



**TO:** APOC Commissioners  
**DATE:** July 23, 2021  
**FROM:** Thomas R. Lucas, Campaign Disclosure Coordinator  
**SUBJECT:** Amended<sup>1</sup> Staff Report, 21-01-CD, *Dunbar for Mayor v. Bronson for Mayor*

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### PROCEDURAL POSTURE

On April 12, 2021, Dunbar for Mayor (Complainant) filed an expedited complaint against Bronson for Mayor (BFM).<sup>2</sup> The complaint alleges that BFM violated AS 15.13 for the following reasons:

1. Failure to report expenses and debt when incurred;
2. Failure to carry over unpaid debt to the next required report;
3. Failure to timely return over-the-limit contributions;
4. Failure to provide complete details for certain expenditures; and
5. Acceptance of contributions from persons not authorized to contribute to a candidate's campaign.<sup>3</sup>

On April 14, 2021, the Commission held a hearing on the expedited consideration request; and on April 15, 2021, issued an order denying the request and referring the complaint to staff for investigation.<sup>4</sup>

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<sup>1</sup> The report is amended to correct the due dates of the 7-day and 7-day runoff reports in the section, "Maximum Civil Penalties"; to recalculate the penalties associated with those reports; and to make a recommendation concerning the costs of investigation.

<sup>2</sup> Exhibit 1, Complaint.

<sup>3</sup> *Id.*

<sup>4</sup> Exhibit 2, Order Denying Expedited Consideration.

On May 3, 2021, BFM filed an answer to the complaint contending that any violations that may have occurred were not intentional.<sup>5</sup>

Subsequently, DFM, alleged that BFM misused campaign funds by using its campaign website and Facebook pages to solicit ideas and personnel for his administration; and that BFM received an unlawful contribution from McKenna Brothers Paving Company in the form of hosting an event for the BFM campaign.

## **FACTS**

David Bronson was a candidate in the April 6, 2021, Anchorage municipal election. As no mayoral candidate secured more than 45% of the votes cast, a runoff election was scheduled to take place on May 11, 2021, between the top two candidates, David Bronson and Forrest Dunbar.<sup>6</sup>

### **A. Reporting**

BFM filed three reports before the April 6, 2021, election, including a year-start, 30-day, and 7-day report. The campaign also filed one 7-day report before the runoff election.

#### **1. Year-Start Report**

A year-start report is filed on February 15 and covers the period from the start of the campaign through February 1 of that year.<sup>7</sup> Because February 15 was a state holiday, BFM timely filed its year-start report covering the period August 25, 2020, through February 1, 2021, on February 16, 2021,<sup>8</sup> and amended the report on the same day.<sup>9</sup> The amended report shows a January 20, 2021, debt of \$15,250 to Hackney and Hackney for

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<sup>5</sup> Exhibit 3, Answer to Complaint.

<sup>6</sup> Anchorage Municipal Charter Section 11.02(b); AMC 28.20.010C. If no mayoral candidate receives more than 45% of the votes cast for mayor, a runoff election must be held within three weeks of election certification between the top two candidates who received the highest number of votes.

<sup>7</sup> AS 15.13.110(a).

<sup>8</sup> <https://aws.state.ak.us/ApocReports/Common/View.aspx?ID=33454&ViewType=CD>

<sup>9</sup> <https://aws.state.ak.us/ApocReports/Common/View.aspx?ID=33831&ViewType=CD>

“Marketing and event invites”; a January 19, 2021, debt of \$636.64 to i360 for “Portal setup/Mega Plan” and a January 28, 2021, \$100 debt to Old Time Distributors for “Key rings.”

## **2. 30-Day Report**

BFM timely filed its 30-day report covering the period February 2, 2021, through March 5, 2021, on March 8, 2021.<sup>10</sup> In this report, BFM shows a March 2, 2021, debt to Starfish Enterprise for “campaign management” and a March 5, 2021, debt to David Bronson for “candidate loan to campaign.” The report shows no other debts even though Mr. Bronson incurred a debt during the reporting period when he signed a letter of engagement with Axiom on February 4, 2021.<sup>11</sup> The letter of engagement called for a \$5,000 monthly retainer covering 4 months and provided a variety of services, including direct mail, television, radio, digital media, and social media.<sup>12</sup>

The report also shows a payment to Hackney and Hackney of \$18,250 for advertising on various listed radio stations, the Must Read Alaska blog, and event invites. Staff presumes this is why the previously reported debt of \$15,250 to Hackney and Hackney for “Marketing and invites” was not carried over in the reported debts.<sup>13</sup> The report also shows the payment of the previously reported debt to Old Time Distributors for key rings and two \$5,000 payments to Axiom for “Campaign Consultant.”

