

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

AB-8909

File: 20/21-401248 Reg: 07065628

QUICK STOP MARKETS, INC., dba Quick Stop Market 141
601 North Cloverdale Boulevard, Cloverdale, CA 95425,
Appellant/Licensee

v.

DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL,
Respondent

Administrative Law Judge at the Dept. Hearing: Sonny Lo

Appeals Board Hearing: October 1, 2009
San Francisco, CA

ISSUED: JANUARY 11, 2010

Quick Stop Markets, Inc., doing business as Quick Stop Market 141 (appellant), appeals from a decision of the Department of Alcoholic Beverage Control¹ which suspended its license for 25 days for its clerk, Mukash Patel, having sold an 18-pack of Bud Light beer to Matthew Howell, a non-decoy minor, a violation of Business and Professions Code section 25658, subdivision (a).

Appearances on appeal include appellant Quick Stop Markets, Inc., appearing through its counsel, Richard D. Warren, and the Department of Alcoholic Beverage Control, appearing through its counsel, Robert Wieworka.

¹The decision of the Department, dated July 16, 2008, is set forth in the appendix.

FACTS AND PROCEDURAL HISTORY

Appellant's off-sale general license was issued on March 24, 2004. Thereafter, the Department instituted an accusation against appellant charging the sale by an employee of appellant of an alcoholic beverage on November 25, 2007, to a person under 21 years of age.

An administrative hearing was held on May 28, 2008. Counsel for appellant admitted the facts alleged in the accusation, and presented testimony in support of its claim of a defense under Business and Professions Code section 25660.

Subsequent to the hearing, the Department issued its decision which rejected the affirmative defense claim and ordered appellant's license suspended for 25 days.

Appellant filed a timely notice of appeal.

DISCUSSION

Written notice of the opportunity to file briefs in support of the appellant's position was given on July 7, 2009. No brief has been filed by appellant. We have reviewed the notice of appeal and have found insufficient assistance in that document which would aid in review.

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 to the Appeals Board that the claimed error existed. Without such assistance by appellant, the Appeals Board may deem the general contentions waived or abandoned. (*Horowitz v. Noble* (1978) 79 Cal.App.3d 120, 139 [144 Cal.Rptr. 710] and *Sutter v. Gamel* (1962) 210 Cal.App.2d 529, 531 [26 Cal.Rptr. 880, 881].)

ORDER

The decision of the Department is affirmed.²

FRED ARMENDARIZ, CHAIRMAN
SOPHIE C. WONG, 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.