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

AB-9462
File: 20-527763 Reg: 13079124

7-ELEVEN, INC., JAGJIT SINGH GHUMAN, and SARBJEET KAUR GHUMAN,
dba 7-Eleven Store #2174-35999A
11140 Del Amo Boulevard, Lakewood, CA 90715,
Appellants/Licensees

v.

DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL,
Respondent

Administrative Law Judge at the Dept. Hearing: Matthew G. Ainley

Appeals Board Hearing: March 5, 2015
Los Angeles, CA

ISSUED MARCH 24, 2015

7-Eleven, Inc., Jagjit Singh Ghuman, and Sarbjeet Kaur Ghuman, doing business as 7-Eleven Store #2174-35999A (appellants), appeal from a decision of the Department of Alcoholic Beverage Control[1] suspending their license for 15 days because their clerk sold an alcoholic beverage to a minor decoy, a violation of Business and Professions Code section 25658, subdivision (a).

Appearances include appellants 7-Eleven, Inc., Jagjit Singh Ghuman, and Sarbjeet Kaur Ghuman, through their counsel, Jennifer L. Oden and Margaret Warner Rose of the law firm Solomon Saltsman & Jamieson, and the Department of Alcoholic Beverage Control, through its counsel, Jennifer M. Casey.

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[1]The decision of the Department, dated July 24, 2014, is set forth in the appendix.

FACTS AND PROCEDURAL HISTORY

Appellants' off-sale beer and wine license was issued on March 14, 2013. On August 27, 2013, the Department filed an accusation against appellants charging that, on July 12, 2013, appellants' clerk, Arjun Shrestha (the clerk), sold an alcoholic beverage to 16-year-old Anthony B. Although not noted in the accusation, Anthony was working as a minor decoy for the Department of Alcoholic Beverage Control at the time.

At the administrative hearing held on June 11, 2014, documentary evidence was received and testimony concerning the sale was presented by Anthony B. (the decoy) and by Mark Reese, a Department agent. Appellants presented no witnesses.

Testimony established that on the date of the operation, Department Agent Valencia entered the licensed premises. The decoy entered fifteen to twenty seconds later. The decoy walked to the cooler and selected a six-pack of Bud Light beer. He took the beer to the counter and set it down. The clerk scanned the beer and told the decoy the price. The decoy paid with a $10 bill.

As the clerk was placing the money in the register, he asked to see the decoy’s identification. The decoy pulled his California driver’s license from his pocket and held it in front of him, waiting for the clerk to look at it. The clerk never did so. Instead, the clerk handed the decoy some change and bagged the beer. The decoy put the money and his identification in his pocket, picked up the beer, and exited. Agent Valencia followed.

The Department's decision determined that the violation charged was proved and no defense was established. Appellants received a penalty of fifteen days’ suspension.

Appellants then filed an appeal contending (1) due process requires that the

decoy appear before the Appeals Board; (2) the Department violated rule 141, subdivisions (a) and (b)(2),[2] by using a decoy who was experienced, had law enforcement training, stood 6' tall, and weighed 205 pounds; (3) the ALJ ignored the decoy's testimony that, while he was nervous on his first decoy operation, his experience made him "less nervous" at the licensed premises; and (4) the decoy operation does not reflect "true compliance" with rule 141(b)(3) because it is not clear the clerk was aware that the decoy had produced his identification.

DISCUSSION

I

Appellants contend that, in order for this Board to conduct a proper review of the Department's decision, the decoy must appear at oral argument. Appellants contend the decoy's physical person is evidence to be reviewed on appeal, and argues that "[t]he Board cannot shy away from its statutory and constitutional mandate to review the Rule 141(b)(2) findings simply because the duty requires the unusual step of viewing a living piece of evidence." (App.Br. at p. 8.)

