

BEFORE THE ALASKA PUBLIC OFFICES COMMISSION

Alaska Public Offices Commission Staff,)
Complainant,)
vs.) Case No. 15-08-LFD
Senator Lesil McGuire,)
Respondent.)

NOTICE OF HEARING AND PROCEDURAL ORDER

A hearing in this case will take place before the Alaska Public Offices Commission at approximately 10:30 a.m. on Tuesday, October 25, 2016, at 2221 E. Northern Lights Blvd., Room 128, Anchorage, Alaska.

The commissioners will be present in person or by telephone and will receive evidence regarding this matter. You may be present at the hearing, either in person or by telephone, and you may be, but are not required to be, represented by an attorney or agent.

If you wish to participate by telephone and are an individual who requires a special accommodation to participate, you must advise the commission office on or before October 1, 2016, so that a teleconference or special accommodation can be made.

PREHEARING AND HEARING PROCEDURES

- 1) **Parties.** The parties in this case are Commission Staff and Respondent.
- 2) **Issues.** At the hearing, the Commission will consider whether Respondent filed an incomplete and incorrect Legislative Financial Discloser (LFD) statements.
- 3) **Procedural history.** APOC filed the complaint on October 7, 2015. Respondent filed a response to the complaint on October 22, 2015. Staff's investigation report

recommending an assessment of civil penalties was issued on November 10, 2015 because Senator McGuire was under legislative immunity until after the end of a special legislative session until that time. Respondent did not file a response to the report.

- 4) **Hearing procedures.** The hearing will be conducted as provided in AS 15.13.380, 2 AAC 50.891, and the Alaska Administrative Procedure Act, AS 44.62.330 – 44.62.630. All testimony must be presented or submitted under oath. A party may call witnesses, cross-examine witnesses, present and rebut evidence. If the respondent does not testify, the respondent may be called and examined as if under cross-examination.
- 5) **Evidence and exhibits.** All relevant evidence may be admissible at the hearing. In passing upon the admissibility of evidence, the Commission may consider, but is not bound to follow, the rules of evidence governing general civil proceedings in the courts of the State of Alaska. The Commission may exclude inadmissible evidence and order repetitive evidence discontinued.
- 6) **Prehearing filings.** No later than October 10, 2016, a party:
 - a) may file a list of witnesses expected to testify at the hearing;
 - b) may file copies of exhibits to be presented at the hearing that are marked and identified (for example, Resp.'s Ex. A);
 - c) may file a prehearing memorandum;
 - d) may file prehearing motions, including motions to dismiss, for summary judgment, or to exclude evidence, and
 - e) shall serve all parties and the Complainant with filings submitted.
- 7) **Response to motions and requests for subpoenas.** No later than October 17, 2016, a party
 - a) may respond to a motion; and
 - b) may request the Commission to issue subpoenas to compel the attendance of witnesses, the production of documents, or other things related to the subject of

the hearing, and is responsible for serving the subpoena and paying the appropriate witness fee.

8) Extensions of time. Requests to extend the deadlines in this order must be in writing, filed with the Commission, served on all parties and the Complainant, and supported by good cause.

9) Copies of filings, motions and requests. A party must submit eight copies of all filings, motions and requests filed for consideration in a hearing, at the time they are first submitted.

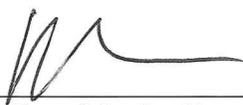
10) Burden of proof. The Commission staff has the burden to prove any charges by a preponderance of the evidence.

11) Order of proceedings. Matters considered at a hearing will ordinarily be disposed of in substantially the following order:

- a) pending motions;
- b) complainant may present argument under 2 AAC 50.891(d)
- c) opening statements by Commission Staff and Respondent;
- d) presentation of cases as follows, unless otherwise ordered by the Commission:
 - i) The Commission Staff's direct case, including the investigative report, evidence, and testimony of witnesses;
 - ii) Respondent's direct case;
 - iii) Rebuttal by the Commission Staff; and
 - iv) Closing statements by Respondent and Commission Staff.

11) Decision and Order. The Commission will issue an order no later than 10 days after the close of the record.

Dated: September 12, 2016



Paul Dauphinais, Executive Director
Alaska Public Offices Commission

BEFORE THE ALASKA PUBLIC OFFICES COMMISSION

Alask Public Offices Commission Staff,)	
)	
Complainant,)	
)	Case No. 15-08-LFD
vs.)	
)	
Senator Lesil McGuire,)	
)	
Respondents.)	
)	

CERTIFICATE OF SERVICE

I hereby certify that on this date, I caused a true and correct copy of the foregoing Notice of Hearing And Procedural Order and this Certificate of Service to be delivered as indicated to the following:

Senator Lesil McGuire 2022 Kimberly Lyn Circle Anchorage, AK 99515 lesilmcguire@yahoo.com 9171 9690 0935 0107 6999 06	<input checked="" type="checkbox"/> Email <input checked="" type="checkbox"/> Certified Mail
Mary Lynn Macsalka marylynn.macsalka@alaska.gov APOC Staff	<input checked="" type="checkbox"/> Email

<i>Maria Bulfa</i>	9/12/2016
_____ Law Office Assistant	_____ Date

From: [Microsoft Outlook](#)
To: [Dauphinais, Paul R \(DOA\)](#)
Subject: Delivered: Notice of Hearing & Procedural Order - 15-08-LFD
Date: Monday, September 12, 2016 9:20:37 AM
Importance: High

Your message has been delivered to the following recipients:
HYPERLINK "mailto:paul.dauphinais@alaska.gov"Dauphinais, Paul R (DOA) (paul.dauphinais@alaska.gov)
Subject: Notice of Hearing & Procedural Order - 15-08-LFD

From: [Microsoft Outlook](#)
To: lesilmcguire@yahoo.com
Subject: Relayed: Notice of Hearing & Procedural Order - 15-08-LFD
Date: Monday, September 12, 2016 9:20:36 AM
Importance: High

Delivery to these recipients or groups is complete, but no delivery notification was sent by the destination server:
HYPERLINK "mailto:lesilmcguire@yahoo.com"lesilmcguire@yahoo.com (lesilmcguire@yahoo.com)
Subject: Notice of Hearing & Procedural Order - 15-08-LFD

From: [Microsoft Outlook](#)
To: [MacSalka, Mary Lynn \(LAW\)](#)
Subject: Delivered: Notice of Hearing & Procedural Order - 15-08-LFD
Date: Monday, September 12, 2016 9:20:36 AM
Importance: High

Your message has been delivered to the following recipients:
HYPERLINK "mailto:marylynn.macsalka@alaska.gov"MacSalka, Mary Lynn (LAW) (marylynn.macsalka@alaska.gov)
Subject: Notice of Hearing & Procedural Order - 15-08-LFD

From: [MacSalka, Mary Lynn \(LAW\)](#)
To: [Bulfa, Maria F B \(DOA\)](#)
Subject: Read: Notice of Hearing & Procedural Order - 15-08-LFD
Date: Monday, September 12, 2016 9:25:46 AM
Importance: High

Your message

To: MacSalka, Mary Lynn (LAW)
Subject: Notice of Hearing & Procedural Order - 15-08-LFD
Sent: Monday, September 12, 2016 9:20:32 AM (UTC-09:00) Alaska
was read on Monday, September 12, 2016 9:25:44 AM (UTC-09:00) Alaska.



THE STATE
of **ALASKA**
GOVERNOR BILL WALKER

Department of Administration

ALASKA PUBLIC OFFICES COMMISSION

2221 E. Northern Lights Blvd., Rm. 128
Anchorage, AK 99508-4149
Main: 907.276.4176
Fax: 907.276.7018
www.doa.alaska.gov/apoc

November 10, 2015

Via U.S. Mail and Email

Senator Lesil McGuire
2022 Kimberly Lynn Circle
Anchorage, AK 99515
lesilmcguire@yahoo.com

and
716 W. 4th Avenue #200
Anchorage, AK 99501

Re: Complaint 15-08-LFD, *APOC Staff v. Senator Lesil McGuire*

Dear Senator McGuire:

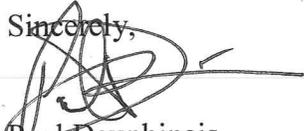
APOC Staff has completed its staff report regarding the complaint filed against you, alleging violations of AS 24.60, Alaska's legislative financial disclosure law. Please find the staff report and its exhibits with this letter.

As the Respondent, you have the right to file a response to the staff report within 10 days of this notification as per 2 AAC 50.875(d). Your response is a public document.

The date when this matter will be heard by the Commission has yet to be determined and is subject to the legislative immunity accorded you when the legislature is in session. You will receive notification of the time and place when this matter will be heard.

If you have any questions, please contact us. Thank you for your cooperation.

Sincerely,



Paul Dauphinais
Executive Director

Enclosures: Staff Report for Complaint 15-08-LFD
2 AAC 50.875

cc: Mary Lynn Macsalka, Assistant Attorney General

2 AAC 50.875. Investigation

(a) The staff shall undertake an investigation of a complaint that the staff or the commission determines meets the criteria in [2 AAC 50.870\(c\)](#). The staff shall initiate an investigation if the commission or staff obtains information that, if true, would constitute a substantial violation of [AS 15.13](#), [AS 24.45](#), [AS 24.60.200](#) - 24.60.260, [AS 39.50](#), or this chapter. If the staff initiates an investigation, the staff shall promptly (1) prepare a written notice, setting out the facts, allegations, and law involved; and (2) provide the written notice and a copy of the complaint and supporting documentation to the respondent and the commission.

(b) The staff may conduct an investigation as provided in [AS 15.13.045](#), and may (1) request written and sworn statements from a party, witness, or other person; (2) request the assistance of the Alaska State Troopers; and (3) contract with a private investigator.

(c) When the staff completes an investigation, but no later than 30 days after accepting a complaint, staff shall prepare an investigation report. The investigation report must include a summary of the staff's findings, and a recommendation (1) that a hearing be held and penalties assessed if the staff concludes that the evidence shows a violation of the law; (2) that the matter be dismissed if the staff concludes that the evidence does not support a violation; or (3) that the commission approve a consent agreement, if the respondent and the staff have agreed to a resolution in compliance with [2 AAC 50.885](#).

(d) The staff shall provide a copy of the investigation report to the complainant, the respondent, and the commission. No later than 10 days after the staff mails or delivers the investigation report to the respondent, the respondent may file an answer or an amended answer to the investigation report.

(e) The commission will consider an investigation report at its next regularly scheduled meeting unless, in its discretion, the commission schedules the matter for a special meeting. The commission will give notice of the date, time, and place of the meeting to the complainant and the respondent. After considering the recommendation, the commission will (1) schedule the matter for hearing; (2) dismiss the complaint or investigation; or (3) consider any consent agreement as provided in [2 AAC 50.885](#).

BEFORE THE ALASKA PUBLIC OFFICES COMMISSION

Alaska Public Offices Commission,

Complainant

vs.

Lesil McGuire,

Respondent

Case No. 15-08-LFD

CERTIFICATE OF SERVICE

I hereby certify that on this date, I caused a true and correct copy of the Staff Report to be delivered as indicated to the following:

Senator Lesil McGuire 2022 Kimberly Lynn Circle Anchorage, AK 99515 716 W. 4 th Avenue #200 Anchorage, AK 99501 lesilmcguire@yahoo.com	<input checked="" type="checkbox"/> Certified Mail <input checked="" type="checkbox"/> Email	9171-9690-0935-0096-9837-03 9171-9690-0935-0096-9837-10
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Michael S. Schwahr 10-11-2015
Signed Date
Alaska Public Offices Commission



THE STATE
of **ALASKA**
GOVERNOR BILL WALKER

Department of Administration

ALASKA PUBLIC OFFICES COMMISSION

2221 E. Northern Lights Blvd., Rm. 128
Anchorage, AK 99508-4149
Main: 907.276.4176
Fax: 907.276.7018
www.doa.alaska.gov/apoc

TO: APOC Commissioners
DATE: November 4, 2015
FROM: Paul Dauphinais, Executive Director
SUBJECT: Staff Report
15-08-LFD, APOC v. Senator Lesil McGuire

SUMMARY

Senator McGuire failed to meet her reporting obligations. Senator McGuire filed her annual LFD on March 13, 2015. While Senator McGuire met the filing deadline of March 16, 2015, she failed to file a complete report by not reporting the income or interests (business, beneficial, or property) of her spouse. She did report a permanent fund dividend for her spouse and children.¹ She did not request an exemption from reporting this information and did not provide evidence of a good faith effort to obtain the information from her spouse until after this complaint was filed.²

This report is delivered to Senator McGuire after the 30 day deadline noted in 2 AAC 50.875 due to the Legislative Immunity afforded respondent in AS 24.40.010.

BACKGROUND

Senator McGuire reported on her 2015 LFD that her spouse is Jason Skala. Mr. Skala is an attorney practicing in Anchorage, Alaska.³ Legislators are required to provide information concerning income received by themselves, their spouse or domestic partner, dependent children, and non-dependent children living with them if the income is in excess of \$1,000 from a single source during the calendar year.⁴ For that income, the amount, the name and address of the source and recipient, how the income was earned, the dates and approximate number of hours worked to earn the income, and a description sufficient to make clear to a person of ordinary understanding the nature of the service performed is required.⁵

¹ Exhibit 1, Senator McGuire's 2015 LFD.

² Exhibit 2, 2 AAC 50.775, process to request an exemption from specific reporting requirements, and 2 AAC 50.690, good faith effort requirements

³ Exhibit 3, See <http://www.lawyer.com/jason-skala-1045801.html> .

⁴ AS 24.60.200.

⁵ AS 24.60.200(2)

APOC staff took notice of this discrepancy during a routine audit conducted on April 4, 2015. However, because of Legislative Immunity, staff did not contact Senator McGuire until June 15, 2015, after the end of the extended legislative session which ended June 11, 2015.⁶

FACTS

Senator McGuire is required to file an annual Legislative Financial Disclosure statement under AS 24.60.200. While her report was filed on time, it was incomplete.

Senator McGuire was contacted six separate times in an effort to resolve this issue informally between June 15, 2015, and September 21, 2015, prior to staff filing this complaint.

Senator McGuire was first informed of this discrepancy on June 15, 2015, via an e-mail sent at 11:10 AM that day in an attempt to resolve the matter informally.⁷ Senator McGuire responded via e-mail on June 20, 2015 at 7:56 AM.⁸ Based on her reply to this initial e-mail she was then aware of the issue that is the basis for this complaint. She was informed of potential ways to comply with the reporting requirement via e-mails on June 22, 2015, at 7:57 AM and again on July 6, 2015 at 6:59 AM.⁹ Senator McGuire was then sent a letter dated July 21, 2015, regarding her LFD.¹⁰ In the July 21, 2015, letter Senator McGuire was informed about the possibility of a complaint being filed if the disclosure statement was not amended or she did not provide documentation concerning a good faith effort to obtain the required information from her spouse.

