

**[TAB 6]**

**Advisory Opinion 24-05-CD**

**No on 2**

Presented By:

Heather Hebdon, Executive Director



**Number:** AO 24-05-CD  
**Requested By:** Thomas Amodio on behalf of No on 2  
**Prepared By:** Heather Hebdon, Executive Director  
**Date Issued** September 10, 2024  
**Subject:** Verbal Disclaimers on Ads of 15 Seconds or Less  
**Commission Decision:**

## **I. QUESTION PRESENTED**

May No on 2 use an abbreviated verbal “paid-for-by” identifier for short videos whose time limitations preclude use of the full identifier?

## **II. SHORT ANSWER**

No. There is no impracticability exception for the audible “paid-for-by” identifier required by AS 15.13.090(d).

## **III. FACTS**

- No on 2 is a group organized to oppose Ballot Measure 2 scheduled to appear on the 2024 state general election ballot.
- No on 2 intends to stream short, 6-second and 15-second video ads.
- Because of the time constraints, No on 2 seeks an alternative method to audibly identify these 6–15-second video communications.

## **IV. LAW AND ANALYSIS**

Alaska’s campaign disclosure laws require all communications to be identified using the words “paid for by” followed by the name and address of the person paying for the communication.<sup>1</sup>

For a person other than an individual or candidate, the identifier must include the name and title of the person’s principal officer, a statement from the principal officer approving the communication, and, unless the person is a political party, the name, city, and state of residence or principal place of business of each of the person’s three largest

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<sup>1</sup> AS 15.13.090(a).

contributors.<sup>2</sup> In a broadcast, cable, satellite, internet, or other digital communication, the statement must remain onscreen for the entirety of the communication.<sup>3</sup>

Additionally, if the communication includes an audio component, it must also include a recorded statement identifying the name of the person who paid for the communication and the name of the persons' three largest contributors.<sup>4</sup>

In recognition that size limitations in certain advertising media may make the full identifiers impractical, the Commission has provided relief from some identifier requirements.<sup>5</sup> For example, political communications by electronic media, including a group's website, electronic mail, electronic social media, or other electronic methods capable of transmitting a political communication, may be electronically linked to the full and complete paid for by identifier required by AS 15.13.090.<sup>6</sup> However, this exception specifically notes that it does not apply to media advertising or material on Internet websites.<sup>7</sup> There is no impracticability exception to the audio identifiers required by AS 15.13.090(d).

Nevertheless, No on 2 seeks to use an abbreviated paid for by identifier using only the phrase "paid for by No on 2" without stating its top 3 contributors to audibly identify its 6–15-second video communications while displaying the full identifier in writing on the screen.

Based on the text of the statutory and regulatory frameworks and in light of the legislative aims of the audio disclosures required by AS 15.13.090(d) this request cannot be granted.

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<sup>2</sup> *Id.*

<sup>3</sup> AS 15.13.090(c).

<sup>4</sup> AS 15.13.090(d).

<sup>5</sup> 2 AAC 50.306(c) (printed identifiers not required for objects where the size or nature of the object makes it impractical to affix).

<sup>6</sup> 2 AAC 50.50.306(d).

<sup>7</sup> 2 AAC 50.306(c) (objects that are impractical to affix identifier to include "pencils, pens, or buttons, or other objects smaller than 3.5 inches by 5 inches," **but do not include** "media advertisements, electronic correspondence, or material on internet websites, regardless of size or nature" (emphasis added)).

To begin, No on 2 assumes, and we agree, that the audio “paid-for-by” identifiers in AS 15.13.090(d) apply to the advertisements in question because they include an audio component. So, the only question is whether there is a basis for excusing No on 2 from these requirements. There is not.