Appellants are simply raising the same decoy-as-evidence argument we addressed at length — and firmly rejected — in *Chevron Stations* (2015) AB-9415. (See also *7-Eleven, Inc./Niaz* (2015) AB-9427; *7-Eleven, Inc./Jamreonvit* (2015) AB-9424; *7-Eleven, Inc./Assefa* (2015) AB-9416.) Appellants' argument is based on the assumption that producing the minor decoy at the time of the appellate hearing will somehow assist the Board in determining whether the decoy appeared to be under the age of 21 years when the sale took place or when he appeared at the administrative

[2]References to rule 141 and its subdivisions are to section 141 of title 4 of the California Code of Regulations, and to the various subdivisions of that section.

hearing. But since twenty months lapsed in this case from the time of sale until the hearing before the Board, and nine months passed from the time of the administrative hearing until our hearing, it is probable the appearance of the decoy would not be the same as at the time of sale or the time of the administrative hearing. The claim that the decoy's appearance before the Board would assist us in determining his or her appearance twenty months earlier ignores that the passage of time usually makes people appear differently from what they appeared many months previously; indeed, it would not be surprising that they appear what they in fact are then — older. This "live evidence" appellants seek to proffer to us, then, is more likely to be misleading and prejudicial than probative. Nonetheless, we offer now a summary of our reasoning in response to appellants' novel and bizarre bagatelle, referring them to our more extensive discussions in the aforementioned cases.

Section 23083 limits our review to evidence included in the administrative record. (Bus. & Prof. Code § 23083; see also *7-Eleven, Inc./Grover* (2007) AB-8558, at p. 3.) Section 1038(a) of the California Code of Regulations defines the items to be included in the administrative record — none of which conceivably allows for an actual human being. (See Cal. Code Regs., tit. 1, § 1038(a).) The properly compiled record — including testimony, arguments, photographs of the decoy, and the Department's decision containing the ALJ's firsthand impressions — is both legally and practically sufficient for the Board to determine whether the conclusions reached regarding the decoy's appearance are supported by the evidence.

As we noted in *Chevron Stations*, *supra*, appellants' argument has no merit. In our previous decisions addressing this issue, we strongly encouraged the appellants to seek a writ of appeal if they disagree. It is our understanding that counsel for

appellants is presently pursuing a writ on this issue in an unrelated case. Until such time as this issue is ultimately resolved by an appellate court, we will continue to reject it for the above reasons. If it is ultimately decided congruently with our uniform decisions on the matter, we will impose sanctions on counsel who raise it in the future.

II

Appellants contend that the appearance of this particular decoy violated the "most basic minimum fairness requirements" set forth in rule 141, subdivisions (a) and (b)(2). (App.Br. at p. 9.) Appellants direct this Board to the decoy's experience, which included visits to 50 other locations as well as experience as a decoy on tobacco operations; his law enforcement training, which included a year and a half as an Explorer with the Long Beach Police Department; and his 6-foot, 205-pound physique. (App.Br. at p. 10.) Appellants argue that, taken together, these factors "invariably have an effect" on the decoy's apparent age. (App.Br. at p. 11.) Moreover, appellants insist that "[n]ot everyone has to believe that [the decoy] looked over 21 years of age for Rule 141(b)(2) to be violated, just most people," and that "most people do not expect a person under the age of 21" to have the physical presence or law experience presented by this decoy.

Rule 141 states, in relevant part:

> (a) A law enforcement agency may only use a person under the age of 21 years to attempt to purchase alcoholic beverages to apprehend licensees, or employees or agents of licensees who sell alcoholic beverages to minors . . . and to reduce sales of alcoholic beverages to minors in a fashion that promotes fairness.
>
> (b) The following minimum standards shall apply to actions filed pursuant to Business and Professions Code Section 25658 in which it is alleged that a minor decoy has purchased an alcoholic beverage:
>
> [¶ . . . ¶]

> (2)The decoy shall display the appearance which could generally be expected of a person under 21 years of age, under the actual circumstances presented to the seller of alcoholic beverages at the time of the alleged offense.

This Board is bound by the factual findings in the Department's decision as long as they are supported by substantial evidence. The standard of review is as follows:

> We cannot interpose our independent judgment on the evidence, and we must accept as conclusive the Department's findings of fact. [Citations.] We must indulge in all legitimate inferences in support of the Department's determination. Neither the Board nor [an appellate] court may reweigh the evidence or exercise independent judgment to overturn the Department's factual findings to reach a contrary, although perhaps equally reasonable, result. [Citations.]

