

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

AB-7821

File: 20-315298 Reg: 00049779

JASWANT TOOR and KARAMJIT TOOR dba Bellevue Mini Mart
1429 East Tulare Avenue, Tulare, CA 93274,
Appellants/Licensees

v.

DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL,
Respondent

Administrative Law Judge at the Dept. Hearing: Jeevan S. Ahuja

Appeals Board Hearing: February 14, 2002
San Francisco, CA

ISSUED MAY 16, 2002

Jaswant Toor and Karamjit Toor, doing business as Bellevue Mini Mart (appellants), appeal from a decision of the Department of Alcoholic Beverage Control¹ which revoked their license for co-appellant Jaswant Toor having pled guilty to the crime of grand theft, a public offense involving moral turpitude, being contrary to the universal and generic public welfare and morals provisions of the California Constitution, article XX, §22, and Business and Professions Code §24200, subdivisions (a) and (b), arising from a violation of Penal Code §487(a).

Appearances on appeal include appellants Jaswant Toor and Karamjit Toor, appearing through their counsel, Peter Singh, and the Department of Alcoholic Beverage Control, appearing through its counsel, Nicholas Loehr.

FACTS AND PROCEDURAL HISTORY

Appellants' off-sale beer and wine license was issued on December 21, 1995.

¹The decision of the Department, dated May 17, 2001, is set forth in the appendix.

Thereafter, the Department instituted an accusation against appellants charging that a plea of guilty to a crime of grand theft had been entered against a co-appellant.

An administrative hearing was held on March 29, 2001, at which time oral and documentary evidence was received. Subsequent to the hearing, the Department issued its decision which determined that the charges were proven, and ordered the license revoked.

Appellants thereafter filed a timely appeal. However, appellants have not filed a brief in the matter. The Appeals Board on November 6, 2001, notified appellants through their counsel, in writing, of the opportunity to file briefs in support of appellants' cause. However, no brief has been filed by appellants. 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 appellants. It is the duty of appellants to advise the Appeals Board that the claimed error exists. Without such assistance by appellant, the Appeals Board may deem the general contentions waived or abandoned. (Horowitz v. Noble (1978) 79 Cal.App.3d 120, 139 [144 Cal.Rptr. 710] and Sutter v. Gamel (1962) 210 Cal.App.2d 529, 531 [26 Cal.Rptr. 880, 881].)

We have reviewed the record and find nothing which would indicate the Department acted in an arbitrary manner, based on the facts shown in the record.

Co-appellant is a part owner of the licensed premises, a market. A patron of the market brought two lottery tickets, having previously purchased them at that premises. The patron returned to determine if there was a winner among the tickets he had

purchased. Co-appellant served the customer in this transaction. Both tickets were scanned and the customer was told that neither was a winner. The customer left the store.

Later that day, the customer returned to the store and co-appellant asked to see the tickets stating he wanted to scan the tickets again as sometimes errors occur in the scanning. Co-appellant scanned the tickets and stated one of the tickets was a \$10 winner, but refused to return that ticket to the customer while returning the other non-winning ticket. The customer was paid \$10. Suspecting a problem, the customer returned later to the premises, and was told the winning ticket had been thrown away.

The winning ticket previously purchased by the customer had a winning sum of \$2,231. Later, that winning ticket was received by the Lottery for payment, sent by a former employee of the premises, who confessed that co-appellant had given him the ticket and asked him to submit the ticket for payment. We conclude the decision and findings are supported by the record, and the Department has acted in a manner commensurate with protecting public welfare and morals.

ORDER

The decision of the Department is affirmed.²

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

²This 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.