

Department of Commerce, Community, and Economic Development

ALCOHOL AND MARIJUANA CONTROL OFFICE

550 West 7th Ave, Suite 1600 Anchorage, AK 99501 Main: 907.269.0350

MEMORANDUM

TO: Bob Klein, Chair, and Members of the

Alcoholic Beverage Control Board

DATE: January 23, 2018

FROM: Erika McConnell, Director RE: 612 King Mountain Lodge

Requested Actions: Approval of fourth waiver of operation application;

approval of license renewal application; and

approval of license ownership transfer application

Statutory and

Regulatory Authority:

AS 04.06.090(b): "The board shall review all applications for licenses made under this title and may order the director to issue, renew, revoke, transfer, or suspend licenses and permits authorized under this

title."

3 AAC 304.170(b): "A licensee may apply to the board, requesting that the board waive the operating requirement of AS 04.11.330(a)(3)... Under AS 04.11.330(a)(3), the board will determine whether, through no fault of the licensee or because the premises are under construction, the licensed premises could not be operated for the required time

during the preceding calendar year."

Staff Recommendation: Deny the fourth waiver of operation, renewal, and ownership transfer

applications

Background: At its December 5, 2016, meeting, the Board approved a third waiver of operation of this beverage dispensary license for the 2016 calendar year with the stipulation that a fourth waiver will not be granted. The explanation of circumstances provided by King Mountain Lodge, LLC (owned by Michael Hedrick and Darlene Whaley) on the approved application was, "License under contract to be sold. We were unable to operate for our 30 days due to the fact that the building and real property are sold."

An application to transfer the ownership of this license from King Mountain Lodge, LLC, to James D. Psenak and Juhree D. Psenak was received by AMCO staff on October 2, 2017. The licensing examiner who processed the application requested that a complete renewal application be submitted by King Mountain Lodge, LLC, as required by 3 AAC 304.175(e). Correspondence regarding operation of the license ensued between licensing staff, the transferee, and lawyers and brokers

612 King Mountain Lodge ABC Board January 23, 2018 Page 2

involved in the license transfer. It was revealed that the license was not operated during the 2017 calendar year because the Psenaks have owned the property and building since late June of 2016.

In response to questions asked by the licensing team, King Mountain Lodge, LLC, submitted documentation which included a [now void] option to purchase the beverage dispensary liquor license, dated June 6, 2016 (pages 30-37 of this tab), which we now understand is the contract that was being referenced in the 2016 third waiver application. The contract provided the Psenaks the option to purchase the license on or before June 1, 2017, if King Mountain Lodge, LLC, was unable to find another buyer in the interim.

According to both parties, no other interested purchasers presented themselves during that time, and by June 1, 2017, the terms of the original contract were no longer amenable to the Psenaks. A new agreement to purchase the beverage dispensary license was executed on August 14, 2017 (pages 39-45 of this tab).

On December 14, 2017, Mr. Psenak came into the office and informed licensing staff that he purchased the property in 2016 with the intent of using it for purposes other than operating the lodge (and liquor license). Mr. Psenak stated that there was substantial damage done to the lodge (the causes of which are not agreed upon by both parties), and that although he is listed as a transferee of the license, he plans to find a third-party purchaser for the license rather than operating it at its current location.

I recommend that the Board deny the application for the fourth waiver of operation for this license, as well as the renewal and ownership transfer applications, as the latter two are contingent upon the former (3 AAC 304.170(g)). This recommendation is based upon the following:

- 1) The Board's action to approve the 2016 third waiver of operation with the stipulation that a fourth would not be issued;
- 2) King Mountain Lodge, LLC, has not leased or owned the property for which the license is issued since June of 2016, and 3 AAC 304.170(e) states that if the premises identified on an applicant's license are not leased or owned by the licensee, the third or subsequent application [for waiver of operation] will, in the board's discretion, be denied; and
- 3) A transferee of this license has indicated that he plans to try to sell this license rather than operate it.

Attachments: Page from the approved December 5, 2016, meeting minutes

Approved third waiver application from December 5, 2016, meeting

Correspondence submitted by King Mountain Lodge, LLC

5357 Sourdough Mining Company: Sourdough Mining Co., an AK Restaurant, Inc.

5200 Juneau Street; Anchorage License: Restaurant / Eating Place

First waiver application.

1566 Steve's Sports Bar & Grill: SLF International, Inc.

No Premises; Anchorage License: Beverage Dispensary

Second waiver application.

THIRD WAIVERS

A. 1198 Brown Jug: Liquor Stores USA North, Inc. 12:11:59 PM TAB 15

No Premises; Anchorage License Type: Package Store

Dick Rosston, attorney for Liquor Stores USA North, identifies himself for the record and provides testimony that the licensee has been trying very hard to find a site for the license over the past three years.

Ellen Ganley motions to approve the third waiver with the understanding that a fourth waiver will not be available.

Bobby Evans seconds the motion.

Motion carries unanimously.

B. 534 Houston Lodge: Burkeshore Marina Enterprises, LLC 12:17:35 PM TAB 16

No Premises; Houston

License Type: Package Store

Nick Gittlein, Burkeshore Marina, identifies himself for the record.

Sarah Oates reminds the board that the transfer of this license to Three Bears was approved with delegation a few minutes ago.

Bobby Evans motions to approve the third waiver.

Ellen Ganley seconds the motion.

Motion carries unanimously.

C. 612 King Mountain Lodge: King Mountain Lodge, LLC 12:19:22 PM TAB 17

34097 N Glenn Highway; Mat-Su Borough

License Type: Beverage Dispensary

Ellen Ganley motions to approve the waiver with the stipulation that a fourth waiver will not be granted.

Bobby Evans seconds the motion.

Motion carries unanimously.

ABC Board Meeting Minutes: December 5, 2016 Page 11 of 14

Alcoholic Beverage Control Board 550 West 7th Ave. Ste. 1600 Anchorage, Alaska 99501 (907) 269-0350 FAX (907) 334-2285

Waiver of Operation Application

AS 04.11.330(a)(3)

License Information		Fees* 14\7	2
		Tees)/\
Liquor License Number: 612		Waiver Fee	\$ 5000 00
License Type:	1/210-0	Penalty	
License Type: Dispension Full Re Local Governing Body: (City, Borough or Morganized)	verage	(If applicable)	\$ 1,000.00
Botal Governing Body. (City, Bolough of Chorganized)		(in applicable)	
Met-Su Borough		Total Submitted	200000 V
Name of Licensee: Michael C. Hedrick		*The fee is non-refundable	
Doing Business As (Business Name) Fing Mountain Lodge		Telephone Number:	-1464
Mailing Address:	Street Address	or Location of Busine	
BOX 1177	1000		
Chickaloon AK 99674	City: Chic	IV. Glenn H	wy
Waiver Request Information			
This waiver application is the: \Box 1 st Request \Box 2 nd Request	out NT 2rd Dammad F	7 04	
		J Other	
Waiver Request for Calendar Year: Is this license for s	ale? □ No		
Explanation of the circumstances for non-operation	of license. Include	relevant informa	tion as to why
the license was not operated, any future plans for op	erating the license	and projected tim	elines. Attach
additional sheets if necessary. Liscense un	der contra	d to be 8	sold. We
were unable to operate for fact that the buildings a	0ar 30	tays du	= 70 Ths
fact that the buildings a	nd real A	property .	are sold
*			
Signature of Licensee(s)			
Signature / / / / / / / / / / / / / / / / / / /	Signature	n Wac	
Name (Please Print)	Name (Please Print) Darkene		
Date // 10 VIGO / CONCEN	Darkene N	1. Whatey	
Date 11-04-10	Date 11/04/2	014	

P.O. BOX 547 SUTTON, AK 99674

Sarah Oates, Program Coordinator Alcohol and Marijuana Control Office 550 W 7th Ave Ste 1600 Anchorage, AK 99501

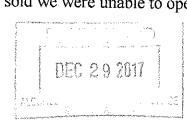
Dear Ms. Oates:

In your correspondence with the broker Jill Reese you identified some issues that you wanted addressed before the board reviews his application for waiver and the renewal of his beverage dispensary license. Below you will find your comments and my responses.

Mr. Psenak stated that when he purchased the property from Michael Hedrick, he did not have an interest in obtaining the liquor license with it. As the current holder of other liquor licenses, Mr. Psenak is aware of the minimum operating requirements. According to Mr. Psenak, because Mr. Hedrick had yet to receive any offers to purchase the license for the asking price, Mr. Psenak offered to allow Mr. Hedrick to operate the liquor license for the month of August, at King Mountain Lodge; this would have enabled Mr. Hedrick to meet the minimum operating requirements for Calendar Year 2017, but the offer was declined.

Comment: This is not true. Mr. Psenak did not offer to allow Mr. Hedrick to operate the liquor license in the month of August. Mr. Psenak refused to allow Mr. Hedrick to operate the license for the month of December. (E-mail attached)

I have noticed some discrepancies that should be clarified before this matter is brought before the ABC board for consideration. On the 2016 third transfer third waiver application, dated November 4, 2016, that was filed for the license, the explanation of circumstances provided by Mr. Hedrick and considered by the board when the waiver was approved was the following: "License under contract to be sold we were unable to operate for



30 days due to the fact that the buildings and real property are sold."

