

**ALASKA STATE LEGISLATURE  
LEGISLATIVE BUDGET AND AUDIT COMMITTEE**

September 28, 2022

1:00 p.m.

**MEMBERS PRESENT**

Senator Natasha von Imhof, Chair  
Representative Chris Tuck, Vice Chair  
Senator Peter Micciche  
Senator Lora Reinbold  
Representative Ivy Spohnholz  
Representative Andy Josephson  
Representative Neal Foster  
Representative James Kaufman  
Senator Click Bishop (alternate)  
Representative Dan Ortiz (alternate)

**MEMBERS ABSENT**

Senator Bert Stedman  
Senator Lyman Hoffman

**OTHER LEGISLATORS PRESENT**

Senator Jesse Kiehl  
Representative Sara Hannan  
Representative Bart LeBon  
Representative Bryce Edgmon  
Senator David Wilson  
Representative Matt Claman

**COMMITTEE CALENDAR**

REPORT: ALASKA PERMANENT FUND CORPORATION INVESTIGATION

**PREVIOUS COMMITTEE ACTION**

No previous action to record

**WITNESS REGISTER**

HOWARD TRICKEY, Attorney at Law  
Schwabe, Williamson & Wyatt PC  
Anchorage, Alaska

**POSITION STATEMENT:** Presented a report on the Alaska Permanent Fund Corporation Investigation and answered questions.

CHRISTOPHER SLOTTEE, Attorney at Law  
Schwabe, Williamson & Wyatt PC  
Anchorage, Alaska

**POSITION STATEMENT:** Presented a report on the Alaska Permanent Fund Corporation Investigation and answered questions.

**ACTION NARRATIVE**

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**CHAIR NATASHA VON IMHOF** called the Legislative Budget and Audit Committee meeting to order at 1:00 p.m. Representatives Spohnholz, Josephson, Foster, Kaufman, Ortiz (alternate) (via teleconference) and Tuck, and Senators Reinbold, Micciche (via teleconference), Bishop (alternate) and von Imhof were present at the call to order.

**Report: Alaska Permanent Fund Corporation Investigation**

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CHAIR VON IMHOF announced that the only order of business would be Report: Alaska Permanent Fund Corporation (APFC) Investigation.

CHAIR VON IMHOF read from prepared remarks, as follows [original punctuation provided]:

I would like to open with a sincere thank you to all of you here today present and on this committee, for us joining to hear the results of the investigation into the circumstances surrounding the termination of the previous Alaska Permanent Fund Corporation CEO Angela Rodell. And thank you to counsel for being here today and for completing this extensive investigation in a timely manner.

I am going to start out with a brief review of the circumstances that brought us here today. Per statute- AS 24.20.156 this committee has the responsibility for providing the legislature with fiscal analysis, budget reviews, audits and performance reviews of state government agencies, to

the extent to which the performance of the agencies contributes to the fiscal, financial, economic, and social improvement of the state and its citizens.

The Permanent Fund provides nearly 70 percent of the state's government annual revenue. It is imperative that the fund is protected from political intervention or manipulation to ensure the fund's continued growth and stability. Without that assurance, the fund's sustainability for Alaskans is in jeopardy.

The motivation of this committee to look into the APFC's boards unusual behavior was threefold:

First, this committee wanted to know the circumstances behind Ms. Rodell's termination last December 2021—which was abrupt and without explanation and without a clear plan for a professional and timely leadership transition.

Second, as a committee it is our duty to perform due diligence and learn more about the process by which the Alaska Permanent Fund Board evaluates, supports and as the case may be, potentially terminates the Executive Director and CEO of the Fund.

And third, this Committee's statutory purpose and goal is to ensure that the Fund, Alaska's nest egg, stays politically independent from both legislative and executive political influence.

So, to reiterate, it is of great interest to the LB&A committee to keep the APFC politically neutral, to keep it performing at its highest and best potential, and to ensure that board governance is conducted in the most professional manner. Anything short of that risks weakening the fund.

In January of this year, this committee voted to hire SCHWABE, WILLIAMSON & WYATT law firm, to conduct a professional, unbiased, independent, and objective investigation, to be conducted at arm's length from this committee and from the political process.

The result of this investigation is a thorough written report that committee members have in front of them.

Schwabe counsel will begin this meeting by reviewing their executive summary, which reviews the purpose and scope of the investigation, as well as the activities performed. This section will take approximately 30 minutes. I ask that committee members withhold their questions until after this initial overview is complete.

Next, counsel will go over the specific findings, using the aide of power point slides. My intent is to stop periodically, perhaps at the end of each slide, or the end of the set of slides, depending on what makes sense.

I am anticipating that this will take three hours. We could go over, but we have a hard stop at 5:00 p.m. today.

At this time, there is no plan to go into executive session. This meeting will remain public. If, however, it does become apparent that it could be appropriate to go into executive session, the committee does have the right to discuss the merits of this action.

At the conclusion of today's meeting, this report, including the full transcripts of all depositions, as well as attached exhibits, will be uploaded electronically to BASIS and available to the public.

And finally, at this time, there will be no committee motion to consider today, nor a committee vote at the end of this report. The purpose of today is to listen, consider the presentation, and if at a later date the committee would like to propose an action, they may do so at a future meeting.

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HOWARD TRICKEY, Attorney at Law, Schwabe, Williamson & Wyatt PC, offered biographical information for himself and his associates and explained the firm's approach to and scope of the investigation. He explained that the investigation had been conducted in a fair and impartial manner and without instructions or guidance from the Legislative Budget and Audit Committee. He stated that the firm had not and was not acting in an advocacy capacity during the investigation and the purpose

of the investigation was to provide facts. He added that the investigation had occurred within the general civil standard of fact finding which presented a preponderance of evidence and it did not espouse any speculation or inferences. He stated that the investigation focused on three questions: what the process for the trustees was to evaluate the performance of the Executive Director that led to the termination; what the underlying reasons were which the trustees had for their decision to terminate; and, what, if any, political influence by the governor had played into the decision to terminate.

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MR. TRICKEY stated that the investigation had revealed three fundamental facts. The first he described as that the trustees had reached a consensus that each had lost confidence in the leadership abilities of Ms. Rodell. He stated that the trustees who had voted for termination had separate and independent reasons for so doing. He stated that the next finding was that the APFC governance charter regarding the executive director's responsibilities contained specific performance evaluation criteria and a process that he characterized as good and sound practice, but that the trustees did not follow. He noted that there did not exist any direct or credible circumstantial evidence that the executive branch or the governor had exerted any undue influence on the trustees to effect their decision. He noted that there existed some political motivations among the trustees that led to their decision but that those had not risen to be that of a substantial motivating factor. He explained that the firm would offer a presentation entitled, "Schwabe Williamson & Wyatt Powerpoint Presentation to LBA Committee 9-28-22.pptx," [included in the committee packet] and referred the committee to additional materials [included in the committee packet,] entitled "Schwabe Williamson & Wyatt Report to Legislative Council 9-28-22 PUBLIC REPORT.pdf," for more detailed information on the findings.

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CHRISTOPHER SLOTTEE, Attorney at Law, Schwabe, Williamson & Wyatt PC, began his testimony by explaining that the APFC Board of Trustees Charter of Governance Policy, (Charter) governs the management and operations of the APFC and it includes a charter on the executive director, which has a detailed description of the executive director's duties and responsibilities. He noted that the Charter provisions are detailed, thorough, and meet fiduciary standards. He noted that the most recent change to

the Charter had occurred in December of 2020. He added that the Charter includes an executive director annual performance evaluation policy which contains a policy and substantive criteria and includes the use of an anonymous survey tool. He stated that the trustees have not historically adopted consistent evaluation instruments and processes that apply to the relevant [inaudible] of the charter. He stated that the trustees had evaluated the Executive Director on an annual basis but that the evaluation process had changed. He noted that substantive changes to the evaluation process had occurred in 2019, 2020, and 2021 including who had participated in the survey process, who compiled the results, changes in those who completed the survey, and changes to the evaluation criteria. He noted that the evaluation process had not resulted in a clear set of goals for the Executive Director to achieve, had not resulted in guidance on performance improvement or where she may not be meeting expectations, had not resulted in consistent feedback. He stated that in 2016 and 2017, the Executive Director had received positive evaluations with a performance rating between 4 and 5 on a 1-5 scale, with 5 being the highest in each of 17 evaluation categories. He noted that general comments had been positive. He stated that in 2018 the evaluations took on a less positive tone and the average scores for 12 of the 17 categories had fallen to an average of below 3, on the 1-5 rating scale. He stated that the lower scores were mainly in the areas of staff communication and delegation. He paraphrased trustee comments that included "managing... to advance her own agenda." He stated that the trustees had directed the Executive Director and leadership team to attend executive leadership training to address concerns raised in the evaluation process. He added that, in 2018, the trustees had voted to increase her salary by 3 percent. He stated that, in 2019, then-Vice-Chair Carl Brady drastically simplified the evaluation criteria to that of only two questions requiring a narrative answer. The first question asked for examples of what the executive director does well, and the second question asked how the executive director could improve. He stated that some of the answers to the first question included compliments to her passion, her energy, the APFC's overall performance, and her understanding of government and of APFC's governing documents. He stated that some of the answers to the second question included criticism of the Executive Director's relationships with staff and the board. He added that comments had expressed the sentiment that the Executive Director had manipulated the board to serve her own agenda. He stated that, when trustees were asked to provide specific examples of her acting to further her own agenda, trustees either disavowed the claim or were not

able to provide specific examples. He noted that the critical performance evaluations had occurred coincidental to a turnover on the board. He stated that the investigation into the poor performance evaluations had not revealed substantive changes to her approach to performing her job duties. He stated that the negative performance reviews may have been a result of new trustees with different expectations for, and perspectives on, her performance. He noted that, in 2020, the trustees had elected Trustee Moran as Chair and Trustee Rieger as Vice-Chair and added that the vice-chair is the Chair of the Governance Committee and is responsible for the Executive Director's annual performance review. He stated that Trustee Rieger developed a new evaluation instrument and set of evaluation criteria, and he had retained the services of an independent human resources consultant to develop the instrument and to summarize the results of the evaluation process. He noted that the new evaluation process included responses from direct reports and from other APFC staff in what is known as a "360-degree review," among 15 categories of performance. He stated that the ratings had been between 2.89 and 3.89 on a scale of 1-5, with 5 being the highest.

