

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

**AB-9794**

File: 21-519099; Reg: 18086688

BELLFLOWER LIQUOR, INC.,  
dba Cheap Corner Liquor and Grocery Market  
14312 Bellflower Boulevard  
Bellflower, CA 90706,  
Appellant/Licensee

v.

DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL,  
Respondent

Administrative Law Judge at the Dept. Hearing: Doris Huebel

Appeals Board Hearing: October 3, 2019  
Los Angeles, CA

**ISSUED OCTOBER 15, 2019**

*Appearances:*      *Appellants:* Ralph Barat Saltsman, of Solomon, Saltsman & Jamieson, as counsel for Bellflower Liquor, Inc.,  
  
*Respondent:* Alanna K. Ormiston, as counsel for the Department of Alcoholic Beverage Control.

**OPINION**

Bellflower Liquor, Inc., doing business as Cheap Corner Liquor and Grocery Market, appeals from a decision of the Department of Alcoholic Beverage Control<sup>1</sup> revoking its license (with the revocation conditionally stayed for a period of three years, provided no further cause for discipline arises during that period) and concurrently

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<sup>1</sup>The Decision of the Department under Government Code section 11517, subdivision (c), dated January 22, 2019, is set forth in the appendix, as is the Proposed Decision of the administrative law judge (ALJ) dated August 6, 2018.

suspending its license for 30 days because it purchased distilled spirits believing them to be stolen, in violation of Penal Code sections 664 and 496, subdivision (a).

#### FACTS AND PROCEDURAL HISTORY

Appellant's off-sale general license was issued on April 2, 2012. There are two prior instances of departmental discipline against the license.

On March 26, 2018, the Department instituted a six-count accusation against appellant charging that on two separate occasions — May 25, 2017 and June 22, 2017 — appellant purchased purportedly stolen distilled spirits from undercover Department agents.

On July 10, 2018, one day prior to the administrative hearing, appellant filed a Motion to Continue Hearing. The Department filed an Opposition to Motion to Continue Hearing. Chief Administrative Law Judge John W. Lewis denied appellant's motion.

At the administrative hearing held on July 11, 2018, documentary evidence was received and testimony concerning the violation charged was presented by Department Agent Carlos Valencia and Linda Pineda, a personal acquaintance of appellant's owner and employees.

#### Counts 1-4:

Testimony established that on May 25, 2017, Agent Valencia entered the licensed premises in an undercover capacity with five other agents. He was carrying a backpack filled with purportedly stolen distilled spirits. A male clerk was behind the sales counter, later identified as Gurmeet Singh (hereinafter, "Gurmeet"), who introduced himself to the agent as Babbu.

Agent Valencia went to the coolers and selected a 24-ounce can of Modelo beer.

He went to the sales counter, paid for the beer, then told Gurmeet he had some alcohol for sale if he was interested. Gurmeet asked what he had and Agent Valencia told him he had Grey Goose Vodka, Hennessy Cognac, Crown Royal Whiskey, and Patron Tequila. This conversation took place in English.

After a brief interruption, while Gurmeet excused himself to wait on another customer, Agent Valencia pulled out the various bottles of alcohol and placed them on the counter — telling Gurmeet the price of each one as he did so. He told Gurmeet that the bottles were stolen by a friend who works at the CVS warehouse in La Habra. Gurmeet replied “OK” and asked how much for all four bottles. Agent Valencia told him \$57. Gurmeet offered \$40, but Valencia said no, the price was set by his friend who steals the bottles.

Agent Valencia put the bottles back into his backpack and began to exit the premises, but Gurmeet stopped him and said he would make a call. Agent Valencia asked if he was calling his boss and Gurmeet said “yes.” He asked the agent to wait outside. Later, outside, the two bargained back and forth about the price. Ultimately, Gurmeet agreed to a price of \$55 and instructed Agent Valencia to put the alcohol in a black plastic bag, which he did. Gurmeet put the bag of alcohol on the floor behind the cash register, took some money out of his pocket, counted it, then opened the register to make change before paying the agent \$55.

Gurmeet inquired whether Valencia could get him more alcohol and asked for his phone number. Agent Valencia asked for Gurmeet’s number instead, and Gurmeet wrote it down. (Exh. 6.) They discussed what sorts of alcohol and how many bottles Valencia could get, and the agent agreed to return in a week or so with about 20 bottles

of Hennessy Cognac and Grey Goose Vodka. Gurmeet said "OK" and asked for Patron Tequila as well. Agent Valencia agreed and exited the premises.

Counts 5-6:

On June 22, 2017, Agent Valencia returned to the licensed premises in an undercover capacity, carrying a backpack containing a bottle of Hennessy Cognac and a bottle of Grey Goose Vodka. Two other undercover Department agents were also present. Gurmeet was busy with customers, and Agent Valencia waited until he was finished before asking if Gurmeet remembered him, which he did. Another individual, John Doe #1, was fixing a shelf behind the counter.

Agent Valencia told Gurmeet he only had five bottles of the cognac and four bottles of the vodka because that was all his friend could steal from work. Gurmeet conversed with John Doe #1 in a language Valencia could not understand, then asked Valencia the price. Agent Valencia told him \$15 per bottle for the Hennessy Cognac, and \$12 per bottle for the Grey Goose Vodka. Gurmeet asked to inspect the bottles and Valencia agreed. Gurmeet and John Doe #1 both inspected the bottles and spoke again in a foreign language. John Doe #1 asked where Valencia's friend worked and Valencia said "my friend works at the CVS warehouse in La Habra that's where he steals it from."

Gurmeet asked for the price, and Agent Valencia told him it would cost \$123 for all the bottles. Gurmeet said "OK." John Doe #1 said to wait so that Gurmeet could check with the boss to confirm. Gurmeet made a phone call in a foreign language while John Doe #1 waited on customers. The agent and Gurmeet went to the agent's car where Gurmeet inspected the bottles. Gurmeet spoke to a customer in English, who

had just purchased cigars inside the licensed premises and asked him if he could put the box of distilled spirits in his vehicle. The customer said “yes.” Gurmeet then instructed Agent Valencia to load the alcohol into the customer’s truck, which he did. Agent Zavala observed these events and took photographs. (Exhs. 7-8.)

Gurmeet asked again about the price and Agent Valencia said \$123. Gurmeet offered him \$113 but Valencia refused, saying his friend set the price. The customer told Gurmeet to just pay the \$123 because it was a good deal. Gurmeet went back to the sales counter where John Doe #1 made change, then he completed the transaction with Agent Valencia.

All conversations between Agent Valencia and Gurmeet took place in English.

