

IN THE UNITED STATES DISTRICT COURT	
FOR THE DISTRICT OF ALASKA	
ROBERT GRIFFIN, STANLEY ALLEN VEZEY, TREVOR SHAW, FAMILIES OF THE LAST FRONTIER, AND THE ALASKA FREE MARKET COALITION, Plaintiffs, v. RICHARD STILLIE JR., <i>in his official capacity as chair of the Alaska Public Offices Commission</i>; AND LANETTE BLODGETT, ERIC FEIGE, DAN LASOTA, AND WALTER CARLTON MONEGAN III, <i>in their official capacities as members of the Alaska Public Offices Commission</i>, Defendants, v. ALASKANS FOR BETTER ELECTIONS, INC., Intervenor-Defendants.	Case No. 3:22-cv-00077 Reply to Defendants’ Opposition to Plaintiffs’ Motion for Summary Judgment

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Introduction

“The First Amendment does not permit laws that force speakers to retain a campaign finance attorney. . . . before discussing the most salient political issues of our day.” *Citizens United*, 558 U.S. 310, 324 (2010). Defendants’ repeated, albeit unintentional, misstatements and contradictions regarding the basic facts of Ballot Measure 2 (BM2) are evidence that even the most experienced campaign finance attorneys in Alaska do not understand what this law does and does not censor.

Defendants’ justification for BM2’s so-called disclaimer derides Americans as “outsiders” and equates them with “foreigners” trying to influence domestic political elections—an argument incompatible with the Constitution and the First Amendment. The Alaska Public Offices Commission did, in fact, demand that a church dox its tithers, because BM2 obligated it to do so. Defendants’ new claim that BM2 does not apply to radio and text message ads contradicts what the Commission explicitly told Plaintiff Families of the Last Frontier. Defendants’ assertions regarding expedited hearings are not accurate, and their opposition brief contains several more serious misstatements of fact and law. Lastly, Defendants’ eleventh-hour pleadings arguments are frivolous.

Plaintiffs want to be clear: they do not believe Defendants are acting in bad faith. Defendants are only making misstatements of law and fact because they cannot fairly interpret Ballot Measure 2. And that is not because they are bad attorneys, but because the censorship law is so confusing, so contradictory, and so deliberately vague that no one can adequately explain or justify it.

ARGUMENT

I. Defendants’ Justification for the Out-of-State Disclaimer Violates Supreme Court Precedent and Wrongly Equates the American Plaintiffs to “Foreigners” Trying to Influence Domestic Elections

Defendants refer to fellow Americans as “outsiders” and equate them with “foreigners” trying to influence domestic political elections. This justification for censorship is not compliant with the Constitution or the First Amendment.

“[R]estrictions distinguishing among different speakers, allowing speech by some but not others,” are “[p]rohibited” under the First Amendment. *Citizens United*, 558 U.S. at 340. The Supreme Court has stated unequivocally that there is “no basis for the proposition that, in the context of political speech, the Government may impose restrictions on certain disfavored speakers.” *Id.* at 341.

BM2 is not a commercial regulation: It is a restriction on political speech. It requires independent expenditure (IE) groups that have significant donations coming from outside Alaska (even if the group itself is Alaskan) to run a lengthy disclaimer, but does not require a corresponding disclaimer for groups that have majority internal-to-Alaska donors (even when those groups themselves are not based in Alaska). *See* 2 AAC 50.888(g). This is exactly what Supreme Court precedent—and the First Amendment—categorically prohibits.

Defendants respond by saying that Plaintiffs and similarly situated groups are “outsiders” and it should not be “suspect for citizens of a body politic to look with skepticism on attempts by outsiders to influence their governance.” Dkt. 166, pp. 20–21. It then compares Plaintiffs’ political advocacy to “campaign contributions by

foreigners,” saying BM2 is a relatively lesser burden than the outright ban on foreign nationals influencing domestic elections. *Id.* at 21.

Plaintiffs do not cite any case law for the claim that non-Alaskans are somehow equivalent to “foreigners,” or that they can have their First Amendment rights restricted. This is because no precedent supports such an assertion. The Fourteenth Amendment guarantees all citizens equal protection under the law, and the Supreme Court recognizes that “in the context of political speech, the Government may” never “impose restrictions on certain disfavored speakers.” *Citizens United*, 558 U.S. at 341. “[I]t is inherent in the nature of the political process that voters must be free to obtain information from *diverse sources* in order to determine how to cast their votes.” *Id.* (emphasis added). “The Government may not by these means deprive the public of the right and privilege to determine for itself what speech and speakers are worthy of consideration. The First Amendment protects speech *and speaker*, and the ideas that flow from each.” *Id.* (emphasis added).

Elsewhere, Plaintiffs discuss the racial and religious implications of BM2, but even outside that context, the codification of Defendants’ “foreigner” slur against non-Alaskans is not compatible with the First Amendment. Under exacting scrutiny, a law must be “narrowly tailored” to a “sufficiently important interest.” *Smith v. Helzer*, 95 F.4th 1207, 1214 (9th Cir. 2024). Hostility to fellow Americans is not a “sufficiently important interest,” and even if it was, the Court has already stated that differentiating between different speakers in the political speech context is not narrow tailoring. *Id.*

If the Court and the Constitution were to hold that such hostility to American “outsiders” was a sufficient government interest, there is no reason for such a holding that would be limited to the boundaries of states. If there is an informational interest in requiring disclosure of donors from certain (but not all) states, there is no reason there would not be an informational interest in requiring disclosure of donors from certain (but not all) districts. Would it be permissible to require a disclaimer only from those IE groups whose donors are located within Anchorage, or only donors who are located outside Anchorage? Saying Americans may be constitutionally ostracized from any one state’s elections is like saying that someone who commutes from the Mat-Su Valley to Anchorage every day may have their political voice silenced during the election for Anchorage Assembly. While the commuter has no vote, they have a voice.

The Court and the Constitution are right to view frivolous informational interests in detecting “outsiders” as “suspect,” Dkt. 166, p. 20, and insufficient to outweigh a speakers’ First Amendment rights.

II. The Commission *Did* Demand a Church Dox its Tithers, Because Ballot Measure 2’s Vague Provisions and Sweeping Scope Necessitate Civil Rights Violations

Defendants deny that the Commission demanded the identities of tithers to a church. But it happened, and the fact that it happened demonstrates how BM2 inherently suppressed even the most protected forms of speech.

“[A] law targeting religious beliefs as such is never permissible,” and “if the object of a law is to infringe upon or restrict practices because of their religious motivation, the law is not neutral, and it is invalid unless it is justified by a

compelling interest and is narrowly tailored to advance that interest.” *Church of Lukumi Babalu Aye v. City of Hialeah*, 508 U.S. 520, 533 (1993) (internal citations removed).

When promoting BM2, Defendant-Intervenor attacked the religion of the “radical voters” it wanted to silence, Dkt. 168, Ex. A, p. 4, arguing they did not follow the true “teachings of Jesus Christ.” Dkt. 168, Ex. B, p. 1. Within months of BM2 going into effect, Defendant-Intervenor filed a complaint to have the Commission audit a church. *See* Dkt. 133, Ex. 73 (the Defendant-Intervenor complaint). The Commission demanded that the church provide its “bank records (including all cancelled checks)” for an eight-month period, a request that would necessitate revealing the identity of its tithers. Dkt. 133, Ex. 72, pp. 4–5. Defendants were fully aware of the First Amendment implications of this demand, as an attorney cooperating with the investigation explained that the church’s parishioners “[had] First Amendment rights to free exercise of religion, free speech, and free association that APOC’s requests burden and threaten to impinge.” *Id.* at 5. The Commission concluded Defendant-Intervenor’s accusation against the church was baseless, but it did nothing to compensate the church for such an improper demand. *See* Dkt. 133, Ex. 74. As the Commission conceded in its deposition, it lacked the “discretion to consider compliance burdens.” Dkt. 112-3, p. 24.

Defendants deny all of this, including Defendant-Intervenor’s role. But it is all documented in Plaintiffs’ exhibits, which demonstrate that BM2 is an unconstitutional violation of the free speech clause of the First Amendment because

it is a political speech restriction that (1) was designed to target religious beliefs, (2) functions to suppress religious practices, and (3) cannot be prevented, even by Defendants, from being weaponized to target religious beliefs. *See id.*

III. Defendants' New Claim that Ballot Measure 2 Does Not Apply to Radio and Text Message Ads Contradicts What the Commission Explicitly Told Plaintiff Families of the Last Frontier

For the first time, Defendants claim in their opposition brief that BM2's disclaimer requirement does not apply to radio or text messaging ads. This contradicts not just the text of the law, but also their own written response to Plaintiff Families of the Last Frontier (FLF).

After BM2's enactment, Plaintiff FLF presented the following disclaimer to the Commission for preclearance in an ad for "radio or streaming audio only":

This communication was paid for by Families of the Last Frontier. Top three contributors are RSLC, GOPAC, and Artic [sic] E&P. A majority of contributions to Families of the Last Frontier came from outside the state of Alaska. This notice to voters is required by Alaska law, we certify that this ad is not authorized, paid for, or approved by the candidate.

Ex. A, p. 4.

The Commission responded that Plaintiff FLF "need[ed] to include the City and State of residence or principal place of business for your largest contributors (RSLC, GOPAC, and E&P) in the paid for by identifier" and "need[ed] to include the name and title of the Families of the Last Frontier's principal officer and a statement from the principal officer approving the message." *Id.* at p. 3.

Plaintiff then asked: "It seems like the only difference is that the address for Families does not need to be included. Is that correct?" *Id.* at p. 2. After the

Commission did not initially answer directly, Plaintiff pressed the point, asking the Commission to “confirm for radio” to “make sure we are in compliance.” *Id.* at 1. The Commission replied that “The Name of the group (Families of the Last Frontier) would also have to include is [sic] address or principal place of business in the radio ad.” *Id.*

A similar occurrence happened when a separate IE group asked for preclearance of its text messaging ad. The Commission nixed the group’s ad until its disclaimer read:

Paid for by Keep It Alaska. Approved by Keep It Alaska Chairman Joel Borgquist. All donors live in Alaska!

Top contributors are NAME (Anchorage, AK), NAME (Anchorage, AK), NAME (Anchorage, AK)

This NOTICE TO VOTERS is required by Alaska law. We certify that this ad is not authorized, paid for, or approved by the candidate.

PO Box 772081, Eagle River, AK 99577.”

Dkt. 133-62, p. 2.

The group then requested permission to include the disclaimer in an attached graphic, rather than paying to include it in the text message (which would presumably exceed the text message’s character limit). *Id.* The Commission refused to allow that, saying “it would be **best practice** to place the disclaimer on both the image and the text.” *Id.* at 1 (emphasis in original).

Plaintiffs’ expert witness, Art Hackney, recorded the disclaimer of FLF (complete with FLF’s address) and provided it to Defendants. *See* Dkt. 133-2. In their motion for summary judgment, Defendants asserted that the radio ad disclaimer requirement had been “in place since 2010.” Dkt. 131, p. 7, 25. Plaintiffs’ opposition

brief explained that this was factually inaccurate, as prior to BM2, Alaska law excluded radio advertisements from most of its disclaimer law “so as not to burden the ‘core political speech that lies at the heart of the First Amendment.’” Dkt. 168, p. 3 (quoting *Butcher v. Knudsen*, 38 F.4th 1163, 1165 (9th Cir. 2022)).

Now, in their response to Plaintiffs’ motion for summary judgment, Defendants for the first time claim that “BM2’s ‘out-of-state’ contribution disclaimer is not required in a radio ad” and is only mandated for “print or video” advertising (not text messaging). Dkt. 166, p. 3. They also insist that addresses do not need to be included. *Id.* Defendants’ claim rests solely on the line in AS 15.13.090(d) ambiguously stating that “[n]otwithstanding the requirements of (a) of this section,” an ad via “radio or other audio media” should have the following disclaimer: “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)).” However, (a)(2)(c) specifically requires “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,” and AS 15.13.090(a)(2)(g) says that to comply with “(a)(2)(c)” a speaker must also state “A MAJORITY OF CONTRIBUTIONS TO (OUTSIDE-FUNDED ENTITY'S NAME) CAME FROM OUTSIDE THE STATE OF ALASKA.”

If Defendants’ tortured new interpretation is to be believed, why did the Commission explicitly tell Plaintiff to include the “‘out-of-state’ contribution

disclaimer” that Defendants now disavow? And why did it tell an IE group “to place the [full] disclaimer on both the image and the text” of a text message ad? Dkt. 133-62, p. 2. There is one reason only: BM2 is so vague, so ambiguous, and so contradictory that five years since enactment, even the people tasked with enforcing it still cannot ascertain its meaning.

IV. Defendants’ Assertions Regarding Expedited Hearings Are Not Accurate

Defendants state that Plaintiffs “misread the laws governing expedited hearings.” Dkt. 166, p. 3. But Plaintiffs have described the laws accurately, and given a detailed accounting of how said laws were weaponized against them and others.

2 AAC 50.888 states that “[t]he commission will” hold a “hearing on the request for expedited consideration” and “announce its decision on a request to expedite consideration on the record at the hearing.” Furthermore, it states that when giving notice, “the commission will state that, if the commission grants expedited consideration, the commission may hear the complaint immediately after issuing its order to expedite consideration.” *Id.* In accordance with this statute, Plaintiff FLF was subjected to an expedited hearing notice just a few *hours* before its start time in the final days before an election. *See* Dkt. 112-4, p. 19–20. When Plaintiffs asked in deposition about this process violation, the Commission stated that it lacked any discretion not to hold such a hearing on such a short time frame, and added that the Commission had the power to then hold a second, final adjudication “within another two days” (which would be even closer to the election). *Id.* at 20. The Commission

also added that “staff doesn’t really consider the irreparable harm at all” when scheduling its hearing. *Id.*

To argue that Plaintiffs’ characterization of the law is not accurate, Defendants misleadingly note “AS 15.13.380(c) provides that ‘the commission shall grant or deny the request for expedited consideration’ within two days after receiving it.” But this refers to the second, *final* hearing, not the first expedited hearing. In fact, two back-to-back hearings in 48 hours is an even more massive burden, especially when the schedulers refuse to “consider the irreparable harm at all.” Dkt. 112-4, p. 20. When Defendants say that they are not “legally obligated to hold a hearing on a complaint within twenty-four hours’ whenever a complainant requests expedited consideration,” Dkt. 166, p. 25 (quoting Dkt. 157, p. 37), this is only true insofar as it applies to the final hearing (which can be within 24 hours plus two days). *See* 2 AAC 50.888. The initial expedited hearing must indeed be within 24 hours. *See id.*; Dkt. 112-4, p. 19–20.

Defendants also defend the expedited hearing requirement because Plaintiffs do not show “that FLF was unable to defend itself or wrongly penalized.” Dkt. 166, p. 26. But Plaintiff did not object that it was unable to defend itself or that it was wrongly penalized: it objected that it was burdened because “the expedited hearing format gives the Commission zero discretion in blocking bad faith actors from filing frivolous complaints just to waste an opponent’s valuable time just before the election.” Dkt. 133, p. 30. Defendants do not dispute this point: they just ignore it.

