

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

**AB-9973**

File: 20-617058; Reg: 22092767

7-ELEVEN, INC. and M&J VIRK CORPORATION,  
dba 7-Eleven Store #18828E  
1017 North Broadway  
Santa Maria, CA 93454-3133,  
Appellants/Licensees

v.

DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL,  
Respondent

Administrative Law Judge at the Dept. Hearing: David W. Sakamoto

Appeals Board Hearing: October 6, 2023  
Sacramento, CA/Videoconference

**ISSUED OCTOBER 10, 2023**

*Appearances:*        *Appellants:* Adam N. Koslin, of Solomon, Saltsman & Jamieson, as attorneys for 7-Eleven, Inc. and M&J Virk Corporation;

*Respondent:* Jennifer Casey, as counsel for the Department of Alcoholic Beverage Control.

**OPINION**

7-Eleven, Inc. and M&J Virk Corporation, doing business as 7-Eleven Store #18828E (appellants), appeal from a decision of the Department of Alcoholic Beverage Control<sup>1</sup> suspending their license for 15 days because their clerk sold an alcoholic

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<sup>1</sup> The decision of the Department, dated May 30, 2023, is set forth in the appendix.

beverage to person under the age of 21 years, in violation of Business and Professions Code<sup>2</sup> section 25658(a).

#### FACTS AND PROCEDURAL HISTORY

Appellants' off-sale retail beer and wine license was issued on August 13, 2020. There is no record of prior departmental discipline against appellants' license.

On December 1, 2022, the Department filed a single-count accusation against appellants charging that, on March 24, 2022, appellants' clerk, Mohit Kumar (the clerk), sold an alcoholic beverage to 20-year-old Hilario Morelos Vivar (Vivar).

At the administrative hearing held on April 5, 2023, documentary evidence was received, and testimony concerning the sale was presented by Department Supervising Agent Ruben Gomez. Evidence established that Agent Gomez was on a general enforcement assignment on March 24, 2022 and was approximately five to ten feet from the licensed premises when Vivar entered. Vivar was accompanied by a young male companion who appeared approximately 15 years old. Vivar selected two bottles of Modelo beer and waited in line at the sales counter. Once at the sales counter, he paid the clerk for the beer. No other items were purchased. There was no evidence that the clerk asked Vivar his age or to present any form of identification to establish that he was at least 21 years old. Vivar exited the licensed premises carrying with his young companion and was carrying one beer in each hand.

Based on Vivar and his companion's youthful appearance, and the fact that Vivar was carrying two bottles of beer, Agent Gomez detained Vivar and identified himself as

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<sup>2</sup> All statutory references are to the Business and Professions Code unless otherwise stated.

law enforcement. Vivar told Agent Gomez he was twenty years old and gave him two forms of identification (exh. 4). The first identification was Vivar's current California Driver's license that included Vivar's birthdate and photograph. Vivar's driver's license was displayed in vertical format and its serial number began with "Y," both features of a driver's license issued to a person under the age of 21 years.

Vivar's second identification was his Mexican Matricula Consular identification card issued by the Mexican Government. It had Vivar's photograph and the same birthdate as Vivar's driver's license, making him 20 years old at the time. Agent Gomez had over 20 years' experience as a law enforcement officer and during that time he inspected many identifications. Agent Gomez determined both Vivar's identification documents appeared authentic and valid. There was no evidence either identification had any defects, errors, characteristics, or qualities to indicate they were false.

On April 12, 2023, the administrative law judge (ALJ) issued a proposed decision recommending that the Department sustain the single-count accusation and suspended appellants' license for 15 days. The Department adopted the ALJ's decision in its entirety on May 24, 2023 and certified the decision six days later. Appellants filed a timely appeal contending that the Department failed to establish that Vivar was under the age of 21 at the time of purchase.

## DISCUSSION

Appellants contend that the Department did not present competent evidence of Vivar's age. (Appellants' Opening Brief, at pp. 4-6.) Specifically, appellants argue that the Department "did not properly authenticate [Vivar's identifications]," and that Agent Gomez cannot authenticate Vivar's identifications because "he does not own the cards,

has no personal knowledge of their issuance, and took no steps to authenticate their veracity.” (*Id.* at p. 5.) We disagree with appellants.