No Additional Counts:

On November 16, 2017, Agent Valencia returned to the licensed premises in plain clothes. He spoke to Gurmeet and offered to sell him stolen bottles of alcohol. Gurmeet made a phone call, speaking to someone in a language the agent did not understand. Gurmeet then told Agent Valencia he was not interested. Valencia exited the premises.

Subsequently, Department agents made contact with Gurmeet, advised him of the violations on May 25, 2017 and June 22, 2017, issued him a citation, and detained him.

The ALJ issued her proposed decision on August 6, 2018, sustaining all six counts of the accusation and recommending that the license be revoked (with the revocation conditionally stayed for a period of three years, provided no further cause for discipline arises during that period) as well as concurrently suspending the license

for 30 days. On September 21, 2018, the Department initially rejected the proposed decision.

The parties were advised by a notice dated October 9, 2018, that the Department had considered but did not adopt the proposed decision, and that it would decide the matter itself pursuant to section 11517(c)(2)(E). In its Notice Pursuant to Government Code section 11517(c)(2)(E)(i), dated October 24, 2018, the parties were advised of their right to submit written argument to the Department. Specifically, the parties were asked to address the issue of penalty. Both parties submitted written argument. On January 22, 2019, the Department issued its Decision Under Government Code section 11517(c), adopting the proposed decision in its entirety.

Appellant then filed a timely appeal raising the following issues: (1) the ALJ abused his discretion to deny appellant's motion to continue; (2) the ALJ's failure to articulate a reason for the denial hampers review by the Board; and (3) the Department's new procedures for hearing motions to continue have not been formally implemented and therefore constitute an underground regulation which denies appellant due process. Issues one and two will be discussed together.

## DISCUSSION

### I & II

#### ISSUES CONCERNING MOTION TO CONTINUE

#### & ALJ'S REASONING

Appellant contends it was an abuse of discretion for the ALJ to deny appellant's motion to continue. Appellant maintains the denial prevented it from presenting a defense to the accusation because, they alleged, a material witness could not testify

without the aid of a Punjabi interpreter, and no Punjabi interpreter was available on the date of the hearing. (AOB at p. 1; Exh. 1B.) Appellant further contends the ALJ's failure to articulate a reason for the denial of its motion hampers review of that decision by the Board. (*Id.* at pp. 6-7.)

Government Code section 11524, subdivision (a), vests an ALJ with authority to grant a continuance upon a showing of "good cause."

In exercising the power to grant continuances in an administrative proceeding, an administrative law judge must be guided by the same principles applicable to continuances generally in adjudicative settings: continuances should be granted sparingly, nay grudgingly, and then **only on a proper and adequate showing of good cause** . . . the factors that influence the granting or denying of a continuance in any particular case are so varied that the judge must necessarily exercise a broad discretion. Since it is impossible to foresee or predict all of the vicissitudes that may occur in the course of a contested proceeding, the determination of a request for a continuance must be based upon the facts and circumstances of the case as they exist at the time of the determination.

(*Arnett v. Office of Admin. Hearings* (1996) 49 Cal.App.4th 332, 335 [56 Cal.Rptr.2d 774], emphasis added.)

There is no absolute right to a continuance; one is granted or denied at the discretion of the ALJ, and refusal to grant a continuance will not be disturbed on appeal unless it is shown to be an abuse of discretion. (*Ibid*; *Cooper v. Board of Medical Examiners* (1975) 49 Cal.App.3d 931, 944 [123 Cal.Rptr. 563]; *Savoy Club v. Board of Supervisors* (1970) 12 Cal.App.3d 1034, 1038 [91 Cal.Rptr. 198]; *Givens v. Dept. of Alcoholic Bev. Control* (1959) 176 Cal.App.2d 529, 532 [1 Cal.Rptr. 446].)

In addition to requiring a showing of good cause, Government Code section 11524, subdivision (b) stipulates:

When seeking a continuance, a party shall apply for the continuance within 10 working days following the time the party discovered or reasonably should have discovered the event or occurrence which establishes the good cause for the continuance. A continuance may be granted for good cause after the 10 working days have lapsed if the party seeking the continuance is not responsible for and has made a good faith effort to prevent the condition or event establishing the good cause.

(Gov. Code § 11524(b).)

In the instant case, on May 2, 2018, the matter was set for an administrative hearing to be held on July 11, 2018. On the day before the hearing — July 10, 2018 — appellant submitted a motion to continue the hearing, declaring that appellant's employee, Gurmeet Singh, would require a Punjabi interpreter in order to testify and that one could not be located for him. (Exh. 1B.)

In the Department's opposition to the appellant's motion, it urged the Chief ALJ not to grant the motion to continue. It argued that appellant had not demonstrated good cause because it waited "until the 11<sup>th</sup> hour" to locate an interpreter and had failed to act with due diligence, since it knew Mr. Singh was named in the accusation and would therefore be required to testify at the hearing. The Department also argued that during the course of the investigation, all conversations between Mr. Singh and the investigating agent had taken place in English. Accordingly, it questioned the need for an interpreter. (*Ibid.*)

In his Order Denying Continuance of Hearing, dated July 10, 2018, the Chief ALJ takes note of both appellant's motion, and the Department's opposition. He states:

Having reviewed Respondents' motion for a continuance and the Department's opposition thereto, it is hereby ordered that the motion is DENIED and the hearing will proceed as scheduled on July 11, 2018.

(*Ibid.*) Appellant contends the Chief ALJ's failure to articulate his reason for the denial



violates its due process rights. It maintains an ALJ is required to explain his or her reasoning by setting forth findings that bridge the analytical gap between the raw evidence and the final decision or order. (AOB at p. 11, citing *Topanga Association for a Scenic Community v. County of Los Angeles* (1974) 11 Cal.3d 506, 515 [113 Cal.Rptr. 836].)

*Topanga* concerned a case in which the court found that a lack of findings made it difficult for a reviewing court to understand how the ALJ had reached a conclusion.

The court explained:

Among other functions, a findings requirement serves to conduce the administrative body to draw legally relevant sub-conclusions supportive of its ultimate decision; the intended effect is to facilitate orderly analysis and minimize the likelihood that the agency will randomly leap from evidence to conclusions.

(*Id.* at p. 516.) It went on to say, “[m]oreover, properly constituted findings enable the parties to the agency proceeding to determine whether and on what basis they should seek review.” (*Id.* at pp. 516-517.)

In the instant case, however, it is not difficult for the Board to understand how the Chief ALJ reached his decision to deny the motion to continue — he clearly states that his decision is based on a review of both appellant’s motion and the Department’s written opposition to it. No further findings or explanations are necessary, and the Board’s review is not hampered by a lack of further explanations. An ALJ is simply not required to articulate his or her reasoning, when, as here, the basis for the decision has been made clear.