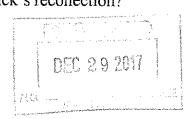
Comment: Mr. Psenak bought King Mountain Lodge in November 2016. At the same time an option was negotiated for the purchase of the Mr. Hedrick's beverage dispensary license. Mr. Psenak's obligation [option] to purchase the license was not effective until June 1, 2017. In June, Mr. Psenak refused to exercise the option unless the terms were renegotiated. The terms were renegotiated and memorialized in an August 14, 2017 agreement, by which terms the Buyer was to prepare the transfer application.

Mr. Hedrick did not anticipate that he would have to operate the license in 2017. Mr. Psenak had the Agreement in hand in August. Mr. Hedrick does not know why it took the transfer application until October to reach the Board. Mr. Psenak was supposed to file it. By contrast, in October when contacted by AMCO about a defect in King Mountain's corporate status Mr. Hedrick took care of it immediately.

Our office did not receive a transfer application for the license nor any other indication that a transfer application was in the works, until nearly a year later on October 2, 2017. Was this the license under contract to be sold to different buyer in November, 2016? If so, would you be able to provide a copy of that contract and explanation as to why the transfer did not occur at that time?

Comment: It was the same buyer, Mr. Psenak in 2016 and 2017. The original Option Agreement and the Agreement to Purchase are attached. See Comments below.

Your December 1, 2017 email states that he has not yet been able to operate the license because the building requires construction/repairs, and he has suffered with severe health problems. However, Mr. Hedrick has not owned the property for a year and a half, and Mr. Psenak claims that he provided your Mr. Hedrick with an opportunity to operate the license at the lodge. Is the later consistent with Mr. Hedrick's recollection?



Comment: No. Mr. Psenak refused to allow Mr. Hedrick to operate the license.

I have also been informed that Mr. Hedrick was unwilling to drop the asking price of the license to be consistent with other beverage dispensary licenses that were for sale in the Matanuska Sitka Borough. Would you please confirm or clarify this?

Comment: In November 2016 the parties agreed to a purchase price of \$80,000 for the beverage dispensary license. In June, Mr. Psenak insisted on renegotiating the price down to \$70,000. Mr. Hedrick initially refused and wanted Mr. Psenak to pay the agreed upon price, but due to a defect in the option document (it was supposed to be a "put option") Mr. Psenak had the leverage to force a reduction in the purchase price of the license.

I hope that I have adequately addressed the issues that you have raised. If you have any questions or need further information please contact me at your soonest convenience.

Very truly yours,

Michael Hedrick

DEC 29 2017

PURCHASE AND SALE AGREEMENT

Selling Licensee: Dustin Renner with Keller Williams Realty and Jill Reese with Coho Realty, LLC

Listing Licensee: Dustin Renner with Keller Williams Realty and Jill Reese with Coho

Realty, LLC

Date: 6-3-2016

Buyer: James David Psenak and Juhree' Denise Psenak

Seller: King Mountain Lodge, LLC

Subject to and on the terms and conditions herein set forth, Seller hereby agrees to sell, assign and convey to Buyer, and Buyer hereby agrees to purchase and acquire from Seller, all of Seller's rights, title and interest in and to the real property, improvements and personal property appurtenant thereto (hereinafter collectively "Property") as described below.

ſ. SUBJECT PROPERTY:

- 1. Real property and improvements situated in the Anchorage Recording District, Third Judicial District, State of Alaska, commonly known as 34097 N Glenn Highway, 34035 N Glenn Highway and 34019 N Glenn Highway and legally described as Tract 2, Jack Betts Subdivision, according to the official plat thereof, filed under Plat Number 68-19, Records of the Palmer Recording District, Third Judicial District, State of Alaska and Government Lots 25 and 45, Section 35, Township 20 North, Range 5 East, Seward Meridian, Palmer Recording District, Third Judicial District, State of Alaska.
- 2. All of Seller's right and title and interest in and to all furniture, furnishings, fixtures, equipment and other tangible personal property located on the Property and/or in the Improvements (the "Personal Property").

11. PURCHASE PRICE:

- Purchase price shall be \$130,000.
- 2. \$30,000 down payment (including earnest money).
- 3. Promissory note of \$100,000, payable at \$0.00 or more, per month, including \$5,000 in total interest, which shall include a "Due on Sale" clause. This note is due in full no later than December 1st, 2016.
- 4. Within five (5) days of mutual acceptance of this offer, Buyer shall deposit into the trust account of Mat-Su Title the sum of five-thousand dollars (\$5,000) as earnest money and part payment for the subject property.

Buyer Initials J.F.

111. CONTINGENCIES:

- 1. This offer is contingent upon the Buyer satisfying, at Buyer's sole discretion, any and all issues, concerns, questions and/or research during a due diligence period which shall commence on the date of mutual acceptance and shall expire five days (5) days thereafter unless otherwise extended as provided in Article IV, Section 8 (the "Due Diligence Period"). Should the Buyer in their sole discretion, reject the property for any reason whatsoever prior to the expiration of the Due Diligence Period by written notice to the Seller, this Agreement shall be terminated and of no further force or effect to the parties and the Buyer's earnest money shall be returned in full to Buyer within ten (10) days of such termination without the need for demand. Buyer's due diligence shall include but not be limited to the items listed below. Seller shall, within 7 days of mutual acceptance of this offer, provide the Buyer with items 1a, 1b, 1c, 1d, and 1e for their review.
- a. Review and acceptance of contracts for preventive maintenance, upkeep, repairs, etc., for the project which would be transferable to a new owner.
- b. Review and acceptance of existing as-built survey and building plans on the property, if available.
- c. Seller shall allow Buyer access to the property with prior notice for the purpose of inspections. Buyer shall defend, indemnify and hold Seller, Brokers and Licensees harmless from all liability or property damage including any liens, claims, damages or costs, personal injury or death arising from the Property inspections. This indemnity includes Seller's right to recover all costs and expenses incurred by Seller to enforce this subsection, including Seller's reasonable attorney fees. This provision shall survive the termination of the Agreement.
- d. Review and acceptance of any reports, inspections, or reviews pertaining to the Property, its improvements or major systems which are in the possession of the Seller or their licensees, including but not limited to any Phase I Environmental Site Assessment, other environmental assessment/report or Asbestos Reports, engineers reports, Mat-Su Borough correspondences including building permitting, fire department inspections, appraisals, well and septic information and permits, etc.
- e. Any other pertinent information, which may reasonably be requested by the Buyer.
- 2. This offer is subject to Buyer's review and approval of a preliminary commitment for title and copies of the exceptions it discloses showing the condition of the title to the Property. Upon execution of this Agreement by all parties, Seller will, at Seller's sole expense, promptly order the title report and exceptions from Mat-Su Title Company of Alaska and furnish to Buyer. Upon receipt of the report and exceptions, Buyer shall have until the expiration of the Due Diligence Period, described above, within which to notify Seller, in writing, of any matters disclosed in the report which are unacceptable to Buyer. Buyer's failure to timely object, in writing, to any matters disclosed in the report shall constitute acceptance of the report. If, within ten (10) business days following receipt of the written objections from Buyer, Seller fails to remove or correct the matters identified in the written objection, or does not give written

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assurances reasonably satisfactory to Buyer that such objections will be removed or corrected at or prior to closing, this transaction shall automatically terminate.

IV. TERMS AND CONDITIONS:

- 1. This transaction shall close within ten (5) business days following expiration of the Due Diligence Period. Seller and Buyer agree before recording can take place, funds provided to the Closing Agent shall be in the form of cash; interbank electronic transfer, money order; a certified check or cashier's check drawn on a financial institution located in the state; or any combination that permits the Closing Agent to convert the deposit to cash not later than the next business day (AS 34.80.040).
- 3. Possession shall be given to the Buyer upon recording of the deed. Buyer reserves the right to conduct a final walk-through inspection of the Property forty-eight (48) hours prior to closing to ensure that the property is in the same material condition as upon initial inspection(s). Seller agrees to maintain the Property in its current condition, subject only to normal wear and tear.
 - 4. Seller shall pay the following closing costs:
 - a) 1/2 recording fee:
 - b) 1/2 documentation preparation fee;
 - c) 1/2 escrow closing fee;
 - d) 1/2 tax registration;
 - e) All Assessments levied as of the date of recording;
 - f) Own attorney's fees;
- g) Standard Owners Title Insurance Policy and Preliminary Commitment for Title Insurance;
- h) Real estate commission equal to six (6) percent of the sales price to be divided equally (50/50) to Dustin Renner and Jill Reese;
 - i) Re-conveyance fee, if any
 - j) Statutory Warranty Deed:
 - k) Personal Property Taxes to be prorated to the date of Closing;
 - I) UCC Searches and Releases
 - 5. Buyer shall pay the following closing costs:
 - a) 1/2 recording fee:
 - b) 1/2 documentation preparation fee;
 - c) 1/2 escrow closing fee;
 - d) 1/2 tax registration fee;
 - e) Own attorney fees;
 - f) Bank Set-Up Fee;
 - g) Annual Escrow Fee;
- 6. Seller agrees to provide an original copy of the most recent appraisal to the Buyer, if available, which shall become the property of Buyer upon closing, at no cost to Buver.
 - Property taxes shall be prorated to the date of recording the deed.
- a. Keys. Upon recording of the deed. Seller shall promptly delivery keys to the Property, including common areas and equipment to the Selling Licensee.

