

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

THE SOUTHLAND CORPORATION ,	)	AB-7331
DEVINDER KAUR, and MALL SINGH)	
dba 7-Eleven #23488	)	File: 20-215123
20871 Lassen Street	)	Reg: 98044350
Chatsworth, CA 91311,)	
Appellants/Licensees,	)	Administrative Law Judge
	)	at the Dept. Hearing:
v.	)	Sonny Lo
)	
	)	Date and Place of the
DEPARTMENT OF ALCOHOLIC	)	Appeals Board Hearing:
BEVERAGE CONTROL,	)	December 3, 1999
Respondent.	)	Los Angeles, CA
_____)	

The Southland Corporation, Devinder Kaul, and Mall Singh, doing business as 7-Eleven Store #23488 (appellants), appeal from a decision of the Department of Alcoholic Beverage Control¹ which suspended their license for their clerk having sold an alcoholic beverage to a minor, contrary to the universal and generic public welfare and morals provisions of the California Constitution, article XX, §22, arising from a violation of Business and Professions Code §25658, subdivision (a).

¹The decision of the Department, dated December 24, 1998, is set forth in the appendix.

Appearances on appeal include appellants The Southland Corporation, Devinder Kaul, and Mall Singh, appearing through their counsel, Ralph Barat Saltsman and Stephen Warren Solomon, and the Department of Alcoholic Beverage Control, appearing through its counsel, David W. Sakamoto.

FACTS AND PROCEDURAL HISTORY

Appellants' off-sale beer and wine license was issued on November 23, 1982. Thereafter, the Department instituted an accusation against appellants charging that, on April 18, 1998, Prem Singh Banga, a clerk employed by appellants, sold an alcoholic beverage (beer) to Jonathan Higginson, a person not then 21 years of age. Higginson was acting as a decoy under the direction of members of the Los Angeles Police Department.

An administrative hearing was held on November 16, 1998, at which time oral and documentary evidence was received. Subsequent to the hearing, the Department issued its decision which sustained the charge of the accusation and rejected appellants' affirmative defenses.

Appellants thereafter filed a timely notice of appeal. In their appeal, appellants raise the following issues: (1) the face to face identification required by Rule 141(b)(5) did not occur; (2) the decoy did not display the appearance which could generally be expected of a person under the age of 21 years; (3) appellants were denied discovery of the names and addresses of witnesses; and (4) the Department failed to provide a court reporter for the hearing on appellants' discovery motion.

DISCUSSION

At the hearing on this matter, Department counsel conceded that there had not been compliance with Rule 141(b)(5), which requires that, before a citation is issued, the minor decoy make a face to face identification of the alleged seller of the alcoholic beverage.

In view of this concession, we see no need to address the other issues appellants have raised.

ORDER

The decision of the Department is reversed.²

TED HUNT, CHAIRMAN
RAY T. BLAIR, JR., MEMBER
ALCOHOLIC BEVERAGE CONTROL
APPEALS BOARD

² This final decision is filed in accordance with Business and Professions Code §23088 and shall become effective 30 days following the date of the filing of this final decision as provided by §23090.7 of said code.

Any party may, before this final decision becomes effective, apply to the appropriate district court of appeal, or the California Supreme Court, for a writ of review of this final decision in accordance with Business and Professions Code §23090 et seq.