

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

ARTURO ANDRADE and	)	AB-6648
DAISY ANDRADE)	
dba Casa Del Rey	)	File: 47-232958
230 West Warner Avenue, Suite 101	)	Reg: 95034435
Santa Ana, CA 92707,)	
Appellants/Licensees,	)	Administrative Law Judge
	)	at the Department Hearing:
v.	)	John A. Willd
)	
DEPARTMENT OF ALCOHOLIC	)	Date and Place of the
BEVERAGE CONTROL,	)	Appeals Board Hearing:
Respondent.	)	October 2, 1996
	)	Los Angeles, CA
_____)	

Arturo Andrade and Daisy Andrade, doing business as Casa Del Rey (appellants), appeal from a decision of the Department of Alcoholic Beverage Control¹ which suspended their on-sale general public eating place license for 25 days, with 15 days thereof stayed for a one-year probationary period, for permitting their female employees to solicit alcoholic beverages or other drinks, and for permitting an employee to engage in lewd conduct including the touching and fondling of her breast, vagina and buttocks, being contrary to the universal and generic public welfare and morals provisions of the

¹ The decision of the Department dated April 4, 1996, is set forth in the appendix.

California Constitution, article XX, §22, arising from violations of Business and Professions Code §24200, subdivisions (a) and (b), and of California Code of Regulations, Title 4, §143.2, subdivision (a).

Appearances on appeal include appellants Arturo Andrade and Daisy Andrade, appearing through their counsel, Louis R. Mittelstadt; and the Department of Alcoholic Beverage Control, appearing through its counsel, David Sakamoto.

FACTS AND PROCEDURAL HISTORY

Appellants' license was issued July 14, 1989. Thereafter, the Department instituted an accusation against appellants on November 15, 1995. Appellants requested a hearing.

An administrative hearing was held on February 23, 1996, at which time oral and documentary evidence was received.

At that hearing, it was determined that appellants' manager had (1) allowed female employees to solicit individuals to purchase drinks intended for the consumption of the female employees, commonly referred to as "B-girl activities"; (2) permitted an employee identified as Maria Caunan to expose her breasts to the view of patrons in the premises at a time when Caunan was not on a stage and not at least six feet from the nearest patron; and (3) permitted Caunan to perform lewd acts in the premises including touching, caressing, and fondling of her breast, vagina, and buttocks.

Subsequent to the hearing, the Department issued its decision which suspended appellants' on-sale general public eating place license for 25 days, with 15 days stayed for a one-year probationary period. Appellants filed a timely notice of appeal.

Written notice of the opportunity to file briefs in support of the appellant's position was given on June 10, 1996. 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 appellants. It was the duty of appellants to show to the Appeals Board that the claimed error existed. Without such assistance by appellants, the Appeals Board may deem the general contentions waived or abandoned. (See Horowitz v. Noble (1978) 79 Cal.App.3d 120, 139 [144 Cal.Rptr. 710]; and Sutter v. Game! (1962) 210 Cal.App.2d 529, 531 [26 Cal.Rptr. 880, 881].)

Our review of the record reveals ample evidence to support the Administrative Law Judge's decision. The owners were absent from the business for an extended time, and had entrusted its management to a person who had not been approved by the Department. The activities which led to the Accusation occurred during this period, while appellants continued to benefit from the operation of the business.

CONCLUSION

The decision of the Department is affirmed.²

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

²This 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.