

BEFORE THE ALASKA PUBLIC OFFICES COMMISSION

Alaskans for Better Elections,)
)
 Complainant,)
)
 v.) **APOC Case No. 23-01-CD**
)
 Alaskans for Honest Elections, Alaskans for)
 Honest Government, Wellspring Ministries,)
 Wellspring Fellowship, Ranked Choice)
 Education Association, Art Mathias, and Phillip)
 Izon,)
)
 Respondents.)
 _____)

FINAL ORDER

Alaskans for Better Elections (ABE) alleged violations of AS 15.13 by seven respondents: Alaskans for Honest Elections (AHE), Alaskans for Honest Government (AHG), Wellspring Ministries, Wellspring Fellowship, Ranked Choice Education Association (RCEA), Art Mathias, and Phillip Izon. ABE alleges that the respondents have failed to register with APOC, failed to correctly report contributions and expenditures, failed to provide accurate paid-for-by identifiers on communications, made an unlawful cash contribution, and/or failed to report the true source of contributions to AHE. The allegations all relate to the signature gathering effort for ballot initiative 22AKHE, which seeks to repeal the open primary and top-four ranked choice general election system that Alaska voters enacted by initiative in 2020.

After completing an investigation, the Alaska Public Offices Commission Staff

recommended that the Commission find that the following violations occurred¹:

- Failure to register before making expenditures, in violation of AS 15.13.050(a) by AHE, AHG,² and RCEA
- Failure to file timely and accurate independent expenditure, statement of contribution, and/or quarterly reports, in violation of AS 15.13.040 and 15.13.110(g) & (h) by AHG, RCEA, AHE, and Art Mathias³
- Failure to place compliant paid-for-by identifiers on communications in support of 22AKHE, in violation of AK 15.13.090: AHG, RCEA, AHE
- Making a cash contribution in excess of \$100, in violation of AS 15.13.074(e) by RCEA
- True-source reporting violations of AS 15.13.040 and 15.13.074(b) by RCEA, AHE, and Art Mathias

After a hearing on November 16, 2023, the Commission finds that these violations occurred and imposes civil penalties totaling \$94,610.

I. BACKGROUND

A. Ballot initiative 22AKHE

On November 23, 2022, Phillip Izon, Art Mathias, and Jamie R. Donley filed an application for certification of an initiative entitled “An Act Restoring Political Party Primaries and Single-Choice General Elections.”⁴ The Lieutenant Governor certified the petition,⁵ which was named “Alaskans for Honest Elections” and identified as 22AKHE by its sponsors, on January 20, 2023. The Division of Elections delivered petition

¹ Staff Report at 27-28, available at <https://aws.state.ak.us/ApocReports/Paper/Download.aspx?ID=25421> and <https://aws.state.ak.us/ApocReports/Paper/Download.aspx?ID=25422>.

² This violation is not included in the Conclusion of Staff’s Report. It is discussed at page 15-16 of the Report.

³ Staff’s Conclusion also does not list this violation, which is discussed at page 26 of the Report.

⁴ See AS 15.45.020, AS 15.45.030.

⁵ See AS 15.45.070.

booklets to the sponsors on February 8, 2023. Sponsors' deadline to file them with enough signatures to place the initiative on the ballot is February 7, 2024.⁶

B. Respondents

This matter concerns allegations that the seven respondents failed in various ways to meet their obligations under Alaska's campaign finance laws in connection with support of 22AKHE. The two individual respondents are Art Mathias and Phillip Izon, two of 22AKHE's three primary sponsors. Each of the five other respondents is an organization in which Mathias, Izon, or both serves in a key role.

Two of the five respondent organizations have registered with APOC. First, Alaskans for Honest Government (AHG) registered as an entity on November 1, 2022. AHG's stated purposes were to "help Alaskans with data, information and research" and "[p]rovide polling and other election resources to voters." Phillip Izon was listed as the entity's Record Keeper/Agent. During Staff's investigation, Mr. Izon said in an affidavit that "[AHG] is a Political Action Committee that was formed to make independent expenditures related to the November 2022 general election for Alaska's U.S. House and U.S. Senate seats" and that he registered the entity with APOC by mistake.⁷

Alaskans for Honest Elections (AHE) is an Alaska non-profit corporation created on January 23, 2023. In November 2022, Mr. Izon inquired with APOC Staff about whether AHE had an obligation to register and report its expenditures "prior to the state

⁶ See AS 15.45.140.

⁷ Staff Report Ex. 13 at 1.

approved initiative.”⁸ Staff responded that “[i]t appears that what you are contemplating is a referendum (a ballot proposition to repeal a law), not an initiative,” and “the definition of an expenditure does not include money spent during the signature gathering stage of a referendum (unlike, an initiative).”⁹ AHE did not register at that point.

Then on February 23 and 24, 2023, APOC’s director followed up and advised Mr. Izon that because AHE had filed an initiative proposal application, not a referendum as Staff had mistakenly opined, AHE *did* have reporting obligations during the signature gathering stage and reports were likely overdue by that point.¹⁰ APOC’s director reiterated that “money raised and spent for the purpose of supporting an initiative application must be reported” and “is not contingent on approval of the application.”¹¹

AHE registered as a group with APOC on March 20, 2023, with the stated purpose of “[a]ny lawful election matters.” Phillip Izon is the group’s chairman and a director; Art Mathias is also a director. AHE filed its first quarter report for 2023 on April 10, 2023.¹² That report included a nonmonetary contribution and corresponding expenditure of \$200,000 for Mr. Izon’s “Management Costs/Time.” Mr. Izon explained to Staff that this amount was intended as an estimate of the total value of the services he would contribute

⁸ Staff Report Ex. 23 at 4.

⁹ *Id.* at 2-3.

¹⁰ Staff Report Ex. 24 at 6.

¹¹ *Id.* at 1.

¹² Staff Report Ex. 25; AS 15.13.110(g).

running AHE’s initiative campaign all the way through an election.¹³ AHE filed a second quarter report as well. Both quarterly reports disclosed contributions from RCEA.