Finally, this report shows two payments – one for \$636.34 on February 7, 2021, and another for \$560.23 on February 12, 2021 – to i360 for “data subscription”

## **3. 7-Day Report**

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<sup>10</sup> <https://aws.state.ak.us/ApocReports/Common/View.aspx?ID=34047&ViewType=CD>

<sup>11</sup> Exhibit 4, Letter of Engagement.

<sup>12</sup> *Ibid.*

<sup>13</sup> This report was filed prior to BFM amending its year-start report on May 11, 2021, to show the actual debt as \$18,250.

On March 30, 2021, BFM filed its 7-day report covering March 6, 2021, through March 27, 2021.<sup>14</sup> This report shows no debts other than the previously reported March 5, 2021, debt of \$5,000 for “Candidate Loan.” The report shows a \$35,000 payment to Hackney and Hackney on March 25, 2021, for “Marketing KTUU, KYES, GCI Cable, and radio”; a March 18, 2021, payment to Hackney and Hackney in the amount of \$29,500 for “Radio Production, place[ment], Must Read AK, office rent, endorsement ads and invitations.”<sup>15</sup> Further, the report shows a total of \$59,185 made in three separate payments to Axiom for “campaign Consultant and mail outs.”

#### **4. April 6, 2021, Amendment**

On April 6, 2021, BFM amended its year-start report to show an August 26, 2020, non-monetary contribution of website development from Christine Hill valued at \$500.

#### **5. April 15, 2021, Amendment**

On April 15, 2021, BFM amended its 7-day report to show a March 8, 2021, payment of \$5,000 to Axiom/Remington for “Anchorage Mayoral Survey (person to person text).”<sup>16</sup> BFM did not report the corresponding debt to Axiom/Remington until it amended its 30-day report filed on May 11, 2021. This amendment also added detail to the two \$5,000 payments made to Axiom for “Campaign Consult” in its 30-day report by adding, “and mailouts.”

#### **6. 7-Day Runoff Report**

On May 5, 2021, BFM filed its 7-day runoff report covering the period March 28, 2021, through May 1, 2021, and amended it twice the same day.<sup>17</sup> In this report, BFM, for the first time reported a September 20, 2020, debt to Hackney and Hackney of \$95,000 with a remaining balance of for “Media/Marketing (local television and radio)(estimate).”

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<sup>14</sup> <https://aws.state.ak.us/ApocReports/Common/View.aspx?ID=34184&ViewType=CD>

<sup>15</sup> Payments made to Hackney and Hackney total \$64,500.

<sup>16</sup> <https://aws.state.ak.us/ApocReports/Common/View.aspx?ID=34325&ViewType=CD>

<sup>17</sup> <https://aws.state.ak.us/ApocReports/Common/View.aspx?ID=34415&ViewType=CD>

Also, for the first time BFM reported a February 4, 2021, debt to Axiom of \$60,000 with an unpaid balance of \$40,000 for “Campaign Consulting (consulting, management, development, strategy, guidance) (Estimate)” despite having already disclosed total payments to Axiom in the amount of \$240,831.

BFM also reported two debts to WPAI, including a debt of \$1,000 incurred on March 30, 2021, for a poll survey question and \$2,000 incurred on April 30, 2021, for a Bronson run-off counts memo.

### **7. May 11, 2021, Amendments**

On May 11, 2021, BFM amended its 30-day report to show a March 1, 2021, debt of \$5,000 owed to Remington Research Group for “Anchorage Mayoral Survey (person to person text).”

This amendment also amended the 30-day report to show a February 4, 2021, debt of \$20,000 with an unpaid balance of \$20,000 to Axiom for general consulting, management, development, strategy, and guidance. This would cover the monthly retainer fee of \$5,000 for four months in BFM’s Letter of Agreement with Axiom but would not cover any of the other services to be provided.

This amendment amended the February 7, 2021, and February 12, 2021, payments to i360 reported on BFM’s 30-day report. Instead of two payments for “data subscription”, the report now shows the February 7 payment as a portal setup fee and mega plan; and the February 12 payment as “Call Minutes Predictive Dialer Minutes (1/1/2021-1/31/2021).” Although the predictive dialer minutes covered the month of January 2021, BFM never reported a debt to Axiom for that portion of the service.

