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

AB-9614
File: 20-421991; Reg: 16083640

7-ELEVEN, INC. and SABI STORES, INC.,
dba 7-Eleven #2136-18834D
22808 Ventura Boulevard, Woodland Hills, CA 91364-1201,
Appellants/Licensees

v.

DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL,
Respondent

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

Appeals Board Hearing: January 11, 2018
Los Angeles, CA

ISSUED FEBRUARY 8, 2018

Appearances: *Appellants:* Donna J. Hooper, of Solomon, Saltsman & Jamieson, as counsel for 7-Eleven, Inc. and Sabi Stores, Inc.,

Respondent: Jonathan V. Nguyen, as counsel for Department of Alcoholic Beverage Control.

OPINION

7-Eleven, Inc. and Sabi Stores, Inc., doing business as 7-Eleven #2136-18834D, appeal from a decision of the Department of Alcoholic Beverage Control[1] suspending their license for 10 days (with all 10 days conditionally stayed for one year provided no further cause for disciplinary action occurs during that time period) because appellants sold an alcoholic beverage to an individual under the age of 21, in violation of Business and Professions Code section 25658(a).

[1]The decision of the Department, dated September 21, 2016, is set forth in the appendix.

FACTS AND PROCEDURAL HISTORY

Appellants' off-sale beer and wine license was issued on May 9, 2005. On January 28, 2016, the Department instituted an accusation against appellants charging that on July 4, 2015, appellants sold an alcoholic beverage to an individual under the age of 21, in violation of Business and Professions Code section 25658(a).

At administrative hearings held on April 5, and June 15, 2016, documentary evidence was received and testimony concerning the violation charged was presented by Department Agent Edgardo Vega, and by the underage individual Samuel F. (referred to hereafter as "the minor").[2]

Testimony established that on July 4, 2015, the minor entered the licensed premises. Agent Vega and his partner, who had been parked outside, observed the minor and followed him inside. The minor went to the cooler and selected two 40-oz. bottles of Mickey's malt liquor. He took them to the sales counter where he waited in line. When it was his turn, he set the bottles down and the clerk asked to see his identification. The minor handed the clerk a fake United Kingdom driving license. (Exh. 2) The fake ID had been manufactured for the minor, and contained his actual photograph and the correct month and day of his birth. The year of birth was changed to 1992, however, rather than his actual birth year of 1998. As such, the fake ID indicated that the minor was 22 years old rather than his actual age of 16. The clerk looked at it for a few seconds, handed it back, then completed the sale.

After exiting the store, followed by the agents, the minor was approached. The agents identified themselves and asked to see the minor's California identification. He

[2]Although the Department's decision utilizes the minor's last name, we have redacted it here and in the attached appendix to protect the minor's privacy.

produced it. The agents then asked if he had a fake ID. He said he did, and handed over the UK license to the agents.

The agents took the minor back into the premises and asked the minor if the clerk at the counter was the person who sold him the alcohol. He said yes. Agent Vega then asked the clerk if he had sold alcohol to the minor. He also said yes. When questioned about the UK identification, the clerk said he had no way to scan an out-of-country ID and therefore could not verify its validity.

On July 13, 2016, the administrative law judge (ALJ) submitted a proposed decision, sustaining the accusation and suspending the license for a period of 10 days (all conditionally stayed for one year, provided no further cause for disciplinary action occurs within that time period). On July 20, 2016, the Department's Administrative Hearing Office sent a letter from its Chief ALJ to both appellants and Department counsel, inviting the submission of comments on the proposed decision. The letter states that the proposed decision and any comments submitted will be submitted to the Director of ABC in 14 days.

Appellants submitted their comments to the Director, arguing that neither the Administrative Procedure Act (APA) nor the ABC Act authorize the Department to permit the parties in a disciplinary procedure to comment on a proposed decision, and that by requesting submission of these comments, the Department exceeded the authority granted to it by the APA. The Department did not submit comments.

On September 21, 2016, the Department issued its Certificate of Decision, adopting the proposed decision in its entirety.

Appellants then filed a timely appeal making the following contentions: (1) the ALJ erred in determining that appellants failed to establish a defense under Business and Professions Code section 25660, and (2) the Department's commenting procedure violates

the Administrative Procedures Act.

