

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

AB-8694

File: 20-433377 Reg: 06064086

CHEVRON STATIONS, INC., dba Station 98958
1650 41st Avenue, Capitola, CA 95010,
Appellant/Licensee

v.

DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL,
Respondent

Administrative Law Judge at the Dept. Hearing: Rodolfo Echeverria

Appeals Board Hearing: January 15, 2009
San Francisco, CA

ISSUED JUNE 22, 2009

Chevron Stations, Inc., doing business as Station 98958 (appellant), appeals from a decision of the Department of Alcoholic Beverage Control¹ which suspended its license for 10 days for appellant's clerk selling an alcoholic beverage to a police minor decoy, a violation of Business and Professions Code section 25658, subdivision (a).

Appearances on appeal include appellant Chevron Stations, Inc., appearing through its counsel, Ralph B. Saltsman and Stephen W. Solomon, and the Department of Alcoholic Beverage Control, appearing through its counsel, Gerry J. Agerbek.

FACTS AND PROCEDURAL HISTORY

Appellant's off-sale beer and wine license was issued in July 1998. The Department filed an accusation against appellant charging that appellant's clerk sold an

¹The decision of the Department, dated April 6, 2007, is set forth in the appendix.

alcoholic beverage to 19-year-old Laurent Paulsen on September 8, 2006. Paulsen was working as a minor decoy for the Rocklin Police Department at the time.

At the administrative hearing held on February 7, 2007, documentary evidence was received and testimony concerning the sale was presented. According to the testimony, the clerk looked at the decoy's valid California driver's license that showed him to be 18 years old, but sold him a six-pack of Heineken beer.

After the hearing, the Department issued its decision which determined that the violation charged was proved and no defense was established. Appellant filed an appeal contending the Department had no procedures at the time of the hearing to prevent ex parte communication between its litigating attorneys and its decision maker.

DISCUSSION

The Department has requested that this case be remanded to the Department for consideration of the ex parte communication issue. There being no objection from appellant, we shall remand the case to the Department pursuant to its request.

ORDER

This matter is remanded to the Department for an evidentiary hearing in accordance with the foregoing discussion.²

FRED ARMENDARIZ, CHAIRMAN
SOPHIE C. WONG, MEMBER
TINA FRANK, MEMBER
ALCOHOLIC BEVERAGE CONTROL
APPEALS BOARD

² This order of remand is filed in accordance with Business and Professions Code section 23085, and does not constitute a final order within the meaning of Business and Professions Code section 23089.