



## Memorandum

Date: May 20, 2020

To: Alcohol Beverage Control Board members

Reference: 3494 Lone Star Steakhouse & Saloon (#3494 Expired) Anchorage, Alaska

### **Background:**

In March of 2020 the Alcohol and Beverage Control Board heard the position from one of the creditors of the now defunct beverage dispensary License (#3494), Lone Star Steakhouse & Saloon. The board listened to the position of the creditor, represented by attorney Sherman Ernouf.

Mr. Ernouf requested the board consider reinstatement of the beverage dispensary liquor license for purposes of satisfying the "lien" which our client holds against Lone Star Steakhouse for a purported amount exceeding \$800,000.00. The board was told that the licensee is cooperative and in agreement with this plan and Steakhouse, LLC. has a Buyer who can operate this license this year.

The request was to begin reinstatement process for a license expired 10/30/2017 and for the creditor to attempt to have ownership and control of this renewed license.

The board tabled the motion and asked that AMCO and the Assistant Attorney General representative meet and report back their position of his issue.

### **Statutory and Regulatory Authority:**

3 AAC 304.160(e): "For the purposes of AS 04.11.540, if a license has expired for failure to file a complete application for renewal by February 28 or for failure to pay the required fees and penalty fees by that date, the board will consider a written request to reinstate the license if the request is accompanied by a complete application, a reinstatement fee of \$1,000, all other required fees and penalty fees; and proof of good cause for the failure to file and pay by February 28.

The board will deny a request for reinstatement submitted under (e) of this section if the license became available in accordance with 3 AAC 304.100(2) and was issued to a different applicant, unless the limit of licenses under AS 04.11.400 has not been reached; or the board finds that the

failure to timely file or pay was caused by the licensee's failure to notify the board of a change of the licensee's mailing address; a transfer of ownership of the business for which the license was issued without written approval of the board in violation of AS 04.11.040; a lease of the licensed business to another person in violation of AS 04.11.450(c); or any other action of the licensee whether active or tacit that the board finds constitutes a failure to lawfully operate the business for which the license was issued.”

**Action Taken:**

At the core of this issue is a civil dispute between a now expired 3-year defunct licensee and their creditors. For the board to reinstate an expired license now and to allow one of the licensee’s creditors to take ownership of the license solely to make partial restitution would put the Alcohol Beverage Control Board in position of determining who has ownership and right to a currently non-existent license in what is ultimately a civil matter. This dispute is best handled through the civil courts and not through the Alcohol and Beverage Control Board.

The Alcohol and Marijuana Control Office recommends denying the request to reinstate the Lonestar Steakhouse license (#3494, a license expired 10/30/2017) and to uphold the expiration of the license.

Sincerely,

Glen Klinkhart  
Interim Director  
Alcohol Marijuana Control Board



## MEMORANDUM

TO: Alcoholic Beverage Control Board

DATE: March 31, 2020

FROM: Glen Klinkhart, Interim Director

RE: 3494 Lone Star Steakhouse  
& Saloon

**Requested Action:** Request to begin reinstatement process for a license expired 10/30/2017.

**Statutory And Regulatory Authority:** 3 AAC 304.160(e): “For the purposes of AS 04.11.540, if a license has expired for failure to file a complete application for renewal by February 28 or for failure to pay the required fees and penalty fees by that date, the board will consider a written request to reinstate the license if the request is accompanied by a complete application, a reinstatement fee of \$1,000, all other required fees and penalty fees; and proof of good cause for the failure to file and pay by February 28.

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**Staff Rec.:** Instruct the licensee to submit all required waivers, fees – including late fees and renewal applications for 2017/2018 and 2019/2020. The transfer application can be submitted and considered on the same board meeting agenda if all are deemed complete by an examiner before the agenda deadline.

**Background:** On 10/30/2017, an expiration letter was mailed to the address on record due to not receiving a protest lift by the abeyance deadline. The expiration letter was returned as “not deliverable as addressed” on 12/3/2017. There are no new beverage dispensary licenses available in the Municipality of Anchorage.