The Commission has not recognized any impracticability exception to the audio “paid-for-by” identifiers required by AS 15.13.090(d). The lack of such an exception is made more apparent by the inclusion of an impracticability exception for certain other political communications.<sup>8</sup> Moreover, the existing impracticability exception specifically carves out “media advertisements” and “material on an Internet website.” The choices to create such an exception for other “paid-for-by” identifiers, to exclude media advertisements like the advertisements proposed by No on 2, and to *not* create an impracticability exception to the audio “paid for by” identifiers required by AS 15.13.090(d) all support the conclusion No on 2’s request must be declined.<sup>9</sup>

While this may seem harsh, the legislative history of the audio identifiers further supports this conclusion. The identifiers required by AS 15.13.090(d) were added by the Alaska legislature in 2010.<sup>10</sup> After they were passed by the Senate, they were considered in the House. The House Judiciary Committee and the House Finance Committee both considered the relevant bill.<sup>11</sup> Both House committees debated whether to waive audio identifiers for advertisements that also included a video component, which might be redundant. In that debate, legislators balanced how time-consuming and burdensome the audio identifiers were against the public’s interest in knowing who is trying to influence them.<sup>12</sup> One of the bill’s sponsors estimated that it would take 10–12 seconds to get through

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<sup>8</sup> 2 AAC 50.306(c).

<sup>9</sup> See *Alaska Pub. Defender Agency v. Superior Court*, 450 P.3d 246, 258 & n.87 (Alaska 2019) (explaining the principle of statutory construction that the inclusion of particular language in one section and the omission of similar language in another section creates the presumption that the legislative body acted intentionally and purposely in the disparate inclusion or exclusion).

<sup>10</sup> S.B. 284, 26th Leg., 2d Reg. Sess. (Alaska 2010).

<sup>11</sup> *April 10, 2010 Hearing Before the H. Jud. Comm. on SB 284 – Campaign Expenditures*, 26th Leg., 2d Reg. Sess. (Alaska 2010) (discussion on Amendment 2) (“House Judiciary Hearing”); *April 11, 2010 Hearing Before the H. Fin. Comm. on SB 284 – Campaign Expenditures*, 26th Leg., 2d Reg. Sess. (Alaska 2010) (discussion on Conceptual Amendments 1 and 2) (“House Finance Hearing”).

<sup>12</sup> E.g., House Finance Hearing (discussion on Conceptual Amendment 1).

the audio disclosures.<sup>13</sup> He conceded this “was a long time,”<sup>14</sup> and another representative acknowledged that “the advertiser would lose the piece of time used to state who paid for the ad.”<sup>15</sup> And they were fearful that too many requirements “would make it too expensive for some individuals or entities to buy ads.”<sup>16</sup> But these fears had to be balanced against “the importance of disclosing the top three contributors especially in ads that attack . . . an issue,” because “the core issue was truth in disclosure.”<sup>17</sup>

In both committees, the legislators in favor of limiting the audio identifiers prevailed.<sup>18</sup> The House Judiciary Committee amended the bill to require audio identifiers only for communications that consisted solely of audio—like radio commercials.<sup>19</sup> The sponsor of that amendment said that he wanted to reduce “the large amount of information that the bill requires to be disclosed in certain situations.”<sup>20</sup> And the House Finance Committee rejected multiple amendments that would have applied the audio identifiers to other communications with video.<sup>21</sup> But the full House disagreed. When the bill went to the House floor for consideration, the House voted 23-17 to amend the bill to its current state, which matched the version already passed by the Senate.<sup>22</sup>

In short, the legislative history confirms that the Alaska legislators who enacted AS 15.13.090(d) were aware that audio identifiers might be burdensome, impractical, and even redundant because of on-screen text identifiers. Nonetheless, despite debating these concerns, the legislature opted to include audio “paid-for-by” identifiers to further their broader goal of informing the public of who is trying to influence them. While the plain text of AS 15.13.090(d) and 2 AAC 50.306 answer No on 2’s question, this legislative

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<sup>13</sup> *April 7, 2010 Hearing Before the H. Fin. Comm. on SB 284 – Campaign Expenditures*, 26th Leg., 2d Reg. Sess. (Alaska 2010) (statement of Sen. French).

<sup>14</sup> House Finance Hearing (statement of Sen French).

<sup>15</sup> *Id.* (statement of Rep. Doogan).

<sup>16</sup> *Id.* (statement of Co-Chair Stoltze).

<sup>17</sup> *Id.* (statement of Rep. Gara).

<sup>18</sup> House Judiciary Hearing (approving Amendment 2); House Finance Hearing (rejecting Conceptual Amendments 1 and 2).

<sup>19</sup> House Judiciary Hearing (approving Amendment 2).

