

BEFORE THE ALASKA PUBLIC OFFICES COMMISSION

Yes on 2 for Better Elections,)
)
Complainant,)
) Case No. 20-05-CD
vs.)
)
Brett Huber, Alaska Policy Forum and)
Protect My Ballot,)
)
Respondents.)

NOTICE OF LATE FILING

The Alaska Public Offices Commission (APOC) staff hereby gives notice of its late filing of the following staff report in this matter. Due to the level of unforeseen calls on Staff resources staff needed additional time to complete preparation of the report.

APOC staff is unaware of any opposition to this late filing.

Dated: 10/20/2020

By: Thomas R. Lucas
Thomas R. Lucas
Campaign Disclosure Coordinator
Alaska Public Offices Commission



THE STATE
of **ALASKA**
GOVERNOR MIKE DUNLEAVY

Department of Administration

ALASKA PUBLIC OFFICES COMMISSION

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TO: APOC Commissioners
DATE: October 15, 2020
FROM: Thomas R. Lucas, Campaign Disclosure coordinator
SUBJECT: Staff Report, 20-05-CD, *Yes on 2 for Better Elections v. Brett Huber, Protect My Ballot, and Alaska Policy Forum*

SUMMARY OF COMPLAINT

In its Complaint filed on September 8, 2020, Yes on 2 for Better Elections (Yes on 2) alleges that Brett Huber, Protect My Ballot (PMB), and Alaska Policy forum (APF) violated AS 15.13 by making express communications opposing Ballot Measure 2 without registering and reporting contributions received or expenditures made.¹ Specifically, Yes on 2 contends that the Respondents engaged in extensive campaign activities including video production, web site registration and design, utilization of staff time for composing materials, press releases, paying salary or wages to Huber, and providing the public with electronic links to materials opposing ranked choice voting, one of the features of Ballot Measure 2.²

SUMMARY OF ANSWERS TO COMPLAINT

Huber contends that allegations concerning payments allegedly made to him are false.³ APF contends that it and PMB were engaged in “issues communications” that do not trigger any registration or reporting requirements.⁴

¹ Exhibit 1, Complaint.

² *Id.*

³ Exhibit 2, Huber Response.

⁴ Exhibit 3, APF Response; Exhibit 4, Marcum response to questions concerning PMB.

FACTS

1. Ballot Measure 2

The Alaska Better Elections Initiative was filed on July 3, 2019, denied on August 30, 2019, and ultimately accepted with petition booklets being issued on October 31, 2019.⁵ The initiative is on the 2020 state general election ballot as Ballot Measure 2 and if enacted, would provide for, among other things, ranked choice voting in the state's general elections.⁶

2. PMB

APF states that PMB is a national coalition focused on educating the public on the risks and consequences of ranked choice voting which it considers a voting scheme.⁷ The coalition was organized by the Employment Policies Institute Foundation (EPIF).⁸ The coalition includes APF, the Freedom Foundation of Minnesota, the Maine Policy Institute, the Fiscal Alliance Foundation, and the Oklahoma Council of Public Affairs.⁹

PMB is also a trade name of EPIF which was registered with the government of the District of Columbia on August 9, 2020.¹⁰ EPIF does business as the Employment Policies Institute (Institute).¹¹ According to its website, the Institute is a non-profit organization dedicated to studying public policy issues surrounding employment growth” and was founded in 1991.¹²

EPIF appears to have registered the web domain, “protectmyballot.com” on November 6, 2019 and updated it on July 13, 2020.¹³

⁵ Exhibit 5, Division of Elections Petition Summary.

⁶ Exhibit 6, Letter to Sponsor.

⁷ Ex. 3.

⁸ *Id.*

⁹ Exhibit 7, Excerpt from PMB Website <http://protectmyballot.com/>.

¹⁰ Ex. 3.

¹¹ Exhibit 8, EPIF Tax Return.¹² Exhibit 9, About Section of website <https://epionline.org/aboutepi/>.

¹² Exhibit 9, About Section of website <https://epionline.org/aboutepi/>.

¹³ Ex 3; Exhibit 10, Who is Report.

The PMB website is decidedly against ranked choice voting. Specifically, PMB on its website provides “[r]anked choice voting (RCV) is an electoral scheme that adds more confusion to the voting system while threatening our democracy and failing to ensure that every vote counts.”¹⁴ The website contains a video that strongly suggests that ranked choice voting is a very bad thing.¹⁵ The website also contains a section of quotes from politicians and business leaders all against ranked choice voting, a list of cities and states that have repealed ranked choice voting, a fact vs. fiction section decidedly against ranked choice voting, and media links all containing opinion pieces against ranked choice voting.¹⁶

Although the PMB website is undoubtedly against ranked choice voting in general, there are only two pieces on the site that mention Ballot Measure 2 and voting. One is an opinion piece by Mead Treadwell published in the Anchorage Daily News exhorting voters to vote no on the measure.¹⁷ The other is an excerpt from an opinion piece by Mark Begich published in the Wall Street Journal strongly suggesting that the ballot measure would be bad for the State of Alaska.¹⁸

Although not mentioning Ballot measure 2, the PMB website also contains a press release from APF announcing the formation of the PMB coalition against ranked choice voting and referencing voting in the state general election. In the press release, Bethany Marcum, chief executive officer of APF states:

“As Alaskans take to the polls in November, history should be a warning for what ranked choice voting would lead to. Not only can Ranked Choice Voting cause votes to be discarded, research shows it also decreases voter turnout. We need to encourage Americans of all backgrounds to visit the polls, not give them another reason to avoid casting a ballot.”¹⁹

¹⁴ Exhibit 11, 2nd excerpt from PMB website <http://protectmyballot.com/>.

¹⁵ <https://youtu.be/K7BVPFtvSNE>.

¹⁶ <http://protectmyballot.com/>.

¹⁷ Exhibit 12, Treadwell Opinion.

¹⁸ Exhibit 13, Begich Opinion.

¹⁹ Exhibit 14, APF Press Release (emphasis added).

3. **APF**

APF is an Alaska nonprofit corporation created on April 4, 2009.²⁰ APF is organized “solely for educational purposes, and more specifically to provide research, information and public education in support of individual rights, limited government, personal responsibility and government accountability, and to perform any and all acts consistent with this stated purpose.”²¹

Over the years, and currently, APF has posted materials on many subjects, including the state budget and taxes,²² health care,²³ education,²⁴ and elections.²⁵ APF contended in a 2016 article that the PFD voter registration initiative could lead to voting by mail only, suggesting that APF has a long history of skepticism towards changes to the voting status quo.²⁶ As such, APF “enthusiastically agreed in January 2020 to join as a founding member [of PMB].”²⁷ Apparently, APF’s agreement was based on a phone call from EPIF regarding a coalition of organizations that would provide education on election process issues.²⁸

On February 11, 2020, APF posted an opinion piece titled *Ranked-Choice Voting Fails To Deliver On Its Promises* in the Anchorage Daily News on February, 9, 2020, authored by Jacob Posik, the director of communications for the Maine Policy Institute.²⁹ The op-ed concludes with “[l]ike Alaska, we in Maine regularly deal with an onslaught of ballot initiatives because we live in a cheap media market. The system may soon be coming to your neck of the woods. Don’t be surprised when it produces the opposite result of what you were promised.”

On July 24, 2020, in Anchorage, Alaska, APF issued a press release entitled *Protect My Ballot: New Campaign Exposes Flaws in Ranked Choice Voting*.³⁰ The press release

²⁰ Exhibit 15, APF Corporate Certificate.

²¹ Exhibit 16, APF Articles of Incorporation.

²² Exhibit 17, excerpt from taxes and budget page <https://alaskapolicyforum.org/category/state-budget-taxes/>.

²³ Exhibit 18, excerpt from health care page <https://alaskapolicyforum.org/category/healthcare/>.

²⁴ Exhibit 19, excerpt from education page <https://alaskapolicyforum.org/category/education/>.

²⁵ Exhibit 20, excerpt from other issues page <https://alaskapolicyforum.org/category/other-issues/>.

²⁶ Ex. 3; Exhibit 21, Voter Registration and Broken Promises.

²⁷ Ex. 3.

²⁸ Ex. 3, Appendix B.

²⁹ <https://alaskapolicyforum.org/2020/02/rcv-fails-on-promises/>.

³⁰ <https://alaskapolicyforum.org/2020/07/pr-exposing-flaws-rev/>.

provided that a coalition of state-based think tanks led by APF had launched a national education campaign detailing the harmful consequences of an electoral scheme known as ranked choice voting. The press release provided a link to the PMB website where APF CEO Bethany Marcum was quoted as saying:

“As Alaskans take to the polls in November, history should be a warning for what ranked choice voting would lead to. Not only can Ranked Choice Voting cause votes to be discarded, research shows it also decreases voter turnout. We need to encourage Americans of all backgrounds to visit the polls, not give them another reason to avoid casting a ballot.”³¹

On July 31, 2020, APF posted to its website, the YouTube video titled “What is Ranked Choice Voting” from PMB’s YouTube channel.³² This video describes ranked choice voting as a scheme calling it “a confusing system that could force voters to support a candidate they don’t want. Instead of giving you more choice, this system could take your choice away.”³³

On October 8, 2020, APF posted its *Report: The Failed Experiment of Ranked-Choice Voting*.³⁴ As the report indicates, ranked choice voting has been used in many jurisdictions over a long period of time. It provides, for example, that San Francisco has used it since 2004 and Maine used it for the first time in 2018. Although the report addresses the arguments made by proponents of ranked choice voting, it does so only in the context of criticizing them.

On October 8, 2020, APF issued the press release, *New Study Exposes Alarming Ramifications to Ranked Choice Voting*.³⁵ The press release announced APF’s own report *The Failed Experiment of Ranked-Choice Voting*, which was issued the same day. After issuing, APF posted the press release on its website on October 9, 2020.³⁶ The new study was published in conjunction with the Maine Policy Institute and in many cases mirrors a

³¹ Ex. 14.

³² <https://youtu.be/K7BVPFtvSNE> at 0:13-0:21.

³³ *Id.*

³⁴ <https://alaskapolicyforum.org/2020/10/failed-experiment-rcv/>.

³⁵ Exhibit 22, New Study Press Release.

³⁶ <https://alaskapolicyforum.org/2020/10/pr-ranked-choice-voting/>.

similar report published in August 2019 by the Maine Policy Institute under the name of the Maine Heritage Policy Center, the name the organization held until it became the Maine Policy Institute on March 11, 2020.³⁷

4. Huber

Huber denies any involvement with APF or PMB.³⁸ Staff has found no evidence to suggest that Huber is or was involved with APF or PMB in any way. And, although Yes on 2 did provide responses to staff's inquiries, it did not provide any evidence to support allegations that Huber was paid by APF or PMB for any services or that Huber was involved with APF or PMB in any way.³⁹

5. Lobbying

Yes on 2 has alleged that APF violated AS 24.45 by engaging in lobbying activities without reporting to APOC.⁴⁰ The only evidence presented by Yes on 2 to support its assertion was a tax return showing \$4,027 spent on direct lobbying to a legislative body.⁴¹ APF asserts that it has never reached the 10 hours in any 30 day period threshold for lobbying registration in Alaska and therefore has not registered.⁴² Although presented with APF's response, Yes on 2 provided no further evidence to support its lobbying allegation.⁴³

LAW AND ANALYSIS

1. Registration and Reporting

The primary issue in this case is whether the respondents, individually or collectively made one or more expenditures in opposition to a ballot proposition that triggered registration and reporting requirements. Given the foregoing, it is clear from their

³⁷ Compare <https://mainepolicy.org/project/false-majority/> with <https://alaskapolicyforum.org/2020/10/failed-experiment-rcv/>.

³⁸ Ex. 2.

³⁹ Exhibit 23, Yes on 2 Response to Respondents' responses.

⁴⁰ Ex. 1.

⁴¹ *Id.*

⁴² Ex. 3.

⁴³ Ex. 16.

posts and press releases that APF and PMB are decidedly against ranked choice voting.⁴⁴ Nevertheless, the issue that must be decided is whether their objection to ranked choice voting as expressed in their posts and press releases can be considered election campaign activity in the context of a ballot proposition to legalize ranked choice voting. In other words, do their posts and press releases amount to activity in opposition to Ballot Measure 2?

Alaska Statutes require that each person, other than an individual, must register with APOC before making an expenditure in support of or in opposition to, a ballot proposition.⁴⁵

Expenditure is defined by statute 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 that is incurred or made for the purpose of influencing the outcome of a ballot proposition; and includes an express communication and an electioneering communication, but not an issues communication.⁴⁶

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.”⁴⁷ 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.⁴⁸ 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.⁴⁹ Although these definitions are specific to

⁴⁴ Staff has not found, and Yes on 2 has provided, any evidence of Huber’s involvement in the activities of PMB or APF. Accordingly, Staff will be recommending that all allegations against Huber be dismissed.

⁴⁵ AS 15.13.050(a).

⁴⁶ AS 15.13.400(6)(A)(iv) and (B).

⁴⁷ AS 15.13.400(7).

⁴⁸ AS 15.13.400(5).

⁴⁹ AS 15.13.400(12).

communications regarding candidates, the distinctions also are appropriate for ballot proposition campaigns.⁵⁰

In several previous cases, the commission has been called upon to determine whether an issues/educational communication has lost its non-regulated character if disseminated near the time of a ballot proposition involving a similar or the same subject. Perhaps the lead case was *Renewable Resources Coalition*, AO-08-02-CD. 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.⁵¹

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.⁵² After reviewing RRC’s website, its previous advertisements, and proposed new materials it was noted that although some of RRC’s materials referenced the initiatives, there was no discussion of voting and no express advocacy supporting the initiatives.⁵³

⁵⁰ 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)).

⁵¹ Exhibit 24, *Renewable Resources Coalition*, AO-08-02-CD, at p. 9.

⁵² *Id.* at p. 10.

⁵³ *Id.* at p. 11.

Ultimately, the commission approved staff’s recommended advice after analysis of the question presented, which provided to the requester, Timothy McKeever:

...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. As the website indicates, RRC urges numerous different kinds of opposition activity. Therefore, the advertisements do not fall within the categories of express or electioneering communications but appear to be issue communications. As such, they do not trigger the reporting requirement for independent campaign expenditures.⁵⁴

In *Renewable Resources Foundation* AO 13-04-CD, the commission revisited the continuing education in the context of a ballot initiative titled *An Act Providing for Protection of Bristol Bay Wild Salmon and Waters Within or Flowing into the Existing 1972 Bristol Bay Fisheries Reserve*.⁵⁵ There, the requestor was a successor to the Renewable Resources Coalition discussed above. The requestor had continued its educational efforts to protect resources from the potential negative impacts of the proposed Pebble Mine project, and asked for an advisory opinion on several questions, including whether it could continue in its efforts without registration and reporting while the new initiative was active and while it openly supported the signature gathering effort.⁵⁶ Staff’s opinion approved by the commission first noted that the requestor could continue its purely educational activities, but warned that the context of the educational activities could trigger a reporting requirement. There, staff provided that “...changes in the number of activities, the usual locations of the activities and/or the content of the activities, when taken in

⁵⁴ *Id.* at pp. 11-12.

⁵⁵ Exhibit 25, Renewable Resources Foundation, AO 13-04-CD.

⁵⁶ *Id.* at p. 1.

context of RRF’s open support of the initiative petition drive could possibly trigger a reporting requirement.”⁵⁷

In both *Renewable Resources Foundation* and *Renewable Resources Coalition*, an underlying fact was that the requestor had been engaged in its educational activities long before the initiative or ballot proposition arose. Furthermore, in *Bags for Change*, AO 19-04-CD, the Commission emphasized the importance of that fact. 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 opinion submitted for commission approval, 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 Change] has engaged in educational efforts for three years before the [i]nitiative, rather than a group that was created around the [i]nitiative.”⁵⁸

A. PMB

On November 6, 2019, EPIF acquired the website protectmyballot.com. APF became a founding member of PMB in January 2020. The initiative was accepted for placement on the 2020 State General Election on March 9, 2020. The PMB ranked choice voting educational campaign was launched on July 24, 2020.

On July 13, 2020, in preparation for the launch, EPIF set up the PMB web site “at a real domain.”⁵⁹ Since then, the website has been used to publish its overriding message

⁵⁷ *Id.* at pp. 2-3.

⁵⁸ *Id.* at p. 5.

⁵⁹ Ex. 3, Appendix B. Staff is unsure what APF means by setting up the website “at a real domain” when EPIF purchased the domain months earlier. Staff notes that EPIF made many changes to the website on July 13, 2020, as noted in Appendix B.

that ranked choice voting is a scheme that should be rejected and where utilized should be scrapped. In essence, PMB purports to be a clearinghouse run by EPIF, which is used for the posting of opinions, articles, and media that are decidedly against ranked choice voting.

Although the timing of the creation of PMB and its website may be suspicious in view of the initiative events leading to ballot measure 2, the fact that its partners all have different agendas⁶⁰ makes it difficult to determine that the PMB website, 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 against Ballot Measure 2. Clearly, a reasonable interpretation is that the website is a clearinghouse of information to be used opponents to ranked choice voting for a variety of purposes, including opposing its adoption in state and local elections of other jurisdictions and abolishing it where it is law. That it might also be used by an organization such as APF in connection with Ballot Measure 2 raises an entirely different issue which will be discussed below. But, because the website is susceptible to reasonable interpretations other than an exhortation to vote against Ballot Measure 2, staff recommends that the allegations of the complaint against PMB be dismissed.⁶¹

B. APF

APF has been engaged in providing the public with information concerning many issues including the state budget, taxes, health care and education since 2009. But, except for a 2016 article concluding that PFD voter registration could lead to voting by mail only, APF has not shown in its response to the complaint or on its website, a “long history of skepticism towards changes to the voting status quo” as it suggests. Instead, APF has shown a demonstrable uptick in activity revolving around ranked choice voting since the initiative was cleared for signature gathering and, ultimately placed on the ballot.

⁶⁰ There is no similar initiative to Alaska’s in Maine, Oklahoma, Minnesota, or Massachusetts.

⁶¹ It appears that PMB was not properly served by Yes on 2. Service was on Bethany Marcum, CEO of APF, but not on any authorized representative of EPIF, which holds PMB as a registered trade name under the laws of the District of Columbia and owns the PMB web domain. Nevertheless, given staff’s recommendation to dismiss the allegations against PMB, this potential issue need not be addressed unless the commission does not accept staff’s recommendation.

Petition booklets for the initiative that became Ballot Measure 2 were issued on October 31, 2019. On November 6, 2019, EPIF acquired the PMB web domain. APF became a founding member of PMB in January 2020. On February 11, 2020, APF posted on its website the opinion piece, *Ranked Choice Voting Fails to Deliver on Its Promises*. The op-ed concludes by asserting “*Like Alaska, we in Maine regularly deal with an onslaught of ballot initiatives because we live in a cheap media market. The system may soon be coming to your neck of the woods. Don’t be surprised when it produces the opposite result of what you were promised.*”⁶²

The initiative was accepted for placement on the 2020 state general election ballot on March 9, 2020. According to Marcum, “[t]he Protect My Ballot education campaign launched on July 24, 2020. APF emailed a press release to a national media list, and to an Alaska-specific list. The Coalition members in Maine and Minnesota emailed their own press releases to reporters in their states.”⁶³

The press release entitled *Protect My Ballot: New Campaign Exposes Flaws in Ranked Choice Voting* provided a link to the PMB website quoted Markum:

“*As Alaskans take to the polls in November, history should be a warning for what ranked choice voting would lead to. Not only can Ranked Choice Voting cause votes to be discarded, research shows it also decreases voter turnout. We need to encourage Americans of all backgrounds to visit the polls, not give them another reason to avoid casting a ballot.*”⁶⁴

On July 31, 2020, APF posted to the *What is ranked Choice Voting* video from the PMB website. This video describes ranked choice voting as a scheme that could force voters to support a candidate they do not want; and instead of giving more choice, could take your choice away.

On October 8, 2020, APF posted *Report: The Failed Experiment of Ranked-Choice Voting*. As the report indicates ranked choice voting has been used in many jurisdictions

⁶² <https://alaskapolicyforum.org/2020/02/rcv-fails-on-promises/> (emphasis added).

⁶³ Ex. 3.

⁶⁴ Ex. 14 (emphasis added).

over a long period of time. For example, the report provides that San Francisco has used it since 2004 and Maine used it for the first time in 2018.

On October 8, 2020, APF issued a press release titled *New Study Exposes Alarming Ramifications to Ranked Choice Voting*. The press release announced APF's report and was issued the same day. After issuing the press release, APF posted it on its website on October 9, 2020. On October 12, 2020 APF posted a new article entitled *Ranked-Choice Voting Disenfranchises Voters*.⁶⁵

Prior to the initiative, APF had shown no interest in ranked choice voting, despite the fact that the voting method has been discussed and implemented in many jurisdictions for many years.⁶⁶ One of the lessons from the *Renewable Resources* cases, and as emphasized in *Bags for Change*, is that the length of time an organization has been engaged in educational activities concerning a subject is a factor in determining whether its communications on that subject may be subject to reasonable interpretations other than an exhortation to vote for or against a ballot proposition. Here, APF's objection to ranked choice voting did not begin until an initiative concerning ranked choice voting was proposed.

APF has engaged in a recent burst of activity against ranked choice voting as the November election approaches. One of the lessons of *Renewable Resources Foundation* is that changes in the number of activities and the context of the activities is also a factor in determining whether communications may be subject to reasonable interpretations other than an exhortation to vote against a ballot proposition. Here, as the election approaches, APF has ramped up its activity concerning ranked choice voting.

Based on the evidence provided, the timing of the activity alleged, and the context of APF's ranked choice voting communications, staff concludes that APF's ranked choice communications are express communications. As such APF has violated AS 15.13 by

⁶⁵ Exhibit 26, "Ranked-Choice Voting Disenfranchises Voters.