The Department found that Vivar was 20 years old on the date of the operation. (Findings of Fact ¶ 4.) Therefore, this Board is required to defer to those findings so long as they are supported by substantial evidence. (See *Department of Alcoholic Beverage Control v. Alcoholic Beverage Control Appeals Bd. (Southland)* (2002) 103 Cal.App.4th 1084, 1094 [127 Cal.Rptr.2d 652, 659] [citing *Kirby v. Alcoholic Beverage Control Appeals Bd.* (1968) 261 Cal.App.2d 119, 122 [67 Cal.Rptr. 628] [“In considering the sufficiency of the evidence issue the court is governed by the substantial evidence rule[;] any conflict in the evidence is resolved in favor of the decision; and every reasonably deducible inference in support thereof will be indulged. [Citations.]”]; see also *Kirby v. Alcoholic Bev. etc. Appeals Bd.* (1972) 25 Cal.App.3d 331, 335 [101 Cal.Rptr. 815] [“When two or more inferences can be reasonably deduced from the facts, the reviewing court is without power to substitute its deductions for those of the department.”].) “Substantial evidence” is “evidence of ponderable legal significance, which is ‘reasonable in nature, credible and of solid value.’ ” (*County of Los Angeles v. Commission on State Mandates* (1995) 32 Cal.App.4th 805, 814 [38 Cal.Rptr.2d 304, 307–308], internal citations omitted.)

At the hearing on April 5, 2023, Agent Gomez testified that Vivar told him that he was 20 years old on March 24, 2022, the date of the violation. (Reporter’s Transcript, p. 20:16-18.) Agent Gomez also testified about the two forms of identification Vivar showed him on the date of the violation, and photographs of those two forms of identification were admitted into evidence. (*Id.* at pp: 22:13-28:4.) Based on Agent Gomez’s testimony, as well as the photographs of Vivar’s identifications, the

Department determined that Vivar was under the age of 21 years. (Findings of Fact, ¶ 7.)

Based on the above, the Department's findings regarding the decoy's age must stand. Agent Gomez's testimony and the photographs of Vivar's two identifications, which Agent Gomez personally inspected and discussed with Vivar are "reasonable in nature, credible and of solid value." (*County of Los Angeles, supra*, 32 Cal.App.4th at 814.) Ultimately, appellants are asking this Board second-guess the Department and reach a different result. Extensive legal authority prohibits this Board from doing so. (*Southland, supra*, 103 Cal.App.4th at 1094.)

#### ORDER

The decision of the Department is affirmed.<sup>3</sup>

SUSAN A. BONILLA, CHAIR  
MEGAN McGUINNESS, MEMBER  
SHARLYNE PALACIO, MEMBER  
ALCOHOLIC BEVERAGE CONTROL  
APPEALS BOARD

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<sup>3</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.

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. Service on the Board pursuant to California Rules of Court (Rule 8.25) should be directed to: 400 R Street, Ste. 320, Sacramento, CA 95811 and/or electronically to: [abcboard@abcappeals.ca.gov](mailto:abcboard@abcappeals.ca.gov).

# APPENDIX

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

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

7 ELEVEN, INC.  
AND M & J VIRK CORPORATION  
7-ELEVEN 18828E  
1017 N. BROADWAY  
SANTA MARIA, CA 93454

OFF-SALE BEER AND WINE - LICENSE

Respondent(s)/Licensee(s)  
Under the Alcoholic Beverage Control Act

VENTURA DISTRICT OFFICE

File: 20-617058

Reg: 22092767

**CERTIFICATE OF DECISION**

It is hereby certified that, having reviewed the findings of fact, determination of issues, and recommendation in the attached proposed decision, the Department of Alcoholic Beverage Control adopted said proposed decision as its decision in the case on May 24, 2023. Pursuant to Government Code section 11519, this decision shall become effective 30 days after it is delivered or mailed.

Any party may petition for reconsideration of this decision. Pursuant to Government Code section 11521(a), the Department's power to order reconsideration expires 30 days after the delivery or mailing of this decision, or if an earlier effective date is stated above, upon such earlier effective date of the decision.

