

Notice of Violation

(3AAC 304.525)

This form, all information provided and responses are public documents per Alaska Public Records ACT AS 40.25

Date: 9/28/20

License #/Type: 375

Beverage Dispensary

Licensee: James D. & Darla L. Fimpel

Address: Mile 128 Glenn Hwy, MatSu Borough, AK

DBA: Eureka Lodge

AMCO Case #: 20-1062

This is a notice to you as licensee that an alleged violation has occurred. If the Alcoholic Beverage Control Board decides to act against your license, under the provisions of AS 44.62.330 - AS 44.62.630 (Administrative Procedures Act) you will receive an Accusation and Notice of your right to an Administrative Hearing.

Note: This is not an accusation or a criminal complaint.

On 9-17-20, Inv Hamilton conducted an inspection at your establishment. First noticed were the three required by statute signs not posted on the licensed premises. Licensee Fimpel was asked to provide proof of server education to which she stated she had server education but could not provide it. She was provided Inv Hamilton's business card and instructed her to send him proof as soon as she could. AMCO records indicate Fimpel has been a licensee for at least 15 years. Contact was made with Alaska CHARR, the provider of Techniques for Alcohol Professionals, who stated Fimpel's previous education card, #141744, had expired on 2-13-19. In a follow-up e-mail, they stated Fimpel had obtained current server education on 9-18-20, after the inspection. As of 9-28-20, AMCO has not received correspondence from Fimpel indicating she has server education.

Your attention is directed to AS 04.21.065: Posting of warning signs and AS 04.21.025: Alcohol server education course

You are directed to respond in writing to this Notice of Violation within 10 days of receipt to explain what action you have taken to prevent a re-occurrence of this violation. FAILURE TO RESPOND TO THIS NOTICE OF VIOLATION WITHIN 10 DAYS WILL RESULT IN YOUR APPEARANCE, EITHER IN PERSON OR TELEPHONICALLY, BEFORE THE ABC BOARD AT THEIR NEXT REGULARLY SCHEDULED BOARD MEETING.

***Please send your response to the address below and include your alcohol license number in your response.**

3 AAC 304.525 (B) provides that upon receipt of a Notice of Violation, a licensee may request to appear before the Director and be heard regarding the Notice of Violation. The request must be made within ten days after receipt of the Notice and the Director must grant an appearance within ten days after receipt of a request. A Licensee shall respond, either orally or in writing, to the Notice.

Alcohol & Marijuana Control Office
ATTN: Enforcement
550 W. 7th Ave, Suite 1600
Anchorage, Alaska 99501
amco.enforcement@alaska.gov

Issuing Investigator: J. Hamilton

Received by:

SIGNATURE:

J.R. Hamilton

SIGNATURE:

Darla Fimpel
D.F. Fimpel

Delivered VIA: Mail

Date:

9/6/20

9/5/20

License #375

ATTN: Alcohol Enforcement

In response to Eureka Lodge violations we have:

① Put new signage up, the three required by statute. (signs were taken down to put up all the COVID 19 signs and we forgot to put back up the three required signs.)

② Server Education class has been taken and passed.

I am not here alot anymore and did not realize mine had expired. I took it as soon as I realized it was expired.

③ We have submitted a new floor plan so we may serve alcoholic beverages in our main dining room as well as the bar.

We have held a liquor license for the past 25 years and never had a violation.

④ License is hanging in sight in bar.
D. Fisel

Notice of Violation

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Date: 7/21/20

License #/Type: 4915

Restaurant/Eating Place-Public Convenience Seasonal

Licensee: Taco Dans LLC

Address: 1401 4th Ave, Seward, AK

DBA: Gulf of Alaska Food Court

AMCO Case #: 19-1461 and 19-1562

This is a notice to you as licensee that an alleged violation has occurred. If the Alcoholic Beverage Control Board decides to act against your license, under the provisions of AS 44.62.330 - AS 44.62.630 (Administrative Procedures Act) you will receive an Accusation and Notice of your right to an Administrative Hearing.

Note: This is not an accusation or a criminal complaint.

Attached are two notice of violations that were sent to you in Oct of 2019. Our records indicate that you have not responded to either of the notices as required by Title IV.

Your attention is directed to 3AAC 304.525: Communications with licensees

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Notice of Violation

(3AAC 304.525)

This form, all information provided and responses are public documents per Alaska Public Records ACT AS 40.25

Date: 10/14/19

License #/Type: 4915

Restaurant/Eating Place-Public Convenience Seasonal

Licensee: Taco Dans LLC

Address: 1401 4th Ave, Seward, AK

DBA: Gulf of Alaska Food Court

AMCO Case #: 19-1562

This is a notice to you as licensee that an alleged violation has occurred. If the Alcoholic Beverage Control Board decides to act against your license, under the provisions of AS 44.62.330 - AS 44.62.630 (Administrative Procedures Act) you will receive an Accusation and Notice of your right to an Administrative Hearing.

