

**STIPULATED AGREEMENT BEFORE THE ALCOHOLIC BEVERAGE  
CONTROL BOARD**

IN THE MATTER OF	)	
	)	
PHO LENA EAST, LLC	)	
	)	
RESTAURANT / EATING PLACE	)	AMCO NO. 21-1027-ABC
LICENSE #5050	)	
RESPONDENT	)	

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**STIPULATED AGREEMENT, PROPOSED DECISION, AND ORDER**

IT IS HEREBY AGREED by the Director ("Director") of the Alcohol & Marijuana Control Office ("AMCO") and Pho Lena East, LLC ("Respondent") as follows:

**1. Licensure.** Respondent, Pho Lena East, LLC, is the holder of Restaurant and Eating Place License Number 5050, located at 360 Boniface Parkway, A22, Anchorage, Alaska. Biphonh Morisath-Luce is the sole member and owner of the Respondent.

**2. Admission/Jurisdiction.** Respondent admits and agrees that the Alcoholic Beverage Control Board ("Board") has jurisdiction over the subject matter of each license or permit at issue in the above-captioned matter.

**3. Admissions/Underlying Counts.** Respondent admits that a member of its workforce offered a mixed drink containing a distilled spirit to a customer on the licensed premises of its business, in violation of AS 04.11.100(a), AS 04.16.045, AS 04.16.120(b),

**AMCO**  
**DEC 27 2022**

AS 04.16.150, and AS 04.21.030(2), and as described in the Accusation dated November 17, 2021 (Accusation”). Respondent acknowledges these admitted violations are a basis for the Board to take disciplinary action against a license or permit.

**4. Alternative Dispute Resolution.** The Respondent and AMCO met in alternative dispute resolution in an informal conference before the Accusation and a Notice of Defense were forwarded to the Office of Administrative Hearings. Because of that deliberative process, this stipulated agreement is proposed for Board approval.

**5. Formal Hearing Process.** It is the intent of the parties to this Stipulated Agreement to provide for the compromise and settlement of all issues addressed in the Accusation that were or could have been raised in the Accusation based on the same underlying facts.

**6. Waiver of Rights.** Respondent understands and agrees it has the right to consult with an attorney of its own selection and have a right to an administrative hearing on the facts in this case. Respondent understands and agrees that, by signing this Stipulated Agreement, it waives further rights to counsel and to a hearing. Further, Respondent understands and agrees that it is relieving AMCO of any burden it has of proving the facts above. Respondent further understands and agrees that by signing this Stipulated Agreement, it has voluntarily and knowingly giving up its right to present oral and documentary evidence, to present rebuttal evidence, to cross-examine witnesses against Respondents, and to appeal any adverse Board decision to Superior Court.

**7. Effect of Non-Acceptance of Settlement Agreement.** Respondent and AMCO agree that this Stipulated Agreement is subject to Board approval. The Parties agree that, if the Board rejects this Stipulated Agreement, it will be void, and the appeal of the denial will proceed. If this Stipulated Agreement is rejected by the Board, it will not constitute a waiver of Respondent's right to a hearing on the matters and the admissions contained herein will have no effect. Respondent agrees that if the Board rejects this Stipulated Agreement, the Board may decide the matter after a hearing, and its consideration of this Stipulated Agreement shall not alone be grounds for claiming that the Board is biased against Respondent, that it cannot fairly decide the case, or that it has received ex parte communication.

**8. Stipulated Agreement, Decision, and Order.** Respondent agrees that the Director and the Board have the authority to enter in the Stipulated Agreement and to issue the following Proposed Decision and Order. The Parties will accept entry of the Proposed Decision and Order if approved by the Board. Any requested changes from the Board will be brought back to the Parties for approval or declination.

**9. Good Faith.**

All Parties agree to act in good faith in carrying out the stated intentions of this Stipulated Agreement.

**10. Counterparts and Digital Signatures.** The Parties may execute this Stipulated Agreement in one of more counterparts, all of which when taken together will

constitute one and the same instrument. Scanned signatures or digitally authorized signatures shall have the same binding effect as a handwritten signature.