On August 24, 2015, Senator McGuire was sent a first notice of missing statement.¹¹ Senator McGuire has not signed for any certified mail sent to her in this matter; however, all e-mails sent to her show that they have been received. As noted earlier, she indicated an awareness of this issue on June 20, 2105.

On September 1, 2015, Senator McGuire called APOC and spoke with the executive director about her LFD and the missing information among other topics. The information contained in the several e-mails and letters previously sent was reiterated to her including the process regarding a good faith effort to obtain the required information. Her report was not amended nor was evidence of a good faith effort provided. On September 21, 2015, Senator

⁶ AS 24.40.010 notes immunities. Specifically, "A legislator may not be held to answer before any other tribunal for any statement made in the exercise of legislative duties while the legislature is in session. A member attending, going to, or returning from legislative sessions is not subject to civil process and is privileged from arrest except for felony or breach of the peace. The immunities provided in this section extend to a legislator attending, going to, or returning from a meeting of an interim standing or special committee of the legislature of which the legislator is a member. For the purposes of going to and returning from a session or meeting, the immunities provided extend to a legislator for a period of five days immediately preceding and following the legislator's attendance at the session or meeting."

⁷ Exhibit 4, E-mail from Paul Dauphinais to Senator McGuire of June 15, 2015 11:10 AM.

⁸ Exhibit 5, E-mail from Senator McGuire to Paul Dauphinais of June 20, 2015 at 7:56 AM.

⁹ Exhibits 6a and 6b, E-mails from Paul Dauphinais to Senator McGuire of June 22, 2015 at 7:57AM and July 6, 2015 at 6:59AM.

¹⁰ Exhibit 7, Letter from Paul Dauphinais to Senator McGuire dated July 21, 2015.

¹¹ Exhibit 8, Notice of Missing Statement dated August 24, 2015.

McGuire was sent a second notice of missing statement and again she was asked to either amend her report or provide evidence of a good faith effort to obtain the information from her spouse.¹²

Finally, on October 7, 2015, because APOC had received neither an amended report nor documentation regarding a good faith effort, staff filed a complaint against Senator McGuire.

On October 15, 2015, Senator McGuire e-mailed APOC staff letters to show that she had made a good faith effort to get the information required by statute from her husband.¹³ On October 23, 2015, Senator McGuire responded to the complaint.¹⁴

In her response to the complaint Senator McGuire notes that her spouse has declined to provide information each year and that the reasons why “are clearly stated in his letter of response each year”. It may well be true that Mr. Skala refused to provide the required information each year; however, only in 2013 did Mr. Skala provide a letter in response to a good faith effort by the filer.¹⁵ That letter clearly indicates that the material was for the reporting year 2012.¹⁶ Senator McGuire did not report her spouse’s income on her 2014 LFD covering calendar year 2013 and no good faith effort to obtain the information or reason for not providing that information is on file. This is because the author of this report audited her 2014 filing and failed to notice the lack of income reported. This was a staff error.

LAW & ANALYSIS

Financial disclosure by members of the legislature is required by AS 24.60.200. The information to be reported under AS 24.60.200 includes information from “the discloser’s spouse or domestic partner”. The information is the same as required under AS 39.50.030 except for income received for personal services, a loan, or gifts.¹⁷ As per AS 39.50.030 all sources of income over \$1,000 earned during the previous calendar year must be reported to include the source of the income, the recipient of the income, the amount of the income, how the income was earned, unless required by law to be kept confidential a description of the work performed, the identity of the source of income. Disclosure of real property interests, trusts, and natural resource leases is also required.¹⁸

Annual disclosures are due on or before March 15 of each year, or the first business day after that date if March 15 falls on a weekend or holiday.¹⁹ Senator McGuire’s report was filed prior to that deadline. Her report listed income for herself as the filer and PFDs for her, her spouse, and one child. Her report did not include income, business interests, or real property interests of her spouse.

¹² Exhibit 9, Second Notice of Delinquency dated September 21, 2015.

¹³ Exhibit 10, 2013 Good Faith Effort documents re Senator McGuire.

¹⁴ Exhibit 11, Good Faith Effort documents dated October 7, 2015 and October 14, 2015. Exhibit 11, Response to Complaint.

¹⁵ Exhibit 10, 2013 Good Faith Effort documents re Senator McGuire.

¹⁶ Ibid.

¹⁷ AS 24.60.200.

¹⁸ AS 39.50.030(b).

¹⁹ AS 39.50.020(a).

Regulation 2 AAC 50.690 provides guidance on providing a good faith effort to get information from a spouse, domestic partner, or child. When staff finally spoke to Senator McGuire in September she noted that she had provided a good faith effort for her 2013 LFD filing. This is true; however, that good faith effort was specific to the 2012 calendar year reported in 2013.

In her response to the complaint Senator McGuire notes that there has been significant emotional turmoil in her life.²⁰ Staff is very empathetic to her issues.

As a matter of clarification staff wishes to briefly address Mr. Skala's claim that there is a tie between the attorney/client privilege and reporting clients and the income he receives from them. First, there are numerous POFD/LFD filers who are attorneys and report their clients in different ways. The Alaska Rules of Court (2015-2016 edition), Alaska Rules of Professional Conduct specifically address the attorney client privilege and more specifically the secrets and confidences of clients in Rule 1.6. The secrets and confidences of clients as discussed in rule 1.6 are not requested in a POFD/LFD filing. While Mr. Skala, in his 2013 letter to Senator McGuire, notes that he does not want to disclose the terms of any settlements, the POFD form does not ask for that information. The form asks for Mr. Skala's income, not the specifics of any settlements or the amount awarded to any client, only the income earned by Mr. Skala, or others in a similar situation. More specifically, Rule 1.6(b)(6) notes that it is permissible to reveal certain information to comply with other law or a court order. Also, Rule 7.2 specifically notes that attorneys may provide the names of clients regularly represented, with the clients' consent, and the basis of fees, in advertising.

APOC Regulation 2 AAC 50.775 provides that a legislative branch filer may request an exemption from the requirement to report the name of a source of income and the amount of income regarding an individual who received legal services provided by an attorney under certain circumstances. Senator McGuire has not requested an exemption from reporting her husband's income or sources of income under 2 AAC 50.775, and Mr. Skala has not asserted that any of the circumstances specified in that regulation applies to his clients.

What the statute requires is that a filer, spouse, or dependent child reports the sources of income, the amount, of income from each source, and a brief statement that would enable a person of ordinary understanding to determine how that income was earned. With this in mind, the client's name, the amount earned—in a range as provided on the form--, and a description such as "Legal Services Rendered" would meet the requirements of the statute.

CONCLUSIONS

Senator McGuire's 2015 annual LFD was incomplete in that it did not contain the income and interests of her spouse or in the place of that information an approved exemption from reporting it or a good faith effort to obtain the information.

A good faith effort was provided on October 15, 2015, making her report compliant with AS 24.60.200 in response to the complaint filed on October 7, 2015.

²⁰ Exhibit 12 Response to Complaint.

Her report was uncompliant for 204 days; from March 16, 2015 to October 7, 2015, the date the complaint was filed.

RECOMMENDATION

The incomplete report was required to be submitted by March 16, 2015, the complaint was filed October 7, 2015, and the good faith effort was not provided until October 15, 2015. The penalty extends from March 16, 2015 to October 7, 2015, for a total of 204 days late for a maximum penalty of \$2,040. However the filer was not notified until June 15, 2015, due to an extended legislative session making the good faith effort 114 days late for a maximum penalty of \$1,140.

Senator McGuire has a good filing history dating to 2001.

Staff notes the repeated requests made to Senator McGuire to make her report compliant via either an amendment or providing a good faith effort as a possible aggravating factor.

As Senator McGuire was not notified of the matter until June 15, it is not reasonable to start any penalties before then and the maximum penalty that could be assessed should start at \$1,140. Because she has had a good filing history for over a decade and staff failed to notify her of the same issue in 2014, a further 50% reduction in the penalty, to \$570.00, may be appropriate. Finally, based on the issues noted in her response to the complaint, staff considers those circumstances to be a catastrophic circumstance and recommends a further reduction to \$285.00.

Based on that information, staff recommends a penalty of \$285.00. Staff does not consider a complete waiver appropriate considering the number of times this matter was brought to the attention of Senator McGuire and that staff was not informed of her father's illness until just prior to her filing a response to the complaint. Had staff known the entire background of matters facing Senator McGuire, and the timing of those matters, it may have been able to deal with the non-compliant filing in a different manner.

Staff spent approximately 15 hours attempting to contact Senator McGuire and writing the complaint and staff report. At \$42.50 per hour the cost is approximately \$637.50. Staff does not recommend charging any party for staff time.

Regulations and Laws Cited

2 AAC 50.775. Exemption from reporting sources of income

(a) A legislative branch filer, public official, or candidate required under [AS 24.50.200](#) or [AS 39.50.020](#) to file a disclosure statement may, for any reason set out in this section, request an exemption from the requirement to report the name of an individual who was a source of income, the amount of income, or any other information required under [AS 39.50.030](#) or 2 AAC [50.680](#) - 2 AAC [50.740](#). An exemption request must comply with 2 AAC [50.821](#). The person requesting any exemption has the burden of proving each fact necessary to show that an exemption available under this section is applicable.

(b) A legislative branch filer, public official, or candidate may request an exemption from the requirement to report the name of a source of income, the amount of income, or any other information required under [AS 39.50.030](#) or 2 AAC [50.680](#) - 2 AAC [50.740](#) regarding an individual who received

(1) mental health services provided by a mental health practitioner including a psychiatrist, psychologist, or therapist;

(2) medical services and the source of income was

(A) an individual who received medical services related to abortion, contraception, reproductive health, a sexual disorder, or a terminal illness;

(B) a minor who received medical services without the knowledge of a parent or legal guardian if a reasonable person in the situation of the minor would experience substantial concern, anxiety, or embarrassment from publication of the minor's name as a source of income;

(C) a married individual who received medical services without the knowledge of the individual's spouse if a reasonable person in the situation of the individual would experience substantial concern, anxiety, or embarrassment from publication of the individual's name as a source of income; or

(D) an individual who received medical services of any nature if at least 67 percent of the patients of a self-employed legislative branch filer, public official, candidate, or family member were individuals described in (A) - (C) of this paragraph; or

(3) legal services provided by an attorney and the source of income was

(A) a minor who received legal services without the knowledge of a parent or legal guardian if a reasonable person in the situation of the minor would experience substantial concern, anxiety, or embarrassment from publication of the minor's name as a source of income;

(B) a married individual who received legal services without the knowledge of the individual's spouse if a reasonable person in the situation of the individual would experience substantial concern, anxiety, or embarrassment from publication of the individual's name as a source of income;

(C) an individual who received legal services of any nature if at least 67 percent of the clients of a self-employed legislative branch filer, public official, candidate, or family member were individuals described in (A) or (B) of this paragraph.

(c) A legislative branch filer, public official, or candidate may request an exemption if

(1) the legislative branch filer, public official, or candidate is prohibited by law or court-ordered settlement from reporting the name of a source of income, the amount of income, or any other information required under [AS 39.50.030](#) or 2 AAC [50.680](#) - 2 AAC [50.740](#);

(2) the legislative branch filer, public official or candidate believes reporting the name of a source of income, the amount of income, or any other information required under [AS 39.50.030](#) or 2 AAC [50.680](#) - 2 AAC [50.740](#), would violate rights of the source under state or federal statutes or constitutions;

(3) the legislative branch filer, public official, or candidate believes that reporting the name of a source of income would disclose protected health information that the filer is prohibited from disclosing under 42 U.S.C. 1320d - 1320d-9 (Health Insurance Portability and Accountability Act (HIPAA) of 1996).

(d) A legislative branch filer, public official, or candidate may request a personal security exemption from reporting the name of a minor that is a source of income, the amount of income, or any other information required under [AS 39.50.030](#) or 2 AAC [50.680](#) - 2 AAC [50.740](#) that exposes the public official, candidate, or a family member to a personal security threat.

(e) A legislative branch filer, public official, or candidate may request an exemption from reporting the name of a source of income, the amount of income, or any other information required under [AS 39.50.030](#) or 2 AAC [50.680](#) - 2 AAC [50.740](#) if a state or federal law or court order requires the name of the source or the other information to be kept confidential.

(f) Notwithstanding any other provision of this section, a legislative branch filer, public official, or candidate may request an exemption from reporting the name of a source of income, the amount of income, or any other information required under [AS 39.50.030](#) or 2 AAC [50.680](#) - 2 AAC [50.740](#), if the public official or candidate demonstrates that the right to privacy of the information outweighs the compelling state interest in disclosing the information.

History: Eff. 7/20/95, Register 135; am 1/1/2001, Register 156; am 2/20/2005, Register 173; am 12/22/2011, Register 200

Authority: [AS 15.13.030](#) [AS 24.60.200](#) [AS 24.60.220](#) [AS 24.60.230](#) [AS 39.50.020](#)

[AS 39.50.030](#) [AS 39.50.035](#) [AS 39.50.050](#)

2 AAC 50.690. Good faith effort to obtain information

In a disclosure statement required by [AS 24.60.200](#) or [AS 39.50.020](#) , a legislative branch filer, public official, or candidate shall report the information that the legislative branch filer, public official, or candidate knows after making a good faith effort to ascertain the information. A good faith effort includes a written request to each family member of the legislative branch filer, public official, or candidate, or to the person in charge of a business in which the legislative branch filer, public official, candidate, or family member of the legislative branch filer, public official, or candidate held an interest in the reporting period

(1) asking for the information required under [AS 39.50.030](#) and 2 AAC [50.680](#) - 2 AAC [50.740](#); and

(2) informing the recipient of the written request that the legislative branch filer, public official, or candidate

(A) is required to provide the information under oath and penalty of perjury; and

(B) may be subject to the penalties or other remedies set out in the applicable provisions of [AS 24.60.240](#) - 24.60.260, [AS 39.50.060](#) - 39.50.080, 39.50.110, 39.50.130, or 39.50.135 for failure to provide the information.

