



## MEMORANDUM

TO: Robert Klein, Chair and  
Members of the Board

DATE: July 13<sup>th</sup> 2016

FROM: Cynthia Franklin  
Director, ABC Board

RE: Fantasies on 5<sup>th</sup> # 1078

This is an application for renewal to which we have received four objections and a protest by the MOA. At its February, 2016 meeting, the board held an AS 04.11.510(b)(2) hearing on the objections. The board had the matter on its April 26, 2016 meeting and a request was made by the licensee to table to this meeting pending the outcome of the DOL investigation. The board can find the Tab at Tab 22 of the April 26<sup>th</sup>, 2016 board packet. The MOA has now scheduled an Assembly hearing on the protest for August 23, 2016.

Date of Protest: January 27, 2016; updated April 13, 2016 to continue protest of license renewal

Basis of Protest: Anchorage Assembly AR-2016-90 dated 04/12/16; labor violations and objectionable to local body and based upon a general public policy per 3 AAC 304.145(e)

Notice Requirements Met : Yes, Anchorage Assembly held hearing on 04/26/16 satisfying 3 AAC 304.145(d).

Department of Labor Update: DOL has finished its investigation and concluded that labor violations were committed. The only matter left for DOL is determining the monetary fine and/or restitution. See attached letter from DOL.

Recommendation: Table to October meeting so that licensee can have August 23 hearing before MOA Assembly.



THE STATE  
of ALASKA  
GOVERNOR BILL WALKER

Department of Labor and  
Workforce Development

LABOR STANDARDS AND SAFETY DIVISION

Wage and Hour Administration

1251 Muldoon Road, Suite 113

Anchorage, Alaska 99504

Phone: (907) 269-4909

Fax: (907) 269-4915

<http://www.labor.alaska.gov/LSS>

May 10, 2016

Travis Gravelle, Eugene Greaves, and Claudine Chapson, Individually  
and dba/Fantasies on 5<sup>th</sup> Avenue, LLC  
c/o Brian J. Stibitz, Attorney  
Reeves Amodio LLC  
500 L St. Suite 300  
Anchorage, AK 99501

**RE: ALASKA DEPARTMENT OF LABOR and WORKFORCE DEVELOPMENT, WAGE and  
HOUR ADMINISTRATION v. FANTASIES ON 5<sup>TH</sup>, LLC DCA 201511-001**

Ladies and Gentlemen,

In November of 2015, the Department of Labor and Workforce Development, Wage and Hour Administration (Department) initiated an investigation to determine if Fantasies on 5<sup>th</sup> Avenue, LLC (Fantasies) was in compliance with Alaska's minimum wage and overtime laws. A review of records submitted by Fantasies shows that DJ services, janitorial and cleaning services, and certain security and professional services were misclassified as contract labor, and it appears that no records of hours worked were kept. Additionally, Fantasies has asserted that dancers are tenants, not paid employees. Fantasies paid no wages at all to dancers but instead required dancers to kick back a portion of their tips to Fantasies as "rent." Fantasies managers and agents have failed to maintain daily and weekly records of hours worked for all workers and either does not maintain or destroys certain records relating to the hiring and employment of workers.

The purpose of the Alaska Wage and Hour Act (AWHA) is to safeguard a minimum wage and overtime compensation to provide workers with an adequate standard of living. AS 23.10.065 mandates that employers pay to each employee a minimum wage for hours worked in a pay period, whether the work is measured by time, piece, commission, or otherwise. An employer may not apply tips or gratuities bestowed upon employees as a credit toward payment of the minimum hourly wage. Under AS 23.10.060, employees who work longer than 40 hours in a workweek or more than 8 hours in day are entitled to receive overtime compensation at the rate of one and one-half times the regular rate of pay. An employer who violates a provision of AS 23.10.060 or 23.10.065 is liable to an employee affected in the amount of unpaid minimum wages, or unpaid overtime compensation, and an additional equal amount as liquidated damages (see AS 23.10.110). With regard to recordkeeping, AS 23.10.100, requires that employers keep a record at the place where an employee is employed, of the name, address, and occupation of each employee, the rate of pay and the amount paid each pay period to each employee, and the hours worked each day and each workweek by each employee. Records must be kept for a period of at least three years.

