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NEW APOC REGULATIONS EFFECTIVE JANUARY 4, 1986

NO CHANGE FROM PREVIOUS REGULATION OR LANGUAGE

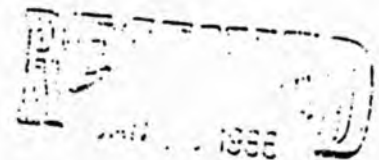
NEW PROVISION OR LANGUAGE

ALASKA PUBLIC OFFICES COMMISSION

Administrative Regulations

AS 15.13 - Campaign Disclosure,
Complaints and Hearings, General Provisions

January 4, 1986



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ALASKA ADMINISTRATIVE CODE
Title 2. DEPARTMENT OF ADMINISTRATION
ALASKA PUBLIC OFFICES COMMISSION REGULATIONS

CHAPTER 50. CONFLICT OF INTEREST, CAMPAIGN
DISCLOSURE AND REGULATION OF LOBBYING

Articles 2, 3. & 5.

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2 AAC 50.310. FILING. (a) All reports that are required to be filed under the provisions of AS 15.13 and this chapter must be received by the commission on or before the due date. Except for the 24 Hour Report, "received" means either

(1) hand-carried to the commission's central office or its branch office in the state capital; or

(2) postmarked. The date shown by the postmark is presumed to be the date it was deposited in the United States mail.

(b) The 24 Hour Report required by AS 15.13. 110(b) must be filed with the commission's central office either by a collect telegram or by actual physical delivery within the prescribed time. 24 hour Reports may not be mailed.

(c) All forms will be available at the commission's central and branch offices, at district offices during state election years, and at the participating municipalities. (Eff. 5/14/80, Register 74)

Authority: AS 15.13.020(j) and (k); AS 15.13.030(10)
AS 15.13.110(a) and (b)

2 AAC 50.313. DEFINITION OF "CONTRIBUTION." (a) In 2 AAC 50.310 — 2 AAC 50.405, except as otherwise provided in this section, "contribution" includes a payment, gift, subscription, loan, advance, transfer, deposit of money, services, or anything of value made by a person or group for the purpose of influencing an election for state or municipal office or influencing the passage or defeat of a ballot proposition or question; and includes a personal contribution as described in 2 AAC 50.315.

(b) In this section and in 2 AAC 50.321, "loan" includes a guarantee, endorsement, and any other form of security. The following apply to loans:

(1) A loan that exceeds the contribution limitations of AS 15.13.070 is unlawful, whether or not it is repaid.

(2) A loan is a contribution at the time it is made.

(3) Except for a personal contribution loan as described in 2 AAC 50.315(d), a loan is a contribution by each endorser or guarantor. Each endorser or guarantor is considered to have contributed that portion of the total amount for which he or she agreed to be liable in a written agreement. If the agreement does not state the portion of the loan for which each endorser or guarantor is liable, the loan is considered a loan by each endorser or guarantor in the same proportion that each endorser or guarantor bears to the total number of endorsees or guarantors.

(c) In this section, "money" includes currency of the United States or of any foreign nation, checks, money orders, or any negotiable instruments payable on demand.

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

(e) The provision of goods or services without charge, or at a charge which is less than the usual and normal charge for the goods and services in the market, is a contribution. If goods or services are provided at less than the usual or normal charge in the market, the amount of the nonmonetary contribution is the difference between the usual and normal charge for the goods or services at the time of the contribution and the amount charged.

(f) The entire amount paid to attend or participate in a fundraiser or other political event, and the entire amount paid as the purchase price for a fundraising item sold by a group or candidate, is a contribution.

(g) The payment by a person of compensation for the personal services of another person to a group or candidate for any purpose, except for legal and accounting services necessary to complete reports, is a contribution. No contribution results in the following circumstances:

(1) when an employee paid on an hourly or salaried basis engages in political activity during what would otherwise be a regular work period, if the time spent is made up by the employee within a reasonable period of time;

(2) when an employee paid on a commission or piecework basis, or an employee paid only for work actually performed whose time is considered the employee's own, engages in political activity during normal working hours;

(3) if time used by the employee during normal working hours to engage in political activity is bona fide vacation or other earned leave time.

(h) The extension of credit by a person to a candidate or political group for a length of time beyond normal business practice is a contribution, unless the creditor has made a commercially reasonable attempt to collect the debt, or pursued its remedies in a manner similar in intensity to that employed by the creditor in pursuit of a non-political debtor, including lawsuits if filed in similar circumstances.

(i) A debt owed by a political group or candidate, which is forgiven or settled for less than the amount owed is a contribution. The commission will, in its discretion, consider the following factors before directing staff to commence a preliminary investigation:

(1) whether, at the time the debt was incurred, both the creditor and the candidate or political group expected full repayment within a reasonable period of time;

(2) whether the campaign has made a good faith effort to repay all outstanding debts;

(3) whether the creditor has taken steps it normally takes against debtors in the same financial condition as the campaign;

(4) whether the proposed settlement agreement between the creditor and the campaign is similar to previous settlements made by the creditor and other debtors;

(5) whether the campaign has treated equally all creditors since it became aware of the difficulty in repaying all debts;

(6) whether the proposed settlement agreement is similar to others proposed by the campaign.

(j) An expenditure made by a person in cooperation, consultation, or in concert with, or at the request or suggestion of a candidate, the candidate's campaign committee, campaign agents, or campaign consultants is a contribution to the candidate. The financing by a person of the issuance, republication, or distribution of a broadcast or of a written, graphic, or other form of campaign material provided by the candidate, the candidate's campaign committee, campaign agents, or campaign consultants is a contribution to the candidate. This includes an expenditure:

(1) based on information about the candidate's plans, projects, or needs provided by the candidate or the candidate's campaign agents;

(2) made by or through a person who is, or has been, authorized to raise or expend money for the candidate, who is, or has been, an agent of a candidate's campaign, or who has received any form of compensation or reimbursement from the candidate, members of the candidate's campaign committee, campaign agents, or campaign consultants;

(3) made by any person or group based on data from a candidate's pollster or campaign consultant or any other person who has received, or is receiving, compensation or reimbursement from the campaign;

(4) made by a political group for soliciting contributions to be paid or delivered directly to a candidate or the candidate's campaign agents.

(k) In (j) of this section, "campaign agents" includes all officers, campaign managers, treasurers, deputy treasurers, campaign consultants, and persons who reasonably appear to have authority to make expenditures and solicit contributions for a candidate's campaign.

(l) In 2 AAC 50.310 — 2 AAC 50.405, "contribution" does not include the following payments, services, or other things of value:

(1) costs incurred in covering or carrying a news story by a broadcasting station, newspaper, or periodical of regular publication, unless the

facility is owned by or controlled by a political party, political group, or candidate; in that case, the cost of the news story is a contribution, unless the news story is a bona fide news account that is part of a general pattern of campaign-related news accounts which gives reasonably equal coverage to all opposing candidates in the circulation or listening area.

(2) a non-monetary contribution or in-kind donation of a single item with a usual and normal cost of \$50.00 or less.

(3) a payment made by any individual for his or her own travel expenses, if such payments are voluntary and are made without any understanding that they will be directly or indirectly repaid.

(4) a payment is made by a business, corporation, trade association, labor organization, or other organization not organized primarily to influence elections to communicate directly with its members or employees, or their families, on any subject, if the communication is of the same format and nature used by the organization when it has communicated in the past on nonpolitical subjects, does not request members or their families to do anything other than exercise the right to vote, and does not solicit individual contributions to a clearly identified candidate or group chosen by the organization.

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

(m) A contribution made by a married individual is not attributed to that individual's spouse, unless otherwise specified in writing by the spouse at the time the contribution is made. (Eff. 1/4/86, Register 97)

Authority: AS 15.13.030(10)
AS 15.13.040

AS 15.13.070
AS 15.13.130

2 AAC 50.314. DEFINITION OF "GROUP"; REPORTING BY BUSINESS. (a) In 2 AAC 50.310 -- 2 AAC 50.405, "group" includes

(1) every combination of two or more persons who are elected, appointed, or otherwise chosen, or who cooperate for the purpose of raising, soliciting, collecting, or disbursing money or anything of value, or for directing or controlling those activities to secure or defeat the election to public office of an individual or candidate or to secure or defeat a ballot proposition;

(2) a political action committee, draft group, association, club, corporation, partnership, trade association, incorporated or unincorporated association, or labor organization organized to aid or promote the nomination, election, defeat, or recall, of any candidate for political office or to aid the passage or defeat of a ballot proposition;

(3) two or more persons who jointly make a contribution in the name of another as described in 2 AAC 50.357.

(b) A corporation, partnership, sole proprietorship, trade association, fraternal or charitable organization, incorporated or unincorporated association, firm, or business trust may report its contributions and expenditures as required by AS 15.13.040(d) and (e) as an individual* if

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

(2) the organization does not conduct a fundraising drive or assessment among its members or employees for the purpose of influencing an election;

(3) the organization does not exercise direction, control, or discretion over the choice of the recipient candidate or group, and the organization does not exercise direction, control, or discretion over the expenditure of money or other things of value collected, pooled, solicited, or otherwise paid by others for the purpose of influencing an election. (Eff. 1/4/86, Register 97)

Authority: AS 15.13.030(10)
AS 15.13.040

AS 15.13.130(3)

2 AAC 50.315. CONTRIBUTION LIMITATION EXEMPTION. (a) Groups that nominated a candidate for governor who received at least three percent of the total vote cast at the 1982 general election for governor are considered to be exempt from the contribution limitation set out in AS 15.13.070(a).

(b) Until the effective date of a statutory definition of "political party" that replaces AS 15.60.010(20) as it exists on the effective date of this section (and was held invalid in Wooler v. Miller, 660 P.2d 1192 (Alaska 1983)), a group, other than a group described in (a) of this section, desiring an exemption from the contribution limitation set out in AS 15.13.070(a) must submit to the commission an application for exemption. In accordance with (c) of this section, the commission will review the application and, in its discretion and on a case-by-case basis, grant the exemption.

(c) Among the criteria which will be considered in deciding whether to grant an exemption are:

(1) an organized membership, composed of registered voters, which represents a political program;

~~APPLICABLE TO GROUPS AND INDIVIDUALS ONLY. THIS SECTION DOES NOT APPLY TO CORPORATIONS, PARTNERSHIPS, SOLE PROPRIETORSHIPS, TRADE ASSOCIATIONS, FRATERNAL OR CHARITABLE ORGANIZATIONS, INCORPORATED OR UNINCORPORATED ASSOCIATIONS, FIRMS, OR BUSINESS TRUSTS.~~

2 AAC 50.314
2 AAC 50.315

(2) prior history as a political group under AS 15.13.050 including the receipt of substantial contributions and the disbursement of substantial expenditures made for the purpose of influencing the election of legislative candidates in more than one district; and

(3) the percentage of votes received by a statewide candidate nominated in the name of the group in the preceding general election.

(4) Groups satisfying the criteria of (a) of this section and groups granted exemptions under (b) of this section are subject to the requirement that political parties report contributions and expenditures as provided by AS 15.13. (Eff. 6/29/84; Register 90; am 1/4/86, Register 97)

Authority: AS 15.13.030(10)
AS 15.13.040

AS 15.13.070

2 AAC 50.316. PERSONAL CONTRIBUTIONS BY A CANDIDATE. (a) A candidate may make unlimited personal contributions from assets which, under Alaska law, the candidate had legal right of access to or control over and to which the candidate had legal and rightful title at the time he or she became a candidate. These assets include salary and other earned income from bona fide employment; dividends; proceeds from the sale of investments; bequests to the candidate; income from trusts established before candidacy; income from trusts established by bequest after candidacy; and gifts of a personal nature which had been customarily received before candidacy.

(b) A candidate may use a portion of jointly owned assets as a personal contribution. The portion of the jointly owned assets that may be used is the candidate's share under the instruments of conveyance or ownership. With respect to spouses, if no specific share is indicated by an instrument of conveyance or ownership, the value of one-half of the property used is considered the personal funds of the candidate. In the case of property jointly owned by a non-spouse, if there is no instrument of conveyance or ownership, the portion of the asset belonging to the candidate is the pro rata share of the purchase price paid by the candidate, or, if no purchase was made, the amount determined by dividing the present value by the number of owners.

(c) A candidate's donation of goods remaining from a prior campaign is a personal contribution.

(d) A loan of money by a regulated banking institution to a candidate is a personal contribution if the loan is made in accordance with applicable banking laws and regulations; bears the usual and customary interest rate for the category of the loan involved; is evidenced by a written instrument; and is subject to a due date or amortization schedule. Loans under this section are reported as a candidate's personal contribution.

2 AAC 50.315
2 AAC 50.316

(e) The absolute sale of all legal and equitable interest of a candidate's real or personal property is not a contribution from the purchasers if the proceeds are received by a candidate in a legitimate arm's length transaction documented in writing. Sale proceeds used by a candidate in a campaign must be reported as personal contributions. (Eff. 1/4/86, Register 97)

Authority: AS 15.13.030(10)
AS 15.13.040

AS 15.13.070
AS 15.13.130

2 AAC 50.319. DESIGNATED CAMPAIGN DEPOSITORY. (a) Each candidate and political group intending to raise or spend more than \$5,000 in a calendar year shall designate on a registration statement or on the first campaign disclosure statement filed with the commission, one or more regulated banking institutions as its campaign depository or depositories. Each account title must indicate that it is a campaign account.

(b) All monetary contributions to, and expenditures by, a candidate or political group must be deposited to or made from a designated campaign depository.

(c) A candidate or political group required by (a) of this section, to designate a campaign depository may obtain and use credit cards in making travel-related campaign expenditures for transportation, lodging, meals, and other expenses in connection with traveling for campaign purposes. The credit card account name must indicate that it is a campaign account.

(d) Contributions that appear to be illegal must, within ten days after receipt, be returned to the contributor.

(e) A campaign treasurer shall make his or her best efforts to determine the legality of a contribution. If a contribution cannot be determined to be legal, a refund must be made within a reasonable time, and the treasurer shall note the refund by amending the current report or noting the change on the next required report. Alternatively, the contribution may be deposited into the campaign depository and reported. If it is deposited, the treasurer shall make and retain a written record noting the basis for the appearance of illegality. A statement noting that the legality of the contribution is in question must be included in the next required report. (Eff. 1/4/86, Register 97)

Authority: AS 15.13.030
AS 15.13.050

AS 15.13.060
AS 15.13.070

2 AAC 50.320. GENERAL BOOKKEEPING REQUIREMENTS FOR CANDIDATES AND GROUPS. (a) Every candidate and group required to report contributions or expenditures under the provisions of AS 15.13 shall maintain detailed records of all contributions received and expenditures made in accordance with the uniform methods of bookkeeping set out in the commission's bookkeeping guide.

(b) A candidate or his treasurer, and the treasurer of a group, may issue a receipt, and shall record the receipt of every contribution received, unless otherwise exempted by this chapter, regardless of the dollar amount or value of the contribution. While the identity of a person who has contributed no more than \$100 to a campaign is not required to be individually reported by the treasurer on a campaign disclosure report, the name of such a contributor, along with the amount and type of his contribution, must be recorded by the treasurer and maintained by the treasurer, for comparative purposes, in case that person makes additional contributions which total over \$100.

(c) The identity of a person who has contributed over \$100 in the aggregate per year to a candidate's or group's campaign must be reported in accordance with 2 AAC 50.321.

(d) Each bookkeeping record required under this section shall be maintained by the candidate or the treasurer of a group and may not be destroyed for a period of four years from the date of the contribution. The records shall be available for inspection by the commission upon request of the commission. (Eff. 5/14/80, Register 74)

Authority: AS 15.13.020(2)
AS 15.13.030(10)

AS 15.13.040
AS 15.13.120(e)

2 AAC 50.321. REPORTING CONTRIBUTIONS AND EXPENDITURES. (a) Each candidate or group filing reports under AS 15.13 must identify

(1) each monetary contribution, or aggregate of contributions from the same contributor, which totals in excess of \$100 by reporting

- (A) the date received;
- (B) the check number;
- (C) the name and address of the contributor;
- (D) the principal occupation and employer of the contributor; and
- (E) the amount;

(2) each non monetary contribution, or aggregate of non monetary contributions from the same contributor, valued at more than \$100 a year, by reporting

- (A) the date received;
- (B) the name and address of the contributor;

(C) the principal occupation and employer of the contributor;

(D) a description of the contributions; and

(E) its estimated fair market value;

(3) each loan, or aggregate of loans from the same contributor which totals in excess of \$100, by reporting

(A) the date received;

(B) the name and address of the lender, guarantor or cosigner;

(C) the principal occupation and employer of the lender, loan guarantor or cosigner;

(D) the interest rate; and

(E) the amount;

(4) each paid expenditure by reporting

(A) the date of the payment;

(B) the check number;

(C) the name and address of the payee;

(D) the purpose of the expenditure; and

(E) the amount;

(5) each accrued expenditure by reporting

(A) the date the expenditure was incurred;

(B) the name and address of the business or individual with whom the debt was incurred;

(C) the purpose of the accrued expenditure; and

(D) the amount.

(b) When reporting monetary and non-monetary contributions or loans, a cumulative total must be kept by each candidate or group of the contributions (including loans) made to it, regardless of the total, and reported pursuant to (a) of this section when

(1) monetary contributions by the same contributor bring the total to over \$100; or

(2) nonmonetary contributions by the same contributor bring the estimated total value to over \$100; or

(3) loans by the same lender, guarantor, or cosigner bring the total to over \$100; or

(4) a combination of monetary or nonmonetary contributions or loans by the same contributor brings the total to over \$100. (Eff. 7/22/78, Register 67)

Authority: AS 15.13.030(10)
AS 15.13.040(a) and (b)

AS 15.13.130(2) and (4)

2 AAC 50.322. RECORDKEEPING REQUIREMENTS FOR AUCTIONS AND GARAGE SALES. Repealed 5/14/80.

2 AAC 50.323. RECORDKEEPING REQUIREMENTS FOR CONTRIBUTIONS RECEIVED FROM THE SALE OF CAMPAIGN MATERIAL. Repealed 5/14/80.

2 AAC 50.324. SHARED CAMPAIGN REPORTING. Except for expenditures by the candidates for governor and lieutenant governor of the same political party who have been nominated to run in the general election, the following provisions apply to all candidates and groups, other than a political party, subject to the provisions of AS 15.13 and this chapter:

(1) The use, by one candidate, of the money, goods or services raised or generated by his campaign, to influence the election of another candidate, is considered a contribution and cannot exceed the \$1000 limitation set by AS 15.13.070(a); nothing in AS 15.13 or this chapter, however, limits an individual's right to make any expenditure whatsoever to influence the election of a candidate, so long as that expenditure is not made at the suggestion of that candidate, directly or indirectly paid for by that candidate, or otherwise controlled by that candidate.

(2) An expenditure made by one group, other than a political party, on behalf of another group which is controlled by a candidate is considered a contribution and may not exceed the \$1000 limitation set by AS 15.13.070(a).

(3) A candidate may not join his campaign committee with that of one or more candidates in order that they may file a single report of their joint campaign, nor may a group join with one or more groups in order that they may file a single report of their joint efforts.

(4) Candidates or groups prohibited from forming a joint campaign under (3) of this section may share in campaign efforts, under (5) of this section, so long as they keep separate campaign accounts and file separate statements of their contributions and expenditures under AS 15.13 and 2 AAC 50.

