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

ALASKANS FOR HONEST ELECTIONS; RANKED CHOICE EDUCATION ASSOCIATION, ARTHUR MATHIAS, WELLSPRING MINISTRIES, Appellants, v. ALASKA PUBLIC OFFICES COMMISSION, Appellee.	)	Case No. 3AN-24-04508CI
ALASKANS FOR BETTER ELECTIONS, INC., Cross-Appellant, v. ALASKANS FOR HONEST GOVERNMENT, WELLSPRING FELLOWSHIP, and PHILLIP IZON, Cross-Appellees.	)	

ORDER AFFIRMING IN PART AND REVERSING IN PART FINAL ORDER BY THE ALASKA PUBLIC OFFICES COMMISSION

I. Procedural History

This administrative appeal arises out of a complaint filed by Alaskans for Better Elections with the Alaska Public Offices Commission ("APOC") on July 5, 2023, alleging failure to comply with APOC registration and reporting requirements by Appellants and others. The Complaint led to an investigation by

APOC staff who found violations of campaign finance laws by respondents Alaskans for Honest Elections ("AHE"); the Ranked Choice Education Association ("RCEA"); Arthur Mathias ("Mathias"); Wellspring Ministries; Wellspring Fellowship; Alaskans for Honest Government; and, Phillip Izon.[1]

Following an administrative hearing on November 16, 2023, the Commission issued a Final Order on January 3, 2024, concluding that the reported violations occurred and imposing civil penalties totaling $94,610.[2]

On February 2, 2024, Appellants Alaskans for Honest Elections, the Ranked Choice Education Association, Mathias, and Wellspring Ministries appealed to the superior court. On February 23, 2024, Alaskans for Better Elections ("ABE") cross-appealed and the appeals were consolidated. The Court granted Alaskans for Better Elections' motion to consider these appeals on an expedited basis.

This Court has jurisdiction over these appeals from APOC pursuant to Alaska Statute 22.10.020(d) and Alaska R. App. P. 601(b).

Having considered the briefs of the parties and the arguments presented at oral argument, the Court AFFIRMS IN PART AND REVERSES IN PART the Final Order of the Alaska Public Offices Commission.

II. Facts

a. Ballot Measure 2: Alaskans vote to adopt ranked-choice voting

In November 2020, Alaskan voters voted in support of Ballot Measure 2

[1] [R. 190-220]

and adopted a top-four open primary system followed by a ranked-choice general election.[3] Ballot Measure 2 also included statutory amendments designed to improve transparency related to disclosure of financial contributions for the purpose of influencing the outcome of Alaska elections.[4] Alaskan voters used ranked-choice voting for the first time in statewide elections in 2022.

b. 22AKHE: the ballot initiative to repeal ranked choice voting

Following the November 2022 general election, Mathias, Izon, and Jamie Donley, undertook efforts to repeal ranked choice voting through a ballot initiative. In recognition of campaign finance laws, Izon reached out to a staff attorney at the Alaska Public Offices Commission for advice on APOC reporting requirements. On November 18, 2022, Tom Lucas of APOC advised Izon:

> Phil, [i]t appears that what you are contemplating is a referendum (a ballot proposition to repeal a law), not an initiative. The two are treated differently during the signature gathering stage. For a referendum, any money spent is not considered an expenditure until the referendum becomes a proposition (that is, sufficient signatures were gathered and the Lieutenant Governor has scheduled it for the ballot at an election).
>
> Nevertheless, a group formed to sponsor a referendum must file a report within 30 days after its first filing with the Lieutenant Governor and within 10 days after the end of each calendar quarter thereafter.[5]

---

[2] [Exc. 223-255]
[3] https://www.adn.com/politics/2020/11/17/alaska-becomes-second-state-to-approve-ranked-choice-voting-as-ballot-measure-2-passes-by-1/
[4] *See* AS 15.13.074(b); AS 15.13.390(a)(3).
[5] [Exc. 157]

Lucas concludes his message to Izon by providing him the language of AS 15.13.110 on filing of reports.[6]

Days later, on November 23, 2022, Alaskans for Honest Elections, through Izon, filed a petition application for what would later be designated as 22AKHE—a ballot initiative to repeal ranked-choice voting.[7] Mathias is a director of AHE.[8] AHE purchased a website domain in November 2022 to promote 22AKHE.[9]

On December 16, 2022, Articles of Incorporation were filed with the Secretary of State in Washington for the Ranked Choice Education Association (RCEA).[10] Under the Articles of Incorporation, RCEA is a nonprofit religious corporation founded by the Wellspring Fellowship of Alaska.[11] Wellspring Ministries of Alaska is a nonprofit corporation led by Mathias.[12] The Ranked Choice Education Association Board of Directors consists of Izon, Mathias, and Mathias' wife, Patricia Mathias.[13]

On December 20, 2022, Mathias donated $90,000 to RCEA.[14] The check was not deposited until December 23, 2022.[15] Mathias later wrote checks from RCEA to AHE totaling $90,740.[16] Mathias testified that he wrote checks out of

---

[6] *Id.*
[7] [Exc. 224, R. 570]
[8] [Exc. 150]
[9] [R. 656-59]
[10] [Exc. 32-37]
[11] [Exc. 32]
[12] [Exc. 99]
[13] [Exc. 33]
[14] [Exc. 119, Tr. 49-50]
[15] [Exc. 219]
[16] [R. 701-05]

the RCEA account.[17] Izon later told a reporter that "Mathias had contributed a large donation in a lump sum in December, which was then transferred to the ballot group in several smaller payments over a period of months to meet the group's needs."[18] That summer, counsel for Mathias confirmed in a letter to APOC staff that "Mr. Mathias made the first contribution to RCEA that RCEA then contributed to AHE."[19] Close in time to Clarkson's letter, RCEA tweeted "[f]rom our organization we only used one donor's contributions for our efforts in Alaska" in response to a commenter question regarding who was funding the effort to repeal ranked choice voting.[20]

Lieutenant Governor Nancy Dahlstrom certified 22AKHE's application for a ballot proposition on January 20, 2023.[21] Within days, Izon completed an Entity Registration Form on APOC's website for Alaskans for Honest Elections[22] and filed Articles of Incorporation for AHE.[23]

In February 2023, signature-gathering for the initiative began with the Division of Elections' delivery of the petition booklets to sponsors.[24] On February 16, 2023, an event was held at Wellspring Ministries' gymnasium to launch a campaign to repeal ranked choice voting in Alaska.[25] At the event, Mathias told the crowd that the campaign to end ranked choice voting had already raised

[17] [Tr. 66]
[18] [R. 396]
[19] [R. 463]
[20] [R. 447]
[21] [R. 569-570]
[22] [Exc. 38]
[23] [Exc. 62, 133]
[24] [R. 572]

$400,000 and that he had donated $100,000 to the effort.[26] Mathias would later testify before the Commission that he meant the "effort" was "to educate Americans, that's the primary focus."[27]

Following the signature-gathering event, and in response to public inquiries Heather Hebdon, the Executive Director of APOC, reached out to Izon on February 23, 2023 and clarified:

> "Tom [Lucas] appears to have misunderstood the purpose of your group in that he believed you were seeking to file a referendum, when in actuality, you were filing an initiative proposal application…
>
> …Unlike a referendum sponsor, sponsors of an initiative proposal application have reporting obligations during the signature gathering stage. This is because money raised in support of an initiative proposal application meets the definition of a contribution and similarly, money spent to influence an initiative proposal application meets the definition of an expenditure…"[28]

In response to this communication, on March 20, 2023, Izon amended his earlier APOC submissions on behalf of AHE and completed a Group Registration form on the APOC website for AHE as an initiative proposal group with the goal to repeal ranked choice voting.[29]

In a quarterly report from January 8, 2023 through April 7, 2023, Izon reported contributions to and expenditures of AHE.[30] Nowhere in the report of

---

[25] [Exc. 30-31]
[26] *Id.*
[27] [Tr. 61]
[28] [Exc. 158]
[29] [Exc. 60-61]
[30] [Exc. 46-59]

contributions does Mathias' name appear as a donor. There were multiple contributions identified from RCEA, however.[31] The following contributions were reported and identified as originating from RCEA:

02/06/2023	Check	$1,000.00
02/08/2023	Check	$75,000.00
02/22/2023	Cash	$2358.00
02/23/2023	Check	$1,382.00

When added together, the first four contributions total $79,740.[32]

On April 24, 2023, following AHE's first quarterly report, Lucas sent two letters to AHE via Izon informing him that the quarterly reports for February 2023 and March 2023 were late-filed, assessing penalties to be paid within 30 days and/or advising him of the right to appeal within 30 days.[33]

More than thirty days passed. The penalties were not paid, and no appeal was filed. On June 11, 2023, RCEA reported a $10,260.00 contribution,[34] bringing the total contributions from RCEA to AHE to $90,000.00. But, the $10,260 check was misreported by RCEA to APOC. The actual amount of what had been identified as the June contribution was a contribution on May 22, 2023 in the amount of $11,000.[35] When combined with the four figures above, the total amount transferred from RCEA to AHE totaled $90,740. Even so, on June 20,

[31] [Exc. 48, 54, 97-98, 153]
[32] *Id.*
[33] [Exc. 63-66]
[34] [Exc. 207]
[35] [Exc. 215]

2023, RCEA, through Izon, filed a Statement of Contribution in the amount of $90,000, identifying Mathias as the true source of the funds contributed from RCEA to AHE.[36]

Alleging a failure to comply with campaign finance laws, Alaskans for Better Elections filed a complaint with the APOC on July 5, 2023.[37] Staff at APOC investigated the complaint and issued a detailed report and findings on September 8, 2023.[38]

c. Administrative hearing

On November 16, 2023, an administrative hearing was held. Mathias and Izon testified before the Commission. When asked if he was trying to hide his donation to AHE or RCEA, Mathias replied: "No. I spoke publicly about it. It was never an intent to hide it in any way, shape or form."[39]

Izon testified that he reported Mathias as the source of the funds because he believed it was required on the form.[40] Izon attempted to walk back his report that Mathias was the true source of the $90,000 stating "it was not accurate" and he "made a mistake."[41]

There was also a cash donation of $2358.00 that was attributed to RCEA.[42] Izon testified that this was the result of cash donations from RCEA to AHE.[43]

---

[36] [Exc. 119, Tr. 74]
[37] [Exc. 1-29]
[38] [Exc. 161-191]
[39] [Tr. 64]
[40] [Tr. 74-75]
[41] [Tr. 75]
[42] [Exc. 54]
[43] [Tr. 82]

Izon further testified that cash contributions did not go into RCEA's account, but instead directly to AHE in an effort to avoid "check holds."[44]

III. Commission's Final Order

Following an administrative hearing on November 16, 2023, the Commission issued a Final Order on January 3, 2024, concluding that respondents violated the following campaign finance laws and imposing civil penalties totaling $94,610.[45] The Commission made the following findings related to violations of Alaska's campaign finance laws:

- Failure to register before making expenditures, in violation of AS 15.13.050(a) by AHE, AHG, 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 Mathias
- Failure to place compliant paid-for-identifiers on communications in support of 22AKHE, in violation of AS 15.13.090 by 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 Mathias[46]

The Commission assessed penalties based upon these violations. A table reflecting the penalties is found in the Final Order at Exc. 253.