History: Eff. 12/22/2011, Register 200

Authority: [AS 15.13.030](#) [AS 24.60.200](#) [AS 24.60.220](#) [AS 39.50.020](#) [AS 39.50.030](#) [AS 39.50.050](#)

Sec. 24.60.200. Financial disclosure by legislators, public members of the committee, and legislative directors. A legislator, a public member of the committee, and a legislative director shall file a disclosure statement, under oath and on penalty of perjury, with the Alaska Public Offices Commission giving the following information about the income received or deferred income, earned or otherwise, to be received by the discloser, the discloser's spouse or domestic partner, the discloser's dependent children, and the discloser's nondependent children who are living with the discloser:

(1) the information that a public official is required to report under [AS 39.50.030](#), other than information about

- (A) income received as compensation for personal services;
- (B) a loan or loan guarantee;
- (C) gifts;

(2) as to income or deferred income in excess of \$1,000 earned or received as compensation for personal services, and as to dividend income or deferred compensation in excess of \$1,000 received from a limited liability company as compensation or deferred compensation for personal services, a statement describing

- (A) the names and addresses of the source and the recipient;
- (B) the amount;
- (C) whether it was or will be earned by commission, by the job, by the hour, or by some other method;
- (D) the dates and approximate number of hours worked or to be worked to earn it; and
- (E) unless required by law to be kept confidential, a description sufficient to make clear to a person of ordinary understanding the nature of each service performed or to be performed and the date the service was performed or will be performed;

(3) as to each loan or loan guarantee over \$1,000 from a source with a substantial interest in legislative, administrative, or political action, the name and address of the person making the loan or guarantee, the amount of the loan, the terms and conditions under which the loan or guarantee was given, the amount outstanding at the time of filing, and whether or not a written loan agreement exists.

Sec. 24.40.010. Immunities. A legislator may not be held to answer before any other tribunal for any statement made in the exercise of legislative duties while the legislature is in session. A member attending, going to, or returning from legislative sessions is not subject to civil process and is privileged from arrest except for felony or breach of the peace. The immunities provided in this section extend to a legislator attending, going to, or returning from a meeting of an interim standing or special committee of the legislature of which the legislator is a member. For the purposes of going to and returning from a session or meeting, the immunities provided extend to a legislator for a period of five days immediately preceding and following the legislator's attendance at the session or meeting.

Sec. 39.50.030. Contents of statements. (a) Each statement must be an accurate representation of the financial affairs of the public official or candidate and must contain the same information for each member of the person's family, as specified in (b) and (d) of this section, to the extent that it is ascertainable by the public official or candidate.

(b) Each statement filed by a public official or candidate under this chapter must include the following:

(1) for all sources of income over \$1,000 during the preceding calendar year, including taxable capital gains, and for all gifts from a single source with a cumulative value exceeding \$250 in a calendar year, received by the person, the person's spouse or domestic partner, or the person's dependent child,

(A) each source of the income or gift;

(B) the recipient of the income or gift;

(C) the amount of the income or value of the gift;

(D) a brief statement describing whether the income was earned by commission, by the job, by the hour, or by some other method;

(E) the approximate number of hours worked to earn the income; and

(F) unless required by law to be kept confidential, a description sufficient to make clear to a person of ordinary understanding the nature of each service performed and the date the service was performed;

(2) the identity, by name and address, of each business in which the person, the person's spouse or domestic partner, or the person's dependent child has an interest or was a stockholder, owner, officer, director, partner, proprietor, or employee during the preceding calendar year, except that an interest of less than \$1,000 in the stock of a publicly traded corporation need not be included;

(3) the identity and nature of each interest in real property, including an option to buy, owned at any time during the preceding calendar year by the person, the person's spouse or domestic partner, or the person's dependent child;

(4) the identity of each trust or other fiduciary relationship in which the person, the person's spouse or domestic partner, or the person's dependent child held a beneficial interest exceeding \$1,000 during the preceding calendar year, a description and identification of the property contained in each trust or relation, and the nature and extent of the beneficial interest in it;

(5) any loan or loan guarantee of more than \$1,000 made to the person, the person's spouse or domestic partner, or the person's dependent child, and the identity of the maker of the loan or loan guarantor and the identity of each creditor to whom the person, the person's spouse or domestic partner, or the person's dependent child owed more than \$1,000; this paragraph requires disclosure of a loan, loan guarantee, or indebtedness only if the loan or guarantee was made, or the indebtedness incurred, during the preceding calendar year, or if the amount still owing on the loan, loan guarantee, or indebtedness was more than \$1,000 at any time during the preceding calendar year;

(6) a list of all contracts and offers to contract with the state or an instrumentality of the state during the preceding calendar year held, bid, or offered by the person, the person's spouse or domestic partner, or the person's dependent child, a partnership, limited liability company, or professional corporation of which the person is a member, or a corporation in which the person or the person's spouse, domestic partner, or dependent child, or a combination of them, hold a controlling interest; and

(7) a list of all mineral, timber, oil, or any other natural resource lease held, or lease offer made, during the preceding calendar year by the person, the person's spouse or domestic partner, or the person's dependent child, a partnership, limited liability company, or professional corporation of which the person is a member, or a corporation in which the person or the person's spouse, domestic partner, or dependent child, or a combination of them, holds a controlling interest.

(c) *[Repealed, Sec. 26 ch 25 SLA 1975]*.

(d) In addition to the requirements of (b) of this section, each statement filed under this chapter by a public official in the executive branch of state government other than the chair or a member of a state commission or board must include a disclosure of the formation or maintenance of a close economic association involving a substantial financial matter as required by this subsection. The disclosure must be sufficiently detailed so that a reader can ascertain the nature of the association. A public official shall disclose a close economic association with

- (1) a legislator;
- (2) a public official who is not an elected or appointed municipal officer;
- (3) a lobbyist; or
- (4) a public officer if the person required to make the disclosure is the governor or the lieutenant governor.

(e) If a public official required to disclose a close economic association under (d) of this section forms a close economic association after the date on which the public official files the financial disclosure statement required by (a) of this section, disclosure of the association must be made to the commission within 60 days after the formation of the association.

(f) When making a disclosure under (d) of this section concerning a relationship with a lobbyist to whom the public official is married or who is the public official's domestic partner, the public official shall also disclose the name and address of each employer of the lobbyist and the total monetary value received from the lobbyist's employer. The public official shall report changes in the employers of the spouse or domestic partner within 48 hours after the change. In this subsection, "employer of the lobbyist" means the person from whom the lobbyist received money, or goods or services having a monetary value, for engaging in lobbying on behalf of the person.

(g) The requirements in this section for disclosures related to a person's domestic partner do not apply to an elected or appointed municipal officer.

(h) In this section,

(1) "close economic association" means a financial relationship that exists between a public official required to disclose a close economic association under (d) of this section and some other person or entity, including a relationship where the public official serves as a consultant or advisor to, is a member or representative of, or has a financial interest in an association, partnership, limited liability company, business, or corporation;

(2) "lobbyist" has the meaning given in [AS 24.60.990\(a\)](#);

(3) "public officer" has the meaning given in [AS 39.52.960](#).

Sec. 39.50.020. Report of financial and business interests. (a) A public official other than the governor or the lieutenant governor shall file a statement giving income sources and business interests, under oath and on penalty of perjury, within 30 days after taking office as a public official. Candidates for state elective office other than a candidate who is subject to [AS 24.60](#) shall file the statement with the director of elections at the time of filing a declaration of candidacy or a nominating petition or becoming a candidate by any other means. Candidates for elective municipal office shall file the statement at the time of filing a nominating petition, declaration of candidacy, or other required filing for the elective municipal office. Refusal or failure to file within the time prescribed shall require that the candidate's filing fees, if any, and filing for office be refused or that a previously accepted filing fee be returned and the candidate's name removed from the filing records. A statement shall also be filed by public officials no later than March 15 in each following year. On or before the 90th day after leaving office, a former public official shall file a final statement covering any period during the official's service in that office for which the public official has not already filed a statement. Persons who are members of boards or commissions not named in [AS 39.50.200](#)(b) are not required to file financial statements.

(b) A public official or former public official other than an elected or appointed municipal officer shall file the statement with the Alaska Public Offices Commission. Candidates for the office of governor and lieutenant governor and, if the candidate is not subject to [AS 24.60](#), the legislature shall file the statement under [AS 15.25.030](#) or 15.25.180. Municipal officers, former municipal officers, and candidates for elective municipal office, shall file with the municipal clerk or other municipal official designated to receive their filing for office. All statements required to be filed under this chapter are public records.

with paragraph (c) of this Rule. Joint responsibility for the representation entails financial and ethical responsibility for the representation as if the lawyers were associated in a partnership. A lawyer should only refer a matter to a lawyer whom the referring lawyer reasonably believes is competent to handle the matter. See Rule 1.1.

Paragraph (e) does not prohibit or regulate division of fees to be received in the future for work done when lawyers were previously associated in a law firm.

Disputes over Fees

If a procedure has been established for resolution of fee disputes, such as an arbitration or mediation procedure established by the bar, the lawyer must comply with the procedure when it is mandatory, and, even when it is voluntary, the lawyer should conscientiously consider submitting to it. Law may prescribe a procedure for determining a lawyer's fee, for example, in representation of an executor or administrator, a class or a person entitled to a reasonable fee as part of the measure of damages. The lawyer entitled to such a fee and a lawyer representing another party concerned with the fee should comply with the prescribed procedure.

Rule 1.6. Confidentiality of Information

(a) A lawyer shall not reveal a client's confidence or secret unless the client gives informed consent, except for disclosures that are impliedly authorized in order to carry out the representation and disclosures permitted by paragraph (b) below or Rule 3.3. For purposes of this rule, "confidence" means information protected by the attorney-client privilege under applicable law, and "secret" means other information gained in the professional relationship if the client has requested it be held confidential or if it is reasonably foreseeable that disclosure of the information would be embarrassing or detrimental to the client. In determining whether information relating to representation of a client is protected from disclosure under this rule, the lawyer shall resolve any uncertainty about whether such information can be revealed against revealing the information.

(b) A lawyer may reveal a client's confidence or secret to the extent the lawyer reasonably believes necessary:

(1) to prevent reasonably certain:

(A) death;

(B) substantial bodily harm; or

(C) wrongful execution or incarceration of another;

(2) to prevent the client from committing a crime or fraud that is reasonably certain to result in substantial injury to the financial interests or property of another and in furtherance of which the client has used or is using the lawyer's services;

(3) to prevent, mitigate, or rectify substantial injury to the financial interests or property of another that is reasonably certain to result or has resulted from the client's commission of

a crime or fraud in furtherance of which the client has used the lawyer's services;

(4) to secure legal advice about the lawyer's compliance with these Rules;

(5) to establish a claim or defense on behalf of the lawyer in a controversy between the lawyer and the client, to establish a defense to a criminal charge or civil claim against the lawyer based upon conduct in which the client was involved, or to respond to allegations in any proceeding concerning the lawyer's representation of the client; or

(6) to comply with other law or a court order.

(c) A lawyer must act competently to safeguard a client's confidences and secrets against inadvertent or unauthorized disclosure by the lawyer, by other persons who are participating in the representation of the client, or by any other persons who are subject to the lawyer's supervision. See Rules 1.1, 5.1, and 5.3. When transmitting a communication that includes a client's confidence or secret, the lawyer must take reasonable precautions to prevent this information from coming into the hands of unintended recipients.

(SCO 1123 effective July 15, 1993; amended by SCO 1332 effective January 15, 1999; and rescinded and repromulgated by SCO 1680 effective April 15, 2009)

ALASKA COMMENT

The Court decided to continue Alaska's amendment to this rule to tie the lawyer's confidentiality obligation to a "confidence" or "secret" of the client. The Committee concluded the language used in Model Rule 1.6 ("information" relating to representation of a client) was excessively broad. The terms "confidence" and "secret" are defined in the amended rule in substantively the same way as those terms were defined in DR 4-101(A) of the ABA Model Code of Professional Responsibility. The Committee expects that court decisions interpreting "confidence" and "secret" under DR 4-101(A) will be persuasive authority for interpreting the amended Alaska rule.

The final sentence of paragraph (a) has been added to require that a lawyer approach any decision about disclosing confidences or secrets of a client from the standpoint that the information is generally protected from disclosure.

In paragraph (b)(1)(C), the court included an additional limited exception to the normal rule requiring lawyers to preserve the confidences and secrets of their clients. This provision is modeled on the similar Massachusetts rule; its core purpose is to permit a lawyer to reveal confidential information in the specific situation in which that information discloses that an innocent person has been convicted of a crime and has been sentenced to imprisonment or execution.

The lawyer's decision to disclose information under this rule is governed by objectively reasonable standards (*see* Rule 9.1(m) and (n)) and by all the facts and circumstances of which the lawyer is aware or reasonably should be aware at the time the decision is made.

Paragraph (c) is taken from the commentary to the ABA version of the rules. The Committee created paragraph (c) because the Committee concluded that standards of professional conduct subject to enforcement through disciplinary proceedings should be stated in the text of the Rules rather than in commentary.

COMMENT

This Rule governs the disclosure by a lawyer confidences and secrets of a client during the lawyer's representation of the client. See Rule 1.18 for the lawyer's duties with respect to information provided to the lawyer by a prospective client, Rule 1.9(c)(2) for the lawyer's duty not to reveal confidences and secrets of a former client, and Rules 1.8(b) and 1.9(c)(1) for the lawyer's duties with respect to the use of such information to the disadvantage of clients and former clients.

A fundamental principle in the client-lawyer relationship is that, in the absence of the client's informed consent, the lawyer must not reveal a client's confidences and secrets. See Rule 9.1(g) for the definition of informed consent. This contributes to the trust that is the hallmark of the client-lawyer relationship. The client is thereby encouraged to seek legal assistance and to communicate fully and frankly with the lawyer even as to embarrassing or legally damaging subject matter. The lawyer needs this information to represent the client effectively and, if necessary, to advise the client to refrain from wrongful conduct. Almost without exception, clients come to lawyers in order to determine their rights and to ascertain what conduct is legal and correct.

The principle of client-lawyer confidentiality is given effect by related bodies of law: the attorney-client privilege, the work product doctrine and the rule of confidentiality established in the Rules of Professional Conduct. The attorney-client privilege and work-product doctrine apply in judicial and other proceedings in which a lawyer may be called as a witness or otherwise required to produce evidence concerning a client. The rule of client-lawyer confidentiality also applies in situations other than those where evidence is sought from the lawyer through compulsion of law. The confidentiality rule, for example, applies not only to matters communicated in confidence by the client but also to all client secrets. A lawyer may not disclose such information except as authorized or required by the Rules of Professional Conduct or other law. A determination that disclosure of client information is permitted by the crime-fraud exception to the ethics rule does not necessarily lead to the same result under the crime-fraud exception to the attorney-client privilege. See also Scope.

