



# ALASKA PUBLIC OFFICES COMMISSION

SPRING 2014

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### *A Word from the Executive Director*

**F**ree agency is over and the first pitch has been thrown in this year's baseball season. Let's hope the Red Sox can repeat last year's success.

This year the state's election campaigns are about to begin as well and the primary election will include ballot propositions. Any person, including individuals, groups, businesses, labor organizations, and other organizations may make independent expenditures and these are reported somewhat differently than other campaign expenditures.

APOC staff wants to ensure that people can be successful dealing with independent expenditures in this busy election. To make that success a reality, APOC is offering three training sessions in April just for independent expenditures. The sessions will be offered on Wednesday April 9, 2014 from 5:30 PM to 7:30 PM, Thursday April 10, from noon to 2:00 PM, and on Friday April 11, from 3:00 to 5:00 PM. Seating is limited and attendance is free. The sessions will be held at the APOC office at 2221 E. Northern Lights Blvd. #128 in Anchorage. If you prefer to attend via telephone or online, please contact APOC at 907-276-4176.

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*"We deceive ourselves when we fancy that only weakness needs support. Strength needs it far more."*

-ANNE SOPHIE SWETCHINE



## CANDIDATE COMPLAINTS

### 13-08-CD APOC Staff v. Alan Dick

The complaint was filed on September 18, 2013. On February 28, 2014, the Commission approved a consent agreement reached between staff and the respondent. The parties agreed that Mr. Dick violated provisions of AS 15.13 by failing to disclose contributions and expenditures, failing to maintain substantiating campaign records, recovering personal contributions after the election without filing proper notice, and using campaign contributions for personal benefit. Terms of the agreement require Mr. Dick to pay a civil penalty in the amount of \$10,935.50; to forfeit \$2,34,99 for identified personal expenses; to amend his reports to disclose all sources of income; and to attend candidate training prior to participating in another election governed by AS 15.13.

### 13-11-CD APOC Staff v. Chris Tuck

The complaint was filed on October 11, 2013. Awaiting Commission action.

### 13-12-CD Lee DeSpain v. John Eberhart

The complaint was filed on October 21, 2013. Staff issued its report on January 10, 2014. The complaint alleged that Mr. Eberhart used the corporate assets of his employer for purposes of his campaign which resulted in prohibited non-monetary corporate contributions; that Mr. Eberhart failed to disclose the non-monetary contributions of his employer; and that Mr. Eberhart received and failed to timely return a prohibited monetary contribution. The case came before the Commission for hearing on February 20, 2014. The Commission adopted staff's report in part, and found that Mr. Eberhart had used corporate resources of his employer, which resulted in prohibited corporate contributions, that he failed to disclose those contributions; and that he accepted and failed to timely return a prohibited monetary contribution. The Commission assessed civil penalties in the amount of \$2,884.25 and directed Mr. Eberhart to reimburse his employer \$384.25 – the fair market value of the resources used.

### 14-01-CD Donna Gilbert v. John Eberhart

The complaint was filed on February 5, 2014. Awaiting Commission action.

### 14-02-CD John E. Lewis v. Falemao Tosi

On March 14, 2014 the Commission approved a Consent Agreement entered into between Falemao Tosi and APOC Staff. In the complaint, Mr. Lewis alleged 15 violations of Alaska election laws and regulations. After investigation APOC Staff found 5 of the 15 counts were violations. In the Consent Agreement, Mr. Tosi admitted to 5 violations, agreed to pay a \$350 fine, reimburse a total of \$156.72 to a Limited Liability Company and a non-profit corporation and to attend APOC candidate training. Violations included use of corporate assets, use of a non-profit corporate asset, missing candidate public official financial disclosure information and various improper or missing “paid for by” disclaimers on campaign materials and internet websites.