Lastly, Defendants object to Plaintiffs criticism of charging the victims of frivolous complaints for transcripts because they could opt not to receive one. Dkt. 166, p. 4. However, since the transcript is of paramount importance for the follow-up hearing (which can be within two days), Defendants fail to explain why refusing said transcript is not an option. *See id.*

Defendants' claims about the expedited hearing procedure are wrong. It does exist, it is part of BM2, and it does burden the Plaintiff.

V. Defendants Misstate What *Citizens United* Said About Disclaimers

In defending their disclaimer requirement, Defendants misstate the holding of *Citizens United*.

In *Citizens United*, the Court held that when disclosure requirements “do not prevent anyone from speaking,” they are subject to “exacting” (not strict) scrutiny. *Citizens United*, 558 U.S. at 366. The Court then upheld a disclaimer mandate that lasted “four seconds.” *Id.* at 366. Here, Plaintiffs explained that BM2’s disclaimer requirement (unlike the one in *Citizens United*) *does* prevent people from speaking, because it is so lengthy as to prohibit short-form versions of radio and text messaging ads (it takes up roughly thirty seconds). *Supra* III. Even under exacting scrutiny, Plaintiffs explain that the law cannot survive, because it is neither substantially related to a government interest nor narrowly tailored to minimize the free speech burden. *See* Dkt. 133, p. 21–25.

Defendants insist BM2’s ad is equivalent to the one in *Citizens United* because “[a]ny political disclaimer law could be relabeled as ‘a functional ban’ on ads lacking the required disclaimer (or ads shorter or smaller than the required disclaimer).”

Dkt. 166, p. 9. This assertion lacks any limiting principle: under its logic, a state could prohibit all electioneering by mandating twenty-hour hours of disclaimer precede each ad. This Court should instead follow the text of *Citizens United*. A four-second ad does not realistically stop someone “from speaking,” but a thirty-second, roughly 250-character ad disclaimer does. *Citizens United*, 558 U.S. at 366.

VI. Defendants’ Defense of Onerous Penalties Highlights Ballot Measure 2’s Subjectivity—and Contradicts their Earlier Claims.

Defendants’ opposition demonstrates how BM2 gives vast, subjective, and arbitrary discretion to politicians over how to punish core political speech.

A. The discretion Defendants praise illustrates why Ballot Measure 2’s penalties are unconstitutional.

“[L]aws must provide proper ‘precision and guidance’ to ensure that ‘those enforcing the law do not act in an arbitrary or discriminatory way.’” *Butcher*, 38 F.4th at 1168 (quoting *FCC v. Fox Television Stations, Inc.*, 567 U.S. 239, 253 (2012)). “When laws fail to ‘provide explicit standards for those who apply them,’” they “impermissibly delegate basic policy matters for resolution on an ad hoc and subjective basis.” *Butcher*, 38 F.4th at 1169 (quoting *Grayned v. Cty. of Rockford*, 408 U.S. 104, 108–09 (1972)). This is especially true for strict liability penalties, which are “generally disfavored in criminal law, particularly with respect to cases that implicate the First Amendment.” *United States v. Sheehan*, 512 F.3d 621, 629 (D.C. Cir. 2013).

Defendants boast that they reduced “\$10,000 in fines” for Defendant-Intervenor’s witness Kimberly Hays and her group’s donor to a mere \$300. Dkt. 166, p. 15 (quoting Dkt. 133, p. 20). This is not, however, something to be proud of. A law

that gives political figures the ability to choose between \$10,000 and \$300 in fines for strict liability offenses is not one that provides “proper ‘precision and guidance,’” *Butcher*, 38 F.4th at 1168 (quoting *FCC*, 567 U.S. at 253), but rather one that leaves Americans “at the mercy of *noblesse oblige*,” which the Supreme Court has explicitly held inconsistent with the principles of the First Amendment. *United States v. Stevens*, 559 U.S. 460, 480 (2010).

Defendants promise that, despite being political appointees, they can resist “bias in proposing penalties,” because Alaska law has “safeguards” that prevents them from “engag[ing] in political activities.” Dkt. 166, p. 27. But just months ago, Defendants argued to this Court, successfully, that their communications with each other, including on matters of imposing penalties, are protected under the “deliberative process” privilege for political, rulemaking bodies. Dkt. 116, p. 4. Defendants are not judges, but politicians, and the Constitution does not give politicians the power to impose arbitrary penalties for political speech, even if they “promise to use it responsibly.” *Stevens*, 559 U.S. at 480.

B. Everything Plaintiffs said about the \$156,000 fines was accurate, and the context makes it even worse.

Contrasting with the incredible mercy Defendant-Intervenor bestowed upon one of the top funders of BM2 when he ran afoul of the law, *see* Dkt. 133, Ex. 80, p. 36 ¶¶ 10–11, Defendants imposed staggering penalties on a group that opposed BM2. *See* Dkt. 133, p. 6. Defendants now claim Plaintiffs are “wrong” on this point, Dkt. 166, p. 4, but Plaintiffs are correct, and the series of events shows how easy it is for even

good faith actors to use BM2 to seriously harm people for engaging in core political speech.

When Phil Izon reached out to the Commission to get clarification on how to register his ballot initiative group (which sought to repeal BM2), he was told he did not need to register. Dkt. 133, Ex. 63. 114 days later, the Commission informed him what it had said was “inaccurate,” adding: “It does not appear that you corrected [staff’s] understanding.” Dkt. 133, Ex. 64. Izon then “spent all weekend compiling the total costs” and attempting to come into compliance, but was still confused by BM2’s contradictory requirements and asked for Defendants to “please be patient.” Dkt. 133, Ex. 66, p. 1. But Defendants were not patient. After Defendant-Intervenor filed a complaint against his group, they imposed \$1,600 in fines, finding that Izon’s attempt to backfill the four months of missing records had contained (inadvertent) errors. Ex. B, pp. 1, 4–6. In addition, Defendants ordered the group to issue new, corrected filings—even though the legitimacy of the previous ones were being litigated on appeal in Alaskan court. Ex. C, pp. 5, 8. When the group and its leader failed to do so (instead pursuing their claim in court), Defendants branded them repeat offenders and imposed the “maximum statutory penalties,” which exceeded \$156,000. *Id.* at 8, 24. Even Defendant-Intervenor had objected to this, saying that this “imposition of completely un-mitigated penalties could be seen as leading to the imposition of disproportional civil penalties with respect to these violations.” Dkt. 118-1, pp. 3, 17.

The Commission's \$156,000 penalty against a group opposing BM2 stemmed directly from it giving Phil Izon bad advice when he asked for help, and then denying him "the mercy of *noblesse oblige*" that they gave to Defendant-Intervenor's expert witness. *Stevens*, 559 U.S. at 480.

VII. Defendants' Opposition Brief Contains Additional Misstatements of Material Fact

Defendants' opposition brief contains several more serious misstatements of fact and law. Each misstatement underscores how impossible it is to fairly enforce BM2.

A. Defendants severely mischaracterize Plaintiff Trevor Shaw's testimony.

Contrary to what Defendants state, Plaintiff Trevor Shaw did *not* testify that Plaintiff Alaskan Free Market Coalition (AFMC) "had no external 'donors' to worry about." Dkt. 166, p. 14 (quoting Dkt. 133, Ex. 79, p. 9). AFMC did have external donors who were directly affected by the true source requirement.

Plaintiff Trevor Shaw explained that Plaintiff AFMC's donors were "[a]lmost exclusively" himself and the corporation Connect Solutions, which he explained was a "partnership" and "holding company" with the "partners in other business entities." Dkt. 133, Ex. 79, pp. 5, 13, 9. Under BM2's true source requirement, a non-descript corporation that functions as a "partnership" and a "holding company" would not be considered a "true source" of funds, but rather an "intermediar[y]." AS § 15.13.040. This means that investors/donors to Connect Solutions could indeed be doxed under BM2, and their contributors could have their names read out on air. *See id.*; 2 AAC 50.888(g).

Furthermore, Plaintiff Shaw explained in deposition that the Republican State Leadership Committee, GOPAC, and other unnamed “[n]ational donors” were “would-be donor[s]” that would have given to Plaintiff AFMC but for BM2. Dkt. 133, Ex. 79, p. 9.

Defendants’ assertions regarding Plaintiff Shaw’s testimony (and thus Plaintiff AFMC’s injury) are verifiably false.

B. The Commission did fine someone for a donation Defendants knew he did not make, and Defendants violate res judicata to argue otherwise.

The Commission *did* knowingly fine someone for a donation that Defendants knew he did not make, and a court has already ruled on this matter. Defendants’ attempt to relitigate the issue here violates the doctrine of res judicata and obfuscates how no one can fairly enforce BM2.

Under res judicata, “a final judgment on the merits of an action precludes the parties or their privies from relitigating issues that were or could have been raised in that action.” *Allen v. McCurry*, 449 U.S. 90, 94 (1980). “[F]ederal courts lack jurisdiction over lawsuits brought by parties who received adverse judgments in state courts and then turn to federal courts seeking ‘review and rejection of’ those judgments,” even if the claim is a collateral attack on a state court decision that is still being appealed. *T.M. v. Univ. of Md. Med. Sys. Corp.*, 2026 U.S. LEXIS 2557, *10 (2026).

In *Alaskans for Honest Elections v. Alaska Pub. Offs. Comm’n*, which Plaintiffs quoted from, an Alaska state court found that the Commission fined someone for a donation Defendants knew he did not make. 2024 Alas. Trial Order LEXIS 84, *28

(Alaska Super. Ct. 2024) (“APOC appeared to understand that the \$2358 in cash was not actually from Mathias, but elected to call it a wash and attribute that amount to Mathias”). This finding is relevant to this case because it demonstrates that even good faith actors like Defendants cannot enforce BM2 in a fair or consistent manner.

Defendants state that Plaintiffs “misrepresent” what happened, but do not dispute Plaintiffs’ summary of the court’s finding. Dkt. 169, p. 27. Instead, they argue that the Alaska court was wrong, and again attempt to relitigate the facts in that case. *See id.* at 27–28. That is not allowed. Defendants are free to run out the appellate process in Alaskan state court, but they may not collaterally attack the legitimacy of a state court’s factual findings in parallel federal litigation, nor may they direct this Court to ignore the state court’s factual findings. *See T.M.*, 2026 U.S. LEXIS 2557, at *10 (2026).

C. The racial appeals Defendant-Intervenor used to impose Ballot Measure 2 were not about ranked-choice voting.

Defendants are mistaken when they tell the Court that the racial appeals Plaintiffs highlighted as evidence of the law’s invidious discrimination were about “other election reforms” like ranked-choice voting, not “disclosure laws.”

When there is “record evidence of invidious discrimination,” *Buckley v. Valeo*, 424 U.S. 1, 31 (1976), a campaign finance regulation can only be sustained if the government shows a “compelling interest” and demonstrates there is no “less restrictive means” available. *Free Speech Coal., Inc. v. Paxton*, 606 U.S. 461, 469 (2025) (articulating the strict scrutiny standard). In the campaign finance

context, allegations of “race-based motives” necessitate “invidious discrimination” analysis. *Moving Oxnard Forward, Inc. v. Lopez*, 2026 U.S. App. LEXIS 11429, *42, *45 (9th Cir. 2026).

Plaintiffs produced mountains of evidence demonstrating that the purpose of BM2 was to disfavor certain political factions, and this focus was inextricably intertwined with racist objectives. *See* Dkt. 133. Defendants ask this Court to ignore this evidence, saying Defendant-Intervenor’s statements pertained to the ranked-choice voting rules imposed under BM2, not the censorship provisions.¹ Dkt. 166, p. 8. But that is just not true, as the extensive documentation Plaintiffs produced demonstrates. *See* Dkt. 133. For example, the line about preferencing Alaskan “breed[s]” says BM2 will prevent “nosy Outsiders trying to tell us what to do.” Dkt. 133, Ex. 15, p. 2. This clearly has nothing to do with ranked-choice voting, but instead pertains to electioneering: one can “tell” someone who to vote for regardless of whether the race is ranked-choice or first-past-the-post, but they cannot “tell” them if their ad is functionally banned. *Id.* Similarly, Dkt. 133, Ex. 37, which states BM2 is necessary to increase Native “power,” is reciting the same talking point on how political speech caused “budget crises” that was expounded upon in Dkt. 133, Ex. 12 (explaining “the recent primary provide[d] a stark illustration of why change is needed” because “donors funneled hundreds of thousands of dollars into personal attack ads against a handful of incumbents” to “increas[e] enthusiasm among the party’s most radical voters”).

¹ To be clear, invidious discrimination is also not a permissible justification for changing the electoral process. *See Moving Oxnard*, 2026 U.S. App. LEXIS 11429 at *42, *45.

Defendants also claim that the recent en banc opinion in *Moving Oxnard Forward v. Lopez* (issued after Plaintiffs’ motion for summary judgment) “soundly reject[s]” Plaintiffs’ invidious discrimination claims. 2026 U.S. App. LEXIS 11429. It does nothing of the sort.

Firstly, invidious discrimination in campaign finance has been prohibited by, and subject to strict scrutiny under, the precedent of *Buckley v. Valeo*, which the Ninth Circuit could not overturn if it wanted to. See *Buckley*, 424 U.S. at 31. Secondly, *Moving Oxnard* explicitly held that in the campaign finance context, allegations of “race-based motives” necessitated “invidious discrimination” analysis. 2026 U.S. App. LEXIS 11429 at *42, *45. Thirdly, *Moving Oxnard* also emphasized that when analyzing “invidious discrimination” of all kinds, “invidious restraints on speech,” such as limits on advertising, are held to a higher standard than “campaign contribution limits” (which were what was litigated in that case). *Id.* at *47–48. Fourthly, *Moving Oxnard* ruled against plaintiffs because they did not brief their invidious discrimination claims at the district court level, something Plaintiffs are doing here. *Id.* at *45. Finally, *Moving Oxnard* dealt with authors of a ballot measure secretly having a purpose of invidious discrimination that voters were unaware of, whereas Defendant-Intervenor made such discrimination a centerpiece of its ballot measure campaign. *Id.*

Regardless, even if BM2 was not subject to strict scrutiny under *Buckley*, exacting scrutiny still requires censorship laws to serve a “sufficiently important

interest,” and invidious discrimination has never been held to be sufficiently important. *Smith*, 95 F.4th 1207, 1214 (9th Cir. 2024).

VIII. Defendants’ Pleadings Arguments are Frivolous

Defendants’ pleadings objections largely mirror Defendant-Intervenor’s and are thus addressed in Plaintiff’s forthcoming reply to that party’s brief. However, two additional arguments raised only by Defendants are addressed here.

A. Plaintiffs adequately plead the mens rea issue, and this issue was already litigated at the Ninth Circuit.

Defendants also claim that this Court should not consider BM2’s strict liability. But the mens rea of BM2 is inherent to the injury that Plaintiffs have pled, and this issue was already litigated up to the Ninth Circuit.

