

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

AB-9766

File: 40-427184 Reg: 18086631

JOSE CARRANZA,
dba Las Gaviotas
11437 Garvey Avenue,
El Monte, CA 91732,
Appellant/Licensee

v.

DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL,
Respondent

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

Appeals Board Hearing: July 25, 2019
Los Angeles, CA

ISSUED AUGUST 12, 2019

Appearances: *Appellant:* Armando H. Chavira, as counsel for Jose Carranza,

 Respondent: Sean D. Klein, as counsel for the Department of
Alcoholic Beverage Control.

OPINION

Jose Carranza, doing business as Las Gaviotas (appellant), appeals from a decision of the Department of Alcoholic Beverage Control¹ revoking his license, with revocation conditionally stayed for a period of three years, provided no grounds for disciplinary action arise during that time, and concurrently suspending its license for 45 days, because he employed or permitted individuals to engage in solicitation activity at

¹The decision of the Department, dated November 15, 2018, is set forth in the appendix.

the licensed premises in violation of Business and Professions Code section 24200.5 subdivision (b) and section 25657 subdivisions (a) and (b).

FACTS AND PROCEDURAL HISTORY

Appellant's type 40, on-sale beer license was issued on June 28, 2005.

Appellant has no record of prior disciplinary action.

On March 21, 2016 the Department instituted an accusation against appellant. The accusation listed 21 counts, alleging that on four separate occasions (June 23, 2017, June 24, 2017, June 29, 2017, and July 6, 2017) appellant employed or permitted individuals to engage in solicitation activity in violation of sections 24200.5(b), 25657(a), and 25657(b).

At the administrative hearing held on June 20, 2018, documentary evidence was received, and testimony concerning the violation charged was presented by Department Agents Gilbert Castillo, David Duran, and Oscar Zapata. Appellant presented no witnesses.

Testimony established that Department agents visited the licensed premises on four separate dates.

Counts 1-7

On June 23, 2017, Department Agent Zapata entered the licensed premises in an undercover capacity. He sat at a table with Benita Peralta (whom he had previously met at another location) and Enelina Bracamontes, who was already sitting with Peralta.

When not seated with Zapata and Peralta, Bracamontes acted as a waitress for the licensed premises. She moved between various tables and patrons at the bar counter, taking orders, serving drinks, and accepting payments. Zapata testified that he

ordered a beer from Bracamontes, who served it to him, charged him \$4, and brought him change.

After Zapata received his beer, Peralta asked him if he would buy a beer for her. Zapata agreed and Peralta ordered a beer from Bracamontes. Peralta also told Bracamontes to get one for herself. Zapata gave Bracamontes a \$20 bill to pay for the beers. Bracamontes took the money to the bar, and returned with two cans of beer (one for herself and one for Peralta) and two stacks of bills. Each stack had \$7 in it. Bracamontes kept one stack and gave the other to Peralta. Zapata did not receive any change from his transaction with Bracamontes.

After a while, Zapata moved to the bar counter, where Peralta asked him for another beer. Zapata agreed. Peralta ordered two beers from the bartender; one for herself and one for Bracamontes. The bartender, identified only as "Brenda," served the two beers to the women and charged Zapata \$20. Brenda then gave \$7 each to Peralta and Bracamontes. Zapata did not receive any change. Zapata then ordered a beer for himself, which Brenda served to him. Brenda charged Zapata \$4 for his beer.

Peralta ordered a third beer from Brenda, who served it to her. Zapata gave Brenda another \$20 bill. Brenda then served the beer to Peralta and gave her \$7. Brenda gave Zapata \$10 change.

Finally, Agent Duran entered the licensed premises and sat down next to Zapata. He ordered a beer and was charged \$4. Brenda asked Duran if he would buy her a beer, and Duran agreed. Duran placed a \$20 bill on the counter. Brenda took the money and gave it to another woman who was working the cash register. The woman gave Brenda change. Brenda then set \$10 on the counter and kept the rest of the change for herself.

Counts 8-9

On June 24, 2017, Zapata returned to the licensed premises. He sat down at the bar and ordered a beer from Brenda, who once again was working as a bartender. She served the beer to Zapata and charged him \$4.