[end of page]

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IN THE MATTER OF	)	
	)	
PHO LENA EAST, LLC	)	
	)	
RESTAURANT / EATING PLACE	)	AMCO NO. 21-1027-ABC
LICENSE #5050	)	
RESPONDENT	)	

---

**PROPOSED DECISION AND ORDER**

IT IS HEREBY ORDERED that Pho Lena East, LLC (“Respondent”), holder of Restaurant and Eating Place License Number 2237 is subject to the following disciplinary actions:

1. **Fine.** Respondent shall pay a collective monetary fine of Nine Hundred and Fifty Dollars (\$950).

2. **Settlement of All Claims With Prejudice.** This Stipulated Agreement and Proposed Decision and Order resolves all allegations raised in the Accusation.

IT IS HEREBY FURTHER ORDERED that this Proposed Decision and Order shall take effect immediately upon its adoption by the Board and is a public record of the Board and the State of Alaska. The state may provide a copy of it to any person or entity,

including other licensing boards, federal, state, or local governments, or other entity making a relevant inquiry.

[end of page]



SIGNATORIES TO THE STIPULATED AGREEMENT AND PROPOSED ORDER

DATED this 7th day of February, 2022 at Anchorage, Alaska

ALCOHOL & MARIJUANA CONTROL OFFICE

By:   
Glen Klinkhart, Director

DATED this \_\_\_\_\_ day of February, 2022 at Anchorage, Alaska

PHO LENA EAST, LLC

By: \_\_\_\_\_  
Biponh Morisath-Luce, Member

AMCO  
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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: 9/16/21

License #/Type: 5050 Restaurant / Eating Place

Licensee: Pho Lena East, LLC

Address: 360 Boniface Parkway, A22-A-23, Anchorage, AK

DBA: Pho Lena East

AMCO Case #: 21-1027

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 9-15-21 AMCO received a complaint regarding an individual receiving a to go Lime-aid beverage order which tasted remarkably like a margarita. Licensee Morisath-Luce recalled the incident and stated she and her staff would never do such a thing. She stated they didn't even have hard alcohol on the premises; it was possible that the beverage had been sitting around a couple a days and may have begun to ferment. Licensee Morisath-Luce consented to a search behind the counter and in the first cabinet looked into, two opened and partially used bottles of tequila were found. When asked if she cooked with the alcohol, she said no. Licensee Morisath-Luce stated one of her attorney patrons had brought the tequila in for a private party on May 5th, 2021. She stated she would dispose of the rest of the tequila.

Your attention is referred to AS04.11.100(a): Restaurant or eating place which reads, "A restaurant or eating place license authorizes a restaurant or eating place to sell beer and wine for consumption only on the licensed premises". AS04.16.045: Obligation to enforce restrictions in licensed premises which reads "a licensee, an agent, or employee may not permit the consumption of alcoholic beverages by any person within licensed premises unless it is permitted by the license. AS04.16.120(b): Removal or introduction of alcoholic beverages which reads in part, "Except as provided in this subsection, a person may not bring an alcoholic beverage into licensed premises for use or consumption by oneself or another person on the premises unless that person is a licensee, an agent, employee, or common carrier in the regular course of employment. AS04.16.150: Licensee responsible for violations and AS04.21.030: Responsibilities of licensee, agents, and employees.

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. 7<sup>th</sup> Ave, Suite 1600**

**Anchorage, Alaska 99501**

**[amco.enforcement@alaska.gov](mailto:amco.enforcement@alaska.gov)**

Issuing Investigator: J. Hamilton

Received by:

SIGNATURE:

*J.R. Hamilton*

SIGNATURE:

**AMCO**

Delivered VIA: Mail

Date:

**DEC 27 2022**



Pho Lena East LLC  
360 Boniface Pkwy  
Anchorage, AK 99504

Re: Alcohol & Marijuana Control Office  
AMCO Case # 21-1027

To Whom it May Concern,

I, Biphonh Morisath-Luce responding to Notice of Violation issued to Pho Lena East LLC DBA Pho Lena East. I have checked with all my employees and can assure that no alcohol was added to the limeade. Our fresh squeezed limeade is one of the popular drinks on the menu. We have been doing business serving our community for over ten years. This complaint is very shocking and upsetting.

My waitress told me a customer called upset and was yelling at her. The customer said we put alcohol in the limeade and his young daughter drank it. We asked them to bring back the drink and apologized that it didn't taste right. We assured him there was no alcohol added to the beverage. The young girl came in with cups that were half empty. We made a new pitcher of the limeade and asked if she would like to get them replaced or refunded. She wanted new limeades and also brought a third cup. If there was any alcohol in those drinks, I believe they may have been added after they left our premises.

