

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

AB-10012

File: 48-488669; Reg: 24094421

Jose R. Vallejo,
dba 26 Mix
3024 Mission Street
San Francisco, CA,
Appellant/Licensee

v.

DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL,
Respondent

Administrative Law Judge at the Dept. Hearing: Hon. Alberto Roldan

Appeals Board Hearing: May 9, 2025
Sacramento, CA/Videoconference

ISSUED MAY 15, 2025

Appearances: Jonathan Piper, as counsel for Appellant

Alanna Ormiston, as counsel for the Department of Alcoholic
Beverage Control

OPINION

I. INTRODUCTION

Appellant, doing business as 26 Mix, appeals from a decision of the Department of Alcoholic Beverage Control (Department) revoking his on-sale general public premises license following findings of numerous violations of the Alcoholic Beverage Control Act. The sustained charges include drink solicitation, sales of controlled substances, and lewd conduct on the licensed premises.

The Department's decision followed a two-day administrative hearing at which multiple Department agents and forensic experts testified. The Administrative Law Judge (ALJ) sustained 47 of the 54 counts alleged and recommended revocation of appellant's license. The Department adopted the proposed decision in full on November 20, 2024.¹ Appellant now challenges that decision on various procedural and evidentiary grounds.

For the reasons stated below, the Department's decision is affirmed.

II. PROCEDURAL HISTORY

This case arises from an accusation filed by the Department on May 16, 2024, against appellant, who operates a licensed premises located at 3024 Mission Street in San Francisco, California.

The accusation alleged misconduct observed during undercover investigations conducted between January and September 2023. The charges included: (1) employing individuals to procure or encourage the purchase or sale of alcoholic beverages; (2) permitting individuals to loiter in or about the licensed premises for the purpose of soliciting patrons to purchase alcoholic beverages; (3) engaging in commission-based drink solicitation schemes; (4) violating a license condition prohibiting profit-sharing based on drink or door sales; (5) permitting lewd conduct on the premises, including simulated sex acts, fondling, and public nudity, in violation of stage and proximity requirements; (6) knowingly

¹ The Department's decision, dated November 20, 2024, is set forth in the appendix.

permitting the sale or negotiation for sale of controlled substances on the premises; and (7) sales of methamphetamine by employees to patrons. The matter was set for an evidentiary hearing, which was held over two days, on August 13 and 14, 2024, before ALJ Alberto Roldan. At the hearing, the Department was represented by Alanna Ormiston. The Department called the following witnesses:

1. Agent Edgar Valdes – Lead undercover investigator with over 23 years of experience; testified in detail to multiple instances of drink solicitation, lewd conduct, and narcotics sales involving waitresses and dancers at the premises;
2. Agent Jaime Salvador Martinez – Co-investigator and case agent;
3. Agent Nate Lauer – Participated in corroborating observations and controlled buys;
4. Jyoti Mosqueda Malik – Senior criminalist with the California Department of Justice (DOJ), qualified as an expert in controlled substance analysis;
5. Asia Cook – DOJ criminalist, also qualified as an expert;
6. Eric Lovejoy, Edward Camacho, Scott Boudewyn, and Daniel Sumida – Department agents who conducted additional surveillance, made purchases, or collected physical evidence related to narcotics or solicitation violations.

The Department introduced numerous exhibits, including agent reports, photographs of the premises, prior disciplinary records, and DOJ laboratory results

confirming the presence of methamphetamine in bindles seized from appellant's patrons and employees. Appellant was represented by counsel, Adam Koslin, of Solomon, Saltsman & Jamieson. Appellant did not testify, call any witnesses, or present any evidence.

On September 16, 2024, ALJ Roldan issued a proposed decision sustaining 47 of the 54 counts and recommending revocation of appellant's license. He found substantial evidence of pervasive unlawful activity, including a pattern of drink solicitation and open lewd conduct. ALJ Roldan concluded that appellant had either knowingly permitted the violations or failed to exercise the requisite supervision of the premises.

On November 20, 2024, the Department adopted the proposed decision. Appellant then filed a timely appeal, bringing this matter before the Board for review.

III. STANDARD OF REVIEW

The scope of the Board's review is defined by Business and Professions Code section 23084.² The Board is not a trier of fact, and it does not reweigh evidence, evaluate witness credibility, or substitute its judgment for that of the Department. The Board's review is limited to determining:

1. Whether the Department has proceeded without or in excess of its jurisdiction;

² All further statutory references are to the Business and Professions Code unless otherwise stated.

2. Whether the Department has proceeded in the manner required by law;
3. Whether the Department's decision is supported by its findings; and
4. Whether the findings are supported by substantial evidence in light of the whole record.

Substantial evidence is relevant evidence that a reasonable mind might accept as adequate to support a conclusion. (*County of San Diego v. Assessment Appeals Board No. 2* (1983) 148 Cal.App.3d 548, 555 quoting *Hosford v. State Personnel Board* (1977) 74 Cal.App.3d 302, 307.) It is evidence of "ponderable legal significance ... reasonable in nature, credible, and of solid value." (*County of San Diego v. Assessment Appeals Board No. 2*, *supra*, 148 Cal.App.3d at 555 quoting *Ofsevit v. Trustees of the California State University and Colleges* (1978) 23 Cal.3d 773, fn. 9.) The Board does not reweigh conflicting evidence but instead considers whether the Department's findings are supported by such evidence in light of the whole record. (*Kirby v. Alcoholic Beverage Control Appeals Bd.* (1970) 7 Cal.App.3d 126, 129; *Reimel v. Alcoholic Beverage Control Appeals Bd.* (1967) 255 Cal.App.2d 40, 43.)

The Board also considers whether any procedural error or evidentiary ruling prejudiced the appellant. Reversal is not warranted unless the appellant affirmatively demonstrates that an error resulted in prejudice. (Cal. Const., art. VI, § 13; Code Civ. Proc., § 475; *Reimel v. House* (1969) 268 Cal.App.2d 780, 787; *Citizens for Open Government v. City of Lodi* (2012) 205 Cal.App.4th 296, 308.) The burden is on the party seeking reversal to show that it is reasonably probable

a more favorable result would have been reached without the alleged error. (*City of Oakland v. Public Employees' Retirement System* (2002) 95 Cal.App.4th 29, 51–52; *Thornbrough v. Western Placer Unified School Dist.* (2013) 223 Cal.App.4th 169, 200.)

This standard imposes a high threshold. The Board may not overturn a decision simply because different inferences could be drawn from the evidence. The question is not whether the Board would have reached the same result, but whether the Department's findings are supported by substantial evidence and whether appellant has shown prejudicial error.

IV. ANALYSIS

Appellant raises eight primary issues: (1) due process violations; (2) spoliation of evidence; (3) improper limitations on cross-examination; (4) improper admission of prior discipline; (5) inadequate chain of custody; (6) discovery violations related to toxicology evidence; (7) lack of substantial evidence on drink solicitation; and (8) untimely filing of charges. Each argument is addressed in turn below.

1. Due Process and Origin of Complaint

Appellant contends that the Department's failure to disclose the identity or nature of the initial complaint that triggered the investigation violated his constitutional rights to due process under the United States and California Constitutions. This argument is unavailing.

There is no statutory or constitutional requirement that the Department disclose the identity of a complainant in administrative disciplinary proceedings. Under the Administrative Procedure Act, discovery is limited to materials that are both relevant and material to the case, and even then, only upon the filing of a proper motion. (Gov. Code, § 11507.6.) Due process in administrative proceedings requires only that a licensee receives notice of the charges and a meaningful opportunity to respond—not full disclosure of every detail of the Department's investigation. (*Horn v. County of Ventura* (1979) 24 Cal.3d 605, 612.) In this case, appellant was served with a detailed accusation that identified each alleged violation, including dates, statutory references, and the underlying conduct. He had access to the Department's discovery materials, including the investigators' reports and the proposed witness list. At the evidentiary hearing, appellant was represented by experienced counsel, and he was afforded a full opportunity to cross-examine every Department witness. He did not request a continuance, did not file any motion to compel additional discovery, and did not show at the hearing that the identity of the complainant was necessary to his defense. These facts underscore that appellant was provided with all procedural safeguards required under the law. Nothing in the record suggests that the absence of information about the initial complaint impaired appellant's ability to prepare a defense or respond meaningfully to the Department's case.

2. Spoliation of Evidence

Appellant argues that the Department failed to obtain or preserve video surveillance, receipts, or other internal business records from the premises, and contends that this omission constitutes spoliation of evidence that prejudiced his defense.

Under California law, spoliation of evidence requires more than the mere absence of records—it requires the intentional destruction or suppression of relevant evidence with a culpable state of mind. Spoliation is not presumed from loss alone. To justify sanctions or adverse inferences, there must be evidence that a party acted willfully and with the specific intent to prevent the evidence from being used in a legal proceeding. (*Temple Community Hospital v. Superior Court* (1999) 20 Cal.4th 464, 474; Pen. Code, § 135.) In some cases, the intentional suppression of evidence may support an inference that the evidence would have been unfavorable. (Evid. Code, § 413.)

There is, however, no indication that the Department ever possessed surveillance footage or receipts, or that it deliberately withheld or destroyed any such evidence. In fact, Agent Valdes testified that while the presence of a video system at the premises was discussed during the investigation, he did not recall any effort being made to preserve footage or confirm whether the system was operational. (RT 1: 82.) Thus, there is no suggestion that the Department was aware of any such recordings or intentionally failed to collect them. Similarly, the

Department made no attempt to obtain business records from appellant, and appellant did not offer any such materials in his own defense.

The Department has no legal obligation to preserve or collect business records that are equally available to the licensee. (*Williams v. State of California* (1983) 34 Cal.3d 18, 23.) The mere absence of certain evidence does not establish misconduct by the Department or warrant an adverse inference, particularly where the licensee had equal access to the materials. No authority has been cited establishing that the Department is obligated to obtain or retain third-party business records not in its possession.

The absence of video surveillance or other records, without more, does not support a finding of spoliation or a denial of due process. Appellant has not shown that the Department acted improperly or that missing evidence, if any, would have altered the outcome of the case.

3. Cross-Examination of Agent Valdes

Appellant contends that ALJ Roldan improperly curtailed his cross-examination of Agent Valdes regarding internal report-writing procedures. Specifically, appellant sought to question Agent Valdes about how Department reports are finalized, including the number of visits needed to prepare a report and the involvement of supervising agents in reviewing drafts. When the Department objected to this line of inquiry as irrelevant, ALJ Roldan sustained the objection and instructed counsel to move on.

The transcript reflects that counsel for appellant argued that Agent Valdes, as a 23-year veteran of the Department and a key witness in the investigation, was a “percipient witness” to Department protocols and should be permitted to testify about internal report procedures. However, ALJ Roldan ruled that the testimony lacked sufficient probative value and would consume an undue amount of time, noting: “I find this, under 352, to be more consuming of time than having probative value. And I’m not going to allow this line of inquiry to continue. So please move on to another matter.” (RT 1:98.)

The record further shows that appellant did not make an offer of proof as to what the testimony would show, nor did he file a motion to compel such testimony or request a continuance to develop the issue further. Instead, counsel accepted the ruling and continued with other lines of cross-examination. Agent Valdes was questioned at length about his observations, interactions with witnesses, and the contents of his reports—testimony that spans over 50 pages of transcript.

Under Government Code section 11513, subdivision (f), the presiding officer may exclude evidence if its probative value is substantially outweighed by the probability that its admission will necessitate undue consumption of time. That discretion mirrors the standard set forth in Evidence Code section 352, which permits the exclusion of evidence on similar grounds. Courts have repeatedly upheld the exclusion of evidence where the risk of delay or distraction outweighs

any probative value. (See *People v. Cardenas* (1982) 31 Cal.3d 897, 904; *People v. Sanders* (1995) 11 Cal.4th 475, 514; *People v. Clair* (1992) 2 Cal.4th 629, 662.)

Moreover, the exclusion of testimony, even if erroneous, does not warrant reversal unless the appellant demonstrates that the error was prejudicial. The burden rests with the appellant to show that the ruling affected the outcome of the case. (Cal. Const., art. VI, § 13; Code Civ. Proc., § 475; *Citizens for Open Government v. City of Lodi* (2012) 205 Cal.App.4th 296, 308.)