The May 11, 2021, amendments also amended BFM’s 7-day report in several ways. Although BFM had amended its 30-day report to show an outstanding \$20,000 debt incurred on February 4, 2021, to Axiom for general consulting, management, development, messaging strategy, and guidance, the May 11 amendment to BFM’s 7-day report shows a less unrealistic \$80,000 debt with an unpaid balance of \$15,815 incurred on February 4, 2021, to Axiom for general consulting, management, development, strategy, and guidance.

As of the May 11 amendment, BFM had already reported a total of \$240,831 paid to Axiom for campaign consulting and mail outs.

### **8. June 2, 2021, Amendments**

On June 2, 2021, BFM amended the payment descriptions in its 30-day report.<sup>18</sup> The original 30-day report listed two \$5,000 payments to Axiom for Campaign Consultant. However, on April 15, 2021, BFM amended the report to show payments were made for Campaign Consultant and Mailouts. This amendment changes those entries to “Campaign Consulting (general consulting, management, development, messaging, strategy and guidance)”.

Moreover, this amendment changed the amount of the March 1, 2021, debt to Remington for the Anchorage Mayoral Survey from \$5,000 with an unpaid balance of \$5,000 to \$5,500 with an unpaid balance of \$5,500.

### **9. June 3, 2021, Amendments**

On June 3, 2021, BFM amended its 7-day report<sup>19</sup> and its 7-day runoff report.<sup>20</sup> The amendments changed the March 8, 2021, payment to Remington for the Anchorage Mayoral Survey to \$5,500 from the previously-reported amount of \$5,000.

The amendment to the 7-day report also made several changes related to Axiom. The \$20,125 March 15, 2021, payment made for campaign consultant and direct mail outs was amended to direct mail and, for the first time, named AT Publishing as the subcontractor. The \$34,060 payment made for general consulting, management, development, messaging, strategy and guidance was amended to direct mail and also added AT publishing as the subcontractor.

In addition, the amendment to the 7-day report changed the dates and combined the WPAI services which had previously been reported on the 7-day runoff report as debt incurred on March 30, 2021, (\$1,000 for poll survey question) and April 30, 2021, (\$2,000

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<sup>18</sup> <https://aws.state.ak.us/ApocReports/Common/View.aspx?ID=34470&ViewType=CD>  
<sup>19</sup> <https://aws.state.ak.us/ApocReports/Common/View.aspx?ID=34471&ViewType=CD>  
<sup>20</sup> <https://aws.state.ak.us/ApocReports/Common/View.aspx?ID=34473&ViewType=CD>

for Bronson run-off counts memo), to indicate the date incurred for both services as March 9, 2021, with the total amount increased to \$4,500 with an unpaid balance of \$3,000.<sup>21</sup>

The amendment to the 7-day report also increases the original September 20, 2021, debt to Hackney and Hackney from 95,000 to \$150,000 for “Office Rent, Media, Marketing (local television and radio)”.

BFM amended the 7-day runoff report to include seven instances of changes in payments to Axiom from “campaign consulting and mail outs” to name AT Publishing as the subcontractor for the mail outs.

### **B. Over the Limit Contributions**

Complainant alleged that Molly McCauley, Jerry Prevo, Tim Rooney, James Strong, and Dawn Timmreck all made contributions to the BFM campaign in excess of the \$500 annual limitation; and that the BFM campaign did not refund the overages.

During the investigation, staff requested BFM to provide a record of credit card transactions processed through Anedot. BFM provided a spreadsheet showing a great deal of personal information such as last 4 digits of the credit card number, so staff edited it to show only contribution information and only information for the individuals that Complainant alleged made excess contributions.

According to BFM’s year-start report, Molly McCauley contributed \$500 on September 3, 2020, and \$100 on December 31, 2020. On April 15, 2021, BFM amended its year-start report to show that it had returned the \$100 credit card transaction on the day it was donated.

According to BFM’s year-start report, Jerry Prevo contributed \$500 on January 21, 2021. BFM’S 7-day report shows that Jerry Prevo contributed an additional \$500 on March

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<sup>21</sup> BFM did not amend its 7-day runoff report to show these changes. That report still shows the original incurred date for the services as March 30, 2021 and April 30, 2021, in amounts of \$1,000 and \$2,000 respectively.



14, 2021. BFM's 7-day runoff report shows that \$500 was returned to Jerry Prevo on April 14, 2021.

