



ALASKA PUBLIC OFFICES COMMISSION

APRIL 2012

Anchorage APOC - 2221 E. Northern Lights Blvd.,
Room 128
Anchorage, AK 99508-4149
Phone: (907) 276-4176 Fax: (907) 276-7018

Juneau APOC- 240 Main St. Suite 500
P.O.Box 110222
Juneau, AK 99811
Phone: (907) 465-4864 Fax: (907) 465-4832

Happy spring everyone. With the change of season also comes a change of focus. As you know electronic filing is here and a reality. What we have found is that there is significant interest among the general public regarding electronic filing and how to search those reports. For APOC while there are still data entry chores to be accomplished, more time can be spent reviewing filings and auditing reports.

A series of recent presentations has made it clear that the public likes electronic filing and is interested in what is contained in the reports. The public is using the on-line system to see who is receiving contributions and more importantly where groups and PACs are sending their money. Who is receiving the money is important but it seems that where the money is coming from is even more important to the public viewing the filings. I have been asked if it is acceptable to have a particular group contribute to multiple candidates (there are numerous groups that do this). As long as the contributions are within the campaign contribution limits there is nothing wrong with a group, or an individual, contributing to multiple candidates, but the perception of that group or individual may change as more people are able to see where the multiple contributions are going.

APOC staff has been able to conduct more reviews of filings and is conducting more audits than in the past. This is good for a number of reasons. First, a review of filings can enable small issues to be corrected sooner and even before the filing deadline for those who submit reports early. APOC may ask for documentation of certain things. This is for your protection so when a

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member of the public calls and asks us about an item on your report (and the public does call) we can say that not only are we aware of the issue, but that it has been corrected and we have the documentation. This keeps potential complaints from being filed. Second, this leads to fewer issues being caught by the public. This is a good thing for everyone and also leads to fewer complaints, more transparency, and a greater level of trust from the general public. Finally, more and better audits are an educational experience and prevent errors from re-occurring in the future. This again leads to fewer complaints and fewer complaints is what we all want.

The sun is climbing higher in the sky. Enjoy the warmth of spring. As the campaigns heat up after the session ends be aware that the public is interested and has been very inquisitive regarding campaign reports so far this year and the public looks at the reports with a very critical eye.



CAMPAIGN PRIMER

Question: Will APOC fine me \$500 a day for a late campaign disclosure report?

Answer: The fines are considered civil penalties and are covered under AS 15.13.390. Briefly stated, a failure to file a properly completed and certified report on time for a year start report, 30 day report, and 105 day report, is subject to a maximum fine of \$50 per day for each day the report is late. A 7day or 24 hour report that is not submitted on time and not properly completed subjects the filer to a maximum fine of \$500 per day of delinquency. Is there a \$500 fine? YES. Is it applicable to every potentially late report? NO.

Question: What is the difference between an exemption and a waiver?

Answer: These two terms seem to be used interchangeably and should not be. Exemptions are covered under 2 AAC 50.286, 50.816, 50.821. Candidates for municipal office who do not intend to raise or spend more than \$5,000 may file for an exemption. Filing such a statement relieves the candidate from filing campaign disclosure reports with APOC, but that candidate must still comply with laws regarding contribution limits, who contributions may come from, and the use of campaign money. Candidates who exceed the \$5,000 limitation are required to file campaign disclosure reports. A waiver is something granted by the commission on a case by case basis. A waiver must be requested in writing and must address the issue to be waived providing a rationale to the commission for that request. See the mitigation criteria in 2AAC 50.865 for amplifying information.

Questions: What limitations are there on campaign contributions from lobbyists?

Answer: Lobbyists may only make contributions to legislative candidates for the district in which the lobbyist resides. Because lobbyists are required to report contributions to legislative candidates, you can expect them to know which district they are registered to vote in. If a lobbyist wants to contribute to your campaign, it is recommended that you ensure that s/he lives in your new district before accepting the contribution.