(5) Two or more candidates, or two or more groups, may share in campaign efforts so long as the cost of, and receipts from, shared efforts are allocated equally to each participating candidate or group's campaign.

(6) So long as the costs of, and receipts from, shared efforts are allocated equally to each participant of a shared campaign, neither the costs or receipts are considered as a contribution from one participant to any of the other participants.

(7) Each candidate or group filing reports pursuant to AS 15.13 and 2 AAC 50 must complete an APOC Form 15-SA, the "Shared Campaign Activities" form, which represents his or its proportionate share of the receipts and expenditures of a shared campaign effort.

(8) A proportionate share of the amount of an expenditure benefiting one or more candidates, or one or more groups, of a shared campaign effort, but paid for in full by one of the candidates, or by one of the groups, will be considered a contribution by

(A) the paying candidate to the other candidates; or

(B) the paying group to the other groups.

(9) Media communications regarding a shared campaign activity are considered properly identified so long as the identification includes the words "paid for by" and the name of each candidate or group sharing in the cost of the communications. The address and treasurer of each participating candidate or group need not be listed. However, if a communication is paid for in its entirety by only one of the participants then, in accordance with 2 AAC 50.369, full and proper identification is required. (255. 7/22/78, Register 67; am 5/14/80, Register 74; am 5/29/84, Register 90)

Authority: AS 15.13.030(10)
AS 15.13.040(a) and (b)

AS 15.13.070(a)
AS 15.13.090

2 AAC 50.325. RECORDKEEPING REQUIREMENTS FOR NONMONETARY CONTRIBUTIONS.

2 AAC 50.326. RECORDKEEPING REQUIREMENTS AND EXEMPTIONS WHEN REPORTING A FUND-RAISER. (a) A candidate or his treasurer, and the treasurer of a group, shall report all the contribution and expenditure activity related to a campaign fund-raiser in a format designated by the commission, and in accordance with this section. Fund-raisers sponsored in conjunction with several candidates or groups are viewed as shared fund-raising activities and, while subject to the provisions of this section, must be reported separately on APOC Form 15-BSA and in accordance with 2 AAC 50.324.

(b) When reporting a fund-raiser, a candidate or his treasurer, and the treasurer of a group, shall state the total number of contributing participants, the date and place where the event was held, if applicable, a description of the type of fund-raising activity, and the total costs of, and receipts from, the event.

(c) For the purposes of this section, "fund-raiser" includes, but is not limited to, a garage sale; a raffle or drawing; an auction; a spaghetti feed or pot-luck dinner; the sale of campaign material, such as posters, buttons, stickers, clothing, key chains and ashtrays; or a sponsored concert.

(d) The requirement in AS 15.13.040 and 2 AAC 50.320 that a candidate or his treasurer, or the treasurer of a group, must record the name of every person making a contribution, regardless of the amount of that contribution, does not apply to events which meet the following criteria:

(1) fund-raisers, similar in nature to spaghetti feeds, bingo games, dances, or concerts, where

(A) there are 25 or more paying participants; and

(B) except as described in (f) of this section, the cash amount received from any one person does not exceed \$50;

(2) fund-raisers, such as a raffle, lottery or a drawing, where

(A) 25 or more tickets are sold; and

(B) except as described in (f) of this section, the price of a ticket or the amount received from any one person purchasing chances does not exceed \$50;

(3) fund-raisers, the income from which is based on the sale of campaign material, where, except as described in (g)

(A) the price of an item being sold does not exceed \$10; or

(B) the amount received from any one person purchasing items does not exceed \$50;

(4) fund-raisers, such as garage sales and auctions, where, except as described in (g)

(A) the fair market value of an item donated for sale or auction does not exceed \$50; or

(B) the amount received from any one person purchasing items at the garage sale or auction does not exceed \$50.

(e) When reporting receipts from a fund-raiser which meets the recording exemption set out in (d) of this section, the candidate or his treasurer, or

the treasurer of a group, need only report the total amount of contributions received from or generated by the fundraiser, along with the total number of paying participants, tickets sold, or items purchased, as applicable.

(f) If a person contributes in excess of the exempted amounts stated in (d)(1)(B) or (d)(2)(B) of this section, then the name of that person, and the amount and type of that contribution, must be recorded as set out in 2 AAC 50.320.

(g) If the cost of or value of an item exceeds the exempted amount, or if a person contributes or pays in excess of the exempted amounts stated in (d)(3) or (4), then the name of that contributor or buyer must be recorded as set out in 2 AAC 50.320.

(h) A contribution made by a person to attend or otherwise participate in a "fund-raiser," as defined in (c) of this section, whether or not exempted from full recording under this section, may not be received by or on behalf of a candidate in violation of AS 15.13.070(a). (See 5/14/80, Register 74; am 5/24/81, Register 78; am 6/29/84, Register 90)

Authority: AS 15.13.030(10)
AS 15.13.040

2 AAC 50.330 REPORTING CAMPAIGN EXPENDITURES FOR TRANSPORTATION.

2 AAC 50.332. REPORTING ZERO CONTRIBUTION OR EXPENDITURE ACTIVITY.

(a) Each candidate or group required to file a full report of all contributions received and expenditures made in accordance with AS 15.13 and this chapter shall report in accordance with the reporting schedule set out in AS 15.13.110(a), regardless of the amount of their reportable contributions or expenditures. In the absence of any contribution or expenditure activity whatsoever during a reporting period, each candidate or group not already exempt from reporting under (b) or (c) of this section shall submit by the appropriate due date the "Short Form" on Schedule A of the Campaign Disclosure Statement certifying that no contributions have been received or expenditures made.

(b) A candidate who does not intend to receive or accept contributions, or make expenditures during his campaign for municipal or state public office, including any personal campaign contributions or expenditures, may file APOC Form 15-0, the "Campaign Reporting Exemption Form." A candidate who files the exemption form is not required to submit any other reports to the commission concerning his campaign. The reporting exemption is revoked if a candidate accepts contributions or spends money to influence his election. A candidate whose exemption is revoked must immediately register his change of status on APOC Form 15-1 and, in accordance with AS 15.13.110, must disclose his campaign contribution and expenditure activity beginning with the first campaign disclosure report due following his change in status. Failure to report campaign

contribution or expenditure activity after the reporting exemption is revoked subjects the candidate to both civil and criminal penalties for noncompliance with the reporting requirements of AS 15.13 and 2 AAC 50.

(c) The treasurer of a political party subdivision or political action committee previously registered with the commission which does not intend to receive or accept contributions, or make expenditures, during a municipal campaign may, in accordance with the requirements set forth in (b) of this section, file APOC Form 15-0. (Eff. 7/22/78, Reg. 67; am 5/14/80, Reg. 74)

Authority: AS 15.13.030(10) AS 15.13.110
AS 15.13.040(a) and (b)

2 AAC 50.333. REPORTABLE DATE OF A CONTRIBUTION. A contribution is considered received, and reportable as such, on the day in which that contribution is in the possession of a candidate, or a treasurer or deputy treasurer of a candidate or group, in accordance with AS 15.13.070(e) and this chapter. (Eff. 7/22/78, Reg. 67)

Authority: AS 15.13.030(10)
AS 15.13.070(e)

2 AAC 50.334. PERSONS WHO MAY ACCEPT CONTRIBUTIONS. (a) A candidate's campaign committee, or a group, may authorize a person who is not registered as a deputy treasurer to accept or solicit campaign contributions on its behalf for any single event. Campaign committees or groups are not in violation of AS 15.13.070(e) if contributions collected by the authorized person are turned over to a candidate, treasurer, or deputy treasurer of the intended committee or group within 72 hours.

(b) An individual who is, or will be, fund-raising on a regular basis throughout a political campaign must be registered as a deputy treasurer in accordance with AS 15.13.060(e).

(c) Individuals that have not been "authorized" to accept campaign contributions by either a candidate or his treasurer, or the treasurer of a group, are prohibited from collecting campaign contributions on behalf of a candidate's campaign committee or a group. (Eff. 4/28/79, Register 70; am 5/14/80, Register 74)

Authority: AS 15.13.030(10) AS 15.13.070(e)
AS 15.13.060 AS 15.13.130(2)

2 AAC 50.340. EXPENDITURES TO ADVERTISING AGENCIES OR CAMPAIGN MANAGEMENT SERVICES. Whenever a required report includes an expenditure to an advertising agency, or to an individual or business which provides campaign

consultation or management services, the report shall be accompanied by a statement detailing all services rendered, including the identity of each business from which campaign goods or services were purchased or subcontracted, or media advertising placed, and their costs. (Eff. 5/16/76, Register 58; am 5/14/80, Register 74).

Authority: AS 15.13.030(10)
AS 15.13.040(f)

2 AAC 50.342. REGISTRATION OF GROUPS SUPPORTING OR OPPOSING BALLOT ISSUES. Each group, before making an expenditure in support of or in opposition to a ballot proposition, shall register with the commission on forms provided by the commission. (Eff. 5/14/80, Register 74)

Authority: AS 15.13.010(b) AS 15.13.040(b)
AS 15.13.030(10) AS 15.13.050

2 AAC 50.350. CONTRIBUTION OF PROFESSIONAL SERVICES.

2 AAC 50.351. INDEPENDENT EXPENDITURES. (a) An independent expenditure is a disbursement of funds which is made expressly to support or oppose an individual's candidacy or a ballot issue. An independent expenditure is not made with the cooperation, consent, in consultation with, or at the request or suggestion of, a candidate, a candidate's campaign committee, or a group, and must be reported in accordance with AS 15.13.040(d)(2) and (e) by the maker of the expenditure.

(b) An expenditure made at the request of, in consultation with, or at the suggestion of a candidate, a candidate's campaign committee, or a group supporting or opposing a ballot issue, is considered an in-kind contribution by the person making the expenditure, and must be reported in accordance with AS 15.13.040(a) by the candidate or group benefiting from the contribution, and by the "contributor" in accordance with AS 15.13.040 (d)(1) and (e).

(c) There is no limit on the amount or frequency of independent expenditures.

(d) The report of an expenditure to influence the outcome of a ballot issue required to be filed under AS 15.13.040(d)(2) will be closed to the public only if the commission determines, in response to a written request, that the individual who makes the expenditure would likely be subject to undue harassment, threats, or economic reprisals as the result of public disclosure. After publication, the person granted an exemption shall provide the commission with

a copy of the communication in order to enable the commission to verify which communications were sponsored by that person. (Eff. 5/14/80, Register 74; am 6/29/84, Register 90)

Authority: AS 15.13.030(10)
AS 15.13.040

AS 15.13.090

2 AAC 50.355. LOANS. ~~AS 15.13.040(10)~~

2 AAC 50.357. CONTRIBUTIONS IN THE NAME OF ANOTHER. (a) No contribution may be made, directly or indirectly, by a person other than in the legal name of the original source of the contribution.

(b) No person, employer, principal, supervisor, or contractor may lend, pay, advance, or reimburse employees, agents, or other persons for contributions to a candidate or group in the employee's, agent's, or other person's name, or in a name other than the original source of the contribution.

(c) A contribution made at the direction of another person, including a parent organization, subsidiary, division, department, branch, or local unit, is a contribution in the name of another. Contributions by two or more organizations to the same recipient are in the name of another if the organizations

- (1) share the majority of members of their board of directors;
- (2) share two or more corporate or organizational officers;
- (3) are owned or controlled by the same shareholders or members;
- (4) are in a parent-subsidiary relationship.

(d) If a minor makes a contribution of money or any thing of value given to the child by a parent for that purpose, the parent has made a contribution in the name of another. (Eff. 1/4/86, Register 97)

Authority: AS 15.13.030(10)
AS 15.13.040

AS 15.13.070
AS 15.13.130

2 AAC 50.360. MUNICIPALITIES. (a) If a municipality seeks to influence the outcome of an election, using budgeted municipal funds, it shall report as an individual under AS 15.13.040(d) and (e).

All communications which are paid for by a municipality and which are related to an election are considered to be intended to influence the outcome of an election unless they are only notices of the election or unless they are required by statute, charter, or ordinance.

(c) The municipality shall file with the commission a list of candidates and their mailing addresses within seven days following the deadline for filing for municipal office.

If a municipality seeks to influence the outcome of an election using funds contributed to it for that purpose, it shall register and report as a group under AS 15.13.040(b) and (c) and AS 15.13.050. (Eff. 5/16/76, Register 58; am 1/4/86, Register 97)

Authority: AS 15.13.010 AS 15.13.040 AS 15.13.090
AS 15.13.030(10) AS 15.13.050

2 AAC 50.361. REPORTING BY SPECIAL INTEREST GROUPS. Repealed 10/18/81.

2 AAC 50.362. DRAFT GROUPS. (a) A draft group must report its contribution and expenditure activity as a group, under the requirements of AS 15.13 and this chapter.

(b) A draft group

(1) may make expenditures in order to raise, through contributions to the group, the money necessary to

(A) defray its own administrative costs; and

(B) attempt to draft persons to become candidates, including the expenditure of money to

(i) extoll the qualities of persons the group is attempting to draft; and

(ii) inform the general public both of the group's position on issues, as well as the qualities of leadership it seeks in potential candidates; and

(2) may not

(A) engage in any political activity other than an activity described in (b)(1) and (c) of this section;

(B) accept contributions in excess of \$1000 from any person or group;

(C) except for personal travel expenses, opinion surveys, or polls, make any expenditure that might benefit a person who the group has successfully drafted for office and who has made it known that he or she will be seeking election to public office; however, the group may continue in its attempts to draft other persons for elective office; and

RECEIVED

PAXTON OBORN

4500 BAYVIEW • ANCHORAGE, ALASKA 99516 • (907) 345-2124

AUG 20 1985

APOC-ANOH

PM HC

8/19

August 16, 1985

State of Alaska Alaska Public Offices Commission
610 C Street Suite 211
Anchorage, Alaska 99501

Att. Rebecca Dye O'Hara

Dear Ms. O'Hara,

This letter is to reply to your inquiry regarding my outstanding campaign debts.

I have paid a portion of the debt that was outstanding on January 1, of this year. That payoff and any subsequent will be reflected in my yearend report to be filed this coming January.

Let me point out that these debts are in fact debts which I must pay off. I am paying them off as fast as I can. For you to say they are subject to the \$1000.00 limit would be to say they are a contribution and to assume that I do not have a responsibility to pay them, this is something you have no basis to assume.

While I can understand the staff's concern, and appreciate the potential for abuse of long outstanding campaign debts, to assume that because some abuses take place everyone must be punished is unfair. Also I question your authority to change the regulations to make them retroactive to the the 1984 campaign.

Finally, after reading your proposed changes to the regulations, I feel that the inclusion of loans as a contribution is unfair to the first time campaigner and would shift even more advantage to the incumbent candidates. There are few newcomers to the political contests that can launch a campaign without obtaining loans or credits.

[18A], 8/21/85

Page 6

It is one thing to require the reporting of loans and obligations and quite another to limit the amount. The effect of the first is make the public aware of where the candidates money is coming from and the second is to limit the amount an individual can donate to his own campaign. This would be a very dangerous step and quite possibly unconstitutional.

Sincerely,



Paxton Oborn

[8A], 8/21/85

Page 7

IT'S A MESSAGE TO THEDA FITTMAN RE THE APOC HEARINGS TOMORROW AND FRIDAY AND READS:

[18B]

TO: THEDA FITTMAN
FROM: WALTER WOOD, BOX 868, VALDEZ, AK 99686

PER OUR CONVERSATION SEVERAL MONTHS AGO, I PROPOSE:

- (1) NO EXPENDITURES AFTER NOON ON THE DAY BEFORE THE ELECTION POLLS OPEN,
- (2) NO CONTRIBUTIONS AFTER NOON BEFORE THE DAY THE POLLS OPEN,
- (3) NO CONVERSION OF CONTRIBUTIONS TO PERSONAL INCOME,
- (4) NO FUNDS CARRY OVER TO NEXT ELECTION, AND
- (5) ALL EXCESSES MUST BE RETURNED TO CONTRIBUTORS OR DONATED TO CHARITIES.

THANKS FOR LISTENING.

EOM



ALASKA PUBLIC OFFICES COMMISSION
MINUTES
August 22-23, 1985

A regular meeting of the Alaska Public Offices Commission was called to order at 9:00 a.m., Thursday, August 22, 1985 by Chairman Jean Rogers. The meeting was held in the Quadrant Room of the Hotel Captain Cook in Anchorage.

- Commissioners: Chairman Jean Roger Knox; Mildred Op' -Chairman Arlayne O'Tierney.
- Staff: Theda Pittman, Asso-; Jane B; Inter; Chris Johansen, Disclosure; Conflict of Secretary.
- Others: Roy Gen-Joyce mann; in; er;

*August Commission mtg
Regulation Hearing*

Available via

Jeanette
p. Dist. 18.

85-2-CD: S.

Mr. JOHANSEN explained this matter since an Officer assigned. after which the staff

Action has been taken on some time to get a Hearing reference in the near future, for the Commission.

85-4-CD: McGowan v. De,

Conservation [2]

Mr. JOHANSEN explained that the Dept. of Environmental Conservation was engaged in influencing the outcome of an election by way of placing a television ad. Staff believes this is not a matter of influencing an election, and recommends dismissal of the complaint.

Ms. OPLAND asked if staff checked to see if the ad was permissible. Mr. JOHANSEN said that he had the tape, but hadn't seen the ad itself. Federal law provides that the Dept. of Environmental Conservation has a duty to undertake public information on this subject or risk loss of federal funds to the state.

Ms. OPLAND voiced her approval of dismissing the complaint.

Mr. JOHANSEN stated that this was a pretty clear-cut case, as there is an Attorney General's opinion that says the Campaign Disclosure Law does not cover state agencies.

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Commissioners: Chairman Jean Rogers; Vice-Chairman Arlayne Knox; Mildred Opland; Daniel O'Tierney.

Staff: Theda Pittman, Executive Director; Chris Johansen, Associate Coordinator, Campaign Disclosure; Jane Barcott, Associate Coordinator, Conflict of Interest; Teresa Garrison, Recording Secretary.

Others: Elizabeth Page Kennedy, Assistant Attorney General; Bob Manners, Secretary, NEA-PACE; Joyce Kerttula; Rep. Katie Hurley; Jean von Dohrmann; Maureen Kennedy; Dale Fox; Rep. Terry Martin; Patty Macklin; Catherine Zalewski; Janet Moyer; Steve DeLisio, Individuals for Randolph.

Available via telephone: Allen Vezey, Chairman, Rep. Dist. 18; Jeanette James, Treasurer; and Gary Wood, Rep. Dist. 18.

85-2-CD: Staff v. Clossey, McConkey, Norris [11]

Mr. JOHANSEN explained to the Commission that no action has been taken on this matter since the June meeting, as it took some time to get a Hearing Officer assigned. There will be a pre-hearing conference in the near future, after which the staff will have more information for the Commission.

85-4-CD: McGowan v. Dept. of Environmental Conservation [2]

Mr. JOHANSEN explained that a complaint was filed by Mr. McGowan alleging that the Dept. of Environmental Conservation was engaged in influencing the outcome of an election by way of placing a television ad. Staff believes this is not a matter of influencing an election, and recommends dismissal of the complaint.