“Federal pleading rules call for ‘a short and plain statement of the claim showing that the pleader is entitled to relief,’ Fed. Rule Civ. Proc. 8(a)(2); they do not countenance dismissal of a complaint for imperfect statement of the legal theory supporting the claim asserted.” *Johnson v. City of Shelby*, 574 U.S. 10, 11 (2014) (per curiam). Pleading should be “concise and direct,” and “must be construed so as to do justice.” Fed. R. Civ. P. 8(d).

Here, Plaintiffs argue that the strict liability law BM2 violates the First Amendment because (among other reasons) “[s]trict liability is generally disfavored in criminal law, particularly with respect to cases that implicate the First Amendment.” *Sheehan*, 512 F.3d at 629. Defendants are upset this legal argument against BM2 was not included in the complaint, but Plaintiffs had no legal obligation to waste this Court’s time with case cites and argumentation in the

complaint—and in fact may have violated the federal rules “concise[ness]” command if they had done so. *See* Fed. R. Civ. P. 8(d). The mens rea requirement has already been litigated in the preliminary injunction phase of this case, with the Circuit’s dissent complaining the majority wrongly evaluated how strict liability impacted the Plaintiffs’ burden. *See Smith*, 95 F.4th at 1231 (Forrest, J. dissenting). Even Defendant-Intervenor does not object to Plaintiffs’ discussion of this burden. *See* Dkt. 167 (Defendant-Intervenor’s own opposition to Plaintiffs’ motion for summary judgment). This Court should not tolerate Defendants’ eleventh-hour request that it now, four years into litigation, bar discussion on this issue, which is inseparable from the analysis of the harm BM2 imposes.

B. This Court can rule on Plaintiffs’ void-for-vagueness challenge.

Defendants say that “the amended complaint does not clearly allege that the law is either vague or ambiguous.” Dkt. 166, p. 22. It does, and even if it did not, that omission would be irrelevant.

Count I of Plaintiffs’ complaint states that BM2 should be declared unconstitutional because “[v]ague, indeterminate, and overly complex campaign finance laws that burden everyday people with compliance headaches for supporting political and issue entities violate their First Amendment rights” and the law is not “narrowly tailored.” Dkt. 40, pp. 17–18. Defendants concede Plaintiffs’ complaint says this, but say they wanted this argument to appear in the complaint’s factual section rather than its claims section. *See* Dkt. 22. Such placement would be illogical: the vagueness challenge is a legal one, so putting it in the claim section of

the complaint was exactly the right choice. Regardless, Plaintiffs could have not included their vagueness argument at all and would still have been entitled to raise it in their motion, because complaints do not require a “perfect statement of the legal theory supporting the claim asserted,” *Johnson*, 574 U.S. at 11, and void-for-vagueness is a legal theory for determining a First Amendment injury, not a distinct injury of its own. *United States v. Osinger*, 753 F.3d 939, 943–44 (2013).

Plaintiffs’ First Amendment challenge to BM2 was well-pleaded, and Defendants’ argument against is incompatible with precedent and the text of the complaint.

CONCLUSION

Defendants are doing as good a job as anyone could to uphold BM2, but the law is fundamentally broken. For the above reasons, Plaintiffs’ motion for summary judgment should be granted.

Dated: June 26, 2026

Respectfully submitted,
Liberty Justice Center

/s/ Reilly Stephens

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**Admitted Pro Hac Vice*

CERTIFICATE OF COMPLIANCE

I certify that this brief complies with the word limit of Cir. R. 32-1 because this brief contains 5,636 words, excluding the items exempted by Local Rule 7.4. The brief's type size and typeface comply with Local Rule 7.5.

Dated: June 26, 2026

LIBERTY JUSTICE CENTER

By: /s/ Reilly Stephens

Reilly Stephens

Attorneys for Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify that on June 26, 2026, I electronically filed the foregoing Motion for Summary Judgment with the Clerk of the Court for the United States District Court of Alaska by using the CM/ECF System. Prior to filing this, I served the motion, memorandum, and exhibits by email to the counsel for Defendants and Defendant-Intervenor.

Dated: June 26, 2026

LIBERTY JUSTICE CENTER

By: /s/ Tim Kilcullen

Tim Kilcullen

Attorneys for Plaintiffs

Exhibit A

From: Whitlock, John G (DOA) <john.whitlock@alaska.gov>
Sent: Wednesday, October 16, 2024 5:15 PM AKDT
To: Lance Pruitt <Lance@psstrats.com>
CC: Sargent, Mike David (DOA) <mike.sargent@alaska.gov>; Hebdon, Heather R (DOA) <heather.hebdon@alaska.gov>
Subject: RE: Paid for By Identifiers (Families of the Last Frontier)

Hello Mr. Pruitt,

The name of the group (Families of the Last Frontier) would also have to include is address or principal place of business in the radio ad. See 15.13.090(a)(1).

Thanks,

John Grover Whitlock
Paralegal
APOC

From: Lance Pruitt <Lance@psstrats.com>
Sent: Tuesday, October 15, 2024 10:02 AM
To: Whitlock, John G (DOA) <john.whitlock@alaska.gov>
Cc: Sargent, Mike David (DOA) <mike.sargent@alaska.gov>; Hebdon, Heather R (DOA) <heather.hebdon@alaska.gov>
Subject: Re: Paid for By Identifiers (Families of the Last Frontier)

John,

Thank you. So to confirm for radio, which would be audio only, the address or principal place of business is not required. Am I understanding that correct? I want to make sure we are in compliance.

Thanks,
LP

On Oct 14, 2024, at 4:40 PM, Whitlock, John G (DOA) <john.whitlock@alaska.gov> wrote:

Hello Lance,
Communications that incorporate either a print or video component must include the notation "This communication was paid for by" followed by the group's name and address or principal place of business
Do not hesitate to contact us if you have any follow-up questions.

Thanks,

John Grover Whitlock

Paralegal
Alaska Public Offices Commission

From: Lance Pruitt <Lance@psstrats.com>
Sent: Monday, October 14, 2024 1:26 PM
To: Whitlock, John G (DOA) <john.whitlock@alaska.gov>
Cc: Sargent, Mike David (DOA) <mike.sargent@alaska.gov>; Hebdon, Heather R (DOA) <heather.hebdon@alaska.gov>
Subject: Re: Paid for By Identifiers (Families of the Last Frontier)

John,

Thank you for getting back to me. I appreciate your clarification because the statute can be a little confusing. Especially as it relates to radio/ audio only. It seems like the only difference is that the address for Families does not need to be included. Is that correct?

So I believe the adjusted below should fit into the guidelines listed below and if you could again confirm that it is fine I would appreciate your assistance.

This communication was paid for by Families of the Last Frontier. I, Steve Strait, Chair approve this message. Top three contributors are RSLC - Washington, D.C., GOPAC - Arlington, VA, and Artic E&P - Anchorage, AK. A majority of contributions to Families of the Last Frontier came from outside the state of Alaska. This notice to voters is required by Alaska law, we certify that this ad is not authorized, paid for, or approved by the candidate.

Again I appreciate your assistance.

Thanks,
Lance

On Oct 14, 2024, at 12:26 PM, Whitlock, John G (DOA) <john.whitlock@alaska.gov> wrote:

Hello Mr. Pruitt,

There are a couple things regarding draft disclaimer that you sent:

1. You will need to include the City and State of residence or principal place of business for your largest contributors (RSLC, GOPAC, and E&P) in the paid for by identifier. This listing must be sequenced by the amount of the contributions from most to least.
2. You will need to include the name and title of the Families of the Last Frontier's principal officer and a statement from the principal officer approving the message.

Is “A majority of contributions to Families of the Last Frontier came from outside the state of Alaska. This notice to voters is required by Alaska law, we certify that this ad is not authorized, paid for, or approved by the candidate” required?

[AS 15.13.135](#) requires that A person who makes independent expenditures for a mass mailing, for distribution of campaign literature of any sort, for a television, radio, newspaper, or magazine advertisement, or any other communication that supports or opposes a candidate for election to public office place the following statement: *This NOTICE TO VOTERS is required by Alaska law. We certify that this (mailing/literature/advertisement) is not authorized, paid for, or approved by the candidate.*

[AS 15.13.090](#) a communication paid for by an outside-funded entity as that term is defined in [AS 15.13.400](#)(15) 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 CONTRIBUTIONS TO (OUTSIDE-FUNDED ENTITY'S NAME) CAME FROM OUTSIDE THE STATE OF ALASKA.”

Definition of outside funded entity:

(15) “outside-funded entity” means an entity that makes one or more independent expenditures in one or more candidate elections and that, during the previous 12-month period, received more than 50 percent of its aggregate contributions from true sources, or their equivalents, who, at the time of the contribution, resided or had their principal place of business outside Alaska;

Do not hesitate to contact us if you have any follow-up questions.

Thanks,

John Grover Whitlock
Paralegal
Alaska Public Offices Commission

From: Lance Pruitt <Lance@psstrats.com>
Sent: Monday, October 14, 2024 10:52 AM
To: Whitlock, John G (DOA) <john.whitlock@alaska.gov>
Subject: Re: Paid for By Identifiers

CAUTION: This email originated from outside the State of Alaska mail system. Do not click links or open attachments unless you recognize the sender and know the content is safe.

John,

Thank you for taking the time to speak earlier today.

I want to confirm that our disclaimer as written below works specifically for audio communications such as radio or streaming audio only.

“This communication was paid for by Families of the Last Frontier. Top three contributors are RSLC, GOPAC, and Artic E&P. (A majority of contributions to Families of the Last Frontier came from outside the state of Alaska. This notice to voters is required by Alaska law, we certify that this ad is not authorized, paid for, or approved by the candidate.)

I was not certain by looking at the below statute if the part in the parenthesis is required for this specific type of communication. I would respectfully ask for if you could clarify that for me.

Please advise and thank you for your assistance.

Lance

On Oct 14, 2024, at 9:53 AM, Whitlock, John G (DOA) <john.whitlock@alaska.gov> wrote:

Hello Mr. Pruitt,

Per your request, here is a rundown of the various paid for by identifier requirements as specified in AS 15.13.090 and 2 AAC 50.306. Do not hesitate to contact us if you have any follow up questions.

Communications that incorporate either a print or video component must include:

1. The notation “This communication was paid for by” followed by the person’s name and address or principal place of business
2. The name and title of the person’s principal officer
3. A statement from the principal officer approving the message
4. A listing of the top three contributors to include name, city and state of residence or principal place of business; this listing must be sequenced by the amount of the contributions from most to least

Additionally, any video communication that contains an audio component, or purely audio message, must also include the following the following statements (which must be read in a manner that is easily heard:

1. “this communication was paid for by (groups name)”
2. “the top three contributors of (group name) are: (names of top three contributors)”

Note that audible identifiers must loud enough to be heard and at the same volume as the rest of the communication, and that visual identifiers must be separate from other text and be of a readily readable size. The paid for by identifier on video communications must remain on screen throughout the entire communication.

Additionally, per AS 15.13.135, independent expenditures for or against candidates must also include the following verbiage: “This NOTICE TO VOTERS is required by Alaska law. (I/we) certify that this (mailing / literature / advertisement) is not authorized, paid for, or approved by the candidate”.

Please note that AS15.13.090(g) requires communications paid for by an outside funded entity must include the following statement (consistent with the requirements previously noted): “A MAJORITY OF CONTRIBUTIONS TO (OUTSIDE FUNDED ENTITY’S NAME) CAME FROM OUTSIDE THE STATE OF ALASKA”.

Social media and internet ads also require identifiers. The profile page must include a full paid for by identifier. This can be in the “about” section of the page. Internet ads must include the full identifier on the ad itself or must link to a page where a full paid for by identifier can be easily viewed. However, there are some exceptions, including Items smaller than 3.5 x 5 inches. This does not include media ads, email, social media, or website materials. While these may be smaller than 3.5 x 5 inches, they still need a paid for by identifier. For a full list of exceptions, please refer to AS 15.13.090 and 2 AAC 50.306.

Finally, please be aware that the listing of the top three contributors is not required if the person paying for the communication is an individual, recognized political party, or has no contributors. Similarly, the statement required for outside funded entities is not required if the outside entity paying for the communication has no contributors or is a political party.

John Grover Whitlock
Paralegal

Alaska Public Offices Commission
2221 E. Northern Lights Blvd., Rm. 128
Anchorage, Alaska 99508
Phone: (907) 276-4176

Fax: (907) 276-7018

CONFIDENTIALITY NOTICE: This communication with its content and any attachments may contain confidential and/or legally privileged information. It is solely for the use of the intended recipient(s). Unauthorized interception, review, use, or disclosure is prohibited and may violate applicable laws including the Electronic Communications Privacy Act. If you are not the intended recipient, please contact the sender and destroy all copies of the communication.

Exhibit B

To: Alaska Public Offices Commission
From: RESPONDENTS:
Alaskans for Honest Elections
Ranked Choice Education Association
Alaskans for Honest Government
Wellspring Ministries
Art Matthias
Phillip Izon
Re: Answer to Complaint filed by Alaskans for Better Elections

The Respondents, Alaskans for Honest Elections (“AHE”); Ranked Choice Education Association (“RCEA”); Alaskans for Honest Government (“AHG”); Wellspring Ministries (“WM”); Wellspring Fellowship (“WF”); Art Matthias; and Phillip Izon, answer the July 5, 2023, complaint and the July 25, 2023, Second Supplement filed by Alaskans for Better Elections (“ABE”) as follows:

I. SUMMARY OF ANSWER

ABE’s allegations are overwrought, largely half-baked, and attempt to make much ado about very little. AHE asks that ABE’s complaint, and its supplements, be dismissed. AHE commits itself to compliance with Alaska’s campaign finance laws and commits to working with APOC staff to ensure future compliance.

In late 2022, Art Matthias, Phillip Izon and other like-minded Alaskans (hereafter “Alaskans”), dissatisfied with ranked choice voting (“RCV”) in Alaska, began efforts to undo most or all of 19AKBE, also known as Ballot Measure 2, which had put RCV in place in Alaska in November 2020. In that vein Alaskans formed Alaskans for Honest Elections (“AHE”) as a

non-profit corporation and Internal Revenue Code (“IRC”) §501(c)(4) tax-exempt entity to carry out the effort. Meanwhile, Alaskans recognized that those responsible for bringing RCV to Alaska were actively trying to spread RCV to other states and jurisdictions in the lower-48. To counter that effort and to try to stop the spread of RCV to other states and jurisdictions, Matthias and Izon formed RCEA to work primarily to educate Americans in other states in the lower-48 about the flaws and negative aspects of RCV.

ABE’s complaint is based substantially upon its misunderstanding of the forms and activities of the various legal entities they reference in their complaint, and the relationship (or lack thereof) between those entities and with the individuals they identify. And despite ABE’s false accusations and use of solacious, rude, and insulting language,¹ from the beginning of its efforts, AHE has sought to comply with Alaska’s campaign finance laws. In this respect, Izon contacted and regularly communicated with APOC staff seeking advice on how to comply.

Initially, APOC incorrectly led Izon to believe that AHE was pursuing a referendum and thus would have no reporting requirements until after the referendum became a proposition. When APOC corrected its advice, telling AHE that they were in fact pursuing an initiative rather than a referendum, AHE promptly filed campaign disclosure forms. Neither Izon nor Matthias were greatly experienced with Alaska’s complicated campaign reporting system and by regularly communicating with APOC’s staff they made their best efforts to comply with the law. At present, with minor exceptions, they have succeeded and complied.

