



TO: APOC Commissioners
DATE: November 27, 2017 *TRL*
FROM: Thomas R. Lucas, Campaign Disclosure Coordinator
SUBJECT: Staff Report
17-03-CD, *Forrest McDonald v. Alaska Democratic Party*

SUMMARY OF COMPLAINT

On October 26, 2017, Forrest McDonald (McDonald) filed a complaint against the Alaska Democratic Party (“the Party”).¹ McDonald alleges the Party violated AS 15.13 by using a third-party conduit (Ship Creek Group) to obscure the true source of non-monetary contributions to certain candidates who utilized the services of Ship Creek Group (“Ship Creek”).

McDonald contends the Party provided Ship Creek (a political consulting firm) access to its data service known as Votebuilder either for free or for less than fair market value and that several of Ship Creek’s candidate clients thereby obtained access to a valuable data service provided by the Party, not by Ship Creek.²

McDonald argues that the data service provided to several candidate clients by Ship Creek amounted to unreported non-monetary contributions from the Party to the candidate client.

SUMMARY OF RESPONSE TO COMPLAINT

The Party filed a timely Response to the Complaint on November 13, 2017.³ In the Response, the Party contends that Ship Creek has never been granted access to the

¹ Exhibit 1, Complaint 17-03-CD.

² Ex. 1 at pp. 2-3.

³ Exhibit 2, Response to Complaint.

Votebuilder service other than for its candidate clients who purchased the service from the Party for their district.

FACTS

1. Votebuilder

Votebuilder is a data service proprietary to the Party.⁴ The Party provides the service to candidates for State House and Senate as part of a campaign package it calls the “Coordinated Campaign,”⁵ State House candidates pay \$2,000 and Senate candidates pay \$4,000 for the Coordinated Campaign package.⁶ For these state legislative candidates, Votebuilder is only available as a part of the Coordinated Campaign package – it is not available separately.⁷

Non-Democrats, except Republicans in partisan races, may be granted access to Votebuilder through the Party’s “Voter File Sales Procedure.”⁸

Municipal and local candidates may purchase access to Votebuilder by purchasing either basic access or full access.⁹ Candidates for Municipality of Anchorage Assembly would pay \$1,000 for basic access and \$2,000 for full access during the 2016 campaign.¹⁰

Anyone who purchases access to Votebuilder either through the Coordinated Campaign or separately must sign a Terms of Service Agreement.¹¹ Pursuant to the Agreement, the purchaser is licensed and has access solely to the portion of Votebuilder encompassed by the district in which he or she is a candidate.¹²

⁴ Exs. 1 and 2 at p. 2 and pp.1- 2, respectively.

⁵ Exhibit 3, Votebuilder Pricing at p.1.

⁶ *Ibid.*

⁷ Ex. 2 at p. 3, ¶ 5D.

⁸ Exhibit 4, Voter File Sales Procedure.

⁹ Ex. 3 at p. 1.

¹⁰ *Ibid.* at p. 2.

¹¹ Exhibit 5, Terms of Service Agreement; Ex. 2 at p. 2.

¹² *Ibid.* at p. 3.

2. The Candidates

McDonald alleges that four State House and two Anchorage Municipal candidates who hired Ship Creek for consulting received a non-monetary contribution of the Votebuilder data service from the Party, through Ship Creek.¹³

McDonald bases his allegation on the facts that Ship Creek once purchased access to Votebuilder in 2015; the purchase of the service by those candidates is not disclosed on the Party's APOC reports; and Ship Creek includes Votebuilder in its Proposed Startup Budget.¹⁴

A. Representative Delena Johnson

Representative Johnson hired Ship Creek as a consultant for her 2016 campaign.¹⁵ Representative Johnson is a Republican. Ship Creek did not have access to Votebuilder for Representative Johnson's district nor did it discuss Votebuilder access with Representative Johnson.¹⁶ Representative Johnson denies using data from Ship Creek.¹⁷ The Party does not provide Votebuilder access to Republicans in partisan races.¹⁸

B. Representative Gary Knopp

Representative Gary Knopp hired Ship Creek for specific functions as opposed to a continuing consultancy in his 2016 campaign.¹⁹ Representative Knopp is a Republican. Ship Creek did not have access to Votebuilder for Representative Knopp's district nor did it discuss Votebuilder access with Representative Knopp.²⁰ Representative Knopp denies receiving any database from Ship Creek.²¹ The Party does not provide Votebuilder access to Republicans in partisan races.²²

¹³ Ex. 1 at pp. 2-3.

¹⁴ *Ibid.* at p. 3. It should be noted that Votebuilder is listed as something that is obtained from a third-party vendor.

¹⁵ *See, e.g.* Exhibit 6, Johnson 7 Day Report at p. 2.

¹⁶ Exhibit 7, Ship Creek Response to Questions.

¹⁷ Exhibit 8, Johnson Response to Questions.

¹⁸ Ex. 4; Ex. 2 at p. 4.

¹⁹ *See, e.g.* Exhibit 9, Knopp Year End Report at p. 2.

²⁰ Ex. 7.

²¹ Exhibit 10, Knopp Response to Questions.

²² Ex. 4; Ex. 2 at p. 4.

