



BEFORE THE ALASKA PUBLIC OFFICES COMMISSION

Alaskans for Better Elections, Inc.)	
)	
Complainant,)	
)	
vs.)	Case No. 23-01-CD
)	
Alaskans for Honest Elections, Alaskans for)	
Honest Government, Wellspring Ministries,)	
Wellspring Fellowship, Ranked Choice)	
Education Association, Art Matthias, and)	
Phillip Izon)	
)	
Respondents.)	

NOTICE OF LATE FILING PURSUANT TO AGREEMENT BETWEEN COUNSEL

The Respondents hereby give notice of their late filing by one day of the Response to Staff Report of September 9, 2023. Counsel for Respondents communicated with both Staff counsel for APOC, Tom Lucas, and Complainant’s counsel, Scott Kendall, by email and requested the extension of one day to file the Response. Both Mr. Lucas and Mr. Kendall stated that they did not oppose the one-day extension to file the Response.

The one-day extension was necessitated due to undersigned counsel’s busy schedule preparing to travel out of the country on a long planned trip to Colombia, South America to be with my spouse and child between September 20-27, 2023.

Dated this 20th day of September 2023.

Law Offices of Kevin G. Clarkson

Kevin G. Clarkson

By _____
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RESPONDENTS’ RESPONSE TO APOC STAFF REPORT

The Respondents, Alaskans for Honest Elections (“AHE”); Ranked Choice Education Association (“RCEA”); Alaskans for Honest Government (“AHG”); Wellspring Ministries (“WM”); Wellspring Fellowship (“WF”); Art Matthias (“Matthias”); and Phillip Izon (“Izon”), reply to APOC Staff’s September 9, 2023, Report as set forth below. Respondents will set forth their response to the Staff’s report below, separating their responses by individual respondent.

SUMMARY

In its September 9, 2023, report, APOC Staff (hereafter “Staff”), provides an example of hit and miss. In some respects, Staff reaches correct conclusions, albeit while making some factual errors along the way. In other major respects, however, Staff reaches incorrect conclusions that (1) misapply the underlying Alaska campaign finance statutes, and worse (2) apply those same statutes in ways that are unconstitutional, violating the First Amendment’s protections of free speech and association. As a result, some of the violations that Staff alleges for some Respondents involved inoffensive conduct that did not violate any provision of the

Alaska campaign finance statutes. Because of these errors, some of the penalties that Staff recommends for some respondents are overstated and inappropriate.

I. ARTHUR MATTHIAS

A. Factual Background of Matthias' Contribution to RCEA, Not AHE

By Staff's deduction Matthias is an inexperienced filer because this is his first foray into the world of Alaska campaign finance.¹ Matthias is one of three sponsors of an initiative petition to eliminate ranked choice voting in Alaska and to restore political party primaries to Alaska's elections.² On November 23, 2022, Matthias, Izon, and Jamie Donley filed an application with the Lieutenant Governor for the initiative entitled "An Act Restoring Political Party Primaries and Single-Choice General Elections. On January 20, 2023, the Lieutenant Governor certified the application. The Alaska Division of Elections issued petition booklets to the sponsors on February 8, 2023. The initiative became known as 22AKHE.³

On December 16, 2022, Matthias, Izon, and Patricia Matthias formed a Washington non-profit corporation known as Ranked Choice Education Association, Inc.⁴ Matthias and Izon intended RCEA to be an educational foundation that would work to educate Americans regarding the flaws and negative aspects of ranked choice voting ("RCV").⁵ On December 22,

¹ Rpt. 30 citing 2 AAC 50.865(a)(1)(B).

² Rpt. 10.

³ Exs. 9, 10, 11. Citations to numbered exhibits are to the exhibits attached and filed with the Staff Report. Respondents exhibits attached to and filed with this Response will be lettered exhibits. Staff has attached as Exhibit 1 to its Report, the complaint filed by Alaskans for Better Elections ("ABE") which contains lettered exhibits. Unfortunately, the page numbering that Staff placed on Ex. 1 to its Report is at times unreadable due to overlap with ABE's original exhibit markings and page numbering, and at other times is cut off at the bottom of the page on the service copy provided to Respondents. Respondents will endeavor to provide an accurate citation to whatever exhibit they are referring to at a particular point in this Response.

⁴ Ex. 1, ABE Complaint Ex. B (RCEA Articles of Incorporation). RCEA is not an IRC §501(c)(3) tax-exempt entity. *Id.* RCEA is an IRC §508(c)(1)(A) tax-exempt entity.

⁵ Rpt. 7-8.

2022, Matthias donated \$90,000 to RCEA.⁶ By February 2023 other donors from the lower-48 states, in addition to Matthias, had contributed approximately \$400,000 to RCEA.⁷ Thus, by February 2023 Matthias' donation to RCEA was intermixed with hundreds of thousands of dollars of donations to the organization from other contributors.⁸

Between February 3, 2023, and August 1, 2023, RCEA contributed a total of \$90,640 to AHE.⁹ On February 3, 2023, RCEA contributed \$75,000 to AHE by way of cashier's check no. 0108107242.¹⁰ On February 9, 2023, RCEA contributed \$1,000 to AHE by check no. 1007.¹¹ On February 22, 2023, RCEA contributed to AHE \$2,358 in cash—this erroneous cash contribution was eventually refunded by AHE and RCEA then re-contributed the funds on August 1, 2023, by check no. 2021.¹² On February 23, 2023, RCEA paid \$1,382 to Royal Printing on behalf of AHE for the printing of petition booklets, thus making a non-monetary

⁶ Ex. 60.

⁷ Ex. 35 (Matthias stated publicly at an AHE petition signing event that he had donated \$100,000 to “the effort” and that “the campaign has raised \$400,000 from out of state.” *Id.* By “the effort” Matthias was referencing the overall effort to oppose RCV, with RCEA working to educate Americans in other states against the concept of RCV, and AHE working in Alaska to repeal RCV and restore political party primaries. Ex. 51.

⁸ Ex. 35. Matthias will testify to this fact at the hearing in this matter. RCEA maintains its First Amendment objection, however, to identifying the identities of the other donors. RCEA and its contributors have First Amendment rights to free speech, association, and associational privacy that protect them from compelled disclosure of the identities of RCEA's donors. *See, Americans for Prosperity v. Bonta*, 594 U.S. ___, 141 S. Ct. 2373 (2021) (“[i]t is hardly a novel perception that compelled disclosure of affiliation with groups engaged in advocacy may constitute as effective a restraint on freedom of association as [other] forms of governmental action”); *NAACP v. Alabama*, 357 U.S. 449, 462 (1958). The only disclosure that RCEA has objected to is the disclosure of its donors, those other than Dr. Matthias. Conditioning RCEA's exercise of its First Amendment free speech and association rights to engage in political processes—in the form of making donations to AHE—upon RCEA's and its donors' waiving their rights to free association and associational privacy, is unconstitutional. *Bonta*, 594 U.S. ___, 141 S. Ct. 2373; *NAACP*, 357 U.S. at 462.

⁹ Ex. 56.

¹⁰ Ex. 56, p. 2.

¹¹ Ex. 56, p. 1.

¹² Ex. 13, ¶ 7; Ex. 55; Ex. 56, p. 5.

contribution to AHE.¹³ On May 22, 2023, RCEA contributed \$11,000 to AHE by check no. 2010.¹⁴

On May 9, 2023, RCEA filed a Form 15-5 Statement of Contributions and reported \$79,740 in contributions to AHE.¹⁵ On June 11, 2023, RCEA filed a second Form 15-5, Statement of Contributions, and therein reported that Matthias was the “true source” of \$90,000 of RCEA’s contributions to AHE.¹⁶ In point of fact, this contribution report erroneously attributed \$90,000 of RCEA’s contributions to AHE to Matthias as the “true source.” By the time RCEA made donations to AHE beginning in February 2023, Matthias’ \$90,000 contribution to RCEA on December 22, 2022, had been intermingled with hundreds of thousands of dollars in other contributions from other donors to RCEA.¹⁷

RCEA, a non-profit educational foundation, donated \$90,640 to AHE. RCEA’s contributions to AHE are not traceable to Matthias because they came from an RCEA account into which hundreds of thousands of dollars from other donors had been deposited. Matthias did not make any donations to AHE.

