IN THE SUPERIOR COURT OF THE STATE OF ALASKA

THIRD JUDICIAL DISTRICT AT ANCHORAGE

DANIEL J. SULLIVAN, JR. Appellant, v. STATE OF ALASKA, DIVISION OF ELECTIONS, Appellee,	
ALASKA REPUBLICAN PARTY, Intervenor.	Case No. 3AN-26-07485 CI

ON APPEAL FROM
A FINAL DECISION OF
THE STATE OF ALASKA, ELECTIONS DIVISION

INTERVENOR ALASKA REPUBLICAN PARTY'S BRIEF

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United States Constitution, Amendment I

> Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridg- ing 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.

Alaska Statute § 15.07.050(a)

> Registration may be made
>
> (1) in person before a registration official or through a voter registration agency;
>
> (2) by another individual on behalf of the voter if the voter has executed a written general power of attorney or a written special power of attorney authorizing that other individual to register the voter;
>
> (3) by mail;
>
> (4) by facsimile transmission, scanning, or another method of electronic transmission that the director approves; or
>
> (5) by completing a permanent fund dividend application under AS 43.23.015.

Alaska Statute § 15.10.105

> (a) The division of elections is created. The lieutenant governor shall control and supervise the division of elections. The lieutenant governor shall appoint a director of elections. The director shall act for the lieutenant governor in the supervision of central and regional election offices, the hiring, performance evaluation, promotion, termination, and all other matters relating to the employment and training of election personnel, and the administration of all state elections as well as those municipal elections that the state is required to conduct. The director is responsible for the coordination of state responsibilities under 42 U.S.C. 1973gg (National Voter Registration Act of 1993). The director serves at the pleasure of the

Lieutenant governor.

(b) It is essential that the nonpartisan nature, integrity, credibility, and impartiality of the administration of elections be maintained. To that end,

(1) the director of elections, the election supervisors appointed under AS 15.10.110, and the full-time members of the director's staff

(A) may not join, support or otherwise participate in a partisan political organization, faction, or activity, including but not limited to the making of political contributions; and

(B) may not hold or campaign for elective office, be an officer of a political party or member or officer of a political committee, permit their name to be used, or make any contributions, in support of or in opposition to a candidate or a ballot proposition or question, participate in any way in a national, state, or local election campaign, or lobby or employ or assist a lobbyist

(2) the full-time employees of the division of elections, except for the director of elections and the elections supervisors appointed under AS 15.10.110, are subject to the personnel rules adopted under the authority of AS 39.25.150(7), (15), and (16); and

(3) the director of elections, the election supervisors appointed under AS 15.10.110, and the full-time members of the director's staff may, notwithstanding (1) of this subsection, express private opinion, register as to political party, and vote.

Alaska Statute § 15.15.010

The director shall provide general administrative supervision over the conduct of state elections, and may adopt regulations under AS 44.62 (Administrative Procedure Act) necessary for the administration of state elections. The director shall adopt regulations that establish for the broadcasting of notices under AS 15.15.070 the frequency of the broadcasts, appropriate broadcast times, and the locations for the broadcasts. The broadcasting regulations must

be reasonably calculated to provide the widest possible exposure of the notices.

Alaska Statute § 15.15.030(5)

The director shall prepare all official ballots to facilitate fairness, simplicity, and clarity in the voting procedure, to reflect most accurately the intent of the voter, and to expedite the administration of elections. The following directives shall be followed when applicable …

(5) The names of the candidates shall be placed in separate sections on the state general election ballot under the office designation to which they were nominated. If a candidate is registered as affiliated with a political party or political group, the party affiliation, if any, may be designated after the name of the candidate, upon request of the candidate. If a candidate has requested designation as nonpartisan or undeclared, that designation shall be placed after the name of the candidate. If a candidate is not registered as affiliated with a political party or political group and has not requested to be designated as nonpartisan or undeclared, the candidate shall be designated as undeclared. The lieutenant governor and the governor shall be included under the same section. Provision shall be made for voting for write-in candidates within each section. Paper ballots for the state general election shall be printed on white paper.

Alaska Statute § 15.25.030(a)(5)

A person who seeks to become a candidate in the primary election or a special primary election shall execute and file a declaration of candidacy. The declaration shall be executed under oath before an officer authorized to take acknowledgments and must state in substance …

(5) the political party or political group with which the candidate is registered as affiliated, or whether the candidate would prefer a nonpartisan or undeclared designation placed after the candidate's name on the ballot[.]

