

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

RAFAEL SANCHEZ	)	AB-7676
dba Pacheco's Latin Strip	)	
650 South Atlantic Blvd.	)	File: 42-235621
Los Angeles, CA 90022,	)	Reg: 95033345
Appellant/Licensee,	)	
	)	Revocation of License
v.	)	Due to Violation of the
	)	Terms of Probation
DEPARTMENT OF ALCOHOLIC	)	
BEVERAGE CONTROL,	)	Date and Place of the
Respondent.	)	Appeals Board Hearing:
	)	March 1, 2001
	)	Los Angeles, CA

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Rafael Sanchez, doing business as Pacheco's Latin Strip (appellant), appeals from a decision of the Department of Alcoholic Beverage Control<sup>1</sup> which revoked his on-sale beer and wine public premises license for a violation of the terms of appellant's probation.

Appearances on appeal include appellant Rafael Sanchez, appearing through his counsel, Armando H. Chavira, and the Department of Alcoholic Beverage Control, appearing through its counsel, John W. Lewis.

FACTS AND PROCEDURAL HISTORY

Appellant's license was issued on August 31, 1989.

Thereafter, on January 7, 1995, three violations concerning the anti-

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<sup>1</sup>The Department's order, dated August 8, 2000, is set forth in the appendix.

solicitation statutes were alleged and charged in an accusation filed by the Department. On June 16, 1995, appellant consented to an imposition of certain sanctions against his license and signed a stipulation and waiver form to that effect. On August 24, 1995, pursuant to the terms of the stipulation and waiver form, the Department issued its decision revoking appellant's license, but staying that revocation for a probationary period of two years.

On August 8, 2000, the Department issued its Order revoking appellant's license on the grounds that appellant had violated the terms of his probation.

Appellant, thereafter, filed a timely appeal. Appellant contends that: (1) he was coerced into signing the stipulation and waiver form, and (2) the entry of the decision following the signing of the stipulation and waiver form was unnecessarily delayed and caused the probationary period to be extended. Our review will consider both contentions together as they are inter-related.

#### DISCUSSION

Subsequent to the decision entered whereby appellant was placed on a two year probation, appellant was again charged with three violations of the anti-solicitation statutes for incidents occurring August 9, 1997. These alleged violations occurred during the probationary period under the terms of the August 24, 1995, decision of the Department. The Department found the violations to be proven and ordered appellant's license revoked by the Department's decision of April 17, 1998.

This new matter ran the course from an administrative hearing to an appeal. The Appeals Board affirmed the Department's decision in part and reversed in part,

and remanded the matter to the Department to reconsider the penalty originally sought, being revocation. On November 29, 1999, the Department issued its Decision Following Appeals Board Decision, which revoked the license with revocation stayed for a period of two years. Again, appellant filed an appeal. The Appeals Board affirmed the Department's decision on July 6, 2000.

On August 8, 2000, the Department issued its Order revoking appellant's license on the grounds that appellant had violated the terms of his probation, by the finality of the Department's decision of April 17, 1998.

Appellant's raising the specter of coercion in the signing of the stipulation and waiver in June of 1995, is dilatory after such a long period from then to the present without some evidence of improper conduct on the part of the Department. From that time to the present with no complaint as to possible coercion makes the raising of such a contention quite dubious. The record shows appellant was represented by counsel in the second matter during the hearing process before the Department and also on appeal before the Appeals Board. This issue was not raised during those proceedings.

Appellant also argues that if the Department had issued its second decision more timely than two months following the signing of the stipulation and waiver form, the probation period would have ended (the second incidents occurred 15 days before the ending of probation). This is just a fact of life that documentation originating in the district offices (in Los Angeles) take some time for finalization.

Without some evidence that such delay was done to in some manner "trap" appellant, we see such contention as too weak in light of the duty of appellant to

avoid mismanagement of his premises.

Appellant is duty bound by possession of license to not allow illegal operations after he was placed on probation. It is apparent that appellant did not learn the lesson from being placed on probation.

ORDER

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

TED HUNT, CHAIRMAN  
E. LYNN BROWN, MEMBER  
ALCOHOLIC BEVERAGE CONTROL  
APPEALS BOARD

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<sup>2</sup>This final order is filed in accordance with Business and Professions Code §23088, and shall become effective 30 days following the date of the filing of this order as provided by §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 §23090 et seq.