COMPLAINT SUMMARY

11-12-CD Alaskans for Bristol Bay Vote Yes on the Save Our Salmon Initiative v. Iliamna Natives Corporation and Lorene Anelon

On February 28, 2012, the Commission issued a Final Order Dismissing Complaint and accepting Staff's Supplemental Report. This case was essentially about member communications being identified under AS 15.13.090. After review of legislative and regulatory history the Commission agreed with staff that the legislature did not intend to apply AS 15.13.090 requirements to communications between a corporation and its shareholders or a union and its members. Accordingly, the complaint was dismissed.

11-13-CD Alaskans for Bristol Bay Vote Yes on the Save Our Salmon Initiative v. Alaska Peninsula Corporation

On February 28, 2012, the Commission issued a Final Order Dismissing Complaint and accepting Staff's Supplemental Report. This case was essentially about member communications being identified under AS 15.13.090. After review of legislative and regulatory history the Commission agreed with staff that the legislature did not intend to apply AS 15.13.090 requirements to communications between a corporation and its shareholders or a union and its members. Accordingly, the complaint was dismissed.

11-16-CD, APOC v Scott

The complaint alleges that Scott violated AS 15.13.100 because he failed to file either a letter of intent or a candidate registration before making political campaign expenditures. The evidence regarding this case was essentially undisputed. The Commission notes that the campaign expenditures in this case involved the sending of emailed press releases announcing Scott's candidacy. Although the costs of sending emails are often minimal, the Commission has considered such actions to be an expenditure under AS 15.13.400(6). See *Hancock v. Marquardt*, APOC 07-02-CD; and *Advisory Opinion 10-09-CD*. Accordingly, there has been a violation of AS 15.13.100. Mr. Scott was assessed a \$350 penalty, as he would be a first time filer, and is required to attend training within six months.

11-19-CD Craig Stark v. Lester C. Lunceford, individually and in his capacity as Real Estate/Dock Manager – Alaska Railroad Corp. Mayor – City of Whittier, Republican Incumbent

On March 1, 2012, the Commission issued a Final Order adopting Staff's Report. The City of Whittier was penalized \$1,400 for its violation of AS 15.13.145 and for failure to disclose its activities on a 15-6 Independent Expenditures report. The Alaska Railroad Corporation was dismissed from the case.

View complaints at <http://aws.state.ak.us/apocInterim/ViewCommissionComplaints.aspx>



RECENT ADVISORY OPIONIONS

AO 11-16-CD North Slope Borough

The use of municipal funds, i.e. use of resources and staff time, to speak with mayoral candidates is a use of public funds to influence an election, in violation of statute AS 15.13.145. There are no qualifying exceptions because the information was neither public nor nonpartisan. The expenditure was prohibited under campaign disclosure law. Generally, a municipality can hold public candidate forums, so long as all candidates are invited to participate at the same event and the event is open to the general public.

AO 11-18-CD Tichotsky

A Deputy Treasurer of the George Ahmaogak Campaign has asked whether their campaign website, post election, can include an appeal to the public to contribute to an independent legal fund. The George Ahmaogak Campaign may use the unused campaign contributions to seek donations for an independent legal fund under AS 15.13.116(a)(6) which allows candidates holding unused campaign contributions to establish a legal fund.

AO 12-01-CD Representative Gardner

The deadline for spending or disbursing POET account funds is the legislator's last day of term as provided in AS 24.05.080. These funds may be disbursed in a manner consistent with those provided for the POET Reserve (under AS 15.13.116(a)(2), (3), or (5)) since both accounts serve the same legislative purposes. Funds may not be disbursed until the end of the term.

AO 12-02-CD Shelley Hughes

The use of a website address should not be used as a substitute for the requirement for a person's name under AS 15.13.090. The designation of a website as the name identifier does not meet the requirements of AS 15.13.090. Different fonts may be used in a paid for by identifier as long as the font is visible and of sufficient size to be read by a viewer.

AO 12-03-CD City of Cordova

Cortney Kitchen, representing the City of Cordova, requested an advisory opinion on whether the City of Cordova must file an independent expenditures statement for a letter Mayor Jim Kallander planned to publish in the Cordova Times supporting City Ordinance 1088. Under Alaska Statute 15.13.145(b), money held by the City of Cordova cannot be used to influence the outcome of City Ordinance 1088 unless the city makes a prior appropriation of city funds for that purpose. Here, the mayor created the letter from his own home using his own supplies and computer equipment. The facts provided show that the City of Cordova did not use money held to influence the outcome of an election so there was no need for prior appropriation or disclosure to APOC.