The oldest of the respondent organizations is Wellspring Ministries, an Alaska nonprofit corporation formed in July 1999. Art Mathias is its president and treasurer. Wellspring Ministries owns a building at 2511 Sentry Drive in Anchorage containing classrooms and a gymnasium, which also serves as an auditorium. Wellspring Ministries leases space in the building to other non-profit organizations. During the investigation, Wellspring Ministries explained that “[b]ecause WM is a non-profit corporation with tax-exempt status, it leases space in its building only to other non-profit organizations and charges those non-profit tenants only the cost associated with operating and maintaining the leased space that the tenant occupies”¹⁴ and that “[c]harging ‘fair market value’ for the use of the building space is antithetical to non-profit status.”¹⁵

One of Wellspring Ministries’ non-profit tenants in the Sentry Drive building is Wellspring Fellowship, the fourth of the five organizational respondents. Wellspring Fellowship is a non-profit religious corporation incorporated in Washington on December 8, 2022. Art Mathias is one of its directors, and its address is at the Wellspring Ministries building in Anchorage. Wellspring Fellowship’s rent is “only the cost of operation and maintenance associated with [its] leased space.”¹⁶ The leased space

¹³ Staff Report Ex. 13.

¹⁴ Staff Report Ex. 37 at 2.

¹⁵ *Id.*

¹⁶ *Id.*

includes the gymnasium, some office space, and a conference room. Wellspring Fellowship uses the gymnasium for worship services.

The fifth and final organizational respondent is Ranked Choice Education Association (RCEA), another Washington non-profit religious corporation. RCEA was incorporated on December 16, 2022. Art Mathias is its president and a director; its other two directors are Phillip Izon and Patricia Mathias. RCEA’s Bylaws state that it is an “Integrated Auxiliary of Wellspring Fellowship” with the same religious purposes as Wellspring Fellowship.¹⁷

The forgoing information about the seven respondents is summarized in the table.

Respondent Name	Organization type	Creation date	APOC registration date	Respondent Officers
Alaskans for Honest Government (AHG)	APOC registered entity	Web domain: October 15, 2022	Nov. 1, 2022 (APOC entity)	Phillip Izon (agent)
Alaskans for Honest Elections	Alaska nonprofit corporation	Jan. 23, 2023	Mar. 20, 2023 (APOC group)	Phillip Izon (chairman, director) Art Mathias (director)
Ranked Choice Education Association	Washington nonprofit religious corporation	Dec. 16, 2022	Has not registered	Art Mathias (President) Phillip Izon (director)
Wellspring Ministries	Alaska nonprofit corporation	July 1, 1999	Has not registered	Art Mathias (president, treasurer)
Wellspring Fellowship	Washington nonprofit religious corporation	Dec. 8, 2022	Has not registered	Art Mathias (director)

¹⁷ Staff Report Ex. 45 at 1; Ex. 58 at 1.

C. Respondents' communications related to 22AKHE

This matter concerns spending on respondents' communications regarding ranked choice voting and 22AKHE in particular. AHE purchased the domain for its website on November 11, 2022. The website promotes AHE's signature gathering effort for 22AKHE. From November 19, 2022 through April 6, 2023, the paid-for-by identifier on the website stated only "Paid for by Alaskans for Honest Elections," naming none of AHE's contributors. By April 21, 2023, the paid-for-by identifier listed Phillip Izon, RCEA, and Carolyn Overstreet as AHE's top three contributors.¹⁸

AHE also posted videos on a YouTube page, nearly all of which urge viewers to reject ranked choice voting and to sign the 22AKHE petition. The paid-for-by identifiers on the videos name only AHE and none of its contributors.

AHG purchased a web domain on October 15, 2022. Though Mr. Izod reported that AHG intended to make expenditures in connection with only federal races, as of November 18, 2022, AHG's website contained only material related to ranked choice voting and efforts to bring 22AKHE to the voters. The landing page displayed a link to "Alaskans for Honest Elections' Ballot Initiative" and a graphic showing the initiative process. As of April 26, 2023, AHG's website also had links to AHE's website and a page where visitors could sign up to receive a petition booklet with language directing visitors to "Click Here to sign The Initiative Today." On July 5, 2023, AHG's website landing page continued to display links to sign the petition. Since its inception, AHG's

¹⁸ Staff Report Ex. 40 & 42.

website has displayed the following paid-for identifier: “paid for by Alaskans for Honest Government. Not authorized by any candidate or candidate’s committee.”

On February 16, 2023, AHE held a petition signing event at Wellspring Ministries’ gymnasium at the building on Sentry Drive. Media reported that the event lasted at least two hours, yielded roughly 300 signatures, and included a fundraising pitch for the signature-gathering effort.¹⁹ During Staff’s investigation, Respondents explained that Wellspring Fellowship charges \$1 to a group called the Greater Alaska Chapter of the Association of Mature American Citizens (AMAC) to use the gymnasium for its monthly meetings. Respondents explained that this group, rather than either Wellspring entity, provided the gymnasium to AHE for the petition signing event.²⁰ AHE’s invitations to the event did not mention that group.²¹

RCEA purchased its first web domain on December 22, 2022, one month after the application for initiative 22AKHE was filed. The website’s landing page was devoted to promoting AHE’s efforts, with a heading reading “Alaska’s Efforts to Repeal Ranked Choice” and a link to AHE’s website. The website also listed locations to sign 22AKHE petition booklets. RCEA’s first website contained no paid-for-by identifier.

RCEA purchased a new web domain on May 23, 2023. The new website does not mention 22AKHE or contain any links to AHE materials. Rather, the website contains material arguing against ranked choice voting in general and describing it as negative and

¹⁹ Staff Report Ex. 1 at 152.

²⁰ Staff Report Ex. 37 at 5.

