

BEFORE THE ALASKA PUBLIC OFFICES COMMISSION

Mike Widney,

Complainant,

v.

Kevin McCabe,

Respondent.

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Case No. 25-01-CD



FINAL ORDER ON RECONSIDERATION

On July 7, 2025, the Alaska Public Offices Commission found that three of Rep. Kevin McCabe’s campaign disclosure reports during his 2020 and 2024 campaigns failed to include sufficient details for expenditures made to advertising and public relations firms,¹ waived the civil penalties for the violations on two of the reports, and imposed a civil penalty of \$3,200 for violations on the third report. Rep. McCabe timely sought reconsideration, which the Commission granted to allow him additional time to address the merits of the complaint and penalty assessment. On September 10, 2025, the Commission heard the matter for a second time. After considering the arguments and evidence, the Commission upholds the findings of violations on the three reports and the waiver of civil penalties for two of the reports, and reduces the \$3,200 civil penalty for the violations on the third report to \$1,500. The Commission orders Rep. McCabe to pay a civil penalty of \$1,500 and amend the reports as specified in this order.

¹ AS 15.13.040(a); 2 AAC 50.321(d).

I. The three reports failed to provide sufficient details on expenditures made to advertising or campaign consulting firms.

As recommended by staff, the Commission finds that Rep. McCabe’s 2020 30-day primary report, 2024 7-day primary report, and 2024 7-day general report violated AS 15.13.040(a) and 2 AAC 50.321(d) by failing to disclose sufficient details on expenditures made to Optima Public Relations and Republican Ads LLC. For these expenditures, the reports at issue failed to describe “all services rendered, including the name of each business from which campaign goods or services were purchased or subcontracted or media advertising placed”²:

- The 2020 30-day primary report described \$2,000 in services by Optima as “graphics, digital advertising” without specifying where ads were placed.
- The 2024 7-day primary report described \$685 in services by Republican Ads as “digital ads” without specifying where the ads were placed or the nature of the rendered services (ad creation, distribution, or placement).
- The 2024 7-day general report described \$1,376 in services by Republican Ads as “digital ad” and \$16,825 in services by Optima as “account management, graphic design, digital ads, radio ads, text messaging and email, printing and postage” without specifying where the digital and radio ads were placed or the nature of the rendered advertising services.³

Rep. McCabe claims that he did not violate the law because he did not know where Republican Ads would place the ads and that he provided more details on the 2024

² 2 AAC 50.321(d).

³ In July 2025, Rep. McCabe’s campaign treasurer amended this report to add details on the services that Optima rendered, including where Optima placed ads as required by the Commission’s original final order issued that month.

Optima ad placements on his timely year-end report, which was due after the pre-election reports at issue.⁴ The Commission rejects that these explanations render Rep. McCabe's descriptions of the services in the three reports in compliance with the law.

In terms of the services provided by Republican Ads, Rep. McCabe testified that the campaign did not know where the ads would be placed because Republican Ads geotargeted the ads to the mobile devices of probable District 30 Republican voters, rather than placing the ads on a social media site. Republican Ads gave Rep. McCabe information about the number of digital views or impressions by mobile device location. Rep. McCabe argued that the targeted ads were like yard signs, and the law does not require identification of every yard that has a campaign sign or by analogy, every mobile device that received a targeted ad. Staff disputed that Republican Ads operated by directly distributing the ads without buying ad placement from another entity. But staff presented no evidence showing that in Rep. McCabe's case, the ads were not directly distributed to mobile devices by Republican Ads, rather than playing, for example, before a targeted user views an unrelated video or game on another entity's website or app.

But even though staff failed to establish that Republican Ads used an undisclosed third-party entity for ad placement, the Commission concludes that Rep. McCabe's description of the services provided by Republican Ads falls short of the regulatory

⁴ Rep. McCabe also urges dismissal because he alleges that he has been unfairly singled out, the law is outdated as applied to digital advertising, and the complaint was filed by a political opponent to harass him. The Commission rejected these arguments in the July order finding violations and imposing a civil penalty and/or the August order limiting the scope of reconsideration and does not address them again here.

requirement. “Digital ad” or “digital ads,” without more, provides insufficient detail on “all services rendered” by an advertising or consulting agency.⁵ This description does not indicate whether Republican Ads created the ads, directly distributed them, arranged placement on another entity’s website or app, or provided some combination of these services. Thus, the description of “digital ad” or “digital ads” for the Republican Ads expenditures on the reports violated AS 15.13.040(a) and 2 AAC 50.321(d). Within 30 days of the date of this order, Rep. McCabe’s campaign should amend these entries on the 2024 7-day primary and general reports to state at least this: “Direct distribution of digital ads to targeted mobile devices.” The Commission agrees with Rep. McCabe that he need not identify the cell phone number or name of anyone receiving the ads.

