

Department of Administration



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of ALASKA
GOVERNOR MIKE DUNLEAVY

ALASKA PUBLIC OFFICES COMMISSION

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TO: APOC Commissioners
DATE: September 9, 2023
FROM: Thomas R. Lucas, Campaign Disclosure Coordinator
SUBJECT: Staff Report, 23-01-CD, *Alaskans for Better Elections v. Alaskans for Honest Elections, Alaskans for Honest Government, Wellspring Ministries, Wellspring Fellowship, Ranked Choice Education Association, Art Mathias and Phillip Izon.*

On July 11, 2023, APOC staff accepted a complaint filed by Alaskans for Better Elections (Complainant) against Respondents Alaskans for Honest Elections (AHE), Alaskans for Honest Government (AHG), Wellspring Ministries (WM), Ranked Choice Education Association (RCEA), Art Mathias, and Phillip Izon.¹

The complaint alleges that Respondents violated AS 15.13 in connection with the 22AKHE Initiative by failing to file timely reports and registrations; and obscuring the true source of contributions to AHE.

On July 12, 2023, Complainant filed its First Supplement in support of its complaint.² On July 25, 2023, Complainant filed its Second Supplement in support of its complaint contending that Wellsprings Fellowship (WF) should be a party to the complaint.³

On July 26, 2023, Respondents AHE, AHG, RCEA WM WF, Art Mathias and Phillip Izon filed an Answer to the complaint.⁴

On August 1, 2023, Complainant filed a Response to Respondents' Answer.⁵

¹ Exhibit 1, Complaint.
² Exhibit 2, First Supplement.
³ Exhibit 3, Second Supplement.
⁴ Exhibit 4, Answer to Complaint.
⁵ Exhibit 5, Response to Answer.

On August 3, 2023, Respondents filed their First Amended Answer to the Complaint.⁶

On August 8, 2023 Complainant filed a Third Supplement to its Complaint.⁷

On August 14, 2023, Respondents filed a Reply to Complainant’s Response to Answer and Third Supplement to the Complaint.⁸

FACTS

1. Initiative Petition 22AKHE

On November 23, 2022, primary sponsors Phillip Izon, Art Mathias, and Jamie R. Donley proposed an initiative by filing an application with the Lieutenant Governor for an initiative entitled “An Act Restoring Political Party Primaries and Single-Choice General Elections.” The Lieutenant Governor certified the sponsors’ petition application, identified as 22AKHE, on January 20, 2023, and the Division of Elections issued petition booklets to the sponsors on February 8, 2023.⁹

2. Alaskans for Honest Government

Alaskans for Honest Government (AHG) registered as an entity with APOC on November 1, 2022, with the stated purpose to “help Alaskans with data, information, and research. Provide polling and other election resources to voters.”¹⁰ Phillip Izon was listed as the entity’s Record Keeper/Agent and Diamond Metzger is listed as its Treasurer – no other officers or directors were listed.¹¹

According to Mr. Izon, AHG was formed with the intent of making independent expenditures related to Alaska’s federal congressional and U.S. Senate races.¹² AHG’s

⁶ Exhibit 6, First Amended Answer.

⁷ Exhibit 7, Third Supplement.

⁸ Exhibit 8 Reply to Response.

⁹ Exhibits 9, 10, and 11, Application Certificate, Application Acceptance, and Excerpt from Alaska Division of Elections Petition List, respectively.

¹⁰ Exhibit 12, AHG Entity Registration.

¹¹ *Id.*

¹² Exhibit 13, First Affidavit of Izon at Paragraph 4.

belief is that its registration was made by mistake (presumably because it believed that it would only be engaged in federal election activity).¹³

AHG purchased a web domain on October 15, 2022.¹⁴ Despite the stated intent of AHG’s creation, as of November 18, 2022, the AHG website landing page contained a link to “Alaskans for Honest Elections’ Ballot Initiative”, a graphic showing the process for bringing the initiative to the voters, and appeared to be devoted solely to ranked choice voting in general and Alaskans for Honest Elections’ efforts, in particular.¹⁵ As of April 26, 2023, AHG’s website contained multiple links, including a page where visitors could sign up to receive a petition booklet for 22AKHE, a link to AHE’s website; a link to a page with the same link and graphic that existed on AHG’s web domain on November 18, 2022; and additional language directing visitors to “Click Here To sign The Initiative Today,” which if clicked took the user to the AHE’s website.¹⁶ As of July 5, 2023, AHG’s website landing page continued to contain a link to sign the petition and a link to “Alaskans for Honest Elections Ballot Initiative”.¹⁷

As of July 6, 2023, the AHG website landing page no longer contained the signing links or the link to AHE at the top of the page,¹⁸ but had transitioned to adding a pop-up that requested help in getting rid of ranked choice voting¹⁹ that itself transitioned to a second pop-up showing the AHE process for bringing the initiative to the voters graphic as was used in November and April.²⁰

AHG has the following identifier on its website: “paid for by Alaskans for Honest Government. Not authorized by any candidate or candidate’s committee.” This is the sole paid-for-by identifier that has appeared on AHG’s website since its inception.

¹³ *Id.*

¹⁴ Exhibit 14 Whois Report for Alaskansforhonestgovernment.org.

¹⁵ Exhibit 15, November 18, 2022, Landing

Page: <https://web.archive.org/web/20221118175919/https://alaskansforhonestgovernment.org/>.

¹⁶ Exhibit 16, April 26, 2023, Click Here Page (attached as Exhibit Q to the Complaint).

¹⁷ Exhibit 17 AHG July 5, 2023, Landing Page.

¹⁸ Exhibit 18, July 6, 2023, Landing Page.

¹⁹ Exhibit 19, July 26, 2023, Pop-up Page 1.

²⁰ Exhibit 20, July 26, 2023, Pop-up Page 2.

3. Alaskans for Honest Elections

Alaskans for Honest Elections (AHE) is an Alaska nonprofit corporation created on January 23, 2023.²¹ AHE registered as a group with APOC on March 20, 2023, with the stated purpose of: “Any lawful election matters.”²² Phillip Izon is designated as the Chairman of the group and a Director of the corporation; Diamond Metzger is designated Treasurer of the group and a Director of the corporation; and Art Mathias is listed as a Director of the corporation.²³

It appears that AHE may have registered as a group sooner due to mistaken advice received from APOC Campaign Disclosure Coordinator Tom Lucas on November 18, 2022, and reiterated on November 21, 2022.²⁴ Mr. Lucas’ mistaken advice was corrected by the Commission’s director on February 23, 2023, and reiterated on February 24, 2023.²⁵

AHE timely filed its First Quarter Report on April 10, 2023.²⁶ This report included expenditures beginning on January 20, 2023, for which independent expenditure reports should have been filed but were not.²⁷ This resulted in APOC staff issuing one Notice of Violation and two Notices of Penalty for the late reported expenditures that should have been reported within 10 days.²⁸

AHE’s First Quarter Report included a nonmonetary contribution of \$200,000 from Mr. Izon for “Management Costs/Time.”²⁹ Mr. Izon explains that this was intended as an estimate of the total value of the services he would render to AHE through the end of the campaign.³⁰ As Mr. Izon further explained in response to APOC staff’s request for information,

²¹ Exhibit 21, AHE Articles of Incorporation.

²² Exhibit 22, AHE Group Registration.