²¹ Staff Report Ex. 36.

a threat to democracy in all jurisdictions. However, on July 3 and 5, 2023, RCEA published tweets stating that it hopes to get 22AKHE on the ballot so ranked choice voting can be removed from “our state” and identifying itself as “the group behind” the signature collecting effort to repeal ranked choice voting in Alaska.²²

RCEA filed two Statement of Contributions reports with APOC, on May 9 and June 11, 2023, showing \$90,000 in contributions to AHE made in five installments:

- \$1,000 by check on February 6, 2022
- \$75,000 by check on February 8, 2022
- \$2,358 cash on February 22, 2022
- \$1,382 by check on February 23, 2023
- \$10,260 by check on June 11, 2023.²³

Staff’s investigation found a different but similar series of transactions. The \$1,000 contribution was made in January, not February, and RCEA’s reported check number was incorrect. The \$75,000 contribution was made on February 3 by cashier’s check, not regular check. The cash contribution was refunded to RCEA and replaced with a check in the same amount on August 1, 2023. The reported check number for the \$1,382 contribution was incorrect. And no \$10,260 contribution was made on June 11 or otherwise. Instead, RCEA contributed \$11,000 to AHE by check on May 22, 2022. The total of RCEA’s actual contributions to AHE was therefore \$90,740, not \$90,000.

²² Staff Report Ex. 52 & 54.

²³ Staff Report Ex. 55 & 56.

RCEA’s May 9 report did not provide a true source for the four contributions it reported. The June 11 report, however, disclosed that Mr. Mathias was the true source of \$90,000 of contributions to AHE, via a donation in that amount from Mr. Mathias to RCEA on December 20, 2022.²⁴ Media reported that at the 22AKHE petition signing event at the Wellspring Ministries building on February 16, Mr. Mathias told attendees he had contributed \$100,000 to the ballot measure group.²⁵

II. LAW AND ANALYSIS

The violations Staff found fall into five categories—registration violations (AS 15.13.050(a)), reporting violations (AS 15.13.040 and AS 15.13.110), paid-for-by identifier violations (AS 15.13.090(a)), a cash contribution violation (AS 15.13.074(e)), and true source violations (AS 15.13.040 and 15.13.074(b)).²⁶ Each is discussed in turn, followed by a summary table showing the maximum statutory penalty calculations for each violation, the penalty assessment amounts produced by application of 2 AAC 50.855, and the Commission’s penalty mitigation determinations under 2 AAC 50.865.²⁷

²⁴ Staff Report Ex. 55.

²⁵ Staff Report Ex. 2 at 16 & Ex. 35.

²⁶ The allegation that Mr. Izon should be personally responsible for violations committed by respondent organizations that he directs or controls is dismissed. *See* Staff Report at 26-27.

²⁷ Staff’s Report did not apply 2 AAC 50.855, instead making recommendations for the application of 2 AAC 50.865 directly to the statutory maximum penalty amounts. But the statutes and the regulatory framework require the Commission to assess civil penalties in complaint matters in the same manner as in Staff-initiated matters and then to proceed to the mitigation analysis. *See* AS 15.13.390(a)(5) & (b). The starting point for the Commission’s discretionary mitigation determinations is always a “civil penalty determined under 2 AAC 50.855.” 2 AAC 50.865(a), (b), & (d).

A. Registration violations

The Complaint alleges that three respondents, AHG, RCEA, and AHE, failed to register before making expenditures supporting the 22AKHE application. Each “person other than an individual” must register with APOC “[b]efore making an expenditure in support of or in opposition to . . . an initiative proposal application”²⁸ An “expenditure” is “a purchase or transfer of money or anything of value, or promise or agreement to purchase or transfer anything of value, incurred or made for the purpose of . . . supporting or opposing an initiative proposal application.”²⁹ Expenditure “includes an express communication,” but “does not include an issues communication.”³⁰ And an express communication “is one that when read as a whole and with limited reference to outside events, is susceptible of no other reasonable interpretation but as an exhortation to vote for or against a specific candidate.”³¹ APOC uses that statutory definition to identify expenditures in the ballot proposition and initiative context as well.³²

1. Alaskans for Honest Government

From its inception, AHG’s website was devoted to the subject of ranked choice voting, specifically supporting AHE’s effort to collect signatures for 22AKHE.³³ **The Commission agrees with Staff’s conclusion that AHG violated AS 15.13.050(a) by**

²⁸ AS 15.13.050(a). “Person” includes APOC entities and groups. AS 15.13.400(16).

²⁹ AS 15.13.400(7)(A)(iv).

³⁰ AS 15.13.400(7)(C).

³¹ AS 15.13.400(8).

³² *See Brief of Appellee, Alaska Policy Forum v. APOC*, 2023 WL 3972969 at *12-21 (Alaska Apr. 4, 2023).

³³ Staff Report Ex. 15-20.

failing to register before making an expenditure on its website.³⁴ AHG registered as an entity on November 1, 2023, 17 days after the expenditure on its website. The statutory maximum penalty for this violation is \$50 per day, totaling \$850.³⁵ But because this is a “late filing of . . . a registration” by “a first-time filer,” no penalty is assessed.³⁶

2. Ranked Choice Education Association

Similarly, RCEA’s website from its inception on December 22, 2022 through May 2023 was devoted to supporting 22AKHE, and respondents do not dispute that the original website was an express communication requiring registration and reporting.³⁷ Staff found, and the Commission agrees, that the website did not stop being an express communication in support of 22AKHE when RCEA purchased a new domain in May 2023. Even though the new website no longer mentions the initiative by name, the website continues to present extensive, non-neutral advocacy against ranked choice voting. RCEA had no pre-22AKHE history of educating the public about the subject. And RCEA’s tweets on July 3 and 5, 2023 identified it as “the group behind the repeal of #RankedChoiceVoting in Alaska,” hoping to “get this on the ballot” and “remove it from our State.” Considering this context—especially RCEA’s own contemporaneous

³⁴ Staff Report at 15-16. The Commission agrees with Staff that AHG is a “nongroup entity,” AS 15.13.400(14), not a group, because AHG was not “organize[d] for the principal purpose of filing an initiative proposal application” and did not file one. AS 15.13.400(9)(C).

³⁵ AS 15.13.390(a).

³⁶ 2 AAC 50.855(b)(2)(A)(i).