Appellants timely-appealed to the superior court. Appellants appeal the true source reporting violations found by APOC and the penalties assessed for those violations. Appellants argue that (1) the prohibition in AS 15.13.074(b)

[44] [Tr. 82]
[45] [Exc. 223-255]

against giving in the name of another does not apply to a ballot initiative campaign, and (2) true source reporting statutes violate a donor's First Amendment rights of free speech and association. Mathias asserts that penalties assessed by APOC against him for his failure to comply with "true source" reporting requirements are duplicative of his penalties for his failure to file a report of contribution under AS 15.13.040(k). Mathias further argues he should have received penalty reductions for his true source reporting violation commensurate with those afforded to RCEA based upon RCEA's ultimate reporting of Mathias as the true source of the funds.

In their cross-appeal, ABE asks this Court to affirm the APOC decision below, but assess treble damages against Mathias and RCEA for intentionally concealing source contributions. Better Elections also asks the Court to decide whether APOC erred by failing to impose in these proceedings civil penalties against Honest Elections for violations of AS 15.13.040(b), AS 15.13.074(b), and AS 15.13.110(g).

IV. Standard of review

The superior court applies four principal standards of review in administrative appeals: The "substantial evidence" test is used for questions of fact. The "reasonable basis" test is used for questions of law involving agency expertise. The "substitution of judgment" test is used for questions of law where

---

[46] [Exc. 224]

no expertise is involved. The "reasonable and not arbitrary" test is used for review of administrative regulations."[47]

Substantial evidence is defined as "such relevant evidence as a reasonable mind might accept to support a conclusion."[48] "Under the substantial evidence standard,...'[Courts] will not reweigh conflicting evidence, determine witness credibility, or evaluate competing inferences from testimony, as those functions are reserved to the agency.'"[49]

For questions of law involving "agency expertise or the determination of fundamental policies within the scope of the agency's statutory functions" the court evaluates "whether the agency's decision is supported by facts and has a reasonable basis in law, even if [the court] may not agree with the agency's ultimate determination."[50] The appellate court upholds the agency's decision unless it is "arbitrary, unreasonable, or an abuse of discretion."[51]

An agency's interpretation of its own regulations is reviewed using the reasonable basis standard of review.[52] This is also referred to as the reasonable and not arbitrary standard of review.[53] The court must defer to the agency's interpretation "unless its 'interpretation is plainly erroneous and inconsistent with

---

[47] *Estate of Basargin v. State, Commercial Fisheries Entry, Com'n*, 31 P.3d 796, 799 (Alaska 2001) (citing *Romann v. State, Dept. of Transp. and Public Facilities*, 991 P.2d 186, 189 (Alaska 1999)).
[48] *Widmyer v. State, Commercial Fisheries Entry Com'n*, 267 P.3d 1169 (Alaska 2011) (citing *State, CFEC v. Baxter*, 806 P.2d 1373, 1374 (Alaska 1991) ((quoting *Keiner v. City of Anchorage*, 378 P.2d 406, 411 (Alaska 1963)).
[49] *Pacifica Marine Inc. v. Solomon Gold, Inc.*, 356 P.3d 780, 788 (Alaska 2015).
[50] *Nicolos v. N. Slope Borough*, 424 P.3d 318, 325 (Alaska 2018) (quoting *Davis Wright Tremaine*, 324 P.3d 293, 299 (Alaska 2014)).
[51] *Griffiths v. Andy's Body & Frame, Inc.*, 165 P.3d 619, 623 (Alaska 2007).
[52] *North Slope Borough v. State*, 484 P.3d 106, 113 (Alaska 2021).
[53] *State, Dep't of Health & Soc. Servs., v. North Star Hospital*, 280 P.3d 575, 579 (Alaska 2012).

the regulation.'"[54] The Court gives more deference to agency interpretations that are "longstanding and continuous."[55]

For questions of law involving no agency expertise, the court substitutes its "own judgment for that of the agency even if the agency's decision had a reasonable basis in law."[56] The Court adopts the rule of law "most persuasive in light of precedent, reason, and policy."[57]

The Court reviews questions of law, interpreting and applying constitutional and statutory provisions, *de novo*.[58]

Finally, the Court reviews an agency's imposition of fines for abuse of discretion.[59]

The Alaska Public Offices Commission is a nonpartisan agency responsible for implementing and enforcing Alaska's campaign finance laws, including those mandating disclosure of contributions and expenditures.[60] The Commission uses contributor reports and statements to monitor for potential campaign finance violations and makes the information publicly available to help the electorate make informed voting choices.[61]

---

[54] *Davis Wright Tremaine*, 324 P.3d 293, 299 (Alaska 2014) (quoting *Kuzmin v. State, Commercial Fisheries Entry Comm'n*, 223 P.3d 86, 89 (Alaska 2009)).
[55] *Premera Blue Cross v. State, Dep't of Commerce, Cmty. & Econ Dev. Div. of Ins.*, 171 P.3d 1110, 1119 (Alaska 2007).
[56] *Tesoro Alaska Petroleum Co. v. Kenai Pipe Line Co.*, 746 P.2d 896, 903 (Alaska 1987).
[57] *Republican Governor's Association v. Alaska Public Offices Commission*, 485 P.3d 545, 549 (2021).
[58] *Kohlhaas v. State*, 518 P.3d 1095, 1103 (Alaska 2022).
[59] *Odom v. State, Div. of Corps.*, 421 P.3d 1, 6 (Alaska 2018).
[60] *See* AS 15.13.020 (establishing Commission); AS 15.13.030 (setting out duties of Commission; AS 15.13.380 (authorizing enforcement by Commission).
[61] *Repub. Govs. Ass'n*, 485 P.3d at 547 citing AS 15.13.030(5) and (7).

Because this administrative appeal involves APOC's assessment of campaign finance law violations and penalties, and the Court finds those duties to be within APOC's core function, the Court applies the reasonable basis standard of review. The Court must determine whether the agency's decision is supported by facts and has a reasonable basis in law.

Appellants' arguments that true source reporting laws do not apply to contributions made to a ballot initiative involve questions of law. The Commission argues that the Court should apply reasonable basis review to its longstanding and reasonable interpretation of the statutes. The Court need not decide whether application of the "reasonable basis" standard of review or *de novo* review is required because under the heightened standard, the Court finds that the Commission's interpretation is "the most persuasive in light of precedent, reason, and policy."[62]

Finally, the Court reviews *de novo* Appellants' First Amendment arguments.

V. Analysis

a. Statutory framework

i. Definitions

Title 15, Chapter 13 breaks down the types of entities covered by Alaska's

[62] *Repub. Govs. Ass'n*, 485 P.3d at 549 (citing *Alyeska Pipeline Serv. Co. v. DeShong*, 77 P.3d 1227, 1231 (Alaska 2003) (quoting *Guin v. Ha*, 591 P.2d 1281, 1284 n. 6 (Alaska 1979)) (applying the independent judgment standard).

campaign finance laws. It is undisputed that RCEA is a nongroup entity;[63] Mathias is an individual;[64] and, AHE is a group[65] for purposes of Chapter 13.

The definition of "group" expressly references "two or more individuals acting jointly" with the principle purpose of filing or who have filed, "an initiative proposal application."[66] The definition also encompasses "every state and regional executive committee of a political party"[67] and "any combination of two or more individuals acting jointly who organize for the purpose of influencing the outcome of one or more elections[...]"[68]

ii. Reporting requirements

1. AS 15.13.040

Alaska Statute 15.13.040 addresses widely the reporting requirements for contributions and expenditures to political campaigns in Alaska, breaking down those requirements by candidates, groups, individuals, and nongroup entities. Some, but not all, of the provisions of .040 expressly apply to ballot initiatives, while others are more expansive and do not exempt ballot initiatives. Alaska Statute 15.13.040(b) provides:

---

[63] AS 15.13.400(14) provides: "'nongroup entity' means a person, other than an individual, that takes action the major purpose of which is to influence the outcome of an election, and that
(A) cannot participate in business activities;
(B) does not have shareholders who have a claim on corporate earnings; and
(C) is independent from the influence of business corporations."
[64] AS 15.13.400(12) defines "individual" as a "natural person."
[65] Included in the definition of group under AS 15.13.400(9) is "(C) any combination of two or more individuals acting jointly who organize for the principal purpose of filing an initiative proposal application under AS 15.45.020 or who file an initiative proposal application under AS 15.45.020."
[66] *Id.*
[67] AS 15.13.400(9)(A).
[68] AS 15.13.400(9)(B).