We have reviewed the motion and the opposition, and agree that these

documents contain substantial evidence to support a denial of the motion to continue. Appellant's 11<sup>th</sup> hour request for this continuance, and its assertion that the witness could not testify in English — when all conversations with the agent during the underlying investigation took place in English — simply do not constitute good cause for a continuance. Furthermore, in spite of appellant's assertion that the last minute request was not their fault, there is no actual evidence in the record to establish that a third party was the cause of the problem. Had such evidence been presented, this might be a very different case.<sup>2</sup>

### III

#### ISSUE CONCERNING UNDERGROUND REGULATION

Appellant contends the Department's new procedures for hearing motions to continue (requiring such motions to be in writing, and eliminating conference calls to argue the motion) have not been formally implemented. It maintains that the policy should have been subjected to the rulemaking requirements of the Administrative Procedures Act (APA), and that the failure to do so constitutes an underground regulation which denies appellant due process. (AOB at pp. 12-15.)

The APA defines the term "regulation" broadly: "Regulation' means every rule, regulation, order, or standard of general application or the amendment, supplement, or revision of any rule, regulation, order, or standard adopted by any state agency to implement, interpret, or make specific the law enforced or administered by it, or to

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<sup>2</sup>While we see no abuse of discretion in the denial, and do not find good cause for a continuance was established under the specific facts of this case (and we realize the Department is not required by law to provide interpreters), we would, however, like to emphasize that a policy which errs on the side of providing interpreters will further a more equitable process.

govern its procedure.” (Gov. Code, § 11342.600.) “[I]f it looks like a regulation, reads like a regulation, and acts like a regulation, it will be treated as a regulation whether or not the agency in question so labeled it.” (*State Water Resources Control Bd. v. Office of Admin. Law* (1993) 12 Cal.App.4th 697, 702 [16 Cal.Rptr.2d 25].)

The APA requires that all regulations be adopted through the formal rulemaking process.

No state agency shall issue, utilize, enforce, or attempt to enforce any guideline, criterion, bulletin, manual, instruction, order, standard of general application, or other rule, which is a regulation, as defined in Section 11342.600, unless the guideline, criterion, bulletin, manual, instruction, order, standard of general application, or other rule has been adopted as a regulation and filed with the Secretary of State pursuant to this chapter.

(Gov. Code, § 11340.5(a).) All regulations are subject to the APA rulemaking process unless expressly exempted by statute. (Gov. Code, § 11346; *Engelmann v. State Bd. of Education* (1991) 2 Cal.App.4th 47, 59 [3 Cal.Rptr.2d 264].) Compliance with the rulemaking process is mandatory; where a regulation was not properly adopted, it has no legal effect. (*Armistead v. State Personnel Bd.* (1978) 22 Cal.3d 198, 204-205 [149 Cal.Rptr. 1].)

In *Tidewater*, cited by both parties, the California Supreme Court outlined a two-part test to determine if something is a regulation subject to the rulemaking requirements of the APA:

A regulation subject to the APA thus has two principal identifying characteristics. [Citation.] First, the agency must intend its rule to apply generally, rather than in a specific case. The rule need not, however, apply universally; a rule applies generally so long as it declares how a certain class of cases will be decided. [Citation.] Second, the rule must “implement, interpret, or make specific the law enforced or administered by [the agency], or . . . govern [the agency’s] procedure.” (Gov. Code,

§11342, subd. (g).)

(*Tidewater Marine Western, Inc. v. Bradshaw* (1996) 14 Cal.4th 557, 571 [59 Cal.Rptr.2d 186].)

The analysis does not stop there, however. Even if the Board were to rule that the new policy is an underground regulation, this conclusion alone would not necessarily merit reversal. (See *id.*, at pp. 576-577.) As the Court observed,

If, when we agreed with an agency's application of a controlling law, we nevertheless rejected that application simply because the agency failed to comply with the APA [rulemaking procedures], then we would undermine the legal force of the controlling law. Under such a rule, an agency could effectively repeal a controlling law simply by reiterating all its substantive provisions in improperly adopted regulations.

(*Id.*, at p. 577.) The court therefore went on to say that in order to prevail it is necessary to show that voiding the underground regulation would have changed the specific outcome of the case. (*Ibid.*)

Under the initial two-part *Tidewater* test, it would appear that the new procedure for seeking a continuance does apply generally, rather than in just this specific case, and the change governs the procedure for hearing motions to continue. Accordingly, appellant is correct in asserting that the procedure is an underground regulation which was adopted in violation of the formal rulemaking requirements of the APA.

Nevertheless, appellant has not demonstrated that voiding the underground regulation would have changed the outcome in this case. In order for this Board to grant relief, an appellant must show prejudice:

No judgment shall be set aside, or new trial granted, in any cause, on the ground of misdirection of the jury, or of the improper admission or rejection of evidence, or for any error as to any matter of pleading, or for any error as to any matter of procedure, unless, after an examination of

the entire cause, including the evidence, the court shall be of the opinion that the error complained of has resulted in a miscarriage of justice.

(Cal. Const., art. VI, § 13.) "Under this standard, the appellant bears the burden to show

it is reasonably probable he or she would have received a more favorable result at trial had the error not occurred." (*Citizens for Open Gov. v. City of Lodi* (2012) 205 Cal.App.4th 296, 308 [250 Cal.Rptr.3d 459]; see also *People v. Watson* (1956) 46 Cal.2d 818, 836 [299 P.2d 243].) Such a showing has not been made in this case.

We agree with the Department that the evidence in the record supports a conclusion that the charges of the accusation would have been sustained, whether or not an interpreter had been provided for Mr. Singh. Accordingly, appellant has not met its burden to show that voiding the underground regulation would have changed the outcome of this case.

#### ORDER

The decision of the Department is affirmed.<sup>3</sup>

SUSAN A. BONILLA, CHAIR  
MEGAN McGUINNESS, MEMBER  
ALCOHOLIC BEVERAGE CONTROL  
APPEALS BOARD

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<sup>3</sup>This final order is filed in accordance with Business and Professions Code section 23088, and shall become effective 30 days following the date of the filing of this order as provided by section 23090.7 of said code.

Any party, before this final order becomes effective, may apply to the appropriate court of appeal, or the California Supreme Court, for a writ of review of this final order in accordance with Business and Professions Code section 23090 et seq.