LOBBYING UPDATE

TRAINING:

AS 24.45.031(a)(6) requires APOC to administer an annually updated ethics and compliance training course to both lobbyists and employers of lobbyists. The training covers the requirements of the lobbying law (AS 24.45), answers commonly asked questions and provides information that promotes adherence to high ethical standards. Please note you must re-take the training every year to be in compliance.

All registered lobbyists must complete ethics training prior to registering. AS 24.45.041(b)(8). The lobbyist registration form requires a lobbyist to certify he or she has completed the Commission's ethics training course within the past 12 months. Representational lobbyists are exempt from the training requirement.

Employers of lobbyists must complete the ethics training prior to submitting their first quarterly employer of lobbyist report. Employers of lobbyists should ensure at least one person in their agency completes the Commission's ethics training, although broader participation is encouraged. At a minimum, the person responsible for preparing and signing employer of lobbyist reports must complete the training course.

CAMPAIGN:

Lobbyists are only allowed to contribute to a candidate for the legislature in a district in which the lobbyist is registered to vote. This prohibition is valid for one year after the date of the lobbyist's registration or its renewal AS 15.13.074(g). Because of the redistricting plan, please check to make sure that the candidate you are contributing to is the candidate certified to campaign in your district.

A Form 15-5A must be filed with APOC within 30 days of a contribution to a legislative candidate by a lobbyist.

Lobbyists may NOT serve as a campaign manager or director, campaign treasurer or deputy treasurer on a finance or fund-raising committee, host a fund-raising event, directly or indirectly collect contributions for, or deliver contributions to a candidate or otherwise engage in the fund-raising activity of a legislative campaign or campaign for governor or lieutenant governor. AS 24.45.121

RELEVANT CAMPAIGN ADVISORY OPINIONS: Pearce/Williams 1994, Gravo 1994, AO 06-04-LOB, and AO 11-14-CD

<http://doa.alaska.gov/apoc/Advisory/>

Also see: AS 24.45.121(a)(8) and AS 15.13.074(g)

APOC TRIVIA:

In what year did Alaska first pass law regarding the regulation of lobbying?

- a.) 1973
- b.) 1959
- c.) 1913
- d.) 1867

... answer is at the bottom of last page



MARK YOUR CALENDAR

Monday, April 2, 2012, Lobbyist February 2012 Reports Due.

Tuesday, April 10, 2012, Initiative Proposal Application Group 1st Quarter Report Deadline.

Friday, April 13, 2012, Electronic Filing for Groups training, email vullnet.greva@alaska.gov for more information.

Friday, April 20, 2012, Candidate 101 Training from noon to 2PM, email martha.tansik@alaska.gov for more information.

Friday, April 27, 2012, Electronic Filing for Candidates training, email martha.tansik@alaska.gov for more information.

Monday, April 30, 2012 Lobbyist March Reports Due.

Monday, April 30, 2012 1st Quarter 2012 Employer of Lobbyist Reports Due

Friday, May 18, 2012, (45 days after the date of the Anchorage Municipal Election)
The last day a candidate may accept contributions.

Friday, May 18, 2012, How to file group reports through myAlaska and review of basic group requirements, noon to 2PM in the Anchorage APOC office or online via Gotomeeting.

Monday, May 31, 2012, Lobbyist April 2012 Reports Due.

Monday, July 2, 2012 (90 days after the date of the Anchorage Municipal Election)
The date by which candidates must distribute the amount held in their campaign account.

Friday, July 27, 2012 (33 days prior to the date of the Primary Election)
The last day that a candidate may give or loan their campaign more than \$5000.

TRIVIA ANSWER:

The first law passed in Alaska intended to regulate lobbying was passed by the Alaska Territorial Legislature in 1913. Chapter 43 of the Session Laws of 1913 required lobbyists to register with the secretary of the Territory. The lobbyist as well as the employer of the lobbyist were required to report compensation paid to the lobbyist, any other expenses incurred toward the goal of lobbying, as well as the subject matter to which the employment related.