

ISSUED MAY 15, 1996

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

IRENE TORRES	)	AB-6523
dba El Valle Bar	)	
4718 South Huntington Drive	)	File: 40-94433
Los Angeles, CA 90032	)	Reg: 94-030764
Appellant/Licensee,	)	
	)	Administrative Law Judge
v.	)	at the Dept. Hearing:
	)	Samuel D. Reyes
THE DEPARTMENT OF ALCOHOLIC	)	
BEVERAGE CONTROL,	)	Date and Place of the
Respondent.	)	Appeals Board Hearing:
	)	April 3, 1996
_____	)	Los Angeles, CA

Irene Torres, doing business as El Valle Bar (appellant), appealed from a decision of the Department of Alcoholic Beverage Control<sup>1</sup> which suspended her on-sale beer license for 60 days with 30 days stayed during a two year probationary period, for permitting an employee to solicit the purchase of an alcoholic beverage or other drink for the employee's own consumption, in violation of Business and Professions Code §24200(a), and California Code of Regulations, Title IV, §143 (rule 143).

Appearances on appeal included appellant Irene Torres, appearing through her counsel, Joshua Kaplan; and the Department of Alcoholic Beverage Control, through its counsel, Jonathan E. Logan.

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<sup>1</sup>The decision of the department dated March 30, 1995 is set forth in the appendix.

## FACTS AND PROCEDURAL HISTORY

Appellant's license was issued September 4, 1980. Thereafter, the department instituted an accusation in the present manner on August 31, 1994, and appellant requested a hearing.

An administrative hearing was held on February 3, 1995, at which time oral and documentary evidence was received. At that hearing, it was determined that appellant permitted an employee to solicit the purchase of a bottle of beer and that appellant permitted an employee to accept a bottle of beer from a patron.

Subsequent to the hearing, the department issued its decision which suspended appellant's on-sale beer license for 60 days, with 30 days of the suspension stayed. Appellant thereafter filed a timely notice of appeal.

On May 15, 1995, the department notified appellant's attorney of record of the estimated cost of the record on appeal, and, further, notified him that payment of these costs must be received within 15 days. Appellant failed to tender such payment. On July 3, 1995, the department moved for dismissal of this instant appeal on the ground that appellant failed to comply with the rules and regulations of the appeals board requiring payment of the costs of preparing the record on appeal. The department's motion for dismissal was opposed on the ground that appellant had been required to be out-of-state for an extended period of time due to a serious family illness. On July 31, 1995, the department withdrew its motion for dismissal.

Written notice of the opportunity to file briefs in support of appellant's position was given on September 8, 1995. No brief has been filed by appellant.

The appeals board is not required to make an independent search of the record for error not pointed out by appellant. It was the duty of appellant to show the appeals board that the claimed error existed. Without such assistance by appellant, the appeals board may deem the general contentions waived or abandoned. See Horowitz v. Noble (1978) 79 Cal.App.3d 120, 129, 144 Cal.Rptr. 710; and Sutter v. Gamel (1962) 210 Cal.App.2d 529, 531, 26 Cal.Rptr. 880, 881. We have reviewed appellant's notice of appeal and find insufficient assistance in that document to aid in our review.

We have reviewed the record and determine that the findings are supported by substantial evidence. The record shows also that on August 9, 1990, appellant's license was suspended for 30 days, with 10 days stayed, for serving an obviously-intoxicated person an alcoholic beverage. Again, on January 2, 1992, appellant's license was suspended for 45 days, with 15 days stayed, for an employee soliciting and accepting an alcoholic beverage.

#### CONCLUSION

The decision of the department is affirmed.<sup>2</sup>

RAY T. BLAIR, JR., CHAIRMAN  
JOHN B. TSU, MEMBER  
BEN DAVIDIAN, MEMBER  
ALCOHOLIC BEVERAGE CONTROL  
APPEALS BOARD

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<sup>2</sup>This final order is filed as provided by Business and Professions Code §23088, and shall become effective 30 days following the date of this filing of the final order as provided by §23090.7 of said statute for the purposes of any review pursuant to §23090 of said statute.