> (b) Each group shall make a full report upon a form prescribed by the commission, listing
> (1) the name and address of each officer and director;
> (2) the aggregate amount of all contributions made to it; and, for all contributions in excess of $100 in the aggregate a year, the name, address, principal occupation, and employer of the contributor, and the date and amount contributed by each contributor; for purposes of this paragraph, "contributor" means the true source of the funds, property, or services being contributed; and
> (3) the date and amount of all contributions made by it and all expenditures made, incurred, or authorized by it.

Pursuant to AS 15.13.040(d), "[e]very person making an independent expenditure shall make a full report of expenditures made and contributions received, upon a form prescribed by the commission, unless exempt from reporting." In making those reports of independent expenditures, AS 15.13.040(e) requires the reporter to provide "an itemized list of all expenditures made" and "the name of the candidate or the title of the ballot proposition or question supported or opposed by each expenditure" among other requirements.

Alaska Statute 15.13.040(j) applies to reporting requirements for nongroup entities "for the purposes of influencing the outcome of an election."[69]

[69] The full text of AS 15.13.040(j) provides: (j) Except as provided in (*l*) of this section, each nongroup entity shall make a full report in accordance with AS 15.13.110 upon a form prescribed by the commission and certified by the nongroup entity's treasurer, listing
(1) the name and address of each officer and director of the nongroup entity;
(2) the aggregate amount of all contributions made to the nongroup entity for the purpose of influencing the outcome of an election;
(3) for all contributions described in (2) of this subsection, the name, address, date, and amount contributed by each contributor, for all contributions described in (2) of this subsection in excess of $250 in the aggregate during a calendar year, the principal occupation and employer of the contributor, and for all contributions described in (2) of this subsection in excess of $2,000 in the aggregate during a calendar year, the true source of such contributions and all intermediaries, if any, who transferred such funds, and a certification from the treasurer that the report discloses all of the information required by this paragraph; and
(4) the date and amount of all contributions made by the nongroup entity, and, except as provided for certain independent expenditures in AS 15.13.135(a), all expenditures made, incurred, or authorized by the

Alaska Statute 15.13.040(k) applies to "[e]very individual, person, nongroup entity or group, contributing a total of $500 or more to a group...that has filed an initiative proposal application" within 30 days of the contribution.[70]

2. AS 15.13.110(g) & (h)

Alaska Statute 15.13.110(g) applies specifically to require quarterly reporting by "an initiative committee, person, group, or nongroup entity receiving contributions" in excess of $500 per year in "support of or in opposition to an initiative on the ballot in a statewide election or an initiative proposal application filed with the lieutenant governor."[71] The provision further requires that the report be filed "within 10 days after the end of each calendar quarter on the contributions received and expenditures made during the preceding calendar quarter."[72] Alaska Statute 15.13.110(h) provides the reporting requirements and timing for filing reports of expenditures to support a ballot initiative:

---

nongroup entity, for the purpose of influencing the outcome of an election; a nongroup entity shall report contributions made to a different nongroup entity for the purpose of influencing the outcome of an election and expenditures made on behalf of a different nongroup entity for the purpose of influencing the outcome of an election as soon as the total contributions and expenditures to that nongroup entity for the purpose of influencing the outcome of an election reach $500 in a year and for all subsequent contributions and expenditures to that nongroup entity in a year whenever the total contributions and expenditures to that nongroup entity for the purpose of influencing the outcome of an election that have not been reported under this paragraph reach $500.

[70] AS 15.13.040(k) provides: "Every individual, person, nongroup entity, or group contributing a total of $500 or more to a group organized for the principal purpose of influencing the outcome of a proposition, and every individual, person, nongroup entity, or group contributing a total of $500 or more to a group organized for the principal purpose of filing an initiative proposal application under AS 15.45.020 or that has filed an initiative proposal application under AS 15.45.020, shall report the contribution or contributions on a form prescribed by the commission not later than 30 days after the contribution that requires the contributor to report under this subsection is made. The report must include the name, address, principal occupation, and employer of the individual filing the report and the amount of the contribution, as well as the total amount of contributions made to that group by that individual, person, nongroup entity, or group during the calendar year."

[71] AS 13.110(g).

[72] *Id.*

> (h) An independent expenditure report required under AS 15.13.040(e) shall be filed with the commission not later than 10 days after an independent expenditure has been made. However, an independent expenditure that exceeds $250 and that is made within nine days of an election shall be reported to the commission not later than 24 hours after the expenditure is made.

b. True source reporting

Combined, Appellants RCEA and Mathias raise five issues on appeal. The first issue is whether the prohibition in AS 15.13.074(b) against giving in the name of another applies to a ballot initiative campaign. The second and third issues raised are whether Mathias and separately RCEA can be penalized for intentionally giving donations to AHE where Mathias spoke publicly about his support for "the effort"; RCEA belatedly disclosed Mathias as the "true source" of the funds; and, the contribution cannot be traced to Mathias as opposed to another donor. Finally, the fourth and fifth issues raised go to the penalties assessed against Mathias for his failure to report his $90,000 contribution.

Alaskans for Honest Elections does not appeal the Commission's Final Order as it applies to AHE.

i. Do true source reporting requirements apply to contributors to a ballot initiative campaign?

When interpreting a statute *de novo*, the Alaska Supreme Court considers the language of the statute, its legislative history, and its underlying purpose.[73] The Court will "interpret each part or section of a statute" to create "a harmonious

[73] *City of Valdez v. State*, 372 P.3d 240, 248 (Alaska 2016).

whole."[74] A statute that is "part of a larger framework or regulatory scheme" should be read "in light of the other portions" of the regulatory structure.[75] The Court interprets statutes "according to reason, practicality, and common sense, taking into account the plain meaning and purpose of the law as well as the intent of the drafters."[76] Questions of statutory interpretation are decided on a sliding scale: "[T]he plainer the language of the statute, the more convincing contrary legislative history must be."[77]

Appellants raise two statutory arguments in support of their contention that true source reporting requirements do not apply to contributions made to ballot initiatives.

First, Appellant argues that the prohibition in AS 15.13.074(b) against giving in the name of another does not apply to an initiative campaign because contributions for ballot initiatives are exempted in AS 15.13.065(c).[78] Alaska Statute 15.13.065(c) provides in pertinent part:

> 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...

The Court disagrees that AS 15.13.065(c) operates to exempt contributors to ballot initiatives from complying with true source reporting requirements.

---

[74] *Alaska Airlines, Inc. v. Darrow*, 403 P.3d 1116, 1127 (Alaska 2017).
[75] *Id.*
[76] *Native Village of Elim v. State*, 990 P.2d 1, 5 (Alaska 1999).

Appellants' interpretation that because the true source reporting statute [AS 15.13.074(b)] falls between AS 15.13.010 and 15.13.116, that true source reporting does not apply to ballot initiatives misreads the admittedly confusing but ultimately plain language of .065(c) and ignores the broader statutory framework referenced in the statute. Appellants' reading of the statute renders meaningless multiple subsections of AS 15.13.040 and 2 AAC 50.352 in full. Courts "generally disfavor statutory constructions that reach absurd results."[79]

In its decision, APOC concluded that based upon the plain language of the statutes that the requirement to give in one's own name "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."[80] In other words, there are no limitations on *making* a contribution. This is APOC's longstanding interpretation of AS 15.13.065(c).[81]

The legislative history is consistent with APOC's interpretation. Alaska Statute 15.13.065(c) was adopted in 1996. The Attorney General's bill review letter explained that the statute meant the campaign finance laws "would not limit the *amount* of contributions that a group could make to influence the outcome of a ballot proposition." (emphasis added).[82]

---

[77] *Alaskans for Efficient Gov't, Inc. v. Knowles*, 91 P.3d 273, 275 (Alaska 2004) (quoting *Ganz v. Alaska Airlines, Inc.*, 963 P.2d 1015, 1019 (Alaska 1998).
[78] [Apt. Br. 10]
[79] *Premera Blue Cross*, 171 P.3d at 1120.
[80] [Exc. 247]
[81] *See* R. 1093-1098.
[82] Letter from Attorney General Botelho to Governor Knowles re HCS CSSB 191 (FI) am H (May 21, 1996) (AGO File 883-96-0048) at 7.

"Contribution" is defined in AS 15.13.400(4) and identifies funds "made for the purpose of

> (i) influencing the nomination or election of a candidate;
> (ii) influencing a ballot proposition or question; or
> (iii) supporting or opposing an initiative proposal application filed with the lieutenant governor under AS 15.45.020.

In AS 15.13.040(b), (e), and (j) "contributor" means the "true source of the funds, property or services being contributed."[83] And AS 15.13.065(c) is clear at the outset that the reporting requirements of AS 15.13.040 still apply for persons contributing to a ballot initiative. To read .065(c) to mean that contributors to a ballot measure must comply with true source reporting requirements provided in .040, but those same contributors are not subject to .074(b) is an inconsistent reading of the provisions in Chapter 13 and APOC regulations.

There is no reference to the true source reporting statute in AS 15.13.065(c). Reading an exemption of the true source reporting requirements into .065(c) is improper and contrary to the demands of the larger statutory and regulatory framework. In addition to the clear applicability of the reporting requirements set forth in AS 15.13.040, at the outset of Title 15, Chapter 13 it states:

> Except as otherwise provided, this chapter applies to contributions, expenditures, and communications made for the purpose of influencing the outcome of a ballot proposition or question as well as those made to influence the nomination or election of a candidate.[84]

[83] *See* AS 15.13.040(q).
[84] AS 15.13.010(b).