Paragraph (a) prohibits a lawyer from revealing confidences and secrets of a client. This prohibition also applies to disclosures by a lawyer that do not in themselves reveal protected information but could reasonably lead to the discovery of such information by a third person. A lawyer's use of a hypothetical to discuss issues relating to the representation is permissible so long as there is no reasonable likelihood that the listener will be able to ascertain the identity of the client or the situation involved.

Authorized Disclosure

Except to the extent that the client's instructions or special circumstances limit that authority, a lawyer is impliedly authorized to make disclosures about a client when appropriate in carrying out the representation. In some situations, for example, a lawyer may be impliedly authorized to admit a fact that cannot properly be disputed or to make a disclosure that facilitates a satisfactory conclusion to a matter. Lawyers in a firm may, in the course of the firm's practice, disclose to each other confidences and secrets of a client of the firm, unless the client has instructed that particular information be confined to specified lawyers.

Disclosure Adverse to Client

Although the public interest is usually best served by a strict rule requiring lawyers to preserve the confidences and secrets of their clients, the confidentiality rule is subject to limited exceptions. Paragraph (b)(1) recognizes the overriding value of life and physical integrity and permits disclosure reasonably necessary to prevent reasonably certain death or substantial bodily harm. Such harm is reasonably certain to occur if it will be suffered imminently or if there is a present and substantial threat that a person will suffer such harm at a later date if the lawyer fails to take action necessary to eliminate the threat. Thus, a lawyer who knows that a client has accidentally discharged toxic waste into a town's water supply may reveal this information to the authorities if there is a present and substantial risk that a person who drinks the water will contract a life-threatening or debilitating disease and the lawyer's disclosure is necessary to eliminate the threat or reduce the number of victims.

Paragraph (b)(2) is a limited exception to the rule of confidentiality that permits the lawyer to reveal information to the extent necessary to enable affected persons or appropriate authorities to prevent the client from committing a crime or fraud, as defined in Rule 1.0(d), that is reasonably certain to result in substantial injury to the financial or property interests of another and in furtherance of which the client has used or is using the lawyer's services. Such a serious abuse of the client-lawyer relationship by the client forfeits the protection of this Rule. The client can, of course, prevent such disclosure by refraining from the wrongful conduct. Although paragraph (b)(2) does not require the lawyer to reveal the client's misconduct, the lawyer may not counsel or assist the client in conduct the lawyer knows is criminal or fraudulent. See Rule 1.2(d). See also Rule 1.16 with respect to the lawyer's obligation or right to withdraw from the representation of the client in such circumstances, and Rule 1.13(c), which permits the lawyer, where the client is an organization, to reveal information relating to the representation in limited circumstances.

Paragraph (b)(3) addresses the situation in which the lawyer does not learn of the client's crime or fraud until after it has been consummated. Although the client no longer has the option of preventing disclosure by refraining from the wrongful conduct, there will be situations in which the loss suffered by the affected person can be prevented, rectified or mitigated. In such situations, the lawyer may disclose client confidences and secrets to the extent necessary to enable the affected persons to prevent or mitigate reasonably certain

losses or to attempt to recoup their losses. Paragraph (b)(3) does not apply when a person who has committed a crime or fraud thereafter employs a lawyer for representation concerning that offense.

A lawyer's confidentiality obligations do not preclude a lawyer from securing confidential legal advice about the lawyer's personal responsibility to comply with these Rules. In most situations, disclosing information to secure such advice will be impliedly authorized for the lawyer to carry out the representation. Even when the disclosure is not impliedly authorized, paragraph (b)(2) permits such disclosure because of the importance of a lawyer's compliance with the Rules of Professional Conduct. To the extent practicable, a lawyer should use hypothetical facts when seeking this legal advice.

Where a legal claim or disciplinary charge alleges complicity of the lawyer in a client's conduct or other misconduct of the lawyer involving representation of the client, the lawyer may respond to the extent the lawyer reasonably believes necessary to establish a defense. The same is true with respect to a claim involving the conduct or representation of a former client. Such a charge can arise in a civil, criminal, disciplinary, or other proceeding and can be based on a wrong allegedly committed by the lawyer against the client or on a wrong alleged by a third person, for example, a person claiming to have been defrauded by the lawyer and client acting together. The lawyer's right to respond arises when an assertion of such complicity or other misconduct has been made. Paragraph (b)(5) does not require the lawyer to await the commencement of an action or proceeding that charges misconduct, so the defense may be established by responding directly to a third party who has made such an assertion. The right to defend also applies, of course, when a proceeding has been commenced.

A lawyer entitled to a fee is permitted by paragraph (b)(5) to prove the services rendered in an action to collect it. This aspect of the rule expresses the principle that the beneficiary of a fiduciary relationship may not exploit it to the detriment of the fiduciary.

Other law may require that a lawyer disclose information about a client. Whether such a law supersedes Rule 1.6 is a question of law beyond the scope of these Rules. When disclosure of confidences and secrets appears to be required by other law, the lawyer must discuss the matter with the client to the extent required by Rule 1.4. If, however, the other law supersedes this Rule and requires disclosure, paragraph (b)(6) permits the lawyer to make such disclosures as are necessary to comply with the law.

A lawyer may be ordered to reveal confidences and secrets of a client by a court or by another tribunal or governmental entity claiming authority pursuant to other law to compel the disclosure. Absent informed consent of the client to do otherwise, the lawyer should assert on behalf of the client all nonfrivolous claims that the order is not authorized by other law or that the information sought is protected against disclosure by the attorney-client privilege or other applicable law. In the event of an adverse ruling, the lawyer must consult with the client about the possibility of appeal to the extent

required by Rule 1.4. Unless review is sought, however, paragraph (b)(6) permits the lawyer to comply with the court's order.

Paragraph (b) permits disclosure only to the extent the lawyer reasonably believes the disclosure is necessary to accomplish one of the purposes specified. Where practicable, the lawyer should first seek to persuade the client to take suitable action to obviate the need for disclosure. In any case, a disclosure adverse to the client's interest should be no greater than the lawyer reasonably believes necessary to accomplish the purpose. If the disclosure will be made in connection with a judicial proceeding, the lawyer should ask the tribunal to limit access to the information to the tribunal or other persons having a need to know it and appropriate protective orders or other arrangements should be sought by the lawyer to the fullest extent practicable.

Disclosures Otherwise Required or Authorized

Paragraph (b) permits but does not require the disclosure of confidences and secrets of a client to accomplish the purposes specified in paragraphs (b)(1) through (b)(6). In exercising the discretion conferred by this Rule, the lawyer may consider such factors as the nature of the lawyer's relationship with the client and with those who might be injured by the client, the lawyer's own involvement in the transaction and factors that may extenuate the conduct in question. A lawyer's decision not to disclose as permitted by paragraph (b) does not violate this Rule. Disclosure may be required, however, by other Rules. Some Rules require disclosure only if such disclosure would be permitted by paragraph (b). See Rules 1.2(d), 4.1(b), 8.1 and 8.3. Rule 3.3, on the other hand, requires disclosure in some circumstances regardless of whether such disclosure is permitted by this Rule. See Rule 3.3(c).

In various circumstances, a lawyer is permitted or required to disclose client confidences and secrets. See, for example, Rules 2.3, 3.3, and 4.1. In addition to these provisions, a lawyer may be obligated or permitted by other provisions of law to give information about a client. Whether another provision of law supersedes or augments Rule 1.6 is a matter of interpretation beyond the scope of these Rules.

The attorney-client privilege is defined differently in various jurisdictions. If a lawyer is called as a witness to give testimony concerning a client, absent waiver by the client, paragraph (a) requires the lawyer to invoke the privilege when it is applicable. The lawyer must comply with the final orders of a court or other tribunal of competent jurisdiction requiring the lawyer to give information about the client.

Withdrawal

If the lawyer's services will be used by the client in materially furthering a course of criminal or fraudulent conduct, the lawyer must withdraw, as stated in Rule 1.16(a)(1). After withdrawal the lawyer is required to refrain from making disclosure of the client's confidences and secrets, except as otherwise permitted by Rule 1.6. Neither this Rule nor Rule 1.8(b) nor Rule 1.16(d) prevents the lawyer from

giving notice of the fact of withdrawal, and the lawyer may also withdraw or disaffirm any opinion, document, affirmation, or the like. Where the client is an organization, the lawyer may be in doubt whether contemplated conduct will actually be carried out by the organization. Where necessary to guide conduct in connection with this Rule, the lawyer may make inquiry within the organization as indicated in Rule 1.13(b).

The duty of safeguarding communications described in Rule 1.6(c) does not require that the lawyer use special security measures if the method of communication affords a reasonable expectation of privacy. Special circumstances, however, may warrant special precautions. Factors to be considered in determining the reasonableness of the lawyer's expectation of confidentiality include the sensitivity of the information and the extent to which the privacy of the communication is protected by law or by a confidentiality agreement. A client may require the lawyer to implement special security measures not required by this Rule or may give informed consent to the use of a means of communication that would otherwise be prohibited by this Rule.

Former Client

The duty of confidentiality continues after the client-lawyer relationship has terminated. See Rule 1.9(c)(2). See Rule 1.9(c)(1) for the prohibition against using confidences and secrets to the disadvantage of a former client.

LAW REVIEW COMMENTARIES

"Guilty But Mentally Ill: The Ethical Dilemma of Mental Illness as a Tool of the Prosecution," 32 Alaska L. Rev. 1 (2015).

Rule 1.7. Conflict of Interest; Current Clients

(a) Except as provided in paragraph (b), a lawyer shall not represent a client if the representation involves a concurrent conflict of interest. A concurrent conflict of interest exists if:

(1) the representation of one client will be directly adverse to another client; or

(2) there is a significant risk that the representation of one or more clients will be materially limited by the lawyer's responsibilities to another client, a former client, or a third person or by a personal interest of the lawyer.

(b) Notwithstanding the existence of a concurrent conflict of interest under paragraph (a), a lawyer may represent a client if:

(1) the lawyer reasonably believes that the lawyer will be able to provide competent and diligent representation to each affected client;

(2) the representation is not prohibited by law;

(3) the representation does not involve the assertion of a claim by one client against another client represented by the lawyer in the same litigation or other proceeding before a tribunal; and

(4) each affected client gives informed consent, confirmed in writing.

(c) A lawyer shall act with reasonable diligence in determining whether a conflict of interest, as described in paragraphs (a) and (b) of this rule or Rules 1.8, 1.9, or 1.10, exists.

(d) For purposes of this rule, the term "client" does not include unidentified members of a class in a class action or identified members of a class when individual recovery is expected to be *de minimis*.

(SCO 1123 effective July 15, 1993; amended by SCO 1335 effective January 15, 1999; and rescinded and repromulgated by SCO 1680 effective April 15, 2009)

ALASKA COMMENT

Substantial delay in litigation may occur as a result of a conflict of interest unless prompt efforts are made to discover any such conflicts. A lawyer should take all reasonable measures to determine whether or not a conflict of interest exists under Rule 1.7, 1.8, 1.9 or 1.10 before undertaking representation. If facts which would lead one to believe a conflict of interest exists come to the attention of the lawyer after representation has begun, the lawyer should determine whether a conflict does exist with all reasonable diligence.

COMMENT

General Principles

Loyalty and independent judgment are essential elements in the lawyer's relationship to a client. Concurrent conflicts of interest can arise from the lawyer's responsibilities to another client, a former client, or a third person or from the lawyer's own interests. For specific Rules regarding certain concurrent conflicts of interest, see Rule 1.8. For former client conflicts of interest, see Rule 1.9. For conflicts of interest involving prospective clients, see Rule 1.18. For definitions of "informed consent" and "confirmed in writing," see Rule 9.1(g) and (c).

Resolution of a conflict of interest problem under this Rule requires the lawyer to: 1) clearly identify the client or clients; 2) determine whether a conflict of interest exists; 3) decide whether the representation may be undertaken despite the existence of a conflict, i.e., whether the conflict is waivable; and 4) if so, consult with the clients affected under paragraph (a) and obtain their informed consent, confirmed in writing. The clients affected under paragraph (a) include both of the clients referred to in paragraph (a)(1) and the one or more clients whose representation might be materially limited under paragraph (a)(2).