²³ Exhibits 21 and 22.

²⁴ Exhibit 23, Email Chain Lucas/Izon (mistakenly informing Mr. Izon that he was contemplating a referendum which would not require immediate registration with APOC).

²⁵ Exhibit 24, Email Chain Hebdon/Izon (informing Mr. Izon that, he should register an initiative application group).

²⁶ Exhibit 25, First Quarter Report.

²⁷ *Id.*

²⁸ Exhibits 26, 27, and 28, Notices of Violation and Penalty (Because AHE has not appealed or paid the assessed civil penalties, Notices of Referral to the Commission were issued to AHE on August 29, 2023).

²⁹ Ex. 25.

³⁰ Ex. 13, paragraph 2.

When I was approached to lead the initiative campaign. I was asked how much I would charge to do it, I quoted \$200,000. I have a decade of experience as a commercial banker and loan officer. I am currently self employed in artificial intelligence, I do not manage large projects like this often. Though I have done various political and commercial work for various companies in the cannabis industry here in Alaska. I also owned multiple cannabis companies.³¹

AHE's First Quarter Report also included contributions from Ranked Choice Education Association (RCEA) – two checks totaling \$76,000, one cash contribution of \$2,358,³² and one nonmonetary contribution of printing services valued at \$1,382.³³ AHE's Second Quarter Report, filed six days late³⁴ included one contribution from RCEA in the amount of \$10,260.³⁵

RCEA reported contributions to AHE in the amount of \$79,740 on its May 9, 2023, Statement of Contributions Report.³⁶ Confusingly, the RCEA \$1,382 nonmonetary contribution of printing services reported on AHE's First Quarter Report is reported by RCEA as a monetary contribution of \$1,382 via check number 103.³⁷

RCEA reported a single contribution to AHE in the amount of \$10,260 on its June 11, 2023, Statement of Contributions Report.³⁸ The total annual contribution from RCEA is reported on this report as \$90,000 with Art Mathias named as the sole true source of the contribution.³⁹ Of note, Art Mathias is reported to have stated that he had donated \$100,000 to the effort to repeal ranked choice voting at the launch of the 22AKHE petition booklet signature gathering drive.⁴⁰

³¹ Exhibit 29, Request and Response.

³² This contribution was returned, and a check issued for the same amount as of July 25, 2023 (see Ex. 30, Second Affidavit of Izon).

³³ Ex. 25.

³⁴ Exhibit 31, Notice of Penalty for Second Quarter Report.

³⁵ Exhibit 32 Second Quarter Report.

³⁶ Exhibit 33, May 9, 2023, Statement of contributions Report.

³⁷ *Id.*

³⁸ Exhibit 34, June 11, 2023, Statement of Contributions Report.

³⁹ *Id.*

⁴⁰ Exhibit 35, Excerpt of Ruskin Article (full article at <https://alaskapublic.org/2023/02/17/launch-of-campaign-to-repeal-ranked-choice-voting-draws-a-crowd-in-anchorage/>)

AHE promoted and held a 22AKHE petition booklet signing event on Wellspring Ministries’ premises at 2511 Sentry Drive in Anchorage, AK, on February 16, 2023.⁴¹ As it turns out, Wellspring Ministries leases its gymnasium to another entity, Wellspring Fellowship, which in-turn allows the Greater Alaska Chapter of the Association of Mature American Citizens to use gymnasium to for its monthly meetings.⁴²

On February 16, 2023, AMAC hosted AHE’s February 16, 2023, petition booklet signing event at Wellspring Ministries’ gymnasium.⁴³ AMAC has hosted other persons at its monthly meeting time and does not charge a fee for the hosting.⁴⁴ AHE has not reported any contribution from AMAC.

AHE purchased a web domain on November 11, 2022.⁴⁵ As of November 19, 2022, and through April 6, 2023, the paid-for-by identifier on AHE’S website stated only “Paid for by Alaskans for Honest Elections, 2521 E. Mtn Village Drive #904 Wasilla, Ak 99654 Not Authorized by any candidate or candidate’s committee”.⁴⁶ But, by at least April 21, 2023, the website had been amended to add the following paid for by identifier:

This Communication Was Paid For By Alaskans For Honest Elections, 2521 E. Mtn Village Dr. #904 Wasilla, Ak 99654 Phillip Izon, Director Approved This Message. The Top 3 Contributors Are Phillip Izon, Wasilla, AK, Ranked Choice Education Association, Anchorage, AK And Carolyn Overstreet, Anchorage, AK.⁴⁷

AHE posted 17 videos on its YouTube page.⁴⁸ The first two videos (from left to right on the exhibit) present first a pro-ranked choice speaker; and second, an anti-ranked choice speaker. The remaining 15 videos all urge the listener to reject ranked choice voting for various reasons and to sign the 22AKHE petition booklets.⁴⁹ The paid-for-by identifiers

⁴¹ Exhibit 36, Signing Invitation.

⁴² Exhibit 37, August 2, 2023, Response to Information Request.

⁴³ *Id.*

⁴⁴ Exhibit 38, AMAC Email Response to Staff Question.

⁴⁵ Exhibit 39, AHE Whois Report.

⁴⁶ Exhibit 40, November 19, 2022, Internet Archive of Website; Exhibit 41 April 6, 2023, Internet Archive of Website.

⁴⁷ Exhibit 42, April 21 Internet Archive of Website.

⁴⁸ Exhibit 43, YouTube Videos Captured June 30, 2023 (Exhibit N to complaint); Exhibit 44 Affidavit of Gottstein,

paragraph 5. <https://www.youtube.com/@907honest/videos>.

⁴⁹ <https://www.youtube.com/@907honest/videos>.

on the videos state only: “Paid for by Alaskans for Honest Elections. Not authorized by any candidate or candidate’s committee.”⁵⁰ Two of the fifteen videos had been posted three months prior to June 30, 2023; ten were posted four months prior to June 30, 2023; and three were posted 5 months prior to June 30, 2023.⁵¹

4. Ranked Choice Education Association

RCEA is a State of Washington corporation created on December 16, 2022.⁵² Art Mathias is RCEA’s President; Phillip Izon and Patricia Mathias are Directors.⁵³ RCEA purchased its first web domain on December 22, 2022, one month after Phillip Izon, Art Mathias, and Jamie R. Donley filed their application for initiation 22AKHE with the Lieutenant Governor.⁵⁴ This was RCEA’s website until it purchased a new web domain on May 23, 2023.⁵⁵

RCEA’s first domain landing page was devoted to promoting the efforts of AHE.⁵⁶ Under a heading entitled “Alaska’s Efforts to Repeal Ranked Choice,” AHE’s signature gathering efforts are promoted by presenting information on 22AKHE and a QR code that links directly to AHE’s website. AHE’s website, among other things, lists various locations where 22AKHE petition booklets can be signed.⁵⁷ This first domain of RCEA contained no paid for by identifier.⁵⁸

The information provided on RCEA’s new domain is clearly different from what was presented on its first domain in that it emphasizes a more general purpose of explaining and arguing why RCEA believes ranked choice voting is a very bad thing but without

⁵⁰ *Id.* See also examples given in Exhibit L to the Complaint.

⁵¹ Ex. 43, YouTube Videos.

⁵² Exhibit 45, RCEA Articles of Incorporation.