(*Dept. of Alcoholic Bev. Control v. Alcoholic Bev. Control Appeals Bd.* (*Masani*) (2004) 118 Cal.App.4th 1429, 1437 [13 Cal.Rptr.3d 826]; see also *Kirby v. Alcoholic Bev. Control Appeals Bd.* (1968) 261 Cal.App.2d 119, 122 [67 Cal.Rptr. 628] ["In considering the sufficiency of the evidence issue the court is governed by the substantial evidence rule[;] any conflict in the evidence is resolved in favor of the decision; and every reasonably deducible inference in support thereof will be indulged."].)

This Board has also recognized the challenges inherent in evaluating compliance with rule 141(b)(2) and has set forth the standard by which it will review appearance findings:

> An ALJ's task to evaluate the appearance of a decoy is not an easy one, nor is it precise. To a large extent, application of such standards as the rule provides is, of necessity, subjective; all that can be required is reasonableness in the application. As long as the determinations of the ALJ's [*sic*] are reasonable and not arbitrary or capricious, we will uphold them.

(*O'Brien* (2001) AB-7751, at pp. 6-7 [rejecting collateral estoppel where separate ALJs in unrelated cases reached opposite conclusions regarding appearance of same

decoy]; see also *Younan* (2012) AB-9198, *7-Eleven, Inc./Cacy* (2012) AB-9193, and *7-Eleven, Inc./Lobana* (2012) AB-9164 [each applying the *O'Brien* reasoning to an isolated rule 141(b)(2) defense].)

The ALJ made the following findings of fact relevant to appellants' defense under rule 141(b)(2):

> 5. Anthony appeared and testified at the hearing. On July 12, 2013, he was 6 feet tall and weighed 205 pounds. He wore a dark gray t-shirt, black shorts, and tennis shoes. His hair was cut short. (Exhibits 3-5.) His appearance at the hearing was the same, except that he was 20 pounds lighter.
>
> [¶ . . . ¶]
>
> 9. Anthony has been a decoy three to five times before July 12, 2013, during which he visited approximately 50 locations. On July 12, 2013, two of fourteen locations sold alcoholic beverages to him (including the Licensed Premises). He learned of the decoy program through his involvement in the Explorer program. As an Explorer, he attended meetings, went on ride-alongs, and helped at DUI checkpoints. He also attended a five-day Explorer academy.
>
> 10. Anthony appeared his age at the time of the decoy operation. Based on his overall appearance, i.e., his physical appearance, dress, poise, demeanor, maturity, and mannerisms shown at the hearing, and his appearance and conduct in front of Shrestha at the Licensed Premises on July 12, 2013, Anthony displayed the appearance which could generally be expected of a person under 21 years of age under the actual circumstances presented to Shrestha.

(Findings of Fact ¶¶ 5, 9-10.) Based on these findings, he rejected appellants' rule 141(b)(2) defense:

> 6. With respect to rule 141(b)(2), the Respondents argued that Anthony's physique and his training and experience made him appear to be over the age of 21. They did not. Although Anthony was taller than average, there was nothing unusual about his height or his physique. In any event, he had a very youthful face which clearly indicated that he was still a teenager. In short, Anthony had the appearance generally expected of a person under the age of 21. (Findings of Fact ¶ 10.)

(Conclusions of Law ¶ 6.)

We have reviewed the evidence in the record. We find no flaws in the factual findings below, nor can we say that the conclusions reached are arbitrary or capricious.

Appellants, however, imply — but do not state outright — that the ALJ misinterpreted the language from rule 141(b)(2) requiring that the decoy display "the appearance which could *generally* be expected" of someone under 21. (See App.Br. at p. 11.) They argue that the decoy

> does not display the overall appearance and demeanor "generally" expected of a person under 21 years of age. Not everyone has to believe that Anthony looked over 21 years of age for Rule 141(b)(2) to be violated, just most people. Here, most people do not expect a person under the age of 21 to have been trained in law enforcement, have conducted over 50 undercover operations, and be 6' tall and over 200 pounds.

(App.Br. at p. 11.)

