

The Honorable Governor Mike Dunleavy

Office of the Governor

P.O. Box 110001

Juneau, AK 99811-0001

Dear Governor Dunleavy,

Over the course of several months, the five commissioners of Alaska Public Offices Commission have discussed and deliberated on a response to AO 360; specifically, those actions that are applicable to reform and streamlining regulations within the purview of this commission. As you are aware, the Commission is composed of 2 Republicans, 2 Democrats, and a fifth commission in which the four commissioners submit a name for consideration to the governor for appointment. This is a diverse set of individuals that have different perspectives concerning necessity to reform or removal of certain regulations; as such, commissioners could not come to agreement of a number of recommended changes that were compiled by each of the commissioners for the group as a whole to recommend. After much deliberation, the commissioners have agreed upon a limited number of changes/updates, and I have encouraged each commissioner to submit their recommendations independently (not necessarily on behalf of the commission) so that all concerns are flushed out for your office to review.

Additionally, APOC staff has mentioned that they are awaiting forthcoming information from the administration so that the department has a systematic approach to standardize and streamline its approach for public input and feedback.

The following is composed assessment of the current commission state, suggestions and a list of recommended changes that **all** commissioners have agreed upon:

- 1) The current status of APOC is not healthy for the long term. Staff does not have sufficient resources to complete their mission in a timely manner, and investigations have been delayed or deferred as a result. This has been made evident as recent complaint responses from staff have been delayed; causing parties to question the integrity of the commission and its staff. Personnel shortages have been 2-3 positions out of only 9 total PCN's consistently. Budgets have been insufficient to cover the associated costs without intradepartmental chargebacks from the personnel allocation in order to meet other budget obligations/overhead. These transfers have been utilized on a regular basis over the last several years with the consent of OMB. What this means is that APOC cannot hire to fill vacant positions without going over budget and the staff will remain perpetually shorthanded.

- 2) Most statutes that govern APOC and the campaign finance laws are adequate but need some maintenance to bring them up to speed with recent court cases and to rectify some operational hiccups. The commissioners have agreed as a whole to recommend a series of legislative adjustments (as listed below)
- 3) The primary purpose of this commission remains to provide information to the public regarding the income sources and expenditures of various candidates, public officials, and ballot measures. It accomplishes this by managing a robust financial reporting system and enforcing compliance with that system and other campaign regulations and statutes.

Complaints are reported to or noted by APOC staff, investigated, penalties assessed, and if necessary, appealed to the full board of volunteer commissioners. The commission meets at least three times per year for what are generally one-to-two-day sessions. In general, a great deal of discretion is exercised by the commissioners to account for the vagaries of the law, human nature and situations encountered.

Complaints processed by APOC generally fall into the following categories: Accounting errors on the part of reporting entities either through omission or confusion, late submission of required reports, or violations of specific statutes. After the complaint, investigative, and appeals process have been completed the Commission may issue an order that includes penalties, and those penalties may be referred to the Attorney General for collection or further enforcement.

Throughout this detailed process, the commissioners have come across several situations over the past few years where the law as written is either unclear or should be rewritten to better serve APOC's mission.

The commissioners feel that the reporting system of regulations and statutes should be less of a "gotcha" effort and more of a partnership that delivers pertinent financial information regarding candidates, public officials and ballot measures to the public. Some initial suggestions:

- Amend AS 15.13.070. Limitations on the amount of political contributions have largely been struck down in light of recent court decisions (McCutcheon, et al. v. FEC and Citizens United v. FEC). Our statutes need to reflect the reality of those decisions. As a result, staff has been ignoring those contribution limitations but for clarity the statutes need to be amended.

- Amend AS 15.13.116(a)(1) to make it clear that “gifts” may not include family members. The problem in this code is that there exists a potential conflict with 15.13.112(b) which holds that campaign funds cannot be converted to the personal income of the candidate.
- Amend AS 15.13.116(a)(7) to bring it in line with other uses of leftover campaign funds. The statute is silent as to the disbursement option of a future campaign account in the event the fund is never used. We would suggest mirroring options for leftover POET funds created under AS 15.13.116(8)(E). This would include to allow donations to a political party; the state's general fund; a municipality of the state; the federal government; or to organizations qualified as charitable organizations under 26 U.S.C. 501(c)(3); or to repay contributors, if repayment of the contribution is made pro rata in approximate proportion to the contributions made using one of the following, as the candidate determines: to all contributors; to contributors who have contributed most recently; or to contributors who have made larger contributions.
- Amend AS 15.13.020(c) to allow the fifth (independent) board member to weigh in on their successor in the event of a tie among the remaining four commission members. Last year the board elected to send two names forward and put the onus on the Governor because the law was silent on the event of a tie.

These changes have the unanimous support of the Commission. This is a starting point for us and as we have the ability to do so, we will continue to provide feedback as a body. If you have any questions or need any additional clarification on our suggestions, please feel free to reach out.

Best Regards,

A handwritten signature in black ink, appearing to read 'Rick Stillie', with a stylized flourish at the end.

Rick Stillie

Chairman

Alaska Public Offices Commission