¹ ABE’s complaint is littered throughout with derogatory comments about Izon and Matthias. Respondents will endeavor to respond to the substance of ABE’s allegations complaint while declining to respond in-kind to the unbecoming invectives.

ABE's complaint reflects its misunderstanding of RCEA's business form, tax-exempt status, and activities. RCEA is a non-profit, tax-exempt organization, but was not formed under IRC §501(c)(3). RCEA is organizationally related to Wellspring Fellowship ("WF"), a Washington non-profit corporation and church that is tax-exempt under IRC §508(c)(1)(A). As an integrated auxiliary of WF, RCEA is also tax-exempt under IRC §508(c)(1)(A). RCEA acts to educate Americans in the lower-48 regarding the flaws and negative aspects of RCV. Despite ABE's unsupported allegations to the contrary, RCEA is not involved in the effort to introduce or promote 22AKHE.

WM, which is a separate entity than WF, is an IRC §501(c)(3) tax-exempt Faith Based Organization ("FBO") that operates a Christian ministry from Anchorage, Alaska. ABE has confused WM with WF. Other than having some of the same individuals in leadership positions within the organizations, WM and WF are not related. ABE latches onto the innocuous fact that WM owns the building and real property located at 2511 Sentry Dr. in Anchorage, Alaska and therein rents a mail depository and a modicum of office space to WF's integrated auxiliary, RCEA, to reach the erroneous conclusion that WM is involved in, or making contributions to, the efforts to introduce and promote 22AKHE. WM is not involved with introducing or promoting 22AKHE. Incidentally, WM also rents its gymnasium to WF for use as a worship hall for WF's Sunday church services, but this is plainly not within APOC's jurisdiction.

ABE likewise misunderstands AHG. AHG was formed as a Political Action Committee ("PAC") prior to Alaska's November 2022 general election to conduct independent expenditure activities related to Alaska's federal Congressional and U.S. Senate races. It is for this reason that AHG registered with the Federal Election Commission ("FEC"). Why ABE is mystified by AHG's FEC registration is unclear. Izon registered AHG with APOC in early November 2022 in

error, but that registration is immaterial. In any event, ABE ignores the date of AHG’s APOC registration (November 1, 2022—one week before the last general election) and the statement therein to the effect that AHG would have “NO” involvement in supporting or opposing a “State Initiative.”

II. PARTIES AND ALLEGATIONS

A. Alaskans for Honest Elections

AHE is an Alaska non-profit corporation that was formed on January 23, 2023, and it is as an IRC §501(c)(4) tax-exempt entity. AHE is the official ballot group formed to introduce and promote fair elections in Alaska by eliminating RCV. AHE is thus a “group” as that term is defined under AS 15.13.400(9)(B) because it was organized “for the principal purpose of influencing the outcome of one or more elections” and it “take[s] action the major purpose of which is to influence the outcome of an election.” AHE registered with APOC on January 1, 2023.² AHE filed its initiative bill with the Lieutenant Governor in November 2022 and the Lieutenant Governor approved the bill. AHE is currently working to collect the petition signatures required to place the bill, 22AKHE, on the ballot in 2024.

Matthias and Izon would have registered AHE with APOC sooner, but they understood from advice given by APOC staff that they were pursuing a referendum and that AHE’s first filings would be due only after they had filed the signatures they would collect with the Lieutenant Governor.³ After APOC corrected its staff’s earlier incorrect advice on February 23,

² See Ex. C. Citations to lettered exhibits are to the exhibits attached to ABE’s complaint. Citations to numbered exhibits are to exhibits that Respondents have submitted with this answer. Izon originally mistakenly registered AHE as an “entity.”

³ Ex. 1. By email dated November 18, 2022, Tom Lucas of APOC wrote to Izon as follows: “It appears what you are contemplating is a referendum (a ballot proposition to repeal a law), not an initiative. The two are treated differently during the signature gathering stage. For a

2023,⁴ and then on March 15, 2023, gave more detailed advice, Izon promptly amended AHE's registration with APOC as a group related to an initiative proposal on March 20, 2023.⁵ On April 21, 2023, AHE filed a Campaign Disclosure Form reflecting the \$293,817.70 in contributions it had received and the \$268,732 in expenditures it had made between January and April, 2023.⁶

Previously as AHE pursued 22AKHE's initial approval and then the later signature threshold, it is true that APOC twice fined AHE for late Independent Expenditure Reports as AHE waded its way through Alaska's byzantine campaign finance laws.⁷ But the APOC letters (Ex. J) reflect that APOC recognized Izon's and Matthias' inexperience and reduced the

referendum, any money spent is not considered an expenditure until the referendum becomes a proposition (that is, sufficient signatures were gathered and the Lieutenant Governor has scheduled it for the ballot at an election). Nevertheless, a group formed to sponsor a referendum must file a report within 30 days after its first filing with the Lieutenant Governor and within 10 days after the end of each calendar quarter thereafter." *Id.* Lucas' advice was incorrect because under Art, XI, Sec. 1 of the Alaska Constitution, a "referendum" is designed to "approve or reject *acts of the legislature*." *Id.* (emphasis added). It was not the legislature that made RCV part of Alaska law, but rather the people by initiative.

⁴ Ex. 2. By email dated February 23, 2023, Heather Hebdon, APOC's Executive Director, wrote to Izon as follows: "I am writing to follow up on the attached email chain between you and Tom Lucas (APOC staff) Tom appears to have misunderstood the purpose of your group in that he believed you were seeking to file a referendum, when in actuality, you were filing an initiative proposal application...." Without explaining why 22AKHE was an initiative as opposed to a referendum, Hebdon then advised Izon that AHE should register as a "initiative proposal application group," file independent expenditure reports within 10 days of making expenditures, file quarterly reports within 7 days of the end of each calendar quarter, and then reminded Izon that AHE's contributors who gave \$500 or more in the aggregate would need to file statements of contributions within 30 days of making the contribution. *Id.*

⁵ Ex. H.

⁶ Ex. G.

⁷ It should be beyond dispute that Alaska's campaign finance laws are written in a complex and convoluted manner, and that with those statutes' hidden morsels of restrictions and exceptions, they present a challenge to even the most seasoned attorney who might be attempting to comprehend the details of their terms. Neither Matthias nor Izon are attorneys.

maximum fines of \$1,000 and \$2,200 by 50% to a total of only \$1,600—as APOC stated, this is AHE’s “first election cycle.” *Id.*

1. Alleged Violations by AHE

a. False Contribution Intended to Inflate AHE’s Finances

AHE and Izon deny that AHE reported a fabricated “in kind” contribution from Izon. AHE was formed as a non-profit corporation on January 23, 2023.⁸ Prior to filing AHE’s first quarterly report in April 2023, Izon inquired of APOC staff about how to report his in-kind provision of campaign related services to AHE. APOC staff advised Izon to “estimate” what the total amount of AHE’s debt for his services will ultimately be at the end of the campaign—meaning following the election in 2024—as of April 2023 a period of more than one year in the future.⁹ The \$200,000 that Izon placed as both a donation and expenditure on AHE’s first quarterly report¹⁰ was simply his reasonable effort to follow APOC staff’s direction.¹¹ ABE’s rude and insulting comments regarding Izon’s professional experience and abilities should not require a response.

⁸ Ex. I. AHE’s Articles of Incorporation reflect a filing date of January 23, 2023. *Id.*

⁹ Izon Aff. ¶ 2; Ex. 3 (Tom Lucas, an APOC staff member, wrote Izon regarding how he should go about reporting his in-kind non-monetary contribution to AHE, and told him: “If your group has decided to use your business for certain supplies/services, but has not yet paid for them, you report it as debt and estimate what the total amount of the debt will ultimately be *at the end of the campaign.*”) (emphasis added).

¹⁰ Ex. G, pp. 2, 13.

¹¹ Izon Aff, ¶ 2. Granted, Izon could have been more precise in AHE’s April 2023 quarterly report to indicate that the \$200,000 amount reflected an estimated *debt* that AHE would *potentially owe* to him for his work *through the conclusion of the election in 2024*. Nonetheless, he did report the \$200,000 as an “**In Kind Donation**” of “**Non-Monetary Management Costs/Time**.” Ex. G, p. 3, 13 (emphasis added). No reasonable person reading AHE’s report could have been misled to believe that Izon contributed \$200,000 in monetary funds or that AHE held \$200,000 of monetary funds contributed by Izon in its campaign account. *Id.*

ABE’s allegation that AHE “concocted” the estimated value of Izon’s in-kind donation of “services” to “inflat[e] the public’s perceptions regarding support for AHE,”¹² is unsupported political hyperbole. Anyone reading AHE’s first quarterly report would have seen that the \$200,000 “in kind” donation was “Non-Monetary” and was completely offset by an obligation to Izon for “Management Costs/Time.”¹³ No reasonable person reading AHE’s report could have believed that AHE held \$200,000 in its campaign account as a result of Izon’s donation.

**b. Failure to Accurately Report The Source of Contributions
Laundered Through RCEA**

AHE denies that “laundered” is a term that can be correctly used to describe RCEA’s donations to AHE. RCEA’s donations to AHE were correctly reported, and RCEA is a genuine contributor to AHE. RCEA denies that it had or now has any reporting obligations to APOC. And AHE denies that it failed to disclose that Matthias made the initial contribution to RCEA prior to the time of RCEA’s monetary contributions to AHE. Despite the lack of any legal obligation, Matthias announced his donation to RCEA to the public in February 2023,¹⁴ and again despite the lack of legal obligation, a copy of Matthias’ check to RCEA was provided to APOC in June 2023.¹⁵

AHE denies that AS 15.13.040(b) requires, or consistent with the First and Fourteenth Amendments to the United States Constitution can be interpreted and applied to require, AHE

¹² Complaint p. 6.

¹³ Ex. G, pp. 2, 13.

¹⁴ Ex. A, p. 2 (Liz Ruskin reported on February 17, 2023, in Alaska Public Media that Matthias had publicly stated to “[a] few hundred people,” including news reporters, that “he’s donated \$100,000 to the effort.”). Matthias made a perfectly legal donation to RCEA and RCEA made a perfectly legal donation to AHE.

¹⁵ Izon Aff. ¶ 3.

and/or RCEA to report the identity of RCEA's contributors.¹⁶ First, the "true source" reporting requirements apply only to "candidate elections." Second, to the extent that the statutes, including but not limited to AS 15.13.400(19), require ballot groups such as AHE that receive contributions from non-profit tax-exempt organizations such as RCEA, to report the identity of the non-profit's contributors, the statute is an unconstitutional violation of the First and Fourteenth Amendments. RCEA and its contributors have First Amendment rights to free speech, association, and associational privacy that ABE's suggested interpretation of Alaska's campaign finance laws, specifically AS 15.13.040(b) and AS 15.13.400(19), unconstitutionally infringe. *See, Americans for Prosperity v. Bonta*, 594 U.S. ___, 141 S. Ct. 2373 (2021) (compelled disclosure requirements of the identity of non-profit donors are reviewed under exacting scrutiny); *NAACP v. Alabama*, 357 U.S. 449, 462 (1958).

ABE's suppositions about why RCEA was formed and its purpose, together with ABE's salacious use of terms like "laundering," are unsuitable and represent nothing more than unsupported political hyperbole. RCEA is an educational organization with a perfectly legal educational mission that is not directly related to 22AKHE—the fact that RCEA's educational purpose and 22AKHE's subject matter both relate to RCV is incidental, immaterial, and of no legal consequence.¹⁷ RCEA has supported AHE directly only by making monetary contributions

¹⁶ Without waiving this objection (to any requirement to disclose RCEA's donors), Respondents note that at present RCEA's donor base consists of more than Matthias. Matthias Aff. ¶ 2.

¹⁷ There are many other organizations that work to educate Americans regarding the flaws and detriments of RCV. Among other organizations, groups opposing RCV include the *Heritage Foundation*; (See www.heritage.org/election-integrity/report/ranked-choice-voting-bad-choice) and *The Foundation for Government Accountability* (See <https://thefga.org/research/ranked-choice-voting-a-disaster-in-disguise>). Does ABE literally contend that those organizations likewise must comply with Alaska campaign finance laws simply because they, like AHE, focus upon opposing RCV, and have internet presences that can be accessed by Alaskans?

which have been reported to APOC. The similarity of AHE’s and RCEA’s arguments and videos—demonstrating why RCV is a bad and flawed idea that has negative effects on elections, voter turnout, and candidates’ political speech—is to be expected and is of no consequence. The arguments against RCV are being repeated by many individuals and organizations throughout the lower-48.

RCEA is not a group under AS 15.13.400(9)(B) because it is not organized “for the principal purpose of influencing the outcome of one or more elections” nor does it “take action the major purpose of which is to influence the outcome of an election.” RCEA is a tax-exempt non-profit IRC §508(c)(1)(A) organization whose mission is to educate Americans about the flaws and negative effects of RCV. ABE’s allegations about “unlawful” tax deductions are both uninformed and unknowledgeable. In any event, the only government agency with jurisdiction to adjudicate tax-exempt status and the lawfulness of federal income tax deductions that may or may not be claimed, is the IRS. Tax deductions are not pertinent to Alaska campaign finance, and it is not APOC’s place to investigate or adjudicate federal income tax deductions.

c. Failure to Accurately Report Three Largest Contributors

ABE’s allegations about AHE’s reporting of its three largest contributors mirror ABE’s allegations about AHE’s reporting of Izon’s in-kind contribution and RCEA’s legal nature and status and they require no further or additional response. Izon’s reported contribution reflects AHE’s best reasonable efforts to comply with APOC staff’s advice to estimate the value of Izon’s services through the conclusion of the 2024 election. RCEA’s contribution is a real contribution from RCEA and not Matthias.

d. Failure to Include Three Largest Contributors Onscreen Throughout Advertisement

AHE has endeavored and continues to endeavor to comply with the requirements of Alaska's campaign finance laws. As stated above, initially AHE believed based upon APOC staff's incorrect advice that it was pursuing a referendum. AHE's advertisements did not contain information about contributors prior to that time because it believed it had no obligation to do so related to a referendum effort. Since receiving corrected advice from APOC, AHE has endeavored to comply with the requirements of the law, including the listing of the three largest contributors.

e. Failure to Timely Register as a Ballot Group

AHE did not register earlier than it did as a ballot group because it had been advised by APOC staff that it was pursuing a referendum. AHE registered as a ballot group promptly after APOC staff corrected its prior advice to AHE.

f. Failure to File 10-day Reports

AHE did not file expenditure reports before April 2023 because it had been operating under the incorrect assumption, based upon APOC staff's advice, that it was pursuing a referendum. Upon being advised that it was in fact pursuing an initiative, AHE endeavored to promptly catch up with its required reporting, and filed its quarterly report on April 21, 2023. AHE has had only two expenditures since that time, two \$5,000 payments to Leading Light for management services. Those two expenditures were reported to APOC on AHE's recently filed second quarterly report.

g. Unlawful Cash Contribution

In February 2023 RCEA transferred \$2,358 in cash to AHE because it was operating under the impression that it was pursuing a referendum.¹⁸ This contribution was transferred in cash in error and would have been accomplished by way of a check but for the incorrect advice that AHE was pursuing a referendum. *Id.* AHE and RCEA have now corrected the cash contribution as of July 24, 2023, and will be happy to provide APOC documentation to the effect.¹⁹

h. Failure to Advise Donors of Requirement to File Form 15-5 For Donation of \$500 or More

Alaska campaign finance law requires duplicative reporting of contributions by both group recipients and donors. *See* AS 15.13.040(j)-(k). AHE did not advise its initial donors—those who donated in January, February and early March 2023—of an obligation to report their contributions to APOC before mid-March 2023, because AHE was operating under the mistaken impression—based upon incorrect APOC staff advice—that it was pursuing a referendum. After APOC staff corrected its earlier faulty advice, AHE has since notified its contributors of their reporting obligations.²⁰ The reports under AS 15.13.040(k) are due from the contributors not the group receiving the donation, and AHE cannot file the reports for the contributors. The fact that ABE was able to identify by name and amount of donation the four AHE contributors who have not yet filed the duplicative contribution reports reflects the lack of any harm to the public from the absence of the duplicative reports.

