ISSUED FEBRUARY 11, 1998

BEFORE THE ALCOHOLIC BEVERAGE CONTROL APPEALS BOARD

OF THE STATE OF CALIFORNIA

HELEN BLUNDELL dba Cody's 3809 N. Mooney Blvd. Tulare, CA 93274, Appellant/Licensee, v. DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL, Respondent.	)	AB-6821 File: 47-219283 Reg: 96036125 Administrative Law Judge at the Dept. Hearing: Sonny Lo Date and Place of the Appeals Board Hearing: October 1, 1997 Los Angeles, CA

Helen Blundell, doing business as Cody's (appellant), appeals from a decision of the Department of Alcoholic Beverage Control[1] which ordered her on-sale general eating place license revoked for permitting employees during performances to simulate sexual intercourse, oral copulation, and masturbation (in violation of California Code of Regulations, title IV, §143.3, subdivision (1) (a)); permitting employees during performances to expose their buttocks and breasts (in violation of California Code of Regulations, title IV, §143.3, subdivision (2)); permitting gambling and the playing of games of chance and the smoking of marijuana within the premises (in violation of Penal Code §330 and Health and Safety Code §11357, respectively); permitting a

[1]The decision of the Department dated February 20, 1997, is set forth in the appendix.

minor under the age of 21 years to purchase an alcoholic beverage (in violation of Business and Professions Code §25658, subdivision (a)); offering alcoholic beverages for sale which contained contaminants (in violation of Health and Safety Code §§110545, 110560, and 110620); permitting an employee to resist and delay peace officers in their investigation (in violation of Penal Code §148); permitting the manager, without authority, to exercise the privileges of a licensee (in violation of Business and Professions Code §§23300 and 23355); and, failing to operate the premises as a bona fide public eating place (in violation of Business and Professions Code §§23038 and 23396); being contrary to the universal and generic public welfare and morals provisions of the California Constitution, article XX, §22.

Appearances on appeal include appellant Helen Blundell, appearing through her counsel, Richard Rumery; and the Department of Alcoholic Beverage Control, appearing through its counsel, Nicholas Loehr.

FACTS AND PROCEDURAL HISTORY

Appellant's on-sale general public premises license was issued on September 20, 1988. Thereafter, the Department instituted an accusation alleging various violations of law and Department rules.

An administrative hearing was held on November 6 and 7, 1996, and January 9, 1997, at which time oral and documentary evidence was received. Subsequent to the hearing, the Department issued its decision which revoked the license. Appellant thereafter filed a timely notice of appeal.

In her appeal, appellant raises the issue that the determinations of the Department's decision were not supported by the Findings and the Findings were not

supported by substantial evidence.

DISCUSSION

Appellant contends that the determinations and findings do not support the decision. As a basis of the present appeal, a review of the respective powers of the Department and the Appeals Board may be in order.

It is the Department which is authorized by the California Constitution to exercise its discretion whether to suspend or revoke an alcoholic beverage license, if the Department shall reasonably determine for "good cause" that the granting or the continuance of such license would be contrary to public welfare or morals.

The scope of the Appeals Board's review is limited by the California Constitution, by statute, and by case law. In reviewing a Department decision, the Appeals Board may not exercise its independent judgment on the effect or weight of the evidence, but is to determine whether the findings of fact made by the Department are supported by substantial evidence in light of the whole record, and whether the Department's decision is supported by the findings. "Substantial evidence" is relevant evidence which reasonable minds would accept as a reasonable support for a conclusion. (Universal Camera Corporation v. National Labor Relations Board (1950) 340 US 474, 477 [71 S.Ct. 456]; Toyota Motor Sales USA, Inc. v. Superior Court (1990) 220 Cal.App.3d 864, 871 [269 Cal.Rptr. 647].)

When, as in the instant matter, the findings are attacked on the ground that there is a lack of substantial evidence, the Appeals Board, after considering the entire record, must determine whether there is substantial evidence, even if contradicted, to reasonably support the findings in dispute. (Bowers v. Bernards (1984) 150 Cal.App.3d

870, 873-874 [197 Cal.Rptr. 925].) Appellate review does not "... resolve conflict[s] in the evidence, or between inferences reasonably deducible from the evidence ... ." (Brookhouser v. State of California (1992) 10 Cal.App.4th 1665, 1678 [13 Cal.Rptr.2d 658].)