Any appeal of this decision must be made in accordance with Business and Professions Code sections 23080-23089. The appeal must be filed within 40 calendar days from the date of the decision, unless the decision states it is to be "effective immediately" in which case an appeal must be filed within 10 calendar days after the date of the decision. Mail your written appeal to the Alcoholic Beverage Control Appeals Board, 400 R St, Suite 320, Sacramento, CA 95811. For further information, and detailed instructions on filing an appeal with the Alcoholic Beverage Control Appeals Board, see: <https://abcab.ca.gov> or call the Alcoholic Beverage Control Appeals Board at (916) 445-4005.

On or after July 10, 2023, a representative of the Department will contact you to arrange to pick up the license certificate.

Sacramento, California

Dated: May 30, 2023



Matthew D. Botting  
General Counsel

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

IN THE MATTER OF THE ACCUSATION AGAINST:

7 Eleven, Inc.	}	File: 20-617058
and M & J Virk Corporation	}	
dba: 7-Eleven 18828E	}	Reg.: 22092767
1017 N. Broadway	}	
Santa Maria, CA 93454	}	License Type: 20
Respondent	}	
	}	<b><u>PROPOSED DECISION</u></b>
	}	
	}	Hearing Date: 4-5-2023
	}	Reporter: Christy Joyce
Regarding Their Type 20 Off-Sale Beer and Wine	}	Kennedy Reporting Service
Retail License Under the California Constitution and	}	Word Count Estimate: 15,301
the Alcoholic Beverage Control Act.	}	
	}	
	}	

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Administrative Law Judge David W. Sakamoto, Administrative Hearing Office, Department of Alcoholic Beverage Control (hereafter the ALJ) heard this matter via video conference on April 5, 2023.

Testimony and other evidence were presented and the parties argued the matter at the April 5, 2023, hearing. The date of submission of the matter to the ALJ for a decision was deferred so that the Department could make and provide the ALJ a copy of its exhibit 9, a video recording. The ALJ received the video recording on a DVD-R disc on April 6, 2023. It was marked as exhibit 9 and admitted as an exhibit. The matter was submitted to the ALJ for decision as of that date.

Matthew Gaughan, attorney, Office of Legal Services, Department of Alcoholic Beverage Control, represented the Department of Alcoholic Beverage Control (hereafter the Department).

Ralph Saltsman, attorney, of Solomon, Saltsman, and Jamieson, represented co-licensees 7 Eleven Inc., and M & J Virk Corporation (collectively hereafter respondent).

The Department's accusation alleged cause for suspension or revocation of respondent's license exists under California Constitution, article XX, section 22, and Business and Professions Code section 24200, subdivision (a) and (b), based on the following grounds:<sup>1</sup>

Count 1: "On or about March 24, 2022, respondent-licensee's agent or employee, Mohit Kumar, at said premises, sold, furnished, gave or caused to be sold, furnished or given, an alcoholic beverage, to-wit: beer, to Hilario Vivar, a person under the age of 21 years, in violation of Business and Professions Code section 25658, subdivision (a)."  
(Exhibit 1: Pre-hearing pleadings)

### **FINDINGS OF FACT**

1. On August 13, 2020, the Department issued respondent a type-20 off-sale retail beer and wine license for its business known as 7 Eleven #18828E at 1017 N. Broadway, Santa Maria, California<sup>2</sup> (hereafter the licensed premises).
2. The Department filed the accusation in this matter on December 1, 2022. Thereafter, it received respondent's Notice of Defense and Special Notice of Defense and set the matter for a video hearing that was held on April 5, 2023.
3. Respondent has not suffered any final prior disciplinary action under this license.
4. On or about March 24, 2022, at approximately 8:00 p.m., Alcoholic Beverage Control Agent Gomez (hereafter Agent Gomez) was on a general enforcement assignment and was about 5-10 feet from the licensed premises.
5. At about that same time, Hilario Morelos Vivar (hereafter Vivar) then 20 years of age, entered the licensed premises with a young male companion who appeared approximately 15 years old. Vivar selected two bottles of Modelo beer and waited in line at the sales counter. Once at the sales counter, he paid respondent's salesclerk, Mohit Kumar (hereafter Kumar), for the beer. No other items were purchased. There was no evidence Kumar asked Vivar his age or to present any form of identification to establish he was at least 21 years old. Vivar, then carrying one beer in each hand, exited the licensed premises with his young companion.