# APPENDIX

**BEFORE THE  
DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL  
OF THE STATE OF CALIFORNIA**

**IN THE MATTER OF THE ACCUSATION  
AGAINST:**

BELFLOWER LIQUOR, INC.  
CHEAP CORNER LIQUOR AND GROCERY  
MARKET  
14312 BELFLOWER BOULEVARD  
BELFLOWER, CA 90706

Licensee(s).

**File No.: 21-519099**

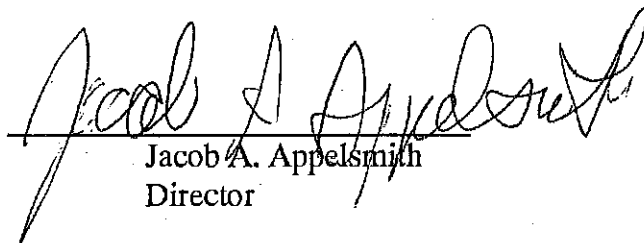
**Reg. No.: 18086688**

**DECISION UNDER GOVERNMENT CODE SECTION 11517(c)**

The above-entitled matter having regularly come before the Department on January 22, 2019, for decision under Government Code Section 11517(c) and the Department having considered its entire record, including the transcript of the hearing held on July 11, 2018, before Administrative Law Judge D. Huebel, and the written arguments of the parties, and good cause appearing, the proposed decision of the Administrative Law Judge dated August 6, 2018, is hereby adopted as the decision of the Department.

Sacramento, California

Dated: January 22, 2019

  
\_\_\_\_\_  
Jacob A. Appelsmith  
Director

Pursuant to Government Code section 11521(a), any party may petition for reconsideration of this decision. The Department's power to order reconsideration expires 30 days after the delivery or mailing of this decision, or on the effective date of the decision, whichever is earlier.

Any appeal of this decision must be made in accordance with Chapter 1.5, Articles 3, 4 and 5, Division 9, of the Business and Professions Code. For further information, call the Alcoholic Beverage Control Appeals Board at (916) 445-4005.

**BEFORE THE  
DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL  
OF THE STATE OF CALIFORNIA**

IN THE MATTER OF THE ACCUSATION AGAINST:

Bellflower Liquor, Inc.	}	File: 21-519099
Dbas: Cheap Corner Liquor and Grocery Market	}	
14312 Bellflower Boulevard	}	Reg.: 18086688
Bellflower, California 90706	}	
	}	License Type: 21
Respondent	}	
	}	Word Count: 27,845
	}	
	}	Reporter:
	}	Dorothy Simpson
	}	California Reporting
	}	
<u>Off-Sale General License</u>	}	<b><u>PROPOSED DECISION</u></b>

Administrative Law Judge D. Huebel, Administrative Hearing Office, Department of Alcoholic Beverage Control, heard this matter at Cerritos, California, on July 11, 2018.

Jennifer Casey, Attorney, represented the Department of Alcoholic Beverage Control (hereinafter the Department).

Donna Hooper, Attorney, represented Respondent, Bellflower Liquor, Inc.

The Department seeks to discipline the Respondent's license on the grounds that, on May 25, 2017 and June 22, 2017, the Respondent's agent or employee, Gurmeet Singh, at the premises, bought, received, withheld or concealed property, to-wit: a total of 13 bottles of various distilled spirits, believing the same to have been stolen, in violation of Penal Code sections 664/496(a). (Exhibit 1A.)

Oral evidence, documentary evidence, and evidence by oral stipulation on the record was received at the hearing. The matter was argued and submitted for decision July 11, 2018.

**FINDINGS OF FACT**

1. The Department filed the accusation on March 26, 2018.
2. The Department issued a type 21, off-sale general license to the Respondent for the above-described location on April 2, 2012 (the Licensed Premises).



3. Respondent has been the subject of the following discipline:

<u>Dates of Violation</u>	<u>Reg. No.</u>	<u>Violation</u>	<u>Penalty</u>
June 20, 2015	16083553	BP§25658(a), PC§§330b,330.1, 330.4	POIC in lieu of 15-day susp.
October 21, 2016	17085331	BP§25658(a)	POIC in lieu of 25-day susp.

The foregoing disciplinary matters are final. (Exhibits 2 and 3.)

**(May 25, 2017 – Counts 1 through 4)**

4. On May 25, 2017, Department Agent Carlos Valencia (hereinafter Agent Valencia) travelled to the Licensed Premises with Supervising Agents in Charge Beach and Richards, along with Agents Gardner, Vega and Reese. Agent Valencia, who speaks both English and Spanish, entered the south entrance of the Licensed Premises, in a plain clothes capacity, with a black backpack filled with purportedly stolen distilled spirits (750 milliliters each of Hennessy Cognac, Grey Goose Vodka, Patron Tequila, and Crown Royal Whiskey)<sup>1</sup>. (Exhibit 4.) Upon entering the Licensed Premises Agent Valencia immediately saw a male clerk standing behind the sales counter, whom Agent Valencia later learned was Gurmeet Singh and who introduced himself to Agent Valencia as Babbu (hereinafter referred to as Gurmeet).

5. Agent Valencia noticed the sales counter, that was on the left when he entered the premises, was blocked off to the general public with acrylic glass and a door. There is a clear, acrylic glass which separates the employee side from the customer side of the sales counter and extends along a walkway from a door to the sales counter.

6. Agent Valencia walked straight to the refrigerated coolers on the east side of the Licensed Premises and selected a 24 ounce can of Modelo beer. Agent Valencia took the beer to the sales counter, upon which he placed the beer, and for which he paid. At the counter Agent Valencia told Gurmeet that he had some alcohol bottles for sale if Gurmeet wanted to buy some alcohol. Gurmeet asked what type of alcohol bottles he had. Agent Valencia and Gurmeet spoke in English to each other. Agent Valencia told Gurmeet he had Grey Goose Vodka, Hennessy Cognac, Crown Royal Whiskey and Patron Tequila. A female customer approached the sales counter and Gurmeet asked Agent Valencia to hold on while he attended to the customer. Agent Valencia waited for Gurmeet to finish the transaction with the female customer. When Gurmeet was finished, Agent Valencia pulled out, one by one, each of the distilled spirits and placed them on the sales counter. As Agent Valencia pulled each bottle out of the backpack he told Gurmeet the price; Grey Goose Vodka \$12, Crown Royal Whiskey \$10, Hennessy Cognac \$15, and Patron

<sup>1</sup> Prior to going to the Licensed Premises Agent Valencia photographed all four bottles, the color photograph of which was marked and admitted as Exhibit 4.