⁵³ *Id.*

⁵⁴ Exhibit 46, Whois report for rankedchoiceducationassociation.org.

⁵⁵ Exhibit 47, rankedchoicedu.org. Whois Report.

⁵⁶ Exhibit 48 (Exhibit X from Complaint); Ex. 44, Affidavit of Gottstein, par. 11.

⁵⁷ *Id.* at p. 2.

⁵⁸ Ex. 48.

mentioning the 22AKHE initiative. Further, this new domain provides no links to AHE materials or any other materials supporting the signing of 22AKHE petition booklets.⁵⁹

RCEA’s new domain is consistent with RCEA activities as described in its answer to the complaint; and in Mr. Izon’s Second Affidavit.⁶⁰ In its answer, RCEA argues that its website, by its words, focuses on acquainting the American public with the dire effects adoption of ranked choice voting would have on American democracy in all jurisdictions.⁶¹ Further, RCEA argues that Mr. Mathias and Mr. Izon, on behalf of RCEA, have traveled to approximately eight states in the lower-48 to speak and consult with community members about ranked choice voting; and that more of this activity is scheduled to take place.⁶² In their Second Affidavits, both Mr. Mathias and Mr. Izon detail their efforts to acquaint individuals in other states with what they argue are flaws and negative aspects of ranked choice voting.⁶³ However, on July 3, 2023, RCEA published a Tweet from its Twitter account stating it hopes to get 22AKHE on the ballot so that it can be removed from “our state.”⁶⁴ Additionally, on July 5, 2023, RCEA announced by Tweet that it is the group behind the repeal of ranked choice voting in Alaska.⁶⁵

RCEA has reported a total of \$90,000 in contributions to AHE – the entire amount attributed by RCEA on its June 11, 2023, Statement of Contributions report as being donated by Art Mathias on December 22, 2022:

\$1,000 February 6, 2023, Check # 101

\$75,000 February 8, 2023, Check # 102

\$2,358 February 22, 2023, Cash

\$1,382 February 23, 2023 Check # 103

⁵⁹ Exhibit 49, New RCEA Landing Page <https://rankedchoiceedu.org/>.

⁶⁰ Exhibit 50, Second Affidavit of Izon.

⁶¹ Ex. 1, at pp 18-19.

⁶² *Id.*

⁶³ Exhibit 51, Second Affidavit of Mathias; Ex.50, respectively.

⁶⁴ Exhibit 52, July 3, 2023, RCEA Retweet of its own Tweet (Exhibit UU to Complainant’s First Supplement); Exhibit 53, July 12, 2023 Affidavit of Gottstein.

⁶⁵ Exhibit 54, July 5, 2023 RCEA Tweet (Exhibit VV to Complainant’s First Supplement); Ex. 53.

\$10,260 June 11, 2023 Check # 2010.⁶⁶

Staff's investigation, however, revealed a slightly different picture:

- The \$1,000 check is actually dated January 9, 2023, and the accurate check number is #1007;
- The \$75,000 contribution was actually made by cashier's check, not check #107. This cashier's check was issued on February 3, 2023 – as opposed to the reported date of February 8, 2023;
- The February 22, 2023 cash contribution of \$2,358 was refunded to AHE,⁶⁷ but another check in amount of \$2,258 was contributed to AHE on August 1, 2023 using check #2021; and
- The actual check number for the \$1,382 contribution made on February 23, 2023, is 2004, not #103.

Additionally, the investigation revealed no evidence of the existence of a check in the amount of \$10,260, but Staff was able to identify an unreported contribution of \$11,000 made by check number 2010 and dated May 22, 2023.⁶⁸

5. Wellspring Ministries

Wellspring Ministries is an Alaska nonprofit corporation formed on July 1, 1999.⁶⁹ Art Mathias is its President and Treasurer, Patricia Mathias is its Vice President, Monica Mosier is its Secretary and a Director; and Janice Coulter and Patrick Hadley are Directors.⁷⁰ Wellspring Ministries' premises are located at 2511 Sentry Drive in Anchorage, AK. Wellspring Ministries has a gymnasium at this location that also serves as an auditorium.⁷¹

⁶⁶ Exhibit 55, May 9, 2023 and June 11, 2023 Statement of Contributions Reports.

⁶⁷ Exhibit 13, at paragraph 7.

⁶⁸ Exhibit 56, RCEA Checks to AHE.

⁶⁹ Exhibit 57, Alaska Department of commerce Entity Details Page.

⁷⁰ *Id.*

⁷¹ Ex. 37.

Wellspring Ministries leases its gymnasium, office space, and a conference room to Wellspring Fellowship.⁷²

6. Wellspring Fellowship

Wellspring Fellowship nonprofit corporation incorporated in the State of Washington and on December 8, 2022.⁷³ Art Mathias, Patrick Hadley, Gayle Hadley, and Monica Mosier are its Directors.⁷⁴

Wellspring Fellowship allows RCEA to receive mail and to use the conference room leased from Wellspring Ministries for its meetings, which typically last sixty to ninety minutes every two to three months.⁷⁵

Wellspring Fellowship also allows the Greater Alaska Chapter of the Association of Mature American Citizens to use the gymnasium leased from Wellspring Ministries and charges \$1 for this monthly meeting.⁷⁶ According to Wellspring Ministries, it charges Wellspring Fellowship only the costs associated with its operation and maintenance of the leased space because, as a nonprofit organization, it is not allowed to profit from the lease.⁷⁷ For one of its monthly meetings in Wellspring Ministries' gymnasium, the Greater Alaska Chapter of the Association of Mature American Citizens hosted AHE's petition booklet signing event for approximately one hour on February 16, 2023.⁷⁸ The gymnasium/auditorium has a maximum capacity of 800.⁷⁹

7. Art Mathias

Mr. Mathias is one of the three sponsors of 22AKHE along with Phillip Izon and Jamie R. Donley.⁸⁰

⁷² Exhibit 37, at p.5.

⁷³ Exhibit 58, WF Articles of Incorporation.

⁷⁴ *Id.*

⁷⁵ Ex. 37, at pp. 2-3.

⁷⁶ Ex. 37, at p. 2.

⁷⁷ *Id.*

⁷⁸ *Id.*

⁷⁹ Exhibit 59, August 3, 2023, Response to Information Requests.

⁸⁰ Ex. 9, Application Certificate.

On December 22, 2022, Mr. Mathias contributed \$90,000 to RCEA.⁸¹ On its June 11, 2023, Statement of Contributions Report RCEA reported that its current total annual contribution to AHC was \$90,000 with Art Mathias as the single true source of the funds.⁸² At the launch of the 22AKHE petition booklet signature gathering drive Mr. Mathias is alleged to have “told supporters that ranked choice voting puts the entire country at risk. Literally, seriously at risk.”⁸³ Mathias is further alleged to state “[i]f we don’t replace rank choice voting, we will never elect another conservative, and we will only have outside corporations coming up and buying our candidates and buying our elections.”⁸⁴ And, Mathias “said he’s donated \$100,000 to the effort, and the campaign has raised \$400,000 from out of state.”⁸⁵

Mr. Mathias argues, however, that by “effort” he meant the overall effort that both AHE and RCEA were involved in, with AHE working to repeal ranked choice voting in Alaska, and RCEA working to educate Americans in other states against the concept of ranked choice voting.⁸⁶

LAW AND ANALYSIS

1. Registration

Complainant alleges that respondents AHG and RCEA made one or more expenditures in support of an initiative application filed with the Lieutenant Governor that triggered registration and reporting requirements. As described above, it is clear from their websites that AHG and RCEA are decidedly against ranked choice voting in general; and that both utilized their websites to showcase AHE materials clearly supporting the 22AKHE petition booklet signature gathering effort.