DISCUSSION

I

Appellants contend the ALJ erred in determining that appellants failed to establish a defense under Business and Professions Code section 25660 which provides:

> (a) Bona fide evidence of majority and identity of the person is any of the following:
>
> (1) A document issued by a federal, state, county, or municipal government, or subdivision or agency thereof, including, but not limited to, a valid motor vehicle operator's license that contains the name, date of birth, description, and picture of the person.
>
> (2) A valid passport issued by the United States or by a foreign government.
>
> (3) A valid identification card issued to a member of the Armed Forces that includes a date of birth and a picture of the person.
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> (b) Proof that the defendant-licensee, or his or her employee or agent, demanded, was shown, and acted in reliance upon bona fide evidence in any transaction, employment, use, or permission forbidden by Section 25658, 25663, or 25665 shall be a defense to any criminal prosecution therefor or to any proceedings for the suspension or revocation of any license based thereon.

(Bus. & Prof. Code, §25660.)

Section 25660 establishes an affirmative defense, and the burden of proof is on the party asserting it. (*Farah v. Alcoholic Bev. Control Appeals Bd.* (1958) 159 Cal.App.2d 335, 338-339 [324 P.2d 98] ["The defense [under section 25660] is affirmative and the burden is therefore upon the licensee to show that he is entitled to the benefits of such a defense."].)

The law is clear that a fake or spurious identification can support a defense under this section if the apparent authenticity of the identification is such that reliance upon it can

be said to be reasonable. (See *Dept. of Alcoholic Bev. Control v. Alcoholic Bev. Control Appeals Bd.* (*Masani*) 118 Cal.App.4th 1429, 1445 [13 Cal.Rptr.3d 826].) ["The licensee should not be penalized for accepting a credible fake that has been reasonably examined for authenticity and compared with the person depicted."]; see also *Lacabanne Properties, Inc. v. Dept. of Alcoholic Bev. Control* (1968) 261 Cal.App.2d 181, 189 [67 Cal.Rptr. 735] ["the licensee who makes a diligent inspection of the documentary evidence of majority and identity offered by the customer at or about the time of the sale is entitled to rely upon its apparent genuineness."]; and *Kirby v. Alcoholic Bev. Control Appeals Bd.* (1968) 267 Cal.App.2d 895, 897 [73 Cal.Rptr. 352] ["It is well established that reliance in good faith upon a document issued by one of the governmental entities enumerated in section 25660 constitutes a defense to a license suspension proceeding even though the document is altered, forged or otherwise spurious."].)

Reasonable reliance on a fake ID cannot be established unless the appearance of the person presenting identification indicates that he or she could be 21 years of age and the seller makes a reasonable inspection of the identification offered. *(5501 Hollywood v. Dept. of Alcoholic Bev. Control* (1957) 155 Cal.App.2d 748, 753-754 [318 P.2d 820] (*5501 Hollywood*).) Whether or not a licensee has made a reasonable inspection of an ID to determine that it is bona fide is a question of fact and this Board may not go behind that factual finding. (*Masani, supra*, at p. 1445; *5501 Hollywood, supra,* at pp. 753-754.)

The ALJ reached the following conclusions in summarizing the applicable law and the facts of this case regarding the 25660 defense:

> 5. Section 25660 provides a defense to any person who was shown and acted in reliance upon bona fide evidence of majority in permitting a minor to enter and remain in a public premises in contravention of section 25665, in making a sale forbidden by section 25658(a), or in permitting a minor to consume in an on-sale premises in contravention of section 25658(b). This