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Seller Initials Mt

- 8. Time is of the essence in this contract but either party may, with written notice, extend for one period not to exceed ten (5) days. This pertains to buyer's due diligence period and the closing date.
- 9. Seller will furnish a good and sufficient Warranty Deed at closing, showing marketable title free and clear of the objections and all other title exceptions agreed to be removed as a part of this transaction. All unexpired warranties pertaining to the improvements located on the Property shall be transferred to Buyer at Closing. Seller shall provide all such warranty information and documentation to Buyer at closing. In addition, Seller shall execute and deliver a Bill of Sale, general assignment and/or other customary documents necessary to convey the Personal Property to Buyer.
- 10. This agreement is assignable in whole or in part with the express written consent of the Seller, which consent shall not be unreasonably withheld.
- 11. This document and the referenced attachment(s), if any, consisting of eighteen (18) pages, contain the entire Agreement between the parties. There are no understandings, oral or written, which in any manner change or enlarge what is set forth herein. The plural shall include the singular. It may not be modified except in writing signed by both parties.
- 12. It is mutually agreed upon by all parties that the Broker and/or its licensees shall not be held liable in any manner whatsoever for damages arising from defaults or acts by or upon the part of either party to this Agreement. Brokers and/or its licensees make no representations that the improvements meet current building code, safety or other requirements or the property is suitable for the Buyer's purposes.
- a. Both Buyer and Seller acknowledge that Brokers are participants of the Alaska Multiple Listing Service, Inc. ("AK MLS") and are authorized to report details of the sale to the AK MLS.
- b. Buyer and Seller authorize any lender, escrow agent, closing agent, appraiser, surveyor, lender, and any other related party to this transaction to furnish and provide, on request or closing, any and all information and copies of documents related to this transaction to both the Listing and Selling Brokers and their Licensees.
- 13. In the event that the Broker is unable to determine to his satisfaction which party is responsible for failing to perform the requirements of the contract, the Broker shall request the parties to execute an Agreement for release of earnest monies to one or the other parties. Broker need not disburse earnest monies until an Agreement is signed. Alternatively, Broker may: (a) with Buyer's and Seller's consent, submit the matter to an agreed upon arbitrator; or (b) interplead the earnest money with the courts for determination of who is entitled to the earnest monies. The Broker shall be entitled to an award, from the earnest monies, of reasonable attorney's fees and costs for interpleading the earnest money.
- 14. Due to varied methods of measuring square footage, Broker makes no guarantee as to the accuracy of figures quoted. Square footage should be independently measured by Buyer if exact calculations are desired as part of the due diligence conducted during the Due Diligence Period.

Buyer Initials <u>J.P.</u>
Seller Initials <u>M.H.</u>

15. Buyer and Seller agree that a facsimile or scanned/emailed transmission of any original document shall have the same effect as an original. Any signature required on an original document shall be completed when a facsimile or scanned/emailed copy has been signed, except for documents to be recorded which required original signatures. The parties agree that facsimile or scanned/emailed copies of documents shall be appended to the original thereof, integrated therewith and given full effect as if an original.

16. Licensee Relationships:

The Seller and Buyer acknowledge the following:

- a) Selling Licensee, Dustin Renner with Keller Williams Realty is neutral in this transaction;
- b) Co-Selling Licensee, Jill Reese with Coho Realty, LLC is neutral in this transaction:
- c) Listing Licensee, Dustin Renner with Keller Williams Realty is neutral in this transaction.
- d) Co-Listing Licensee, Jill Reese with Coho Realty, LLC is neutral in this transaction;
- 17. This transaction shall close in the escrow office of Mat-Su Title Company of Alaska or such other location as may be agreed upon between the parties in writing.
- 18. The Foreign Investment in Real Property Tax Act ("FIRPTA") required every person who purchases real property located within the United States from a "foreign person" to deduct and withhold from the Seller's proceeds ten percent (10%) of the gross sales price, with certain exceptions, and to pay the amount withheld to the Internal Revenue Service. A "foreign person" includes non-resident alien individuals, foreign corporations, foreign partnerships, foreign trusts, and foreign estates. Seller and Buyer agree to execute and deliver, as appropriate, any instrument, affidavit or statement, and to perform any acts reasonable or necessary to comply with FIRPTA.
- 19. Seller covenants and warrants that, to the best of Seller's knowledge, except for covenants, conditions, restrictions recorded against the property and matters of title to be revealed in the Preliminary Commitment for Title, there are no other unrecorded or pending matters or agreements, written or verbal, which affect the use, continued use, full use, future use, or value of the Property. Seller further warrants that they/it are the lawful owner of the Property and are not subject to any restrictions, orders, notices or other legal proceeding that would prevent the closing of this transaction in accordance to the terms herein agreed.
- 20. In the event of loss or damage to the subject property by fire or other casualty prior to closing, or in the event a proceeding is instituted or threatened prior to closing for the taking of all or any portion of the subject property under the power of eminent domain, Buyer shall have the right by giving written notice to Seller within seven (7) days after the date of receipt of written notice of such casualty or taking, either to:

(i) consummate the purchase and sale in accordance with this Agreement, in which event Seller shall deliver to Buyer at closing an assignment to Buyer of all the right, title and interest, if any, which Seller may have in

(A) the insurance payable under all insurance policies kept or maintained by Seller as a result of or in connection with such casualty and

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Seller Initials MH

- (B) the award payable by reason of the taking and concurrently therewith deposit into escrow the amount of any and all such proceeds or awards theretofore received by Seller; or
- (ii) terminate this Agreement effective as of the date such notice of termination is given to Seller, rendering this Agreement null and void with no further force or effect on the parties and the Buyer's earnest money, plus interest earned, shall be returned to Buyer, without demand, within 30 days of such termination.
- 21. Each party represents that it has had an adequate opportunity to consult with its own tax, legal and other advisors prior to executing this Agreement. This Agreement has been initially drafted by Dustin Renner for the convenience of and with full disclosure to both parties. Buyer and Seller will have their own attorneys review this Agreement prior to signing and thus this Agreement when executed shall represent the agreement of the parties and the rule of construction that ambiguities are construed against the drafter shall not apply.
- 22. Attorneys' Fees: In the event either party brings an action at law or in equity to enforce or interpret or seek redress for breach of this Agreement, the prevailing party in such action shall be entitled to its litigation expenses and reasonable attorney's and witness fees in addition to all other appropriate relief.
- 23. Governing Law, Jurisdiction. This Agreement shall be construed and interpreted and the rights of the parties determined in accordance with the laws of the State of Alaska. Should any legal proceeding be necessary under this Agreement, the same shall be commenced in the Superior Court of the State of Alaska, Third Judicial District at Anchorage, Alaska. Buyer and Seller agree specifically that venue and jurisdiction in that court are proper, and further agree to submit themselves to the jurisdiction of that court as a result of any matter arising under this Agreement. Buyer and Seller shall neither claim that said forum is an inconvenient forum.
- 24. Time of Essence: Except as otherwise specifically provided in this Agreement, time is of the essence of this Agreement and each and every provision hereof.
- 25. The following attachments are hereby made a part of this Purchase and Sale Agreement:
 - a. Two Alaska Real Estate Commission Consumer Pamphlets
 - b. Two Alaska Real Estate Commission Waiver of Right to Be Represented Forms
 - c. Owner Financing Terms
 - d. Permitting Notice Title 17 Borough Regulations
 - e. Keller Williams Disclosure of Affiliated Business Relationship

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BUYER ACKNOWLEDGEMENT OF OFFER

I/We understand that this is a legally binding contract. Selling Licensee is hereby granted exclusive and irrevocable right for five (5) days to obtain an acceptance of this offer.

Buyer herein acknowledges that this agreement has significant legal and financial consequences and that he/they have been advised to seek independent legal and financial counsel. The Brokers and Licensees cannot give legal advice. Buyer agrees that closing of this sale will constitute an acknowledgement that the Property is acceptable as the time the sale is closed.

Buyer 1:	Jaiss David Promote	ļ
Date:	6-3-16	
Ву:		
Buyer 2:	Juline Denice Psenak	
Date:	6/3/2016 CE2D1B2632174D0	
Rv∙		

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SELLER RESPONSE

Seller Acceptance.
Seller accepts the foregoing offer as written and agrees to sell and convey the Property on the terms and conditions herein stated. Seller understands that this is a legally binding contract. Seller herein acknowledges that this agreement has significant legal and financial consequences and that they have been advised to seek independent legal and financial counsel. The Brokers and/or Licensees cannot give legal advice.
Seller Rejection/Counter Offer.
□ Seller hereby rejects the foregoing offer and declines to make a Counter Offer; or □ Seller hereby rejects the foregoing offer and makes the attached Counter Offer. Listing Licensee is hereby granted exclusive and irrevocable right for five (5) days to obtain an acceptance of this Counter Offer.
Seller 1:
Seller 2:
By:
Real Estate Licensee 1: Dustin Renner, Neutral Agent, Keller Williams Realty Alaska Group Date: Dustin Renner 6/6/2016 Dustin Renner D
Real Estate Licensee 2: Jill Reese, Neutral Agent, Coho Realty, LLC
Date:
By:
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Seller Initials