Here, appellant has not shown that the limitation on this line of questioning prevented the presentation of essential evidence or denied him a fair hearing. Nor has he demonstrated that the excluded testimony would have rebutted any material fact supporting the Department's decision. Accordingly, the ruling was within ALJ Roldan's discretion, and it does not constitute prejudicial error.

4. Admission of Prior Disciplinary Record

Appellant challenges the admission of a prior disciplinary action from 2015, which resulted in a 15-day suspension of his license. He contends that the prior violation was too remote in time and unrelated to the current charges to be considered relevant. He also argues that its admission improperly prejudiced the ALJ's decision on the merits.

During the hearing, appellant objected to the admission of prior discipline on relevance grounds. ALJ Roldan overruled the objection, stating that although the prior violation would not be used "for any enhancements," it was "part of the overall history of performance of the licensee" and "more relevant than

prejudicial.” (RT 1:121.) The record contains no indication that the prior discipline was considered for any purpose other than determining the appropriate penalty, as permitted by regulation.

Under California Code of Regulations, title 4, section 144, the Department may consider a licensee’s prior disciplinary history when determining a penalty. The regulation provides that “[e]vidence of prior disciplinary action... will be received in mitigation or aggravation of the penalty.” It does not require that the prior misconduct be recent or factually similar, so long as it is not used to prove culpability in the current matter.

Appellant offers no authority suggesting that a nine-year-old violation is per se inadmissible or irrelevant. To the contrary, the decision in *Martin v. Alcoholic Beverage Control Appeals Board* (1959) 52 Cal.2d 287, 291, confirms that penalty determinations lie within the sound discretion of the Department, and that the Board may not modify a penalty unless it constitutes an abuse of discretion. An abuse of discretion occurs only when the penalty is so disproportionate to the offense that it shocks the conscience and suggests an absence of honest judgment. (*Deegan v. City of Mountain View* (1999) 72 Cal.App.4th 37, 46.)

Here, the Department did not rely on prior discipline to establish appellant’s guilt for the current offenses. Rather, it served only as a permissible aggravating factor in support of the penalty imposed. Given the egregious nature and frequency of the sustained violations in this case, the Department’s use of one

prior suspension to inform the penalty does not shock the conscience or suggest an abuse of discretion.

5. Chain of Custody for Narcotics Evidence

Appellant contends that the Department failed to establish a proper chain of custody for the bindles of methamphetamine collected during the investigation. He argues that the evidence may have been compromised and that its admission violated his right to a fair hearing. This argument lacks merit.

The chain of custody doctrine is designed to ensure that the item of evidence presented at hearing is the same item collected during the investigation and that it has not been altered, tampered with, or substituted. However, the Department is not required to eliminate every conceivable possibility of tampering. Minor gaps or inconsistencies in the chain affect only the weight of the evidence, not its admissibility. (*People v. Catlin* (2001) 26 Cal.4th 81, 134; *People v. Riser* (1956) 47 Cal.2d 566, 580.)

Here, the Department presented testimony from multiple witnesses to establish the integrity of the narcotics evidence. Agent Martinez testified that during a controlled purchase conducted in the premises' restroom, he received a white bindle of suspected methamphetamine, which he packaged and labeled in the field according to standard Department procedure. (RT 1:143–144.) The bindles were then submitted to the DOJ laboratory in Sacramento for chemical analysis.

DOJ criminalists Malik and Cook, both qualified as experts, testified that the bindles were received sealed and intact, labeled with the correct case identifiers, and showed no signs of tampering. (RT 2:13-16, 25–35.) Both witnesses confirmed that the substances tested positive for methamphetamine, and their analytical methods were described in detail. The testimony was specific, credible, and uncontradicted. Where evidence is accompanied by credible testimony that it was properly sealed, labeled, and received intact, minor imperfections in the chain of custody do not undermine its admissibility. California law places responsibility on the trier of fact to determine the weight to assign such evidence. (*Catlin, supra*, 26 Cal.4th at p. 134; *Riser, supra*, 47 Cal.2d at p. 580.)

Moreover, appellant did not file a motion to exclude the narcotics evidence or object to its admission based on chain of custody. While defense counsel cross-examined the DOJ witnesses regarding their procedures and qualifications, no evidence was offered suggesting contamination, mislabeling, or substitution. The record contains no evidence of mishandling that would support exclusion.

ALJ Roldan expressly found the criminalists' testimony credible and the chain of custody adequate. The Department's handling of the narcotics evidence complied with legal standards, and its admission did not violate appellant's rights. There is no basis to disturb the Department's findings.

6. Discovery of Raw Toxicology Data

Appellant contends that the Department failed to produce the DOJ laboratory's underlying "raw data" used to confirm the presence of methamphetamine in the seized bindles. He argues that without this data—including chromatograms and calibration records—he was unable to meaningfully challenge the test results. The record does not support appellant's claim, nor does it establish any violation of discovery obligations or due process.

Discovery in administrative proceedings is governed by Government Code section 11507.6. A party is entitled to request specific documents or evidence in the possession of the other party if it is relevant to the case. However, discovery is not automatic and must be pursued through a timely motion. If the Department fails to comply, the proper procedure is to move to compel production under Government Code section 11507.7.

Here, appellant made no such motion. He neither requested raw data during discovery nor moved to compel its production before or during the hearing. At the hearing, DOJ criminalist Malik testified that she would have provided raw chromatographic data, calibration reports, and supporting documentation if requested. (RT 2:21.) The relevant lab results were admitted as Exhibit 18, which included a summary report of findings, case identifiers, and the confirmed presence of methamphetamine. Appellant cross-examined both DOJ criminalists but did not seek to exclude their testimony or the lab results based on any alleged discovery violation.

Due process in an administrative proceeding requires notice of the charges and a meaningful opportunity to respond—not the right to full civil discovery or access to every technical document prepared by an expert. (*Horn v. County of Ventura* (1979) 24 Cal.3d 605, 612; *Hohreiter v. Garrison* (1947) 81 Cal.App.2d 384, 397.) Absent a specific request or a ruling denying a discovery motion, there is no error in the Department's failure to produce raw data that was neither requested nor shown to be material to the outcome.

A licensee who fails to pursue available discovery procedures cannot later claim prejudice based on the non-production of evidence that was never requested and never subject to a motion to compel. Without a preserved objection or a showing of prejudice, there is no basis for reversal.

Here, appellant had full opportunity to challenge the laboratory's findings through cross-examination and expert questioning, and he did so. However, he did not retain a rebuttal expert or offer any evidence that the DOJ results were inaccurate, flawed, or incomplete. The record supports ALJ Roldan's conclusion that the testimony from the DOJ criminalists was credible and that the analytical results were reliable.

Accordingly, appellant has not shown any discovery violation, denial of due process, or prejudice resulting from the absence of the DOJ lab's raw data.

7. Substantial Evidence – Drink Solicitation

Appellant contends that the findings of drink solicitation are not supported by substantial evidence. He argues that the Department failed to establish that

solicitation occurred for compensation or that he knowingly permitted the conduct. The record, however, contains ample and persuasive evidence to support the Department's findings.

Section 25657 prohibits both the solicitation of drinks for consumption by the solicitor and the employment of persons for that purpose. The term "compensation" has been interpreted by the courts to include any financial benefit—whether through commission, tips, or inflated drink prices—shared between the employee and the premises. (*Garcia v. Munro* (1958) 161 Cal.App.2d 425, 430.) Violations of section 25657 may constitute grounds for discipline under Business and Professions Code section 24200, subdivision (a), when the licensee permits such conduct.

Agent Valdes testified in detail about several instances in which female employees approached him, encouraged him to purchase overpriced drinks, and tracked those purchases using tally marks or coded terms, such as "cinco." On multiple occasions, the agents were charged inflated prices—often \$20 or more—for non-alcoholic drinks consumed by female workers. The employees also expressed a desire to "keep the change" or made comments linking their compensation to the drinks. For instance, one employee explained that she was making money from these transactions. The agents further observed that these drink sales were frequently accompanied by suggestive behavior, such as prolonged touching, simulated lap dances, or intimate physical contact—elements that clearly intensified the solicitation dynamic. These observations

were corroborated by multiple agents and remained consistent throughout several visits over a span of months.

ALJ Roldan found the agents' testimony credible and consistent, and noted the patterned nature of the solicitation conduct. Appellant did not testify or call any witnesses, nor did he present any contrary evidence to rebut the Department's proof. Substantial evidence supports the conclusion that the solicitation was encouraged or knowingly permitted by appellant through a failure to supervise.

Accordingly, the Department's findings under sections 25657 and 24200, subdivision (a), are supported by substantial evidence in light of the whole record, and the statutory basis for discipline is satisfied.

8. Laches – Lewd Conduct Charges

Appellant argues that the Department's delay in filing the accusation—approximately 16 months after the initial investigative visits—unfairly prejudiced his ability to defend against the lewd conduct charges. He contends that this delay warrants dismissal of those counts under the equitable doctrine of laches. This argument is unpersuasive.

The doctrine of laches is an equitable defense requiring proof of (1) an unreasonable delay in asserting a right, and (2) prejudice to the party against whom the claim is asserted. (*Lam v. Bureau of Security and Investigative Services* (1995) 34 Cal.App.4th 29, 39; *Brown v. State Personnel Board* (1985) 166 Cal.App.3d 1151, 1160.) In administrative licensing proceedings, laches does not

apply unless the delay causes concrete harm to the appellant's ability to defend the case—such as lost witnesses, destroyed records, or faded memories. Mere passage of time is not sufficient. (*Huang v. Greatwide Dedicated Transport II, LLC* (2021) ARB No. 21-010; *Butler v. Holman* (2011) DCLB No. 2011-03.)

Here, the accusation was filed on May 16, 2024. The earliest alleged acts of lewd conduct occurred in January 2023. Thus, the delay between the conduct and the filing of formal charges was approximately 16 months. This delay is not presumptively unreasonable, particularly in cases involving undercover investigations with multiple targets, complex evidence-gathering, and coordination with forensic laboratories. The record contains no evidence that appellant was denied access to any witness, record, or piece of physical evidence due to the timing of the filing.

In *Brown v. State Personnel Board* (1985) 166 Cal.App.3d 1151, the court rejected dismissal despite a three-year delay because the appellant failed to demonstrate prejudice from that delay. Similarly, in *Lam v. Bureau of Security and Investigative Services* (1995) 34 Cal.App.4th 29, the court found no laches because the appellant did not show how the delay had impaired his ability to defend the case. In both cases, the courts emphasized that the doctrine of laches requires proof of prejudice or a change in position due to the delay, and mere passage of time is insufficient to establish laches.

Here, appellant made no such showing. He neither identified any lost witnesses nor claimed that his ability to locate evidence or recall events was

impaired. The Department's witnesses testified clearly and consistently, and appellant had the opportunity to cross-examine them at length. He did not request a continuance, did not move to dismiss the charges on timeliness grounds, and did not present any evidence suggesting that the passage of time materially affected his ability to defend himself.

Accordingly, the defense of laches is not available under these facts, and the Department's timing in filing the accusation does not warrant dismissal of the lewd conduct charges.

V. CONCLUSION

Appellant was given a full and fair opportunity to defend against serious allegations involving drink solicitation, sales of controlled substances, lewd conduct, and operation of a disorderly premises. The Department conducted a thorough investigation, presented credible and detailed testimony from experienced agents and expert criminalists, and introduced reliable physical and documentary evidence. The record shows that appellant permitted repeated and flagrant violations of the Alcoholic Beverage Control Act and failed to exercise adequate supervision over the premises.

Appellant has not demonstrated that the Department acted unlawfully, exceeded its jurisdiction, or committed prejudicial error. He has not shown that any discovery ruling, evidentiary determination, or procedural issue deprived him of due process. Nor has he identified any deficiency in the Department's factual findings or legal conclusions that would warrant reversal.

The Department's findings are supported by substantial evidence in light of the whole record. Its legal conclusions are sound, and the penalty of revocation falls squarely within its discretion. Absent a showing of legal error or abuse of discretion, the Department's decision must be upheld.

For the above reasons, the appeal is denied, and the Department's decision is affirmed.

ORDER

Pursuant to Business and Professions Code section 23085, the decision of the Department is affirmed.³

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

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

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. Service on the Board pursuant to California Rules of Court (Rule 8.25) should be directed to: 400 R Street, Ste. 320, Sacramento, CA 95811 and/or electronically to: abcboard@abcappeals.ca.gov.