Since 2009, APOC has rejected the reading advanced by Appellants' here.[85] In *Renewable Resources Coalition,* the Commission observed that making AS 15.13.074(b) inapplicable to ballot campaigns "does not square with the overall purpose of campaign finance reporting with respect to ballot propositions."[86] Relying on the Alaska Supreme Court's decision in *Messerli v. State,* the Commission found that the purpose of .074(b) is "to assist the electorate in making a '[p]roper evaluation of the arguments on either side...by knowing who is backing each position.'"[87] The Commission concluded that to interpret .065(c) for contributions to ballot initiatives to escape reporting requirements "...guts AS 15.13 of the requirement that contributions be reported in the name of those who actually make them" making the "reporting function a paperwork exercise."[88]

The legislature has given the Commission the authority to "clarify" the provisions of Title 15, Chapter 13 in regulation.[89] Under 2 AAC 50.258 giving in the name of another is prohibited. 2 AAC 50.352(b) requires a "person making a contribution to" a ballot initiative group to "make the contribution in the name of the true source of the money or thing of value as required under 2 AAC 50.258." The Commission in *Renewable Resources Coalition* likewise pointed to its own

[85] *See Renewable Resources Coalition, Inc.*, OAH No. 09-0231-APO [R. 1091-1100]
[86] [R. 1097; *see* Exc. 247]
[87] [R. 1097] quoting *Messerli v. State*, 626 P.2d 81, 87 (Alaska 1980).
[88] *Renewable Resources Coalition, Inc.*, OAH No. 09-0231-APO [R. 1097]
[89] AS 15.13.030(9).

regulations in support of its interpretation of the statutory and regulatory framework.[90]

When viewed in light of the other statutory reporting requirements, the regulations, and APOC's purpose to provide information to the public for an informed electorate, the Commission's reading of AS 15.13.065(c) is reasonable and longstanding, but more importantly is the most persuasive.

Second, the Appellants argue that AS 15.13.074(b) applies only to financial support to candidate elections, and not ballot initiatives.[91] To establish the meaning of a statute, the Court examines both its text and its purpose.[92]

Prior to 2021, AS 15.13.074(b) read: "[a] person or group may not make a contribution anonymously, using a fictitious name, or using the name of another." With the passage of Ballot Measure 2, Alaska's true source reporting statute was amended and now provides:

> (b) A person or group may not make a contribution anonymously, using a fictitious name, or using the name of another. Individuals, persons, nongroup entities, or groups subject to AS 15.13.040(r) may not contribute or accept $2,000 or more of dark money as that term is defined in AS 15.13.400(5), and may not make a contribution while acting as an intermediary without disclosing the true source of the contribution as defined in AS 15.13.400(19).

Relying on the second sentence, Appellants argue that the reference to AS 15.13.040(r) makes clear that true source reporting only applies to contributions to

---

[90] *Renewable Resources Coalition, Inc.*, OAH No. 09-0231-APO [R. 1097].
[91] [At. Br. 40; Cross. At. Reply Br. 4-6]
[92] *Borg-Warner Corp. v. Avco Corp.*, 850 P.2d 628, 633 n. 12 (Alaska 1993) ("Statutory construction begins with an analysis of the language of the statute construed in view of its purpose.").

"candidate elections" and essentially modifies the first sentence of .074(b).[93] To read AS 15.13.074(b) to only apply to candidate elections fails to give effect to the entire provision. While there may be overlap between the first group and the second group, the second sentence does not modify the first. The violations by RCEA and Mathias fall under the first sentence: giving in the name of another. The remainder of .074(b) does not apply to this case, but the whole provision need not apply for Appellants to have violated the mandate against giving in the name of another.

"True source" is defined in AS 15.13.400(19) as:

> the person or legal entity whose contribution is funded from wages, investment income, inheritance, or revenue generated from selling goods or services; a person or legal entity who derived funds via contributions, donations, dues, or gifts is not the true source, but rather an intermediary for the true source; notwithstanding the foregoing, to the extent a membership organization receives dues or contributions of less than $2,000 per person per year, the organization itself shall be considered the true source.

//

[93] AS 15.13.040(r) provides "Every individual, person, nongroup entity, or group that contributes more than $2,000 in the aggregate in a calendar year to an entity that made one or more independent expenditures in one or more candidate elections in the previous election cycle, that is making one or more independent expenditures in one or more candidate elections in the current election cycle, or that the contributor knows or has reason to know is likely to make independent expenditures in one or more candidate elections in the current election cycle shall report making the contribution or contributions on a form prescribed by the commission not later than 24 hours after the contribution that requires the contributor to report under this subsection is made. The report must include the name, address, principal occupation, and employer of the individual filing the report and the amount of the contribution, as well as the total amount of contributions made to that entity by that individual, person, nongroup entity, or group during the calendar year. For purposes of this subsection, the reporting contributor is required to report and certify the true sources of the contribution, and intermediaries, if any, as defined by AS 15.13.400(19). This contributor is also required to provide the identity of the true source to the recipient of the contribution simultaneously with providing the contribution itself."

The definition of true source in AS 15.13.400(19) does not address the destination of funds—to a ballot initiative or candidate election—but distinguishes the type of funds used—those from a true source versus those from an intermediary.

The "true source" definition was added to AS 14.13.400 in 2021 with Ballot Measure 2. In applying the statute to this case, Mathias is the true source, and RCEA is an intermediary. In adopting Ballot Measure 2 Alaskan voters found: "it is in the public interest of Alaska to improve the electoral process by increasing transparency, participation, access, and choice."[94] True source reporting certainly advances transparency in the electoral process.

The next finding however discusses voter desire to prohibit the use of "dark money" specifically in "candidate elections."[95] The Court is not, however, convinced that when considered under the existing statutory framework and APOC's purpose to make campaign finance information available to voters, that the statutory changes in Ballot Measure 2 were designed to limit true source reporting requirements and associated penalties to candidate elections.

The plain language of AS 15.13.390(a)(3) makes clear that true source reporting penalties may be assessed in both candidate elections as expressed in AS 15.13.040(r) and more generally for giving in the name of another in AS 15.13.074(b). As argued by Ms. Demarest at oral argument, AS 15.13.390(a)(3) distinguishes between violations of AS 15.13.040(r) (which specifically applies to

[94] Alaska 2020 Session Laws, Section 1(1); *See also* Appendix A, P.1 in ABE's Opening Brief in their Cross-Appeal.
[95] Alaska 2020 Session Laws, Section 1(2); *See also* Appendix A, P.2 in ABE's Opening Brief in their Cross-Appeal.

candidate elections) and violations of AS 15.13.074(b) (which applies to giving in the name of another generally) setting them off with "or" rather than "and."

> **whether as a contributor or intermediary, misreports or fails to disclose the true source of a contribution in violation of AS 15.13.040(r) or 15.13.074(b)** is subject to a civil penalty of not more than the amount of the contribution that is the subject of the misreporting or failure to disclose; upon a showing that the violation was intentional, a civil penalty of not more than three times the amount of the contribution in violation may be imposed; these penalties as determined by the commission are subject to right of appeal to the superior court (emphasis added).

In other words, a contributor can violate AS 15.13.074(b) by giving in the name of another *without* specifically contributing for the purpose of influencing the outcome of a candidate election under AS 15.13.040(r). These two statutes form independent grounds for a true source reporting violation. And as discussed above, throughout the statutory framework it is clear that contributions to ballot initiatives do require reporting. Previously, in 2010, the definition of "expenditure" in AS 15.13.400 was amended to include not just expenditures for "influencing the outcome of a ballot proposition or question" but also for the purpose of "supporting or opposing an initiative proposal application with the lieutenant governor under AS 15.45.020."[96]

Having considered the language of AS 15.13.065(c) and .074(b) and having considered the broader statutory and regulatory framework and legislative history, and the purpose of disclosure laws, the Court concludes that true source reporting

[96] 7-9 ch 73 SLA 2010; *See* AS 15.13.400(7)(v).

requirements do apply to contributions in support of a ballot initiative when the contribution is passed from the true source through an intermediary to an initiative sponsor.

ii. Commission's findings of violations and assessment of penalties

1. RCEA violations

a. Cash contribution

Alaska Statute 15.13.074(e) prohibits persons or groups from making cash contributions in excess of $100. When a group receives and accepts a contribution in violation of .074(e), the group must return the excess cash contribution to the contributor immediately.[97] An anonymous contribution is forfeited to the state unless the contributor is identified within five days of its receipt.[98]

Among the contested contributions in this matter is a cash contribution passed from RCEA to AHE in the amount of $2358 that was later exchanged for a check from RCEA to AHE in the same amount.[99] In front of the Commission, Izon testified that the cash was "from donations that were accumulated up to that point from RCEA."[100] Following the hearing, APOC found that RCEA violated AS 15.13.074(e) when it accepted those cash donations and handed them directly

[97] AS 15.13.114(a).
[98] AS 15.13.114(b).
[99] [Exc. 54]
[100] [Tr. 81-82]

to AHE without reporting who made the donations.[101] While APOC appeared to understand that the $2358 in cash was not from Mathias, APOC elected to call it a wash and attribute that amount to Mathias "because the weight of the evidence shows that Mr. Mathias intended his $90,000 contribution to RCEA to be passed through to AHE and that he effectuated that intent."[102] The Commission assessed no penalties for the violation.[103]

In their cross-appeal, ABE argues that the source of these cash funds is actually a mystery.[104] And AHE criticizes APOC's "unfounded and incorrect conclusion that the money had originated with Mathias."[105] Izon's testimony is consistent with AHE's argument in briefing that "the $2358 originated from cash contributions that had been made to RCEA during the time when the Sponsors were operating under APOC Staff's erroneous advice that they had no registration or reporting obligations."[106] In February 2023, while still under the impression they had no reporting obligations, AHE held signature gathering events, and collected cash donations from donors.[107] Izon testified specifically before the Commission that "the $2358 originated from cash contributions..."[108] implying

[101] [Exc. 244-25]
[102] [Exc. 250-251; Ae. Br. 54-55]
[103] [Exc. 244]
[104] [Cross-At. Br. 27]
[105] [Cross-Ae. Br. 38]
[106] *Id.*
[107] [Exc. 30-31]
[108] [Tr. 81-82]

that more than one donor made these contributions. It is also established that Mathias' original contribution to RCEA was in the form of a check, not cash.[109]

In their decision, and later in briefing, APOC relies on Mathias' intent to give $90,000 to AHE and includes the $2358 in cash as part of Mathias' contribution to AHE.[110] The substantial evidence does not support the conclusion that the cash was from Mathias, but rather multiple "cash contributions."