Owner Finance Terms

Promissory Note Amount \$ 100,000.00
Interest Rate on Note: % total of \$5,000 Is Interest Rate Fixed: Yes No
If interest rate is adjustable, how is it to be adjusted: N/A
Payment Amount: \$ 0.00 Payment Due Date(s) Monthly Annually Other ✓ N/A
Balloon Payment(s): Yes No Amount and Due Date(s): N/A
Maturity Date of Note: December 1st, 2016
Due on Sale Clause: Yes No
Late Payment Fee: Yes No
Pre-Payment Penalty: Yes No
Proof of Payment of Taxes Required: Yes No No No If Yes, How: Tax Service Fee or written proof of payment of taxes submitted to lender by borrower
Release Provisions? Yes No (if Yes, see attached for options)
Will this Deed of Trust be in a first lien position: Yes No No No, will the existing Deed of Trust be assumed or wrapped. If No, will the existing Deed of Trust be assumed or wrapped. If assumed or wrapped, where is the Deed of Trust held: N/A and what is the account number: N/A
Other Special Conditions of Deed of Trust (any restrictions on use of property while Deed of Trust encumbers property): N/A
Is Property Improved: Yes No No No No No No No No No N
Note and Deed of Trust shall be escrowed at: First National Bank of Alaska
Is mobile home included in this transaction? Yes No If Yes, does seller have the title? Yes No
Dated:

Synergy Home Team - KELLER WILLIAMS - REALTY 11001 Business Blvd - #105 • Fagle River, Alaska 99577 • 907-268-4200







ALASKA REAL ESTATE COMMISSION CONSUMER DISCLOSURE

This Consumer Disclosure, as required by law, provides you with an outline of the duties of a real estate licensee (licensee). This document is not a contract. By signing this document you are simply acknowledging that you have read the information herein provided and understand the relationship between you, as a consumer, and a licensee. (AS 08.88.600 – 08.88.695)

There are different types of relationships between a consumer and a licensee. Following is a list of such relationships created by law:

Specific Assistance

The licensee does not represent you. Rather the licensee is simply responding to your request for information. And, the licensee may "represent" another party in the transaction while providing you with specific assistance.

Unless you and the licensee agree otherwise, information you provide the licensee is not confidential.

Duties owed to a consumer by a licensee providing specific assistance include:

- a. Exercise of reasonable skill and care;
- b. Honest and good faith dealing;
- c. Timely presentation of all written communications;
- d. Disclosing all material information known by a licensee regarding the physical condition of a property; and
- e. Timely accounting of all money and property received by a licensee.

Representation

The licensee represents only one consumer unless otherwise agreed to in writing by all consumers in a transaction.

Duties owed by a licensee when representing a consumer include:

- Duties owed by a licensee providing specific assistance as described above;
- Not intentionally take actions which are adverse or detrimental to a consumer;
- Timely disclosure of conflicts of interest to a consumer;
- Advising a consumer to seek independent expert advice if a matter is outside the expertise of a licensee;
- e. Not disclosing consumer confidential information during or after representation without written consent of the consumer unless required by law; and
- f. Making a good faith and continuous effort to accomplish a consumer's real estate objective(s).

Neutral Licensee

A neutral licensee is a licensee that provides specific assistance to both consumers in a real estate transaction but does not "represent" either consumer. A neutral licensee must, prior to providing specific assistance to such consumers, secure a Waiver of Right to be Represented (form 08-4212) signed by both consumers.

Duties owed by a neutral licensee include:

- Duties owed by a licensee providing specific assistance as described above;
- b. Not intentionally taking actions which are adverse or detrimental to a consumer;
- c. Timely disclosure of conflicts of interest to both consumers for whom the licensee is providing specific assistance;
- d. If a matter is outside the expertise of a licensee, advise a consumer to seek independent expert advice;
- e. Not disclosing consumer confidential information during or after representation without written consent of the consumer unless required by law; and
- f. Not disclosing the terms or the amount of money a consumer is willing to pay or accept for a property if different than what a consumer has offered or accepted for a property.

If authorized by the consumers, the neutral licensee may analyze and provide information on the merits of a property or transaction, discuss price terms and conditions that might be offered or accepted, and suggest compromise solutions to assist consumers in reaching an agreement.

Designated Licensee

In a real estate company, a broker may designate one licensee to represent or provide specific assistance to a consumer and another licensee in the same office to represent or provide specific assistance to another consumer in the same transaction.

08-4145 (Rev. 02/2015)

	ACKNOWLEDGEMENT:
	I/We,James David Psenak and Juhree' Denice Psenakave read the information provided in this Alaska Real Estate (print consumer's name(s)) Consumer Disclosure and understand the different types of relationships I/we may have with a real estate licensee. I/We understand that
	will be working with me/us under the relationship(s) selected below.
	(Initial)
	Specific assistance without representation.
	Representing the Seller/Lessor only. (may provide specific assistance to Buyer/Lessee)
	Representing the Buyer/Lessee only. (may provide specific assistance to Seller/Lessor)
Ŋ	P_X Meutral Licensee. (must attach Waiver of Right to be Represented, form 08-4212)
	Date: Signature:
	Date: 6-3-16 Signature: Janus Paris Porch
	Date: Signature: Denise Psenal, (Consumer)

THIS CONSUMER DISCLOSURE IS NOT A CONTRACT





ALASKA REAL ESTATE COMMISSION WAIVER OF RIGHT TO BE REPRESENTED

About This Form:

Occasionally, a licensee is "representing" a consumer (buyer or lessee) that has interest in acquiring a property where another consumer (seller or lessor) is also "represented" by the same licensee. Prior to showing the property, the licensee must obtain written approval from both consumers to change their working relationship from representation to providing specific assistance in a neutral capacity. AS 08.88.610

In Alaska, real estate licensees are required by law to provide this document, prior to providing specific assistance to the parties, in conjunction with the Alaska Real Estate Consumer Disclosure (form 08-4145), outlining the duties of a real estate licensee when acting in a neutral capacity.

<u>Duties of a Neutral Licensee</u>: A neutral licensee is a licensee that provides specific assistance to both consumers in a real estate transaction.

Duties owed by a neutral licensee include:

- Exercise of reasonable skill and care;
- Honest and good faith dealing; b.
- Timely presentation of all written communications; C.
- Disclosing all material information known by a licensee regarding the physical condition of a property; d.
- Timely accounting of all money and property received by a licensee; e.
- Not intentionally taking actions which are adverse or detrimental to a consumer; f.
- Timely disclosure of conflicts of interest to both consumers for whom the licensee is providing specific g. assistance;
- Advising a consumer to seek independent expert counsel if a matter is outside the expertise of a licensee; h.
- Not disclosing consumer confidential information during or after representation without the written consent i. of the consumer unless required by law; and
- Not disclosing the terms or the amount of money a consumer is willing to pay or accept for a property. j.

James David Psenak			Julie Penice Psenak 6/3/2016	ak 6/3/2016	
CE2D1B2632174D0 DocuSigned by:		Date		Date	
Dustin Kenner	6/3/2016		Keller Williams Realty Alaska Group		
Real Estate dicenses Dustin Renner		Date	Real Estate Company		

If authorized by consumers, the neutral licensee may analyze and provide information on the merits of a property or transaction, discuss price terms and conditions that might be offered or accepted, and suggest compromise solutions to assist them in reaching an agreement.

Additional Authorization:

I hereby authorize the "neutral" licensee to engage in the following conduct in a good faith effort to assist in reaching final agreement in a real estate transaction:

- Analyzing, providing information, and reporting on the merits of the transaction to each consumer;
- Discussing the price, terms, or conditions that each consumer would or should offer or accept; or

James David Psenak	6/3/2016	Julie Penice Psenale 6/3	3/2016
CE2D1B2632174D0	Date	CE2D1B2632174D0	Date

Permitting Notice Title 17 Borough Regulations



This form authorized for use ONLY by active Real Estate Licensee Subscribers of Alaska Multiple Listing Service, Inc.

Date:		
Buyer:	_James David Psenak	
	Juhree' Denise Psenak	
Legal:	Tract 2, Jack Bells Subdivision and Government Lots 25 and 45,	Section 35, Township 20 North, Range 5 East, Seward Mendian
Address:	34035, 34097 and 34019 N Glenn Highway, C	Chickaloon, AK 99674
TO MAK	ed, currently there are land use and building reg ING ANY IMPROVEMENTS OR ADDITION eable of these regulations to your real property.	gulations in the Mat-Su Borough (MSB). PRIO IS, it is imperative you become aware and
responsib building re the Borou	regulations apply to your activity and to help ility of you, the buyer/owner, to obtain copies o egulations. In order to save time and money a	ailable to assist you in determining whether any you comply with those laws. It is the sole f and/or comply with existing MSB land use and to prevent problems with your neighbors, or rough Permit Center, 350 East Dahila Avenue
Cn	2 David Poor B	6-3-16
Purchaser	uce Denese Prince	Date
Purchaser	DocuSigned by:	Date
	Dustin Kenner	6/3/2016
Licensee	50040170418446C	Date
Licensee		Date



Disclosure of Affiliated Business Relationship

Keller Williams Realty Alaska Group and Integrity Title have common ownership. You are not required to use the services of Integrity Title in the purchase of property.

Affiliated Business Arrangement

Keller Williams Realty Group has an ownership interest in Integrity Title and may receive a financial benefit from referring you to use their services. Integrity Title provides excellent service, competitive rates and programs. However, you are under no obligation to use their services. Other title institutions are available.

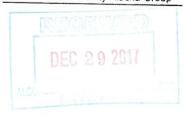
You are NOT required to use the listed provider as a condition for settlement of your purchase agreement or the purchase of title insurance on the subject property. There are frequently other service providers available with similar services. You are free to shop around to determine that you are receiving the best service and the best rate for these services.