B. Staff is Incorrectly Applying AS 15.13.074(b) to Matthias’ Contribution to RCEA and RCEA’s contributions to AHE in this Ballot Proposition Context

1. The Plain Language of AS 15.13.065(c) Makes AS 15.13.074 Inapplicable to Ballot Proposition Campaigns

Staff concluded that Matthias violated AS 15.13.074(b) and 2 AAC 50.258 by contributing \$90,000 to AHE in the name of RCEA. Staff’s theory is that Matthias donated to

¹³ Ex. 56, p. 3.

¹⁴ Ex. 56, p. 4.

¹⁵ Ex. 55.

¹⁶ Ex. 55, p. 2.

¹⁷ Ex. 35. On February 16, 2023, Matthias was reported as stating publicly that in addition to his contribution, \$400,000 had been donated to “the effort,” meaning RCEA. *Id.*

AHE by using RCEA as a third-party conduit.¹⁸ The statute that Staff relies upon for charging Matthias with this violation is AS 15.13.074(b), which provides “A person or group may not make a contribution anonymously, using a fictitious name, or using the name of another.”¹⁹ But this statute has no application to a ballot proposition campaign, whether at the signature gathering stage or afterwards. *See* AS 15.13.065(c).

AS 15.13.065(c) provides that “Except for reports required by AS 15.13.040²⁰ and 15.13.110²¹ and except for the requirements of AS 15.13.050,²² 15.13.060,²³ and 15.13.112-14.13.114,²⁴ **the provisions of AS 15.13.010—15.13.116 do not apply to limit the authority of a person to make contributions to influence the outcome of a ballot proposition.**” (emphasis added). In AS 15.13.065(c), in addition to the meaning set forth in AS 15.80.010²⁵ the term “proposition” also includes “an initiative proposal application filed with the lieutenant governor under AS 15.45.020.”²⁶ AS 15.13.074(b) falls squarely between AS 15.13.010—15.13.116 and

¹⁸ Rpt. 26.

¹⁹ AS 15.13.074(b).

²⁰ AS 15.13.040 relates to the reporting of contributions, expenditures, and the supplying of services. This statute has nothing to say about how a person may make contributions. Instead, AS 15.13.040(k) merely requires an individual contributing \$500 or more to a group “organized for the principal purpose of influencing the outcome of a proposition” or to a group “organized for the principal purpose of filing an initiative proposal application under AS 15.45.020 or that has filed an initiative proposal application under AS 15.45.020” to report the contributions. The “true source” provisions of AS 5.13.040(r) relate exclusively to “candidate elections” and do not apply to ballot proposition campaigns.

²¹ This statute, AS 15.13.110, likewise relates to reporting. The “true source” reporting requirement of AS 15.13.110(k) applies only to “candidate elections.”

²² AS 15.13.050 relates to registration before expenditures.

²³ AS 15.13.060 relates to campaign treasurers.

²⁴ These statutes, AS 15.13.112 and AS 5.13.114 relate only to the uses of campaign contributions and the disposition of prohibited contributions.

²⁵ Under AS 15.80.010(31) the term "proposition" means “an initiative, referendum, or constitutional amendment submitted at an election to the public for vote.”

²⁶ AS 15.13.065(c)(2). Matthias, Izon and Donley filed the 22AKHE initiative petition under AS 15.45.020.

is not listed as an exception in AS 15.13.065(c)—thus, AS 15.13.074(b) does not apply to limit Matthias’s authority to make a contribution to influence the outcome of a ballot proposition.

If the legislature or the people²⁷ had intended to except AS 15.13.074(b) from the terms of the exemption set forth in AS 15.13.065(c), they knew perfectly well how to do so, yet they did not. In order to make the “giving in the name of another” prohibition applicable to ballot proposition campaigns, all the legislature or the people needed to do was list AS 15.13.074(b) with the other excepted statutes, AS 15.13.040, AS 15.13.110, AS 15.13.050, AS 15.13.060, and AS 15.13.112-15.13.114. The fact that the legislature and the people did not include AS 15.13.074 in the list set out in AS 15.13.065(c) is determinative. And as will be seen below, the legislative history confirms that the omission was intentional.

2. Legislative History Confirms That AS 15.13.074(b) Does Not Apply to Ballot Proposition Campaigns

Although the plain language of AS 15.13.065(c) is clear, AS 15.13.074(b) does not apply to ballot proposition campaigns, the legislative history of the campaign finance statutes makes it abundantly clear that the prohibitions against “giving in the name of another” do not apply to ballot proposition campaigns. Prior to 1974, Alaska had no limits on campaign contributions. *See State v. Alaska Civil Liberties Union*, 978 P.2d 597, 601 (Alaska 1999). By 1993 Alaska’s campaign finance statutes stated that they generally applied, “[e]xcept as otherwise provided,” “to contributions, expenditures and communications made by a candidate, group, municipality or individual for the purpose of influencing the outcome of a ballot proposition or question as well

²⁷ Alaska’s campaign finance laws have been amended twice by the people by initiative, once in 2006 and once in 2020.

as those made to influence the nomination or election of a candidate.”²⁸ But, under this 1993 version of Alaska’s campaign finance laws—like all other versions after—there was no limit placed on the amount that an individual or group could contribute or expend in favor of or in opposition to a ballot proposition.²⁹ And, the prohibition against making contributions “in the name of another,” that at the time was stated in *former* AS 15.13.070(d), was expressly limited to contributions made “to influence the election of a candidate.”³⁰

The legislature then amended the campaign finance laws in 1996. Specifically, that year the legislature added AS 15.13.065 and AS 15.13.074 to the statutes, and in doing so reconfigured the provisions that made “giving in the name of another” a prohibition that only applied to candidate elections—or that was not applicable to contributions to made to influence the outcome of a ballot proposition. In 1996, AS 15.13.065(c) provided, as it does now, that “Except for reports required by AS 15.13.040 and 15.13.110 and except for the requirements of AS 15.13.050, 15.13.060, and 15.13.112-14.13.114, **the provisions of AS 15.13.010—15.13.116 do not apply to limit the authority of a person to make contributions to influence the outcome of a ballot proposition.**” (emphasis added).³¹

²⁸ See *former* AS 15.13.010(b) (1993). Ex. A hereto is a version of the pertinent Alaska Campaign statutes printed from the Alaska Legislature’s web page found at https://www.akleg.gov/basis/folioproxy.asp?url=http://wwwjnu03.akleg.org/cgi-bin/folioisa.dll/stattx93/query=*/doc/{@5275}?next. The highlighting is added for convenience.

²⁹ See *former* AS 15.13.070(a)(2) (1993); Ex. A hereto, p.1, printed from the Alaska Legislature’s web page found at https://www.akleg.gov/basis/folioproxy.asp?url=http://wwwjnu03.akleg.org/cgi-bin/folioisa.dll/stattx93/query=*/doc/{@5315}?prev.

³⁰ See *former* AS 15.13.070(d); Ex. A hereto p. 2.

³¹ Ex. B hereto, printed from the Alaska Legislature’s web page found at https://www.akleg.gov/basis/folioproxy.asp?url=http://wwwjnu03.akleg.org/cgi-bin/folioisa.dll/stattx96/query=*/doc/{@6075}?prev.

The 1996 change moved the prohibition against “giving in the name of another” to another section, from AS 15.13.070 to the newly added AS 15.13.074(b), which stated “A person or group may not make a contribution anonymously, using a fictitious name, or using the name of another.”³² But with the changes and with the different language, the legislature continued to clearly provide that (1) contribution limits and prohibitions (specifically those that are found in AS 15.13.010 to AS 15.13.116) did not apply to ballot propositions; and conversely that (2) contribution limits and prohibitions applied only to candidate elections. The legislature accomplished this by eliminating the confusing language about not prohibiting contributions in an amount “more than \$1,000 a year” from *former* AS 15.13.070(a)(2);³³ creating a new provision in AS 15.13.065(c) which just like *former* AS 15.13.070(d) (1993) exempted ballot propositions from the contribution limits and prohibitions,³⁴ and then placing the prohibition against giving in the name of another into a section that was expressly inapplicable to ballot propositions.³⁵ The legislature changed the configuration and wording of the statutes, but did not change the intent to exclude ballot propositions from the statutes’ limitations and prohibitions on contributions.

