

ISSUED OCTOBER 24, 2000

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

KIM Y. BLOOM	)	AB-7466
dba Kim's Place)	
637 H Street	)	File: 48-319763
Chula Vista, CA, 91910	)	Reg: 99045781
Appellant/Licensee,)	
	)	Administrative Law Judge
v.	)	at the Dept. Hearing:
	)	John P. McCarthy
)	
DEPARTMENT OF ALCOHOLIC	)	Date and Place of the
BEVERAGE CONTROL,	)	Appeals Board Hearing:
Respondent.	)	September 7, 2000
	)	Los Angeles, CA

Kim Y. Bloom, doing business as Kim's Place (appellant), appeals from a decision of the Department of Alcoholic Beverage Control¹ which revoked her license for multiple acts of unlawful bar girl activity, 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 §24200.5, subdivision (b), and 25657, subdivision (a).

Appearances on appeal include appellant Kim Y. Bloom, representing herself,

¹The decision of the Department, dated July 29, 1999, is set forth in the appendix.

and the Department of Alcoholic Beverage Control, appearing through its counsel, John W. Lewis.

FACTS AND PROCEDURAL HISTORY

Appellant's on-sale general public premises license was issued on November 26, 1996. Thereafter, the Department instituted an accusation against appellant which contained 44 counts alleging unlawful drink solicitation pursuant to a commission, salary, percentage or other profit-sharing activity.

An administrative hearing was held on June 8, 1999, at which time it was stipulated that the police reports which were generated by officers of the Chula Vista Police Department setting forth the conduct witnessed by them in the premises would be received in evidence in lieu of the live testimony of the officers who prepared the reports.

Subsequent to the hearing, the Department issued its decision which sustained 26 of the solicitation counts. Of the overall total, 9 of the counts which were sustained charged violations of Business and Professions Code §24200.5, subdivision (b). The remainder of the counts which were sustained involved violations of Business and Professions Code §25657, subdivision (a).

Appellant thereafter filed a timely notice of appeal.

Written notice of the opportunity to file briefs in support of the appellant's position was given on May 12, 2000. No brief has been filed by appellant. We have reviewed the notice of appeal, in which appellant contends that the penalty is too harsh, and that she "feel[s] as though she has done nothing wrong to any adults that come in to Kim's place to socialize, meet new friends, play pool, or

watch sports.” We have also considered the arguments presented by appellant at the hearing.

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. Game! (1962) 210 Cal.App.2d 529, 531 [26 Cal.Rptr. 880, 881].)

Nonetheless, we have reviewed the record, which reveals a blatant pattern of drink solicitation, much of which was engaged in by appellant herself, and find it more than sufficient to justify the order of revocation. There is no merit to the appeal.

ORDER

The decision of the Department is affirmed.²

TED HUNT, CHAIRMAN
RAY T. BLAIR, JR., MEMBER
E. LYNN BROWN, 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.