⁶⁶ See, for example APF's Report, The Failed Experiment of Ranked Choice Voting <https://alaskapolicyforum.org/2020/10/failed-experiment-rcv/>

failing to register as an entity and failing to file independent expenditure reports concerning its activities.⁶⁷

C. Identification of Political Communications

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.⁶⁸ 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.⁶⁹

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).”⁷⁰

A political communication is further defined to include press releases and material on an internet website.⁷¹

Here, APF’s press releases and posts concerning ranked choice voting did not include a “paid for by” identifier giving APF’s name, address, principal officer, principal officer approval and top 3 contributors, if any. Thus, staff concludes that APF violated AS 15.13.090(a) by failing to identify its communications.

D. Huber

Mr. Huber denies any involvement whatsoever with APF or PMB. Staff found no evidence to suggest that Huber is or was involved with APF or PMB in any way. Yes on 2, despite being provided with Huber’s responses to Staff’s inquiries, did not provide any

⁶⁷ AS 15.13.050(a) and AS 15.13.040(d), respectively.

⁶⁸ AS 15.13.090(a).

⁶⁹ AS 15.13.090(a)(2).

⁷⁰ AS 15.13.400(3).

⁷¹ 2 AAC 50.306(e)(2)(A) and (B).

evidence to support its allegations that Huber was paid by APF or PMB for any services or that he was involved with APF or PMB in any way. Accordingly, Staff recommends that the allegations of the Complaint concerning Huber be dismissed.

E. Lobbying

A “lobbyist” is defined as a person who is employed, or contracts to communicate directly or through an agent, with a public official for the purpose of influencing legislation or administrative action for more than 10 hours in any 30-day period during a calendar year; or represents oneself as a lobbyist.⁷²

Here, Yes on 2 has alleged that APF violated AS 24.45 by engaging in lobbying activities without reporting to APOC. The only evidence presented by Yes on 2 to support its assertion was a tax return showing \$4,027 spent on direct lobbying to a legislative body. The definition of a lobbyist does not include in it limits on or threshold amounts paid to the lobbyist for lobbying activities.

APF asserts that it has never reached the 10 hours in any 30-day period threshold for lobbying registration. Although presented with APF’s response, Yes on 2 provided no further evidence to support its lobbying allegation against APF. Because there is no evidence to suggest that any employee or agent of APF spent more than 10 hours in any 30-day period during the calendar year engaged in lobbying activities or that APF or any of its employees has represented themselves as a lobbyist Staff recommends that the lobbyist allegations of the complaint be dismissed.

⁷² AS 24.45.171(11).

CONCLUSION

Based on the foregoing, Staff recommends that complaint against PMB and Huber; and the lobbyist complaint against APF be dismissed. Staff recommends that the commission find that APF violated AS 15.13 by failing to register⁷³ and file independent expenditure reports⁷⁴ concerning its activities in opposition to Ballot Measure 2; and by failing to identify its political communications.⁷⁵

MAXIMUM CIVIL PENALTIES

A. Failure to Register

The maximum civil penalty for failure to timely register is \$50 per day for each day the violation continues.⁷⁶ Here, APF's first post triggering a registration and reporting requirement was its February 11, 2020, *Ranked Choice Voting Fails to Deliver on its Promises* post. Thus, the violation continued for a period of 211 days resulting in a maximum civil penalty of \$10, 550.⁷⁷

B. Failure to file Independent Expenditure Reports

A person making an independent expenditure must file an independent expenditure report not less than 10 days after the expenditure has been made.⁷⁸ The maximum civil penalty for failing to timely file a 10-day independent expenditure report is \$50 per day for each day the violation continues.⁷⁹ Here, an independent expenditure report was due no later than:

- February 21, 2020, for APF's first post made on February 11, 2020 (a period of 201 days prior to filing of the complaint); and
- August 3, 2020, for its July 24, 2020, and July 31, 2020 posts (a period of 37 days prior to filing of the complaint).

⁷³ AS 15.13.050(a).

⁷⁴ AS 15.13.040((d)).

⁷⁵ AS 15.13.090(a).

⁷⁶ AS 15.13.390(a).

⁷⁷ Staff tolled the running of penalties as of September 8, 2020, the date the complaint was filed.

⁷⁸ AS 15.13.110(h).

⁷⁹ AS 15.13.390(a).

Thus, the maximum civil penalty for failing to file independent expenditure reports is \$11,900 (238 days).

C. Paid-for-by Identifiers

A paid for by identifier should have been on APF's website from the time of its first ranked choice voting post on February 11, 2020, through the date the Complaint was filed – a period of 211 days. The maximum civil penalty for failing to provide a required identifier is \$50 per day for each day the violation continues.⁸⁰ Thus, the maximum civil penalty is \$10,550.

A paid for by identifier should have been on APF's July 24, 2020 press release. The violation continued for a period of 1 day which results in a maximum civil penalty of \$50.

MITIGATION AND RECOMMENDATION

A civil penalty may be reduced by up to 50% if the person required to file is an inexperienced filer.⁸¹ An inexperienced filer is one that has been subject to a reporting requirement for less than 365 days. APF has been subject to a reporting requirement for less than 365 days. Accordingly, staff recommends that the maximum civil penalty for failure to file independent expenditure reports be reduced by 50% to \$5,950.

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.⁸² Here, staff recommends that the maximum civil penalties for failure to register and provide a full paid for by identifier be reduced by 90% because the maximum civil penalties are significantly out of proportion to the degree of harm suffered by the public. In making this recommendation, staff notes that APF's website fully identifies APF's physical location and all its officers and employees. Under these circumstances staff believes a substantial reduction of the registration and identifier penalties is warranted. Accordingly, staff recommends a civil penalty of \$1,055 for failure to register and \$1,060 for failing to provide full paid for by identifiers.

⁸⁰ AS 15.13.390(a).

⁸¹ 2 AAC 50.865(a)(1)(B).

⁸² 2 AAC 50.865(b)(5).

Thus, staff recommends a total civil penalty of \$8,065.



Alaska Public Offices Commission

COMPLAINT

ARRIVED

SEP 08 2020

APOC - ANCHORAGE
PM HC FAX ELE



FILING A COMPLAINT <i>To be accepted, complaint must include</i>	APOC LAWS ALLEGEDLY VIOLATED <i>Specify section of law or regulation</i>		APOC case name/number/date
1. Complainant's name + contact info 2. Respondent's name + contact info 3. Laws, regulations allegedly violated 4. Description of allegations 5. Basis of knowledge of alleged facts 6. Documentation to support allegations 7. Notarized signature of the complainant 8. Proof that complaint and all supporting documents were served on respondent	Campaign Disclosure Law Public Official Financial Disclosure Legislative Financial Disclosure Lobbying Regulation	<input checked="" type="checkbox"/> AS 15.13 <input checked="" type="checkbox"/> 2 AAC 50.250-405 <input type="checkbox"/> AS 39.50 <input type="checkbox"/> 2 AAC 50.680-799 <input type="checkbox"/> AS 24.60 <input type="checkbox"/> 2 AAC 50.680-799 <input checked="" type="checkbox"/> AS 24.45 <input checked="" type="checkbox"/> 2 AAC 50.550-590	20-05-CD

If complaint meets requirements for acceptance, APOC will investigate the allegations and notify the respondent of the right to respond. APOC will notify Complainant and Respondent when APOC accepts or rejects a complaint.

<input type="checkbox"/> APOC <input type="checkbox"/> Person <input type="checkbox"/> Party <input type="checkbox"/> Group	COMPLAINANT Yes for 2 for Better Elections	RESPONDENT <i>Person or group allegedly violating law</i> <input checked="" type="checkbox"/> Person Brett Huber <input type="checkbox"/> Party Protect My Ballot <input checked="" type="checkbox"/> Group Alaska Policy Forum
Address City / Zip	P.O. Box 210295, Anchorage, AK 99521	Please see attached supporting information and
Phone/Fax	907-250-1125	documentation, page 3, footnotes 10, 11, and 12.
E-mail	Shae@AlaskansForBetterElections.com	

COMPLAINANT'S REPRESENTATIVE		RESPONDENT'S REPRESENTATIVE
<i>If complainant or respondent is political party or group, list contact person. If complainant or respondent is represented by attorney, list name + contact info</i>		
Name/Title	Samuel Gottstein, Esq., for Yes for 2 for Better Elections	Please see attached at page 3, footnotes 10, 11, and 12.
Address	701 W. 8th Ave., Ste 700, Anchorage, AK 99501	
Phone/Fax	907-274-0666 / 907-277-4657	
E-mail	sgottstein@hwb-law.com	

DESCRIPTION or SUMMARY of ALLEGED VIOLATION Please see attached supporting information and documentation.	Use extra pages if needed	<input type="checkbox"/> SUPPORTING DOCUMENTS – DESCRIBE: Please see attached.
---	---------------------------	--

PROOF of SERVICE ATTACHED: ☐ Fax – receipt confirmation ☐ Certified mail – signed receipt
☒ Process server – return of service ☐ E-mail – delivery/read receipt ☐ Other

COMPLAINANT'S SWORN STATEMENT: To the best of my knowledge and belief, these statements are true

Signature		Title	Samuel Gottstein, Esq.	Date	8-31-2020
Subscribed and sworn to or affirmed by me at Anchorage, Ak on August 31, 2020					
Signature		Notary in for Alaska, my commission expires September 18, 2022			

APOC COMPLAINTS, RESPONSES, INVESTIGATION REPORTS & COMMISSION FINDINGS ARE PUBLIC DOCUMENTS

APOC ANCHORAGE	APOC JUNEAU	APOC COMPLAINT PROCESS: 2 AAC 50.450 - 476	
2221 E. NORTHERN LIGHTS #128	240 MAIN STREET #500	FILING COMPLAINTS: 2AAC 50.870	ANSWERING COMPLAINTS: 2AAC 50.880
ANCHORAGE, AK 99508	P.O. BOX 110222	APOC CRITERIA for ACCEPTING COMPLAINTS: 2 AAC 50.870	
907-276-4176 / FAX 907-276-7018	JUNEAU, AK 99811	INVESTIGATIONS & HEARINGS: 2 AAC 50.875-891	
TOLL-FREE 800-478-4176	465-4864 / FAX 465-4832	RULES for REQUESTING EXPEDITED CONSIDERATION: AS15.13.380(c)	
WEB: http://doa.alaska.gov/apoc/	APOC FORMS: http://doa.alaska.gov/apoc/forms_all.html	APOC LAWS: http://doa.alaska.gov/apoc/apoclaws.html	

August 31, 2020

To: Alaska Public Offices Commission
From: Yes on 2 for Better Elections

Re: Supporting Information and Documentation for APOC Complaint Against Brett Huber, Alaska Policy Forum, and Protect My Ballot

Introduction and Parties

Brett Huber is Governor Michael J. Dunleavy's former campaign manager and senior advisor. Huber has been actively opposing Ballot Measure 2, the Better Elections Initiative ("Ballot Measure 2"). Huber formalized his ongoing opposition on August 11, 2020, when he resigned from the Governor's office to work full-time for the campaign against Ballot Measure 2.¹ Huber claims to be operating this campaign.²

Protect My Ballot ("PMB") is a nationwide group openly campaigning against election reform measures, such as Ballot Measure 2, in multiple states. PMB's website not only generally campaigns against election reform measures, it also posts explicit materials advocating a "no" vote on measures in several states, including explicitly advocating a "no" vote on Ballot Measure 2.³

¹ <https://www.adn.com/politics/2020/08/11/former-dunleavy-campaign-manager-leaves-administration-to-campaign-against-ranked-choice-voting/> [hereinafter Huber Article].

² *See id.*

³ One page includes a piece titled "Ranked-Choice Voting and Ballot Measure 2 Should be Voted Down." <https://protectmyballot.com/ranked-choice-voting-and-ballot-measure-2-should-be-voted-down/>. Another page advocating a "no" vote is titled "Alaska's Election Initiative is Rank." <https://protectmyballot.com/alaskas-election-initiative-is-rank/>. Yet another piece opposes ranked choice voting generally, but includes a dateline from "Anchorage, Alaska" and leads with quotes from Bethany Marcum of the Alaska Policy Forum referring to Alaskans voting on this issue "in November," leading to the only reasonable conclusion that it is yet another piece in opposition to Ballot Measure 2. <https://protectmyballot.com/protect-my-ballot-new-campaign-exposes-flaws-in-ranked-choice-voting/>. All of these pieces are prominently linked on PMB's homepage. <http://protectmyballot.com/>.

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The Alaska Policy Forum (“APF”) is a think-tank that visions itself as a protector of individual freedoms.⁴ On July 24, APF announced itself as the leader of a “coalition” of state think tanks launching a “new campaign” opposed to ranked choice voting (“RCV”), a key element of Ballot Measure 2.⁵ APF has provided material support to PMB, including: (1) promoting its explicit messages including specifically warning “Alaskans tak[ing] to the polls in November” against RCV;⁶ (2) posting videos characterizing the reforms in Ballot Measure 2 as “threatening our democracy”;⁷ (3) openly promoting links for, and driving traffic to ProtectMyBallot.com;⁸ and (4) given the amount of materials on the topic—and the explicit claim that the anti- Ballot Measure 2 coalition is “led by” APF—it is further believed that APF is providing in-kind staff time from Executive Director Bethany Marcum through time spent expending APF resources in targeted digital communications signed by her.⁹

⁴ See <https://alaskapolicyforum.org/aboutus/vision-mission/>.

⁵ <https://alaskapolicyforum.org/2020/07/pr-exposing-flaws-rcv/> [hereinafter APF Press Release]. The title of this press release was “Protect My Ballot: New Campaign Exposes Flaws in Ranked Choice Voting. Coalition of state think tanks, *led by Alaska Policy Forum*, educates on pitfalls of this convoluted voting scheme.” *Id.* (emphasis added).

⁶ *Id.*

⁷ <https://alaskapolicyforum.org/2020/07/video-rcv-explained/>.

⁸ See APF Press Release (specifically stating “[t]o learn more, visit ProtectMyBallot.com” (emphasis in original)).

⁹ A sample 3-page email from July 24 is included as supporting documentation.

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Collectively, Huber,¹⁰ PMB,¹¹ and APF¹² are referred to herein as the “Respondents.”

Violations of Campaign Disclosure Law

Respondents have engaged in the extensive campaign activities described above, including but not limited to video production, web registration and design, staff time for writing, press releases promoting the “launch” of this “new campaign”, salary or wages for Huber, and links promoting a “no” vote on Ballot Measure 2. But despite these wide-ranging activities, none of the Respondents have registered as a group with APOC, nor have they reported any of the donations received or expenditures made in opposition to Ballot Measure 2.

Because many of Respondents’ materials openly call for a “no” vote on Ballot Measure 2, and because the rest of their communications cannot be reasonably interpreted as anything but an exhortation to vote against the measure, they are all campaign activities and communications triggering registration and reporting with APOC.¹³

The scope of Respondents failure to report activities related to their self- described

¹⁰ Brett Huber Sr.’s contact information, required for the APOC complaint, is as follows:

Address: 2617 Shepherdia Drive Anchorage, AK 99508
Phone: 907-269-0084
Email: brett.huber@gmail.com

¹¹ As explained below, PMB appears to be a non-existent entity, which may in and of itself be a campaign law violation. Because Bethany Marcum is acting as the effective leader of PMB’s campaign-related activity on Ballot Measure 2 in Alaska, her contact information is used for purposes of the APOC complaint:

Bethany Marcum
Address: 7463 White Hawk Drive Anchorage, AK 99507
Phone: 907-334-5853
Email: Bethany@AlaskaPolicyForum.org

¹² AFP’s contact information is as follows:

Address: 7926 Old Seward Highway, Suite A6 Anchorage, AK 99518
Phone: 907-334-5853
Email: info@alaskapolicyforum.org

¹³ See AS 15.13.400(7) (defining “express communications”).

“new campaign” is unknown. But the website ProtectMyBallot.com was registered on November 6, 2019, and this registration was updated on July 13, 2020.¹⁴ Therefore, at a minimum, Respondents have been making expenditures and failing to report them for over nine months.

APOC’s database was reviewed on August 31, 2020, and as of that date neither APF or PMB have registered as a group, entity, or campaign, nor have the entities reported any expenditures or donations related to the ongoing campaign activities described above. There are also no reports of any “in kind” staff time, nor any salary or debt under a contract to pay Huber.¹⁵

Alaska Statute 15.13.050(a) requires groups to register with APOC before making an expenditure in support or against a ballot measure. Alaska Statute 15.13.052 requires a group to establish a political activities account before making such an expenditure. Alaska Statute 15.13.110(g) requires periodic reports of all contributions received and expenditures made. Alaska Statute 15.13.110(h) requires all independent expenditures be reported within 10 days. Respondents have failed to comply with these statutes and, as APOC staff may determine, potentially others. In addition to daily fines accumulating for failing to register and report, APF and PMB must immediately identify all of their donors and the amounts donated.

Another related issue that has arisen is that PMB appears be a non-existent entity (or be a fictional name for a collection of entities).¹⁶ To the extent APF attempts to push its liability for reporting contributions and expenditures onto PMB, they could be violating

¹⁴ See <https://www.whois.com/whois/protectmyballot.com>.

¹⁵ The article on Huber’s involvement running the campaign against Ballot Measure 2 strongly implied that he would be paid to work on the campaign “full time,” and that he would not be involved as a volunteer. See Huber Article.

¹⁶ There is no such entity listed as “Protect My Ballot” according to the Alaska Department of Commerce, Community, and Economic Development. See <https://www.commerce.alaska.gov/cbp/main/search/entities> (last searched Aug. 31, 2020). Similarly, the IRS has no record of a non-profit entity by that name. See <https://www.commerce.alaska.gov/cbp/main/search/entities> (last searched Aug. 31, 2020).

AS 15.13.084(2) by trying to falsely report using a fictitious name or the name of another. APF appears to be the nexus of logistical, material, and financial support for the campaign against Ballot Measure 2 and must therefore report as such.

Violation of Lobbying Regulations

In the process of assembling this complaint, it was discovered that APF has also apparently violated the APOC's regulations requiring reporting of expenses related to lobbying.

APF has never registered with APOC as a lobbying entity in Alaska.¹⁷ In 2014, APF defended itself against accusations of improper lobbying, claiming that it does "not actively lobby."¹⁸ This claim is at odds with APF's 2018 990-EZ tax filing with the IRS that reported \$4,027 on "direct lobbying" of a legislative body.¹⁹ This failure to report appears to violate AS 24.45 and following code sections.

Violations of AS 24.45 can lead to a \$10 fine per day for each day APF has been out of compliance.²⁰ Knowing violations (or knowingly aiding or abetting the violation of these statutes) can expose individuals to criminal penalties of up to \$1,000 and imprisonment of not more than one year—and it can expose entities involved in such conduct to fines up to \$10,000.²¹

The Alaska Policy Forum Obscures its Finances and is Run Primarily with "Dark Money"

One of the reforms contained in Ballot Measure 2 is to require reporting of the "True Source" of donations to entities that make expenditures to impact candidate campaigns, thereby eliminating the existence of campaign spending for which the actual donor is

¹⁷ APOC's lobbying database was last accessed on August 31, 2020.

¹⁸ See Letter to the Editor, Alaska Dispatch News, (Mar. 31, 2014) (authored by David Boyle, APF's then-Executive Director).

¹⁹ https://projects.propublica.org/nonprofits/display_990/264380206/08_2019_prefixes_26-26%2F264380206_201812_990EZ_2019082716600171.

²⁰ See AS 24.25.141.

²¹ See AS 24.45.151.

unknown (commonly referred to as “Dark Money”). Respondents do not attack Ballot Measure 2 on this particular policy, yet it may be a motivating factor in their opposition, since APF does not disclose their donors.

Ironically, APF claims transparency is a core value—that they “highly value government and campaign transparency”²²—yet they fail to live up to this ideal. As a 2014 Anchorage Daily News profile noted, “one of the values of the Alaska Policy Forum is not disclosing [their own] donors.”²³

APF keeps its finances almost entirely secret. However, through extensive research of other non-profits’ tax filings who have donated to APF, sources were identified for half the funds that have gone to APF from 2009 - 2018. But as can be seen from the below research, the source of over \$400,000 of APF’s funds remains unknown:

²² <https://alaskapolicyforum.org/2018/10/outsidemoney-influencing-alaskas-november-election/>.

²³ <https://www.adn.com/politics/article/little-known-think-tank-shapes-public-policy-discussion/2014/09/15/>.

Year	Total Contrib. To APF²⁴	Total Contrib. Identified²⁵	Total Contrib. Dark²⁶	Dark Money %²⁷
2018	\$149,708.00	\$106,800.00	\$42,908.00	29%
2017	\$13,928.00	\$1,000.00	\$12,928.00	93%
2016	\$23,916.00	\$7,900.00	\$16,016.00	67%
2015	\$26,478.00	\$7,800.00	\$18,678.00	71%
2014	\$70,161.00	\$0.00	\$70,161.00	100%
2013	\$119,400.00	\$78,000.00	\$41,400.00	35%
2012	\$56,386.00	\$36,000.00	\$20,386.00	36%
2011	\$36,064.00	\$10,000.00	\$26,064.00	72%
2010	\$291,683.00	\$148,580.00	\$143,103.00	49%
2009	\$63,405.00	\$50,000.00	\$13,405.00	21%
Total	\$851,129.00	\$446,080.00	\$405,049.00	48%

²⁴ “Total Contrib. to APF” is the amount of contributions APF reported receiving in that year.

²⁵ “Total Contrib. Identified” is the amount of contributions from that year that research has connected to a source of the contribution.

²⁶ “Total Contrib. Dark” is the amount of APF contributions that do not have an identified donor source.

²⁷ “Dark Money %” is the percent of dark funding in the total contributions to APF.