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

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

JOSE R. VALLEJO
26 MIX
3024 MISSION STREET
SAN FRANCISCO, CA 94110-4502

ON-SALE GENERAL PUBLIC PREMISES -
LICENSE

Respondent(s)/Licensee(s)
Under the Alcoholic Beverage Control Act

CONCORD DISTRICT OFFICE

File: 48-488669

Reg: 24094421

CERTIFICATE OF DECISION

It is hereby certified that, having reviewed the findings of fact, determination of issues, and recommendation in the attached proposed decision, the Department of Alcoholic Beverage Control adopted said proposed decision as its decision in the case on November 19, 2024. Pursuant to Government Code section 11519, this decision shall become effective 30 days after it is delivered or mailed.

Any party may petition for reconsideration of this decision. Pursuant to Government Code section 11521(a), the Department's power to order reconsideration expires 30 days after the delivery or mailing of this decision, or if an earlier effective date is stated above, upon such earlier effective date of the decision.

Any appeal of this decision must be made in accordance with Business and Professions Code sections 23080-23089. The appeal must be filed within 40 calendar days from the date of the decision, unless the decision states it is to be "effective immediately" in which case an appeal must be filed within 10 calendar days after the date of the decision. Mail your written appeal to the Alcoholic Beverage Control Appeals Board, 400 R St, Suite 320, Sacramento, CA 95811. For further information, and detailed instructions on filing an appeal with the Alcoholic Beverage Control Appeals Board, see: <https://abcab.ca.gov> or call the Alcoholic Beverage Control Appeals Board at (916) 445-4005.

On or after December 31, 2024, a representative of the Department will contact you to arrange to pick up the license certificate



https://abcab.ca.gov/abcab_resources/

Sacramento, California

Dated: November 20, 2024



Matthew D. Botting
General Counsel

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

IN THE MATTER OF THE ACCUSATION AGAINST:

Jose R. Vallejo
Dbas: 26 Mix
3024 Mission Street
San Francisco, California 94110-4502

Respondent

} File: 48-488669
}
} Reg.: 24094421
}
} License Type: 48
}
} Word Count: 51,692
}
} Reporter:
} Hanna Jenkin
} Kennedy Reporters
}

On-Sale General Public Premises License

PROPOSED DECISION

Administrative Law Judge Alberto Roldan, Administrative Hearing Office, Department of Alcoholic Beverage Control, heard this matter, via videoconference, on August 13, 2024.

Alanna Ormiston, Attorney, represented the Department (Department).

Adam Koslin, Attorney, represented Respondent Jose R. Vallejo (Respondent).

The Department seeks to discipline Respondent's license pursuant to fifty-four allegations in the Accusation on the grounds that:

- (1) On or about December 9, 2022, Respondent-Licensee possessed and permitted operation of an illegal slot machine or gambling device, to-wit: an electronic video gaming machine, at the Licensed Premises, in violation of Penal Code Section 330a;
- (2) On or about January 11, 2023, Respondent-Licensee permitted "Rosy" to solicit or encourage others, directly or indirectly, to buy her drinks in the licensed premises under a commission, percentage, salary or other profit-sharing plan, scheme, or conspiracy, in violation of California Business and Professions Code section 24200.5(b);
- (3) On or about January 11, 2023, Respondent-Licensee employed or knowingly permitted "Rosy" to loiter in or about said premises for the purpose of begging or soliciting patrons or customers, in such premises, to purchase alcoholic beverages for her, in violation of California Business and Professions Code section 25657(b);
- (4) On or about January 11, 2023, Respondent-Licensee violated condition #11 on the license which states:
"Petitioner shall not share any profits, or pay or percentage or commission to a promoter or any other person, based upon monies collected as a door charge, or the sale of drinks,"

in that the Respondent-Licensee shared profits with another person, based upon money collected for the sale of drinks, such being a violation of the license condition and grounds for license suspension or revocation under Business and Professions Code section 23804;

- (5) On or about January 11, 2023, Respondent-Licensee encouraged or permitted a male patron, on the licensed premises, to touch, caress, or fondle the breast and buttocks of another person, in violation of California Code of Regulations, Title 4, Division 1, Section 143.2(3);
- (6) Between on or about January 18, 2023, and on or about January 19, 2023, Respondent-Licensee permitted female entertainers, whose breasts were exposed to view, to perform while not on a stage 18 inches or above immediate floor level and removed at least six feet from the nearest patron, upon the premises, in violation of California Code of Regulations, Title 4, Division 1, Section 143.3(2);
- (7) Between on or about January 18, 2023, and on or about January 19, 2023, Respondent-Licensee permitted "Jane Doe #1", whose breasts and/or buttocks were exposed to view, to perform while not on a stage 18 inches or above immediate floor level and removed at least six feet from the nearest patron, upon the premises, in violation of California Code of Regulations, Title 4, Division 1, Section 143.3(2);
- (8) Between on or about January 18, 2023, and on or about January 19, 2023, Respondent-Licensee encouraged or permitted a male patron, on the licensed premises, to touch, caress or fondle the genitals of another person, in violation of California Code of Regulations, Title 4, Division 1, Section 143.2(3);
- (9) Between on or about January 18, 2023, and on or about January 19, 2023, Respondent-Licensee encouraged or permitted a male patron, on the licensed premises, to touch, caress or fondle the breasts of another person, in violation of California Code of Regulations, Title 4, Division 1, Section 143.2(3);
- (10) Between on or about January 18, 2023, and on or about January 19, 2023, Respondent-Licensee permitted "Rosy" to solicit or encourage others, directly or indirectly, to buy her drinks in the licensed premises under a commission, percentage, salary or other profit-sharing plan, scheme, or conspiracy, in violation of California Business and Professions Code section 24200.5(b);
- (11) Between on or about January 18, 2023, and on or about January 19, 2023, Respondent-Licensee employed or knowingly permitted "Rosy" to loiter in or about said premises for the purpose of begging or soliciting patrons or customers, in such premises, to purchase alcoholic beverages for her, in violation of California Business and Professions Code section 25657(b);
- (12) Between on or about January 18, 2023, and on or about January 19, 2023, Respondent-Licensee violated condition #11 on the license which states:
"Petitioner shall not share any profits, or pay or percentage or commission to a promoter or any other person, based upon monies collected as a door charge, or the sale of drinks,"

in that the Respondent-Licensee shared profits with another person, based upon money collected for the sale of drinks, such being a violation of the license condition and grounds for license suspension or revocation under Business and Professions Code section 23804;

- (13) Between on or about February 22, 2023, and on or about February 23, 2023, Respondent-Licensee possessed an illegal slot machine or gambling device, to-wit: an electronic video gaming machine, at the Licensed Premises, in violation of Penal Code Section 330b;
- (14) Between on or about February 22, 2023, and on or about February 23, 2023, Respondent-Licensee permitted "Rosy" to solicit or encourage others, directly or indirectly, to buy her drinks in the licensed premises under a commission, percentage, salary or other profit-sharing plan, scheme, or conspiracy, in violation of California Business and Professions Code section 24200.5(b);
- (15) Between on or about February 22, 2023, and on or about February 23, 2023, Respondent-Licensee employed or knowingly permitted "Rosy" to loiter in or about said premises for the purpose of begging or soliciting patrons or customers, in such premises, to purchase alcoholic beverages for her, in violation of California Business and Professions Code section 25657(b);
- (16) Between on or about February 22, 2023, and on or about February 23, 2023, Respondent-Licensee violated condition #11 on the license which states:
"Petitioner shall not share any profits, or pay or percentage or commission to a promoter or any other person, based upon monies collected as a door charge, or the sale of drinks,"
in that the Respondent-Licensee shared profits with another person, based upon money collected for the sale of drinks, such being a violation of the license condition and grounds for license suspension or revocation under Business and Professions Code section 23804;
- (17) Between on or about February 22, 2023, and on or about February 23, 2023, Respondent-Licensee encouraged or permitted a male patron, on the licensed premises, to touch, caress or fondle the breasts and buttocks of another person, in violation of California Code of Regulations, Title 4, Division 1, Section 143.2(3);
- (18) On or about March 9, 2023, Respondent-Licensee possessed an illegal slot machine or gambling device, to-wit: an electronic video gaming machine, at the Licensed Premises, in violation of Penal Code Section 330b;
- (19) On or about March 9, 2023, Respondent-Licensee permitted "Rosy" to solicit or encourage others, directly or indirectly, to buy her drinks in the licensed premises under a commission, percentage, salary or other profit-sharing plan, scheme, or conspiracy, in violation of California Business and Professions Code section 24200.5(b);
- (20) On or about March 9, 2023, Respondent-Licensee employed or knowingly permitted "Rosy" to loiter in or about said premises for the purpose of begging or soliciting patrons or customers, in such premises, to purchase alcoholic beverages for her, in violation of California Business and Professions Code section 25657(b);
- (21) On or about March 9, 2023, Respondent-Licensee violated condition #11 on the license which states:
"Petitioner shall not share any profits, or pay or percentage or commission to a promoter or any other person, based upon monies collected as a door charge, or the sale of drinks,"
in that the Respondent-Licensee shared profits with another person, based upon money collected for the sale of drinks, such being a violation of the license condition and

grounds for license suspension or revocation under Business and Professions Code section 23804;

- (22) On or about April 19, 2023, the Respondent-Licensee knowingly permitted the illegal sale, or negotiations for sales, of controlled substances or dangerous drugs upon the licensed premises in violation of California Business and Professions Code section 24200.5(a);
- (23) On or about April 19, 2023, Respondent-Licensee's agent or employee, "Eddy", sold, within the licensed premises, a controlled substance, to wit: methamphetamine, in violation of California Health and Safety Code section 11379;
- (24) On or about April 19, 2023, Respondent-Licensee permitted "Rosy" to solicit or encourage others, directly or indirectly, to buy her drinks in the licensed premises under a commission, percentage, salary or other profit-sharing plan, scheme, or conspiracy, in violation of California Business and Professions Code section 24200.5(b);
- (25) On or about April 19, 2023, Respondent-Licensee employed or knowingly permitted "Rosy" to loiter in or about said premises for the purpose of begging or soliciting patrons or customers, in such premises, to purchase alcoholic beverages for her, in violation of California Business and Professions Code section 25657(b);
- (26) On or about April 19, 2023, Respondent-Licensee violated condition #11 on the license which states:
"Petitioner shall not share any profits, or pay or percentage or commission to a promoter or any other person, based upon monies collected as a door charge, or the sale of drinks,"
in that the Respondent-Licensee shared profits with another person, based upon money collected for the sale of drinks, such being a violation of the license condition and grounds for license suspension or revocation under Business and Professions Code section 23804;
- (27) On or about May 17, 2023, the Respondent-Licensee knowingly permitted the illegal sale, or negotiations for sales, of controlled substances or dangerous drugs upon the licensed premises in violation of California Business and Professions Code section 24200.5(a);
- (28) On or about May 17, 2023, Respondent-Licensee's agent or employee, "Eddy", sold, within the licensed premises, a controlled substance, to wit: methamphetamine, in violation of California Health and Safety Code section 11379;
- (29) On or about May 17, 2023, Respondent-Licensee permitted "Rosy" to solicit or encourage others, directly or indirectly, to buy her drinks in the licensed premises under a commission, percentage, salary or other profit-sharing plan, scheme, or conspiracy, in violation of California Business and Professions Code section 24200.5(b);
- (30) On or about May 17, 2023, Respondent-Licensee employed or knowingly permitted "Rosy" to loiter in or about said premises for the purpose of begging or soliciting patrons or customers, in such premises, to purchase alcoholic beverages for her, in violation of California Business and Professions Code section 25657(b);
- (31) On or about May 17, 2023, Respondent-Licensee violated condition #11 on the license which states:

“Petitioner shall not share any profits, or pay or percentage or commission to a promoter or any other person, based upon monies collected as a door charge, or the sale of drinks,”

in that the Respondent-Licensee shared profits with another person, based upon money collected for the sale of drinks, such being a violation of the license condition and grounds for license suspension or revocation under Business and Professions Code section 23804;

