

CASE DESCRIPTION – SUPERIOR COURT

Case Number: 3AN-21-

Type of Action		For Court Use Only	
Check the box that best describes the case. Mark one box only. For district court cases, use form CIV-125D.		Case Type	Action Code
Domestic Relations			
Divorce With Children (or Pregnant)		Div or Cust w/Children	CISDVC
Divorce Without Children		Divorce Without Children	CISDIV
Uncontested Divorce With Children (or Pregnant)		Div or Cust w/Children	CISUDVC
Uncontested Divorce Without Children		Divorce Without Children	CISUDIV
Custody (Unmarried Parents)		Div or Cust w/Children	CISCUS
Uncontested Custody (Unmarried Parents)		Div or Cust w/Children	CISUCUS
Visitation by Person Other than Parent		Domestic Relations Other	CIVIS
Property Division – Unmarried Partners		Domestic Relations Other	CISPROP
Legal Separation With Children (or Pregnant)		Legal Separation	CICLS
Legal Separation Without Children		Legal Separation	CISLS
Uncontested Legal Separation with Children (or Pregnant)		Legal Separation	CIUCLS
Uncontested Legal Separation Without Children		Legal Separation	CIUSLS
Annulment		Domestic Relations Other	CIANNUL
Paternity - Establishment		Domestic Relations Other	CISPAT
Paternity - Disestablishment		Domestic Relations Other	CIDPAT
Paternity – Determine Both Biological and Non-Biological Father		Domestic Relations Other	CIDEPAT
Genetic Testing - Failure to Comply with Order for Testing		Domestic Relations Other	CIOSCP
Administrative Child Support Order – Modification or Enforcement		Domestic Relations Other	CIPCS
PFD or Native Dividend Case		Domestic Relations Other	CIPND
Foreign Support Order - Registration, Modification or Enforcement under AS 25.25		Domestic Relations Other	CIUIFSA
Foreign Custody Order – Registration, Modification or Enforcement under AS 25.30		Domestic Relations Other	DR483
Both Foreign Custody & Support Order – Registration, Modification or Enforcement under AS 25.30 and AS 25.25		Domestic Relations Other	CIFCS
Foreign Domestic Relations Order (Not Custody or Support) – Registration, Modification or Enforcement		Domestic Relations Other	CIDRFJ
Landlord/Tenant			
Eviction (May Include Rent or Damages)		Eviction-Superior Court	CISFED
Other Landlord/Tenant (No Eviction)		Civil Superior Court	CISLT
Debt/Contract			
Debt Collection		Civil Superior Court	CISDEB
Claim by Buyer Against Seller of Goods/Services		Civil Superior Court	CISCLAIM
Employment – Discrimination		Civil Superior Court	CISEMPD
Employment – Other Than Discrimination		Civil Superior Court	CISEMP
Other Contract		Civil Superior Court	CISOCT
Real Property Actions			
Condemnation		Civil Superior Court	CISCNDM
Foreclosure		Civil Superior Court	CISFOR
Quiet Title		Civil Superior Court	CISQIT
Real Property Tax Foreclosure		Superior Court Misc Petition	CISTAX
Other Real Estate Matter		Civil Superior Court	CISREM
Foreign Judgment			
Registration of Foreign Judgment – SEE DOMESTIC RELATIONS FOR FOREIGN SUPPORT/CUSTODY ORDERS		Foreign Judgment Superior Ct	CISFOJ
Malpractice			
Legal Malpractice		Civil Superior Court	CISLMP
Medical Malpractice		Civil Superior Court	CISMMP
Other Malpractice		Civil Superior Court	CISOMP