A conflict of interest may exist before representation is undertaken, in which event the representation must be declined, unless the lawyer obtains the informed consent of each client under the conditions of paragraph (b). To determine whether a conflict of interest exists, a lawyer should adopt reasonable procedures, appropriate for the size and type of firm and practice, to determine in both litigation and non-litigation matters the persons and issues involved. See also COMMENT

POFD FORM

COMPLETED

Submission Date: **03/13/2015**

FILER INFORMATION

First Name: **LESIL**
 Last Name: **MCGUIRE**
 Address: **2022 Kimberly Lyn Circle**
 City, State Zip: **Anchorage, Alaska 99515**
 Contact Phone: **9073518060**
 Alternate Phone: **Nothing to Report**
 Fax (Optional): **Nothing to Report**
 Email: **lesilmcguire@yahoo.com**
 Partner Type: **Spouse**
 Spouse/Domestic Partner Name: **Jason Skala**
 Dependent Children: **2**
 Non-Dependent Children: **0**
 Names of Non-Dependent Children living with filer:

PURPOSE OF FILING

Report Year: **2015**
 Report Dates: From **01/01/2014** Through **12/31/2014**
 Filing As: **Office Holder**
 Branch: **Legislative**
 Position: **Senator**
 Report Type: **Annual**

INCOME

Owner	Type	Detail	Description	Amount
Filer	Salaried	State of Alaska State Capitol Room 121 Juneau, Alaska 99801 Full-time From: 01/01/2014 Through 12/31/2014 Time Worked:	State Senator	\$50,000 - \$100,000
Filer	Dividend or Interest	Permanent Fund Dividend		\$1,000 - \$2,000
Spouse	Dividend or Interest	Permanent Fund Dividend		\$1,000 - \$2,000
Child	Dividend or Interest	Permanent Fund Dividend		\$1,000 - \$2,000
Child	Dividend or Interest	Permanent Fund Dividend		\$1,000 - \$2,000

INTERESTS

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Owner	Type	Detail	Description	Interest
Filer	Business	Business Name: Brain Injury Network 801 B Street Anchorage, Alaska 99518	Board Member	Position / Type: Non-Profit/Board Member
Filer	Business	Business Name: Pacific Northwest Economic Region (PNWER) World Trade Center West 2200 Alaskan Way Suite 460 Seattle, Washington 98121	Past President/Promoting economic development in the Pacific Northwest	Position / Type: Non-Profit/Past President
Filer	Business	Business Name: Special Olympics of Alaska 3200 Mountain View Drive Anchorage, Alaska 99501	Board of Directors/Advocate for Alaskan Athletes	Position / Type: Non-Profit/Board of Directors
Filer	Real Property	2022 Kimberly Lyn Circle Anchorage, Alaska 99515	Ownership Interest: Home owner	
Filer	Beneficial	Managed By: State Retirement PERS	Diversified	Ownership: 100%
Filer	Beneficial	Managed By: Smith Barney	Bright Start College Savings Smith and Barney Mutual Funds Class A Funds	Ownership: 100%

LOANS AND DEBTS

Owner	Type	Name
Filer Address: 2022 Kimberly Lyn Circle Anchorage, Alaska 99515	Lender Original Loan Amount: \$209,000.00 Balance Amount: \$157,000.00 Interest Rate: 4.625%	Wells Fargo Mortgage

LEASES

Owner	Type of Lease	Lease/Contract ID	Interest	Status	Description
No Leases / Nothing to Report					

CLOSE ECONOMIC ASSOCIATIONS

Person Disclosing Association	Associated Person	Description
No Associations / Nothing to Report		

LOBBYIST PARTNER EMPLOYERS

Name	Address	Compensation
No Lobbyist Partner Employers / Nothing to Report		



2 AAC 50.690. Good faith effort to obtain information

In a disclosure statement required by AS 24.60.200 or AS 39.50.020 , a legislative branch filer, public official, or candidate shall report the information that the legislative branch filer, public official, or candidate knows after making a good faith effort to ascertain the information. A good faith effort includes a written request to each family member of the legislative branch filer, public official, or candidate, or to the person in charge of a business in which the legislative branch filer, public official, candidate, or family member of the legislative branch filer, public official, or candidate held an interest in the reporting period

(1) asking for the information required under AS 39.50.030 and 2 AAC 50.680 - 2 AAC 50.740; and

(2) informing the recipient of the written request that the legislative branch filer, public official, or candidate

(A) is required to provide the information under oath and penalty of perjury; and

(B) may be subject to the penalties or other remedies set out in the applicable provisions of AS 24.60.240 - 24.60.260, AS 39.50.060 - 39.50.080, 39.50.110, 39.50.130, or 39.50.135 for failure to provide the information.

History: Eff. 12/22/2011, Register 200

Authority: AS 15.13.030 AS 24.60.200 AS 24.60.220 AS 39.50.020 AS 39.50.030 AS 39.50.050

2 AAC 50.775. Exemption from reporting sources of income

(a) A legislative branch filer, public official, or candidate required under AS 24.50.200 or AS 39.50.020 to file a disclosure statement may, for any reason set out in this section, request an exemption from the requirement to report the name of an individual who was a source of income, the amount of income, or any other information required under AS 39.50.030 or 2 AAC 50.680 - 2 AAC 50.740. An exemption request must comply with 2 AAC 50.821. The person requesting any exemption has the burden of proving each fact necessary to show that an exemption available under this section is applicable.

(b) A legislative branch filer, public official, or candidate may request an exemption from the requirement to report the name of a source of income, the amount of income, or any other information required under AS 39.50.030 or 2 AAC 50.680 - 2 AAC 50.740 regarding an individual who received

(1) mental health services provided by a mental health practitioner including a psychiatrist, psychologist, or therapist;

(2) medical services and the source of income was

(A) an individual who received medical services related to abortion, contraception, reproductive health, a sexual disorder, or a terminal illness;

(B) a minor who received medical services without the knowledge of a parent or legal guardian if a reasonable person in the situation of the minor would experience substantial concern, anxiety, or embarrassment from publication of the minor's name as a source of income;

(C) a married individual who received medical services without the knowledge of the individual's spouse if a reasonable person in the situation of the individual would experience substantial concern, anxiety, or embarrassment from publication of the individual's name as a source of income; or

(D) an individual who received medical services of any nature if at least 67 percent of the patients of a self-employed legislative branch filer, public official, candidate, or family member were individuals described in (A) - (C) of this paragraph; or

(3) legal services provided by an attorney and the source of income was

(A) a minor who received legal services without the knowledge of a parent or legal guardian if a reasonable person in the situation of the minor would experience substantial concern, anxiety, or embarrassment from publication of the minor's name as a source of income;

(B) a married individual who received legal services without the knowledge of the individual's spouse if a reasonable person in the situation of the individual would experience substantial concern, anxiety, or embarrassment from publication of the individual's name as a source of income;

(C) an individual who received legal services of any nature if at least 67 percent of the clients of a self-employed legislative branch filer, public official, candidate, or family member were individuals described in (A) or (B) of this paragraph.

(c) A legislative branch filer, public official, or candidate may request an exemption if

(1) the legislative branch filer, public official, or candidate is prohibited by law or court-ordered settlement from reporting the name of a source of income, the amount of income, or any other information required under [AS 39.50.030](#) or 2 AAC [50.680](#) - 2 AAC [50.740](#);

(2) the legislative branch filer, public official or candidate believes reporting the name of a source of income, the amount of income, or any other information required under [AS 39.50.030](#) or 2 AAC [50.680](#) - 2 AAC [50.740](#), would violate rights of the source under state or federal statutes or constitutions;

(3) the legislative branch filer, public official, or candidate believes that reporting the name of a source of income would disclose protected health information that the filer is prohibited from disclosing under 42 U.S.C. 1320d - 1320d-9 (Health Insurance Portability and Accountability Act (HIPAA) of 1996).

(d) A legislative branch filer, public official, or candidate may request a personal security exemption from reporting the name of a minor that is a source of income, the amount of income, or any other information required under [AS 39.50.030](#) or 2 AAC [50.680](#) - 2 AAC [50.740](#) that exposes the public official, candidate, or a family member to a personal security threat.

(e) A legislative branch filer, public official, or candidate may request an exemption from reporting the name of a source of income, the amount of income, or any other information required under [AS 39.50.030](#) or 2 AAC [50.680](#) - 2 AAC [50.740](#) if a state or federal law or court order requires the name of the source or the other information to be kept confidential.

(f) Notwithstanding any other provision of this section, a legislative branch filer, public official, or candidate may request an exemption from reporting the name of a source of income, the amount of income, or any other information required under [AS 39.50.030](#) or 2 AAC [50.680](#) - 2 AAC [50.740](#), if the public official or candidate demonstrates that the right to privacy of the information outweighs the compelling state interest in disclosing the information.

History: Eff. 7/20/95, Register 135; am 1/1/2001, Register 156; am 2/20/2005, Register 173; am 12/22/2011, Register 200

Authority: [AS 15.13.030](#) [AS 24.60.200](#) [AS 24.60.220](#) [AS 24.60.230](#) [AS 39.50.020](#) [AS 39.50.030](#) [AS 39.50.035](#) [AS 39.50.050](#)

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Jason Skala, Attorney
 LAWYERS™ 24 [f](#) [t](#) [v](#) [p](#)

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Name: Jason Skala [@jaskalska](#)
Status: In Good Standing [is this you?](#)
Licensed: 16 years [Upgrade to a premium listing](#)
Practice In: [Trends](#) [Save to List](#)
Law Office: [Law Ofc. Jason Skala](#)
Location: 1015 West 7th Ave
 Anchorage, AK 99501
[Click to Contact](#)
[Email Chat Call Meet Directly](#)
[Phone Consultation](#)
 ✓ No Misconduct Found

Education:

School	Degree	Major	Graduation
Cornell Univ. Ithaca NY	Bachelor	N/A	

Admissions:

State / Court	Date
California	1999
Alaska	NA

Service Type: Private
Admin Action: 7/1/2009 Suspended, failed to pay Bar member fees Not Eligible To Practice Law
Detail Status: CA: Not eligible to practice law (Not Entered)
 AK: Active
Additional Info: District: Outside California
[Anchorage Traffic Lawyer](#)
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From: Dauphinais, Paul R (DOA)
To: "lesilmcguire@yahoo.com"
Subject: Your 2015 Annual LFD
Date: Monday, June 15, 2015 11:09:00 AM

Senator McGuire,

A review of your 2015 Legislative Financial Disclosure shows that your spouse received only a 2014 PFD as income in calendar year 2014. We assume that this is merely an oversight on your part. Please amend your 2015 LFD by June 30, 2015 to reflect any income your spouse received during 2014.

There is no penalty involved at this point. You were not informed of this earlier as you were under legislative immunity until the end of the legislative session.

Should you have any questions about this matter please contact me at 907-276-4176.

Paul Dauphinais
Executive Director
Alaska Public Offices Commission

From: [Lesil McGuire](#)
To: [Dauphinais, Paul R \(DOA\)](#); [Genevieve Wojtusik@legis.state.ak.us](mailto:Genevieve.Wojtusik@legis.state.ak.us)
Subject: RE: Your 2015 Annual LFD
Date: Saturday, June 20, 2015 1:58:10 PM

Hi Paul,

It's a bit complicated :). Jay and I have been separated since June 4 of 2014. We live in two separate households and do not mingle assets whatsoever. We have filed for divorce but have recently decided to try and work on our marriage. This can change from week to week. When we were happily married Jay refused to disclose his clients and income based on attorney client priveleged information.

I do not want to find myself in violation of your request for information. I am trying be helpful.

Warmly, Lesil

[Sent from Yahoo Mail for iPhone](#)

At Jun 15, 2015, 11:09:37 AM, Dauphinais, Paul R (DOA) wrote:

Senator McGuire,

A review of your 2015 Legislative Financial Disclosure shows that your spouse received only a 2014 PFD as income in calendar year 2014. We assume that this is merely an oversight on your part. Please amend your 2015 LFD by June 30, 2015 to reflect any income your spouse received during 2014.

There is no penalty involved at this point. You were not informed of this earlier as you were under legislative immunity until the end of the legislative session.

Should you have any questions about this matter please contact me at 907-276-4176.

Paul Dauphinais

Executive Director

Alaska Public Offices Commission

From: Dauphinais, Paul R (DOA)
To: "Lesil McGuire"
Subject: RE: Your 2015 Annual LFD
Date: Monday, June 22, 2015 7:56:00 AM

Senator McGuire,

I am sorry to hear about your situation.

Unfortunately, since you are still married he does need to list his income and other assets. He can withhold the names of his clients based on attorney client privilege. Alternatively, you can request his information in writing and if he refuses to provide the information and refuses in writing then you can send those documents to me for the file.

While this may seem to be a painful request on my part, it is the law, and will possibly save you from having a complaint filed against you. There has been increased interest from the public in all things concerning the legislature this year.

Paul Dauphinais
Executive Director
Alaska Public Offices Commission

From: Lesil McGuire [mailto:lesilmcguire@yahoo.com]
Sent: Saturday, June 20, 2015 1:55 PM
To: Dauphinais, Paul R (DOA); Genevieve_Wojtusik@legis.state.ak.us
Subject: RE: Your 2015 Annual LFD

Hi Paul,

It's a bit complicated :). Jay and I have been separated since June 4 of 2014. We live in two separate households and do not mingle assets whatsoever. We have filed for divorce but have recently decided to try and work on our marriage. This can change from week to week. When we were happily married jay refused to disclose his clients and income based on attorney client priveleged information.

I do not want to find myself in violation of your request for information. I am trying be helpful.

Warmly, Lesil

[Sent from Yahoo Mail for iPhone](#)

At Jun 15, 2015, 11:09:37 AM, Dauphinais, Paul R (DOA) wrote:
Senator McGuire,

A review of your 2015 Legislative Financial Disclosure shows that your spouse received only a 2014 PFD as income in calendar year 2014. We assume that this is merely an oversight on your part. Please amend your 2015 LFD by June 30, 2015 to reflect any income your spouse received

during 2014.

There is no penalty involved at this point. You were not informed of this earlier as you were under legislative immunity until the end of the legislative session.

Should you have any questions about this matter please contact me at 907-276-4176.

Paul Dauphinais

Executive Director

Alaska Public Offices Commission

From: Dauphinais, Paul R (DOA)
To: "Lesil McGuire"
Subject: RE: Your 2015 Annual LFD
Date: Monday, July 06, 2015 6:59:00 AM

Senator McGuire,

Please see the e-mails below regarding your 2015 LFD. Please amend your 2015 filing as noted below by July 20, 2015.

Paul Dauphinais
Executive Director
Alaska Public Offices Commission

From: Dauphinais, Paul R (DOA)
Sent: Monday, June 22, 2015 7:57 AM
To: 'Lesil McGuire'
Subject: RE: Your 2015 Annual LFD

Senator McGuire,

I am sorry to hear about your situation.

Unfortunately, since you are still married he does need to list his income and other assets. He can withhold the names of his clients based on attorney client privilege. Alternatively, you can request his information in writing and if he refuses to provide the information and refuses in writing then you can send those documents to me for the file.

While this may seem to be a painful request on my part, it is the law, and will possibly save you from having a complaint filed against you. There has been increased interest from the public in all things concerning the legislature this year.

Paul Dauphinais
Executive Director
Alaska Public Offices Commission

From: Lesil McGuire [<mailto:lesilmcguire@yahoo.com>]
Sent: Saturday, June 20, 2015 1:55 PM
To: Dauphinais, Paul R (DOA); Genevieve_Wojtusik@legis.state.ak.us
Subject: RE: Your 2015 Annual LFD

Hi Paul,

It's a bit complicated :). Jay and I have been separated since June 4 of 2014. We live in two separate households and do not mingle assets whatsoever. We have filed for divorce but have recently decided to try and work on our marriage. This can change from week to week. When we were happily married jay refused to disclose his clients and income based

on attorney client privileged information.

I do not want to find myself in violation of your request for information. I am trying be helpful.

Warmly, Lesil

[Sent from Yahoo Mail for iPhone](#)

At Jun 15, 2015, 11:09:37 AM, Dauphinais, Paul R (DOA) wrote:

Senator McGuire,

A review of your 2015 Legislative Financial Disclosure shows that your spouse received only a 2014 PFD as income in calendar year 2014. We assume that this is merely an oversight on your part. Please amend your 2015 LFD by June 30, 2015 to reflect any income your spouse received during 2014.

There is no penalty involved at this point. You were not informed of this earlier as you were under legislative immunity until the end of the legislative session.

Should you have any questions about this matter please contact me at 907-276-4176.