Attachment: Memo from the Law Offices of Ernouf & Coffey  
Expiration Letter with Court Documents

**LAW OFFICES OF ERNOUF & COFFEY, P.C.**

P.O. Box 212314  
ANCHORAGE, ALASKA 99521  
(907) 274-3385

**MEMO TO ALCOHOL BEVERAGE CONTROL BOARD**

TO: CHAIRMAN KLEIN, MEMBERS OF ALCOHOL BEVERAGE CONTROL BOARD

FROM: W. SHERMAN ERNOUF

RE: **REINSTATEMENT OF EXPIRED LICENSE LONESTAR STEAKHOUSE BDL #3494**

DATE: 3/11/20

The Law Offices of Ernouf & Coffey, P.C. represents, JL Properties and its subsidiary Steakhouse, LLC, who is a creditor holding a final judgment against Lonestar Steakhouse and Saloon, Inc. owner of the now expired beverage dispensary liquor license #3494 which had operated in Anchorage. The related court judgment was filed with ABC Board staff on or about April 5, 2017. *See Exhibit # 1.*

We are asking for reinstatement of the beverage dispensary liquor license for purposes of satisfying the "lien" which our client holds for an amount exceeding \$800,000.00. The licensee is cooperative and in agreement with this plan and Steakhouse, LLC. has a Buyer who can operate this license this year.

**FACTS:**

Lonestar Steakhouse and Saloon, Inc. parent company went out of business and subsequently went bankrupt nationwide. As such, the Alaska liquor license did not receive a renewal for 2017/2018 due to non-payment of taxes and resulting Municipality of Anchorage protest. Accordingly, the license expired.

Unfortunately, our client was unaware of the expiration of the license, though they were clearly on record as holding a lien and had filed the final court judgment against the licensee with the ABC Board. ABC Board staff had sent a letter stating the license was expired and an appeal notice was sent only to the licensee, Lonestar Steakhouse & Saloon, Inc,. As such, my clients were unaware of the status of the

license until they contacted our offices in late 2019 and we were able to research its history. *See Exhibit #2.*

Steakhouse, LLC has an agreement with the licensee, Lonestar Steakhouse and Saloon, Inc. whereby Lonestar will cooperate fully and in all aspects with any re-instatement approved by this Board. Steakhouse, LLC also has an agreement to transfer the license to the Chicken Shack in Anchorage, which presently operates a restaurant eating-place license.

**RELATED ISSUES:**

There are several related licensing issues with regard to this liquor license which will need to be addressed if the ABC Board reinstates the liquor license. All of these issues have been identified and are set out below:

**1) *Waivers of the 2017-2018-2019 Operating Requirements.***

We are prepared to file the waivers and pay all of the associated fees should this license be reinstated.

**2) *Renewal of the liquor license for 2017-2018, and Renewal for 2019-2020.***

Our office is prepared to file these documents should the license be reinstated.

**3) *Transfer of Ownership.***

The lien holder has a Buyer for the license and is prepared to pay the taxes owing and to transfer the license upon reinstatement of the license. The Buyer will be able to operate the license for the required (30) eight-hour days in 2020 and therefore will not require a 4<sup>th</sup> Waiver.

**4) *Required Fees.***

As to the fees required by the ABC Board for these related issues outlined above (total fees are approx. \$18,000.00 plus). In addition, there will be fees for the transfer of ownership and location which we will be asking the Board to first reinstate the liquor license and then delegate authority to the Board's staff to issue the license once all of the related issues discussed above have been accomplished and all fees and costs have been paid.

## **CONCLUSION**

There is no legal prohibition in Title 4 for a creditor to make an equitable request of the Board. Here, an Alaskan creditor has suffered significant losses which will can be mitigated only if they are allowed to reinstate this license and transfer it immediately to the Chicken Shack Restaurant. It seems that this is a beneficial request for all parties involved since this puts the license back operating and in place before a fourth waiver and more importantly helps to mitigate the serious losses suffered by a reputable Alaskan business.