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Tort			
<input type="checkbox"/>	Wrongful Death	Civil Superior Court	CISPID
<input type="checkbox"/>	Automobile Tort (But Not Wrongful Death)	Civil Superior Court	CISIDA
<input type="checkbox"/>	Claim Against Owner of Real Property for Personal Injury	Civil Superior Court	CISPIO
<input type="checkbox"/>	Product Liability	Civil Superior Court	CISPL
<input type="checkbox"/>	Intentional Tort (e.g., assault, battery, vandalism)	Civil Superior Court	CISIT
<input type="checkbox"/>	Slander/Libel/Defamation	Civil Superior Court	CISILD
<input type="checkbox"/>	Other Tort	Civil Superior Court	CISIDO
<input type="checkbox"/>	Approval of Minor Settlement – Civil Petition <i>May also be filed as probate case.</i>	Superior Court Misc Petition	CISPET
Other Civil			
<input type="checkbox"/>	Election Contest or Recount Appeal	Civil Superior Court	CISELE
<input type="checkbox"/>	Change of Name - Adult	Change of Name	CICON
<input type="checkbox"/>	Change of Name - Minor	Change of Name	CICONM
<input type="checkbox"/>	Confession of Judgment	Civil Superior Court	CISCONF
<input type="checkbox"/>	Structured Settlement – AS 09.60.200	Superior Court Misc Petition	CISISS
<input type="checkbox"/>	Administrative Agency Proceeding – Request for Court Assistance	Superior Court Misc Petition	CISWRNT
<input type="checkbox"/>	Arbitration - Action Under Uniform Arbitration Act	Civil Superior Court	CISAP
<input type="checkbox"/>	Fraud	Civil Superior Court	CISFRAUD
<input type="checkbox"/>	Unfair Trade Practice and Consumer Protection	Civil Superior Court Clerk: Issue form CIV-128	CISUTP
<input type="checkbox"/>	Writ of Habeas Corpus	Civil Superior Court	CIWHC
<input type="checkbox"/>	Fish & Game - Abatement & Forfeiture of Equipment	Superior Court Misc Petition	CISAF
<input type="checkbox"/>	Appointment of Trustee Counsel	Superior Court Misc Petition	CISTC
<input type="checkbox"/>	Action Under Alaska Securities Act	Civil Superior Court	CISASA
<input type="checkbox"/>	Quarantine and Isolation	Superior Court Misc Petition	CISQI
<input type="checkbox"/>	Other Superior Court Complaint	Civil Superior Court	CISOCI
<input type="checkbox"/>	Other Superior Court Petition	Superior Court Misc Petition	CISPET
Post-Conviction Relief to Superior Court			
<input type="checkbox"/>	Post-Conviction Relief	Post-Conviction Relief-Sup Ct	CISPCR
Appeal to Superior Court - From Administrative Agency			
<input type="checkbox"/>	Election Contest or Recount Appeal – SEE OTHER CIVIL		
<input type="checkbox"/>	DMV Appeal	Appeal from Admin Agency	CIADDMV
<input type="checkbox"/>	Employment Security Appeal	Appeal from Admin Agency	CIADRESA
<input checked="" type="checkbox"/>	Administrative Agency Appeal - Other	Appeal from Admin Agency	CIADR
<input type="checkbox"/>	CSSD License Review Action	Petition for Review or Relief	CICSED
<input type="checkbox"/>	Petition for Review from Administrative Agency	Petition for Review or Relief	CIPRA
<input type="checkbox"/>	Petition for Relief from Administrative Agency – AS 44.62.305	Petition for Review or Relief	CIPRLF
Appeal to Superior Court - From District Court			
<input type="checkbox"/>	Civil Appeal	Appeal from District Court	CIACI2
<input type="checkbox"/>	Criminal Appeal	Appeal from District Court	CIACRM
<input type="checkbox"/>	Minor Offense Appeal	Appeal from District Court	CIAMO
<input type="checkbox"/>	Small Claims Appeal	Appeal from District Court	CIASC
<input type="checkbox"/>	Petition for Review from Civil, Criminal, or Minor Offense Case	Petition for Review or Relief	CIPRD2
<input type="checkbox"/>	Petition for Review from Small Claims	Petition for Review or Relief	CIPRSC

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5
6 IN THE SUPERIOR COURT FOR THE STATE OF ALASKA
7 THIRD JUDICIAL DISTRICT AT ANCHORAGE

8
9 ALASKA POLICY FORUM,
Appellant,

10 v.