¹⁸ Izon Aff. ¶ 7.

¹⁹ Izon Aff. ¶ 7.

²⁰ Izon Aff. ¶ 8.

i. Any Other Allegations Not Pleaded

This allegation states nothing substantive and requires no response.

B. Phillip Izon

It is true that Izon has varying types of relationships with some of the Respondent entities. Some of those entities with which Izon is involved are mere bystanders to the efforts to introduce and promote 22AKHE (*e.g.*, RCEA and AHG). Izon has reported for AHE the in-kind donation of services he made—this donation was reported as APOC advised Izon to report it by estimating the value of services Izon would contribute “in-kind” through the conclusion of the election in 2024. ABE’s allegations regarding Izon’s and/or AHE’s motivations for reporting the estimated value of Izon’s services through the end of the election in 2024 are incorrect, and represent nothing more than unsupported and salacious political hyperbole designed to draw press and media attention.

ABE’s statements smearing AHE, Izon, and Izon’s “business partner,” Ms. Diamond Metzner, suggesting that AHE’s entire operation is “a grift” to “funnel every dime AHE raises back to them [Izon and Metzner] and them alone,” is rank slander disguised as legal allegations. The statements are wholly unsupported and wholly unworthy of being placed in a legal pleading. The statements appear to have been included in the complaint simply to score cheap political points with the public as the slander was picked up and repeated by the press and media.

1. Alleged Violations by Mr. Izon

a. False Contribution Intended to Inflate AHE’s Finances

Respondents repeat here the responses they have provided above. Izon was advised by APOC staff to estimate the value of the services he would provide to AHE through the

conclusion of the election in 2024, a period of more than one year [Ex. 3], and that is what he attempted in good faith to do when he filed AHE's first quarterly report.

b. Miscellaneous Violations by Other Entities Made Under Mr. Izon's Direction

This allegation adds no substance to the complaint and simply attempts to malign Izon with reference to the allegations Respondents address elsewhere. To the extent the allegation requires answer, Respondents incorporate their responses above and below.

c. Any Other Violations Not Pleaded

This allegation states nothing of substance and requires no response.

C. Alaskans for Honest Government

AHG is a Political Action Committee that was formed to make independent expenditures related to the November 2022 general elections for Alaska's U.S. House and U.S. Senate seats. True, AHG mistakenly registered with APOC when it registered with the FEC in early November 2022.²¹ But AHG took no action regarding elections other than Alaska's 2022 federal elections.²² But the fact that AHG's registrations preceded the last general election in November 2022, should have alerted ABE to the fact that AHG was focused on the last general election rather than events following that election.

The timing of AHG's registrations coupled with its FEC filings, should have alerted ABE to the fact that AHG was focused on Alaska's 2022 federal House and Senate elections. AHG's registration truthfully states that it was not and is not involved in the effort to introduce or promote a state initiative, because it had no such involvement in early November 2022 (a time

²¹ Ex. D.

²² Izon Aff. ¶ 4.

when there was no initiative effort, and has no such involvement thereafter.²³ ABE’s suggestion that AHG’s early November activity was “unlawful” because it “appears to promote only republican candidates”²⁴ is puzzling—independent expenditure speech is constitutionally protected (see *Citizens United v. FEC*, 558 U.S. 310 (2010)) and government cannot limit independent speakers to nonpartisan words—partisanship, as determined by the particular independent speaker, is constitutionally protected. *Id.*

When the 2022 general election was complete and the idea of repealing RCV in Alaska began to be discussed, there was some confusion in the public regarding AHG’s role in that potential effort. AHG did, therefore, after the 2022 general election was complete, place links on its web page to direct members of the public to AHE, the entity that was pursuing Ballot Measure 2’s repeal. But AHG later removed those links upon realizing that they could be misconstrued as contributions to AHE in its initiative effort.²⁵

ABE’s discussion of AHG’s FEC reports is pointless—it is the FEC that has jurisdiction over AHG’s November 2022 activity related to the now completed Alaska federal congressional and U.S. senate elections. The FEC has taken no action against AHG, and no complaints have been filed.

²³ Ex. D. How ABE interprets “Ranking the Red” as being a plea to support an initiative to repeal RCV is mystifying. The phrase “Ranking the Red” was a commonly known pitch to have republican voters in the November 2022 House election rank as their first and second choices the republicans appearing on the general election ballot, namely Sarah Palin and Nick Begich. Despite ABE’s unawareness, AHG’s early November 2022 activity was unmistakably related to the 2022 general election and not 22AKHE (which did not exist yet).

²⁴ Complaint p. 12 n. 41,

²⁵ Izon Aff. ¶ 5.

ABE's allegation that AHG has raised and spent money in support of 22AKHE²⁶ is baseless speculation. AHG has not raised or spent money, or taken any action, related to 22AKHE.

1. Alleged Violations by AHG

a. Failure to Register as a Ballot Group Prior to Undertaking Campaign Activity

ABE's complaint about AHG not being registered with APOC is mystifying because ABE criticizes AHG for registering with APOC on November 1, 2022.²⁷ If ABE's point is that AHG has not re-registered as a ballot group related to 22AKHE, then ABE's complaint is unjustified. AHG has not registered as a ballot group because it is not a ballot group. AHG is not a group under AS 15.13.400(9)(B) because it is not presently organized "for the principal purpose of influencing the outcome of one or more [2024] elections" nor does it "take action the major purpose of which is to influence the outcome of an election."

Quite simply, AHG registered with the FEC and APOC in early November 2022 because it planned to act related to Alaska's federal congressional and U.S. senate races through election day, November 8, 2022. AHG's registration with APOC was a mistake and unnecessary. Once the 2022 election was complete, AHG's purpose was complete, and it has since ceased activity.

b. Failure to File any Quarterly Reports

AHG has filed no reports with APOC because it is not a ballot group, it has neither raised nor spent funds related to 22AKHE, and it has taken no action related to 22AKHE. ABE has

²⁶ Complaint p. 12-13.

²⁷ Complaint pp. 11-12; Ex. D.

cited nothing in its complaint to support its bare allegations that AHG is acting as a ballot group in support of 22AKHE.

c. Failure to File any 10-day Independent Expenditure Reports

AHG has filed no reports with APOC because it is not a ballot group, it has neither raised nor spent funds related to 22AKHE, and it has taken no action related to 22AKHE.

d. Failure to Report Three Largest Contributors

AHG has filed no reports with APOC and has reported no contributors because it is not a ballot group, it has neither raised nor spent funds related to 22AKHE, and it has taken no action related to 22AKHE.

e. Other Violations Not Pleaded

This allegation states nothing of substance that requires a response.

D. Ranked Choice Education Association

Matthias and Izon formed RCEA as a Washington non-profit religious corporation and an IRC §508(c)(1)(A) tax-exempt organization. Contrary to ABE’s misinformed understanding, RCEA is not an IRC §501(c)(3) tax-exempt organization. Under §508(c)(1)(A) of the IRC a faith-based organization (“FBO”) and church auxiliary like RCEA is not required to apply with the IRS to obtain tax-exempt status.²⁸

Under §508 of the IRC newly formed non-profit §501(c)(3) organizations are required to “notify [the] Secretary that they are applying for recognition of section 501(c)(3) status.” *See*

²⁸ It is because of RCEA’s §508(c)(1)(A) status that ABE could not find RCEA on the IRS’s website of “such” (apparently meaning §501(c)(3)) “entities”). Complaint p. 17 and n. 65.

IRC §508(a).²⁹ However, by way of §508(c)(1)(A), Congress provided a “mandatory” “exception” from this requirement for churches and other FBOs. IRC §508(c)(1)(A) provides:

(c) Exceptions

(1) Mandatory exceptions

Subsections (a) and (b) shall not apply to—

(A) churches, their integrated auxiliaries, and conventions or associations of churches....

IRC §508(c)(1)(A). Churches and FBOs can be and are formed under §508(c)(1)(A) without the need of a filing with the IRS. Pursuant to the “mandatory exception” of §508(c)(1)(A), churches, their auxiliaries, and other FBOs are by their very nature tax-exempt and donations to them are tax deductible. IRC § 170(b). With all due respect to APOC, RCEA’s tax-exempt status is not within APOC’s jurisdiction—the IRS is the only government agency that has jurisdiction over RCEA’s tax exempt status. ABE’s speculations about tax deductions that may or may not have been taken are pointless because once again the only government agency with jurisdiction over federal income tax deductions is the IRS.

²⁹ IRC §501(c)(3) was adopted into the IRC in 1954. The 1954 amendments placed limitations on the activities and free speech of non-profit tax-exempt organizations, including arguably churches and other religious FBOs. IRC §508 was adopted as part of the Tax Reform Act of 1969 (H.R. 13270) codified as Public Law 91-172 and was intended by Congress to remove from churches and other FBOs the filing requirements and restrictions of §501(c)(3). IRC §508(a) states: “Except as provided in subsection (c), an organization organized after October 9, 1969, shall not be treated as an organization described in section 501(c)(3)—(1) unless it has given notice to the Secretary in such manner as the Secretary may by regulations prescribe, that it is applying for recognition of such status, or (2) for any period before the giving of such notice, if such notice is given after the time prescribed by the Secretary by regulations for giving notice under this subsection.”

RCEA has no relationship to WM. RCEA is a “Church Integrated Auxiliary”³⁰ of another Washington non-profit corporation and §508(c)(1)(A) entity, Wellspring Fellowship, which is a church. Despite at one point in its complaint quoting RCEA’s Articles of Incorporation correctly,³¹ ABE confuses WF with WM.³² ABE corrected its misstatements and added allegations against WF in its July 24, 2023, Second Supplement, but its allegations about WF are baseless.

As an integrated auxiliary of WF, RCEA functions as an educational organization that consistent with its purposes seeks to “[t]rain, develop, and support leaders in our community and nation as called for in our beliefs,” and “to engage in activities for the accomplishment of the purposes.”³³ In states and jurisdictions in the lower-48 where RCV is being considered, RCEA distributes and presents educational material and sends its representatives to speak at educational/informative events. RCEA’s materials and speaking presentations are designed to educate Americans on the flaws and negative aspects of RCV. RCEA’s materials and speaking presentations make no reference to 22AKHE.

Matthias and Izon have travelled to approximately eight states in the lower-48 to speak and consult with community members and leaders regarding efforts to adopt or ban RCV in those states. RCEA has scheduled more trips and speaking/consulting engagements for Matthias and Izon in additional states through September 2023.³⁴ None of this activity relates to promoting

³⁰ See Ex. B, p. 1.

³¹ Complaint p. 14 (“RCEA ‘is an Integrated Auxiliary of the Founding Church, Wellspring Fellowship of Alaska.’”).

³² ABE originally wrongly confused WF with WM, calling WF “another Respondent in this Complaint.” Complaint p. 14. WF was not an originally named Respondent in the complaint. Only WM was named as a Respondent in ABE’s original complaint. Complaint p. 1.

³³ See Ex. B, p. 1.

³⁴ Izon Aff. ¶ 6.

22AKHE—the simple fact that RCEA focusses on RCV as a general concept and uses Alaska as an example of RCV’s flaws and negative effects on elections, voter turnout, and candidate speech, does not mean that RCEA is working to advance 22AKHE. If ABE’s idea was law, then other organizations opposing RCV in the lower-48 would have reporting obligations to APOC despite their complete unawareness of and lack of involvement with 22AKHE. And ABE’s notion regarding Alaska’s registration and reporting requirements would violate the First Amendment.

Other than making donations to AHE that were reported to APOC, RCEA is not involved in the efforts to introduce and/or promote 22AKHE in Alaska. RCEA is not a “group” as defined in AS 15.13.400(9)(B) because it is not organized “for the principal purpose of influencing the outcome of one or more elections” nor does it “take action the major purpose of which is to influence the outcome of an election.”

Likewise, WF is not involved in the efforts to introduce and/or promote 22AKHE in Alaska. WF is also not a “group” as defined in AS 15.13.400(9)(B) because it is not organized “for the principal purpose of influencing the outcome of one or more elections” nor does it “take action the major purpose of which is to influence the outcome of an election.” Regardless of its Supplement filed July 24, 2023, ABE has stated no basis for its allegations against WF.

RCEA does not advocate for 22AKHE, and ABE has presented no facts to support its claim to the contrary. ABE admits that 22AKHE is not mentioned on RCEA’s web page (Complaint p. 15), and ABE has presented no other facts to support its allegations than the fact that Matthias and Izon are involved in RCEA and that RCEA focusses upon RCV and at one time mentioned “Alaska” on its web page in reference to who it is that is pushing RCV on America and Alaska. Matthias and Izon are perfectly entitled to engage in constitutionally

protected educational speech activity for RCEA regarding the flaws and faults of RCV as a general concept. And RCEA is constitutionally entitled to mention Alaska to those it seeks to educate in the lower-48 as a prime example of RCV's flaws and negative effects. RCEA is also entitled to inform Americans who it is that seeks to push RCV on Americans—including Alaska as a prime example.

The fact that RCEA rents a mail depository and some small semblance of office space from WM is wholly insignificant to APOC. With all due respect to APOC, RCEA's rental relationship with WM is not within APOC's jurisdiction.

1. Alleged Violations by RCEA

a. Unlawful Cash Contribution

RCEA's contributions to AHE were perfectly legal. ABE's salacious allegations about "laundering" or giving in the name of another, are unsuitable as related to RCEA and Matthias. RCEA was entitled to make donations to AHE. ABE's references to the limitations placed on IRC §501(c)(3) organizations are out of place with respect to RCEA.

RCEA and Matthias made no effort to hide the fact that Matthias gave the initial contribution to RCEA. See Ex. A. And although not required, RCEA, in an effort to be candid with the Alaska public, reported to APOC that Matthias made contributions to RCEA. Currently, RCEA has other donors than Matthias and funds its educational activities outside Alaska with those contributions. RCEA and its donors are not within APOC's jurisdiction, and they have constitutionally protected rights to free speech, association, and associational privacy that ABE's complaint urges APOC to infringe. APOC should not take ABE's bait.

b. Donations Made in the Name of Another

See response above.

c. Failure to Register as a Ballot Group Prior to Undertaking Campaign Activity

See response above.

d. Failure to File any Quarterly Reports

See response above.

e. Failure to File any 10-day Independent Expenditure Reports

See response above.

f. Failure to Report Top Three Donors

See response above.

g. Other Violations Not Pleaded

See response above.

