

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

In the Matter of the Accusation Against:

NABIL AHMED ALHARBY

DBA: MIDWAY MARKET

PREMISES: 1629 MIDWAY AVE
MODESTO, CA 95358

LICENSE(S): Off-Sale General

FILED

JAN 16 2018

ALCOHOLIC BEVERAGE CONTROL

File: 21-467116

Reg: 17086101

**FIRST AMENDED
ACCUSATION UNDER
ALCOHOLIC BEVERAGE
CONTROL ACT AND
STATE CONSTITUTION**

I hereby complain and accuse the above respondent(s), holding the above license(s), based on the following statement of facts:

COUNT 1

By reason of the following facts, there is cause for suspension or revocation of the license(s), in accordance with Section 24200 and Sections 24200(a) and (b) of the Business and Professions Code. It is further alleged that the continuance of the license 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. The facts which constitute the basis for the suspension or revocation by the Department are as follows:

On or about March 31, 2017, respondent-licensee, at said premises, sold, furnished, gave or caused to be sold, furnished or given, an alcoholic beverage, to-wit: beer, to Dakota Aaron Kuhno, a person under the age of 21 years, in violation of Business and Professions Code Section 25658(a).

COUNT 2

By reason of the following facts, there is cause for suspension or revocation of the license(s), in accordance with Section 24200 and Sections 24200(a) and (b) of the Business and Professions Code. It is further alleged that the continuance of the license 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. The facts which constitute the basis for the suspension or revocation by the Department are as follows:

On or about July 28, 2017, respondent-licensee(s) agent or employee, Alejandro Murgia, at said premises, sold, furnished, gave or caused to be sold, furnished or given, alcoholic beverages, to-wit: beer, Four Loko, and hard lemonade, to Aaron Victoria-Mendez, a person under the age of 21 years, in violation of Business and Professions Code Section 25658(a).

COUNT 3

By reason of the following facts, there is cause for suspension or revocation of the license(s), in accordance with Section 24200 and Sections 24200(a) and (b) of the Business and Professions Code. It is further alleged that the continuance of the license 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. The facts which constitute the basis for the suspension or revocation by the Department are as follows:

On or about July 28, 2017, respondent-licensee employed or used the services of Alejandro Murguia, a person under the age of 18 years, without continuous supervision of a person who was 21 years of age or older, for the sale of alcoholic beverages for consumption off the premises, in violation of Business and Professions Code Section 25663(b).

COUNT 4

By reason of the following facts, there is cause for suspension or revocation of the license(s), in accordance with Section 24200 and Sections 24200(a) and (b) of the Business and Professions Code. It is further alleged that the continuance of the license 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. The facts which constitute the basis for the suspension or revocation by the Department are as follows:

On or about July 28, 2017, respondent-licensee willfully resisted, delayed or obstructed Agent N. Lauer, a peace officer, in or about the premises, in the discharge or attempt discharge of a duty of his office, in violation of Penal Code Section 148(a)(1).

COUNT 5

By reason of the following facts, there is cause for suspension or revocation of the license(s), in accordance with Section 24200 and Sections 24200(a) and (b) of the Business and Professions Code. It is further alleged that the continuance of the license 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. The facts which constitute the basis for the suspension or revocation by the Department are as follows:

On or about July 28, 2017, respondent-licensee's agent or employee, Alejandro Murguia, willfully resisted, delayed or obstructed Agent N. Lauer, a peace officer, in or about the premises, in the discharge or attempt discharge of a duty of his office, in violation of Penal Code Section 148(a)(1).

COUNT 6

By reason of the following facts, there is cause for suspension or revocation of the license(s), in accordance with Section 24200 and Sections 24200(a) and (b) of the Business and Professions Code. It is further alleged that the continuance of the license 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. The facts which constitute the basis for the suspension or revocation by the Department are as follows:

On or about September 15, 2017, respondent-licensee, at said premises, sold, furnished, gave or caused to be sold, furnished or given, an alcoholic beverage, to-wit: beer, to Christian Ramirez, a person under the age of 21 years, in violation of Business and Professions Code Section 25658(a).

COUNT 7

By reason of the following facts, there is cause for suspension or revocation of the license(s), in accordance with Section 24200 and Sections 24200(a) and (b) of the Business and Professions Code. It is further alleged that the continuance of the license 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. The facts which constitute the basis for the suspension or revocation by the Department are as follows:

On or about December 22, 2017, respondent-licensee, at said premises, sold, furnished, gave or caused to be sold, furnished or given, alcoholic beverages, to-wit: beer and peach-flavored vodka, to Jonathan Perez, a person under the age of 21 years, in violation of Business and Professions Code Section 25658(a).

COUNT 8

By reason of the following facts, there is cause for suspension or revocation of the license(s), in accordance with Section 24200 and Sections 24200(a) and (b) of the Business and Professions Code. It is further alleged that the continuance of the license 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. The facts which constitute the basis for the suspension or revocation by the Department are as follows:

On or about January 5, 2018, respondent-licensee, at said premises, sold, furnished, gave or caused to be sold, furnished or given, alcoholic beverages, to-wit: beer, whiskey and Smirnoff Ice malt beverages, to Kenneth Chhoeum, a person under the age of 21 years, in violation of Business and Professions Code Section 25658(a).

For purposes of imposition of penalty, if any arising from this accusation, it is further alleged the respondent-licensee(s) has/have suffered the following disciplinary history:

Viol Date	Violation	Reg. Date	Reg. Number	Penalty
05/12/2017	25658(A)	08/18/2017	17085838	POIC in lieu of suspension
10/15/2015	Rule 65(d)	12/04/2015	15083414	Revocation stayed 180 days to reactivate or transfer license

Licensee(s) Previous Record: Licensed as above since February 4, 2011.

WHEREFORE, I recommend that a hearing be held on this accusation.

Dated this 16 day of January 2018.



Attorney

Department of Alcoholic Beverage Control