Tequila \$20. Agent Valencia told Gurmeet that his friend works at the CVS Warehouse in La Habra and steals the alcohol bottles from CVS. Gurmeet replied, "Ok" and asked what the total price was for all four bottles. Agent Valencia answered, "\$57." Gurmeet replied, "Ok." Gurmeet then made a counter offer of \$40 for all four bottles. Agent Valencia responded, "No. My friend steals it from his work. He's the one who sets the prices." Agent Valencia began placing the distilled spirits back into his backpack, and Gurmeet again offered \$40 for all four bottles. Agent Valencia replied, "No, because my friend is the one who steals them from his work. He's the one that sets the prices." Agent Valencia attempted to exit the store, at which point Gurmeet told him to hold up he would make a phone call and asked the agent to wait outside. Agent Valencia asked Gurmeet if he was calling his boss, to which Gurmeet replied, "Yes." Agent Valencia exited the Licensed Premises.

7. At some later point Agent Valencia re-entered the Licensed Premises and approached the sales counter, behind which stood Gurmeet, who was still on the telephone. Gurmeet thereafter finished his telephone call, grabbed an opaque, black plastic bag and walked out from behind the sales counter and instructed Agent Valencia to go outside the store with him. Agent Valencia exited the Licensed Premises and Gurmeet followed him outside, whereupon Gurmeet immediately offered \$45 for all four bottles of distilled spirits. Agent Valencia replied, "No. My friend works in CVS in La Habra. He's the one who steals it from there. He sets the prices." Gurmeet again countered, this time offering \$50 for all four bottles. Agent Valencia replied, "No. My friend is the one that sets the prices." Agent Valencia then said, "The best I could do is \$55 for all four bottles." Gurmeet agreed to pay the \$55. Gurmeet instructed Agent Valencia to put the distilled spirits inside the opaque, black plastic bag Gurmeet had brought out with him. Agent Valencia complied and did so.

8. Gurmeet asked Agent Valencia if he could get him more alcohol next time, to which the agent asked Gurmeet what kind of alcohol he wanted to buy. Gurmeet told the agent, "Everything." Gurmeet then asked about the quality of the distilled spirits in the black plastic bag, asking if the bottles were opened. Agent Valencia said, "No they are not. You can check them if you want to. They were recently stolen from CVS Warehouse in La Habra."

9. Gurmeet grabbed the plastic bag filled with the distilled spirits and walked back inside the Licensed Premises, with the agent following after. Gurmeet placed the bag of distilled spirits on the floor behind the sales counter, pulled out of his pant pocket some money, which he counted, and then opened the cash register from which he made change and paid the agent \$55. (Exhibit 5.)<sup>2</sup>

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<sup>2</sup> Agent Valencia kept the \$55 on his person and later photographed, converted it into a money order and booked it into evidence at the district office.

10. Gurmeet then asked the agent for his phone number. The agent asked that Gurmeet give his phone number instead. Gurmeet took a white piece of cardboard, upon which he wrote his name, "Babbu," and phone number "588-231-5439." Agent Valencia accepted the cardboard and placed it on his person. (Exhibit 6.)<sup>3</sup>

11. Gurmeet then asked Agent Valencia what kind of alcohol bottles he could get Gurmeet. Agent Valencia explained he could get him Grey Goose Vodka, Hennessy Cognac and any other type of alcohol Gurmeet wanted. Gurmeet asked how many bottles the agent could get him. Agent Valencia replied, "I can get about 20 bottles of each type of alcohol." Gurmeet said, "Ok." Agent Valencia told Gurmeet he would be back in about a week or so and that next time he could get Gurmeet Hennessy Cognac and Grey Goose Vodka bottles. Gurmeet instructed the agent to also get him some Patron Tequila bottles, which the agent agreed to do. Agent Valencia then exited the Licensed Premises.

**(June 22, 2017 - Counts 5 and 6)**

12. On June 22, 2017, Agent Valencia drove an unmarked state vehicle to the Licensed Premises, while Agents Zavala and Vega drove a second unmarked state vehicle to the Licensed Premises. Agent Valencia entered the Licensed Premises in a plain clothes capacity carrying a black backpack containing two distilled spirit bottles, one unopened bottle of Hennessy Cognac and one unopened bottle of Grey Goose Vodka. Agent Valencia saw Gurmeet and another man behind the sales counter. Gurmeet was assisting other customers and the other male (referred to as John Doe#1) was fixing a liquor shelf behind the sales counter. Agent Valencia waited until Gurmeet finished attending to the customers.

13. When Gurmeet was finished with the customers Agent Valencia approached the sales counter, said "Hi," to Gurmeet and asked him if he remembered him. Gurmeet replied, "Yes." Agent Valencia then advised Gurmeet he had more alcohol bottles. Gurmeet asked how many bottles the agent had, to which Agent Valencia informed him he had five bottles of Hennessy Cognac and four bottles of Grey Goose Vodka. Agent Valencia explained that was all the alcohol his friend could steal from his work. At that point, Gurmeet conversed with John Doe#1 in a different language, which the agent was not able to understand. Gurmeet asked the agent the price of the bottles. Agent Valencia told him the 750 milliliter Hennessy Cognac bottles cost \$15, and the 750 milliliter Grey Goose Vodka bottles cost \$12. Gurmeet asked to inspect the bottles, to which the agent agreed and then pulled out the bottles from his backpack and placed them on the counter. Gurmeet and John Doe#1 both inspected the bottles and spoke to each other in a different language, which the agent was not able to understand. John Doe#1 then asked the agent

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<sup>3</sup> Agent Valencia later booked the said piece of cardboard into evidence. The evidence envelope containing the said cardboard with Babbu's name and phone number were marked and admitted as Exhibit 6.

where his friend worked.<sup>4</sup> Agent Valencia replied, "My friend works at the CVS warehouse in La Habra that's where he steals it from." Gurmeet asked the agent for the total price of all distilled spirits. Agent Valencia replied that it would cost \$123. Gurmeet replied, "Ok." Agent Valencia asked Gurmeet if they wanted him to get the rest of the distilled spirit bottles from his car. John Doe#1 told the agent to wait because Gurmeet would call the boss to confirm. Gurmeet made a phone call and spoke in a language the agent did not understand. While Gurmeet was on the telephone, John Doe#1, who was still behind the sales counter, attended to the customers, ringing their merchandise up on the cash register, accessing the money therein and making change.

