



MEMORANDUM

TO: Alcoholic Beverage Control Board

DATE: July 9, 2019

FROM: Erika McConnell, Director

RE: 4665 Hutchinson Commercial Co.

Requested Action: Appeal of license forfeiture; request for time extension

Statutory Authority: AS 04.11.030(b): "If an application for the transfer of ownership of a license from a deceased licensee is not made within 90 days of the death of the licensee or within an additional 90 days if an application for transfer of ownership made by the executor is denied, or no petition is made to the board for an extension of time under (c) of this section within the time, the license is forfeited."

AS 04.11.030(c): "The board may extend the time limits in (b) of this section on petition of the executor or administrator."

Background: License 4665 for Hutchinson Commercial Co., a package store, is held by Earla Hutchinson. Earla Hutchinson died on September 25, 2018. The license was declared forfeited on May 21, 2019.

The personal representative of her estate, Dick Hutchinson, is appealing the forfeiture of the license and is requesting additional time to file a transfer.

Attachment: Representative request

From: [Dick Hutchinson](#)
To: [Milton, Mikal C \(CED\)](#)
Subject: Appeal License #4665
Date: Wednesday, May 29, 2019 2:05:37 PM

Dear Mr. Milton,

I wish to appeal this decision. I was told I couldn't do anything with my wife's estate until I was designated her representative. We both had wills made out at the same time but when presenting hers to an attorney they couldn't find the original on file and our original lawyer was deceased. It took 7 months for the court to finally make a decision I was her representative. It was then we found out about the 90 day rule as we were finally going to clear things up with her estate. I want to continue and transfer her license #4665 to me if possible.

Where do I start?

Regards
Dick Hutchinson

To: Alcoholic Beverage Control Board

Date: June 18, 2019

From: Richard F. Hutchinson,
Individually & as Personal Representative of the Estate of Earla Hutchinson

I appeal the forfeiture of license #4665 and request I be allowed to submit a transfer application for the following reasons:

- 1. The license should be reinstated because Alaska Statutes AS 04.11.030(a) and (b) only apply to a sole licensee;**
- 2. The license should be reinstated because in my situation it was impossible to be appointed personal representative and submit a transfer application within 90 days of the date of death; and**
- 3. Strict application of the 90 day transfer time period in AS 04.11.030(b) results in a harsh and unreasonable forfeiture in my situation.**

Point 1:

Earla Hutchinson and I had been married for over 50 years when she died. You do not stay married to one person for that long owning things as “yours” and “mine.” Everything we owned was joint. Our children, our house, joint tax returns, everything was ours together; we were in it together.

Liquor license #4665 was no exception. We used “our” money to get the liquor license, we used “our” property as the store, and we were both fingerprinted and had our backgrounds checked to get the liquor license. I do not know how names were officially placed on the liquor license, but any indication that it was not “joint” would have been a clerical error. The license should be reinstated because Earla Hutchinson was not the “sole licensee” and Alaska Statutes AS 04.11.030(a) and (b) only apply to a “sole licensee.”

Point 2:

I acted with diligence to become appointed personal representative of Earla Hutchinson’s estate; nevertheless, it was more than 90 days after her death that I was appointed. Alaska Statutes 04.11.030(b) and (c) both specify that the application for transfer or extension of time be made by the executor or administrator. This was not possible in this case because I only had a copy of Earla’s will and was required to have a formal court hearing to become appointed as personal representative.

A death certificate is required to file paperwork with the court to be appointed personal representative, it takes approximately 15-20 days to get a death certificate. You have to request a court hearing date for a formal proceeding (which my probate attorney advised me was required for a copy of a will), it takes approximately 7-10 days to get your hearing date. The court has to

schedule the hearing at least 31 days out, but due to the reality of the court's next available hearing date, getting the paperwork to the newspaper, getting the add approved, and having a little bit of buffer time, the hearing is usually scheduled 45-60 days out. Even after I attended the hearing with the magistrate judge and there was no objection, it was an additional 35 days before I received my Letters Testamentary. Additionally, I live in a small isolated Alaska bush community of approximately 85 people which causes additional delays.

Based on the above, it was impossible for me to be appointed personal representative and apply for a transfer or for an extension of time to apply for a transfer within the 90 day timeline. I request that the license be reinstated, and I be given time to file the appropriate transfer paperwork.

Point 3:

In addition to what I have set forth in Points 1 and 2 above, my appeal should be granted "to avoid the harsh result of forfeiture where it seems unreasonable." This point was set forth in Director Erika McConnell's memorandum to the Alcoholic Beverage Control Board dated April 29, 2019. This memorandum was addressing the very statutes at play in my situation. A copy of that memorandum is attached for convenience.

I am almost 80 years of age and in the twilight of my working years. My income from liquor sales is part of what I use to support myself. The income from alcohol sales is not so high that I can afford to hire an Anchorage attorney who specializes in liquor licenses to help me appeal the forfeiture, but it is not so small that it will not have an impact on me and my personal finances. The loss of the license in this case is harsh and unreasonable and it should be reinstated.

Conclusion:

For the reasons set forth in points 1, 2, and 3 above I ask that you reinstate liquor license #4665 and allow me to submit a transfer application so Earla's interest in the liquor license can be transferred to me according to her wishes.

Sincerely,

A handwritten signature in cursive script that reads "Richard F. Hutchinson". The signature is written in dark ink and is positioned above the printed name.

Richard F. Hutchinson