## CANDIDATE AOS

### AO 14-01-CD - requested on behalf of the Parnell 2014 Campaign

The Parnell 2014 Campaign sought guidance regarding campaign activities permissible during the legislative session. The Commission advised that the campaign must take certain steps to insure that its staff are neither soliciting nor accepting campaign contributions from individuals in Juneau during the legislative session, and that so long as the campaign staff does not solicit or accept direct contributions in Juneau during the legislative session, the campaign would not be in violation of the law. (Commission decision on February 25, 2014)

### AO 14-02-CD was requested by Dan Coffey on behalf of the Coffey for Anchorage campaign

This advisory opinion concerned whether the Coffey for Anchorage campaign would be paying a commercially reasonable rate for rent and administrative services in accordance with 2 AAC 50.990(7)(C)(vii) if it entered into a proposed sublease and cost reimbursement agreement. The Commission determined that based on the facts presented, the Coffey for Anchorage campaign would not be receiving a prohibited contribution of facilities and services because the proposed sublease and cost reimbursement agreement is based on a commercially reasonable rate for rent and administrative services.

### AO 14-03-CD - requested on behalf of Senator and State Candidate Lesil McGuire

Senator Lesil McGuire, an incumbent legislator and a candidate for lieutenant governor in the 2014 state primary election, asked whether she is permitted to solicit and/or accept contributions for her campaign for lieutenant governor during the legislative session. The Commission advised that Senator McGuire cannot solicit or accept contributions for her campaign during a legislative session, in any location, more than 90 days immediately preceding the primary election. However, should the legislature be convened in the 90 days immediately preceding the primary election, Senator McGuire could then solicit and accept contributions for her campaign, provided it is done in a location other than the city where the session is held. (Commission decision on February 25, 2014)

### AO 14-05-CD – requested on behalf of the Byron Mallott for Governor Campaign

The Mallott campaign sought guidance regarding how gubernatorial candidates headquartered in Juneau may fundraise during the legislative session in light of AS 15.13.072(g) which precludes gubernatorial candidates from soliciting or accepting contributions in the capital city during the legislative session. The Commission held that the campaign must take all necessary steps to insure that it does not solicit or accept contributions from individuals in Juneau during the legislative session. If the campaign receives a contribution in Juneau during session or as a result of a prohibited solicitation, the contribution must be returned. (Commission decision on March 14, 2014)

### AO 14-06-CD – requested on behalf of the Byron Mallott for Governor Campaign

The Alaskans for Mallott campaign sought to clarify whether a political party is able to contribute up to \$200,000 per year to a joined campaign, minus any previous contributions made that year to either of the nominated candidates. The Commission held that should the nominated candidates for governor and lieutenant governor form a joined campaign after the primary election, a political party could donate up to \$200,000 per calendar year to the joined campaign, less any previous contributions made that year to the candidates. (Commission decision on March 14, 2014)



## RECENT GROUP ADVISORY OPINIONS AND COMPLAINTS

### AO 14-04-CD was requested by the Renewable Resources Foundation

This advisory opinion concerned whether the airing of a proposed television advertisement would result in a reporting or “paid for by” requirement under AS 15.13. The underlying issue raised was whether or not a Bristol Bay Fisheries “issues advertisement” could lose its non-regulated character because it is run near the time of a ballot initiative which impacts the Bristol Bay Fishery. The Commission determined that the proposed advertisement would not trigger any reporting or “paid for by” requirement because it does not mention the initiative, does not advocate any position on the initiative and is susceptible to interpretations other than an exhortation to vote for or against the initiative.

### ARE YOU A BALLOT PROPOSITION GROUP? PROTECT YOUR CONTRIBUTORS!

Did you know that any “Person” (this includes individuals, groups, corporations, labor organizations and any other organization or business) that contributes \$500 or more in the aggregate during a calendar year to your ballot proposition group is required to file a Statement of Contributions form within 30 days of making the contribution? Did you know that your \$500 contributors could receive a civil penalty of \$50 per day for each day their Statement of Contributions form is filed late? Do your contributors know this? They should; and you are the one that is in the best position to tell them about it and to protect them from incurring a penalty.