Alaska Statute § 44.62.570(b)

> Inquiry in an appeal extends to the following questions: (1) whether the agency has proceeded without, or in excess of jurisdiction; (2) whether there was a fair hearing; and (3) whether there was a prejudicial abuse of discretion. Abuse of discretion is established if the agency has not proceeded in the manner required by law, the order or decision is not supported by the findings, or the findings are not supported by the evidence.

6 Alaska Administrative Code § 25.260

> (a) Any person may question the eligibility of a candidate who has filed a declaration of candidacy with the director for statewide or districtwide office, by filing a complaint with the director. A complaint regarding the eligibility of a candidate must be received by the director not later than the close of business on the 10th day after the filing deadline for the office for which the candidate seeks election.
>
> (b) The complaint must be in writing and include the name, mailing address, contact phone number, and signature of the person making the complaint, and a statement in 200 words or less of the grounds, described in particular, on which the candidate's eligibility is being questioned.
>
> (c) The director's review under this section is limited to the grounds cited in the complaint that are related to candidate qualifications addressed in the candidate's declaration of candidacy. The director may not consider other grounds cited in the complaint, including grounds related to issues under the authority of the Alaska Public Offices Commission under AS 15.13.
>
> (d) Upon receipt of a complaint, the director will review any evidence relevant to the issues identified in the complaint which is in the custody of the division, including the candidate's registration record or declaration of candidacy, and including, in the discretion of the director, any other document of public record on file with the state. Based on the review of the public documents, the director will determine whether a preponderance of evidence supports or does not support the eligibility of the candidate.

(e) The director will send notification in writing to the candidate whose eligibility is being questioned that a complaint has been received. The notification will include a copy of the complaint, and, based on the director's review of the public documents, a statement as to whether a preponderance of evidence supports or does not support the eligibility of the candidate.

(f) If the director determines that a preponderance of evidence supports the eligibility of the candidate, the director will issue a final determination upholding the candidate's eligibility.

(g) If the director determines that a preponderance of evidence does not support the eligibility of the candidate, notice to the candidate will identify any additional information or evidence that must be provided by the candidate in support of his or her eligibility, and the date by which the requested information must be received by the director. The director will consider any additional information provided by the candidate in issuing a final determination as to the candidate's eligibility.

(h) If the information requested by the director under (g) of this section is not received from the candidate by the specified deadline, the director will issue a final determination regarding the candidate's eligibility based on the public records initially reviewed.

(i) Upon issuing a final determination as to the candidate's eligibility, the director will send notice of the determination in writing to the person making the complaint and to the candidate. The determination of the director is final.

(j) Nothing in this section limits the authority of the director to evaluate a candidate's eligibility for office, as addressed in the candidate's declaration of candidacy, in the absence of a complaint.

INTRODUCTION

Alaska law mandates "[i]t is essential that the nonpartisan nature, integrity, credibility, and impartiality of the administration of elections be maintained." Alaska Stat. § 15.10.105. Accordingly, Alaska law charges that the Director of Elections "shall provide general administrative supervision over the conduct of state elections," *id.* § 15.15.010, and "shall prepare all official ballots to facilitate fairness, simplicity, and clarity in the voting procedure," *id.* § 15.15.030.

Appellant Daniel J. Sullivan flouted Alaska law and jeopardized the integrity of Alaska's elections when he filed a declaration of candidacy for the office of United States Senator "with a purpose to confuse or mislead and to thereby compromise the ballot's fairness or neutrality." Appellant's Appendix 26 ("App."). The Director thus properly exercised her plain statutory authority when she preserved the "integrity" and "credibility" of Alaska's elections, Alaska Stat. § 15.10.105, and upheld ballot "fairness" and neutrality, *id.* § 15.10.030, by declining to certify Appellant's sham candidacy, *see* App. 26–28.