E. Wellspring Ministries

ABE originally confused WM with WF. WM has no political involvement in any matters, let alone 22AKHE. WM is a non-profit tax-exempt IRC §501(c)(3) entity that focusses on its Christian ministry. The fact that WM owns property and rents a mail depository and some small modicum of office space to RCEA is irrelevant to APOC.

1. Alleged Violations by Wellspring

a. Failure to Report In-kind Contributions to RCEA

See responses above.

b. Other Violations Not Pleaded

This allegation states nothing of substance that requires a response.

F. Art Matthias

Matthias is a director of AHE. Matthias is also a director for RCEA. He also holds positions with WM and WF. Matthias' holding these various positions with multiple organizations is perfectly legal. Matthias was perfectly entitled to donate to RCEA, and he

would have been entitled to donate directly to AHE—there are no limitations on the amount he could have donated. Alaska’s prior campaign contribution limitations were struck down as unconstitutional. *See Thompson v. Hebdon*, 589 U.S. ___, 140 S. Ct. 348 (2019); *Thompson v. Hebdon*, 7 F.4th 811 (9th Cir. 2021).

Matthias made no secret of his donation to RCEA [Ex. A] and although not legally required he even reported it to APOC and provided APOC with a copy of his check.

1. Alleged Violations by Mr. Matthias

a. Donations Made in the Name of Another

Matthias denies that he has made any donations in the name of another. Matthias has donated to RCEA, a donation that is not within APOC’s jurisdiction, but he has not yet donated to AHE. It is RCEA that has donated to AHE.

b. Failure to File Forms 15-5 for Donations of \$500 or More

Matthias has made no donations requiring a Form 15-5.

c. Other Violations Not Pleaded

This allegation states nothing of substance that requires a response.

July 24, 2023, Supplement

In response to ABE’s July 24, 2023, supplemental filing, Matthias is not the male voice speaking on the recording submitted (the recording is of a Kelly Tshibaka event). The fact that this unknown gentleman mistakenly referenced Wellspring Ministries is inconsequential.

III. CONCLUSION

Respondents ask that ABE's complaint be dismissed. The minor reporting mistakes AHE has made with respect to the timing and correctness of reporting have either already been addressed by APOC or have been subsequently corrected or can be easily corrected.

Dated this 26th day of July, 2023.

Law Offices of Kevin G. Clarkson

Kevin G. Clarkson

By _____
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Exhibit C

BEFORE THE ALASKA PUBLIC OFFICES COMMISSION

Alaskans for Better Elections, Inc.,	)	
	)	
Complainant,	)	
	)	
v.	)	Case No. 24-03-CD
	)	
Alaskans for Honest Elections, Alaskans for	)	
Honest Government, Ranked Choice Education	)	
Association, and Arthur Matthias,	)	
	)	
Respondents.	)	
_____	)	

FINAL ORDER

On January 16, 2025, the Alaska Public Offices Commission considered this complaint against four respondents—Alaskans for Honest Elections, Alaskans for Honest Government, Ranked Choice Education Association, and Arthur Matthias¹—all of whom supported the signature-gathering effort for 22AKHE, the proposed repeal of open primaries and ranked-choice voting that appeared on the November 2024 ballot. The complaint alleges that the respondents have not filed or amended their campaign disclosure reports to bring them into compliance with the Commission’s final order in case no. 23-01-CD and have committed new violations. We agree that the respondents are violating the prior order and the law, conclude that their appeal of some issues in the prior order does not excuse their lack of compliance, and impose civil penalties for the ongoing and new violations totaling \$156,950.

¹ Matthias’s counsel stated in the prehearing brief for this matter that his client’s preferred spelling of his last name has two “t’s.” This order uses his preferred spelling.

BACKGROUND

As financial supporters of the 2023 signature-gathering effort to place 22AKHE on the ballot in November 2024, the four respondents had to comply with campaign finance and disclosure laws.² The first respondent, Alaskans for Honest Elections, registered as an initiative group.³ As such, it had to file quarterly and independent expenditure reports and provide accurate paid-for-by identifiers on communications.⁴ The second, Ranked Choice Education Association, promoted 22AKHE on its website and gave funds to the initiative group. This resulted in obligations to file independent expenditure, quarterly, and statement of contributions reports, and to provide accurate paid-for-by identifiers on its website.⁵ The third, Arthur Matthias, gave \$90,000 to the initiative group, which he needed to disclose on statements of contributions.⁶ The fourth, Alaskans for Honest Government, promoted 22AKHE on its website. Because of this activity, it also had to file independent expenditure and quarterly reports and use accurate paid-for-by identifiers on its website.⁷ Matthias and another person, Phillip Izon, are

² These facts are taken from the superior court and our orders in 23-01-CD. To the extent the facts and issues were not appealed, they are the law of case. *Basey v. Dep't of Pub. Safety*, 462 P.3d 529, 534 (Alaska 2020) (stating that the law of the case doctrine “applies to issues directly addressed in a prior appeal, to issues ‘necessarily inhering’ in a prior appellate decision, and to issues that could have been raised in a prior appeal”).

³ AS 15.13.400(9)(C).

⁴ AS 15.13.040(b), (d)–(e); AS 15.13.090; AS 15.13.110(g)–(h).

⁵ AS 15.13.040(d)–(e), (k); AS 15.13.090; AS 15.13.110(g)–(h).

⁶ AS 15.13.040(k). This fact is at issue in the pending appeal. *Alaskans for Honest Elecs., et al. v. Alaska Pub. Offs. Comm'n, et al.*, Case Nos. S-19201 & S-19221.

⁷ AS 15.13.040(d)–(e); AS 15.13.090; AS 15.13.110(g)–(h).

officers for the initiative group and association; Izon is the agent for the other entity.

In July 2023, the complainant in this matter, Alaskans for Better Elections, alleged that these four respondents and others were violating the campaign finance and disclosure laws. Staff investigated the complaint, case no. 23-01-CD, and the Commission held a hearing. The final order, issued in early January 2024, found three types of violations—disclosure violations, a cash violation, and a true source violation.

First, the Commission found that the initiative group and the two entities violated disclosure laws by failing to register before making expenditures,⁸ to comply with their reporting obligations,⁹ and to use compliant paid-for-by identifiers.¹⁰ The Commission found that the initiative group failed to disclose an in-kind contribution by Wellspring Ministries, which allowed the group to use its gym for free for a signature-gathering event in February 2023, and filed reports late. The two entities had not filed any quarterly or independent expenditure reports; these reports required the entities to report their own contributors, as well as their expenditures.¹¹ The Commission ordered the three respondents to file or amend their reports and to correct their paid-for-by identifiers.

Second, the Commission found that the ranked choice association exceeded the \$100 limit for cash donations by giving \$2,358 in cash to the initiative group.¹² During

⁸ AS 15.13.050(a).

⁹ AS 15.13.040(b)–(e); AS 15.13.110(g)–(h).

¹⁰ AS 15.13.090.

¹¹ AS 15.13.040(e); AS 15.13.110(g).

¹² AS 15.13.074(e).

staff's investigation, the group corrected this violation by returning the funds and receiving a replacement check from the association.

Third, the Commission concluded that Matthias and the association violated a prohibition against giving in another's name when Matthias passed \$90,000 of his own money through the association—which he controlled—to the initiative group.¹³ The Commission found that Matthias deposited the \$90,000 in the association's account in December 2022, and Matthias, acting for the association, transferred his money out of that account to the initiative group with five donations in varying amounts over the first half of 2023. One of these contributions was the \$2,358 in cash. Relatedly, the Commission found that Matthias was disclosed late (or not at all) as the true source of the \$90,000 on campaign reports, resulting in reporting violations by him, the initiative group, and the association.¹⁴ In addition, the association gave \$740 more than Matthias's \$90,000 to the initiative group, so the order required the group to identify the association's donors—the true sources—of the \$740 contribution.¹⁵ Unlike Matthias, these donors did not violate the prohibition against giving in another's name. The association could lawfully act as an intermediary for them, but the association and the initiative group would need to disclose their names on campaign reports.¹⁶

¹³ AS 15.13.074(b). The respondents are appealing the findings in this paragraph, *Alaskans for Honest Elecs., et al. v. Alaska Pub. Offs. Comm'n, et al.*, Case No. S-19201.

¹⁴ AS 15.13.040(b), (d)–(e), (k); AS 15.13.110(g)–(h).

¹⁵ AS 15.13.040(b); AS 15.13.400(19).

¹⁶ AS 15.13.040(b), (d)–(e), (k); AS 15.13.110(g)–(h); AS 15.13.400(19).

The Commission ordered the respondents to correct the reporting violations by amending or filing their missing reports and to fix their paid-for-by identifiers by February 2, 2024. None of the four respondents complied with the deadline.

Instead, three respondents—the initiative group, the association, and Matthias—appealed to superior court on the deadline.¹⁷ They contested only the violations and civil penalties related to Matthias’s \$90,000 contribution.¹⁸ More than a month later, they sought a stay to avoid amending or filing the reports necessary to report this contribution. The court denied a stay and in July 2024 affirmed that the initiative group, association, and Matthias violated the prohibition against giving in another’s name and failed to properly attribute contributions to Matthias. The complainant, Better Elections, which had cross-appealed, argued in relevant part that the Commission erred by finding that the \$2,358 in cash came from Matthias, rather than other unidentified donors. The court agreed and reversed the Commission on this point. This reduced Matthias’s contribution to the initiative group from \$90,000 to \$88,382.¹⁹

The initiative group, the association, and Matthias appealed to the Alaska Supreme

¹⁷ *Alaskans for Honest Elecs., et al. v. Alaska Pub. Offs. Comm’n*, Case No. 3AN-24-04508 CI. Unlike the reporting obligations, the payment of some penalties imposed in the 23-01-CD order was automatically stayed during the pendency of the appeals. *See* 2 AAC 50.860(e); Status Update re: Final Order, Case No. 23-01-CD (Mar. 7, 2024).

¹⁸ The respondents also listed the issue of the Wellspring Ministries’ in-kind gym contribution in their notice of appeal but ultimately waived the issue by failing to brief it.

¹⁹ This number is arrived at by subtracting the \$2,358 cash contribution from the actual combined contributions from the association and Matthias of \$90,740.

Court in August 2024.²⁰ The Commission did not cross-appeal the conclusion that the cash did not originate with Matthias, reducing his total contribution to \$88,382. The group, the association, and Matthias filed their opening brief, again contesting only the violations and civil penalties related to Matthias's \$88,382 contribution.²¹ The reporting obligations in the Commission's order, as modified by the superior court decision, have not been stayed and remain in full force and effect despite the appeal.

More violations have occurred since the Commission and superior court orders, which addressed reports filed and actions taken before September 8, 2023, the date of staff's investigation report.²² From then until a month before the 2024 general election, quarterly reports came due on the 10th day of every month after a calendar quarter ended.²³ The initiative group filed almost all these reports late, and the reports were inaccurate. The association failed to file quarterly reports altogether. Honest Government claimed that it stopped engaging in further reportable activity and the Commission has no evidence to the contrary. Matthias passed another \$2,000 of his own money through the association to the initiative group after the timeframe covered by the orders (but before issuance of the orders) and later reported his contribution, but the group reported this

²⁰ *Alaskans for Honest Elecs., et al. v. Alaska Pub. Offs. Comm'n, et al.*, Case No. S-19201. The complainant cross-appealed on issues not relevant here and the appeals have been consolidated, *Alaskans for Better Elecs., et al. v. Alaska Pub. Offs. Comm'n, et al.*, Case No. S-19221.

²¹ The other parties' briefs have not been filed yet.

²² The facts in this paragraph and the rest of the factual background describe events that occurred after September 8, 2023, and so are not established by the law of the case.

²³ AS 15.13.110(g).

contribution as coming from the association.²⁴

Shortly after the superior court decision in July 2024, Better Elections filed a new complaint, alleging that the respondents have not complied with the 23-01-CD order by amending or filing missing reports, have filed additional inaccurate reports, and/or were not using accurate paid-for-by identifiers. Staff initially rejected the complaint,²⁵ but we reviewed the rejection and accepted the complaint on September 9, 2024. At that point, staff began investigating the complaint, and the respondents filed an answer. A month or so later, staff issued the investigation report. Staff recommended that we find reporting violations against the respondents and impose civil penalties.

On January 16, 2025, we heard the complaint. The respondents' counsel indicated that the respondents would not be participating. Before the hearing, however, Matthias moved to strike Better Elections' prehearing brief and response. He argued that the complainant could not file the pleadings because it lacked the rights of a full party. At outset of the hearing, we denied the motion. By regulation, complainants "may present argument,"²⁶ and Better Elections' counsel intended to read aloud the briefing if the written pleadings were struck. On the merits, staff presented the investigation report. The complainant asked us to find more violations and impose higher penalties than what staff

²⁴ Statement of Contributions Form 15-5 for Art Mathias [stet] (Mar. 7, 2024), <https://aws.state.ak.us/ApocReports/Common/View.aspx?ID=4968&ViewType=SC>; 2023 Third Quarter Report for Alaskans for Honest Elections (Oct. 30, 2023), <https://aws.state.ak.us/ApocReports/Common/View.aspx?ID=42044&ViewType=CD>.

²⁵ 2 AAC 50.870(c)–(d).

²⁶ 2 AAC 50.891(d) ("A complainant that is not designated as a party to the proceeding may present argument but may not call witnesses or present evidence.").

recommended. We took the case under advisement and now issue this order.

LAW AND ANALYSIS

The four respondents did not remedy their violations of the law as ordered, and Honest Elections and the association committed new violations. We impose the maximum statutory penalties for these violations.

The respondents suggest that this case is moot against the three organizational respondents because they have already dissolved or soon will, leaving no one to pay the penalties. We disagree. “A claim is moot if it is no longer a present, live controversy, and the party bringing the action would not be entitled to relief, even if it prevails.”²⁷ Deciding this matter provides relief by resolving the question of liability even if the respondents’ dissolutions hinder enforcement and collection. This decision vindicates the public interest in enforcing the campaign finance and disclosure laws to maintain the integrity of elections and inform the electorate.²⁸ The claims are not moot.

Turning to the merits, we impose the maximum statutory penalties because the respondents, who are all controlled by Matthias, Izon, or both, have proven themselves shockingly poor at complying with their reporting obligations throughout their campaign advocating for 22AKHE.²⁹ None of the respondents provided reports anywhere close to

²⁷ *In re Hospitalization of Heather R.*, 366 P.3d 530, 532 (Alaska 2016).

²⁸ *See Messerli v. State*, 626 P.2d 81, 86–87 (Alaska 1980) (“The effective functioning of our democratic form of government is premised on an informed electorate. . . . Proper evaluation of the arguments made on either side can often be assisted by knowing who is backing each position.”).