Ms. OPLAND asked if staff checked to see if the ad was permissible. Mr. JOHANSEN said that he had the tape, but hadn't seen the ad itself. Federal law provides that the Dept. of Environmental Conservation has a duty to undertake public information on this subject or risk loss of federal funds to the state.

Ms. OPLAND voiced her approval of dismissing the complaint.

Mr. JOHANSEN stated that this was a pretty clear-cut case, as there is an Attorney General's opinion that says the Campaign Disclosure Law does not cover state agencies.

Ms. Knox MOVED, to dismiss the McGowan complaint.
SECONDED by Ms. Opland,

Mr. O'TIERNEY stated that apparently this was an educational-type TV advertisement. Mr. JOHANSEN said that the Dept. of Environmental Conservation has a duty to promote general welfare, and that is what protects them.

Mr. O'TIERNEY stated that the Commission has concluded that this act was not intended to influence the outcome of an election. Ms. ROGERS and Mr. JOHANSEN said yes.

Motion passed unanimously.

Fink 1984 Mayoral Campaign [27]

Mr. JOHANSEN said that staff sent a letter to Mr. Fink asking him to obtain signatures of those who contributed on joint checking accounts but did not actually sign the checks. Mr. Fink will provide the information and staff will present it at the November meeting. There is also an excessive contribution from the Holland family which staff has asked Mr. Fink to return. This was a non-monetary contribution of leased space.

Mr. O'TIERNEY asked if Mr. Fink's response may be that this situation is similar to the Quadrant contribution issue, and to protest requiring that a candidate carry the burden if it is an excessive contribution.

Mr. JOHANSEN stated that it was a non-monetary contribution and a different issue. Staff will present more information on this matter at the November meeting.

84-12-CD: Zency v. Tischer [13]

Mr. JOHANSEN explained that Mr. Zency alleged Mae Tischer didn't use a disclaimer on a newsletter. Staff concluded that the newsletter was to promote the election of the candidate and should have a disclaimer. Staff believes the mailer was worth approximately \$1,400 and believes a letter of admonition should be sent to Ms. Tischer.

Ms. KNOX said she was disturbed by the comment on page 2 of the August 6 letter where Ms. Tischer maintains this was not reportable. Mr. JOHANSEN said that perhaps Ms. Tischer had overlooked the question or didn't understand it.

Ms. KNOX stated that Ms. Tischer is asking for contributions to her campaign, and it sounds like this is from a campaign fund. Mr. JOHANSEN said that there is nothing which says a candidate has to distinguish different accounts. Staff believes Ms. Tischer's reports were in substantial non-compliance for failing to report the newsletter expense.

Mr. O'TIERNEY asked if she was to be admonished because the action was reportable. Mr. JOHANSEN said that contributions were to be mailed to the campaign, which suggested Ms. Tischer used the money from this mailer as a campaign fund.

Ms. Opland MOVED, to send a letter of admonition to Ms. Tischer.
SECONDED by Mr. O'Tierney,

Ms. KNOX stated the Commission should include in the letter of admonition a request that Ms. Tischer amend her reports.

Motion passed unanimously.

84-18-CD: Schade v. Marrou [verbal]

Mr. JOHANSEN explained that the Conflict of Interest complaint against Rep. Marrou is still continuing, and that staff has made an effort to go ahead with this complaint also, making it clear there are two separate issues involved. Staff will continue this matter at the next meeting.

85-1-CD: Schade v. Davis [verbal]

Mr. JOHANSEN explained that Mr. Davis did not use a disclaimer and that this issue is being delayed because it is tied in with the Marrou matter. Staff is continuing the investigation.

85-3-CD: Stout v. McAlpine [verbal]

Mr. JOHANSEN explained that Mr. Stout filed a complaint against Lt. Governor McAlpine because he received \$30,000 from Lewis Dischner in 1982. Mr. McAlpine stated that Mr. Dischner was a client and the money was a fee for services. Mr. Stout believes this is an excessive contribution. Since this issue involves a legal fee, staff referred the matter to the Alaska Bar Association. Staff believes it could not be a campaign contribution if it was not an excessive fee. The Bar Association will determine if it was an excessive fee. Staff has just received correspondence from the Bar Association dismissing the complaint and would like the Commission to set the matter over for further investigation, pending review of the Bar letter. If there is no merit to the complaint, staff would like the authority to dismiss the matter, or the Commission could take it up again at the November meeting.

Ms. ROGERS suggested it be taken care of via teleconference.

Ms. OPLAND asked if the \$30,000 appears on Mr. McAlpine's 1982 Conflict of Interest Statement. Mr. JOHANSEN couldn't say for sure.

Ms. OPLAND said that it would be substantiated as income if it was reported on the Conflict of Interest Statement. If the Commission gives staff the authority to dismiss the matter, staff should consult with Pat Kennedy.

Ms. ROGERS said that she prefers the Commission consider the matter themselves. All Commissioners agreed to deny staff's request for authority to dismiss the matter.

Advisory Opinions

Barbara Lacher, State Recall Group, 8/7/85 [3A]

Ms. PITTMAN explained that an inquiry regarding this matter was received

in July of 1985. Ms. PITTMAN and Ms. Kennedy had discussed this matter, and felt that a group campaigning for recall and the individual defending himself from recall should be in the same situation in regards to the campaign contribution limit of \$1,000. Staff responded only to the group inquiry as there is no recallee at this time.

Ms. OPLAND stated that she was bothered about people calling and asking for Advisory Opinions, and that there should be a written request, so a record can be kept of all questions and responses. Ms. PITTMAN noted that the draft regulations state the inquiry should be in written form.

Mr. O'TIERNEY noted that page 2, cites the \$1,000 limit as applicable to candidates competing for office. Does that mean, if there is only one candidate in a race, he is not subject to the limitation?

Ms. PITTMAN said she didn't presume that.

Mr. O'TIERNEY stated that he thought the Advisory Opinion was well done. Ms. ROGERS said she hoped the people will follow staff's advice.

Ann Parrish, Defense Fund - Draft [3C]

Ms. PITTMAN stated that staff tried to call Ms. Parrish back to request her inquiry be in written form. The concepts in the draft letter have been discussed by the Commission before. Subsequent to the phone call, the press reported that Governor Sheffield did not intend to seek help with his defense funds. There is no difference if it is an office or personal expense - whoever gives more than \$100 needs to be disclosed on the official's Conflict of Interest Statement.

Sen. Paul Fischer, Outside Employment, 7/25/85 [3B]

Ms. BARCOTT explained that Senator Fischer wrote to staff on July 5, 1985, regarding Legislators working for a company that gave campaign contributions. Staff stated there is no prohibited acts section under the Campaign Disclosure Law, but there are Prohibited Acts under the Conflict of Interest Law. Senator Fischer has not made an additional inquiry.

Mr. O'TIERNEY inquired as to the prohibited acts in the Conflict of Interest Law. Ms. BARCOTT explained that a public official is prohibited against using his or her office for financial gain; soliciting money for advice given during the official's public employment; and representing a client before a state agency for a fee. There does not seem to be such a problem in this instance.

Individuals for Randolph [16]

Personal appearance by Mr. Steve DeLisio

Mr. JOHANSEN explained that this group was being assessed \$80/day until names and addresses are provided for contributors of more than \$100. Staff believed there to be approximately 501 places where either names and/or addresses were missing from the group's reports. Staff made an error in the math calcu-

lations on the May 1985 correspondence in regard to the maximum civil penalty assessment. It should be \$6,080. Staff received material that the group sent to contributors asking for their employers, and also received the groups completed reports in September. Staff has not heard why the information was missing from the original reports, but the Commission can hear the mitigation and set forth any amount of civil penalty they feel applicable, or direct staff to send a letter of admonishment to the group. This is the first major group that staff has had to request such a tremendous amount of information from, and the group has made a substantial effort to provide the information. Staff believes mitigation should be brought forth, or the maximum civil penalty be assessed.

Mr. O'TIERNEY asked what the civil penalty is accruing for. Mr. JOHANSEN said that it is for failing to submit the information initially on their reports. The civil penalty is from the date staff gave the group notice of their incomplete reports, and the assessment ended on the last date that staff received the information.

Mr. DELISIO stated that the group has not alleged fraud, but harassment. The Commission has had many issues which have been more severe than this, where no civil penalties were levied. By contrast, the Libertarians are hit every time they turn around. Staff has acknowledged that there has been no hiding of the contributions, and no fraud on the group's part, but just a failure to provide all of the information. The group submitted the requested information in two and one half months, with great effort. All the information has been provided, and there was no attempt to trick the public or hide information. By assessing a maximum civil penalty, it makes it appear the group made a wilful attempt to evade the law or to trick the public and the Commission. Mr. DELISIO said that many names had addresses and occupations when the reports were submitted and he doesn't know why all the information was not available. Some people felt the information required was an invasion of privacy. The group is outraged by staff's suggestion of the maximum civil penalty, which suggests to the group that Libertarians get zapped by the Commission and these instances are insignificant compared to other instances. It is not appropriate for a state or federal agency to pick on a select group of people, and staff should help and inform the groups instead of coming down like a ton of bricks. This group does not feel they've done anything wrong.

Mr. JOHANSEN stated that the group has made a substantial effort to provide the information, but when substantial non-compliance is found, staff has no choice but to assess a maximum civil penalty until the mitigation is presented. Addresses or occupations were lacking for 501 people.

Ms. KNOX stated that Mr. Delisio said there were names that had all of the information required, and she would like to know the percentage of those that did not provide all the information.

Mr. DELISIO said he didn't know the percentage, but of the \$500,000 contributed, the majority of the contributions ranged from \$1 to \$5.

Mr. JOHANSEN said that the percentage was probably less than 50% where people omitted both addresses and occupations.

Mr. DELISIO stated that names were disclosed, but there was a technical failure on the group's part to disclose occupations and addresses, although the

omissions were not of malicious intent, rather a failure to gather the information.

Ms. OPLAND stated that the group must have had the addresses, or they wouldn't have been able to send the contributors a letter asking for the information needed.

Mr. DELISIO said that he agrees that not all of the information was unavailable.

Mr. O'TIERNEY stated for the record, that on page 25, last paragraph, there is a mention of fraud. He would like this statement clarified.

Mr. DELISIO said that statement was to point out that if the Commission drives out this group for this small violation, then the Commission is encouraging fraud when they don't fine others for more substantial violations.

Ms. ROGERS said that each person who comes before the Commission with their mitigation feels they've been "selected."

Mr. O'TIERNEY said he doesn't see how the Commission is an instrument of fraud when it is the statutes that set forth the requirements.

Mr. DELISIO inquired as to the fine for the Democratic Party not reporting names, addresses or occupations. Ms. PITTMAN said staff has no knowledge of missing information from their reports. The issue was of birthday fund-raisers, and the information was provided.

Mr. O'TIERNEY said there is no question that the information was omitted on the reports from Individuals for Randolph and there was a great effort to comply with staff's request.

Mr. DELISIO stated the group complied as soon as possible, as there was quite a lot of information to gather and supply, which took time.

Mr. O'TIERNEY informed him that the civil penalty wouldn't have accrued if the information would have been supplied at the beginning, and the group now believes that the Commission should not assess the maximum fine.

Mr. DELISIO replied that the fine should be minimal or none, and inquired as to the appropriate way to deal with oversights. Mr. O'TIERNEY stated that the Commission is not responsible for the resistant attitude of the Libertarian Party if they don't want to provide the information required.

Mr. DELISIO said that hopefully, it will help to understand that there was no deliberate attempt to avoid the issue.

Ms. ROGERS said that the Commission hopes he understands that it is not selective and that the Commission tries to be fair and is obliged to follow through on complaints and investigations.

Ms. OPLAND said that the group made a substantial effort to provide the information requested, and although she was not in favor of dismissing the is-

sue, she does think the civil penalty is excessive.

Ms. Opland MOVED, to assess 50% of the civil penalty (\$3,040)
SECONDED by Mr. O'Tierney,

Ms. KNOX stated she would like to remind Mr. Delisio that candidates are responsible for the information required on the forms. The Commission does not want to discourage volunteers, but people should be better informed of the requirements.

Motion passed unanimously.

NEA-ALASKA PACE [17B]

Personal appearance by Mr. Bob Manners

Mr. MANNERS stated that the concerns in this issue are timeliness in filing reports in 1981 and 1982. He said that for over 1 year, all reports were timely and accurate, and the group requests a waiver or reduction of the civil penalty, or perhaps a letter of admonishment. Mr. MANNERS does not contest the untimely filings in 1981 and 1982, and when the group was notified they responded promptly. The group employed an auditor to review the reports and also sent staff people to the APOC office to get information. All information for reports is now computerized. This group has a membership organization of 6,000 members and dues are not used in political contributions to candidates. The group raises the money for contributions through direct solicitations, fundraisers, and a payroll deduction dues check off system. The recordkeeping and reporting is substantial and the group has improved their techniques to report timely. The Commission staff has been tremendously helpful, but Mr. MANNERS requested a reduction or waiver of the fine.

Mr. JOHANSEN said that although staff agrees with Mr. Manners' mitigation, and the group has made a good effort to comply, staff's recommendation is for a \$4,225 civil penalty assessment.

Mr. O'TIERNEY stated that it is now August of 1985, and the missing information was discovered in 1981. Why did it take 3 years to find the extent of the group's problems?

Mr. JOHANSEN explained that staff had sent audits to the group which were never answered or followed up. Staff has been using a more extensive audit process since 1984.

Mr. O'Tierney MOVED, to accept staff's recommendation of reducing the
SECONDED by Ms. Knox, civil penalty to 50% (\$4,225).

Ms. KNOX stated that there should also be a letter of admonishment for the reporting problems of 1981 through 1983. She also said she would like to commend them for their improvement.

Motion passed unanimously.

The Commission recessed for lunch and reconvened at 1:00, at which time they approved a motion by Daniel O'Tierney, seconded by Arlayne Knox to go into Executive Session to discuss Litigation reports.

No motion was offered following the Executive Session and the Commission opened its public hearing on proposed regulations.

Campaign Disclosure Regulations [18], [18A], [18B], [19], [19A]

Ms. PITTMAN explained that approximately 1,000 copies of the draft regulations were mailed out to officials and the public, and notices of the hearing were published in the newspapers. Written public comments are included in [18A] and [18B].

Personal appearance by Ms. Joyce Kerttula

Ms. KERTTULA stated that she was present because she functions as a Campaign Manager and Treasurer for Jalmar Kerttula. She asked, in regard to the proposal making a contribution of a debt if it is not paid off within a certain period of time, what would happen if the debt could not be paid? A candidate would have to finance his own campaign, which would probably be no problem for a candidate with private income. But others may not be able to fund their own campaigns, which may cause less people to become candidates.

Mr. JOHANSEN said there is an existing policy decision that if a debt is not paid within 30 days, it becomes a contribution. The new regulations require that if accrued expenditures remain unpaid beyond a normal amount of time, they will then become a contribution. The procedures provide candidates the option of coming before the Commission. Mr. JOHANSEN stated that for debts which occurred before the date the regulations pass, a candidate should be given perhaps a year to pay off the debt, or the Commission could address this issue when such a situation arises.

Ms. PITTMAN said she had received a call from Sen. Abood regarding the timing of the regulations package in light of the Senate State Affairs contract with Gross and Burke to re-draft the Campaign Disclosure Law. Senator Abood informed Ms. Pittman that in September or October of 1985 the draft should be ready, he would like the Commission's cooperation in reviewing it, and believed the regulations hearing today may be a disadvantage to this process. Ms. PITTMAN said she explained to Senator Abood that the Commission needs to make regulation changes in between elections, and the regulations address the existing statute. Ms. PITTMAN informed him that she would convey his concern to the Commission. Ms. KENNEDY said she had received a call from Mr. Gross and his concerns were the same as Sen. Abood's. He felt there was a difference of opinion regarding the regulations and that this was an unfortunate time to hold a hearing on them. He expressed concerns about 2 AAC 50.401 which Ms. Kennedy found to be justified and she indicated she would discuss those concerns when that item came up. Ms. KENNEDY had asked Mr. Gross if he would like to testify, and he said no.

Mr. O'TIERNEY asked why Sen. Abood and Mr. Gross thought there was a problem with the timing of the regulations hearing. Ms. PITTMAN explained that it was frustrating to know others are working on a proposal with similar subjects when their draft is not ready yet. Mr. O'TIERNEY asked whether the Gross draft would speak to the changes the Commission has made. Ms. KENNEDY said maybe, maybe not. There was general discussion that the Commission had to proceed with its regulations, as there is no guarantee that the statutory changes would

be passed by the Legislature. Ms. ROGERS stated that it would have been helpful to have Sen. Abood, Mr. Gross or Ms. Burke present at the Commission's hearing.

Personal appearance by Katie Hurley

Rep. HURLEY stated that she is Chairman of the House State Affairs Committee and she would like to see the Commission proceed with work on the regulations, as it takes a long time for regulations to go into effect. She still has debts because she borrowed money to pay off her campaign debts, so it is possible to have debts many years after the campaign. With these regulations, maybe a candidate wouldn't incur such debts.

Ms. ROGERS asked her if she thought the proposal on ending campaigns would pose a hardship. Rep. HURLEY said it is somewhat discriminatory against people who don't have assets, but if there is a limited amount of time to pay off the debts, a candidate may not go so far into debt.

Ms. KNOX said that after the regulations pass, any debts then are subject to be paid off as required. Ms. KENNEDY agreed.

No other members of the public wished to speak at this time and the Commission suggested taking up each regulation in turn.

Ms. PITTMAN noted that packets [18] and [19] were the drafts prepared by staff, based on the Commission's suggestions at its last meeting. Packet [18A] included the appropriate repealers, written comments by Joyce Kerttula and Paxton Oborn, as well as staff re-drafts for 2 AAC 50.313(a)(4), 2 AAC 50.313(a)(8)(A)(iii) and 2 AAC 50.313(b)(4). She noted that the definition of contribution should be numbered 2 AAC 50.313 rather than .314. Packet [19A] included a staff re-draft to 2 AAC 50.460(d) and counsel's rationale for that change.

Mr. JOHANSEN gave an individual summary of each section of the regulations so the Commission could address their concerns for each:

2 AAC 50.313, CONTRIBUTION [18], pages 1-8; [18A], pages 8-9.

There was a comment from the audience that if candidates and contributors are required to report, consultants should also be required to report their activities. Ms. KENNEDY said the point is that candidates are responsible for their campaign people - if campaign people make an arrangement for an independent expenditure, they should be aware that such an expenditure is a non-monetary contribution.

This section was discussed and the Commission agreed to adopt 2 AAC 50.313, Contributions, as amended by [18A], pages 8-9.

Ms. Knox MOVED, to adopt 2 AAC 50.313 as amended by [18A], pages
SECONDED by Ms. Opland, 8-9.

Motion passed unanimously.

Chairman ROGERS noted that she wished to pause to allow additional public comment on the regulations.

Personal appearance by Jean von Dohrmann

Ms. VON DOHRMANN stated that she was in favor of the revisions to 2 AAC 50.380, Early Campaigning, because potential candidates are presently too limited in what they can do in deciding whether to run. Prospective candidates are too vulnerable to potential violations especially when traveling to an area where a candidate is not well known. Ms. VON DOHRMANN said she thought the "letter of intent" section is good.

Ms. VON DOHRMANN said that there is beginning to be a problem for volunteer treasurers, especially in large campaigns. She believes there will be a need for professional treasurers soon or legal help, and she hopes the regulations will simplify matters.