While arguably efficient, APOC's decision to lump the $2358 in with Mathias' other contributions, even after the cash was converted to a check, failed to effectuate the purpose of Alaska's campaign finance disclosure laws: for the public to have access to reliable information related to sources of support for political campaigns.

The Court recognizes that the likelihood of obtaining the names of those cash contributors now is quite low. The Court further recognizes that APOC's ultimate decision not to penalize RCEA for the failure to report and identify the sources of the cash donations is within APOC's discretion and may be best explained by the fact that RCEA reasonably relied on Commission advice that later was determined to be incorrect.

Because the substantial evidence does not support the conclusion that the $2358 was Mathias' money, the Court REVERSES and REMANDS APOC's findings and orders with regard to the cash contribution so the Commission may

[109] [R. 717]
[110] [Ae. Br. 54-55]

determine what penalties, if any, are appropriate for RCEA's failure to disclose the identities of their cash contributors.

Even in light of Mathias' intent to contribute $90,000 to AHE, the Court now reduces Mathias' penalties to reflect the difference between his contribution and the cash contribution. *See* pages 38-39 for a full discussion.

b. True source reporting violations

The Commission found that RCEA failed to file timely and accurate reports as required by AS 15.13.040(d) and 15.13.110(h).[111] RCEA does not appeal this finding or the imposition of $5450 in penalties for this violation.

The Commission further found that RCEA violated AS 15.13.040(d), AS 15.13.110(h), AS 15.13.074(b), and 2 AAC 50.258(a) by failing to disclose the true source of its $79,740 in contributions to AHE reflected on their May 9, 2023 statement of contribution report.[112] As discussed above, Appellants argue that true source reporting requirements do not apply to contributions made to a ballot initiative. The Court has found that true source reporting requirements do apply to these contributions.

The Court finds that there is a reasonable basis in law and fact for APOC's conclusion that RCEA as a nongroup entity violated AS 14.13.040(d), AS 15.12.074(b), and 2 AAC 50.258(a) when it failed to timely disclose the true source of the $90,000 in funds expended to AHE. In their original reports, RCEA identified itself, not the underlying contributors, as the source of each monetary

contribution made to AHE, but those funds were "contributions" and not "wages."[113] Izon subsequently identified Mathias as the true source of those funds, resulting in a reduction of penalties assessed by the Commission against RCEA.[114] In their appeal, RCEA contests the finding of violation, but raises no additional arguments with regard to APOC's penalty assessment.

ii. Mathias violations/penalties

a. Violations

The Commission found that Mathias failed to file timely and accurate reports as required by AS 15.13.040(k), 15.13.074(b) and 2 AAC 50.258(a).[115] Mathias does not appeal APOC's assessment of penalties in the amount of $1237.50 against him for the failure to file reports under AS 15.13.040(k).[116]

Mathias does appeal the Commission's finding that he violated true source requirements under AS 15.13.074(b) and 2 AAC 50.258(a) by contributing $90,000 to AHE in the name of another and [by] failing to report his contribution.[117] Mathias makes two primary arguments here: (1) that at the time of his contribution to RCEA he did not intend to give to AHE[118] and (2) that APOC failed to establish he was the source of the $90,000.[119]

---

[111] [Exc. 251]
[112] [Exc. 251]
[113] [Exc. 48, 54, 97-98, 153] *See* AS 15.13.400(19).
[114] [Exc. 119, Tr. 74]
[115] *Id.*
[116] [Exc. 253; *see also* oral argument 5/31/24 at 10:27:30-10:28:40]
[117] [Exc. 251]
[118] [At. Br. 44]
[119] [At. Br. 47]

Mathias argues that the Commission incorrectly found him in violation of the true source reporting requirements because when he wrote the check to RCEA in December 2022, 22AKHE had not even been established.[120] Mathias asks the Court to conclude that he could not have intended to give to a ballot initiative that did not yet exist.[121]

The Commission, however, found that "the weight of the evidence show[ed] that Mr. Mathias intended his $90,000 contribution to RCEA to be passed through to AHE as needed and that he effectuated that intent."[122] The Court agrees and the substantial evidence supports this conclusion. The Commission identified the following evidence in support of Mathias being the true source of the $90,000[123]:

- Izon submitted RCEA's June 11, 2023 Statement of Contributions report identifying Mathias as the source of the $90,000 in contributions to AHE. [Exc. 207-08, 249]
- The Commission pointed out that RCEA's reports mistakenly included $90,000 in contributions—the exact amount Mathias gave to RCEA—rather than the $90,740 Mathias actually transferred from RCEA to AHE. [Exc. 207-08, 249]

[120] [At. Br. 44]
[121] *Id.*
[122] [Exc. 250-51]
[123] The Court ultimately finds Mathias gave $88,382 to AHE but for purposes of consistency with APOC's Final Order, the Court refers to Mathias' contribution in the amount of $90,000 and addresses that issue in the analysis of the penalty assessment.

- When asked directly by a reporter whether Mathias' contribution was funding the ballot initiative Izon declined to answer, but also told the reporter "Mathias had contributed a large donation in a lump sum in December, which was then transferred to the ballot group in several smaller payments over a period of months to meet the group's needs." [R. 396]
- Izon tweeted in July 2023 from RCEA's account stating that "[f]rom our organization we only used one donor's contributions for our efforts in Alaska." [R. 477]
- Testimony before the Commission that Mathias makes all decisions about money going out of RCEA and that he wrote the checks. [Exc. 249-50; Tr. 66]
- Absence of any alternative explanation for RCEA's report that Mathias was the source of $90,000 "other than the obvious reason," that it was true. [Exc. 250; Tr. 73-74]
- Mathias' public statements at the February 2023 signature drive to repeal ranked choice voting about his support "to the effort." [Exc. 30-31, 250]

Mathias argues Izon was not his agent;[124] and, both men testified to the Commission that Izon was not Mathias' agent.[125] The Court recognizes that

[124] [At. Br. 45]
[125] [Tr. 63-64, 73-75]

Mathias may not have authorized Izon to speak on his behalf, but the law does not require authorization by the employer so long as the statement "concerned the employees' duties."[126] Mathias and Izon held leadership positions in both RCEA and AHE, and Izon was tasked with making reports of contributions and expenditures on behalf of RCEA. It is reasonable to conclude that Izon was speaking for RCEA, and by extension, Mathias, when he made the report.[127]

Mathias further argues it was impermissible for APOC staff to rely upon a statement of his attorney in support of the conclusion that Mathias' was the true source of the $90,000.[128] Mr. Clarkson wrote in a letter to the Commission dated July 20, 2023: "[a]lthough not required...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..."[129] Mathias argues that the Court should not hold his attorney's statements against him, but Clarkson's statement is at some level adopting Mathias' earlier statement in public. In any event, even when viewed as Clarkson's statements alone, the Commission did not err in considering these statements because they were made in the course of investigating ABE's complaint and were "directly related to the management of [the] litigation."[130]

---

[126] *Lane v. City of Kotzebue*, 982 P.2d 1270, 1273 (Alaska 1999) (finding that the trial court erred in ruling an employees' statements were inadmissible hearsay when offered against his employer in a negligence action).
[127] *See* Alaska R. of Evid. 801(d)(2).
[128] [At. Br. 46-47; Exc. 249]
[129] [R. 463]
[130] *Lightning Lube Inc v. Witco Corp.*, 4 F.3d 1153, 1198 (3d Cir 1993); *United States v. Dolleris*, 408 F.2d 918, 921 (6th Cir.1969) ("[a]n attorney, merely because of his employment in connection with litigation,

And even if it was impermissible to consider Clarkson's statement for purposes of determining the true source of the funds, as discussed above, there was still substantial other evidence upon which to conclude that Mathias was the true source. The counter-assertion that there were significant other funds available to make the contribution is heavily outweighed by the multiple pieces of evidence that point to Mathias, and Mathias alone, as the true source of the $90,000.

The Commission properly points out that Mathias' violation did not occur when he originally wrote the $90,000 check to RCEA in December 2022.[131] The violation occurred when Mathias started writing smaller checks from RCEA to AHE without disclosing the true source of the funds. To read the statutory framework to apply to contributions before a contribution is made is an absurd reading of .074—the violation occurs when one gives in the name of another, not before the transfer of funds is made. Mathias' argument here is particularly not well-taken where he denies he intended to give to AHE, and he was both the contributor to RCEA and ultimately the person writing the checks to AHE in the name of RCEA.

Mathias likewise argues that he should not be found in violation because he announced his donation to "the effort."[132] The Commission certainly considered these arguments in their assessment of penalties, but as APOC notes in its brief, "APOC's concern is whether a contribution is accurately reported to *APOC*,

---

does not have the authority to make out-of-court admissions for his client, except those which are directly related to the management of that litigation.").

[131] [Ae. APOC Br. at 26]

because the public has a right to find accurate and complete campaign finance information in one place—*APOC reports*."[133] The Court agrees. The statutory framework requires reports to APOC "upon a form prescribed by the commission"[134] and there is no exception for being transparent with members of the public as an alternative to complying with the reporting requirements.