A couple of half empty alcoholic bottles were found in the back cabinet of our restaurant. I apologized this was my mistake. We had a family/friend gathering for my dad's 75<sup>th</sup> birthday. This was after our business closed for the night. A friend brought alcohol over to make margaritas since it was also Cinco De Mayo.

I had thought the alcohol was already removed. I did not know that I couldn't have had alcohol on site even after hours. All bottles have been removed and this will never happen again.

We are a small family-owned business and have been serving our community going twelve years. Our customers have become like family and friends to us. We would never do such a thing that would not only harm our customers, but also our license to do business.

Biphonh Morisath-Luce  
Pho Lena East LLC  
(907)244-1447

AMCO  
DEC 27 2021



# Alaska Alcoholic Beverage Control Board

## AB-17: 2023/2024 License Renewal Application

Alcohol and Marijuana Control Office  
550 W 7<sup>th</sup> Avenue,  
Suite 1600  
Anchorage, AK 99501  
[alcohol.licensing@alaska.gov](mailto:alcohol.licensing@alaska.gov)  
<https://www.commerce.alaska.gov/web/amco>  
Phone: 907.269.0350

Alaska Alcoholic Beverage Control Board

### Form AB-17: 2023/2024 General Renewal Application

- This form and any required supplemental forms must be completed, signed by the licensee, and postmarked no later than 12/31/2022 per AS 04.11.270, 3 AAC 304.160, with all required fees paid in full, or a non-refundable \$500.00 late fee applies.
- Any application for renewal or any fees for renewal that have not been postmarked by 2/28/2023 will be expired per AS 04.11.540, 3 AAC 304.160(e).
- All fields of this application must be deemed complete by AMCO staff and must be accompanied by the required fees and all documents required, or the application will be returned without being processed, per AS 04.11.270, 3 AAC 304.105
- Receipt and/or processing of renewal payments by AMCO staff neither indicates nor guarantees in any way that an application will be deemed complete, renewed, or that it will be scheduled for the next ABC Board meeting.

#### Section 1 - Establishment Contact Information

Licensee (Owner):	Pho Lena East, LLC	License #:	5050
License Type:	Restaurant/Eating Place		
Doing Business As:	Pho Lena East		
Local Governing Body:	Anchorage, Muni. of		
Community Council:	Russian Jack		

If your mailing address has changed, write the NEW address below:

Mailing Address:	Same				
City:		State:		ZIP:	

#### Section 2 - Licensee Contact Information

**Contact Licensee:** The individual listed below must be part of the ownership structure of the licensee listed in Section 1. This person will be the designated point of contact regarding this license, unless the Optional contact is completed.

Contact Licensee:	Biponh Morisath-Luce	Contact Phone:	(907) 244-1447
Contact Email:	ph907@hotmail.com		

**Optional:** If you wish for AMCO staff to communicate with anyone other than the Contact Licensee (such as legal counsel) about your license, list their information below:

Name of Contact:		Contact Phone:	
Contact Email:			

#### Section 3 - for Package Stores ONLY: Written Order Information

Do you intend to sell alcoholic beverages and ship them to another location in response to written solicitation in calendar years 2022 and/or 2023?

YES	NO
<input type="checkbox"/>	<input checked="" type="checkbox"/>

AMCO

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# Alaska Alcoholic Beverage Control Board

## Form AB-17: 2023/2024 License Renewal Application

### Section 4 – Ownership Structure Certification

YES

NO

Did the ownership structure of the licensed business change in 2021/2022?

☐
☒

If Yes, and you have **NOT** notified AMCO, list the updated information on form AB-39: Change of Officers and submit with your renewal application.

If No, certify the statement below by initialing the box to the right of the statement.

I certify that the ownership structure of the business who owns this alcohol license did not change in any way during the calendar years 2021 or 2022.

*AMC*

### Section 5 – License Operation

**Check ONE BOX for EACH CALENDAR YEAR** that best describes how this liquor license was operated:

2021

2022

1. The license was **operated for more than 240 hours** throughout each year.  
(Year-round)

☒
☒

2. The license was **only operated during a specified time** each year. (Not to exceed 6 months per year)

☐
☐

If your operation dates have changed, list them below:

\_\_\_\_\_ to \_\_\_\_\_

3. The license was only operated to meet the minimum requirement of 240 total hours each calendar year.

☐
☐

A complete AB-30: Proof of Minimum Operation Checklist, and all documentation must be provided with this form.