Bracamontes approached Zapata a short time later and sat down. Brenda suggested that Zapata buy Bracamontes a beer. Zapata asked Bracamontes if she wanted a beer and she said that she did. Bracamontes ordered a beer from Brenda. Zapata gave Brenda a \$20 bill to pay for the beer. Brenda took the money and brought back \$17. Brenda gave \$7 to Bracamontes and \$10 to Zapata.

Zapata then moved down to a spot where Peralta was sitting. Peralta asked Zapata to buy her a beer and he agreed. Peralta called Brenda over and ordered a beer, which Brenda served to her. Zapata again gave Brenda a \$20 bill. After receiving change, Brenda returned and gave \$7 to Peralta and \$10 to Zapata.

After she finished her beer, Peralta asked Zapata for another. Zapata agreed and Peralta called Brenda over. Peralta ordered two beers; one for her and one for Bracamontes. Zapata gave Brenda \$20 for the beers. Again, Brenda went to the cash register and returned with two stacks of \$7, one each for Peralta and Bracamontes.

Approximately 15 minutes later, both Bracamontes and Peralta solicited Zapata again, although no details of this transaction were placed into evidence. Zapata only testified that this transaction was the same type as before.

Finally, Brenda told Peralta that she too wanted a beer from Zapata. Peralta asked Zapata if he would buy Brenda a beer, and he agreed. Zapata gave Brenda a \$10 bill, but did not receive any change.

Counts 10-15

Zapata returned to the licensed premises on June 29, 2017. Bracamontes came over and sat down with him. She asked Zapata if he would buy her a beer and he agreed. Bracamontes ordered a beer from one of the bartenders who served it to her. Zapata paid the bartender with a \$20 bill. The bartender gave Zapata \$10 change, and gave Bracamontes \$7.

Later, another bartender, Yaneth Tellez-Duran, asked Zapata to buy her a drink. Zapata agreed. Tellez-Duran got herself an Old Milwaukee non-alcoholic beer and came out from behind the bar and sat with Zapata. Zapata gave the other bartender a \$20 bill for Tellez-Duran's non-alcoholic beer. The other bartender gave Zapata \$10 change and gave \$7 to Tellez-Duran.

Counts 16-21

On July 6, 2017, agents Zapata and Duran entered the licensed premises, sat down at a table and ordered two beers. They were charged \$4 per beer. Both Bracamontes and Peralta came over and joined them. When four seats opened up at the bar counter, they moved over there.

Bracamontes asked Zapata to buy her a beer. He agreed, and the bartender, Martha de la Cruz Estrada-Garcia, served Bracamontes. Zapata paid Estrada-Garcia with a \$20 bill. After obtaining change, Estrada-Garcia gave \$7 to Bracamontes.

Peralta then called over another bartender, Priscilla, and introduced her to Zapata. Peralta ordered two beers from Priscilla, and told her to order one for herself. Priscilla asked Zapata if that was okay. Zapata told her that it was, and Priscilla

obtained two beers for Peralta and Bracamontes, and made a michelada-type² drink for herself. Priscilla told Zapata that the drinks would cost \$30. Zapata gave Priscilla \$40. She obtained change and gave \$7 to Peralta, \$7 to Bracamontes, and \$10 to Zapata. Priscilla kept \$7 for herself.

Subsequent to the hearing, the Department issued its decision which determined that counts 1, 2, 6, 7, 8, 9, 11, 12, 13, 14, 19, 20, and 21 were proved and no defense was established. Counts 3, 4, 5, 10, 15, 16, 17, and 18 were dismissed for insufficient evidence.

Appellant filed a timely appeal contending: (1) the Department's decision sustaining counts 1-2, 6-9, 11-14, and 19-21 lacked substantial evidence, and; (2) the penalty is excessive.

DISCUSSION

I

Appellant contends the Department's decision regarding counts 1-2, 6-9, 11-14, and 19-21 is not supported by substantial evidence. (AOB, at pp. 8-17.)

This Board is bound by the factual findings in the Department's decision as 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

²A michelada is a drink made by combining beer with lime juice and various spices, sauces, and peppers.

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.

(Dept. of Alcoholic Bev. Control v. Alcoholic Bev. Control Appeals Bd. (Masani) (2004) 118 Cal.App.4th 1429, 1437 [13 Cal.Rptr.3d 826].)