According to BFM's year-start report, Tim Rooney contributed \$250 on January 4, 13, and 18, 2021. BFM's April 15, 2021, amendment to the year-start report shows that \$250 was returned to Tim Rooney on January 18, 2021. The Anedot record shows that Tim Rooney contributed \$250 on January 3, 13 and 18, 2021.<sup>22</sup> That record also shows that the January 18, 2021, donation was refunded on January 18, 2021.<sup>23</sup>

According to BFM's year-start report, James Strong contributed \$500 on January 1 and 16, 2021. BFM's reports do not show that the excess \$500 was ever returned.

According to BFM's year-start report Dawn Timmreck contributed \$25 on December 15, 2020; \$500 on December 31, 2020, and an additional \$25 on the same day. The April 15, 2021, amendment to the year-start report and the Anedot record show that BFM returned \$25 to Dawn Timmreck on December 31, 2020. The Anedot record shows that Dawn Timmreck contributed \$25 on December 14, 2020; \$500 on December 31, 2020; and an additional \$25 on the same day.<sup>24</sup> Neither the Anedot record or BFM's own reports show that the remaining \$25 was ever returned.

### **C. Contributors Connected with a Business**

Complainant alleged that seven businesses made nonmonetary contributions of venue and food for BFM events. In each case, BFM reported the contribution as coming from an individual related to the business as an owner (2 instances), Manager (3 instances), a waitress, bartender and cook. BFM provided the contributor form for each of the contributions.<sup>25</sup> BFM's attorney stated that in each instance the BFM campaign relied on

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<sup>22</sup> Exhibit 5, Edited Anedot Report.

<sup>23</sup> *Id.*

<sup>24</sup> *Id.*

<sup>25</sup> Exhibit 6, Contributor Forms.

the information provided on the contributor forms to verify that the contribution came from the individual named and was not from the business.<sup>26</sup>

#### **D. McKenna Brothers Paving Company**

Complainant alleged that McKenna Brothers Paving Company (McKenna) made a prohibited contribution by hosting a fundraising reception for to the BFM campaign. The investigation revealed that the reception was held on April 25, 2021, in McKenna's shop and that an invitation was posted on a BFM social media site.<sup>27</sup> In its response to questions asked by staff, Mckenna stated that it only provided the venue for the event and that none of its employees that participated in the event were on paid time or required to be there.<sup>28</sup>

#### **E. Administration Expenses**

Complainant alleges that post-election, BFM used its campaign website and Facebook page to promote Mayor Elect Bronson's efforts to recruit members of his administration and to solicit suggestions and ideas from the public in violation of AS 15.13.112(a) which provides that campaign funds may only be used to pay expenses that reasonably relate to election campaign activity. Complainant provided examples of the posts, which indeed show recruitment and solicitation of ideas on the website and social media.<sup>29</sup>

#### **F. Polling**

Complainant alleges that the BFM campaign received polling data from another person or persons and did not report the receipt as a contribution on its reports. Complainant provided a copy of a March 31, 2021, BFM post showing information from a poll conducted by WPAI on February 25, 2021, and a Remington Research Group poll

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<sup>26</sup> Exhibit 7, Stone/Lucas Email Chain.

<sup>27</sup> Exhibit 8, Fundraising Invitation.

<sup>28</sup> Exhibit 9, McKenna Response to Questions.

<sup>29</sup> See, for example, Exhibit 10, Submit Ideas

conducted on March 2, 2021.<sup>30</sup> Staff could find no evidence that the WPAI poll or the Remington poll were publicly disseminated.

As noted above, BFM reported a March 9, 2021, debt of \$4,500 to WPAI on its June 30, 2021, amendment to its 7-day report for “Bronson Runoff Counts Memo, poll survey question and Alaska Mayor off the shelf model.” The only payment BFM made to WPAI was \$1,500 on March 10, 2021, for “data subscription.” BFM provided a \$1,000 invoice from WPAI dated May 4, 2021 for “survey question.”<sup>31</sup> In response to staff’s request for a copy of the results or the poll survey question received by the campaign from WPAI, BFM produced a document that is consistent with the February 25, 2021, polling results referenced by BFM in its March 31, 2021 post.<sup>32</sup>

As also noted above, BFM reported a March 1 debt of \$5,000 to Remington on its May 11, 2021, amendment to its 30-day report for “Anchorage Mayoral Survey (via text message).”

## **LAW AND ANALYSIS**

### **A. Failure to File Full and Complete Reports**

Candidates are required to file full reports of expenditures made and contributions received in accordance with AS 15.13.110(a).<sup>33</sup> These reports are filed on February 15 (called a year-start report); 30 days and 7 days before an election; and in the case of a municipal election, 105 days after the election.<sup>34</sup>

Alaska campaign disclosure law defines a contribution to include any nonmonetary contribution with a value greater than \$100.<sup>35</sup>

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<sup>30</sup> Exhibit 11, Bronson Polling Post.

