

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

AB-9165

File: 47-480688 Reg: 10073880

JISHCO, INC., dba Jimmies Roadhouse 70
64 East Sierra Street, Portola, CA 96122,
Appellant/Licensee

v.

DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL,
Respondent

Administrative Law Judge at the Dept. Hearing: Nicholas R. Loehr

Appeals Board Hearing: April 5, 2012
San Francisco, CA

ISSUED MAY 2, 2012

Jishco, Inc., doing business as Jimmies Roadhouse 70 (appellant), appeals from a decision of the Department of Alcoholic Beverage Control¹ which revoked its license, with the revocation stayed for 180 days to permit a transfer of the license, on condition that the license be suspended for 20 days, and that no cause for discipline occur within the 180 days, for failing to disclose a prior conviction on its license application, and for one of the co-licensees having been convicted of a public offense involving moral turpitude, violations of Business and Professions Code section 24200, subdivision (c) and (d).

¹The decision of the Department, dated April 6, 2011, is set forth in the appendix.

Appearances on appeal include appellant Jishco, Inc., appearing through its counsel, Richard D. Warren, and the Department of Alcoholic Beverage Control, appearing through its counsel, Dean Lueders.

FACTS AND PROCEDURAL HISTORY

Appellant's on-sale general public eating place license was issued on August 18, 2009. On November 18, 2010, the Department instituted an accusation against appellant charging that appellant failed to disclose a prior conviction on its license application, and that one of the co-licensees had been convicted of a public offense involving moral turpitude, to-wit: sexual assault on a child.

At the administrative hearing held on February 3, 2011, documentary evidence was received and testimony concerning the violations charged was presented by James Schwilling, one of the co-licensees; James Murphy, city manager for the City of Portola; James Rice and Gregory Lohn, character witnesses for the appellant; and Brandon Shotwell, an investigator with the Department of Alcoholic Beverage Control.

Subsequent to the hearing, the Department issued its decision which determined that the charges were proven and that no defense to the charges had been established.

Appellant thereafter filed a timely notice of appeal.

DISCUSSION

Written notice of the opportunity to file briefs in support of appellant's position was given on December 13, 2011. Appellant has not filed a brief. We have reviewed the notice of appeal and have found it lacks sufficient information for this Board to determine the basis for appellant's appeal.

The Appeals Board is not required to make an independent search of the record for error not pointed out by appellant. It was appellant's duty to show the Board that the

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]; *Sutter v. Gamel* (1962) 210 Cal.App.2d 529, 531 [26 Cal.Rptr. 880, 881].)

ORDER

The decision of the Department is affirmed.²

FRED ARMENDARIZ, CHAIRMAN
TINA FRANK, MEMBER
ALCOHOLIC BEVERAGE CONTROL
APPEALS BOARD

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