Where there are conflicts in the evidence, the Board is bound to resolve them in favor of the Department's decision, and must accept all reasonable inferences in support of the Department's findings. *(Kirby v. Alcoholic Bev. Control Appeals Bd. (1972) 7 Cal.3d 433, 439 [102 Cal.Rptr. 857]; Kruse v. Bank of America (1988) 202 Cal.App.3d 38 [248 Cal.Rptr. 271]; Lacabanne Properties, Inc. v. Dept. of Alcoholic Bev. Control (1968) 261 Cal.App.2d 181, 185 [67 Cal.Rptr. 734].)*

Section 25657 provides:

It is unlawful:

(a) For any person to employ, upon any licensed on-sale premises, any person for the purpose of procuring or encouraging the purchase or sale of alcoholic beverages, or to pay any such person a percentage or commission on the sale of alcoholic beverages for procuring or encouraging the purchase or sale of alcoholic beverages on such premises.

(b) In any place of business where alcoholic beverages are sold to be consumed upon the premises, to employ or knowingly permit anyone to loiter in or about said premises for the purpose of begging or soliciting any patron or customer of, or visitor in, such premises to purchase any alcoholic beverages for the one begging or soliciting.

(Bus. & Prof. Code, § 25657.) Additionally, section 24200.5(b) provides:

Notwithstanding the provisions of section 24200, the department shall revoke a license upon any of the following grounds:

[¶ . . . ¶]

(b) If the licensee has employed or permitted any persons to solicit or encourage others, directly or indirectly, to buy them drinks in the licensed premises under any commission, percentage, salary, or other profit-sharing plan, scheme, or conspiracy.

(Bus. & Prof. Code, § 24200.5(b).)

Counts 1 and 2 are proved if the Department can establish that appellant's employee, "Brenda," allowed Peralta to solicit drinks and loiter in or about the premises for the purpose of soliciting drinks. (See Bus. & Prof. Code, §§ 24200.5(b), 25657(b).)

With regard to counts 1 and 2, the ALJ made the following factual findings:

4. On June 23, 2017, Agent Oscar Zapata entered the Licensed Premises. He sat at a table with Benita Peralta, whom he had previously met at another location. Enelina Bracamontes was already sitting with Peralta.

¶ . . . ¶

6. Peralta asked Agent Zapata if he would buy her a beer. He agreed and Peralta ordered a drink from Bracamontes. Peralta told Bracamontes to get one for herself. Agent Zapata gave Bracamontes a \$20 bill. Bracamontes went to the bar counter and gave the money to Brenda, the bartender. Brenda, in turn, gave the money to the woman who was working the register. The change came back to Bracamontes, who returned to the table with two cans of beer, a Miller Lite and a Coors Light. Bracamontes had two stacks of bills. Each pile had \$7 in it. Bracamontes kept one stack and gave the other to Peralta. Agent Zapata did not receive any change.

7. Agent Zapata subsequently moved to the bar counter. Peralta solicited another beer from him. Peralta ordered two beers from Brenda, one for herself and one for Bracamontes. Brenda served the two beers to the women. Agent Zapata paid Brenda with a \$20 bill. Brenda took the money to the woman who was working the register, gave it to her, and obtained some change. Brenda gave \$7 of the change to Peralta and \$7 to Bracamontes.

8. Agent Zapata ordered a Coors Light for himself, which Brenda served to him. He was charged \$4 for his beer.

(Findings of Fact, ¶¶ 4-8.)

Despite appellant's contention to the contrary, the ALJ's findings for counts 1 and 2 are supported by substantial evidence. Agent Zapata testified to numerous solicitations by Peralta on June 23, 2017 while they were together at the licensed premises for approximately 90 minutes. (See RT at pp. 50:19-24; 51:3-6; 55:2-16; 57:6-22; 57:23-58:1; 59:5-9.) Each transaction involved Brenda acting as a bartender, and several times she took orders directly from Peralta and provided her with her change/commission. (See *e.g. id.* at pp. 55:2-57:5.) This is sufficient to prove a violation of sections 24200.5(b) and 25657(b).³ The Board affirms counts 1 and 2.

