

ISSUED FEBRUARY 26, 1996

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

ROBERTO HERRERA	)	AB-6529
2130 South San Pedro Street)	
Los Angeles, CA 90011	)	File: 41-286921
Appellant/Licensee,	)	Reg: 94031207
)	
v.	)	Administrative Law Judge
	)	at the Dept. Hearing:
THE DEPARTMENT OF ALCOHOLIC	)	Robert A. Neher
BEVERAGE CONTROL,)	
Respondent.	)	Date and Place of the
	)	Appeals Board Hearing:
	)	January 11, 1996
	)	Los Angeles, CA

Roberto Herrera (appellant), appealed from a decision of the Department of Alcoholic Beverage Control¹ which unconditionally revoked appellant's on-sale beer and wine public eating place license, for misrepresenting material facts on his license application concerning prior criminal convictions and the use of other names, in violation of Business and Professions Code §§23950, 23951, and 24200(a).

Appearances on appeal included Roberto Herrera, appellant; and Jonathon E. Logan, counsel for the department.

¹The decision of the department dated April 20, 1995 is set forth in the appendix.

FACTS AND PROCEDURAL HISTORY

On or about July 14, 1993, appellant misrepresented material facts on his application for an on-sale beer and wine eating place license by declaring under penalty of perjury that he had never been convicted of any criminal acts nor had used any other names.

Thereafter, upon ascertaining the misrepresentations, the department instituted an accusation against appellant on October 21, 1994.

An administrative hearing was held on March 24, 1995, at which time oral and documentary evidence was received. At that hearing, it was determined that appellant had been convicted of a violation of Penal Code §647(f), lewd conduct, on November 4, 1985 in the Los Angeles Judicial District Municipal Court, and a violation of trespass in 1975. It was also found that appellant in the past had used three other names.

Subsequent to the hearing, the department issued its decision which unconditionally revoked appellant's license. Appellant filed a timely notice of appeal.

Written notice of the opportunity to file briefs in support of appellant's position was given on August 23, 1995. No brief has been filed by appellant. We have reviewed the notice of appeal and have found insufficient assistance in that document which would aid in review.

The appeals board is not required to make an independent search of the record for error not pointed out by appellant. It was the duty of appellant to show to the appeals board that the claimed error existed. Without such assistance by appellant, the

appeals board may deem the general contentions waived or abandoned. See Horowitz v. Noble (1978) 79 Cal.App.3d 120, 129, 144 Cal.Rptr. 710; and Sutter v. Gamel (1962) 210 Cal.App.2d 529, 531, 26 Cal.Rptr. 880, 881. We so hold.

CONCLUSION

The decision of the department is affirmed.²

RAY T. BLAIR, JR., CHAIRMAN
JOHN B. TSU, MEMBER
BEN DAVIDIAN, MEMBER
ALCOHOLIC BEVERAGE CONTROL

APPEALS BOARD

²This final order is filed as provided by Business and Professions Code §23088, and shall become effective 30 days following the date of this filing of the final order as provided by §23090.7 of said statute for the purposes of any review pursuant to §23090 of said statute.