In fact, the Director's longstanding regulation left her *no* discretion but to take this action: Despite ample opportunity, Appellant refused to engage with the regulatory process and instead offered no evidence to prove the legitimacy of his candidacy. Appellant's recalcitrance left the Director with no choice but to adhere to her regulation and finalize her preliminary determination that Appellant is a non-candidate whom Alaska law forecloses from appearing on the primary ballot. *See id.*

Alaska voters are entitled to rely upon the Director's lawful discharge of her statutory duties and adherence to the regulatory process Appellant bypassed. Appellant's

belated effort to overturn the Director's action fails at every turn. At the threshold, Appellants' failure to exhaust the administrative procedures the Director offered categorically bars his appeal now. Even if the Court could reach the merits, it should uphold the Director's action. A threshold question in the Director's discharge of her plain statutory authorities is whether a person seeking to appear on the ballot is actually a candidate, and even the statutory provisions Appellant invokes demonstrate that the Director must exclude any *non*-candidate such as Appellant from the ballot.

Finally, Appellant's invocation of the Qualifications Clause both lacks merit and turns the Constitution on its head. Courts, including the United States Supreme Court, have made clear that enforcement of a State's reasonable ballot access rules such as those enforced by the Director here do not even implicate, let alone violate, the Qualifications Clause. In fact, the Director's action *upholds*, rather than *violates*, the Constitution because it advances the State's "compelling interest in preserving the integrity of its elections process," *Purcell v. Gonzalez*, 549 U.S. 1, 4 (2006) (per curiam), and protects the First Amendment rights of Intervenor Alaska Republican Party ("ARP"), its voters, and its candidates not to associate with Appellant and his documented effort to harm all Alaskans by attempting to "confuse or mislead and to thereby compromise the ballot's fairness or neutrality." App. 26.

For all of these reasons, and for reasons explained by the State in its separate brief, the Court should deny Appellant's appeal and uphold the Director's action.

PARTIES TO THE CASE

1. Appellant Daniel J. Sullivan is the individual who initiated the instant appeal.

2. Appellee State of Alaska Division of Elections is the governmental entity charged by statute with the express maintenance of the integrity, credibility, and impartiality of elections.

3. Intervenor Alaska Republican Party ("ARP") filed the original complaint with the State of Alaska Division of Elections, upon which the Division acted and issued the decision that is the subject of this appeal. Although no specific appellate rule governs intervention in an administrative appeal to the superior court, that absence does not foreclose ARP's participation in this appeal. The superior court, when acting in its appellate capacity, retains broad authority to manage proceedings and ensure a complete adjudication of the issues presented. *See* Alaska R. App. P. 609. That authority is further reflected in Rule 612, which permits motion practice governed by Rule 503 without limitation to particular forms of relief, thereby encompassing requests for participation by interested parties. In the absence of a codified intervention rule, it is appropriate to look to Alaska R. Civ. P. 24 for guidance. Under that framework, participation is warranted where an applicant has a direct and substantial interest that may be impaired by disposition of the action. Here, ARP initiated the proceedings below, the Division's decision was rendered in response to ARP's complaint, and the outcome of this appeal will directly affect ARP's interests. Under any analogous standard, participation is appropriate as a matter of right or, at minimum, within the Court's discretion. Given the expedited nature of this proceeding, declining to permit ARP's participation would constitute clear error. The

Court's inherent and rule-based authority to manage its proceedings and ensure that directly affected interests are heard fully supports permitting ARP's participation. In light of ARP's role in the underlying proceedings and the direct impact of the decision at issue, its participation is proper.

STATEMENT OF THE CASE

Senator Daniel S. Sullivan is a Republican incumbent United States Senator standing for reelection this year. In an apparent effort to harm Senator Sullivan's reelection chances, Appellant Daniel J. Sullivan filed a declaration of candidacy for the office of United States Senator "with a purpose to confuse or mislead and to thereby compromise the ballot's fairness or neutrality." App. 26. As the Director found, "several facts" in the administrative record "taken together" lead "to this conclusion." *Id.*

1. Request To Use Senator Sullivan's Name Rather Than His Own. Senator Sullivan commonly goes by, and is identified throughout Alaska by, the name "Dan Sullivan." *See* App. 26–27; Sullivan for U.S. Senate, https://dansullivanforalaska.com/. Appellant has never registered to vote or sought ballot access by that name, but nonetheless requested that he be identified on the primary ballot as "Dan Sullivan." App. 26. The Director concluded that Appellant's request to use that name rather than the name he used to register to vote indicated that Appellant is "seeking to confuse [himself] with another candidate in the race . . . rather than distinguish [himself] from [that candidate]." *Id.* 27. The Director pointed out that Appellant himself "appeared to be confused when [he] initially emailed the Division asking to be listed on the ballot as 'Dan S. Sullivan," using Senator Sullivan's middle initial rather than his own. *Id.*