<sup>31</sup> Exhibit 12, WPAI invoice.

<sup>32</sup> Exhibit 13, Polling Results.

<sup>33</sup> AS 15.13.040(a).

<sup>34</sup> AS 15.13.110(a).

<sup>35</sup> 2 AAC 50.321(a)(2).

Alaska campaign disclosure law defines an expenditure to mean a purchase or transfer of money, or anything of value, or promise or agreement to purchase or transfer money or anything of value, incurred or made for the purpose of, among other things, influencing the election of a candidate.<sup>36</sup> Candidates are required to report “the date and amount of all expenditures made.”<sup>37</sup>

For each expenditure incurred, but not paid, reports must include the date the expenditure was incurred,<sup>38</sup> the name and address of the person with whom the debt was incurred,<sup>39</sup> the purpose of the incurred expenditure,<sup>40</sup> and the amount of the incurred expenditure.<sup>41</sup> This is done under the debt section of the report.

For expenditures made to an advertising agency, or to an individual or business that provides campaign consultation or management services, Alaska campaign disclosure regulations require candidates to report, “in detail all services rendered, including the name of each business from which campaign goods or services were purchased or subcontracted or media advertising placed, and the amount of the expenditure.”<sup>42</sup>

The investigation revealed that none of BFM’S original reports provided the full and complete information required by APOC statutes and regulations.

### **1. Year-Start Report**

BFM should have reported the debt to Hackney and Hackney incurred on September 20, 2020, for “Media/Marketing (local television and radio)(estimate)” on the year-start report. This debt was first reported on BFM’s 7-day runoff report on May 5, 2021, as \$95,000 with a balance of \$12,250; and on the May 11, 2021, amendment to the year-start report; but, the June 3, 2021, amendment to the 7-day report shows the original

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<sup>36</sup> AS 15.13.400(6)(A)(i).

<sup>37</sup> AS 15.13.040(a)(1)(A).

<sup>38</sup> 2 AAC 50.321(a)(6)(A).

<sup>39</sup> 2 AAC 50.321(a)(6)(B).

<sup>40</sup> 2 AAC 50.321(a)(6)(C).

<sup>41</sup> 2 AAC 50.321(a)(6)(D).

<sup>42</sup> 2 AAC 50.321(d)

September 20, 2020, debt as \$150,000 with a balance of \$67,250. By failing to timely report the Hackney and Hackney debt on the year-start report (whatever the original amount was) BFM violated AS 15.13.040 and 2 AAC 50.321.

The year-start report also failed to name the local television and radio stations that would be the subcontractors on the Hackney and Hackney debt for Media/Marketing (local television and radio). This information was also not provided in any of the 3 subsequent amendments to the year-start report. By failing to provide the name of subcontractors where media was placed, BFM violated 2 AAC 50.321(d).

Finally, the year-start report as originally filed did not include the nonmonetary contribution of website design provided by Christine Hill. The contribution was reported on the April 6, 2021, amendment to the report. By failing to report Ms. Hill's contribution, BFM violated 2 AAC 50.321(a)(2).

## **2. 30-Day Report**

As shown by BFM's May 11, 2021, amendment to its 30-day report, BFM failed to carry over its reported \$95,000 debt to Hackney and Hackney; failed to report its February 4, 2021, debt of \$20,000 to Axiom; and failed to report its \$5,000 debt to Remington in its original report due on March 8, 2021. By failing to carry over the Hackney and Hackney debt on the 30-day report; and failing to report the Axiom and Remington debts, BFM violated AS 15.13.040 and 2 AAC 50.321.

BFM's 30-day report showed a payment to Hackney and Hackney for "Advertising KENI, KASH, KGOT, KYMG, KAFC, KLEF, KMXS, KBRJ, KEAG & KFQD, Must Read, Event Invites." But, BFM did not provide a full description of all services rendered and the names of all subcontractors until it amended its report on June 2, 2021. In the amended report the production of the two ads that played on the stations originally listed, the production of the event invites, and a February 2, 3, and 4 ad run on KENI, KBRJ, KEAG & KFQD were also added. By failing to provide all services rendered and the name of subcontractors where media was placed BFM violated 2 AAC 50.321(d).