This is easy enough to do.

We suggest that each contributor be provided with a handout that states something like the following:

Warning: If you have given us \$500 or more during this calendar year you will be required to file a Statement of Contributions form with APOC. This form must be filed within 30 days of the date you reached \$500 or more in contributions to us and each time you contribute to us thereafter. The form must be filed electronically. You can find the form by following this path:

continued on the last page.....



### UPCOMING TRAINING OPPORTUNITIES FOR CANDIDATES

<u>Date</u>	<u>Location</u>	<u>Time</u>	<u>Details</u>
April 11, 2014	Anchorage or via Web	Noon-2pm	Candidate 101 Training
May 9, 2014	Anchorage or via Web	Noon-2pm	Candidate 101 Training
June 10, 2014	Anchorage or via Web	Noon-2pm	Candidate 101 Training

### INDEPENDENT EXPENDITURE TRAINING

<u>Date</u>	<u>Location</u>	<u>Time</u>	<u>Details</u>
April 9, 2014	Anchorage or Telephonic	5:30pm to 7:30pm	Independent Expenditure
April 10, 2014	Anchorage or Telephonic	Noon to 2pm	Independent Expenditure
April 11, 2014	Anchorage or Telephonic	3pm to 5pm	Independent Expenditure

### LOBBYIST REPORTING REMINDER

Lobbyists and Employers of Lobbyists both have reports due in April. For Lobbyists it's their March report. For Employers of Lobbyists it is their first quarter 2014 report.

For Employers getting ready to do their first quarterly report, remember that you need to have taken the annual ethics training (available online) before you submit your first report. To help newer Employers of Lobbyists understand some of the rudiments of their Quarterly reports, The "Schedule A" section is strictly for compensation paid to your lobbyist. This includes any travel related expenses that involved the lobbyist.

The "Schedule B" section is for activities that can be considered as being lobbying related activity, but not paid to your lobbyist. For example, if you flew employees to Juneau during the legislative session to meet with legislators you would put their airfare and hotel expenses in the "Outsourced Lobbying Cost" section of Schedule B. If you had an employee doing research on legislative or administrative action of interest to your organization, and they spent more than 10-hours in a calendar month doing it, you would pro-rate their time and report it in the "In-House Lobbying Cost" section of Schedule B. Other examples of common Schedule B expenses are legislative receptions or consultant fees.

As always, don't hesitate to call the Juneau APOC office if you have questions.



## MARK YOUR CALENDAR

Wednesday, April 30: March Lobbyist Reports Due, 1st Quarter Employer of Lobbyist Reports Due

Friday, May 16: The last day a candidate may accept contributions: 2014 Anchorage Municipal

Monday, May 26: Memorial Day, State of Alaska Holiday

Saturday, May 31: April 2014 Lobbyist Report Due

Wednesday, June 4: APOC Commission Meeting

Monday, June 30: Date by which candidates must disburse leftover campaign funds - 2014 Anchorage Municipal

Friday, July 4: Independence Day, State of Alaska Holiday

Tuesday, July 15: 105-Day Report Due - 2014 Anchorage Municipal

Friday, July 18: Last day candidates may give/loan their campaigns more than \$5,000 - 2014 State Primary Election

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Step by step path to the Statement of Contributions form.

1. Sign in to myAlaska
2. Under “services for individuals” click on “APOC – Disclosure Forms”
3. This will bring you to the “Welcome to APOC Forms Online” page.
4. On the Welcome page, click on the blue “here” found under the heading “Statement of Contributions Forms 15-5”
5. You will now be on a page with a big red button that says “start new form”. Click on it and the blank form will open up.

This is important: if you do not file the form or are late filing it, you could incur a civil penalty of up to \$50 per day for each day it is late.

If you have any questions about this, please do not hesitate to contact APOC Staff.