular customer and that he had shown her identification in the past. She did not claim that Benson appeared so much older than 21 that she had no reason to ask him his age or for his identification. With regard to Benson being six months short of turning 21, this is irrelevant and provides no basis to conclude that mitigation is warranted. It does not matter if he was one year, six months, or one day shy of being 21; the simple fact is that he was under the age of 21 and it was illegal to sell alcoholic beverages to him. Respondent’s arguments in support of mitigation are unsupported.

Moreover, despite Benson’s size and apparent maturity at hearing, Agent Duran immediately noticed Benson’s youthful appearance as he entered the store. In viewing Exhibit 3, the photo of Benson on the night of the violation, he does not have the physical appearance of a person who could be so much older than 21 that it would be reasonable to conclude that it is “understandable” that Rask sold alcohol to him. Even if Rask had testified consistent with counsel’s arguments, it is unlikely that Respondent could have met its burden in establishing this as a mitigating factor.

With respect to Respondent’s five years of discipline-free licensure, this is, standing alone, not a sufficient period of time to warrant mitigation.

There being no factors in aggravation or mitigation, the following penalty is consistent with Rule 144.

Circle K Stores Inc.  
Dba Circle K 9438  
20-515651; 17085971

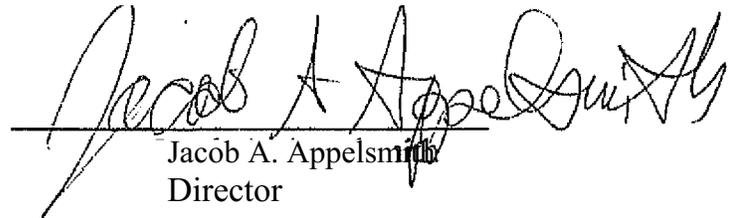
Page 6 of 6

**ORDER**

The Respondent's off-sale beer and wine license is hereby suspended for a period of 15 days.

Sacramento, California

Dated: July 24, 2018

  
\_\_\_\_\_  
Jacob A. Appelsmith  
Director

Pursuant to Government Code section 11521(a), any party may petition for reconsideration of this decision. The Department's power to order reconsideration expires 30 days after the delivery or mailing of this decision, or on the effective date of the decision, whichever is earlier.

Any appeal of this decision must be made in accordance with Chapter 1.5, Articles 3, 4 and 5, Division 9, of the Business and Professions Code. For further information, call the Alcoholic Beverage Control Appeals Board at (916) 445-4005.

**BEFORE THE  
DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL  
OF THE STATE OF CALIFORNIA**

<p>IN THE MATTER OF THE ACCUSATION AGAINST:</p> <p>CIRCLE K STORES INC. CIRCLE K 9438 2114 VERDUGO BLVD GLENDALE, CA 91020</p> <p>OFF-SALE BEER AND WINE - LICENSE</p> <p>under the Alcoholic Beverage Control Act.</p>	<p>File: 20-515651</p> <p>Reg: 17085971</p> <p style="text-align:center">DECLARATION OF SERVICE BY MAIL</p>
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The undersigned declares:

I am employed at the Department of Alcoholic Beverage Control. I am over 18 years of age and not a party to this action. My business address is 3927 Lennane Drive, Suite 100, Sacramento, California 95834. On July 24, 2018, I served, by CERTIFIED mail (unless otherwise indicated) a true copy of the following documents:

DECISION UNDER GOVERNMENT CODE SECTION 11517(c)

on each of the following, by placing them in an envelope(s) or package(s) addressed as follows:

CIRCLE STORES INC  
255 E RINCON STREET, SUITE 100  
CORONA, CA 92879-1368

7018 0040 0000 8272 7914

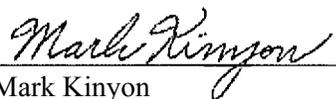
Jonathan Nguyen  
Southern Division, Legal - Inter Office Mail

DONNA HOOPER, ATTORNEY AT LAW  
SOLOMON, SALTSMAN & JAMIESON  
426 CULVER BLVD  
PLAYA DEL REY, CA 90293

7018 0040 0000 8272 7921

and placing said envelope or package for collection and mailing, following our ordinary business practices. I am readily familiar with this department's practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, County of Sacramento, State of California, in an envelope with the postage fully prepaid. I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on July 24, 2018 at Sacramento, California.

  
\_\_\_\_\_  
Mark Kinyon

VAN NUYS DISTRICT OFFICE (INTEROFFICE MAIL)  
 DIVISION OFFICE (INTEROFFICE MAIL)