11 ALASKA PUBLIC OFFICES
12 COMMISSION, YES ON 2 FOR
13 BETTER ELECTIONS, and PROTECT
14 MY BALLOT,
Appellees.

Case No. 3AN-21-_____

15
16 **NOTICE OF APPEAL**

17 Appellant Alaska Policy Forum gives notice of its appeal, pursuant to Alaska R.
18 App. P. 602. This appeal is taken from a decision of the Alaska Public Offices
19 Commission to the Alaska Superior Court in Anchorage.
20

21 Appellant Alaska Policy Forum may be contacted through its counsel:

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The appeal is taken against:

Alaska Public Offices Commission
221 E. Northern Lights, Room 128
Anchorage, AK 99508

The Order being appealed from the Alaska Public Offices Commission was served on Appellant on July 12, 2021, by email. It was the Final Order on Reconsideration in APOC Case No. 20-05-CD.

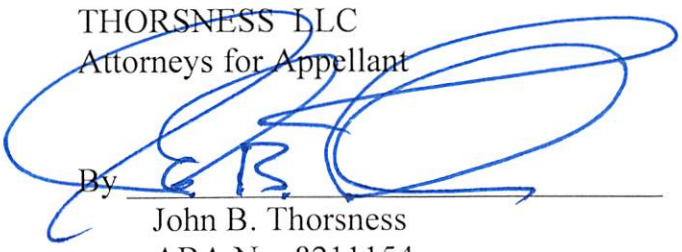
Pursuant to Alaska R. App. P. 602(c)(1), attached to this Notice of Appeal are:

- (A) Appellant's Statement of Points on Appeal;
- (B) the filing fee;
- (C) a copy of the Final Order on Reconsideration being appealed from;
- (D) proof of service in the form of the certificate of service signed below.

With regard to the cash deposit in lieu of bond required under Alaska R. App. P. 204(c)(1), it will be filed with the Court upon notice from the Clerk that the appeal documents have been accepted and a case number has been assigned.

DATED at Anchorage, Alaska, this 11th day of August, 2021.

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Attorneys for Appellant

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CERTIFICATE OF SERVICE AND FONT

I certify that a copy of this document, in Times New Roman 13, was mailed, emailed, hand delivered on August 11, 2021, to the following:

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By: 
Michelle R. Martin

BEFORE THE ALASKA PUBLIC OFFICES COMMISSION

YES ON 2 FOR BETTER ELECTIONS,)
)
 Complainant,)
)
 v.) APOC Case No. **20-05-CD**
)
 ALASKA POLICY FORUM AND)
 PROTECT MY BALLOT,)
)
 Respondents.)
 _____)

FINAL ORDER ON RECONSIDERATION

Yes on 2 for Better Elections alleged that Alaska Policy Forum and Protect My Ballot made expenditures opposing Ballot Measure 2 without registering and reporting the expenditures and identifying who paid for the communications. Ballot Measure 2, which the voters approved in the November 2020 election, provides for ranked-choice voting in the state’s elections, among other changes to election and campaign laws. The respondents argued their activities opposing ranked-choice voting in general were not directed at Ballot Measure 2, and so did not trigger the registration, reporting, and paid-for-by requirements. After an investigation, the Alaska Public Offices Commission staff agreed that AS 15.13 did not apply to Protect My Ballot’s activities but found that Alaska Policy Forum engaged in election-related communications that required it to comply with AS 15.13. After a hearing on June 10, 2021, the Commission adopts staff’s conclusions on the merits for both respondents but does not impose a penalty for Alaska Policy Forum’s violations.

I. The Commission concludes that Alaska Policy Forum’s communications opposed Ballot Measure 2 and so triggered requirements to register, report expenditures, and provide paid-for-by identifiers on the communications.

