

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

AB-8687

File: 20-361125 Reg: 06063914

CHEVRON STATIONS, INC., dba Chevron
14201 Valley View, La Mirada, CA 90638,
Appellant/Licensee

v.

DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL,
Respondent

Administrative Law Judge at the Dept. Hearing: John W. Lewis

Appeals Board Hearing: November 6, 2008
Los Angeles, CA

ISSUED MARCH 13, 2009

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Chevron Stations, Inc., doing business as Chevron (appellant), appeals from a decision of the Department of Alcoholic Beverage Control¹ which suspended its license for five days for having engaged in concurrent sales of motor vehicle fuel and beer and wine for off-premises consumption by advertising beer on a motor fuel island and having self-illuminating advertising for beer and wine on the building or window of the premises, violations of Business and Professions Code section 23790.5, subdivision (d)(5).

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

¹The decision of the Department, dated February 8, 2007, is set forth in the appendix.

Matthew G. Ainley.

FACTS AND PROCEDURAL HISTORY

Appellant's off-sale beer and wine license was issued on October 1, 2002. Thereafter, the Department instituted an accusation against appellant charging a violation of Business and Professions Code section 23970.5, subdivision (d)(5).²

An administrative hearing was held on January 12, 2007, at which time documentary evidence was received and testimony concerning the violation charged was presented. Subsequent to the hearing, the Department issued its decision which determined that the charge of the accusation had been established.

Appellant filed a timely notice of appeal in which it raises the following issues: (1) the Department lacked adequate screening procedures to prevent ex parte communications; and (2) the Department communicated ex parte with its decision maker.

DISCUSSION

The Department's one-paragraph brief states:

The Department does not concede any of the issues raised by the licensee in their [sic] opening brief. However, a review of the file indicates that the matter should be remanded to the Department for disposition pursuant to *Department of Alcoholic Beverage Control v. Alcoholic Beverage Control Appeals Bd. (Quintanar)*.¹

¹ 40 Cal.4th 1, 50 Cal. Rptr. 3d 585 (2006)

There being no objection from appellant's counsel, we will accede to the Department's request.

² Section 23970.5, subdivision (d)(5) provides that "no beer or wine advertising shall be located on motor fuel islands and no self-illuminating advertising for beer or wine shall be located on windows or buildings."

ORDER

This matter is remanded to the Department for disposition, as the Department has requested.³

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

³ 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.