³⁷ Staff Report Ex. 44 at 3 ¶ 11, Ex. 48; *see* Respondents’ Response to APOC Staff Report at 16-17, available at <https://aws.state.ak.us/ApocReports/Paper/Download.aspx?ID=25423>.

statements about the group’s mission to repeal ranked choice voting in Alaska and its recent advocacy supporting 22AKHE by name—RCEA’s website as of at least July 5, 2023 was susceptible of no other reasonable interpretation but as a continuation of the group’s pre-existing exhortation to support 22AKHE.³⁸

The Commission therefore concludes that RCEA’s website was an express communication at all times until at least Staff’s tolling of penalties on July 5, 2023. RCEA violated AS 15.13.050(a) by failing to register as an entity during that time, and still has not registered. The maximum penalty for this violation over the period of 195 days is \$9,750. Because this is the first alleged violation against RCEA, the penalty for this incomplete registration is assessed at 50 percent of the maximum, \$4,875.³⁹

The Commission finds that RCEA is entitled to have the portion of this penalty that accrued before February 23, 2023 (63 days, \$1,575) mitigated entirely due to Staff’s incorrect advice about reporting obligations in connection with 22AKHE⁴⁰ and to have the remaining \$3,300 reduced by an additional 50 percent, to \$1,650, because it is an inexperienced filer.⁴¹ Further mitigation is not warranted given RCEA’s continuing failure to register, even though it has conceded making express communications that require registration and reporting.⁴²

³⁸ See AS 15.13.400(7)-(8).

³⁹ 2 AAC 50.855(b)(3)(B).

⁴⁰ 2 AAC 50.865(b)(2)(B).

⁴¹ 2 AAC 50.865(a)(1)(B).

⁴² See Response to APOC Staff Report at 17.

3. Alaskans for Honest Elections

The Commission similarly agrees with Staff that AHE violated AS 15.13.050(a) by failing to register before making expenditures in support of 22AKHE. AHE purchased its web domain on November 11, 2022, and registered as a group on March 20, 2023, a penalty period of 129 days leading to a maximum penalty of \$6,450. Like AHG, AHE cannot be assessed a penalty for this late registration because it was a first-time filer.⁴³

B. Reporting violations

Persons making independent expenditures in support of an initiative application must file independent expenditure reports within ten days of each expenditure.⁴⁴ And a group or entity that receives contributions or makes expenditures exceeding \$500 within a calendar year supporting an initiative must file quarterly reports during the period before an election campaign begins.⁴⁵ The maximum statutory penalty for failure to file both types of reports is \$50 per day.⁴⁶

1. Alaskans for Honest Government

AHG violated these statutes when it failed to file an independent expenditure report in connection with the purchase of its web domain and failed to file a fourth quarter report for 2022. The independent expenditure report was due December 3, 2022—ten days after the 22AKHE application was filed—and penalties were tolled on

⁴³ 2 AAC 50.855(b)(2)(A)(i).

⁴⁴ AS 15.13.040(d)-(e); AS 15.13.110(h).

⁴⁵ AS 15.13.110(g).

⁴⁶ AS 15.13.390(a).

July 5, 2023,⁴⁷ covering a period of 214 days and leading to a maximum penalty of \$10,700. The fourth quarter report was due January 10, 2023, leading to a penalty period of 176 days and a maximum penalty of \$8,800.⁴⁸

Because these reports have never been filed and because they were not AHG's first violation, 2 AAC 50.855 provides no reduction to the statutory maximum.⁴⁹

However, the Commission finds that the portion of these penalties that accrued before Staff's incorrect advice was remedied should be mitigated entirely⁵⁰ and the remaining portion mitigated by fifty percent because AHG is an inexperienced filer.⁵¹ That leads to a penalty of \$3,300 for each of the two missing reports. From there, the Commission waives the independent expenditure report penalty entirely because the value of the expenditure—AHG's web domain—was certainly far less than \$3,300 and is therefore “significantly out of proportion to the degree of harm to the public.”⁵² Because AHG has never provided the information that would have been required on a quarterly report,

⁴⁷ Staff Report at 28 n.152.

⁴⁸ ABE argues that Staff neglected to impose a penalty on AHG for failure to file a first quarter report, citing the Staff Report at page 18. It is apparent, however, that Staff intended to describe a *fourth* quarter reporting violation at page 18, consistent with the Conclusion at pages 27 and 29 of the report. APOC received no evidence that AHG received contributions or made expenditures triggering quarterly reporting obligations in 2023. See AS 15.13.110(g); Staff Report Ex. 30 at 4 (describing AHG as inactive for “months and months” as of August 2023).

⁴⁹ 2 AAC 50.855(b)(3)(C).

⁵⁰ 2 AAC 50.865(b)(2)(B).

⁵¹ 2 AAC 50.865(a)(1)(B).

⁵² 2 AAC 50.865(b)(5).

however, that factor cannot be applied to the second penalty and the Commission imposes a \$3,300 penalty for that missing report.

2. Alaskans for Honest Elections

Staff concluded that AHE violated AS 15.13.040(d) and 15.13.110(h) by failing to file three independent expenditure reports, instead reporting the expenditures late on its first quarter report. AHE also violated AS 15.13.110(g) by filing inaccurate first and second quarter reports and filing its second quarter report late. Staff issued civil penalty assessments for these violations. In the context of this complaint matter, they are dismissed without prejudice to be addressed through the civil penalty assessment process.

The Commission notes for purposes of those civil penalty assessment matters that Staff found, and the Commission agrees, that AHE's reports violated AS 15.13.110(g) because they did not identify the true source of the \$90,740 AHE received from RCEA.⁵³ Staff also found, and the Commission agrees, that AHE should have reported a non-monetary contribution from Wellspring Ministries for the use of the gymnasium in its building for a signature drive and fundraising event lasting more than two hours on February 16, 2023.⁵⁴ Wellspring Ministries, which is controlled by Mr. Mathias, leases the space at cost to Wellspring Fellowship, which is also controlled by Mr. Mathias. Wellspring Fellowship allows the Greater Alaska Chapter of the AMAC to use the space for its meetings for \$1. And AMAC allowed AHE, which is also led by Mr. Mathias, to use the gymnasium at no charge. Wellspring Ministries and/or Wellspring Fellowship,

⁵³ See AS 15.13.040(b)-(e) & (q).

⁵⁴ Staff Report Ex. 1 at 152.

not AMAC, was the true source of this non-monetary contribution to AHE⁵⁵ and its value is “the normal market charge for” the use of similar space.⁵⁶

3. Ranked Choice Education Association

Staff concluded that RCEA violated AS 15.13.040(d) and 15.13.110(h) by failing to file an independent expenditure report in connection with the purchase of its web domain. That report should have been filed by January 1, 2023, leading to a penalty period of 185 days and a maximum penalty of \$9,250. And Staff concluded that RCEA violated AS 15.13.110(g) by failing to file a fourth quarter report for 2022 by January 10, 2023, a penalty period of 176 days and a maximum penalty of \$8,800.