The Commission concludes that Alaska Policy Forum’s communications on ranked-choice voting were expenditures and communications that triggered requirements to register before making expenditures, report expenditures, and identify who paid for the communications.¹ Alaska Policy Forum, which had no prior history of communicating about ranked-choice voting or other election methods, opposed ranked-choice voting on its website with press releases and an article, a republished opinion piece, and a video leading up to the election on the ballot measure. Although the materials did not mention the ballot measure by name, all of the communications were decidedly against the ranked-choice voting that Ballot Measure 2 would establish and so they were “susceptible of no other reasonable interpretation but as an exhortation to vote” against the measure.² Thus, the AS 15.13 requirements applied to Alaska Policy Forum’s communications.

The Commission uses the definitions of express and issues communications to inform its analysis of whether Alaska Policy Forum’s activities fall within the scope of election-related communications and expenditures such that AS 15.13 requirements apply. Covered expenditures include express, but not issues, communications.³ Alaska Policy Forum argues that the plain statutory language defining “express communication”

¹ AS 15.13.050(a), AS 15.13.040(d), AS 15.13.090, AS 15.13.140(b).

² AS 15.13.400(7) (eff. 2014).

³ AS 15.13.400(6)(C) (eff. 2014).

and “issues communication” refers exclusively to candidate elections, not ballot measures.⁴ This is true. But AS 15.13 may still apply to Alaska Policy Forum’s activities because the definitions of “expenditure” and “communication” are not so limited. In addition to express communication, covered expenditures include those “incurred or made for the purpose of . . . influencing the outcome of a *ballot proposition or question*,”⁵ covered communications “directly or indirectly identify a candidate or *proposition*,”⁶ and “independent expenditures for or against a ballot proposition or question shall be reported” in accordance with AS 15.13 requirements.⁷ To decide whether Alaska Policy Forum’s activities fit within election-related expenditures and communications to which AS 15.13 applies, the definitions of express and issues communications offer a useful framework even though they do not strictly apply.

Using this framework, the Commission concludes that Alaska Policy Forum’s communications were made to influence the vote on the ballot measure and so were covered expenditures and communications.⁸ An “express communication,” which is a covered expenditure,⁹ is one that “when read as a whole and with limited reference to

⁴ See AS 15.13.400(7), (12) (eff. 2014).

⁵ AS 15.13.400(6)(A)(iv) (eff. 2014) (emphasis added).

⁶ AS 15.13.400(3) (eff. 2014) (emphasis added).

⁷ AS 15.13.140(b)(1).

⁸ The Commission does not address Alaska Policy Forum’s constitutional arguments because “[a]dministrative agencies do not have jurisdiction to decide issues of constitutional law.” *Alaska Pub. Interest Research Grp. v. State*, 167 P.3d 27, 36 (Alaska 2007).

⁹ AS 15.13.400(6)(C) (eff. 2014).

outside events, is susceptible of no other reasonable interpretation but as an exhortation to vote for or against” a ballot measure.¹⁰ An “issue communication,” which is excluded as a covered expenditure,¹¹ addresses an issue of political importance and directly or indirectly identifies a ballot measure without supporting or opposing it.¹² In previous advisory opinions addressing whether an entity’s communications disseminated near an election with a ballot measure on the same subject require compliance with AS 15.13, the Commission has considered the entity’s history of communicating about the topic and the substance of the communications at issue, including the extent to which the communications were neutral and whether they identified the ballot measure.¹³

As staff’s investigation report describes, Alaska Policy Forum had no longstanding history of communicating about elections in general or ranked-choice voting in particular, and its communications were not neutral. Alaska Policy Forum’s communications about ranked-choice voting began when the elections initiative was proposed. In November 2019, petition booklets began circulating to gather enough signatures to put the initiative before the voters. Over the next few months, Alaska Policy

¹⁰ AS 15.13.400(7) (eff. 2014).

¹¹ AS 15.13.400(6)(C) (eff. 2014).

¹² AS 15.13.400(12) (eff. 2014).