2. Request For Republican Designation. According to the records available to the Director, Appellant had never "been affiliated with the Republican Party in Alaska" until "two days before" he filed his declaration of candidacy. *Id.* Along with the other facts, the timing of this dramatic change in affiliation "strongly suggests an intent to confuse" Appellant "with the incumbent Senator." *Id.*

3. Deliberate Copycatting Of Senator Sullivan's Campaign Website. Appellant's campaign website (https://sullivanforsenate.com) "uses a format, color scheme, and overall theme similar to" Senator Sullivan's campaign website (https://dansullivanforalaska.com). *Id.* This apparently "deliberate" similarity again indicates that Appellant seeks "to confuse Alaskans as to which 'Dan Sullivan' is which." *Id.*

4. Use Of Known Democratic Campaign Consultant. Appellant admitted that "a longtime supporter of Democratic candidates including the primary Democratic challenger to Senator Sullivan," Mary Peltola, is working with his campaign as a political consultant. *Id.* This fact, too, "suggests a determined effort and deliberate attempt to use the similarity of [Appellant's] name to confuse Alaska voters in the upcoming primary election." *Id.*

On June 1, NRSC sent a letter to Lt. Governor Dahlstrom and Director of Elections Beecher requesting a determination that Appellant "is not an eligible candidate for U.S. Senate and therefore must not appear on the August 18, 2026 Alaska primary ballot." *Id.* 4. Appellant sent the Director a letter responding to NRSC's letter on June 3. *Id.* 13. On June 8, Lt. Governor Dahlstrom sent Appellant a letter documenting "credible evidence"

that Appellant's request to appear on the ballot was intended "to confuse or deceive voters who intend to vote for Senator Sullivan into mistakenly voting for [Appellant] instead." *Id.* 16. Lt. Governor Dahlstrom propounded several questions to Appellant to assist with the "investigation" into his declaration of candidacy. *Id.* 17. Appellant responded to that letter two days later. *Id.* 19–20.

On June 10, the ARP's Chairman filed with the Director two complaints against Appellant and his participation in the primary election. *Id.* 21–24. That same day, the Director notified Appellant of the complaints and her preliminary determination "that the preponderance of the evidence does not support [his] eligibility for the office of United States Senator." *Id.* 25. The Director informed Appellant of his right to "provide any additional information and evidence to respond to these complaints and support [his] eligibility by 5:00pm, June 11, 2026." *Id.*; *see also* Alaska Admin. Code tit. 6, § 25.260 (g).

Appellant did not respond to the Director's letter, engage with the Director's administrative process, or provide any additional evidence. App. 26. Accordingly, the Director proceeded "to a final determination" based on the records she "initially reviewed." Alaska Admin. Code tit. 6, § 25.260(h). The Director issued that final determination on June 15. App. 26–28. In accordance with the "unique, and to [the Director's] knowledge utterly unprecedented facts" outlined above, the Director concluded that Appellant is not a "genuine[]" candidate for United States Senator. *Id.* 27. Indeed, those facts "force the conclusion that [his] declaration of candidacy was filed with the purpose of confusing or misleading the electorate and compromising the fairness of the ballot." *Id.* The Director

therefore declined to include non-candidate Appellant on the primary election ballot for the office of United States Senator. *See id.*; *see also* Alaska Stat. § 15.25.030(a)(5) (only "*candidates*" may appear on the ballot) (emphasis added).

The Director notified Appellant of his right to appeal this decision, but cautioned that if he intended "to challenge the decision and seek judicial relief in Alaska Superior Court to be placed on the ballot," he should "be aware ballots are printed on June 28." App. 28. Appellant waited seven days, until Monday, June 22, to file an appeal in this Court. Appellant now seeks expedited appellate review. ARP moved to intervene on June 23 and now files this brief by the deadline for response briefs to which Appellant and the State agreed.