MR. SLOTTTEE stated that the lowest evaluation ratings had been those made by the investment staff. He stated that 5 of the 6 trustees had completed the survey. He stated that the evaluation results had been compiled by the consultant and presented to the trustees. He noted that the 360-degree review did not comply with the provisions for evaluation in the Charter and had not included criteria measuring the achievement of the fund's goals and objectives, nor on the Executive Director's achievement of special projects.

MR. SLOTTTEE went on to explain that, in 2021, the board elected Trustee Richards as Chair and Trustee Mahoney as Vice-Chair, making Trustee Mahoney the Chair of the Governance Committee. He added that the Governance Committee included Trustee Richards and Trustee Rieger. He stated that the same evaluation tool was used and sent to all APFC employees, but that no independent consultant was engaged to distribute the survey and compile the results, and that decision was based on an attempt to save money and on Trustee Mahoney's previous experience in administering 360-degree reviews. He stated that all staff were permitted to participate in the review, despite whether or not they had experience in the areas of review. He stated that Trustee Mahoney compiled the results and, in consultation with APFC's Human Resources Director, Chad Brown, drafted a summary report.

He noted that average ratings ranged between 3.35 to 4.11, and the average overall rating was 3.6 across all 14 categories.

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MR. SLOTTTEE continued, the evaluation conducted under Trustee Mahoney's supervision did not follow the Charter and did not follow standard human resources practices. In particular, the evaluation tool lacked any meaningful focus on the objective performance criteria prescribed by the Charter's Evaluation Policy, including the achievement of the goals and objectives of the APFC; the completion of specific projects and initiatives set out in the strategic plan for that fiscal year; the implementation of board policies and reporting requirements; and compliance with the Executive Director's Charter. The evaluation further failed to comport with best practices because it went to some evaluators with no knowledge or experience with individual performance indicators within a rating category, who nevertheless provided ratings in those categories. The categories and indicators within categories were also occasionally redundant.

MR. SLOTTTEE further explained that the evaluation summary prepared by Trustee Mahoney was also deficient. It overemphasized negative comments by including almost all negative comments, but not all of the evaluators' positive comments. It did not provide a comparison to scores from the prior year, when such a comparison showed an improvement in Ms. Rodell's scores. Finally, the evaluation summary Trustee Mahoney prepared did not account for the "halo/horn" effect of extreme raters who harbored obvious bias, either favorable or unfavorable, toward the Executive Director. The 2021 evaluation tool did not provide a complete assessment of the Executive Director's performance.

MR. SLOTTTEE continued that the Executive Director's annual evaluation was on the agenda for the trustees' quarterly meeting on December 8 and 9, 2021. On December 8, 2021, the trustees convened an executive session to begin discussion and consideration of the annual evaluation results. The private, closed-door meeting extended over two days, reconvening on December 9, 2021. The Executive Director did not participate in the board's evaluation of her performance during executive session. The trustees discussed the Executive Director's performance in executive session over parts of two days but never allowed the Executive Director the opportunity to address their concerns. Initially, there was no unanimous decision to

terminate the Executive Director, although several trustees testified that things were clearly headed in that direction by the end of the first day. The trustees reached a majority consensus to terminate the Executive Director by the end of their deliberations on the second day. After the trustees' deliberations, the Executive Director was called into the meeting and advised by Chair Richards that the trustees had decided to move in a new direction. The Executive Director was given the option of resigning or being terminated. The trustees did not provide the Executive Director the reasons for her termination. Ms. Rodell elected to be terminated and angrily told the trustees that there would be political consequences for their actions. When the trustees came back into public session, Chair Richards, Vice-Chair Mahoney, Trustee Feige, Trustee Schutt, and Trustee Rieger voted in favor of terminating the Executive Director. Trustee Moran voted against termination.

After terminating Ms. Rodell, the trustees issued a press release that simply stated the fund would be moving in a new direction: "After the review and completion of the annual Executive Director evaluation, the Board of Trustees of the Alaska Permanent Fund Corporation have decided to undertake a search for a new executive director to lead the Permanent Fund in its continued growth and evolving role in support of Alaska." The trustees gave little to no consideration to how to explain the termination decision to the public or to the legislature. The trustees did not anticipate that the public would seek some explanation for why Ms. Rodell was terminated.

MR. SLOTTIE explained that, based on the testimony of the trustees, each trustee who voted in favor of termination had different reasons why they believed the fund needed new leadership. The primary consensus reasons that emerged from the trustees' deliberations justifying the termination was that the trustees lacked confidence in the Executive Director's leadership, concerns over the Executive Director's relationship with the board, and that some trustees lacked trust in the Executive Director. Most of the trustees also thought the low scores in the survey from the investment team indicated that Ms. Rodell had not improved her working relationship with the investment team. The trustees thought and feared there was a risk that the Corporation would lose top investment talent. For the majority of the trustees, their fiduciary duty compelled them to support termination because the trustees delegate their fiduciary duty to invest the funds for Alaskans to the investment team, and retaining a talented investment team was paramount. Although various comments in the 2021 Evaluation

Report cited a lack of trust and candor by the Executive Director, there was little objective evidence supporting such considerations as a cause for termination. Each trustee was asked under oath to provide concrete, specific examples of what the Executive Director had done or said that would support such a conclusion. The trustees could not point to a situation in which the Executive Director actually misled the trustees or withheld or manipulated information, though some trustees voiced unsubstantiated concerns she may have done so. The trustees gave little weight to the performance indicators in the survey evaluation, except for the scores from the investment team. Only four of the six trustees completed the evaluation survey themselves in 2021. The trustees who voted to terminate Ms. Rodell gave little to no weight to the fact that APFC has enjoyed record-breaking returns under her leadership. The trustees declined to credit Ms. Rodell for these returns because they attributed them to prevailing market conditions and attributed the gains to a team effort led primarily by investment staff. While the trustees chose not to explain their reasons for terminating Ms. Rodell to her when they called her into the executive session or to the public, a lack of confidence in the leadership of a Chief Executive Officer is a sufficient reason to support the termination of such a high-level executive. The trustees' subjective assessment of their level of confidence in the Executive Director's leadership is a legally sufficient reason for their decision based on their direct working relationship, communications, and interactions with Ms. Rodell.

SENATOR VON IMHOF interjected at this point in the presentation to invite committee questions.

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REPRESENTATIVE JOSEPHSON referred to paragraph 20 of the report pertaining to legal sufficiency. He noted that he had extensive knowledge of the covenant of good faith and fair dealing and he stated that he considered his role to be to protect the state's coffers against lawsuit. He asked whether the covenant of good faith and fair dealing would require evidence that a jury would find legally reasonable, and whether the firm was asserting that it had found it to be so. He added that "at-will" employment status was a misnomer.

MR. SLOTTEE answered that, under the covenant of good faith and fair dealing, there exist two aspects. He described the first to be the objective requirement to treat the employee in a fair

manner, and the second to be the subjective requirement that the employee may not be terminated on an unfair basis. He stated that the firm had found during its review of the facts that the trustees had a lack of confidence in the Executive Director and had expressed concerns over attrition among the investment staff. He opined that those findings would amount to a legally sufficient reason for termination.

REPRESENTATIVE JOSEPHSON referred to the section of the report that indicated that the lack of trust and candor could not be adequately explained by the trustees and he asked why that would be perceived as objectively reasonable.

MR. TRICKEY offered two responses to Representative Josephson's question. He noted that the reasons given by the trustees were supported by his/her direct experience in working with the Executive Director in the 6-9 months preceding the termination and had been found to be valid. He added that in cases that had involved bad faith dealings, evidence is found that the reasons given for a termination are found to be false. He allowed that the reasons given were subjective in nature, involving trust and confidence, and that the testimony and underlying events and circumstances had supported the decision. He offered that courts have instructed in good faith and fair dealing cases that while senior executives in an organization may not agree with the decisions of the employer, it is ultimately the employer's decision to make. He stated that no evidence was found that the reasons were false or implausible.

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REPRESENTATIVE TUCK noted that there existed an objective evaluation process in the corporation's Charter that had not been followed, and he asked whether the process that had been implemented was more subjective in its nature.

MR. SLOTTEE answered that the survey processes in 2020 and 2021 consisted entirely of subjective commentary and scoring by the trustees and by APFC staff. He noted that varying weights of the survey results in 2021 had been taken to guide the decision to terminate and had appeared to have been based on each trustee's individual, personal interactions with Ms. Rodell. He stated his belief that, had the evaluation policy in the Charter been used during the evaluation, it would have produced a more accurate performance evaluation result.

MR. TRICKEY added that the Charter performance evaluation would provide for more objective performance evaluation and metrics and would be easier to verify. He added that the trustees could still make subjective evaluations.

CHAIR VON IMHOF asked whether the Charter document would be available on BASIS, which was confirmed that it would.

REPRESENTATIVE TUCK suggested that there may be no unlawful aspect to a subjective decision to terminate an employee and rhetorically stated, "just because you can, doesn't mean you should," and expressed his interest in understanding the full presentation and report. He suggested that some performance measures may have been overlooked, and the decision to move forward with termination rather than performance improvement may have been affected.

MR. TRICKEY noted that the trustees had relied on the survey scores from the investment team and the trustees' evaluations. He noted that prior evaluations shared the trend of low scores from investment staff. He noted that the trustees had expressed concerns over losing top fiduciary investment staff considering the trend of low evaluation scoring of the Executive Director. He suggested that it may have been objective evaluation that the investment team scores were lower.

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REPRESENTATIVE TUCK noted that returns on investment had been attributed to prevailing market conditions, and some contradictory information in the report that characterized the returns as being fantastic, despite market volatility. He asked how it had been concluded that there existed good returns in a volatile market. He asked whether the conclusion was based on other organizations' performance over the same period, or it had been based on the corporation's own determination.

