

ISSUED APRIL 30, 1996

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

HALIM S. ALI and	)	AB-6561
MIHDAR M. SHAIBI)	
dba Central Service Market	)	File: 20-161989
21572 East Central Avenue	)	Reg: 94031303
Reedley, CA 93654,)	
Appellants/Licensees,	)	Administrative Law Judge
	)	at the Dept. Hearing:
v.	)	Frank Britt
)	
THE DEPARTMENT OF ALCOHOLIC	)	Date and Place of the
BEVERAGE CONTROL,	)	Appeals Board Hearing:
Respondent.	)	March 6, 1996
	)	San Francisco, CA

Halim S. Ali and Mihdar M. Shaibi, doing business as Central Service Market (appellants), appealed from a decision of the Department of Alcoholic Beverage Control¹ which revoked appellants' off-sale beer and wine license for allowing objectionable conditions to continue at the licensed premises, for selling an alcoholic beverage to a minor decoy, and for allowing alcoholic beverages to be consumed on the premises without possessing the proper license, in violation of Business and Professions Code §§23300, 23355, 23393, 24200(e), and 25658(a).

Appearances on appeal included Thornton Davidson, counsel for appellants; and John R. Peirce, counsel for the department.

¹The decision of the department dated August 10, 1995 is set forth in the appendix.

FACTS AND PROCEDURAL HISTORY

Appellants' off-sale beer and wine license was issued on September 18, 1984. Appellants were warned about the need to correct objectionable conditions on the licensed premises in 1990 and 1991, but did nothing to remedy the situation. Thereafter, the department instituted an accusation against the license on December 7, 1994.

An administrative hearing was held on July 13, 1995, at which time oral and documentary evidence was received. Although appellants were notified of the date and place of the administrative hearing, they made no appearance at the hearing, nor were they represented by counsel, and the matter proceeded as a default pursuant to Government Code §11520.

At that hearing, it was determined that appellants allowed the accumulation of trash, allowed public consumption of alcoholic beverages, permitted fights and assaults, and allowed the sales of controlled substances, all within the area of the premises under the care and control of appellants.

Subsequent to the hearing, the department issued its decision which revoked appellants' off-sale beer and wine license under determinations of issues I and IV. Thereafter, appellants filed a timely notice of appeal.

In the present matter, written notice of the opportunity to file briefs in support of the appellants' position was given on October 23, 1995 and December 21, 1995. No brief has been filed by appellants. We have reviewed the notice of appeal and have found insufficient assistance in that document which would aid in review.

The appeals board is not required to make an independent search of the record for error not pointed out by appellants. It was the duty of appellants to show to the appeals board that the claimed error existed. Without such assistance by appellants, the appeals board may deem the general contentions waived or abandoned. See Horowitz v. Noble (1978) 79 Cal.App.3d 120, 129, 144 Cal.Rptr. 710; and Sutter v. Game! (1962) 210 Cal.App.2d 529, 531, 26 Cal.Rptr. 880, 881.

Appellants' conduct at the premises is well within what may be classed as conduct contrary to the general welfare and morals provisions contained in the California Constitution, Article XX, Section 22, and Business and Professions Code §23001.

The record shows that the department had warned appellants in 1990 and 1991 of the objectionable conditions at the premises. Apparently, appellants failed to correct the conditions, and additionally, after the department filed an accusation and set a hearing for inquiry into the allegations of the objectionable conditions, appellants failed to appear and give an accounting or offer defenses.

After the department revoked the license, appellants appealed to this board for relief from the revocation. Appellants failed to file a brief so that the board could consider appellants' cause. Furthermore, appellants failed to appear at oral argument before the appeals board.

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We conclude that there was substantial evidence to support the findings of the

department, and the findings support the determinations of the department's decision.

CONCLUSION

The decision of the department is affirmed.²

RAY T. BLAIR, JR., CHAIRMAN
JOHN B. TSU, MEMBER
BEN DAVIDIAN, MEMBER
ALCOHOLIC BEVERAGE CONTROL
APPEALS BOARD

²This final order is filed as provided by Business and Professions Code §23088, and shall become effective 30 days following the date of this filing of the final order as provided by §23090.7 of said statute for the purposes of any review pursuant to §23090 of said statute.