14. At some point, Gurmeet finished the telephone call and instructed Agent Valencia to go outside, and Gurmeet grabbed a black plastic bag. When Agent Valencia saw that Gurmeet was bringing a plastic bag again, he informed Gurmeet he did not need the bag because the agent already had the alcohol in a box. Gurmeet replied, "Ok." Both Gurmeet and the agent exited the Licensed Premises and walked to the agent's car where the agent retrieved the box of distilled spirits. Gurmeet inspected and counted the distilled spirit bottles inside the box. Gurmeet questioned why there were only four bottles of Hennessy Cognac and three bottles of Grey Goose Vodka and asked where the other bottles were. Agent Valencia explained he left the other two bottles inside the store, to which Gurmeet acknowledged and asked if the agent could wait 15 minutes. Agent Valencia told him, "No, I have to leave." Gurmeet then spoke in English to a male customer (who had earlier been inside the store purchasing Black and Mild brand cigars from John Doe#1 who assisted him at the cash register) asking if he would be there for a while. (The said customer will hereinafter be referred to as the cigar customer). The cigar customer replied that he would be there for about 20 minutes. Gurmeet asked the cigar customer if he could put the box of distilled spirits in his truck, to which the cigar customer replied, "Yes." Agent Valencia, carrying the box of distilled spirits, followed the cigar customer to his truck, and the agent placed the box of alcohol in the bed of the cigar customer's truck. Agent Zavala, while outside of the Licensed Premises, observed these events and took two photographs thereof. (Exhibit 7 depicts Agent Valencia

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<sup>4</sup> During Agent Valencia's testimony Respondent's counsel objected to John Doe#1's question as hearsay and argued it was "not a statement by an agent or employee." The Department argued that at least it was administrative hearsay. It was admitted provisionally as administrative hearsay. Even if it were argued that John Doe#1's question was an intended assertion, neither his question nor the agent's response, for that matter, are hearsay. They are not out-of-court statements sought to be admitted by the Department to factually prove the agent's friend worked at CVS in La Habra, the alcohol came from CVS in La Habra or that it was stolen from the CVS in La Habra by the agent's friend who works there. These are operative facts. The truth of the question/statement is not important – the fact they were made was. (*Los Robles Motor Lodge, Inc. v. Department of Alcoholic Beverage Control* (1966) 246 Cal.App.2d 198, 205 [54 Cal.Rptr. 547].) There is a well-established exception or departure from the hearsay rule applying to cases in which the very fact in controversy is whether certain things were said or done and not as to whether those things were true or false, and in these cases [therefore] the words or acts are admissible not as hearsay, but as original evidence. (*People v. Henry* (1948) 86 Cal.App.2d 785 [195 P.2d 478, 481] and *Greenblatt v. Munro* (1958) 161 Cal.App.2d 596 [326 P.2d 929, 932-933].)

carrying the box of distilled spirits in front of Gurmeet, and the cigar customer standing next to his truck; Exhibit 8 depicts Agent Valencia placing the box of distilled spirits into the bed of the cigar customer's truck, with the cigar customer standing adjacent his truck.)

15. Agent Valencia then met Gurmeet outside of the Licensed Premises at the south entrance of the store. Gurmeet asked the agent for the total price of the distilled spirits, to which Agent Valencia replied that it would cost \$123. Gurmeet pulled out his cellular telephone and began using its calculator function to add up the total price of the alcohol bottles. Gurmeet told the agent he would give the agent \$100 for all the distilled spirits. Agent Valencia replied, "No. My friend is the one who steals the alcohol from his work. He's the one that sets he prices." Gurmeet pulled out his wallet, from which he retrieved money and handed \$113 to the agent and said, "how about \$113?" Agent Valencia replied, "No. My friend won't let me." The cigar customer then interjected and told Gurmeet to just pay the agent the \$123 because "it's a good deal." Gurmeet agreed with the cigar customer's assessment and walked back inside the Licensed Premises behind the sales counter. Gurmeet spoke to John Doe#1, who was still behind the sales counter, in a different language which the agent could not understand. The agent observed John Doe#1 make change from the cash register and saw that Gurmeet held a \$20 bill in his hand. Agent Valencia told Gurmeet to just give the agent the \$20 and the agent would return the \$10 bill Gurmeet handed to him earlier when giving him the \$113. Gurmeet agreed and they did so. Gurmeet ended up paying Agent Valencia \$123 (Exhibit 10<sup>5</sup>) for the four bottles of Grey Goose Vodka and five bottles of Hennessy Cognac. (Exhibit 9 depicts a photograph of the said distilled spirits.)

**(November 16, 2017)**

16. On November 16, 2017, Agent Valencia returned to the Licensed Premises in a plain clothes capacity. He saw Gurmeet behind the sales counter and offered to sell him stolen bottles of alcohol. Gurmeet made a telephone call to someone with whom he spoke in a different language, which Agent Valencia did not understand. When Gurmeet got off the telephone he told Agent Valencia, "No thank you. I don't want it brother." Agent Valencia exited the premises. Supervising Agent in Charge Richards, along with Agents Gardner, Zavala, Vega and Reese entered the Licensed Premises, made contact with Gurmeet, advised him of the said violations of May 25, 2017 and June 22, 2017, issued him a citation and detained him.

17. During all of the transactions and conversations in English between Gurmeet and Agent Valencia on May 25, June 22, and November 16, 2017, and during Gurmeet's conversations with customers in English, there was no evidence that Gurmeet Singh did

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<sup>5</sup> Agent Valencia placed the \$123 on his person and later took a photograph of it and booked it into evidence at the district office. The \$123 was later converted into a money order.

not understand what was said to him in English. There was no evidence that John Doe#1 did not understand what was said in English on June 22, 2017.

18. Except as set forth in this decision, all other allegations in the accusation and all other contentions of the parties lack merit.