MR. SLOTTIE stated that it had been a comment submitted by either APFC staff or a trustee during the course of the survey.

CHAIR VON IMHOF noted that paragraph 18 of the report reflected that only four of the six trustees had completed the evaluation themselves. She stated her belief that it was of concern that not all had completed the evaluation on a matter of such importance.

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SENATOR REINBOLD commented that page 64 of the report that concluded with the finding that, "Trustees did not follow the APFC Charter in all material respects with regard to their evaluation of the Executive Director. The Trustees did not use an evaluation instrument or process to assess the Executive Director's performance that was consistent with the Executive Director Performance Evaluation Policy." She stated her concern of a lack of objectivity in the evaluation process.

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MR. SLOTTEE went on to explain that each trustee testified regarding their respective initial reasons for either supporting or opposing termination of the Executive Director. Trustee Schutt was troubled by a June 18, 2021, press release the Executive Director issued during an impasse in budget negotiations between the governor and the legislature. The press release explained the negative consequences that a government shutdown would have on the APFC. Trustee Schutt viewed the press release as taking aim at the governor, and improperly staking out a position in a politically fraught dispute between the executive and legislative branches. Trustee Schutt was also concerned that the press release was inaccurate, and that the APFC would be protected in the event of a government shutdown. Trustee Schutt was also concerned about what he described as an "unnatural and unhealthy tension" between the Executive Director and certain trustees. He recalled an incident at the September 2021 annual meeting in Kodiak in which he claims the Executive Director acted unprofessionally toward Trustee Mahoney and unfairly accused her of not acting in the best interests of the APFC. Trustee Schutt also testified that, based on his experience serving as an executive and on boards of directors, when a senior executive's relationship with the board is negative, it can be better and more effective for the organization to go in a different direction than attempt to divert the resources and time needed to try and fix the problem. Trustee Schutt expressed concern about the low scores on the survey from the investment team and expressed concern about the risk of losing the top-level members of the investment team.

MR. SLOTTEE continued, Trustee Mahoney's primary concern was a tension between the Executive Director and APFC's investment staff, as reflected in comments and low ratings that investment staff provided in response to the 2021 survey. Trustee Mahoney worried about investment staff attrition. Trustee Mahoney

testified that she began to question the Executive Director's leadership at the 2021 annual meeting in Kodiak and in the budget workshops leading up to that meeting. According to Trustee Mahoney, the Executive Director's proposed budget was inflated and unrealistic, and she felt the Executive Director lashed out at her when Trustee Mahoney expressed her view that the budget was too high. Trustee Mahoney testified she was also disappointed in the Executive Director's decision to invite a mediator to the board meeting to facilitate a discussion about strategic plan implementation with the board. Trustee Mahoney had a vision that the fund would grow to be a \$100 billion fund and that new leadership would be needed for the fund to reach this goal.

MR. SLOTTEE continued, Trustee Feige was troubled by the Executive Director's June 18, 2021, press release regarding the effects a government shutdown would have on the APFC. She viewed the press release as "wildly inappropriate," "inaccurate," and overtly political. It played a "major role" in her decision to vote in favor of termination. Trustee Feige also described the Executive Director's plan to have a mediator facilitate discussions with the trustees at the 2021 annual meeting in Kodiak as a "bright line event." In Trustee Feige's view, this plan demonstrated that the Executive Director was not comfortable engaging directly with the board and evidenced a breakdown in that relationship.

MR. SLOTTEE continued, Trustee Richards testified to a variety of concerns about the Executive Director's performance dating back to his original term as Trustee in 2015 and 2016 and continuing through 2021. He was candid that he may have been in favor of terminating the Executive Director in 2018 and 2019, but the trustees at that time were not supportive of such a move. Trustee Richards's concerns were wide ranging, but his most pressing concerns during the 2021 evaluation process related to what he described as the Executive Director's strained relationship with investment staff, and the possibility of losing "another" Chief Investment Officer (CIO) or other top investors because of that relationship. He also cited the Executive Director's proposed addition of 15 new staff and plan to use a mediator as examples of a breakdown in the Executive Director's ability to communicate candidly and directly with the board.

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MR. SLOTTTEE continued, Trustee Rieger did not share the performance concerns expressed by Trustees Schutt, Mahoney, Feige, and Richards. He stated that Trustee Rieger testified that he had a lot of confidence in the Executive Director, and that the performance concerns raised by other trustees could be addressed. Trustee Rieger nevertheless voted in favor of termination because he viewed the situation in which a majority of the board had lost confidence in the Executive Director as "untenable," and believed it was therefore in the best interests of the APFC to move forward with the decision as quickly as possible. Trustee Rieger testified that the trustees in favor of termination had valid bases for their concerns, though those concerns were not significant enough in Trustee Rieger's mind to justify terminating the Executive Director.

MR. SLOTTTEE continued; Trustee Moran was the only trustee who voted against terminating the Executive Director. In his view, the Executive Director's performance had been exceptional, and she deserved credit as one of the key principals in achieving record returns for the APFC, as measured both against internal benchmarks, and as compared with other large sovereign wealth funds. Trustee Moran described these achievements as "spectacular" and noted that APFC's advisors were very complimentary of the whole organization. Trustee Moran did not agree with the substantive criticisms of the Executive Director in the 2021 evaluation, and he maintained confidence in her leadership. However, although Trustee Moran disagreed with the substantive criticisms and the decision to terminate, he did not have concerns about how the decision was reached. In his view, the trustees who voted to terminate the Executive Director were acting in good faith in furtherance of what they believed was in the best interests of the APFC. In addition, a number of trustees cited comments made by Trustee Moran in executive session as confirming their inclination to move in a new direction. According to these trustees, Trustee Moran commented that the issues that the other trustees were raising with the Executive Director's leadership were part of her leadership style, and were not likely to change.

MR. SLOTTTEE concluded the presentation of the trustees' interview summaries by stating that, collectively, the reasons expressed by the trustees for their decision to terminate the Executive Director supported the termination as a matter of employment law, in that they were a valid exercise of the trustees' ability to terminate an at-will employee such as Ms. Rodell. A loss of confidence in the chief executive of an

organization such as the APFC is a sufficient legal reason under the legal standards applicable to at-will employment in Alaska.

MR. SLOTTTEE explained that the Alaska Permanent Fund Corporation is enmeshed in politics by virtue of its structure and purpose. APFC is within the Department of Revenue, an executive branch agency. The fund's annual budget is included in the governor's budget and must be funded by legislative appropriations. The trustees are appointed by the governor, and two trustees are members of the governor's cabinet. Given this structure, protecting the independence of the fund requires vigilance and strict adherence to fiduciary duties by the trustees. The trustees all acknowledged fiduciary standards as their compass in making decisions. The trustees' strict compliance with their fiduciary duties of loyalty and due care protect the fund from undue political interference. The relatively recent transition to using the fund's investment returns to fund state services has had further political implications for APFC. Historically, earnings on permanent fund investments were used primarily to fund Permanent Fund Dividends in accordance with a statutory formula. That changed in 2018, when, in the face of declining oil revenues, the state began drawing on investment returns to fund government services. The importance of the fund's financial performance had therefore changed in importance in Alaska. He added that the Board of Trustees has adopted resolutions advocating for or supporting the adoption of specific legislative and constitutional policies. The trustees expect the executive director to advance those policy positions in front of the legislature and to the executive branch. These expectations are also inherently political. The Executive Director testified to the political pressures inherent in the position because of these developments.

MR. SLOTTTEE stated that Ms. Rodell explained that when she was hired in 2015, "the focus was to generate positive returns that would, in effect, be used for [the] Permanent Fund Dividend. During my time as Executive Director, that changed substantially in the sense that there was no change in generating returns, but there was a change in the use of the fund. The state began using the fund for state government purposes. And there was a lot of pressure placed on my position to testify to the long-term sustainability of some of those plans. There was a big focus on ensuring the sustainability of the Permanent Fund. That was a turn away from what historically had been the executive director role. So it raised the profile of the position."

MR. SLOTTEE continued that, given all of the foregoing, it is neither reasonable nor feasible to expect that the Executive Director can be insulated entirely from political pressure or influence, making adherence to fiduciary principles even more important. There is no direct or circumstantial evidence that the governor directed the trustees to terminate the Executive Director. There was no direct evidence or credible circumstantial evidence that the governor knew in advance that the Executive Director would be terminated. Chair Richards, Trustee Feige, and Trustee Mahoney denied when asked directly if there had been any advance communications or directions from the governor regarding terminating the Executive Director. Non-commissioner Trustees Schutt, Rieger, and Moran also reported no contact whatsoever with the governor or his administration related to the Executive Director and did not perceive the other trustees to be acting at the direction or on the behest of the Governor's Office. The governor first learned about the termination from Trustee Feige when they were both attending a mining conference in Reno, Nevada. Trustee Feige testified the governor reacted with surprise when she told him about the termination of the Executive Director.

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REPRESENTATIVE JOSEPHSON stated that the APFC had generated a 16-page internal report concurrent to the one being presented to the committee. He allowed that he had not read the report, and said that it allegedly contained a reference that the governor was aware of issues regarding Executive Director Rodell. He asked whether the firm found the testimony, that the governor had reacted with surprise, to be credible.

MR. SLOTTEE answered that the conclusion had been based on the testimony of Trustee Feige under oath relaying her experience of his reaction.

REPRESENTATIVE JOSEPHSON stated that he had questioned Ms. Rodell during committee hearings on Senate Bill 26 and overdrawing the fund. He relayed that her answers consistently referred to APFC Board resolutions which, over time, were consistently directing that future actions should be taken with consistency and in a sustainable manner. He asked, relative to this topic and the occurrences at the Kodiak meeting, whether there had been any deposed testimony regarding the dividend. He opined that it could be taken as fact that the administration would have, and still would, welcome an overdraw to pay back past dividends. He characterized the issue as central.

CHAIR VON IMHOF cautioned that additional information yet to be presented may address the matter raised by Representative Josephson and advised that there are other interested parties online who may not have the full presentation before them, and the information was visible to remote attendees only on the screen.

MR. SLOTTEE agreed to proceed with the presentation.