Staff’s report overlooked RCEA’s obligation to file a 2023 first quarter report because RCEA contributed to the 22AKHE effort during that period.⁵⁷ The report was due April 10, 2023, leading to a penalty period of 86 days and a maximum of \$4,300.

The Commission applies the same penalty analysis to these three missing reports as to those of AHG. First, 2 AAC 50.855 provides no reduction because the reports remain incomplete and are not RCEA’s first alleged violation.⁵⁸ However, the Commission applies 2 AAC 50.865 to mitigate all penalty accruals prior to February 23,

⁵⁵ AS 15.13.400(19) makes AMAC an “intermediary for the true source” because AMAC received its access to the gymnasium space as a donation or gift.

⁵⁶ 2 AAC 50.250(b)(1)(A). The Commission agrees with Staff that there is insufficient evidence to find an AS 15.13 violation based on AHE’s reporting of a \$200,000 estimated nonmonetary contribution of future services from Mr. Izon.

⁵⁷ AS 15.13.110(g). One of RCEA contributions was a direct expenditure for the petitions themselves, on AHE’s behalf. Staff Report Ex. 56.

⁵⁸ 2 AAC 50.855(b)(3)(C).

2023 due to Staff's incorrect advice about reporting obligations related to ballot initiative campaigns and mitigates the penalties that accrued after that date by 50 percent because RCEA was an inexperienced filer.⁵⁹ That analysis leads to a \$3,300 penalty each for the independent expenditure report and fourth quarter report and a \$2,150 penalty for the first quarter report. The Commission applies 2 AAC 50.865(b)(5) to waive the penalty for the report associated with the web domain expenditure because it is out of proportion to the size of that transaction.⁶⁰ But because of the sizable amounts of RCEA's other transactions, no further mitigation is available for the two quarterly report violations.

4. Art Mathias

Mr. Mathias made a \$90,000 contribution to RCEA on December 22, 2022, which, as discussed below, was a contribution to AHE through RCEA as intermediary. Mr. Mathias was required to file a statement of contributions report by January 21, 2023, 30 days after making that contribution,⁶¹ leading to a penalty period of 165 days and a maximum statutory penalty of \$8,250. 2 AAC 50.855(b)(3)(B) reduces this penalty by 50 percent because the missing report is Mr. Mathias's first alleged violation. The Commission then applies 2 AAC 50.865(a)(1)(B) and (b)(2)(B) to mitigate the penalty entirely through February 23, 2023 and by 50 percent thereafter. That leads to a penalty of \$1,237.50 for this violation.

⁵⁹ 2 AAC 50.865(b)(2)(B); 2 AAC 50.865(a)(1)(B).

⁶⁰ 2 AAC 50.865(b)(5).

⁶¹ AS 15.13.040(k).

C. Paid-for-by identifiers

Alaska’s campaign disclosure law requires all communications to be identified using the words “paid for by” followed by the name and address of the person paying for the communication.⁶² If the communication comes from a person other than an individual or a candidate—like a group or an entity—the identifier must include the name and title of the person’s principal officer; a statement that the principal officer approves the communication; and the name, city, and state of each of the person’s top three contributors.⁶³ Communications requiring these disclosures include websites and videos like those published by AHE, AHG, and RCEA.⁶⁴ The maximum civil penalty for failing to provide the required identifier is \$50 per day.⁶⁵

1. Alaskans for Honest Government

AHG’s website has never identified its principal officer, provided a statement that the principal officer approves the communications on the website, or named its top three contributors. The Commission agrees with Staff that AHG violated AS 15.13.090(a). The penalty period began November 23, 2022, when the 22AKHE application was filed, and ends with Staff’s tolling of penalties on July 5, 2023, a period of 224 days, leading to a statutory maximum penalty of \$11,200. The Commission considers the inaccurate paid-for-by violations analogous to the “error in a registration, statement, or report” provision

⁶² AS 15.13.090(a).

⁶³ *Id.*

⁶⁴ *See* AS 15.13.400(3); 2 AAC 50.306(e)(2).

⁶⁵ AS 15.13.390(a).

of 2 AAC 50.855, which leads to a 50 percent reduction in the penalty assessed because it was AHG’s “first election cycle.”⁶⁶ And the Commission applies 2 AAC 50.865(a)(1)(B) (inexperienced filer) and (b)(2)(B) (Staff error) to mitigate this penalty entirely through February 23, 2023 and by 50 percent thereafter. That leads to a penalty of \$1,650 for this violation.

2. Alaskans for Honest Elections

Between November 23, 2022 and April 6, 2023, the paid-for-by identifier on AHE’s website did not name its principal officer, did not include a statement that the principal officer approves of communications on the website, and did not name any of AHE’s top three contributors. Even after AHE added this information, its paid-for-by identifier remained out of compliance because it listed RCEA instead of Mr. Mathias as a top-three contributor. RCEA was an intermediary for Mr. Mathias, who was the true source of the contribution.⁶⁷ The Commission finds that AHE violated AS 15.13.090(a) during the same 224-day day penalty period as AHG, leading to the same statutory maximum penalty of \$11,200. And the Commission applies the same regulatory provisions—2 AAC 50.855(b)(2)(C)(i), 2 AAC 50.865(a)(1)(B), and (b)(2)(B)—to impose the same penalty of \$1,650 for this violation.

AHE also failed to include compliant paid-for-by identifiers on its videos. The written portions do not contain the required information, and the identifiers do not remain on the screen throughout the videos as required by AS 15.13.090(c). Staff determined

⁶⁶ 2 AAC 50.855(b)(2)(C)(i).