Appellant argues with respect to many of the violations, that she did not know of the alleged illegal acts and therefore, under the reasoning of Laube v. Stroh (1992) 2 Cal.App.4th 364 [3 Cal.Rptr.2d 779], a licensee could not “permit” that which was not known to the licensee. However, the Laube case is not applicable as argued by appellant. The case of Laube v. Stroh, supra was actually two cases--Laube and De Lena, both of which involved restaurants/bars--consolidated for decision by the Court of Appeal.

The Laube portion dealt with surreptitious contraband transactions between patrons and an undercover agent--a type of patron activity concerning which the licensee had no indication and therefore no actual or constructive knowledge--and the court ruled the licensee should not have been required to take preventive steps to suppress that type of unknown patron activity.

The De Lena portion of the Laube case concerned employee misconduct, wherein an off-duty employee on four occasions sold contraband on the licensed premises. The court held that the absence of preventative steps was not dispositive, but the licensee's penalty should be based solely on the imputation to the employer of the off-duty employee's illegal acts.

The imputation to the licensee/employer of an employee's on-premises knowledge and misconduct is well settled in Alcoholic Beverage Control Act case law.

(Morell v. Department of Alcoholic Beverage Control (1962) 204 Cal.App.2d 504 [22 Cal.Rptr. 405, 411]; Harris v. Alcoholic Beverage Control Appeals Board (1962) 197 Cal.App.2d 172 [17 Cal.Rptr. 315, 320]; Mack v. Department of Alcoholic Beverage Control (1960) 178 Cal.App.2d 149 [2 Cal.Rptr. 629, 633]; and Endo v. State Board of Equalization (1956) 143 Cal.App.2d 395 [300 P.2d 366, 370-371].) The court in Mantzoros v. State Board of Equalization (1948) 87 Cal.App.2d 140 [196 P.2d 657, 660], held that if a licensee operates through employees, that licensee is responsible for the acts of those employees.

A. Conduct of the Entertainers (Findings II-B, C, D, and E., and III-A and B; Counts 1, 3, 5, 7, 9, and 11).

The testimony showed that on January 18, 1996, three entertainers performed acts prohibited by Department rules. Dawnett Rabuse, while wearing a negligee with a thong bottom, exposed her buttocks; sat on the laps of a Department investigator and other patrons; and ground her hips in a circular motion on the crotches of the investigator and other patrons [RT 44-47, 112-113, 120, 121, 127-129]. Laura Lowdermilk performed the same acts as Rabuse on patrons [RT 47-50), with the additional act of doing a handstand, with her legs around the participants' neck, and drawing the face of the participant to her crotch. Additionally, she placed her head in participants' crotches and bobbed her head up and down [RT 48-51, 134-141]. Carrie Webb exposed her breasts while on the lap of a patron, moved her hand over the crotch of the patron in an up-and-down movement, and placed her head within six inches of the male's crotch and bobbed her head up and down [RT 52-56, 158-159, 162-163].

On January 25, 1996, Department investigators observed performances by three women where patrons were invited onto the stage and the patrons sat in chairs. Performer Sharon Jackson exposed her buttocks, straddled the legs of patrons with her crotch in the patrons' crotch, made grinding motions with her hips back and forth, and pushed the face of a patron into her crotch and moved her mouth, simulating fellatio [RT 59-63]. Performer Stacy Leisle exposed her buttocks, did the same grinding motions as Jackson, bobbed her head up and down while within six to eight inches from a patron's crotch, and did a handstand and drew the face of a patron into her crotch [RT 59-60, 62, 64-65]. Performer Rebecca Bustos exposed her buttocks and did the same grinding motions in the same manner as Jackson and Leisle [RT 59-60, 62, 66]. We determine the findings are supported by substantial evidence.

Appellant argues that the dancers were not employed by appellant. Apparently, appellant hired Steven Garza, a self-employed promotion director, to supply entertainers on certain nights [RT 665-699].

It is fundamental that if a licensee hires entertainers, the licensee is, in most cases, liable for the entertainers' unlawful acts. The Board has decided this issue in many cases: e.g., Basra, Inc. (1996) AB-6548 (a case where the licensee alleged the women were private contractors, with the Board finding an agency relationship between the women and the licensee; Pink Cadillac, Inc. (1997) AB-6672 (a case where patrons partially disrobed and the Board found that, due to the acquiescence of the employees in the conduct, to that extent the licensee did permit the activity).

