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BEFORE THE ALASKA STATE COMMISSION FOR HUMAN RIGHTS

ALASKA STATE COMMISSION FOR)
HUMAN RIGHTS, PAULA M.)
HALEY, EXECUTIVE DIRECTOR,)
ex rel. ZACHARY LISZKA,)

Complainant,)

v.)

ASCHR Nos. J-07-191; J-07-208

HOOK LINE & SINKER, INC., d/b/a)
SUBZERO and HUMPY’S GREAT)
ALASKAN ALEHOUSE,)

Respondent.)
_____)

ACCUSATION

Paula M. Haley, Executive Director of the Alaska State Commission for Human Rights, *ex rel.* Zachary Liszka, hereby alleges the following against Respondent Hook Line & Sinker, Inc.:

1. Respondent Hook Line & Sinker, Inc. is an Alaska corporation that owns and operates SubZero, a bar located at 614 F Street in downtown Anchorage.

2. Respondent also owns and operates Humpy’s Great Alaskan Alehouse (Humpy’s), a restaurant and bar located on the same block as and adjacent to SubZero, at 610 West 6th Avenue in Anchorage.

3. On June 5, 2007, Zachary Liszka applied for employment with Respondent as a bartender. Mr. Liszka completed an employment application and submitted it to Respondent with a resume and cover letter.

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1 4. Mr. Liszka was not immediately hired by Respondent. Some time between
2
3 June 5, 2007, and August 13, 2007, Cyndi Ramirez, one of Respondent's managers,
4 interviewed Mr. Liszka for a bartender job.

5 5. On August 13, 2007, Mr. Liszka was hired by Respondent to work as a
6 bartender at its SubZero location.

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8 6. After he was hired, Mr. Liszka completed, at Respondent's request, a
9 "Post-Hire Health Questionnaire." The questionnaire asked numerous health- and
10 medical-related questions, including whether Mr. Liszka had ever been hospitalized, was
11 taking any medications or drugs, and whether he had, or ever had, numerous diseases,
12 limitations, conditions, or injuries.

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14 7. Mr. Liszka has a permanent impairment due to an arterial vein
15 malformation that causes him to have a slight weakness in his left hand.

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17 8. Mr. Liszka did not disclose his impairment to Ms. Ramirez during his
18 interview. Mr. Liszka can perform all of the essential functions of Respondent's
19 bartender job without the need for an accommodation. There was, therefore, no need for
20 Mr. Liszka to disclose his impairment before or after he was hired.

21
22 9. Mr. Liszka did not indicate his impairment on Respondent's health
23 questionnaire; however, Mr. Liszka answered Respondent's questionnaire truthfully
24 because the questionnaire did not ask him to disclose his impairment.

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26 10. On August 14, 2007, Respondent terminated Mr. Liszka's employment.
27 Ms. Ramirez told Mr. Liszka that he was being terminated because she did not believe he
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1 could perform the job because of his impairment.

2 11. Mr. Liszka filed a complaint with the Alaska State Commission for Human
3 Rights on August 17, 2007, alleging that Respondent discriminated against him because
4 of a perceived disability when Respondent terminated his employment.
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6 12. Mr. Liszka's complaint was served on Respondent on August 28, 2007.
7

8 13. On August 30, 2007, Mr. Liszka and a friend went to Humpy's to eat
9 dinner. After being seated, Mr. Liszka was recognized by one of Respondent's
10 managers. The manager ejected Mr. Liszka from Respondent's premises and denied him
11 service because Mr. Liszka had filed a complaint against Respondent with the Human
12 Rights Commission.
13

14 14. Since August 30, 2007, and to the present, Respondent has represented that
15 Mr. Liszka is not welcome at Humpy's or SubZero and will be denied service in the
16 future because he filed a complaint of discrimination against Respondent.
17

18 **FIRST CAUSE OF ACTION—TERMINATION BECAUSE OF**
19 **DISABILITY**
20 **VIOLATION OF AS 18.80.220(a)(1)**

21 15. Paragraphs 1-14 above are realleged and incorporated herein.

22 16. Zachary Liszka is a person with a disability as that term is defined in AS
23 18.80.300(14)(C).
24

25 17. Mr. Liszka was and is qualified to perform all of the essential functions of
26 Respondent's bartender position.

27 18. Respondent terminated Mr. Liszka's employment because Mr. Liszka has
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1 a disability as defined in AS 18.80.300(14)(C).