Confirmed Contributions To Alaska Policy Forum				
Year	Group	Location	Amount	Source
2019	Lynde And Harry Bradley Foundation	Milwaukee, WI	\$70,000.00	<u>Bradley Foundation 2019 Annual Report</u>
2018	Donors Trust	Alexandria, VA	\$100,300.00	<u>Donors Trust 2018 Form 990</u>
2018	Nicole Laurel Cuddy Foundation	Anchorage, AK	\$6,500.00	<u>Nicole Laurel Cuddy Foundation 2018 Form 990</u>
2017	Nicole Laurel Cuddy Foundation	Anchorage, AK	\$1,000.00	<u>Nicole Laurel Cuddy Foundation 2017 Form 990</u>
2016	Nicole Laurel Cuddy Foundation	Anchorage, AK	\$7,900.00	<u>Nicole Laurel Cuddy Foundation 2016 Form 990</u>
2015	Nicole Laurel Cuddy Foundation	Anchorage, AK	\$7,800.00	<u>Nicole Laurel Cuddy Foundation 2015 Form 990</u>
2010	Atlas Economic Research Foundation	Washington, DC	\$6,580.00	<u>Atlas Economic Research Foundation 2010 Form 990</u>
2009	Donors Capital Fund	Alexandria, VA	\$50,000.00	<u>Donors Capital Fund 2009 Form 990</u>
Total			\$516,080.00	

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Because APF obscures its finances from public view, it is especially important that APOC act to compel disclosure of the sources funding their campaign against Ballot Measure 2.

Conclusion

This complaint establishes that Respondents have collectively been preparing and making expenditures in support of a campaign against Ballot Measure 2 since at least November 2019. More recently, in July 2020, Respondents formally “launched” their “new campaign” against the measure. Yet despite this formal launch, Respondents continue to flout Alaska’s campaign finance and lobbying disclosure laws.

Although an expedited proceeding is not requested, it is of the utmost importance that the Commission take action and address these issues well in advance of the November 3 general election, when the fate of Ballot Measure 2 will be decided.

SEP 08 2020

From: Bethany Marcum <bethany@alaskapolicyforum.org>

Date: July 24, 2020 at 05:45:12 AKDT

To: [REDACTED]

Subject: Begich, Parnell Co-Sign Wall Street Journal Op-Ed Against Ranked Choice Voting

Hi [REDACTED],

Today, Alaska Policy Forum, in partnership with other state-based think tanks, is launching a national educational campaign, Protect My Ballot, to inform the public on the harms of Ranked Choice Voting (RCV).

The campaign includes a website, ProtectMyBallot.com, highlighting bipartisan opposition to Ranked Choice Voting, and an explainer video that details how the electoral scheme works and why it disenfranchises voters and decreases voter turnout.

You can visit the campaign website [here](#), and watch the video [here](#).

Today, *The Wall Street Journal* ran an [op-ed](#) by Mark Begich, the former Democratic Senator from Alaska, and Sean Parnell, the former Republican Governor of Alaska, on the dangers of Ranked Choice Voting.

A full press release is below. If you would like more details about Ranked Choice Voting or the campaign, please don't hesitate to reach out.

Thank you,

Bethany

--

Bethany Marcum

Executive Director

Alaska Policy Forum

(907) 440-7000

FOR IMMEDIATE RELEASE

Protect My Ballot: New Campaign Exposes Flaws in Ranked Choice Voting

Coalition of state think tanks, led by Alaska Policy Forum, educates on pitfalls of this convoluted voting scheme

SEP 08 2020

Anchorage, Alaska (Friday, July 24, 2020)—Today, a coalition of state-based think tanks, led by Alaska Policy Forum, launched the national education campaign Protect My Ballot. The campaign details the harmful consequences of an electoral scheme known as Ranked Choice Voting (RCV).

The campaign highlights bipartisan opposition to RCV—ranging from California Governor Gavin Newsom, to Alaska's former Democratic Senator Mark Begich, to members of the NAACP New York State Conference—along with a list of localities that have repealed RCV.

View the campaign website at ProtectMyBallot.com. View a brief explainer video on Ranked Choice Voting [here](#).

Unlike a traditional election where voters select one candidate and the candidate with the most votes wins, under RCV, voters are expected to rank candidates. If no candidate receives a majority of votes in the first round of counting, the candidate with the fewest votes is eliminated. The process repeats until a remaining candidate receives a majority of votes.

This confusing process leads to many unintended consequences. For instance, if a voter misunderstands the process or chooses not to rank all candidates, her ballot could be eliminated from consideration. It's as though she never showed up on election day. That may explain why a handful of jurisdictions that previously adopted and tested RCV, have since repealed it.

Research also casts doubt on proponents' claims about the benefits of RCV. According to [research](#) from Jason McDaniel, an associate professor of political science at San Francisco State University, voter turnout decreased (three to five percentage points on average) in cities where RCV was used.

Coalition members released the following statements:

Bethany Marcum, Executive Director at Alaska Policy Forum:

“As Alaskans take to the polls in November, history should provide a warning for what Ranked Choice Voting would lead to. Not only can Ranked Choice Voting cause votes to be discarded, research shows it also decreases voter turnout. We need to encourage Americans of all backgrounds to visit the polls, not give them another reason to avoid casting a ballot.”

Annette Meeks, Founder and CEO of the Freedom Foundation of Minnesota:

“Public participation in elections is vital for a democracy to work. Discouraging and complicating the system threatens the people's voice. That's why a bipartisan coalition of citizens and legislators wants to ban ranked choice voting in Minnesota.”

Trent England, Executive Vice President of the Oklahoma Council of Public Affairs:

“Ranked Choice Voting is not the solution for election reform. In Oklahoma, our Chief Election Official has opposed this system. Not only does it disenfranchise voters, but implementing it in Oklahoma would be a logistical nightmare.”

SEP 1 2 2020

AFFIDAVIT - RETURN OF SERVICE

FILE STAMP

YES FOR 2 FOR BETTER ELECTIONS

Plaintiff(s),

vs.

BRETT HUBER, PROTECT MY BALLOT FORUM, ALASKA POLICY
FORUM

Defendant(s).

I solemnly swear or affirm that on 9/1/2020, at 7:39 PM, I served the following documents:

ALASKA PUBLIC OFFICES COMMISSION COMPLAINT, ATTACHMENTS

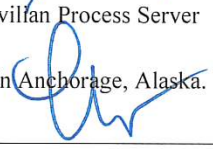
upon the therein named BETHANY MARCUM FOR PROTECT MY BALLOT FORUM at 7463 WHITE HAWK
DRIVE, ANCHORAGE, ALASKA 99507, by handing and leaving a true and correct copy with BETHANY
MARCUM.

Process Server Notes:

RUSH


TERRENCE GLAZE
Civilian Process Server

SUBSCRIBED AND SWORN to or affirmed before me this September 03, 2020 in Anchorage, Alaska.


Notary Public in and for the State of Alaska
My Commission Expires: 8/1/2021

Client: HOLMES WEDDLE & BARCOTT, PC
Client Contact: BRIAN
File Number: 7349-32430

North Country Process, Inc.
P.O. Box 101126
Anchorage, Alaska 99510
Office: (907) 274-2023
Fax Line: (907) 274-2823

NCPI@alaska.net



Service Fee [Rule 11(a)(1)(i/ii)]:	\$45.00
Mileage Fee [Rule 11(a)(7)]:	\$20.00

Total Recoverable Fees per Admin Rule 11:	\$65.00
Endeavor Fee:	\$15.00
Total Non-Recoverable Fees per Admin Rule 11:	\$15.00
Total Service Fees:	\$80.00

Return No.: 197701

SEP 08 2020

AFFIDAVIT - RETURN OF SERVICE

FILE STAMP

YES FOR 2 FOR BETTER ELECTIONS

Plaintiff(s),

vs.

BRETT HUBER, PROTECT MY BALLOT FORUM, ALASKA POLICY
FORUM

Defendant(s).

I solemnly swear or affirm that on 9/2/2020, at 1:59 PM, I served the following documents:

ALASKA PUBLIC OFFICES COMISSION COMPLAINT, ATTACHMENTS

upon the therein named BRETT HUBER, SR. at 2617 SHEPHERDIA DRIVE, ANCHORAGE, ALASKA 99508,
by handing and leaving a true and correct copy with BRETT HUBER, SR.

Process Server Notes:


RUSH



DOUGLAS CALLISON
Civilian Process Server

SUBSCRIBED AND SWORN to or affirmed before me this September 03, 2020 in Anchorage, Alaska.

Client: HOLMES WEDDLE & BARCOTT, PC
Client Contact: BRIAN
File Number: 7349-32430


Notary Public in and for the State of Alaska
My Commission Expires: 8/1/2021

North Country Process, Inc.
P.O. Box 101126
Anchorage, Alaska 99510
Office: (907) 274-2023
Fax Line: (907) 274-2823

NCPI@alaska.net



Service Fee [Rule 11(a)(1)(i/ii)]:	\$45.00
Mileage Fee [Rule 11(a)(7)]:	\$20.00

Return No.: 197699

Total Recoverable Fees per Admin Rule 11:	\$65.00
Endeavor Fee:	\$15.00
Total Non-Recoverable Fees per Admin Rule 11:	\$15.00
Total Service Fees:	\$80.00

SEP 08 2020

AFFIDAVIT - RETURN OF SERVICE

FILE STAMP

YES FOR 2 FOR BETTER ELECTIONS

Plaintiff(s),

vs.

BRETT HUBER, PROTECT MY BALLOT FORUM, ALASKA POLICY
FORUM

Defendant(s).

I solemnly swear or affirm that on 9/2/2020, at 1:12 PM, I served the following documents:

ALASKA PUBLIC OFFICES COMMISSION COMPLAINT, ATTACHMENTS

upon the therein named ALASKA POLICY FORUM at 7926 OLD SEWARD HIGHWAY, STE. A6,
ANCHORAGE, ALASKA 99518, by handing and leaving a true and correct copy with MELODIE, ASSOCIATE
DIRECTOR.

Process Server Notes:

RUSH



DOUGLAS CALLISON

Civilian Process Server

SUBSCRIBED AND SWORN to or affirmed before me this September 03, 2020 in Anchorage, Alaska.



Notary Public in and for the State of Alaska

My Commission Expires: 8/1/2021

Client: HOLMES WEDDLE & BARCOTT, PC

Client Contact: BRIAN

File Number: 7349-32430

North Country Process, Inc.

P.O. Box 101126

Anchorage, Alaska 99510

Office: (907) 274-2023

Fax Line: (907) 274-2823

NCPI@alaska.net



Service Fee [Rule 11(a)(1)(i/ii)]: \$45.00

Mileage Fee [Rule 11(a)(7)]: \$20.00

Total Recoverable Fees per Admin Rule 11: \$65.00

Endeavor Fee: \$15.00

Total Non-Recoverable Fees per Admin Rule 11: \$15.00

Total Service Fees: \$80.00

Return No.: 197700

SEP 08 2020

Matthew Gagnon, CEO of Maine Policy Institute:

"Whether you examine data captured during Maine's brief experience with ranked-choice voting or the experiences of other jurisdictions, the lofty claims used to sell this voting system to the general public do not withstand factual scrutiny. Voters should be skeptical when they hear from special interest groups trying to change the way we exercise our sacred right to vote."

Protect My Ballot coalition members include Alaska Policy Forum, Maine Policy Institute, Freedom Foundation of Minnesota, and the Oklahoma Council of Public Affairs

To learn more, visit ProtectMyBallot.com.

###

This email was sent to [REDACTED]

Alaska Policy Forum, 7926 Old Seward Highway, Suite A6, Anchorage, AK 99518, USA

[Unsubscribe](#)

SEP 08 2020

LAW OFFICES OF CRAIG RICHARDS
810 N Street Ste. 100 • Anchorage, Alaska 99501
(907) 306-9878 • crichards@alaskaprofessionalservices.com

September 28, 2020

Thomas Lucas
Campaign Disclosure Coordinator
Alaska Public Offices Commission
Anchorage, Alaska 99508
VIA EMAIL: tom.lucas@alaska.gov

Re: Yes on 2 for Better Elections v. Brett Huber, Alaska Policy Forum and Protect My Ballot, Complaint 20-05-CD, dated September 8, 2020

Dear Mr. Lucas:

I represent Brett Huber in the above captioned matter. On behalf of the Alaska Public Offices Commission (“APOC”) you sent Mr. Huber an information request on September 15, 2020. I asked for, and you granted, an extension to respond to that request until September 28, 2020.

Mr. Huber’s responses are as follows:

1. Please produce all correspondence between Huber, Protect My Ballot (“PMB”) and Alaska Policy Forum (“APF”) concerning the formation of PMB from September 1, 2019 through September 8, 2020. For purposes of this request, all correspondence includes correspondence by any means including electronic mail and social media platforms.

Mr. Huber has no correspondence responsive to this request.

2. Please identify the owner of the PMB web domain purchased on November 6, 2019; and any rules for public access to domain ownership details.

Mr. Huber does not know who is the owner of the PMB web domain purchased on November 6, 2019, nor any details related to rules for public access to domain ownership. Mr. Huber objects to this request to the extent it seeks him to identify information he does not possess. Mr. Huber further objects to this request given APOC is in a better position than Mr. Huber to locate information responsive to this request.

3. Please provide any written agreements between Huber and APF or PMB concerning any work to be performed in connection with APF’s mission in connection with ranked choice voting.

There are no such agreements.

4. *Please describe in detail any oral arrangements between Huber and APF or PMB concerning any work to be performed in connection with APF's mission in connection with ranked choice voting.*

There are no such arrangements.

5. *Please describe in detail any payments or promises of payment you have received from APF or PMB in connection with their missions in connection with ranked choice voting.*

There are no such payments or promises.

As stated in my email of September 24, 2020 the complaint against Mr. Huber is baseless and he does not intend to file an answer or provide any additional information related thereto (unless requested by APOC).

Sincerely,

/s/

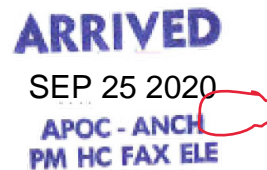
Craig Richards

September 24, 2020

TO: Alaska Public Offices Commission

From: Alaska Policy Forum

Re: Response to APOC Complaint 20-05-CD



Introduction and Overview of “Protect My Ballot”

A recent complaint to the Alaska Public Offices Commission (APOC) from the “Yes on 2 for Better Elections” ballot committee makes a series of specious and false allegations regarding the public education activities of Alaska Policy Forum (APF), a §501(c)(3) charitable nonprofit organization. APF hereby responds to the allegations, provides defenses, objects to the complaint, and provides relevant documentation.

APF has a multi-year track record of publishing educational materials on the integrity of elections—and well-established skepticism of efforts to change the status quo.¹ In 2016, for instance, APF wrote a detailed analysis of a voter registration scheme that could have forced the state towards universal use of mail-ballots.² (This concern turned out to be prescient in 2020, although not for reasons APF could have predicted at the time.)

Given this history, APF enthusiastically agreed in January 2020 to join as a founding member a national coalition called Protect My Ballot, which is focused on educating the public on the potential risks and consequences of a voting scheme called Ranked Choice Voting. The coalition was organized by the Washington, DC-based §501(c)(3) nonprofit Employment Policies Institute Foundation (EPIF), which owns the web domain ProtectMyBallot.com and has registered Protect My Ballot as a trade name (See Appendix A.)³

Other Protect My Ballot coalition members include nonprofits in Minnesota, Maine, Massachusetts, and Oklahoma.

¹ <https://alaskapolicyforum.org/?s=elections>

² <https://alaskapolicyforum.org/2016/11/voter-registration-and-broken-promises/>

³ EPIF has worked with state-based think tanks dating back to 2012.

Absent from this list of coalition participants is Mr. Brett Huber, who is also named with APF in the complaint. Neither APF, EPIF, or anyone associated with the Protect My Ballot coalition has communicated with Brett Huber regarding campaign activities against Ballot Measure 2—much less provided “salaries or wages” for Huber, as the Yes on 2 complaint alleges. (The complaint provides no evidence to support this allegation.) The Yes on 2 complaint’s allegation that “Huber claims to be operating this campaign” is false. Mr. Huber may or may not be involved in *a* campaign against Ballot Measure 2, but he is not associated with APF or the Protect My Ballot coalition.

The Protect My Ballot website presents detailed information on the following topics:

1. How Ranked Choice Voting works;
2. Documented consequences of Ranked Choice Voting;
3. Testimonials from elected officials in markets where Ranked Choice Voting was implemented;
4. A list of locations that have repealed Ranked Choice Voting; and
5. Common questions and answers about Ranked Choice Voting.

At the bottom of the website, a “Media and Research” section collects recent relevant news stories, op-eds and other information on Ranked Choice Voting. (Of the eight linked articles, just two concern Alaska.) A review of the website demonstrates that the Yes on 2 complaint’s allegation that Protect My Ballot is “openly campaigning against election reform measures, such as Ballot Measure 2, in multiple states” is demonstrably false. The information is clearly issue-oriented and unless a linked article references a state ballot measure, there is no mention of Ranked Choice Voting measures on any ballot, including in Alaska, or a reference to the November election.

The Protect My Ballot education campaign launched on July 24, 2020.⁴ APF emailed a press release to a national media list, and to an Alaska-specific list. The coalition members in Maine and Minnesota emailed their own press releases to local reporters in their states.

⁴ On July 13th, 2020, in advance of the launch, EPIF set up the draft website at a real domain. See Appendix A.

None of the media quotations or press materials from APF or Protect My Ballot advocates for or against Ballot Measure 2. In fact, the July 24th press release does not refer to any ballot measure generally, nor does it specifically mention Ballot Measure 2.

By the Yes on 2 campaign's own description, Measure 2 is a three-part proposal of which Ranked Choice Voting is but one part.⁵ APF has not produced educational material on two of the three pieces of Ballot Measure 2.

The preceding facts make clear that the "Yes on 2" complaint made basic faulty assumptions and conclusions in many of its allegations, which demand a dismissal of the complaint.

- Contrary to the Yes on 2 allegations, Brett Huber has had no interaction with APF, EPIF, or Protect My Ballot "concerning the formation of PMB" or "arrangements ... concerning any work to be performed in connection with APF's mission in connection with Ranked Choice Voting";
- Contrary to the Yes On 2 allegations, neither APF nor EPIF engaged in "extensive campaign activities" against Ballot Measure 2 nor do "many of Respondents' materials openly call for a 'no' vote on Ballot Measure 2." Indeed, the complaint's only cited example of said "campaign activities" are two links at the bottom of the webpage to relevant articles critical of Ranked Choice Voting in Alaska. (The "Yes on 2" complaint also incorrectly describes these articles as being linked "prominently"; a visitor who fails to scroll to the very bottom of the page would miss them.) Neither of these articles were written by APF and both were published elsewhere first. The first article cited was previously published in the *Anchorage Daily News* by a former lieutenant governor of Alaska. The second cited article is an op-ed by former Senator Mark Begich and former governor Sean Parnell which was published in the *Wall Street Journal*.
- APF has engaged in issue discussion by talking generally about Ranked Choice Voting, without reference to Measure 2. These educational materials do not turn the coalition into an "anti-Ballot Measure 2 coalition" as Yes on 2 alleges. These educational materials, which describe how Ranked Choice Voting works, voter confusion, problems resulting from Ranked Choice Voting, and jurisdictions which have tried and discarded

⁵ <https://alaskansforbetterelections.com/about/>

Ranked Choice Voting, are providing educational information concerning the topic of Ranked Choice Voting and therefore, is susceptible of a reasonable interpretation other than an exhortation to vote one way or the other. See AO 19-04-CD at 5.

- The Yes on 2 complaint admits that a third article (*Protect My Ballot: New Campaign Exposes Flaws in Ranked Choice Voting*) contains no advocacy regarding Measure 2, but argues that the only reasonable conclusion is “opposition to Ballot Measure 2” simply because it leads with a quote from Ms. Marcum of APF which mentions that “Alaskans take to the polls in November” and it has a dateline of “Anchorage, Alaska.” Ms. Marcum’s quote, when read as a whole and with limited reference to outside events, is susceptible of a reasonable interpretation other than an exhortation to vote against Measure 2. Ms. Marcum does not mention Measure 2 specifically but does mention what Ranked Choice Voting could lead to, including causing votes to be discarded and decreased voter turnout. While describing Ranked Choice Voting as leading to discarding of votes and decreased voter turnout might be interpreted by readers who are aware of the proposition as a message in opposition to Measure 2, it is not the only reasonable interpretation of the educational activity. See AO 19-04-CD at 4. This statement, and other portions of the press release which talk about confusion that often results, could be interpreted as urging voters to think about the history of Ranked Choice Voting and what it would mean generally. Further, like the nonprofit organization in AO 19-04-CD, APF’s press release, when taken as a whole, is susceptible of a reasonable interpretation other than to vote against Measure 2 because it provides neutral information about Ranked Choice Voting, namely that jurisdictions which have considered Ranked Choice Voting have repealed it and that it has led to voter confusion and lower voter turnout.
- Contrary to the Yes on 2 complaint, neither APF nor EPIF has been “making expenditures for over nine months.” Rather, the web domain for Protect My Ballot—a *national* Ranked Choice Voting education campaign—was registered in November 2019. APF did not even join this national education coalition—a coalition never intended to engage in state ballot measure fights—for another two months. In fact, Ranked Choice Voting is not even on the statewide ballot in half of the states of Protect My Ballot coalition members.

In conclusion, neither APF nor EPIF have registered with APOC regarding “an expenditure in support of or against a ballot proposition,” because neither organization has made such expenditures. See, e.g., Advisory Opinion 19-04-CD at 6 (APOC finding that the term contribution does not include costs that a media organization incurs in covering or carrying a news story, editorial, or commentary).