We conclude that appellant permitted the dances and that there is substantial evidence supportive of the findings.

B. Gambling (Finding IV-A and Count 13).

The Department investigator testified that he saw seven to eight persons around a pool table (not set up for pool) with one participant collecting money thrown to him by each participant, then a throw of the dice by each participant at which time the participants "cheered", and then the money was disbursed to different participants from time to time [RT 69-73, 198]. The manager was in a position to observe the gaming. The gaming went on for about 45 minutes overall [RT 73, 202].

The Department's Instructions, Interpretations and Procedure manual (at p. L428) states that unless the gambling falls within the prohibitions of Penal Code §330, such activity would not be subject to disciplinary action. The Penal Code section states in pertinent part:

> "Every person who deals, plays ... any banking or percentage games played with ... dice ... for money ... is guilty of a misdemeanor ...."

"A banking game ... is a game conducted by one or more persons where there is a fund against which everybody has a right to bet, the bank being responsible for the payment of all the funds ...." (People v. Carrol (1889) 80 Cal. 153 [22 P. 129, 131].) The Supreme Court in Western Telcon, Inc. v. California State Lottery (1996) 13 Cal.4th 475, 484-485 [53 Cal.Rptr.2d 812], stated that "Gaming may be defined as 'the playing of any game for stakes hazarded by the players'" and "Betting may be defined as 'promises[s] to give money or money's worth upon the determination of an uncertain or unascertained event in a particular way ....'"

Appellant argues that the investigator did not know the name of the game being played. We conclude that personal knowledge of the investigator as to the name of the

game is irrelevant. The accusation charges that the game was one of either banking or percentage, both violative of Penal Code §330.

Also, appellant argues that she did not permit the gambling activity. The activity occurred within the premises, appellant's manager was in a position to see the gaming, and looked in the direction of the gaming, with the gaming going on for 45 minutes [RT 72-74]. Such activity is sufficient to come within the view that a licensee is vicariously responsible for the unlawful on-premises acts of his or her employees. Such vicarious responsibility is well settled by case law. (Morel v. Department of Alcoholic Beverage Control (1962) 204 Cal.App.2d 504 [22 Cal.Rptr. 405, 411]; Harris v. Alcoholic Beverage Control Appeals Board (1962) 197 Cal.App.2d 172 [17 Cal.Rptr. 315, 320]; and Mac v. Department of Alcoholic Beverage Control (1960) 178 Cal.App.2d 149 [2 Cal.Rptr. 629, 633].)

C. Smoking of Marijuana (Finding IV-B and Count 14).

A Department investigator testified that a group of patrons within the premises were passing around a "cigarette" from which each smoker would inhale for a long period of time, with the smell of the "cigarette" being that of marijuana. During the period the patrons were smoking, there were security personnel around the patrons and some of the security persons passing through the smokers' midst [RT 239-243, 314-316].

While the investigator's testimony was sufficient to show that the patrons' smoking activity involved smoking marijuana, we determine there was an absence of a sufficient showing that appellant or her employees knew that the smell was that of marijuana. Without some scintilla of such evidence that the smoking of marijuana was

observed, or should have been observed (such as in the gambling issue), the case of Laube, supra, must control. There is no substantial evidence to support the finding.

D. Sales to a Minor (Finding IV-C and Count 15).

Kristina Kelly, the minor, testified that she entered the premises, went to the bar and sat at the bar with friends, with her back to the bartender. In some manner, she ordered an alcoholic beverage which was served to her, and she drank some. The beverage was paid for by a friend [RT 14-22, 248-249, 334-335, 337, 341].

Appellant argues that if she acts in good faith, she does not act at her peril in selling to a minor. To the contrary, the responsibility is upon the licensee not to sell alcoholic beverages to a minor. (Munro v. Alcoholic Beverage Control Appeals Board & Moss (1957) 154 Cal.App.2d 326 [316 P.d. 401]; and Mercurio v. Department of Alcoholic Beverage Control (1956) 144 Cal.App.2d 626 [301 P.2d 474].) Before a sale is made of an alcoholic beverage, it is the responsibility of the seller to determine the true age of the customer who is offering to purchase the alcoholic beverage. (Business and Professions Code §25658, subdivision (a).) A licensee is vicariously responsible for the unlawful on-premises acts of her employees who sell alcoholic beverages to minors. Such vicarious responsibility is well settled by case law. (Morel v. Department of Alcoholic Beverage Control (1962) 204 Cal.App.2d 504 [22 Cal.Rptr. 405, 411]; Harris v. Alcoholic Beverage Control Appeals Board (1962) 197 Cal.App.2d 172 [17 Cal.Rptr. 315, 320]; and Mack v. Department of Alcoholic Beverage Control (1960) 178 Cal.App.2d 149 [2 Cal.Rptr. 629, 633].)