²⁹ *See* 2 AAC 50.865(d) (permitting Commission to increase a mitigated penalty to the statutory maximum when the respondent has “a poor reporting history” evidenced by

accurate about the amounts and sources for their campaign spending before the election. None of the respondents complied with our order in case no. 23-01-CD within the 30 days provided for doing so. Only two partially complied after the deadline—and only after we called out their noncompliance in a status update filed in superior court.

The egregious and widespread extent of the respondents’ reporting violations is even more clear when taken one by one. Honest Elections has rarely filed a report on time, made significant errors in all its quarterly reports, and left unpaid previous penalties assessed for violations. The Ranked Choice Education Association contributed more than \$65,000 to the 22AKHE effort and even now has reported little of the details, failing to file a single quarterly report out of five that are long due.³⁰ Honest Government has never filed its two required reports in defiance of the law and our previous order. Matthias did not file his required report until our status update pointed out his noncompliance and even then, he misreported the amount of a contribution.

For the penalty calculations, we toll the penalty accruals as of September 9, 2024, the date we accepted the complaint for investigation, rather than as of July 29, 2024, the date the complaint was filed. We see no reason to give the respondents the benefit of stopping the penalty accrual when the complaint was rejected for filing. Typically, we toll penalty accruals when a complaint is filed to allow time for staff to investigate and

indicators such as “more than one late filing in the immediately preceding five years” and prior violations of the campaign statutes).

³⁰ This estimate excludes the roughly \$90,000 of Matthias’s own funds that he funneled through the association in violation of the AS 15.13.074(b) prohibition on giving in another’s name.

hear from respondents, and for us to make our decision on the merits without a respondent facing the risk that substantial penalties may accrue during the process.³¹ Here, the action on the complaint waited until its acceptance date, which was unusually long after the filing date, and so we toll the penalty accrual as of that later date.

I. The Commission finds reporting violations in quarterly reports filed by Alaskans for Honest Elections and imposes civil penalties totaling \$54,350.

In our previous order, we found reporting violations by Honest Elections because it had not identified Matthias as the true source of the association's purported contributions and had not reported an in-kind donation by Wellspring Ministries, which allowed the initiative group to use its gym for free for a signature-gathering event. Curing these violations required the group to amend its 2023 first quarter and second quarter reports, and its late-filed amendments are inaccurate. The group also filed five other reports with errors. For these violations, we impose total penalties of \$54,350.

The initiative group amended its 2023 first quarter report but did so late and incompletely.³² Incomplete amendments came more than a month after the deadline in our order. The amended report left out Wellspring Ministries' in-kind donation. The

³¹ See *VECO Int'l, Inc. v. Alaska Pub. Offs. Comm'n*, 753 P.2d 703, 717 (Alaska 1988) (describing the "'constitutional tolling doctrine' under which, a party whose conduct is made the subject of an administrative action must be given an opportunity to obtain a judicial test of the validity of such action, and, as a matter of due process, cannot be subjected to risk that substantial penalties will accumulate during the course of the judicial proceeding," but finding it unnecessary to decide whether the doctrine applied to the Commission proceeding in that case (citation omitted)).

³² 2023 First Quarter Report for Alaskans for Honest Elections (Mar. 7, 2024), <https://aws.state.ak.us/ApocReports/Common/View.aspx?ID=43148&ViewType=CD>.

amended report also failed to identify Matthias as the source of a contribution. And two contributions had the wrong date. As a result, we conclude that this report has been in violation since the order’s amendment deadline due to these errors:

Report on April 10, 2023	Report on March 7, 2024	Amendment required by order
\$1,000 contribution from the association on Feb. 6, 2023	\$1,000 contribution from Matthias on Feb. 6, 2023	\$1,000 contribution from Matthias on Jan. 9, 2023
\$75,000 contribution from the association on Feb. 8, 2023	\$75,000 contribution from Matthias on Feb. 8, 2023	\$75,000 contribution from Matthias on Feb. 3, 2023
Not reported	Not reported	Estimated value of gym rental for in-kind donation from Wellspring Ministries on Feb. 16, 2023
\$1,382 in-kind donation from the association on Feb. 23, 2023	Not amended	\$1,382 in-kind donation from Matthias on Feb. 23, 2023

We reject two other bases for finding this report in violation. First, we reject the view that the amended report’s inclusion of statements that the changes were made “under protest” somehow violates the reporting statutes. So long as the initiative group provides accurate and complete information required by statute and regulation, the report complies with the law and satisfies the goal of transparency about campaign spending. Second, we do not require changes to the disclosure of the association’s \$2,358 cash contribution made on February 23, 2023. The superior court reversed our finding that the cash was part of Matthias’s contribution and excused the association from reporting the donors of the cash.³³

³³ Order Affirming in Part and Reversing in Part Final Order by APOC Following Petition for Rehearing (July 18, 2024), *Alaskans for Honest Elecs., et al. v. Alaska Pub. Offs. Comm’n*, Case No. 3AN-24-04508 CI, at 29-30 (“APOC acted reasonably in its determination not to assess additional violations for failure to report the *sources* of the cash contributions. . . . Because RCEA was operating under incorrect advice from APOC in February 2023, Appellants were not on notice of their reporting obligations and likely did not advise their contributors that they could not accept cash donations in excess of

Nonetheless, the missing and incorrect information identified in the table above is sufficient to conclude that the 2023 first quarter report remains in violation of the law. We impose the maximum penalty of \$11,000—\$50 per day for the 220 days of violation from the amendment deadline to this complaint’s acceptance date.³⁴

The initiative group also failed to timely and completely amend its 2023 second quarter report.³⁵ The group made incomplete amendments more than a month after the order’s deadline. The amended report identified Matthias as the source of a \$10,260 contribution made on June 11, 2023. This is wrong under the order. The correct amount was \$11,000: \$10,260 from Matthias and the remaining \$740 from the association who should be reported as the contributor with its donors disclosed as true sources. The reported date for this contribution is also wrong; it was May 22, 2023. The amended report was still inaccurate after the superior court revised our findings. The court decided that the \$11,000 contribution was entirely from Matthias, but the report discloses only a \$10,260 donation from him and on the wrong date. Thus, the amended report did not cure the reporting violations.³⁶ We impose the maximum penalty of \$11,000—\$50 per day for

\$100. This is where the form and source of the funds gets intertwined. Because it is not realistic to after the fact trace multiple cash donations back to their original sources, the Court does not disturb APOC’s decision . . . to assess no additional violations or assess any penalties as to the cash contribution.”)

³⁴ AS 15.13.390(a)(4).

³⁵ 2023 Second Quarter Report for Alaskans for Honest Elections (Mar. 7, 2024), <https://aws.state.ak.us/ApocReports/Common/View.aspx?ID=43149&ViewType=CD>.

³⁶ The report has an additional error that was not identified in the 23-01-CD order—the overall balance is inaccurate. The beginning balance is reported as \$0, but the group

the 220 days of violation from the order's deadline to this complaint's acceptance date.³⁷

The initiative group's next report, the 2023 third quarter report, was due after staff completed its investigation but before we issued the 23-01-CD order. For this reason, it was not a part of staff's investigation, and we did not previously make explicit findings addressing it. The report was filed 20 days late, and staff separately assessed a \$500 penalty for the lateness, which the initiative group paid.³⁸

In addition to the lateness, the 2023 third quarter report was inaccurate as filed and continues to be incomplete or inaccurate for four reasons.³⁹ First, the report fails altogether to disclose a \$7,479.33 in-kind donation from the association in early September, which the association reported on a statement of contributions report.⁴⁰ (The group's required disclosure of this donation should include the details of what the in-kind donation paid for and should identify the association's donors as the true sources of the contribution.⁴¹) Second, a \$2,000 contribution reported as coming from the association in

began the reporting period with a surplus of \$25,085.70 according to the closing balance on the immediately preceding report.

³⁷ AS 15.13.390(a)(4).

³⁸ Notice of Penalty Assessment for Alaskans for Honest Elections' Third Quarter Report (Nov. 3, 2023), <https://aws.state.ak.us/ApocReports/Paper/Download.aspx?ID=25392>; Payment Receipt for Alaskans for Honest Elections (Feb. 26, 2024), <https://aws.state.ak.us/ApocReports/Paper/Download.aspx?ID=25632>.

³⁹ 2023 Third Quarter Report for Alaskans for Honest Elections (Oct. 30, 2023), <https://aws.state.ak.us/ApocReports/Common/View.aspx?ID=42044&ViewType=CD>.

⁴⁰ Statement of Contributions Form 15-5 for Ranked Choice Education Association (Sept. 9, 2023), <https://aws.state.ak.us/ApocReports/Common/View.aspx?ID=4859&ViewType=SC>.

⁴¹ AS 15.13.110(g) (requiring information "on the contributions received and expenditures made"); AS 15.13.040(b) (requiring groups to disclose specific information

early October was actually from Matthias, who identified himself as the contributor of these funds on a statement of contributions report.⁴² Third, the report does not document the July or August replacement of the \$2,358 cash contribution with a check. And third, the report perpetuates an error in the account balance by starting with a beginning cash on hand of \$760. This does not account for the failure to carry over a closing surplus of \$25,085.70 on the first quarter report and the \$740 underreporting of the \$11,000 contribution on the second quarter report. We impose the maximum penalty of \$11,000—\$50 per day for the 220 days of violation from the prior order’s amendment deadline to this complaint’s acceptance date.⁴³

The initiative group’s 2023 fourth quarter report also violated AS 15.13.040(b) and AS 15.13.110(g).⁴⁴ The report was 13 days late, and staff assessed a \$325 penalty for the lateness,⁴⁵ which the initiative group has not yet paid. In addition to the lateness, the

about contributions “in excess of \$100 in the aggregate in a year,” including “the true source of the funds . . . being contributed”); *see* AS 15.13.400(19) (defining “true source” in relevant part as “the person or legal entity whose contribution is funded from wages, investment income, inheritance, or revenue generated from selling goods or services; a person or legal entity who derived funds via contributions, donations, dues, or gifts is not the true source, but rather an intermediary for the true source”).

⁴² Statement of Contributions Form 15-5 for Art Mathias [stet] (Mar. 7, 2024), <https://aws.state.ak.us/ApocReports/Common/View.aspx?ID=4968&ViewType=SC>.

⁴³ AS 15.13.390(a)(4). This calculation starts the penalty accrual at the amendment deadline because this report was due before we entered the order that gave Honest Elections a 30-day safe harbor “to correct its previous reports.” 23-01-CD Order at p. 32.

⁴⁴ 2023 Fourth Quarter Report for Alaskans for Honest Elections (Jan. 23, 2024), <https://aws.state.ak.us/ApocReports/Common/View.aspx?ID=42298&ViewType=CD>.

⁴⁵ Notice of Penalty Assessment for Alaskans for Honest Elections’ Fourth Quarter Report (Jan. 26, 2024), <https://aws.state.ak.us/ApocReports/Paper/Download.aspx?ID=25679>.

report was incomplete and inaccurate. First, the report documented two \$30,000 contributions from the association without disclosing the association's donors as the true sources of the combined \$60,000.⁴⁶ Second, it continued to misreport the account balance due to errors in the previous reports. For the violations, we impose the maximum penalty of \$11,000—\$50 per day for the 220 days of violation from the prior order's amendment deadline to this complaint's acceptance date.⁴⁷

The initiative group's quarterly reports in 2024 are also wrong. On the first quarter report, the group reported a starting balance of \$0 when the prior report closed with a surplus of \$5,210 and that balance was actually much higher due to the prior reporting errors.⁴⁸ The account balance error carried over, making the group's 2024 second quarter and third quarter reports inaccurate, too.⁴⁹ For these violations, we impose the maximum penalty of \$7,350 for the first quarter report—\$50 per day for the 147 days in violation

⁴⁶ AS 15.13.040(b); AS 15.13.400(19).

⁴⁷ AS 15.13.390(a)(4). This calculation starts the penalty accrual at the amendment deadline because this report was due during the order's 30-day safe harbor to file and correct reports.

Staff is also investigating whether the 2023 fourth quarter report accurately reported expenditures made to Top Fundraising Solutions in case no. 23-07-CD. If staff finds a violation and recommends a penalty assessment in that case, staff should be careful to not calculate any penalty accrual that overlaps with the dates for this one.

⁴⁸ 2024 First Quarter Report for Alaskans for Honest Elections (April 15, 2024), <https://aws.state.ak.us/ApocReports/Common/View.aspx?ID=43364&ViewType=CD>.

⁴⁹ 2024 Second Quarter Report for Alaskans for Honest Elections (July 11, 2024), <https://aws.state.ak.us/ApocReports/Common/View.aspx?ID=43619&ViewType=CD>; 2024 Third Quarter Report for Alaskans for Honest Elections (July 11, 2024), <https://aws.state.ak.us/ApocReports/Common/View.aspx?ID=43620&ViewType=CD>.

from the report's filing date to this complaint's acceptance date.⁵⁰ And we impose the maximum penalty of \$3,000 for the second quarter report—\$50 per day for the 60 days in violation from the report's filing date to this complaint's acceptance date.⁵¹ We do not impose a penalty for the third quarter report, which was designated as the group's final report, because its due date fell during staff's investigation of this complaint.⁵²

Honest Elections must correct the violations described above in the seven quarterly and final reports over the course of its 22AKHE campaign. The group owes civil penalties totaling \$54,350 for the violations in six of the reports.

II. The Commission finds that Alaskans for Honest Elections had an inaccurate paid-for-by identifier on its website for 38 days and fines the group \$1,900.

Our previous order found in relevant part that Honest Elections violated the disclosure laws by not naming Matthias as one of its top three contributors.⁵³ The initiative group's website continued to leave Matthias off as a top contributor until at

⁵⁰ AS 15.13.390(a)(1). This calculation starts with the report's filing date, rather than its due date, because we give the initiative group the benefit of the doubt about whether it was already assessed a civil penalty by staff for the five days of lateness. We could not locate a penalty assessment for this late report in the online system.

⁵¹ AS 15.13.390(a)(4). This calculation starts with the report's filing date, rather than due date, because the group was already fined \$50 for being late. Notice of Penalty Assessment for Alaskans for Honest Elections' Second Quarter Report (July 29, 2024), <https://aws.state.ak.us/ApocReports/Paper/Download.aspx?ID=26055>. As of today, the penalty for lateness has not been paid.

⁵² This third quarter report should have been a 30-day campaign report instead because its due date fell within 30 days of the general election. AS 15.13.110(a)(1), (g). The report type slightly altered the reporting period but did not change the information required on the reports.

⁵³ AS 15.13.074(b); AS 15.13.090(a)(2)(C).

least March 11, 2024—38 days after the order’s compliance deadline. Sometime after date, the group stopped using the website and converted it to Izon’s personal website.⁵⁴ But the failure to identify Matthias as a top contributor for 38 days on the website’s disclaimer was a continuing violation of AS 15.13.090(a)(2)(C). The group’s reports support the conclusion that Matthias remained among the top contributors with the amendments to reflect his contributions. For this violation, we impose a civil penalty of \$1,900—\$50 per day for each of the 38 days of the violation.⁵⁵

There is insufficient evidence to support that other communications attached to the complaint are those of Honest Elections. They were posted to Izon’s personal handle, 907honest. As such, we reject the argument that the initiative group violated AS 15.13.090 by not placing its own and accurate disclaimer on these messages.