REPRESENTATIVE TUCK further recommended conclusion of the presentation.

SENATOR VON IMHOF noted that the documents would be posted on BASIS by 5:00 p.m.

1:55:04 PM

MR. SLOTTEE, to the question posed by Representative Josephson, offered that Trustee Richards testified about several conversations with the executive branch regarding the Executive Director's performance. In a conversation with the governor about other matters, Richards took the opportunity to advise the governor that there were concerns about the Executive Director's performance. The governor responded by telling Richards that any decision regarding the Executive Director's performance or termination was solely that of the trustees to make. Trustee Richards had two conversations about the Executive Director's performance with Governor Dunleavy's Chief of Staff in the months preceding the trustees' decision to terminate. According to Trustee Richards, the Chief of Staff advised him to make sure the trustees followed a lawful process and documented the basis for any decisions. Trustee Richards explained he believed it was important to give the governor notice of potentially important decisions under consideration by the trustees that could impact state government. He stated that Trustees Richards, Feige, and Mahoney each denied under oath that they had communications with the governor's office regarding the decision to terminate Ms. Rodell prior to that decision being made, regarding the governor giving direction or a "heads up."

MR. SLOTTEE continued, in light of the fund's critical importance to sustaining government services and payment of dividends to Alaskans, and the trustees' adoption of resolutions requiring the Executive Director to advocate for certain policy positions, the Executive Director could not avoid being drawn into political discussions and debate around the funds available

for appropriations. When the Executive Director attempted to navigate these political waters, the trustees ultimately held it against her. In some cases, trustees viewed the Executive Director's actions and statements as being too political, such as a press release and a [Twitter] Tweet. In other circumstances, the trustees faulted the Executive Director for not advocating APFC's policy positions forcefully enough. In both cases, several trustees attributed the Executive Director's conduct as being driven by a personal "agenda," rather than APFC's agenda. He referred to Representative Josephson's earlier question and stated that, in 2018, the trustees adopted resolutions supporting a rules-based legal framework for transfers into, out of, and between the permanent fund principal account and Earnings Reserve Account. The resolutions directed the Executive Director to support the need for a rules-based framework in front of the legislature. Ms. Rodell testified that she did so, despite what she acknowledges were misgivings about the APFC advocating policy positions in front of the political branches. Some trustees perceived, fairly or not, that the Executive Director was not advocating forcefully enough for the positions adopted by resolution.

MR. SLOTTEE continued, in light of the high stakes and politically charged operating environment for anyone serving as the chief executive officer of the APFC, the need to have a fair, objective evaluation instrument that measures performance in relation to clear objectives and implementation of the strategic plan of APFC is critical to preserving the sustained performance and independence of the fund. The Charter provides a good and effective process for evaluating the performance of the Executive Director. The trustees should follow the mandates of the Charter to minimize bias and improper attribution of unsupported motives.

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REPRESENTATIVE TUCK agreed that the trustees should follow the evaluation process in the Charter and minimize bias and improper attribution and asked whether it was unlawful to use bias and improper attribution in terminating an at-will employee.

MR. TRICKEY answered that direct personal experience with someone informs one's decision. He stated that the firm had found no evidence of overt bias and he allowed that there may have existed a personality conflict between the Executive Director and a trustee. He added that the firm was drawing a distinction between subjective decisions based on relevant

factors for an executive board, and for relationships, trust and confidence and that trust and confidence are inherently subjective. He stated that a personality conflict could unfairly influence an evaluation. He added that, when a relationship is strained and communication difficulties exist and are supported by facts, it would support a board member's subjective conclusion that he/she had lost confidence with that person. He stated that a solid evaluation tool includes objective measures to minimize or eliminate bias.

REPRESENTATIVE TUCK stated his reason for asking the question was curiosity that, if the Charter evaluation process had been used, whether improvements could have been made. He noted that APFC is very publicly visible, and conflict in the public which is predicated on no clear guidance amounted to the executive being "between a rock and a hard place." He suggested that deviating from the evaluation process in the Charter would allow for the board to make mistakes. He stated his observation that there existed a conflict between personality and performance and suggested that the fund's performance would be hard to deny, and it may have contributed to some trustees conflicted with the decision to terminate. He suggested that third-party, positive evaluations, including "Best Places to Work," would necessarily be attributed to the Executive Director.

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SENATOR BISHOP referred to page 11 of the report, under item B.1 which read, in part: "Given this structure, protecting the independence of the Fund requires vigilance and strict adherence to fiduciary duties by the Trustees. The Trustees all acknowledged and adhered to fiduciary standards..." and he asked how much fiduciary training trustees had received since their appointment to the board.

MR. TRICKEY answered that, once appointed, a trustee receives training on fiduciary duties and standards, and ongoing training annually.

MR. SLOTTEE added that trustees do not receive training on evaluating the Executive Director, nor do they receive training on the use of a 360-degree survey. He noted that, in 2021, the board did not have an outside consultant to provide expertise in evaluations. He stated that, in 2020, an outside consultant had been retained. He added that Ms. Rodell had testified that the 2020 evaluation had provided feedback that she characterized as, for the first time, helpful.

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REPRESENTATIVE SPOHNHOLZ asked whether the foundation of the individual trustees' testimony regarding the Kodiak meeting had been based on the evaluation and asked whether the trustees held the belief that they had received an objective evaluation report, in light of the revelation that the comments provided to the board had been "cherry-picked" and may have misrepresented the totality of the evaluation.

MR. SLOTTEE answered that the trustees had assigned a variety of weights to the evaluation results, with some weighting the scores more heavily, and some weighting the comments more heavily. He stated that it was not shown that any of the trustees questioned the report prepared by Trustee Mahoney. He stated that the board did not have training in evaluation and had only been provided with the summary report prepared by Trustee Mahoney that did not include all the comments.

MR. TRICKEY added that there had been the appearance of a cumulative effect of happenings in 2021 that led to the lack of confidence. He noted that there had been the June 2021 press release that addressed the budget impasse between the governor and the legislature. He added that a Tweet had been released in August of 2021 correcting fund balances, and the September 2021 Kodiak meeting at which there had been events described as "disturbing" by the trustees. He stated that these were the key points of the discussion regarding Ms. Rodell's lack of judgment and ineffective communication in relationships.

2:08:46 PM

CHAIR VON IMHOF asked whether the trustees held any concern or expressed regret that they had not followed the Charter, that they had brought the evaluation process in-house, that only four of the six trustees had participated, or that not all the comments had been provided to the board.

MR. SLOTTEE offered background information on the evaluation process and drew attention to the slideshow presentation entitled, "Schwabe Williamson & Wyatt Powerpoint Presentation to LBA Committee 9-28-22.pptx," [included in the committee packet,] slides 4-5, which read as follows [original punctuation provided]:

The policy was intended to:

Ensure that the Executive Director receives appropriate and useful feedback on their performance from the Board on an annual basis, and Help develop clear and meaningful performance objectives for the Executive Director.

The policy identifies specific criteria to evaluate Executive Director's performance against.

- (a) Achievement of the goals and objectives of the APFC;
- (b) Completion of the specific projects and initiatives set out in the strategic plan for that fiscal year;
- (c) Implementation of Board policies and reporting requirements;
- (d) General leadership and management skills; and
- (e) Compliance with the Executive Director's charter.

MR. SLOTTIE described the Governance Committee's process for initiating and coordinating the annual survey and review process, as depicted on slides 6-7 of the presentation, which read as follows [original punctuation provided]:

The Vice Chair meets with Executive Director to develop survey.

The Vice Chair distributes a package of survey materials to Trustees.

Trustees complete survey and a summary report is presented to the Governance Committee.

The Governance Committee reviews the report and submits it to the Board of Trustees.

Trustees meet in executive session to discuss the evaluation results.

The Governance Committee prepares a draft Evaluation Report.

The Trustees then meet with Executive Director in executive session to discuss the evaluation and opportunities for improvement.

The Trustees approve the Evaluation Report, which is to be signed by the Chair, Vice Chair, and Executive Director.

The Evaluation Report is filed in the Executive Director's personnel file.

MR. SLOTTEE added that the meeting between the Governance Committee and the executive director includes a discussion to identify and agree on any changes to the content of the survey questions. He added that the survey is distributed to the trustees in advance of the board's fourth quarterly meeting each December.

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MR. SLOTTEE continued explaining the evaluation process, as depicted on slide 8 of the presentation, which read as follows [original punctuation provided]:

An effective evaluative process adequately and fairly documents past performance while outlining expectations for future performance.

The process should enable the identification of under-performance in key areas while identifying significant strengths and achievements towards the organization's mission.

APFC's Performance Evaluation Policy, as drafted, adopts sound HR practices for executive leaders.

MR. SLOTTEE stated that the investigation had revealed that the evaluation process had largely remained the same during Ms. Rodell's tenure, but the trustee's adherence and application of the policy had not. He summarized that the policy had changed in different ways, not all trustees completed and submitted the evaluation surveys each year, and the specific mandates of the policy were not followed. He stated that the Governance Committee did not meet and did not prepare reports for submission to the board, and documented only one instance, in 2018, in which the evaluation report had been completed and signed by all parties.

MR. SLOTTEE related that, during the interviews of the trustees, they had been asked about the policy not having been followed. He summarized the responses from the trustees to be that they had considered the deviation from the policy to be non-material. He stated that the board did not consider the meeting of the Governance Committee as essential and they had proceeded to the meeting of the full board. He stated that the trustees' choices to not participate in the survey indicated a lack of priority or importance on the evaluation.

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CHAIR VON IMHOF asked what the firm's consultant had surmised about the "non-material deviations" from policy.

MR. SLOTTEE related that the consultant had endorsed the policy as a good one and that it should be followed. He added that the consultants had concluded that the evaluation process in 2021 had not resulted in a complete and fair evaluation of Ms. Rodell's performance.

CHAIR VON IMHOF asked whether the consultant's opinions would be available in the report that would be made publicly available, which Mr. Slottee confirmed that it would.

[2:15:27 PM](#)

REPRESENTATIVE SPOHNHOLZ asked that, if the board did not follow its own policy, what the point would be of having such a policy.