Personal appearance by Maureen Kennedy, Director of AKPIRG

Ms. M. KENNEDY said she would like to compliment staff on the regulation changes and additions regarding loans and advisory opinions. In general, a good job was done. Ms. M. KENNEDY asked if the disclaimer size is still a minimum of 3 1/2" x 5". Ms. OPLAND said yes. She expressed a concern about the possibility of association officers making contributions without authority of the members. Mr. JOHANSEN replied that the section she referred to dealt with reporting of associates' contributions.

There being no further public comments, the Commission continued with packet [18].

2 AAC 50.401, POST-ELECTION FUNDRAISING BY CANDIDATES AND CONTROLLED GROUPS [18],
pages 9-10.

Mr. JOHANSEN explained that the Commission needs to determine when one campaign ends and another begins because of the provisions in AS 15.13.100. Ms. KENNEDY said she has no real problems with subsections (a) and (b) but the statute, by establishing the year-end report deadline implies that a campaign may not close for 2-3 years. She also stated that the Commission had no authority to require that money be given to the General Fund, or that the ending date of a campaign be December 31 of a particular year. Ms. PITTMAN requested more time for staff to address Ms. Kennedy's concern in light of the fact that this objection has just been brought up. Ms. OPLAND suggested deleting some of the repetitious language near the end of subsection (b).

The Commission returned to discussion of 2 AAC 50.380, EARLY CAMPAIGNING, [18], page 11.

Ms. KNOX observed that Ms. von Dohrmann's comments suggested the proposal would simplify things for potential candidates and that was the Commission's intent.

Ms. Knox MOVED, to adopt 2 AAC 50.380, Early Campaigning.
SECONDED by Ms. Opland,

Motion passed unanimously.

2 AAC 50.319, DESIGNATED CAMPAIGN DEPOSITORY [18], pages 12-13.

Mr. Johansen summarized the draft.

Mr. Dale FOX, a member of the audience, inquired as to what was considered a banking institution - how about E. F. Hutton? There was general discussion on this, and it was agreed that a banking institution included a savings and loan institution, and E. F. Hutton would be considered an acceptable depository under the regulation.

The Commission discussed this section and agreed to amend it as follows: Eliminate all of (d) except "...and shall indicate it is a campaign account," which should be added at the end of (c). Ms. OPLAND suggested the changes as she felt it was too restrictive to require that the depository and campaign credit cards be from the same institution.

Ms. Opland MOVED, to adopt 2 AAC 50.319 with the amended language.
SECONDED by Mr. O'Tierney,

2 AAC 50.905, ADVISORY OPINIONS [18], Pages 14-15

Ms. OPLAND expressed concern that the regulation does not require the request to be in writing. Mr. JOHANSEN urged that staff be allowed some discretion to respond to oral requests in situations where the time element required such.

After discussion, the Commission directed the following changes: Under (g): third line, "by" should be changed to "of"; Under (g)(1): second line, "such" should be changed to "an"; "and" should be deleted, and add: "...approving the activity; or..." after the word rendered.

Ms. Knox MOVED, to adopt 2 AAC 50.905 with the amended language.
SECONDED by Ms. Opland,

At this time the Commission recessed until 9:00 a.m. Friday, August 23, 1985.

Minutes, June 24-25, 1985 [1]

The Commission discussed the June meeting minutes and agreed to amend them as follows:

Page 1: "Chairperson" should be changed to "Chairman"; Page 4: third paragraph - "Mr. McKay" should be in capital letters.

Ms. Opland MOVED, to accept the June minutes as amended.
SECONDED by Ms. Knox,

Motion passed unanimously.

Also on the June minutes, the Commission took a final vote on the amended motion dealing with [17C], Substantial Non-compliance: Senator V. Fischer.

Ms. Knox MOVED, to accept the motion as amended at the June
SECONDED by Ms. Opland, meeting.

Motion passed unanimously.

The Commission resumed its regulations hearing.

Campaign Disclosure Regulations & Staff Re-draft/Written Testimony [18], [18A]

Personal appearance by Rep. Terry Martin

Rep. MARTIN stated that he had one major concern with the regulations, this being the number of years that people sometimes run for office. There needs to be an end date for campaigns. He believes that 90 days after an election should be enough time to get things in order. A candidate could pay the bills in advance, so there would be no debts accrued. There are numerous loopholes, e.g., Campaign '84, which should be looked into, for filtering money and targeting 5 candidates. He believes the group got away with it because they are affiliated with the Democratic Party. There is a way of filtering money so no one knows who really gave the money to a candidate, and that's the information people are really after.

Ms. PITTMAN explained that there was a point in time where the Commission asked the Parties to inform them as to how they are organized. The purpose of the request was to determine how the Commission could know that an entity was an official party subdivision. The result of this was a situation where the Commission decided they could not tell the Parties how to organize or whether an entity qualified as a Party subdivision, but would rely on notice from the Parties.

Mr. JOHANSEN said that there is a problem with party subdivisions and the policy has been for non-geographical subdivisions to submit a letter from the Party confirming official subdivision status. There are loopholes for abuse, but maybe these can be tightened up.

Rep. MARTIN suggested use of the voting structure at Party conventions as a guideline to whether a group is truly party affiliated.

2 AAC 50.356, GROUP [18], Pages 16-17

Mr. JOHANSEN explained that staff had no changes to suggest in the initial draft. He noted that the new language continues the provision that an on-going organization may report like an individual. He said staff hoped the new regulation would make it easier for organizations to understand whether they were required to register and report as a group.

Mr. O'TIERNEY asked about the use of the words "...final decision of the recipient candidate or group." After discussion, the Commission requested that the word "decision" be changed to "selection." Ms. OPLAND suggested adding the phrase "and the organization must file as a group." Staff requested additional time to double check the effect of such a change on the grammatical structure of the language.

2 AAC 50.316, PERSONAL CONTRIBUTIONS BY A CANDIDATE, [18], Pages 18-19

Ms. KNOX asked how personal contributions by a candidate differ from a personal loan to the campaign? She understands a loan to be made in anticipation of repayment.

Mr. JOHANSEN said that in the past, the Commission has said that personal contributions create a debt. Some people believe that a campaign is a separate entity that can owe money to the candidate.

Ms. PITTMAN said she believed that when the Commission established this philosophy, it was on the basis that if recovery of personal funds wasn't prohibited, it was allowed. The policy was reflected in the manual as the fact that one could put money into a campaign and recover it whenever able to do so. The Commission can change the interpretation of what is allowed. The Commission used to believe that personal contributions and personal loans were not distinguishable.

Mr. JOHANSEN asked how much money the Commission should let a candidate recover.

Ms. PITTMAN said there was an absence of any specific item in the Statute saying a candidate could not take money as personal income. Ms. KNOX asked if this regulation should deal with how much money a candidate can get back. Mr. JOHANSEN said then there is a problem with post-election fund-raisers. Ms. OPLAND said the public should know if a candidate is contributing to, or loaning money to, a campaign.

Ms. KENNEDY said that contribution is defined in the Statute to include loans. Ms. KNOX stated that many post-election fund-raisers are held to recoup the candidate's money. Ms. PITTMAN said that in regard to the candidate hoping to recoup the money, maybe the candidate should be asked if he or she was planning to recoup the money. If a candidate gives a definite answer, the Commission could deal with his or her adherence to that answer.

Ms. ROGERS suggested holding this item until after the scheduled phone call with Republican District 18.

Campaign Disclosure Affidavits [20]

Available by phone - Allen Vezey, Gary Wood & Jeanette James

Republican District 18 - Allen Vezey, Trsr.

This group requested reconsideration of the civil penalty assessed them for the following:

\$ 1,090 CPA, 30 Day Pre-primary, 109 days late;
\$ 4,350 CPA, 7 Day Pre-primary, 87 days late;
\$ 700 CPA, 10 Day Post-primary, 70 days late;
\$ 380 CPA, 30 Day Pre-general, 38 days late;
\$ 50 CPA, 7 Day Pre-general, 17 days late.
\$ 6,570 CPA total

At the June meeting the Commission accepted staff's recommendation for reduction of the assessment to 10%. This group did not know their affidavit was to be reviewed at that meeting, and wanted a chance to respond and be heard.

The representatives of the group presented their mitigation. The Commission agreed to uphold the staff recommendation of 10% of \$6,570 (\$657), which is to be paid within 30 days and noted that if this is a hardship on the group, they should contact staff and request an extension of time to pay the fine.

2 AAC 50.316, PERSONAL CONTRIBUTIONS BY A CANDIDATE - continued

Personal appearance by Patti Macklin

Ms. MACKLIN stated she had a question in subsection (c) regarding jointly owned assets. She owns a duplex with her mother - is that an asset? She also had some concern regarding assets owned with a spouse. Mr. JOHANSEN said that assets owned jointly with any other person can be used by the candidate.

Ms. MACKLIN inquired as to why she could contribute an unlimited amount of money to her own campaign, but only \$1,000 to another. Ms. KENNEDY informed her that was set in the statute.

Ms. ROGERS suggested striking out (c). Mr. JOHANSEN said that by including "his or her spouse" typifies the usual situation. Without this language, a person can assert that it is acceptable to convey the property to a candidate just before an election, so the candidate can then convert his share of the assets into his or her campaign.

Mr. O'TIERNEY said that there could be an unlimited number of jointly owned assets, which are legitimate. To resolve this dilemma, "including but not limited to spouse" could be entered.

The Commission discussed this section and agreed to amend it as follows: change (C) to (2); strike out "with his or her spouse"; add "In the case of property jointly owned with a spouse, if no specific share...."; add a new sentence to read, "In the case of property jointly owned by a non-spouse where there is no instrument of conveyance or ownership, the percent of the asset belonging to the candidate shall be the pro rata share of the purchase price paid by the candidate, or, if no purchase was made, the amount determined by dividing the value by the number of owners."; change (2) to (3); (3) to (4); (4) to (5); and on the second line of (5), correct the typo of "nto" to "not."

Ms. Opland MOVED, to adopt 2 AAC 50.316 as amended.
SECONDED by Ms. Knox,

Motion passed unanimously.

2 AAC 50.357, CONTRIBUTIONS IN THE NAME OF ANOTHER, [18], Pages 20-21

Mr. JOHANSEN said the purpose of the regulation was to provide specificity about the conduct considered to be a prohibited contribution in the name of another. Such specificity is especially important for provisions that are subject to criminal prosecution. He noted that (a)(2) represents a change in interpretation with respect to whether the contribution limitation applies to the com-

bined value of contributions by a corporation and its subsidiary or by a parent organization and its local units. He expressed the view that this language represents uniform treatment for corporations, unions, and other entities and would not be greeted with objection on that basis.

Personal appearance by Catherine Zalewski

Ms. ZALEWSKI said that a 17 year old child who has political knowledge, should be allowed to make a contribution. The voting age has been discussed as determining the age at which a person could be considered old enough to decide for themselves if they want to make a contribution. Ms. MACKLIN said she thought the voting age was a good idea. Ms. ROGERS stated that she felt anyone under the age of 18 should not be allowed to make a contribution, as that is the age when they are considered to be adults. In her view, it would be logical to go by the voting age.

Ms. MACKLIN stated that people under the age of 18 could show their support in ways other than contributing money. Ms. KNOX stated that it should be the voting age, as the contribution process deals with an election. Ms. ROGERS said she believes it to be clear and fair to require a person to be 18 years old in order to contribute.

Ms. ZALEWSKI asked if it was the really young children that the Commission wants to cover in this. A 16 or 17 year old may be politically oriented and may want to help by contributing money to a campaign. Ms. PITTMAN said there is a problem with parents giving children money to make a contribution. Ms. ZALEWSKI said it could be worded "a child using money received from a parent specifically for political purposes."

Ms. OPLAND noted that subsection (e) should be "(c)."

Ms. Knox MOVED, to adopt 2 AAC 50.357.
SECONDED by Ms. Opland,

After further discussion on the provision related to contributions by minors, Ms. ROGERS called for the vote which failed 2-2. Mr. O'Tierney and Ms. Opland voted nay; Ms. Knox and Ms. Rogers voted yea.

Ms. OPLAND suggested that the language could be more specific concerning a child using money received from a parent specifically for contributing. Mr. O'TIERNEY suggested that the need to signal potential problems with children's contributions could be served by including a reference in (a)(2).

The Commission agreed to take this subject up again after lunch.

85-1-LOB: Moyer v. Caverly Center, Salvation Army, Chugiak Center [31]

Personal appearance by Janet Moyer

Ms. MOYER said she began lobbying in 1982, and when she began to see the amount of money spent, was shocked. She feels state agencies have blocked her from finding out information and is curious why three agencies didn't have registered lobbyists, yet received several million dollars. She requested the APOC to check into this, but did not get a response. She feels that she is

harmd by these groups and wanted help from the APOC. She understands that Ms. Miles needed more information, so she provided her with a sworn statement. People need to be aware of the laws, and it is only fair that other organizations adhere to the rules and laws. There is a need for consistency in applying the laws and standards.

Ms. PITTMAN explained that staff response to the complaint has been slow. The problem is that although Ms. Moyer's letter was given to Brooke Miles in January, Ms. Pittman received it in March, as Brooke was under the impression that she was to hold onto it for awhile, so there was a problem of misunderstanding. Of the three statutes, the APOC has the least people to work on AS 24.45. When Ms. Pittman received the letter, she discussed it with staff and Ms. Kennedy, and believed it to be insufficient. At this point, staff is prepared to proceed with the complaint.

Ms. MOYER said that it looks like proving this case is left up to her. It should be up to the Commission. Ms. PITTMAN said she would encourage Ms. Moyer to document events that support her allegations to allow staff to do its work more efficiently. Ms. MOYER said she would try to get more documentation, but believes the Commission is able to get information to which she does not have access. Ms. ROGERS said that the staff and Commission will do their best.

The Commission recessed for lunch and reconvened at approximately 1:30.

2 AAC 50.357, CONTRIBUTIONS IN THE NAME OF ANOTHER - continued

Ms. MACKLIN asked how the Commission would know that a parent's purpose in giving a child money was to contribute. Ms. ROGERS noted that the Commission frequently had to deal with issues of that nature.

Language changes were discussed to allow a child to make a contribution with the child's own money.

The Commission agreed to accept this subsection worded as: "(c) If a minor makes a contribution, the source of which is money or a thing of value given to the child by a parent for that purpose, the parent has made a contribution in the name of another."

Ms. Opland MOVED, to adopt 2 AAC 50.357 as amended.
SECONDED by Mr. O'Tierney,

Motion passed unanimously.

2 AAC 50.401, POST-ELECTION FUNDRAISING BY CANDIDATES AND CONTROLLED GROUPS - continued
[18C]

Ms. PITTMAN explained that staff had redrafted this section, which is presented in [18C]. The focus of the draft is to establish a time line for Commission review of whether outstanding debts are considered to be debts or contributions. Ms. KENNEDY indicated that the re-draft removed the approach which she had found objectionable in the previous version. The Commission discussed the redraft, and agreed to accept it with one addition: on page 2, seventh line, add "...a candidate's personal contributions or loans made from his or her...."

Ms. Knox MOVED, to adopt the [18C] re-draft of 2 AAC 50.401.
SECONDED by Ms. Opland,

2 AAC 50.910, AVAILABILITY OF REPORTS FILED WITH THE COMMISSION [18], Page 22

Mr. JOHANSEN noted that this was a technical amendment suggested by the Department of Law to make this regulation compatible with the fact that 2 AAC 50.351(d) allows some reports to be kept confidential. Subsection 351(d) was promulgated in response to the Court's suggestion in the Messerli Case.

Ms. Opland MOVED, to adopt 2 AAC 50.910.
SECONDED by Mr. O'Tierney,

Motion passed unanimously.

2 AAC 50.360, MUNICIPALITIES [18], Page 23

Ms. PITTMAN explained that the effect of the proposed changes is to reverse the Commission's instructions to municipalities about the way to report. The new language allows them to report as individuals rather than groups so long as they are using budget funds, not accepting donations to fund their activity.

Staff has not found any examples of municipalities using solicited funds and feels that group reports create more paper but do not disclose meaningful information.

Mr. O'Tierney MOVED, to adopt the amendments to 2 AAC 50.360(a) and
SECONDED by Ms. Opland, the new subsection (d).

Motion passed unanimously.

2 AAC 50.369, PROPER IDENTIFICATION OF POLITICAL COMMUNICATIONS [18], Page 24

Ms. PITTMAN explained that campaigns have frequently overlooked the fact that fund raiser invitations are considered by the Commission to be subject to the identification requirements. This new subsection is intended to help campaigns understand the "paid for by" requirements.

Ms. Opland MOVED, to adopt 2 AAC 50.369(e).
SECONDED by Ms. Knox,

Motion passed unanimously.

2 AAC 50.370, OBJECTS TOO SMALL TO CONTAIN THE PROPER IDENTIFICATION [18], Page 25

Ms. PITTMAN explained that the Commission established a policy some time ago that objects which are no bigger than minimum mailing size need not be identified. This language adds that decision to the regulation.

Ms. OPLAND suggested that the language should read "...other objects which are smaller than '3 1/2 x 5'..." to accurately convey the fact that an item large enough to be accepted by the Post Office must be identified. The Commission agreed.

Ms. Knox MOVED, to adopt 2 AAC 50.320 as amended.
SECONDED by Mr. O'Tierney,

2 AAC 50.390(d)(1), CIVIL PENALTY ASSESSMENTS FOR LATE FILING OF A CAMPAIGN
DISCLOSURE REPORT [18], Page 11.

Ms. OPLAND asked whether the new proposal would eliminate the Commission's ability to mitigate a fine. Ms. PITTMAN said that would not be the case. The new language provides for initial assessments to be made at the statutory maximums; there would no longer be any regulatory limit confining the Commission to fining only \$1 or \$5 for particular reports. Initial assessments will be higher but the Commission will still be able to reduce fines that are appealed.

Ms. Opland MOVED, to adopt 2 AAC 50.390(d)(1) as presented.
SECONDED by Ms. Knox,

2 AAC 50.315(d), CONTRIBUTION LIMITATION EXEMPTION [18], Page 27

Ms. Opland MOVED, to adopt the new subsection (d) of 2 AAC 50.315.
SECONDED by Ms. Knox,

The Commission discussed these sections and agreed to accept them as presented.

Repealers [18A], Page 2

Ms. PITTMAN noted that the adoption of the items in packet [18] meant that some of the existing regulations need to be repealed:

- 2 AAC 50.325: Recordkeeping Requirements for non-monetary contributions;
- 2 AAC 50.330: Reporting Campaign Expenditures for Transportation;
- 2 AAC 50.350: Contribution of Professional Services;
- 2 AAC 50.355: Loans;
- 2 AAC 50.405(4): "Contribution";
- 2 AAC 50.385: Reporting by Organizations & Business or Trade Associations;
- 2 AAC 50.395: Reporting by a Business Entity or Labor Organization.

Ms. Knox MOVED, to repeal the existing regulations listed on
SECONDED by Mr. O'Tierney, page 2 of [18A].

Motion passed unanimously.

2 AAC 50.460(d), PRELIMINARY INVESTIGATION, [19A], Page 1

Ms. KENNEDY explained that the intent of this proposal was to make it clearer that one of the options available as the result of a preliminary investigation was the assessment of civil penalties, subject to appeal by affidavit.