- (32) On or about June 9, 2023, the Respondent-Licensee knowingly permitted the illegal sale, or negotiations for sales, of controlled substances or dangerous drugs upon the licensed premises in violation of California Business and Professions Code section 24200.5(a);
- (33) On or about June 9, 2023, Respondent-Licensee’s agent or employee, “Eddy”, sold, within the licensed premises, a controlled substance, to wit: methamphetamine, in violation of California Health and Safety Code section 11379;
- (34) On or about June 9, 2023, Respondent-Licensee permitted “Rosy” to solicit or encourage others, directly or indirectly, to buy her drinks in the licensed premises under a commission, percentage, salary or other profit-sharing plan, scheme, or conspiracy, in violation of California Business and Professions Code section 24200.5(b);
- (35) On or about June 9, 2023, Respondent-Licensee employed or knowingly permitted “Rosy” to loiter in or about said premises for the purpose of begging or soliciting patrons or customers, in such premises, to purchase alcoholic beverages for her, in violation of California Business and Professions Code section 25657(b);
- (36) On or about June 9, 2023, Respondent-Licensee violated condition #11 on the license which states:

“Petitioner shall not share any profits, or pay or percentage or commission to a promoter or any other person, based upon monies collected as a door charge, or the sale of drinks,”

in that the Respondent-Licensee shared profits with another person, based upon money collected for the sale of drinks, such being a violation of the license condition and grounds for license suspension or revocation under Business and Professions Code section 23804;

- (37) On or about July 26, 2023, the Respondent-Licensee knowingly permitted the illegal sale, or negotiations for sales, of controlled substances or dangerous drugs upon the licensed premises in violation of California Business and Professions Code section 24200.5(a);
- (38) On or about July 26, 2023, Respondent-Licensee’s agent or employee, “Eddy”, sold, within the licensed premises, a controlled substance, to wit: methamphetamine, in violation of California Health and Safety Code section 11379;
- (39) On or about July 26, 2023, Respondent-Licensee employed upon the licensed on-sale premises, “Samara”, for the purpose of procuring or encouraging the purchase or sale of alcoholic beverages for “Skarleth”, in violation of California Business and Professions Code section 25657(a);
- (40) On or about July 25, 2023, Respondent-Licensee permitted “Skarleth” to solicit or encourage others, directly or indirectly, to buy her drinks in the licensed premises under

- a commission, percentage, salary or other profit-sharing plan, scheme, or conspiracy, in violation of California Business and Professions Code section 24200.5(b);
- (41) On or about July 26, 2023, Respondent-Licensee employed or knowingly permitted "Skarleth" to loiter in or about said premises for the purpose of begging or soliciting patrons or customers, in such premises, to purchase alcoholic beverages for her, in violation of California Business and Professions Code section 25657(b);
- (42) On or about July 26, 2023, Respondent-Licensee violated condition #11 on the license which states:
- "Petitioner shall not share any profits, or pay or percentage or commission to a promoter or any other person, based upon monies collected as a door charge, or the sale of drinks,"
- in that the Respondent-Licensee shared profits with another person, based upon money collected for the sale of drinks, such being a violation of the license condition and grounds for license suspension or revocation under Business and Professions Code section 23804;
- (43) On or about July 26, 2023, Respondent-Licensee possessed and permitted operation of an illegal slot machine or gambling device, to-wit: an electronic video gaming machine, at the Licensed Premises, in violation of Penal Code Section 330a;
- (44) On or about September 13, 2023, the Respondent-Licensee knowingly permitted the illegal sale, or negotiations for sales, of controlled substances or dangerous drugs upon the licensed premises in violation of California Business and Professions Code section 24200.5(a);
- (45) On or about September 13, 2023, Respondent-Licensee's agent or employee, "Eddy", sold, within the licensed premises, a controlled substance, to wit: methamphetamine, in violation of California Health and Safety Code section 11379;
- (46) On or about September 13, 2023, Respondent-Licensee permitted "Yaris" to solicit or encourage others, directly or indirectly, to buy her drinks in the licensed premises under a commission, percentage, salary or other profit-sharing plan, scheme, or conspiracy, in violation of California Business and Professions Code section 24200.5(b);
- (47) On or about September 13, 2023, Respondent-Licensee employed upon the licensed on-sale premises, "Yaris", for the purpose of procuring or encouraging the purchase or sale of alcoholic beverages, or paid such person a percentage or commission for procuring or encouraging the purchase or sale of alcoholic beverages, on the premises, in violation of California Business and Professions Code section 25657(a);
- (48) On or about September 13, 2023, Respondent-Licensee employed upon the licensed on-sale premises, "Samara", for the purpose of procuring or encouraging the purchase or sale of alcoholic beverages for "Isabel", in violation of California Business and Professions Code section 25657(a);
- (49) On or about September 13, 2023, Respondent-Licensee permitted "Isabel" to solicit or encourage others, directly or indirectly, to buy her drinks in the licensed premises under a commission, percentage, salary or other profit-sharing plan, scheme, or conspiracy, in violation of California Business and Professions Code section 24200.5(b);
- (50) On or about September 13, 2023, Respondent-Licensee employed or knowingly permitted "Isabel" to loiter in or about said premises for the purpose of begging or

- soliciting patrons or customers, in such premises, to purchase alcoholic beverages for her, in violation of California Business and Professions Code section 25657(b);
- (51) On or about September 13, 2023, Respondent-Licensee violated condition #11 on the license which states:
- “Petitioner shall not share any profits, or pay or percentage or commission to a promoter or any other person, based upon monies collected as a door charge, or the sale of drinks,”
- in that the Respondent-Licensee shared profits with another person, based upon money collected for the sale of drinks, such being a violation of the license condition and grounds for license suspension or revocation under Business and Professions Code section 23804;
- (52) On or about September 13, 2023, Respondent-Licensee’s agent or employee, David Hawkins, Jr., willfully resisted, delayed, or obstructed peace officers, in or about the premises, in the discharge or attempted discharge of duties of their offices, in violation of Penal Code section 148(a)(1);
- (53) On or about September 13, 2023, Respondent-Licensee’s agent or employee, David Hawkins, Jr., carried a concealed firearm upon his person, in violation of Penal Code section 25400(a)(2); and
- (54) On or about September 13, 2023, Respondent-Licensee possessed an illegal slot machine or gambling device, to-wit: an electronic video gaming machine, at the Licensed Premises, in violation of Penal Code Section 330b. (Exhibit D-1)

In each of the above fifty-four allegations in the Accusation, the Department alleged that there is cause for suspension or revocation of the license of the Respondent in accordance with section 24200 and sections 24200(a) and (b) of the Business and Professions Code. The Department further alleged that the continuance of the license of the Respondent would be contrary to public welfare and/or morals as set forth in Article XX, Section 22 of the California State Constitution, and sections 24200(a) and (b) of the Business and Professions Code. (Exhibit D-1)

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 on August 13, 2024.

FINDINGS OF FACT

1. The Department filed the Accusation on May 16, 2024. The Department issued a type 48, on-sale general public premises license to the Respondent at the above-described location on November 9, 2010 (the Licensed Premises). The type 48 license issued to the Respondent contained 13 conditions that the Respondent agreed to on November 5, 2010, as a condition of licensure. In the Petition for Conditional License (PCL), condition 11 states that: "Petitioner shall not share any profits, or pay and percentage or commission to a promoter or any other person, based upon monies collected as a door charge, or the sale of drinks". The PCL was operative during the course of the investigation by the Department in this matter.

2. The following is the record of prior Department discipline against the Respondent's license as established by official records introduced by the Department (Exhibit D-2):

Violation Date	Violation	Registration Date	Registration Number	Penalty
8/10/2015	B&P section 25658(a)	1/15/2016	16083557	15-day suspension with 5 days stayed.

3. The Department had received anonymous complaints made against the Licensed Premises that ongoing narcotics sales and drink solicitation activity was occurring there. A decision was made to utilize undercover agents to investigate these allegations. The investigative interactions that occurred among the Department agents and persons inside the Licensed Premises beginning on December 9, 2022, were in an undercover capacity, except during a Department inspection that was conducted on July 26, 2023, and on September 13, 2023, when arrests were made by Department agents.

December 9, 2022, Investigation

4. On December 9, 2022, Supervising Department Agent N. Lauer went to the Licensed Premises with Department Agent J. Martinez. They entered the Licensed Premises after being screened by security and sat at a table. Lauer got up and looked around the interior. He noticed a video console adjacent to the bar on the way to the bathrooms. It was in the rear of the interior of the Licensed Premises. Lauer had prior training and experience in the identification and investigation of various types of gaming devices that were in violation of California anti-gambling laws. Lauer decided to investigate whether the machine was an illegal gaming device.

5. Lauer inserted cash into the device and the money he inserted showed up as play credits. Lauer was given a selection of game play options and he elected to play a game that equated to a slot machine with spinning fruits. Prior to game play, you were given the option to select the number of credits you were wagering. There was then a game play button for spinning the fruits. Credits increased or decreased depending on whether the final result was a matching pattern or not. Lauer depleted the credits he was awarded after multiple rounds of random game play. Lauer did not determine whether there was a mechanism through the device and/or through the

staff of the Licensed Premises for receiving money for any credits awarded on the device. Lauer did not speak with any employees of the Licensed Premises about the video gaming device he interacted with on that date.

January 11, 2023, Investigation

6. On January 11, 2023, Department Agent E. Valdes (Valdes) went to the Licensed Premises along with Martinez. Both agents were experienced in drink solicitation investigations. Valdes and Martinez were also fluent in the Spanish language and certified Spanish interpreters. They went through a security screening prior to entering and were patted down. After entering, they were seated by a hostess. A woman who identified herself as "Samara" (Samara) immediately came up and took their drink order. Martinez ordered a bucket of Modelo beers for \$35. The bucket contained six bottles of beer and was brought over by Samara. Samara remained and began to speak primarily with Martinez. Samara also called over a female who identified herself as "Rosy" (Rosy). She greeted Valdes and Rosy then spoke with him in Spanish. Rosy asked Valdes if he also wanted a bucket of beer. Valdes agreed. Rosy also asked Valdes to buy her a beer. Valdes was charged for the bucket and he was charged a separate \$10 for the beer for Rosy. Valdes paid Rosy on each occasion of ordering beers.

7. Rosy sat with and talked with Valdes during the evening. She asked Valdes to buy her beers on two additional occasions. Each time, Valdes was charged \$10 for the beers. On the second occasion, Rosy asked to keep an extra \$5. On the third occasion, Rosy asked to keep the \$20 that Valdes paid with. Valdes agreed to Rosy's request on both occasions. Rosy would retrieve the beers and accept payment after each request was agreed to.

8. During the evening, Samara and Rosy both got up and waitressed for other patrons before returning to sit with Martinez and Valdes. Samara and Rosy had access to the bar area to retrieve beers. Martinez also repeatedly watched Samara make notes in a notebook. While the agents were seated at their table, they watched female exotic dancers in see-through fishnet lingerie approach and interact with male customers at other tables. The agents were able to see the nipples of the exotic dancers through the fishnet. The interactions were at the tables and at floor level, not on an elevated stage at a six-foot distance from the nearest patron. The interactions were close enough that the male patrons could and did touch the exotic dancers. On one occasion that evening, the agents watched a female exotic dancer climb on top of a seated male patron. The female exotic dancer then simulated grinding motions while on the male patron. The female exotic dancer allowed the male to touch her buttocks with his hands and fondle her breasts with his hands while she was physically on top of him. Martinez asked Samara when the exotic dancers started their show. Samara responded that they generally show up around midnight. During the period the exotic dancers were interacting with patrons, the agents watched various male and female bar and security employees go about their business in the immediate areas where the dancers were interacting with patrons. No employees intervened during the interactions the agents observed. Later in the evening, both agents departed.

January 18-19, 2023, Investigation

9. On January 18, 2023, Martinez and Valdes returned to the Licensed Premises. When the agents entered the Licensed Premises, they were screened and patted down. A hostess met them and brought them to a table. Martinez ordered a bucket of beer for \$35 through Samara, who approached them at the table. Martinez asked Samara if there would be dancers that night. She responded that they would arrive around midnight. While they were at the table, Rosy approached Valdes and greeted him. She was holding a beer and she said that a customer did not pay for her beer. She then asked Valdes to pay \$10 for the beer she was holding. Valdes agreed to do so and paid \$10 to Rosy. Rosy then remarked "cinco" (which is "five" in English) to Samara. Samara then made a note in a notepad. Valdes asked Rosy about this. Rosy smiled and ignored Valdes' question. Rosy later asked Valdes if he wanted to order a bucket of beers. She also asked him to buy her a beer. Valdes agreed to both and Rosy retrieved a bucket for Valdes and a beer for herself. Rosy charged Valdes \$30 for the bucket and \$10 for her beer. Valdes paid Rosy \$40 for both.

