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***EMERGENCY/EXPEDITED***

October 10, 2022

To: Alaska Public Offices Commission  
From: Alaska Public Interest Research Group and 907 Initiative

Re: Complainants' Request to Expedite Consideration of APOC Complaint 22-01-CD Against Brett Huber, Strategic Synergies, LLC, the Republican Governor's Association, A Stronger Alaska, Dunleavy for Governor, and Michael J. Dunleavy.

**I. INTRODUCTION**

Pursuant to AS 15.13.380(c), Complainants Alaska Public Interest Research Group and 907 Initiative (“Complainants”) request that APOC expedite consideration of APOC Complaint 22-01-CD for the purpose of enjoining Respondent A Stronger Alaska (“ASA”) from making any campaign expenditures for the 2022 gubernatorial election. In response to the complaint filed on September 6, the Republican Governor’s Association (“RGA”) and ASA have refused to cooperate with APOC Staff and appear to be attempting to “run out the clock” on any enforcement action until well after the election. In addition, ASA has already begun committing hundreds of thousands of dollars in last-minute campaign advertisements with millions more at its disposal. ASA made these commitments *after* this complaint was filed and during the pendency of this investigation. Because ASA has millions at its disposal, has done nothing to cure the unlawful coordination between it and the candidate it supports, and because its actions could materially affect the outcome of the upcoming general election, expedited consideration is warranted.

**II. FACTS**

On September 6, 2022, Complainants filed an APOC complaint alleging that Respondents had engaged in unlawful coordination between an independent expenditure group and a campaign.<sup>1</sup>

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<sup>1</sup> See generally Complaint, APOC Complaint No. 22-01-CD (Sept. 6, 2022). This complaint also alleged that the Governor’s Office was using public resources to subsidize the Dunleavy for

Specifically, Complainants explained how Respondent Brett Huber (through his company Strategic Synergies, LLC (“SS”))<sup>2</sup> had been hired by ASA as its sole consultant to support the re-election of Governor Michael J. Dunleavy,<sup>3</sup> while simultaneously serving as a deputy treasurer of Respondent Dunleavy for Governor (“DFG”),<sup>4</sup> and while also being paid thousands of dollars through a no-bid State contract where he reported directly to the Governor’s Office.<sup>5</sup> None of these facts have been disputed and no evidence appears to have been submitted that undermines these facts. Complainants asked APOC to “act swiftly to enjoin ASA from acting to impact the 2022 gubernatorial campaign until APOC Staff can fully investigate the scope of the Respondent’s illegal activities,” or alternatively order that ASA be “dissolved and require that all donations be refunded.”<sup>6</sup>

On September 23, Complainants supplemented their complaint with additional information about how the Governor’s Office has been paying DFG’s campaign “volunteers” with State funds to minimize staff costs for the campaign.<sup>7</sup> Complainants further supplemented their complaint on October 5,<sup>8</sup> showing that ASA has started reporting hundreds of thousands of dollars in campaign

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Governor campaign. Those issues are still pending and urgent, but given the millions available to ASA disposal, this request focuses primarily on that issue.

<sup>2</sup> Exhibit A to Complaint.

<sup>3</sup> Exhibit B to Complaint (reporting the debt as of April 29, 2022).

<sup>4</sup> Complaint at 10 (explaining how Mr. Huber remained a deputy treasurer of DFG until around 2pm on May 31, 2022).

<sup>5</sup> Exhibit E to Complaint (beginning independent contractor work for the Governor’s Office on April 25, 2022).

<sup>6</sup> See Complaint at 2.

<sup>7</sup> See generally Complainants’ First Supplement in Support of APOC Complaint 22-01-CD (Sept. 23, 2022).