⁶⁷ AS 15.13.090(a); AS 15.13.040(e)(5); AS 15.13.400(19). *See* section II.E below.

based on its investigation that “[t]he combined amount of time that the videos were posted without a compliant paid-for-by identifier” was 1,830 days, resulting in a maximum civil penalty of \$91,500. AHE has not disputed that determination, and the Commission therefore accepts it. The Commission applies 2 AAC 50.855(b)(2)(C) to reduce that penalty by 50 percent. Lacking precise dates for the different videos, the Commission cannot apply full mitigation through February 23, 2023 with precision as it has done for other violations due to Staff error. The Commission therefore uses a rougher estimate and reduces the penalty by 75 percent to account for both Staff error and the fact that AHE is in its first election cycle.⁶⁸ That leads to a penalty of \$11,437.50 for the identifier violations on AHE’s videos.

3. Ranked Choice Education Association

RCEA’s websites had no paid-for-by identifier at all, and RCEA therefore also violated AS 15.13.090(a). Staff recommended imposing a penalty from December 22, 2022 through May 23, 2023 when RCEA purchased its new website.⁶⁹ However, that recommendation is inconsistent with Staff’s and the Commission’s conclusion that RCEA was engaged in express communications even after changing its website. Through at least July 5, 2023, RCEA identified itself to the public, consistent with its original website, as “the group” behind the 22AKHE effort.⁷⁰ The Commission therefore imposes a penalty through that date, a period of 195 days, leading to a statutory maximum penalty

⁶⁸ 2 AAC 50.865(a)(1)(B) & (b)(2)(B).

⁶⁹ Staff Report at 30.

⁷⁰ Staff Report Ex. 52 & 54.

of \$9,750. Because RCEA’s absent identifier is analogous to an incomplete filing rather than a late or erroneous one, 2 AAC 50.855(b)(3) requires a maximum penalty assessment. The Commission then applies 2 AAC 50.865(a)(1)(B) and (b)(2)(B) to mitigate the penalty entirely through February 23, 2023 and by 50 percent thereafter and imposes a penalty of \$3,300 for this violation.

D. Cash contribution

A person or group may not make a cash contribution exceeding \$100.⁷¹ RCEA does not dispute that it violated this provision when it contributed \$2,358 in cash to AHE. When an unlawful cash contribution is discovered, the recipient must return it to the contributor.⁷² Staff found, and the Commission agrees, that AHE remedied this violation by returning the \$2,358 to RCEA. Mr. Izon explained that “[a]s of July 25, 2023, that cash contribution has been corrected by refund to RCEA and the reissuance of an RCEA check in the same amount to AHE.”⁷³

Complainant argues that this approach did not fully correct the problem because RCEA has not identified the true source of the \$2,358 in cash it originally gave to AHE. But RCEA *did* identify the true source of the \$2,358—Mr. Mathias.⁷⁴ Staff could have

⁷¹ AS 15.13.074(e).

⁷² AS 15.13.114(a).

⁷³ Staff Report Ex. 13 ¶ 5. Mr. Izon’s statement was not quite accurate. The \$2,358 check to AHE was actually dated August 1, 2023. Staff Report Ex. 56.

⁷⁴ Staff Report Ex. 56.

recommended a per-day penalty covering the time before the refund was made,⁷⁵ but did not. The Commission declines to impose a separate monetary penalty for this violation.

E. True Source violations

The final type of violation Staff recommended the Commission find in this matter concerns the allegation that Mr. Mathias, RCEA, and AHE all failed to comply with “true source” reporting requirements regarding Mr. Mathias’s \$90,000 contribution to RCEA and RCEA’s contribution, in turn, of almost exactly that amount to AHE. Alaska law prohibits contributing anonymously or using the name of another.⁷⁶ Rather, contributions must be made in the name of the true source of the money or thing of value,⁷⁷ and a person making independent expenditures must report the true source of contributions it receives.⁷⁸ The true source is the contributor “whose contribution is funded from wages, investment income, inheritance, or revenue generated from selling goods or services.”⁷⁹ By contrast, a contributor “who derived funds via contributions, donations, dues, or gifts” is not a true source, but rather, “an intermediary for the true source.”⁸⁰

Respondents argue that true source reporting has “no application to a ballot

⁷⁵ See AS 15.13.390(a).

⁷⁶ AS 15.13.074(b).

⁷⁷ 2 AAC 50.258(a).

⁷⁸ AS 15.13.040(e) & (q).

⁷⁹ AS 15.13.400(19).

⁸⁰ *Id.* “[A] membership organization [that] receives dues or contributions of less than \$2,000 per person per year” can be a true source.

proposition campaign.”⁸¹ They contend that AS 15.13.065(c) makes AS 15.13.074(b) and 2 AAC 50.258 inapplicable to ballot initiative campaigns. AS 15.13.065(c) provides:

Except for reports required by AS 15.13.040 and 15.13.110 and except for the requirements of AS 15.13.050, 15.13.060, and 15.13.112 – 15.13.114, the provisions of AS 15.13.010 – 15.13.116 do not apply to limit the authority of a person to make contributions to influence the outcome of a ballot proposition.

This statute does not exempt any of the respondents from reporting the true source of contributions made and received for the purpose of influencing the outcome of 22AKHE. First, the statute makes clear that the registration and reporting requirements of AS 15.13.040, 15.13.050, and 15.13.110 all *do* apply to ballot propositions. And even without considering AS 15.13.074(b), those statutes require all three parties to report the contributions at issue here and to identify their true source. AHE, a group making expenditures, was required by AS 15.13.040(b), (d), (e), and (q) to report contributions it received and their true sources. RCEA, an entity that made independent expenditures in support of 22AKHE, was required by AS 15.13.040(d), (e), and (q) to report its contributions and expenditures and their true sources. And AS 15.13.040(k) required both Mr. Mathias and RCEA to report Mr. Mathias’s contribution to AHE via RCEA.

Moreover, AS 15.13.074(b) does apply and is an independent statutory source, above and beyond AS 15.13.040 and AS 15.13.110, for Mr. Mathias and RCEA’s obligation to disclose that Mr. Mathias was the true source of \$90,000 RCEA contributed

⁸¹ Respondents’ Response to APOC Staff Report at 5-11; Respondents’ Motion for Partial Summary Judgment, available at <https://aws.state.ak.us/ApocReports/Paper/Download.aspx?ID=25425>.

to AHE. The statute prohibits contributions made “anonymously, using a fictitious name, or using the name of another.” The plain language of AS 15.13.065(c) does not exempt contributions in support of ballot initiatives from that prohibition; the prohibition does not “limit the authority of a person to make contributions to influence the outcome of a ballot proposition” that the person would otherwise have.⁸² Because of the reporting obligations in the parts of the statute that unquestionably do apply, no one has “authority” to contribute anonymously or in the name of another.