> section expressly states that "[b]ona fide evidence of majority and identity of the person is any of the following: (1) A document issued by a federal, state, county, or municipal government, or subdivision or agency thereof, including, but not limited to, a valid motor vehicle operator's license, that contains the name, date of birth, description, and picture of the person. (2) A valid passport issued by the United States or by a foreign government. (3) A valid identification card issued to a member of the Armed Forces that includes a date of birth and a picture of the person."
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> 6. The defense offered by this section is an affirmative defense. As such, the licensee has the burden of establishing all of its elements, namely, that evidence of majority and identity was demanded, shown, and acted on as prescribed.[fn.] This section applies to IDs actually issued by government agencies as well as those which purport to be.[fn.] A licensee or his or her employee is not entitled to rely upon an identification if it does not appear to be a bona fide government-issued ID or if the personal appearance of the holder of the identification demonstrates above mere suspicion that the holder is not the legal owner of the identification.[fn.] The defense offered by section 25660 is not established if the appearance of the minor does not match the description on the identification.[fn.]
>
> 7. In the present case, the Respondents failed to meet their burden. First, the fake ID in question did not meet the requirements of section 25660 since it did not contain a description of the bearer. Section 25660 is clear—to be considered a bona fide ID it must contain "the name, date of birth, description, and picture of the person." The fake ID used by Forman had his name, date of birth, and picture, <u>but no description</u>. Three of four is not good enough—the ID must contain all four items. The fake UK license in this case did not.
>
> 8. Second, Nawaz did not act reasonably in relying on the ID. The evidence established that he had never seen a UK driving license before. Despite his complete absence of knowledge, he blindly accepted it. Such blind reliance is not resonable.
>
> 9. Finally, the date of birth on the fake driving license indicated that the bearer was 22 years old. Forman, who was only 16 at the time, did not apear to be 22 years old by any stretch of the imagination. Rather, his appearance was consistent with that of a teenager. While he might have been able to pass for an 18 year old, he did not appear to be 22 as indicated by the fake ID. It is not reasonable to rely upon an ID when the appararent age of the bearer clearly does not match the stated age set forth in the ID.

(Conclusions of Law, ¶¶ 5-9.)

This Board is bound by the factual findings in the Department's decision so long as those findings 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.] The function of an appellate board or Court of Appeal is not to supplant the trial court as the forum for consideration of the facts and assessing the credibility of witnesses or to substitute its discretion for that of the trial court. An appellate body reviews for error guided by applicable standards of review.

(*Masani*, *supra* at p. 1437.) The ALJ's findings are supported by substantial evidence. Accordingly, the Board is prohibited from reaching a contrary conclusion even if it might seem equally reasonably to do so.

In order to raise a successful 25660 defense, appellants must show that the clerk reasonably relied on the identification presented. Indeed, section 25660 exists to relieve clerks from having to accurately guess a buyer's age, provided they demand, are shown, and act in ***reasonable reliance*** upon ostensibly bona fide identification. However, even when an ID may appear at first glance to be genuine, precedent has established that there will be instances in which an individual is so obviously underage that any identification they present—purporting to prove that they are over 21—is almost certainly fraudulent.[3] It is

[3]For example, what if a small child presented identification purporting to show that they were over 21?

simply not enough to say the individual matches the photo on the identification or that they are very tall. (See *5501 Hollywood, supra*.)

In order to provide a defense, reliance on the identification must be reasonable—that is, the result of an exercise of due diligence. (*Lacabanne, supra*.) The defense is not available unless the individual looks like they could be 21, and their appearance matches the description on the identification. (*5501 Hollywood*, *supra*.) When, as here, a 16 year old is attempting to pass for 22, and he does not appear to be over the age of 21 (see exh. 5, and Conclusion of Law, ¶ 9, *supra,* finding that, at best, the minor might pass for an 18 year old) it cannot be said that the clerk was prudent to rely on the identification presented to him. Therefore appellants have failed to meet their burden of establishing a defense under section 25660.

II

Appellants contend that the Department's commenting procedure violates the APA because it is contrary to the intent of the legislature, is an underground regulation, and encourages illegal ex parte communications.

The APA defines the term "regulation" broadly: "'Regulation' means every rule, regulation, order, or standard of general application or the amendment, supplement, or revision of any rule, regulation, order, or standard adopted by any state agency to implement, interpret, or make specific the law enforced or administered by it, or to govern its procedure." (Gov. Code, § 11342.600.) "[I]f it looks like a regulation, reads like a regulation, and acts like a regulation, it will be treated as a regulation whether or not the agency in question so labeled it." (*State Water Resources Control Bd. v. Office of Admin. Law* (1993) 12 Cal.App.4th 697, 702 [16 Cal.Rptr.2d 25].)

The APA requires that all regulations be adopted through the formal rulemaking

process.