STANDARD OF REVIEW

The scope of this Court's review is limited to the questions: "(1) whether the agency has proceeded without, or in excess of jurisdiction; (2) whether there was a fair hearing; and (3) whether there was a prejudicial abuse of discretion." Alaska Stat. § 44.62.570(b). The Court, moreover, must accord substantial deference to the agency's exercise of discretion. An agency's findings of fact are reviewed under the "substantial evidence test," which "is satisfied when there is such relevant evidence as a reasonable mind might accept as adequate to support the agency's conclusion." *Thomason v. Dep't of Health & Soc. Servs., Div. of Senior & Disabilities Servs.*, 563 P.3d 586, 593–94 (Alaska 2025) (citation and internal quotation marks omitted) (alterations adopted). An agency's legal conclusions on questions "involving agency expertise" are reviewed under the "reasonable basis test." *Id.*

Thus, where a question of statutory interpretation "implicates agency expertise or the determination of fundamental policies within the scope of the agency's statutory functions," this Court must "defer" to the "agency's interpretation . . . so long as it is reasonable." *Eberhart v. Alaska Pub. Offs. Comm'n*, 426 P.3d 890, 894 (Alaska 2018) (citations omitted) (alterations adopted). The agency's interpretation therefore governs unless "the agency has not proceeded in the manner required by law, the order or decision is not supported by the findings, or the findings are not supported by the evidence." *Thompson*, 563 P.3d at 594 (quoting Alaska Stat. § 44.62.570(b)(3)). Only where an agency's statutory interpretation "does not involve agency expertise" or the issue is a "[c]onstitutional" one would the Court engage in de novo review. *Eberhart*, 426 P.3d at 894.

ARGUMENT

The Court should deny Appellant's appeal and uphold the Director's action. Appellant's appeal fails at the threshold because he failed to exhaust his administrative remedies. Even if the Court could reach the merits, Appellants' appeal still would fail because the Director's decision to exclude a non-candidate such as Appellant from the ballot was within her statutory and regulatory jurisdiction, followed a fair hearing, and involved no abuse of discretion. And Appellant's last-ditch constitutional argument misconstrues the Qualifications Clause: In fact, the Director's action upholds, rather than violates, the Constitution.

I. APPELLANT FAILED TO EXHAUST HIS ADMINISTRATIVE REMEDIES.

A party must exhaust administrative remedies before seeking judicial relief from administrative action. *City of Valdez v. Regul. Comm'n of Alaska*, 548 P.3d 1067, 1081 (Alaska 2024). The "basic purpose" of this requirement "is to allow an administrative agency to perform functions within its special competence—to make a factual record, to apply its expertise, and to correct its own errors so as to moot judicial controversies." *Id.* Alaska courts apply this exhaustion-of-remedies doctrine "by asking (1) whether exhaustion of remedies is required, (2) whether the complainant exhausted those remedies, and (3) whether any failure to do so is excused because exhaustion would be 'futile or severely impractical.'" *Id.*

Appellant's appeal fails at the threshold because he failed to exhaust his administrative remedies. *First*, Appellant was required to exhaust because the Director's regulation "provides for administrative review or remedies." *Id.* at 1082. The governing regulation creates a "specific" mechanism for purported candidates to dispute complaints regarding their eligibility and genuineness as candidates. *Miller v. Treadwell*, 245 P.3d 867, 874 (Alaska 2010). In particular, "[u]pon receipt of a complaint, the director will review any evidence relevant to the issues identified in the complaint in the custody of the division," as well as, in the Director's discretion, "any other document of public record on file with the state." Alaska Admin. Code tit. 6, § 25.260(d). "Based on a review of the public documents, the director will determine whether a preponderance of the evidence supports or does not support the eligibility of the candidate." *Id.*

The Director then notifies the purported candidate in writing of the complaint and her preliminary eligibility determination. *Id.* § 25.260(e). If the Director's preliminary determination is that "a preponderance of the evidence does not support the eligibility of the candidate," the Director provides the person an opportunity to provide "additional information or evidence" by a date identified by the Director. *Id.* § 25.260(g). The Director considers any such additional information or evidence "in issuing a final determination as to . . . eligibility." *Id.*

But if the purported candidate provides no additional information "by the specified deadline," the Director has *no* discretion regarding her next step: She "*will* issue a final determination regarding the candidate's eligibility based on the public records initially reviewed." *Id.* § 25.260(h) (emphasis added). In other words, the Director's preliminary determination of ineligibility based on public records, *see id.* § 25.260(d), "will" become "a final determination" based on those records where the purported candidate provides no additional information or evidence, *id.* § 25.260(h).

