

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

AB-8299

File: 41-381531 Reg: 03056425

BOOMERANG FOOD CORPORATION dba Boomerang Outback Shack
909 Ocean Front Walk, Venice, CA 90291,
Appellant/Licensee

v.

DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL,
Respondent

Administrative Law Judge at the Dept. Hearing: Sonny Lo

Appeals Board Hearing: May 5, 2005
Los Angeles, CA

ISSUED JULY 6, 2005

Boomerang Food Corporation, doing business as Boomerang Outback Shack (appellant), appeals from a decision of the Department of Alcoholic Beverage Control¹ which suspended its license for 25 days for its bartender, Mellisa Johnson, having sold a bottle of Budweiser beer to Guadalupe Tapia, a 19-year-old police minor decoy, a violation of Business and Professions Code section 25658, subdivision (a).

PROCEDURAL HISTORY

Appellant's on-sale beer and wine eating place license was issued on March 8, 2002. On December 1, 2003, the Department instituted an accusation against appellant charging the unlawful sale of an alcoholic beverage to a minor on October 11, 2003. The accusation also charged that appellant had previously been disciplined for a sale-to-minor violation on January 30, 2003.

An administrative hearing was held on April 27, 2004, at which time oral and documentary evidence was received. Subsequent to the hearing, the Department

¹The decision of the Department, dated June 3, 2004, is set forth in the appendix.

issued its decision which determined that the charges of the accusation had been established, and rejected appellant's claim of an affirmative defense

A notice of appeal was filed by the firm of Solomon, Saltsman & Jamieson. By letter dated April 12, 2005, Ralph B. Saltsman informed the Board as follows:

At this time the license has been surrendered. I have been informed that the business is no longer open and operating at the site.

At the time of this writing, I am not authorized to withdraw the pending appeal, nor am I authorized to prosecute the pending appeal.

No brief has been filed on behalf of the 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. (*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].)

ORDER

The decision of the Department is affirmed.²

SOPHIE C. WONG, MEMBER
FRED ARMENDARIZ, 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.