To be clear: Both APF and the Protect My Ballot coalition are directly critical of Ranked Choice Voting, which is but one component of Ballot Measure 2. But this criticism in itself does not qualify as an expenditure. APOC addressed a similar situation in a 2019 advisory opinion concerning the Section 501(c)(3) nonprofit Bags for Change:

“Bags for Change (BFC) is a Sitka, Alaska unincorporated nonprofit association that has been educating the public about the negative effects related to plastics in general and plastic bags in particular since 2016. ... On March 15, 2019, a citizen initiative for a disposable plastic shopping bag prohibition enacting a fee and fine schedule was filed with the Sitka City Clerk and approved for signature gathering on March 22, 2019. ...

BFC does not desire to form a group that will seek contributions or make expenditures supporting or opposing the Initiative, but does desire to educate the public concerning both the reasons for the Initiative and the costs to the public and merchants if the Initiative passes. ... If BFC continues to educate the public concerning the harmful effects of plastics in general and plastic bags in particular, will it trigger a registration or reporting requirement?”⁶

APOC’s response was a “Qualified no,” with the Commission explaining that BFC’s language must “not amount to the functional equivalent of an exhortation to vote for the Initiative.” Therefore, as long as educational efforts regarding an issue do not amount to the functional equivalent of an exhortation to vote for or against an initiative, they will not trigger a registration or reporting requirement.

Other Allegations

⁶ Advisory Opinion 19-04-CD (July 1, 2019) at 1, 2.

The remainder of the “Yes on 2” complaint does not concern Ballot Measure 2, but raises several red herrings which can be quickly dismissed. The complaint cites APF’s 2018 990-EZ filing with the IRS, which shows \$4,027 in “direct lobbying expenses,” and alleges that APF should have “registered with APOC as a lobbying entity in Alaska.”

APF has a federal “h election” which allows for limited lobbying, including federal, state and local. For state lobbying activities, APF has never reached the time threshold of 10 hours in any 30-day period in a calendar year for lobbying registration. Of this \$4,027 amount, a portion of it was related to federal lobbying.

“Yes on 2” concludes its complaint with an unrelated and irrelevant attack on donor privacy. Yes on 2 cites no evidence or support for its “dark money” arguments and therefore, APF struggles to understand the relevance of these attacks as well as what law Yes on 2 believes APF has violated.⁷ To the extent that Yes on 2 is arguing that APF’s “motive” in becoming involved in Ranked Choice Voting is to secretly defeat donor disclosure measures within Ballot Measure 2, this too is irrelevant and provides no basis upon which to investigate. Even if this were APF’s motivating factor for becoming involved in Ranked Choice Voting (which it is not), it is not illegal nor anything upon which APOC could find a violation. Indeed, were Measure 2 to pass, it would not impact APF nor require APF to disclose its donors.

Ballot Measure 2, which Yes on 2 claims would require reporting of donations to entities which make expenditures to impact candidate campaigns, is not in effect. Further, as a Section 501(c)(3) organization, APF is prohibited under the Internal Revenue Code from making expenditures “to impact candidate campaigns.” Therefore, even if Ballot Measure 2 passes, APF will not have to disclose its donors because it cannot make political expenditures. APF is a Section 501(c)(3) charitable non-profit and under federal law, the privacy of its donors is protected. Per IRS regulations, contributors’ identities are not subject to disclosure. APF is not

⁷ As already demonstrated above, APF has not engaged in activity which requires registration and/or reporting under Alaska law. APF’s motive for engaging in educational activities regarding Ranked Choice Voting is irrelevant.

engaged in activity triggering disclosure of its donors and therefore, Yes on 2's efforts to force disclosure of APF's donors must fail.⁸

Conclusion

The "Yes on 2" complaint is a factually deficient attempt to stifle APF's freedom of speech. As established in the preceding pages, APF's participation in the Protect My Ballot national education campaign is not an "expenditure" under the state's election law. In fact, a prior Advisory Opinion from APOC addressed a similar situation to the present one, and determined that such activity does not require registration. The Yes on 2 complaint must be dismissed without further action.

In the appendices, APF has attached the additional documents requested by APOC.

⁸ Yes on 2 conflates arguments about transparency. Transparency as to *campaigns and governments* has been upheld by various courts, including the Supreme Court, but is almost always found unconstitutional as to non-profit organizations like APF, which do not engage in activities for which there is a constitutional basis upon which to require donor disclosure.

Note: EPIF is managed by the firm Berman and Company.

Initial File #: 942083

GOVERNMENT OF THE DISTRICT OF COLUMBIA
DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS
CORPORATIONS DIVISION



C E R T I F I C A T E

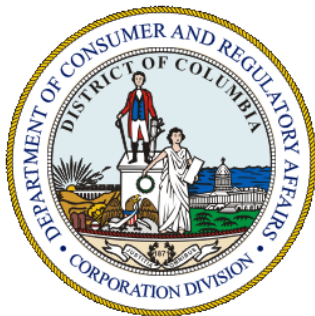
THIS IS TO CERTIFY that all applicable Trade Name requirements of the Omnibus Regulatory Reform Act of 1998 have been complied with and accordingly, this ***CERTIFICATE OF TRADE NAME REGISTRATION*** is hereby issued to:

EMPLOYMENT POLICIES INSTITUTE FOUNDATION

Trade Name: Protect My Ballot

IN TESTIMONY WHEREOF I have hereunto set my hand and caused the seal of this office to be affixed as of 8/9/2020 11:35 PM

Business and Professional Licensing Administration



Josef G. Gasimov

JOSEF G. GASIMOV
Superintendent of Corporations,
Corporations Division

Muriel Bowser
Mayor

Tracking #: cFQSVGS4

protectmyballot.com

is set to automatically renew in **52 days**

Domain Protection Plan: Full Protection

[Manage](#) ▾

Contact Information

[Edit](#)

Updating this contact info won't expose it as long as privacy is on.

Company: Berman and Company
[Employee name redacted for personal privacy.]
Address: 1090 Vermont Ave NW
Suite 800
Washington, District of Columbia
us 20005
Telephone: 2024637100
Email: webmaster@bermanco.com

Date ▾	Action	User	Domain	
Jul 13, 2020	Speed change setting	webmaster@bermanco.com	protectmyballot.com	▶
Jul 13, 2020	Speed change setting	webmaster@bermanco.com	protectmyballot.com	▶
Jul 13, 2020	Crypto change setting	webmaster@bermanco.com	protectmyballot.com	▶
Jul 13, 2020	Nameservers confirmed	webmaster@bermanco.com	protectmyballot.com	▶
Jul 13, 2020	Crypto change setting	webmaster@bermanco.com	protectmyballot.com	▶
Jul 13, 2020	Rec add	webmaster@bermanco.com	protectmyballot.com	▶
Jul 13, 2020	Rec add	webmaster@bermanco.com	protectmyballot.com	▶
Jul 13, 2020	Rec add	webmaster@bermanco.com	protectmyballot.com	▶
Jul 13, 2020	Tls settings deployed	Cloudflare	protectmyballot.com	▶
Jul 13, 2020	Pending	webmaster@bermanco.com	protectmyballot.com	▶
Jul 13, 2020	Network change setting	webmaster@bermanco.com	protectmyballot.com	▶
Jul 13, 2020	Add	webmaster@bermanco.com	protectmyballot.com	▶
Jul 13, 2020	Login	webmaster@bermanco.com	Account	▶

Appendix B: Responses to APOC Document Requests

1. Please describe in detail, the organizational structure of APF. This description should include any officers or directors or other persons/organizations performing a similar function to an officer or director of a corporation.
 - a. APF is a Section 501(c)(3) nonprofit. Attached as Appendix C is our IRS recognition letter and a document listing our board members and officers.
2. Please produce all correspondence between Huber, PMB and APF concerning the formation of PMB from September 1, 2019 through September 8, 2020. For purposes of this request, all correspondence includes correspondence by any means including electronic mail and social media platforms.
 - a. There is no correspondence to produce. APF was contacted by phone by EPIF in January 2020 regarding a coalition of organizations that would provide education on election process issues. We affirmed our interest and explained at that time that we are a Section 501(c)(3) and thus would only participate in educational efforts. It was confirmed that the coalition would only be doing educational work.
3. Please produce all correspondence between APF and the constituent members of PMB concerning the formation of PMB from September 1, 2019 through September 8, 2020. For purposes of this request, correspondence includes correspondence by any means including electronic mail and social media platforms.
 - a. There is no correspondence to produce. Bethany Marcum made phone calls to other non-profit organization CEOs with whom she was familiar and explained the educational efforts that would ensue, and invited them to participate.
4. Please identify the owner of the PMB web domain purchased on November 6, 2019; and any rules for public access to domain ownership details.
 - a. See Appendix A.
5. Please describe in detail the changes made in the PMB web domain on July 13, 2020; any changes in ownership that may have occurred at that time; and any changes to the rules set up for public access to domain details.
 - a. See Appendix A. On July 13th, 2020, in advance of the launch, EPIF set up the draft website at a real domain.
6. Please provide any written agreements between Huber and PMB concerning any work to be performed in connection with PMB's mission in connection with ranked choice voting.
 - a. APF has never had any agreements (written or verbal) nor associations of any kind with Huber, nor any written agreement with PMB.
7. Please describe in detail any oral arrangements between Huber and APF concerning any work to be performed in connection with APF's mission in connection with ranked choice voting.
 - a. APF does not have, nor has it ever had any agreements (written or verbal) nor associations of any kind with Huber. Mr. Huber does not perform any work for APF concerning Ranked Choice Voting.
8. Please provide a list of all purchases, transfers 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 furthering APF's mission in connection with ranked choice

voting from September 1, 2019 through September 8, 2020. For each, provide the value and a description of the transaction.

- a. By responding to this request, APF does not admit that its disbursements for furthering its educational mission in connection with Ranked Choice Voting constitute reportable expenditures. APF believes that these disbursements are not relevant because they are not expenditures and therefore not required to be disclosed. Without conceding the foregoing, APF states that it has disbursements in the form of staff time to review educational content, send out press releases, etc. for three employees, at 25 hours, for a cost of \$643.20.

Appendix C: APF Board, IRS Approval



Board of Directors

As of June 2020

Seat Number	Filled	Term & Year	Election Schedule	Next Election	Currently Held By
Seat #1	2019	Term 1, Year 1	Odd Years	2021	Nick Begich, III
Seat #2	NA	Term 1, Year 3	Odd Years	2022	VACANT
Seat #3	2018	Term 3, Year 2	Even Years	2020	Paula Easley
Seat #4	2018	Term 1, Year 2	Even Years	2020	Jodi Taylor
Seat #5	2019	Term 3, Year 1	Odd Years	2021	Bob Griffin
Seat #6	2018	Term 1, Year 2	Even Years	2020	Ann Brown
Seat #7	2018	Term 1, Year 2	Even Years	2020	Jess Ellis
Seat #8: Non-Anchorage	2019	Term 1, Year 1	Odd Years	2021	Win Gruening
Seat #9: Non-Anchorage	2020	Term 1, Year 1	Even Years	2022	Walter Campbell

Officer	Held By
President	Nick Begich
Vice President	Ann Brown
Secretary	Bethany Marcum
Treasurer	Melodie Wilterdink
Other: Governance Cmte Chair	Ann Brown

INTERNAL REVENUE SERVICE
P. O. BOX 2508
CINCINNATI, OH 45201

DEPARTMENT OF THE TREASURY

Date **SEP 03 2009**

ALASKA POLICY FORUM INC
201 BARROW ST BOX 8 STE 101
ANCHORAGE, AK 99501-2429

Employer Identification Number:
26-4380206
DLN:
17053208339009
Contact Person:
WINNIE W LEE ID# 31208
Contact Telephone Number:
(877) 829-5500
Accounting Period Ending:
December 31
Public Charity Status:
170(b)(1)(A)(vi)
Form 990 Required:
Yes
Effective Date of Exemption:
April 14, 2009
Contribution Deductibility:
Yes
Addendum Applies:
No

Dear Applicant:

We are pleased to inform you that upon review of your application for tax exempt status we have determined that you are exempt from Federal income tax under section 501(c)(3) of the Internal Revenue Code. Contributions to you are deductible under section 170 of the Code. You are also qualified to receive tax deductible bequests, devises, transfers or gifts under section 2055, 2106 or 2522 of the Code. Because this letter could help resolve any questions regarding your exempt status, you should keep it in your permanent records.

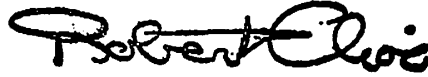
Organizations exempt under section 501(c)(3) of the Code are further classified as either public charities or private foundations. We determined that you are a public charity under the Code section(s) listed in the heading of this letter.

Please see enclosed Publication 4221-PC, Compliance Guide for 501(c)(3) Public Charities, for some helpful information about your responsibilities as an exempt organization.

Letter 947 (DO/CG)

ALASKA POLICY FORUM INC

Sincerely,

A handwritten signature in black ink, appearing to read "Robert Choi". The signature is stylized with a large, looping "R" and a cursive "Choi".

Robert Choi
Director, Exempt Organizations
Rulings and Agreements

Enclosures: Publication 4221-PC

Letter 947 (DO/CG)

From: [Bethany Marcum](#)
To: [Stormont, Charles R \(DOA\)](#); [Lucas, Tom R \(DOA\)](#)
Cc: [Hebdon, Heather R \(DOA\)](#); [Griffin, Morgan A \(LAW\)](#)
Subject: RE: Complaint Notification
Attachments: [EPIB 2018 990.pdf](#)

Good evening,

Please find attached and below additional information from PMB.

Protect My Ballot is the name of a coalition organized by the 501(c)(3) Employment Policies Institute Foundation. EPIF's board can be viewed on page 7 of the organization's most current Form 990, which is attached to this email.

Should you have any further questions about EPIF's board and structure, they can be directed to EPIF Executive Director Rick Berman at info@EPIOnline.org.

Thank you.

From: Bethany Marcum
Sent: Friday, September 25, 2020 2:05 PM
To: 'Stormont, Charles R (DOA)' <charles.stormont@alaska.gov>; Lucas, Tom R (DOA) <tom.lucas@alaska.gov>
Cc: Hebdon, Heather R (DOA) <heather.hebdon@alaska.gov>; Griffin, Morgan A (LAW) <morgan.griffin@alaska.gov>
Subject: RE: Complaint Notification

Good afternoon, please find attached Alaska Policy Forum's response to complaint 20-05-CD. Please let me know if you need anything further, and please reply to acknowledge receipt of this email.

Thank you,

Bethany Marcum
Executive Director
Alaska Policy Forum
www.AlaskaPolicyForum.org
ph 907-334-5853
cell 907-440-7000
Follow us on [Facebook](#) and [Twitter](#)
[Sign up](#) for our email updates
[Support](#) our work!

From: Stormont, Charles R (DOA) <charles.stormont@alaska.gov>
Sent: Thursday, September 10, 2020 2:32 PM
To: Bethany Marcum <bethany@alaskapolicyforum.org>
Cc: Hebdon, Heather R (DOA) <heather.hebdon@alaska.gov>; Lucas, Tom R (DOA) <tom.lucas@alaska.gov>; shae@alaskansforbetterelections.com; Griffin, Morgan A (LAW) <morgan.griffin@alaska.gov>
Subject: Re: Complaint Notification
Importance: High

Good Afternoon,

Please find the attached document(s) being issued to you from the Alaska Public Offices Commission. You will receive physical copies as indicated within the attachment.

Please note if there are any timeframes established to take action within these documents.

Should you have any questions, please contact our office.

Thank you,

Charles Stormont
Law Office Assistant I
Alaska Public Offices Commission
2221 E. Northern Lights Blvd STE 128
Anchorage, Ak 99508
Phone: (907)-276-4176
Toll-Free: 1-800-478-4176
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 recipients(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.

Petition ID:	19AKBE
Petition Status:	Petition Properly Filed
Petition Application Title:	Alaska's Better Elections Initiative
Primary Sponsors:	Jason Grenn, Bonnie L. Jack and Bruce Botelho
Contact Sponsor:	Jason Grenn, 4611 Caravelle Dr, Anchorage AK 99502
Petition Application Filed:	July 3, 2019
Sponsors Proposed Bill Language:	"Alaska's Better Elections Initiative"
Petition Application Review Deadline:	September 1, 2019
Petition Application:	Application Decision Letter - Application Denied August 30, 2019 Application Signature Review Attorney General Opinion: AGO No. 2019200578 Statement of Costs Court Order No. 3AN-19-09704
Petition Booklets Issued:	October 31, 2019
Petition Booklet Filing Deadline:	October 28, 2020
Petition Filed With Elections:	January 9, 2020
Petition Notice of Proper or Improper Filing:	Letter To Primary Sponsor Final Petition Summary Report
Proposed Ballot Title and Summary:	Proposed Ballot Summary and Title



Lieutenant Governor Kevin Meyer
STATE OF ALASKA

March 9, 2020

Jason Grenn
4611 Caravelle Drive
Anchorage, Alaska 99502

Re: 19AKBE Alaska's Better Elections Initiative

Mr. Grenn:

I have reviewed your petition for the initiative entitled "An Act Replacing the Political Party Primary with an Open Primary System and Ranked-Choice General Election, and Requiring Additional Campaign Finance Disclosures" and have determined that the petition was properly filed. My notice of proper filing is enclosed. Specifically, the petition was signed by qualified voters from all 40 house districts equal in number to at least 10 percent of those who voted in the preceding general election; with signatures from at least 30 house districts matching or exceeding seven percent of those who voted in the preceding general election in the house district. The Division of Elections verified 36,006 voter signatures, which exceeds the 28,501 signature requirement based on the 2018 general election. A copy of the Petition Statistics Report prepared by the Division of Elections is enclosed.

With the assistance of the attorney general, I have prepared the following ballot title and proposition that meets the requirements of AS 15.45.180:

***An Act Replacing the Political Party Primary with an Open Primary System and
Ranked-Choice General Election, and Requiring Additional Campaign Finance Disclosures***

This act would get rid of the party primary system, and political parties would no longer select their candidates to appear on the general election ballot. Instead, this act would create an open nonpartisan primary where all candidates would appear on one ballot. Candidates could choose to have a political party preference listed next to their name or be listed as "undeclared" or "nonpartisan." The four candidates with the most votes in the primary election would have their names placed on the general election ballot.

This act would establish ranked-choice voting for the general election. Voters would have the option to "rank" candidates in order of choice. Voters would rank their first choice candidate as "1", second choice candidate as "2", and so on. Voters "1" choice would be counted first. If no candidate received a majority after counting the first-ranked votes, then the candidate with the least amount of "1" votes would be removed from counting. Those ballots that ranked the removed candidate as "1" would then be counted for the voters' "2" ranked candidate. This process would repeat until one candidate received a majority of the remaining votes. If voters still want to choose only one candidate, they can.

Jason Grenn
March 9, 2020
Page 2

This act would also require additional disclosures for contributions to independent expenditure groups and relating to the sources of contributions. It would also require a disclaimer on paid election communications by independent expenditure groups funded by a majority of out of state money.

Should this initiative become law?

This ballot proposition will appear on the election ballot of the first statewide general, special, or primary election that is held after (1) the petition has been filed; (2) a legislative session has convened and adjourned; and (3) a period of 120 days has expired since the adjournment of the legislative session. Barring an Alaska Supreme Court decision keeping it off the ballot, an unforeseen special election or adjournment of the current legislative session occurring on or before April 19, 2020, this proposition will be scheduled to appear on the general election ballot on the November 3, 2020 general election. If a majority of the votes cast on the initiative proposition favor its adoption, I shall so certify and the proposed law will be enacted. The act becomes effective 90 days after certification.

Please be advised that under AS 15.45.210, this petition will be void if I, with the formal concurrence of the attorney general, determine that an act of the legislature that is substantially the same as the proposed law was enacted after the petition has been filed and before the date of the election. I will advise you in writing of my determination in this matter.

Please be advised that under AS 15.45.240, any person aggrieved by my determination set out in this letter may bring an action in the superior court to have the determination reversed within 30 days of the date on which notice of the determination was given.

If you have questions or comments about the ongoing initiative process, please contact my staff, April Simpson, at (907) 465-4081.

Sincerely,



Kevin Meyer
Lieutenant Governor

Enclosures

cc: Kevin G. Clarkson, Attorney General
Gail Fenumiai, Director of Elections



Lieutenant Governor Kevin Meyer
STATE OF ALASKA

NOTICE OF PROPER FILING

I, KEVIN MEYER, LIEUTENANT GOVERNOR FOR THE STATE OF ALASKA, under the provisions of Article XI of the Constitution of the State of Alaska and under the provisions of AS 15.45, hereby provide notice that the initiative petition for "An Act Replacing the Political Party Primary with an Open Primary System and Ranked-Choice General Election, and Requiring Additional Campaign Finance Disclosures" which was received on July 3, 2019, and known as 19AKBE, was properly filed.

I have determined that the initiative sponsors have timely filed the petition and that the petition is signed by qualified voters (1) equal in number to 10 percent of those who voted in the preceding general election; (2) resident in at least three-fourths of the house districts in the state; and (3) who, in each of the house districts, are equal in number to at least seven percent of those who voted in the preceding general election in the house district.

In accordance with AS 15.45.190, the Director of the Division of Elections shall place the ballot title and proposition on the election ballot of the first statewide general, special, or primary election that is held after a period of 120 days has expired since the adjournment of the legislative session. Barring an Alaska Supreme Court decision keeping it off the ballot, any unforeseen special election or adjournment of the current legislative session on or before April 19, 2020, this proposition is scheduled to appear on the general election ballot on the November 3, 2020 general election.



IN TESTIMONY WHEREOF, I have hereunto set my
hand and affixed hereto the Seal of the State of Alaska,
at Juneau, Alaska,

This 9th day of March, 2020.

Handwritten signature of Kevin Meyer in cursive script.