Ms. Opland MOVED, to accept the amendment to 2 AAC 505.460(d) in
SECONDED by Ms. Knox, [19A].

Motion passed unanimously.

Complaint/Inves./Hearing Reg. Amendments [19], Page 1; pages 3-8

Ms. PITTMAN explained that the amendment on Page 1 was a minor one suggested by the Ombudsman. It requires staff to notify the subject of a rejected complaint that the complaint has been rejected.

Ms. Knox MOVED, to adopt the amendment to 2 AAC 50.450(d).
SECONDED by Ms. Opland,

Ms. PITTMAN explained that pages 3-8 are proposed amendments to the hearing regulation. The draft reflects a change in advice concerning whether APOC hearings are subject to the requirements of the Administrative Procedures Act that a hearing officer be used. The current position of the Dept. of Law is that when the APOC holds a hearing, it must be in accordance with the APA.

Ms. Knox noted that in line 1 of 2 AAC 40.470(g), the word "there" should be changed to "those."

Ms. Knox MOVED, to adopt 2 AAC 50.470 as amended.
SECONDED by Ms. Opland,

Motion passed unanimously.

Campaign Disclosure Affidavits [20]

Mr. Johansen presented the Campaign Disclosure Affidavits.

Alaska Life Underwriters PAC - Denise Perry, Treasurer

Appeal: \$1,700 CPA 7 Day Pre-primary report, 34 days late;
\$ 10 CPA 10 Day Post-primary report, 17 days late;
\$ 50 CPA 7 Day Pre-general report, 11 days late;
\$ 10 CPA 10 Day Post-general report, 13 days late.

Total: \$1,770 CPA
Appeal accepted; fine waived.

Democrats for Pignalberi

Appeal: \$ 970 CPA 10 Day Post-primary report, 97 days late.
Appeal accepted in part; fine reduced to \$48.50 if paid within 30 days.

Ketchikan Education Association PACE - Carol Mitchel, Chairperson

Appeal: \$ 2,180 CPA 30 Day Pre-general report, 218 days late;
\$ 9,800 CPA 7 Day Pre-general report, 196 days late;
\$ 1,790 CPA 10 Day Post-general report, 179 days late.

Total: \$13,770 CPA
Appeal accepted in part; fine reduced to \$68.50 if paid within 30 days.

Art Vergere - Candidate, Valdez City Council

Appeal: \$ 50 CPA 7 Day Pre-municipal report
Appeal denied; fine upheld.

Ms. Knox MOVED, to accept all actions taken on the Campaign
SECONDED by Mr. O'Tierney, Disclosure Affidavits.

Motion passed unanimously.

Conflict of Interest Statutory Recommendations [5]

Ms. BARCOTT stated that staff would like to suggest the Commission propose three statutory recommendations for the Conflict of Interest Law and proposed Ethics Legislation:

1) Revision of the definition of "Public Official"

Staff would like the definition of "public official" to be revised to incorporate changes in job titles in the executive branch and include key administrative personnel with the Court System and the University of Alaska.

2) Revision of the definition of "Municipal Officer"

Staff would like the definition of "municipal officer" to read "...city or borough manager or administrator...."

Staff would further propose that a new definition be added which would read (10) "candidates for elective municipal office" includes only candidates for those offices defined in AS 39.50.200(a)(6).

3) Ethics Legislation

While the scope and shape of a proposed ethics bill for the executive branch is not known, staff would like the Commission to endorse the concept that the ethics bill be tied to the existing Conflict of Interest Law. Staff believes it appropriate that positions covered by the ethics bill be required to file Conflict of Interest Statements.

Conflict of Interest Affidavits [6]

Ms. Barcott presented the Conflict of Interest Affidavits.

Jacob Stepetin - Mayor, City of Akutan

Appeal: \$ 24 CPA 1985 COI Statement filed 8 days after receipt of delinquency notice.

Appeal accepted; fine waived.

Jennie Robinson - Member, Akutan City Council

Appeal: \$ 24 CPA 1985 COI Statement filed 8 days after receipt of delinquency notice.

Appeal accepted; fine waived.

Colleen Kuderin - Member, Akutan City Council

Appeal: \$ 24 CPA 1985 COI Statement filed 8 days after receipt of delinquency notice.

Appeal accepted; fine waived.

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Zenia Borenin - Member, Akutan City Council

Appeal: \$ 24 CPA 1985 COI Statement filed 8 days after receipt of delinquency notice.

Appeal accepted; fine waived.

John Pingayak - Mayor, City of Chevak

Appeal: \$ 64 CPA 1985 COI Statement filed 16 days after receipt of delinquency notice.

Appeal accepted; fine waived.

Tony Umugak - Member, Chevak City Council

Appeal: \$ 64 CPA 1985 COI Statement filed 16 days after receipt of delinquency notice.

Appeal accepted; fine waived.

Joseph Paniyak - Member, Chevak City Council

Appeal: \$ 34 CPA 1985 COI Statement filed 10 days after receipt of delinquency notice.

Appeal accepted; fine waived.

Peter Boy Scout - Member, Chevak City Council

Appeal: \$ 34 CPA 1985 COI Statement filed 10 days after receipt of delinquency notice.

Appeal accepted; fine waived.

Leo Moses - Member, Chevak City Council

Appeal: \$ 34 CPA 1985 COI Statement filed 10 days after receipt of delinquency notice.

Appeal accepted; fine waived.

Eugene Asicksik - Mayor, City of Shaktoolik

Appeal: \$ 49 CPA 1985 COI Statement filed 13 days after receipt of delinquency notice.

Appeal accepted; fine waived.

Matilda Hardy - Member, Shaktoolik City Council

Appeal: \$ 54 CPA 1985 COI Statement filed 14 days after receipt of delinquency notice.

Appeal accepted; fine waived.

Ethel Takak - Member, Shaktoolik City Council

Appeal: \$ 54 CPA 1985 COI Statement filed 14 days after receipt of delinquency notice.

Appeal accepted; fine waived.

Mary Katchatag - Member, Shaktoolik City Council

Appeal: \$ 54 CPA 1985 COI Statement filed 14 days after receipt of delinquency notice.

Appeal accepted; fine waived.

Edgar Jackson - Member, Skaktoolik City Council

Appeal: \$ 29 CPA 1985 COI Statement filed 9 days after receipt of delinquency notice.

Appeal accepted; fine waived.

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Gabriel Takak - Member, Shaktoolik City Council

Appeal: \$ 9 CPA 1985 COI Statement filed 5 days after receipt of delinquency notice.

Appeal accepted; fine waived.

James Carroll - Member, Fort Yukon City Council

Appeal: \$ 14 CPA 1985 COI Statement filed 6 days after receipt of delinquency notice.

Appeal accepted; fine waived.

Val Angason - Member, Board of Fisheries

Appeal: \$ 187 CPA 1985 COI Statement filed 32 days late.

Appeal denied; fine upheld.

Barbara Dale - Member, Commission on Judicial Conduct

Appeal: \$ 147 CPA 1985 COI Statement filed 28 days late.

Appeal accepted in part; fine reduced to \$73.50 if paid within 30 days of notice.

Michael Minder - Member, Oil & Gas Conservation Commission

Appeal: \$ 57 CPA 1985 COI Statement filed 17 days late.

Appeal accepted; fine waived.

Sylvester Neal - Director, Division of Fire Protection

Appeal: \$ 97 CPA 1985 COI Statement filed 23 days late

Appeal accepted in part; fine reduced to \$48.50 if paid within 30 days of notice.

Jana Varrati - Member, Council on Domestic Violence & Sexual Assault

Appeal: \$ 77 CPA 1985 COI Statement filed 21 days late

Appeal accepted in part; fine reduced to \$38.50 if paid within 30 days of notice.

Municipal Reporting Statistics [6A]

Ms. BARCOTT explained that 11 municipal officials had not yet filed their 1985 Conflict of Interest Statements and that continued failure to do so may subject them to criminal charges. AS 39.50.060.

Concerning the officials from Anvik, there seems to be confusion over who has filed their Statements and the date they were filed. Staff has requested that the City Clerk submit a sworn statement listing the name of each public official who has filed, the date the Statement was filed, and copies of the Statements.

Attorney General - Civil Referrals [4]

Failure of State Public Officials to Pay COI Civil Penalties

Ms. BARCOTT explained that the following four people have been referred to the Attorney General's Office for civil collection of outstanding civil penalty assessments for late filing of their 1985 Conflict of Interest Statements: Edward Janzen, Darryl Pederson, Morgan Solomon, and Marco Pignalberi.

Municipal Officials Who Failed to File 1985 Conflict of Interest Statements [7]

Ms. BARCOTT explained that staff is requesting that the Office of the Attorney General pursue formal collection efforts on the civil penalties which are accruing at \$10/day for those officials who have not filed a 1985 COI Statement. Additionally, staff is giving notice to the local city attorney that the APOC recommends the official(s) be removed from office for failure to comply with AS 39.50.

Ms. ROGERS stated that she feels staff is pursuing the right course of action.

84-4-COI: Bradley Exemption Request [Verbal]

Ms. BARCOTT explained that a Hearing Officer has been appointed, but she does not know if a hearing date has been set. The hearing will take place in Juneau.

Next Meeting Dates [23]

The Commission agreed that the next regular meeting will be held on November 19-20, 1985 in Anchorage. The tentative date for a February meeting was set for February 27-28, 1985 in Anchorage.

FY 87 Budget Request [22]

Ms. PITTMAN explained the budget request that has been submitted to date.

85-3-COI: Staudenmaier 1985 Municipal Candidate COI [8]

Ms. BARCOTT explained that staff requests a hearing to decide if Mr. Staudenmaier's name should be withheld from the ballot for failure to properly file a Conflict of Interest Statement. If the Commission grants this request, there is immediate need for a hearing officer, as the hearing regulation requires 30 days notice to the individual.

Mr. O'TIERNEY asked if Mr. Staudenmaier had ever filed the client names required on his COI Statement as a 1984 state candidate. Ms. BARCOTT said that he has not filed them with the APOC, nor the Attorney General's Office.

Ms. Opland MOVED, to accept staff's recommendation for a hearing
SECONDED by Ms. Knox, on this matter.

Motion passed unanimously.

Ms. BARCOTT said that staff would try to schedule the hearing as soon as possible within the timeline for notice set by the regulation; it appeared that it might be possible to hold it around September 23, 1985.

84-7-COI: Sheldt v. Wilson (Thorne Bay)
85-2-COI: Barnes v. Thorne Bay City Council [Verbal]

Ms. BARCOTT explained that staff has requested a response date of August 28 from officials in Thorne Bay. This is a serious complaint which involves many people and serious allegations.

85-1-COI: Miller v. Rutledge, et. al. (Cold Bay) [Verbal]

Ms. BARCOTT explained that there has been no progress on this complaint, and staff will take this matter up at the next Commission meeting.

Ms. Opland MOVED, to adjourn the meeting.
SECONDED by Ms. Knox,

Motion passed unanimously.

The meeting adjourned at 4:20 p.m. on August 23, 1985.

ALASKA PUBLIC OFFICES COMMISSION
MINUTES
June 24-25, 1985

A regular meeting of the Alaska Public Offices Commission was called to order at 9:05 a.m., Monday, June 24, 1985 by Chairman Jean Rogers. The meeting was held in the Easter Island Room of the Captain Cook Hotel in Anchorage.

Commissioners: Chairman Jean Rogers; Vice-Chair Arlayne Klein; Mildred Opland; Burke Riley.

Staff: Theda Pittman, Executive Director; Chris Johansen, Associate Coordinator, Campaign Disclosure; Jane Barcott, Associate Coordinator, Conflict of Interest; Brooke Miles, Juneau Branch Administrator; and Teresa Garrison, Recording Secretary.

Others: Elizabeth Page Kennedy, Assistant Attorney General; Senator Vic Fischer; William Moffatt; John McKay, counsel for William McConkey; John Wood, counsel for Sarah Clossey Norris and Joe Norris; Tom Staudenmaier.

Available via telephone: Rep. Andre Marrou; Robert Reed Shelley, counsel for Rep. Marrou.

Ms. PITTMAN explained that Commissioner O'Tierney was in Seattle, and that he had given her a telephone number where he could be reached.

Ms. Opland MOVED, for the Commission to go into Executive Session to discuss Litigation Reports. AS 44.62.310(c)(3).
SECONDED by Ms. Klein,

Motion passed unanimously, at which time the Commission went into Executive Session, and reconvened at 9:25 a.m. No motions were made following the Executive Session.

Draft Complaint/Inves./Hearing Reg. Amendments [9]

Ms. PITTMAN explained that the existing hearing regulation, 2 AAC 50.470, was written by Ms. Kennedy to account for a perceived difference between APOC decisions and the kinds of decisions addressed by Administrative Procedure Act hearing procedures. A recent memorandum by Assistant Attorney General Dick Monkman suggests that APOC hearings are subject to the Administrative Procedure Act. The draft revisions to 2 AAC 50.470 would make that regulation consistent with the Administrative Procedure Act. This is appropriate in

light of recent decisions by the Commission to hold Administrative Procedure Act-type hearings either at the request of respondents or because such appears prudent due to probable litigation. The draft does not explicitly address the criteria for determining when an Administrative Procedure Act hearing would be held. Nor does it respond to the statutory language regarding civil penalties which provides that they can be appealed via affidavit.

Ms. Kennedy and Mr. Monkman are in disagreement over whether civil penalties are subject to hearing procedures. Staff suggests Ms. Kennedy be asked to draft language for the Commission which might clarify the review process for civil penalties.

Ms. KENNEDY said that a formal hearing process for civil penalty affidavits would be a slow mechanism for respondents. Ms. OPLAND agreed and indicated a concern that the Commission would never get anything done if hearings were conducted on all civil penalties.

Ms. PITTMAN said that under Mr. Monkman's suggestion, he recommended that only a Hearing Officer be present to listen to a staff presentation and the affiant. She believes there is a disadvantage to a person not being able to appear before the Commission. The appeal process would be more difficult and impersonal than it is at present.

Ms. KENNEDY said that the Commission may want to think over the hearing process as it relates to civil penalties. Ms. OPLAND asked if anyone could request a hearing. Ms. KENNEDY said not necessarily.

Ms. KLEIN asked if there was a problem in using the word "hearing" and if another term was available for the civil penalty items. Ms. KENNEDY said that "appearance" may be used as opposed to "hearing," which could be used for formal proceedings. Ms. ROGERS stated that she would like to be as informal as possible.

Ms. PITTMAN noted that if the Commission approved these revisions for public notice, a regulations hearing could be held in August. Ms. ROGERS asked if that was agreeable to the Commission.

Mr. Riley MOVED, to approve the draft revisions of 2 AAC 50.450,
SECONDED by Ms. Opland, .460, and .470 for hearing at the August meeting.

Motion passed unanimously.

85-2-CD: Staff v. Clossey, McConkey, Norris [3]

Mr. JOHANSEN said that staff requests an issuance of Notice of Hearing, with the hearing separate from the regular Commission meeting. At the meeting, the Commission should address the matter of whether one or all of the persons should be referred for criminal prosecution or if civil penalties should be assessed. The Commission should institute criminal proceedings when there is evidence of criminal conduct. Ms. Clossey was informed of the

need to file disclosure reports when she inquired about distributing flyers, but she filed late. Staff also attempts to show that a campaign cannot be conducted independently of a candidate when it is prepared by his or her campaign consultants, and staff believes that this is a serious enough matter for criminal referral.

Personal appearances by Mr. John Wood, counsel for Sarah Clossey and Joe Norris; and John McKay, counsel for William McConkey.

Mr. WOOD stated that his clients don't want to prolong the matter in front of a political body, and that he differs with staff on the level of evidence necessary to commence with criminal proceedings. They request no hearing, but request that the matter be sent to the Attorney General for determination of criminal prosecution. Regarding depositions of Ms. Clossey and Mr. Norris, he would like to add that the depositions are unsigned, and his clients cannot be forced to sign them now. He has advised his clients to take the 5th Amendment.

Ms. ROGERS explained that the Attorney General would not take the case without a hearing from the Commission first. Mr. WOOD stated that the present hearing was enough to satisfy his clients. Ms. ROGERS said that may not satisfy the Attorney General.

Mr. WOOD stated that the evidence would not satisfy the Attorney General. Mr. Wood had asked if the matter was instituted by a complaint and the staff has said no. Mr. Wood said that he had looked at the Abood and Flood files. He believed the Commission was aware of the fliers in November of 1983 and also of the Flood lawsuit against Ms. Clossey, which has been settled. According to Mr. Wood, it appears the true complaintant is Joe Flood. If the Commission thinks a hearing is necessary, the respondents should have the right to depose Joe Flood, Charles Dunnagan, and Chris Johansen. Mr. Wood then submitted to the Commission, a letter from Mr. William McConkey to Sarah Clossey showing the expenditures for the flier.

Mr. WOOD said that there is confusion over the May 13, 1985 meeting between his clients and Chris Johansen, at which time his clients were granted an extension to May 31, 1985 to respond to staff. At that time, their attorney failed to show. Ms. Clossey filed a disclosure report and did not try to hide any information. Mr. WOOD asked how broadly the Commission defines group - if a husband drives his wife to place an ad, is this a group? If they go to a political consultant, is this a group? Mr. McConkey was involved with Senator Abood's campaign, but was also involved in 17 other campaigns. Mr. WOOD asked the Commission to dismiss the matter, file a civil penalty assessment so they can appeal, or refer the matter to the Attorney General.

Ms. ROGERS asked if there were any questions. In the absence of any questions, Ms. ROGERS asked John McKay, counsel for Mr. McConkey, to proceed.

Mr. MCKAY stated that Mr. McConkey has been a professional campaign consultant for 10 years and has never had a complaint against him. He stressed that there are three people involved in this matter and all three are lumped together. He has consulted with Mr. McConkey who said that there had been no

continuing relationship between McConkey and the other two. He sees no reason to proceed further against Mr. McConkey. Proceeding with a hearing could take a year or longer, which would damage Mr. McConkey's business and his reputation. The statutes provide regulations for professional campaign consultants and until now, Mr. McConkey never considered it group activity when he consulted with his clients. He wants fair notice of what is considered group behavior.

Mr. McKAY noted that staff's case appears to be based on a single fact, that Senator Abood had the same information about Flood as Ms. Clossey. Further, staff contends that as a matter of law Mr. McConkey's actions could not have been independent of Senator Abood. But staff offers no case law to support its contention.

Mr. McKAY asserted the only relevant evidence is that it is clear Mr. McConkey wasn't consulted as a campaign manager for Senator Abood. Ms. Clossey had a Constitutional right to make expenditures against Joe Flood. Why can contributions be limited but not expenditures? The courts have said that expenditures are a right of "free speech." Contributions are limited to limit corruption of candidates. There is no danger of this between Abood and Clossey as there is no evidence that ties them together.

Ms. ROGERS asked if there were any questions.

Ms. OPLAND said that Mr. McKay spoke to a lot of issues but not all of them. In a two-candidate race, an expenditure against one candidate is considered a contribution to the other candidate. Mr. McKAY stated that if this is a contribution issue, it would exceed the limit, but it was an expenditure. The regulations require Ms. Clossey to report her expenditures and she did file a report. She did have the right to make an independent expenditure. It may be a contribution depending on the case (if Ms. Clossey wanted to support Senator Abood). If she just wanted to oppose Joe Flood, she had the right to make an independent expenditure.