MR. SLOTTEE offered his opinion as an attorney that if an organization has a policy, then it should be followed. He offered that it would not be possible to know whether a different outcome in the evaluation would have occurred would the policy have been adhered to in 2021. He stated that, had the policy been followed from 2015 - 2021, it may have resulted in constructive feedback that could have enabled Ms. Rodell to address concerns raised by the board.

REPRESENTATIVE SPOHNHOLZ asked whether it was a reasonable expectation by an Executive Director that a board would follow its own policy.

MR. SLOTTEE answered yes, and he noted that neither Ms. Rodell nor any of the trustees had objected to the existing policy.

REPRESENTATIVE SPOHNHOLZ asked whether it is illegal to not adhere to a policy if it is part of a governing document.

MR. SLOTTEE answered no, and that the board may change its policies either formally or informally. He stated that it was "probably not good practice" to not follow an existing policy.

REPRESENTATIVE SPOHNHOLZ asked whether the board had the ability to change the policy but never did.

MR. SLOTTEE answered that it would be accurate to say that the board did not follow the policy and it did not adopt any formal change or amendment to the policy. He stated that a board may collectively decide to disregard a policy in one instance, and he characterized such a decision as not being good corporate governance and would typically be advised against.

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MR. TRICKEY addressed Senator von Imhof's question of whether the board had reflected on its decisions and whether they had expressed any regret. He stated that there were new members of the board which had resulted in some inconsistency, and that Chair Richards had, when asked, recognized that changing the evaluation over the years had resulted in the Executive Director having received inconsistent feedback. He added that there appeared to be a disconnect between the board's expectations and Ms. Rodell's understanding of what was expected of her. He attributed that disconnect to the deviation from the Charter's evaluation process. He stated that the most striking disconnect was that Ms. Rodell held the belief that she was evaluated on the overall performance of the fund, and that the performance of the fund reflected on her leadership of the organization. He added that the board placed nearly no weight on the overall performance of the fund to the Executive Director's performance. He stated that the performance of the fund was credited to the investment team and not to any one individual.

SENATOR VON IMHOF stated that Chair Richards had acknowledged responsibility and asked whether he had taken any accountability for the decisions, since he had been a member of the board through Ms. Rodell's tenure. She asked who hires the investment team.

MR. SLOTTEE answered that the Executive Director, in accordance with the Executive Director Charter, is responsible for identifying investment staff and that the board may have final say over the higher-level staff, such as the Chief Investment Officer (CIO). He referred to Exhibit 1, entitled, "EXH 1.pdf" [included in the committee packet] that contains the policy specific to the Executive Director's Charter, beginning on page 14, which read as follows [original punctuation provided]:

The Executive Director will develop and recommend to the Board:

- (a) An investment policy, including the Board's overall investment philosophy, and mechanism for monitoring and managing investment risk;
- (b) The long-term or strategic asset allocation of the Fund in terms of the proportion of total assets to be invested within a minimum-maximum range at any point in time; and

The Executive Director will implement all investment policies and strategies as approved by the Board.

The Executive Director will direct that appropriate financial and operational controls and procedures are put in place to safeguard the assets of the Fund

CHAIR VON IMHOF asked Mr. Slottee to repeat who is responsible for the hiring of investment staff.

MR. SLOTTTEE answered that the information provided had been excerpted from the Executive Director charter policy document as adopted by the trustees.

[2:22:33 PM](#)

REPRESENTATIVE JOSEPHSON asked whether at-will employees who had been terminated have brought action and had prevailed and won damages.

MR. TRICKEY affirmed that it was true.

REPRESENTATIVE JOSEPHSON stated that the firm's consultant had concluded that Ms. Rodell had not received a complete and fair evaluation and asked whether that conclusion could be presented as evidence to a jury regarding the objectivity of a termination.

MR. TRICKEY answered that it is possible and that the board would be permitted to explain its reasons other than those concluded in the investigation for the basis of their decision to terminate. He stated the investigation and depositions regarding the decision to terminate had not found that any of the reasons for termination were false.

REPRESENTATIVE JOSEPHSON noted that some of the trustees had based their decision on the evaluation and some had not, and he asked whether a faulty evaluation leading to a termination would result in a problem for the board.

MR. TRICKEY answered yes in the context of a prima facie for a breach of the covenant of good faith and fair dealing it would be an unfavorable fact for the board. He noted that this was one fact among others including reasons that are sufficient pertaining to the top executive of an organization. He allowed that it may be difficult in this case because the consensus reason was lack of confidence, and the use of an objective evaluation tool would likely have resulted in the same reason.

REPRESENTATIVE JOSEPHSON referred to the statement of findings in the report that the trustees faulted the Executive Director for not advocating APFC's policy positions forcefully enough and asked what positions the board had considered Ms. Rodell to be not adequately forceful in advocating. He postulated that the legislative record would provide evidence that Ms. Rodell had been forceful regarding a rules-based framework.

MR. SLOTTEE offered that the general testimony was regarding more than this issue and that the board had not specified what Ms. Rodell's own agenda had been, but the consensus was that it was different than the board's agenda. He noted that Chair Richards had testified that Ms. Rodell did support the APFC's resolutions regarding the Percent of Market Value (POMV) approach, with which he took no issue. He offered two potential examples of differing agendas, one in which there was a proposal for an APFC Anchorage office, and the other was the compensation proposal.

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REPRESENTATIVE TUCK surmised that the problems emerged in the latter half of 2021 and asked whether the press release and tweet were inconsistent with those she had issued prior.

MR. SLOTTEE noted that the press release had been identified by at least two of the trustees as a pivotal event.

REPRESENTATIVE TUCK asked whether the Executive Director would have the authority to discipline or reward a CIO after his/her hire.

MR. SLOTTEE answered that the day-to-day operations are the responsibility of the Executive Director, including the selection of staff and staff training. The duties also include making policy recommendations and to make recommendations for compensation based on the board-approved compensation policy.

He offered that the selection of the CIO position and the board's involvement was not associated with a governance document but rather was a matter of practice.

REPRESENTATIVE TUCK said that there had been one CIO that had left the corporation with no reason given and asked whether a reason had ever been determined.

MR. SLOTTEE stated that the departure of a prior CIO was not within the scope of the investigation. He stated that Chair Richards had expressed his concern about the potential to lose the current CIO and had referred to the loss of a prior CIO. He stated that it was unknown why former APFC CIO Russell Read had chosen to leave. He added that several trustees had expressed concerns regarding the relationship between Ms. Rodell and the current CIO, Marcus Frampton, and they expressed their desire that he remain with the corporation. He added that Ms. Rodell had related her experience with Mr. Frampton to have started on a "somewhat rocky" basis, but that it had improved significantly since.

MR. TRICKEY added that the trustee with the longest tenure was Chair Richards, and Mr. Richards had testified that Mr. Read had departed due to a strained relationship with the Executive Director. He stated that there was a perception that low evaluation scores indicated a potential for the loss of top investment staff.

REPRESENTATIVE TUCK asked to confirm that the October [2021] board meeting was the one at which Ms. Rodell had invited a facilitator, which Mr. Slottee confirmed as true. He noted his prior experience with facilitators aiding in the development of strategic plans, and he asked if it was true that a facilitator had been invited to participate with no notice given to the board.

CHAIR VON IMHOF directed the committee to refer to page 12 of the presentation for information related to the line of questioning.

MR. SLOTTEE referred to the press release from June 2021, and he noted that some trustees had cited it as a significant event in their evaluation of Ms. Rodell. He explained that in June of 2021, the deadline for a state budget to pass without a government shutdown was approaching, and a budget impasse raised the potential for a government shutdown. On June 18, 2021, the Executive Director issued a press release explaining the

negative consequences that a shutdown would have on APFC's operations and investments. Mr. Slottee stated that the press release raised the possibility that APFC staff would be furloughed and would not be able to monitor investments during any shutdown. Several trustees testified that they viewed the press release as overtly and improperly political, and unnecessarily drew APFC into a dispute with the executive and legislative branches. He stated that Ms. Rodell had not run the press release by the trustees prior to its issuance. He stated that Trustee Feige testified that the press release was "wildly inappropriate," "absolutely out of bounds," and that she was "absolutely furious." He added that Trustee Schutt viewed the press release as an empty and inaccurate threat and "to use that lever in a public debate was a very poor choice and over the line," and, in his view, it was a "serious problem," that "undermined the credibility of the fund, and a decision that should have been cleared in advance with the board." Mr. Slottee added that Trustee Moran had indicated that no one expressed concerns to him about the press release until October of that year. He stated that Trustee Moran acknowledged that the press release was perceived by some as a criticism of either the legislature or of the executive branch, but he viewed it as a statement of the issues. He added that Ms. Rodell thought that she had the authority to issue press releases such as this one in her role as the spokesperson for the APFC under the Charter, and that Ms. Rodell and Trustee Moran issued a joint letter to the administration three days later regarding the potential impact of a shutdown at APFC that had not created a similar objection from other trustees. He added that the 2021 press release was like one that had been issued by Ms. Rodell in 2017.

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MR. SLOOTTEE related that the other related event was the August 20, 2021, Tweet. He stated that this was the second public statement that was viewed by some of the trustees as too political. He stated that, on that date, Neil Steininger, Office of Management & Budget (OMB) Director, was providing a budget presentation to the House Finance Committee. Mr. Slottee stated that Mr. Steininger was asked by the committee what the balance of the Earnings Reserve Account would be if the legislature adopted the governor's proposed appropriation bill, which Mr. Steininger did not have readily available. He noted that Ms. Rodell was viewing the proceeding remotely and published the following Tweet: "As of June 30th the ERA has an uncommitted balance of \$9.3 billion of which the Governor's

appropriation bill would use \$3 billion leaving the balance of \$6.3 billion for future appropriations." The Tweet included a tag to the akleg Twitter handle. He stated that Trustee Richards characterized the Tweet as "very political, unprofessional, backhanded critique of the governor." He stated that a member of the governor's staff, Brandon Brzezinski, contacted Commissioner Mahoney to express the administration's displeasure with the Tweet, which Commissioner Mahoney did not find to be problematic, and Commissioner Mahoney had trusted that the numbers in the Tweet were correct. Mr. Slottee explained that Commissioner Mahoney had conveyed the administration's displeasure to the Executive Director and advised her to be "mindful" of how public statements may be perceived. He stated that, according to Ms. Rodell's deposition testimony, Trustee Mahoney had contacted Ms. Rodell on more than one occasion and advised her to "watch her back," and Ms. Rodell had offered to tender her resignation, which Trustee Mahoney had responded as being not necessary.