¹³ *Bags for Change*, AO 19-04-CD (approved Sept. 18, 2019) (available at <http://aws.state.ak.us/ApocReports/Paper/Download.aspx?ID=21018>); *Renewable Renewable Resources Foundation*, AO 13-04 CD (approved June 6, 2013) (available at <http://aws.state.ak.us/ApocReports/Paper/Download.aspx?ID=8475>); *Resources Coalition*, AO 08-02-CD (approved June 11, 2008) (available at <http://aws.state.ak.us/ApocReports/Paper/Download.aspx?ID=4878>).

Forum founded Protect My Ballot, a national coalition against ranked-choice voting, and republished on its website a Maine coalition member’s opinion piece directed toward Alaska’s signature-gathering for the initiative. The piece, “Ranked Choice Voting Fails to Deliver on its Promises,” ended with a warning: “Like Alaska, we in Maine regularly deal with an onslaught of ballot initiatives because we live in a cheap media market. The system may soon be coming to your neck of the woods. Don’t be surprised when it produces the opposite result of what you were promised.”

A month or so after the opinion post, the lieutenant governor reviewed the gathered signatures and accepted the elections initiative for placement on the ballot in the November 2020 election.¹⁴ In a July press release, Alaska Policy Forum announced the launch of Protect My Ballot, touting that the national campaign “exposes flaws in ranked choice voting.” Alaska Policy Forum’s chief executive officer warned in a link from the press release, “As Alaskans take to the polls in November, history should be a warning for what ranked choice voting would lead to.” That same month, Alaska Policy Forum posted a Protect My Ballot video disparaging ranked-choice voting.

Finally, in October—shortly before early voting began for the November election—Alaska Policy Forum published a report that called ranked-choice voting a “failed experiment” and a press release characterizing the report as revealing the “alarming ramifications” of ranked-choice voting. Alaska Policy Forum and another

¹⁴ March 9, 2020, letter from Lt. Gov. Kevin Meyer re: 19AKBE Alaska’s Better Elections Initiative, (available at <https://www.elections.alaska.gov/petitions/19AKBE/19AKBE-LetterToSponsor.pdf>).

entity in the Protect My Ballot coalition co-wrote the report. A few days later, Alaska Policy Forum published an article, “Ranked-Choice Voting Disenfranchises Voters.” The article described that the “trend” of ranked-choice voting “has made it all the way to Alaska,” criticized ranked-choice voting, and warned that the vote-counting method disenfranchises voters when “[a]ll Alaskans deserve to have their votes counted.”

Even though Ballot Measure 2 was never mentioned by name, there is no other reasonable interpretation of these communications but as an exhortation to vote against implementing ranked-choice voting, a key component of the initiative. Thus, Alaska Policy Forum’s communications at least as of its July press release were election-related expenditures and communications requiring compliance with AS 15.13. Alaska Policy Forum violated AS 15.13.050(a) by not registering before making expenditures opposing a ballot measure, AS 15.13.040(d) and AS 15.13.140(b) by not filing reports on its expenditures, and AS 15.13.090 by not including a paid-for-by identifier on its communications.

The Commission waives imposition of civil penalties from the date the violations began to the date the complaint was filed, which tolled the accrual of penalties. Staff calculated the maximum penalties, which accrued at a rate of \$50 per day for each day the violations continued,¹⁵ but recommended a reduction. Staff’s recommended reduction

¹⁵ AS 15.13.390(a) (providing that a civil penalty for these violations is “not more than \$50 a day for each day the violation continues”).

was based on Alaska Policy Forum’s inexperienced filer status¹⁶ and because the maximum penalties were significantly out of proportion to the degree of public harm.¹⁷ Alaska Policy Forum reported spending \$643.20 on preparing ranked-choice voting materials during the period that penalties were accruing for the violations.¹⁸ Staff’s recommended reduced penalty of \$8,065 still “exceeds the value of the transactions that were not reported”—\$643.20 for the unreported expenditures and no monetary value for entity information that should have been provided on the registration and paid-for-by identifiers.¹⁹ Thus, the Commission declines to impose the recommended penalty and waives the penalty altogether because it is “significantly out of proportion to the degree of harm to the public for not having the information.”²⁰

II. The Commission decides Protect My Ballot was not engaged in activities requiring it to comply with campaign disclosure laws.