Counts 6 and 7 allege violations of sections 24200.5(b) and 25657(a) arising from Brenda's solicitation of an alcoholic drink from agent Duran. As to those counts, the ALJ provided the following findings:

10. Agent David Duran entered the Licensed Premises and sat down next to Agent Zapata. He ordered a Bud Light beer, which he was served. He was charged \$4.

11. Brenda, the bartender, asked Agent Duran if he would buy her a beer. He agreed. Brenda obtained a can of Budweiser beer. Agent Duran placed a \$20 bill on the counter. Brenda picked up the bill and gave it to the woman who was working the register. The woman gave Brenda some change. Brenda set two \$5 bills down on the counter and kept the rest of the change.

(Findings of Fact, ¶¶ 10-11.)

Counts 6 and 7 are supported by substantial evidence. Duran testified that Brenda asked him to buy her a beer. (RT at pp. 34:25-35:2.) He agreed, and was charged \$10 for Brenda's beer, even though he was only charged \$4 for a beer he

³The evidence establishes that Brenda took drink orders from Peralta and provided change in two equal stacks, which both Peralta and Bracamontes pocketed within Brenda's view. This evidence is sufficient to establish by a preponderance of the evidence that Brenda knowingly permitted Peralta to solicit drinks from Zapata, and to loiter on the licensed premises for the purpose of doing so.

bought for himself previously. (*Id.* at pp. 33:10-15; 35:6-15.) After he gave Brenda \$20, she took it to the register and handed it to another female employee, who placed it in the register, made change, and handed the change to Brenda. (*Id.* at p. 35:16-25.) Brenda returned to where Duran was seated and placed \$10 on the counter in front of him. (*Ibid.*) Duran saw that Brenda had more money in her hand and that she folded it up and put it in her bra. (*Id.* at p. 36:4.) These facts are sufficient to support the ALJ's findings and the Board affirms counts 6 and 7.

Appellant also contends that the Department's findings regarding counts 11-13, which allege violations of sections 24200.5(b) and 25657(a)-(b) based on Bracamontes' conduct on June 29, 2019, are not supported by substantial evidence. In regards to these counts, the ALJ made the following factual findings:

19. On June 29, 2017, Agent Zapata returned to the Licensed Premises. He entered and took a seat.

20. Bracamontes came over and sat down with him. She asked him if he would buy her a beer. He agreed. Bracamontes ordered a beer from one of the bartenders, who served it to him. Agent Zapata paid the bartender with a \$20 bill. She took the money and obtained change. She gave \$7 of the change to Bracamontes and \$10 to Agent Zapata.

21. Bracamontes solicited two more beers from him. Each time the transaction was the same.

22. One of the bartenders, Yaneth Tellez-Duran, asked him to buy her a drink. He agreed and she obtained an Old Milwaukee non-alcoholic beer. Tellez-Duran came out from behind the bar counter and sat next to him. He paid by giving the other bartender, Martha de la Cruz Estrada-Garcia, a \$20 bill. She obtained change, \$7 of which she gave to Tellez-Duran and \$10 of which she gave to Agent Zapata.

23. Bracamontes sat with Agent Zapata the entire time he was there, although she got up once to perform waitressing duties. Tellez-Duran only sat with him for approximately 15 minutes.

(Findings of Fact, ¶¶ 19-23.)

These findings, too, are supported by substantial evidence. Zapata testified that he spent approximately 50 minutes with Bracamontes on June 29, 2017. (RT at p. 78:5-8.) During those 50 minutes, Bracamontes solicited Zapata three times. (*Id.* at pp. 79:14-21, 80:16-20, 81:3-7.) She also was working that evening as a waitress on approximately two occasions. (*Id.* at p. 78:9-18.) Each time Bracamontes solicited a beer from Zapata, he gave a \$20 bill to the bartender, and the bartender would take the money to the cashier and get change. (*Id.* at pp. 79:25-80:11, 80:25-81:2.) The bartender would then give Bracamontes \$7 and give Zapata \$10. (*Id.* at pp. 80:12-15, 80:25-81:2, 81:8-10.) One of the bartenders on June 29, 2017 was Tellez-Duran, who was predominantly present during Zapata's visit to the licensed premises. (*Id.* at p. 82:6-12.) The above suffices as substantial evidence to support the factual findings of the ALJ regarding counts 11-13.