Paul Dauphinais

Executive Director

Alaska Public Offices Commission



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of **ALASKA**
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Department of Administration
ALASKA PUBLIC OFFICES COMMISSION

2221 E. Northern Lights Blvd., Rm. 128
Anchorage, AK 99508-4149
Main: 907.276.4176
Fax: 907.276.7018
www.doa.alaska.gov/apoc

July 21, 2015

Senator Lesil McGuire
2022 Kimberly Lyn Circle
Anchorage, AK 99515
lesilmcguire@yahoo.com

Dear Senator McGuire,

This letter concerns your 2015 Legislative Financial Disclosure (LFD) filing.

Since the legislature was in special session until June you were not notified of the missing information on your LFD until after the last special session concluded. On June 15, 2015, I sent you a notification regarding the lack of information concerning your spouse's income on your 2015 LFD by June 30, 2015. You responded to that e-mail on June 20 noting that there were some difficulties regarding your spouse's income. On June 22, 2015, I e-mailed you again and noted that there was the need to either list your spouse's income or make a good faith effort to get that information. On July 6 you had not yet amended your LFD and I e-mailed you requesting that you amend your report by July 20, 2015.

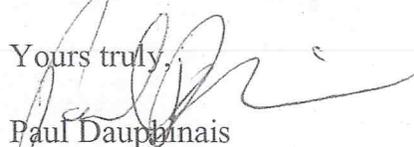
The requirement for reporting the income of a spouse is contained in AS 24.60.200. The information requiring a good faith effort to be made in writing is contained in 2 AAC 50.690.

As of the date of this letter you have neither amended your 2015 LFD nor provided documentation that you have made a good faith effort to obtain the information from your spouse.

Please either amend your 2015 LFD to include income from your spouse or provide a written good faith effort to get that information to this office by the close of business Monday August 3, 2015. This letter represents APOC's third request for an amended report and you have been provided a total of 49 days to provide the information requested. If you do not make the amendment or provide the good faith effort documentation by August 3, 2015, staff will be required to file a complaint regarding this matter.

Should you have any questions about this matter please feel free to call me.

Yours truly,


Paul Dauphinais
Executive Director

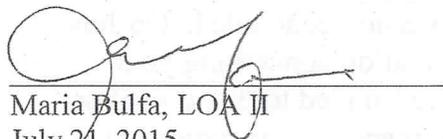
CERTIFICATE OF SERVICE

I hereby certify that on July 21, 2015, I certified mailed and e-mailed a true and correct copy of this letter to the following:

Senator Lesil McGuire
2022 Kimberly Lyn Circle
Anchorage, AK 99515
lesilmcguire@yahoo.com

- Email
- Certified Mail

RR: 9171-9690-0935-0088-8382-57



Maria Bulfa, LOA II
July 21, 2015

From: [Microsoft Outlook](#)
To: lesilmcguire@yahoo.com
Subject: Relayed: Senator Lesil McGuire 2015 LFD Filing 150721
Date: Tuesday, July 21, 2015 2:12:52 PM
Importance: High

Delivery to these recipients or groups is complete, but no delivery notification was sent by the destination server:
HYPERLINK "mailto:lesilmcguire@yahoo.com"lesilmcguire@yahoo.com (lesilmcguire@yahoo.com)
Subject: Senator Lesil McGuire 2015 LFD Filing 150721

From: [Microsoft Outlook](#)
To: [Dauphinais, Paul R \(DOA\)](#)
Subject: Delivered: Senator Lesil McGuire 2015 LFD Filing 150721
Date: Tuesday, July 21, 2015 2:12:51 PM
Importance: High

Your message has been delivered to the following recipients:
HYPERLINK "mailto:paul.dauphinais@alaska.gov"Dauphinais, Paul R (DOA) (paul.dauphinais@alaska.gov)
Subject: Senator Lesil McGuire 2015 LFD Filing 150721

ALASKA PUBLIC OFFICES COMMISSION
2221 E. Northern Lights, Room 128
Anchorage, Alaska 99508-4149

Handwritten: JJC
ARRIVED

JUL 30 2015

**APOC - ANCH
PM HC FAX ELE**

JULY 21, 2013

Senator Lesil McGuire
2022 Kimberly Lyn Circle
Anchorage, AK 99515
lesilmcguire@yahoo.com

995 154 999 84149

CERTIFIED MAIL



9171 9690 0935 0088 8382 57
9171 9690 0935 0088 8382 57



ZIP 99508
041110243475



NIXIE 995 SE 1009 0007/29/15
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UNCLAIMED
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BC: 99508414999 *1072-05545-27-35



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of **ALASKA**
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Department of Administration

ALASKA PUBLIC OFFICES COMMISSION

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Anchorage, AK 99508-4149
Main: 907.276.4176
Fax: 907.276.7018
www.doa.alaska.gov/apoc

August 24, 2015

Senator Lesil McGuire
2022 Kimberly Lyn Circle
Anchorage, AK 99515
lesilmcguire@yahoo.com

Re: First Notice of Missing Statement (2 AAC 50.850(b))
Annual Legislative Financial Disclosure— Due March 16, 2015

Senator McGuire:

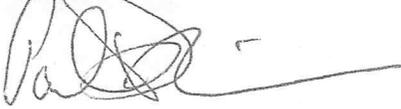
According to our records, your Annual 2015 LFD, due March 16, 2015, has been received by the Alaska Public Offices Commission, but does not include the required information concerning your spouse's income or other interests besides receiving a Permanent Fund Dividend. This requirement is detailed in AS 24.60.200. Failure to comply results in civil penalty assessments (AS 24.60.240) and requires APOC to notify the Senate Select Committee on Legislative Ethics (AS 24.60.220(3)).

As of the date of this letter, the LFD is 160 days late and the accrued civil penalty is **\$1,600.00**. The penalty continues to accrue at a rate of \$10 per-day until your LFD is filed. To stop the accrual of penalties you must file a complete LFD. After you file your LFD, you will be notified of the penalty amount and have an opportunity to appeal the assessment. If you have any questions, contact APOC at 907-276-4176. You may call long-distance within the state toll-free at 800-478-4176.

I respectfully invite your attention to APOC's efforts to resolve this matter informally via the e-mails of June 15, 2015, June 22, 2015, and July 6, 2015 sent to you all asking you to amend your LFD or provide a "good faith effort" to get that information. I could not have contacted you prior to June 15, formally or informally, because of your legislative immunity and the length of this year's special session. Your e-mail of June 20, 2015 noted some issues regarding your spouse's income and that you had provided a "good faith effort" regarding your spouse's income in 2013. While that is true that document specifically notes settlements and income that occurred in 2012 that are not relevant to your LFD required in 2015. I would also note that your June 20 e-mail was your last response to APOC's efforts to resolve this matter informally.

Please either amend your LFD to include your spouse's income and other interests or provide a good faith effort as per 2 AAC 50.690.

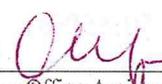
Respectfully,



Paul Dauphinais
Executive Director

Certificate of Service I emailed and certified mailed a true and correct copy of the foregoing to:

Senator Lesil McGuire
2022 Kimberly Lyn Circle
Anchorage, AK 99515
lesilmcguire@yahoo.com



Law Office Assistant

8.24.15

Date

9171 9690 0935 0088 8387 21

From: [Microsoft Outlook](#)
To: lesilmcguire@yahoo.com
Subject: Relayed: Senator Lesil McGuire First Notice of Missing Statement
Date: Monday, August 24, 2015 8:18:38 AM
Importance: High

Delivery to these recipients or groups is complete, but no delivery notification was sent by the destination server:
HYPERLINK "mailto:lesilmcguire@yahoo.com"lesilmcguire@yahoo.com (lesilmcguire@yahoo.com)
Subject: Senator Lesil McGuire First Notice of Missing Statement

From: [Microsoft Outlook](#)
To: [Dauphinais, Paul R \(DOA\)](#)
Subject: Delivered: Senator Lesil McGuire First Notice of Missing Statement
Date: Monday, August 24, 2015 8:18:35 AM
Importance: High

Your message has been delivered to the following recipients:
HYPERLINK "mailto:paul.dauphinais@alaska.gov"Dauphinais, Paul R (DOA) (paul.dauphinais@alaska.gov)
Subject: Senator Lesil McGuire First Notice of Missing Statement

Date: September 29, 2015

maria bulfa:

The following is in response to your September 29, 2015 request for delivery information on your Certified Mail™ item number 9171969009350088838721. The delivery record shows that this item was delivered on September 28, 2015 at 10:33 am in ANCHORAGE, AK 99508. The scanned image of the recipient information is provided below.

Signature of Recipient :



Address of Recipient :



Thank you for selecting the Postal Service for your mailing needs.

If you require additional assistance, please contact your local Post Office or postal representative.

Sincerely,
United States Postal Service

First delivery -
Mailed it out again to be delivered properly 9/25/2015



THE STATE
of **ALASKA**
GOVERNOR BILL WALKER

Department of Administration

ALASKA PUBLIC OFFICES COMMISSION

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Anchorage, AK 99508-4149
Main: 907.276.4176
Fax: 907.276.7018
www.doa.alaska.gov/apoc

September 21, 2015

Senator Lesil McGuire
2022 Kimberly Lyn Circle
Anchorage, AK 99515
lesilmcguire@yahoo.com

Re: Second Notice of Missing Statement (2 AAC 50.850(b) & (c))
Annual Legislative Financial Disclosure– Due March 16, 2015

Senator McGuire:

According to our records, your Annual 2015 LFD, due March 16, 2015, has been received by the Alaska Public Offices Commission, but does not include the required information concerning your spouse's income or other interests besides receiving a Permanent Fund Dividend. This requirement is detailed in AS 24.60.200. Failure to comply results in civil penalty assessments (AS 24.60.240) and requires APOC to notify the Senate Select Committee on Legislative Ethics (AS 24.60.220(3)).

As of the date of this letter, the LFD is 189 days late and the accrued civil penalty is **\$1,890.00**. The penalty continues to accrue at a rate of \$10 per-day until your LFD is filed. To stop the accrual of penalties you must file a complete LFD. After you file your LFD, you will be notified of the penalty amount and have an opportunity to appeal the assessment. If you have any questions, contact APOC at 907-276-4176. You may call long-distance within the state toll-free at 800-478-4176.

I respectfully invite your attention to APOC's efforts to resolve this matter informally via the e-mails of June 15, 2015, June 22, 2015, and July 6, 2015 sent to you all asking you to amend your LFD or provide a "good faith effort" to get that information. I could not have contacted you prior to June 15, formally or informally, because of your legislative immunity and the length of this year's special session. Your e-mail of June 20, 2015 noted some issues regarding your spouse's income and that you had provided a "good faith effort" regarding your spouse's income in 2013. While that is true that document specifically notes settlements and income that occurred in 2012 that are not relevant to your LFD required in 2015. I would also note that your June 20 e-mail was your last

response to APOC's efforts to resolve this matter informally until our telephone conversation of September 1, 2015.

Please either amend your LFD to include your spouse's income and other interests or provide a good faith effort as per 2 AAC 50.690.

Respectfully,



Paul Dauphinais
Executive Director

Certificate of Service I emailed and certified mailed a true and correct copy of the foregoing to:

Senator Lesil McGuire
2022 Kimberly Lyn Circle
Anchorage, AK 99515
lesilmcguire@yahoo.com



Law Office Assistant

9.21.15

Date

RR: 9171-9690-0935-0096-9831-54

From: [Microsoft Outlook](#)
To: lesilmcguire@yahoo.com
Subject: Relayed: Senator Lesil McGuire Second Notice of Missing Statement 150921
Date: Monday, September 21, 2015 1:48:56 PM
Importance: High

Delivery to these recipients or groups is complete, but no delivery notification was sent by the destination server:
HYPERLINK "mailto:lesilmcguire@yahoo.com"lesilmcguire@yahoo.com (lesilmcguire@yahoo.com)
Subject: Senator Lesil McGuire Second Notice of Missing Statement 150921

From: [Microsoft Outlook](#)
To: [Dauphinais, Paul R \(DOA\)](#)
Subject: Delivered: Senator Lesil McGuire Second Notice of Missing Statement 150921
Date: Monday, September 21, 2015 1:48:55 PM
Importance: High

Your message has been delivered to the following recipients:
HYPERLINK "mailto:paul.dauphinais@alaska.gov"Dauphinais, Paul R (DOA) (paul.dauphinais@alaska.gov)
Subject: Senator Lesil McGuire Second Notice of Missing Statement 150921

Good Faith Effort POFD 2013

McGuire, L

To: Lesilmcguire <lesilmcguire@yahoo.com>

Subject: Re: Apoc Requests

My dearest, I cannot comply with this request from APOC and I have to respectfully decline to provide this information. As you are aware, the right to privacy of Alaska's citizens is protected by both the State and federal constitutions, and is the first right enumerated by our State constitution.

Some of my clients' 2012 settlements are subject to specific confidentiality agreements to which both my clients and I are signatories. These provisions are subject to civil suit if breached and would expose myself and my clients to civil liability.

Additionally, those clients not specifically subject to confidentiality agreements still have an expectation that I will honor their right to privacy. I cannot divulge any of the terms of their settlements without authority to do so from each individual client. I am not willing to ask this of them due to the sensitive nature of personal injury claims and the basis for compensatory awards for personal injury settlements - which would also necessarily overlap with their expectation of privacy under HIPPA as these claims arose from medical treatment.

I also believe that my own individual compensation for individual claims is subject to further privacy rights by both myself and my clients as the contractual terms of my representation are solely between myself and my individual clients and subject to modification (waiver of costs, reduction of fees etc...) that again is private and arises from their privileged disclosure of information to me.

If APOC disagrees with my understanding of the rights of my clients, my company or myself they may contact my personal attorney, Dennis Mestas or my tax and business attorney, Christina Passard.

I apologize for the formality of this response, but given the subject matter of this request it was not avoidable.

Love you so, Jay.

Sent from my iPhone

On Jun 4, 2013, at 3:05 PM, Lesilmcguire <lesilmcguire@yahoo.com> wrote:

Dear Jason,

I love you dearly and respect your professional choices. The Alaska Public Offices Commission has asked me to provide a list of how much each client provided to you in addition to the amount of annual income that you have already provided to me.

Love, your wife Lesil

Sent from my iPhone

Lesil McGuire
2022n Kimberly Lynn Cir
Anchorage, AK 99515

October 7, 2015

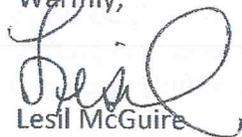
Jason Skala
1015 W. 7th Ave
Anchorage, AK 99501

Jason,

As you know my position as an elected Senator requires that I file a complete financial disclosure each year to the Alaska Public Offices Commission (APOC), as per AS 24.60.200. The requirements include a financial disclosure that includes my spouse's income as well as my own.