<sup>20</sup> *Id.*

<sup>21</sup> House Finance Hearing (rejecting Conceptual Amendments 1 and 2).

<sup>22</sup> S.B. 284, House Amendment #1 (Apr. 18, 2010).

history bolsters the conclusion. While it may seem harsh in light of the proliferation of brief advertisements, the legislative intent is clear, and it should be applied as written.<sup>23</sup>

## V. CONCLUSION

Because there is no impracticality exception to the “paid-for-by” identifiers required by AS 15.13.090(d), No on 2 may not use an abbreviated audible “paid-for-by” identifier in its short videos even if time limitations make use of the full identifier difficult.

## VI. COMMISSION DECISION

Only the Commission has the authority to approve an advisory opinion.<sup>24</sup> The Commission will rule on staff’s proposed advice at its next regular meeting. The Commission may approve, disapprove, or modify the proposed advice. An advisory opinion must be approved by an affirmative vote of at least four members or it will be considered disapproved. Both staff’s proposed advice and the Commission’s final advisory opinion apply only to the specific facts and activity for which advice was requested.

If you rely on staff’s proposed advisory opinion in good faith and the Commission subsequently rejects the proposed advice, staff will take no enforcement action on your activities up to that point if you acted under the specific facts described. If you have any additional questions or would like to discuss this proposed advice, please contact me at (907) 276-4176.

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<sup>23</sup> *Gillis v. Aleutians E. Borough*, 258 P.3d 118, 123 (Alaska 2011) (“If the legislative history demonstrates no ambiguity, then [Alaska courts] adheres to the statute’s language and will not modify or extend it by judicial conduct.”).

<sup>24</sup> 2 AAC 50.840.

## APPLICABLE LAW

### ALASKA STATUTES

#### **Sec. 15.13.090. Identification of communication.**

(a) All communications shall be clearly identified by the words "paid for by" followed by the name and address of the person paying for the communication. In addition, except as provided by (d) of this section, a person shall clearly

(1) provide the person's address or the person's principal place of business;

(2) for a person other than an individual or candidate, include

(A) the name and title of the person's principal officer;

(B) a statement from the principal officer approving the communication; and

(C) unless the person is a political party, identification of the name and city and state of residence or principal place of business, as applicable, of each of the person's three largest contributors under AS 15.13.040(e)(5), if any, during the 12-month period before the date of the communication.

(b) The provisions of (a) of this section do not apply when the communication

(1) is paid for by an individual acting independently of any other person;

(2) is made to influence the outcome of a ballot proposition as that term is defined by

[AS 15.13.065](#)(c); and

(3) is made for

(A) a billboard or sign; or

(B) printed material other than an advertisement made in a newspaper or other periodical.

(c) To satisfy the requirements of (a)(1) of this section and, if applicable, (a)(2)(C) of this section, a communication that includes a print or video component must have the following statement or statements placed in the communication so as to be easily discernible, and in a broadcast, cable, satellite, internet or other digital communication the statement must remain onscreen throughout the entirety of the communication; the second statement is not required if the person paying for the communication has no contributors or is a political party:

This communication was paid for by (person's name and city and state of principal place of business).

The top contributors of (person's name) are (the name and city and state of residence or principal place of business, as applicable, of the largest contributors to the person under AS 15.13.090(a)(2)(C)).

(d) Notwithstanding the requirements of (a) of this section, in a communication transmitted through radio or other audio media and in a communication that includes an audio component, the following statements must be read in a manner that is easily heard; the second statement is not required if the person paying for the communication has no contributors or is a political party:

This communication was paid for by (person's name).

The top contributors of (person's name) are (the name of the largest contributors to the person under AS 15.13.090(a)(2)(C)).



(e) Contributors required to be identified under (a)(2)(C) of this section must be listed in order of the amount of their contributions. If more than three of the largest contributors to a person paying for a communication contribute equal amounts, the person may select which of the contributors of equal amounts to identify under (a)(2)(C) of this section. In no case shall a person be required to identify more than three contributors under (a)(2)(C) of this section.