Finally, appellant contends that the Department's findings regarding counts 19-21 are not supported by substantial evidence. Count 19 alleges a violation of section 25657(a) by Bracamontes on July 6, 2017, while counts 20-21 involve violations of sections 24200.5(b) and 25657(a) on the same date by a bartenders identified as "Priscilla." In sustaining counts 19-21, the ALJ found that:

24. On July 6, 2017, Agent Zapata and Agent Duran entered the Licensed Premises. They sat down at a table and ordered two beers. They were charged \$4 per beer.

25. Bracamontes, who was sitting at another table, came over and joined them. Peralta did the same. When four seats opened up at the bar counter, they moved over there.

26. Bracamontes asked Agent Zapata to buy her a beer. He agreed and she ordered a beer from Estrada-Garcia. Estrada-Garcia served them a Miller Light and a Coors Light. Agent Zapata paid with a \$20 bill. Estrada-Garcia obtained change, \$7 of which she gave to Bracamontes.

27. Peralta called over Priscilla, one of the bartenders, and introduced her to Agent Zapata. Peralta ordered two beers from the bartender, then told her to order one for herself as well. Priscilla asked if that was OK; he said that it was. Priscilla obtained a Coors Light and a Miller Lite for Peralta and Bracamontes, and a michelada-type drink for herself. Priscilla told him that the drinks would cost \$30. He gave her \$40. She obtained change and gave \$7 to Peralta, \$7 to Bracamontes, and \$10 to Agent Zapata. Priscilla kept \$7 for herself.

(Findings of Fact, ¶¶ 24-27.)

There is substantial evidence to support the ALJ's factual findings regarding count 19. Zapata testified that Bracamontes solicited a beer from him on July 6, 2017. (RT at p. 86:6-23.) After the bartender served the beer to Bracamontes and Peralta, Zapata handed her a \$20 bill, which she took and made change. (*Id.* at pp. 86:25-87:11.) The bartender, Estrada Garcia, then brought back two stacks of money and handed one each to Bracamontes and Peralta. (*Id.* at p. 87:15-21.) Zapata knew Bracamontes worked at the licensed premises from his prior visits there. (See *e.g. id.* at at p. 78:9-18.) Yet, on July 6, 2017, Zapata testified that he did not recall her perform any waitress or other employment duties, and that she sat with him for approximately 45 minutes. (*Id.* at p. 93:9-22.)

Likewise, there is substantial evidence to support the ALJ's findings regarding counts 20-21. The crux of appellant's argument is that counts 20 and 21 must fail because: 1) the Department did not establish that a Michelada is an alcoholic drink, and; 2) Priscilla did not "solicit" Zapata. However, Zapata very clearly testified that Priscilla served herself a "Michelada-type beer." (RT at p. 90:11-13.) The unstated inference being that a beer is an alcoholic beverage. Further, although Priscilla was initially told by Peralta to get herself a beer, she turned to Zapata and asked, "Is that okay?" (*Id.* at p. 89:13-20.) The ALJ found that, under the circumstances, Priscilla's question constituted a solicitation. (Conclusions of Law, ¶ 10.) Therefore, there is

substantial evidence to support the ALJ's findings that Priscilla violated sections 24200.5(b) and 25657(a).

The record establishes that the ALJ's findings are supported by substantial evidence and the Board affirms counts 1-2, 6-7, 11-13, and 19-21.

II

Appellant contends that a 45-day suspension is excessive. (AOB, at p. 17.)

The Board may examine the issue of excessive penalty if it is raised by an appellant. (*Joseph's of Cal. v. Alcoholic Bev. Control Appeals Bd.* (1971) 19 Cal.App.3d 785, 789 [97 Cal.Rptr. 183].) However, it will not disturb the Department's penalty order absent an abuse of discretion. (*Martin v. Alcoholic Bev. Control Appeals Bd.* (1959) 52 Cal.2d 287, 291 [341 P.2d 296].) If the penalty imposed is reasonable, the Board must uphold it even if another penalty would be equally, or even more, reasonable. (See *Harris v. Alcoholic Bev. Control Appeals Bd.* (1965) 62 Cal.2d 589, 594 [43 Cal.Rptr. 633] ("If reasonable minds might differ as to the propriety of the penalty imposed, this fact serves to fortify the conclusion that the Department acted within the area of its discretion."))