10. The agents saw 5-6 female exotic dancers later in the evening of January 18, 2023, through the early morning of January 19, 2023. Their attire and the nature of the interactions was substantially the same as what they observed on January 11, 2023. You could see their exposed nipples through the fishnet lingerie. The interactions were at the tables and at floor level, not on an elevated stage at a six-foot distance from the nearest patron. There was a stage in the Licensed Premises but it was not used during their performances. The interactions were close enough that the male patrons could and did repeatedly touch the exotic dancers on their breasts, buttocks, and genital areas. At one point, Valdes saw one of the female exotic dancers climb on top of a male patron. She sat on his lap while grinding in a sexual manner against the male patron's body. She then flipped so that her genital area was in the male patron's face. During the interaction, she allowed the male patron to fondle her buttocks, pull her bra aside and fondle her exposed breast. During the period the exotic dancers were interacting with patrons, the agents watched various male and female bar and security employees go about their business in the immediate areas where the dancers were interacting with patrons. No employees intervened during the interactions the agents observed. Both agents departed sometime after midnight.

February 22-23, 2023, Investigation

11. On February 22, 2023, Martinez and Valdes returned to the Licensed Premises. When they entered, they were again screened and patted down. Samara met them and brought them to a table. Martinez then ordered a bucket of beer for \$35 through Samara. Martinez later went to the restroom and notice what appeared to be two video tabletop devices. Martinez had prior training and experience in the identification and investigation of various types of gaming devices that were in violation of California anti-gambling laws. Martinez decided to investigate whether the machines were illegal gaming devices.

12. Martinez inserted \$20 into one of the devices While the screen was lit and showed a variety of games to select, the money he inserted did not show up as play credits. Martinez could see game play options like poker, but he was unable to interact with the games that were displayed.

Martinez did not speak with any employees of the Licensed Premises about the video gaming device he interacted with on that date. Martinez walked away from the devices after he could not get one to work. Martinez saw Samara again and she said she would return to the table he and Valdes were sitting at.

13. At approximately the same time Martinez returned to the table he was seated at with Valdes, Rosy approached the table. She greeted Valdes and asked him to buy her a beer. Valdes agreed. Rosy left and returned with a beer for Valdes and charged him \$10 for it. Valdes paid her the \$10. Rosy spoke with Valdes after he bought her the beer but she also walked away and performed tasks around the Licensed Premises consistent with an employee in a bar setting. At one point when she returned, she asked Valdes to buy her another beer. He agreed again and she left to retrieve the beer. After returning, Valdes paid her \$10 for the beer. During the period Valdes was interacting with Rosy, Samara would come by the table and interact with Martinez and Rosy.

14. Later that evening, while seated inside the Licensed Premises, the agents again watched female exotic dancers perform at tables occupied by male patrons. Their attire and the nature of the interactions was substantially the same as what they observed during the two prior investigations in January 2023. You could see their exposed nipples through the fishnet lingerie. The interactions were at tables at floor level, not on the stage that was present. The interactions were close enough that the male patrons could and did repeatedly touch the exotic dancers on their breasts and buttocks while the dancer would grind in a simulated sexual manner against the male patrons' body. During the period the exotic dancers were interacting with patrons, the agents watched various male and female bar and security employees go about their business in the immediate areas where the dancers were interacting with patrons. No employees intervened during the interactions the agents observed.

15. After making these observations, the agents decided to leave. Valdes told Rosy he was leaving. Rosy asked Valdes to buy her one more beer. When Valdes went to pay \$10 for the beer, Rosy said he owed her for two beers and had him pay \$20. Valdes paid the \$20 she asked for and departed with Martinez shortly afterwards.

March 9, 2023, Investigation

16. On March 9, 2023, Martinez and Valdes returned to the Licensed Premises. When they entered, they were screened and patted down just like during prior visits. They were seated at a table by a hostess who identified herself as "Katy" (Katy). She then asked to sit with Martinez. Rosy approached the table and greeted them. She then asked Valdes to buy her a drink. Valdes agreed. Rosy left and returned with a clear cup containing a liquid. Rosy said it contained tequila. Valdes noted that it smelled of distilled spirits consistent with tequila. Rosy had Valdes pay \$20 for the drink. Rosy continued to interact with Valdes, but would leave at times and perform duties around the interior, consistent with someone working there. During the course of the evening, Rosy had Valdes buy her 3 additional drinks of the type that she earlier identified as tequila. For each drink, Valdes directly paid Rosy \$20. As during each of the previous encounters with Rosy and Samara, the agents watched various male and female bar and security

Jose R. Vallejo
Db: 26 Mix
File: 48-488669
Registration: 24094421
Page 12

employees go about their business in the immediate areas where Katy and Rosy were interacting with the agents or retrieving drinks. Later in the evening, both agents departed the Licensed Premises.

April 19-20, 2023, Investigation

17. Martinez and Valdes returned to the Licensed Premises on April 19, 2023. When they entered, they were screened and patted down just like during prior visits. Samara was present and she brought Rosy over to where they were seated. Martinez ordered a bucket of beers for the agents from Samara and she charged \$30 for the bucket. Rosy asked Valdes to buy her a drink. Valdes agreed. Rosy left and returned with a clear container containing a liquid and a beer. The cup appeared filled with the same tequila drink Rosy had ordered on March 9, 2023. Rosy had Valdes pay \$20 for the clear drinks and \$10 for each of the beers. During the course of the evening, Rosy ordered 5 rounds of beers and clear drinks through Valdes. For each drink order, Valdes directly paid Rosy. Rosy continued to interact with Valdes during the evening, but she would leave and return intermittently. When she left, Rosy would perform duties around the interior, consistent with someone working there. Valdes also saw Rosy interact with other males in the Licensed Premises. As during each of the previous encounters with Rosy and Samara, the agents watched various male and female bar and security employees go about their business in the immediate areas where Katy and Rosy were interacting with the agents or retrieving drinks. Later in the evening, both agents departed the Licensed Premises.

18. Martinez spoke with Samara while Valdes interacted with Rosy. At one point, Martinez asked Samara if she knew anyone who could sell him cocaine. Samara indicated that she did not personally know, but she then pointed him to an individual inside of the Licensed Premises who she thought might know a source. She named the person she was pointing to as "Eddy" (Eddy). Martinez recognized Eddy as someone he had seen working inside of the Licensed Premises during his prior investigative visits.

19. Martinez walked up to Eddy and began to make small talk. Martinez then asked Eddy if he knew anyone with cocaine. Eddy replied "crystal?" and nodded yes. Eddy told Martinez to meet him in the bathroom of the Licensed Premises. Martinez met Eddy in the bathroom and Eddy then handed him a folded-up paper bindle. Eddy had Martinez pay \$20 for the bindle. After Martinez paid him, they separated. Martinez and Valdes departed the Licensed Premises after midnight and subsequent to the exchange with Eddy in the bathroom.

20. Martinez saved the bindle and booked it into evidence so that it could be forensically tested. As part of the booking process, Martinez also weighed, photographed, and assigned a unique identifying number to the booked evidence so that it could be distinguished from other evidence. (Exhibit D-4) The bindle and its contents were later sent to the California Department of Justice Bureau of Forensic Services (DOJBFS) for analysis. Using standard testing methods, DOJBFS Senior Criminalist Jyoti Malik found that the contents of the bindle contained methamphetamine and weighed .8 grams, which was an amount sufficient for personal use. (Exhibit D-18, page 1)

May 17-18, 2023, Investigation

21. Martinez and Valdes returned to the Licensed Premises on May 17, 2023. After entering through security, they were seated at a VIP table by Samara. Martinez ordered a bucket of beers for the agents from Samara and she charged \$30 for the bucket. Rosy approached the table and greeted Valdes. She then asked him to buy her a drink. Valdes agreed. Rosy left and returned with a beer that she charged Valdes \$10 for. Valdes paid \$10 for this and each of the subsequent beers that Rosy asked for. During the course of the evening, Rosy ordered 5 rounds of beers that she had Valdes pay her for. In some of the rounds, she also ordered the tequila drink for \$20 along with the beer for \$10. For each drink order, Valdes directly paid Rosy. As on prior occasions, Rosy interacted with Valdes at the table, but she also would leave and return. When she left, Rosy engaged in tasks around the interior, consistent with someone working there. Valdes also saw Rosy interact with other males in the Licensed Premises. As during each of the previous encounters with Rosy and Samara, the agents watched various male and female bar and security employees go about their business in the immediate areas where Samara and Rosy were interacting with the agents or retrieving drinks.

22. Martinez saw Eddy and walked up to him. He and Eddy greeted each other. Martinez then asked Eddy if he had "crystal" and Eddy said yes. After this discussion, they immediately went to the bathroom of the Licensed Premises and stood in a stall. Eddy then handed Martinez a folded-up paper bundle. Martinez paid \$20 for the bundle. After Martinez paid him, they left the bathroom. Martinez and Valdes departed the Licensed Premises subsequent to the exchange with Eddy in the bathroom. Their departure was after midnight.

23. Martinez saved the bundle and booked it into evidence for later testing. As part of the booking process, Martinez also weighed, photographed, and assigned a unique identifying number to the booked evidence so that it could be distinguished from other evidence. (Exhibit D-5) The bundle and its contents were later sent to DOJBFS for analysis. Using standard testing methods, DOJBFS Senior Criminalist Jyoti Malik found that the contents of the bundle contained methamphetamine and weighed .403 grams, which was an amount sufficient for personal use. Exhibit D-18, page 2)

June 9, 2023, Investigation

24. Martinez and Valdes returned to the Licensed Premises on June 9, 2023. After going through security, they sat at a table between the bar and the men's bathroom. A female worker who identified herself as "Litza" (Litza) took Martinez' order of a bucket of beers for the agents. She charged \$30 for the bucket. After she delivered the bucket that Martinez paid for, Litza asked Martinez to buy her a beer. Martinez paid Litza \$10 for the beer she retrieved for her own consumption. Martinez saw and interacted with Samara, who was working, but did not order drinks from her. Rosy came up to where the agents were seated and greeted Valdes. Rosy then asked Valdes to pay for the beer she was holding. Valdes agreed. Valdes paid \$10 for this and each of the subsequent beers or drinks that Rosy asked for. During the course of the evening, Rosy ordered 5 rounds of beers and four tequila drinks. Rosy had Valdes pay in a single transaction at the end of the evening rather than paying for each drink. Valdes paid \$10 for each

beer Rosy ordered and \$20 for each tequila drink. As on prior occasions, Rosy interacted with Valdes at the table, but she also would leave and return. When she left, Rosy engaged in tasks around the interior, consistent with someone working there. Valdes also saw Rosy interact with other males in the Licensed Premises. As during each of the previous encounters with Rosy and Samara, the agents watched various male and female bar and security employees go about their business in the immediate areas where Litza, Samara, and Rosy were interacting with the agents or retrieving drinks.

25. Martinez saw Eddy working behind the bar as he was interacting with Litza. He later walked up to Eddy, and shook his hand in greeting. They made small talk and Martinez went back to his table. Martinez saw Eddy go into the bathroom. He followed Eddy in and asked him for crystal. After this request, Eddy produced from his pocket two folded-up paper bindles. Martinez paid Eddy \$40 for both of the bindles. After Martinez paid him, he left the bathroom. Martinez and Valdes left the Licensed Premises after the exchange with Eddy.