Later in 2010 the legislature amended AS 15.13.065(c) to make it clear that the contribution limits and prohibitions found in AS 15.13.010—15.13.116 do not apply to “an

³² See *former* AS 15.13.074(b) (1996); Ex. B hereto pp. 2-3.

³³ This previous confusing language had made it appear that perhaps contributions under \$1,000 were prohibited. The changes made the contribution limit clear in AS 15.13.070 (\$500) and then excepted ballot propositions from the limitations and prohibitions on contributions via AS 15.13.065(c). See Ex. B hereto pp. 1-3.

³⁴ Ex. B hereto p. 2.

³⁵ Ex. B hereto pp. 2-3; See *former* AS 15.13.010(b) (1996); *former* AS 15.13.065(c) (1996); *former* AS 5.13.070 (1996); *former* AS 15.13.074(b) (1996).

initiative proposal application filed with the lieutenant governor under AS 15.45.020.”³⁶ The pertinent laws remained unchanged until 2020 when the people by initiative,³⁷ amended the campaign finance statutes but in doing so left AS 15.13.065(c) and the exclusion of ballot propositions from the contribution limits and prohibitions, unchanged. Ballot Measure 2 also did not change the basic prohibition against giving in the name of another—leaving that language unchanged. See AS 15.13.074(b). Ballot Measure 2 did, however, add an additional phrase to AS 15.13.074(b) which has no pertinence to this case.³⁸

Ballot Measure 2 also amended the penalty statute, AS 15.13.390, and added a section regarding “giving in the name of another.” See AS 15.13.390(a)(3). That statute is, however, tied to AS 15.13.040(r) which is expressly limited in application to candidate elections, and to AS 15.13.074(b), which pursuant to AS 15.13.065(c) does not apply to ballot propositions. The new penalty statute, AS 15.13.390(a)(3), does not mention ballot propositions.

As shown above, legislative history reveals that the prohibition against “giving in the name of another” has always been intended by the legislature to proscribe circumvention of the contribution limits and prohibitions applicable to candidate elections but not ballot propositions. The legislature’s obvious idea for the prohibition was to prevent people or groups from circumventing the limits that the laws placed on how much they could contribute to a candidate

³⁶ See former AS 15.13.065(c) (2010); Ex. C hereto p. 2, printed from the Alaska Legislature’s web page found at https://www.akleg.gov/basis/folioproxy.asp?url=http://www.jnu03.akleg.org/cgi-bin/folioisa.dll/stattx10/query=*/doc/{@7212}?next.

³⁷ The 2020 initiative was Ballot Measure 2 that enacted RCV.

³⁸ Ballot Measure 2 added the following language to AS 15.13.074(b): “Individuals, persons, nongroup entities, or groups subject to AS 15.13.040(r) may not contribute or accept \$2,000 or more of dark money as that term is defined in AS 15.13.400(5), and may not make a contribution while acting as an intermediary without disclosing the true source of the contribution as defined in AS 15.13.400(19).” These two provisions, AS 15.13.040(r) and the dark money provision, expressly apply only to candidate elections.

or a group in a candidate election—*e.g.*, Joe is limited to contributing \$500 or \$1,000 to a candidate, or \$X to a group, or \$X to a political party, so the law prohibited Joe from multiplying his contributions beyond the limits by giving money to Sue, Bill, and/or XYZ Foundation, so that they could give to Joe’s preferred candidate. Because there has never been a limit on how much a person or group can contribute to a ballot proposition group, there was not, and there still is not, a logical reason for the law to attach the “giving in the name of another” prohibition to ballot proposition campaigns—thus the legislature has never done so.³⁹

Staff has not articulated this idea, but it is not possible for Staff to claim that the penalty provision, AS 15.13.390(a)(3), amends AS 15.13.065(c) to make AS 15.13.074(b) applicable to ballot proposition campaigns. First, nothing in AS 15.13.390(a)(c) states that it amends the terms of AS 15.13.065(c) or modifies the application of AS 15.13.074(b). There is no language in the penalty statute that even implies that it amends AS 15.13.065(c). The penalty provision makes no reference to ballot propositions. AS 15.13.390(a)(c). Moreover, the penalty provision in AS 15.13.390(a)(3) is not a substantive prohibition—it is simply a penalty attached to a separate substantive provision, namely AS 15.13.074(b), which has no application to ballot propositions via AS 15.13.065(c).

Under general principles of statutory construction, the more general provisions of the penalty statute, AS 15.13.390(a)(3), cannot control the more specific statutory exemption that is set forth in AS 15.13.065(c). As a rule, specific statutory provisions control over general statutory provisions.⁴⁰ Moreover, statutes are to be read in harmony whenever possible.⁴¹ In this

³⁹ If there is no limit on how much Joe can contribute to a ballot proposition group, then there is no logical concern over whether he gives money to Sue or XYZ Foundation to contribute to the ballot proposition group.

⁴⁰ See *City of Anchorage v. Scavenius*, 539 P.2d 1169, 1174 (Alaska 1975).

⁴¹ See *Progressive Ins. Co. v. Simmons*, 953 P.2d 510, 516 (Alaska 1998).

situation, AS 15.13.065(c) and AS 15.13.390(a)(3) can easily be read in harmony with each other—AS 15.13.065(c) limits the application of AS 15.13.074(b) to candidate elections and the penalty provision, AS 15.13.390(a)(3), states a penalty for when that substantive statute is violated in the context of candidate elections. Correspondingly, when statutes are in conflict—and here there is no conflict between AS 15.13.065(c) and AS 15.13.390(a)(3)—the more specific statute controls.⁴² Here, as stated above, AS 15.13.065(c) is more specific regarding the context in which the prohibition against “giving in the name of another” applies, and the general terms of AS 15.13.390(a)(3) simply state a penalty for violating that prohibition.

C. Because AS 15.13.074(b) Does Not Apply to Ballot Propositions, Matthias Could Not Violate It by Contributing to RCEA in the Context of a Ballot Proposition Campaign, Regardless of Whether RCEA Contributed Matthias’s money to AHE or Not, Which RCEA Did Not

Matthias’s donation to RCEA and RCEA’s donations to AHE were made in the context of a ballot proposition campaign. Accordingly, AS 15.13.074(b) does not apply to Matthias’s and RCEA’s donations.

Moreover, Staff have charged Matthias with violating a statute, AS 15.13.074(b), that the legislature designed and intended to prohibit circumvention of contribution limits and prohibitions in candidate elections (AS 15.13.074(b)—for example a donor giving more than an applicable contribution limit to a candidate, or a labor union making a contribution to a candidate (AS 15.13.074(f)), or a registered lobbyist making a contribution to a candidate for the legislature outside their home district (AS 15.13.074(g))—in a context where no contribution

⁴² 1A Norman Singer, *Sutherland Statutory Construction* § 23:9, at 459–60 (“A statute cannot be interpreted as abrogating existing law by implication alone”) (6th ed. 2002 rev.); *Warren v. Thomas*, 568 P.2d 400, 403 (Alaska 1977) (“The implied repeal of an act is disfavored and will be limited to that which is necessary to carry out the intent of the legislature.”).

limit or prohibition was circumvented. The fact that Matthias donated \$90,000 to RCEA⁴³ is of no legal consequence.

Matthias could have donated his \$90,000 to AHE because there is no limit on the amount that he could have donated to AHE.⁴⁴ No law would have prevented Matthias from writing his \$90,000 check to AHE. Thus, even if Matthias contributed his \$90,000 to RCEA “knowing that the contribution would be repurposed to support AHE through contributions as needed,”⁴⁵ his doing so would not have circumvented any campaign limitation. Staff’s conclusions attempt to metamorphize what is legal into something that is illegal and to do so against the express language of the applicable statutes. But APOC’s charge and obligation is to apply and enforce Alaska’s campaign finance laws as they are written⁴⁶ and APOC has no authority to change or amend the statutes.

