

# Alcoholic Beverage Control Appeals Board

## 2017 SLAA REPORT

January 05, 2018

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Alexis Podesta, Secretary  
California Business, Consumer Services and Housing Agency  
915 Capitol Mall, Suite 350-A  
Sacramento, CA 95814

Dear Ms. Alexis Podesta,

In accordance with the State Leadership Accountability Act (SLAA), the Alcoholic Beverage Control Appeals Board submits this report on the review of our internal control and monitoring systems for the biennial period ending December 31, 2017.

Should you have any questions please contact Sarah M. Smith, Attorney, at (916) 445-4005, sarah.smith@abcappeals.ca.gov.

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### BACKGROUND

The Board's mission is to provide quasi-judicial review of decisions of the Department of Alcoholic Beverage Control (Department) issuing, denying, suspending or revoking alcoholic beverage licenses. The Board's authority is derived from the California Constitution, and its powers are delineated in the Business and Professions Code sections 23075 through 23089.

The Board is comprised of three members appointed by the Governor, and a staff consisting, at the present time, of an Executive Officer, two Attorney III's, an Associate Governmental Program Analyst, and a Legal Secretary.

The Board holds monthly hearings. The Board Members are provided case materials (hearing transcripts, exhibits, as well as controlling legal principles) and analysis by staff attorneys prior to hearing argument in individual cases. After the Board deliberates, Board members are provided drafts reflecting the Board's decisions. The draft and final decisions are prepared by the Board's attorneys.

The Board and its staff are keenly aware that the Board's decisions can impact the economic lives of the licensees whose appeals are heard, and the efficacy of the Department's regulatory function that its decisions implement. To that end, the Board and its staff are committed to ensuring that its decisions are soundly based on the law and explanatory in their reasoning. Decisions of the Board are subject to appellate review by way of writ of review to a District Court of Appeal or the Supreme Court.

The Board is a special-funded agency, its operations funded by a surcharge on alcoholic beverage license fees. The Board has no administrative staff; its administrative functions are provided via an Interagency Agreement by the Department of General Services. These functions include human resources, budget and accounting services.

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### ONGOING MONITORING

As the head of Alcoholic Beverage Control Appeals Board, Esteban Almanza, Executive Officer, is responsible for the overall establishment and maintenance of the internal control and monitoring systems.

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### **EXECUTIVE MONITORING SPONSOR(S)**

The executive monitoring sponsor responsibilities include facilitating and verifying that the Alcoholic Beverage Control Appeals Board internal control monitoring practices are implemented and functioning as intended. The responsibilities as the executive monitoring sponsor(s) have been given to: Esteban Almanza, Executive Officer.

### **MONITORING ACTIVITIES**

The risk assessment process involved the Executive Officer, staff Attorneys and the support staff. With a total staff of five full-time employees housed in a single office, an organization-wide risk assessment is an on-going process that includes 100% of the staff. Potential risks can be raised at regular monthly staff meetings.

### **ADDRESSING VULNERABILITIES**

When a potential risk is identified we determine whether the risk could adversely affect due process. If it does, immediate action will be taken to address the risk. This type of risk has not occurred since our last SLAA report.

All other risks are related to process improvements and are ranked by estimated cost and resources to mitigate the risk.

### **COMMUNICATION**

As the Executive Officer of Alcoholic Beverage Control Appeals Board, Esteban Almanza is responsible for the overall establishment and maintenance of the internal control system. We have also identified him as our designated agency monitor. The Board is an office of five staff therefore communications are ongoing.

### **ONGOING MONITORING COMPLIANCE**

The Alcoholic Beverage Control Appeals Board is in the process of implementing and documenting the ongoing monitoring processes as outlined in the monitoring requirements of California Government Code sections 13400-13407. These processes include reviews, evaluations, and improvements to the Alcoholic Beverage Control Appeals Board systems of controls and monitoring.

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### **RISK ASSESSMENT PROCESS**

The following personnel were involved in the Alcoholic Beverage Control Appeals Board risk assessment process: Executive Management, and Staff.

#### **RISK IDENTIFICATION**

The Board's risk assessment is an on-going process that includes 100% of the staff. Potential risks can be raised at regular monthly staff meetings.

#### **RISK RANKING**

When a potential risk is identified we determine whether the risk could adversely affect due process. If it does, immediate action will be taken to address the risk. This type of risk has not occurred since our last SLAA report.

All other risks are related to process improvements and are ranked by estimated cost and resources to mitigate the risk.

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## **RISKS AND CONTROLS**

### **RISK: OPERATIONS -INTERNAL-PROGRAM/ACTIVITY—CHANGES, COMPLEXITY**

Operations- Internal- Dependence on the ABC Department for Transcripts:

An evaluation of the process for an appeals case preparation has identified an opportunity to reduce the processing time for assessing the appeals fee and obtaining the necessary copies of the Department's administrative hearing transcript.

Currently the Board requests a calculation of the cost for a copy of the court reporters transcript from the Department. Depending on the Departments workload, this can take several weeks.

After payment is received from the appellant the Board will request a copy of the transcript from the Department who will request the copy from the court reporter. Depending on the Departments workload, this can also take several weeks.

The risk to the appeals process is that the Department's workload controls the time it takes to process the appeals fee and prepare the case for an appeal hearing.

The cause is existing regulations and procedures.

The process of preparing documentation for an appeal is approximately eight weeks.

#### **CONTROL A**

The control required to mitigate this risk is a review and revision of the Board's regulations that govern the process for receiving the administrative hearing transcripts.

### **RISK: OPERATIONS -INTERNAL-TECHNOLOGY—SUPPORT, TOOLS, DESIGN, OR MAINTENANCE**

Operations- Internal- Technology:

Legal offices and courts are actively modernizing by producing and maintaining legal/court records electronically, enabling or even requiring electronic filing of pleadings and orders, and building high-tech courtrooms for evidence presentation. As the extent to which society keeps paper records continually declines, e-filing will be the norm and in many jurisdictions already is.

The risk of a continued paper based appeals process is that it increases the time and complexity of exercising appellant's due process rights. Additionally a web based process could make the appeals process more user friendly to mom & pop businesses who want to exercise their right to appeal.

Legal offices and courts are modernizing at a faster pace than the Board.

Consequently many appellants convert their digitized documents to paper.

#### **CONTROL A**

The control required to mitigate the technology risk is an investment in available technology that digitizes the process and acquiring the staff capacity to manage the technology.

**CONCLUSION**

The Alcoholic Beverage Control Appeals Board strives to reduce the risks inherent in our work and accepts the responsibility to continuously improve by addressing newly recognized risks and revising controls to prevent those risks from happening. I certify our internal control and monitoring systems are adequate to identify and address current and potential risks facing the organization.

**Esteban Almanza, Executive Officer**

CC: California Legislature [Senate (2), Assembly (1)]  
California State Auditor  
California State Library  
California State Controller  
Director of California Department of Finance  
Secretary of California Government Operations Agency