Appellant had procedures set up at the entrance for identifying minors but, apparently, they did not work in this particular case. Whether or not the minor had her

back to the bartender, it was the duty of the bartender to ascertain to whom he was providing the beverage. There was substantial evidence to support the findings.

E. Adulterated Bottles (Finding V and Count 16).

A Department investigator testified that he found eight bottles which were for sale which contained contaminants. Five of the bottles had insects [RT 386-388, 486], two bottles had mold [RT 386-387], and one bottle had another type contaminant, such as hair or lint [RT 385].

Although appellant contends that there was no proof the contaminants were injurious to health, the Department found that Health and Safety Code §110620 was violated.[2]

Webster's New Third International Dictionary, 1986, defines "contaminate" as: "to soil, stain, corrupt, or infect by contact or association ... to render unfit for use by the introduction of unwholesome or undesirable elements ... syn taint, attaint, pollute, defile: these mean to make impure or unclean. Contaminated implies an action by something external to an object which by entering into or coming in contact with the object destroys its purity ...." (Ibid., page 491). The following words are also defined: "filthy" as "dirty" (ibid., pp. 850-851); "putrid" as "rotten" (ibid., p.1850); and "decomposed" as "rot, decayed, to separate essentially into constituent parts" (ibid., p. 587).

We conclude that there was a sufficient showing of a violation of the statutes in

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[2]The code section reads: "It is unlawful for any person to manufacture, sell, deliver, hold, or offer for sale any food that is adulterated." Section 110560 of the same code states: "Any food is adulterated if it consists in whole or in part of any diseased, contaminated, filthy, putrid, or decomposed substances, or if it is otherwise unfit for food."

question that the contaminants rendered the contents unfit for human consumption.

F. Obstruction of Justice (Finding VI-B and Count 17).

Department investigators testified that, during a raid at the premises, Brian Blundell, the son and manager of appellant, was asked his name and using vulgar language, he refused to give it [RT 525]; when his identity was later demanded by a peace officer, Blundell took out his wallet and threw it on the bar counter, then under command, took out his identification, and threw that on the bar counter as well [RT 526-527]. Also, at another time, Blundell was supplied a list of the entertainers and asked if he would supply the true names, to which he refused, with vulgar language [RT 78]. When Blundell and peace officers were in the office of the premises, Blundell [upon entering] flipped the safe combination dial, and upon being asked to open that safe, refused, saying he could not open the safe, and refused to give the name of a person who could open it [RT 83-84, 395, 402]. Testimony was given that Blundell was angry, hostile and uncooperative [RT 349, 403].

Many obstructing acts of Blundell as alleged in the accusation were not found true by the Administrative Law Judge, but the acts of refusing to identify himself were found to be true [Finding VI-B).[3] Department investigators are "peace officers' for purposes of this section of the Penal Code. (Penal Code §830.2, subdivision (h); and Business and Professions Code §25755.)

Both appellant and the Department cite the case of People v. Quiroga (1993) 16

[3]The Penal Code section alleged states: "Every person who willfully resists, delays, or obstructs any ... peace officer ... in the discharge or attempt to discharge any duty of his or her office or employment [is subject to jail or fine]."

Cal.App.4th 961 [20 Cal.Rptr2d 446], for different reasons, which case found that the failure to give identity did not delay or obstruct peace officers. While speech can be a basis of impeding a peace officer, the Quiroga court advised great caution in that area:

> "Moreover, appellant possessed the right under the First Amendment to dispute Officer Stefani's actions. '[t]he First Amendment protects a significant amount of verbal criticism and challenge directed at police officers.' (Houston v. Hill (1987) 482 U.S. 451, 461 [96 L.Ed.2d. 398, 411-412, 107 S.Ct. 2502].) Indeed, '[T]he freedom of individuals verbally to oppose or challenge police action without thereby risking arrest is one of the principal characteristics by which we distinguish a free nation from a police state.' (Id. At pp. 462-463 [96 L.Ed.2d. at pp. 412-413].) While the police may resent having abusive language 'directed at them, they may not exercise the awesome power at their disposal to punish individuals for conduct that is not merely lawful, but protected by the First Amendment.' (Duran v. City of Douglas, Ariz. (9th Cir. 1990) 904 F.d. 1372, 1378.)"