> No state agency shall issue, utilize, enforce, or attempt to enforce any guideline, criterion, bulletin, manual, instruction, order, standard of general application, or other rule, which is a regulation, as defined in Section 11342.600, unless the guideline, criterion, bulletin, manual, instruction, order, standard of general application, or other rule has been adopted as a regulation and filed with the Secretary of State pursuant to this chapter.

(Gov. Code, § 11340.5(a).) All regulations are subject to the APA rulemaking process unless expressly exempted by statute. (Gov. Code, § 11346; *Engelmann v. State Bd. of Education* (1991) 2 Cal.App.4th 47, 59 [3 Cal.Rptr.2d 264].) Compliance with the rulemaking process is mandatory; where a regulation was not properly adopted, it has no legal effect. (*Armistead v. State Personnel Bd*. (1978) 22 Cal.3d 198, 204-205 [149 Cal.Rptr. 1].)

A regulation is exempt if it "relates only to the internal management of the state agency." (Gov. Code, § 11340.9(d).) This exception, however, is narrow. (See *Armistead, supra*; *Stoneham v. Rushen* (1982) 137 Cal.App.3d 729, 736 [188 Cal.Rptr. 130].) "Where the challenged policy goes beyond merely prioritizing or allocating internal resources and may significantly affect others outside the agency . . . such a policy goes beyond the agency's internal management and is subject to adoption as a regulation under the APA." (*Center for Biological Diversity v. Dept. of Fish & Wildlife* (2015) 234 Cal.App.4th 214, 262 [183 Cal.Rptr.3d 736]; see also *Stoneham, supra*, at p. 736 [inmate classification scheme was rule of general application significantly affecting male prison population].)

In *Tidewater*, the California Supreme Court outlined a two-part test:

> A regulation subject to the APA thus has two principal identifying characteristics. [Citation.] First, the agency must intend its rule to apply generally, rather than in a specific case. The rule need not, however, apply universally; a rule applies generally so long as it declares how a certain class of cases will be decided. [Citation.] Second, the rule must "implement, interpret, or make specific the law enforced or administered by [the agency],

or . . . govern [the agency's] procedure." (Gov. Code, §11342, subd. (g).) (*Tidewater Marine Western, Inc. v. Bradshaw* (1996) 14 Cal.4th 557, 571 [59 Cal.Rptr.2d 186].)

While much of the Department's General Order number 2016-02, issued on February 17, 2016 and entitled *Ex Parte and Decision Review* (hereinafter, General Order) merely regulates internal case management procedures, certain provisions affect the due process rights of licensees. In particular, section 3, paragraphs 5 and 6 introduce the new comment procedure, which occurs before the Department Director in his or her decision making capacity:

> 5. Upon receipt of a proposed decision from an Administrative Law Judge, AHO [the Administrative Hearing Office] shall forward a copy of the proposed decision to each of the parties, including OLS [the Office of Legal Services] and the Director via the Administrative Records Secretary. In addition, AHO shall include a notification that the parties may submit comments regarding the proposed decision for the Director's consideration, that comments must be mailed to the Administrative Records Secretary, and that the Director will withhold any action on the matter for fourteen days from the date the proposed decision is mailed to the parties. Upon the written agreement of the parties, the Director may act on the proposed decision prior to the expiration of the fourteen-day withhold period.
>
> 6. The Administrative Records Secretary shall forward only the proposed decision and comments submitted by the parties to the Director on the 15th day after mailing of the proposed decision by AHO. Comments received after the 14th day will be forwarded immediately to the Director.

(General Order #1016-02, § 3, ¶¶ 5-6.)

Only appellants submitted comments on the proposed decision to the Director. In their respective briefs, the parties agree that the comments did not alter the outcome of the case, but disagree on whether the outcome is relevant.

Under the *Tidewater* test, the Department's General Order—in particular, the two paragraphs at issue here—constitutes an unenforceable underground regulation. First, the

General Order itself expresses an intent that it will apply generally. It states: "Although the procedures described herein are intended to apply to all cases, this policy is not intended to provide parties with any substantive rights." (General Order, *supra*, at § 2.) It orders general compliance with its terms, including paragraphs 5 and 6: "Effective immediately, the following protocols shall be followed with respect to matters litigated before the Administrative Hearing Office." (*Id*. at § 3.) The general applicability is therefore obvious on the face of the General Order itself.