The Commission concludes that Protect My Ballot’s website against ranked-choice voting is susceptible of other reasonable interpretations than as an exhortation to vote against Ballot Measure 2 for the reasons explained in staff’s report.²¹ In particular, Protect My Ballot had partners in other states with no pending ballot initiatives

¹⁶ 2 AAC 50.865(a)(1)(B).

¹⁷ 2 AAC 50.865(b)(5).

¹⁸ Staff exhibit 3 at pgs. 10-11. Staff ended the accrual of the daily penalties with the filing of the complaint.

¹⁹ 2 AAC 50.865(b)(5). The entity information was available on Alaska Policy Forum’s website.

²⁰ 2 AAC 50.865(b)(5).

²¹ See AS 15.13.400(7) (eff. 2014) (defining an “express communication”).

addressing ranked-choice voting and with different agendas, and the vast majority of the materials on its website opposed ranked-choice voting as a general matter. Only two pieces mentioned Ballot Measure 2 and voting—links to opinion pieces published elsewhere. Thus, the Commission dismisses the complaint against Protect My Ballot.

III. The Commission dismisses the allegation against Alaska Policy Forum that it failed to comply with the laws regulating lobbying.

The Commission adopts staff’s recommendation and dismisses the allegation that Alaska Policy Forum violated the lobbying laws in AS 24.45. A “lobbyist” is a paid employee or contractor who communicates with public officials “for the purpose of influencing legislation or administrative action for more than 10 hours in any 30-day period in one calendar year” or represents oneself as a lobbyist.²² Alaska Policy Forum explained that its employees’ lobbying activities did not meet the threshold number of hours and none of its employees represented themselves as lobbyists. Staff uncovered no evidence to the contrary. A tax return showing that Alaska Policy Forum spent \$4,027 on lobbying offers no information on the number of hours spent lobbying in any 30-day period in one calendar year.

IV. CONCLUSION

The Commission denies Alaska Policy Forum’s motion to dismiss the election-related allegations. The Commission concludes that Alaska Policy Forum’s communications were intended to influence the election on Ballot Measure 2 and

²² AS 24.45.171(11).

necessitated that it comply with the requirements to register before making expenditures,²³ report independent expenditures,²⁴ and identify who paid for communications.²⁵ The Commission orders Alaska Policy Forum to comply with these requirements within 30 days and does not impose a penalty for Alaska Policy Forum's violations of the requirements from the date the violations began to the date the complaint was filed, which tolled the accrual of penalties. The Commission agrees with staff that no evidence supported that AS 24.45 applies to any lobbying activities of Alaska Policy Forum and dismisses that allegation.

The Commission concludes that Protect My Ballot's website opposing ranked-choice voting did not trigger the registration, reporting, and paid-for-by identifier requirements, and dismisses the complaint against it.

This is a final Commission order. It may be appealed to the superior court within 30 days from the date of this order.²⁶ A request for the Commission to reconsider this order must be filed within 15 days from the date this order is delivered or mailed.²⁷

Dated: July 12, 2021

BY ORDER OF THE ALASKA PUBLIC OFFICES COMMISSION²⁸

²³ AS 15.13.050(a).

²⁴ AS 15.13.040(d), AS 15.13.140(b).

²⁵ AS 15.13.090.

²⁶ AS 15.13.380(g), AS 44.62.560, Alaska R. App. P. 602.

²⁷ 2 AAC 50.891(g).

²⁸ Commissioners Suzanne Hancock, Dan LaSota, and Van Lawrence voted to approve this order. Commissioners Anne Helzer and Richard Stillie dissented.

Certificate of Service:

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

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6 IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

7 THIRD JUDICIAL DISTRICT AT ANCHORAGE

8
9 ALASKA POLICY FORUM,
Appellant,

10 v.