This regulatory scheme thus treats the purported candidate's engagement in the Director's review process as the *only* basis for the Director to deviate from a preliminary determination of ineligibility. *See id.* Its plain terms therefore create an exhaustion requirement. *See, e.g.*, *City of Valdez*, 548 P.3d at 1081.

If there is any doubt on that score, however, the Court should "judicially create[]" an exhaustion requirement. *Id.* at 1082. After all, enforcing the provision that the Director may deviate from a preliminary determination of ineligibility only upon additional information or evidence from the purported candidate "serves the purposes of exhaustion-

of-remedies doctrine" because it allows the Director to "make a factual record, to apply [her] expertise, and to correct [her] own errors so as to moot judicial controversies." *Id.* Enforcement of that provision, moreover, does not undermine the purported candidate's "interest in the availability of adequate redress of his or her grievances." *Id.* To the contrary, it *advances* that interest by allowing the would-be candidate to correct errors at the agency level and ensuring that any judicial review of the Director's final determination of ineligibility rests upon an "adequate" record. *Id.* And it upholds the public's and State officials' rights to rely upon the Director's final determination issued after an administrative review process that the purported candidate chose to bypass. Any judicial "balance[]" here thus weighs conclusively in favor of imposing an exhaustion requirement. *Id.*

Second, Appellant failed to exhaust his administrative remedies. He provided no additional information or evidence regarding his eligibility or genuineness as a candidate when the Director requested it. App. 26. He instead eschewed the opportunity to make his case and to correct any alleged errors at the administrative level. He therefore deprived the Director of the opportunity to "perform functions within [her] special competence—to make a factual record, to apply [her] expertise, and to correct [her] own errors so as to moot judicial controversies," to the detriment of the public, the Director, and this Court's capacity to conduct judicial review. *City of Valdez*, 548 P.3d at 1081.

Third, there is no basis to excuse Appellant's failure to exhaust because exhaustion would not have been "futile or severely impractical." *Id.* The Director provided Appellant clear notice of both his opportunity to submit additional information or evidence and the

deadline for doing so. App. 25; *see also JBG Mem'l, LLC v. Dep't of Transportation & Pub. Facilities*, 579 P.3d 73, 79 (Alaska 2025) ("If the path to initiating administrative review is clear, such that the plaintiff was on notice of how to proceed, then a plaintiff cannot claim a lack of 'meaningful access' to review."). The administrative remedy was not "inadequate." It was a meaningful, and the exclusive, mechanism for Appellant to engage with the Director's preliminary determination of ineligibility. *City of Valdez*, 548 P.3d at 1081. And there is nothing in the record to indicate that "an adverse decision" by the Director was "certain." *Id.*

Appellant's failure to exhaust administrative remedies alone warrants denying the appeal and upholding the Director's action. *See id.* at 1081–82; 1084–86.

II. THE COURT SHOULD DENY APPELLANT'S APPEAL AND UPHOLD THE DIRECTOR'S ACTION IF IT REACHES THE MERITS.

Even if Appellant's failure to exhaust did not end the case, the Court still should deny Appellant's appeal and uphold the Director's action if it reaches the merits. The Director's action is within her "jurisdiction," resulted from "a fair hearing," and involved no "abuse of discretion," "prejudicial" or otherwise. Alaska Stat. § 44.62.570(b).

First, the Director properly acted within her jurisdiction. Alaska law mandates that "[i]t is essential that the nonpartisan nature, integrity, credibility, and impartiality of the administration of elections be maintained." *Id.* § 15.10.105. The Director of Elections thus "*shall* provide general administrative supervision over the conduct of state elections," *id.* § 15.15.010 (emphasis added), and "*shall* prepare all official ballots to facilitate fairness, simplicity, and clarity in the voting procedure," *id.* § 15.15.030 (emphasis added).

These duties of the Director effectuate a proper exercise of the State Legislature's constitutional authority to prescribe the "Times, Places and Manner of holding Elections for Senators and Representatives," U.S. Const. art. I, § 4, cl. 1, and to advance the State's "compelling interest in preserving the integrity of its elections process," *Purcell*, 549 U.S. at 4.