While the General Order's subsequent language attempts to minimize its general applicability, those statements are either manifestly misleading, or merely incorporate an element of agency discretion; they do not negate its general applicability. For example, the disclaimer that "this policy is not intended to provide parties with any substantive rights" (*ibid*.) is misleading because the General Order itself necessarily affects the parties' substantive due process hearing rights under the APA by creating a new, non-statutory level of informal written argument before the Department Director. (See generally Gov. Code, § 11425.10 *et seq*.) Regardless, the General Order need not create substantive rights in order to constitute a regulation subject to the APA. (See Gov. Code, § 11342.600.)

Moreover, a regulation is not exempt from the rulemaking process simply because it entails an element of agency discretion. The General Order states that "[w]here deviation is necessary or warranted in particular situations, such deviation shall not be considered a violation of this policy." (General Order, *supra*, at § 2.) This is pure discretion; there is no explanation of what these "particular situations" might be. Licensees—a class affected by the General Order—cannot control or predict whether the Department will apply the General Order to their case or instead ignore it. According to the terms of the General Order, they

presumably have no substantive right to appeal the Department's exercise of discretion. (See *ibid*. ["[T]his policy is not intended to provide parties with any substantive rights"].) Until the Department chooses to inform them otherwise, licensees must simply assume that the terms of the General Order will apply to their disciplinary proceedings and prepare accordingly. The General Order applies generally, and therefore satisfies the first half of the two-part *Tidewater* test.

Paragraphs 5 and 6—as well as other provisions within the General Order—supplement and "make specific" the Department's post-hearing decision making procedures. (See *id*. at § 3, ¶¶ 5-6; see also Gov. Code, § 11425.10(a)(2) ["The agency shall make available to the person to which the agency action is directed a copy of the governing procedure."].) As the General Order itself notes, it is "intended to insure that the Department adopts the most efficient and legally compliant protocols for the review of proposed decisions." (General Order, supra, at § 1.) The General Order therefore easily satisfies the second part of the *Tidewater* test.

The Court in *Tidewater* went on to outline several exceptions to the rulemaking requirements, including case-specific adjudications, private advice letters, and restatements or summaries, without commentary, of past case-specific decisions. (*Tidewater, supra*, at p. 571.) Additionally, as noted above, the legislature may enact individual statutory exceptions. In our opinion, no exception applies.

The General Order is therefore a regulation—under the definition supplied by the Government Code and the Court in *Tidewater*—and its adoption improperly circumvented the APA rulemaking process. It is therefore an underground regulation.

The Department is correct, however, that this conclusion alone does not necessarily merit reversal. (See *Tidewater, supra*, at pp. 576-577.) As the Court observed in

Tidewater,

> If, when we agreed with an agency's application of a controlling law, we nevertheless rejected that application simply because the agency failed to comply with the APA [rulemaking procedures], then we would undermine the legal force of the controlling law. Under such a rule, an agency could effectively repeal a controlling law simply by reiterating all its substantive provisions in improperly adopted regulations.

(*Tidewater*, *supra*, at p. 577.)

The Department maintains the submission of comments pursuant to the General Order did not change the outcome of this case while appellants maintain that it is speculative to assert that the procedure had no effect on the outcome. However, in resolving due process issues surrounding the submission of secret ex parte hearing reports, the *Quintanar* Court rejected the Department's position:

> The Department implies no remedy is necessary because any submission was harmless; according to the Department, the decision maker could have inferred the contents of the reports of hearing (to wit, a summary of the hearing and requested penalty) from the record. We are not persuaded. First, because the Department has refused to make copies of the reports of hearing part of the record, despite a Board order that it do so, whether their contents are as innocuous as the Department portrays them to be is impossible to determine. Second, although both sides no doubt would have liked to submit a secret unrebutted review of the hearing to the ultimate decision maker or decision maker's advisors, only one side had that chance. The APA's administrative adjudication bill of rights was designed to eliminate such one-sided occurrences. We will not countenance them here. Thus, reversal of the Department's orders is required.

(*Dept. of Alcoholic Bev. Control v. Alcoholic Bev. Control Appeals Bd.* (*Quintanar*) (2006) 40 Cal.4th 1, 17 [50 Cal.Rptr.3d 585].)