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REPRESENTATIVE TUCK asked whether [the trustees took issue with the fact that] she Tweeted or if the concern was with the content of the Tweet. He suggested that Ms. Rodell was giving information that had been requested.

MR. SLOTTEE answered the Trustee Richards had questions regarding the accuracy of the numbers and that the calculation of the balance had been esoteric and considered realized and unrealized gains. He added that some members of the administration had concerns with the numbers' accuracy but that was "not the main focus of their ire," and expressed that they viewed the Tweet as APFC inserting itself into a political issue.

REPRESENTATIVE TUCK asked whether Trustee Mahoney had recognized that the numbers were correct.

MR. SLOTTEE answered that no one had testified that the numbers had been inaccurate.

REPRESENTATIVE TUCK suggested that the board should implement a policy that the Executive Director not be allowed to Tweet because he could not find where the issue lie, and it appeared to be an issue with the fact that she Tweeted.

MR. TRICKEY surmised that the trustees seemed to find a problem with Ms. Rodell injecting herself when she had not been requested to do so. He stated that the trustees held the belief that the Executive Director should remain scrupulously neutral and not inject the fund nor her own position into debates without having been requested to do so. He added that the Tweet followed the recent press release that was characterized as crossing the line that had not been clearly drawn, but that the fund had, as a result, been injected more directly into the budget process politics more than it need to be.

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REPRESENTATIVE JOSEPHSON stated that, when previous shutdowns had been imminent, both the Dunleavy and Walker administrations had requested an accounting of the ramifications. He suggested that the implications would prompt whoever was causing the impasse to "get their house in order" to avoid such consequences. He added that the APFC webpage reflects the projected realized and unrealized gains and the available balance of the Earnings Reserve Account, and that Ms. Rodell is requested to provide that information each time she testifies to the legislature.

CHAIR VON IMHOF expressed her view that there appeared to be excessive ire placed on benign documents and a Tweet and rhetorically asked whether the board was seeking "a place to hang their hat."

MR. SLOTTEE continued explaining that several trustees had expressed that several events which had occurred at the 2021 Kodiak meeting had influenced the decision to terminate Ms. Rodell's employment. Several trustees recounted a tense exchange between the Executive Director and Trustee Mahoney at that meeting, describing Ms. Rodell as having "verbally attacked" Trustee Mahoney or that she had "lashed out" at Trustee Mahoney. The Executive Director acknowledged that she had contentious interactions with Trustee Mahoney related to the fiscal year 2023 budget proposal at the 2021 annual meeting, and that budget workshops had preceded it. He said that an exchange had occurred off the record during a break. He stated that Ms. Rodell had denied approaching Trustee Mahoney regarding any breach of Trustee Mahoney's fiduciary duties, and she denied having engaged in conduct that could have been reasonably characterized as an attack. He added that neither in the 2021 annual meeting minutes, nor the video recording of that meeting contain an exchange between the Executive Director and Trustee

Mahoney that could be reasonably characterized as an attack or as lashing out. He added that this fact does not preclude the fact that the exchange may have occurred off the record, or perhaps at a different meeting such as at one of the budget workshops. He added that there exists no evidence to substantiate that such an exchange occurred on the record at the annual meeting.

MR. SLOTTREE noted that another example that Trustees pointed to as evidence of a disconnect in their relationship with the Executive Director occurred at the 2021 annual meeting in Kodiak. The Executive Director invited an executive leadership coach named Al Bolea, with whom she had worked in 2019, to facilitate a discussion with the Trustees at that meeting about creating alignment between the board's current priorities, and the priorities officially adopted in the board's five-year strategic plan and Strategic Planning and Budgeting Policy. The Executive Director explained that her purpose in inviting a facilitator was to tease out the trustees' collective vision for APFC going forward, i.e.: whether they envisioned it as a large investment management company, or something more streamlined. The Executive Director's plan to have a third party facilitate a public discussion with trustees about the alignment of their strategic priorities caught most of the trustees by surprise. Although the board packet each trustee received prior to the meeting stated that "Al Bolea will facilitate a conversation of creating alignment of the strategic plan priorities with Trustees, APFC Staff, and APFC stakeholders," the agenda item for the discussion stated only "ALIGNMENT OF STRATEGIC PLAN" as presented by Angela Rodell, CEO. The Executive Director had vetted the idea with then-Chair Moran, but the other trustees were not aware of it. He stated that several trustees testified that they viewed Ms. Rodell's decision to bring Mr. Bolea to the Kodiak meeting without vetting the idea with the whole board was an example of Ms. Rodell's reluctance to meaningfully engage with the board and it reflected a problem with the relationship between the Executive Director and the board, such that the Executive Director had felt the need for a mediator to facilitate a meaningful discussion. He added that, when the meeting reached this point in the agenda, Mr. Bolea was introduced, several of the trustees questioned the purpose for which he was there, and the board thanked Mr. Bolea and dismissed him, did not proceed with the agenda item, and went on to the next agenda item. He noted that several trustees had characterized the event as embarrassing, and Trustee Feige testified that it was a "bright line event" that influenced her decision to terminate Ms. Rodell.

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CHAIR VON IMHOF asked to confirm that then-Chair Moran was aware of the mediator and, since it was listed as an agenda item, that he had approved it.

MR. SLOTTEE answered yes.

CHAIR VON IMHOF asked whether there was any account of either Mr. Moran or Ms. Rodell defending the decision to the rest of the board prior to terminating the mediator.

MR. SLOTTEE answered that any such defense was not reflected in either the minutes or the video footage of the meeting.

CHAIR VON IMHOF asked when the trustees had received the full board packet including the details of the mediator prior to the Kodiak meeting.

MR. SLOTTEE answered that he was not aware how far in advance of the meeting trustees had received the board packets.

CHAIR VON IMHOF asked whether Mr. Slottee had listened to the full recording of the Kodiak meeting, to which Mr. Slottee replied that he had listened to all three days of the meeting.

CHAIR VON IMHOF asked Mr. Slottee if he had observed anything of significance at that meeting considering the depositions that had been obtained.

MR. SLOTTEE stated that there had been a budget discussion during which Ms. Rodell had presented the budget, Trustee Mahoney moved to reduce the budget and the number of personnel in the proposed budget and remove the additional 5 investment and 2 administrative staff. He stated his observation that the discussions and conduct appeared to be professional, and the motion was defeated. He stated that other discussions took place during the meeting regarding different analyses and risk factors and, other than an "uncomfortable event" pertaining to the interaction with Mr. Bolea, there did not appear to be any exchange that could be characterized as unprofessional or as an attack on anyone.

CHAIR VON IMHOF stated that there had been concerns expressed that Ms. Rodell had not been following the APFC board's vision

and asked whether the board's vision is articulated in resolutions passed by the board.

MR. SLOTTEE answered yes, the board passes resolutions, and the executive director is expected to advocate for those resolutions. He noted that Trustee Richards had acknowledged that Ms. Rodell did advocate for the resolutions of the board. He stated that the "disconnect" between the "agenda" of Ms. Rodell and the board was never clearly articulated during the deposition process.

CHAIR VON IMHOF noted that the Legislative Budget and Audit Committee had reviewed all the APFC's adopted resolutions, and she stated that she had not observed any public inconsistency between the resolutions and the behavior of Ms. Rodell. She asked Mr. Slottee to confirm that no link between the claim that Ms. Rodell was not following the resolutions passed by the board had been identified during the deposition process, and asked Mr. Slottee to further explain.

MR. SLOTTEE offered an example that had been identified as evidence of a disconnect between the goals and objectives of the board and those of Ms. Rodell as the cost analysis of opening an APFC office in Anchorage. He stated that the 5-year strategic plan adopted by the board included a feasibility investigation by the Executive Director. He said that Trustee Richards had stated that Ms. Rodell "went out of her way to make it appear a little more expensive and throw a little cold water on it." Mr. Slottee said that the Executive Director had acknowledged in her deposition that she thought that opening an office in Anchorage was a bad idea and would be a waste of APFC resources. He related that she had suggested that it would make more sense to open an office in locations in which the fund was making significant investments such as New York, Chicago, or Nashville and that having two offices in Alaska "felt like a waste of money." He noted that Ms. Rodell testified that she had directed her staff to prepare a cost analysis, and further testified that she had told her staff that she disagreed with opening an Anchorage office. She testified she did not direct staff to structure the cost analysis in such a way to make it seem more expensive than it really was. He added that she reviewed the analysis and did not make any changes prior to submitting it to the board. He stated that the board did not go forward in opening an office in Anchorage, and that no other trustees believed that the Executive Director had manipulated the cost analysis. He noted that no other evidence substantiated that conclusion.

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CHAIR VON IMHOF asked whether the board had the option to hire an outside real estate firm to provide the same type of analysis. She postulated that the cost of two offices would include travel between and the management of the two offices.

MR. SLOTTEE confirmed Chair von Imhof's statements as correct. He offered further information that the perceived tension was a primary motivating factor in the decision to terminate, based on deposition testimony. He stated that in the 2021 evaluation reports, there had been comments such as, "The Director's relationship with the board is soured," and "Information that comes to the board is controlled and manipulated or goals are sometimes ignored or even undermined." He stated that the allegations were not supported by any actual examples of conduct that the evaluator viewed as problematic. He stated that, when asked under oath, few trustees would endorse the idea that the Executive Director tried to manipulate the board; withhold or control information; or to pursue her own agenda; nevertheless, regardless of its cause, tension between the Executive Director and certain Trustees was real. That tension was observable even to some APFC staff, who commented that the "CEO [is] at odds with [the] Board," the "dynamic between CEO and the Board appears difficult," and the "Board needs to empower the CEO." The Executive Director testified that, while her relationship with Trustees improved in early 2020, by September 2021 "it felt like it all fell apart" and "all felt, starting September 1st [2021], to go off the rails[.]" He added that, most Trustees agreed that, at least by the time of her evaluation in December 2021, the Executive Director's relationship with at least certain trustees was strained, and that strain likely impacted her relationship with the Board as a whole.