Acknowledgment

I/we have read the disclosure form, and understand that **Keller Williams Realty Alaska Group** is affiliated with **Integrity Title** and that it, its associates, and/or its franchisor may receive a financial or other benefit from any such referral.

Dated: 6-3-16	6/6/201 Dated:	16
Buyer 1: June Dais Pour P	Seller 1:	Docusigned by: Michael C. Hedrick 9E0FF04636134C2
Buyer 2: Lorice Donise Banck	Seller 2:	
Selling Licensee(s) Dustin Kunur Dust to Rest Dust Dust Dust Dust Dust Dust Dust Du	Listing Licensee(Dustin Renner Dustin Renner

Selling Brokerage Keller Williams Realty Alaska Groundsting Brokerage Keller Williams Realty Alaska Ground





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08-4145 (Rev. 02/2015)

ACKNOWLEDGEMENT: I/We, __James David Psenak and Juhree' Denice Psenakave read the information provided in this Alaska Real Estate (print consumer's name(s)) Consumer Disclosure and understand the different types of relationships I/we may have with a real estate licensee. I/We understand that Jill Reese of Coho Realty, LLC (licensee name) (brokerage name) will be working with me/us under the relationship(s) selected below. (Initial) Specific assistance without representation. Representing the Seller/Lessor only. (may provide specific assistance to Buyer/Lessee) Representing the Buyer/Lessee only. (may provide specific assistance to Seller/Lessor) ___ Neutral Licensee. (must attach Waiver of Right to be Represented, form 08-4212) Date: Signature: Jill Reese Signature:

THIS CONSUMER DISCLOSURE IS NOT A CONTRACT

DEC 2 9 2017

Date:



ALASKA REAL ESTATE COMMISSION WAIVER OF RIGHT TO BE REPRESENTED

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- Timely disclosure of conflicts of interest to both consumers for whom the licensee is providing specific assistance;
- h. Advising a consumer to seek independent expert counsel if a matter is outside the expertise of a licensee;
- Not disclosing consumer confidential information during or after representation without the written consent of the consumer unless required by law; and
- j. Not disclosing the terms or the amount of money a consumer is willing to pay or accept for a property.

	Date		Date
Real Estate Licensee Jill Reese	 Date	Coho Realty, LLC Real Estate Company	

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Additional Authorization:

I hereby authorize the "neutral" licensee to engage in the following conduct in a good faith effort to assist in reaching final agreement in a real estate transaction:

- Analyzing, providing information, and reporting on the merits of the transaction to each consumer;
- Discussing the price, terms, or conditions that each consumer would or should offer or accept; or
- Suggesting compromises in the consumer's respective bargaining positions.

Date

DEC 2 9 2017

08-4212 (02/2015)





1	Address 34097, 34035 & 34019 N Glenn Highway		MLS
2		5 D005-D006	
3	Regarding the Purchase and Sale Agreement dated	06/03/2016	rofovorio de la
4	property in whichPsenak	00/00/2010	, referencing the above-mentioned is/are referred to as the Buyer
5	and Hederick	ielor	is/are referred to as the Buyer
6			
7 8		Buyer to move furn	iture and/or personal possessions into the
9	, , , , , and a deciding, on or app	out 06/10/2016	(date).
10 11	Buyer understands and agrees to the following:		
12	This agreement does not grant Buyer permission No alterations improvements or semandal and the sema	on to occurry or othe	m.i.
13 14	/ " " " " " " " " " " " " " " " " " " "	V no dono to the -	rwise use the property.
15	otherwise expressly agreed in writing between	Buyer and Seller	unless
16	No hazardous substances including, but no petroleum products, propane, volatile solvents materials will be permitted used stored or dispersion.		
17 18			
19	5) To accept total responsibility for all furniture and	nd licensees will have	e access to the interior of the property.
20 21	, and provide 2	PILET Written evidence	ons placed on the premises.
22			
23	 To be responsible for any damage, as a result of property. 		
24 25	To hold Seller harmless from any and all claim licensee (s), or anyone related to or associate	s or actions which a	arise as a result of acts by Buyer, Buyer's
26	storage agreement.	d with buyer who e	nters the property during the term of this
27 28	9) Should the sale not record by the date set forth	in the Purchase and	Sale Agreement:
29	To remove all furniture and personal profilled in) from receipt of written notification.	Ossessions from the	property within 5 days (five if not
30	 Keturn all kevs and garage door opener 	·c	
31 32	c. To pay all costs of any legal action that	may be inclifuted by	y Seller to enforce the terms hereof or for
33	attorney's fee.	or personal property	from the Property, including a reasonable
34 35	10) Additional terms:		
36	Buyers to park a work trailer and a few trucks in t	he parking lot only	
37 38	Sollor agrees to activity to the		
39	Seller agrees to maintain all utilities and applicable insura	ance during the term	of this agreement.
40	Buyer and Seller acknowledge and agree to indemnify claims, demands, costs, suits, fines, judgments, paneltic	and hold the Broker	rs and their Licensees barmloss from all
41 42	claims, demands, costs, suits, fines, judgments, penalti- nature whatsoever arising, directly or indirectly, as well a	es, expenses, dama	ges, losses, and liabilities of any kind or
43	Docusigned by:	s any default, violation	on or breach of this Agreement.
44 45	Buyer 1: James David Psenak		
46	Buyer 2:		
	Buyer 2: Juline Penice Psenal	Date:	6/10/2016
47	Seller 1: Mike Hedrick		
48	Seller 1:	Date:6	/9/2016
49			
50	Seller 2:	Date:	
			REGETVED
	Form 7010. Originated 5/12. Rev 9/12. ©2015 Alaska Multiple Listing S	ervice, Inc. (AK MLS) All	rights reserved.

LAW OFFICE OF JERALD M. REICHLIN, P.C. ATTORNEY AT LAW 310 K STREET SUITE 200 ANCHORAGE, ALASKA 99501 TELEPHONE: 907-264-6726

FACSIMILIE: 907-264-6602 E-MAIL: reichlinlaw@gci.net

August 21, 2016

James David Psenak Juhree Denise Psenak 12800 E. Scott Road P.O. Box 419 Palmer, Alaska 99645

ţ*

Re: Notice of Default

Dear Mr. and Mrs. Psenak:

I represent King Mountain Lodge LLC and Michael Hedrick. I am writing in connection with your purchase of

Parcel No. 1, Tract 2, Jack Betts Subdivision according to Plat No. 68-19 in the records of the Palmer Recording District, Third Judicial District, State of Alaska and

Parcel No. 2, Government Lots 25 and 45 in Section 35, Township 20 North, Range 5 East, Seward Meridian, located in the records of the Palmer Recording District, Third Judicial District, State of Alaska.

Your purchase of the property is subject to a deed of trust note and a deed of trust. I am writing to inform you that you are in default of the deed of trust. You have impaired the value of the collateral by your actions. You have removed trees, soil and gravel. You have torn up the land and failed to keep the property in good condition. You have knocked over and partially demolished a building on the property. You have excavated the ground to a depth of more than 20 feet and your activity on the site threatens to damage the aquifer and the wells that are dependent upon it. You have gouged the land and created a construction site on the property which has served as a lodge and bar for decades. You misrepresented your intentions for the property to Mr. Hedrick when you acquired.

Mr. Hedrick is unwilling to finance your destruction of his property. You must cease your activity on the land immediately and restore the property in the next 10 days or you must complete the purchase of the property and the liquor license. In the event that you do not act Mr. Hedrick will begin foreclosure proceedings and Mr. Hedrick will be able to obtain a preliminary injunction restraining your continued use of the land.

You are welcome to contact me or Mr. Hedrick directly to inform us of your intentions

Very truly yours,

LAW OFFICE OF JERALD M. REICHLIN

Jerald Reichlin

cc: King Mountain Lodge LLC

DEC. 20 2011

AMMCO

This contract was a void. Although it was signed it was worthless. I put my trust in Jill Reese of Coho Reality (alcohol licensing professional) to follow the instructions for the liquor license purchase. The contract was supposed to give me the option to sell the license to a buyer if one was interested for the period of one year from June 2016 till June 2017. Jim Psenak was supposed to buy it at the end of that time period if it was not sold.

Jill Reese wrote the contract that Psenak had the option to buy it or not. So he chose the option not to buy it.

This cost two months of time until another contract was signed. After the second contract was signed in August of 2017 the transfer forms were not delivered until October 2, 2017, I do not know why but, because of these two time periods four months were lost.

Darlene and I have done all that we can to make this happen, we have spent money that we did not have to keep King Mountain Lodge open but the economy was against us. In desperation we had to give it up. In October 2016 I had a stroke that affected my entire left side and in October 2017, I developed nephropathy and I can no longer even drive a vehicle.

After serving Psenak with the cease and desist order which was not followed thru by me, he became distant and did not want to work with us.

To not have the sale and transfer of this license will devastate us. So we ask the board to please have mercy on us, we have done all in our power to make this happen.

Sincerely Michael Hedrick



OPTION TO PURCHASE A BEVERAGE DISPENSARY LIQUOR LICENSE

THIS AGREEMENT is entered into this day of TUNE, 2016, between King Mountain Lodge, LLC, whose address for all purposes herein is Box 1177, hereinafter "Seller", and James David Psenak and Juhree' Denise Psenak, whose address for purposes herein is hereinafter "Buyer".