KEVIN MEYER, LIEUTENANT GOVERNOR






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OUR PARTNERS



Form **990**



Department of the Treasury
Internal Revenue Service

Return of Organization Exempt From Income Tax
Under section 501(c), 527, or 4947(a)(1) of the Internal Revenue Code (except private foundations)
▶ Do not enter social security numbers on this form as it may be made public.
▶ Go to www.irs.gov/Form990 for instructions and the latest information.

OMB No 1545-0047
2018
Open to Public Inspection

A For the 2019 calendar year, or tax year beginning 01-01-2018 , and ending 12-31-2018

B Check if applicable:
☐ Address change
☐ Name change
☐ Initial return
☐ Final return/terminated
☐ Amended return
☐ Application pending

C Name of organization
EMPLOYMENT POLICIES INSTITUTE FOUNDATION

Doing business as
EMPLOYMENT POLICIES INSTITUTE

Number and street (or P.O. box if mail is not delivered to street address) Room/suite
1090 VERMONT AVE NW NO 800

City or town, state or province, country, and ZIP or foreign postal code
WASHINGTON, DC 20005

D Employer identification number
52-1902264

E Telephone number
(202) 463-7650

G Gross receipts \$ 1,877,602

F Name and address of principal officer
RICHARD BERMAN
1090 VERMONT AVE NW NO 800
WASHINGTON, DC 20005

H(a) Is this a group return for subordinates? ☐ Yes ☒ No
H(b) Are all subordinates included? ☐ Yes ☐ No
If "No," attach a list (see instructions)
H(c) Group exemption number ▶

I Tax-exempt status ☒ 501(c)(3) ☐ 501(c) () ◀ (insert no) ☐ 4947(a)(1) or ☐ 527

J Website: ▶ SEE SCHEDULE O

K Form of organization ☒ Corporation ☐ Trust ☐ Association ☐ Other ▶

L Year of formation 1994 **M** State of legal domicile DC

Part I Summary			
Activities & Governance	1 Briefly describe the organization's mission or most significant activities STUDYING PUBLIC POLICY ISSUES SURROUNDING EMPLOYMENT GROWTH WITH SIGNIFICANT FOCUS ON ISSUES THAT AFFECT ENTRY-LEVEL EMPLOYMENT		
	2 Check this box <input type="checkbox"/> if the organization discontinued its operations or disposed of more than 25% of its net assets		
	3 Number of voting members of the governing body (Part VI, line 1a)	3	7
	4 Number of independent voting members of the governing body (Part VI, line 1b)	4	6
	5 Total number of individuals employed in calendar year 2018 (Part V, line 2a)	5	1
	6 Total number of volunteers (estimate if necessary)	6	0
	7a Total unrelated business revenue from Part VIII, column (C), line 12	7a	0
	b Net unrelated business taxable income from Form 990-T, line 34	7b	0
Revenue	8 Contributions and grants (Part VIII, line 1h)	Prior Year	Current Year
	9 Program service revenue (Part VIII, line 2g)	1,088,685	1,454,324
	10 Investment income (Part VIII, column (A), lines 3, 4, and 7d)	23,766	423,102
	11 Other revenue (Part VIII, column (A), lines 5, 6d, 8c, 9c, 10c, and 11e)	194	176
	12 Total revenue—add lines 8 through 11 (must equal Part VIII, column (A), line 12)	25	0
		1,112,670	1,877,602
Expenses	13 Grants and similar amounts paid (Part IX, column (A), lines 1–3)	2,000	0
	14 Benefits paid to or for members (Part IX, column (A), line 4)	0	0
	15 Salaries, other compensation, employee benefits (Part IX, column (A), lines 5–10)	1,693,167	1,565,004
	16a Professional fundraising fees (Part IX, column (A), line 11e)	0	0
	b Total fundraising expenses (Part IX, column (D), line 25) ▶24,477		
	17 Other expenses (Part IX, column (A), lines 11a–11d, 11f–24e)	478,183	625,576
	18 Total expenses Add lines 13–17 (must equal Part IX, column (A), line 25)	2,173,350	2,190,580
Net Assets or Fund Balances	19 Revenue less expenses Subtract line 18 from line 12	-1,060,680	-312,978
	20 Total assets (Part X, line 16)	Beginning of Current Year	End of Year
	21 Total liabilities (Part X, line 26)	1,064,599	1,050,956
	22 Net assets or fund balances Subtract line 21 from line 20	391,046	690,381
		673,553	360,575

Part II Signature Block
Under penalties of perjury, I declare that I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief, it is true, correct, and complete Declaration of preparer (other than officer) is based on all information of which preparer has any knowledge

Sign Here

Signature of officer
Date 2019-11-08
GERALD G FRANCIS SECRETARY/TREASURER/DIRECTOR
Type or print name and title

Paid Preparer Use Only

Print/Type preparer's name

Preparer's signature

Date

Check ☐ if self-employed PTIN P00748038

Firm's name ▶ CHERRY BEKAERT LLP

Firm's EIN ▶ 56-0574444

Firm's address ▶ 11200 ROCKVILLE PIKE SUITE 400
ROCKVILLE, MD 20852

Phone no (301) 589-9000

ABOUT US

Founded in 1991, the Employment Policies Institute is a non-profit research organization dedicated to studying public policy issues surrounding employment growth. In particular, EPI focuses on issues that affect entry-level employment.

Among other issues, EPI research has quantified the impact of new labor costs on job creation, explored the connection between entry-level employment and welfare reform, and analyzed the demographic distribution of mandated benefits. EPI sponsors nonpartisan research which is conducted by independent economists at major universities around the country.

[See other EPI projects](#)

MICHAEL SALTSMAN, MANAGING DIRECTOR

Michael Saltsman serves as Managing Director for the Employment Policies Institute. Michael is a regular contributor to *Forbes* and has been published in *The Wall Street Journal*, *USA Today*, *The New York Post*, and *The Washington Post*. He is a frequent guest on national television programs. Michael was recognized by the American Association of Political Consultants as a member of the class of 2018's Top 40 under 40.

Prior to the Employment Policies Institute, Michael was employed by the Bureau of Labor Statistics. He lives in Washington, D.C. with his family and has degrees in Economics and Political Science from the University of Michigan.

MEDIA INQUIRIES

Contact our media department at 202-463-7650. Or email petriccione@epionline.org.

CONTACT INFORMATION

Employment Policies Institute
1090 Vermont Ave. NW, Suite 800
Washington, D.C. 20005
Tel: 202-463-7650
Email: info@epionline.org



protectmyballot.com

Updated 1 second ago



Domain Information

Domain:	protectmyballot.com
Registrar:	GoDaddy.com, LLC
Registered On:	2019-11-06
Expires On:	2020-11-06
Updated On:	2020-07-13
Status:	clientDeleteProhibited clientRenewProhibited clientTransferProhibited clientUpdateProhibited
Name Servers:	edna.ns.cloudflare.com tom.ns.cloudflare.com



What is

Ranked Choice Voting could take your vote away.

Ranked choice voting (RCV) is an electoral scheme that adds more confusion to the voting system while threatening our democracy and failing to ensure that every vote counts.

[What is RCV?](#) [Problems with RCV](#) [RCV Repealed](#)[Facts vs Fiction](#) [Media](#)JULY
30
2020

Ranked-choice voting and Ballot Measure 2 should be voted down

[PROTECT MY BALLOT](#) / [Media](#) / 0

Originally published on [Anchorage Daily News](#).

Every lieutenant governor of Alaska I've known has taken his or her role overseeing elections very seriously. Impartial, crystal-clear election rules are vital to our democracy. We should not be bamboozled by a proposal, set for the November ballot, that would deny political parties the ability to put forward a candidate and totally confuse the process for the rest of us as voters.

A national voting fad has made its way to Alaska this November, by way of ranked-choice voting in Ballot Measure 2. It would eliminate party primaries in favor of a free-for-all. It would create confusion at the polls. It potentially would render a person's vote not to be counted.

As a former lieutenant governor of our state with experience overseeing elections, I join leaders of all political parties urging Alaskans to vote this proposition down.

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Imagine a situation where candidates of the Libertarian Party, the Green Party, the Alaskan Independence Party, even perhaps the Republican and Democratic parties are, after a wide-open primary, not even allowed to appear on the general election ballot. Only four candidates would make it to a general election ballot, in a state which usually has five or more parties.

Thus, Ballot Measure 2 restricts our civil right to associate and form a viable party. Sounds hardly constitutional or fair. I've worked with Libertarian, Green, and Alaskan Independence Party elected officials during my career, and we already make it tough — perhaps too tough — for newer or “smaller” parties to put a candidate forward in a general election.

I've run in three Republican primaries myself and seen times when several candidates in my party's contest drew more votes than all the other parties combined. In a highly contested primary situation, with a single candidate in another party, it's possible that party's choice doesn't even make it to the November ballot.

Far more people vote in general elections. Primaries should narrow a party's choice of people, not the peoples' choice of parties.

The “ranked-choice” part of this proposal comes later, during the general election.

If no candidate receives a majority of the first-choice votes, then the candidate with the least number of votes is dropped from the ballot, and those who had that candidate as their

first choice get their second choice counted instead in a re-tally. This continues until one candidate is declared the winner.

Simple? Hardly. This proposed form of voting is so complex, in fact, that when Maine implemented it in 2016, officials needed a 19-page instruction manual for voters to explain it.

Other states have found that ranked-choice voting leads to some voices not being fully heard in the political and electoral process. [Studies on ranked-choice voting](#) have shown that minority groups, voters with less education, older voters and those whose first language is not English are less likely to fill out their ballots completely. With ranked-choice voting, when people leave blanks on their ballots or assign the same ranking to different candidates, those ballots can be discarded in the subsequent and final tabulations. This means that their vote may not be counted, creating what is otherwise known as “exhausted ballots.” This process gives those who fully complete their ballots more influence over the electoral process, and leaves those who don’t understand the process more likely to be disenfranchised.

Another problem with ranked-choice voting is there is not always a majority winner. In one extreme case, the prevailing candidate in a [2010 San Francisco election](#) won less than 25% of the total votes. While this is not always the case with ranked-choice voting, a non-majority winner is a possibility that occurs [61% of the time](#), according to [research](#) done by the Maine Policy Institute.

As a final warning about the ranked-choice voting scheme, multiple jurisdictions in the U.S. have implemented and later

repealed ranked-choice voting. These include the state of [North Carolina](#); [Burlington, Vermont](#); [Aspen, Colorado](#); and [Pierce County, Washington](#). While the voters in these jurisdictions may have had varying reasons to repeal ranked-choice voting, one thing is clear: Voters preferred their traditional voting method of “one person, one vote” over the convoluted ranked-choice system.

There is no denying the importance of voting, nor the importance of keeping elections simple and accessible for every eligible voter. Unfortunately, while proponents of Ballot Measure 2 make it sound easy, [ranked-choice voting](#) is confusing, runs counter to the democratic process and disenfranchises voters. All eligible voters in Alaska deserve to have their ballots counted and their voices heard. Adopting ranked-choice voting will accomplish the opposite.

***Mead Treadwell** served as lieutenant governor of Alaska from 2010-2014.*

«	New nationwide campaign to educate voters on pitfalls of ranked-choice voting	As Electoral Reform Lands on More Ballots, Anti-Ranked-Choice Campaign Defends Status Quo	»
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JULY
24
2020

Alaska's Election Initiative Is Rank

[PROTECT MY BALLOT](#) / [Media](#) / [Op-Eds](#) / [0](#)

“ The Covid crisis has increased interest in improving America's election system. But not all election reforms would make things better.

Here in Alaska, a Colorado-based political-action committee, Unite America, [spent more than \\$1 million](#) to place the so-called Better Elections initiative on the November ballot. It's a bad plan.

...

Opposition to ranked-choice voting is bipartisan...As former elected officials from different parties, we've had our share of disagreements. But we are united in our belief that the Better Elections initiative would be bad for our state.

ARCHIVES

[October 2020](#)

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Alaskans shouldn't have to doubt that
their votes count.

Read the full op-ed on [The Wall Street Journal](#) by Mark Begich, former Democratic U.S. Senator from Alaska and Sean Parnell, former Republican governor of Alaska.



Protect My Ballot:
New Campaign
Exposes Flaws in
Ranked Choice
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New nationwide
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[What is RCV?](#) [Problems with RCV](#) [RCV Repealed](#)[Facts vs Fiction](#) [Media](#)JULY
24
2020

Protect My Ballot: New Campaign Exposes Flaws in Ranked Choice Voting

[Media](#) / [Press Release](#) / 0

Coalition of state think tanks, led by Alaska Policy Forum, educates on pitfalls of this convoluted voting scheme

Anchorage, Alaska (Friday, July 24, 2020)—Today, a coalition of state-based think tanks, led by Alaska Policy Forum, launched the national education campaign Protect My Ballot. The campaign details the harmful consequences of an electoral scheme known as Ranked Choice Voting (RCV).

The campaign highlights bipartisan opposition to RCV—ranging from California Governor Gavin Newsom, to Alaska’s former Democratic Senator Mark Begich, to members of the NAACP New York State Conference—along with a list of localities that have repealed RCV.

View the campaign website at [ProtectMyBallot.com](https://protectmyballot.com). View a brief explainer video on Ranked Choice Voting [here](#).

ARCHIVES

[October 2020](#)[September 2020](#)[August 2020](#)[July 2020](#)

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Unlike a traditional election where voters select one candidate and the candidate with the most votes wins, under RCV, voters are expected to rank candidates. If no candidate receives a majority of votes in the first round of counting, the candidate with the fewest votes is eliminated. The process repeats until a remaining candidate receives a majority of votes.

This confusing process leads to many unintended consequences. For instance, if a voter misunderstands the process or chooses not to rank all candidates, her ballot could be eliminated from consideration. It's as though she never showed up on election day. That may explain why a handful of jurisdictions that previously adopted and tested RCV, have since repealed it.

Research also casts doubt on proponents' claims about the benefits of RCV. According to [research](#) from Jason McDaniel, an associate professor of political science at San Francisco State University, voter turnout decreased (three to five percentage points on average) in cities where RCV was used.

Coalition members released the following statements:

[Bethany Marcum](#), Executive Director at Alaska Policy Forum:

“As Alaskans take to the polls in November, history should provide a warning for what Ranked Choice Voting would lead to. Not only can Ranked Choice Voting cause votes to be discarded, research shows it also decreases voter turnout. We need to encourage Americans of all backgrounds to visit the polls, not give them another reason to avoid casting a ballot.”

[Annette Meeks](#), Founder and CEO of the Freedom Foundation of Minnesota:

“Public participation in elections is vital for a democracy to work. Discouraging and complicating the system threatens the people’s voice. That’s why a bipartisan coalition of citizens and legislators wants to ban ranked choice voting in Minnesota.”

[Trent England](#), Executive Vice President of the Oklahoma Council of Public Affairs:

“Ranked Choice Voting is not the solution for election reform. In Oklahoma, our Chief Election Official has opposed this system. Not only does it disenfranchise voters, but implementing it in Oklahoma would be a logistical nightmare.”

[Matthew Gagnon](#), CEO of Maine Policy Institute:

“Whether you examine data captured during Maine’s brief experience with ranked-choice voting or the experiences of other jurisdictions, the lofty claims used to sell this voting system to the general public do not withstand factual scrutiny. Voters should be skeptical when they hear from special interest groups trying to change the way we exercise our sacred right to vote.”

Protect My Ballot coalition members include Alaska Policy Forum, Maine Policy Institute, Freedom Foundation of Minnesota, and the Oklahoma Council of Public Affairs.

Alaska's Election Initiative Is Rank >>

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Report: The Failed Experiment of Ranked-Choice Voting

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Ballot measures across US aim to overhaul voting practices

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Court rules that Maine GOP-backed referendum on presidential ranked-choice voting will appear on ballot

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Alaska Entity #: 122600

State of Alaska
Department of Commerce, Community, and
Economic Development
Corporations, Business and Professional Licensing

CERTIFICATE
OF
INCORPORATION
Nonprofit Corporation

THE UNDERSIGNED, as Commissioner of Commerce, Community, and Economic Development of the State of Alaska, hereby certifies that Articles of Incorporation duly signed and verified pursuant to the provisions of Alaska Statutes has been received in this office and have been found to conform to law.

ACCORDINGLY, the undersigned, as Commissioner of Commerce, Community and Economic Development, and by virtue of the authority vested in me by law, hereby issues this certificate to

Alaska Policy Forum, Inc.

and attaches hereto the original copy of the Articles of Incorporation for such certificate.



IN TESTIMONY WHEREOF, I execute this certificate and affix the Great Seal of the State of Alaska on **April 14, 2009**.

Emil Notti

Emil Notti
Commissioner

ARTICLES OF INCORPORATION
OF
ALASKA POLICY FORUM, INC.

ARTICLE I

The name of this non-profit corporation, organized under the provisions of Chapter 10, Article 20, of the Alaska Statutes, is ALASKA POLICY FORUM, INC.

ARTICLE II

The period of existence of the corporation is perpetual.

ARTICLE III

This corporation is organized solely for educational purposes, and more specifically to provide research, information and public education in support of individual rights, limited government, personal responsibility and government accountability, and to perform any and all acts consistent with this stated purpose.

ARTICLE IV

The internal affairs of this corporation are governed by its Bylaws, which may hereafter be adopted and amended by the Board of Directors.

ARTICLE V

No part of the net earnings of this corporation shall inure to the benefit of or be distributable to its members, trustees, officers, or other private persons, except that the corporation shall be authorized and empowered to pay reasonable compensation for services rendered and to make payments and distributions in furtherance of the purposes set forth in Article Third hereof. No substantial part of the activities of the corporation shall be the carrying on of propaganda, or otherwise attempting to influence legislation, and the corporation shall not participate in, or intervene in (including the publishing or distribution of statements) any political campaign on behalf of or in opposition to any candidate for public office. Notwithstanding any other provision of these articles, the corporation shall not carry on any other activities not permitted to be carried on (a) by a corporation exempt from federal income tax under Section 501(c)(3) of the Internal Revenue Code, or the corresponding section of any future federal tax code, or (b) by a corporation, contributions to which are deductible under Section 170(c)(2) of the Internal Revenue Code, or the corresponding section of any future tax code.

ARTICLE VI

Upon dissolution of the corporation, assets shall be distributed for one or more exempt purposes within the meaning of Section 501(c)(3) of the Internal Revenue Code, or the corresponding section of any future tax code, or shall be distributed to the federal government, or to a state or local government, for a public purpose. Any such assets not so disposed of shall be disposed of by a Court of Competent Jurisdiction of the county in which the principal office of the corporation is then located, exclusively for such purposes or to such organization or organizations, as said Court shall determine, which are organized and operated exclusively for such purposes.

RECEIVED

ARTICLE VII

As authorized by AS 10.20.15 l(d), a director shall have no liability to the corporation for monetary damages for the breach of fiduciary duty as a director.

ARTICLE VIII

The address of the registered office of the corporation, and David Boyle, its registered agent, is 201 Barrow #8, Anchorage Alaska 99501-2429.

ARTICLE IX

The initial board of Directors shall consist of three directors, whose names and addresses are:

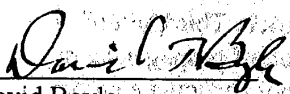
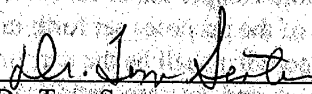

David Boyle	Dr. Tom Senter	Dave Cuddy
16841 Ransom Ridge Rd	636 Barrow St	1900 Stanford Dr
Anchorage, AK 99516	Anchorage, AK 99501	Anchorage, AK 99508

ARTICLE X

The names and addresses of the incorporators are:

David Boyle	Dr. Tom Senter	Ray Kreig
16841 Ransom Ridge Rd	636 Barrow St	201 Barrow Street #1
Anchorage, AK 99516	Anchorage, AK 99501	Anchorage, AK 99501

EXECUTED by the incorporators on April 13, 2009:

		
David Boyle	Dr. Tom Senter	Ray Kreig

STATE OF ALASKA

) ss.

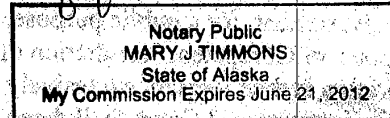
THIRD JUDICIAL DISTRICT)

David Boyle, Dr. Tom Senter, Ray Kreig, known to me to be the persons who executed these Articles of Incorporation, appeared before me, and, after being first duly sworn, stated that they have read the contents of the Articles of Incorporation, that the statements made therein are true, and they executed the Articles of Incorporation for the uses and purposes set forth therein.

DATED this 13th day of April, 2009.

Notary Public in and for Alaska

My Commission Expires: 6/21/2012



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APR 20 2009

DIVISION OF
OCCUPATIONAL LICENSING
APR Articles.doc

33

DISCLOSURE OF CORPORATE PURPOSE USING THE NORTH AMERICAN INDUSTRY CLASSIFICATION SYSTEM (NAICS)

A separate Disclosure of Corporate Purpose must be attached to the Articles of Incorporation which most closely describes the activities of the corporation. The NAICS Code must not conflict with the purpose listed in the Articles of Incorporation.

The 6-digit NAICS industry grouping code which most clearly describes the initial activities of the corporation is:

813990

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10/10/10
10/10/10
10/10/10

The Consequences of Ballooning Medicaid Enrollment



A recent update by Health Management Associates (HMA) shows that Alaska's Medicaid and Children's Health Insurance Program (CHIP) enrollment remains disproportionately high, and enrollment is maintaining a high growth rate more than five [...]

🕒 September 21, 2020 📄 Blog, Front Page Slider, Health Care, State Budget & Taxes

Video: Pandemic Pioneers – Alaskan Soda Jerk



Pandemic Pioneers are those Alaskans who have found success despite the shutdowns during these challenging times. The first featured pioneer is Kelsey Ingram, co-owner of Alaskan Soda Jerk. You might recognize Alaskan Soda [...]