### CONCLUSIONS OF LAW

1. Article XX, section 22 of the California Constitution and section 24200(a) provide that a license to sell alcoholic beverages may be suspended or revoked if continuation of the license would be contrary to public welfare or morals.
2. Section 24200(b) provides that a licensee's violation, or causing or permitting of a violation, of any penal provision of California law prohibiting or regulating the sale of alcoholic beverages is also a basis for the suspension or revocation of the license.
3. Penal Code section 496(a) provides that every person who buys or receives any property that has been stolen or that has been obtained in any manner constituting theft or extortion, knowing the property to be so stolen or obtained, or who conceals, sells, withholds, or aids in concealing, selling, or withholding any property from the owner, knowing the property to be so stolen or obtained, shall be punished by imprisonment in a county jail for not more than one year, or imprisonment pursuant to subdivision (h) of Section 1170.
4. Penal Code section 664 criminalizes the act of attempting to commit any crime, but fails, or is prevented or intercepted in its perpetration.
5. An employee's on-premises acts and knowledge are imputed to the Respondent. (See *Yu v. Alcoholic Bev. etc. Appeals Bd.* (1992) 3 Cal.App.4th 286, 295 [4 Cal.Rptr.2d 280]; *Laube v. Stroh* (1992) 2 Cal.App.4th 364, 377 [3 Cal.Rptr.2d 779]; *Kirby v. Alcoholic Bev. Etc. Appeals Bd.* (1973) 33 Cal.App.3d 732, 737 [109 Cal.Rptr. 291].)
6. Cause for suspension or revocation of the Respondent's license exists under Article XX, section 22 of the California State Constitution and sections 24200(a) and (b) on the basis that the Respondent's agent or employee, Gurmeet Singh, on May 25, 2017, and June 22, 2017, at the premises, bought, received, withheld or concealed property, to-wit: a total of 13 bottles of various distilled spirits, believing the same to have been stolen, in violation of section 496 of the Penal Code. Gurmeet Singh, as Respondent-Licensee's employee, acted with authorization from the Respondent-Licensee's agent, who was in a position to grant authorization to conduct said transactions on behalf of the Respondent-Licensee. As such Gurmeet's actions and knowledge are imputed to the Respondent. (Counts 1 through 6.) (Findings of Fact ¶¶ 4 through 17.)

7. Since the property was not, in fact, stolen, the question is whether the provisions of attempt pursuant to Penal Code section 664 apply. Under the facts of this case, the purchases that occurred on May 25, 2017, and June 22, 2017, were clearly attempts by Gurmeet Singh to receive stolen property. Within Gurmeet Singh's knowledge, he believed he completed the purchases (at discounts) of distilled spirits that were stolen from a CVS Warehouse by a purported employee. Beyond Gurmeet Singh's control and knowledge was the fact that these distilled spirits and the "seller" were law enforcement props in an undercover investigation.

**(Credibility)**

8. In determining the credibility of a witness, as provided in section 780 of the Evidence Code, the administrative law judge may consider any matter that has any tendency in reason to prove or disprove the truthfulness of the testimony at the hearing, including the manner in which the witness testifies, the extent of the witness' capacity to perceive, to recollect, or to communicate any matter about which the witness testifies, a statement by the witness that is consistent with any part of the witness' testimony at the hearing, the opportunity of the witness to perceive any matter about which the witness testifies, and the existence or nonexistence of a bias, interest, or other motive.

9. Respondent's contentions that Agent Valencia's testimony is not credible is rejected and without merit. In applying the factors of Evidence Code section 780 described above, the undersigned found Agent Valencia to present wholly credible, consistent testimony, and to have a clear recollection of material matters about which he testified. There was no evidence that Agent Valencia had any motive to fabricate his testimony.

10. The Respondent's argument that Gurmeet Singh did not understand the English spoken to him by Agent Valencia during the dates in question and did not understand that the said distilled spirits offered to him for sale by Agent Valencia were stolen is rejected. Gurmeet knew the distilled spirits were stolen because he engaged in tactics to try to hide the clandestine transactions, including, but not limited to, telling Agent Valencia to go wait outside, and negotiating outside of the store. If Gurmeet believed the transactions to be legitimate why not engage in the transactions in the Licensed Premises. He also tried hiding the stolen bottles, by having them placed in opaque, black plastic bags, behind the sales counter and in the truck bed of the cigar customer. Gurmeet knew he was getting a good deal on the stolen bottles of distilled spirits because while negotiating outside the store, after pulling out his calculator making low-ball offers to the agent, the cigar customer tells Gurmeet to just pay the agent the \$123 because "it's a good deal," and Gurmeet agrees with the cigar customer's assessment and completes the sales transaction.

11. Also, on June 22, 2017, after Agent Valencia tells Gurmeet, in John Doe#1's presence, the bottles are stolen, Gurmeet converses with John Doe#1 in another language,

and then asks the price of the bottles. There is no evidence that John Doe#1 cannot understand English, in fact, he speaks English to Agent Valencia on multiple occasions, and even assists ringing up customers. If Gurmeet, as Respondent claims, did not know the distilled bottles were stolen, then John Doe#1 could have clarified that for him. Both Gurmeet and John Doe#1 inspect the bottles. After which John Doe#1 asks Agent Valencia where his friend works, and the agent replies, "My friend works at the CVS warehouse in La Habra that's where he *steals* it from." Yet Gurmeet does not stop the transaction, but asks the price of all the bottles. After the agent tells him \$123, John Doe#1 tells the agent to wait while Gurmeet calls his boss to confirm the sale. Gurmeet knew exactly what the word "steals" meant and understood exactly that Agent Valencia was telling him the bottles were stolen. Thereafter, Gurmeet inspects and counts the distilled spirit bottles inside the box, and asks why there were only four bottles of Hennessy Cognac and three bottles of Grey Goose Vodka and asks where the other bottles were. This shows Gurmeet comprehended everything Agent Valencia was telling him, from the number of purportedly stolen bottles he would be purchasing to arranging for placement of the distilled spirits. Because after Agent Valencia refuses to wait 15 minutes, Gurmeet, speaking English, makes arrangements with the cigar customer to allow the box of distilled spirits to be placed in the bed of his truck.

12. Respondent used Linda Susan Pineda's testimony in an effort to create some evidence that Gurmeet did not understand English and thus did not understand the said bottles were stolen. Mrs. Pineda's testimony that Gurmeet did not always understand what she said to him in English relating to Gurmeet's level of English comprehension based on her conversations with him is not found credible for the following reasons. Mrs. Pineda exhibited a bias as an admitted friend to Saab Singh, in addition to the evidence of a motive to fabricate or alter the truth of her testimony based on the Respondent's negotiated agreement with her husband to sell her husband cigarettes at a "special" discounted price. Mrs. Pineda has a vested interest in helping the Licensee avoid discipline because her husband gets a "special" deal on cigarettes. Mrs. Pineda presented evasive testimony in an attempt to infer that Gurmeet did not understand when someone spoke to him in English. Mrs. Pineda admitted that Gurmeet did not speak broken English and that she never had any conversations with Gurmeet about money or prices; he never rang her up for a purchase at the Licensed Premises and "never had any kind of interaction with him at that level." Mrs. Pineda said that Gurmeet did not comprehend more complex words or turns of phrases, but understood the basics of the English language. The fact that Mrs. Pineda testified that Gurmeet did not always understand what she was saying does not correlate to whether or not Gurmeet understood the simple English spoken to him by Agent Valencia on the dates of the operation. At one point Respondent's counsel asked Mrs. Pineda, "Do you find that [Gurmeet] tends to answer in the affirmative even when you discover he didn't understand the question?" Mrs. Pineda replied "Not verbally," and explained that she discovered that Gurmeet will



nod as if acknowledging that she was speaking, which she mistook to mean that he was indicating understanding what she was saying.