BFM's 30-day report showed two payments to i360 with the description, "data subscription." But, BFM did not provide a full description of services rendered until it amended its report on May 11, 2021. In the amended report, BFM shows the services rendered for one of the payments as "Portal setup/setup fee and mega plan." In the other, BFM shows the services rendered as "Call – Minutes Predictive Dialer Minutes." By failing to provide all services rendered BFM violated 2 AAC 50.321(d).

### **3. 7-Day Report**

As shown by BFM's May 11, 2021, amendment to its 30-day report, BFM failed to carry over its reported \$95,000 debt to Hackney and Hackney on the original report due on March 30, 2021. This was not corrected until BFM filed its May 11, 2021, amendment to the report.

BFM'S original 7-day report filed on March 30, 2021, does not show any debt to Axiom. This was not corrected until BFM filed its May 11, 2021, amendment to the report. In that report, BFM shows a February 4, 2021, debt to Axiom of \$80,000 with a balance of \$15,815. By failing to report the Axiom debt, BFM violated AS 15.13.040 and 2 AAC 50.321.

BFM's original 7-day report filed on March 30, 2021, shows no debt to WPAI. This was not corrected until BFM filed its June 3, 2021, amendment to report \$4,500 with a balance of \$4,500 debt to WPAI for Bronson runoff counts memo, poll survey question and Alaska Mayor off the shelve model incurred on March 9, 2021. The June 3 amendment also showed \$3,500 with a balance of \$3,500 debt to i360 for call minutes predictive dialer minutes and giga plan incurred on April 13, 2021.<sup>43</sup>

By failing to carry over the Hackney and Hackney and Axiom debts, and failing to timely report the WPAI debt, BFM violated AS 15.13.040 and 2 AAC 50.321.

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<sup>43</sup> This debt was incurred outside of the 7-day reporting period and should, therefore have been reported on BFM's 7-day runoff report but was not.

#### **4. 7-Day Runoff Report**

In this report filed on May 5, 2021, BFM shows the Axiom debt to be \$60,000 with a balance of \$40,000.

Curiously, this report and the June 3, 2021, amendment to it, report the WPAI poll survey as \$1,000 with a balance of \$1,000 debt incurred on March 30, 2021; and the WPAI Bronson runoff count memo as \$2,000 with a balance of \$2,000 incurred on April 30, 2021. This is inconsistent with the June 3, 2021, amendment to the 7-day report showing that the debts for both services were incurred on March 9, 2021, in the amount of \$4,500; and the fact that the only payment made to WPAI was a \$1,500 payment on March 10, 2021, for “data subscription.” On these facts, staff concludes that BFM failed to file a complete and accurate 7-day runoff report in violation of AS 15.13.040 and 2 AAC 50.321.

In seven instances this report failed to Name AT Publishing as Axiom’s subcontractor for mail outs. This was not corrected until BFM amended the report on June 3, 2021. By failing to name of subcontractors for the mail outs BFM violated 2 AAC 50.321(d).

#### **B. Over the Limit Contributions**

An individual may not contribute more than \$500 per year to a candidate.<sup>44</sup> A candidate’s treasurer is required to use “best efforts” to determine if a contribution is prohibited; and if the treasurer determines that a contribution is prohibited, the treasurer must return it no later than 10 days after receipt.<sup>45</sup>

The investigation revealed that Mr. Strong and Ms. Timmreck made prohibited contributions (\$500 and \$25 respectively) that were never returned; and that Mr. Prevo’s prohibited contribution was not returned until 31 days after it was made. By failing to return the Strong and Timmreck contributions; and returning the Prevo contribution 31 days after it was made (21 days after the 10-day grace period), BFM violated 2 AAC 50.266.

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<sup>44</sup> AS 15.13.070(b)(1).

<sup>45</sup> 2 AAC 50.266.

### **C. Contributors Connected with a Business**

Alaska law prohibits corporate contributions in candidate campaigns and treasurers must use best efforts to determine the legality of all contributions received.<sup>46</sup> Here, the campaign relied on contributor cards to determine that in-kind contributions of food, catering, and venues were made by the individual business owners. It does not appear the campaign ever requested further substantiating information to conclude the costs were paid by the individuals and not simply absorbed by the businesses. However, based on the information provided during the investigation, there is insufficient evidence to conclude that the businesses named in the complaint made the nonmonetary contributions rather than the individuals who claimed they made them.