Ms. ROGERS said that the Commission needs to decide if there is any evidence to conduct a hearing against any of these three people. Mr. JOHANSEN stated there is evidence of a failure to report, and this supports cause for a hearing. Staff has depositions that raise questions of the need for these people to file reports, and staff is suspicious of the actions taken by Sarah Clossey on the flier. Ms. Clossey and Mr. Norris will not disclose from whom they received the money to pay for the flier. Staff believes there is evidence of criminal conduct. Although the depositions of Ms. Clossey and Mr. Norris are not signed, they are sworn documents.

Ms. OPLAND said that a hearing should be held, and if the evidence is not substantial, the matter could be dismissed.

Ms. Opland MOVED, to give Notice of Hearing, as requested by
SECONDED by Ms. Klein, staff.

Motion passed unanimously.

Ms. KENNEDY asked whether there were any issues in the staff paper that the Commission did not want to raise in the hearing. Commissioners replied negatively.

Mr. WOOD requested authority to take depositions. Ms. KENNEDY stated that was up to the Hearing Officer. Mr. WOOD said that staff does not want to give him all of the evidence, but he wants any and all evidence. Mr. JOHANSEN said that was to be decided by the Hearing Officer, but that staff doesn't see any problem with that. What causes staff's reluctance at this time, is protection of witnesses. There is no problem with the documents, but the witness names will be given only if the Hearing Officer specifies.

Mr. MCKAY said that he hoped to get all the information and doesn't understand the need for a hearing. He has heard no evidence that Mr. McConkey did anything wrong, and a Hearing Officer cannot decide a matter of law. The hearing portion on where the money came from may decide if Mr. McConkey is implicated, but at this time there is no basis for proceedings against Mr. McConkey. Mr. MCKAY asked that the Commission consider all three people as separate individuals and wait to see if Mr. McConkey needs to go through the hearing process.

Ms. OPLAND said that the Commission has the option to divide it into two separate hearings. Mr. MCKAY said that would be appropriate. Ms. KENNEDY said that all three should be at one hearing.

Mr. RILEY asked if the matter is divisible at the option of the Hearing Officer. Ms. KENNEDY said yes. Ms. OPLAND suggested the hearing be handled in two segments, with the matter of Ms. Clossy and Mr. Norris being taken up first. Mr. MCKAY asked if the Hearing Officer has the power to wait on the McConkey matter. Ms. KENNEDY stated that the Hearing Officer has the authority to separate people for hearings.

Ms. ROGERS said that the Commission would like to proceed with Notice of Hearing.

Substantial Non-compliance: Senator V. Fischer [17C]

Mr. JOHANSEN explained that there has been an initial finding by staff that three reports of Senator Vic Fischer's 1982 Senatorial campaign are in substantial noncompliance with the requirements to file properly completed Campaign Disclosure Statements. Omissions of \$3,653 from the 1982 30 Day Pre-primary report and \$3,426 from a 10 Day Post-general report occurred. Staff recommends the Commission find both are substantially incomplete. The 1982 Year-end omitted in the aggregate the amount of \$800 in contributions but did not omit a maximum contribution. Staff did not feel fines were appropriate for omission of a single \$500 contribution and \$300 in contributions of \$100 or less, especially when the total campaign activity is over \$60,000. At most, staff sees the Year-end report situation as appropriate for a strongly worded letter of Admonishment rather than the assessment of a civil penalty.

Staff recommends reduction of the civil penalties to 50%, as the candidate provided staff with all requested information. The problem was with the treasurer not completing the reports and lack of coordination between the treasurer and the candidate.

Ms. OPLAND asked if \$26,550 was the total civil penalty assessment for the three reports. Mr. JOHANSEN said that there was no fine recommended for the 1982 Year-end report. A civil penalty assessment of \$8,000 for a report that omits \$800 is excessive.

Ms. OPLAND asked, in regard to the 1982 10 Day Post-general report omitting the raffle, if the Commission had changed the policy on raffles. Ms. PITTMAN explained that the Attorney General's memo on this subject was dated December, 1982, which was after the date of Senator Fischer's raffle.

Senator FISCHER stated that he felt the staff recommendation was totally unreasonable. There is no question that the omissions were unintentional and resulted from a problem in the bookkeeping and the treasurer's interpretation of the regulations. The problem was brought to the Senator's attention on March 18, 1985, in a letter from staff, and was the first notice he had received. The letter asked for information and the information was supplied within 10 days. That was almost 2 1/2 years after the problem was discovered.

Senator FISCHER said that he believed the assessment should start from the time he was informed of the problem. All the letters from staff were very "light," and said that staff and the campaign treasurer were working on the problem. Staff should have said the problem was more serious. The raffle omissions were an honest mistake. The problem was due to a misinterpretation of the regulations regarding raffles. The contributions were reported to the Department of Revenue, and Sen. FISCHER believes the reduction of civil penalties from \$10/day to \$5/day is not generous. If the report had been the first to be audited, the civil penalty assessment may have been minimal. It wasn't taken care of because the Alaska Public Offices Commission is understaffed and could not take care of the matter immediately. Sen. FISCHER said that he feared being penalized for supporting the Commission. The Commission may feel it necessary to lean over backwards to fine him to show that they are not partial.

Ms. KLEIN said that the questions began in 1982 and asked if the problem hadn't been resolved because there was no communication between the treasurer and Sen. Fischer. Sen. FISCHER replied that his treasurer told him there were questions by staff and that he was giving them the requested information. Staff had not said anything about there being a violation or a civil penalty assessment.

Mr. JOHANSEN said that a stern audit request including the possibility of a civil penalty assessment was sent in the 1983 Year-end audit report. The audit said that there was a negative cash-on-hand and the questions had continued through the reporting period. On the 1982 Year-end report there had been a question about the negative cash-on-hand. On these reports, the questions were still not answered. A stern letter (dated March 15, 1984) was sent to the campaign asking them to explain this.

Ms. KLEIN asked if this letter was addressed to the treasurer, and if it stated the possibility of a civil penalty assessment. Mr. JOHANSEN said yes.

Sen. FISCHER said that he received a copy of that along with a memo from the Executive Director which said staff was working on it. He spoke with his treasurer regarding the audit and was informed that the treasurer was following up on it. At that time, he assumed all was in order.

Ms. KLEIN said that this has taken too long to resolve, and there is also a problem in Sen. Fischer's interpretation of the civil penalty assessment. Statutes set the time the assessments are to start accruing, not the Commission. The solution is to have sufficient staff to get things done quicker.

Ms. ROGERS asked if there was further discussion. Ms. OPLAND said that a misunderstanding of the requirement to report the raffle is part of the problem.

Ms. Opland MOVED,
SECONDED by Ms. Klein,

to reduce the civil penalty assessments as follows: 50% on the 30 Day Pre-primary report; 10% on the 10 Day Post-general report; and 10% on the Year-end report, for a total of \$5,550, if paid within 30 days of notice.

Ms. KLEIN asked if there was any correspondence from staff prior to the March 18, 1985 letter that mentioned the possibility of civil penalties. Mr. JOHANSEN said that it was mentioned in the March 15, 1984 audit.

Ms. KLEIN said she thought the civil penalty assessment should begin from the time of the first notice, since there was no mention of the civil penalty assessment prior to that.

Sen. FISCHER stated that there was carelessness on the campaign's part, but that assessing a fine back to 2 1/2 years ago is unreasonable. With a timely warning it could have been corrected, and the assessment should not start from 1982.

Ms. KLEIN said that 377 days had passed from the March 15, 1984 notice until March 27, 1985 when staff received the requested information. The maximum civil penalty assessment for this would be \$3,770 for each report.

Ms. Opland MOVED,
SECONDED by Ms. Klein,

to amend the motion for the civil penalty assessment to begin March 15, 1984 and to conclude on March 27, 1985. The assessments would be mitigated as follows:

30 Day Pre-primary report - 50% (\$1,885);
10 Day Post-general report - 10% (\$377); and
Year-end report - 10% (\$377).

Mr. RILEY stated that while there may be the rationale of one report being a greater offense than the others, he would like the assessment of the 30 Day Pre-primary report to be 20% instead of 50%.

Ms. OPLAND said that in this case, the contribution amounts are substantial and it is careless to let these slip by when they should have been reported.

There was a roll call vote on the motion:

Commissioner Riley - Nay
Commissioner Klein - Yea
Commissioner Opland - Yea
Commissioner Rogers - Nay

Ms. ROGERS suggested the assessment of the 30 Day Pre-primary report be 10%.

Mr. Riley MOVED, to amend the motion for assessment of 20% on
SECONDED by Ms. Klein, the 30 Day Pre-primary report.

There was a roll call vote:

Commissioner Riley - Yea
Commissioner Klein - Yea
Commissioner Opland - Nay
Commissioner Rogers - Nay

Ms. Opland MOVED, to amend the motion for assessment of 30% on
SECONDED by Ms. Klein, the 30 Day Pre-primary report.

There was a roll call vote:

Commissioner Riley - Nay
Commissioner Klein - Yea
Commissioner Opland - Yea
Commissioner Rogers - Yea

Motion to amend passed 3-1.

(NOTE: A final vote for the amended motion was not taken. Staff will ask the Commission to address this action at its August meeting.)

Mr. JOHANSEN asked if this was for 30% of \$3,770 for a total of \$1,885.
Ms. ROGERS said yes.

Ms. KLEIN asked if this was to be paid within 30 days. Ms. ROGERS said yes, and asked Senator Fischer if this was a hardship for him. Sen. FISCHER said yes, and he would like to have 4 months to pay the fine.

Ms. ROGERS asked if there were any objections to this. Mr. JOHANSEN said staff had no objections.

Campaign Disclosure Affidavits [23]

Personal appearance by William Moffatt

William Moffatt - 1984 District 12 House Candidate

Appeal: \$400 CPA, 10 Day Post-general report, 40 days late.

Ms. O'HARA said that staff's recommendation is to deny the affidavit and uphold the fine. Mr. Moffatt has a history of late reporting and unpaid fines. Furthermore, Mr. Moffatt has provided staff with insufficient reasons for the extreme lateness of this report. In addition, he has been delinquent in the appeal procedure set forth by the Commission. The late report in question did contain campaign financial activity that should have been available for public review at the appointed time. Staff sees no basis for the mitigation of this assessment.

Mr. MOFFATT stated that his appearance does not indicate recognition of the Commission's constitutionality, and that he has a complaint filed with the Ombudsman. He wanted to note that he shares the opinion of Cliff Groh that the Commission is improper.

Mr. MOFFATT said that he was unaware of being delinquent in his appeal, as he made his appeal in a timely manner to the Commission instead of to staff. He stated that his letters to the Commission were timely postmarked, and now staff says he was late so as to pillory him in the press. Staff is in error. He stated that as to his history of late filings, his extreme sin is that he was once 7 days late. He believes his position with regard to the Commission is irritating to staff and that staff is selective in who they "go after." Mr. MOFFATT said his report was not extremely late. It was due after the election. Since he was a minor candidate, there was no public thirst for knowledge of a minor campaign. The fines should be consistent and not depend on whether a person is friendly with the Commission.

Ms. ROGERS asked if this was his reason for requesting mitigation. Mr. MOFFATT stated that the report was 40 days late and he was assessed \$1/day for the first 30 days. He believes it is distasteful that there is no set policy for civil penalty assessments.

Ms. ROGERS asked him to stick to his own assessment and mitigation.

Mr. MOFFATT stated that he wants the Commission to be consistent and not base the assessments on friendliness to the Commission. Ms. ROGERS informed him that the Commission does not base the civil penalty assessments on friendliness.

Mr. MOFFATT asked on what the assessments and their mitigation is based. Ms. ROGERS said that most commonly they are based on lateness due to illness.

Mr. MOFFATT said that he was being facetious in his affidavit but could give all kinds of reasons for his late reporting. Mr. MOFFATT said that despite the feelings of the Commission, he has a right to believe what he wants.

He believes \$400 is excessive for what the Commission does for others. He said he did not avoid making the report, and that he didn't feel well at the time. He asked for the assessment to be reduced, and for the Commission to be consistent in reducing fines.

Ms. ROGERS said that the Commission will accept his statement that the civil penalty is excessive and that he would like a reduction in his fine.

Mr. Riley MOVED, to accept staff's recommendation of a civil
SECONDED by Ms. Klein, penalty assessment of \$400.

Ms. KLEIN stated that the statutes, not the Commission, set the fines for reports. When the Commission considers the fine, they consider the history of the person. Here there is a history of noncompliance. It shows that Mr. Moffatt does not comply with the Laws. Also, the Commission does not appreciate verbal abuse.

Ms. OPLAND said that if a person has a history of filing reports on time, the civil penalty may be reduced. If a person is consistently late, the Commission feels the repetition of error is the fault of the filer.

Motion passed unanimously.

Ms. ROGERS said that the Commission isn't "out to get" anyone, and is not responsible for "pillorying" in the press. The Commission does its best as a citizen Commission to uphold the laws of the state.

Mr. MOFFATT asked how long he has to pay the fine and would like four months. Ms. ROGERS asked if there were any objections to allowing 4 months for payment. There were no objections.

84-8-CD: McConkey v. Flood [verbal]

Mr. JOHANSEN said that Mr. McConkey and Senator Abood filed a complaint alleging that there had been a violation of the Campaign Disclosure Law. Staff recommended and the Commission upheld that a request be made to recipient candidates of Quadrant contributions to repay excessive amounts. Mr. Knowles repaid the contributions. Don Smith contacted staff and said the money he received wasn't a contribution. It was to defeat a municipal air quality proposition and so wasn't a political contribution.

Mr. JOHANSEN said that Tom Fink informed staff he was not going to repay the money. Staff has not heard from Jalmar Kerttula. Rather than complete this item piecemeal, staff would like to take the matter up at the next Commission meeting in order to be able to contact all candidates and get their responses.

Ms. ROGERS agreed with staff's recommendation.

Mr. JOHANSEN said that the complaint alleged that Joe Flood received excessive contributions from Alaskan Star. Mr. Flood will make a repayment to

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Quadrant, but his attorney has stated that he can't make the repayment to Alaskan Star. On the Alaskan Star matter, contributions were on separate checks (from Alaskan Star) for separate sales agents.

Ms. PITTMAN said she didn't think this matter was ready for Commission review until staff requests that Mr. Flood make the Alaskan Star repayment also.

Ms. ROGERS directed staff to ask Mr. Flood to repay Alaskan Star.

84-6-COI: R. Schade v. Andre Marrou [2]

Telephone call to Andre Marrou and Robert Reed Shelley

Ms. BARCOTT explained that in December of 1984, staff received a complaint filed against Rep. Marrou by Ms. Roxie Schade alleging the following violations: that on his 1984 Conflict of Interest Statement, Rep. Marrou failed to disclose the sources of commission income received from Bay Realty during 1983; that on his 1982 Conflict of Interest Statement he failed to disclose the source of commission income received in 1981 from the Land Market; that on his 1984 Conflict of Interest Statement he failed to disclose clients of Eagle Realty from whom more than \$100 was received in 1983; that he failed to disclose a contract with the City of Homer; that he intentionally withheld disclosure of the contract between the City of Homer and Eagle Realty because he reimbursed himself \$2,500 more than owners of adjoining property of similar size were paid.

Ms. BARCOTT explained that staff considers the most serious aspect of the complaint to be the failure to properly designate major sources of income and identify client names. The failure to properly report, by category and client name, income from Bay Realty and Eagle Real Estate, despite an audit specifically explaining the sources of income definition and requesting information on these firms, is a major flaw in the accuracy of the report itself. The failure in June, 1984, and thereafter, to amend the Statement and furnish the required information is seen by staff as the basis of a hearing into the omissions representing a refusal, knowing failure, or knowingly providing false or misleading information on the report. Staff puts a lesser emphasis on the failure to report clients of the Land Market on the 1982 Statement. This report was unaudited. However, once notice was given in December, 1984, on these clients, the failure to comply is also seen by staff as a refusal to file.

As a result of completing a preliminary investigation, staff finds reason to believe that sources of income were not properly reported on the 1984 and 1982 Conflict of Interest Statements and that the failure to properly complete a Statement is subject to a civil penalty assessment of \$10/day. Staff also finds there is reason to believe the omissions on the 1984 Conflict of Interest Statement were knowingly and recklessly committed.

On March 20, 1985, Mr. Shelley filed, in Superior Court, a Complaint for Declaratory Judgment and Injunctive Relief. No judgment has been had to date.

Ms. BARCOTT said that staff recommends Notice of Hearing, and if the Commission accepts staff's recommendation, the Notice of Hearing be deferred until the court case is completed. A civil penalty can be assessed when the client list is submitted, which can then be appealed.

Mr. SHELLEY said that he agrees with deferring the hearing until after the court case has been decided. In regard to the client list being acknowledged, Rep. Marrou has not acknowledged this. Since the lawsuit is still going on, he won't acknowledge the list at this time. Staff keeps pointing to the June 1984 audit. Rep. Marrou believed that he didn't have to submit a client list.

Rep. MARROU said that he had nothing further to add.

Mr. SHELLEY said that in regard to the civil penalty assessment, if Rep. Marrou had acknowledged the client list, the assessment would be halted at that point. Mr. SHELLEY requested that the civil penalties be stopped at the time the information was received from the subpoenas issued by staff.

Ms. BARCOTT stated that this information may or may not be complete and that the civil penalty assessment should accrue until the court decides if the information is required.

Mr. SHELLEY said fine, and had nothing further to add.

Ms. Klein MOVED,
SECONDED by Ms. Opland, to accept staff's recommendation for notice and opportunity for a hearing, and that the hearing be delayed until the litigation can be decided.

Motion passed unanimously.

84-18-CD: L. Schade v. A. Marrou [verbal]

Mr. JOHANSEN said that Rep. Marrou has been informed of the complaint and asked to respond. The Conflict of Interest complaint was filed at the same time as the Campaign Disclosure complaint. Since both were quite lengthy, staff believed it appropriate to proceed on them one at a time.

Ms. OPLAND asked if staff was requesting more time to continue with the investigation. Mr. JOHANSEN said yes. Ms. OPLAND asked if Rep. Marrou understood that the staff had been holding off on this complaint. Mr. JOHANSEN said no, but that staff will inform him of such. Ms. OPLAND stated that it makes sense to do the complaints separately.

The Commission agreed with staff's recommendation for continuance.

84-12-CD: Zency v. Tischer [verbal]

Mr. JOHANSEN stated that this complaint arose out of a primary campaign in regards to "paid for by" disclaimers. Staff is continuing investigation.

Campaign Disclosure Advisory Opinions [15]

Kerttula - Mat-Su Mayoral Poll, 1/16/85

Mr. JOHANSEN explained that this arose out of a possible oral complaint by Barbara Lacher saying that Jalmar Kerttula conducted a poll regarding the Mat-Su Mayoral Race. Mr. Kerttula informed staff that the poll was done, and that access was provided to all mayoral candidates who wished to look at it. The Kerttula campaign says that they informed Barbara Lacher that she could look at the poll, but that she didn't. Staff doesn't believe there is a contribution in this situation, because access was provided. Staff believes it is not necessary to continue with a preliminary investigation as there was no contribution to the opposing candidate.

Ms. KLEIN asked staff if, when a letter from Joyce Kerttula stated that Ms. Lacher was informed she could look at the poll, staff contacted Ms. Lacher. Mr. JOHANSEN said yes, and that Ms. Lacher had no response.

