



Alaska Public Offices Commission April 2011

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From the Executive Director Paul Dauphinais

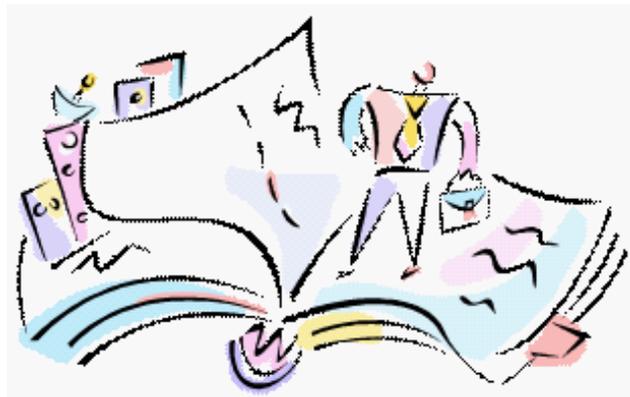
Since this is my first foray into APOC newsletters let me begin by saying, “Greetings”. It is my great pleasure and privilege to have been offered this position and I look forward to serving all the varied constituencies with whom APOC interacts. My first two weeks have been both interesting and educational. I have been impressed with the APOC staff and their resiliency in responding to a wide variety of questions.

Over my first two weeks certain themes have become readily apparent to me. The first is that many people are concerned with the effort it takes to record information required by APOC and then the difficulty others experience in trying to look at that data. As many of you know the agency has been working on a data system that will make both input and extraction of information much easier for everyone. This issue has jumped to the top of my priority list. While there have been some speed bumps along the way ETS is working very diligently with APOC staff to make the transition to a newer system as quickly and as orderly as possible. The staff is very aware of the frustration many people have with the current situation, as am I, and everyone is doing their best to make it better. While this is a very high priority, it won't be cured overnight; but everything possible is being done to remedy this important matter.

The Commission is in the final stages of the proposed regulation changes. This project is another of my priorities and should be completed relatively soon. A large number of comments have been received and the Commission appreciates your responses. See our web page at <http://doa.alaska.gov/apoc/proposedRegulations.html> for updates. As always, you may sign up on our list-serv to be notified of meetings and hearings: <http://list.state.ak.us/soalists/APOCnotifications/jl.htm>.

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As you may have heard by now, Patty Ware of the Juneau Office will be leaving APOC on April 4. Patty has been a great help to me in my short time here and she will be sorely missed by everyone. We wish her well in her future endeavors.

I look forward to the challenges ahead and to serving the public. It is as Oliver Wendell Holmes once wrote, “Greatness is not in where we stand, but in what direction we are moving. We must sail sometimes with the wind and sometimes against it—but sail we must, and not drift, nor lie at anchor.” I hope to keep the great momentum built by the Commission moving in the right direction.

REGULATIONS PROJECT UPDATE

The APOC regulations project continues to move forward. The Commission held two public workshops and two public hearings, both designed to encourage public participation in the draft regulations released December 1, 2010 and to encourage oral and written comment.

The Commission held its final public comment hearing March 23, 2011 on the proposed regulations. Interested persons were invited to comment on the campaign disclosure, 2 AAC 50.250-.405, procedures, 2 AAC 50.801-.899 and general provisions, 2 AAC 50.920 at the hearing, held via video link in both Anchorage and Juneau. The deadline for all written comments on the proposed regulations closed March 30, 2011. The Commission thanks all persons who reviewed the draft regulations and submitted public comment.

Submitted comments are being compiled for the Commission. The Commissioners will review all comments and discuss the draft regulations in meetings that are open to the public. Dates for these meetings have not yet been scheduled but will be posted on the APOC web site and sent out via the APOC list serv. The Commission will determine whether to incorporate suggestions and comments received during the public comment period and whether to adopt the regulations. If regulations are adopted, these must be forwarded to the Alaska Department of Law for review and approval, during which time the Governor's office also conducts its review. If the regulations are approved by the Department of Law and the Governor's office, they are sent to the Lt. Governor's office for filing and become effective 30 days later.

APOC will continue to keep all our filers and the public informed of the process as it moves forward, both via our web site and APOC list serv announcements.

UPDATE ON COMPLAINTS

09-07-CD Hackney v. CAP and AAMS: Case was consolidated with 10-06-CD, 10-07-CD, 10-08-CD, 10-09-CD, 10-10-CD, 10-11-CD, and 10-13-CD. Hearing set for June 9-10, 2011.

09-10-CD APOC v. IACC: Hearing re-scheduled for July 12-13, 2011 in Fairbanks.

10-14-POFD John Holman v. Glen Alsworth, Sr. and 10-15-POFD John Holman v. David J. Wilder: Commission Dismissed both complaints on 3/2/2011.

10-16-CD North Pole Community Coalition v. Isaacson: Commission Order issued on 3/4/2011 assessing a civil penalty and dismissing complaint.

10-18-CD Schmidt v. Committee for Responsible Growth: Commission Order issued on 3/24/11 disapproving the proposed consent decree in this case.

10-19-CD Kellen v. Rep. William Thomas: Case was consolidated with 10-20-CD, 10-21-CD, 10-22-CD, and 10-23-CD. On hold until after legislative session due to Rep. Thomas' legislative immunity.

11-01-CD Obermeyer v. Alaska Judicial Council: Commission issued an order on 3/29/11 rejecting APOC staff's February 4, 2011 recommendation and directing staff to issue an amended report.

11-02-CD APOC v. Edgmon Campaign: Commission approved the proposed consent agreement on 1/13/11 and terms of the consent agreement have been satisfied as of 3/1/11.

11-03-CD APOC v. Re-Elect Thomas Campaign: On hold until after legislative session due to Rep. Thomas' legislative immunity.