13. When Gurmeet spoke with Agent Valencia Gurmeet responded verbally with acknowledgements of understanding saying things like, "Ok," "Yes," "Everything," "No thank you, I don't want it brother," and engaged in negotiating down the price of the distilled spirits, asking how many bottles and what types of alcohol the agent could get for him, placing a specific order for Patron Tequila, asking for the agent's number to ensure he got future discounted deals on stolen bottles. Gurmeet understood Agent Valencia when he asked Gurmeet for his name and phone number instead because Gurmeet immediately grabbed a white cardboard and wrote his name and number thereon. Gurmeet understood the cigar customer when he told Gurmeet to just pay the \$123 because "it's a good deal," since Gurmeet thereafter agreed to pay \$123 to Agent Valencia. Agent Valencia repeated over and over again that the bottles were stolen by his friend who works at the CVS Ware house in La Habra. John Doe #1 was even privy to that knowledge, and there was no evidence that John Doe#1 did not understand English. John Doe#1 spoke in a different language with Gurmeet after Agent Valencia again repeated that the bottles were stolen. Both John Doe#1 and Gurmeet spoke to customers in English and assisted in their sales transactions. There was absolutely no evidence whatsoever that Gurmeet did not understand the said bottles were stolen or what Agent Valencia was speaking to him about in English on the dates in question. Based on balancing the credible testimony of Agent Valencia against the evasive and biased manner in which Ms. Pineda testified, it is found that Gurmeet understood the English spoken to him by Agent Valencia during the dates in question and understood that the said distilled spirits offered to him for sale by Agent Valencia were stolen at a CVS Warehouse in La Habra by the agent's friend who works there.

14. Respondent's argument that Gurmeet was purchasing the purportedly stolen distilled spirits for himself rather than on behalf of the Respondent-Licensee is rejected. If that were the case, Gurmeet had enough money on his person to purchase the distilled spirits, yet each time Gurmeet would need to call "the boss" for permission. Gurmeet would not need to call anyone if he was just purchasing the alcohol for his own, personal use as claimed. On May 25, 2017, if Gurmeet was purchasing the stolen bottles for himself, why would Gurmeet bring the stolen bottles into the Licensed Premises.

15. Finally, Respondent's arguments that there was no evidence that any of the purportedly stolen alcohol was later found on the Licensed Premises or that it was not paid for from money in the register is without merit and rejected. There is no requirement that the purportedly stolen distilled spirits later be found on the Licensed Premises or that the money comes from the cash register. Nonetheless, it was sufficiently proven that inside the Licensed Premises Gurmeet and John Doe#1 freely accessed the money in

Respondent-Licensee's cash register to pay Agent Valencia for the said authorized transactions of purportedly stolen distilled spirits on May 25, 2017, and June 22, 2017.

16. The Department recognized, in its closing, that Gurmeet could have been receiving permission from someone who was either the Licensee or the Licensee's agent, who was in a position to grant authorization to Gurmeet to conduct the said transactions. While it was clear Gurmeet was receiving permission from someone with authority on behalf of the Respondent-Licensee, it was not clear it was the Licensee as opposed to the Licensee's agent, who was in a position to grant authorization to conduct the said transactions. It was however proven, by a preponderance of the evidence, that Gurmeet acted on behalf of the Respondent-Licensee with express permission through Respondent-Licensee's agent, who was in a position to grant authorization to conduct the said transactions on behalf of the Licensee.

### PENALTY

The Department requested the Respondent's license be revoked based on (1) the Respondent employee, Gurmeet, engaging in two instances of receiving purportedly stolen property, (2) the Respondent's two prior disciplinary matters, one of which included possession of slot machines on the premises, and (3) Gurmeet was getting permission from someone referred to as "the boss," who was either the Licensee or the Licensee's agent or employee who was in a position to grant authorization to conduct said transactions. The Department persisted that thusly it was the Licensee through his employee, Gurmeet, who was purchasing the stolen bottles of distilled spirits with the Licensee's consent, and as such, the appropriate penalty is outright revocation.

The Respondent requested the standard penalty of revocation stayed for three years with a 20 day suspension or, alternatively, revocation stayed for 180 days in order for the Licensee to sell the premises. Respondents based this on their claim the Licensee did not know Gurmeet was purchasing stolen bottles of distilled spirits, because there was no evidence Gurmeet was talking to the Licensee on the telephone on said occasions, and the Department did not prove any of the purportedly stolen alcohol was being sold at the Licensed Premises.

Rule 144<sup>6</sup> provides for revocation for one single incident of the Respondent/Licensee's receiving stolen property, and revocation stayed for three years and a 20-day suspension for receiving stolen property by an employee on premises.

In determining which of the two penalties above-cited to recommend, as discussed above, while it was clear Gurmeet was receiving permission from someone with authority on

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<sup>6</sup> All rules referred to herein are contained in title 4 of the California Code of Regulations unless otherwise noted.

behalf of the Respondent-Licensee, it was not sufficiently proven Gurmeet actually spoke with the Licensee on the telephone on said dates, rather than speaking on the telephone with and receiving permission from Respondent-Licensee's agent, who was in a position to act on behalf of the Licensee and grant authorization to Gurmeet to conduct the said transactions. The penalty recommended herein complies with rule 144.

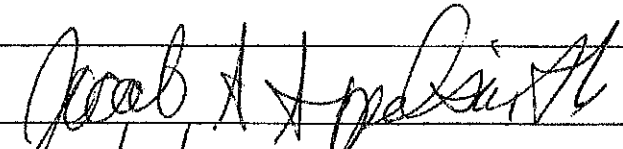
**ORDER**

Counts 1 through 6 are sustained. In light of these violations, the Respondent's off-sale general license is hereby revoked, with the revocation stayed for a period of three years from the effective date of this decision, upon the condition that no subsequent final determination is made, after hearing or upon stipulation and waiver, that cause for disciplinary action occurred within the period of the stay. Should such a determination be made, the Director of the Department of Alcoholic Beverage Control may, in the Director's discretion and without further hearing, vacate this stay order and revoke Respondent's license, and should no such determination be made, the stay shall become permanent. In addition, the license is suspended for 30 consecutive days.

Dated: August 6, 2018



D. Huebel  
Administrative Law Judge

<input type="checkbox"/>	Adopt
<input checked="" type="checkbox"/>	Non-Adopt: _____
By:	
Date:	9/21/18