11 ALASKA PUBLIC OFFICES
12 COMMISSION, YES ON 2 FOR
13 BETTER ELECTIONS, and PROTECT
MY BALLOT,
14 *Appellees.*

Case No. 3AN-21-_____

15
16 STATEMENT OF POINTS ON APPEAL

17
18 Appellant Alaska Policy Forum (“APF”) appeals the decision of the Alaska Public
19 Offices Commission (“APOC” or “Commission”) and pursuant to Alaska R. App. P.
20 602(c)(1)(A) submits its Statement of Points on Appeal:

21 1. The Commission acted *ultra vires* in creating and enforcing statutory offenses
22 not contemplated by the Alaska legislature, extending the offenses for express
23

1 communications and independent expenditures to communications other than those
2 covered under the definitions at AS 15.13.400(8) and (11).

3 2. The Commission violated Alaska law and APF's due process rights under
4 Article 1, Section 1 of the Alaska Constitution and under the Fourteenth Amendment to
5 the United States Constitution, in trying and holding APF liable for violations not noticed
6 in the accusation required under AS 44.62.360, in the statement of issues required under
7 AS 44.62.370, or in the notice of hearing required under AS 44.62.420.

8 3. The Commission failed to properly introduce into the record and preserve for
9 judicial review evidence of the communications at issue, and improperly denied APF's
10 motion for directed verdict.

11 4. The Commission violated APF's rights under the First Amendment to the
12 United States Constitution when it discriminated against APF in concluding that APF
13 violated campaign finance law when it reposted communications originally published by
14 other groups, while ignoring or dismissing any violation by those who produced and first
15 published the communications.

16 5. AS 15.13.010(b), 15.13.040(e), 15.13.050(a), 15.13.400(3), 15.13.400(4), and
17 15.13.400(7) are unconstitutionally vague and overbroad under the First Amendment, in
18 including phrases like "for the purpose of influencing" and "in support of or in opposition
19 to," as well as other overbroad language. Any statutory provisions, regulations, or
20 enforcement actions based on these provisions are also unconstitutional, including
21 Alaska's registration, reporting, and identification requirements at AS 15.13.050(a),
22
23
24

1 15.13.040(d) and (e), 15.13.140, and 15.13.090. These requirements cannot
2 constitutionally apply to APF.

3 6. The registration requirements at AS 15.13.050(a), the independent expenditure
4 reporting requirements at AS 15.13.040(d) and (e) and AS 15.13.140, and the
5 identification requirements at AS 15.13.090 cannot survive First Amendment
6 constitutional scrutiny, facially and as applied to APF. The requirements are not
7 sufficiently related to an important governmental interest, nor are they narrowly tailored
8 to an important governmental interest.
9

10 7. The dollar threshold for registration under AS 15.13.050(a) and for
11 independent expenditure reporting under AS 15.13.040(d) and (e) and AS 15.13.140,
12 requiring registration and reporting for the first cent spent, is unconstitutionally low under
13 the First Amendment. Similarly, the dollar threshold for the identification requirements
14 at AS 15.13.090, requiring identification even for communications of *de minimis* or no
15 value, is unconstitutionally low under the First Amendment.
16

17 8. The Commission concluded that APF failed to report independent expenditures
18 under AS 15.13.040(d) and (e) and 15.13.140, even though the notice of hearing never
19 alleged independent expenditures and the Commission's final order on reconsideration
20 did not analyze or demonstrate that APF made independent expenditures.

21 9. The Commission failed to properly apply the constitutionally required tests to
22 determine if APF's speech was express advocacy or its functional equivalent, namely that
23 APF's speech conveyed express words of advocacy or that there could be no reasonable
24

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1 interpretation of APF's speech other than as an appeal to vote for or against a ballot
2 measure.

3 DATED at Anchorage, Alaska, this 11th day of August, 2021.

4 CLAPP, PETERSON, TIEMESSEN,
5 THORSNESS LLC
6 Attorneys for Appellant

7 By 

8 John B. Thorsness
9 ABA No. 8211154

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CERTIFICATE OF SERVICE AND FONT

I certify that a copy of this document, in Times New Roman 13, was mailed, emailed, hand delivered on August 11, 2021, to the following:

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Executive Director
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