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<sup>1</sup> All further unspecified section references are to the California Business and Professions Code unless noted otherwise.

<sup>2</sup> A type 20 license permits the holder to retail beer and wine to the public, who are at least 21 years old, for off-premises consumption.

6. Agent Gomez first noticed Vivar and his young companion as they exited the licensed premises. Due to Vivar's youthful appearance, his possession of two bottles of beer, and his companion's even more youthful appearance, Agent Gomez detained Vivar outside the licensed premises.

7. Agent Gomez identified himself to Vivar as an ABC agent.<sup>3</sup> Vivar said he was 20 years old and gave Agent Gomez two forms of identification. (Exhibit 4: image of two identifications). One identification was his current California Driver License that included his photo and birthdate of 04/08/2001, making Vivar 20 years old. It was in the vertical format typically used for minors. It's serial number began with "Y" which is consistent with recently issued driver licenses for minors. It had no features or defects that would indicate it was a false identification.

8. Vivar's second identification was his Mexican Matricula Consular identification card. That card is issued by the Mexican Government. It had Vivar's photograph and also noted his birthdate as April 8, 2001.

9. Agent Gomez had more than 20 years combined law enforcement experience. He was a police officer in the city of Dinuba for approximately 11 years. He has been an ABC agent for approximately 11 years. During that time, he inspected many identifications, both authentic and false. Agent Gomez determined both Vivar's identification documents appeared authentic and valid. There was no evidence either identification had any defects, errors, characteristics, or qualities to indicate they were false.

10. Vivar told Agent Gomez the clerk did not check his identification at the time of the sale of beer. To Agent Gomez, Vivar seemed to be credible.

11. Near the licensed premises window area, Vivar pointed out to Agent Gomez a male clerk wearing a long sleeved Pendleton style shirt with red stripes as the clerk who sold him the beer. That clerk was later identified as Mohit Kumar (hereafter Kumar).

12. Agent Gomez entered the licensed premises and contacted Kumar. Due to a language barrier, Agent Gomez relied on the help of some other store clerks to communicate with Kumar. Agent Gomez was never told or informed by Kumar or anyone else that Vivar used a false identification to make his purchase of beer. It was determined Kumar did not have any identification on him at all. One of the employees stated Kumar had just recently emigrated.

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<sup>3</sup> Agent Gomez spoke to Vivar in Spanish. Agent Gomez had spoken Spanish all his life, still speaks Spanish with friends and family, and was a qualified/certified Spanish speaking interpreter while serving as a Dinuba police officer.

In that Kumar did not have identification documents, Agent Gomez elected to not issue him a citation for selling/furnishing/giving an alcoholic beverage to Vivar.

13. While still at the licensed premises, Agent Gomez attempted to obtain a copy of the sales receipt for Vivar's beer purchase but was not able to obtain one that night. He also sought to obtain a copy of any store surveillance video capturing the sale to Vivar but he was also not able to obtain one that night.

14. Vivar was issued a citation for purchasing/possessing an alcoholic beverage. He never indicated to Agent Gomez at any time he was at least 21 years of age.

15. Within a few days after March 24, 2022, Agent Gomez personally delivered to respondent's employee, Mr. Kumer, at the licensed premises, a written demand to produce sales records for the day and time of Vivar's purchase of two Modelo beers and any store surveillance video for the time frame of approximately 7:50 p.m. to 8:30 p.m. for that same day.

16. Soon thereafter, respondent sent the Department a surveillance video that captured Vivar's purchase of beer. The video, shown at the hearing, showed Vivar enter the licensed premises with a companion, obtain two bottles of beer, and wait in line. At the counter it showed Kumar scan the beer and a yellow colored screen appeared on the register. Kumar touched the yellow screen and it disappeared and the sale was completed. It then showed Vivar and his companion exit the store. It did not show Kumar checking Vivar's identification to verify his age. It showed Vivar's young companion was uninvolved in his beer purchase.

