

# LANCE CHRISTIAN WELLS

Law Offices of Lance Christian Wells, LLC.

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Anchorage, Alaska 99501

lwells@gci.net

Phone 907-274-9696

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July 8, 2021

Email and Hand Delivery Only

Mr. Glen Klinkhart  
Executive Director  
Alcohol and Marijuana Control Office  
550 W. 7<sup>th</sup> Avenue, Suite 1600  
Anchorage, AK. 99501

**RE: Fairbanks Analytical Testing, LLC. ("FAT")  
Request to Reconsider Notice of Revocation of Two-Months of Suspended  
Time & Notice of License to Operate Suspension for Two-Months**

Dear Executive Director Klinkhart:

As you are aware, "FAT," as respondent recently entered in to a Mediated Settlement Agreement, which stated in pertinent part:

[a] future probation violation(s) is conditioned upon an error(s) and/or violation(s) found in an audit described above and for failure to timely respond to audit information request within thirty calendar days. Further it is understood by the parties that Respondent's failure to respond and/or correct and error/violation found in an audit within thirty calendar days will act as a "trigger-point," for a probation violation. Additionally, it is understood by the parties that this provision encompasses all applicable cannabis regulations and the Cannabis Testing Laboratory Compliance Document that has been adopted by the Board via regulation.<sup>1</sup>

The agreement further contains language that:

[the] Board will suspend Respondent's license to operate its testing facility for two months. The Board will fully suspend this license suspension during this

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<sup>1</sup> See, *In the Matter of Fairbanks Analytical Testing, LLC d/b/a Fairbanks Analytical Testing, Respondent*. April 15, 2021/May 6, 2021.OAH No. 20-0973-MCB; Agency Reference No. AM20-720 at 3, p.2.

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probationary period set forth above subject to terms and conditions set forth below.<sup>2</sup>

As part of this mediated settlement agreement, "FAT," was audited on May 18-19, 2021. This audit was conducted by the Alaska Department of Environmental Conservation Environmental Health Laboratory ("EHL") as part of the Alaska Cannabis Laboratory Oversight Program. An "On-Site Evaluation Report" of this audit was produced on May 25, 2021. The report was subsequently forwarded to "FAT" on May 25, 2021. During the audit, violations of quality control, quality assurance and testing protocols were discovered and noted for corrective action. "FAT," was allotted/given thirty calendar days to take corrective action and resolve the issues identified within the audit.

Friday, June 25, 2021, Ms. Macomber emailed Ms. Shera Hickman (DEC), Kelly Snyder (DEC), Glen Klinkhart, Exec. Dir. of AMCO, and Glen Edward (CED) requesting a brief extension of time (until Monday June 28<sup>th</sup>, 2021) to file responsive documentation and/or responses to the audit and problems identified therein.

Within her email, Ms. Macomber explains that "We would like to request an extension deadline. We have implemented corrective actions for each of the findings except for #17 which we have previously discussed the further dilution (i.e. samples at 50uL using the factors 500 and 400 for flower and concentrate samples, respectively), however- the laboratory recently lost Alicia Lenze and Alex Boyle unexpectedly, leaving Alex Tackett, and Jessica Angelonis and myself to manage lab operations and would appreciate an extension to provide objective evidence for all findings. We are willing to do a zoom meeting to answer any questions and to provide visual evidence of implementation of corrective action. We apologize for any inconvenience." See Ex. A.

On Friday June 25, 2021 at 12:15 p.m. Ms. Macomber received a non-committal response to her request from Ms. Shera Hickman. Within her email, she states in pertinent part, ... "the request for an extension for Finding #17 is being considered." See Ex. A.

Ms. Macomber responded to this email on June 15, 2021, at 1:13 p.m. indicating, "I believe there was a misunderstanding. The corrective actions have been implemented but we have not been able to generate all responses, we can submit all we have together currently by 5:00 p.m. tonight but unfortunately we will not make the 5:00 p.m. deadline for all of them. We do have help coming in over the weekend for Alex, Jessica and I and we will be continuing on through the weekend and we can finish by Monday."<sup>3</sup>

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<sup>2</sup> See, OAH No. 20-0973-MCB

<sup>3</sup> June 28, 2021

No response was ever received as to Ms. Macomber's request for a very brief extension of time until June 28, 2021.<sup>4</sup> On Monday June 28, 2021, all documents and/or responses requested were forwarded as stated within Ms. Macomber's email.

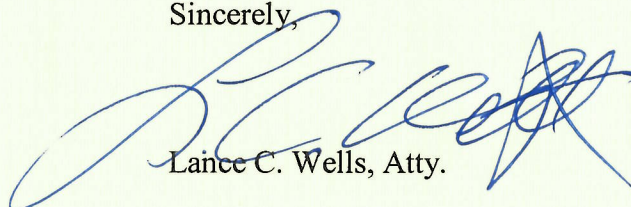
Ms. Macomber's request for an extension of time was not denied but instead she was told "the request for #17 is being considered." This was not a "no" answer. Nor was it an explicit "yes." What she received was convoluted non-committal response to her request for a brief extension of time by Ms. Hickman.<sup>5</sup> Ms. Macomber pointed out that there was a misunderstanding as to her prior email and response received. This was never addressed: by anyone.

Ms. Macomber simply asked for a brief extension of time until Monday June 28, 2021, (two days over a weekend) to complete their responses to the audit. She had just experienced the loss of two employees but was continuing to work diligently with her remaining staff throughout the nights and weekend to make the filing on June 28, 2021- which she did. This two-month revocation followed on July 2, 2021.