In reference to Mathias' second argument, that APOC failed to establish that he was the source of the funds, Mathias argues that RCEA had already received $250,000 from another donor before it received Mathias' donation, that the funds were commingled, and that APOC cannot "paint the dollars" connecting him as opposed to someone else to the contributions in question.[135]

Turning to the record, Mathias made a $90,000 contribution on December 20, 2022,[136] but those funds were not deposited into RCEA's account until December 23, 2022.[137] In the interim, on December 22, 2022, a $250,000 contribution was made to RCEA.[138] Mathias argues under the "first in, first out" accounting method (FIFO) that the earlier $250,000 donation would have more than covered the subsequent checks from RCEA to AHE without ever reaching

---

[132] [At. Br. 44-45]
[133] [Ae. Br. 26]
[134] AS 15.13.040(a).
[135] [At. Br. 45-47]
[136] [Exc. 119, 217]
[137] [Exc. 219]
[138] [Exc. 219]

Mathias' later contribution.[139] The Commission responds that they have not adopted FIFO.[140]

Regardless of whether APOC has adopted FIFO, RCEA has an obligation to disclose the true source of the contribution made from RCEA to AHE. Because RCEA derives its funds from "contributions, donations, dues, or gifts," RCEA is an intermediary and not, by definition, the true source of a contribution.

As articulated by the Commission below, AHE and RCEA must identify the true source of the funds contributed from RCEA to AHE, even if the true source is not Mathias.[141] When RCEA belatedly reported Mathias as the "true source" of the $90,000[142] it simply took the guess-work out of the source of those funds. And coupled with the substantial evidence outlined above, the only logical conclusion that can be drawn is that it was indeed Mathias' money funding RCEA's contributions to AHE.

b. Penalties

i. Matthias' arguments

With regard to assessment of penalties, Mathias makes two arguments. Mathias argues that APOC penalized him twice, once under AS 15.13.390(a)(1) and a second time under (a)(3) for his reporting violations.[143] The two penalties are for different violations, however. The penalty under AS 15.13.390(a)(1) is for

[139] [At. Br. 27]
[140] [Ae. Br. 43, n. 97]
[141] [Exc. 248-49]
[142] [Exc. 119, Tr. 74]
[143] [At. Br. 48]

Mathias' violation of AS 15.13.040(k). As noted above, Mathias does not contest this violation or penalty.

A violation of AS 15.13.040(k) is found where an individual fails to report a contribution of $500 or more. Mathias could have given in his own name but not reported the contribution and he would still have violated AS 15.13.040(k). A true source reporting violation under AS 15.13.074(b) occurs where a contributor gives in the name of another. While they are based upon the same underlying facts, the violations are distinct—Mathias violated two separate statutes when he gave in the name of another and subsequently failed to report his contributions to AHE.

The penalty contested by Mathias is under AS 15.13.390(a)(3)—a penalty assessed for his violation of AS 15.13.074(b). Mathias argues that true source reporting under .074(b) does not apply to him because he is not an intermediary.[144] But, penalties under Alaska Statute 15.13.390(a)(3) apply to a person who "whether as a contributor or intermediary, misreports or fails to disclose the true source of a contribution in violation of AS 15.13.040(r) or 15.13.074(b)..." Matthias argues that he did not misreport, but rather he did not report at all until he did so under protest in 2024.[145] The failure to report the true source is itself an independent ground under .390(a)(3), and Mathias' violation of .074(b) is sufficient to penalize him under that subsection.

[144] [At. Br. 48]
[145] [At. Br. 49; At. Reply Br. 2]

In a point heading, Mathias references a due process violation by APOC in their assessment of penalties for his violations of campaign finance laws.[146] Beyond the point heading, no due process argument is made, and the Court therefore does not reach the due process argument, as it is inadequately briefed.

Mathias further argues that the Commission abused its discretion in the penalty phase and should have credited him for Izon's eventual reporting of Mathias as the "true source" of the $90,000 contribution, as it credited RCEA.[147] However, Mathias had his own reporting obligations, separate from RCEA. Mathias' failure to report his contribution was his own. When Izon belatedly reported Mathias' contribution,[148] Mathias did not adopt the disclosure, and instead continued to deny he was the source of the funds.[149] In other words, RCEA came into compliance but Mathias did not. The Commission's assessment of penalties, and refusal to reduce Mathias' penalties as they reduced RCEA's penalty assessment is reasonable.

The Court does, however, find that APOC abused its discretion when it set Mathias' "maximum penalty" at $90,000.[150] As discussed above, the Court found that because the substantial evidence did not support the conclusion that Mathias was the source of the $2358 in cash, Mathias' penalties must be reduced accordingly. Mathias gave $88,382 in the name of another. The Court reduces

[146] [At. Br. 48]
[147] [At. Br. 49]
[148] [Exc. 119, Tr. 74]
[149] [Tr. 63-64]
[150] [Exc. 253]

this sum by half, consistent with APOC's assessment of penalties for Mathias' true source violation. The new penalty assessment for Mathias is $44,191.00.

iii. ABE's request for treble damages

In their cross-appeal, ABE argues that APOC was not harsh enough in assessing penalties, and urges the Court to impose treble damages against RCEA and Mathias as contemplated by AS 15.13.390(a)(3). The civil penalties were incorporated into AS 15.13.390 following Alaskan voters' passage of Ballot Measure 2 in 2020 and became effective on February 28, 2021.

Better Elections argues the Court should apply the substitution of judgment standard to APOC's assessment of penalties.[151] Because AS 15.13.390(a)(3) and the ability to assess treble damages is new, ABE is correct that there is no longstanding agency interpretation of this provision.[152] However, the cases relied on by ABE for application of the substitution of judgment standard do not involve the assessment of penalties, but interpretation of campaign finance laws more generally.[153] Recognizing that assessment of penalties is within APOC's core functions, the Court will apply reasonable basis review to APOC's decision not to assess treble damages against Mathias.

Alaska Statute 15.13.390(a)(3) permits, but does not mandate, assessment

---

[151] [Cross-At. Br. 12]
[152] *Id.*
[153] *See APOC v. Not Tammie*, 482 P.3d 386, 388 (Alaska 2021); *Studley v. APOC*, 389 P.3d 18, 24 n.30 (Alaska 2017); *Republican Governor's Ass'n*, 485 P.3d at 549; *Eberhart v. APOC*, 426 P.3d 890, 896 (Alaska 2018).

of treble damages against persons who violate AS 15.13.040(r) or 15.13.074(b). It reads: [a] person who

> whether as a contributor or intermediary, misreports or fails to disclose the true source of a contribution in violation of AS 15.13.040(r) or 15.13.074(b) is subject to a civil penalty of not more than the amount of the contribution that is the subject of the misreporting or failure to disclose; upon a showing that the violation was intentional, a civil penalty of not more than three times the amount of the contribution in violation **may** be imposed; these penalties as determined by the commission are subject to right of appeal to the superior court (emphasis added).

In its decision, the Commission noted that the maximum penalty for both contributor (Mathias) and intermediary (RCEA) is "the amount of the contribution that is subject of the misreporting or failure to disclose," and that this penalty can be trebled "if an intentional violation is found."[154] The Commission wrote "the weight of the evidence shows that Mr. Mathias intended his $90,000 contribution to RCEA to be passed through to AHE as needed and then effectuated that intent."[155] The Commission did not, however, find, an intentional violation of the law which is required for trebling. The Commission reasons that "[b]ecause the public was ultimately informed about the true source of the $90,000," it "elect[ed] not to treble the penalties."[156]

The Court concludes that the Commission's decision not to apply treble damages has a reasonable basis in law and there is substantial evidence to support it. In reaching this conclusion, the Commission relied on the fact that despite

---

[154] [Exc. 251]
[155] [Exc. 250-51]

Mathias' intentional failure to report to APOC his contribution to AHE, Mathias' open and public disclosure that he provided significant financial support to "the effort" to repeal ranked choice voting did not warrant the assessment of treble damages.[157]

Better Elections' argument that AS 15.13.390(a)(3) *requires* the Commission to first treble RCEA's and Mathias' damages before any reduction is contrary to the plain language of the statute given that the statute uses the word *may*, not shall, for purposes of assessing treble damages.

The Court finds the word *may* to be permissive. The word *may* is defined in Black's Law Dictionary as "to be permitted."[158] The Court recognizes ABE's arguments that *may* is construed as mandatory in some contexts,[159] and Black's Law Dictionary references "that in dozens of cases, court have held *may* to be synonymous with shall or must, usually in an effort to effectuate what is said to be legislative intent." That said, the traditional application of the word *may* is one of permission not mandate.[160] The Commission's interpretation of *may* in AS 15.13.390(a)(3) is reasonable. And as argued by APOC, to read .390(a)(3) as ABE does here takes away APOC's discretion in assessing penalties.[161] Such a

---

[156] *Id.*
[157] [Exc. 251]
[158] Black's Law Dictionary (11th ed. 2019).
[159] [Cross-At. Br. 15-16]
[160] *See Gerber v. Juneau Bartlett Mem'l Hosp.*, 2 P.3d 74, 76 (Alaska 2000) (stating that "the term 'may' generally denotes permissive or discretionary authority and not mandatory duty").
[161] [At. Br. 35]

reading is plainly at odds with the deferential standard of review applied to APOC penalty assessments.[162]

Finally, ABE argues that by failing to assess treble damages, APOC has failed to follow the intent of voters in approving Ballot Measure 2.[163] When courts interpret statutes that were enacted through a ballot initiative, the "sliding-scale approach to statutory interpretation" "requires a slightly different process than interpreting statutes passed by the legislature."[164] The Alaska Supreme Court has held that when interpreting language from a ballot initiative, "[courts] attempt to place [them]selves in the position of the voters at the time the initiative was placed on the ballot, and...try to interpret the initiative using the tools available to the citizens of this state at that time."[165] Courts may consider "any published arguments made in support or opposition to determine what meaning voters may have attached to the initiative" but will not "accord special weight to the stated intentions of any individual sponsor that are not reflected in content of the legislation itself."[166]

The language of Ballot Measure 2 as it appeared on ballots, and now as conceded by ABE, does not reference penalties for violations of campaign disclosure laws at all.[167] Turning to the voter intent and findings discussed by the Court above, Ballot Measure 2 was premised on several findings related to the

[162] *Odom*, 421 P.3d at 6.
[163] [Cross-At. Br. 18-22]
[164] *Guerin v. State*, 537 P.3d 770, 780 (Alaska 2023) (citing *Alaskans for a Common Language, Inc., v. Kritz*, 170 P.3d 183, 192-93 (Alaska 2007).
[165] *Kritz*, 170 P.3d at 193.

need for transparency in elections, but ABE in its briefing leaves out language in those findings specifically related to "candidate elections" weaking its argument there.[168] Voters did have access to the "full text of a Ballot Measure 2 when they approved it..."[169] and included within the text was AS 15.13.390(a)(3)'s language related to treble damages. But because the Court does not find that this language makes treble damages mandatory as discussed above, the Court is unpersuaded that APOC's failure to assess treble damages amounts to a failure to follow voter intent.