🕒 September 18, 2020 📄 Blog, Front Page Slider, State Budget & Taxes, Videos

Federal COVID-19 Funds Come at a High Price



Reduce State Spending to Solve Alaska's Budget Crisis



The Human Cost of Outdated Regulations



One mother's story vividly shows the real-world impact of certificate-of-need laws. By Elise Amez-Droz and Lyndi Schrecengost This article originally appeared on The Bridge, an online publication by the Mercatus Center, on [...]

🕒 September 28, 2020 📄 Blog, Front Page Slider, Health Care

Tackling Alaska's High Health Care Costs



This op-ed originally appeared in several outlets, including the Fairbanks Daily News-Miner, on [...]

Certificates of Need Are a 1970s Relic: Dust off Alaska's Statutes and Eliminate Them



[Click here to open a printable PDF of the policy brief in a new tab.](#) Alaska has incredibly high health-care costs, and a recent report by a nationally respected healthcare economist demonstrates that [...]

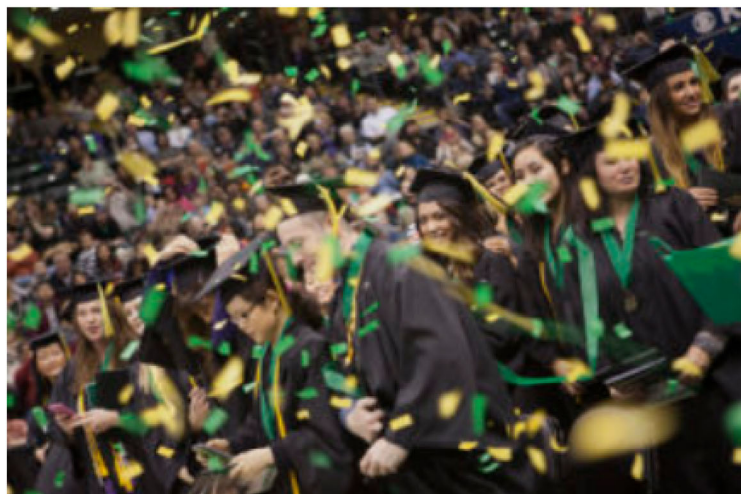
🕒 September 24, 2020 📄 Blog, Front Page Slider, Health Care, Reports & Policy Briefs

Report: Controlling Health Care Costs in Alaska



By Dr. Benedic Ippolito [Click here to open the PDF of the report in a new tab.](#) Foreword Health care costs have been a very public topic of discussion in America for [...]

University Tuition Freeze: A Surprising Way to Raise Revenue



In the midst of falling enrollment and an ill-timed change of leadership, the University of Alaska (UA) is currently struggling to cut a bloated budget. The UA system, which includes three main campuses [...]

🕒 October 1, 2020 📄 Blog, Education, Front Page Slider

Top 10 Myths and Misconceptions Surrounding The Alaska Reads Act



Myth 1: ALL research indicates students should ALWAYS be socially promoted,

Choice Media Story of the Day with Quinn Townsend



On July 6, 2020, I hosted Choice Media's Story of the Day for Instagram. The article I chose to discuss is "Parents are opting to home school their children because of COVID-19, but experts say [...]"

🕒 July 7, 2020 📄 Blog, Education, Videos

Letter to Congress: Prevent Private School Closures with Funding and Tax Changes



On May 13, APF joined dozens of organizations in sending a letter to the leadership of the House of Representatives and Senate, expressing the belief that there must be dedicated funding and tax [...]

Press Release: New Study Exposes Alarming Ramifications to Ranked-Choice Voting

[Click here to open a PDF of the press release in a new tab.](#) For Immediate Release: October 8, 2020 Contact: Melodie Wilterdink at (410) 725-9079 or Melodie@AlaskaPolicyForum.org NEW STUDY EXPOSES [...]

🕒 October 9, 2020 📄 Blog, Other Issues, Press Releases

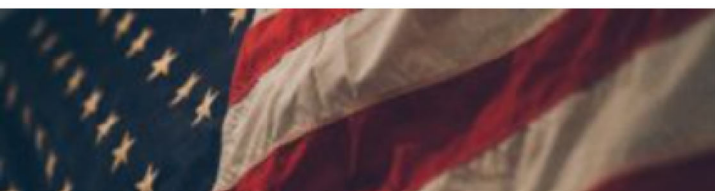
Conduct Elections Normally to Minimize Risks



There is no doubt that absentee ballots have their place in helping the sick, physically disabled, and those who, for any legitimate reason, are not able to vote on Election Day. However, given [...]

🕒 October 5, 2020 📄 Blog, Front Page Slider, Other Issues

How the Electoral College Works: A Concise Guide



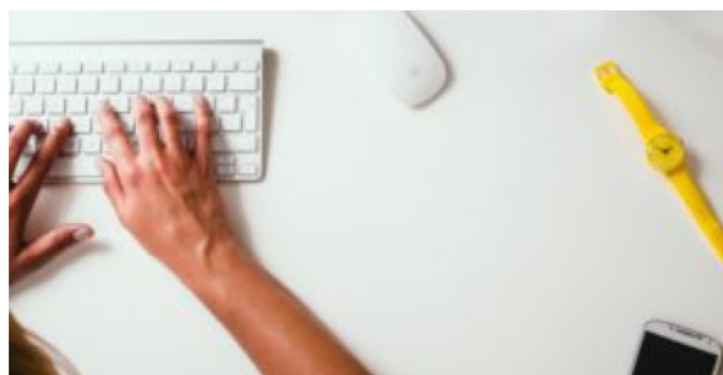
Report: The Failed Experiment of Ranked-Choice Voting



A Case Study of Maine and Analysis of 96 Other Jurisdictions [Click here to open a PDF of the report in a new tab.](#) The PDF includes the Appendix. Introduction A movement [...]

🕒 October 8, 2020 📄 Blog, Front Page Slider, Other Issues, Reports & Policy Briefs

Video: Six Things Government Workers Need to Know



Are you a public servant? Have you been informed of your First Amendment rights regarding union membership? If not, check out this short explainer video!

🕒 August 28, 2020 📄 Blog, Front Page Slider, Other Issues, Videos

Voter Registration and Broken Promises

Will ballot measure #1 really deliver on its promises? Or is this merely phase 1 of a strategy to eventually to get to voting by mail ONLY?

🕒 November 4, 2016 📄 Front Page Slider _____



For Immediate Release
October 8, 2020

Contact: Melodie Wilterdink
(410) 725-9079
Melodie@AlaskaPolicyForum.org

NEW STUDY EXPOSES ALARMING RAMIFICATIONS TO RANKED-CHOICE VOTING

ANCHORAGE, Alaska — Alaska Policy Forum has released a new report detailing the findings of an extensive study that exposes many flaws in ranked-choice voting (RCV), particularly how the method of determining a winner results in discarded ballots, how RCV elections do not result in a majority winner, and how it can completely change the outcome of an election.

The study analyzed data from 96 elections in which RCV necessitated additional rounds of tabulation, and the results were disturbing. In some races, nearly 18 percent of votes were not counted in the winner-determining round of tabulation. Known as ballot exhaustion, the discarding of ballots is inherent to the ranked-choice voting process.

“A voting system that frequently results in the discarding of legally submitted ballots has no place in Alaska or anywhere else in the United States. After researching candidates, going to the polls, and voting, no Alaskan should have to worry that their ballot won’t be counted in the final tally.”

— Melodie Wilterdink, VP of Operations & Communications at Alaska Policy Forum

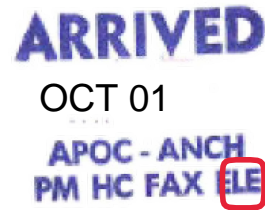
The study, completed in conjunction with Maine Policy Institute, also found that RCV frequently does not result in majority winners, as proponents claim. In fact, in nearly 40 percent of the elections analyzed, the “winner” received less than 50 percent of the total votes cast.

Perhaps most importantly, the study examined how often RCV would produce a different electoral outcome, and found that in 17 percent of the elections analyzed, RCV resulted in a different outcome than a traditional plurality election would have.

The full report is available at <http://alaskapolicyforum.org/2020/10/failed-experiment-rcv/>.

####

Alaska Policy Forum (APF) is a 501(c)(3) nonprofit, nonpartisan think tank dedicated to empowering and educating Alaskans and policymakers by promoting policies that grow freedom for all. APF does not accept any form of government funding. To learn more about APF, visit www.AlaskaPolicyForum.org.



October 1, 2020

To: Alaska Public Offices Commission

From: Yes on 2 for Better Elections

Re: Response to APOC Complaint Against Brett Huber, Alaska Policy Forum, and Protect My Ballot

Introduction

On September 25, 2020, APOC provided Yes on 2 for Better Elections (“Yes on 2”) the Alaska Policy Forum’s (“APF”) response to Yes on 2’s complaint against Brett Huber, APF, and Protect My Ballot (“PMB”). APOC also provided Yes on 2 2018 tax filings from the Employment Policies Institute Foundation (“EPIF”) on September 29, which were provided by Bethany Marcum, as well as Brett Huber’s response (dated September 28) on October 1.¹

After reviewing these responses, the question APOC must decide is clear: have APF and PMB (collectively “Respondents”) engaged in “express communication[s]” against the Better Elections initiative (“Ballot Measure 2”), thereby triggering APOC’s campaign disclosure and reporting requirements? And a review of Respondents’ communications—especially in comparison to a recent advisory opinion cited by APF itself—shows that Respondents have indeed engaged in express communications, and are therefore subject to APOC’s disclosure and reporting requirements.

APF and PMB Have Engaged In Express Communications.

Alaska Statute 15.13.400(7) defines “express communication” as “a communication 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

¹ Yes on 2 has nothing further to add to its complaint with respect to Mr. Huber’s involvement with either APF or PMB. For the remainder of this response, “Respondents” refers to APF and PMB collectively.

candidate.”² APOC has reasonably interpreted this definition to include communications for or against a specific initiative.³

APF relies heavily on a recent APOC advisory opinion (AO 19-04-CD) to argue that Respondents’ communications are not “express” under AS 15.13.400(7), but are instead public-education oriented, thereby falling outside of APOC’s registration and reporting requirements. But that advisory opinion actually shows how distinguishable Respondents’ communications are, and why their communications are “express” under the law.

In advisory opinion 19-04-CD, a local nonprofit—which had been “educating the public about the negative effects related to plastics in general and plastic bags in particular since 2016”—wanted to know whether they could continue doing educational outreach without having to report to APOC after a citizen initiative relating to disposable plastic shopping bags was scheduled for a vote in 2019.⁴ The local nonprofit also provided a specific proposed brochure for APOC’s review, which included information about the date of the election, the official language of the initiative, and some of the fines and additional fees that the initiative would create if enacted.⁵

APOC determined that, so long as the cost of the brochure did not exceed \$500, and there was no substantial deviation from the organization’s proposed outreach efforts, the nonprofit would not be subject to APOC’s disclosure and reporting requirements.⁶ This was due to: (1) the neutral content of the proposed outreach; (2) the substantial length of time (years) the nonprofit had been engaging in public outreach efforts *before* the citizen initiative; and (3) other communication and organizational goals beyond plastic bags.⁷

² AS 15.13.400(7).

³ See AO 19-04-CD at 3-4 (revised Sept. 18, 2019) [hereinafter AO].

⁴ AO at 1-2.

⁵ AO at 5-6.

⁶ AO at 4-6.

⁷ See generally AO.

Respondents' communications are different in nearly every way. A group of citizens first filed a petition for what would later become Ballot Measure 2 in July 2019, obtained petition booklets in October 2019, and filed those signed petition booklets with the Division of Elections on January 9, 2020.⁸ By APF's own admission, PMB was not formed until November 2019—*after* Ballot Measure 2's sponsors were already gathering signatures—and APF appears to have only joined PMB's coalition *after* signatures for Ballot Measure 2 were collected.⁹ The timing of Respondents' early actions can only be seen as direct reactions and responses to the existence of Ballot Measure 2, which is very different from the nonprofit at issue in APOC's recent advisory opinion.

Similarly, none of Respondents' communications can be interpreted as being content neutral. Although PMB does cite published opinion pieces, only one side of opinion pieces—those explicitly opposed to Ballot Measure 2—are included.¹⁰ Nowhere on PMB's website lists or makes available the actual language of Ballot Measure 2. And the videos posted and promoted by PMB clearly indicate an opposition to ranked choice voting, which is a component of Ballot Measure 2.¹¹ Furthermore, the specific States PMB targets all have one thing in common: they either have some form of ranked choice

⁸ <https://www.elections.alaska.gov/Core/initiativepetitionlist.php> (referencing "19AKBE").

⁹ The exact timing is unknown since APF's response only refers to "January 2020."

¹⁰ All of these links were provided in Yes on 2's complaint at footnote 3, and remain on PMB's website today. This includes a link entitled "Ranked-choice voting and *Ballot Measure 2* should be voted down" (emphasis added), which provides the text from an opinion piece which explicitly discusses "Ballot Measure 2" and "urg[es] Alaskans to vote this proposition down." <https://protectmyballot.com/ranked-choice-voting-and-ballot-measure-2-should-be-voted-down/>. It also includes a link entitled "Alaska's *Election Initiative* Is Rank." (emphasis added), which also provides language from an opinion piece stating "that the Better Elections initiative would be bad for our state." <https://protectmyballot.com/alaskas-election-initiative-is-rank/>.

¹¹ This video remains prominently posted at the top of PMB's website today. In addition to promoting a one-sided view of ranked choice voting, it also explicitly shows a sign which says "say no to Ranked Choice Voting." See <https://youtu.be/K7BVPFtvSNE> (at 1:11).

voting,¹² or it is on the ballot in November.¹³ Additionally, PMB's mission strays far from its lead organization's (EPIF) mission as reported to the IRS.¹⁴ The goal of PMB's communications cannot reasonably be viewed as a neutral public education campaign; PMB has sought to persuade voters to vote against ranked choice voting initiatives nationally, including in Alaska only *after* petition booklets were filed for Ballot Measure 2.

APF's communication crosses the line into "express communication" even further. APF, in its communication and in its response, clearly targets *voters* for the upcoming general election.¹⁵ APF's communications: (1) expressed displeasure with ranked choice voting; (2) included links to opinion pieces opposing Ballot Measure 2; (3) included links to a national organization opposed to ranked choice voting; (4) included a link to the one-sided video opposing ranked choice voting; and (5) emphasized that Alaskans would vote in November. APF's communications are an exhortation to vote against Ballot Measure 2; there is no other reasonable interpretation of its timing or content.

Whether Respondents intended for their communications to fall outside the scope of APOC's disclosure and reporting requirements is immaterial. What matters is whether their communications have been made in opposition to Ballot Measure 2. And since Respondents only: (1) present information opposing Ballot Measure 2; (2) formed a

¹² Maine uses ranked choice voting statewide, as does Oklahoma for primary elections. A few large cities in Minnesota also use ranked choice voting.

¹³ Voters in Alaska and Massachusetts will vote on ranked choice voting this general election.

¹⁴ See EPIF's 2018 Form 990 Tax filings at 2 (Nov. 8, 2019) ("[EPIF's] mission is to educate policymakers and the general public with respect to the economic and social effects of employment, financial, and government spending policies, and to conduct research with respect to (continued) employment, financial, and government spending policies and disseminate the results of such research."); see also *id.* at 1 (stating that EPIF's mission is "studying public policy issues surrounding employment growth with significant focus on issues that affect entry-level employment").

¹⁵ See APF's Response to APOC Complaint 20-05-CD at 4 (Sept. 24, 2020) (arguing that APF's communications "could be interpreted as urging *voters* to think about the history of Ranked Choice Voting and what it would mean generally" (emphasis added)); Email and Press Release by APF (included in Yes on 2's Complaint) (repeatedly referring to a "campaign" "to inform the public on the *harms* of Ranked Choice Voting," and noting that "Alaskans take to the polls in November" (emphasis added)).

“campaign” coalition after the existence of the initiative; and (3) highlight the upcoming general election vote, the answer is clear: Respondents must comply with APOC’s disclosure and regulation requirements for their “express communication[s]” against Ballot Measure 2.

No Further Information About Lobbying.

APF responds, without support, that they have not violated Alaska’s lobbying requirements based on the number of hours they have spent lobbying in any given month. Yes on 2 cannot assess the validity of APF’s assertion, has nothing more to say on this point, and will defer to APOC.

Conclusion

Alaska’s campaign finance laws exist for a reason; to ensure that any person “express[ly] communicat[ing]” with the public about an upcoming election meets minimal disclosure and reporting requirements, so that voters can know who is spending what to influence their votes. PMB and APF only teamed up in opposition to Ballot Measure 2 after enough signatures had been gathered for Ballot Measure 2 to make it on the ballot in November. And their self-described “campaign” only expresses reasons to vote against Ballot Measure 2; there are no neutral communications on ranked choice voting or Ballot Measure 2 from either organization. Because the timing and content of Respondents’ communications cannot be seen as anything other than an exhortation to vote against Ballot Measure 2, APOC should find that they have violated Alaska’s campaign finance laws and require immediate disclosure and reporting.

STATE OF ALASKA

Department of Administration

Alaska Public Offices Commission

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April 23, 2008

Timothy A. McKeever
HOLMES WEDDLE & BARCOTT, P.C.
701 West Eight Avenue, Suite 700
Anchorage, Alaska 99501

Re: Request for advisory opinion regarding activities of
Renewable Resources Coalition – AO-08-02-CD

Dear Mr. McKeever:

This letter responds to your March 25, 2008, request for advice regarding whether certain activities of Renewable Resources Coalition, Inc. (“RRC”) trigger reporting and disclosure requirements under the campaign disclosure law. Specifically, you asked whether the RRC activities are considered expenditures made to influence the outcome of the “clean water” ballot initiatives, which propose statewide regulations of certain discharges from new mines.

SHORT ANSWER

- RRC is not required to report expenditures for issue advertisements that do not mention ballot initiatives, do not advocate a position on the initiatives, and are susceptible to interpretations other than as exhortations to vote for the initiatives;
- In providing a forum or space at RRC events for ballot initiative groups to distribute materials, sign up new members or solicit donations, RRC is providing a service and value to those groups and therefore is subject to reporting requirements for non-monetary contributions to those groups;
- RRC advocates on its website on behalf of the ballot initiatives and therefore the cost related to that advocacy is reportable as an independent expenditure.

LAW

Sec. 15.13.010. Applicability.

(b) Except as otherwise provided, this chapter applies to contributions, expenditures and communications made by a candidate, group, nongroup entity, municipality or individual for the purpose of influencing the outcome of a ballot proposition or question as well as those made to influence the nomination or election of a candidate.

Sec. 15.13.040. Contributions, expenditures, and supplying of services to be reported.

(d) Every individual, person, nongroup entity, or group making an expenditure shall make a full report of expenditures, upon a form prescribed by the commission, unless exempt from reporting.

(e) The report required under (d) of this section must contain the name, address, principal occupation, and employer of the individual filing the report, and an itemized list of expenditures. The report shall be filed with the commission no later than 10 days after the expenditure is made.

(k) Every individual, person, nongroup entity, or group contributing a total of \$500 or more to a group organized for the principal purpose of influencing the outcome of a proposition shall report the contribution or contributions on a form prescribed by the commission not later than 30 days after the contribution that requires the contributor to report under this subsection is made. The report must include the name, address, principal occupation, and employer of the individual filing the report and the amount of the contribution, as well as the total amount of contributions made to that group by that individual, person, nongroup entity, or group during the calendar year.

Sec. 15.13.065. Contributions.

(c) Except for reports required by AS 15.13.040_ and 15.13.110 and except for the requirements of AS 15.13.050_, 15.13.060, and 15.13.112 - 15.13.114, the provisions of AS 15.13.010_- 15.13.116 do not apply to limit the authority of a person to make contributions to influence the outcome of a ballot proposition. In this subsection, in addition to its meaning in AS 15.60.010_, "proposition" includes an issue placed on a ballot to determine whether

- (1) a constitutional convention shall be called;
- (2) a debt shall be contracted;
- (3) an advisory question shall be approved or rejected; or

- (4) a municipality shall be incorporated.

Sec. 15.13.140. Independent expenditures for or against ballot proposition or question.

(a) This chapter does not prohibit a person from making independent expenditures in support of or in opposition to a ballot proposition or question.

(b) An independent expenditure for or against a ballot proposition or question

(1) shall be reported in accordance with AS 15.13.040 and 15.13.100 - 15.13.110 and other requirements of this chapter; and

(2) may not be made if the expenditure is prohibited by AS 15.13.145.

Sec. 15.13.400. Definitions.

In this chapter,

(3) "communication" means 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);

(4) "contribution"

(A) means a purchase, payment, promise or obligation to pay, loan or loan guarantee, deposit or gift of money, goods, or services for which charge is ordinarily made and that is made for the purpose of influencing the nomination or election of a candidate, and in AS 15.13.010(b) for the purpose of influencing a ballot proposition or question, including the payment by a person other than a candidate or political party, or compensation for the personal services of another person, that are rendered to the candidate or political party;

(B) does not include

(i) services provided without compensation by individuals volunteering a portion or all of their time on behalf of a political party, candidate, or ballot proposition or question;

(ii) ordinary hospitality in a home;

(iii) two or fewer mass mailings before each election by each political party describing the party's slate of candidates for election, which may include photographs, biographies, and information about the party's candidates;

(iv) the results of a poll limited to issues and not mentioning any candidate, unless the poll was requested by or designed primarily to benefit the candidate;

(v) any communication in the form of a newsletter from a legislator to the legislator's constituents, except a communication expressly advocating the election or defeat of a candidate or a newsletter or material in a newsletter that is clearly only for the private benefit of a legislator or a legislative employee; or

(vi) a fundraising list provided without compensation by one candidate or political party to a candidate or political party;

(5) "electioneering communication" means a communication that

(A) directly or indirectly identifies a candidate;

(B) addresses an issue of national, state, or local political importance and attributes a position on that issue to the candidate identified; and

(C) occurs within the 30 days preceding a general or municipal election;

(6) "expenditure"

(A) means 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

(i) influencing the nomination or election of a candidate or of any individual who files for nomination at a later date and becomes a candidate;

(ii) use by a political party;

(iii) the payment by a person other than a candidate or political party of compensation for the personal services of another person that are rendered to a candidate or political party; or

(iv) influencing the outcome of a ballot proposition or question;

(B) does not include a candidate's filing fee or the cost of preparing reports and statements required by this chapter;

(C) includes an express communication and an electioneering communication, but does not include an issues communication;

(7) "express communication" means a communication 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;

(10) "independent expenditure" means an expenditure that is made without the direct or indirect consultation or cooperation with, or at the suggestion or the request of, or with

the prior consent of, a candidate, a candidate's campaign treasurer or deputy campaign treasurer, or another person acting as a principal or agent of the candidate;

(11) "individual" means a natural person;

(12) "issues communication" means a communication that

(A) directly or indirectly identifies a candidate; and

(B) addresses an issue of national, state, or local political importance and does not support or oppose a candidate for election to public office.