WHEREAS, the Seller is the owner of Beverage Dispensary Liquor License Number 612, issued by the State of Alaska Alcoholic Beverage Control Board (hereafter "License"); and

WHEREAS, the Buyer desires to acquire an option to purchase the aforesaid License; and

WHEREAS, the parties hereto have reached an agreement with regard to the purchase and sale of the aforesaid License and the transfer of its ownership and location to the Buyer's business premises or to no premises, and wish to reduce their agreements to writing;

NOW, THEREFORE, in consideration of the mutual covenants, conditions and promises contained herein, the receipt and sufficiency of which is acknowledged by the parties hereto,

IT IS HEREBY AGREED as follows:

- 1. <u>Subject Matter</u>. Upon exercise of the Option by the Buyer on or before June 1, 2017 to purchase the License, the Seller shall sell and the Buyer shall buy License No. 612 on the terms and conditions set forth herein.
- 2. Purchase Price. The purchase price of the License sold by the Seller to the Buyer is EIGHTY THOUSAND and NO/100s DOLLARS (\$80,000.00). This total purchase price, including the earnest money payment of EIGHT THOUSAND and NO/100s DOLLARS (\$8,000.00), shall be payable in cash or certified funds, at closing by payment to the Seller through the Trust Account of Coho Realty LLC, Jill Reese, Broker, adjusted by any closing costs due from Seller, including commission payable in the amount of SIX PERCENT (6%) of the gross sales price of the License. The commission shall be split 50/50 between Jill Reese, Coho Realty, LLC and Dustin Renner, Keller Williams Realty Alaska Group, acting as "Neutral Agents" in this transaction.
 - a) Upon exercise of This Option to Purchase, the Buyer shall deposit to the Trust Account of Coho Realty LLC the earnest money of \$8,000.00 to be disbursed to the Seller at closing or disbursed as required by the terms of this Contract in the event the transaction fails to close for the reasons set forth herein.



- 3. <u>Conditions Precedent</u>. The following shall be conditions precedent to any obligation of the parties to close on the purchase and sale of the License:
- a) Approval by the Alcoholic Beverage Control Board of the application for transfer of ownership and location of the License from the Seller to the Buyer at the Buyer's new location or to no premises; and
- b) Unconditional non-protest by the Matanuska Susitna Borough of the transfer of ownership and location of the License; and
- c) The issuance by the Matanuska Susitna Borough of a conditional use permit for the operation of a restaurant with a beverage dispensary liquor license
- d) The license being a valid, existing License approved for issuance by the ABC Board.
- e) The absence of any liens or encumbrances against the License: and
- f) The absence of any judicial or administrative proceedings, affecting the License; and
- g) The absence of any action or proceeding filed by the other party, including without limitation, any proceeding seeking relief under the federal bankruptcy laws or any other applicable law for the relief of debtors of the United States of America or any state or territory thereof, which shall be instituted or threatened by or against either party on or prior to the closing date, and which could reasonably be considered as adversely impacting the filing party's ability to fulfill its responsibilities under this Agreement.
- h) That the Buyer provide to the Seller, within ten (10) days of the exercise of the option proof that the Buyer has the financial capacity to complete this transaction and pay the purchase price of the License.
- 4. Failure of a Condition Precedent. In the event that any condition precedent hereto does not occur through no fault of either party, of if the Seller is not reasonably satisfied with the proof of the Buyer's financial capacity and gives notice of the same within ten (10) days of receipt of the required proof, all parties shall be relieved of all obligations set forth herein, with each party to bear such costs and fees as they may have incurred. The earnest money deposit shall thereafter be refunded to the Buyer, less any obligations of the Buyer to the Seller.
 - a) Should the transaction fail to close due to the failure of any condition precedent resulting from a wrongful act or omission by the Seller or from Seller's breach of this Agreement, the Seller's liability shall be limited to refunding the earnest money deposit to the Buyer and paying all of the costs and fees associated with the transaction incurred by the Buyer, provided,



however, that the Seller shall not be required to pay any of the Buyer's costs and fees in excess of \$3,000.00.

- b) Should any condition precedent fail to occur as the result of a wrongful act or omission by the Buyer or Buyer's breach of this Agreement, the Seller shall be entitled to retain the earnest money deposit which shall be split 50/50 between the Seller and the Brokers.
- c) These limitations on liability have been negotiated by and specifically bargained for by the parties. These limitations are material to this transaction. These limitations are not intended to penalize either party. Rather, they are intended to limit the risks to both parties should there be an action or omission by either party that results in the license not being transferred. These limitations recognize that damages would be difficult to determine if one party or the other breached this Contract. These limitations, recognizing that difficulty, are intended to establish an amount that reasonably approximates the damages either party would suffer and protects both parties from the costs and risks of litigation.
- 5. <u>Closing</u>. Closing will occur in Eagle River, Alaska at the office of Keller Williams Realty Alaska Group, located at 11901 E Business Blvd #105 on or before ten (10) days after the date that the Alcoholic Beverage Control Board formally approves the transfer of ownership and location of the License provided that the Matanuska Susitna Borough has issued a Conditional Use Permit.
- 6. <u>Seller's Representations and Warranties</u>. The Seller expressly represents and warrants as follows:
 - a) The Seller has no actual knowledge of any reason why the License being sold hereunder cannot be transferred to the Buyer. The License is or will be a valid, existing license through 2017. All fees associated with the license have been paid. There are no liens and encumbrances against the License, or if any liens or encumbrances are found to exist between now and closing, the same will be removed by the Seller at or before closing at the Seller's sole expense.
 - b) All outstanding sales taxes, real and personal property taxes, all wages due and payable to employees along with the taxes and other contributions associated therewith and all invoices for amounts owed under vendor and trade accounts for utilities, supplies, services and the like, arising from the operation of the License being sold hereunder shall be paid and provided for by the Seller prior to closing.
 - i) After closing, the Seller shall continue to be liable for and shall pay for and indemnify the Buyer and hold the Buyer harmless from and against any and all amounts owed that may come due after closing but are related to that period of time during which the Seller operated the License prior to closing.



- c) The individual who has executed this Agreement on behalf of the Seller has been authorized to execute this Agreement intending that the Seller be bound by the terms and provisions hereof.
- d) The Seller shall cooperate in the transfer of the ownership and location of the License to the Buyer and will not, during the pendency of this transfer, do or permit to occur anything which would prevent or delay the transfer of the License.
- e) The Seller has employed Dustin Renner, a Sales Associate with Keller Williams Realty, as broker to whom commission is due in the amount of SIX PERCENT (6%) of the gross sales price. The commission shall be split 50/50 with Jill Reese, Broker for Coho Realty, LLC. Both Brokers are acting as "Neutral Agents" in the transaction.
- f) The Seller is unaware of any pending or unasserted claims against the License by any party or governmental entity.
- g) To the best of the present knowledge and belief of the Seller, all laws, rules, and regulations of the borough, state, and federal governments have been complied with. There are no pending administrative actions against the License. The Seller will apply and take all steps necessary for the waiver of the annual operating requirements for the calendar year 2016. Seller will pay the waiver fees. If the waiver is not granted, then this Contract shall be null and void.
- h) Seller through Seller's Brokers shall actively market liquor license to sell to other parties before June 1, 2017. If liquor license sells and transfers to another party before June 1, 2017, this Contract shall be null and void.
- 6. <u>Buyer's Representations and Warranties</u>. The Buyer expressly represents and warrants as follows:
- a) The Buyer knows of no reason why the License cannot be transferred to the Buyer.
- b) The Buyer is purchasing the license as Individuals. Buyer may elect to purchase the license under another business entity, such as a limited liability corporation, if such corporation is established prior to exercise of this Option to Purchase and is in good standing.
- c) The Buyers have not been convicted of a felony, have not had a liquor license suspended or revoked in the State of Alaska or any other jurisdiction, and have not been convicted of a misdemeanor involving alcohol during the past ten (10) years.



- d) Sales Associate, Dustin Renner, Keller Williams Realty Alaska Group and Broker, Jill Reese, Coho Realty LLC, are assisting the Buyer and Seller as "Neutral Agents", with the Seller paying commission.
- 7. <u>Transfer of Liquor License</u>. The parties agree to cooperate in the transfer of the ownership and location of the License by executing any and all forms, applications, affidavits and other documents required for such purposes by the Alcoholic Beverage Control Board and by appearing before the Alcoholic Beverage Control Board and the Matanuska Susitna Borough as may be required to secure approval of the license transfer.
- a) The Buyer, with the cooperation of the Seller, shall be responsible for the preparation of the transfer application; for posting the application; and for advertising the transfer of ownership and location, all of which is required in order to transfer the ownership and location of the License. The Buyer shall file the application promptly once it has been completed and shall pay the filing fees required by the ABC Board.
- 8. <u>Transfer Application Documents</u>. The following documents, at minimum, must be completed, executed by both parties and filed with the ABC Board along with the requisite fees, to obtain ABC Board approval of the transfer of ownership and location of the License:
 - a) Two page transfer application forms (Both parties);
 - b) Statement of Financial Interest (Buyer);
 - c) Creditor's Affidavit (Seller);
 - d) Proof of right, title and interest in the premises to which the license is to be transferred (Buyer);
 - e) Diagram of the proposed licensed premises (Buyer);
 - f) Affidavit of Posting (Buyer);
 - g) Affidavit of Publication (Buyer's attorney);
 - h) Personal History forms and/or finger print cards (Buyer);
 - i) Such additional documentation as may be required by the ABC Board or the Matanuska Susitna Borough (Buyer and/or Seller).
- 9. <u>Conditional Use Application</u>. The Buyer shall complete and file an Application with the Matanuska Susitna Borough to obtain a Conditional Use permit approving the location for the operation of a Beverage Dispensary Liquor



License on premises as soon as practicable after the exercise of this Option to Purchase and shall pay the filing fees required by the Borough.