CHAIR VON IMHOF stated her observation that there had been assertions of conflict but that no concrete evidence other than a Tweet and a press release offered as evidence. She asked whether it was problematic that a person could make such an assertion and yet "can't back it up."

MR. TRICKEY offered that, between a corporate board of directors and its executive leadership, the relationship will be inherently impacted by personal interactions. He stated that the purpose of the objective evaluation process included in the Charter is to remove personal, subjective considerations from the evaluation process and to provide a full, accurate, and fair

evaluation of performance. He stated that when such a policy is not followed, there is a risk that influence motivated by personal subjective interactions may occur and stated his viewpoint that this is not good corporate governance. He added that it is within the trustee's "gambit of authority" to do so. He stated that, even considering the applied covenant of good faith and fair dealing, in an employment context, a personality conflict is a justifiable reason for terminating an employee. He added that, Trustee Schutt had stated that when a CEO's relationship with a board has soured, regardless of cause or fault, it is sometimes in the best interest of the organization to move forward in a new direction rather than to direct resources and time to fix the relationship.

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CHAIR VON IMHOF invited the committee to consider how to proceed.

SENATOR BISHOP asked for a professional opinion from the firm whether the APFC board had learned lessons going forward to create a good work environment and whether the board would continue to be subjective in its evaluation process.

MR. TRICKEY stated that he held no personal opinion and would base his response on the facts and evidence before the committee. He suggested that Senator Bishop's question could be directed to the trustees. He stated that each trustee had been asked whether there was anything that he/she would have done differently. He related that the answer was no, and that the breakdown of the relationship was "messy" and there was no way to work through it rather than to decide to terminate. He added the caveat that the depositions had been obtained by lawyers in a somewhat adversarial proceeding, that the trustees may not have considered their answers in advance of the proceeding, and there may have existed some defensiveness in response to the question of what could have been done differently.

SENATOR BISHOP stated his hope that there is a plan and protocol in place to hire the "best-of-the-best" due to the importance of the fund.

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The committee took an at-ease from 2:59 p.m. to 3:14 p.m.

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REPRESENTATIVE SPOHNHOLZ asked Mr. Slottee to describe the timeline of the agenda items including the budget discussion and the mediator during the September 2021 board meeting.

MR. SLOTTEE answered that the budget presentation was scheduled for 10:30 a.m. and the proposed strategic planning session with the mediator was scheduled for 1:00 p.m. on the same day.

REPRESENTATIVE SPOHNHOLZ recalled that the budget request had included an increase in staff of 7 positions and that discussion had occurred, during which it was proposed that the APFC "feel the pain" that Alaskans had suffered because of decreased dividend payments. She asked whether such a proposition would be entirely at the discretion of the legislature.

MR. SLOTTEE answered that the budget proposal included 5 additional investment staff and 2 additional administrative staff, and the motion was made to reduce the number of additional requested positions. He acknowledged that there was an intention that government should be cut "across the board" and that it may not be appropriate to add additional staff. He noted that the motion to reduce the proposed additional positions was defeated and the budget was approved as presented.

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REPRESENTATIVE JOSEPHSON asked whether the deposition process had revealed any differences of opinion regarding a proposed overdraw of the fund. He noted that he had participated in a meeting with the then-Commissioner of the Department of Revenue, and it had been proposed to request multiple billions of dollars of overdraw that was referred to as a "bridge" that could result in net positive fiscal benefit to the state into the 2030s based on realized gains and cuts to agency funding. He stated that the legislature would likely be allowed by the courts to appropriate such an overdraw based on the Wielechowski v. Alaska ruling. He expressed his disbelief that a board would reverse its position in an arbitrary and capricious manner on resolutions dating as far back as the late 1990s that directed that any endowment structure should be rules-based. He stated his belief that the issue that was "infected" by politics and as such had resulted in undercurrents based on these factors.

MR. SLOTTEE answered that each of the trustees had been asked during the depositions whether the governor's agenda or issues regarding draws from the fund were a topic of discussion during

the Executive Director's evaluation process during the executive session, and each denied, under oath, that it had been raised or addressed.

MR. TRICKEY added that, at the time of the executive session, it was understood that the session was closed and private and not subject to scrutiny. He expressed that, had that matter been discussed, it would likely have been revealed during the deposition process of the 6 trustees. He added that draws from the fund had not been identified as a motivating factor in the decision to terminate the Executive Director.

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CHAIR VON IMHOF asked whether Commissioner Mahoney hired an outside consultant to offer scenarios on ad-hoc draws and the effect to the fund in 2021. She noted that such analysis had been presented during Senate Finance Committee hearings. She stated that she had knowledge that the board had hired its own consultant to provide analysis of ad-hoc draws.

MR. SLOTTEE answered that during the September 2021 APFC meeting, there had been a presentation that included analysis of asset reallocation and rebalancing of the fund considering an ad-hoc draw. He recalled that discussions had taken place questioning the methodology, timeline, and the basis of the analysis, and that some trustees had expressed their belief that there was an overstatement of the impact of such a draw. He reiterated that the issue of a draw was not raised in testimony as a reason for the decision to terminate.

CHAIR VON IMHOF asked whether discussion had taken place regarding a governor's cabinet member trustee holding the vice-chair position, as the primary evaluator of the Executive Director's performance and the real or perceived political implications of such an appointment. She asked whether a governor's cabinet member appointee had ever held the position of vice-chair. She noted that the 2021 evaluation had been found to have some weaknesses and asked whether the firm's consultant hired to review the performance evaluation procedures had considered the vice-chair's position.

MR. SLOTTEE offered his understanding that the vice-chair position had not influenced the review of the evaluation policy. He stated that Ms. Rodell had raised concerns that a commissioner appointee had been in the position of vice-chair,

and it was unknown whether such an appointment had occurred in the past.

MR. TRICKEY added that past practice had been that commissioner appointees were not elected to the position of vice-chair, and there had been discussion at the September Kodiak meeting that Ms. Rodell was perceived to be interfering with the election of the vice-chair. He stated his recollection that no provision in the Charter or bylaws would preclude such an election [of a commissioner as vice-chair.] He stated that he had not directly asked the consultant whether there being a commissioner as the vice-chair had been a factor in its review of the evaluation process.

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REPRESENTATIVE JOSEPHSON referred to an article published by the news organization KTOO, authored by Andrew Kitchenman on October 3, 2021, in which Ms. Rodell had been interviewed and had advocated for incentive pay for investment staff. He characterized the timing of the article as contextual to the evaluation and termination of Ms. Rodell, and that her advocacy for incentive pay could be construed to be her advocacy for employee retention. He noted that Ms. Mahoney opposed incentive pay, based on dividends having been paid at less than the statutory formula. He noted that the article addressed the proposed overdraw of the fund, its effect on future budgets and dividends, and concerns among lawmakers that a draw could threaten the future of the fund. He stated that the context of Ms. Rodell's termination was captured in the article published two months prior to her termination and consisted of matters regarding employee pay and the size of the dividend. He asked whether the investigation had revealed facts related to those issues.

MR. SLOTTEE answered that the matter of incentive-based compensation had been brought up by trustees during the deposition process. He explained the budget is prepared by the Executive Director, presented to the trustees for approval, submitted to the governor's office for review and approval, and submitted to the legislature for review and final approval. He stated that the budget included incentive compensation, and that the budgeted amount for incentive compensation was less than what employees would have otherwise been entitled to. He stated that Ms. Rodell related that this had caused tension with the investment staff and was further evidenced in survey comments. He noted that the process requiring the additional approvals

rendered the process out of the control of Ms. Rodell. He noted that discussions had taken place as to whether operational staff would be included in the incentive compensation, which he characterized as having caused additional tension among staff. He stated that Trustee Richards had been asked to provide instances of conduct by Ms. Rodell in 2021, and he quoted from the testimony from Trustee Richards entitled, "Richards, Craig 6.22.22.PDF," [included in the committee packet,] which read as follows [original punctuation provided]:

I, based on my conversation with Trustee Moran, was left with the impression that Ms. Rodell was meddling with the officer appointments for the board, which is a big no-no.

What do you mean by "meddling"?

She was trying to keep Commissioner Mahoney off from being vice chair was the impression I was left with.

And how was she doing that?

Through Trustee Moran. He asked to meet with me the second day. He and I went out to dinner. And he asked to meet with me early in the morning the next day. And he didn't tell me what it was about, so I showed up to the meeting 15 minutes early to meet with him. And he expressed something to the effect that he had a conversation with Angela and, you know, he was concerned because the -- the commissioner positions, you know, shouldn't hold the chairmanship or the vice chairmanship and maybe it wasn't appropriate to have Commissioner Mahoney be vice chair. And I remember expressing to him that I disagreed with that as a historical observation, and I didn't think it was an appropriate thing for her to be involved in.

MR. SLOTTREE cited this as the testimony related to the objection by Ms. Rodell to the election of Ms. Mahoney to the position of Vice-Chair.

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MR. TRICKEY added that Representative Josephson had raised an important matter, that of the conflict between a governor's cabinet member as trustee, the governor's agenda including a

proposed draw, and the board's position in opposition to the draw. He allowed that such a position was a difficult one in which to be placed. He added that each non-commissioner trustee was asked whether they had received any statements, comments, or actions by the commissioner trustees that indicated advocacy of the governor's agenda in their role as trustees, to which they answered that they had not. He added that it had been concluded that even non-commissioner trustees had placed their fiduciary duties paramount to political loyalties or obligations to advocate for the governor.

REPRESENTATIVE JOSEPHSON opined that APFC board reform was necessary to resolve the conflict that may arise for a commissioner trustee. He stated that this problem is that of the legislature and the state. He noted that there exist constitutional considerations including separation of powers that would need to be considered when contemplating such reforms.

