

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

AB-8667

File: 20-428564 Reg: 06063180

CHEVRON STATIONS, INC., dba Chevron 97947
3381 Coach Lane, Cameron Park, CA 95682,
Appellant/Licensee

v.

DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL,
Respondent

Administrative Law Judge at the Dept. Hearing: Michael B. Dorais

Appeals Board Hearing: January 15, 2009
San Francisco, CA

ISSUED JUNE 4, 2009

Chevron Stations, Inc., doing business as Chevron 97947 (appellant), appeals from a decision of the Department of Alcoholic Beverage Control¹ which suspended its license for 15 days for its clerk selling an alcoholic beverage to a Department minor decoy, a violation of Business and Professions Code section 25658, subdivision (a).

Appearances on appeal include appellant Chevron Stations, Inc., appearing through its counsel, Ralph B. Saltsman and Stephen W. Solomon, and the Department of Alcoholic Beverage Control, appearing through its counsel, Gerry J. Agerbek.

FACTS AND PROCEDURAL HISTORY

Appellant's off-sale beer and wine license was issued on November 1, 2005. On June 20, 2006, the Department filed an accusation against appellant charging that

¹The decision of the Department, dated November 29, 2006, is set forth in the appendix.

appellant's clerk sold an alcoholic beverage to 18-year-old Brandon Gayman on March 15, 2006. Gayman was working as a minor decoy for the Department at the time.

At the administrative hearing held on October 26, 2006, documentary evidence was received, and testimony concerning the sale was presented by Gayman. Following the hearing, the Department issued its decision which determined that the violation charged was proved and no defense was established. Appellant then filed an appeal contending that the Department engaged in prohibited ex parte communications. Appellant has also filed a motion to augment the record with documents consisting of, and related to, any report of hearing and General Order No. 2007-09.

DISCUSSION

The Department has requested that this case be remanded to it for consideration of the ex parte communication issue. There being no objection from appellant, we shall remand the case to the Department pursuant to its request.

ORDER

This matter is remanded to the Department for an evidentiary hearing in accordance with the foregoing discussion.²

FRED ARMENDARIZ, CHAIRMAN
SOPHIE C. WONG, MEMBER
TINA FRANK, MEMBER
ALCOHOLIC BEVERAGE CONTROL
APPEALS BOARD

² This order of remand is filed in accordance with Business and Professions Code section 23085, and does not constitute a final order within the meaning of Business and Professions Code section 23089.