- a) The parties acknowledge and understand that the Conditional Use Application process is a separate process from the process of transferring ownership and location of the License. The transfer of ownership and location is predominantly an ABC Board process.
- b) Both processes (the liquor license transfer process and the conditional use permitting process) must be brought to a successful conclusion for this transaction to close.
- c) The Buyer shall be solely responsible for the preparation of the Conditional Use Permit application with the Matanuska Susitna Borough.
- 10. <u>Broker Participation</u>. The Brokers will assist the parties in the preparation of the license transfer application forms and related documents; will handle the advertising publication; will file the completed application and related documents with the ABC Board; will make such presentations to the staff of the ABC Board and the Matanuska Susitna Borough as may be required with regard to the transfer of ownership and location of the License and with regard to the Conditional Use application; and will deal with the ABC Board and the Matanuska Susitna Borough Planning Commission, making such presentations as may be required. The Brokers are not attorneys and cannot give legal advice. Both Buyer and Seller are encouraged to engage their own legal representatives.
 - a) The Buyer and the Seller shall both attend the ABC Board meeting when the License transfer of ownership and location is being considered by the ABC Board. Attendance may be accomplished telephonically, if the ABC Board meeting is not in Anchorage.
 - b) The Seller shall attend the Matanuska Susitna Borough Planning Commission meeting when the issue of the transfer and the conditional use permit are before the Commission.
- 11. <u>Time.</u> Time is of the essence of this agreement. The parties shall use due diligence and their best efforts to accomplish the transfer of ownership and location as quickly as possible after the exercise of the Option to Purchase by the Buyer.
- 12. Entire Agreement. This Contract embodies the entire agreement between the parties. There are no other agreements, oral or written, except as are contained herein.
- 13. <u>Modification</u>. There shall be no modification of this Contract unless it is in writing signed by the parties.



- 14. Document Preparation and Construction. This document was drafted by Jill Reese, Broker, Coho Realty LLC on behalf of the Buyer and Seller. The Buyer and Seller have been advised to obtain their own legal counsel in this transaction. Counsel being available to all parties to this transaction, the rule of construction that a document be construed most strictly against the drafter shall not apply to any judicial construction or interpretation of this document. This document is to be construed according to the laws of the State of Alaska.
- 15. Costs. The Buyer shall pay all fees and costs associated with the transfer of ownership and location of the License and all fees or costs incurred in or assessed by the Matanuska Susitna Borough with regard to the Conditional Use Permit
 - a) The Seller's biennial License renewal fee in the amount of _____ shall be prorated as of the date of closing.
- Notices. All notices, requests, demands and other communications 13. required or permitted hereunder shall be in writing, and shall be deemed duly given if delivered personally or sent by registered mail (with adequate postage prepaid) to the parties' addresses as set forth above, or such other address as a party may advise the other party of in writing.
- 14. Survivability of Contract. The terms and provisions of this Contract shall survive closing.

IN WITNESS WHEREOF, the parties have executed this Contract for Purchase and Sale of a Beverage Dispensary Liquor License on the day and year first above written.

SIGNATURES OF THE PARTIES

7

James David Psenak

Buyer

Contact Ph. No. 90

Email: voc-alginec qu

Juhree' Denise Psenak

Buyer

Contact Ph. No. 901-232-5666

King Mountain Lodge, LLC Seller

By:

Its:

Contact Ph. No.

Email: mchedrick2003@yahoo.com

Option P&S/King Mtn. Lodge/Pesenak

Dustin Renner, Neutral Agent Keller Williams Realty Alaska Group

Jill Reese, Neutral Agent Coho Realty, LLC

By:	Dustin Renner	
	h Na ₀₁ 9974841.0128	

Email: dustin@synergyhometeam.com

By: _ Contact Ph. No. 907.575.9618

Email: jilreese@gmail.com





Liquor License

Wednesday, November 29, 2017 12:24 PM

From: "Jill Reese" < jilreese@gmail.com>

To: mchedrick2003@yahoo.com

Cc: "Dustin Renner" <dustin@synergyhometeam.com> redwillow8@yahoo.com

Hello, Mike:

I contacted Jim and Juhree' about the possibility of operating the license at the lodge for December. They are not prepared to do that, they say it would be too difficult to get the building prepared, an operating agreement written and executed, and the business set up in time.

I'm still waiting on information from AMCO. Sent an email to them again yesterday.

I'll be in touch as soon as I hear back.

Jill Reese Coho Realty LLC

(cell) 907.575,9618

The information transmitted is intended only for the person or entity to which it is addressed and may contain confidential and/or privileged material. Any review, retransmission, dissemination or other use of, or taking of any action in reliance upon, this information by persons or entities other than the intended recipient is prohibited. If you are not the intended recipient of this message, please contact the sender and delete this material from this

AGREEMENT TO PURCHASE A BEVERAGE DISPENSARY LIQUOR LICENSE

THIS AGREEMENT is entered into this 14 day of August, 2017, between King Mountain Lodge, LLC, whose address for all purposes herein is Box 1177, Palmer, AK 99645, hereinafter "Seller", and James David Psenak and Juhree' Denise Psenak, whose address for purposes herein is Box 419, Palmer, AK 99645, hereinafter "Buyer".

WHEREAS, the Seller is the owner of Beverage Dispensary Liquor License Number 612, issued by the State of Alaska Alcoholic Beverage Control Board (hereafter "License"); and

WHEREAS, the Buyer desires to purchase the aforesaid License; and

WHEREAS, the parties hereto have reached an agreement with regard to the purchase and sale of the aforesaid License and the transfer of its ownership and location to the Buyer's business premises, and wish to reduce their agreements to writing;

NOW, THEREFORE, in consideration of the mutual covenants, conditions and promises contained herein, the receipt and sufficiency of which is acknowledged by the parties hereto,

IT IS HEREBY AGREED as follows:

- 1. <u>Subject Matter</u>. The Seller shall sell and the Buyer shall buy License No. 612 on the terms and conditions set forth herein.
- 2. Purchase Price. The purchase price of the License sold by the Seller to the Buyer is SEVENTY THOUSAND and NO/100s DOLLARS (\$70,000.00). This total purchase price, including the earnest money payment of THREE THOUSAND FIVE HUNDRED and NO/100s DOLLARS (\$3,500.00), shall be payable in cash or certified funds, at closing by payment to the Seller through the Trust Account of Keller Williams Alaska Group, adjusted by any closing costs due from Seller, including commission payable in the amount of ZERO PERCENT (0%) of the gross sales price of the License. The commission shall be split 50/50 between Jill Reese, Coho Realty, LLC and Dustin Renner, Keller Williams Alaska Group, acting as "Neutral Agents" in this transaction.
 - a) At the execution of this agreement, the Buyer shall deposit to the abovenamed Trust Account earnest money of \$3,500.00 to be disbursed to the Seller at closing or disbursed as required by the terms of this Contract in the event the transaction fails to close for the reasons set forth herein.
 - 3. <u>Conditions Precedent</u>. The following shall be conditions precedent to any obligation of the parties to close on the purchase and sale of the License:



- a) Approval by the Alcoholic Beverage Control Board of the application for transfer of ownership and location of the License from the Seller to the Buyer at the Buyer's new location
- b) Unconditional non-protest by the Matanuska Susitna Borough of the transfer of ownership and location of the License;
- c) The issuance by the Matanuska Susitna Borough of a conditional use permit for the operation of a restaurant with a beverage dispensary liquor license;
- d) The license being a valid, existing License approved for issuance by the ABC Board;
- e) The absence of any liens or encumbrances against the License:
- f) The absence of any judicial or administrative proceedings, affecting the License;
- g) The absence of any action or proceeding filed by the other party, including without limitation, any proceeding seeking relief under the federal bankruptcy laws or any other applicable law for the relief of debtors of the United States of America or any state or territory thereof, which shall be instituted or threatened by or against either party on or prior to the closing date, and which could reasonably be considered as adversely impacting the filing party's ability to fulfill its responsibilities under this Agreement.
- 4. <u>Failure of a Condition Precedent</u>. In the event that any condition precedent hereto does not occur through no fault of either party, all parties shall be relieved of all obligations set forth herein, with each party to bear such costs and fees as they may have incurred. The earnest money deposit shall thereafter be refunded to the Buyer, less any obligations of the Buyer to the Seller.
 - a) Should the transaction fail to close due to the failure of any condition precedent resulting from a wrongful act or omission by the Seller or from Seller's breach of this Agreement, the Seller's liability shall be limited to refunding the earnest money deposit to the Buyer and paying all of the costs and fees associated with the transaction incurred by the Buyer, provided, however, that the Seller shall not be required to pay any of the Buyer's costs and fees in excess of \$3,000.00.
 - b) Should any condition precedent fail to occur as the result of a wrongful act or omission by the Buyer or Buyer's breach of this Agreement, the Seller shall be entitled to retain the earnest money deposit plus receive negotiated damages up to the amount of the purchase price to account for any loss of the opportunity to remarket the license.