2 AAC 50.250. Contributions.

(a) In AS 15.13 and this chapter, except as otherwise provided in this section, "contribution"

(1) has the meaning given in AS 15.13.400 ;

(2) includes a

(A) subscription, advance, transfer, forgiveness of all or part of a debt, relaxation of credit, or anything of value made or provided by a person, group, or nongroup entity for the purpose of influencing an election for state or municipal office or influencing the passage or defeat of a ballot proposition or question; and

(B) personal contribution as described in 2 AAC 50.254; and

(3) does not include

(A) costs incurred in covering or carrying a news story, editorial, or commentary by a broadcasting station, newspaper, or periodical of regular publication, unless the media organization is owned or controlled by a political party, group, or candidate; if the media organization is owned or controlled by a political party, group, or candidate, the cost of the news story is a contribution, unless the news story is a bona fide news account and is part of a general pattern of campaign-related news accounts that gives reasonably equal coverage to all opposing candidates in the circulation or listening area;

(B) a non-monetary contribution or in-kind donation of a single item with a normal cost of \$50 or less;

(C) a payment made by an individual for the individual's own travel expenses, if the payment is voluntary and is made without an understanding that the payment will be directly or indirectly repaid;

(D) a payment made by a business, corporation, trade association, labor union, or other organization not organized primarily to influence elections to communicate directly with the organization's members or employees, or their families, on any subject, if the communication is of the same format used by the organization when it has communicated in the past on nonpolitical subjects, and does not solicit contributions or any action other than voting for or against a candidate or ballot proposition or question;

(E) a gift, loan, advance, or deposit of money or anything of value made with respect to a recount of a state or municipal election;

(F) costs incurred to provide necessary administrative services associated with a payroll withholding plan; these costs may not include expenses associated with soliciting contributions;

(G) provision of a service or facility to a candidate, group, or nongroup entity if the entity providing the service or facility is paid at a commercially reasonable rate within a commercially reasonable time or makes the service or facility available to all candidates for a particular office;

(H) provision of an organization's membership or mailing list to the group or nongroup entity affiliated with the organization;

2 AAC 50.270. Independent expenditures.

(a) An expenditure is not an independent expenditure as defined in AS 15.13.400 if it is made in cooperation, consultation, or concert with or at the request, suggestion, or prior consent of a candidate, treasurer, or deputy treasurer, or an agent of the candidate, group, or nongroup entity. An expenditure that is not an independent expenditure includes the following:

(1) an expenditure based on information about the candidate's, group's, or nongroup entity's plans, projects, or needs provided by the candidate or an agent of the candidate, group, or nongroup entity;

(2) an expenditure made by any person, group, or nongroup entity based on data from a candidate's, group's, or nongroup entity's pollster or campaign consultant or any other person who receives compensation or reimbursement from the campaign;

(3) an expenditure made for the purpose of soliciting contributions to be paid to a candidate, group, or nongroup entity;

(4) an expenditure made to finance the distribution of campaign material provided by the candidate, treasurer, campaign consultant, or any other agent of the candidate, group, or nongroup entity.

(b) Independent expenditures may be made without limit on the amount or frequency.

(c) A person making an independent expenditure must disclose the following on an independent expenditure report under AS 15.13.040 (d) and (e):

(1) the date of the expenditure;

(2) the amount of the expenditure;

(3) the check number, if the expenditure is paid by check;

(4) the name and address of the payee;

(5) a description of items or services purchased;

(6) identification of the candidate or ballot proposition the expenditure was intended to influence;

(7) a statement as to whether the expenditure was intended to support or oppose the candidate or ballot proposition.

(d) To obtain an exemption from the requirements in AS 15.13.040 and AS 15.13.135, an individual must file a written exemption request with the commission and provide the nature of the expenditure and the need for an exemption. The exemption will be kept confidential pending a final determination by the commission. If the commission determines that the individual would likely be subject to undue harassment, threats, or economic reprisals as the result of public disclosure, the commission will grant the exemption. If the purpose of the expenditure is to sponsor or produce a communication, after publication the individual granted an exemption shall provide the commission with a copy of the communication.

2 AAC 50.336. Reporting statements of contribution or of independent expenditure.

(a) A candidate, group, or nongroup entity who regularly files reports under 2 AAC 50.321 and satisfies the applicable requirements of AS 15.13.040 (a), (b), (c), and (j) need not also file a statement of contribution or of independent expenditure under AS 15.13.040 (d) or (e).

(b) A person whose contributions to a group required under 2 AAC 50.294 to register as a ballot group reach \$500 during a calendar year shall file a statement of contribution not later than 30 days after reaching \$500.

(c) An individual whose independent expenditures for billboards, signs, or printed materials concerning a ballot proposition exceeds \$500 during a calendar year shall file a statement of independent expenditure not later than 10 days after exceeding \$500. An individual who makes an independent expenditure for any other purpose shall file a statement of

independent expenditure not later than 10 days after making the expenditure. A person other than an individual that makes an independent expenditure for any purpose shall file a statement of independent expenditure no later than 10 days after making the expenditure.

(d) A corporation, company, partnership, firm, association, organization, business trust, labor union, or publicly funded entity that is not a group and that files a statement of contribution or of independent expenditure under AS 15.13.040 (d) satisfies any obligation under AS 15.13.050 to register with the commission.

(e) An individual required to report contributions to candidates for legislative office under AS 15.13.074 (g) as a lobbyist shall file a statement of contribution not later than 30 days after making a contribution.

2 AAC 50.352. Ballot measure activity.

(a) A person, including a corporation or labor union, may make contributions to influence the outcome of a ballot proposition.

(b) A person who makes contributions to influence the outcome of a ballot proposition

(1) must report those contributions as required by AS 15.13.040 ; and

(2) may not make

(A) anonymous contributions; or

(B) contributions using the name of another, as set out in 2 AAC 50.258.

(c) A corporation, company, partnership, firm, association, organization, business trust, labor union, or publicly funded entity may report its contributions and expenditures under AS 15.13.040 (d) and (e) as an individual if

(1) all contributions and expenditures to influence the outcome of a ballot measure election are made from the organization's general day-to-day operating account; and

(2) the organization does not assess, collect, pool, or solicit money or anything of value for the purpose of influencing a ballot measure election.

(d) A corporation, company, partnership, firm, association, organization, business trust, labor union, or publicly funded entity that does not meet the requirements in (c) of this section must register and report as a group.

(e) An individual who makes expenditures to influence the outcome of a ballot proposition election need not report those expenditures if the individual makes them in accordance with AS 15.13.040 (h).

2 AAC 50.379. Election educational activities.

Election-related communications and activities are educational if they

(1) do not favor particular candidates or a position on a ballot measure; or

(2) provide an opportunity for the expression of views of all candidates or both sides of a ballot measure.

2 AAC 50.405. Definitions for 2 AAC 50.250 - 2 AAC 50.405 and AS 15.13.

In 2 AAC 50.250 - 2 AAC 50.405 and in AS 15.13

(5) "anything of value" means any item of real or personal property and personal services of any kind, the cost or consideration for which is paid by a person other than the candidate or group for whom the services are rendered; "anything of value" includes facilities, equipment, polling information, supplies, advertising services, membership lists, and mailing lists;

FACTS

According to your request, RRC is an Alaskan non-profit corporation, founded on August 11, 2005, and is a tax-exempt entity under the provisions of section 501(c)(6) of the Internal Revenue Code. Under its Articles of Incorporation, RRC's purposes include helping members of the public to better understand and communicate public policy issues concerning serving and strengthening Alaska's hunters and fishermen and "encouraging members of the general public to let their legislators, elected and appointed legislative and government officials and other community leaders know that the general public supports public policies that uphold responsible access and maximization of hunting and fishing resources." The listed purposes do not include influencing the outcome of elections.

You indicated that the Pebble Mine project, proposed for an area near Bristol Bay, is of particular concern to RRC and, as a result, for several years RRC has sought to educate the public about the mine's potential impact on the area's ecology through activities such as advertisements, events, and publication of newsletters and a website. During this period of RRC activity, the Lieutenant Governor certified two ballot initiatives on March 11, 2008, referred to as "The Alaska Clean Water Initiative" (07WATR) and "The Alaska Clean Water Initiative (III)" (07WTR3). The initiatives propose regulations for new large scale mining projects in the state, which presumably will include the proposed Pebble Mine, regarding the discharge and storage of certain toxic materials.

You indicated that RRC's leadership does not wish to engage directly in campaigning activities on behalf of the initiatives, but wishes to continue to educate and inform the public

about the concerns RRC has about the Pebble Mine and the need to promote and encourage hunting and fishing activities in Bristol Bay and the state. You included with your request examples of advertisements that RRC has run in the past, including some that include language such as, “Protect clean water and wild Alaska salmon.”

In responding to your request, we reviewed RRC’s website. The site contains a “Call to Action” section, which includes references to the Clean Water initiatives. A chart lists each initiative and indicates that “no action” is requested for the initiatives that have been certified. Under the chart is a heading reading “The time to wait and see is over. Act now to save Bristol Bay!!” followed by this text:

Help stop the proposed Pebble Mine slated for the headwaters of the Bristol Bay watershed in Alaska. The Pebble Mine threatens the spawning grounds of the largest run of wild sockeye salmon in the world. The Renewable Resources Coalition has determined that one way to stop this misguided development project is to do so by supporting those who would change the overly permissive mining laws of the State of Alaska, either by legislation or by ballot initiative.

The Call to Action section encourages readers to participate in opposing the Pebble mine in numerous ways, including joining and contributing to RRC, volunteering, encouraging organizations to go on the record in opposing the Pebble mine, informing others about the mine, responding to Pebble mine news stories with letters to the editor and radio call-ins, and contacting Alaska state and federal officials.

ANALYSIS

The Alaska Public Offices Commission (“APOC”) is responsible for administering AS 15.13, which governs state election campaigns. AS 15.13.040(d) and AS 15.13.140 require reporting to APOC of independent expenditures in support of ballot initiatives. AS 15.13.040(k) and AS 15.13.065 require reporting of contributions totaling \$500 or more to a group organized for the principal purpose of influencing the outcome of a ballot initiative. APOC has implemented regulations under the authority of these statutes, regarding: contributions, 2 AAC 50.250; independent expenditures, 2 AAC 50.270; reporting statements of contribution or of independent expenditures, 2 AAC 50.336; and ballot measure activity, 2 AAC 50.352.

You have asked the following questions regarding the reporting requirements for various RRC activities and we are combining our responses to questions 1 and 2 and to questions 3 and 4 because those questions are closely related to each other.

- 1) **May RRC continue to educate the public regarding the potential impact of the proposed Pebble Mine project without such activities being considered expenditures made to influence the outcome of a ballot proposition?**
- 2) **May the phrase “clean water” continue to appear in RRC advertisements, or will the phrase cause such advertisements to be considered expenditures made to influence the outcome of a ballot proposition?**

More specifically, you asked whether RRC's sponsorship of advertisements and direct mail pieces discussing the proposed Pebble Mine and its effect on the Bristol Bay drainage constitute reportable expenditures. You indicated that the advertisements ran long before certification of the initiatives and RRC intends to run similar advertisements long after the initiative voting is completed.

While we cannot offer an opinion regarding hypothetical future advertisements, the advertisement samples you provided do not trigger the reporting requirement for campaign expenditures. Because the advertisements do not include express advocacy on behalf of the initiatives and, when viewed as a whole, are susceptible to reasonable interpretations other than as an exhortation to vote for the initiatives, expenditures for the communications are not required to be reported.

RRC's sponsorship of advertisements must be reported as independent expenditures if the advertisements are "in support of" or "for" a ballot proposition. AS 15.13.140. An "expenditure" includes a purchase or anything of value incurred or made for the purpose of influencing the outcome of a ballot proposition or question. AS 15.13.400(6).

Neither the statutes nor the regulations explain the meaning of these terms for the purposes of reporting expenditures in ballot measure campaigns, but the laws do address how a communication influences a candidate campaign. Alaska's campaign statutes divide expenditures for communications in candidate campaigns into three categories for the purposes of reporting requirements. Under the statutes, reportable expenditures include "express communications" and "electioneering communications," but not "issues communications." AS 15.13.400(6)(C). 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." AS 15.13.400(7). 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. AS 15.13.400(5). An issues communication is one that directly or indirectly identifies a candidate and addresses an issue of political importance but does not support or oppose the candidate. AS 15.13.400(12).

Although these definitions are specific to communications regarding candidates, the distinctions also are appropriate for ballot initiative campaigns. *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. Pro-Life 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); *see also 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).

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 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. As its website indicates, RRC urges numerous different kinds of opposition activity. Therefore, the advertisements do not fall within the categories of express or electioneering communications but appear to be issue communications. As such, they do not trigger the reporting requirement for independent campaign expenditures.

You also asked about expenditures for “clean water” stickers that contain RRC’s website address. Although this is a close question, the stickers do not expressly mention a ballot initiative or advocate a position on an initiative. Nevertheless, the context of distribution may determine if they are reportable expenditures. If the “clean water” stickers, which arguably refer indirectly to the ballot initiatives, are distributed in a context that can only be interpreted as ballot initiative advocacy, their cost should be reported as an expenditure on behalf of an initiative.

If the stickers are donated to a ballot advocacy group, they are considered contributions to that group and reportable as such.

- 3) **If brochures, created by a separate entity, that advocate in favor of the Initiatives are distributed at an RRC event, will the cost of that event be considered an expenditure made to influence the outcome of a ballot proposition?**
- 4) **May RRC allow a separate entity, that advocates in favor of the Initiatives, to sign up new members during RRC events? Or would such activities cause the Commission to consider the cost of such an event to be an expenditure made to influence the outcome of a ballot proposition?**

You indicated that RRC hosts educational seminars, fair booths, and public and private presentations to fulfill its mission of educating the public regarding issues that may impact renewable hunting and fishing resources and that ballot initiative groups may seek to distribute their own brochures and materials, to sign up members and to seek donations at these RRC events. You also indicated that RRC will not initiate any discussions or advocate a position regarding the ballot initiatives at these events. Given the circumstances you describe, if RRC provides space at its events for ballot measure groups to distribute materials, or solicit members or donations, the value of that space would constitute a non-monetary contribution to the group rather than an independent expenditure.

Because RRC will not itself advocate a position and the ballot initiatives are not the main purpose of the events, the total cost of the events will not be considered a direct expenditure for the purpose of influencing the outcome a ballot initiative. Moreover, a ballot initiative group’s participation in the event presumably will be with RRC’s permission, so the service that RRC provides to the group will not be an independent expenditure because it will be made in cooperation and in concert with the ballot measure group. AS 15.13.140; AS 15.13.400(10); 2 AAC 50.270.

If the RRC events provide a space or forum for ballot measure groups to engage in campaign-related activities, however, such events are a service and something of value to the participating groups. Therefore, if RRC is not charging the group for the space, the value of that space should be considered a non-monetary contribution to the group. AS 15.13.400(4); 2 AAC 50.250.

The value of the contribution presumably will be the market value of a booth or venue at an RRC event or a reasonable pro-rated cost based on the portion of the event used by any ballot measure groups. Once RRC's contributions to a ballot initiative group exceed \$500 or more, RRC is required to report the contributions pursuant to AS 15.13.040 and 2 AAC 50.336(b).

You also indicated that during RRC seminars and forums audience members may ask about the ballot initiatives. To the extent RRC does not favor a position on a ballot measure in such discussions and provides opportunities for the expression of views of both sides of the ballot measure, such discussion would not be considered a campaign activity regulated by the commission. 2 AAC 50.379. If RRC advocates a position regarding the ballot initiatives at its seminars and forums, however, whether it raises the issue or not, then RRC will be acting for the direct purpose of influencing the outcome of the ballot initiative and related event expenditures will be subject to reporting requirements.

5) Does dissemination and promotion of an electronic newsletter or web site, that discusses the Pebble Mine controversy, constitute a reportable expenditure?

Although you represented that RRC's website may contain incidental references to the initiatives, the website's Call to Action section contains more than an incidental reference. It expressly requests that readers "act now" and states that RRC has determined that one way to stop the Pebble mine development is by supporting those who would "change the overly permissive mining laws of the State of Alaska, either by legislation or by ballot initiative." In contrast with the advertisements discussed above, this communication is express advocacy, or its functional equivalent, on behalf of the ballot initiatives and, therefore, is a reportable expenditure.

CONCLUSION

The reporting requirements for communication expenditures are triggered when the communication is express advocacy, or its functional equivalent, for or against a ballot initiative. Allowing a ballot initiative group to distribute brochures, sign up members or solicit donations at an RRC event triggers the reporting requirements for contributions to that group.

RRC may report its contributions and expenditures under AS 15.13.040(d) and (e) as an individual if the contributions and expenditures are made from its general day-to-day operating account and RRC does not "assess, collect, pool, or solicit money or anything of value for the purpose of influencing a ballot measure election." 2 AAC 50.352(c). If that is not the case, RRC must register and report as a group.

Only the Commission has the authority to approve an advisory opinion. The Commission will rule on staff's proposed advice at its June 11-13, 2008, meeting. If you wish to participate

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when the Commission considers this matter, please contact me so that this matter can be scheduled for a mutually convenient time during the June meeting. The Commission may approve, disapprove, or modify the proposed advice. An advisory opinion must be approved by an affirmative vote of at least four members or it will be considered disapproved. Both staff's proposed advice and the Commission's final advisory opinion apply only to the specific facts and activities for which the advice was requested.

If you rely on staff's proposed advisory opinion in good faith, and the Commission subsequently rejects the proposed advice, staff will take no enforcement action on activities up to that point if you acted under the specific facts described. If you have any additional questions or would like to discuss this proposed advice, please contact me at 907-334-1725.

The Commission approved the advice in this letter by an affirmative vote of 5-0 on June 11, 2008. The advice in this opinion applies only to the specific activity for which the advice was requested.

Sincerely,

ALASKA PUBLIC OFFICES COMMISSION

Christina Ellingson, Acting Executive Director

ADVISORY OPINION REQUEST

Number: AO 13-04-CD
Requested By: Renewable Resources Foundation
Prepared By: Thomas R. Lucas
Date Issued: May 31, 2013
Subject: The reporting requirements of a nonprofit corporation supporting a group that supports an initiative petition application
Commission Decision: On June 6, 2013, the Alaska Public Offices Commission heard and approved this advisory opinion request by a vote of 5 to 0.

INTRODUCTION

The Renewable Resources Foundation, Inc. (RRF) is a nonprofit corporation established in 2006. Since that time it has engaged in, and provided grants to others engaged in, charitable, educational and scientific activities related to the protection of the renewable resources of the state of Alaska. A significant subject of its activities has been the resources of the Bristol Bay region and the potential negative impacts of the proposed Pebble Mine project. On its website, RRF is openly against the project going forward.

Bristol Bay Forever, Inc. (the ballot group) is an APOC registered group supporting the initiative application drive for a statute titled, "An Act Providing for Protection of Bristol Bay Wild Salmon and Waters Within or Flowing into the Existing 1972 Bristol Bay Fisheries Reserve". The proposed statute would require legislative approval of any large scale metallic sulfide mining operation located within the watershed of the Bristol Bay Fisheries Reserve designated in AS 38.05.140(f).

RRF desires to provide financial and other support to the ballot group. This advisory opinion only addresses RRF's efforts to assist the ballot group during the signature gathering stage.

QUESTIONS PRESENTED

RRF's questions can be grouped into three sections: (1) can RRF continue to advocate generally for renewable resources while the ballot group is collecting signatures without running afoul of reporting laws; (2) what types of activities are reportable to APOC during signature gathering if RRF coordinates activities with the ballot group; and (3) if an RRF activity is reportable to APOC during signature gathering, how does RRF value the activity.

SHORT ANSWERS

RRF may continue to advocate generally for renewable resources while the ballot group is collecting signatures without reporting to APOC.

Whenever RRF—as an organization—expends over \$500 or contributes over \$500 to impact signature gathering, the activity would be reported as a contribution or an expenditure to APOC.

RRF must strive to make an accurate valuation of contributions and expenditures. APOC Staff is willing to assist valuing specific transactions.

The remainder of this opinion will outline some facts about RRF and then answer some of RRF's specific questions given the facts provided.

FACTS

RRF was incorporated in Alaska on March 8, 2006 as a nonprofit. Since that time RRF has engaged in, and provided grants to others engaged in, charitable, educational and scientific activities related to the need to protect the renewable resources of the state of Alaska—primarily fish and game, and the habitat upon which they depend. These activities include, but are not limited to hosting seminars, booths and educational events, producing a regular electronic newsletter, and creating a multi-day music festival in celebration of salmon. One significant subject (but not the only subject) of these activities has been the resources of the Bristol Bay region and the potential negative impacts thereon by the proposed Pebble Mine project.

