

BEFORE THE ALASKA PUBLIC OFFICES COMMISSION

In re)
) CIVIL PENALTY APPEAL
Alaska Democratic Party)
_____)

FINAL ORDER

On September 18, 2019, the Alaska Public Offices Commission reviewed the assessment of a civil penalty against the Alaska Democratic Party for a late-filed 24-hour report. For the following reasons, the Commission orders the party to pay a reduced penalty of \$650.

The party was required to disclose a transfer of \$5,000 from the House Democratic Campaign Committee (HDCC), within 24 hours of receipt, on October 31, 2018, because the transfer was a contribution made within nine days of the state general election.¹ The HDCC is registered as a “subordinate unit” of the party²—resulting in requirements that the party report transfers from HDCC as contributions and that HDCC report such transactions as expenditures.³ The party reported the \$5,000 transfer 76 days late on January 15, 2019. Failure to timely make this disclosure carries a maximum civil penalty

¹ See AS 15.13.110(b).

² 2 AAC 50.405(9).

³ AS 15.13.400(4) (definition of contribution includes “payment” or “deposit . . . of money”); AS 15.13.400(6) (definition of expenditure includes “transfer of money”). See also AS 15.13.065(b) (stating, “A political party may contribute to a subordinate unit of the political party, and a subordinate unit of a political party may contribute to the political party of which it is a subordinate unit.”).

of \$500 per day until reported.⁴ This resulted in a maximum possible penalty of \$38,000, but the staff assessed a penalty of \$6,500.

The party appealed the penalty assessment to the Commission, asking for a waiver or reduction. The treasurer and two others appearing on behalf of the party attended the September 18, 2019, meeting in person. The party's treasurer explained that the receipt of the contribution had no effect on the party's efforts during the election because the party made no expenditures for more than a week—after the election ended—and the transfer was simply bad timing since it unnecessarily occurred during the nine-day/24-hour reporting window. The treasurer also stated that it was unfair and confusing that a transfer from HDCC would count as a “contribution” to the party for reporting purposes when the party and HDCC are treated as the same entity for the purpose of limiting a political party's total contribution to a candidate.⁵ But she acknowledged that she reported other such transfers as contributions on campaign disclosure reports in the past.

Staff did not identify any mitigating factor in regulation that would apply but nevertheless urged the Commission to exercise its discretion and reduce the assessed penalty because of the party's “excellent” 24-hour reporting history. In the previous five years, the party had timely filed all of its other 24-hour reports, making 21 such timely

⁴ AS 15.13.390(a).

⁵ See AS 15.13.070(d) (limiting the amount of contributions by a “political party” to a candidate); AS 15.13.400(15) (defining political party as including “any subordinate unit” of the party “if, consistent with rules or bylaws of the political party, the unit conducts or supports campaign operations in a municipality, neighborhood, house district, or precinct”).

reports, and had only one late filing—a 30-day report that was five days late in 2016.

The Commission concludes that the transfer was a “contribution” that was reported late.⁶ The transfer meets the definition of “contribution” because it was a “payment” and “deposit . . . of money” from one separately registered entity to another.⁷

The Commission reduces the assessed penalty by 90 percent and orders the Alaska Democratic Party to pay a penalty of \$650. The party’s five-year history of timely compliance with the 24-hour reporting requirement in 21 reports—and only one late filing of another type of report—supports that the party has an excellent reporting history. Also, while transfers from registered subordinate units of a political party must be timely reported as contributions, the public has less of a compelling need to timely know about transfers within the party than about outsiders’ contributions.⁸ These are “unique circumstance[s]” justifying a 90 percent reduction.⁹

This is a final Commission order. It may be appealed to the superior court within 30 days from the date of this order.¹⁰ A request for the Commission to reconsider this order must be filed within 15 days from the date this order is delivered or mailed.¹¹

⁶ AS 15.13.110(b) (24-hour reporting requirement); AS 15.13.390(a) (providing for a civil penalty for late reports).

⁷ AS 15.13.400(4); 2 AAC 50.405(9).

⁸ Staff explained that HDCC was *not* required to register and report separately from the party and if it had not registered separately, the party would not have needed to report the transfer of money as a contribution on the 24-hour report.

⁹ 2 AAC 50.865(b)(6).

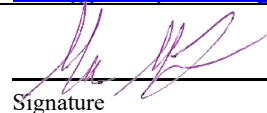
¹⁰ AS 44.62.560, Alaska R. App. P. 602.

¹¹ 2 AAC 50.891(g).

Dated: September 27, 2019

BY ORDER OF THE ALASKA PUBLIC OFFICES COMMISSION¹²

CERTIFICATE OF SERVICE: I hereby certify that on this date, I caused a true and correct copy of the foregoing to be delivered to:	
Alaska Democratic Party Attn: Carolyn Covington 2602 Fairbanks St. Anchorage, AK 99503 grhcov@gmail.com caseysteinau@gmail.com jay@akdems.org rem@alaska.net chris@pattonprocessing.com	<input checked="" type="checkbox"/> Email <input checked="" type="checkbox"/> Certified Mail



Signature

9/27/2019

Date

9171-9690-0935-0218-4234-83

¹² Commissioners Anne Helzer, Robert Clift, Suzanne Hancock, Van Lawrence, and Richard Stillie participated in this matter. The decision was made on a 5-0 vote.