- c) These limitations on liability have been negotiated by and specifically bargained for by the parties. These limitations are material to this transaction. These limitations are not intended to penalize either party. Rather, they are intended to limit the risks to both parties should there be an action or omission by either party that results in the license not being transferred. These limitations recognize that damages would be difficult to determine if one party or the other breached this Contract. These limitations, recognizing that difficulty, are intended to establish an amount that reasonably approximates the damages either party would suffer and protects both parties from the costs and risks of litigation.
- 5. Closing. Closing will occur in Wasilla, Alaska at the office of Keller Williams Alaska Group, located at 1981 E. Palmer-Wasilla Highway on or before ten (10) days after the date that the Alcoholic Beverage Control Board formally approves the transfer of ownership and location of the License provided that the Matanuska Susitna Borough has issued a Conditional Use Permit.
- 6. Seller's Representations and Warranties. The Seller expressly represents and warrants as follows:
 - a) The Seller has no actual knowledge of any reason why the License being sold hereunder cannot be transferred to the Buyer. The License is or will be a valid, existing license through 2017. All fees associated with the license have been paid. There are no liens and encumbrances against the License, or if any liens or encumbrances are found to exist between now and closing, the same will be removed by the Seller at or before closing at the Seller's sole expense.
 - b) All outstanding sales taxes, real and personal property taxes, all wages due and payable to employees along with the taxes and other contributions associated therewith and all invoices for amounts owed under vendor and trade accounts for utilities, supplies, services and the like, arising from the operation of the License being sold hereunder shall be paid and provided for by the Seller prior to closing.
 - i) After closing, the Seller shall continue to be liable for and shall pay for and indemnify the Buyer and hold the Buyer harmless from and against any and all amounts owed that may come due after closing but are related to that period of time during which the Seller operated the License prior to closing.
 - c) The individual who has executed this Agreement on behalf of the Seller has been authorized to execute this Agreement intending that the Seller be bound by the terms and provisions hereof.
 - d) The Seller shall cooperate in the transfer of the ownership and location of the License to the Buyer and will not, during the pendency of this transfer, do or permit to occur anything which would prevent or delay the transfer of the License.



- e) The Seller has employed Dustin Renner, a Sales Associate with Keller Williams. as broker to whom commission is due in the amount of ZERO PERCENT (0%) of the gross sales price. The commission shall be split 50/50 with Jill Reese, Broker for Coho Realty, LLC. Both Brokers are acting as "Neutral Agents" in the transaction.
- f) The Seller is unaware of any pending or unasserted claims against the License by any party or governmental entity.
- g) To the best of the present knowledge and belief of the Seller, all laws, rules, and regulations of the borough, state, and federal governments have been complied with. There are no pending administrative actions against the License. The Seller will apply and take all steps necessary for the waiver of the annual operating requirements for the calendar year 2016. Seller will pay the waiver fees. If the waiver is not granted, then this Contract shall be null and void.
- б. Buyer's Representations and Warranties: The Buyer expressly represents and warrants as follows:
 - a) The Buyer knows of no reason why the License cannot be transferred to the Buyer.
 - b) The Buyer is purchasing the license as Individuals. Buyer may elect to purchase the license under another business entity, such as a limited liability corporation, if such corporation is established prior to exercise of this Option to Purchase and is in good standing.
 - c) The Buyers have not been convicted of a felony, have not had a liquor license suspended or revoked in the State of Alaska or any other jurisdiction, and have not been convicted of a misdemeanor involving alcohol during the past ten (10) years.
 - d) Sales Associate, Dustin Renner, Keller Williams Alaska Group and Broker, Jill Reese, Coho Realty LLC, are assisting the Buyer and Seller as "Neutral Agents", with the Seller paying commission.
 - 7. Transfer of Liquor License. The parties agree to cooperate in the transfer of the ownership and location of the License by executing any and all forms, applications, affidavits and other documents required for such purposes by the Alcoholic Beverage Control Board and by appearing before the Alcoholic Beverage Control Board and the Matanuska Susitna Borough as may be required to secure approval of the license transfer.
 - a) The Buyer, with the cooperation of the Seller, shall be responsible for the preparation of the transfer application; for posting the application; and for advertising the transfer of ownership and location, all of which is required in order to transfer the ownership and location of the License. The Buyer shall file

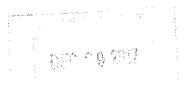


the application promptly once it has been completed and shall pay the filing fees required by the ABC Board.

- 8. Transfer Application Documents. The following documents, at minimum, must be completed, executed by both parties and filed with the ABC Board along with the requisite fees, to obtain ABC Board approval of the transfer of ownership and location of the License:
 - a) Two page transfer application forms (Both parties);
 - b) Statement of Financial Interest (Buyer);
 - c) Creditor's Affidavit (Seller):
 - d) Proof of right, title and interest in the premises to which the license is to be transferred (Buyer);
 - e) Diagram of the proposed licensed premises (Buyer);
 - f) Affidavit of Posting (Buyer);
 - g) Affidavit of Publication (Buyer's attorney);
 - h) Personal History forms and/or finger print cards (Buyer);
 - i) Such additional documentation as may be required by the ABC Board or the Matanuska Susitna Borough (Buyer and/or Seller).
- 9. Conditional Use Application. The Buyer shall complete and file an Application with the Matanuska Susitna Borough to obtain a Conditional Use permit approving the location for the operation of a Beverage Dispensary Liquor License on premises as soon as practicable after the exercise of this Option to Purchase and shall pay the filing fees required by the Borough.
 - a) The parties acknowledge and understand that the Conditional Use Application process is a separate process from the process of transferring ownership and location of the License. The transfer of ownership and location is predominantly an ABC Board process.
 - b) Both processes (the liquor license transfer process and the conditional use permitting process) must be brought to a successful conclusion for this transaction to close.
 - c) The Buyer shall be solely responsible for the preparation of the Conditional Use Permit application with the Matanuska Susitna Borough.



- 10. Broker Participation. Upon request, the Brokers will assist the parties in the preparation of the license transfer application forms and related documents, and the advertising publication; will file the completed application and related documents with the ABC Board; will make such presentations to the staff of the ABC Board and the Matanuska Susitna Borough as may be required with regard to the transfer of ownership and location of the License and with regard to the Conditional Use application; and will deal with the ABC Board and the Matanuska Susitna Borough Planning Commission, making such presentations as may be required. The Brokers are not attorneys and cannot give legal advice. Both Buyer and Seller are encouraged to engage their own legal representatives.
 - a) The Buyer and the Seller shall both attend the ABC Board meeting when the License transfer of ownership and location is being considered by the ABC Board. Attendance may be accomplished telephonically, if the ABC Board meeting is not in Anchorage.
 - b) The Seller shall attend the Matanuska Susitna Borough Planning Commission meeting when the issue of the transfer and the conditional use permit are before the Commission.
- 11. Time. Time is of the essence of this agreement. The parties shall use due diligence and their best efforts to accomplish the transfer of ownership and location as quickly as possible after execution of this Agreement.
- 12. Entire Agreement. This Contract embodies the entire agreement between the parties. There are no other agreements, oral or written, except as are contained herein.
- 13. Modification. There shall be no modification of this Contract unless it is in writing signed by the parties.
- 14. Document Preparation and Construction. This document was drafted by Jill Reese, Broker, Coho Realty LLC on behalf of the Buyer and Seller. The Buyer and Seller have been advised to obtain their own legal counsel in this transaction. Counsel being available to all parties to this transaction, the rule of construction that a document be construed most strictly against the drafter shall not apply to any judicial construction or interpretation of this document. This document is to be construed according to the laws of the State of Alaska.
- 15. Costs. The Buyer shall pay all fees and costs associated with the transfer of ownership and location of the License and all fees or costs incurred in or assessed by the Matanuska Susitna Borough with regard to the Conditional Use Permit
 - a) The Seller's biennial License renewal fee shall be prorated as of the date of closing.



- 13. All notices, requests, demands and other communications required or permitted hereunder shall be in writing, and shall be deemed duly given if delivered personally or sent by registered mail (with adequate postage prepaid) to the parties' addresses as set forth above, or such other address as a party may advise the other party of in writing.
- 14. Survivability of Contract. The terms and provisions of this Contract shall survive closing.

IN WITNESS WHEREOF, the parties have executed this Contract for Purchase and Sale of a Beverage Dispensary Liquor License on the day and year first above written.

SIGNATURES OF THE PARTIES

James David Psenak Buyer	King Mountain Lodge, LLC Seller
By: James David Psenak DE2189E87276425	By: Michael Hedrick Its: 9E0FF04636134C2
Contact Ph. No. 907-355-8330 Email: jpc-alpine@gci.net	Its: —9E0FF04636134C2 Contact Ph. No. 907-354-4285 Email: mchedrick2003@yahoo.com
Juhree' Denise Psenak Buyer By: Juric' Dinise Ismak Contact Planz (Negr. 907-232-5666	
Dustin Renner, Neutral Agent Keller Williams Alaska Group	Jill Reese, Neutral Agent Coho Realty, LLC
By: Dustin Runner	By:

GontacetzRh. No. 907.575.9618

Email: jilreese@gmail.com

ContactsRh17No46907.841.0128

Email: dustin@synergyhometeam.com