Appellants' reasoning is flawed. An ALJ is not required to survey the public in order to determine what position "most" people would take regarding the decoy's appearance. He is required only to apply his own knowledge and experience to the evidence before him, and to reach a reasonable conclusion as to whether the decoy displays the appearance which could generally be expected of someone under 21. While this standard admits a certain degree of subjectivity, it is no more subjective than appellants' statement that "most" people would not believe this decoy is under 21 — and almost certainly *less* so, as an ALJ is committed to impartiality, and appellants are not. Moreover, even if this Board accepted appellants' "most people" standard — and we certainly do not — appellants present absolutely no evidence in support of their claims regarding what "most people" would believe.

Appellants have not presented any legitimate grounds for reversal. They are merely asking this Board, perhaps to delay implementation of the decision, to consider

the same evidence and reach the opposite conclusion — an approach this Board has repeatedly declined to take.

III

Appellants contend that the ALJ failed to address evidence of the decoy's nonphysical appearance — specifically, the decoy's own testimony to the effect that he was "less nervous" during this particular operation than he was the first time he acted as a decoy. (App.Br. at p. 12.) Appellants contend that this omission "violates [their] right to a hearing on the merits and directly contradicts this Board's prior rulings on what constitutes relevant 141(b)(2) evidence." (App.Br. at p. 12.)

Appellants direct this Board to its decisions in *Azzam* (2001) AB-7631 and *Prestige Stations, Inc./Arco Stations* (2001) AB-7624. Both of these cases explain the relevance of experience evidence:

> Nothing in Rule 141(b)(2) prohibits using an experienced decoy. A decoy's experience is not, by itself, relevant to a determination of the decoy's apparent age; it is only the *observable effect* of that experience which can be considered by the trier of fact. While extensive experience as a decoy or working in some other capacity for law enforcement (or any other employer, for that matter) may sometimes make a young person appear older because of his or her demeanor or mannerisms or poise, that is not always the case, and even where there is an observable effect, it will not manifest itself the same way in each instance. There is no justification for contending that the mere fact of the decoy's experience violated Rule 141(b)(2), without evidence that the experience actually resulted in the decoy displaying the appearance of a person 21 years old or older.

(*Azzam*, *supra*, at p. 5; see also *Prestige Stations, Inc./Arco Stations*, *supra*, at p. 3.) These decisions merely define the limited relevance of experience evidence. They do not require an ALJ to address a claim that a decoy was insufficiently nervous during the course of an operation.

Here, the ALJ addressed evidence of the decoy's experience and concluded it

had no effect on the decoy's appearance. (See Findings of Fact ¶¶ 9-10; Conclusions of Law ¶ 6.) It is true he did not specifically mention the decoy's relative level of nervousness. However, as we have noted elsewhere, an ALJ is not required to provide a laundry list of factors he found inconsequential. (See, e.g., *7-Eleven, Inc./Convenience Group, Inc.* (2014) AB-9350.)

Moreover, it is not clear what, if anything, the decoy's testimony shows. The relevant testimony took place on cross-examination:

> [MS. ODEN]
> When you first started acting as a minor decoy, were you nervous in that role?
>
> [THE DECOY]
> I was.
>
> Q And as you continued to act as a minor decoy, did you become less nervous?
>
> A Yes.
>
> Q And on the date of this operation were you less nervous as a result of your experience?
>
> A I was less nervous than the first time, yes.
>
> Q And as you sit here and testify today, is this the first time you've ever testified?
>
> A This is not the first time I've testified, ma'am.
>
> Q Are you nervous as you sit here?
>
> A Yes, I am.

(RT at pp. 24-25.) Appellants contend that this testimony is "highly relevant" because it shows the decoy was "nervous when he first started working as a decoy, but became less so as he participated in more decoy operations." (App.Br. at p. 12.) In fact, this testimony tells us virtually nothing. It measures the decoy's relative level of

nervousness only through vague reference to his previous level of nervousness — a fundamentally useless yardstick, and one that tells us absolutely nothing about the decoy's appearance on the day of the operation. Just how nervous was he during his first operation? How much *less* nervous was he at the licensed premises? Did his level of nervousness show in any perceivable fashion? Were his hands shaking? Did he swagger? Appellants argue the omission of this testimony from the Department's decision is reversible error. This Board, however, finds it entirely justifiable — and indeed, unsurprising, given that the decoy's testimony on this issue tells us absolutely nothing.