Ms. ROGERS asked if Ms. Lacher had been informed that staff believes it is not necessary to pursue the matter. Mr. JOHANSEN said that he will confirm it in writing to her.

Brady - '86 Group, 3/1/85

Mr. JOHANSEN said there was an advisory opinion issued to Mr. Brady of Bayly, Martin and Fay setting forth the reporting consequences for a draft/controlled group. Staff does not see any major issues in the opinion letter. It was given to the Commission as a review of the regulations in this complex area.

Sea-land Services, Inc., 4/25/85

Mr. JOHANSEN said that Sea-land, Inc. recently requested an opinion on the limitations and reporting consequences for attendance of Governor Sheffield, Mayor Knowles and Commissioner Knapp at a dock dedication ceremony in Seattle, Washington. Staff has opined that the event is reportable under the Conflict of Interest Law (by the public officials), the Lobbying Act, and under the Campaign Disclosure Law if certain conditions are fulfilled.

Draft Campaign Disclosure Regulations: [8]

Mr. JOHANSEN reviewed the regulation package and briefed the Commission on proposed changes drafted by staff.

The Commission recessed until 9:00 AM Thursday at which time it reconvened for a regulations hearing on amendments to the Conflict of Interest Regulations.

Conflict of Interest Regulations - Hearing & Adoption [5]

Ms. BARCOTT noted that notice had been given for oral hearings from 9-11 AM. No member of the public was present to testify. One letter had been received. Ms. BARCOTT reviewed the regulation package and briefed the Commission on minor changes to the draft package.

The Commission reviewed the written testimony received from the Mat-Su Borough. There was a question regarding reportable clients. Ms. BARCOTT said that Mr. Sharp's comments are inaccurate because the statute stipulates who are "reportable clients."

Ms. ROGERS stated that Mr. Sharp may have misinterpreted the intent of the regulations and requested that staff inform him that he has misread the intent. Staff indicated it wished to review his comments further before recommending final adoption of the regulations.

Ms. BARCOTT suggested the public hearing be left open to see if anyone wishing to testify comes in. The Commission agreed.

Campaign Disclosure Affidavits [23]

Ms. Rebecca O'Hara presented the Campaign Disclosure Affidavits.

John Danner - 1984 North Slope Borough Assembly Candidate

Appeal: \$1,760 CPA, 10 Day Post-municipal report, 176 days late.

Appeal accepted in part; fine reduced to \$88.00 (5%) if paid within 30 days of notice.

Neta Dortland - 1984 Wasilla City Council Candidate

Appeal: \$1,030 CPA, 10 Day Post-municipal report, 103 days late.

Appeal accepted in part; fine reduced to \$51.50 (5%) if paid within 30 days of notice.

Kent Harding - 1984 Bethel City Council Candidate

Appeal: \$40 CPA, 7 Day Pre-municipal report, 8 days late.

Appeal denied; fine upheld.

Katie Hurley - 1984 District 16 House Candidate

Appeal: \$550 CPA, 1984 Year-end report, 55 days late.

Appeal accepted in part; fine reduced to \$55.00 (10%) if paid within 30 days of notice.

William Moffatt - 1984 District 12 House Candidate - Personal Appearance
(See Pg. 8-10)

Appeal: \$400 CPA, 10 Day Post-general report, 40 days late.

Appeal denied; fine upheld.

Leslie Simutis - 1984 Seward City Council Candidate

Appeal: \$420 CPA, 10 Day Post-municipal report, 42 days late.

Appeal accepted in part; fine reduced to \$42.00 (10%) if paid within 30 days of notice.

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Johnny Watson - 1984 District 15 House Candidate

Appeal: \$1,080 CPA, 10 Day Post-general report, 108 days late.

Appeal accepted in part; fine reduced to \$108.00 (10%) if paid within 30 days of notice.

Jules Wright - 1984 House District 24 Candidate

Appeal: \$450 CPA, 1984 Year-end report, 45 days late.

Appeal accepted in part; fine reduced to \$225.00 (50%) if paid within 30 days of notice.

APEA - Fairbanks North Star Borough Chapter EPIC - by Juanita Rice, Treasurer

Appeal: \$4,550 CPA, 7 Day Pre-general report, 91 days late.

Appeal accepted in part; fine reduced to \$45.50 (1%) if paid within 30 days of notice.

Ms. ROGERS suggested the Commission wait to vote on the affidavits until the appearance by Tom Staudenmaier representing the Alaska Conservative PAC.

Draft Lobbying Regulations [10]

Ms. MILES presented the proposed Lobbying regulations to the Commission for their review. The Commission unanimously accepted the regulations for notice. Ms. MILES noted that she would be on vacation in August and staff did not anticipate a hearing until November.

Ms. Opland MOVED, to give notice of proposed lobbying regulations
SECONDED by Ms. Klein, (no A.G. file number) as drafted by staff.

Motion passed unanimously.

Lobbying Affidavit [14]

Anchorage Convention & Visitor's Bureau

Appeal: \$125 CPA, 1st Quarter Employer of Lobbyist report, 29 days late.

Appeal denied; fine upheld.

Mr. Riley MOVED, to deny the appeal.
SECONDED by Ms. Opland,

Motion passed unanimously.

Campaign Disclosure Affidavits - continued [23]

Alaska Conservative PAC - Appearance by Tom Staudenmaier, Treasurer

Appeal: \$ 570 CPA, 30 Day Pre-primary report, 57 days late;
\$ 1,750 CPA, 7 Day Pre-primary report, 35 days late;
\$ 880 CPA, 30 Day Pre-general/10 Day Post-municipal report, 88 days late;
\$ 3,500 CPA, 7 Day Pre-general report, 70 days late;
\$ 530 CPA, 10 Day Post-general report, 53 days late.
\$ 7,230 Total CPA

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Mr. STAUDENMAIER indicated there were two reasons for the late filings: the death of his father required a trip to Wisconsin and activities involved in the Electric Merger. He asserted that he was responsible for the reports and would willingly pay the \$1,214 recommended by staff but would appreciate an extension of time to make payment.

Ms. Klein MOVED, to accept the appeal in part (for Primary re-
SECONDED by Ms. Opland, reports-10%; for General reports-20%); and reduce
the fine to \$1,214 if payment is received with-
in 4 months.

Motion passed unanimously.

Ms. Opland MOVED, to accept the entire packet of Campaign Dis-
SECONDED by Mr. Riley, closure Affidavits as amended.

Motion passed unanimously.

Draft Campaign Disclosure Regulations - continued [8]

Mr. Johansen and Ms. Pittman finished staff's review of the proposed Campaign Disclosure regulation amendments. The Commission recommended the following amendments to staff's draft be made prior to notice being issued:

- 2 AAC 50.314(a)(6)(c), Contribution - clarify that the phrase "bonafide" applies to the use of time;
- 2 AAC 50.314(a)(8)(A) - use parallel grammatical structure;
- 2 AAC 50.314(b)(1) - add reference to AS 15.13.100;
- 2 AAC 50.380(b), Early Campaigning - substitute "designate" for "include" in the last sentence;
- 2 AAC 50.370 - Substitute reference to electronic media for television or cable in the last sentence;
- 2 AAC 50.315(d) - delete "all" before expenditures and delete the phrase "as provided by..."

Ms. Klein MOVED, to give notice of proposed regulations (A.G.
SECONDED by Ms. Opland, File 399-132-85) with the changes suggested
by the Commission.

Motion passed unanimously.

Minutes, April 1985 Meeting [1]

The Commission reviewed the draft minutes and requested the following changes:

At the bottom of page 1, last paragraph, the word "jive" should be "jibe"; on page 2, third paragraph, there should be an "es" added to "business"; on page 4, fourth paragraph, the word "from" should be changed to "by"; on page 16, second paragraph, this should be one sentence instead of two; and on page 20, for the District 5 Republicans, the amount assessed should be "225.00" instead of "\$275.00"

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Ms. Klein MOVED, to accepted the minutes of the April meeting
SECONDED by Ms. Opland, as corrected.

Motion passed unanimously.

Minutes, Special Meeting, May 1985 [1A]

The Commission reviewed the draft minutes of the May meeting and requested that at the bottom of the page, the word "count" should be changed to "call."

Ms. Opland MOVED, to accept minutes as corrected.
SECONDED by Ms. Klein,

Motion passed unanimously.

Campaign Disclosure Statutory Recommendations [24]

Ms. PITTMAN summarized the 1985 statutory recommendations on Campaign Disclosure and stated that the Governor may ask for 1986 APOC recommendations prior to the Gross & Burke draft. Ms. PITTMAN said that, although the problem areas are serious and need attention, she could not in good conscience recommend a 1986 effective date for major changes. Perhaps the changes could be made after the 1986 elections.

Campaign Disclosure Reporting Schedule [25]

The Commission unanimously accepted the 1985 due date of September 5 for the 30 Day Pre-municipal report.

Next Meeting Dates: August 22-23 & November [28]

The Commission confirmed August 22 - 23, 1985, as the next regularly scheduled meeting of the Commission and set November 14-15, 1985 as the tentative dates for the following meeting.

Budget Request [26]

Ms. PITTMAN stated that she will be requesting a 1986 upgrade, and will include the cost of moving the office to another location. The current lease is up in October. Typically, in late August, the vendor will be requesting bid waiver, etc. She stated that she is somewhat unsure of the actual budget allotment and whether pay raises will be funded or come out of an approved budget. The budget request should come in August.

Moffatt Complaint/Ombudsman's Report [27]

Ms. PITTMAN explained that on July 30, 1984, Bill Moffatt filed a complaint with the Anchorage Office of the Ombudsman. The allegations being:

1. contrary to law, the Commission improperly elects its officers and appoints its members in closed session and without notice to the public;
2. contrary to law, the Commission fails to hold open meetings to decide on the appeals of civil penalties;
3. contrary to law, the Commission fails to hold open meetings to decide on the removal of candidates from the ballot;
4. the Commission acted unfairly by failing to notify the complainant of the meeting to decide on his appeal of a civil penalty and of the meeting to decide on the removal of candidates from the ballot;
5. the Commission acts unfairly by failing to notify candidates that a complaint has been filed against them or that the Commission plans to investigate candidates on its own motion.

On February 4, 1985, Ms. Pittman received a letter from the Ombudsman stating that he had decided to conclude the investigation and close the case file in this matter. The letter stated that in acting to advise the Lieutenant Governor or other state officers concerned with the administration of an election, the Commission must convene and meet as a prerequisite to recommending removal of candidates from the ballot. It is staff's understanding that the bylaws' reference to decisions made by telephone now conforms to state law because of a teleconferencing bill which passed and the Commission is authorized to conduct its business by teleconference or telephone conference call meetings.

According to the Ombudsman, the Commission should give notice of the time and date on which civil penalty appeals will be decided and also specify that the person filing the appeal may address the Commission at the meeting. Staff has already adopted that practice.

The Ombudsman also noted the staff of the APOC should clarify the point at which a staff initiated investigation begins; be consistent with applicable regulation; provide for notice to a respondent prior to the initiation of any investigation; and provide to each respondent a copy of the staff's complaint, documentation, and a copy of the hearing process and investigations procedures.

Ms. PITTMAN said that there is a question as to when an audit becomes an investigation. Sometimes second and third audit notices are given. Staff does not know how serious the problem is until a response is received. She noted that the Ombudsman investigator had been able to offer no assistance in addressing the question.

Brochure/Press Release/Misc. [29]

The APOC Brochure draft was passed around for the Commission's review, and Ms. Pittman presented a draft press release regarding affidavits. Ms. PITTMAN said that in the matter of business cards for the Commissioners, she

will contact them regarding telephone numbers to be used.

Ms. Klein MOVED, to go into Executive Session to discuss audit
SECONDED by Ms. Opland, criteria - AS 44.62.310(c)(2)

Motion passed unanimously.

The Commission reconvened at 2:17 p.m. No motions were made following the Executive Session.

Conflict of Interest Regulations - Hearing & Adoption [5]

Ms. BARCOTT noted that no members of the public had appeared to give oral testimony. The only written comments received were from the Mat-Su Borough Attorney. Staff had discussed the letter with Ms. Kennedy as well as some concerns about the filing procedures for candidates.

As recommended by counsel and staff, the Commission agreed to the following amendments in the proposed language:

1) 2 AAC 50.010 - 1st sentence to read, "Retail businesses are characterized by high volume sales of fixed maximum price goods or services available to the general public."

2) 2 AAC 50.010 - 3rd sentence to read, "However, customers who represent ongoing business through an established line of credit not payable in a single billing cycle; a contract to purchase multiple goods or services; or, a discount not available to the general public on volume sales are required to be disclosed."

3) 2 AAC 50.105 - Delete the sentence which reads, "Such statement will be considered timely filed upon receipt by the commission."

4) 2 AAC 50.105(g) - First sentence to read, "An incumbent municipal official who becomes a candidate for state elective office must file a state conflict-of-interest statement with the commission or in accordance with 2 AAC 50.105(h)."

Ms. BARCOTT noted that staff will ask the Division of Elections to establish a policy of providing candidates with proof that Elections accepted the Statement.

Ms. KLEIN asked if there was some way to highlight that the signature on the Statement must be an original. Ms. BARCOTT said that it could not be taken care of in the regulations format. Ms. PITTMAN stated that if staff has an opportunity to proof read the Running Booklet, it might be done that way.

Ms. Opland MOVED, to close the public hearing and adopt the Conflict of Interest regulations package (A.G. File 399-102-85) with amendments recommended by staff.
SECONDED by Ms. Klein,

Motion passed unanimously.

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Conflict of Interest Affidavits [no number]

Pedro Denton - Director, Department of Natural Resources

Appeal: \$17 CPA, 1985 Conflict of Interest Statement, 9 days late.

Appeal accepted; fine waived.

Robert Morga - Member, Alaska Seafood Marketing Institute

Appeal: \$27 CPA, 1985 Conflict of Interest Statement, 11 days late.

Appeal accepted in part; fine reduced to \$13.50 (50%) if paid within 30 days of notice.

Cheryl Taylor - Member, Alaska Coastal Policy Council

Appeal: \$47 CPA, 1985 Conflict of Interest Statement, 15 days late.

Appeal accepted in part; fine reduced to \$11.75 (25%) if paid within 30 days of notice.

Bix Bonney - Member, Board of Fisheries

Appeal: \$157 CPA, 1985 Conflict of Interest Statement, 29 days late.

Appeal accepted in part; fine reduced to \$78.50 (50%) if paid within 30 days of notice.

Jonathan Solomon - Member, City Council of Fort Yukon

Appeal: \$39 CPA, 1985 Conflict of Interest Statement, 11 days late.

Appeal accepted in part; fine reduced to \$19.50 (50%) if paid within 30 days of notice.

David Allison - Member, Alaska Power Authority

Appeal: \$97 CPA, 1985 Conflict of Interest Statement, 23 days late.

Appeal denied; fine upheld.

Sarah Scanlan - Member, Board of Game

Appeal: \$217 CPA, 1985 Conflict of Interest Statement, 35 days late.

Appeal accepted in part; fine reduced to \$160.00 if paid within 30 days of notice.

Kay Wallis - Representative

Appeal: \$107 CPA, 1985 Conflict of Interest Statement, 24 days late.

Appeal accepted; fine waived.

Keith Hursh - Member, Kenai Peninsula Borough Planning & Zoning Commission

Appeal: \$14 CPA, 1985 Conflict of Interest Statement, 6 days late.

Appeal accepted in part; fine reduced to \$7.00 (50%) if paid within 30 days of notice.

Gerry Winner - Member, Assessment Review Board

Appeal: \$47 CPA, 1985 Conflict of Interest Statement, 15 days late.

Appeal accepted in part; fine reduced to \$23.50 (50%) if paid within 30 days of notice.

Clark Boston - Director, Department of Community and Regional Affairs

Appeal: \$27 CPA, 1985 Conflict of Interest Statement, 11 days late.

Appeal accepted in part; fine reduced to \$13.50 (50%) if paid within 30 days of notice.

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Joseph Inukuk - Member, Tununak City Council

Appeal: \$2 CPA, 1985 Conflict of Interest Statement, 2 days late.
Appeal denied; fine upheld.

Agnes Holmberg - Member, Sand Point City Council

Appeal: \$1 CPA, 1985 Conflict of Interest Statement, 1 day late.
Appeal denied; fine upheld.

Lloyd Morris - Member, Alaska Public Broadcasting Commission

Appeal: \$157 CPA, 1985 Conflict of Interest Statement, 29 days late.
Appeal accepted in part; fine reduced to \$78.50 (50%) if paid within 30 days of notice.

Peter Green - Member, Eek City Council

Appeal: \$19 CPA, 1985 Conflict of Interest Statement, 7 days late.
Appeal accepted in part; fine reduced to \$5.00 if paid within 30 days of notice.

Susan Jerue - Member, Anvik City Council

Appeal: \$54 CPA, 1985 Conflict of Interest Statement, 14 days late.
Appeal accepted; fine waived.

Charity Kadow - Director of Public Services, Legislative Affairs Agency

Appeal: \$57 CPA, 1985 Conflict of Interest Statement, 17 days late.
Appeal accepted in part; fine reduced to \$28.50 (50%) if paid within 30 days of notice.

Mark Tall - Member, Hooper Bay City Council

Appeal: \$29 CPA, 1985 Conflict of Interest Statement, 9 days late.
Appeal accepted in part; fine reduced to \$10.00 if paid within 30 days of notice.

Ms. Opland MOVED, to accept the actions on the entire packet of
SECONDED by Ms. Klein, Conflict of Interest Affidavits.

Motion passed unanimously.

84-7-COI: Sheldt v. Wilson (Thorne Bay) [verbal]

85-1-COI: Miller v. Rutledge, et. al. (Cold Bay) [verbal]

Ms. BARCOTT explained that these two municipal Conflict of Interest complaints have been filed and staff is proceeding with preliminary investigations.

84-4-COI: Bradley Exemption Request [verbal]

Ms. BARCOTT explained that this matter is continuing.

84-11-CD: Staff v. Citizens For A Better Legislature [verbal]

Ms. BARCOTT explained that this group was assessed a civil penalty of \$240.00 for failing to file a properly completed 1984 30 Day Pre-general report. The fine was paid June 24, 1985.

COI Advisory Opinion: Muni of Anchorage, 5/30/85 [4]

Ms. BARCOTT explained that staff received an inquiry regarding the application of the Conflict of Interest Law to hearing officers for the Planning and Zoning Commission of Anchorage. Staff's position is that they are not subject to the Law. While there may be a compelling argument in favor of their filing disclosure Statements, given the broad delegation of authority they have, staff's negative response is based largely on the opinion of the Attorney General (84-70). Since the Law has criminal provisions, it must be strictly construed. Only those offices expressly stated in the Law are subject to it. While the hearing officers have many powers of the Commission, they serve at the Commission's pleasure. They appear to be adjunct to, rather than a replacement, for the Commission. Finally, their decisions are subject to appeal to the Commission as a whole.

Conflict of Interest Statutory Recommendations [6]

Ms. BARCOTT stated that staff has been preparing a proposal for two statutory amendments to the Conflict of Interest Law. The first recommendation would be to revise the definition of public official to include some of the positions at the University of Alaska, staff at the Alaska Court System, and provide for changes in executive branch job titles.