⁸¹ Exhibit 60, Art Mathias check for \$90,000.

⁸² Ex.34.

⁸³ Ex. 35.

⁸⁴ *Id.*

⁸⁵ *Id.*

⁸⁶ Ex.49.

Alaska law requires each person, other than an individual, to register with APOC before making an expenditure in support of or in opposition to, a ballot proposition or an initiative application filed with the Lieutenant Governor.⁸⁷

An expenditure is defined as “a purchase or a transfer of money or anything of value, or promise or agreement to purchase or transfer money or anything of value, incurred or made for the purpose of... influencing the outcome of a ballot proposition or question.”⁸⁸ The definition of expenditure also “includes an express communication and an electioneering communication, but does not include an issues communication.”⁸⁹

An express communication is one that “when read as a whole and with limited reference to outside events, is susceptible of no other reasonable interpretation but as an exhortation to vote for or against a specific candidate.”⁹⁰

An electioneering communication is one that addresses an issue of political importance and attributes a position on that issue to a candidate who is directly or indirectly identified and occurs within the 30 days preceding a general or municipal election.⁹¹

An issues communication is one that addresses an issue of political importance, directly or indirectly identifies a candidate, but does not support or oppose a candidate.⁹²

Although the communication definitions are specific to communications regarding candidates, the distinctions also are appropriate for ballot proposition and initiative campaigns.⁹³

⁸⁷ AS 15.13.050(a).

⁸⁸ AS 15.13.400(7)(a)(iv).

⁸⁹ AS 15.13.400(7)(C).

⁹⁰ AS 15.13.400(8).

⁹¹ AS 15.13.400(6).

⁹² AS 15.13.400(13).

⁹³ See, *McIntyre v. Ohio Elections Comm’n*, 115 S. Ct. 1511 (1995) (holding that principles regarding regulation of political speech in candidate elections extend equally to issue-based elections such as referendums); *Calif. ProLife Council, Inc., v. Getman*, 328 F.3d 1088 (9th Cir. 2003) (holding that states may regulate express ballot measure advocacy through disclosure laws and applying analysis of “express advocacy” in candidate campaigns to ballot initiative campaigns); *Federal Election Comm’n v. Wisconsin Right to Life, Inc.*, 127 S. Ct. 2652 (2007) (holding that campaign communications that are susceptible to no reasonable interpretation other than as an appeal to vote for or against a specific candidate are the functional equivalent of express campaign communications) (See also, AO 08-02-CD, Timothy McKeever (Renewable Resources Coalition)).

Generally, an issues communication does not trigger registration and reporting requirements. But, where a communication that would ordinarily be an issues communication is disseminated contemporaneously with ballot proposition involving the same or similar subject, the Commission has engaged in further analysis to determine if, under all the circumstances, the communication is actually an express communication that triggers APOC’s registration and reporting requirements. Several such cases are discussed below.

In AO 08-02-CD the Commission approved staff’s advice addressing a similar issue as presented herein. In that case, the Renewable Resources Coalition asked whether certain anti-Pebble Mine advertisements lost their non-regulated character as issues communications if disseminated near the time of a ballot proposition involving a similar or the same subject.⁹⁴ In that case, the Renewable Resources Coalition (RRC) had for several years opposed the Pebble Mine project using phrases such as “protect clean water and wild Alaska salmon.” During the period of such activity, two clean water initiatives reached the 2008 statewide ballot. The initiatives proposed new regulations for new large-scale mining projects in the state, which presumably would include the Pebble Mine, regarding the discharge and storage of certain toxic materials.⁹⁵

RRC asked the Commission for an advisory opinion as to whether it would be able to continue its education of the public concerning the potential negative impact of the proposed Pebble Mine in the same manner as it had in the past, including use of the phrase, “clean water,” without such activities being considered expenditures made to influence the outcome of a ballot proposition.⁹⁶ After reviewing RRC’s previous advertisements, and proposed new sample advertisements staff noted that there was no discussion of voting and no express advocacy supporting the initiatives.⁹⁷

⁹⁴ Exhibit 61, AO 08-02-CD, *Renewable Resources Coalition*.

⁹⁵ *Id.* at p. 9.

⁹⁶ *Id.* at p. 10.

⁹⁷ *Id.* at p. 11.

Ultimately, the Commission approved staff’s recommended advice after analysis of the question presented:

“In this case, the example advertisements you provided with your request do not expressly advocate for a position on a ballot initiative or make any mention of an initiative, election or voting. Nor are they the functional equivalents of express communications because they are susceptible to reasonable interpretations other than as exhortations to vote for the initiatives. While the use of the term “clean water” might be interpreted by listeners who are aware of the initiatives as a message in support of the initiatives, it is not the only reasonable interpretation of the advertisements.”⁹⁸

In AO 14-04-CD, *Renewable Resources Foundation*, the Commission adopted staff’s advisory opinion which relied on the legal conclusions and tests set forth in AO 08-02-CD:

“Because the proposed ad does not mention the initiative, does not advocate any position on the initiative and is susceptible to interpretations other than an exhortation to vote for the initiative; the ad would not trigger a reporting or disclosure requirement under AS 15.13”⁹⁹

In AO 19-04-CD, *Bags for Change*, the Commission emphasized the importance of a history of communications on a subject that has crossed over to becoming the subject of an initiative. There, the organization, Bags for Change had for many years communicated with the public concerning the harmful effects of plastics in general and plastic bags in particular. In its draft opinion, staff opined that a brochure that provided neutral cost information about a ballot proposition concerning the elimination of plastic bags and mentioned voting and the proposition by name nevertheless did not trigger a registration or reporting requirement because the brochure, taken as a whole, was susceptible to a reasonable interpretation other than an exhortation to vote one way or the other because it provided neutral information concerning the proposition. Upon approving the opinion by a 5-0 vote, the Commission amended to the foregoing, “especially...given that [Bags for

⁹⁸ Ex. 61.

⁹⁹ Ex. 62, AO 14-04-CD, *Renewable Resources Foundation*.

Change] has engaged in educational efforts for three years before the [i]nitiative, rather than a group that was created around the [i]nitiative.”¹⁰⁰

More recently, in *Yes on 2 for Better elections v. Alaska Public Policy Forum, et. al.*¹⁰¹ the Commission determined that Alaska Public Policy Forum’s communications were express communications even though the ballot measure at issue was not identified by name where there was no history of communicating about the topic, the communications were disseminated in the context of a ballot measure on the same topic, and the communications were not neutral.¹⁰²

A. Alaskans for Honest Government

Alaskans for Honest Government (AHG) purchased a web domain on October 15, 2022, and registered as an entity with APOC on November 1, 2022. Phillip Izon is named as the Record Keeper/Agent and Diamond Metzger is the named Treasurer on AHG’s registration.