17. The day after Vivar's purchase, Agent Gomez returned to the licensed premises and took a photo of that yellow screen at the cash register. (Exhibit 6) Exhibit 6 shows the electronic screen displaying a smaller yellow shaded rectangular area. Within that yellow shaded area is stated "ID 30 and under. Must be 21 to purchas[e]". It then states: "1. Picture on ID must match the customer 2. Scan or swipe ID or if birthdate is on or before 03-25-01 press (manual enter)." At the bottom of the yellow shaded area are three small squares/buttons that state "manual enter", "visual id okay", and "exit". Based upon Agent Gomez' experience, the screen reflected that the clerk could visually check the identification or scan the identification, and manually clear the register to complete the sale.

18. Respondent also produced to the Department two sales invoices. Agent Gomez determined the receipt reflected in Exhibit 7 was the receipt pertaining to Vivar's purchase because the other receipt was outside of the relevant time frame and the sum reflected as paid was inconsistent with that Vivar purchased, two bottles of Modelo beer. Exhibit 7 reflected the sale of two items at \$4.19 each and a California Redemption Value of ten cents for two items totaling 20 cents. The receipt does not state the two items purchased were Modelo beer but listed a single serial number for both items instead. Further, it listed the date and time of sale as March 24, 2022, at 8:07 p.m. which was consistent with the agent's testimony regarding when the sale occurred. That date and time of sale was also consistent with the time stamp on exhibit 9, the licensed premises surveillance video clip. Agent Gomez did not otherwise confirm with respondent if the serial number on the receipt signified or stood for Modelo beer.

19. Respondent presented neither witnesses nor other evidence in defense to the accusation nor in mitigation of any penalty, if any, to be imposed.

### **DETERMINATION OF ISSUES**

1. California Constitution, article XX, section 22, and California Business and Professions Code section 24200, subdivision (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. Business and Professions Code section 24200, subdivision (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, exposing for sale, use, possession, giving away, adulteration, dilution, misbranding, or mislabeling of alcoholic beverages or intoxicating liquors are also grounds for the suspension or revocation of a license.
3. Business and Professions Code section 25658, subdivision (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. As to Count 1, cause for suspension or revocation of respondent's license exists under article XX, section 22, of the California Constitution and Business and Professions Code section 24200, subdivisions (a) and (b), in that on March 24, 2022, respondent-licensee's agent or employee, identified as Mohit Kumar, at the licensed premises, sold two bottles of Modelo beer, an alcoholic beverage, to Hilario Morelos Vivar, a person under the age of 21 years, in violation of Business and Professions Code section 25658, subdivision (a).

5. The evidence established that on March 24, 2022, respondent's clerk, identified as Mohit Kumar, sold two bottles of Modelo beer, an alcoholic beverage, to Hilario Morelos Vivar, a person who was then 20 years old. (Findings of Fact ¶¶ 4-6)

6. The respondent contended there was insufficient evidence presented establishing that as of March 24, 2022, Vivar was not yet 21 years old.

7. Effective January 1, 2022, section 25666, subdivision (a), was amended to make the Department's production of a minor at the administrative hearing apply only to a "minor decoy" by stating:

[t]he department shall produce the *minor decoy* alleged in the accusation for examination at the hearing unless the minor decoy is unavailable as a witness because they are dead or unable to attend the hearing because of a then-existing physical or mental illness or infirmity, or unless the licensee has waived, in writing, the appearance of the minor decoy. (emphasis added)

8. As Vivar was not a minor decoy, the Department was not required to produce him for examination at this hearing where he could have testified about his age.

9. However, the Department presented other evidence to sufficiently establish Vivar was only 20 years old as of March 24, 2022. After Agent Gomez detained Vivar just after he exited the licensed premises, Vivar presented Agent Gomez two pieces of identification that established his age. Agent Gomez had more than 20 years combined law enforcement experience. He was a police officer in the city of Dinuba for approximately 11 years. He has been an ABC agent for approximately 11 years. During that time, he inspected many identifications for authenticity. Upon his inspection, Vivar's California driver license appeared authentic and had no indicators it was a false identification. It indicated Vivar's birthdate was April 8, 2001, making him 20 years old as of March 24, 2022. It was also in the vertical format for licenses issued to minors. It had Vivar's photo on it. It's serial number also began with a "Y" which was consistent with recently issued licenses to minors.