Staff itself recognizes that AS 15.13.074 has no application to ballot proposition campaigns because it has not even discussed, let alone recommended, charging RCEA with making prohibited contributions to AHE in violation of AS 15.13.074(f). This statute provides that “A corporation, company, partnership, firm, association, entity recognized as tax-exempt under 26 U.S.C. 501(c)(3) (Internal Revenue Code), organization, business trust or surety, labor union, or publicly funded entity that does not satisfy the definition of group or nongroup entity in AS 15.13.400 may not make a contribution to a candidate, group, or nongroup entity.” Staff’s failure to charge RCEA with a violation of AS 15.13.074(f) is because Staff itself recognizes that

⁴³ Ex. 56.

⁴⁴ AS 15.13.065(c).

⁴⁵ Rpt. 20.

⁴⁶ AS 15.13.030.

under the terms of AS 15.13.065(c) the entirety of AS 15.13.074, including both subparts (b) and (f), does not apply to a ballot proposition campaign.

D. Matthias’s Money Cannot be Traced Through RCEA to AHE Because His Money Was Intermingled With all the Other Hundreds of Thousands of Donations by Other Contributors to RCEA

It is true that on June 11, 2023, Izon, an inexperienced filer,⁴⁷ submitted an APOC Form 15-5 listing Matthias as the “true source” of RCEA’s “\$90,000” in contributions to AHE.⁴⁸ In truth, Izon never should have done this, and the filing was an error. It is not possible to trace Matthias’s December 22, 2022, donation to RCEA through RCEA’s account and then out to AHE in February-August 2023 when RCEA delivered checks to AHE. By February other donors from the lower-48 had added hundreds of thousands of dollars in contributions to RCEA’s coffers.⁴⁹ By the time RCEA wrote its checks to AHE, Matthias’s \$90,000 was intermingled with the other hundreds of thousands of dollars contributed to RCEA by other donors and it is not possible to say which RCEA contributor’s money went to AHE, which contributor, or what combination of contributors.

Izon also should not have listed Matthias as a “true source” of RCEA’s donations on the Form 15-5 because the “true source” reporting statutes, AS 15.13.040(r), AS 15.13.110(k) and AS 15.13.400(19), and the “dark money” provisions, AS 15.13.074(b) and AS 15.13.400(5), only apply to candidate elections. The reporting statute related to money contributed to ballot groups, AS 15.13.040(k), does not require “true source” identification—this statute does not even use the terms “true source” or “dark money.” And finally, and most importantly, Izon should not have listed Matthias as a “true source” of RCEA’s contributions to AHE—thereby

⁴⁷ Rpt. 30.

⁴⁸ Ex. 55.

⁴⁹ Ex. 35 (\$400,000 as of February 16, 2023).

identifying him as an RCEA contributor—because donors to non-profit organizations have First Amendment rights to free speech, association, and associational privacy that prohibit government from mandating the disclosure of the identities of donors who give to non-profits.⁵⁰ To the extent Staff claims that AS 15.13.040(d)-(e) and (q) might be interpreted to require RCEA to have identified Matthias and or other of its other donors in independent expenditure reports,⁵¹ those provisions are unconstitutional in that they violate the First Amendment.⁵²

Finally, Staff itself concludes that RCEA did not make contributions in the name of another or launder donations to AHE—quite obviously RCEA contributed to AHE in its own name⁵³—because “it is abundantly clear that RCEA has been involved in substantial activities in the lower-48 to further its mission of warning Americans about what it perceives to be the flaws and negative aspects of ranked choice voting.”⁵⁴ When Matthias donated to RCEA he was donating to RCEA for all of RCEA’s potential lawful purposes and actions—which includes its ability to donate to a ballot group.⁵⁵

⁵⁰ See, *Bonta*, 594 U.S. ___, 141 S. Ct. at ___; *NAACP*, 357 U.S. at 462. Conditioning RCEA’s exercise of its First Amendment free speech and association rights to engage in the political process—in the form of making donations to AHE—upon RCEA’s and its donors’ waiving their rights to free association and associational privacy, is unconstitutional. *Bonta*, 594 U.S. ___, 141 S. Ct. 2373; *NAACP*, 357 U.S. at 462. The fact that Matthias identified himself as a donor to “the effort” on February 16, 2022 (*see* Ex. 35) perhaps means that he waved his right to keep his identity as a donor undisclosed—although, Matthias did not specify the entity to which he donated—but it was not Izon’s place to wave Matthias’ constitutional protection.

⁵¹ See Rpt. 19 and the discussion regarding AHE. Although Staff discusses these “true source” provisions regarding AHE, it does not recommend charging or penalizing either AHE or RCEA with violating the provisions. Rpt. 27-30.

⁵² See *Bonta*, 594 U.S. ___, 141 S. Ct. at ___; *NAACP*, 357 U.S. at 462.

⁵³ Exs. 55, 56.

⁵⁴ Rpt. 22.

⁵⁵ AS 15.13.074(f) which prohibits a “corporation, company, partnership, firm, association, entity recognized as tax-exempt under 26 U.S.C. 501(c)(3) (Internal Revenue Code), organization, business trust or surety, labor union, or publicly funded entity that does not satisfy the definition of group on nongroup entity in AS 15.13.400” from making contributions,” does not apply to ballot proposition campaigns. See AS 15.13.065(c).”

E. Matthias Did Not Violate the Reporting Requirement of AS 15.13.040(k) Because He did Not Contribute to AHE and RCEA is Not a Ballot Group

Staff concludes that Matthias violated AS 15.13.040(k) by failing to report \$90,000 in contributions that he allegedly made to AHE.⁵⁶ For this alleged infraction Staff calculated a maximum civil penalty of \$8,300 (166 days x \$50). *Id.* Staff then failed to include this penalty in its mitigation recommendations wherein it recommended reducing every other registration and reporting failure by 90%. *See* Rpt. 31. If this maximum penalty were reduced by 90% it would be only \$830. But regardless, Matthias did not contribute to AHE, he contributed to RCEA. As explained above, by the time that RCEA donated to AHE between February-August 2023, Matthias's \$90,000 contribution to RCEA was intermingled with hundreds of thousands of dollars in contributions by other donors to RCEA⁵⁷ and it cannot be said that his money went to AHE.

Staff's conclusion that Matthias made his donation to RCEA "knowing that the contribution would be repurposed to support AHE through contributions as needed,"⁵⁸ is meaningless. Every donor to a non-profit organization knows that their donation will be "repurposed" by the non-profit for whatever purposes the non-profit decides to pursue. Thus, every donor of the hundreds of thousands of dollars contributed to RCEA by February 2023, knew that their money would be "repurposed" by RCEA for its chosen purposes, including, but not limited to, potentially contributing to a ballot group.

⁵⁶ Rpt. 29.

⁵⁷ Ex. 35.

⁵⁸ Rpt. 20.

There is no statute that governs or requires Matthias to report his contribution to RCEA. As Staff correctly concludes, RCEA was not a ballot group⁵⁹ and thus AS 15.13.040(k) did not apply to Matthias’s donation to RCEA. Matthias did not violate a reporting requirement.

II. RCEA

Staff concluded that RCEA violated (1) AS 15.13.050 by failing to register as an entity before making expenditures; (2) AS 15.13.110(h) by failing to file an independent expenditure report in connection with the purchase of its first web domain; (3) AS 15.13.110(g) by failing to file a 4th quarter report for 2022 as an “initiative” “nongroup entity;” (4) AS 15.13.074(e) by making a cash contribution to AHE in excess of \$100; (5) AS 15.13.090 by failing to place compliant paid for by identifiers on its website; and (6) AS 15.13.074(b) by reporting that it was the contributor to AHE when Matthias was allegedly the true source of the contributions.

Respondents will respond to each of Staff’s conclusions below.

A. AS 15.13.050—Failure to Register Before Making Expenditures on its First Web Domain

RCEA purchased a web domain on December 22, 2022.⁶⁰ Due to Izon’s inexperience with campaign finance requirements, that web domain contained communications regarding repealing RCV in Alaska, AHE’s signature gathering efforts related to 22AKHE, a QR code linking to AHE’s web page, and a listing of various locations where a person could sign a 22AKHE petition booklet.