As of November 18, 2022, AHG’s website was primarily devoted to the topic of ranked choice voting in general and AHE’s efforts (including a link to the AHE website) in particular. On November 23, 2022, Phillip Izon, Art Mathias, and Jaime R. Donley filed an application to propose an initiative with the Lieutenant Governor. After certification of the sponsors’ application by the Lieutenant Governor, the Division of Elections identified the sponsors’ petition as “22AKHE.” As of April 26, 2023, AHG’s website contained links to sign up to receive a 22AKHE petition booklet and to AHE’s website. As of July 6, 2023, AHG’s website no longer contained the links to AHE, but had transitioned to pop-ups requesting the public’s help in eliminating ranked choice voting and displaying AHE’s graphic showing the steps to an initiative election on ranked choice voting. On these facts, staff concludes that AHG’s website was an express communication because under all the circumstances it was susceptible of no other reasonable interpretation but as an exhortation

¹⁰⁰ *Id.* at p. 5.

¹⁰¹ Complaint 20-05-CD

¹⁰² *Id.*

to support 22AKHE, an initiative petition for a ballot proposition to eliminate ranked choice voting in Alaska.

Staff’s conclusion is consistent with the Commission’s decisions in *Bags for Change and Renewable Resources* because here, unlike those cases, AHG has no lengthy history of opposing the subject of the initiative, but instead began its opposition to ranked choice voting within days of filing its application to propose initiative 22AKHE.

Staff’s conclusion is also consistent with the Commission’s decision in *Yes on 2 for Better elections v. Alaska Public Policy Forum, et. al.*¹⁰³ In that case, the Commission determined that Alaska Public Policy Forum’s communications were express communications even where the ballot measure at issue was not identified by name because there was no history of communicating about the topic, the communications were disseminated in the context of a ballot measure on the same topic, and the communications were not neutral.¹⁰⁴

Accordingly, staff concludes that AHG violated AS 15.13.050 by failing to register with APOC before expending funds on its website.

Complainant contends that AHG should have registered as a group. Staff disagrees. A group is defined in relevant part as “any combination of two or more individuals acting jointly who organize for the principal purpose of filing an initiative proposal application...or who file an initiative proposal application” with the Lieutenant Governor.¹⁰⁵ Clearly, AHG does not satisfy the principal purpose test of the definition because they did not organize for the principal purpose of filing an initiative proposal application; ofr file an initiative proposal application. Instead, AHG is a person who has made independent expenditures (expenditures in connection with the creation, maintenance and updating of its website) opposing an initiative proposal application filed with the Lieutenant Governor and therefore should have registered as an entity.

B. Ranked Choice Education Association

¹⁰³ Complaint 20-05-CD

¹⁰⁴ *Id.*

¹⁰⁵ AS 15.13.400(9).

RCEA purchased its first domain on December 22, 2022, one month after Phillip Izon, Art Mathias, and Jamie R. Donley filed their application to propose the initiative, ultimately identified as 22AKHE, with the Lieutenant Governor.

RCEA’s first domain landing page was devoted to promoting the efforts of AHE. Under a heading entitled “Alaska’s Efforts to Repeal Ranked Choice,” AHE’s signature gathering efforts are promoted by presenting AHE, information about initiative 22AKHE, and a QR code that links directly to AHE’s website which, among other things, lists various locations where 22AKHE petition booklets can be signed. Further, RCEA has openly stated on its Twitter account that it is the group behind the 22AKHE effort.

On these facts, staff concludes that RCEA’s website was an express communication because under all the circumstances it was susceptible of no other reasonable interpretation but as an exhortation to support 22AKHE, an initiative proposed to eliminate ranked choice voting in Alaska.

Staff’s conclusion is consistent with the Commission’s decisions in *Bags for Change and Renewable Resources* because here, unlike the parties in those cases, RCEA has no lengthy history of opposing ranked choice voting, the subject of the initiative, but instead began its opposition to ranked choice voting contemporaneously with Izon, Mathias, and Donley’s filing of an application to propose the initiative that ultimately became 22AKHE.

Staff’s conclusion is also consistent with the Commission’s decision in *Yes on 2 for Better elections v. Alaska Public Policy Forum, et. al.*¹⁰⁶ In that case, the Commission determined that Alaska Public Policy Forum’s communications were express communications even where the ballot measure at issue was not identified by name and where there was no history of communicating about the topic, the communications were disseminated in the context of a ballot measure on the same topic, and the communications were not neutral.¹⁰⁷

¹⁰⁶ Complaint 20-05-CD

¹⁰⁷ *Id.*

Accordingly, staff concludes that RCEA violated AS 15.13.050 by failing to register with APOC before expending funds on its website.

Complainant contends that RCEA should have registered as a group. For the same reasons stated above in paragraph A, “Alaskans for Honest Government,” Staff disagrees. Like AHG, RCEA does not satisfy the principal purpose test of the definition of group. Instead, RCEA has made independent expenditures opposing an initiative proposal and therefore should have registered as an entity.

C. Alaskans for Honest Elections

A person is required to register with APOC “*before* making an expenditure in support of or in opposition ...to an initiative proposal application filed with the lieutenant governor.”¹⁰⁸ AHE registered with APOC on March 20, 2023, but actually made its first expenditure two months before that on January 20, 2023. Thus, by not registering with APOC until two month *after* making its first expenditure, AHE violated AS 15.13.050(a).

2. Reporting

A. Alaskans for Honest Government

As a person making independent expenditures opposing an initiative application, AHG was required to file independent expenditure reports.¹⁰⁹ These reports should have been filed within 10 days of making each expenditure.¹¹⁰

As a person opposing an initiative application, AHG was also required to file quarterly reports if it received contributions exceeding \$500 or made expenditures exceeding \$500 within a calendar year.¹¹¹

Here, AHG violated AS 15.13.040 by failing to file independent expenditure reports; and AS 15.13.110(g) by failing to file a First Quarter Report.

B. Alaskans for Honest Elections

¹⁰⁸ AS 15.13.050(a) (emphasis added).

¹⁰⁹ AS 15.13.040(d).

¹¹⁰ AS 15.13.110(h).

¹¹¹ AS 15.13.110(g).

AHE violated AS 15.13.110(h) by failing to file three independent expenditure reports, and instead reporting the expenditures late on its First Quarter Report. Further AHE violated AS 15.13.110(g) by filing inaccurate First and Second Quarter Reports and by filing its Second Quarter Report six days late. As noted above, Staff has issued civil penalty assessments for all three independent expenditure violations and the late Second Quarter violation and AHE has been notified that the assessments are being referred to the Commission because they have not been appealed or paid. Accordingly, Staff recommends that those allegations be dismissed without prejudice as they are being addressed under the ordinary civil penalty procedure for late-filed reports consistent with 2 AAC 50.855 and 2 AAC 50.895.

Complainant also alleges that AHE violated AS 15.13.040(b), AS 15.13.074(b), and AS 15.13.110(k) by failing to accurately report the source of the contributions it received.¹¹² Specifically, Complainant contends that AHE reports showing RCEA as the contributor are inaccurate because, as alleged by Complainant, RCEA appears to have been specifically created as a pass-through for the dual purposes of unlawfully obtaining a tax deduction for donors and obscuring the actual source of the donations.¹¹³

A person may not contribute anonymously, using a fictitious name, or using the name of another.¹¹⁴ A contribution must be made in the name of the true source of the money or thing of value – a person may not contribute using the name of another; or use a third-party conduit.¹¹⁵ A person making independent expenditures is required to report contributions made to the person on its independent expenditure reports.¹¹⁶ For purposes of the AS 15.13.040(e) requirement to report contributors, the term “contribution” means the true source of the contribution.¹¹⁷

¹¹² Ex. 1 at p. 7.