(f) The provisions of this subsection apply to a person who makes an independent expenditure for a communication described in (a) of this section. If the person paying for the communication is not a natural person, the provisions also apply to the responsible officer or officers of the corporation, company, partnership, firm, association, organization, labor organization, business trust, or society who approve the independent expenditure for the communication. A person who makes a communication under this subsection may not, with actual malice, include within or as a part of the communication a false statement of material fact about a candidate for election to public office that constitutes defamation of the candidate. For purposes of this subsection, a statement constitutes defamation of the candidate if the statement

(1) exposes the candidate to strong disapproval, contempt, ridicule, or reproach; or

(2) tends to deprive the candidate of the benefit of public confidence.

(g) To satisfy the requirements of (a)(1) of this section and, if applicable, (a)(2)(C) of this section, a communication paid for by an outside-funded entity as that term is defined in AS 15.13.400(19) that includes a print or video component must have the following statement placed in the communication so as to be easily discernible, and in a broadcast, cable, satellite, internet or other digital communication the statement must remain onscreen throughout the entirety of the communication; the statement is not required if the outside entity paying for the communication has no contributors or is a political party “A MAJORITY OF CONTRIBUITIONS TO (OUTSIDE-FUNDED ENTITY’S NAME) CAME FROM OUTSIDE THE STATE OF ALASKA.”

under AS 15.13.090(a)(2)(C)).

## **ALASKA ADMINISTRATIVE CODE**

### **2 AAC 50.306. Identification of political communication.**

(a) Except for an individual exempt under [AS 15.13.090](#) (b), a person that pays for a political communication, including a person that makes an independent expenditure, shall ensure that

(1) in any communication that includes a print or video component, the information required under [AS 15.13.090](#) (a), (c) and (g) is visible, separate from the text of the communication, and of sufficient size to be read by a viewer;

(2) in any communication that includes a video component, the information required under AS 15.13.090(a), (c), and (g)

(A) is placed in the communication;

(B) is of sufficient size to be read by a viewer; and

(C) remains onscreen for the duration of the communication; and

(3) in any communication by radio, automated telephone, or other audio media, or that includes an audio component, the information required under [AS 15.13.090](#) (a) and (d) is spoken and audible at the same volume as the communication.

(b) In a written communication, standard English abbreviations may be used in the information required by [AS 15.13.090](#) (a) and (c).

(c) The information required under [AS 15.13.090](#) (a) and (c) need not be affixed to an object used for a political communication if the size or nature of the object makes it impractical to affix that information. Objects for which it is impractical to affix that information include pencils, pens, buttons, or other objects that are smaller than 3.5 inches by 5 inches in size but do not include media advertisements, electronic correspondence, or material on an Internet website. The cost of any object used for a political communication must be reported under [AS 15.13](#) even if the information required under [AS 15.13.090](#) (a) and (c) is not affixed.

(d) A political communication by electronic media, including a candidate's or group's website, electronic mail, electronic social media, or other electronic methods capable of transmitting a political communication, must include or be electronically linked to information required by [AS 15.13.090](#) (a) and (c). The cost of political communications by electronic media must be reported as a campaign expense under 2 AAC [50.321](#).

(e) In this section, "political communication"

(1) has the meaning given "communication" in [AS 15.13.400](#) ;

(2) includes

(A) all material related to campaign fundraisers, campaign letterhead, thank-you notes, and press releases;

(B) media advertisements, electronic correspondence, or material on an Internet website, regardless of size or nature;

(C) except as provided under (3)(B) of this subsection, campaign signs larger than 3.5 inches by 5 inches;

(3) does not include

(A) envelopes paid for by the campaign that are used solely to convey the campaign's communications;

(B) signs created by an individual or nongroup entity for a total cost of less than \$500;

(C) T-shirts, ballcaps, and similar items of personal apparel of minimal value;

(D) berry buckets, coffee cups, water bottles, and similar objects having a principal purpose not related to campaigns or elections.



*Direct Phone*  
(907) 222-7104

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(907) 222-7199

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tom@reevesamodio  
.com

September 3, 2024

**VIA EMAIL (heather.hebdon@alaska.gov) AND FACSIMILE (276-7018)**

Heather Hebdon  
Executive Director  
Alaska Public Offices Commission  
2221 E. Northern Lights Blvd., Room 128  
Anchorage, AK 99508-4149

Re: Verbal Disclaimers on Ads of 15 Seconds or Less

Dear Ms. Hebdon:

I am writing on behalf of No on 2, a ballet measure group (“Group”) organized to oppose proposed Ballot Measure No. 2 (“BM2”), which is scheduled to be on the November 2024 general election ballot. No on 2 has registered with the Alaska Public Offices Commission (the “Commission” or “APOC”) as a Group. No on 2 respectfully requests an expedited advisory opinion (“AO”) on a matter of some urgency.