C. Representative Jason Grenn

Representative Grenn hired Ship Creek as a consultant for his 2016 campaign.²³ Representative Grenn is not affiliated with a political party. The Party offered Representative Grenn the opportunity to participate in the Coordinated Campaign and thereby gain access to Votebuilder, but the Grenn campaign declined to participate.²⁴ Ship Creek did not have access to Votebuilder for Representative Grenn's district.²⁵ Representative Grenn denies receiving access to Votebuilder during his campaign.²⁶

D. Representative Adam Wool

Representative Wool hired Ship Creek as a consultant in his 2016 campaign.²⁷ Representative Wool is a Democrat. Representative Wool participated in the Coordinated Campaign and thereby had access to Votebuilder for his district.²⁸

E. Assemblyman Forrest Dunbar

Assemblyman Dunbar hired Ship Creek as a consultant for his 2016 campaign.²⁹ Assemblyman Dunbar purchased access to Votebuilder for his district with payment of \$2,000.³⁰ Assemblyman Dunbar's payment amount is consistent with the established price set by the Party for full access to Votebuilder for his district.³¹

F. Assemblyman John Weddleton

Assemblyman Weddleton hired Ship Creek as a consultant for his 2016 campaign.³² Ship Creek purchased access to Votebuilder for Assemblyman Weddleton's district in October 2015 with payment of \$2,000.³³ Ship Creek's payment amount is consistent with

²³ See, e.g. Exhibit 11, Grenn 7 Day Report at p. 3.

²⁴ Ex. 2 at p. 4, ¶ 6.

²⁵ *Ibid.*; Ex. 7.

²⁶ Exhibit 12, Grenn Response to Question.

²⁷ See, e.g. Exhibit 13, Wool Year End Report at p. 3.

²⁸ Ex. 2 at p. 5; Exhibit 14, Wool Response to Questions.

²⁹ See, e.g., Exhibit 15, Dunbar 30 Day Report at p. 11.

³⁰ *Ibid.*; Ex. 2 at p. 4, ¶ 6.

³¹ Ex. 3.

³² See, e.g. Exhibit 16, Weddleton 30 Day Report at p. 6.

³³ Ex. 2 at p. 3, ¶ E and p. 5; Exhibit 17, Weddleton Response to Questions.

the established price set by the Party for full access to Votebuilder for Assemblyman Weddleton's district.³⁴

LAW AND ANALYSIS

In the Complaint, McDonald correctly points out that some Ship Creek clients disclosed payment for the Coordinated Campaign and others did not. He alleged that the Party provided Ship Creek with the Votebuilder data service that could be used for all its clients. McDonald provided an exhibit that shows the Party reported that Ship Creek had paid \$2,000 for Votebuilder access on October 7, 2015. McDonald accurately points out that \$2,000 for access for all clients is grossly undervalued.

A person or group may not contribute anonymously, using a fictitious name or using the name of another.³⁵ Contributions must be made in the name of the true source of the thing of value.³⁶ A person may not use a third-party conduit to obscure the true source of the thing of value.³⁷

If the Party granted Ship Creek access to Votebuilder to use for all its clients at less than fair market value, then Ship Creek's use of the service for a client who did not pay for it would, as McDonald alleges, amount to a non-monetary contribution from the Party to the client; and the Party's use of Ship Creek to provide that benefit would further amount to the use of a third-party conduit to obscure the true source of the benefit to the client's campaign.

1. Candidates/Clients Johnson And Knopp

Candidates Johnson and Knopp are both Republicans. The Party, Ship Creek, and the candidates themselves all deny that the Party granted them or Ship Creek Votebuilder access for their districts. Under these circumstances, staff believes there is insufficient evidence to conclude that Representatives Johnson and Knopp received a non-monetary contribution of Votebuilder access from the Party.

³⁴ Ex. 3.

³⁵ AS 15.13.074(b).

³⁶ 2 AAC 50.258(a).

³⁷ *Ibid.*

2. Candidate/Client Grenn

Candidate Grenn ran as an Independent. The Party, Ship Creek, and the candidate himself all deny that the Party granted him or Ship Creek Votebuilder access for his district. Under these circumstances, staff believes that there is insufficient evidence to conclude that Representative Grenn received a non-monetary contribution of Votebuilder access from the Party.

3. Candidate/Client Wool

Representative Wool is a Democrat. He was eligible to, and did, participate in the Coordinated Campaign. Purchase of the Coordinated Campaign includes access to Votebuilder. Under these circumstances staff believes there is insufficient evidence to conclude that Representative Wool received a non-monetary contribution of Votebuilder access from the Party.

4. Candidates/Clients Dunbar And Weddleton

Candidates Dunbar and Weddleton were municipal candidates in non-partisan races. As such they could, and did, purchase access to Votebuilder for their districts.³⁸ The Party, Ship Creek, and the candidates all agree that Votebuilder access was purchased for their districts. Under these circumstances staff believes that there is insufficient evidence to conclude that candidates Dunbar and Weddleton received a non-monetary contribution of access to Votebuilder from the Party.

CONCLUSION AND RECOMMENDATION

The crux of the Complaint is that the Party used Ship Creek as a third-party conduit to provide non-monetary contributions of Votebuilder access to Ship Creek clients. But the evidence shows that no contributions were made. In the case of the Republican and Independent candidates, access was never granted. In the case of the Democratic and

³⁸ Candidate Dunbar's campaign purchased access to Votebuilder and reported it on the campaign's 30 Day Report. Ex. 15 at p. 11. Candidate Weddleton, however, obtained access to Votebuilder through his consultants, Ship Creek, who purchased it and then billed Weddleton. Ex. 2 at p. 3, ¶ E and p. 5; Ex. 17. In completing his APOC reports, candidate Weddleton did not sufficiently describe all the services provided by Ship Creek, so there is no specific transaction that describes his purchase of the Votebuilder access. Ex. 16 at pp.6-7.

Municipal candidates, the evidence shows that access was paid for at fair market value. Accordingly, staff recommends that the Complaint be dismissed.

I hereby certify that on this date, I caused a true and correct copy of the foregoing to be delivered as indicated to the following:

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Law Office Assistant

Date