<sup>8</sup> See generally Complainants’ Second Supplement and Response in Support of APOC Complaint 22-01-CD (Oct. 5, 2022). ASA later amended its Independent Expenditures Form 15-

debts, and that this activity only started *after* the complaint was filed.<sup>9</sup> ASA continues to report new expenditures; as of this filing, ASA has reported the following expenditures:

- A \$11,500 in expenditure to pay Mr. Huber through SS;<sup>10</sup>
- A \$78,000 debt to the RGA “to purchase information from vendor Grassroots Targeting”;<sup>11</sup>
- A \$500 debt for “Research/Videography”;<sup>12</sup>
- A \$314,985 debt for “Direct Mail”;<sup>13</sup>
- A \$44,500 debt for “Polling”;<sup>14</sup> and
- A \$500 debt for “Copywriting.”<sup>15</sup>

All three of Complainants’ filings and exhibits are incorporated by reference in their entirety.

Respondents filed responses to the complaint on September 23. No Respondent provided any evidence or sworn statements to support their position. And no Respondent disputed the key allegation in the complaint that Mr. Huber was *simultaneously*: (1) a deputy campaign treasurer for DFG;<sup>16</sup> (2) providing consulting services to ASA through SS to support Governor Dunleavy’s re-election;<sup>17</sup> and (3) receiving State funds (also through SS) through a no-bid contract while

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6 to correct the vender name; its polling vender is now listed as “Public Opinion Strategies, LLC.” Exhibit J to Second Supplement.

<sup>9</sup> Exhibits I & J to Second Supplement.

<sup>10</sup> Independent Expenditures Form 15-6 for ASA (submitted Sept. 2, 2022).

<sup>11</sup> *Id.*

<sup>12</sup> Independent Expenditures Form 15-6 for ASA (submitted Sept. 22, 2022).

<sup>13</sup> Independent Expenditures Form 15-6 for ASA (submitted Sept. 26, 2022).

<sup>14</sup> Independent Expenditures Form 15-6 for ASA (amended Oct. 5, 2022).

<sup>15</sup> Independent Expenditures Form 15-6 for ASA (submitted Oct. 10, 2022).

<sup>16</sup> *See* Complaint at 10.

<sup>17</sup> Exhibit B to Complaint.

reporting directly to the Governor’s Office.<sup>18</sup> And despite Mr. Huber’s claim that his no-bid contract was dissolved June 1<sup>19</sup> — which is in itself could be seen as an admission of unlawful coordination before that time<sup>20</sup> — Alaska’s Online Checkbook shows otherwise: Mr. Huber, through SS, was paid \$8,000 by the State of Alaska on June 29, 2022.<sup>21</sup>

Although APOC Staff had originally intended to present a Staff Report to the Commission by October 10, Staff have apparently determined that it would not be possible to provide a full Report by that date because ASA and the RGA are not cooperating with Staff’s investigation.<sup>22</sup> APOC Staff have requested that the Commission issue subpoenas to ASA and its officers, and Complainants fully support that request.<sup>23</sup> But on October 7, APOC Staff filed a request for extension of time, which would mean that the Staff Report would not be finished until after the 2022 general election.<sup>24</sup> Expediting consideration of this matter to enjoin ASA from acting while

<sup>18</sup> Exhibit E to Complaint.

<sup>19</sup> See Iris Samuels, *Complaint alleges Dunleavy campaign engaged in ‘scheme’ to use public funds*, ANCHORAGE DAILY NEWS (updated Sept. 8, 2022) (quoting Mr. Huber as claiming that “his state contract was dissolved ‘months ago’”), <https://www.adn.com/politics/2022/09/06/complaint-alleges-dunleavy-campaign-engaged-in-scheme-to-use-public-funds/>.

<sup>20</sup> See AS 15.13.400(11) (prohibiting direct or indirect coordination between an independent expenditure group and a candidate).