¹¹³ *Id.*

¹¹⁴ AS 15.13.074(b).

¹¹⁵ 2 AAC 50.258(a).

¹¹⁶ AS 15.13.040(e).

¹¹⁷ AS 15.13.040(q).

Here, as discussed below, staff has concluded that the weight of the evidence establishes that Mr. Mathias, the President of RCEA and a Director of AHE, contributed \$90,000 to RCEA knowing that the contribution would be repurposed to support AHE through contributions as needed. Further, on its June 11, 2023, Statement of Contributions filed by Phillip Izon, Chair of AHE, Art Mathias is reported as the sole true source of the funds RCEA had, up to that point, contributed to AHE. On these facts, staff concludes that AHE violated AS 15.13.110(g) and AS 15.13.074(b) by filing inaccurate First and Second Quarter reports and for failing to report Mr. Mathias' contributions.

Complainant further alleges that AHE violated AS 15.13.040(b)-(c) when it reported a \$200,000 nonmonetary contribution from Phillip Izon.¹¹⁸ But, Complainant's assertion is based on the false assumption that the reported contribution was for Mr. Izon's efforts covering no longer than a calendar quarter.¹¹⁹ As Mr. Izon explained, the \$200,000 amount was an estimate of the value of his services through the end of AHE's campaign – a campaign only barely begun and still in the signature gathering stage – and was based on what he would have quoted if paid to do it. On these facts, staff concludes that there is insufficient evidence to find an AS 15.13 violation based on AHE's reporting of a \$200,000 nonmonetary contribution from Mr. Izon.

Complainant also alleges that AHE violated AS 15.13.040(j)-(k) by failing to notify its contributors who contributed \$500 or more of their obligation to file a statement of contributions report within 30 days. But, neither AS 15.13, the regulations adopted thereunder, or prior Commission decisions establish such a requirement. The statutory provisions cited by Complainant relate solely to the obligations of the person receiving the contribution; and do not include an obligation to inform contributors of their own, separate obligations under the statute. Accordingly, this allegation should be dismissed.

Finally, the investigation revealed that the Greater Alaska Chapter of the Association of Mature American Citizens hosted AHE's February 16, 2023, petition

¹¹⁸ Ex. 1 at p. 6.

¹¹⁹ *Id.*

signing event. Complainant contends that AHE violated AS 15.13 by not reporting a nonmonetary contribution from the Greater Alaska Chapter of the Association of Mature American Citizens, namely the Association’s act of providing the gymnasium space for AHE’s event.

The permission of the owner of real or personal property to post political signs; or to use space for an event is not considered a contribution unless the owner customarily charges a fee for that activity.¹²⁰ In AO 12-16-CD the Commission was asked whether a candidate was required to seek permission of the owner of the property when posting a sign on that property when it is occupied by another who has given permission to post the sign.¹²¹ The Commission found that APOC does not regulate who can or cannot grant permission to place signs on real or personal property, but, that in general a candidate must ensure that contributions or expenditures are reported when political signs are posted in areas for which a charge is ordinarily made.¹²²

Here, the Greater Alaska Chapter of the Association of Mature American Citizens, the lessee of space within a building, provided use of that space to AHE at no cost just as it has done for other persons. Nevertheless, because the gymnasium’s owner, Wellspring Ministries, customarily charges an at-cost fee for use of the gymnasium, Staff concludes that AHE violated AS 15.13.110(g) by failing to include a nonmonetary contribution from Wellspring Ministries on its First Quarter Report.¹²³

C. Ranked Choice Education Association

As a person making independent expenditures opposing an initiative application, RCEA was required to file independent expenditure reports.¹²⁴ These reports should have been filed within 10 days of making each expenditure.¹²⁵

¹²⁰ AS 15.13.040(i).

¹²¹ Exhibit 63, AO 12-16-CD, *Max Gruenberg*.

¹²² Ex. 63, at p. 3.

¹²³ Staff notes that under 2 AAC 50.250(B)(1)(a) the amount of the contribution would not be the de minimis amount WM charges WF for the use of the space that WF granted to AMAC, but rather should be the normal market charge for a similar space.

¹²⁴ AS 15.13.040(d).

¹²⁵ AS 15.13.110(h).

As a person opposing an initiative application, RCEA was also required to file quarterly reports no later than 10 days after the end of the quarter if it received contributions exceeding \$500 or made expenditures exceeding \$500 within a calendar year.¹²⁶

Here, RCEA violated AS 15.13.040(d) and AS 15.13.110(h) by failing to timely file independent expenditure reports; and AS 15.13.110(g) by failing to timely file a 2022 Fourth Quarter Report.

Complainant contends that RCEA violated AS 15.13 by making a cash contribution of \$2,358 to AHE. A person may not make a cash contribution that exceeds \$100.¹²⁷ RCEA concedes that it made the cash contribution in violation AS 15.13.074(e).

Complainant further contends that RCEA violated AS 15.13.074(b) by making contributions in the name of another.¹²⁸ Specifically, Complainant contends that RCEA was created for the purpose of laundering donations to AHE.¹²⁹ Staff does not agree. As discussed above, it is abundantly clear that RCEA has been involved in substantial activities in the lower-48 to further its mission of warning Americans about what it perceives to be the flaws and negative aspects of ranked choice voting.

Complainant appears to be primarily concerned with the \$90,000 donation Mr. Mathias made to RCEA at the beginning of its existence. A person may not contribute anonymously, using a fictitious name, or using the name of another.¹³⁰ A contribution must be made in the name of the true source of the money or thing of value – a person may not contribute using the name of another; or use a third-party conduit.¹³¹ A person making independent expenditures is required to report contributions made to the person on its independent expenditure reports.¹³² For purposes of the AS 15.13.040(e) requirement to report contributors, the term “contribution” means the true source of the contribution.¹³³

¹²⁶ AS 15.13.110(g).

¹²⁷ AS 15.13.074(e)

¹²⁸ Ex. 1, at p. 19.

¹²⁹ *Id.*

¹³⁰ AS 15.13.074(b).

¹³¹ 2 AAC 50.258(a).

¹³² AS 15.13.040(e).

¹³³ AS 15.13.040(q).

Here, RCEA has filed only two statement of contributions reports – the first one on May 9, 2023, identifying four contributions in excess of \$500 all made in February, 2023, that did not identify Mr. Mathias as the true source and a June 11, 2023 report showing one additional contribution in excess of \$500, but reporting Mr. Mathias as the true source of all previous contributions to AHE.¹³⁴ Accordingly, staff concludes that RCEA’s May 9, 2023, statement of contribution report violated AS 15.13.074(b); and that the allegation should be dismissed with respect to the June 11, 2023, statement of contributions report.

Wellspring Ministries/Wellspring Fellowship

A person who contributes \$500 or more to a group organized for the principal purpose of filing an initiative proposal application with the Lieutenant Governor or that has filed an initiative proposal application with the Lieutenant Governor, is required to report that contribution no later than 30 days after the contribution is made.¹³⁵

Wellspring Ministries leases office space and a gymnasium/auditorium to Wellspring Fellowship. Wellspring Fellowship allows RCEA to receive to use its leased conference room for meetings typically taking an hour to an hour and a half once every two to three months.