In terms of the \$16,825 in services provided by Optima, Rep. McCabe testified that he did not know where the ads would be placed when he filed the 2024 7-day general report on October 29, 2024. But Optima’s October 15 invoice, which Rep. McCabe had received and paid before filing the report, detailed the placements for the digital and radio ads.⁶ This invoice stated that the digital ads would appear on Google, Facebook, Search, YouTube, and iHeart, and that the radio ads would appear on traditional radio stations, specifically naming KVNT, as well as iHeart stations, Spotify, and Pandora. Rep.

⁵ 2 AAC 50.321(d).

⁶ The invoice, which staff discussed without objection in the hearing on this matter, is Exhibit 8 to a staff report for *Alexander v. McCabe*, Case Nos. 24-12-CD and 25-07-CD. Those related and consolidated matters were heard directly before this matter, *Widney v. McCabe*, No. 25-01-CD, at the September 10, 2025, meeting. Both staff and Rep. McCabe referred to the testimony and evidence in those matters in this matter.

McCabe thus had details on the placement of the ads that he could have disclosed at the time he filed the pre-election report. Moreover, the campaign had an ongoing obligation to file complete reports and to amend them if details changed or more information became available.⁷ If Rep. McCabe learned later, for example, that the ads did not run in the specified locations or ran in other places, he should have amended the report, as he did in July 2025 after the Commission first concluded that this Optima disclosure lacked details about where the ads ran.⁸ In addition, like the inadequate Republican Ads descriptions—the description of “digital ads, radio ads”—does not sufficiently detail Optima’s role (ad creation, placement, and/or direct distribution to voters).

For the same reasons, Rep. McCabe’s disclosure of the \$2,000 Optima expenditure during his 2020 campaign is deficient. That entry—“graphics, digital advertising”—did not indicate where Optima placed the ads or what services Optima rendered—creation, placement, and/or direct distribution of ads. Within 30 days of the date of this order, Rep.

⁷ AS 15.13.040(a) (requiring candidates to file “a full report, upon a form prescribed by the commission”; reports are only “full” to the extent that they are complete by including all the required details); *see* 2 AAC 50.321(g) (requiring amendments within 10 days after a correct value is known when “the value of any transaction in [a] report is incorrect or subsequently becomes incorrect, even if the value was accurate at the time of initial filing” if the change in value is \$100 or more but not providing a timeframe for other types of corrections); *Republican Governors Ass’n v. APOC*, 485 P.3d 545, 551 (Alaska 2021) (noting that requiring prompt initial reporting, followed by prompt disclosure of any changes made later, helps ensure “precisely the sort of transparency the disclosure laws are intended to achieve”).

⁸ Even if information is disclosed on a later report, the prior report with the relevant expenditure must be amended as soon as the new information becomes available to the filer so that the public has prompt access to the information. Staff is encouraged to highlight the duty to amend reports in future training materials.

McCabe should amend the \$2,000 Optima entry on the 2020 30-day primary report to specify what services Optima rendered and where advertising was placed, if applicable.

In summary, the Commission concludes that the specified Optima and Republican Ads disclosures on Rep. McCabe's 2020 30-day primary report, 2024 7-day primary report, and 2024 7-day general report violated AS 15.13.040(a) and 2 AAC 50.321(d). The Commission orders Rep. McCabe to amend the Republican Ads disclosures on the 2024 reports and the Optima disclosure on the 2020 report.⁹

II. The Commission imposes a civil penalty of \$1,500 for the violations on the report due seven days before the 2024 general election.