4. The license was not operated at all or was not operated for at least the minimum requirement of 240 total hours each year, during one or both calendar years. A complete Form AB-29: Waiver of Operation Application and corresponding fees must be submitted with this application for each calendar year during which the license was not operated.

☐
☐

If you have not met the minimum number of hours of operation in 2021, you are not required to pay the fees, however a complete AB-29 is required with Section 2 marked "Other" and COVID is listed as the reason.

### Section 6 - Violations and Convictions

YES

NO

Have **ANY** Notices of Violation been issued for this license?

☒
☐

Has **ANY** person or entity in this application been convicted of a violation of Title 04, 3AAC 304 or a local ordinance adopted under AS 04.21.010 in 2021 or 2022?

☒
☐

**If you checked YES, you MUST attach a list of all Notices of Violation and/or Convictions per AS 04.11.270(a)(2)**

**If you are unsure if you have received any Notices of Violation, contact the office before submitting this form.**

### Section 7 – Certifications

As an applicant for a liquor license renewal, I declare under penalty of perjury that I have read and am familiar with AS 04 and 3 AAC 304, and that this application, including all accompanying schedules and statements, are true, correct, and complete.

- I agree to provide all information required by the Alcoholic Beverage Control Board or requested by AMCO staff in support of this application and understand that failure to do so by any deadline given to me by AMCO staff will result in this application being returned and the license being potentially expired if I do not comply with statutory or regulatory requirements.
- I certify that in accordance with AS 04.11.450, no one other than the licensee(s), as defined in AS 04.11.260, has a direct or indirect financial interest in the licensed business.
- I certify that this entity is in good standing with Corporations, Business and Professional Licensing (CBPL) and that all entity officials and stakeholders are current and I have provided AMCO with all required changes of the ownership structure of the business license, and have provided all required documents for any new or changes of officers.

AMCO

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Alaska Alcoholic Beverage Control Board

Form AB-17: 2023/2024 License Renewal Application

- I certify that all licensees, agents, and employees who sell or serve alcoholic beverages or check identification of patrons have completed an alcohol server education course approved by the ABC Board and keep current, valid copies of their course completion cards on the licensed premises during all working hours, if applicable for this license type as set forth in AS 04.21.025 and 3 AAC 304.465.

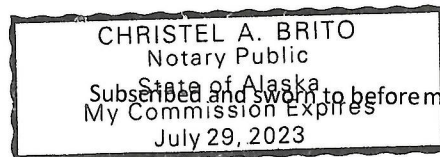
I hereby certify that I am the person herein named and subscribing to this application and that I have read the complete application, and I know the full content thereof. I declare that all of the information contained herein, and evidence or other documents submitted are true and correct. I understand that any falsification or misrepresentation of any item or response in this application, or any attachment, or documents to support this application, is sufficient grounds for denying or revoking a license/permit. I further understand that it is a Class A misdemeanor under Alaska Statute 11.56.210 to falsify an application and commit the crime of unsworn falsification.

Biponh Morisath-Luce  
Signature of licensee

Christel Brito  
Signature of Notary Public

Biponh Morisath-Luce  
Printed name of licensee

Notary Public in and for the State of Alaska



My commission expires: July 29, 2023

27 day of December, 2022

**Restaurant and Eating Place** applications must include a completed AB-33: Restaurant Receipts Affidavit

**Recreational Site** applications must include a completed AB-36: Recreational Site Statement

**Tourism** applications must include a completed AB-37: Tourism Statement

**Wholesale** applications must include a completed AB-25: Supplier Certification

**Common Carrier** applications must include a current safety inspection certificate

All renewal and supplemental forms are available online:

<https://www.commerce.alaska.gov/web/amco/AlcoholLicenseApplication.aspx>

FOR OFFICE USE ONLY

# 100520773

License Fee:	\$ 600.00	Application Fee:	\$ 300.00	Misc. Fee:	\$
Total Fees Due:					\$ 900.00