<sup>21</sup> See [https://doa.alaska.gov/dof/reports/ckbkonline\\_reports.html](https://doa.alaska.gov/dof/reports/ckbkonline_reports.html). The following screenshot shows this information:

E	F	G	H	I	J
State of Alaska Checkbook Online – Detail by Expense Type Fiscal Year 2022 07/01/2021 - 06/30/2022					
Vendor Name	Alias/DBA	State	Issue Date	Document ID	Amount
BRETT W HUBER SR	STRATEGIC SYNERGIES	AK	6/29/2022	AD-01-AD220087305-1	8,000.00

<sup>22</sup> See generally Request for Extension of Time (Oct. 7, 2022).

<sup>23</sup> See *id.* at 1; see also Motion for Issuance of Subpoena Duces Tecum (Oct. 4, 2022).

<sup>24</sup> See generally Request for Extension of Time. In its motion, APOC Staff have requested “an extension of 30 days from the date that A Stronger Alaska responds to staff’s requests for information.” See *id.* at 1-2. The proposed subpoenas would give respondents 7 days to respond once they are served. If APOC decided to grant APOC Staff’s request on the date of this filing,

APOC Staff fully investigates the allegations in the complaint is therefore the only meaningful way to enforce Alaska’s campaign finance laws and protect the integrity of this election.

### **III. ARGUMENT**

Alaska Statute 15.13.380(c) outlines three factors that APOC must consider when determining whether to expedite a complaint.<sup>25</sup> All three of those factors weigh heavily in favor of expedited consideration here.

First, the allegations in the complaint and supplemental information are strong. On its face, the complaint demonstrates that Respondents have unlawfully coordinated between an independent expenditure group and a candidate and his campaign.<sup>26</sup> Even this election cycle, APOC required the dissolution of an independent expenditure group when similar unlawful coordination was clear.<sup>27</sup> And instead of either meaningfully contesting the allegations or cooperating so that APOC Staff can timely investigate, Respondents have responded by refusing to cooperate with APOC Staff, while escalating their efforts to influence the outcome of the race for Governor.<sup>28</sup>

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that would mean APOC Staff would not be required to provide a Report until November 16, 2022, which is more than a week after the 2022 general election.

<sup>25</sup> AS 15.13.380(c) (“In deciding whether to expedite consideration, the commission shall consider such factors as [(1)] whether the alleged violation, if not immediately restrained, could materially affect the outcome of an election or other impending event; [(2)] whether the alleged violation could cause irreparable harm that penalties could not adequately remedy; and [(3)] whether there is reasonable cause to believe that a violation has occurred or will occur.”).

<sup>26</sup> See AS 15.13.400(11); see also *APOC v. Patrick*, 494 P.3d 53, 54 (Alaska 2021) (explaining how the prohibition on coordination exists to help prevent “*quid pro quo* corruption” (emphasis in original) (quoting *Citizens United v. FEC*, 558 U.S. 310, 359, 365 (2010))).

<sup>27</sup> Exhibit K to Second Supplement.

<sup>28</sup> See Request for Extension of Time; see also Motion for Issuance of Subpoena Duces Tecum.

Second, Respondents' actions could materially affect the outcome of the election. ASA has already committed hundreds of thousands of dollars to support the re-election of Governor Dunleavy,<sup>29</sup> and it has millions more at its disposal.<sup>30</sup> The scale of the funds at issue here — which is twice as much as Governor Dunleavy's official campaign has at its disposal — certainly qualifies as having the capacity to materially affect the outcome of the election.

Finally, civil penalties alone will not serve as an adequate remedy. APOC Staff, although working diligently, have been stonewalled by Respondents.<sup>31</sup> Even if the Commission grants APOC Staff's motion to subpoena documents, the Staff Report will not be ready until after the election, which means APOC will not be able to consider the allegations in the complaint until after the violations and the election have occurred.<sup>32</sup> Furthermore, any fines that could be levied would not even come close to serving as an adequate remedy. Even if the Commissioner were to levy a six-figure fine against ASA, it would still have *millions* to spend to influence the outcome of the gubernatorial election in the few weeks before November 8, and the damage from unlawfully-coordinated expenditures will have already been done.