Finally, as noted by APOC, even if the Commission elected to assess treble damages, nothing would have prevented APOC from still mitigating the damages down to $45,000 as it did here pursuant to 2 AAC 50.865.[170] The Court finds APOC acted reasonable and did not abuse its discretion when it declined to assess treble damages. The Commission's stated reason for not trebling the damages is likewise reasonable and supported by the substantial evidence.

a. Imposition of civil penalties against Honest Elections

Better Elections also asks this Court to impose civil penalties against Honest Elections for violations of AS 15.13.040(b), AS 15.13.074(b), and AS 15.13.110(g).[171] The Commission found violations by AHE but dismissed them

---

[166] *Id.*
[167] *See* Ballot Measure 2 at 1-2 (ABE Appendix A).
[168] [Cross-At. Br. 20]
[169] *Guerin*, 537 P.3d at 781.
[170] [Ae. Br. 36-37]
[171] [At. Br. 28]

without prejudice, so that penalties could be assessed in a separate Staff-initiated penalty assessment.[172] Because assessment of violations and penalties is within the core function of APOC, it would be improper for the Court to usurp APOC's role where APOC has manifested an intent to address penalties in a separate Staff-initiated penalty assessment. The Court finds the Commission's decision to handle separately the penalties for AHE is not an abuse of discretion.

iv. Does Alaska's true source reporting statute violate the First Amendment of the U.S. Constitution?

The First Amendment provides in pertinent part: Congress shall make no law …abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances."[173] Implicit in these rights is the right to associate with others.[174]

Appellant's challenge Alaska's true source reporting requirement under the federal First Amendment only, and argue that AS 15.13.074(b) has a chilling effect on Alaskans' rights to freedom of speech and association in violation of the U.S. Constitution.[175]

a. Standard of review

Exacting scrutiny is applied in cases involving compelled disclosure "whether the beliefs sought to be advanced by association pertain to political,

---

[172] [Exc. 238]
[173] U.S. CONST. AMEND. I.
[174] *Roberts v. United Jaycees*, 468 U.S. 609, 622 (1984).
[175] [At. Br. 25]

economic, religious or cultural matters."[176] Exacting scrutiny requires that a government-mandated disclosure regime be narrowly tailored to the government's asserted interest, even if it is not the least restrictive means of achieving that end.[177] "Because First Amendment freedoms need breathing space to survive, government may regulate in the area only with narrow specificity."[178]

At times, Appellants' argue that strict scrutiny applies because Alaska's campaign disclosure laws prevent contributions to ballot groups, and laws preventing contributions will only be upheld to prevent *quid pro quo* corruption.[179] Appellants assert that because there can be no *quid pro quo* in the context of a ballot initiative,[180] Alaska's true source reporting statute cannot survive strict scrutiny.

The law is clear, however, that the less demanding standard, exacting scrutiny, applies to campaign finance disclosure laws.[181] The U.S. Supreme Court has held that "disclosure requirements may burden the ability to speak, but they 'impose no ceiling on campaign related activities' and 'do not prevent anyone from speaking.'"[182] Because AS 13.15.074(b) operates to mandate *disclosure* and

---

[176] *Americans for Prosperity Found. v. Bonta*, 594 U.S. 595, 608 (2021).
[177] *Bonta*, 595 U.S. at 609-10 (citing *McCutcheon v. Federal Election Commission*, 572 U.S. 185, 188 (2014) (plurality opinion)).
[178] *NAACP v. Button*, 371 U.S. 415, 433 (1963).
[179] [At. Br. 27]
[180] *Buckley v. American Constitutional Law Found. Inc.*, 525 U.S. 182, 203 (1999) (citing Meyer v. Grant, 486 U.S. 414, 427-428 (1988) ((citing *First Nat. Bank of Boston v. Bellotti*, 435 U.S. 765, 790 (1978)).
[181] *Bonta*, 594 U.S. at 608 (citing *Buckley v. Valeo*, 424 U.S. 1, 64-68 (1976) (per curiam)). See also *Doe v. Reed*, 561 U.S. 186 (2010) (emphasizing that exacting scrutiny applies where the statute was "not a prohibition on speech, but instead a *disclosure* requirement.")
[182] *Citizens United v. Federal Election*, Com'n, 558 U.S. 310, 366 (2010).

does not act as a ban on campaign contributions, the Court will apply exacting scrutiny.

In order to survive exacting scrutiny review, Alaska's donor disclosure laws must be narrowly-tailored to the "sufficiently important" government interest in an informed electorate.

b. Analysis

i. Alaska's interest in an informed electorate

An informed electorate is "vital to the efficient functioning of the marketplace of ideas, and thus to advancing the democratic objectives underlying the First Amendment."[183] "By revealing information about the contributors to and participants in public discourse and debate, disclosure laws help ensure that voters have the facts they need to evaluate the various messages competing for their attention."[184]

The U.S. Supreme Court has recognized that a state can require disclosure of funding sources supporting signature collection for ballot initiatives including the "source and amount of money spent by proponents to get a measure on the ballot." In other words, voters will be informed "who has proposed [a measure]," and "who has provided funds for its circulation."[185] Courts have recognized that the need for an informed electorate applies fully to ballot measures, which require voters to

[183] *Human Life of Washington Inc. v. Brumsickle*, 624 F. 3d 990, 1005 (9th Cir. 2010).
[184] *Id.*
[185] *Buckley v. American Constitutional Law Found. Inc.*, 525 U.S. at 203.

"act as legislators" and decide "some of the day's most contentious and technical issues."[186]

And the Alaska Supreme Court has long recognized:

> The need for an informed electorate applies with full force to ballot issues. Such issues are often complex and difficult to understand. Proper evaluation of the arguments made on either side can often be assisted by knowing who is backing each position…In such circumstances the voter may wish to cast his ballot in accordance with his approval, disapproval, or the sources of financial support.[187]

In addition to Alaska's interest in an informed electorate, Alaska may justify its campaign finance disclosure laws with the interest "in deterring the appearance of and actual corruption in elections, as well as foreign influence in elections."[188]

The Court finds that the government interest in an informed electorate is at minimum a "sufficiently important" interest and is likely a compelling government interest.

ii. Alaska's true source reporting framework is narrowly-tailored to the "sufficiently important" government interest in an informed electorate

When the First Amendment is implicated, "fit matters" but the fit need "not necessarily [be] perfect but reasonable; that represents not necessarily the single

---

[186] *Brumsickle*, 624 F.3d at 1006 (cleaned up); see *N on E Chiu*, 85 F.4th 493, 505 (9th Cir. 2023) ("We have 'repeatedly recognized an important (and even compelling interest) informational interest in requiring ballot measure committees to disclose information about contributions.'" (citation omitted)).
[187] *Messerli v. State*, 626 P.2d 81, 87 (Alaska 1980) (footnotes and citations omitted); *see id.* at 85 ("[I]n ballot proposition contests, the message is often the contributor's own.").
[188] *Smith v. Helzer*, 614 F. Supp. 3d 668, 678 n.42 (D. Alaska 2022), aff'd, 95 F.4th 1207 (9th Cir. 2024).

best disposition but one whose scope is in proportion to the interest served, that employs not necessarily the least restrictive means but a means narrowly tailored to achieve the desired objective."[189]

The true source reporting statute and related provisions here do not apply to *all* contributions made to a nonprofit. Only contributions exceeding $500 and made for the purpose of influencing an election, ballot proposition or an initiative proposal require true source reporting under AS 15.13.074(b).[190]

Disclosure laws that only burden those engaged in election-related activities are less burdensome alternatives to laws that censor speech or impose ceilings on campaign contributions or expenditures.[191] Appellants' reliance on *Thompson v. Hebdon* is misplaced, as that case involved a $500 limit on the amount that Alaskans could contribute to a candidate for political office.[192]

Appellants' repeatedly refer to the true source reporting statute as a "prohibition" on speech,[193] but the statute only requires reporting of contributions over $500 for the purpose of influencing the outcome of an election, and does not

---

[189] *Bonta*, 594 U.S. at 608 (citing *McCutcheon*, 572 U.S. at 218).

[190] *See* AS 15.13.400(4)(A) "contribution"
(A) means a purchase, payment, promise or obligation to pay, loan or loan guarantee, deposit or gift of money, goods, or services for which charge is ordinarily made, and includes the payment by a person other than a candidate or political party, or compensation for the personal services of another person, that is rendered to the candidate or political party, and that is made for the purpose of
(i) influencing the nomination or election of a candidate;
(ii) influencing a ballot proposition or question; or
(iii) supporting or opposing an initiative proposal application filed with the lieutenant governor under AS 15.45.020.
See also AS 15.13.040(k).

[191] *Citizens United*, 558 U.S. at 369 ("The Court has explained that disclosure is a less restrictive alternative to more comprehensive regulations of speech."); *McCutcheon*, 472 U.S. at 223 ("[D]isclosure often represents a less restrictive alternative to flat bans on certain types of speech.").