Mr. Mathias has “authority” to contribute unlimited amounts to AHE. Requiring him, RCEA, and AHE to disclose that he is the true source of contributions to AHE does not limit that authority in any way. Reading AS 15.13.065(c) as Respondents do would undermine the reporting obligations at the heart of the statutory scheme, which unquestionably apply to ballot initiatives and require true source reporting.⁸³ The Alaska Supreme Court has long confirmed that the law requires transparency about the funding of ballot initiative campaigns, writing that:

[a] ballot measure is often of great importance financially to its proponents, opponents, or both, and multi-million dollar advertising campaigns have been waged. In such circumstances the voter may wish to cast his ballot in accordance with his approval or disapproval, of the sources of financial support.⁸⁴

⁸² AS 15.13.065(c).

⁸³ *Id.*; AS 15.13.040.

⁸⁴ *Messerli v. State*, 626 P.2d 81, 87 (Alaska 1981).

Respondents argue that Alaska’s true source reporting requirements infringe upon the First Amendment associational right of donors to give anonymously to nonprofits.⁸⁵ But the law requires disclosure of who funds *political* advocacy, not nonprofit donors generally. And the U.S. Supreme Court has recognized that a state can require disclosure of funding sources supporting signature collection for ballot initiatives.⁸⁶

In sum, the Commission concludes that Staff correctly applied AS 15.13.074(b) and the true source reporting requirements of AS 15.13.040 to the respondents.

Respondents also make a fact-based argument that Mr. Mathias was not actually the true source of \$90,000 of RCEA’s contributions to AHE, despite RCEA’s June 11, 2023 report to APOC that he was.⁸⁷ They argue that because RCEA had other donors besides Mr. Mathias and because money is fungible, the money RCEA gave to AHE is “not traceable” to him.

The most fundamental problem with this argument is that even if the Commission accepted it, it would not relieve RCEA and AHE of their obligation to disclose the true source of these contributions. Ruling out Mr. Mathias as the true source does not convert RCEA into the true source. Because RCEA derives its funds from “contributions, donations, dues, or gifts,” **it is an intermediary** and not, by definition, the true source of a

⁸⁵ See, e.g., *Nat’l Ass’n for Advancement of Colored People v. State of Alabama*, 357 U.S. 449, 462–63 (1958).

⁸⁶ *Buckley v. Am. Const. L. Found., Inc.*, 525 U.S. 182, 205 (1999) (explaining that states can “legitimately require[] sponsors of ballot initiatives to disclose who pays petition circulators, and how much”).

⁸⁷ Staff Report Ex. 34.

contribution.⁸⁸ AHE and RCEA must therefore identify the true source of money RCEA contributes, even if it is not Mr. Mathias.⁸⁹

The Commission agrees, however, with Staff’s conclusion that Mr. Mathias was the true source of \$90,000 out of the \$90,740 RCEA gave to AHE. Respondents’ own statements and the other evidence compel this conclusion. RCEA’s June 11 Statement of Contributions report identified Mr. Mathias as the true source of RCEA’s contributions to AHE. There can be no coincidence to the fact that RCEA reported contributing the exact amount it received from Mr. Mathias—\$90,000—even though Mr. Mathias overshot slightly, writing the final check to AHE for \$740 more than Mr. Izon had reported.⁹⁰

In a July 20, 2023 letter to APOC Staff, Respondents’ attorney plainly acknowledged that Mr. Mathias was the true source, writing that “AHE and Mr. Mathias voluntarily disclosed, in an effort to be candid with the Alaska public, that Mr. Mathias made the first contribution to RCEA that RCEA then contributed to AHE.”⁹¹ The letter emphasized, correctly, that Mr. Mathias “would have been perfectly within the law to contribute those funds to AHE directly.”⁹² The problem was not the contribution or its amount but rather, its incorrect attribution to an intermediary rather than a true source.

The testimony of Mr. Mathias and Mr. Izon at the hearing did not undermine Staff’s conclusion. Mr. Mathias testified at the hearing that he himself makes the

⁸⁸ AS 15.13.400(19).

⁸⁹ AS 15.13.040(d), (e), (q).

⁹⁰ See Staff Report Ex. 33-34 & 56.

⁹¹ Staff Report Ex. 3 at 9.

⁹² *Id.*

decisions about money going out of RCEA. And he personally signed the checks from RCEA to AHE.⁹³ Respondents now describe RCEA’s true source report as a mistake, but offer no explanation for RCEA naming Mr. Mathias as the true source other than the obvious reason—that he was. When asked why he identified Mr. Mathias as the true source, Mr. Izon said only that he “thought it was required.”

Mr. Mathias also acknowledged his contribution to AHE publicly at the February 16, 2023, fundraising and signature gathering event. One media account of his comments described him saying “he’s donated \$100,000 to the effort,” and Mr. Mathias now says that meant “the effort” more broadly, including RCEA’s out of state educational efforts.⁹⁴ But the article as a whole describes the February 16 event as focused on the “signature drive aiming to get rid of ranked choice voting” in Alaska, also calling it “the repeal effort” and quoting Mr. Mathias’s warning about “Outside corporations coming up and buying our candidates and buying our elections.”⁹⁵ RCEA is not mentioned. Another article reported that Mr. Mathias “repeatedly told attendees that he had contributed \$100,000 to the ballot measure group seeking to overturn ranked choice voting.”⁹⁶

The Commission agrees with Staff that the weight of the evidence shows that Mr. Mathias intended his \$90,000 contribution to RCEA to be passed through to AHE as

⁹³ Staff Report Ex. 56.

⁹⁴ Staff Report Ex. 51 at 1 ¶ 4. “The effort” was the reporter’s word choice, not a direct quote attributed to Mr. Mathias. Staff Report Ex. 35.

⁹⁵ Staff Report Ex. 35.