Staff calculated the maximum civil penalties by report, not by violation. Here, staff identified four violations on three reports: The 2024 7-day general report had two incomplete disclosures—one for Optima and one for Republican Ads. Even though there were two violations, staff recommended one penalty of \$3,200 for this incomplete report. Determining penalties by report benefits Rep. McCabe because it avoids the imposition of two penalties covering the same timeframe for the same report. The maximum penalty accrues by day for each day that “a person fails to file a properly completed and certified report.”¹⁰

For the two violations on the first two reports—the 2020 report and the 2024 7-day primary report—the Commission previously agreed with staff's recommendation to

⁹ As previously noted, Rep. McCabe has already amended the Optima disclosure on the 2024 7-day general report.

¹⁰ AS 15.13.390(a)(1).

waive the penalties and concludes that waiver remains appropriate. The Commission waives the penalties because after reduction for Rep. McCabe’s inexperience in 2020 and his good filing history in 2024, both penalties are still “significantly out of proportion to the degree of harm to the public for not having the information.”¹¹

For the violations on the third report, the Commission imposes a civil penalty of \$1,500, which is a significant reduction of the previously imposed penalty of \$3,200. The Commission arrives at this amount first by cutting the maximum penalty in half to \$3,200 based on Rep. McCabe’s good filing history.¹² The Commission then reduces the penalty further to \$1,500 based on the “unique circumstance[s]” of this case.¹³ The circumstances do not justify complete waiver of this penalty because Rep. McCabe failed to provide the details about where Optima placed ads—unambiguously required by the regulation—for a \$16,825 expenditure on a report that was due days before the election, when the electorate’s need for the information was high and when Rep. McCabe knew the probable placement of the radio and digital ads. On the other hand, reducing the \$3,200 penalty by slightly more than half is appropriate because Rep. McCabe’s Optima

¹¹ 2 AAC 50.865(b)(5). *See* 2 AAC 50.855(b)(3)(B) (applying 50 percent reduction when the report is the person’s first incomplete report and the information was not readily available in another forum); 2 AAC 50.865(a)(1) (allowing for a reduction of up to 50 percent for inexperienced filers and those with a good filing history). Staff applied the wrong criteria to initially reduce the penalty for the 2020 reporting violation; because the report was incomplete, rather than late, a reduction of only 50 percent, not 75 percent, applies. *Compare* 2 AAC 50.855(b)(2)(B)(i) *with* 2 AAC 50.855(b)(3)(B). But this mistake is immaterial because staff’s ultimate recommendation was waiver, and a penalty that is higher than staff’s calculation still supports the disproportionality analysis.

¹² 2 AAC 50.865(a)(1)(A).

¹³ 2 AAC 50.865(b)(6).

and Republican Ads disclosures were merely incomplete, rather than wholly inaccurate. Rep. McCabe provided a number of details about Optima's services and disclosed that Republican Ads' work was related to digital advertising. No one disputes the accuracy of these details or the amount of the expenditures. In addition, the Commission credits Rep. McCabe's good-faith efforts to comply with campaign disclosure laws by looking at other candidates' reports, reaching out to APOC staff for guidance, and amending the Optima disclosure to comply with the Commission's original order in this matter.

In addition to making the amendments (described above), the Commission orders Rep. McCabe to pay a civil penalty of \$1,500 within 30 days of this order.

This is a final Commission order. It may be appealed to the superior court within 30 days from the date of this order.¹⁴ A request for the Commission to reconsider this order must be filed within 15 days from the date this order is delivered or mailed.¹⁵

Dated: September 22, 2025.

BY ORDER OF THE ALASKA PUBLIC OFFICES COMMISSION¹⁶

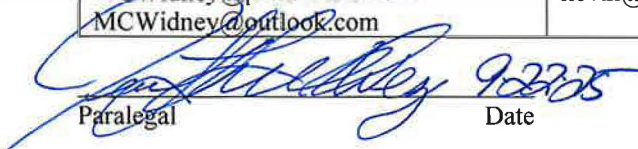
Certificate of Service:

I hereby certify that on this date, I served, by **certified mail, U.S. mail, and email** a true and correct copy of the foregoing in this proceeding on the following:

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Paralegal

9/22/25
Date

¹⁴ AS 15.13.380(g); AS 44.62.560; Alaska R. App. P. 602.

¹⁵ 2 AAC 50.891(g); AS 44.62.540.

¹⁶ Commissioners Richard Stillie, Dan LaSota, Lanette Blodgett, Eric Feige, and Walt Monegan participated in this matter. The decision was made on a 4–1 vote.