THE STATE  
of **ALASKA**  
GOVERNOR BILL WALKER

**Department of Commerce, Community,  
and Economic Development**

ALCOHOL & MARIJUANA CONTROL OFFICE  
550 West 7<sup>th</sup> Avenue, Suite 1600  
Anchorage, AK 99501  
Main: 907.269.0350

October 30, 2017

Lone Star Steakhouse & Saloon of Alaska, Inc.  
DBA Lone Star Steakhouse & Saloon  
5055 W. Park Blvd., Ste. 500  
Plano, TX 75093

Re: Expiration and Mandatory Cessation of Operation of License #3494

**YOUR LIQUOR LICENSE HAS EXPIRED**

Dear Lone Star Steakhouse & Saloon of Alaska, Inc.:

On April 6, 2017, the Alcoholic Beverage Control Board voted to allow you 30 days to pay taxes you owe to the Municipality of Anchorage. If such taxes were not paid by May 8, 2017, the protest of your license renewal by the Municipality of Anchorage would be upheld and your license would not be renewed. The Municipality of Anchorage reported to us that you did not pay taxes owed by the required date. Thus, your beverage dispensary license has not been renewed.

The Board upholds the Municipality of Anchorage's protest and denies your renewal application under AS 04.11.480(a). AS 04.11.510 provides you with a means by which you may appeal this decision. Specifically, section (a)(1) allows you to request an informal conference with the director or the Board, or as an alternative to an informal conference, you may request a formal hearing conducted by the Office of Administrative Hearings. This letter should be considered a Statement of issues as required by AS 44.62.370.

If you intend to request a hearing, you must notify the Alcohol and Marijuana Control Office, in writing, within 15 days of receipt of this notice. A Notice of Defense form is enclosed for your convenience. The Notice of Defense form and/or written notice must be sent to:

Administrative Officer  
Department of Commerce, Community, and Economic Development  
Alcohol and Marijuana Control Office  
550 West 7<sup>th</sup> Avenue, Suite 1600  
Anchorage, AK 99501

Please contact me at [erika.mcconnell@alaska.gov](mailto:erika.mcconnell@alaska.gov) with any questions.

Sincerely,



Erika McConnell  
Director

Cc: James Hoelscher, Chief Investigator  
Barbara Jones, Clerk, Municipality of Anchorage  
License file

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ALASKA DEPARTMENT OF COMMERCE, COMMUNITY, AND  
ECONOMIC DEVELOPMENT  
ALCOHOL AND MARIJUANA CONTROL OFFICE

In the matter of: )  
)  
Lone Star Steakhouse & Saloon of Alaska, Inc. )  
DBA Lone Star Steakhouse & Saloon )  
5055 W. Park Blvd., Ste. 500 )  
Plano, TX 75093, )  
Respondent )  
\_\_\_\_\_ ) License #3494

**NOTICE OF DEFENSE / REQUEST FOR HEARING**

The Respondent, pursuant to AS 44.62.390, hereby gives Notice of Defense in this proceeding. A hearing on the matters set forth in the Decision is hereby requested.

**I. Respondent Initiating Request**

Date: \_\_\_\_\_ Respondent's Name (printed): \_\_\_\_\_

Respondent's Signature: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

\_\_\_\_\_

City	State	Zip Code
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Phone Number: \_\_\_\_\_

OR

**II: Attorney Representing Respondent**

(Note: An attorney is not required for this proceeding.)

Name of Attorney Representing Respondent: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

\_\_\_\_\_

City	State	Zip Code
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Phone Number: \_\_\_\_\_

Date: \_\_\_\_\_ Signature: \_\_\_\_\_

NOTE: This Notice of Defense/Request for Hearing must be signed by or on behalf of Respondent, must set forth Respondent's current mailing address, and must be filed **within 15 days** after the enclosed Decision was mailed or delivered to the Respondent. It shall be filed accordingly:

Administrative Officer  
Department of Commerce, Community, and Economic Development  
Alcohol and Marijuana Control Office  
550 West 7th Ave, Suite 1600  
Anchorage, AK 99501

April 5, 2017

Via Courier

Erika McConnell, Director  
Alcohol and Marijuana Control Office  
Alaska Alcoholic Beverage Control Board  
550 West 7th Avenue, Suite 1600  
Anchorage, AK 99501

Re: Lone Star Steakhouse & Saloon  
Liquor License No. 3494  
Notice of Creditor's Judgment

Dear Ms. McConnell:

We represent Steakhouse, LLC, a creditor of Lone Star Steakhouse & Saloon of Alaska, Inc. ("Lone Star"). Lone Star is the holder of beverage dispensary liquor license number 3494. Enclosed is a copy of the Final Judgment entered in favor of Steakhouse, LLC against Lone Star in the amount of \$859,771.79 and recorded in the Anchorage Recording District on March 30, 2017 at 2017-011702-0. We request that the Alaska Alcoholic Beverage Control Board retain a copy of this Final Judgment in its records pertaining to Lone Star's liquor license number 3494 because Steakhouse, LLC is a creditor of Lone Star.