The Bristol Bay Forever Initiative—which RRF did not officially sponsor—was certified on December 20, 2012 and petition booklets were issued on January 31, 2013. The stated purpose of the Initiative is to protect the wild salmon of Bristol Bay by requiring legislative approval of any large scale metallic sulfide mining operation located within the watershed of the Bristol Bay Fisheries Reserve designated in AS 38.05.140(f).

On May 1, 2013, the ballot group—Bristol Bay Forever, Inc.—registered with APOC as an initiative proposal group. Its stated purpose is to support the petition drive to qualify the Bristol Bay Forever Initiative for the ballot.

There is some crossover between RRF and the ballot group. For instance, John Holman is the President of the ballot group. He also serves as a Director of RRF. Mark Niver is the Vice President of the ballot group. He also serves as a Director and Secretary of RRF.¹

ANALYSIS

First, RRF has every legal right to assist any ballot group during signature gathering. The difficulty is—as RRF has pointed out in its series of questions to APOC—*when* does the assistance become reportable to APOC; and if so, how should RRF value such assistance. RRF was wise to contact APOC for assistance because organizations like RRF do offer tremendous support to ballot groups during signature gathering, and organizations like RRF are under scrutiny whenever it appears that the assistance provided is not being reported correctly to APOC. With that in mind, APOC Staff turns to several specific questions asked by RRF.

1. May RRF continue to educate the public regarding the renewable resources of Bristol Bay?

¹ See Exhibits 1 and 2.

In response to questions 1(a)-(b), Staff notes that as a general matter, RRF may continue to pursue its purely educational activities without triggering a reporting requirement to APOC. But, changes in the number of activities, the usual locations of the activities and/or the content of the activities, when taken in context of RRF's open support of the initiative petition drive could possibly trigger a reporting requirement. For instance, if the "purely educational activity" is taking place while at a party hosted by RRF at RRF Headquarters, and RRF employees are holding pens and a signature gathering booklets while conducting educational outreach, the Commission could reasonably conclude that the RRF employee's time and the costs associated with the party are reportable to APOC. If RRF wants to discuss specific scenarios wherein its educational activities are somehow tethered to signature gathering, APOC is more than happy to answer any specific question about reporting requirements there.

- a. May RRF employees on their own time, and without any direction or obligation from their employer, volunteer on behalf of the ballot group's petition drive without obligating RRF to somehow track and report such activities as expenditures or contributions to an initiative petition drive?**

Yes.

Services provided without compensation by individuals volunteering a portion or all of their time on behalf of a political party, candidate, or ballot proposition or question is not considered a contribution.² Services are not a contribution if an individual who volunteers the individual's own time without compensation provides those services to a political party, a candidate, or a group organized for the principal purpose of influencing the outcome of a ballot proposition election or for the principal purpose of filing an initiative proposal application.³

Accordingly, Staff finds that RRF would not be obligated to track and report the activities of its employees who volunteer on behalf of the ballot group. This opinion does not insulate RRF from reporting if there is any indication that RRF is paying its employees to signature gather or if the RRF employees are somehow obligated as part of their duties to RRF to gather signatures for the ballot group.

2. How Does RRF report direct financial contributions to a ballot group?

- a. Does the timely filing of a Form 15-5 satisfy all reporting requirements for making a direct financial contribution to the ballot group?**

The answer to RRF's question—2(a)—is generally, yes. Every entity that contributes a total of \$500 or more to a group organized for the principal purpose of supporting an initiative proposal application

² AS 15.13.400(4)(B)(i)

³ 2 AAC 50.250(d)

must report the contribution on a form prescribed by the Commission no later than 30 days after the contribution is made.⁴ The form prescribed by the Commission is a 15-5 Statement of Contributions Form. If RRF needs assistance filing the 15-5 or has questions about that process, they should contact APOC Staff.

But, if RRF assesses, collects, pools or solicits money or anything of value for the purpose of making a contribution to the ballot group, it must report the information required by AS 15.13.040(b) and (c).⁵ In making these reports, RRF should be cognizant of the fact that any contribution reported must be reported in the name of the true source of the money or thing of value contributed.⁶

3. Do certain activities taken at a ballot group's request, and/or with the intent of supporting signature gathering, obligate RRF to report them to the Commission as "in kind" contributions?

Generally, the answer is "yes."

- a. RRF employees regularly participate in or produce educational events and outreach activities regarding the importance of renewable resources. Does the ancillary gathering of signatures before or after such activities (but not as the principal purpose of such activities) by an RRF employee require RRF to report an "in kind" (or non-monetary) contribution of that employee's time?**

The activity must be reported as expenditure. By utilizing its employee for the purpose of gathering signatures, RRF has expended funds for the purpose of supporting the initiative proposal application and has, therefore, made an expenditure within the meaning of AS 15.13.400(6)(A)(v).

- b. Do the activities in 3.a. above also require the reporting of travel or lodging expenses (if any) related to such activities as an "in kind" contribution?**

But for the payment of travel and lodging expenses the employee would not be available for the signature gathering activities. Accordingly, the cost of travel and lodging should factor into what is reported as expenditure.

- c. RRF regularly hosts educational booths at sportsmen's shows, fairs and seminars around the State of Alaska. If RRF gives permission for the ballot group to place a signature petition booklet at such a booth, does RRF have to report this activity as an "in kind" contribution?**

RRF must report the activity either as an expenditure or as a contribution depending on the circumstances. If RRF utilizes its booth and its employee to gather signatures RRF has expended funds for the purpose of supporting the initiative proposal application and has, therefore, made an expenditure within the meaning of AS 15.13.400(6)(A)(v).

⁴ AS 15.13.040(k)

⁵ 2 AAC 50.352(c)

⁶ 2 AAC 50.258(a)

If instead, RRF utilizes its booth and its employee solely for the educational purposes it champions; and merely allows the ballot group to share some of the space for its signature gathering efforts; then RRF has made an in kind contribution to the ballot group.⁷

- d. RRF has an email list of its membership. If RRF sends an email to this membership advising them of where to sign the initiative petition and/or how to provide financial or volunteer support to the ballot group does RRF have to report such an email as an "in kind" contribution?**

No.

Costs that a corporation such as RRF may incur to communicate directly with the organization's members, employees or their families on any subject are not a contribution if the communication is in the same format that it has used in the past for communications concerning nonpolitical subjects.⁸ Thus, if RRF has utilized e-mail to communicate with its members, employees and their families concerning nonpolitical subjects it may also do so to communicate information concerning the initiative petition without having made a "contribution". But, RRF loses this exemption if it solicits contributions or volunteers.⁹

- e. Because RRF is publicly known as a strong supporter of the renewable resources of Bristol Bay its membership and members of the public often contact RRF directly about how to get involved in related issues, such as the initiative. If RRF employees distribute signature petition booklets on the ballot group's behalf to members of the public who wish to volunteer their time, does RRF have to report facilitating this activity as an "in kind" contribution? Alternatively, can RRF simply refer people to the ballot group for information regarding the initiative without that action being considered a contribution?**

If the RRF employees are distributing the petition booklets while in RRF pay status and under the direction and control of RRF, the facilitating of this activity should be reported as an expenditure (see c. above).

If RRF receives unsolicited inquiries from its members or members of the public concerning how they may get involved with the initiative; it may refer them to the ballot group for information regarding the initiative without the referral being considered a contribution. This answer contemplates an unsolicited inquiry by phone, e-mail or letter. It is not intended to cover a blanket unsolicited referral to the public in a newsletter, on a website, on a social media site or by a mass e-mail.

- f. RRF regularly hosts community events at its offices after business hours or on a weekend. If RRF hosts such an event, the purpose of which is to raise funds for the**

⁷ AS 15.13.400(4)(A)(iii)

⁸ 2 AAC 50.990(7)(C)(iv)

⁹ Id.

ballot group, solicit volunteers and/or to gather signatures in support of the initiative, does RRF have to report this activity as an "in kind" contribution?

Depending on how the event is "hosted", the costs of the event could be an expenditure or an in kind contribution. APOC Staff can assist RRF in making the appropriate determination if and when the event occurs.

- g. Do the activities in 3.f. above require reporting if RRF provides only the venue for the event and does not incur any expenses for food, beverages and the like?**

Supplying the venue in this instance is a reportable contribution.¹⁰

- h. RRF regularly conducts research regarding issues affecting Bristol Bay, including the proposed Pebble Mine. RRF also produces photographs, videos and other media related to Bristol Bay's renewable resources. If RRF has such materials which it obtained for its own use, but later makes the decision to share such materials with the ballot group, does RRF have to report this action as an "in kind" contribution?**

If such materials are provided to the ballot group, they must be reported as a contribution.¹¹

- 4. Assuming any of the activities listed under #3 above are reportable as "in kind" contributions to the ballot group, what are the acceptable methods of valuation and reporting?**
- a. Assuming RRF employees engage in signature gathering as an ancillary activity concurrent with normal job duties, what method of reporting and valuation is appropriate? May RRF report the cost of such employees' time actually engaged in petition activities as an "in kind" contribution? What kind of records must RRF keep to document its calculations?**

This question presents a situation where an RRF employee, while in RRF pays status, and under the direction and control of RRF, is engaged in signature gathering in support of the initiative proposal application. Under such circumstances the employee's time connected with the signature gathering effort should be reported as an expenditure (see the discussion in 3. c., above).¹²

Staff has concluded that, *at this time, and with the limited information provided by RRF*, it is not possible to sanction any particular method of valuation or apportionment when RRF employees are performing their normal education duties while, at the same time, they are gathering signatures for the initiative. In reaching this conclusion Staff has noted that one significant subject of RRF's educational message is the protection of the Bristol Bay Fisheries Reserve and the potential negative impacts the proposed Pebble Mine might have on Bristol Bay fisheries. The stated purpose of the statute the ballot group seeks is to

¹⁰ Citing AS 15.13.400(4)(B)(ii), the requester suggests that the activity is "ordinary hospitality" and therefore not reportable as an expenditure. Staff does not agree because the statute requires that the hospitality be in a home.

¹¹ 2 AAC 50.990(7)(B)

¹² In discussing the valuation of employee signature gathering time, APOC expresses no conclusion concerning the appropriate method of gatherer payment.

protect Bristol Bay wild salmon and the Bristol Bay Fisheries Reserve. Thus the ballot group's message in requesting signatures is substantially the same as RRF's educational message. Given the congruence of the messages it is not possible to apportion pure signature gathering time from normal duties time when the normal duties are educating the public concerning the need to protect the Bristol Bay fisheries from Pebble Mine.

But, as RRF points out, not all of its educational activity is directed at the protection of the Bristol Bay fisheries. It may be possible to segregate non Bristol Bay education duties from the signature gathering duties. To sanction any particular apportionment regime Staff would need to know much more about each event whether it be a seminar, a booth or other educational event. APOC Staff will assist RRF in making the appropriate valuation of these activities if and when they occur.

- b. If RRF is required to report employee time in response to 4.a. above, must RRF also report travel and lodging expenses (if any) related to such activities? If so, may RRF report a pro-rata share of such expenses as an "in kind" contribution? (i.e.-if during a trip on normal RRF purposes an employee spent 10% of his or her time engaged in petition activities, could RRF then report 10% of the travel and lodging expenses?)**

RRF may report a pro-rata share of travel and lodging expenses as an expenditure APOC Staff will assist RRF in making the appropriate valuation of these activities if and when they occur.

- c. Assuming RRF allows the ballot group to collect signatures as an ancillary activity via petition booklets located at an RRF booth or event, what method of valuation is appropriate? May RRF report a pro-rata share of the cost of the booth as an "in kind" contribution? (i.e.-if the petition booklet/activities take up approximately 10% of the booth or event space, could RRF then report 10% of the cost of renting the booth?)**

This question presents a situation where RRF is simply allowing the ballot group to utilize some of RRF's booth space for the ballot group's signature gathering efforts. In this case RRF is making an in kind contribution of the booth space.

Staff has concluded that, *at this time, and with the limited information provided by RRF*, it is not possible to sanction any particular method of valuation or apportionment when RRF employees are performing their normal education duties while, at the same time, the ballot group is gathering signatures for the initiative. In reaching this conclusion Staff has noted that one significant subject of RRF's educational message is the protection of the Bristol Bay Fisheries Reserve and the potential negative impacts the proposed Pebble Mine might have on Bristol Bay fisheries. The stated purpose of the statute the ballot group seeks is to protect Bristol Bay wild salmon and the Bristol Bay Fisheries Reserve. Thus the ballot group's message in requesting signatures is substantially the same as RRF's educational message. Given the congruence of the messages it is not possible to apportion signature gathering space from other booth space when the booth space is dedicated to educating the public concerning the need to protect the Bristol Bay fisheries from Pebble Mine.

But, as RRF points out, not all of its educational activity is directed at the protection of the Bristol Bay fisheries. It may be possible to segregate non Bristol Bay education space from the signature gathering/Bristol Bay education space. To sanction any particular apportionment regime Staff would need to know much more about each event whether it be a seminar, a booth or other educational event. APOC Staff will assist RRF in making the appropriate valuation of these activities if and when they occur.

- d. Assuming that RRF sends an email to its membership advising them of when and where to sign the initiative petition and/or how to provide financial or volunteer support to the ballot group, how should RRF value any "in kind" contribution that may result? May RRF report the cost of the employee's time actually expended in drafting and transmitting such an email? Must RRF report some additional value even if sending the email does not result in any other cost to RRF?**

If an in kind contribution were to result (e.g. because RRF exhorted its members to make contributions or volunteer – see discussion in 3.d., above); RRF may report the cost of the employee's actual time expended in researching, drafting and transmitting the e-mail. As in prior cases, the facts may show that the costs associated with this activity are de minimus, but nevertheless reportable.

- e. Assuming that RRF employees distribute some petition booklets to volunteers on the ballot group's behalf, what method of reporting such activities is appropriate? May RRF report the cost of the employee's time actually expended in activities directly related to distributing, tracking and receiving petition booklets?**

The cost of RRF employees distributing petition booklets while in RRF pay status and under the direction and control of RRF should be reported as an expenditure. If the employees are in RRF pay status but under the direction and control of the ballot group, the cost should be reported as a contribution. The cost of the employee's time expended in activities related to distributing, tracking and receiving the petition should be reported. Whether or not anything else would need to be reported may depend on how and where the activity is performed. In essence, anything of value received by the ballot group from RRF should be reported.

RRF must keep a detailed record of the expenses related to signature gathering. Moreover, RRF must also keep a detailed record of expenses that are arguably signature gathering activity and educational activity. APOC Staff will assist RRF in making the appropriate valuation of these activities if and when they occur.

- f. Assuming that RRF hosts an after-hour or weekend community event at its offices, the purpose of which is to raise funds for the ballot group, solicit volunteers and/or to gather signatures in support of the initiative petition drive, what is the appropriate method of valuation? May RRF simply report the actual costs it incurs to stage such an event (including employee time, food and beverage costs and the like)?**

RRF should report the total of its actual costs of staging the event. It should also report some value for use of its offices.¹³

- g. Assuming RRF provides only the location for the event described in 4.f. above and does not incur any expenses for food, beverages or employee time, what is the appropriate method of valuation, if any?**

If RRF has charged for the use of the space in the past, it may utilize that value. If not, RRF should report a fair market value for the use of similar space in Anchorage.

- h. Assuming RRF shares research, photography, video materials, and/or other media regarding Bristol Bay with the ballot group, what is the appropriate of valuation for such activity? May RRF simply report the cost of duplicating and transmitting the materials to the ballot group? Or must RRF somehow assign some pro-rata value related to the original cost of acquiring the materials?**

Such contributions must be assigned a fair value and reported. The fair value could depend on many factors including whether or not RRF normally sells the item. APOC Staff will assist RRF in making the appropriate valuation of any particular item.

COMMISSION DECISION

Only the Commission has the authority to approve an advisory opinion. 2 AAC 50.840. The Commission will rule on staff's proposed advice at its next regular meeting. The Commission may approve, disapprove, or modify the proposed advice. An advisory opinion must be approved by an affirmative vote of at least four members or it will be considered disapproved. Both staff's proposed advice and the Commission's final advisory opinion apply only to the specific facts and activity for which advice was requested.

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

¹³ 2 AAC 50.990(7)(B)

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Ranked-Choice Voting Disenfranchises Voters

Published on **October 12, 2020** (<https://alaskapolicyforum.org/2020/10/rcv-disenfranchises-voters/>) by **Guest Author** (<https://alaskapolicyforum.org/author/infoapf/>)

By Johan Soto

A voting trend to uproot the electoral process is sweeping the country and has made it all the way to Alaska: ranked-choice voting (RCV). While the current electoral process of one person, one vote is straightforward with little to no confusion, RCV threatens to complicate voting, ultimately disenfranchising voters and decreasing turnout.

Underlying any legitimate election is the promise of a fair and equal process for every voter. However, RCV does not guarantee such a process.

With RCV, voters are asked to rank candidates

(<https://alaskapolicyforum.org/2020/07/video-rcv-explained/>), from their most to least favored rather than voting for one candidate who best represents their values. If no candidate receives at least 50 percent of first-preference votes, the candidate with the fewest first-preference votes is eliminated from contention. For the ballots with that candidate ranked first, the second-choice candidate is then included in the vote tabulation. This process of eliminating the least popular candidates continues until one candidate has received a majority of the remaining votes cast. Unsurprisingly, this convoluted process leads to various adverse consequences for voters.



First is the confusion (<https://mainepolicy.org/wp-content/uploads/RCV-Final-Booklet-.pdf>) RCV creates for voters. For many, RCV is a new concept, and it increases the potential for voters to make mistakes. Proponents argue that this is a temporary inconvenience and that a program to educate the public would eventually resolve this. However, as evidenced by Maine's 19-page guide (<https://www.wiscasset.org/uploads/originals/rankchoicevoting.pdf>) for RCV, these efforts may be equally confusing. Additionally, an education program only addresses the process of filling out the ballot. But a potentially more complicated and time-consuming process for voters is determining which candidates they favor the most, least, second most, and second least. Rather than supporting one candidate, they must effectively support all of them but to varying degrees. And if voters choose to abstain from supporting certain candidates, their ballots could potentially be discarded and not counted in the final tally.

The discarding of ballots, known as ballot exhaustion, is a problem inherent to RCV. As mentioned above, a voter who does not rank all of the candidates risks losing his vote to ballot exhaustion. If voters can rank up to four candidates, for example, but Mr. Smith ranks just two, both of his candidates could be eliminated through the tabulation process if they receive the fewest number of votes in the first and second rounds before one candidate receives at least 50 percent of

the remaining votes. In that case, Mr. Smith's ballot would be discarded, and he would not have a vote in the final round of tabulation, which determines the winner of the election. Also, incorrectly filled out ballots are often discarded. One [study](https://www.sciencedirect.com/science/article/pii/S0261379414001395) (<https://www.sciencedirect.com/science/article/pii/S0261379414001395>) of over 600,000 ballots found that ballot exhaustion in some elections reached as high as 27 percent of the total count. Ballot exhaustion such as this disenfranchises voters and would raise concerns over the legitimacy of elections in Alaska.

Other localities that have tried RCV have already experienced this disenfranchisement. After San Francisco implemented RCV, voter turnout among black voters, white voters, younger voters, and voters without a high school education decreased (<https://news.sfsu.edu/news-story/ranked-choice-voting-linked-lower-voter-turnout>). In both [Oakland](http://hawaiiifreepress.com/Portals/0/Article%20Attachments/Racial%20and%20Ethnic%20Disparities%20in%20RCV.pdf) (<http://hawaiiifreepress.com/Portals/0/Article%20Attachments/Racial%20and%20Ethnic%20Disparities%20in%20RCV.pdf>) and [Minneapolis](https://www.startribune.com/ranked-choice-voting-hurts-minneapolis-minorities/195463981/?refresh=true) (<https://www.startribune.com/ranked-choice-voting-hurts-minneapolis-minorities/195463981/?refresh=true>), voters in predominately minority precincts were less likely to fully utilize their ballots, making ballot exhaustion more likely.

It should come as no surprise that in many of the districts that have tried RCV, voters have chosen to repeal it. In Aspen, Colorado, RCV was implemented in 2009, but it proved to be an unpopular and inefficient system. Just one year later, 65 percent of Aspen voters chose to [repeal](https://www.aspendailynews.com/city-voters-repeal-irv/article_5d3a9245-bfc1-55db-947b-fefdb87031ea.html) (https://www.aspendailynews.com/city-voters-repeal-irv/article_5d3a9245-bfc1-55db-947b-fefdb87031ea.html) the system. In Burlington, Vermont, a similar response was seen after voters [repealed](https://archive.vpr.org/vpr-news/burlington-voters-repeal-instant-runoff-voting/) (<https://archive.vpr.org/vpr-news/burlington-voters-repeal-instant-runoff-voting/>) RCV for mayoral elections in 2010. These frustrations can still be seen today in states such as Maine where there is an [ongoing](https://www.pbs.org/newshour/politics/ranked-voting-in-presidential-election-put-on-hold-in-maine) (<https://www.pbs.org/newshour/politics/ranked-voting-in-presidential-election-put-on-hold-in-maine>) effort to repeal RCV.

Ultimately, other cities and states should serve as an example of the complications that arise from implementing RCV. It is critical for our country that elections maintain their integrity, and disenfranchising voters through RCV accomplishes the opposite. All Alaskans deserve to have their votes counted. To learn more about RCV visit [ProtectMyBallot.com](https://protectmyballot.com/) (<https://protectmyballot.com/>).

Johan Soto is the Fall 2020 Policy Analysis Intern at Alaska Policy Forum. He is currently studying nuclear science and engineering at the Massachusetts Institute of Technology.

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I hereby certify that on October 20, 2020, I caused to be served, as indicated below, a true and correct copy of the foregoing Staff Report, Notice of Late Filing, and this Certificate of Service to:

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