### **D. McKenna Brothers Paving Company**

A business is prohibited from making contributions to a candidate.<sup>47</sup> But, the permission of the owner of real or personal property to use space for an event is not a contribution to the candidate unless the owner normally charges a fee for that activity. Here, the investigation revealed insufficient evidence to conclude that the use of McKenna's shop as the venue for BFM's fundraising event violated Alaska statutes or regulations.

### **E. Administration Expenses**

Complainant alleges that post-election, BFM used its campaign website and Facebook page to promote Mayor Elect Bronson's efforts to recruit members of his administration and to solicit suggestions and ideas from the public. In general, campaign funds may only be used to pay expenses that reasonably relate to election campaign activity.<sup>48</sup> But, after an election, a candidate is allowed to retain personal property (except for money) that was acquired by and for use of the campaign as long as the total value of

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<sup>46</sup> AS 15.13.074(f) and 2 AAC 50.266.

<sup>47</sup> AS 15.13.074(f).

<sup>48</sup> AS 15.13.112(a).



personal property retained (exclusive of a computer and printer) does not exceed \$5,000.<sup>49</sup> Accordingly, staff concludes that Mayor Elect Bronson’s use of his campaign website and social media to promote the activities of his new administration did not violate AS 15.13.112(a).

#### **F. Polling**

Candidates are required to report all contributions received and expenditures made.<sup>50</sup> According to BFM’s own reports, it made no expenditure, incurred no debt or received any nonmonetary contribution that would be consistent with receipt of the February 25, 2021, WPAI polling data in its March 31, 2021 post.

In its complaint, Complainant has conjectured that the data must have come from another person, possibly the Recall Rivera campaign that made a February 18, 2021, expenditure to WPAI for polling. Although staff made requests for the information, the Recall Rivera campaign has refused to provide the WPAI polling information.<sup>51</sup>

On the other hand, BFM’s 30-day report as amended on May 11, 2021, showing a \$5,000 debt incurred to Remington on March 1, 2021, for “Anchorage Mayoral Survey (via text message)” is consistent with receiving the polling results in its March 31, 2021, post from Remington.

#### **CONCLUSION**

BFM violated AS 15.13.040; 2 AAC 50.321; and/or 2 AAC 50.321(d) in all four of its reports. BFM violated 2 AAC 50.266 by failing to return or timely return prohibited over the limit contributions.

The complaint allegations concerning contributors connected with a business, Mckenna Brothers Paving Company, and the use of campaign assets to promote Mayor Elect Bronson’s administration should be dismissed.

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<sup>49</sup> AS 15.13.116(b).

<sup>50</sup> AS 15.13.040(a).

<sup>51</sup> Exhibit 14, Recall Rivera Response to Request For Information.

The complaint allegation concerning polling data from Remington Research Group should be dismissed.

The complaint allegation concerning polling data from WPAI should be dismissed without prejudice so that staff may continue its investigation and file its own complaint if the facts warrant it.

### **MAXIMUM CIVIL PENALTIES**

The Maximum civil penalty for failing to timely file a full and complete year-start report and a 30-day report is \$50 per day for each day the violation continues.<sup>52</sup> The maximum civil penalty for failure to timely file a full and complete 7-day report is \$500 per day for each day the violation continues.<sup>53</sup> The penalty for failure to timely return prohibited contributions is also \$50 per day for each day the violation continues.<sup>54</sup>

#### **1. Year-Start Report**

The year-start report was due on February 16, 2021 and was never substantially compliant. Nevertheless, staff concludes that it would be equitable to toll the running of this violation on the date that this staff report was originally due, May 17, 2021; a period of 91 days. Thus, the maximum civil penalty for this violation is \$4,550.

#### **2. 30-Day Report**

The 30-day report was due on March 8, 2021 and was not substantially compliant until it amended the report on June 2, 2021. Nevertheless, staff concludes that it would be equitable to toll the running of this violation on the date that this staff report was originally due, May 17, 2021; a period of 71 days. Thus, the maximum civil penalty is \$3,550.

#### **3. 7-Day Report**

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<sup>52</sup> AS 15.13.390(a).

<sup>53</sup> *Id.*

<sup>54</sup> *Id.*

The 7-day report was due on March 30, 2021 and was not substantially compliant until it filed its June 3, 2021, amendment to the report. Nevertheless, staff concludes that it would be equitable to toll the running of this violation on the date that this staff report was originally due, May 17, 2021; a period of 49 days. Thus, the maximum civil penalty is \$24, 500.