RCEA purchased a new web domain on May 23, 2023.⁶¹ The new web domain does not mention AHE or 22AKHE and does not advocate related to a repeal of RCV in Alaska.⁶²

⁵⁹ Rpt. 7-8, 18.

⁶⁰ Rpt. 7; Ex. 46.

⁶¹ Rpt. 7; Ex. 47.

⁶² Rpt. 7-8; Ex. 49.

Instead, the new web domain highlights and emphasizes more general reasons why RCV is something Americans should avoid adopting or maintaining for their elections. *Id.* The new web domain contains no links to AHE or any materials supporting 22AKHE. *Id.*

Staff concluded that RCEA should have registered as an entity before spending money on its first web domain, which Staff concluded was an “express communication” requiring registration under AS 15.13.050(a). Staff recommended calculating a penalty for this failure from December 22, 2022, through July 5, 2023, the day ABE filed its complaint (a total of 196 days) for a maximum penalty of \$9,850. Staff recommended reducing this penalty by 90% to \$985.

Staff acknowledged, however, RCEA adopted a new web domain on May 23, 2023, that was devoted to its general educational goals—goals that did not trigger a registration or reporting obligation because RCEA was not functioning at that time and thereafter as a group or initiative entity and was no longer making expenditures in support of a ballot proposition.⁶³ Confirming this conclusion, Staff did not find that RCEA had further quarterly reporting obligations in 2023 because RCEA had ceased to act as an initiative entity at that time.⁶⁴ Staff should have calculated this penalty only through May 23, 2023, for a total of only 153 days and a maximum penalty of \$7,650. With mitigation of 90% this penalty should be only \$765.

B. AS 15.13.110(h)—Failure to File Independent Expenditure Reports in Connection with its First Web Domain

Staff recommended that RCEA be charged and penalized for failing to file independent expenditure reports related to its first web domain on December 22, 2022. Staff calculated a

⁶³ Rpt. 8, 18; Exs. 50, 51.

⁶⁴ Rpt. 29 (charging RCEA with only a missing 4th quarter report for 2022, and not with a failure to file quarterly reports in 2023).

maximum penalty for this failure, counting days from December 22, 2022, for a total of 186 days or \$9,300. Staff recommended reducing this penalty by 90% to \$930. RCEA takes no issue with Staffs' recommendation.

C. AS 15.13.110(g)—Failure to File a 4th Quarter Report for 2022

Staff recommended that RCEA be charged and penalized for failing to file a 4th Quarter report as an initiative independent expenditure entity. Staff calculated a maximum penalty for this failure, counting days from January 10, 2023, for a total of 177 days or \$8,850. Staff recommended reducing this penalty by 90% to \$885. But Staff fails to consider that RCEA did not act as a group and ceased acting as a ballot initiative entity in 2023. Staff should have calculated this penalty only through May 23, 2023, when RCEA modified its web domain for a total of only 134 days and a maximum penalty of \$6,700. With mitigation of 90% this penalty should be only \$670.

D. AS 15.13.074(e)—Making a Cash Contribution over \$100 to AHE

Staff concluded that RCEA violated AS 15.13.074(e) by making a cash contribution of more than \$100 to AHE.⁶⁵ Staff acknowledges that AHE refunded the \$2,358 cash contribution to RCEA and that RCEA issued a check for the same amount.⁶⁶ However, Staff's conclusion that the cash contribution was a violation is incorrect because AS 15.13.074 does not apply to ballot proposition campaigns. *See* AS 15.13.065(c). Consistent with the logic explained above, the legislature exempted the cash contribution limitation from ballot proposition campaigns because there is no contribution limit for how much a person can contribute to a ballot group. With no limitation on the amount a person can contribute to a ballot group there is no concern

⁶⁵ Rpt. 27.

⁶⁶ Rpt. 9; Ex. 13 ¶ 7; Ex. 56 p. 5.

with the cash nature of a contribution. Staff did not recommend or calculate a penalty for this alleged violation.⁶⁷ RCEA agrees that there should be no penalty for this non-violation.

E. AS 15.13.090—Failure to Place Paid-For-Identifiers on Its First Web Domain

Staff concludes that RCEA violated AS 15.13.090 by failing to place paid-for-identifiers on its first web domain.⁶⁸ Staff calculated a maximum penalty for this failure, counting days from December 22, 2022, to May 23, 2023, for a total of 153 days or \$7,650. Staff recommended reducing this penalty by 90% to \$765. RCEA takes no issue with Staffs’ recommendation in this regard.

F. 15.13.090—By Reporting That It Was the Contributor of \$79,400 to AHE

Staff concluded that RCEA violated AS 15.13.074(b) because its May 9, 2023, Statement of Contributions, Form 15-5, did not identify Matthias as the true source of the \$79,400 in contributions to AHE that were reported on that form.⁶⁹ But as explained in detail above, the prohibition of AS 15.13.074(b) does not apply to ballot propositions. *See* AS 15.13.065(c). The penalty statute, AS 15.13.390(a)(3), does not create a substantive prohibition but rather simply assigns a penalty to the substantive prohibition found in AS 15.13.074(b). And AS 15.13.074(b) (1) prohibits only “giving” money in the name of another; (2) applies only to candidate elections; and (3) has no application to ballot proposition campaigns. *See* AS 15.13.065(c).

Moreover, even if the statute did apply, which it does not, RCEA contributed and reported the \$79,400 in its own name and not “in the name of another.”⁷⁰ And, even if the statute did apply, which it does not, RCEA corrected any misreporting on June 11, 2023, when it

⁶⁷ Rpt. 28-31.

⁶⁸ Rpt. 25.

⁶⁹ Rpt. 29.

⁷⁰ Exs. 32, 55, 56.

filed its second Statement of Contributions Form 15-5, and listed Matthias therein as the single true source of \$90,000 in contributions to AHE.⁷¹ Staff recognized that RCEA reported Matthias as a true source of \$10,260 in contributions on June 11, 2023, and recommended dismissal of the misreporting allegations related to that contribution.⁷² But staff failed to recognize that in that same June 11, 2023, second Statement of Contributions RCEA identified Matthias—albeit incorrectly and without legal obligation, as the true source of \$90,000 in contributions to AHE for the year 2023.⁷³ If AS 15.13.074(b) has application here to RCEA’s reporting obligations, RCEA corrected any misreporting contained in the May 9, 2023, report on June 11, 2023, when it filed its second report—whatever misreporting existed (and there was no misreporting for all the reasons stated above because RCEA was the true source of its contributions—contributions made from its account containing hundreds of thousands of dollars given to it by many donors in addition to Matthias) lasted for a total of only 33 days from May 9, 2023 to June 11, 2023.

RCEA did not violate AS 15.13.074(b) and it should not be penalized for the \$79,400 in contributions made to AHE and reported to APOC.

III. AHE

Staff concluded that AHE violated (1) AS 15.13.050 by failing to timely register as a ballot group on January 20, 2023, but instead registering on March 20, 2023; (2) AS 15.13.090(a) by filing to have a compliant paid-for-identifier on its web page from November 19, 2023, to April 6, 2023; (3) AS 15.13.090(a) and (c) by failing to place compliant paid-for-by identifiers on videos placed on its web site and YouTube; and (4) AS 15.13.110(g) and AS 15.13.074(b) by

⁷¹ Rpt. 5,
⁷² Rpt. 23.
⁷³ Rpt. 23.

failing to file accurate quarterly reports by naming RCEA as a contributor rather than Matthias.⁷⁴

Respondents will respond to each of the alleged violations below.

A. AS 15.13.050—Failing to Register as a Ballot Group on January 20, 2023, But Instead Registering on March 20, 2023

Staff concluded that AHE violated AS 15.13.050 by failing to timely register as a ballot group on January 20, 2023, but instead registering on March 20, 2023.⁷⁵ For this violation Staff calculated a maximum penalty, counting days from January 20, 2023, to March 20, 2023, for a total of 59 days or \$2,950. Staff recommended reducing this penalty by 90% to \$295. AHE takes no issue with Staffs' recommendation in this regard.