26. Martinez preserved the bindles and booked them into evidence for testing and preservation. As part of the booking process, Martinez also weighed, photographed, and assigned a unique identifying number to the booked evidence so that it could be distinguished from other evidence. (Exhibit D-6) The bindles and their contents were later sent to DOJBFS for analysis. Using standard testing methods, DOJBFS Senior Criminalist Jyoti Malik found that the contents of the bindles contained methamphetamine and both weighed collectively .807 grams, which was an amount sufficient for personal use. (Exhibit D-18, page 3)

July 26, 2023, Investigation

27. Martinez and Valdes visited the Licensed Premises on July 26, 2023. After screening by security at the entrance, Samara approached and greeted them. She seated them at a VIP table and took Valdes' order of a bucket of beers. She charged \$30 for the bucket which Valdes paid. During the order, Samara informed them that Rosy had passed away. After Samara delivered the bucket, she introduced another female who came over to their table. Samara asked if Valdes was going to buy drinks for her. Valdes agreed to do so. This individual identified herself as "Skarleth" (Skarleth) and after she heard Valdes tell Samara that he would buy her drinks, Skarleth left and returned with a tequila shot and water. Valdes paid Skarleth \$15 for the drink she retrieved for her own consumption. During the course of the evening, Skarleth ordered 6 rounds of tequila drinks at \$15 a round. Each time Skarleth asked for a drink, Valdes paid her directly. As during the previous encounters with Rosy and Samara, the agents watched various male and female bar and security employees go about their business in the immediate areas where Skarleth and Samara were interacting with the agents or retrieving drinks.

28. Valdes later went to interact with the video devices that were near the bathrooms. Valdez had prior training and experience in the identification and investigation of various types of gaming devices that were in violation of California anti-gambling laws. Valdez decided to investigate whether the machines were illegal gaming devices. Valdes inserted \$20 into one of the devices and selected a poker game from one of the options. After selecting the poker game, he was able to hold, draw and make bets on rounds of poker. The money he inserted showed up

as play credits that he was able to use to play individual rounds of poker. Valdes interacted with the game and his credits went up and down. Valdes won some rounds, but ultimately his credits were depleted, so Valdes was unable to determine whether there were payouts, and if so, how they were paid. Valdes asked Skarleth about the video gaming device he interacted with on that date. Skarleth said she had only been working there for two weeks and did not know anything about them. Samara said a patron won a \$2,000 payout on one of the machines but did not offer any further details.

29. Martinez saw Eddy, approached him, and asked him for crystal. Martinez went into the bathroom expecting Eddy to follow him. Martinez went out to the bar area and saw Eddy again. Eddy told Martinez to wait when Martinez approached him. Eddy then pointed out that there were police in the Licensed Premises. Martinez recognized that the law enforcement officers were Department agents. Separate from Martinez and Valdes, Department agents had conducted an administrative impact inspection that evening so that they could surreptitiously identify some of the people Martinez and Valdes were interacting with, including Eddy. After they left, Eddy and Martinez met in the bathroom of the Licensed Premises. Eddy gave Martinez a bindle, and Martinez paid Eddy \$20 for the bindle. Martinez and Valdes left the Licensed Premises after the exchange with Eddy.

30. Martinez preserved the bindle and booked it for testing and preservation. As part of the booking process, Martinez also weighed, photographed, and assigned a unique identifying number to the booked evidence so that it could be distinguished from other evidence. (Exhibit D-7) The bindle and its contents were later sent to DOJBFS for analysis. Using standard testing methods, DOJBFS Criminalist Asia Cook found that the contents of the bindle contained methamphetamine and weighed .782 grams, which was an amount sufficient for personal use. Exhibit D-18, page 4)

September 13, 2023, Investigation

31. Martinez and Valdes returned to the Licensed Premises on September 13, 2023. After going through security, they were met by Samara who sat them at a VIP table. They ordered a bucket of beers and Samara charged \$30 for the bucket, which the agents paid. After Samara delivered the bucket, she called over a woman who introduced herself as "Isabel." Samara then asked Valdes to buy Isabel a drink. Valdes said he would. After he agreed to buy Isabel a beer, Isabel walked over to the bar and retrieved a beer in an amber cup and returned to the table. Valdes asked her how much, and she initially said to pay "whatever." Valdes offered to pay \$20 and Isabel accepted that as payment. Isabel then subsequently requested three additional beers during the time she was at the table with Valdes. Valdes agreed to pay each time. Isabel would then retrieve an additional beer and have Valdes pay her \$20. Valdes paid for the second beer with a \$20 and then paid forty dollars for the two final beers. As during the encounters with Rosy and Samara on prior visits, the agents watched various male and female bar and security employees go about their business in the immediate areas where Samara and Isabel were interacting with the agents or retrieving drinks.

32. Martinez saw Eddy working and he walked up to him. Martinez asked Eddy if he had crystal. Eddy said that he did. Martinez asked Eddy if he had two bindles and Eddy agreed to sell him two. They went into the bathroom and Eddy handed Martinez two separate bindles. Martinez paid Eddy \$40 for the two bindles. After Martinez paid him, he left the bathroom. Martinez and Valdes left the Licensed Premises after the exchange with Eddy. In order to maintain their undercover status, they did not participate in the "take-down" investigation that occurred after their departure that day.

33. Martinez preserved the bindles that Eddy sold him and he booked them into evidence for testing and preservation. As part of the booking process, Martinez also weighed, photographed, and assigned a unique identifying number to the booked evidence so that it could be distinguished from other evidence. (Exhibit D-8) The bindles and their contents were later sent to DOJBFS for analysis. Using standard testing methods, DOJBFS Senior Criminalist Eric Lovejoy found that the contents of the bindles contained methamphetamine and both weighed collectively .375 grams, which was an amount sufficient for personal use. Exhibit D-18, page 5, item 1)

34. After the departure of Martinez and Valdes, multiple Department agents arrived to secure the scene and make arrests. Department Agent E. Camacho (Camacho) assisted the investigation as the designated finder. His responsibility was to focus on photographing and gathering evidence relevant to the ongoing investigation. Camacho noted and photographed the presence of four separate video devices like the ones that Department agents had interacted with on prior occasions. (Exhibit D-15) While Camacho observed that the machines had active video displays with selections, Camacho did not interact with any of the machines to examine their game play or whether there was a mechanism or procedure for receiving monetary payouts after gameplay.

35. Camacho also found and documented a ledger book that documented check payments to various women in different amounts over a two-week period from 8/7/2023-8/20/2023. To the right of the ledger book were used and unused small receipt pads of the types commonly used to write out the bills for customers at restaurants and retail stores. Camacho also found individual sheets from the small receipt pads that were filled out and stacked together. The stacked sheets that were torn out and filled in had just first names and a handwritten number below the name. One example Camacho found, that was visible on the small receipt pads, was the name "Samara" with the number "13" handwritten below it. A separate one that Camacho found and documented was sitting to the right of the register at the bar. This torn out small receipt had the name "Angelica" with a "36" written below it. (Exhibit D-16, pages 1-6) Camacho's attention was drawn to these documents because he had seen similar documenting systems in prior drink solicitation cases he had investigated as a Department agent.

36. Department Agent S Boudewyn (Boudewyn) also assisted in the investigation that day. He was in uniform and he identified himself as law enforcement to the employees of the Licensed Premises that he interacted with. Boudewyn contacted two of the security personnel who were working as bouncers at the entrance to the Licensed Premises. Boudewyn identified one of the bouncers as David Leon Hawkins, Jr. (Hawkins) and he told him he was being detained as the scene was being secured. Hawkins repeatedly said he was just a security guard and did not want to cooperate while Boudewyn was trying to detain him. Hawkins also repeatedly kept putting his

hands down the front of his waistband so that his hands were not visible. Boudewyn repeatedly told him to stop doing this, but Hawkins continued to put his hands down the front of his waistband so that his hands were not visible. Boudewyn told Hawkins he was going to pat him down. Hawkins turned and started to walk into the Licensed Premises. Boudewyn and another Department agent immediately followed him. Hawkins abruptly wheeled around and unexpectedly pushed past the other Department agent who was next to Boudewyn. Hawkins then ran out the door and tried to run away from the scene. Two other Department agents intercepted him and prevented him from getting away. Hawkins fought with them as they were taking him to the ground. Hawkins resisted their instructions and physical efforts to have him place his hands behind his back. Boudewyn went up to assist the other officers. Hawkins continued to resist the Department agents for approximately 60 more seconds until they got him under control. His resisting included Hawkins repeatedly reaching for his waistband. Boudewyn searched the area that Hawkins was reaching for and found a loaded, semiautomatic handgun hidden in his pants. Boudewyn took a photo of Hawkins (Exhibit D-13) and he also photographed the semiautomatic, and the magazine with bullets that was loaded in the firearm. While the photographs show them separated, the firearm was loaded with ammunition when it was first removed from Hawkins. (Exhibit D-14)

37. Department Agent D. Umida (Umida) was part of the take-down team and he had the specific responsibility of tracking down Eddy to take him into custody for the repeated methamphetamine sales made to Martinez. Umida had been given identifying information for Eddy and knew what he looked like. While Umida was at the Licensed Premises, he spotted Eddy and immediately detained and handcuffed him. Umida searched Eddy and found additional bindles in his pocket that appeared to be methamphetamine.

38. Umida preserved the bindles he found and booked them for testing and preservation. As part of the booking process, the bindles were photographed. (Exhibit D-12) They were also assigned a unique identifying number as booked evidence so that these bindles could be distinguished from the other evidence booked in this case. The bindles and their contents were later sent to DOJBFS for analysis. Using standard testing methods, DOJBFS Criminalist Eric Lovejoy found that the contents of the bindles that were sampled contained methamphetamine and collectively weighed .375 grams, which was an amount sufficient for personal use. (Exhibit D-18, page 5)

CONCLUSIONS OF LAW

1. Article XX, section 22 of the California Constitution and Business and Professions Code 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. Business and Professions Code 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. Business and Professions Code section 24200.5 provides that, notwithstanding the provisions of Section 24200, the department shall revoke a license upon any of the following grounds:

(a) If a retail licensee has knowingly permitted the illegal sale, or negotiations for the sales, of controlled substances or dangerous drugs upon his or her licensed premises. Successive sales, or negotiations for sales, over any continuous period of time shall be deemed evidence of permission. As used in this section, "controlled substances" shall have the same meaning as is given that term in Article 1 (commencing with Section 11000) of Chapter 1 of Division 10 of the Health and Safety Code, and "dangerous drugs" shall have the same meaning as is given that term in Article 2 (commencing with Section 4015) of Chapter 9 of Division 2 of this code.

(b) If the licensee has employed or permitted any persons to solicit or encourage others, directly or indirectly, to buy them drinks in the licensed premises under any commission, percentage, salary, or other profit-sharing plan, scheme, or conspiracy.

4. Business and Professions Code section 23804 provides that a violation of a condition placed upon a license pursuant to this article shall constitute the exercising of a privilege or the performing of an act for which a license is required without the authority thereof and shall be grounds for the suspension or revocation of such license.

5. Business and Professions Code section 25657 provides that it is unlawful:

(a) For any person to employ, upon any licensed on-sale premises, any person for the purpose of procuring or encouraging the purchase or sale of alcoholic beverages, or to pay any such person a percentage or commission on the sale of alcoholic beverages for procuring or encouraging the purchase or sale of alcoholic beverages on such premises.

(b) In any place of business where alcoholic beverages are sold to be consumed upon the premises, to employ or knowingly permit anyone to loiter in or about said premises for the purpose of begging or soliciting any patron or customer of, or visitor in, such premises to purchase any alcoholic beverages for the one begging or soliciting.

Every person who violates the provisions of this section is guilty of a misdemeanor.

6. Health and Safety Code section 11379(a), in relevant part, provides that, every person who transports, imports into this state, sells, furnishes, administers, or gives away, or offers to transport, import into this state, sell, furnish, administer, or give away, or attempts to import into this state or transport any controlled substance which is specified in subdivision (d) of Section 11055, unless upon the prescription of a physician, dentist, podiatrist, or veterinarian, licensed to practice in this state, shall be punished by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code for a period of two, three, or four years.

7. Health and Safety Code section 11055(d)(2) identifies methamphetamine, its salts, isomers, and salts of its isomers as Schedule II substances.

8. Penal Code section 148(a)(1) provides that every person who willfully resists, delays, or obstructs any public officer, peace officer, or an emergency medical technician, as defined in Division 2.5 (commencing with Section 1797) of the Health and Safety Code, in the discharge or attempt to discharge any duty of his or her office or employment, when no other punishment is

prescribed, shall be punished by a fine not exceeding one thousand dollars (\$1,000), or by imprisonment in a county jail not to exceed one year, or by both that fine and imprisonment.

9. Penal Code section 25400, in relevant part provides that a person is guilty of carrying a concealed firearm when the person does any of the following:

(a)(1) Carries concealed within any vehicle that is under the person's control or direction any pistol, revolver, or other firearm capable of being concealed upon the person.