The other proposal is one which specifically exempts candidates for municipal service area boards from the Law. These people are currently required to file because they are a candidate for an elective municipal office. However, once elected to office, they are not required to file annual Statements since they are not, by statutory definition, municipal officials.

In regard to the existing proposal on exempting cities under 1,000 from the Law, the past year has seen a growth in the number of inquiries on municipal complaints, which may be reason to retain existing language. On the other hand, this part of the Law is impossible to administer - there is no "quality control" on the reports filed; haphazard distribution of information to officials by the clerks; resistance to filing Statements by officials who live in rural towns where such information is common knowledge; and unclear authority to take any action for failure to file, other than civil penalties or referral on charges of criminal "willfulness."

Ms. KLEIN stated that she likes the procedures staff used this year in trying to get the municipal officials to file their Statements, and would like to continue these efforts at least one more year.

Guidelines for Municipal Officers on Conflicts of Interest [6A]

Ms. BARCOTT presented a handout on "What is a Conflict of Interest?" There were suggestions from Ms. Pittman and Ms. Kennedy that have given cause for staff to do further work on this guideline. Ms. BARCOTT said that she would pursue the questions of prohibited acts.

Conflict of Interest Update [7]

Ms. BARCOTT explained the staff procedure for contacting all cities subject to the Conflict of Interest Law, and the results of such.

Ms. ROGERS asked if there was any remaining business.

Ms. Opland MOVED, to adjourn the meeting.
SECONDED by Ms. Klein,

Motion passed unanimously, at which time the meeting adjourned.

MEMORANDUM

State of Alaska

TO: APOC Members

DATE: October 17, 1985

TELEPHONE NO: 276-4176

FROM: ^{TSP} Theda S. Pittman
Executive Director
Chris Johansen
Associate Coordinator

SUBJECT: Campaign Disclosure
Revisions - 9/19/85 Draft
of AS 15.14.

The September 19 Work Draft by Gross & Burke as well as a Sectional Analysis of the same date were sent to you immediately following the Senate State Affairs Committee meeting. The following remarks represent staff's follow-up on technical/administrative provisions and includes notations concerning changes the Committee recommended. By copy of this memo, Ms. Kennedy and Mr. Monkman are requested to provide any observations they deem appropriate. Major policy issues such as abolition of the \$1,000 limitation are not discussed in this paper. The Committee has scheduled a public hearing on the next draft October 29. Within the next few days, we will poll you by telephone to see whether it is your desire to offer a Commission position on the policy questions at the October 29th hearing. A courtesy copy of this memo is being provided to Mr. Gross and Ms. Burke in the event that some of the technical information may be helpful.

Before proceeding with a sectional discussion, we note that Mr. Gross has described the two major purposes of this effort as to provide adequate disclosure and permit unlimited contributions (rather than through a proliferation of groups) to candidates. Campaign Disclosure touches upon the fundamental rights of expression and association. As you may recall from the COGEL meeting in Seattle, Charles Steele, General Counsel of the FEC, stressed the value of a clearly-worded "Findings and Purpose" section, especially in statutes touching upon the free exercise of fundamental rights. With respect to the two purposes articulated, it is ~~questionable whether the draft provides better disclosure.~~ A substantial portion of that question may be the result of confusion in the sections on independent expenditure reports which will be discussed later. ~~It is clear that the proposal,~~ in an apparent effort to alleviate some of the present burden on candidates and groups, ~~provides less disclosure~~ prior to an election. ~~It is not clear whether allowing corporations, organizations and individuals to make unlimited contributions to candidates will have much effect on the growth of groups.~~ With the exception of the political parties, many groups are created to give a particular interest a unique identity in the candidates' perception, e.g., the insurance industry. That purpose may continue to be a viable reason to give money to a group even if one can give an unlimited amount to a candidate directly.

ARTICLE I

ALASKA PUBLIC OFFICES COMMISSION

AS 15.14.010 - Applicability

(a) - The Committee agreed that language such as "every election for state office" should be included to reflect the possible creation of new elective offices on the state level (i.e., Attorney General). In addition, the language about municipal elections is to be made more specific to delete applicability to service area candidates. Although the present regulatory exemption for those making no expenditures [2 AAC 50.332(b)] works quite well, the universal tendency of service area candidates to spend almost nothing suggests that a statutory exemption would not deprive the public of information.

(b) - If the Committee is in agreement with Ms. Kennedy that contributions or expenditures made solely for petition costs to establish a ballot issue are not reportable, it would be helpful to include such a statement in this subsection. An additional question which might be clarified here is whether activity by the State or the University is reportable. See Attorney General's Opinion J-66-365-78, dated January 5, 1978, copy enclosed.

AS 15.14.020 - Alaska Public Offices Commission

(d) - The specific "February 1" to determine beginning and end of a Commissioner's term has been deleted. Its presence is useful in preserving the specific 5-year terms despite occasional slippage in prompt appointments, i.e., a late appointment does not change the effective date of the term.

(e)(3) - The Committee deleted the provision allowing Commissioners to donate to Presidential campaigns.

(f) - The Committee reduced the honorarium from \$200 a day to \$100 a day, a figure which is still an improvement over the present \$50 a day. Mr. Gross cites Billy Berrier of Legislative Affairs as his source that the average commission honorarium is \$200 a day.

(g) - The Committee suggested changing the quorum requirement from three to four so that two votes would not be sufficient to decide a matter. Your by-laws already require three votes to carry a measure. Since the present quorum requirement is three, you can hold a meeting with three Commissioners, but they must be in unanimity to take action. The effect of changing the quorum requirement in the statute would be to prohibit any meeting unless four of you could attend. This would prohibit you from appointing a three member subcommittee to hear a particular matter. During bad weather, travel problems might disrupt a whole meeting if more than one of you could not attend. If the Committee could be so persuaded, it would be wise to leave the quorum at three for that rare occasion when only three of you could attend.

(i) & (j) - These subsections which deal with regional or district offices, where reports may be filed, and where forms and copies are available have been redrafted to come somewhat closer to practicality and actual procedure. The language still causes considerable confusion among those who aren't familiar

with our actual procedures. At the request of the Committee, we have tried to suggest some further changes:

(i) - All state reports shall be filed directly with one of the Commission's offices. In major population areas where the Commission has no office, regional offices ~~shall be established~~ to maintain copies of reports filed by statewide candidates and by Legislative candidates in that region. Regional offices will also supply forms and pertinent materials supplied by the Commission to candidates, groups, and persons required to file reports under this chapter.

(j) - In municipalities subject to this chapter where the Commission has no office, the Commission will supply the municipal clerk with forms and pertinent materials for candidates, groups, and persons required to file reports of activity in the elections of that municipality. In municipalities where the Commission has no office, municipal reports shall be filed with the municipal clerk who shall insure that copies are made available for public inspection and that the originals are forwarded to the Commission promptly.

AS 15.14.030 - Duties of the Commission

The body of section .030 incorporates present law except for a minor modification in the language which provides that, within 60 days of an election, a list of all persons and political groups who have failed to comply with the law be made available to the public instead of sent to the Attorney General. The language needs additional modification to reflect what can actually be done. The literal meaning of the existing language would require staff to list and allege, within 60 days of an election, each and every possible campaign disclosure violation against candidates, groups, individuals, corporations, etc. More realistically, a list can be compiled of candidates and registered groups which have failed to file reports or have filed delinquent reports.

Although times and circumstances can always change, the Attorney General's report is more of an internal document for our purposes than of any use by the Attorney General. We have prepared this report for a number of years and consider it to be a public document. It is unclear whether the Attorney General has ever found it to be useful. However, the document could be of use to the public and that may be sufficient justification for retaining some form of the provision.

ARTICLE 2

REGISTRATION AND REPORTS

AS 15.14.040 - Registration by Candidates

(a) - This provision, coupled with the new definition of candidate, requires an individual who has not filed a declaration to register with the Commission and abide by the requirements of the law. Two suggestions come to mind: use the word "individual" rather than "person" since only individuals can become candidates and insert "in the aggregate" after "more than \$1,000".

(b) - The draft is somewhat more restrictive than the Commission's proposed regulation in that those who have not filed must indicate whether they are seeking legislative, statewide or municipal office. For administrative purposes, the designation of state or municipal may be sufficient. Potential opponents may be more interested in the difference between "legislative" and "statewide" and we wonder whether it wouldn't be better to avoid fruitless hassles over whether someone hedged when they indicated the level of state race for which they might file.

(c) - A new subsection should be added specifying that the registration shall include required information about campaign officers as provided in AS 15.14.170.

AS 15.14.050 - Registration by Political Groups

(a) & (b) - These subsections are much like the present law in requiring a group to register prior to making a contribution to a candidate. The draft adds the making of an independent expenditure as a trigger for registration, but not ballot proposition expenditures which the Commission has added by regulation. 2 AAC 50.342.

Noticeably lacking in both AS 15.13 and AS 15.14 is detail about the required contents of a registration statement or any requirement to re-register annually. Content requirements might be handled by a cross-reference to AS 15.14.170. Annual registration would assure accurate information about officers and assist in determining the applicability of Political Contribution Credits in a given year to a given group. Failure to re-register should invoke civil penalties because effective reporting enforcement is dependent upon accurate registration information.

Public awareness of groups could also be enhanced by requiring groups to specify "type" (e.g., official party subdivision, corporate PAC, labor PAC, etc.) or affiliation, and to include as part of the registered name the name of any sponsoring organization. At present staff uses the following categories for its annual summary of group activity: Ad Hoc, controlled, corporate, municipal entity, political party, special interest, trade association, and Union. FPPC bulletin, October 1, 1985, enclosed.

(b) - Continues the present reference only to state initiative groups, without mention of their municipal counterparts. See also the question raised under applicability.

(c) - Contains provisions related to the VECO litigation. The Committee suggested a re-drafting effort. The FEC addresses this type of provision in 2 CFR 110.6.

A question not clear in subsection (c) is what actions a "conduit" can take in the normal course of business in passing on an earmarked contribution without running afoul of the general prohibitions against making a fictitious contribution or one in the name of another. AS 15.14.160; 15.13.070(d). It seems natural and logical that one element (but not the only element) of these crimes is an act of nondisclosure to the recipient candidate or group. See

Aboud v. Flood, Staff Memorandum, dated August 16, 1985, not considered by the Commission as of yet. (enclosed). Payroll deduction checks are usually issued by the "conduit," but the recipient candidates or political groups often follow the check masthead rule and do not record or report the contribution as received from the original member or employee. This custom raises the appearance the original source was intentionally, knowingly, or inadvertently undisclosed. It not only causes confusion on the Campaign Disclosure Statements, but confusion with the Political Contribution Credit as well. A requirement that conduits report in writing to the recipients that the check is a payroll withholding or other earmarked contribution, file some special report with the Commission, or provide recipients with a copy of the payroll authorization form might be in order.

AS 15-14.060 - Reports by Candidates of Contributions and Loans Received

This section begins the unusual split reporting system for candidates. Candidates make pre-election disclosure of "contributions" and post-election disclosure of "expenditures." In our review of other states, we have not seen a bifurcated reporting system (although we will continue to look) and we look forward to discussion which may emerge at the October 29 hearing.

The requirement to identify "occupations and employers" was omitted in the draft and a restoration requested by the Committee. Federal law [11 CFR 104.8(a)] and all of the states with these type of laws require this information. Contributor names without identifying information simply don't represent significant disclosure.

Subsection .060(a) requires reporting of contributions received by a candidate. "Received" contributions are reportable when they are "accepted." Subsection (b) provides that acceptance occurs when the contributions are used for campaign purposes or retained at the end of the reporting period.

We see no substantial problems with adopting a special acceptance rule for candidates for the 30 Day, 7 Day, and Final Reports; however, substantial non-disclosure could occur if the "acceptance rule" is applied during the 24 Hour Reporting period. We can speculate a candidate could receive a contribution at the beginning of the 24 Hour reporting period, hold on to it until the end, and then report it on election day when it is too late for anyone to have meaningful access to the information. Under present law, acceptance comes when the candidate, treasurer, or deputy treasurer has possession of the contribution, and we think the Commission's rule is in conformity with a large number of states and the FEC. See 2 CFR 102.8. It may be possible to use a special "possession rule" for the 24 Hour contributions and preserve the policy of section (b) for other contributions.

The allowance of 30 days after a report is due to return non-accepted contributions and the lengthy reporting period covered by 30 Day reports will effectively mean that funds can be held for months before a decision to accept is required. With contributors required to report within 10 days of making a contribution, it appears probable that confusion will arise in some cases over whether a contribution was not reported or not accepted. See U.S. v. Hankins, 607 F.2d 611 (3rd Cir. 1979) for some problems.

There has been substantial litigation in California concerning candidates who allegedly manipulate an acceptance rule to avoid meaningful and timely disclosure to the public. Our worse fear with this new "acceptance rule" is that it will provide an avenue for abuse that we have largely avoided to date. ~~The "acceptance rule" has its own simplicity and it may be preferable.~~ See 2 AAC 50.333. If the intent is to establish criteria dictating the circumstances under which a contribution can be returned without any reporting, the timespan between receipt and ~~it should be short.~~

Paragraph .060(a)(2) puts in different words the present Commission regulations that loans and loan guarantees are reportable. See 2 AAC 50.355. Proposed 2 AAC 50.313(a)(2). It adds a provision that campaign loans not reported in a timely fashion cannot be repaid from campaign funds. Although not clear from the statute, it appears the ~~Commission could expand upon~~ its present regulations and provide for complete disclosure of all personal contributions by a candidate from his or her personal funds and assets for the benefit of a campaign. Under present statute and regulations, a candidate can report personal contributions as a lump sum with no further documentation on the terms, guarantors, or security for the loan. If it is the intent of the provision that the APOC and public will demand to know more about these otherwise lump sum contributions, the statute should make some further reference for clarification purposes to what is reportable under paragraph (a)(2).

Paragraph .060(a)(3) provides for lump sum reporting of contributions of \$250 or less but does not require reporting the number of contributors. The increased amount is in conformity with previous Commission proposals to alleviate the burdens of itemization for the "small" contributors. However, the staff is not quite certain the present Commission still has the same views with regard to raising the disclosure threshold from \$100 to \$250. ~~The number of small contributors is a useful audit tool which should be included.~~

Subsection .060(c) requires 30 Day, 7 Day and December 31 (or Final) contribution reports. Location of filing should be clarified consistent with AS 15.14.020(i). The December 31 due date means that activity occurring on December 29-31 is not required to be included. ~~A January 16 deadline would allow~~ treasurers a breather over the holidays and account for the fact that January 15 is a federal holiday with no postal service.

AS 15.14.070 - Reports by Candidates of Expenditures Made

(a) - Suggested due date would be January 16, see comment above. Expenditure reports should also include the address of the recipient of the expenditure. (December 31 due date also appears in sections .080 and .090.)

AS 15.14.080, .090, & .100 - Political Group Reporting

A Political Group reporting under AS 15.14 must review all three sections for the due dates of different kinds of activity. Some expenditure activity appears not to be required to be reported at all. In addition, the reports required of individuals and entities not meeting the definition of group are also specified in section 100. The result is both confusing and subject to serious abuse by groups which might wish to take advantage of the lack of clarity.

As nearly as we can track a group's reporting requirements, the schedule would look like this:

<u>Section</u>	<u>Information Required</u>	<u>Due Date(s)</u>
.080	Incoming Contributions & Loans ("... all information required under .060(a) for candidates." Because the reference is about candidate requirements, it reads as though a group should report loans to candidates).	30 Day, 7 Day, December 31, 24 Hour
.090	Independent Expenditures of any size on behalf of a candidate	30 Day, 7 Day, December 31, 24 Hour
.100	Expenditures of more than \$250 which are monetary or non-monetary contributions to candidates or other political groups or which are not independent expenditures.	within 10 days.
N/A	Expenditures of \$250 or less which are monetary or non-monetary contributions to candidates or groups or which are not independent expenditures.	Not required.

It is our impression that a group treasurer is intended to comply with the due dates set out in three separate sections: .080, .090, and .100. Presumably AS 15.14.080 and .090 intend that a group which has both incoming contributions and outgoing independent expenditures will show both on one report due 30 days before an election but the draft does not say that. Adding a "within 10 days" reporting requirement (AS 15.14.100) for large contributions made by the group will make a treasurer's task very confusing. It will also generate hundreds of separate reports to be collated by staff if a complete picture of a group's activity is to be available to the public. The picture will be incomplete in any event because group expenditures of \$250 or less are not required to be reported at all.

There's good reason to require groups to report both their income and expenses at the same time. Income tells you who is giving to the group, i.e., its actual sources of income. ~~Expenditures tell you which candidates are receiving the group's money as well as benefiting from any independent expenditures made by the group.~~ The fact that group expenditures are a combination of administrative expenses, contributions to candidates, and independent expenditures argues in favor of pre-election disclosure of expenditures. It would also be helpful to clarify in the statute that the group is required to identify on its expenditure report those items that are contributions or independent expenditures as well as the beneficiary of the contribution or expenditure.

Instructions for group reports should not be intermingled with instructions for organizations which are not required to report the source of their funds. The intermingling is likely to confuse both groups and "non-groups." It also

offers the potential for unnecessary litigation resulting from a group that uses the confusion to claim it is not required to report its income.

Our recommendation is that the "within 10 days" reporting deadline be reserved for individuals and organizations (not required to register as political groups) which:

- 1) make contributions exceeding \$250; or
- 2) make independent expenditures of any amount.

As explained above, a change to the registration language would assure that the Commission knows which groups exist and should report.

Paragraph (a)(1) incorporates the candidates' instructions in AS 15.14.060(a) pertaining to reportable information. For clarity, the group instructions should be expressly set out in the statute. There are practices that make a political group different from a candidate and the candidate language could be misconstrued by a group treasurer. Groups do not solicit funds or receive loans for a clearly identified candidate in most circumstances. Their fund-raising seems to be intended to influence the outcome of an election which, in most instances, concerns the political future of various candidates. Sometimes their activities are devoted to ballot propositions, initiatives and other purposes. Further, at the time their fundraising occurs the group usually has no identified candidate which to support because it has not chosen one to endorse. Both the staff and the Commission may be hard-pressed to show that a reportable contribution must be made for or on behalf of a candidate, much less an identified one.

As to the definition of "independent expenditures" we note this comes from 2 CFR 109. As a practical matter, ~~we suggest that the statutory provisions drawn upon in the Commission proposed regulation 2 AAC 50.313(8). As additional clarification,~~ it may be helpful to describe those campaign agents and actors which the Commission will construe as prima facie evidence of cooperation and consultation with a candidate's campaign.

In AS 15.14.060(b)(2) there is a reference to a candidate's "authorized committee." This was apparently picked off the above FEC regulation. If it has any independent significance, it may be helpful to describe what an "authorized committee" is. Our fear here is that it is being used in the same sense as the FEC, and we have some speculations whether all the duties under 2 CFR 102 are to apply with equal force to this provision for an "authorized committee."

~~AS 15.14.100(a)(3)~~ requires reporting of certain "expenditures...on behalf of a candidate which are not independent expenditures..." The Commission has always thought (and we think it is true of the majority of workers in other states and scholars in the field) that payments made "on behalf of" an identified candidate are either contributions or independent expenditures, and that the transactions are mutually exclusive. AS 15.14.100(a)(3) appears to be a restated version of the transactions contained in (1) or (2) which describe monetary and non-monetary contributions. ~~If so, its deletion should be considered.~~