(Id., at 966.)

The Department argument, that there was an obstruction and that the Quiroga case, being affirmed as to a conviction, actually supports the Department, is in error, as that case applies to the present appeal. The Department confuses the arrest process and booking of a misdemeanor, with that of a felony crime, the felony crime issue controlling the decision of the Quiroga court. The Quiroga court stated that Penal Code §148 applies most often to physical acts (16 Cal.App.4th at 967); does not apply to after-arrest interrogations of a misdemeanor crime (16 Cal.App.4th at 970); but does apply to refusal of identification, after arrest, for felony type crimes (16 Cal.App.4th at 972).

Even though Blundell threw his wallet on the bar counter, and later, the identification [on the bar counter], the conduct does not fall within the felony criteria as shown in the Quiroga case.

G. Undisclosed Partner (Finding VII and Count 18).

Appellant argues that her admissions as to having a partnership relationship with her son were due to her confusion during questioning by the Department's counsel in the administrative hearing. However, the Administrative Law Judge found that appellant's attempts during the hearing to impeach her own prior testimony were not credible. The law is clear that the credibility of a witness's testimony is determined within the reasonable discretion accorded to the trier of fact. (Brice v. Department of Alcoholic Beverage Control (1957) 153 Cal.2d 315 [314 P.2d 807, 812] and Lorimore v. State Personnel Board (1965) 232 Cal.App.2d 183 [42 Cal.Rptr. 640].)

The record shows that pursuant to a demand for the records of appellant's premises's operation, appellant, her counsel, and her manager (her son), delivered records to the Department for inspection:

1. The state quarterly tax return for April 1992 (under Cody's old name of "Crazy Delberts") shows appellant signed the return as owner;

2. In January 1993, appellant's business name was changed to Cody's.

3. However, under date of December 11, 1992, the son, designated as "owner," filed an application for a federal employer identification number for Cody's at the premises' address (Exhibit 9).

4. In March 1993, an attorney for appellant sent a letter to appellant's son offering to sell the business to the son [Exhibit 3]. Exhibit 4 is a handwritten memorandum detailing some conditions of a proposed sale of a business that had a bar, a license, and ongoing sales of some type of commodities, and calling for the takeover of a lease (the exhibit was found at the time of the January 1966

raid in a briefcase in the premises' office [RT 432]).

5. The federal quarterly tax return for Cody's at the premises' address, dated April 1993, was signed by Brian Blundell, the son, as owner [Exhibit 7].

6. The federal tax deposit coupon book was sent to Brian Blundell as a general partner of Cody's, at the premises' address [Exhibit 8].

7. The U.S. partnership returns of income for 1993 and 1994 show the son as the general partner receiving 50% of the profits and losses, at the restaurant and bar at the premises' address (gross sales of $92,303 for 1993 [Exhibit 11] and gross sales of $77,434 for 1994 [Exhibit 10].)

8. On March 16, 1993, the son, by a prior application filed with the Department, received permission to be a qualified manager of the premises.

Appellant, at the administrative hearing, testified that she did not recall if she entered into a partnership with her son [RT 603], denied that a partnership agreement was signed [RT 618], admitted that she and her son shared the profits and losses equally [RT 610, and 613, 615 & 616], admitted to the partnership [RT 611], and stated that Exhibits 10 and 11 (the tax returns for Cody's for 1993 and 1994), were filed with the government [RT 612].

We conclude that there was sufficient substantial evidence to support the findings.

H. Bona Fide Eating Place (Finding VIII and Count 17).

The question of what constitutes a bona fide eating place under Business and Professions Code §23038 has been defined in decisions of the courts and the Appeals Board. (Covert v. State Board of Equalization (1946) 29 Cal.2d 125 [173 P.2d 545];

Koo & Hong Entertainment, Inc. (1997) AB-6670; 8250 Sunset Boulevard, Inc. (1997) AB-6575.)