(a)(2) Carries concealed upon the person any pistol, revolver, or other firearm capable of being concealed upon the person.

10. Penal Code section 330a provides, "(a) Every person, who has in his or her possession or under his or her control, either as owner, lessee, agent, employee, mortgagee, or otherwise, or who permits to be placed, maintained, or kept in any room, space, inclosure, or building owned, leased, or occupied by him or her, or under his or her management or control, any slot or card machine, contrivance, appliance or mechanical device, upon the result of action of which money or other valuable thing is staked or hazarded, and which is operated, or played, by placing or depositing therein any coins, checks, slugs, balls, or other articles or device, or in any other manner and by means whereof, or as a result of the operation of which any merchandise, money, representative or articles of value, checks, or tokens, redeemable in or exchangeable for money or any other thing of value, is won or lost, or taken from or obtained from the machine, when the result of action or operation of the machine, contrivance, appliance, or mechanical device is dependent upon hazard or chance, and every person, who has in his or her possession or under his or her control, either as owner, lessee, agent, employee, mortgagee, or otherwise, or who permits to be placed, maintained, or kept in any room, space, inclosure, or building owned, leased, or occupied by him or her, or under his or her management or control, any card dice, or any dice having more than six faces or bases each, upon the result of action of which any money or other valuable thing is staked or hazarded, or as a result of the operation of which any merchandise, money, representative or article of value, check or token, redeemable in or exchangeable for money or any other thing of value, is won or lost or taken, when the result of action or operation of the dice is dependent upon hazard or chance, is guilty of a misdemeanor."

11. Penal Code section 330b provides, "(a) It is unlawful for any person to manufacture, repair, own, store, possess, sell, rent, lease, let on shares, lend or give away, transport, or expose for sale or lease, or to offer to repair, sell, rent, lease, let on shares, lend or give away, or permit the operation, placement, maintenance, or keeping of, in any place, room, space, or building owned, leased, or occupied, managed, or controlled by that person, any slot machine or device, as defined in this section. It is unlawful for any person to make or to permit the making of an agreement with another person regarding any slot machine or device, by which the user of the slot machine or device, as a result of the element of hazard or chance or other unpredictable outcome, may become entitled to receive money, credit, allowance, or other thing of value or additional chance or right to use the slot machine or device, or to receive any check, slug, token, or memorandum entitling the holder to receive money, credit, allowance, or other thing of value."

12. Penal Code section 330b further provides “(d) For purposes of this section, “slot machine or device” means a machine, apparatus, or device that is adapted, or may readily be converted, for use in a way that, as a result of the insertion of any piece of money or coin or other object, or by any other means, the machine or device is caused to operate or may be operated, and by reason of any element of hazard or chance or of other outcome of operation unpredictable by him or her, the user may receive or become entitled to receive any piece of money, credit, allowance, or thing of value, or additional chance or right to use the slot machine or device, or any check, slug, token, or memorandum, whether of value or otherwise, which may be exchanged for any money, credit, allowance, or thing of value, or which may be given in trade, irrespective of whether it may, apart from any element of hazard or chance or unpredictable outcome of operation, also sell, deliver, or present some merchandise, indication of weight, entertainment, or other thing of value.”

13. Penal Code section 330.1(a) provides that it is a misdemeanor for anyone to manufacture, own, store, keep, possess, sell, rent, lease, let on shares, lend or give away, transport, or expose for sale or lease, or offer to sell, rent, lease, let on shares, lend or give away or to permit the operation of or to permit to be placed, maintained, used, or kept in any room, space, or building owned, leased, or occupied by him or her or under his or her management or control, any slot machine or device as defined.

14. Penal Code section 330.1(a) further provides that it is a misdemeanor to make or permit to be made any agreement with reference to any slot machine or device as defined, pursuant to which agreement the user thereof, as a result of any element of hazard or chance, may become entitled to receive anything of value or additional chance or right to use that slot machine or device, or to receive any check, slug, token, or memorandum, whether of value or otherwise, entitling the holder to receive anything of value.

15. Section 330.1(f) provides that a “slot machine or device within the meaning of [s]ections 330.1 to 330.5, inclusive, of this code is one that is, or may be, used or operated in such a way that, as a result of the insertion of any piece of money or coin or other object the machine or device is caused to operate or may be operated or played, mechanically, electrically, automatically, or manually, and by reason of any element of hazard or chance, the user may receive or become entitled to receive anything of value or any check, slug, token, or memorandum, whether of value or otherwise, which may be given in trade, or the user may secure additional chances or rights to use such machine or device, irrespective of whether it may, apart from any element of hazard or chance, also sell, deliver, or present some merchandise, indication of weight, entertainment, or other thing of value.”

16. Penal Code section 330.4 states, “It is specifically declared that the mere possession or control, either as owner, lessee, agent, employee, mortgagor, or otherwise of any slot machine or device, as defined in Section 330.1 of this code, is prohibited and penalized by the provisions of Sections 330.1 to 330.5, inclusive, of this code. It is specifically declared that every person who permits to be placed, maintained or kept in any room, space, enclosure, or building owned, leased or occupied by him, or under his management or control, whether for use or operation or for storage, bailment, safekeeping or deposit only, any slot machine or device, as defined in

Jose R. Vallejo
Dba: 26 Mix
File: 48-488669
Registration: 24094421
Page 21

Section 330.1 of this code, is guilty of a misdemeanor and punishable as provided in Section 330.1 of this code. It is further declared that the provisions of this section specifically render any slot machine or device as defined in Section 330.1 of this code subject to confiscation as provided in Section 335a of this code.”

17. California Code of Regulations, Title 4 section 143.2 provides that the following acts or conduct on licensed premises are deemed contrary to public welfare and morals, and therefore no on-sale license shall be held at any premises where such conduct or acts are permitted:

- (1) To employ or use any person in the sale or service of alcoholic beverages in or upon the licensed premises while such person is unclothed or in such attire, costume or clothing as to expose to view any portion of the female breast below the top of the areola or of any portion of the pubic hair, anus, cleft of the buttocks, vulva or genitals.
- (2) To employ or use the services of any hostess or other person to mingle with the patrons while such hostess or other person is unclothed or in such attire, costume or clothing as described in paragraph (1) above.
- (3) To encourage or permit any person on the licensed premises to touch, caress or fondle the breasts, buttocks, anus or genitals of any other person.
- (4) To permit any employee or person to wear or use any device or covering, exposed to view, which simulates the breast, genitals, anus, pubic hair or any portion thereof.

18. California Code of Regulations, Title 4 section 143.3, in relevant part, provides that acts or conduct on licensed premises in violation of this rule are deemed contrary to public welfare and morals, and therefore no on-sale license shall be held at any premises where such conduct or acts are permitted.

Live entertainment is permitted on any licensed premises, except that:

- (1) No licensee shall permit any person to perform acts of or acts which simulate:
 - (a) Sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation or any sexual acts which are prohibited by law.
 - (b) The touching, caressing or fondling on the breast, buttocks, anus or genitals.
 - (c) The displaying of the pubic hair, anus, vulva or genitals.
- (2) Subject to the provisions of subdivision (1) hereof, entertainers whose breasts and/or buttocks are exposed to view shall perform only upon a stage at least 18 inches above the immediate floor level and removed at least six feet from the nearest patron.

No licensee shall permit any person to use artificial devices or inanimate objects to depict any of the prohibited activities described above.

No licensee shall permit any person to remain in or upon the licensed premises who exposes to public view any portion of his or her genitals or anus.

19. With respect to counts 1 and 43 alleging violations of Penal code section 330a on December 9, 2022, and July 26, 2023, and counts 13, 18, and 54 on February 22, 2023, March 9, 2023, and September 13, 2023, cause for suspension or revocation of the Respondent’s license does not exist under Article XX, section 22 of the California State Constitution and sections 24200(a) and (b). These five allegations were not proven by a preponderance of the evidence.

20. On each of the dates described above, Department agents observed video gaming devices of some nature in the Licensed Premises. Except on September 13, 2023, when the take-down operation occurred, the Department agents making the observations were in an undercover capacity, so their ability to investigate the devices was limited by their role. On two dates, agents interacted with the devices. On one occasion, the device failed to function after money was placed in it. On the remaining occasions, the existence of consoles was observed, but there was no interaction with the devices to determine how they operated during gameplay. It was also not established during the totality of the testimony given whether the consoles were the same or different consoles from date to date. During his interaction with a console on December 9, 2022, Lauer described inserting a \$20 bill into the console. He played while his credits fluctuated upwards and downwards before his credits were depleted, but he did not describe how the credit accumulation or depletion related to the gameplay itself. During his interaction with a console on July 26, 2023, Valdes also described inserting a \$20 bill into the console. He played a poker game while his credits fluctuated upwards and downwards before his credits were depleted, but he did not describe how the credit accumulation or depletion related to the gameplay itself. A necessary element of both Penal code sections 330a and 330b is that "the user of the slot machine or device, as a result of the element of hazard or chance or other unpredictable outcome, may become entitled to receive money, credit, allowance, or other thing of value or additional chance or right to use the slot machine or device, or to receive any check, slug, token, or memorandum entitling the holder to receive money, credit, allowance, or other thing of value." In this matter, none of the occasions resulted in a payout, so the Department agents did not have the opportunity to demonstrate this evidence. The evidence given on the two occasions the consoles worked also did not address the required element of hazard or chance leading to the accumulation of the credits described. As such, even on the two occasions where there was some interaction with the consoles, the evidence is insufficient to sustain these counts of the Accusation by a preponderance of evidence even though there was some inference that they were proscribed gaming devices. (Findings of Fact ¶¶ 1-38)

21. With respect to counts 22, 27, 32, 37, and 44, 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 agents or employees, not only permitted, but actively participated in, on five occasions between April 19, 2023, and September 13, 2023, the sale of methamphetamine inside the Licensed Premises, in violation of section Business and Professions Code section 24200.5(a). Directly related to the above allegations, with respect to counts 23, 28, 33, 38, and 45, 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 employee, Eddy, between April 19, 2023, and September 13, 2023, sold methamphetamine, inside the Licensed Premises, in violation of Health and Safety Code section 11379.

22. As an agent or employee, under the circumstances of this case, Eddy's actions and knowledge are imputed to the Respondent. Eddy was shown to be an employee or agent of the Respondent as evidenced by his regularly performing employment tasks within the Licensed Premises over the course of months prior to the first sale on April 19, 2023. Samara was also shown to be a regular employee or agent of the Respondent. She directed Agent Martinez to

Eddy when Martinez inquired about buying cocaine on April 19, 2023. Immediately after Martinez asked for cocaine from Eddy, Eddy offered him crystal, which Martinez agreed to buy. Eddy sold a bundle of methamphetamine, sufficient for personal use, to Martinez in the bathroom of the Licensed Premises on April 19, 2023. Eddy then sold methamphetamine on four additional occasions to Martinez, as alleged in the Accusation. In each instance that a sale was made to Martinez, the substance was tested and determined to be methamphetamine in an amount sufficient for personal use. When Eddy was arrested on September 13, 2023, he was found in possession of seven additional bundles of methamphetamine beyond the methamphetamine he sold to Martinez earlier that day. This, combined with the repeated sales, shows that he was actively selling narcotics in the Licensed Premises over an extended period of time. Eddy's repeated sales to Martinez all occurred entirely within the Licensed Premises and over the course of six months. *Samaras* as noted above, directed Martinez to Eddy. Martinez was able to purchase methamphetamine from Eddy during their first encounter. No evidence was offered in this matter of any policies or actions by the Respondent to avoid or prevent narcotic sales or use in the Licensed Premises. The ease in which Martinez was able to procure narcotics through employees or agents of the Respondent over an extended period is strong evidence that this was permitted behavior. (Findings of Fact ¶¶ 1-38)

23. With respect to counts 5, 8, 9, and 17, 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 agents or employees, in the Licensed Premises, permitted male patrons to fondle the breasts, buttocks and genitalia of other persons, in violation of California Code of Regulations, Title 4, Division 1, Section 143.2(3). With respect to counts 6 and 7, 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 agents or employees, in the Licensed Premises, permitted female entertainers, whose breasts and/or buttocks were exposed to view, to perform while not on a stage 18 inches above the immediate floor level and removed at least six feet from the nearest patron upon the premises, in violation of California Code of Regulations, Title 4, Division 1, Section 143.3(2).