10. Vivar's Mexican Matricular Consular identification card also appeared authentic and had no indications it was false. It also had Vivar's photo on it. It also indicated Vivar's birthdate as April 8, 2001, the same date of birth on his California driver license.

11. Lastly, Vivar told Agent Gomez he was 20 years old when he presented his two types of identifications.<sup>4</sup>

12. Respondent presented no evidence Vivar's identifications were fraudulent, suspect, inauthentic, or contained the wrong birthdate. Respondent presented no evidence Vivar was at least 21 years old. Further, respondent presented neither witness nor theory why Vivar would indicate to Agent Gomez he was only 20 years old if, in actuality, he was at least 21 years of age and could therefore lawfully purchase his Modelo beers on March 24, 2022, rather than receive a citation.

13. Thus, taken together, there was sufficient evidence presented to establish Vivar's birthdate was April 8, 2001, and therefore on March 24, 2022, he was still 20 years old when he purchased the two bottles of Modelo beer at the licensed premises.

14. Based upon all the evidence presented at the hearing, there was a sufficient factual and legal basis to sustain count 1 in the accusation.

15. Except as set forth in this decision, all other allegations in the accusation and all other contentions made by the parties in the pleadings or at the hearing regarding those allegations lack merit.

### **PENALTY**

1. In assessing an appropriate measure of discipline, the Department's penalty guidelines are in California Code of Regulations, title 4, section 144. (hereafter rule 144) Under rule 144, the presumptive penalty for a first violation of selling or furnishing an alcoholic beverage to a minor in violation of section 25658 is a 15-day license suspension. If there is a second violation for selling or furnishing an alcoholic beverage to a minor within 36 months of a prior violation, a 25 day license suspension is recommended. If there is a third sale-to-minor violation within 36 months of the two prior sale-to-minor violations then license revocation is recommended.

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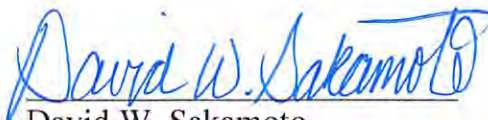
<sup>4</sup> Respondent objected to Agent's Gomez' testimony about how old Vivar said he was as hearsay. Vivar's statement was admitted as administrative hearsay. Vivar's statement was clearly consistent with his age as reflected on the two identifications he presented to Agent Gomez. His statement about his age was not the sole basis of determining he was only 20 years old but corroborated his age as reflected in his two identifications.

2. Rule 144 also indicates aggravating and mitigating factors can be considered when assessing a penalty. Aggravating factors include, but are not limited to, such things as prior disciplinary history, prior warning letters, licensee involvement, premises located in high crime area, lack of licensee cooperation in the investigation, appearance and age of minor, and a continuing course of conduct. Mitigating factors include, but are not limited to, such things as the duration of discipline free licensure, action taken to correct the problem, licensee training, and cooperation by a licensee in the investigation.
3. For this matter, the Department recommended a 15 day suspension in accordance with rule 144 and contended no mitigating evidence was presented to warrant any reduction in that penalty.
4. Respondent indicated that under rule 144, no penalty greater than a 15 day suspension was appropriate.
5. The 15 day license suspension specified under rule 144 is appropriate in this matter. Respondent only had a relatively brief term of discipline free history and there was no evidence presented in mitigation to warrant any lesser penalty.
6. Based upon weighing the above factors, the penalty ordered below reflects a proper consideration of the evidence presented, the parties' arguments, and rule 144's provisions.
7. Except as set forth in this decision, all other arguments, contentions, and assertions raised by the parties with respect to the appropriate penalty are without merit.

### ORDER

1. Count 1 of the accusation is sustained.
2. As to count 1, respondent's license is suspended for 15 days.

Dated: April 12, 2023

  
David W. Sakamoto  
Administrative Law Judge

<input checked="" type="checkbox"/> Adopt
<input type="checkbox"/> Non-Adopt: _____
By: _____
Date: _____ 05/24/23