Complainant alleges that Wellspring Fellowship violated AS 15.13.040(k) by failing to report its contribution of access to its leased premises to RCEA.¹³⁶ But, that section of AS 15.13 only applies to contributions made to groups organized for the principal purpose of influencing a ballot proposition; or groups organized for the principal purpose of filing an initiative application or that has filed an initiative application.¹³⁷ RCEA is not such a group because it did not file an application to propose the initiative 22AKHE. Accordingly, Staff recommends that this allegation be dismissed.

3. Identification of Political Communications

¹³⁴ RCEA has filed no other reports although required to do so.

¹³⁵ AS 15.13.040(k)

¹³⁶ Ex. 1, at p. 22.

¹³⁷ AS 15.13.040(k).

Alaska’s campaign disclosure law requires all communications to be identified using the words “paid for by” followed by the name and address of the person paying for the communication.¹³⁸ For a person other than an individual or candidate, the identifier must include the name and title of the person’s principal officer; and a statement from the principal officer approving the communication; and, unless the person is a political party, the name, city and state of each of the person’s top 3 contributors, if any.¹³⁹

A “communication” is defined as “an announcement or advertisement disseminated through print or broadcast media, including radio, television, cable, and satellite, the Internet, or through a mass mailing, excluding those placed by an individual or nongroup entity and costing \$500 or less and those that do not directly or indirectly identify a candidate or proposition, as that term is defined in AS 15.13.065(c).”¹⁴⁰

A political communication is further defined to include press releases and material on an internet website.¹⁴¹ For a communication containing a video component by broadcast, cable, satellite, internet or other digital communication, the paid for by identifier must remain on the screen throughout the entirety of the communication.¹⁴²

A. Alaskans for Honest Government

AHG’s website identifier has, at all times relevant, stated only that it was paid for by AHG and that it is not authorized by any candidate or candidate’s committee.

Here, because AHG’s internet website failed to identify its principal officer, provide a statement from its principal officer approving the communication and name its top three contributors, staff concludes that AHG violated AS 15.13.090(a).

B. Alaskans for Honest Elections

AHE purchased a web domain on November 11, 2022. Between November 19, 2022, and April 6, 2023, the paid for by identifier on AHE’S website did not name its

¹³⁸ AS 15.13.090(a).
¹³⁹ AS 15.13.090(a)(2).
¹⁴⁰ AS 15.13.400(3).
¹⁴¹ 2 AAC 50.306(e)(2)(A) and (B).
¹⁴² AS 15.13.090(c).

principal officer, did not include a statement from the principal officer approving the communication and did not name AHE’S top three contributors. But, by at least April 21, 2023, the website had been amended to add all the information required by AS 15.13.090(a). Accordingly, staff concludes that AHE violated AS 15.13.090(a) for failing to have a complete paid-for-by identifier on its website between November 19, 2022, and April 6, 2023.

AHE posted 15 videos that urge the viewer to reject ranked choice voting for various reasons and to sign the 22AKHE petition booklets. The written portion of the paid-for-by identifiers do not comply with AS 15.13.090(a) and what was present did not remain on the screen throughout the entirety of the video as required. Accordingly, staff concludes that AHE’s videos did not comply with the identification requirements set out AS 15.13.090(a) and (c).

C. Ranked Choice Education Association

RCEA’s first domain was an express communication requiring a paid-for-by identifier. Because the first domain did not have a paid for by identifier, staff concludes that RCEA violated AS 15.13.090(a).

4. Art Mathias

A person may not contribute using the name of another.¹⁴³ A contribution must be made in the name of the true source of the money or thing of value – a person may not contribute using the name of another; or use a third-party conduit.¹⁴⁴

Mr. Mathias was one of the three sponsors of the application to propose initiative 22AKHE along with Phillip Izon and Jamie R. Donley.

On December 22, 2022, Mr. Mathias contributed \$90,000 to RCEA. Mr. Mathias is the President of RCEA. On its June 11, 2023, Statement of Contributions Report, RCEA reported that its current total annual contribution to AHE was \$90,000 with Art Mathias as the single true source of the funds. At the launch of the 22AKHE initiative signature

¹⁴³ AS 15.13.074(b).

¹⁴⁴ 2 AAC 50.258(a).

gathering drive the following was attributed to Mr. Mathias: “Mathias said he’s donated \$100,000 to the effort, and the campaign has raised \$400,000 from out of state.”¹⁴⁵

Mr. Mathias contends that by “the effort” he meant the overall effort that *both AHE and RCEA* were involved in¹⁴⁶, with AHE working to repeal ranked choice voting in Alaska, and RCEA working to educate Americans against the concept of ranked choice voting.¹⁴⁷

On these facts, staff concludes that the weight of the evidence establishes that Mr. Mathias contributed his funds to RCEA knowing that they would be repurposed to support AHE through contributions as needed and thereby violated AS 15.13.074(b) and 2 AAC 50.258(a).

In reaching its conclusion concerning Mr. Mathias’ contributions, staff has not considered Complainant’s assertions concerning unlawful tax deductions because that is an IRS issue, clearly outside of APOC’s jurisdiction.

Every person contributing \$500 or more to an initiative application group is required to report that contribution on a form prescribed by the Commission not later than 30 days after making the contribution.¹⁴⁸ Here, staff concludes that Mr. Mathias contributed \$90,000 AHE using RCEA as a third party conduit. Because Mr. Mathias failed to file a statement of contributions report, staff concludes that he violated AS 15.13.040(k); and AS 15.13.074(b) by using RCEA as a third party conduit.

5. Phillip Izon

Complainant appears to allege that Mr. Izon should be held personally responsible for any violations that may have been committed by any of the Respondents under his direction.¹⁴⁹ Staff can find nothing in AS 15.13, the regulations adopted thereunder, or decisions of the Commission that would support assessing personal liability against an

¹⁴⁵ Ex. 35.

¹⁴⁶ Emphasis added.

¹⁴⁷ Ex. 51, at paragraph 4.

¹⁴⁸ AS 15.13.040(k).

¹⁴⁹ Exhibit 1 at p. 11.

individual that directs the activities of a person subject to AS 15.13. Accordingly, Staff recommends that this allegation be dismissed.

CONCLUSION

1. Alaskans for Honest Government

Staff recommends that the Commission find that AHG violated AS 15.13.110(h) for failing to file an independent expenditure report in connection with its purchase of a web domain; AS 15.13.110(g) for its failure to file a 2022 Fourth Quarter Report; and AS 15.13.090 for failure to place a compliant paid for by identifier on its website.

2. Ranked Choice Education Association

Staff recommends that the Commission find that RCEA violated AS 15.13.050 by failing to register before making expenditures; AS 15.13.110(h) for failing to file an independent expenditure report in connection with its purchase of a web domain; AS 15.13.110(g) for its failure to file a 2022 Fourth Quarter Report; AS 15.13.074(e) for making a cash contribution in excess of \$100; and AS 15.13.090 for failure to place a compliant paid for by identifier on its website.

Staff recommends that the Commission find that RCEA violated AS 15.13.074(b) by reporting that it was the contributor to AHE, when Mr. Mathias was the true source of the contributions.