If the Department's improper adoption of its General Order were the sole issue, then the Department would be correct; as in *Tidewater*, we would have no grounds for reversal. However, the issue here is also one of due process. Did the Department's comment procedure deprive appellants of any of the due process rights guaranteed by Chapter 4.5 of

the APA? If it did, then according to *Quintanar*, the outcome of the case is not relevant.

The APA provides detailed guidance on permissible communications, including post-hearing communications with a decision maker. Generally,

> While the proceeding is pending there shall be no communication, direct or indirect, regarding any issue in the proceeding, to the presiding officer from an employee or representative of an agency that is a party or from an interested person outside the agency, without notice and an opportunity for all parties to participate in the communication.

(Gov. Code, § 11430.10(a); see also Law Rev. Com. com, § 11430.10 (1995) [extending applicability to agency heads or others delegated decision-making powers].) Subsequent provisions outline exceptions to this rule, none of which apply here. (See Gov. Code, §§ 11430.20, 11430.30.) Additionally, the APA sets out procedural remedies should a decision maker receive an improper ex parte communication. (Gov. Code, §§ 11430.40; 11430.50.)

The Law Revision Committee comments accompanying section 11430.10, however, allow for communications initiated by the decision maker:

> While this section precludes an adversary from communicating with the presiding officer, it does not preclude the presiding officer from communicating with an adversary. . . . Thus it would not prohibit an agency head from communicating to an adversary that a particular case should be settled or dismissed. However, a presiding officer should give assistance or advice with caution, since there may be an appearance of unfairness if assistance or advice is given to some parties but not others.

(Law. Rev. Com. com., § 11430.10 (1995).) Similarly, the *Quintanar* court suggested the Department's hearing reports might be permissible if they complied with the APA:

> The APA bars only advocate-decision maker ex parte contacts, not all contacts. Thus, for example, nothing in the APA precludes the ultimate decision maker from considering posthearing briefs submitted by, and served on, each side. The Department if it so chooses may continue to use the report of hearing procedure, so long as it provides licensees a copy of the report and the opportunity to respond. (Cf. § 11430.50 [contacts with presiding officer or decision maker must be public, and all parties must be afforded opportunity to respond].)

(*Quintanar, supra*, at p. 17.)

While the General Order was unquestionably adopted without regard to APA rulemaking procedures, we cannot say that the comment procedure itself, as applied in this case, violated appellants' APA due process rights. It appears that the Department tailored its comment procedure to the *Quintanar* decision—appellants submitted a post-hearing brief, which was duly served on the Department and included in the administrative record. This is sufficient to satisfy the statutory requirement that all parties receive "notice and an opportunity . . . to participate in the communication." (Gov. Code, § 11430.10.)

It is true that the present parties were not given the opportunity to respond to their adversary's post-hearing comments. The "opportunity to respond," however—as opposed to the opportunity "to participate in the communication"—is part of the procedural remedy when the decision maker receives an unsolicited ex parte communication. (See Gov. Code §§ 11430.40, 11430.50 [providing opposing party a ten-day window, following disclosure, to respond to ex parte communication].) In context, the *Quintanar* Court required the "opportunity to respond" if the Department continued to accept one-sided ex parte hearing reports from its own attorneys. If, as here, the decision maker instead simultaneously offers both parties the opportunity to submit comment, then both parties have had the opportunity to participate in the conversation, and the statutes require no further opportunity for response. (See Gov. Code, §§ 11430.10 through 11430.50.)

We agree with appellants that the Department's General Order is an underground regulation that was adopted in violation of APA rulemaking requirements. Nevertheless, the General Order's comment procedure—as applied in the present case—did not impact appellants' due process rights, and therefore does not merit reversal. The Board will not

hesitate to reverse in the future, however, should it be proven that appellants' due process rights were adversely affected by this comment procedure.

ORDER

The decision of the Department is affirmed.[4]

BAXTER RICE, CHAIRMAN
PETER J. RODDY, MEMBER
JUAN PEDRO GAFFNEY RIVERA, MEMBER
ALCOHOLIC BEVERAGE CONTROL
APPEALS BOARD

[4]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.