Ms. Macomber seeks reconsideration of this matter. She has complied, completed and taken corrective action to all identified areas set forth within the conducted audit as to "FAT." It is respectfully requested that the Notice of Revocation of Two-Months of Suspended Time & Notice of License to Operate Suspension for Two-Months be reconsidered and vacated.

Thank you for your attention to this matter. I look forward to hearing from you in the near future.

Sincerely,

A handwritten signature in blue ink, appearing to read "Lance C. Wells", is written over a horizontal line. The signature is stylized and cursive.

Lance C. Wells, Atty.

cc: Client

Enclosure

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<sup>4</sup> This would have allowed two extra days over the weekend to complete responses related to the audit performed. During this two day time period, it is noted that state offices are closed for business and with COVID-19 limitations, office hours are limited at best during the week and are not open to the public.

<sup>5</sup> It is not clear that Ms. Hickman even has the authority to grant a brief extension of time? No one else responded within the email chain.

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## Lance Wells

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**From:** Dylanne macomber <fairbanksanalytical@gmail.com>  
**Sent:** Friday, June 25, 2021 1:13 PM  
**To:** Hickman, Shera L (DEC); Lwells  
**Subject:** Re: Fairbanks Analytical Testing Audit Extension

I believe there was a misunderstanding. The corrective actions have been implemented but we have not been able to generate **all** responses, we can submit all we have together currently by 5:00PM tonight but unfortunately we will not make the 5:00PM deadline for all of them. We do have help coming in over the weekend for Alex, Jessica and I and we will be continuing on through the weekend and we can finish by Monday.

On Fri, Jun 25, 2021 at 12:15 PM Hickman, Shera L (DEC) <[shera.hickman@alaska.gov](mailto:shera.hickman@alaska.gov)> wrote:

Dylanne,

Thank you for your request.

Please send the response to findings and supportive evidence for all findings except for #17, since per the email below they have been completed. The request for an extension for Finding #17 is being considered.

**There is a potential shutdown of the EHL as of Thurs. July 1, due to a lack of budget. See memos here about impacts.**

If the shutdown is averted...

**\*\*Alaska state offices are closed on Monday, July 5<sup>th</sup> in observance of Independence Day.\*\***

Have a great day,

*Shera Hickman*

Chemist IV  
State of Alaska

Department of Environmental Conservation

Environmental Health Lab

5251 Dr. Martin Luther King Jr. Avenue

Anchorage, AK 99507

EXHIBIT A

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Phone: 907.375.8210  
Fax: 907.929.7335  
Email: [Shera.Hickman@Alaska.gov](mailto:Shera.Hickman@Alaska.gov)

"It is easier to do a job right than to explain why you didn't." --**Martin Van Buren**

**From:** Dylanne macomber [mailto:[fairbanksanalytical@gmail.com](mailto:fairbanksanalytical@gmail.com)]  
**Sent:** Friday, June 25, 2021 11:13 AM  
**To:** Hickman, Shera L (DEC) <[shera.hickman@alaska.gov](mailto:shera.hickman@alaska.gov)>; Snyder, Kelly A (DEC) <[kelly.snyder@alaska.gov](mailto:kelly.snyder@alaska.gov)>; Klinkhart, Glen Edward (CED) <[glen.klinkhart@alaska.gov](mailto:glen.klinkhart@alaska.gov)>; Lwells <[lwells@gci.net](mailto:lwells@gci.net)>  
**Subject:** Fairbanks Analytical Testing Audit Extension

Good Morning,

We would like to request a deadline extension.

We have implemented corrective actions for each of the findings except for #17 which we have previously discussed the further dilution (i.e. samples at 50 uL using the factors 500 and 400 for flower and concentrate samples, respectively.), however - the laboratory recently lost Alicia Lenze and Alex Boyle unexpectedly, leaving Alex Tackett and Jessica Angelonis and myself to manage lab operations and would appreciate an extension to provide objective evidence for all findings.

We are willing to do a zoom meeting to answer any questions and to provide visual evidence of implementation of corrective action.

We apologize for any inconvenience.

Thank you,

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**Dylanne Macomber**

**Chief Executive Officer**

**Fairbanks Analytical Testing**

**fairbanksanalytical@gmail.com**

**907-479-1259**

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**Dylanne Macomber**

**Chief Executive Officer**

**Fairbanks Analytical Testing**

**fairbanksanalytical@gmail.com**

**907-479-1259**

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**Sent:** Friday, June 25, 2021 12:15 PM  
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**Cc:** DEC Laboratory Certification; Snyder, Kelly A (DEC); Klinkhart, Glen Edward (CED); Lwells  
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See memos here about impacts.**

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Have a great day,

*Shera Hickman*

Chemist IV  
State of Alaska  
Department of Environmental Conservation  
Environmental Health Lab  
5251 Dr. Martin Luther King Jr. Avenue  
Anchorage, AK 99507  
Phone: 907.375.8210  
Fax: 907.929.7335  
Email: [Shera.Hickman@Alaska.gov](mailto:Shera.Hickman@Alaska.gov)

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Thank you,

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**Dylan Macomber**  
**Chief Executive Officer**  
**Fairbanks Analytical Testing**  
**[fairbanksanalytical@gmail.com](mailto:fairbanksanalytical@gmail.com)**  
**907-479-1259**

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Dylanne Macomber  
Chief Executive Officer  
Fairbanks Analytical Testing  
[fairbanksanalytical@gmail.com](mailto:fairbanksanalytical@gmail.com)  
907-479-1259

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