Interactive PDF Campaign Disclosure Report Forms

Staff has made recent updates to the campaign disclosure report forms, including an update to the PDF version **which enables filers to type directly into the PDF**. While the new forms look a bit different than the previous versions, they still require the same disclosure information. Staff hopes that the interactive forms will make it easier for filers who choose to file their reports using the paper filing method. The forms are located on the Forms Page of the APOC website at www.doa.alaska.gov/apoc/forms_all.html. If you have any trouble using the forms, please contact us.

RECENT
ADVISORY
OPINIONS

NOTICE:

The summaries of the advisory opinions are provided for convenience and are not binding precedent. Please go to our website for the full version of each advisory opinion.

<http://aws.state.ak.us/apocInterim/>

[ViewCommissionAdvisoryOpinions.aspx](http://aws.state.ak.us/apocInterim/ViewCommissionAdvisoryOpinions.aspx)

AO 10-38-CD Approved 1/13/2011

Rep. Beth Kerttula - POET Account Reserve and POET Accounts

It is permissible for an incumbent legislator, who has been re-elected to office, to use the same bank account from the previous term for their POET account for their new term. They cannot, however, carry over any funds from the previous term. AS 15.13.116(d). The deadline for spending or disbursing POET account funds is the legislator's last day of term as provided in AS 24.05.080.

There are no annual spending limits for a POET account. Any applicable limits apply to the amount that can be transferred into a POET account. AS 15.13.116(a)(8); AS 15.13.116(d). These limits are discussed within this opinion.

AO 10-39-LOB Approved 1/13/2011

David Theriault - Communications that count toward the "10 hours in any 30-day period in one calendar year" registration threshold for lobbying

Mr. Theriault must count any time spent in direct communication with a legislator or legislative employee in which he is influencing legislative action. Regardless of whether the discussions occur after work hours at home or in a bar, if Mr. Theriault engages in any of the actions listed in AS 24.45.171(9), he must count that period of time toward the 10 hours in any 30-day period in one calendar year requirement for registration as a lobbyist.

AO 11-01-CD Approved 2/24/2011

Rep. Berta Gardner, House Democratic Campaign Committee (HDCC) - Can a political party buy air time from radio stations that do not sell to "down ballot candidates" and then coordinate with a candidate in an effort to place the candidate's produced advertisement on the air?

Yes, the HDCC may contribute its air time to a candidate. The HDCC may coordinate with the candidate and use the candidate's produced version of their advertisement when placing the ad on the candidate's behalf. The paid for by disclaimer pursuant to AS 15.13.090 should be reported as paid for by the political party. The political party and the candidate should follow the heightened disclosure procedures discussed within this opinion.

AO 11-02-POFD Approved 2/25/2011

Monica Jenicek - Determination of filing requirement under AS 39.50 for specific position

Ms. Jenicek, as an Attorney V employed by the State of Alaska under PCN 031167, in the Office of the Attorney General as an assistant attorney general, is not subject AS 39.50, Public Official Financial Disclosure.

AO 11-03-CD Approved 1/31/2011

Rep. Bryce Edgmon - May a legislator combine their Public Office Expense Term (POET) account reserve and POET account into one bank account if that account limits annual spending to \$5,000?

By law, the POET account and POET account reserve must be separate accounts. Rep. Edgmon must fund a POET reserve account first if the amount exceeds \$5,000.00, and then transfer the applicable limits to a POET account under AS 15.13.116(d).

AO 11-04-CD Approved 3/23/2011

Peter Giessel - Maintaining an online merchant account following an election

The campaign may set up the online merchant account such that its maintenance fees are withdrawn from the future campaign account. In so doing the campaign must continue to report all account activity, including maintenance fees and interest, on regular reports filed with APOC.

Calendar of Events

- April 5 - Anchorage Municipal Election Day
- April 11 - Date by which candidates for the Mat-Su Borough Special Election must disburse the amount held in their campaign account. (90 days after the election)
- April 17 - Last day of legislative session
- April 26 - Mat-Su Special Election 105-Day Report Due
- April 30 - Lobbyist March Report and Employer of Lobbyist 1st Quarter Report Due (No civil penalty will be assessed if the report is received by 5/2/11.)
- May 20 - Last day a candidate for the Anchorage Municipal Election may accept contributions. (45 days after the election)
- **May 30 - State Holiday - Memorial Day**
- May 31 - Lobbyist April Report Due
- June 8, 9, & 10 - Commission Meeting



OPEN HOUSE

Monday, April 4th - From 2 p.m. – 4 p.m.

Juneau APOC Office - 240 Main St. Room 500
Court Plaza Building (Spam Can)

Please come by and help us wish PATTY WARE good luck on her future endeavors!

Special Thanks to Commissioner Kathleen (Kate) Ballenger for her outstanding service to APOC.

(Term expired on March 1, 2011)

Welcome to...

Kenneth Kirk is the new Republican member of the Commission and is from Anchorage. Mr. Kirk has been an attorney in private practice in Anchorage since 1987. He has worked in a variety of areas including family law, probate and estate planning, collections, elections and campaign finance law. He has held many public service positions, including most recently serving on the Appellate Rules Committee of the Alaska Court System and chairing the Elder Law Section of the Alaska Bar Association. His term expires March 1, 2016. Mr. Kirk replaced Kathleen (Kate) Ballenger whose term expired March 1, 2011.

Tamzin Malone is the new Paralegal I in the Anchorage office as of March 1, 2011. Tamzin joins us from St. Mary's Episcopal Church, where she served as Church Administrator. She holds a bachelor's degree in elementary education, as well as an advanced paralegal certificate, and has worked in several areas of law. In her spare time she enjoys traveling, gardening, and participating in community theatre.