More importantly, appellants bore the burden of proving their rule 141(b)(2) defense. The clerk did not testify, and appellants have offered no other evidence to show that the decoy's relative level of nervousness in any way affected his appearance under the actual circumstances presented to the clerk.

IV

Appellants argue that the decoy did not present his identification to the clerk in a manner that strictly complied with rule 141(b)(3). Specifically, appellants claim that although the decoy removed the identification from his pocket and held it at stomach or chest height, he did not attempt to hand it to the clerk. Moreover, according to appellants, the decoy brought out his identification while the clerk was making change, depriving the clerk of the opportunity to view the identification. Appellants contend that while the decoy may have "technically complied" with rule 141(b)(3), he ought to have achieved "true compliance" — that is, he should have "kept the I.D. out of his pocket a few seconds after the clerk finished making the change or extended his arm toward the clerk until the facts indicated that the clerk was actually aware the I.D. was out or had

his hands free to take possession of the I.D." (App.Br. at p. 14.)

Rule 141, subdivision (b)(3), states: "A decoy shall either carry his or her own identification showing the decoy's correct date of birth or shall carry no identification; a decoy who carries identification shall present it upon request to any seller of alcoholic beverages."

In *Prestige Stations* (2002) AB-7802, we rejected a rule 141(b)(3) defense premised on the decoy's failure to remove his identification from a plastic wallet sleeve. We observed that it was not uncommon for personal identification to be carried in such a manner, and held:

> In the absence of any evidence that the identification was purposely concealed, or that a more complete inspection was denied, we doubt the rule was intended to require more. *A seller is always free to insist that he or she be handed the identification, and to refuse to sell if the request is not honored*.

(*Id.* at p. 4, emphasis added.)

The ALJ made the following relevant finding of fact:

> 7. As Shrestha was placing the money in the register, he asked to see Anthony's ID. Anthony pulled his California driver's license (exhibit 2) from his pocket and held it in front of him, waiting for the Shrestha [*sic*] to look at it. Shrestha never did so. Instead, he handed some change to Anthony and bagged the beer. Anthony put the money and his ID in his pocket, picked up the beer, and exited. Agent Valencia subsequently exited.

(Findings of Fact ¶ 7.) Based on this, the ALJ reached the following conclusion regarding appellants' rule 141(b)(3) defense:

> 7. With respect to rule 141(b)(3), the Respondents argued that Anthony did not properly present his ID when asked. Anthony is the only witness who testified about the transaction. He indicated that, when asked for his ID, he pulled it from his pocket and held it above the counter approximately chest high. He did not believe that he held it out by extending his arm. Regardless, Shrestha never attempted to look at the ID.

> The Respondents contend that Anthony should have extended his arm or otherwise tried to get Shrestha to look at the ID. The Respondents are incorrect. As the clerk was making the sale, Shrestha was in full control of the transaction. It was not enough for him to ask to see ID, but never look at it — particularly where it was readily available to him, as it was in this case. There is absolutely no evidence that Anthony tried to hide his ID or otherwise prevent Shrestha from looking at it.

(Conclusions of Law ¶ 7.)

The ALJ based these findings and conclusions on the decoy's wholly uncontroverted testimony. On direct, the decoy testified as follows:

> [MS. CASEY]
> After he placed the money in the register, what happened after that?
>
> [THE DECOY]
> He asked me for my ID.
>
> Q What did you do?
>
> A I removed it from my pocket.
>
> Q After you removed your ID from your pocket, where did you put it?
>
> A I held it in my hand, expecting him to ask me for it, or expecting him to take it from me.
>
> Q And when you held it in your hand, where did you hold it?
>
> A I held it about stomach or chest height.
>
> Q Was the identification that you were holding visible above the counter?
>
> A Yes, ma'am.
>
> Q How long did you hold the identification for?
>
> A I do not know the exact amount of time, ma'am.
>
> Q Can you give us your best estimate?
>
> A 5 to 10 seconds.

Q Did the clerk take the identification from you?

A He did not.

Q After you're holding your ID in your hands, what is the clerk doing?

A The clerk is getting my change from the cash register.

Q And did he give you your change?

A He did.

Q What did you do with the change?

A I placed the change in my pocket.

Q When you placed the change in your pocket, where was your identification?