24. Given the open nature of the performances that were observed by the Department agents during their observations on January 11, 2023, through February 22, 2023, the actions and knowledge of the performers and the employees and agents present, under the circumstances of this case, are imputed to the Respondent. On January 11, 2023, the Department agents saw a female exotic dancer climb on top of a seated male patron, simulate grinding motions while on him, and allow him to touch her buttocks with his hands and fondle her breasts with his hands while she was physically on top of him. On this date and during the subsequent exotic dancer performances, the dancers were dressed in see-through fishnet lingerie and you were able to see their nipples through the fishnet. On January 18, 2023, through the early morning of January 19, 2023, Department agents saw at least 5 female exotic dancers performing at patron tables at floor level, not on an elevated stage six-feet distant from the nearest patron. The male patrons repeatedly touched the exotic dancers on their breasts, buttocks, and genital areas. One of the dancers climbed on top of a male patron and sat on his lap while grinding in a sexual manner against his body. She then flipped so that her genital area was in the male patron's face. During

the interaction, she allowed the male patron to fondle her buttocks, pull her top aside and fondle her breast. On February 22, 2023, Department agents again saw patrons interact with the female exotic dancers at floor level tables. The male patrons were repeatedly allowed to fondle the exotic dancers on their breasts and buttocks while the dancers would grind in a simulated sexual manner against the male patrons' bodies. During the period the exotic dancers were interacting with patrons on January 11, 2023, through February 22, 2023, the agents watched various male and female bar and security employees go about their business without intervening to stop the unlawful behavior. Samara's description to the agents of the exotic dancer shows starting around midnight was further evidence that the occurrences documented by the Department agents were part of the normal operations of the Licensed Premises accepted by the Respondent. (Findings of Fact ¶¶ 1-15)

25. As alleged in Counts 2, 10, 14, 19, 24, 29, 34, 40, and 49, between the dates of January 11, 2023 and September 13, 2023, 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-Licensee permitted various women, specifically Rosy, Skarleth and Isabel to solicit or encourage others, directly or indirectly, to buy them drinks in the licensed premises under a commission, percentage, salary or other profit-sharing plan, scheme, or conspiracy, in violation of California Business and Professions Code section 24200.5(b). As alleged in Counts 3, 11, 15, 20, 25, 30, 35, 41, between the dates of January 11, 2023 and September 13, 2023, 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-Licensee permitted various women, specifically Rosy, Skarleth and Isabel to loiter in or about the Licensed Premises for the purpose of begging or soliciting patrons or customers, in such premises, to purchase alcoholic beverages for her, in violation of California Business and Professions Code section 25657(b). As alleged in Counts 39 and 48, on the dates of July 26, 2023 and September 13, 2023, 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-Licensee employed upon the licensed on-sale premises, "Samara", for the purpose of procuring or encouraging the purchase or sale of alcoholic beverages for Skarleth and Isabel, in violation of California Business and Professions Code section 25657(a). Cause for suspension or revocation of the Respondent's license is not established as to counts 46 and 47 since these counts referenced the involvement of an individual identified as "Yaris" and no evidence was offered regarding the involvement of this individual in any of the allegations in this matter. (Findings of Fact ¶¶ 1-38)

26. The evidence established that the Licensed Premises had an ongoing drink solicitation business enterprise that was openly carried out in the presence of, or with the active participation of, the Respondent's bartenders, waitresses, and security staff. The evidence established that entrance to the Licensed Premises was through security, so the Respondent's staff had active control of who was allowed in the Licensed Premises. The evidence also established that on each date of the investigation, the women actively involved in the solicitation scheme were allowed and encouraged to loiter and seek out targets of the solicitation enterprise. Samara, an employee, or agent, of the Respondent, was a regular presence during the Department investigation. She actively introduced Rosy, Skarleth, and Isabel to the Department agents on multiple dates during

the investigation. Her introduction of these females was consistently accompanied by her invitation to buy them alcoholic beverages in the Licensed Premises. All of the women involved in the solicitation scheme carried out the drink solicitation in the same manner throughout the investigation. They would not ask for drinks from the buckets the agents ordered. They would ask the agents to separately buy their beers or mixed drinks. They would linger with the agents, and regularly request additional alcoholic beverages. They would directly take payment for the drinks. At one point, on January 18, 2023, Rosy remarked “cinco” (five) to Samara, which the agents recognized as a code for receiving credit for the drink solicitation that Rosy had just carried out. Representatives of the Licensed Premises took notes during the period solicitations were occurring. This was evidenced by the filled-out slips of papers that were found by the Department during its September 13, 2023, investigation. One of the notes recovered on September 13, 2023, had Samara’s name and number written down. The targets in the investigation were undercover Department agents. The drink solicitations aimed at the undercover agents always led to purchases of alcoholic beverages separate from the drinks bought by the Department agents for themselves. Consistently, the women who were central to the solicitation scheme retrieved the drinks and made change themselves. This demonstrated their employment or agency relationship with the Licensed Premises because of their access to inventory in the Licensed Premises. The Department’s evidence established that the women who were soliciting drink orders for themselves were receiving some form of a percentage commission for each of the transactions they facilitated. The evidence established that Rosy, Skarleth, and Isabel, who took payments then retrieved, and consumed the alcoholic beverages paid for by the Department agents, were the employees or agents of the Respondent. So were the security personnel and other staff, like Samara, who allowed the enterprise to play out openly in the Licensed Premises. Samara’s actions, in particular, went beyond mere awareness. On multiple occasions, she was shown purposely procuring or encouraging the purchase of alcoholic beverages for Skarleth and Isabel by the Department agents. (Findings of Fact ¶¶ 1-38)

27. As alleged in Counts 4, 12, 16, 21, 26, 31, 36, 42, and 51, between the dates of January 11, 2023 and September 13, 2023, 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, Respondent-Licensee violated condition #11 on the license which states: “Petitioner shall not share any profits, or pay or percentage or commission to a promoter or any other person, based upon monies collected as a door charge, or the sale of drinks,” in that the Respondent-Licensee shared profits with another person, based upon money collected for the sale of drinks, such being a violation of the license condition and grounds for license suspension or revocation under Business and Professions Code section 23804. As described in detail above, the ongoing solicitation scheme, repeatedly violated condition 11 of the Respondent’s PCL which prohibited sharing profits, pay, or percentages resulting from the sale of drinks with any person. The evidence showed that on the dates alleged, various employees or agents of the Licensed Premises were receiving profits, pay, or percentages from the Respondent as compensation for the solicitation scheme. (Findings of Fact ¶¶ 1-38)

28. As alleged in Counts 52 and 53, on September 13, 2023, 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, Respondent’s agent or employee,

Hawkins, willfully resisted, delayed, or obstructed peace officers, in or about the premises, in the discharge or attempted discharge of duties of their offices, in violation of Penal Code section 148(a)(1), and Respondent's agent or employee, Hawkins, carried a concealed firearm upon his person, in violation of Penal Code section 25400(a)(2).

29. Department agents were trying to detain Hawkins and also get him to cease engaging in potentially dangerous conduct when he repeatedly reached down his pants. At the time of the effort to detain him, Hawkins was actively working as an agent or employee of the Respondent as a security guard at the front door to the Licensed Premises. Hawkins unlawfully tried to escape by running into the Licensed Premises. He then wheeled around and physically pushed past a Department agent. After he was intercepted by additional Department agents, he physically resisted and fought with them for approximately a minute. The Department agents then found that Hawkins was concealing a loaded, semiautomatic handgun hidden in his pants. Under the circumstances of this case, the conduct of Hawkins is attributable to the Respondent as an agent or employee. No evidence was offered by the Respondent that Hawkins' actions were a departure from baseline expectations of the Respondent.

30. The Respondent has challenged the sufficiency of the evidence in this matter. As noted above, except for the counts that were not sustained, this argument is rejected. Respondent has also challenged the appropriateness of attributing the behavior of the individuals identified in the Department's investigation to the Respondent. In *McFaddin San Diego 1130 Inc. v. Stroh* (1989) 208 Cal.App.3d 1384, the Court of Appeal granted the petition and reversed the order of the Board and the decision of the Department, based on facts found by the Department that the licensee did not know of the drug transactions at issue, and further had taken extensive preventive measures against them. It held that such evidence did not support a determination that the licensee "permitted" the illicit activity.

31. There are significant factual distinctions between the Respondent's actions in this case and the petitioner in *McFaddin* that make the comparison unwarranted. The Department showed that the drink solicitation enterprise, the exotic dancer counts and the drug activity were ongoing unlawful enterprises, not one-off activities that did not reoccur. In this case, these activities occurred repeatedly among employees and patrons inside of the Licensed Premises over several months. (Findings of Fact ¶¶ 1-38) Under these circumstances, it would have taken an effort for the Respondent to *not* be aware of the various categories of unlawful activity taking place in the Licensed Premises. The length of time this played out reinforced a pattern of lax oversight and management of the Licensed Premises over an extended period. Given this, the Respondent cannot establish that "extensive preventive measures" took place evincing an effort to curtail unlawful activity as was shown in *McFaddin*. The Respondent permitted this behavior by not taking reasonable steps to prevent it from occurring and a finding of imputed knowledge is supported in this case. (Findings of Fact ¶¶ 1-38) The Respondent also argued, without supporting authority, that the Department had an ongoing duty to inform the Respondent that it needed to cease committing unlawful behavior. This argument is summarily rejected.

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

PENALTY

The Department requested that the Respondent's license be revoked given the severity of the violations in the Accusation and the statutory requirement set forth in section 24200.5. The Respondent argued for the matter to be dismissed, or in the alternative, if some or all of the counts were sustained, for the court to consider mitigating circumstances and a suspended revocation. The Respondent argued that, under the circumstances, outright revocation was not warranted.

Section 24200.5 provides that "the [D]epartment shall revoke a license" for any violation thereof. The Department has consistently construed this section as requiring some form of revocation although not necessarily outright revocation.¹ Outright revocation² or stayed revocation³ can be appropriate depending upon the circumstances.

In the present case, outright revocation is warranted. Beginning January 11, 2023, Department agents encountered an ongoing and deeply entrenched drink solicitation enterprise. Department agents repeatedly encountered violations of regulations designed to prevent unlawful exotic dancing in Department licensed establishments. Multiple drug transactions were proven by the Department over an extended period. These transactions involved an employee and they occurred within the Licensed Premises. The actions of the employee were shown to be properly imputed to the Respondent. The Respondent has an affirmative obligation to ensure that the Licensed Premises is operated in full compliance with the law. The Respondent has not. The seriousness of the established violations dictates that the Respondent's license should be revoked outright.

The unlawful activities proven here clearly warrant revocation given the lax approach to management of the Licensed Premises evinced in this case. There was no indication that the Respondent took appropriate steps to prevent such activities. The opposite was proven, in that conduct that unfolded in this investigation appeared to be the intended business model of the Respondent.

The penalty recommended herein complies with rule 144.⁴

¹ Cal. Code of Regs., tit. 4, §144.

² See, e.g., *Greenblatt v. Martin*, 177 Cal. App. 2d 738, 2 Cal. Rptr. 508 (1960) (outright revocation imposed for violations of section 24200.5).

³ See, e.g., *Harris v. Alcoholic Beverage Control Appeals Board*, 244 Cal. App. 2d 468, 36 Cal. Rptr. 697 (1964) (revocation stayed coupled with suspension imposed for violations of section 24200.5).

⁴ All rules referred to herein are contained in title 4 of the California Code of Regulations unless otherwise noted.

Jose R. Vallejo
Dba: 26 Mix
File: 48-488669
Registration: 24094421
Page 28

ORDER

Counts 1, 13, 18, 43, 46, 47, and 54 are dismissed.

Counts 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 14, 15, 16, 17, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 44, 45, 48, 49, 50, 51, 52, and 53 are sustained.

The Respondent's on-sale general public premises license is hereby revoked.

Dated: September 16, 2024

Alberto Roldan

Alberto Roldan
Administrative Law Judge

<input checked="" type="checkbox"/> Adopt
<input type="checkbox"/> Non-Adopt: _____
By: <u><i>J. McCallum</i></u>
Date: <u><i>11/19/24</i></u>