III. The Commission finds that Ranked Choice Education Association has not complied with its reporting obligations and fines it \$67,700.

Our previous order found that the Ranked Choice Education Association failed to register before making expenditures, failed to file an independent expenditure report in connection with the December 2022 purchase of its web domain, and failed to file a 2022 fourth quarter report and a 2023 first quarter report.⁵⁶ We ordered the association to register and file the reports by February 2, 2024. The association did not register by the deadline, filed a late and inaccurate independent expenditure report, and did not file other

⁵⁴ Staff Investigation Report (Oct. 22, 2024) at p. 4 & ns. 22-23.

⁵⁵ AS 15.13.390(a)(4).

⁵⁶ AS 15.13.050(a); AS 15.13.040(d); AS 15.13.110(g)–(h).

reports that became due. We consequently impose total penalties of \$67,700.

The association registered as an entity 34 days after the deadline to do so in the order.⁵⁷ For the late filing, we impose the maximum penalty of \$1,700 at \$50 per day for each day the violation continued.⁵⁸

On the same day the association registered, it filed an independent expenditure report, but the report did not comply with our order.⁵⁹ The association did not report the amount, date, and payment method of the December 2022 web domain purchase,⁶⁰ and provided no information about the association's contributions and donors as is required on independent expenditure reports.⁶¹ The report documented a single \$500 in-kind expenditure on January 1, 2023, for providing a link on its website to the initiative group.⁶² We consequently find that the association has not complied with its obligation to

⁵⁷ 2022 Entity Registration for Ranked Choice Education Association (Mar. 7, 2024), <https://aws.state.ak.us/ApocReports/Common/View.aspx?ID=1613&ViewType=ER>; 2023 Entity Registration for Ranked Choice Education Association (Mar. 7, 2024), <https://aws.state.ak.us/ApocReports/Common/View.aspx?ID=1614&ViewType=ER>.

⁵⁸ AS 15.13.390(a)(4).

⁵⁹ Independent Expenditures Form 15-6 for Ranked Choice Education Association (Mar. 7, 2024), <https://aws.state.ak.us/ApocReports/Common/View.aspx?ID=6409&ViewType=IE>.

⁶⁰ 2 AAC 50.270(b).

⁶¹ AS 15.13.040(d)–(e), (q); AS 15.13.400(19).

⁶² The association indicated that the report was filed under protest due to the appeal. But the association did not appeal its obligation to file the independent expenditure and quarterly reports, challenging only the Commission's findings requiring the disclosure of Matthias as a contributor to the initiative group on statement of contributions reports. *See* Status Report re: Final Order, Case No 23-01-CD (Mar. 7, 2024). Nevertheless, for the same reasons as with the initiative group's reports, the Commission does not find that the "under protest" disclaimer is a reporting violation.

file an accurate independent expenditure report. For this violation, we impose a civil penalty of \$11,000 for the 220 days of violation from the order’s reporting deadline to this complaint’s acceptance.⁶³

The association has never filed the 2022 fourth quarter and 2023 first quarter reports. On these reports, the association would be required to disclose its donors as part of the information on the contributions it has received.⁶⁴ We impose total penalties of \$22,000 for the missing reports. For each report, a penalty of \$50 per day accrued for 220 days of violation from the order’s reporting deadline to this complaint’s acceptance.⁶⁵

The association was required to file quarterly reports for the rest of 2023, too.⁶⁶ Alaska Statute 15.13.110(g) requires quarterly reports of entities “receiving contributions exceeding \$500 or making expenditures exceeding \$500 in a calendar year in support of . . . an initiative proposal application filed with the lieutenant governor.”⁶⁷ The association, created in mid-December 2022, had received more than \$700,000 in

⁶³ AS 15.13.390(a)(1) (providing the penalty accrues at a rate of \$50 per day for each day a violation continues).

⁶⁴ AS 15.13.110(g) (requiring filers of quarterly reports to report “the contributions received” by the filer and “expenditures made” by the filer).

⁶⁵ This amounts to an \$11,000 penalty for each report. AS 15.13.390(a)(4).

⁶⁶ We did not decide this issue in the prior order because these reports were due while the complaint was pending or soon after. The first report was due five days after the complaint was filed in July, the next was due a little over a month after staff issued the investigation report, and the third was due in January ten days after entry of the order.

⁶⁷ The statute specifically requires this of a “person,” and by definition, persons include a “corporation,” which is the Ranked Choice Education Association’s legal status. AS 15.13.110(g); AS 15.13.400(16); AS 01.10.060.

contributions by November 2023,⁶⁸ and supported 22AKHE with donations to the initiative group.⁶⁹ But the association did not file these required quarterly reports. We impose total penalties of \$33,000 for the three missing quarterly reports. For each report, a penalty of \$50 per day accrued for 220 days of violation from the order's reporting deadline to this complaint's acceptance.⁷⁰

We do not find that the association's failures to disclose its donors other than Matthias violated AS 15.13.074(b), requiring imposition of a penalty as high as the trebled amount of the contributions, as the complainant argues.⁷¹ By its plain terms, the second sentence of AS 15.13.074(b), which in part prohibits intermediaries from failing to disclose the true sources, applies only to candidate elections.⁷² In contrast, Matthias

⁶⁸ Nov. 16, 2023, Transcript of Special Meeting for case no. 23-01-CD, at pp. 59-60.

⁶⁹ 2023 Fourth Quarter Report for Alaskans for Honest Elections (Jan. 23, 2024), (showing two \$30,000 contributions by check from the association on Oct. 24, 2023, and Nov. 25, 2023), <https://aws.state.ak.us/ApocReports/Common/View.aspx?ID=42298&ViewType=CD>.

⁷⁰ AS 15.13.390(a)(4). This amounts to an \$11,000 penalty for each report. The calculation starts the penalty accrual at the amendment deadline because two of these reports were due before we entered the order that gave the association a 30-day safe harbor "to register as an entity and to file required reports" and the third was due during the safe-harbor period. 23-01-CD Order at p. 32.

⁷¹ The complainant asks us to find this violation and impose a penalty that is treble the amount of the contributions for which true sources were not disclosed under AS 15.13.390(a)(3), which applies to violations of AS 15.13.074(b).

⁷² Although it is not a violation of AS 15.13.074(b) allowing for the imposition of penalties under AS 15.13.390(a)(3) for an intermediary to fail to disclose its true sources when making a contribution for or against an initiative, not disclosing the true sources would violate AS 15.13.040(k). *907 Initiative Advisory Op.*, AO No. 24-04-CD (Sept. 9, 2024). Penalties for violations of AS 15.13.040(k) are governed by AS 15.13.390(a)(1).

violated the first sentence of AS 15.13.074(b) that prohibits giving in another's name.⁷³

The situation for the association's other donors is much different than his. As our prior order found, Matthias unlawfully gave to the initiative group in the association's name because he intended to pass his contribution through the association, and he effectuated that intent through his control over the association. But most donors to an intermediary making contributions to an initiative group or making its own direct expenditures to advocate for an initiative do not have such intent or control over the intermediary. They do not violate the prohibition against giving in another's name if they give to an intermediary that has the discretion to spend the funds itself or to transfer the funds to other groups as it sees fit.

Even though the association did not violate AS 15.13.074(b) (other than by allowing Matthias to pass funds through it), the association's other donors still must be named on campaign disclosure reports. The initiative group must report the association as the intermediary and the association's donors as the true sources on the group's quarterly reports filed under AS 15.13.040(b) and AS 15.13.110(g).⁷⁴ The association must report its own contributors on its independent expenditure and quarterly reports filed under AS 15.13.040(e) and AS 15.13.110(g).⁷⁵ And in the future, the association should report itself as the contributor and list its donors as the true sources on its statement of

⁷³ AS 15.13.074(b) ("A person or group may not make a contribution anonymously, using a fictitious name, or using the name of another.").

⁷⁴ See AS 15.13.400(19) (defining "true source").

⁷⁵ See AS 15.13.040(q) (requiring reporting of true sources for reports filed under AS 15.13.040(e)); AS 15.13.400(19) (defining "true source").

contributions reports filed under AS 15.13.040(k).⁷⁶

For the above reasons, the association must correct the reporting violations and file the missing reports as described above. We impose civil penalties totaling \$67,700 on the association for its late, inaccurate, or missing reports.

IV. The Commission finds that Matthias failed to file an accurate statement of contributions and imposes a civil penalty of \$11,000.

Our previous order required Matthias to file a statement of contributions report disclosing his contributions to the initiative group, Honest Elections, by February 2, 2024.⁷⁷ Matthias filed an inaccurate report 34 days late.⁷⁸ Under the order, the late report was inaccurate because it failed to report and attribute the \$2,358 cash contribution to Matthias and it misreported the dates of three contributions. Under the superior court's order, the report accurately left off the \$2,358 in cash because that was not part of Matthias's contribution but misreported the amount of an \$11,000 contribution as only \$10,260 and got the dates wrong for that contribution and two others. The necessary amendments as modified by the superior court order, are shown here:

⁷⁶ 907 Initiative Advisory Op., AO No. 24-04-CD (Sept. 9, 2024), <https://aws.state.ak.us/ApocReports/Paper/Download.aspx?ID=26260> (requiring the reporting of true sources of contributions on AS 15.13.040(k) reports). We are not requiring amendments of the association's past statement of contributions reports to disclose true sources and are not imposing civil penalties for any violations on its 2023 reports (other than the AS 15.13.074(b) violation related to Matthias) because at the time of filing, the online form may have prevented contributors to an initiative group from disclosing true sources on statement of contribution reports. *Id.* (not applying requirement to statement of contributions reports under AS 15.13.040(k) that were filed before November 6, 2024).

⁷⁷ AS 15.13.040(k).

⁷⁸ Statement of Contributions Form 15-5 for Art Mathias [stet] (Mar. 7, 2024), <https://aws.state.ak.us/ApocReports/Common/View.aspx?ID=4968&ViewType=SC>.

Report filed on March 7, 2024	Amendments required by orders
\$1,000 contribution on Feb. 6, 2023	\$1,000 contribution on Jan. 9, 2023
\$75,000 contribution on Feb. 8, 2023	\$75,000 contribution on Feb. 3, 2023
\$10,260 contribution on June 11, 2023	\$11,000 contribution on May 22, 2023

Because of these ongoing inaccuracies, Matthias continued to violate AS 15.13.040(k) even after filing the missing report.⁷⁹

We impose a civil penalty of \$11,000 for the 220 days of violation from our order’s compliance deadline to this complaint’s acceptance date.⁸⁰

V. The Commission finds that Alaskans for Honest Government failed to file two reports and fines the entity \$22,000.

Our previous order required Alaskans for Honest Government to file an independent expenditure report in connection with the purchase of its web domain in October 2022 and to file a 2022 fourth quarter report.⁸¹ To date, neither report has been filed. Although the entity claims that it has not engaged in reportable activity since 2022,⁸² it still must report its activity as required by our previous order. Unlike the other

⁷⁹ Matthias did not commit a reporting violation by designating the form as filed “under protest” for the same reasons that the initiative group’s designation of its amendments as “under protest” was not a reporting violation.

⁸⁰ AS 15.13.090(a)(1).

⁸¹ AS 15.13.040(c)–(d); AS 15.13.110(g)–(h).

⁸² The 23-01-CD order found that the entity’s website still had a pop-up requesting help to repeal ranked-choice voting in Alaska as of July 6, 2023, but the order did not impose requirements on the entity to file 2023 quarterly reports. The duty to file such reports depends on the level of activity. AS 15.13.110(g) (requiring quarterly reports of those “receiving contributions exceeding \$500 or making expenditures exceeding \$500 in a calendar year in support of or in opposition to an initiative on the ballot in a statewide election or an initiative proposal application filed with the lieutenant governor”).

three respondents, it did not appeal any aspect of the order to superior court.

We impose civil penalties totaling \$22,000 for the two missing reports. For each report, the penalty accrued at \$50 per day for 220 days from the order's reporting deadline to this complaint's acceptance date.⁸³

ORDER

We find that the violations described above occurred and order the respondents to pay their respective total penalties as shown in this table within 30 days of this order.

Violations by respondent	Dates of violation	Total days	Penalty at \$50 per day
Alaskans for Honest Elections			
2023 1Q report	2/2/2024 to 9/9/2024	220	\$11,000
2023 2Q report	2/2/2024 to 9/9/2024	220	\$11,000
2023 3Q report	2/2/2024 to 9/9/2024	220	\$11,000
2023 4Q report	2/2/2024 to 9/9/2024	220	\$11,000
2024 1Q report	4/15/2024 to 9/9/2024	147	\$7,350
2024 2Q report	7/11/2024 to 9/9/2024	60	\$3,000
Paid-for-by identifier	2/2/2024 to 3/11/2024	38	\$1,900
<i>Total for group</i>			\$56,250
Ranked Choice Education Ass'n			
Registration	2/2/2024 to 3/7/2024	34	\$1,700
IE report	2/2/2024 to 9/9/2024	220	\$11,000
2022 4Q report	2/2/2024 to 9/9/2024	220	\$11,000
2023 1Q report	2/2/2024 to 9/9/2024	220	\$11,000
2023 2Q report	2/2/2024 to 9/9/2024	220	\$11,000
2023 3Q report	2/2/2024 to 9/9/2024	220	\$11,000
2023 4Q report	2/2/2024 to 9/9/2024	220	\$11,000
<i>Total for association</i>			\$67,700
Arthur Matthias			
Stmt. of Cont. report	2/2/2024 to 9/9/2024	220	\$11,000
Alaskans for Honest Government			
2022 4Q report	2/2/2024 to 9/9/2024	220	\$11,000
IE report	2/2/2024 to 9/9/2024	220	\$11,000
<i>Total for entity</i>			\$22,000

⁸³ This amounts to an \$11,000 penalty for each report. AS 15.13.390(a)(1).

We further order:

- Alaskans for Honest Elections to amend all its reports to correct the errors identified in this order within 30 days.
- Ranked Choice Education Association to amend its independent expenditure report to correct the errors identified in this order and to file the five missing quarterly reports within 30 days.
- Alaskans for Honest Government to file the two missing reports within 30 days.
- Matthias to amend the statement of contributions report to correct the errors identified in this order within 30 days.

This is a final Commission order. It may be appealed to the superior court within 30 days from the date of this order.⁸⁴ A request for the Commission to reconsider this order must be filed within 15 days from the date this order is delivered or mailed.⁸⁵

Dated: January 27, 2025

BY ORDER OF THE ALASKA PUBLIC OFFICES COMMISSION⁸⁶

Certificate of Service:

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

Scott Kendall
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and by **email** to:

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Executive Director
Alaska Public Offices Commission
heather.hebdon@alaska.gov


Paralegal

 1/27/25
Date

⁸⁴ AS 15.13.380(g); AS 44.62.560; Alaska R. App. P. 602.

⁸⁵ 2 AAC 50.891(g); AS 44.62.540.

⁸⁶ Commissioners Richard Stillie, Dan LaSota, Lanette Blodgett, Eric Feige, and Walt Monegan participated in this matter. The decision was made on a 5–0 vote.