

Shutting Down a Novel Theory of Liability

Client:	Anheuser-Busch
Industry:	Wine, Beer & Spirits
Area of Law:	Regulatory
Venue:	Administrative law hearing, California Department of Alcoholic Beverage Control
Result:	Obtained a decision that preserved alcoholic beverage suppliers' ability to sponsor events in California



“[C]ause for suspension or revocation of the Respondent’s license does not exist...in that Anheuser-Busch did not, directly or indirectly, provide free malt beverage products during a public event.” —Administrative law judge’s order

Alcoholic beverage suppliers deal with a number of special regulations in their industry, including many regulating a supplier’s sponsorship and promotional activity in California. In this case, the Department of Alcoholic Beverage Control (ABC) attempted to hold Anheuser-Busch liable for the acts of an independent vendor not hired or selected by Anheuser-Busch. If successful, this theory of liability would have seriously restricted beverage company sponsorships of concerts, sports teams, state fairs and other special events.

The case began with two undercover investigators from the ABC who attended a 2007 “Girls Night Out” shopping event in San Francisco—one of about 30 such events held throughout the country. Anheuser-Busch was one of several alcoholic beverage companies and numerous other consumer goods companies sponsoring the “Girls Night Out” events.

Under a contract with Anheuser-Busch, the event promoter was required to control all aspects of the event, including the sale of tickets, the acquisition of an appropriate license to sell alcoholic beverages, the purchase of the beverages for sale, and the hiring of a retail caterer to dispense the beverages. The promoter had failed to obtain a liquor license, however, and the ABC claimed that Anheuser-Busch therefore indirectly violated the law by virtue of its sponsorship.

The contract between Anheuser-Busch and the promoter clearly stipulated that the promoter was the one responsible for these duties, however. Pillsbury also presented evidence showing that no Anheuser-Busch personnel advised the promoter or even attended the event. After a formal hearing, the administrative law judge ruled against his own department, and in favor of Anheuser-Busch, dismissing all counts against the company.