No on 2 intends to stream very short, 6-second and 15-second ads as part of its campaign. Unfortunately, with the required verbal disclaimer including No on 2’s address, that its chair approved the message, plus the identification of its top three donors, there will be almost no time in the ad for No on 2 to advocate its position verbally. No on 2 urges APOC Staff and the Commission to approve a method that will provide viewers with all of the required information, thus fulfilling APOC’s disclosure laws, but still leave sufficient time for No on 2 to present its position aurally.

No on 2 proposes to run an abbreviated verbal disclaimer in these short ads identifying itself as the PFB, i.e., “paid for by No on 2.” However, instead of verbally stating its address, chair approval, and its top three donors, No on 2 would show the entire disclaimer onscreen, including all of this information, during the ad. I have enclosed several examples of such ads that No on 2 would like to run. See enclosure. No on 2 believes that these examples would fully comply with the spirit of the campaign finance disclosure laws, and provide voters with all of the required information.

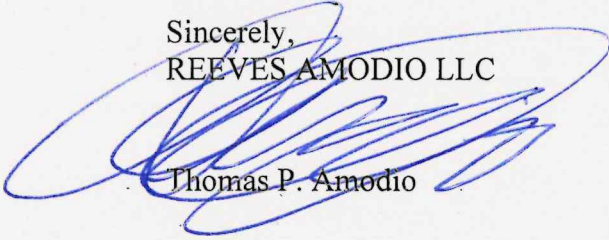
Accordingly, No on 2 requests an AO allowing it to waive the full audio disclaimer while showing the required disclaimer onscreen. In addition to the full disclaimer appearing visually, the ad would include a spoken “paid for by No on 2.” We ask that APOC Staff respond within a week of this request.



Heather Hebdon  
Alaska Public Offices Commission  
September 3, 2024  
Page 2

Thank you for your prompt attention to this matter. Please contact me if you have any questions.

Sincerely,  
REEVES AMODIO LLC



Thomas P. Amodio

Enclosure  
Cc: Client (via email)

No on 2

“Who’s Behind 15”

:15 Digital

DMA: Alaska Statewide Digital

VISUALS	AUDIO
<p>TV flipping through channels showing voting stock with various chyrons “A Win for Alaskans,” “Better Elections,” “Freedom for Voters”</p> <p>Measure 2 ballot on one side, overlaid with shady handshakes, dark meetings, money in briefcases</p> <p><b>Measure No. 2</b> <b>Political Elites &amp; Special Interest Backers Seize Back Power</b></p> <p>Portrait montage <b>Protect Our Freedom</b> <b>Vote No on Measure No. 2</b></p> <p><i>DISCLAIMER UP FOR ENTIRETY OF AD: Paid for by No on 2, 721 Depot Dr, Anchorage AK 99501. Lesil McGuire, Chair, approved this message. The top three contributors are Final Five Fund, Chicago, IL; Unite America, Denver, CO; and Alaskans for Better Elections, Inc, Anchorage, AK</i></p>	<p><b>Female VO (39):</b> Alaska voted for open primaries and to outlaw dark money.</p> <p>Now political elites are trying to seize control with Measure 2.</p> <p>Vote no on Ballot Measure 2 to protect our freedom to pick the best candidate, regardless of party</p>

No on 2

“Who’s Behind 6”

:6 Digital

DMA: Alaska Statewide Digital

VISUALS	AUDIO
<p>Portrait montage</p> <p><b>Protect Our Freedom</b></p> <p><b>Vote No on Measure No. 2</b></p> <p><i>DISCLAIMER UP FOR ENTIRETY OF AD: Paid for by No on 2, 721 Depot Dr, Anchorage AK 99501. Lesil McGuire, Chair, approved this message. The top three contributors are Final Five Fund, Chicago, IL; Unite America, Denver, CO; and Alaskans for Better Elections, Inc, Anchorage, AK</i></p>	<p><b><u>Female VO (18):</u></b></p> <p>Vote no on Ballot Measure 2 to protect our freedom to pick the best candidate, regardless of party</p>