Rule 144 provides penalty guidelines for Department discipline. That rule provides, in relevant part:

In reaching a decision on a disciplinary action under the Alcoholic Beverage Control Act [citation] and the Administrative Procedures Act [citation], the Department shall consider the disciplinary guidelines entitled "Penalty Guidelines" (dated 12/17/2003) which are hereby incorporated by reference. Deviation from these guidelines is appropriate where the Department *in its sole discretion* determines that the facts of the particular case warrant such a deviation—such as where facts in aggravation or mitigation exist.

(Code Regs., tit. 4, § 144, emphasis added.) The referenced penalty guidelines in turn state:

POLICY STATEMENT

It is the policy of this Department to impose administrative, non-punitive penalties in a consistent and uniform manner with the goal of encouraging and reinforcing voluntary compliance with the law.

PENALTY POLICY GUIDELINES

The California Constitution authorizes the Department, in its discretion, to suspend or revoke any license to sell alcoholic beverages if it shall determine for good cause that the continuance of such license would be contrary to the public welfare or morals. The Department may use a range of progressive and proportional penalties. This range will typically extend from Letters of Warning to Revocation. These guidelines contain a schedule of penalties that the Department usually imposes for the first offense of the law listed (except as otherwise indicated). These guidelines are not intended to be an exhaustive, comprehensive or complete list of all bases upon which disciplinary action may be taken against a license or licensee; *nor are these guidelines intended to preclude, prevent, or impede the seeking, recommendation, or imposition of discipline greater than or less than those listed herein*, in the proper exercise of the Department's discretion.

Higher or lower penalties from this schedule may be recommended based on the facts of individual cases where generally supported by aggravating or mitigating circumstances.

(Code Regs., tit. 4, § 144, Penalty Guidelines, emphasis added.) Like the rule itself, the plain language of the penalty guidelines unequivocally entrusts the penalty to the Department's discretion. Moreover, the guidelines specifically permit the Department to impose a greater penalty if it finds such a penalty is warranted in light of aggravating circumstances.

For the violations at issue here, the recommended penalties are as follows:

Illegal Solicitation of Alcoholic Beverages:

Violation of Section 24200.5(b)	Revocation
Violation of Section 25657(a)	Revocation
Violation of Section 25657(b) and Section 303a PC	30 day suspension

to revocation

(*Ibid.*, Penalty Guidelines.) Moreover, in the case violation of section 24200.5(b), revocation is in fact mandated by the statutory language. (See Bus. & Prof. Code, § 24200.5(b) ["The department *shall* revoke a license upon any of the following grounds . . .".].)

The assigned penalty—revocation conditionally stayed for three years with a concurrent 45-day suspension—falls within these guidelines.

Moreover, the record establishes that the ALJ did indeed consider appellant's disciplinary history in assigning the penalty:

The Department requested the Respondent's license be revoked, noting that the solicitation activity was overt and including solicitations by employees. The Respondent argued that revocation was too harsh a penalty for a first-time violation, but did not recommend anything specific.

Section 24200.5(b) mandates revocation for a violation of its provisions, although this has been construed to include some form of stayed revocation. Rule 144^[fn] provides that the penalty for a violation of section 25657(a) is revocation (which also includes stayed revocation), while the penalty for a violation of section 25657(b) ranges from a 30-day suspension up to revocation.

It is unusual for the Department to request outright revocation of a license based on first-time violations of section 24200.5(b), section 25657(a), or section 25657(b). Given that the solicitations were open and obvious, as were the payment of commissions, some aggravation is warranted. The penalty recommended herein complies with rule 144.

(Penalty.)

While appellant's discipline-free history is laudable and appears to have spared it from outright revocation, it cannot escape a period of suspension appropriate for the open and egregious nature of its present violations. The Board finds that the penalty is reasonable and does not constitute an abuse of discretion.

ORDER

The decision of the Department is affirmed.⁴

SUSAN A. BONILLA, CHAIR
MEGAN McGUINNESS, MEMBER
ALCOHOLIC BEVERAGE CONTROL
APPEALS BOARD

⁴This 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.