AMCO

DEC 27 2022





Alcohol and Marijuana Control Office  
550 W 7<sup>th</sup> Avenue, Suite 1600  
Anchorage, AK 99501  
[alcohol.licensing@alaska.gov](mailto:alcohol.licensing@alaska.gov)  
<https://www.commerce.alaska.gov/web/amco>  
Phone: 907.269.0350

Alaska Alcoholic Beverage Control Board

## Form AB-33: 2023/2024 Restaurant Receipts Affidavit

### What is this form?

A restaurant or eating place licensee must file a complete copy of this form along with its 2023/2024 license renewal application, in order to provide evidence to the Alcoholic Beverage Control Board that this licensed restaurant's receipts from the sale of food upon the licensed premises constitute no less than 50% of the gross receipts (food + alcohol sales) of the licensed premises for each calendar year in 2021 and 2022, as required by AS 04.11.100(e). This form is confidential.

This form must be completed and submitted with Form AB-17 to AMCO's main office before a license renewal application may be reviewed.

### Section 1 – Establishment Information

This form is being submitted for the following license:

Licensee:	Pho Lena East, LLC	License #:	5050
License Type:	Restaurant/Eating Place		
Doing Business As:	Pho Lena East		

### Section 2 – Gross Receipts for 2021 and 2022

Please fill out the following information carefully, contact AMCO staff if you have questions regarding this form. Enter the dollar amounts of the food and gross (food + alcohol) receipts on the licensed premises, and calculate the percentage of gross revenue that is from food sales on the licensed premises for each calendar year. (Food Revenue ÷ Gross Revenue x 100 = %)

\$ 587,480.76	÷	\$ 591,680.76	× 100 =	99%	%
2021 Food Sales		2021 Food + Alcohol Sales		2021 Percent from Food	

\$ 512,504.73	÷	\$ 516,504.73	× 100 =	99%	%
2022 Food Sales		2022 Food + Alcohol Sales		2022 Percent from Food	


I declare under penalty of perjury that this form, including all accompanying schedules and statements, is true, correct, and complete.

Biponk Morisath-Luce  
Printed name of licensee

[Signature]  
Signature of licensee

AMCO  
DEC 27 2022





Department of Commerce, Community, and Economic Development

CORPORATIONS, BUSINESS & PROFESSIONAL LICENSING

State of Alaska / Commerce / Corporations, Business, and Professional Licensing / Search & Database Download / Corporations / Entity Details

ENTITY DETAILS

Name(s)

Type	Name
Legal Name	Pho Lena East LLC

Entity Type: Limited Liability Company

Entity #: 10013149

Status: Good Standing

AK Formed Date: 5/24/2013

Duration/Expiration: Perpetual

Home State: ALASKA

Next Biennial Report Due: 1/2/2025

Entity Mailing Address: 360 BONIFACE PKWY #A23, ANCHORAGE, AK 99504

Entity Physical Address: 360 BONIFACE PKWY, B11, ANCHORAGE, AK 99504

Registered Agent

Agent Name: Biponh Morisath-Luce

Registered Mailing Address: 360 BONIFACE PKWY #A23, ANCHORAGE, AK 99504

Registered Physical Address: 360 BONIFACE PKWY #A23, ANCHORAGE, AK 99504

Officials

☐ Show Former

AK Entity #	Name	Titles	Owned
	BIPONH MORISATH-LUCE	Member, Manager	100.00

Filed Documents

Date Filed	Type	Filing	Certificate
5/24/2013	Creation Filing	<a href="#">Click to View</a>	<a href="#">Click to View</a>
12/31/2014	Admin Dissolution		<a href="#">Click to View</a>
4/09/2015	Initial Report	<a href="#">Click to View</a>	
4/09/2015	Biennial Report	<a href="#">Click to View</a>	
4/09/2015	Agent Change	<a href="#">Click to View</a>	
4/09/2015	Reinstatement	<a href="#">Click to View</a>	<a href="#">Click to View</a>
7/10/2015	Agent Change	<a href="#">Click to View</a>	
7/10/2015	Entity Address Change	<a href="#">Click to View</a>	
12/22/2016	Biennial Report	<a href="#">Click to View</a>	
5/02/2019	Biennial Report	<a href="#">Click to View</a>	
3/22/2021	Biennial Report	<a href="#">Click to View</a>	
3/21/2023	Biennial Report	<a href="#">Click to View</a>	