No on 2

“Who’s Behind”

:30 TV

DMA: Alaska Statewide

VISUALS	AUDIO
<p>TV flipping through channels showing voting stock with various chyrons “A Win for Alaskans,” “Better Elections,” “Freedom for Voters”</p> <p>Measure 2 ballot on one side, overlaid with shady handshakes, dark meetings, money in briefcases</p> <p><b>Measure No. 2 Political Elites &amp; Special Interest Backers Seize Back Power</b></p> <p>Portrait montage</p> <p><b>Protect Our Freedomit Vote No on Measure No. 2</b></p> <p>Mosaic of faces or end card</p> <p><i>DISCLAIMER UP FOR ENTIRETY OF AD: Paid for by No on 2, 721 Depot Dr, Anchorage AK 99501. Lesil McGuire, Chair, approved this message. The top three contributors are Final Five Fund,</i></p>	<p><b><u>Female VO (67):</u></b> Four years ago, Alaska voted for open primaries and to outlaw dark money.</p> <p>Giving voters the freedom to pick the best candidate, regardless of party.</p> <p>No more lesser of two evils.</p> <p>Now after just one open election, political elites are trying to seize control of our elections with Measure 2.</p> <p>Vote no on Ballot Measure 2 to protect our freedom to keep voting the way we want.</p> <p><b><u>ProVO (Est. 5-6 Seconds)(21):</u></b> Paid for by No on 2. The top three contributors are Final Five Fund, Unite America, and Alaskans for Better Elections.</p>

*Chicago, IL; Unite America, Denver,  
CO; and Alaskans for Better Elections,  
Inc, Anchorage, AK*





THE STATE  
of **ALASKA**  
GOVERNOR MIKE DUNLEAVY

**Department of Administration**

ALASKA PUBLIC OFFICES COMMISSION

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[www.doa.alaska.gov/apoc](http://www.doa.alaska.gov/apoc)

December 20, 2024

Via Certified Mail and Email

Thomas Amodio  
Reeves Amodio  
500 L Street, Suite 300  
Anchorage, Alaska 99501  
[tom@reevesamodio.com](mailto:tom@reevesamodio.com)

Re: Commission Meeting Notice

Dear Mr. Amodio:

At its upcoming January meeting, the Commission will consider the matter of your advisory opinion request in AO 24-05-CD, *No on 2*.

You have a right to participate at the meeting either in-person, by telephone (1-907-202-7104, Access Code 542 592 595#), or via [Microsoft Teams](#).<sup>1</sup> Please notify our office if you intend to participate. The matter is currently scheduled to be heard at **11:15 a.m. on Thursday, January 16, 2025**.

If you do not participate in the meeting, staff will send you a letter and a final order notifying you of the Commission's decision.

Sincerely

ALASKA PUBLIC OFFICES COMMISSION

Heather R. Hebdon  
Executive Director

Encl.: Draft Advisory Opinion 24-05-CD

<b>CERTIFICATE OF SERVICE:</b>	
I hereby certify that on this date, I caused a true and correct copy of the foregoing to be delivered to:	
Thomas Amodio Reeves Amodio 500 L Street, Suite 300 Anchorage, Alaska 99501 <a href="mailto:tom@reevesamodio.com">tom@reevesamodio.com</a>	<input checked="" type="checkbox"/> Certified Mail <input checked="" type="checkbox"/> Email

Signature 12/20/2024  
Date  
9489 0178 9820 3021 0784 28

<sup>1</sup> Meeting ID: 218 357 205 23, Passcode: ka6uj94c

**From:** [postmaster@reevesamodio.com](mailto:postmaster@reevesamodio.com)  
**To:** [tom@reevesamodio.com](mailto:tom@reevesamodio.com)  
**Subject:** Delivered: Re: Commission Meeting Notice  
**Date:** Friday, December 20, 2024 9:55:33 AM  
**Attachments:** [Re Commission Meeting Notice.msg](#)

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Your message has been delivered to the following recipients:  
tom@reevesamodio.com (tom@reevesamodio.com) <mailto:tom@reevesamodio.com>  
Subject: Re: Commission Meeting Notice