B. AS 15.13.090(a)—Failing to Place a Compliant Paid-For-By Identifier on its Web Page

Staff concluded that AHE violated AS 15.13.090(a) by failing to place a compliant paid-for-identifier on its web page between November 19, 2022, and April 6, 2023.⁷⁶ For this violation Staff calculated a maximum penalty, counting days from November 19, 2022, to April 6, 2023, for a total of 135 days or \$6,750. Staff recommended reducing this penalty by 90% to \$675. AHE takes no issue with Staffs' recommendation in this regard.

C. AS 15.13.090(a) and (c)—Failing to Place Compliant Paid-For-Identifiers on Videos

Staff concluded that AHE violated AS 15.13.090(a) and (c) by failing to place compliant paid-for-by identifiers on seventeen videos that it published on its web page and YouTube for various periods of time between January and June 2023.⁷⁷ Staff calculated a maximum penalty of \$91,500 for this by treating each video as a separate violation and then calculating how many

⁷⁴ Rpt. 27, 30

⁷⁵ Rpt. 27.

⁷⁶ Rpt. 25.

⁷⁷ Rpt. 6-7.

days each separate video was published and then totaling those days for a cumulative total of 1,830 days. Staff recommended that the maximum penalty be mitigated by a 90% reduction to \$9,150 because of Izon’s inexperience and because the maximum penalty was exceedingly large and out of proportion to any harm to the public.⁷⁸ AHE takes no issue with Staff’s recommendation in this regard.

D. AS 15.13.110(g) and AS 15.13.074(b)—Failing to File Accurate Quarterly Reports and Naming RCEA as a Contributor Rather Than Matthias

Staff’s conclusion regarding AHE and the accuracy of its quarterly reports, naming RCEA as a contributor rather than Matthias, suffers from the same errors identified above with respect to Matthias and RCEA. AS 15.13.110(g) does not reference “true source” and does not require reporting by “true source” standards contained within other provisions of the chapter. As detailed above, AS 15.13.074(b) has no application to ballot propositions. Matthias was not the so-called true source of RCEA’s contributions to AHE. RCEA was the true source of its contributions to AHE. And any requirement that AHE or RCEA identify the identities of RCEA’s donors is unconstitutional.

Staff did not recommend any penalty against AHE for this alleged violation.⁷⁹ AHE agrees that there should be no penalty related to this allegation.

IV. AHG

Staff concluded that AHG violated (1) AS 15.13.110(h) for failing to file an independent expenditure report in connection with the purchase of its web page; (2) AS 15.13.110(g) for its failure to file a 4th quarter Report for 2022; and (3) AS 15.13.090(a) for failure to place a

⁷⁸ Rpt. 31.

⁷⁹ Rpt. 28-30.

compliant paid for identifier on its website. For these violations Staff calculated a maximum penalty of:

-\$10,750 for 215 days of noncompliance regarding the unfiled independent expenditure reports—mitigated to \$1,075.⁸⁰

-\$8,850 for 177 days of noncompliance regarding the late filed 4th quarter report for 2022—mitigated to \$885.⁸¹

-\$11,250 for 225 days of noncompliance for the noncompliant paid for-identifier on its web page—mitigated to \$1,125.

Mitigated total: \$3,085.

V. WELLSPRING MINISTRIES AND WELLSPRING FELOWSHIP

WM is a non-profit corporation and tax-exempt religious organization whose only connection to this entire affair is that it owns the property and building located at 2511 Sentry Dr. and as a landlord leases a gymnasium and office space to WF.⁸² WF, a church, is a non-profit corporation formed in Washington state and a tax-exempt entity under IRC §508(c)(1)(A).⁸³ WF's only relationship to this matter is that it (1) permits RCEA, its integrated auxiliary, to receive mail at its offices and to make use of its conference room for about 1 to 1.2 hours every 2-3 months; and (2) rents at a nominal cost the use of its gym for one hour every

⁸⁰ Rpt. 29-30.

⁸¹ Rpt. 29-30.

⁸² Rpt. 9.

⁸³ Rpt. 10.

month to the Alaska Chapter of the Association of Mature Americans (“AMAC”) for AMAC to hold its regular monthly meetings.⁸⁴

WM has never been involved in matters related to 22AKHE. Nonetheless, because AMAC—WF’s subtenant—invited AHE to hold a petition signing event during one of its regular monthly meetings at the gym that it rents from WF on February 16, 2023, Staff concluded that AHE had received a donation, not from AMAC, not from WF, but from WM.⁸⁵ Staff reaches this unfounded conclusion by ignoring the lack of contractual privity between WM and AMAC, not to mention AHE. WM is simply the landowner and landlord to WF. It is WF that rents use of the gym to AMAC. And it was AMAC, not WM or WF, that invited AHE to hold a petition signing event at the gym. So long as WF was compliant with its lease, WM had no right to as a landlord determine whether WF could or could not rent the gym to AMAC as subtenant or whether AMAC as the subtenant could invite AHE to its gym to speak and sign petition booklets for an hour one evening during AMAC’s regularly scheduled meeting.

Staff has correctly not recommended a penalty against anyone based upon its incorrect analysis of who gave a contribution (in-kind) to AHE for the February 16, 2023, petition singing event. But WM certainly takes issue with Staff’s incorrect factual analysis of who if anyone gave a donation in-kind to AHE regarding the February 16, 2023, petition signing event.

VI. IZON

Staff has recommended no violation findings or penalties against Izon. Respondents agree with this recommendation.

⁸⁴ Rpt. P. 10.

⁸⁵ Rpt. 20-21.

CONCLUSION

Respondents disagree for the reasons stated above with the assessment of any penalty against Matthias. The recommended mitigated penalty against Matthias of \$22,500 should be rejected because it is legally unfounded and unjust. Even if the Commission decides that Matthias violated AS 15.13.074(b), which he did not, the penalty should be eliminated or substantially further reduced because the public was not harmed. Matthias could have donated his \$90,000 to AHE directly. Even if one could trace Matthias's donation through RCEA to AHE, which is not possible, the donation to RCEA and then the subsequent RCEA donations to AHE circumvented no contribution limit or prohibition—Matthias could have legally donated the \$90,000 directly to AHE. Matthias, despite not being legally obligated, announced to the world on February 16, 2023, that he was donating \$100,000 to “the effort.” And RCEA reported Matthias, albeit incorrectly, as the “true source” of RCEA's donations to AHE on June 11, 2023.

Respondents will accept the recommended \$3,565 in mitigated penalties for registration and reporting violations. Respondents disagree, however, with the Staff's conclusion that RCEA violated AS 15.13.074(b) for all the reasons stated above. The recommended \$19,935 mitigated penalty should be rejected. Even if the Commission decides that RCEA did somehow violate the provisions of AS 15.13.074(b), which it did not, by writing checks and reporting donations to AHE in its own name, the penalty should be eliminated or substantially further reduced because the public was not harmed. RCEA reported Matthias, albeit incorrectly, as the “true source” of RCEA's donations to AHE on June 11, 2023. The misreporting, which in truth there was none, lasted only from May 9, 2023, to June 11, 2023, a total of only 33 days.

Respondents will accept the recommended mitigated penalty of \$10,120 for AHE for the registration and reporting violations. Respondents agree with Staff that there should be no penalty against AHE regarding the alleged AS 15.13.074(b) violation.

Respondents will accept the \$3,085 in recommended mitigated penalties against AHG for reporting violations.

Respondents agree with Staff that no violations should be found, or penalties assessed against WM or WF.

Respondents agree with Staff that no violations should be found, or penalties assessed against Izon.

Dated this 20th day of September 2023.

Law Offices of Kevin G. Clarkson

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EXHIBIT A TO RESPONSE TO STAFF REPORT

1993 Alaska Statutes

Section 15.13.010 APPLICABILITY.

