

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

AB-8257

File: 21-332995 Reg: 03055487

INTERNATIONAL INVESTMENT PROPERTIES, INC. dba GS Food Mart
101 Las Palmas, Patterson, CA 95363,
Appellant/Licensee

v.

DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL,
Respondent

Administrative Law Judge at the Dept. Hearing: Rodolfo Echeverria

Appeals Board Hearing: October 7, 2004
San Francisco, CA

ISSUED DECEMBER 9, 2004

International Investment Properties, Inc., doing business as GS Food Mart (appellant), appeals from a decision of the Department of Alcoholic Beverage Control¹ which suspended its license for 20 days for its clerk having sold an alcoholic beverage (beer) to Danielle Sparrow, an 18-year-old police minor decoy, a violation of Business and Professions Code section 25658, subdivision (a).

Appearances on appeal include appellant International Investment Properties, Inc., appearing through Dalvinder S. Grewal, appellant's manager, and the Department of Alcoholic Beverage Control, appearing through its counsel, Nicholas R. Loehr.

FACTS AND PROCEDURAL HISTORY

Appellant's off-sale general license was issued on September 25, 1997. On July 29, 2003, the Department instituted a two-count accusation against appellant charging

¹The decision of the Department, dated February 19, 2004, is set forth in the appendix.

the unlawful sale of an alcoholic beverage to a minor (count 1), a violation of Business and Professions Code section 25658, subdivision (a), and the employment by appellant of the unsupervised services of a person then 14 years of age for the sale of alcoholic beverages, a violation of Business and Professions Code section 25663, subdivision (b) (count 2).

An administrative hearing was held on November 19, 2003. At that hearing, count 2 of the accusation was dismissed, appellant stipulated to the unlawful sale of an alcoholic beverage to a minor, Danielle Sparrow testified concerning the transaction in order to establish compliance with Rule 141, and appellant presented evidence in mitigation.

According to Dalvinder Grewal, his son, Steven Grewal, was instructed by the clerk to “watch the counter” [RT 15] or “watch this cash register while I change the gas” [RT 18] while the clerk went outside to change the gas prices. The son then took it upon himself to make the sale. Dalvinder Grewal also testified that his son does not work at the store, but was there waiting for Chinese food to be delivered. Steven Grewal is no longer permitted to stand by the counter, and is not permitted to make sales.

The Department recommended a 25-day penalty, the offense being the second within a 36-month period. Dalvinder Grewal asked that he be permitted to pay a fine in lieu of a suspension.

Subsequent to the hearing, the Department issued its decision which determined that the unlawful sale had occurred as alleged in the accusation, that there had been compliance with Rule 141, and that appellant should serve a 20-day suspension.

Dalvinder Grewal filed a letter notice of appeal on behalf of appellant, describing

the decision as “too harsh,” and detrimental to his business. He also requested an opportunity to seek legal advice, since he was not represented at the hearing.

We see no persuasive reason to reverse the decision. Appellant, through its principal, made the choice to proceed without counsel. None of its rights were violated in the course of the hearing. Given the evidence, there was no meaningful chance appellant might prevail at the hearing. The count that was dismissed was provable. This was the second violation within a 36-month period, thus justifying an enhanced penalty; nonetheless, the ALJ reduced the recommended penalty by five days.

ORDER

The decision of the Department is affirmed.²

TED HUNT, CHAIRMAN
KAREN GETMAN, MEMBER
ALCOHOLIC BEVERAGE CONTROL
APPEALS BOARD

² 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.