3. Alaskans for Honest Elections

Staff recommends that the Commission find that AHE violated AS 15.13.050 by failing to timely register; AS 15.13.110(g) and AS 15.13.074(b) by failing to file accurate Quarterly Reports and by naming RCEA as a contributor; and AS 15.13.090 for failure to place compliant paid for by identifiers on its website and YouTube videos.

Staff recommends that the allegations concerning the alleged fraudulent contribution of Mr. Izon: and the failure to notify contributors of a duty to file statement of contribution reports be dismissed.

Staff recommends that the allegations concerning late-filed reports be dismissed without prejudice as they are being addressed under the ordinary civil penalty procedure

for late-filed reports consistent with 2 AAC 50.855 and 2 AAC 50.895 and the assessed civil penalties were paid.¹⁵⁰

4. Art Mathias

Staff recommends that the Commission find that Art Mathias violated AS 15.13.074(b) and 2 AAC 50.258(a) by contributing funds to AHE in the name of another.

5. Wellspring Ministries/Wellspring Fellowship

Staff recommends that the allegation concerning failure to report a contribution of access to its leased premises to RCEA be dismissed.

6. Phillip Izon

Staff recommends that the Commission dismiss the allegation that Mr. Izon is personally responsible for violations committed by persons under his control.

MAXIMUM CIVIL PENALTIES

1. Registration Violations

The maximum civil penalty for failure to timely register is \$50 per day for each day the violation continues.¹⁵¹

Here, AHE was required to register no later than January 20, 2023, but did not do so until March 20, 2023 a period of 59 days resulting in a maximum civil penalty of \$2,950.

RCEA was required to register as of December 22, 2022, when it acquired its First Domain: a period of 196 days¹⁵² resulting in a maximum civil penalty of \$9,850.

2. Reporting Violations

A person making an independent expenditure must file an independent expenditure report not less than 10 days after the expenditure has been made;¹⁵³ and a person required to file a quarterly report must file it within 10 days of the end of the quarter.¹⁵⁴ The

¹⁵⁰ Exhibit 64, September 8, 2023 Payment Receipt.

¹⁵¹ AS 15.13.390(a).

¹⁵² Staff tolled the running of all civil penalties as of July 5, 2023, the date the complaint was filed.

¹⁵³ AS 15.13.110(h).

¹⁵⁴ AS 15.13.110(g)

maximum civil penalty for failing to timely file a 10-day independent expenditure report and a quarterly report are both \$50 per day for each day the violation continues.¹⁵⁵

Here, RCEA was required to file an independent expenditure report in connection with the purchase of its web domain on December 22, 2022: a period of 186 days resulting in a maximum civil penalty of \$9,300.

RCEA was also required to file a 2022 Fourth Quarter report no later than January 10, 2023: a period of 177 days resulting in a maximum civil penalty of \$8,850.

RCEA misreported by failing to disclose Art Mathias as the true source of its contribution to AHE on its May 9, 2023 statement of contribution report. The maximum civil penalty for misreporting or failing to disclose the true source of a contribution in violation of AS 15.13.074(b) is not more than the amount of the contribution that was misreported or not disclosed.¹⁵⁶ RCEA misreported that it was the contributor to AHE on its May 9, 2023 statement of contributions report which totaled \$79,740 resulting in a maximum civil penalty of \$79,740.

AHG was required to file an independent expenditure report 10 days after the application to propose initiative 22AKHE was filed on November 23, 2022, and AHG continued to promote AHE's efforts in connection with 22AKHE: a period of 215 days resulting in a maximum civil penalty of \$10,750.

AHG was also required to file a 2022 Fourth Quarter Report no later than January 10, 2023: a period of 177 days resulting in a maximum civil penalty of \$8,850.

Art Mathias was required to file a statement of contributions report within 30 days of making his \$90,000 contribution to AHE (through RCEA) on December 22, 2022: a period of 166 days resulting in a maximum civil penalty of \$8,300.

Art Mathias violated AS 15.13.074(b) and 2 AAC 50.258(a) by using RCEA as a third party conduit for his contribution to AHE. The maximum civil penalty for a violation of AS 15.13.074(b) is the amount of the contribution that is the subject of misreporting or

¹⁵⁵ AS 15.13.390(a).

failure to disclose.¹⁵⁷ Here, the amount undisclosed is \$90,000 resulting in a maximum civil penalty of no more than \$90,000.

Paid-for-By Identifier Violations

The maximum civil penalty for failing to provide a required paid-for-by identifier is \$50 per day for each day the violation continues.¹⁵⁸

AHG's website failed to provide a compliant paid for by identifier from November 23, 2022, the date the sponsors' application to propose initiative 22AKHE was filed with the Lieutenant Governor: a period of 225 days resulting in a maximum civil penalty of \$11,250.

RCEA's website failed to provide a compliant paid-for-by identifier from December 22, 2022, through May 23, 2023, when it purchased a new web domain: a period of 153 days resulting in a maximum civil penalty of \$7,650.

AHE's website failed to provide a compliant paid-for-by identifier from November 23, 2022, the date sponsors' application to propose initiative 22AKHE was filed with the Lieutenant Governor through April 6, 2023: a period of 135 days resulting in a maximum civil penalty of \$6,750.

AHE's YouTube videos failed to provide compliant paid-for-by identifiers for various amounts of time depending on when each video was posted. The combined amount of time that the videos were posted without a compliant paid-for-by identifier is 61 months or 1,830 days resulting in a maximum civil penalty of \$91,500.

MITIGATION AND RECOMMENDATION

A civil penalty may be reduced by up to 50% if the person required to file is an inexperienced filer.¹⁵⁹ An inexperienced filer is one that has been subject to a reporting requirement for less than 365 days. All of Respondents have been subject to a reporting requirement for less than 365 days.

¹⁵⁷ AS 15.13.390(a)(3).

¹⁵⁸ AS 15.13.390(a).

¹⁵⁹ 2 AAC 50.865(a)(1)(B).

A civil penalty may be reduced by a percentage greater than 50% or waived entirely if the penalty is significantly out of proportion to the degree of harm suffered by the public.¹⁶⁰

Here, staff recommends that the maximum civil penalties for all violations except for the AS 15.13.074(b) violations be reduced by 90% because the maximum civil penalties are significantly out of proportion to the degree of harm suffered by the public; the Respondents are all inexperienced filers; inaccurate advice from APOC staff contributed to Respondent's failed attempts to comply with AS 15.13 until February 23, 2023, when the Commission's director corrected the inaccurate advice; and because the harm caused by the paid for by identifier violations was mitigated to some extent by the less compliant, but nevertheless, identifying information that was provided on the websites and videos. Under these circumstances staff believes a substantial reduction of the maximum civil penalties is warranted. Accordingly, staff recommends a civil penalty of \$3,085 for AHG's violations; \$3,565 for RCEA's violations; and \$10,120 for AHE's violations.

Staff recommends that the AS 15.390(a)(3) maximum civil penalties with respect to Mr. Mathias and RCEA in connection with contributing in the name of another be reduced by 75% to \$22,500 and \$19,935 respectively because both are inexperienced filers and because RCEA ultimately reported that Mr. Mathias was the true source of its contributions to AHE on its June 11, 2023 statement of contributions report. Staff does not recommend further reduction because, given the size of the contribution, staff believes that the harm suffered by the public was substantial.

¹⁶⁰ 2 AAC 50.865(b)(5).