2 19. Respondent's termination of Mr. Liszka's employment was discriminatory
3 and a violation of AS 18.80.220(a)(1).
4

5 20. As a result of Respondent's discriminatory discharge, Mr. Liszka has
6 suffered damages in the form of lost wages.
7

8 **SECOND CAUSE OF ACTION—ILLEGAL MEDICAL INQUIRIES**
9 **VIOLATION OF AS 18.80.220(a)(1)**

10 21. Paragraphs 1-14 above are realleged and incorporated herein.

11 22. On August 13, 2007, after Mr. Liszka was hired, Respondent required Mr.
12 Liszka to disclose confidential, medical information in its "Post-Hire Health
13 Questionnaire."
14

15 23. Respondent's requirement that Mr. Liszka complete the "Post-Hire Health
16 Questionnaire" was not job related and consistent with business necessity.
17

18 24. Respondent's requirement that Mr. Liszka complete the "Post-Hire Health
19 Questionnaire" constituted an improper and illegal medical inquiry in violation of AS
20 18.80.220(a)(1).
21

22 **THIRD CAUSE OF ACTION—RETALIATION**
23 **VIOLATION OF AS 18.80.220(a)(4)**

24 25. Paragraphs 1-14 above are realleged and incorporated herein.

25 26. Mr. Liszka filed a complaint of discrimination against Respondent with the
26 Alaska State Commission for Human Rights on August 17, 2007.

27 27. On or before August 28, 2007, Respondent became aware of Mr. Liszka's
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1 complaint.

2 28. In his complaint, Mr. Liszka alleged that Respondent terminated his
3 employment on the basis of a perceived disability in violation of AS 18.80.220.
4

5 29. On August 30, 2007, Respondent refused to serve Mr. Liszka and ejected
6 him from its premises because Mr. Liszka had filed an employment discrimination
7 complaint against Respondent.
8

9 30. Respondent's denial of services to Mr. Liszka and its ejection of Mr.
10 Liszka from its premises constitute retaliation by an employer that is prohibited by AS
11 18.80.220(a)(4).
12

13 31. Respondent's retaliatory treatment of Mr. Liszka is ongoing and continues
14 to the present.
15

16 **PRAYER FOR RELIEF**

17 Wherefore the Executive Director asks for the following relief:

18 1. That the Commission issue an order declaring that Respondent Hook Line
19 & Sinker, Inc., violated AS 18.80.220 by discriminating against Mr. Liszka when it
20 terminated his employment.
21

22 2. That the Commission issue an order declaring that Respondent retaliated
23 against Mr. Liszka in violation of AS 18.80.220 by denying him services normally and
24 regularly afforded to all members of the general public.
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1 3. That the Commission issue an order declaring that Respondent violated AS
2 18.80.220 by making illegal medical inquiries of Mr. Liszka when it required him to
3 complete its "Post-Hire Health Questionnaire."
4

5 4. That the Commission order Respondent to adopt and disseminate a
6 policy of nondiscrimination under the Alaska Human Rights Law that includes a
7 policy prohibiting discrimination against employees on the basis of a disability, and a
8 policy prohibiting retaliation for complaining about discrimination.
9

10 5. That the Commission order Respondent to obtain training for its managers
11 and supervisors on the provisions of the Alaska Human Rights Law that prohibit
12 discrimination in employment, with an emphasis on the prohibition against
13 discrimination based on disability and the prohibition against retaliation.
14

15 6. That the Commission order Respondent to immediately refrain from
16 making medical inquiries of employees unless such inquiries are job related and
17 consistent with business necessity.
18

19 7. That the Commission order Respondent to pay back wages to Mr.
20 Liszka, plus interest at the applicable legal rate, the exact amount of which will be
21 proven at hearing.
22

23 8. That the Commission order Respondent to immediately make accessible
24 to Mr. Liszka all of its goods, services, facilities, advantages, and privileges that are
25 normally afforded to members of the general public, and that Respondent inform its
26 managers, supervisors, and employees that its goods, services, facilities, advantages,
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and privileges that are normally afforded to members of the general public are to provided to Mr. Liszka.

Dated this 5th day of April 2010 at Anchorage, Alaska.

ALASKA STATE COMMISSION
FOR HUMAN RIGHTS

_____/s/_____
Stephen Koteff
Human Rights Advocate
Alaska Bar No. 9407070