A My identification was still in my hand, but I placed it in my pocket, like, roughly the same time that I placed the change in my pocket.

Q So was your identification in your hands from the time the clerk asked for it to the time he gave you your change?

A Yes, ma'am.

(RT at pp. 12-13.) The decoy's testimony on cross-examination was similar:

[MS ODEN]
And as the clerk was making change, is that when he mention [*sic*] your identification?

[THE DECOY]
Yes, ma'am.

Q And how did he ask you for your identification?

A I don't remember exactly how he asked for it, ma'am.

Q But he made some comment to make you think he was asking for your ID?

A That is correct.

Q Was it in your back or front pocket?

A It was in my front pocket, ma'am.

Q Do you recall right or left?

A I don't remember exactly.

Q And when you removed your identification was it just your identification itself, or was it in some sort of wallet?

A It was just my identification.

Q And you held that identification in your hands?

A I did.

Q At the time that you were holding your identification in your hand was the clerk still making change?

A Yes, ma'am.

Q Did you ever extend your arm to hand the clerk your identification, or did you keep your identification close to your body?

A I don't remember, ma'am.

Q And I believe you stated that you held your ID for, maybe, 5 to 10 seconds?

A That is correct.

Q But at no time did you actually hand it to the clerk?

A Correct.

Q And after the clerk then made change, he bagged the beer; is that right?

A After handing me the change, and I put the change in my pocket, yes, he did bag the beer.

Q And as — strike that.

As you put the change in your pocket, you then also put the ID in your pocket at the same time; is that correct?

A That is correct.

(RT at pp. 30-31.)

Appellants claim these "facts convey that the clerk was occupied making change the entire duration that the I.D. was out of [the decoy's] pocket and therefore may not have had the opportunity to take possession of, or even see, the I.D." (App.Br. at p. 13.) There are three significant problems with this assertion. First, it's contradicted by the decoy's undisputed testimony. On direct, he testified that his identification was visible above the counter; it was therefore within the clerk's view. Moreover, the identification was still in the decoy's hand when he put the change in his pocket — which means the identification was in his hand when the clerk passed him the change. It defies logic to claim the clerk could hand the decoy his change, and yet fail to notice the identification *he requested* waiting in the decoy's hand.

Second, this argument overlooks the fact that it is the clerk, not the decoy, who controls the transaction. The clerk asked to see the identification; if he believed that the decoy had failed to produce it — despite undisputed testimony that the decoy held the identification in plain view — there was absolutely nothing to stop the clerk from insisting on seeing it as a condition of completing the sale.

Finally, the clerk did not testify. Any assertion that he didn't notice the decoy had produced the identification is pure speculation.

Appellants go further, however, and claim they are:

> concerned that the ALJ mischaracterized the testimony and implied that the clerk definitely saw the I.D., but chose not to take a closer look. . . . The facts do not convincingly show that the I.D. in fact was readily available to the clerk since it is unclear whether the clerk knew Anthony B. had taken the I.D. out of his pocket or whether Anthony B. put the I.D. back in his pocket before the clerk had his hands free and able to take possession of it.

(App.Br. at p. 14.) It is appellants who misstate the testimony. The extent of the clerk's

actual knowledge is absent from the record. The ALJ legitimately inferred what the clerk *should have known* — that is, that the identification he specifically requested had been produced and was being held out for him to view. This inference is fully supported by the facts. The decoy presented his identification and held it in plain view until the clerk handed him his change, at which point he placed it in his pocket. The clerk requested the decoy's identification; the decoy produced it and held it in plain sight. For reasons known only to the clerk himself, the clerk never took possession of the identification, never acknowledged it, and never repeated his request. He simply proceeded with the sale.

We see nothing in the record beyond carelessness and indifference by appellants' clerk. We decline to imply that rule 141(b)(3) requires a minor decoy to scale a licensee's counter and force his or her identification into the hands of an inattentive clerk. The decoy's actions reflect "true compliance" with the rule.

ORDER

The decision of the Department is affirmed.[3]

BAXTER RICE, CHAIRMAN
FRED HIESTAND, MEMBER
PETER J. RODDY, MEMBER
ALCOHOLIC BEVERAGE CONTROL
APPEALS BOARD

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[3]This 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.