Complainants want APOC Staff to continue using its subpoena power to prepare a Staff Report so that the Commission can ultimately resolve their complaint on an ordinary timeline. But in the interim, the Commission must act immediately to prevent ASA from influencing the outcome of the election because of unlawful coordination.

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<sup>29</sup> Exhibits I & J to Second Supplement.

<sup>30</sup> See Complaint at 9.

<sup>31</sup> See Request for Extension of Time; see also Motion for Issuance of Subpoena Duces Tecum.

<sup>32</sup> See Request for Extension of Time (proposing an alternative timeline that would culminate in the issuance of the Staff Report after November 8, 2022).

There are three possible remedies that the Commission should consider on an expedited basis.<sup>33</sup> First, APOC could enjoin ASA from making any campaign expenditures for the remainder of the election cycle, which will give APOC Staff enough time to complete a full investigation.<sup>34</sup> This remedy appears to be the most appropriate given the uncontested allegations of unlawful coordination and the severity of the blatant campaign finance violation. Second, APOC could alternatively order that ASA be dissolved and have all assets returned to the donor entity.<sup>35</sup> Finally, APOC could order an appropriate “cooling off” period whereby ASA could not engage in any campaign expenditures until at least 120 days had passed after it cuts off all ties with Mr. Huber.<sup>36</sup>

#### IV. CONCLUSION

The uncontested facts are clear, Brett Huber was simultaneously:

- A Deputy Treasurer for the Governor’s official campaign;<sup>37</sup>
- Under contract as the primary consultant for the SuperPAC ASA,<sup>38</sup> and
- Under contract directly to the Governor’s Office.<sup>39</sup>

These overlapping roles are de facto proof of coordination. The statutes on coordination are clear: a SuperPAC cannot coordinate “directly or indirectly” with a “candidate, treasurer, or deputy

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<sup>33</sup> See Complaint at 16.

<sup>34</sup> See AS 15.13.380(d)(1).

<sup>35</sup> Should APOC enjoin ASA from campaigning, ASA could also opt to do this independently. This resolution would be consistent with how the Commission has treated such violations in the past; APOC recently required the dissolution of an independent expenditure group accused of coordination in a proceeding just weeks ago. See Exhibit K to Second Supplement.

<sup>36</sup> See 11 C.F.R. 109.21(c)(4)(ii) & (c)(5)(1).

<sup>37</sup> See Complaint at 10.

<sup>38</sup> Exhibit B to Complaint.

<sup>39</sup> Exhibit E to Complaint. Although the Governor’s Office has claimed that this contract was dissolved “right away,” Mr. Huber was actually paid \$8,000 on June 29, 2022. See *supra* notes 14 & 16 and accompanying text.

treasurer” from the supported campaign.<sup>40</sup> In this instance, “coordination” is proven by the undisputed fact that Mr. Huber served as both a deputy treasurer for DFG while serving as a political consultant for ASA.<sup>41</sup> Even today, Mr. Huber is still apparently running ASA. ASA has \$3 million intended to influence the election for governor and has begun to spend those funds.<sup>42</sup> The stakes could not be higher; violations are occurring and likely to continue to occur, and ASA has a massive campaign war chest that could greatly impact the outcome of this election.

There cannot be a fair election if one side is allowed break the rules without having any real consequences, and ASA is breaking the rules by having unlawfully coordinated with the candidate it supports for Governor. APOC must act swiftly to enjoin these violations and prevent the material impact ASA’s unlawful campaign will have on the outcome of the election. Complainants’ request to expedite consideration of APOC Complaint 22-01-CD should be granted.

CASHION GILMORE & LINDEMUTH  
Attorneys for Complainants

DATE: October 10, 2022

By:  \_\_\_\_\_

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<sup>40</sup> AS 15.13.400(11).

<sup>41</sup> See Complaint at 10; Exhibit B to Complaint.

<sup>42</sup> See Complaint at 9.



**Certificate of Service**

I hereby certify that on  
October 10, 2022, I emailed  
a copy of the foregoing to:

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