(a) This chapter applies in every election for governor, lieutenant governor, a member of the state legislature, a delegate to a constitutional convention, or judge seeking electoral confirmation. It also applies to every candidate for election to a municipal office in a municipality with a population of more than 1,000 inhabitants according to the latest United States census figures or estimates of population certified as correct for administrative purposes by the Department of Community and Regional Affairs. A municipality may exempt its elected municipal officers from the requirements of this chapter if a majority of the voters voting on the question at a regular election, as defined by [AS 29.71.800](#) (20), or a special municipality-wide election called for that purpose, vote to exempt its elected municipal officers from the requirements of this chapter. The question of exemption from the requirements of this chapter may be submitted by the governing body by ordinance or by initiative election. This chapter does not prohibit a municipality from regulating by ordinance campaign contributions and expenditures.

(b) Except as otherwise provided, this chapter applies to contributions, expenditures and communications made by a candidate, group, municipality or individual for the purpose of influencing the outcome of a ballot proposition or question as well as those made to influence the nomination or election of a candidate.

Section 15.13.070 CONTRIBUTIONS AND EXPENDITURES; AMOUNT AND FORM OF PAYMENT.

(a) A person or group, including but not limited to all political committees, businesses, corporations, and labor unions, may not contribute to or expend more than \$1,000 a year on behalf of or in opposition to the competing candidates for each elective office. Political parties and their subdivisions are not subject to the limitation prescribed in this subsection, but they are subject to the reporting requirements prescribed by [AS 15.13.040](#) (b) and 15.13.110. This chapter does not prohibit

(1) a candidate from contributing more than \$1,000 of the candidate's own money to the candidate's own campaign; or

(2) individuals or groups, including but not limited to all political committees, businesses, corporations, and labor unions, from contributing to or expending on behalf of a ballot proposition or question more than \$1,000 a year; however, these

contributions and expenditures shall be reported in accordance with AS 15.13.040 and 15.13.110.

(b) A contribution over \$100 may not be made in cash or by cash payment and it may not be accepted by or on behalf of a candidate.

(c) An expenditure over \$100 may not be made in cash or by cash payment unless a written receipt is obtained and filed with the commission.

(d) A contribution may not be made, and an expenditure may not be made or incurred, directly or indirectly, anonymously, in a fictitious name, or by one person or group in the name of another, to influence the election of a candidate in an election. A contribution made by a person wishing to remain anonymous, and received by a candidate, campaign treasurer or deputy campaign treasurer, may not be used or expended, but shall be returned to the donor, if the donor's identity is known, and if no donor is found, the contribution escheats to the state if not donated by the candidate to the charity of the candidate's choice.

(e) Contributions to a candidate or a political committee may be received by, and expenditures of a candidate or political committee may be made by, only the candidate, campaign treasurer, or deputy campaign treasurer.

(f) *Repealed, Sec. 45 ch 85 SLA 1986.*

(g) *Repealed, Sec. 45 ch 85 SLA 1986.*

(h) No campaign expenditure of any type whatsoever shall be made by any candidate, treasurer, or group unless the source is disclosed as required by the provisions of this chapter whether or not those funds were received before May 10, 1974.

Section 15.13.120 PENALTY; LIMITATIONS ON ACTIONS.

(a) A person who violates a provision of this chapter is guilty of a misdemeanor and, upon conviction, is punishable by imprisonment for not more than one year or by a fine of not more than \$5,000. A violation includes but is not limited to any of the following acts or omissions:

(1) failing to make a statement or report required to be made under this chapter, or failing to make a statement or report at the time the statement or report is required to be made under this chapter;

(2) making a campaign contribution that exceeds the limitations of AS 15.13.070;

- (3) making a false statement or report under this chapter;
- (4) giving or furnishing money to another person or group for the purpose of making a contribution or expenditure anonymously, in a fictitious name, or in the name of another, or contributing in violation of [AS 15.13.090](#);
- (5) making a communication to support or defeat a candidate without identification of sponsorship, in violation of [AS 15.13.090](#);
- (6) knowingly accepting a contribution in violation of [AS 15.13.070](#).

EXHIBIT B TO RESPONSE TO STAFF REPORT

1996 Statutes

Sec. 15.13.010. Applicability.

(a) [See effect of amendment notes]. This chapter applies

(1) in every election for governor, lieutenant governor, a member of the state legislature, a delegate to a constitutional convention, or judge seeking electoral confirmation;

(2) to every candidate for election to a municipal office in a municipality with a population of more than 1,000 inhabitants according to the latest United States census figures or estimates of population certified as correct for administrative purposes by the Department of Community and Regional Affairs unless the municipality has exempted itself from the provisions of this chapter; a municipality may exempt its elected municipal officers from the requirements of this chapter if a majority of the voters voting on the question at a regular election, as defined by AS 29.71.800 (20), or a special municipality-wide election called for that purpose, votes to exempt its elected municipal officers from the requirements of this chapter; the question of exemption from the requirements of this chapter may be submitted by the governing body by ordinance or by initiative election.

(b) Except as otherwise provided, this chapter applies to contributions, expenditures and communications made by a candidate, group, municipality or individual for the purpose of influencing the outcome of a ballot proposition or question as well as those made to influence the nomination or election of a candidate.

(c) [Effective January 1, 1997]. This chapter does not prohibit a municipality from regulating by ordinance election campaign contributions and expenditures in municipal elections, or from regulating those campaign contributions and expenditures more strictly than provided in this chapter.

(d) [Effective January 1, 1997]. This chapter does not limit the authority of a person to make contributions to influence the outcome of a voter proposition submitted to the public for a vote at a municipal election. In this subsection, in addition to its meaning under AS 15.13.065(c), "proposition" means a municipal reclassification, proposal to adopt or amend a home rule charter, a unification proposal, a boundary change proposal, or the approval of an ordinance when approval by public vote is a requirement for the ordinance.

Sec. 15.13.011. Inapplicability to presidential primary. [Repealed, sec. 1 ch 2 SLA 1984].

Sec. 15.13.065. Contributions. [Effective January 1, 1997].

(a) Individuals, groups, and political parties may make contributions to a candidate. An individual or group may make a contribution to a group or to a political party.

(b) 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.

(c) Except for reports required by AS 15.13.040 and 15.13.110 and except for the requirements of AS 15.13.050, 15.13.060, and 15.13.112 - 15.13.114, the provisions of AS 15.13.010 - 15.13.116 do not apply to limit the authority of a person to make contributions to influence the outcome of a ballot proposition. In this subsection, in addition to its meaning in AS 15.60.010, "proposition" includes an issue placed on a ballot to determine whether

- (1) a constitutional convention shall be called;
- (2) a debt shall be contracted;
- (3) an advisory question shall be approved or rejected; or
- (4) a municipality shall be incorporated.

Sec. 15.13.070. Limitations on amount of political contributions. [See effect of amendments note].

(a) An individual group may make contributions, subject only to the limitations of this chapter and AS 24.45, including the limitations on the maximum amounts set out in this section.

(b) An individual may contribute not more than

- (1) \$500 per year to a candidate, to an individual who conducts a write-in campaign as a candidate, or to a group that is not a political party;
- (2) \$5,000 per year to a political party.

(c) A group that is not a political party may contribute not more than \$1,000 per year

(1) to a candidate, or to an individual who conducts a write-in campaign as a candidate; or

(2) to another group or to a political party.

(d) A political party may contribute to a candidate, or to an individual who conducts a write-in campaign, for the following offices an amount not to exceed

(1) \$100,000 per year, if the election is for governor or lieutenant governor;

(2) \$15,000 per year, if the election is for the state senate;

(3) \$10,000 per year, if the election is for the state house of representatives; and

(4) \$5,000 per year, if the election is for

(A) delegate to a constitutional convention;

(B) judge seeking retention; or

(C) municipal office.

Sec. 15.13.074. Prohibited contributions. [Effective January 1, 1997]..

(a) A person or group may not make a contribution if the making of the contribution would violate this chapter.

(b) A person or group may not make a contribution anonymously, using a fictitious name, or using the name of another.