⁹⁶ Staff Report Ex. 2 at 16

needed and that he effectuated that intent. AHE violated AS 15.13.040(b), 15.13.110(g) and 15.13.074(b) by failing to report that Mr. Mathias was the true source of \$90,000 of the contributions it received from RCEA and by failing to report a true source for the remaining \$740 that it received from RCEA.

Mr. Mathias violated AS 15.13.040(k), 15.13.074(b), and 2 AAC 50.258(a) by contributing \$90,000 to AHE in the name of another and failing to report his contribution. The maximum penalty for that violation is \$90,000, the amount of the contribution, which the Commission can treble if an intentional violation is found.⁹⁷

RCEA violated AS 15.13.040(d), 15.13.110(h), 15.13.074(b), and 2 AAC 50.258(a) by failing to disclose the true source of the \$79,740 of contributions to AHE shown on its May 9, 2023 statement of contribution report.⁹⁸ The maximum penalty for that violation is \$79,740, “the amount of the contribution that is the subject of the misreporting or failure to disclose,” and the Commission has discretion to treble the penalty if the violation is shown to have been intentional.⁹⁹ Because the public was ultimately informed about the true source of the \$90,000, the Commission elects not to treble the penalties in this matter.

The Commission accepts Staff’s recommendation to reduce RCEA’s penalty by 75 percent largely because RCEA did report that Mr. Mathias was the true source. APOC’s regulations support that result. First, a delayed true source disclosure can reasonably be

⁹⁷ *Id.*

⁹⁸ Staff Report Ex. 33.

⁹⁹ AS 15.13.390(a)(3).

subject to the “first election cycle” 50 percent reduction to a penalty assessment under 2 AAC 50.855(b)(2)(C)(i). And for the same reason—that it is RCEA’s first election cycle—2 AAC 50.865(a)(1)(B) provides discretion to mitigate RCEA’s assessed penalty by another 50 percent. The Commission exercises that discretion and imposes a \$19,935 penalty for RCEA’s violation.

With respect to Mr. Mathias, the same penalty assessment regulation—2 AAC 50.855(b)(2)(C)(i)—applies to reduce his penalty by half. However, unlike RCEA, Mr. Mathias never reported his contribution, despite being the person who made the decision to contribute to AHE and who wrote the checks from RCEA to AHE. The Commission finds that discretionary mitigation is not warranted and imposes a penalty of \$45,000 for Mr. Mathias’s violation.

All violations found and penalties assessed are summarized in the Table. The penalties for the four respondents found to have committed violations total \$94,610.

Violation	dates of violation	total days¹⁰⁰	max penalty	2 AAC 50.855 assessment	2 AAC 50.865 mitigation
Failure to Register					
AHG	10/15/22 to 11/1/2022	17	\$850	\$0	N/A
RCEA	12/22/2022 to 7/5/2023	195	\$9,750	\$4,875	\$1,650.00
AHE	11/11/2022 to 3/20/2023	129	\$6,450	\$0	N/A
Failure to file reports					
<i>AHG</i>					
Ind. exp. Report	12/3/2022 to 7/5/2023	214	\$10,700	\$10,700	\$0
4Q 2022 Report	1/10/2023 to 7/5/2023	176	\$8,800	\$8,800	\$3,300
<i>RCEA</i>					
Ind. exp. Report	1/1/2023 to 7/5/2023	185	\$9,250	\$9,250	\$0
4Q 2022 Report	1/10/2023 to 7/5/2023	176	\$8,800	\$8,800	\$3,300
1Q 2023 Report	4/10/2023 to 7/5/2023	86	\$4,300	\$4,300	\$2,150
<i>Art Mathias</i>					
Stmt. of Cont. Report	1/21/2023 to 7/5/2023	165	\$8,250	\$4,125	\$1,237.50
Paid-for-by identifiers					
AHG	11/23/2022 to 7/5/2023	224	\$11,200	\$5,600	\$1,650
AHE-website	11/23/2022 to 7/5/2023	224	\$11,200	\$5,600	\$1,650
AHE-YouTube videos		1830	\$91,500	\$45,750	\$11,437.50
RCEA	12/22/2022 to 7/5/2023	195	\$9,750	\$9,750	\$3,300
True Source					
RCEA			\$79,740	\$39,870	\$19,935
Art Mathias			\$90,000	\$45,000	\$45,000
AHG Total					\$4,950
RCEA Total					\$30,335
AHE Total					\$13,087.50
Art Mathias Total					\$46,237.50

III. CONCLUSION

The Commission finds that the violations described in this report occurred and orders Alaskans for Honest Government, Alaskans for Honest Elections, Ranked Choice

¹⁰⁰ The statutory maximum penalty for all per-day penalty calculations in this matter is \$50, as explained in the analysis.

Education Association, and Art Mathias to pay the penalties imposed herein, in the total amounts shown on the table above.

The Commission further orders:

- AHG to file the two reports discussed herein within 30 days.
- RCEA to register as an entity and to file required reports, including its expenditures in support of 22AKHE during the time it was engaged in express communication, as well as its contributions to AHE and their true sources, within 30 days.
- AHE to correct its previous reports within 30 days and to complete future reporting in accordance with the determinations herein.
- Art Mathias to file the statement of contribution report discussed herein within 30 days.

This is a final Commission order. It may be appealed to the superior court within 30 days from the date of this order.¹⁰¹ A request for the Commission to reconsider this order must be filed within 15 days from the date this order is delivered or mailed.¹⁰²

Dated: January 3, 2024.

BY ORDER OF THE ALASKA PUBLIC OFFICES COMMISSION¹⁰³

¹⁰¹ AS 15.13.380(g), AS 44.62.560, Alaska R. App. P. 602.

¹⁰² 2 AAC 50.891(g).

¹⁰³ Commissioners Richard Stillie, Suzanne Hancock, Dan LaSota, and Lanette Blodgett voted to approve this order. Commissioner Eric Feige did not participate in the November 16, 2023 special meeting or the decision.

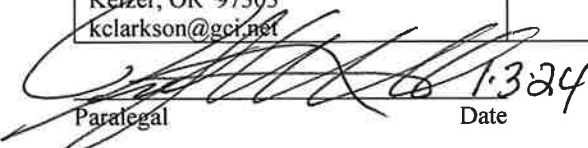
Certificate of Service:

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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1.3.24
Date