Will you please send me your disclosure, or a letter to APOC explaining in clear language why you cannot provide a financial disclosure?

Warmly,



Lesil McGuire
Senator, State of Alaska

JASON SKALA, LLC

ATTORNEY AT LAW

Telephone: (907) 569-6633

Fax: (907) 569-6001

1015 W. 7th Avenue
Anchorage, Alaska 99501

Jason E. Skala, Attorney at Law

Amy Ridling, Paralegal

October 14, 2015

Transmitted Via Fax:
(907) 276-7018

Alaska Public Offices Commission
2221 E Northern Lights, Room 128
Anchorage, Alaska 99508-4149

**RE: Law Office of Jason Skala
Disclosure of Finances**

Dear Sir/Madam:

This letter is intended to serve as a written response to an APOC request to my wife, Lesil McGuire, to provide my financial disclosures to you. In order to discharge my duties owed to my clients to preserve their privacy and the attorney client privilege that exists between us, I must respectfully decline to disclose my financial information.

As a preliminary matter, my tax return was subject to an extension and will not be completed until October 15, 2015. Further, I cannot provide disclosures of my clients without the written consent of each and every one of my clients, as their right to privacy and the attorney client/privilege that's exists between each and every client and this office which would need to be waived to comply with this request.

Although some of my cases are available through public records on the Courtview civil case search through the Alaska Court System website, the majority of clients I represent are working to resolve their matters privately without public disclosure of their claims or involvement of the judiciary.

Additionally, my clients are private citizens as my practice is limited to plaintiff's personal injury cases.

Lastly, I file my taxes separate from my wife and we do not co-mingle our finances.

Yours Truly,



Jason Skala
Attorney at Law

29th Alaska State Legislature

Session:
State Capitol, Room 121
Juneau, AK 99801
Phone: (907) 465-2995
Fax: (907) 465-6592



Interim:
716 W 4th Avenue, Room 515
Anchorage, AK 99501
Phone: (907) 269-0250
Fax: (907) 269-0249

Senator Lesil McGuire

October 22, 2015

Paul Dauphinais
Executive Director, APOC
2221 E. Northern Lights Blvd., Rm 128
Anchorage, AK 99508

Re: Complaint 15-08-LFD, APOC Staff v. Senator Lesil McGuire

Dear Mr. ~~Dauphinais~~ *Paul*

This is in response to the complaint filed against me by APOC staff for failure to disclose the income of my husband Jason Skala. The annual Legislative Financial Disclosure requires me to report the income of myself, my spouse, and dependent, and non-dependent children living with me if the income is over \$1,000 from a single source during a calendar year.

As you can see in my records as well as the claim filed against me, I did meet the filing deadline for reporting my own income as well as my dependent child. However, the requirements regarding the reporting of my husband's income was not filed in a timely manner. For that I apologize. Several things lead to the delay which are outlined below.

For the last two (2) filing periods my husband has declined to disclose his financial information. His reasoning is clearly stated in his letter of response each year:

"In order to discharge my duties owed to my clients to preserve their privacy and the attorney client privilege that exists between us, I must respectfully decline to disclose my financial information."

This was included in his letter of response to my request of financial disclosure. I realize this letter was written and delivered after the deadline, and in fact, after the complaint had been filed.

The main reason for the delay is that during the last year my husband and I were separated and communication was strained, to say the least. As a sitting Senator, I did not wish to make this issue public. However, obtaining information, such as a letter stating he would decline to submit his financial information, proved very difficult to get.

29th Alaska State Legislature

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State Capitol, Room 121
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Phone: (907) 269-0250
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Senator Lesil McGuire

Additionally, he filed an extension on his taxes and did not file with the IRS until October, as you can see in his letter, and would have therefore been unable to file a disclosure in a timely manner with the Commission.

I do realize that I could have filed for an extension with the Commission and the Commission's staff did notify me of my situation. However, my father was diagnosed with Parkinson's Plus, a severe neurological disease that was recently upgraded to Multiple System Atrophy (MSA) which is terminal. He has been admitted and discharged from the hospital multiple times over the last several months. The time consuming care that he requires and the stress of losing my father has led to some things in my life going unattended to. Unfortunately, the financial disclosure of my then estranged husband was one of them. Again, for that I do apologize.

Lastly, I would like to add that it is always my intention to cooperate fully with the Commission. It was not, and is not, my intention to deceive the commission or the public whom I serve. This failure to meet a filing deadline in this case was not malicious, but a very human error that occurred during a time of incredible emotional strife in my life: the separation of my husband and the impending loss of my father.

I humbly submit this response to claim 15-08-LFD to the Commission and hope that you understand what I have been going through. I believe I have submitted the documents necessary to resolve the underlying issue of the complaint, but I realize the complaint itself must now be resolved.

I look forward to working with the commission and hope that this complaint can be dismissed.

Sincerely,

A handwritten signature in cursive script, appearing to read "Lesil McGuire".

Lesil McGuire

Schwahn, Michael F (DOA)

From: Microsoft Outlook
To: lesilmcguire@yahoo.com
Sent: Tuesday, November 10, 2015 3:29 PM
Subject: Relayed: 15-08-LFD Staff Report + Exhibits

Delivery to these recipients or groups is complete, but no delivery notification was sent by the destination server:

lesilmcguire@yahoo.com (lesilmcguire@yahoo.com)

Subject: 15-08-LFD Staff Report + Exhibits

From: [Microsoft Outlook](#)
To: [MacSalka, Mary Lynn \(LAW\)](#)
Subject: Delivered: 15-08-LFD Staff Report + Exhibits
Date: Thursday, November 12, 2015 2:00:53 PM
Importance: High

Your message has been delivered to the following recipients:
HYPERLINK "mailto:marylynn.macsalka@alaska.gov"MacSalka, Mary Lynn (LAW) (marylynn.macsalka@alaska.gov)
Subject: 15-08-LFD Staff Report + Exhibits

From: [Microsoft Outlook](#)
To: [Dauphinais, Paul R \(DOA\)](#)
Subject: Delivered: 15-08-LFD Staff Report + Exhibits
Date: Thursday, November 12, 2015 2:01:01 PM
Importance: High

Your message has been delivered to the following recipients:
HYPERLINK "mailto:paul.dauphinais@alaska.gov"Dauphinais, Paul R (DOA) (paul.dauphinais@alaska.gov)
Subject: 15-08-LFD Staff Report + Exhibits

29th Alaska State Legislature

Session:
State Capitol, Room 121
Juneau, AK 99801
Phone: (907) 465-2995
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Interim:
716 W 4th Avenue, Room 515
Anchorage, AK 99501
Phone: (907) 269-0250
Fax: (907) 269-0249

Senator Lesil McGuire

October 22, 2015

Paul Dauphinais
Executive Director, APOC
2221 E. Northern Lights Blvd., Rm 128
Anchorage, AK 99508

Re: Complaint 15-08-LFD, APOC Staff v. Senator Lesil McGuire

Dear Mr. ~~Dauphinais,~~ *Paul*

This is in response to the complaint filed against me by APOC staff for failure to disclose the income of my husband Jason Skala. The annual Legislative Financial Disclosure requires me to report the income of myself, my spouse, and dependent, and non-dependent children living with me if the income is over \$1,000 from a single source during a calendar year.

As you can see in my records as well as the claim filed against me, I did meet the filing deadline for reporting my own income as well as my dependent child. However, the requirements regarding the reporting of my husband's income was not filed in a timely manner. For that I apologize. Several things lead to the delay which are outlined below.

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The main reason for the delay is that during the last year my husband and I were separated and communication was strained, to say the least. As a sitting Senator, I did not wish to make this issue public. However, obtaining information, such as a letter stating he would decline to submit his financial information, proved very difficult to get.

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Senator Lesil McGuire

Additionally, he filed an extension on his taxes and did not file with the IRS until October, as you can see in his letter, and would have therefore been unable to file a disclosure in a timely manner with the Commission.

I do realize that I could have filed for an extension with the Commission and the Commission's staff did notify me of my situation. However, my father was diagnosed with Parkinson's Plus, a severe neurological disease that was recently upgraded to Multiple System Atrophy (MSA) which is terminal. He has been admitted and discharged from the hospital multiple times over the last several months. The time consuming care that he requires and the stress of losing my father has led to some things in my life going unattended to. Unfortunately, the financial disclosure of my then estranged husband was one of them. Again, for that I do apologize.

Lastly, I would like to add that it is always my intention to cooperate fully with the Commission. It was not, and is not, my intention to deceive the commission or the public whom I serve. This failure to meet a filing deadline in this case was not malicious, but a very human error that occurred during a time of incredible emotional strife in my life: the separation of my husband and the impending loss of my father.

I humbly submit this response to claim 15-08-LFD to the Commission and hope that you understand what I have been going through. I believe I have submitted the documents necessary to resolve the underlying issue of the complaint, but I realize the complaint itself must now be resolved.

I look forward to working with the commission and hope that this complaint can be dismissed.

Sincerely,

A handwritten signature in black ink, appearing to read "Lesil McGuire".

Lesil McGuire



Alaska Public Offices Commission



COMPLAINT

FILING A COMPLAINT <i>To be accepted, complaint must include</i>	APOC LAWS ALLEGEDLY VIOLATED <i>Specify section of law or regulation</i>	APOC case name/number/date								
1. Complainant's name + contact info 2. Respondent's name + contact info 3. Laws, regulations allegedly violated 4. Description of allegations 5. Basis of knowledge of alleged facts 6. Documentation to support allegations 7. Notarized signature of the complainant 8. Proof that complaint and all supporting documents were served on respondent	<table border="1"> <tr> <td>Campaign Disclosure Law</td> <td> <input type="checkbox"/> AS 15.13 <input type="checkbox"/> 2 AAC 50.250-405 </td> </tr> <tr> <td>Public Official Financial Disclosure</td> <td> <input type="checkbox"/> AS 39.50 <input type="checkbox"/> 2 AAC 50.010-200 </td> </tr> <tr> <td>Legislative Financial Disclosure</td> <td> <input checked="" type="checkbox"/> AS 24.60 <input type="checkbox"/> 2 AAC 50.705-890 </td> </tr> <tr> <td>Lobbying Regulation</td> <td> <input type="checkbox"/> AS 24.45 <input type="checkbox"/> 2 AAC 50.505-545 </td> </tr> </table>	Campaign Disclosure Law	<input type="checkbox"/> AS 15.13 <input type="checkbox"/> 2 AAC 50.250-405	Public Official Financial Disclosure	<input type="checkbox"/> AS 39.50 <input type="checkbox"/> 2 AAC 50.010-200	Legislative Financial Disclosure	<input checked="" type="checkbox"/> AS 24.60 <input type="checkbox"/> 2 AAC 50.705-890	Lobbying Regulation	<input type="checkbox"/> AS 24.45 <input type="checkbox"/> 2 AAC 50.505-545	<h3>15-08-LFD</h3>
Campaign Disclosure Law	<input type="checkbox"/> AS 15.13 <input type="checkbox"/> 2 AAC 50.250-405									
Public Official Financial Disclosure	<input type="checkbox"/> AS 39.50 <input type="checkbox"/> 2 AAC 50.010-200									
Legislative Financial Disclosure	<input checked="" type="checkbox"/> AS 24.60 <input type="checkbox"/> 2 AAC 50.705-890									
Lobbying Regulation	<input type="checkbox"/> AS 24.45 <input type="checkbox"/> 2 AAC 50.505-545									

If complaint meets requirements for acceptance, APOC will investigate the allegations and notify the respondent of the right to respond. APOC will notify Complainant and Respondent when APOC accepts or rejects a complaint.

<input checked="" type="checkbox"/> APOC <input type="checkbox"/> Person <input type="checkbox"/> Party <input type="checkbox"/> Group	COMPLAINANT	RESPONDENT <i>Person or group allegedly violating law</i>
	APOC Staff	<input checked="" type="checkbox"/> Person <input type="checkbox"/> Party <input type="checkbox"/> Group Senator Lesil McGuire
Address City / Zip	2221 E. Northern Lights Blvd., Rm. 128 Anchorage, AK 99508	2022 Kimberly Lyn Circle Anchorage, AK 99515
Phone/Fax	(907) 276-4176 / (907) 276-7018	(907) 351-8060
E-mail	apoc@alaska.gov	lesilmcguire@yahoo.com

COMPLAINANT'S REPRESENTATIVE

RESPONDENT'S REPRESENTATIVE

If complainant or respondent is political party or group, list contact person. If complainant or respondent is represented by attorney, list name + contact info

Name/Title	Mary Lynn Macsalka , Assistant Attorney General
Address	1031 W. 4 th Avenue, Suite 200 Anchorage, AK 99501
Phone/Fax	(907) 269-5100
E-mail	MaryLynn.Macsalka@alaska.gov

DESCRIPTION or SUMMARY of ALLEGED VIOLATION

Violation of AS 24.60.200. Senator McGuire has not filed a complete LFD to date as the information regarding her spouse has not been provided and no good faith effort to obtain that information has been made. 2 AAC 50.680, 2 AAC 50.690

Use extra pages if needed

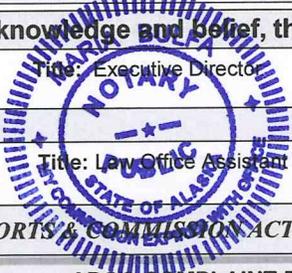
SUPPORTING DOCUMENTS – DESCRIBE:

1. Complaint Memorandum with accompanying exhibits.

PROOF of SERVICE ATTACHED: Fax – receipt confirmation Certified mail – signed receipt
 Process server – return of service E-mail – delivery/read receipt Other:

COMPLAINANT'S SWORN STATEMENT: To the best of my knowledge and belief, these statements are true

Signature:	Title: Executive Director	Date: 10-7-15
Subscribed and sworn to or affirmed by me at Anchorage, Alaska		Date:
Signature:	Title: Law Office Assistant	Date: 10.7.15



APOC COMPLAINTS, RESPONSES, INVESTIGATION REPORTS & COMMISSION ACTIONS ARE PUBLIC DOCUMENTS

APOC ANCHORAGE	APOC JUNEAU	APOC COMPLAINT PROCESS: 2 AAC 50.870 - 895
2221 E. NORTHERN LIGHTS #128	240 MAIN STREET #500	FILING COMPLAINTS : 2AAC 50.870 ANSWERING COMPLAINTS: 2AAC 50.880
ANCHORAGE, AK 99508	P.O. BOX 110222	APOC CRITERIA for ACCEPTING COMPLAINTS: 2 AAC 50.870
907-276-4176 / FAX 907-276-7018	JUNEAU, AK 99811	INVESTIGATIONS & HEARINGS: 2 AAC 50.875 – 891
TOLL-FREE 800-478-4176	465-4864 / FAX 465-4832	RULES for REQUESTING EXPEDITED CONSIDERATION: AS15.13.380(c)
WEB: http://doa.alaska.gov/apoc/	APOC FORMS: http://doa.alaska.gov/apoc/forms_all.html	APOC LAWS: http://doa.alaska.gov/apoc/apoclaws.html



TO: APOC Commissioners
DATE: October 7, 2015
FROM: Paul Dauphinais, Executive Director, Public Official Financial Disclosure Coordinator
RE: Senator Lesil McGuire's Violations of AS 24.60, Legislative Financial Disclosure Law

I. BACKGROUND

Senator Lesil McGuire is an incumbent state senator who is required to file a Legislative Financial Disclosure (LFD) under AS 24.60. A routine audit of Senator McGuire's 2015 filing showed that she did not disclose information regarding her spouse's income or business interests. She neither requested an exemption from filing this information nor filed evidence of a good faith effort to obtain the information.

