

BEFORE THE ALASKA PUBLIC OFFICES COMMISSION

ALASKA PUBLIC INTEREST RESEARCH)
GROUP & 907 INITIATIVE,)
)
Complainants,)
)
v.)
)
REPUBLICAN GOVERNORS ASSOCIATION,)
and A STRONGER ALASKA,)
)
Respondents.) APOC Case No. 22-04-CD

JOINT SUPPLEMENTAL ARGUMENT

Respondents, by and through their counsel of record, Holmes Weddle & Barcott, P.C. hereby file this supplemental argument pursuant to the Order dated October 21, 2022.¹

ADVISORY OPINIONS

AO 22-01 CD

In this advisory opinion, a 527 political organization, which engages nationwide, sought guidance from the Commission with regard to their proposed structure. This structure was created to comply with newly enacted law(s) pertaining to Ballot Measure 2. While Ballot Measure 2 is not wholly relevant to the above-captioned matter, as there were no “dark money” laws in place during the relevant time period, it is relevant for the purpose of demonstrating that the Commission confirmed that a group can exist without a separate tax identification number, as the bank account can be registered by the group as more fully explained herein.

¹ Respondents object to the supplemental filing on the basis that Complainants maintain the burden and have not met such burden. Furthermore, as Complainants carry the burden, Respondents should be provided an opportunity to respond to any such filing by Complainants.

The Organization, the 527 political organization, indicated that it maintained several segregated and separate bank accounts. The Organization proposed to establish a new segregated bank account called the “Alaska Account” to make expenditures in Alaska. The Organization indicated that it planned to register the “Alaska Account” as a group with the Commission. In response, the Commission approved the separate and segregated bank account as being able to be registered as a group.²

The foregoing is critical because A Stronger Alaska is substantially similar, it is the group that is established in Alaska, by virtue of the individuals who organized the group, and further by its creation of a separate and segregated bank account, the only account Alaska-related expenditures are drawn from. Under such policy, other funds not within the bank account do not satisfy the definition of contribution set forth in AS 15.13.400(4) because money is not given to influence the outcome of an election in Alaska. Ultimately, it was approved by the Commission that a proposal to register a bank account as a group was allowable.

AO 21-011 CD

The Alaska Center, a 501(c)(4) corporation, sought an advisory opinion as to the breadth of its disclosures. The Commission ultimately found that if the entity established a political activities account from which it made its expenditures regulated under Alaska law, then that was the only account from which expenditures needed to be reported form. This and the foregoing opinion are critical, as they are in direct contravention to the argument propounded by Complainants. Complainants argue that by registering a group that maintains a

² It is important to point out for the record, that there is no restriction on naming conventions for a group outside those set forth in AS 15.13.050.

separate bank account, that that group has opened up any bank account by which it may be affiliated with in an unfettered capacity. However, that is simply not the case, it does not comport with law, and it does not comport with the precedent set by the approval of the opinion issued by the Commission. Indeed, if the Commission were to find a violation of law in the instant matter, the same would not only violate the First Amendment guarantee of free speech, but it would also infringe upon of the constitutional guarantee of equal protection.

AO 21-04 CD

This opinion does not have significant bearing on the above-captioned matter. This opinion was sought on behalf of the Alaska Democratic Party (“ADP”) and its subordinates. Neither of Respondents is a “political party” as defined by Alaska law in AS 15.80.010. However, to the extent that ADP asked to register an ADP account, it was found that it cannot pursuant to state law, as state law requires that individuals be natural persons, and thus, the only people who may form a group for purposes of state law are individuals. Therefore, because the party is a creation of law under AS 15.80.010, it cannot be said that the actors are individuals. That is distinguishable from the instant matter because here we have the three individuals identified in filings as required with the Commission who volunteered their time to create a group in Alaska --A Stronger Alaska. A Stronger Alaska maintains a separate and segregated bank account from any activity that the individuals may happen to be engaged in simply by virtue of their employment with the Republican governors Association.

STATUTES

AS 15.13.084(2)

AS 15.13.084(2) provides that “a person may not make an expenditure using a fictitious name or using the name of another.” This is not applicable, as it applies to

personhood, not to a group that is created by virtue of the statutes governing Alaska State Elections. The definition of fictitious is “of, or relating to, or characteristic of fiction: IMAGINARY.”³

The facts at hearing demonstrated that there is nothing fictitious about A Stronger Alaska. On or about February 24, 2021, David Rexrode, Erim Canligil and Eric Powell joined together to create A Stronger Alaska by registering the group with the Commission.⁴ Thus, even though the referenced statute does not apply, as this is not a matter of individual personhood, it certainly does not apply because the group existed. Finally, it is crystal clear to the public that the entity who provided the funds is the Republican Governors Association, an outside funded entity, eroding any argument that the public is somehow misled, because of the requirements set forth in AS 15.13.090 and AS 15.13.135 require appropriate identification of any communication

AS 15.13.050⁵

AS 15.13.050 provides that each person other than an individual must register with the Commission before making an expenditure. Specifically, the requirement for such registration is “on forms provided by the Commission, with the Commission.” The statute does not provide that a group must also register with the State of Alaska Division of Corporations and the Internal Revenue Service. It merely requires registration with the Commission before expenditure, which A Stronger Alaska indeed did.

³ <https://www.merriam-webster.com/dictionary/fictitious> (last visited October 24, 2022).

⁴<https://aws.state.ak.us/ApocReports/Common/View.aspx?ID=5205&ViewType=GR><https://aws.state.ak.us/ApocReports/Common/View.aspx?ID=5205&ViewType=GR>.

⁵ To the extent there was implication that AS 15.13.050(b) applies hereto, there is no indication that A Stronger Alaska intends to spend more than one million dollars in support of
(footnote continued...)

OTHER LAW REGULATION

AS 15.13.400(9)

AS 15.13.400(9) provides the definition of group. Such definition provides that a group is “any combination of two or more individuals acting jointly who organize for the principal purpose of influencing the outcome of one or more elections and who take action the major purpose of which is to influence the outcome of an election.”⁶ That is the definition that applies here. As set forth above, three individuals came together to form A Stronger Alaska as a group and registered the same with the Commission.

DATED this 24th day of October, 2022.

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one candidate versus opposing other candidates. As that is triggered, then it is proper for any registration to be amended.

⁶ AS 15.13.400(9)(b).

CERTIFICATE OF SERVICE

The undersigned certifies that on this 24th day of October, 2022, a true and correct copy of the foregoing document was served via Email to:

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