(c) A person or group may not make a contribution

(1) to a candidate for governor or lieutenant governor or an individual who files with the commission the document necessary to permit that individual to incur certain election-related expenses as authorized by AS 15.13.100 for governor or lieutenant governor, when the office is to be filled at a general election, before the later of the following dates:

(A) the date the individual

(i) becomes a candidate; or

(ii) files with the commission the document necessary to permit the individual to incur certain election-related expenses as authorized by [AS 15.13.100](#); or

(B) January 1 of the year of the general election;

(2) to a candidate for the state legislature or an individual who files with the commission the document necessary to permit that individual to incur certain election-related expenses as authorized by [AS 15.13.100](#) for the state legislature, when the office is to be filled at a general election, while the legislature is convened in its regular legislative session and before the later of the following dates:

(A) the date the individual

(i) becomes a candidate; or

(ii) files with the commission the document necessary to permit the individual to incur certain election-related expenses as authorized by [AS 15.13.100](#); or

(B) January 1 of the year of the general election;

(3) to a candidate or an individual who files with the commission the document necessary to permit that individual to incur certain election-related expenses as authorized by [AS 15.13.100](#) for an office that is to be filled at a special election or municipal election before the later of the following dates:

(A) the date the individual

(i) becomes a candidate; or

(ii) files with the commission the document necessary to permit that individual to incur certain election-related expenses as authorized by [AS 15.13.100](#);

(B) is nine months before the date of the general or regular municipal election or that is before the date of the proclamation of the special election at which the candidate or individual seeks election to public office; or

(4) to any candidate later than the 45th day

(A) after the date of a primary election if the candidate

(i) has been nominated at the primary election or is running as a write-in candidate; and

(ii) is not opposed at the general election;

(B) after the date of the primary election if the candidate was not nominated at the primary election; or

(C) after the date of the general election, or after the date of a municipal or municipal runoff election, if the candidate was opposed at the general, municipal, or municipal runoff election.

(d) A person or group may not make a contribution to a candidate or a person or group who is prohibited by [AS 15.13.072](#) (c) from accepting it.

(e) A person or group may not make a cash contribution that exceeds \$100.

(f) A corporation, company, partnership, firm, association, organization, business trust or surety, labor union, or publicly funded entity that does not satisfy the definition of group in [AS 15.13.400](#) may not make a contribution to a candidate or group.

(g) An individual required to register as a lobbyist under AS 24.45 may not make a contribution to a candidate for the legislature at any time the individual is subject to the registration requirement under AS 24.45 and for one year after the date of the individual's initial registration or its renewal. However, the individual may make a contribution under this section to a candidate for the legislature in a district in which the individual is eligible to vote or will be eligible to vote on the date of the election. An individual who is subject to the restrictions of this subsection shall report to the commission, on a form provided by the commission, each contribution made while required to register as a lobbyist under AS 24.45. This subsection does not apply to a representational lobbyist as defined in regulations of the commission.

(h) Notwithstanding [AS 15.13.070](#), a candidate for governor or lieutenant governor and a group that is not a political party and that, under the definition of the term "group," is presumed to be controlled by a candidate for governor or lieutenant governor, may not make a contribution to a candidate for another office, to a person who conducts a write-in campaign as a candidate for other office, or to another group of amounts received by that candidate or controlled group as contributions between January 1 and the date of the general election of the year of a general election for an election for governor and lieutenant governor. This subsection does not prohibit

(1) the group described in this subsection from making contributions to the candidates for governor and lieutenant governor whom the group supports; or

(2) the governor or lieutenant governor, or the group described in this subsection, from making contributions under [AS 15.13.116 \(a\)\(3\)\(A\)](#).

EXHIBIT C TO RESPONSE TO STAFF REPORT

2010 Statutes

Sec. 15.13.010. Applicability.

(a) This chapter applies

(1) in every election for governor, lieutenant governor, a member of the state legislature, a delegate to a constitutional convention, or judge seeking judicial retention;

(2) to every candidate for election to a municipal office in a municipality with a population of more than 1,000 inhabitants according to the latest United States census figures or estimates of population certified as correct for administrative purposes by the Department of Commerce, Community, and Economic Development unless the municipality has exempted itself from the provisions of this chapter; a municipality may exempt its elected municipal officers from the requirements of this chapter if a majority of the voters voting on the question at a regular election, as defined by [AS 29.71.800](#) (20), or a special municipality-wide election called for that purpose, votes to exempt its elected municipal officers from the requirements of this chapter; the question of exemption from the requirements of this chapter may be submitted by the governing body by ordinance or by initiative election.

(b) Except as otherwise provided, this chapter applies to contributions, expenditures, and communications made for the purpose of influencing the outcome of a ballot proposition or question as well as those made to influence the nomination or election of a candidate.

(c) This chapter does not prohibit a municipality from regulating by ordinance election campaign contributions and expenditures in municipal elections, or from regulating those campaign contributions and expenditures more strictly than provided in this chapter.

(d) This chapter does not limit the authority of a person to make contributions to influence the outcome of a voter proposition submitted to the public for a vote at a municipal election. In this subsection, in addition to its meaning under [AS 15.13.065](#) (c), "proposition" means a municipal reclassification, proposal to adopt or amend a home rule charter, a unification proposal, a boundary change proposal, or the approval of an ordinance when approval by public vote is a requirement for the ordinance.

Sec. 15.13.065. Contributions.

(a) Individuals, groups, nongroup entities, and political parties may make contributions to a candidate. An individual, group, or nongroup entity may make a contribution to a group, to a nongroup entity, or to a political party.

(b) 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.

(c) Except for reports required by AS 15.13.040 and 15.13.110 and except for the requirements of AS 15.13.050, 15.13.060, and 15.13.112 - 15.13.114, the provisions of AS 15.13.010 - 15.13.116 do not apply to limit the authority of a person to make contributions to influence the outcome of a ballot proposition. In this subsection, in addition to its meaning in AS 15.80.010, "proposition" includes

(1) an issue placed on a ballot to determine whether

(A) a constitutional convention shall be called;

(B) a debt shall be contracted;

(C) an advisory question shall be approved or rejected; or

(D) a municipality shall be incorporated;

(2) an initiative proposal application filed with the lieutenant governor under AS 15.45.020.

Sec. 15.13.120. *[Renumbered as AS 15.13.380].*

Repealed or Renumbered

Sec. 15.13.390. Civil penalty; late filing of required reports.

(a) A person who fails to register when required by AS 15.13.050(a) or who fails to file a properly completed and certified report within the time required by AS 15.13.040, 15.13.060(b) - (d), 15.13.110(a)(1), (3), or (4), (e), or (f) is subject to a civil penalty of not more than \$50 a day for each day the delinquency continues as determined by the commission subject to right of appeal to the superior court. A person who fails to file a properly completed and certified report within the time required by AS 15.13.110 (a)(2) or 15.13.110(b) is subject to a civil penalty of not more than \$500 a day for each day the delinquency continues as determined by the

commission subject to right of appeal to the superior court. A person who violates a provision of this chapter, except a provision requiring registration or filing of a report within a time required as otherwise specified in this section, is subject to a civil penalty of not more than \$50 a day for each day the violation continues as determined by the commission, subject to right of appeal to the superior court. An affidavit stating facts in mitigation may be submitted to the commission by a person against whom a civil penalty is assessed. However, the imposition of the penalties prescribed in this section or in [AS 15.13.380](#) does not excuse that person from registering or filing reports required by this chapter.

(b) When an administrative complaint has been filed under AS 15.13.380, the commission shall give the respondent due notice and an opportunity to be heard. If, at the conclusion of the hearing, the commission determines that the respondent engaged in the alleged violation, the commission shall assess

- (1) civil penalties under (a) of this section;
- (2) the commission's costs of investigation and adjudication; and
- (3) reasonable attorney fees.

(c) The commission's determination under (b) of this section may be appealed to the superior court under AS 44.62 (Administrative Procedure Act).

(d) When an action has been filed in the superior court under AS 15.13.380, upon proof of the violation, the court shall enter a judgment in the amount of the civil penalty authorized to be collected by (a) of this section.

(e) If the commission or superior court finds that the violation was not a repeat violation or was not part of a series or pattern of violations, was inadvertent, was quickly corrected, and had no adverse effect on the campaign of another, the commission or the court may

- (1) suspend imposition of the penalties; and
- (2) order the penalties set aside if the person does not engage in a similar violation for a period of one year.

(f) A party who has filed a civil action under [AS 15.13.380](#)

- (1) is not entitled to trial by jury on the civil action;

(2) is not entitled to be represented by legal counsel at public expense