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REPRESENTATIVE TUCK asked for confirmation that Ms. Rodell had been the Commissioner of the Department of Revenue [prior to her role as Executive Director] and would have been a commissioner trustee and would have knowledge of the historical trends and traditions regarding a commissioner trustee serving as vice-chair.

MR. TRICKEY answered yes, absolutely she would have that knowledge.

SENATOR BISHOP echoed Representative Tuck's question and added that it was possible that Ms. Rodell may have been advocating for Commissioner Mahoney's best interest.

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CHAIR VON IMHOF directed the testifiers to present the conclusions beginning on page 64 of the report to be followed by an invitation to committee members to offer closing statements.

MR. SLOTTEE noted that the firm had produced a 65-page, single spaced report which includes more detail of events, and which included citations. He expressed the hope that committee members will find the report to be comprehensive and that questions which may arise should be answered within the report and among its supporting documents. He then summarized the

conclusive points based on factual evidence, beginning on page 64 of the report entitled, "Schwabe Williamson & Wyatt Report to Legislative Council 9-28-22 PUBLIC REPORT.pdf," which read as follows [original punctuation provided]:

1. Trustees did not follow the APFC Charter in all material respects with regard to their evaluation of the Executive Director. The Trustees did not use an evaluation instrument or process to assess the Executive Director's performance that was consistent with the Executive Director Performance Evaluation Policy.

2. Trustees lost confidence in the Executive Director's leadership and her relationship with several Trustees was strained. There were several incidents that Trustees testified about that eroded their confidence and trust in the Executive Director's leadership. The cumulative effect of these incidents motivated the decision to terminate the Executive Director, even though these incidents were not directly addressed through the evaluation process. The majority of Trustees were concerned that the lack of improvement in the relationship between the Executive Director and the investment team would lead to investment team departures.

3. Collectively, the reasons expressed by the Trustees for their decision to terminate the Executive Director supported the termination as a matter of employment law, in that they were a valid exercise of the Trustees' ability to terminate an at-will employee such as Ms. Rodell. A loss of confidence in the chief executive of an organization such as the APFC is a sufficient legal reason under the legal standards applicable to at-will employment in Alaska.

4. APFC's structure and importance as the primary source of funding for general government services and payment of dividends inevitably drew the Executive Director into political discussions and debates. The Executive Director, as the designated spokesperson, took actions and made statements that Trustees perceived as being "political" and advancing a personal "agenda".

5. There was no direct evidence or credible circumstantial evidence that the Governor knew in advance that the Executive Director would be terminated. There is no direct or circumstantial evidence that the Governor directed the Trustees to terminate the Executive Director.

6. Trustees did express a concern about the political impact of certain actions and statements by the Executive Director. These concerns were a factor the Trustees considered in the executive session discussions that lead to the termination decision. These concerns did not rise to the level of politics being a substantial motivating factor in the decision to terminate, but did undermine the confidence Trustees had in the Executive Director's ability to continue as Executive Director.

7. In order to prevent political concerns from becoming a factor in evaluating the Executive Director's performance, the APFC would be best served if Trustees use an evaluation tool or instrument and process that takes politics out of the equation. The Charter provisions on evaluating the Executive Director and the process for conducting the evaluation would reduce or possibly eliminate the political influence in evaluating the performance of the Executive Director, if followed by the Trustees. The stability and independence of the Fund can only be protected by insulating the Executive Director from political pressures and political repercussions of doing the job.

MR. SLOTTEE offered that he would add as an addendum to the conclusions that the Executive Director would be better served by the trustees if they would give him/her clear, objective performance metrics each year and make clear the expectations of the performance and goals for the coming year, rather than the subjective, ad-hoc method that was used from 2016-2021.

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REPRESENTATIVE FOSTER stated that he would take some time to reflect on the report and its findings. He stated that the Tweet being one of many factors that led to the termination was evidence of the tenuous balance and the potential for breakdown

of the relationship between the Executive Director and the board. He stated his wish that there had been better adherence to the Charter. He rhetorically asked, regarding conclusion 7, "where do we go from here?" He acknowledged that it was the responsibility of the board to improve its internal systems and offered that the legislature may have a role in developing and implementing improvement.

REPRESENTATIVE JOSEPHSON shared his recollection of Chair Richard's apparent dismay at having been called to testify before the Legislative Budget and Audit Committee in January of 2022 regarding the termination. He noted that the month prior, Ms. Rodell had been selected as the presiding officer at the International Forum of Sovereign Wealth Funds (ISFWF), and that she was well-respected by a group of bipartisan legislators. He noted that she had initially come to Juneau as a member of the Parnell Administration and continued public service during the Walker Administration. He allowed that a personality conflict such as has been found to exist should not be allowed to continue indefinitely, comparing such a relationship to a marriage that had soured. He stated that the October 2021 article published by KTOO was a public airing of the differences between the Executive Director and Commissioner Mahoney and that it was indicative of an unhealthy relationship. He opined, with all due respect to the legal conclusion offered by the firm, that the state would be obligated to pay a settlement, should a case be brought challenging the termination. He expressed his main concern to be that of an apparent "infection" of politics among the trustees, with the caveat that he did not intend to disparage any of them. He stated that in October of 2021, the administration was seeking a \$3 billion draw from the fund, and he described Ms. Rodell as not being an acolyte to that policy. He suggested that this type of situation had not occurred frequently with the APFC in the past. He expressed gratitude to the firm and its counsel for providing a factual based report as requested. He suggested that the need exists to reform the appointment of the members of the board to optimally isolate the members from this type of situation.

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REPRESENTATIVE SPOHNHOLZ stated that the report had revealed no explicit evidence of interference by the administration. She stated that there is inherent tension for two of the trustees who have "two masters" and that may conflict with the goals of the fund itself. She stated that it would be worthwhile to restructure the way that trustees are appointed due to the

strategic importance of the fund to the state. She referred to page 2 of the report and the evaluation criteria of the Executive Director as listed in the Charter and suggested that there was no clear measure of success to the criteria. She observed that there exists an inherent challenge when the Executive Director is not acknowledged for the success of the organization as a whole. She stated that there had not been consistent management nor clearly stated expectations and that complexities among the reporting structures within the corporation require reform. She characterized the situation that had occurred as inevitable. She suggested that, without reform, there exists further risk of political conflict within the fund.

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REPRESENTATIVE TUCK thanked the firm for its complete, thorough, and objective investigation and report. He opined that personality had played a larger role than performance had in the situation. He suggested that certain things may have been prevented or mitigated. He suggested that the short timeframe of the events leading to the termination indicated the termination may have been based on misunderstandings. He stated that what had occurred was a detriment to the APFC and that Ms. Rodell was renowned and well-respected based on both the performance of the fund and on her individual performance, worldwide. He opined that the conclusions were not adequately substantiated, such as, "These concerns did not rise to the level of politics being a substantial motivating factor in the decision to terminate," yet there was a perception that certain things were political in nature. He stated that he had learned during the meeting that any employer could effectively terminate an at-will employee at any level in the organization by issuing a statement of lack of confidence or a statement of change in direction, as either would protect and justify the organization's decision. He stated that he did not believe the termination to be justified. He stated that he understood the rationale of bringing a facilitator to bring clarification when expectations are not clearly understood. He allowed that bringing such a facilitator without the prior knowledge of the board had been risky but could be characterized as "an innocent mistake." He stated that there had been difficulty in the legislature in determining the fund's role in funding state government, and the implications to the Earnings Reserve Account over the prior 6 years, and he stated that a press release or a Tweet being haphazardly used as justification for termination was disproportionate. He encouraged the board to follow its own

policies in the future to promote efficient and effective management.

REPRESENTATIVE TUCK expressed his surprise to the board's lack of recognition of the role and responsibility of the Legislative Budget and Audit Committee as the statutory oversight authority of the board. He added that the auditing authority of the committee is protected by the constitution. He commended the committee and its leadership for investigating the termination and suggested that a failure to do so would be a dereliction of the duty of the committee. He expressed his hope that the investigation is found to be as helpful to the board and to the public as it had been for him.

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CHAIR VON IMHOF expressed her appreciation of the firm and complimented the report as fair, thorough, and comprehensive. She suggested that it would be imperative to the benefit of the state that the APFC board remain professional, contemplative, fair, and transparent and opined that the board had acted with impulsivity and haste in December of 2021. She stated that firing an executive director in the absence of a backup plan or transition plan lacked wisdom. She stated that the fund is one of the largest in the world and provides 60-70 percent of the state's revenue and the board should be professional and consistent. She noted that there had been a turnover of three members of the board over the prior year, half the board. She stated that the CEO evaluation process needs to be more consistent, robust, and thorough. She suggested that the Executive Director's evaluation should be brought before the Legislative Budget and Audit Committee annually to allow for oversight of the board and an evaluation of its performance.

CHAIR VON IMHOF stated that there had been potential reform of the board appointment process and structure suggested by some of the committee members. She offered specific suggestions for reform, as follows:

Through new legislation, potentially, I think we should expand the board to 7 seats. Let's have an odd number. We should have 5-year terms versus 4-year terms. This makes it outside the governor's term as a 4-year term. We should have two, 5-year terms. All future board seats should be confirmed by the legislature. That way, the people of Alaska can weigh in. I suggest that two of the seven board

members should be out-of-state seats. We are a globally invested, very large fund. We should look to see out-of-state people with different perspectives and different backgrounds since we are a globally invested fund. The governor gets one selected seat, not two. The governor can choose anyone from his/her cabinet, it does not necessarily have to be the Commissioner of [the Department of] Revenue or the [Department of Natural Resources] DNR Commissioner. These are just suggestions. The evaluation, again, of the CEO should be a public process. The board should evaluate themselves. Are they following their own processes? And lastly, I don't think the vice-chair should ever be the governor's appointee, or, excuse me, a governor's employee. That would be changed with the bylaws or a statute. Those are my suggestions. Hopefully something that has come out of this process.

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#### **ADJOURNMENT**

There being no further business before the committee, the Legislative Budget and Audit Committee meeting was adjourned at 4:00 p.m.