Staff notified Senator McGuire of the missing information multiple times after the close of the extended legislative session and requested corrective action with no results. Staff now files this complaint and believes the facts will show a violation of Legislative Financial Disclosure law.

II. SUMMARY OF ALLEGED VIOLATION

A. Failure to File a Complete and Accurate Annual Financial Disclosure

Senator McGuire failed to meet her reporting obligations. Senator McGuire filed her annual LFD on March 13, 2015. While Senator McGuire met the filing deadline of March 16, 2015 she failed to file a complete report by not reporting income, interests (business, beneficial, or property), or any loans and debts of her spouse. She did report a permanent fund dividend for her spouse and children.¹ She did not request an exemption from reporting this information and did not provide evidence of a good faith effort to obtain the information from her spouse.²

Senator McGuire reported on her 2015 LFD that her spouse is Jason Skala. Mr. Skala is an attorney practicing in Anchorage, Alaska. Legislators are required to provide information concerning income received by themselves, their spouse or domestic partner, dependent children, and non-dependent children living with them if the income is in excess of \$1,000 from a single

¹ Exhibit 1, Senator McGuire's 2015 LFD.

² Exhibit 2, 2 AAC 50.775, process to request an exemption from specific reporting requirements; 2 AAC 50.690, good faith effort requirements

source during the calendar year. For that income the amount, the name and address of the source and recipient, how the income was earned, the dates and approximate number of hours worked to earn the income, and a description sufficient to make clear to a person of ordinary understanding the nature of the service performed is required.³

APOC staff took notice of this discrepancy during a routine audit conducted on April 4, 2015. However, because of Legislative Immunity, staff did not contact Senator McGuire until after the end of the extended legislative session which ended June 11, 2015.⁴ Staff has contacted Senator McGuire on multiple occasions after the extended legislative session and has made her aware of the situation and the need to amend her report.

To date Sentaor McGuire has not amended or otherwise remedied the lack of information of her 2015 annual LFD.

³ AS 24.60.200

⁴ AS 24.40.010 notes immunities. Specifically, “A legislator may not be held to answer before any other tribunal for any statement made in the exercise of legislative duties while the legislature is in session. A member attending, going to, or returning from legislative sessions is not subject to civil process and is privileged from arrest except for felony or breach of the peace. The immunities provided in this section extend to a legislator attending, going to, or returning from a meeting of an interim standing or special committee of the legislature of which the legislator is a member. For the purposes of going to and returning from a session or meeting, the immunities provided extend to a legislator for a period of five days immediately preceding and following the legislator's attendance at the session or meeting.”

Please fax receipt
after signature.

907)296-7018



Elite Courier Services

Admin: 569-4440

Rush-Line: 440-4440

Firm: Alaska Public Offices Commission

Contact: (907) 296-4196

Phone: Michael Schuham A.M. / P.M.

Reference Numbers:

Rush

XPRS

Initiated: <u>10-7</u>	By: <u>AK</u>
Completed: <u>10/07/15</u>	By: <u>MS</u>
Time: <u>940</u>	

ARRIVED

10-7-2015

APOC-ANCH
PM HC FAX ELE

Instructions: Please Deliver to.

Legislative Information Office

716 W. 4th Ave, #200
Anchorage, AK, 99501

Received: Joni JARVAES

POFD FORM

COMPLETED

Submission Date: **03/13/2015**

FILER INFORMATION

First Name: **LESIL**
 Last Name: **MCGUIRE**
 Address: **2022 Kimberly Lyn Circle**
 City, State Zip: **Anchorage, Alaska 99515**
 Contact Phone: **9073518060**
 Alternate Phone: **Nothing to Report**
 Fax (Optional): **Nothing to Report**
 Email: **lesilmcguire@yahoo.com**
 Partner Type: **Spouse**
 Spouse/Domestic Partner Name: **Jason Skala**
 Dependent Children: **2**
 Non-Dependent Children: **0**
 Names of Non-Dependent Children living with filer:

PURPOSE OF FILING

Report Year: **2015**
 Report Dates: From **01/01/2014** Through **12/31/2014**
 Filing As: **Office Holder**
 Branch: **Legislative**
 Position: **Senator**
 Report Type: **Annual**

INCOME

Owner	Type	Detail	Description	Amount
Filer	Salaried	State of Alaska State Capitol Room 121 Juneau, Alaska 99801 Full-time From: 01/01/2014 Through 12/31/2014 Time Worked:	State Senator	\$50,000 - \$100,000
Filer	Dividend or Interest	Permanent Fund Dividend		\$1,000 - \$2,000
Spouse	Dividend or Interest	Permanent Fund Dividend		\$1,000 - \$2,000
Child	Dividend or Interest	Permanent Fund Dividend		\$1,000 - \$2,000
Child	Dividend or Interest	Permanent Fund Dividend		\$1,000 - \$2,000

INTERESTS

Owner	Type	Detail	Description	Interest
Filer	Business	Business Name: Brain Injury Network 801 B Street Anchorage, Alaska 99518	Board Member	Position / Type: Non-Profit/Board Member
Filer	Business	Business Name: Pacific Northwest Economic Region (PNWER) World Trade Center West 2200 Alaskan Way Suite 460 Seattle, Washington 98121	Past President/Promoting economic development in the Pacific Northwest	Position / Type: Non-Profit/Past President
Filer	Business	Business Name: Special Olympics of Alaska 3200 Mountain View Drive Anchorage, Alaska 99501	Board of Directors/Advocate for Alaskan Athletes	Position / Type: Non-Profit/Board of Directors
Filer	Real Property	2022 Kimberly Lyn Circle Anchorage, Alaska 99515	Ownership Interest: Home owner	
Filer	Beneficial	Managed By: State Retirement PERS	Diversified	Ownership: 100%
Filer	Beneficial	Managed By: Smith Barney	Bright Start College Savings Smith and Barney Mutual Funds Class A Funds	Ownership: 100%

LOANS AND DEBTS

Owner	Type	Name
Filer Address: 2022 Kimberly Lyn Circle Anchorage, Alaska 99515	Lender Original Loan Amount: \$209,000.00 Balance Amount: \$157,000.00 Interest Rate: 4.625%	Wells Fargo Mortgage

LEASES

Owner	Type of Lease	Lease/Contract ID	Interest	Status	Description
No Leases / Nothing to Report					

CLOSE ECONOMIC ASSOCIATIONS

Person Disclosing Association	Associated Person	Description
No Associations / Nothing to Report		

LOBBYIST PARTNER EMPLOYERS

Name	Address	Compensation
No Lobbyist Partner Employers / Nothing to Report		



2 AAC 50.690. Good faith effort to obtain information

In a disclosure statement required by [AS 24.60.200](#) or [AS 39.50.020](#) , a legislative branch filer, public official, or candidate shall report the information that the legislative branch filer, public official, or candidate knows after making a good faith effort to ascertain the information. A good faith effort includes a written request to each family member of the legislative branch filer, public official, or candidate, or to the person in charge of a business in which the legislative branch filer, public official, candidate, or family member of the legislative branch filer, public official, or candidate held an interest in the reporting period

(1) asking for the information required under [AS 39.50.030](#) and 2 AAC [50.680](#) - 2 AAC [50.740](#); and

(2) informing the recipient of the written request that the legislative branch filer, public official, or candidate

(A) is required to provide the information under oath and penalty of perjury; and

(B) may be subject to the penalties or other remedies set out in the applicable provisions of [AS 24.60.240](#) - 24.60.260, [AS 39.50.060](#) - 39.50.080, 39.50.110, 39.50.130, or 39.50.135 for failure to provide the information.

History: Eff. 12/22/2011, Register 200

Authority: [AS 15.13.030](#) [AS 24.60.200](#) [AS 24.60.220](#) [AS 39.50.020](#) [AS 39.50.030](#) [AS 39.50.050](#)

2 AAC 50.775. Exemption from reporting sources of income

(a) A legislative branch filer, public official, or candidate required under [AS 24.50.200](#) or [AS 39.50.020](#) to file a disclosure statement may, for any reason set out in this section, request an exemption from the requirement to report the name of an individual who was a source of income, the amount of income, or any other information required under [AS 39.50.030](#) or 2 AAC [50.680](#) - 2 AAC [50.740](#). An exemption request must comply with 2 AAC [50.821](#). The person requesting any exemption has the burden of proving each fact necessary to show that an exemption available under this section is applicable.

(b) A legislative branch filer, public official, or candidate may request an exemption from the requirement to report the name of a source of income, the amount of income, or any other information required under [AS 39.50.030](#) or 2 AAC [50.680](#) - 2 AAC [50.740](#) regarding an individual who received

(1) mental health services provided by a mental health practitioner including a psychiatrist, psychologist, or therapist;

(2) medical services and the source of income was

(A) an individual who received medical services related to abortion, contraception, reproductive health, a sexual disorder, or a terminal illness;

(B) a minor who received medical services without the knowledge of a parent or legal guardian if a reasonable person in the situation of the minor would experience substantial concern, anxiety, or embarrassment from publication of the minor's name as a source of income;

(C) a married individual who received medical services without the knowledge of the individual's spouse if a reasonable person in the situation of the individual would experience substantial concern, anxiety, or embarrassment from publication of the individual's name as a source of income; or

(D) an individual who received medical services of any nature if at least 67 percent of the patients of a self-employed legislative branch filer, public official, candidate, or family member were individuals described in (A) - (C) of this paragraph; or

(3) legal services provided by an attorney and the source of income was

(A) a minor who received legal services without the knowledge of a parent or legal guardian if a reasonable person in the situation of the minor would experience substantial concern, anxiety, or embarrassment from publication of the minor's name as a source of income;

(B) a married individual who received legal services without the knowledge of the individual's spouse if a reasonable person in the situation of the individual would experience substantial concern, anxiety, or embarrassment from publication of the individual's name as a source of income;

(C) an individual who received legal services of any nature if at least 67 percent of the clients of a self-employed legislative branch filer, public official, candidate, or family member were individuals described in (A) or (B) of this paragraph.

(c) A legislative branch filer, public official, or candidate may request an exemption if

(1) the legislative branch filer, public official, or candidate is prohibited by law or court-ordered settlement from reporting the name of a source of income, the amount of income, or any other information required under [AS 39.50.030](#) or 2 AAC [50.680](#) - 2 AAC [50.740](#);

(2) the legislative branch filer, public official or candidate believes reporting the name of a source of income, the amount of income, or any other information required under [AS 39.50.030](#) or 2 AAC [50.680](#) - 2 AAC [50.740](#), would violate rights of the source under state or federal statutes or constitutions;

(3) the legislative branch filer, public official, or candidate believes that reporting the name of a source of income would disclose protected health information that the filer is prohibited from disclosing under 42 U.S.C. 1320d - 1320d-9 (Health Insurance Portability and Accountability Act (HIPAA) of 1996).

(d) A legislative branch filer, public official, or candidate may request a personal security exemption from reporting the name of a minor that is a source of income, the amount of income, or any other information required under [AS 39.50.030](#) or 2 AAC [50.680](#) - 2 AAC [50.740](#) that exposes the public official, candidate, or a family member to a personal security threat.

(e) A legislative branch filer, public official, or candidate may request an exemption from reporting the name of a source of income, the amount of income, or any other information required under [AS 39.50.030](#) or 2 AAC [50.680](#) - 2 AAC [50.740](#) if a state or federal law or court order requires the name of the source or the other information to be kept confidential.

(f) Notwithstanding any other provision of this section, a legislative branch filer, public official, or candidate may request an exemption from reporting the name of a source of income, the amount of income, or any other information required under [AS 39.50.030](#) or 2 AAC [50.680](#) - 2 AAC [50.740](#), if the public official or candidate demonstrates that the right to privacy of the information outweighs the compelling state interest in disclosing the information.

History: Eff. 7/20/95, Register 135; am 1/1/2001, Register 156; am 2/20/2005, Register 173; am 12/22/2011, Register 200

Authority: [AS 15.13.030](#) [AS 24.60.200](#) [AS 24.60.220](#) [AS 24.60.230](#) [AS 39.50.020](#) [AS 39.50.030](#) [AS 39.50.035](#) [AS 39.50.050](#)

BEFORE THE ALASKA PUBLIC OFFICES COMMISSION

ALASKA PUBLIC OFFICES
 COMMISSION, APOC
 Complainant

vs.

SENATOR LESIL MCGUIRE
 Respondent

Case No.

CERTIFICATE OF SERVICE

I hereby certify that on this date, I caused a true and correct copy of the Complaint and Supporting Documents and this Certificate of Service to be delivered as indicated to the following:

Senator Lesil McGuire 2022 Kimberly Lyn Circle Anchorage, AK 99515 lesilmcguire@yahoo.com	<input checked="" type="checkbox"/> Email <input checked="" type="checkbox"/> Certified Mail <input checked="" type="checkbox"/> Return Receipt Requested
Senator Lesil McGuire 716 W. 4 th Ave #200 Anchorage, AK 99501	<input checked="" type="checkbox"/> Courier

RR: 9171-9690-0935-0096-9834-44

Maria Bulfa

10/7/2015

Signed
 Law Office Assistant
 Alaska Public Offices Commission

Date