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Your approved premises diagrams depicts the food court as being open. In reality, there are walls between several areas in the premises that are not shown on your diagram. You will need to provide a revised licensed premises diagram that accurately reflects the built environment.

Your attention is referred to 3AAC 304.185: Licensed premises, AS 04.16.150: Licensee responsible for violations and AS 04.21.030: Responsibility of licensees, agents, and employees

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Date: 10/14/19

License #/Type: 4915

Restaurant/Eating Place-Public Convenience Seasonal

Licensee: Taco Dans LLC

Address: 1401 4th Ave, Seward, AK

DBA: Gulf of Alaska food Court

AMCO Case #: 19-1461

This is a notice to you as licensee that an alleged violation has occurred. If the Alcoholic Beverage Control Board decides to act against your license, under the provisions of AS 44.62.330 - AS 44.62.630 (Administrative Procedures Act) you will receive an Accusation and Notice of your right to an Administrative Hearing.

Note: This is not an accusation or a criminal complaint.

On 8-27-19 an inspection was conducted at your establishment. As part of the inspection, Manager Petar V. Stoyanov was asked to provide proof of current server education to which he could not. He did state he had a TAP card. Inv. Hamilton instructed Stoyanov to e-mail or text his card when he found it. As of 10-14-19 he has failed to provide proof. Contact was made with Alaska CHARR who provides the TAP course. They relayed they have no records for Stoyanov.

Your attention is referred to 3AAC 304.465: Alcohol server education course, AS 04.21.025: Server education, AS 04.16.150: Licensee responsible for violations and AS 04.21.030: Responsibility of licensees, agents, and employees

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Received by:

SIGNATURE:

J.R. Hamilton

SIGNATURE:

Delivered VIA: Mail

Date:

July 27, 2020

VIA EMAIL

Alaska AMCO
Glen Klinkhart, Director
AMCO Enforcement Team
550 W. 7th Ave, Ste 1600
Anchorage, AK 99501

Re: License 822 (Klondike Pizzeria, LLC) and License 4915 (Taco Dan's, LLC)
NOV's dated July 21 and July 10, 2020

Dear Director Klinkhart and AMCO Enforcement Team,

I represent the above licensees. I am in receipt of Investigator Hamilton's multiple NOV's issued July 10, 2020 to our establishments in Seward, Alaska. On behalf of my clients, I submit the following responses:

1. AMCO Case Number 20-175 and 20-717

These violations were issued for lack of signage. The NOV numbered 20-175 is for lack of signage at Klondike's Pizzeria (133 4th Ave.) Although 20-717 is titled as a NOV for lack of signage at Gulf of Alaska Food Court (1401 4th Ave), the citation itself states "The establishment was missing the \$1500 civil penalty sign at the entrance/exit to Klondike Pizza".

Regardless of whether the NOV's were duplicitous or a mistake was made in drafting the language of 20-717, the signs have been posted and will remain posted. The signage continues to be confusing to new staff who believe that the signage signals to customers that minors are not allowed on the premises. Staff have been educated by the owners that the signs must remain posted and do not mean that minors are prohibited.

As seasonal businesses, re-education is generally required each year. We will continue to teach returning and new staff regarding signage. Managers and Owners will check each premises at the beginning of each season for required signage.

2. AMCO Case Number 19-1562

This NOV was originally issued on October 14, 2019 and regards a request for an updated premises diagram for License 4915 that more accurately depicts the premises.

The owners thought that they had forwarded this NOV and the other NOV issued the same day (AMCO Case Number 1461) to undersigned counsel for a response. We had very recently been retained by the licensees for several matters (the main matter not being NOV's), and documents were being exchanged in a flurry between the parties. The NOV's did not make it to counsel, while the licensees assumed that counsel had received them and responded to AMCO on their behalf in a timely manner.

Because counsel did not see the NOV regarding the premises diagram until the July 2020 set of NOV's were issued, the diagram was not updated. We will have an updated diagram to AMCO on or before July 31, 2020.

3. AMCO Case Number 19-1562

This NOV was issued for an employee not having a current TAPS card upon inspection. Again, the response was not made because the licensees mistakenly believed counsel had responded on their behalf.

The employee in question has not returned for the 2020 season. All employees have been reminded that they must have and maintain a current TAPS card for the licensed establishment to be compliant.

4. Unnumbered NOV for not responding to October, 2019 NOV's.

An additional NOV is in the packet that references the two 2019 case numbers above. This NOV was issued for failing to respond to the two October 2019 NOV's. Again, the lack of response was due to a miscommunication and mistaken assumption and was not deliberate. Counsel and licensees are in full communication and any future NOV's will be promptly addressed by counsel.

Thank you for the opportunity to respond to these NOV's. Please be assured that these licensed premises will remain in full compliance with all statutes and regulations related to their licenses. Feel free to contact me if you have further questions.

Respectfully,

THE LAW OFFICE OF BRADLY A. CARLSON, L.L.C.
ATTORNEYS FOR LICENSEES



Cynthia A. Franklin