Fantasies on 5<sup>th</sup> Avenue, LLC  
c/o Brian J. Stibitz, Attorney  
Reeves Amodio LLC  
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Nothing under Alaska law exempts dancers, DJs, and janitorial and cleaning staff from the Alaska Wage and Hour Act, and more specifically, the Alaska Supreme and District courts have established that dancers are employees entitled to minimum wage and overtime. There is also nothing under Alaska wage law that allows for unpaid, volunteer labor that supports a for-profit business. Therefore, the Department finds that Fantasies' pay practices and failure to maintain records are in violation of Alaska Wage and Hour laws, and Fantasies and its agents are liable for unpaid minimum wage and overtime and an equal amount in liquidated damages. Further, Fantasies' recordkeeping practices have created an impediment in the Department's ability to conduct an expedient audit of wages due to workers. The current estimated amount of unpaid wages is expected to be approximately \$500,000, and the audit is anticipated to be completed by July 15, 2016.

Also, Fantasies has not yet responded to the Department's April 25, 2016, request for clarification of Fantasies' January 28, 2016, response to the Department's subpoena for records regarding the retention of Dancer Rent Payout Sheets. The Department has also requested copies of the "total rent paid by the dancers each night" for the period of November 1, 2013, through October 31, 2015; as of today, we have not received these records. **Please submit the requested records to our office no later than 4:00 p.m. on Thursday, May 12, 2016.**

An employer violates AS 23.10.050-23.10.150 if the employer:

- (1) hinders or delays the commissioner or an authorized representative of the commissioner in the performance of their duties in the enforcement of AS 23.10.050-23.10.150;
- (2) refuses to admit the commissioner or an authorized representative to any place of employment;
- (3) fails to keep or falsifies a record required under the provisions of AS 23.10.050-23.10.150;
- (4) refuses to make a record accessible, or to furnish a sworn statement of the record, or to give information required for the enforcement of AS 23.10.050-23.10.150, upon demand, to the commissioner or an authorized representative;
- (5) fails to post an abstract of AS 23.10.050-23.10.150 as required by AS 23.10.105;
- (6) discharges or in any other manner discriminates against an employee because the employee has filed a complaint, or has instituted or caused to be instituted any proceeding under or related to AS 23.10.050 - 23.10.150, or has testified or is about to testify in such a proceeding.

Based on Fantasies' practice of destroying or not retaining records, the Department hereby advises you of your legal obligation to preserve and safeguard all records, documents, and related information connected to employment of workers regardless of whether they are current or former workers, employed on a part-time, full-time, or "volunteer" basis, whether temporary or permanent, under contract, or employed as independent contractors.

All employment records or information, whether in hard copy or electronic form, must be preserved and maintained and cannot be altered, deleted, destroyed, discarded or otherwise modified for any reason. Any question you may have as to the relevance of a particular file, email or other data should be handled in favor of preservation and retention.

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Employment-related records or information subject to this notice may be in paper or electronic form, including emails, instant text messages, memos and any and all correspondence, whether in draft or final form. "Records" also refer to handwritten and typewritten documents, spreadsheets, email databases, calendars, computer activity logs, internet usage files, and software access information. Please instruct all personnel within Fantasies' organization not to alter, destroy, discard, interfile, annotate, remove, or modify any employment-related documents.

Be advised that employers who violate a provision of AS 23.10.050 - 23.10.150, or of any regulation or order of the commissioner issued under it, upon conviction is punishable by a fine of not less than \$100 nor more than \$2,000, or by imprisonment for not less than 10 nor more than 90 days, or by both. Each day a violation occurs constitutes a separate offense.

If you have any questions, feel free to contact me.

Sincerely,



Donna Nass  
Wage and Hour Investigator  
Wage and Hour Administration  
Anchorage Regional Office

cc: Travis Gravelle, 4203 W Dimond Blvd., Anchorage, AK 9950  
Eugene Greaves, 74321 Old Prospector Trl, Palm Desert, CA 92260  
Claudine Chapson, 1303 Rocky Ridge Trl, Harker Heights, TX 76548-2616

DN/ Fantasies5thllc2nd