Business and Professions Code §23038 defines a bona fide public eating place as one which is "regularly and in a bona fide manner used and kept open" for the "serving of meals" (defined as "the usual assortment of foods commonly ordered at various hours of the day," specifically excluding sandwiches and salads), to "guests" (defined as persons who, during the hours when meals are regularly served therein, come to order and obtain a meal therein). It would follow from this language that the selling and serving of alcohol in a bona fide public eating place is incidental to its being kept open for the service of meals to guests.[4]

The Covert court, supra, stated that a determination of whether a premises was operating in a bona fide manner was made by viewing the "physical characteristics and the actual mode of operation of the business" (Covert v. St. Bd. Of Equal., supra, 173 P.2d. at p. 549), and in addition to equipment, there must be "personnel appropriate to a restaurant, together with a real offer or holding out to sell food whenever the premises are open for business, [and] there must also be actual and substantial sales of food ...." (173 P.2d at p. 550.) Quoting another decision, the Covert court stated: "Substantial [food service], as distinguished from incidental, sporadic, or infrequent, service is required." (173 P.2d at p. 550.)

Photographs of the kitchen in exhibits 13-A through L, show a kitchen and food

[4]Bone fide is defined as "sincere ... made with earnest and wholehearted intent ... genuine ... not specious or counterfeit ...." (Webster's Third New International Dictionary, 1986, page 250.

preparation facilities sufficient except for actual food available that could be ordered in the normal course of the dinner hour, and in accordance with the posted menu (Exhibit 13-G). The exhibits support the testimony that in 1995, with gross sales of $69,000, only $4,000 was from food [RT 421].

Testimony as to the visit of Department investigators on January 18, 1996, showed that, at 6 p.m., no lights were on in the kitchen. A meal of steak and shrimp was ordered but was never served. No one was observed eating and there were no table set-ups for dinner [RT 37-38, 42, 88, 94, 111, 238]. On January 27, 1997, Department investigators saw a patron eating chicken wings, and were told that that was the only food available. Again, there were no table set-ups or food being prepared, other than the wings [RT 68-69, 75-76].

With a view to the holding of the Covert case, supra, we conclude that there was substantial evidence to support the findings.

CONCLUSION

We conclude that Counts 14 (smoking of marijuana) and 17 (obstructing a peace officer) should be dismissed. We do not view these counts as being violations which would carry a revocation penalty. The false owner violation is a revocation violation, and the violations in total, bring up the issue of the discretion of the Department to revoke the license.

The Appeals Board will not disturb the Department's penalty orders in the absence of an abuse of the Department's discretion. (Martin v. Alcoholic Beverage Control Appeals Board & Haley (1959) 52 Cal.2d 287 [341 P.2d 296].) While appellant did not specifically raise the issue, still under the circumstances of the gravity of the

penalty, the Appeals Board will examine that issue. (Joseph's of Calif. v. Alcoholic Beverage Control Appeals Board (1971) 19 Cal.App.3d 785 [97 Cal.Rptr. 183].)

The Department had the following factors to consider: (1) according to the Department's recommended penalties, gambling warrants a 30-day suspension, adulterated bottles a 5-day suspension, and sales to a minor a 15-day suspension; (2) lewd conduct warrants from a 30-day suspension to revocation of the license, (3) failure to operate a good faith restaurant-type operation warrants a 10-day suspension and higher, along with an indefinite suspension until compliance is shown, and (4) an undisclosed owner warrants revocation (Instructions, Interpretations and Procedures manual, pp. 227-229). The record as a whole shows an uncontrolled operation exclusively run by appellant's son who in 1993 was qualified by the Department, after a request to do so, as a qualified manager. Such duplicity in this cynical petition, while creating a business under the son's control, is a factor the Department could take into consideration. The Department having exercised its discretion reasonably, the Appeals Board will not disturb the penalty.

The decision of the Department is affirmed.[5]

BEN DAVIDIAN, CHAIRMAN
RAY T. BLAIR, JR., MEMBER
ALCOHOLIC BEVERAGE CONTROL
APPEALS BOARD

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[5]This final decision is filed in accordance with Business and Professions Code §23088, and shall become effective 30 days following the date of the filing of this final decision as provided by §23090.7 of said code.

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