Please contact me with any questions.

Sincerely,

LANDYE BENNETT BLUMSTEIN LLP

  
Joshua D. Hodes



Enclosure: Final Judgment



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**2017-011702-0**

Recording Dist: 301 - Anchorage

3/30/2017 03:20 PM Pages: 1 of 2



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Return to:  
Landye Bennett Blumstein LLP  
Attn: Joshua Hodes  
701 West 8th Avenue, Suite 1200  
Anchorage, Alaska 99501

DOCUMENT TITLE: FINAL JUDGMENT

TO BE RECORDED IN THE ANCHORAGE RECORDING  
DISTRICT, THIRD JUDICIAL DISTRICT, STATE OF  
ALASKA.

THIS COVER SHEET HAS BEEN ADDED TO THIS  
DOCUMENT TO PROVIDE SPACE FOR RECORDING  
DATA. THIS COVER SHEET APPEARS AS THE FIRST  
PAGE OF THE DOCUMENT IN THE OFFICIAL PUBLIC  
RECORD AND IS TO BE CONSIDERED PART OF THE  
OFFICIAL DOCUMENT.

DO NOT DETACH



IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

THIRD JUDICIAL DISTRICT AT ANCHORAGE

STEAKHOUSE, LLC, )  
 )  
Plaintiff, )  
 )  
vs. )  
 )  
LONE STAR STEAKHOUSE & SALOON )  
OF ALASKA, INC. and LSF5 )  
CACTUS, LLC, jointly and )  
severally, )  
Defendants. )

I hereby certify that this is a true and correct copy of the original on file in my office:

ATTEST:

Clerk of the Trial Courts at Anchorage

By: [Signature] 03.30.17  
Deputy Date

Case No. 3AN-16-10184 CI

2017-011702-0

2 of 2



~~Proposed~~ FINAL JUDGMENT

IT IS ORDERED that judgment is entered as follows:

1. Steakhouse, LLC shall recover from and have judgment against Defendants Lone Star Steakhouse & Saloon of Alaska, Inc. and LSF5 Cactus, LLC, jointly and severally, as follows:

- a. Principal Amount \$ 837,818.18
- b. Prejudgment Interest \$ 12,584.49  
(computed at the annual rate of 4.25% from 11/21/16 to date of judgment)
- c. Sub-Total: \$ 850,402.67
- d. Attorney's Fees \$ 9,150.20
- e. Costs \$ 218.92
- f. TOTAL JUDGMENT: \$ 859,771.79
- g. Post-Judgment Interest Rate: 4.25%

Dated this 30<sup>th</sup> day of March, 2017 at

Anchorage, Alaska.

[Signature]  
The Honorable Gregory Miller  
District Court Judge  
Superior

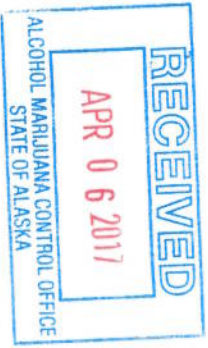


Steakhouse, LLC v. Lone Star et al.  
Final Judgment  
Case No. 3AN-16-10184 CI

LANDYE BENNETT BLUMSTEIN LLP  
701 WEST EIGHTH AVENUE, SUITE 1200  
ANCHORAGE, ALASKA 99501  
TELEPHONE (907) 276-5152, FAX (907) 276-8433

I certify that on 03.30.2017  
a copy of the original was personally  
handed to each of the following:

[Signature]  
Secretary/Deputy Clerk  
[Signature]  
Zeman  
[Signature]  
Kincaid



Erika McConnell, Director  
Alcohol and Marijuana Control Office  
Alaska Alcoholic Beverage Control Board  
550 West 7th Avenue, Suite 1600  
Anchorage, AK 99501