[192] *Thompson v. Hebdon*, 7 F.4th 811, 822 (9th Cir. 2021) aff'd in part, rev'd in part by 589 U.S.___, 140 S. Ct. 348, 349 (2019).

limit how much one may give nor who may give so long as it is in his or her own name. Moreover, in terms of reporting obligations for a nonprofit receiving contributions from individuals, the nonprofit does not need to report all of its donors, only those giving in excess of $2,000 per year.[194]

The Court concludes that Alaska's true source reporting statute, AS 15.13.074(b), and related provisions 15.13.040(e) and 15.13.040(k) are narrowly tailored to the government's "substantial interest" in an informed electorate by making publicly-available to voters the true source of election funds. Courts have recognized that knowing the sources of election spending ultimately informs voters' decisions, prevents groups from "hiding behind dubious and misleading names" and likewise prevents individuals from hiding in anonymity.[195] The Alaska Supreme Court has likewise held that "[w]hen citizens vote on the basis of misinformation, or a lack of relevant information, the decision-making process on which our government ultimately rests suffers."[196]

c. Appellants' facial challenge

For the Court to strike a law down on its face, Appellants must show that a "substantial number of its applications are unconstitutional, judged in relation to the statute's plainly legitimate sweep.[197] Appellants claim the law sweeps too broadly because it delves too deep requiring disclosure not just of the non-profit

---

[193] [At. Br. 33]
[194] *See* AS 15.13.400(19) defining "true source" and requiring an intermediary to only report contributions in excess of $2000 per person per year.
[195] *Citizens United*, 558 U.S. at 367 (quoting *McConnell v. Fed. Election Comm'n*, 540 U.S. 93, 197 (2003)).

intermediary, but the individual contributors to the non-profit.[198] But, there is no constitutional right to make anonymous contributions for the purpose of influencing the outcome of an election.[199] There is likewise no right to contribute through an intermediary or in the name of another, and the Court declines to create such a right. Despite Appellants' contention in their reply brief,[200] disclosing the source of funds is not a *prohibition* on contributions, it is a requirement that contributions be reported from their true source.

Appellants suggest that the state's interest in an informed electorate would be "satisfied by simply requiring the disclosure of the direct donors to the ballot group."[201] In other words, allowing RCEA to pass donor funds to AHE in RCEA's name alone—as RCEA did in its first report to APOC. This approach, however, leaves voters in the dark and deprived of information regarding significant financial contributions made to support or oppose a ballot initiative. Naming the non-profit alone does not tell voters whether the initiative is funded by residents within Alaska or funded by donors outside of Alaska; nor the political affiliation of those sources of support.

---

[196] *Messerli*, 626 P.3d at 86.
[197] *Ams. For Prosperity Found.*, 141 U.S. at 2387.
[198] [At. Br. 39-40]
[199] *Buckley*, 424 U.S. at 69-74, 82-84 (1976); *McConnell*, 540 U.S. at 196-98; *Citizens United*, 558 U.S. at 367-71; *Brumsickle*, 624 F.3d 990, 1005-06 (upholding Washington's campaign disclosure laws); *Ctr. For Ind. Freedom v. Madigan*, 697 F.3d 464, 470 & n.1 (7th Cir. 201) (upholding Illinois's campaign disclosure laws and stating that all other federal courts of appeal (five) that had decided cases challenging campaign disclosure rules had upheld the rules against facial attacks after the U.S. Supreme Court's decision in *Citizens United*); *Alaska Right to Life Comm. v. Miles*, 441 F.3d 773, 788-94 (9th Cir. 2006) (upholding Alaska's registration requirement, reporting rules for nongroup entities as "not particularly onerous" and surviving strict scrutiny).
[200] [At. Reply Br. 6]
[201] [At. Br. 40]

Appellants' rely on *Bonta* in asking this Court to find Alaska's true source reporting statute unconstitutional. While *Bonta* provides the correct standard of review in this case ("exacting scrutiny") both the type of disclosure at issue and the government interest in disclosure are different.[202] This matter involves a campaign finance law and the mandatory disclosure is in the context of funding an election, not disclosure of charitable contributions more generally.

The Ninth Circuit Court of Appeals has distinguished California's charitable contribution disclosure law in *Bonta* from a recent unsuccessful challenge to Alaska's campaign finance laws explaining "[t]hat case [*Bonta*] involved neither public disclosure of information nor an electioneering matter."[203] *Bonta* simply does not form a basis to find true source reporting violates the First Amendment.

Appellants argue that true source reporting "would drive nonprofit donors to refrain from exercising their First Amendment right to associate with RCEA (and other nonprofits) via nonprofit donations, out of concern that the organizations might donate to a ballot group."[204] But, the concern that potential donors would "hesitate or refrain" from donating can be addressed by donors earmarking their specific funds for purposes other than supporting a political

---

[202] *Bonta*, 594 U.S. at 613-15 (here the State of California required the top donors to charitable organizations to be identified. The Court acknowledged a "substantial government interest[] in protecting the public from fraud" but found that the collected disclosures were not ultimately used by the state to investigate fraud, but to promote administrative efficiency. Applying exacting scrutiny, the Court found that "[t]he lack of tailoring to the State's investigative goals is categorical—present in every case—as is the weakness of the State's interest in administrative convenience.")

[203] *Smith*, 95 F.4th at 1217 n.7 (discussing *Ams. For Prosperity Found.*, 141 S.Ct. at 2385-87).

[204] *Id.*

campaign or ballot initiative. Likewise, any burden on the nonprofit to maintain separate bank accounts to deposit funds that are earmarked for education versus earmarked to support a ballot initiative, is slight and certainly outweighed by the need for an informed electorate. A donor who wishes to remain anonymous may still donate, so long as the nonprofit places the funds in an account that will not be used for election activities.[205]

For these reasons, Appellants' facial challenges to Alaska's true source reporting requirements fail.

d. Appellants' as-applied challenge

Mathias' as-applied challenge fails for two reasons: (1) his public statements related to his support of "the effort" to repeal ranked choice voting neutralize the constitutional arguments he raises now that he would face harassment or reprisal if associated with the ballot initiative; and (2) Mathias is not an intermediary—his obligation is to report his contributions, and so long as those contributions are from his own sources of income and wages,[206] Mathias in his individual capacity is not revealing the names of other donors.

The Ranked Choice Education Association has acted as an intermediary, and so long as RCEA continues to support ballot initiatives or other political

[205] The Alaska Center Advisory Op., AO 21-11-CD (approved June 20, 2022), https://aws.state.ak.us/ApocReports/Paper/Download.aspx?ID=23802. The Advisory Opinion advises a non-profit organization setting up a separate bank account for contributions that may be used to influence the outcome of a election so that when funds are donated for that purpose the non-profit can comply with the true source reporting requirements.

[206] *See* AS 15.13.400(19).

campaigns, they will have an ongoing obligation to report the "true source" of funds passed to a third party for purposes of influencing an election.

Even so, the Appellants' collectively have neither established nor offered any evidence of a "reasonable probability" that disclosure of their contributors' names would subject them to "threats, harassment, or reprisals."[207] Generic references to "threats and harassment" are insufficient evidence upon which to meet this standard.[208] Therefore, Appellants' as-applied challenge fails as well.

VI. Conclusion

For the reasons stated above, the Court AFFIRMS IN PART AND REVERSES IN PART the Final Order reached by APOC. In summary:

1. Alaska's true source reporting requirements apply to ballot initiatives in the signature-gathering phase and continue to apply once the petition is certified.
2. Mathias appealed APOC's finding that he violated the true source reporting requirements. APOC's finding of violation for Mathias is affirmed, in so far as the Court applies APOC's reasoning in mitigating the penalty but

[207] *Citizens United*, 558 U.S. at 370; see also *Ams. for Prosperity Found.*, 141 S.Ct. at 2389 (stating that if exacting scrutiny is satisfied, the plaintiffs must bear the evidentiary burden of showing that donors to a substantial number of entities will face harassment or reprisals); *Doe v. Reed*, 562 U.S. at 201 (rejecting challenge where plaintiffs offered "scant evidence or argument" to support that disclosure burdened signers of typical initiative petitions).

[208] *ProtectMarriage.com v. Bowen*, 830 F. Supp. 2d 914, 934 (E.D. Cal. 2011), aff'd in part, dismissed in part sub nom., 752 F.3d 827 (9th Cir. 2014) (rejecting plaintiffs' request for an as-applied disclosure exemption, nothing that "picketing, protesting, boycotting, distributing flyers, destroying yards signs and voicing dissent do not necessarily rise to the level of 'harassment' or 'reprisals,' especially in comparison to acts directed at groups in the past") (citing and contrasting *NAACP v. Alabama*, 357 U.S. 449, 452 (1958) (striking down as unconstitutional Alabama Attorney General's demand for the names of donors to the state chapter of the NAACP where donor-members were threatened with violence and economic reprisal).

adjusts the amount of Mathias' contribution to be penalized reversing the penalty applied. Mathias' penalty assessment is reduced from $45,000 to $44,191 because the substantial evidence does not support the conclusion that he was the source of the cash contribution.

3. RCEA appealed APOC's finding of true source reporting violations. APOC's violation against RCEA is affirmed, as is the penalty assessed by in the amount of $19,935. The Court remands to APOC to consider what penalties, if any, should be applied to RCEA for their transfer of a cash contribution to AHE without identifying the sources of those funds.
4. The Court finds that Alaska's true source reporting requirements do not violate the First Amendment to the U.S. Constitution.

DONE this 21st day of June 2024, at Anchorage, Alaska.

Laura Hartz
Superior Court Judge

I certify that on 6/21/24
a copy of the above was emailed to:

Clarkson
Demarest
Kendall
Gottstein

Ellen Bozzini
Judicial Assistant