#### **4. 7-Day Runoff Report**

The 7-day runoff report was due on May 4, 2021 and was never substantially compliant until it filed its June 3, 2021, amendment to the report. Nevertheless, staff concludes that it would be equitable to toll the running of this violation on the date that this staff report was originally due – May 17, 2021; a period of 49 days. Thus, the maximum civil penalty is \$7,000.

#### **5. Over the Limit Contributions**

Ms. Timmreck made an over the limit contribution on December 31, 2020, that should have been refunded no later than January 10, 2021, but never was. Nevertheless, staff concludes that it would be equitable to toll the running of this violation on the date that this staff report was originally due, May 17, 2021; a period of 128 days. Thus, the maximum civil penalty is \$6,400.

Mr. Strong made an over the limit contribution on January 16, 2021 that should have been refunded no later than January 6, 2021, but never was. Nevertheless, staff concludes that it would be equitable to toll the running of this violation on the date that this staff report was originally due, May 17, 2021; a period of 112 days. Thus, the maximum civil penalty is \$5,600.

Mr. Prevo made an over the limit contribution on March 14, 2021 that should have been refunded no later than March 24, 2021 but was not refunded until April 14, 2021 – a period of 21 days. Thus, the maximum civil penalty is \$1,050.

#### **6. Total Maximum Civil Penalty**

The total maximum civil penalty in this case is \$52,650.

## **MITIGATION AND RECOMMENDATION**

BFM has had two late filings during the Anchorage mayoral campaign.<sup>55</sup> Because BFM has had more than one late filing in the last five years, there are no mitigating factors that apply in this case.

It is important to note that in denying Complainant's request for expedited consideration, the Commission relied on the representation of counsel for BFM that any violations would be expeditiously corrected with amendments to campaign disclosure reports and return of any prohibited contributions.<sup>56</sup>

Staff also notes that when assessing mitigation to the civil penalty in this case, it is important to note the dates of the elections in this matter: April 6, 2021, for the election and May 11, 2021, for the runoff. As the investigation revealed, it was not until BFM's May 11, 2021, amendments to its year-start, 30-day and 7-day reports that the reports came even close to compliant. Moreover the \$95,000 debt to Hackney and Hackney, which may or may not actually have been \$150,000, incurred on September 20, 2020, was not reported until May 5, 2021, on BFM's 7-day runoff report, nor was it reported on its year-start report, where it belonged, until May 11, 2021.

Furthermore, BFM never reported its February 4, 2020 debt to Axiom until May 5, 2021, when it filed its 7-day runoff report, nor did they report it on its 30-day report, where it belonged, until May 11, 2021 – on the day of the runoff election and a month after the original election on April 6, 2021.

Also telling is that BFM never gave a realistic estimate of its original debt to Axiom. It has fluctuated from \$20,000 with a balance of \$20,000 to \$80,000 with a balance of \$15,815 and finally to \$60, with a balance of \$40,000 per a February 4, 2020, Letter of Agreement whereby Axiom would essentially be running the campaign up to and including

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<sup>55</sup> Exhibit 15, Notice of Penalty Assessment – Expenditure Before Filing; Exhibit 16, Notice of Penalty Assessment – 7-Day Anchorage Municipal Runoff Campaign Disclosure Report.

<sup>56</sup> Ex. 2.

“integrate[ing] and build[ing] the existing campaign team to include all vendor selections, staff recommendations, reassignments, terminations, and pay schedules.”<sup>57</sup>

Finally, after wading through BFM’s utterly confusing reports for many days, it is clear to staff that the public had no idea of what was going on in the BFM campaign until well after the April 6, 2021 election and the May 11, 2021 runoff election.

Under all the circumstances staff recommends no reduction to the civil penalty in this case.

Staff spent 70 hours investigating this case. Because BFM cooperated with the investigation, staff does not recommend the assessment of costs of the investigation.

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:	
Stacey Stone Holmes, Weddle & Barcott 701 W. 8 <sup>th</sup> Avenue, Suite 700 Anchorage, Alaska 99507 <a href="mailto:stone@hwb-law.com">stone@hwb-law.com</a>	<input checked="" type="checkbox"/> Email <input checked="" type="checkbox"/> Certified Mail
Paula DeLaiarro Dunbar for Mayor PO Box 211686 Anchorage, Alaska 99521 <a href="mailto:Paula.delaiarro@gmail.com">Paula.delaiarro@gmail.com</a>	<input checked="" type="checkbox"/> Email <input checked="" type="checkbox"/> Certified Mail

*Radme Ferguson*

07/23/2021

Signature

Date

9171-9690-0935-0265-9747-47

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<sup>57</sup>

Ex. 4.