A threshold question in the Director's discharge of all of these statutory responsibilities is whether a person seeking to appear on the ballot is in fact a candidate. *See, e.g.*, Alaska Stat. § 15.25.030(a)(5) (only "*candidates*" may appear on the ballot) (emphasis added). The Director thus properly exercised her legal authority and carried out her duties when she determined that upholding the "integrity" of the State's elections, Alaska Stat. § 15.10.105, and "facilitat[ing] fairness" on the primary election ballot, *id.* § 15.15.030, required not allowing Appellant to appear on that ballot because he is not in fact a candidate, *id.* § 15.25.030(a)(5); *see* App. 27. Indeed, no other action was possible on these "unique" and "utterly unprecedented facts," which "force[]" the conclusion that Appellant is not "genuinely pursuing election as Alaska's U.S. Senator" but instead acting "with the purpose of confusing or misleading the electorate and compromising the fairness of the ballot" to harm Senator Sullivan's reelection bid. *Id.*

If more were somehow needed, the record provides it. The candidate declaration statute Appellant invokes requires the person "who seeks to become a candidate" to state under oath "the political party with which" he "*is* registered as affiliated." Alaska Stat. § 15.25.030(a)(5) (emphasis added); *see also Kohlhaas v. State*, 518 P.3d 1095, 1109 (Alaska 2022) (holding that candidate may be listed as affiliated with political party only

if the candidate "truly has registered with the Division of Elections as affiliated with that party"). Appellant's declaration stated that he is registered as affiliated with the Republican Party. App. 1. According to attestations by the ARP and publicly available sources, however, Appellant has never affiliated with the Republican Party. *Id.* 21–22. While the Director indicated that Appellant changed his affiliation two days before filing his declaration, *id.* 27, ARP filed open-records requests to obtain any documentation effectuating this change and to date has received none. Nor does the record disclosed to the public so far contain any such documentation. Even Appellant himself asserts that "[i]n the Declaration of Candidacy," which he describes as "self-executing," he "requested that he be affiliated with the Republican Party." Appellant's Br. 2.

It therefore appears that Appellant did *not* change his affiliation in either of the exclusive manners provided by Alaska law: in person or in writing. *See* Alaska Stat. § 15.07.050. The declaration of candidacy form's statement that a person may change his affiliation through that form, *see* App. 1, is incorrect. A form cannot change the plain statutory requirement that the person may assume a party label only if he "truly *has* registered with the Division of Elections as affiliated with that party" prior to filing the form, *Kohlhaas*, 518 P.3d at 1109 (emphasis added); Alaska Stat. § 15.25.030(a)(5) (statement that candidate "is registered" with the party), in the manner required by Alaska law, *see* Alaska Stat. § 15.07.050. Any contrary representation is simply invalid. *See id.* § 44.62.030 (agency regulation "is not valid or effective unless consistent with the statute and reasonably necessary to carry out the purpose of the statute"); *Eberhart*, 426 P.3d at 896 ("Agency interpretations are not a binding . . . interpretation of a statute," particularly

where "no agency expertise is involved in the agency's interpretation"). Appellant's declaration therefore contained a false statement under oath, providing yet another basis for the Director's action. *See* Alaska Stat. § 15.25.030(a)(5); *Kohlhaas*, 518 P.3d at 1109.

Second, the Director's action followed "a fair hearing" and process. Alaska Stat. § 44.62.570(b). The Director complied with all procedural requirements in her regulation, including the mandate to provide Appellant notice of her preliminary determination of ineligibility and an opportunity to submit additional information and evidence. App. 25; *see also* Alaska Admin. Code tit. 6, § 25.260.

Third, the Director committed no abuse of discretion. *See* Alaska Stat. § 44.62.570(b). As explained, the Director's action is "supported by [her] findings" that Appellant's purported candidacy is a sham, *id.*, which in turn are more than amply supported by the "unique" and "utterly unprecedented," App. 27, "evidence" in the record, Alaska Stat. § 44.62.570(b)—a record Appellant declined the opportunity to contribute to, App. 26. Moreover, the Director proceeded "in the manner required by law" in discharging her statutory duties. *See* Alaska Stat. § 44.62.570(b). Indeed, as explained above, the Director had *no* discretion under her regulation but to finalize her preliminary determination of ineligibility once Appellant declined the opportunity to provide additional information or evidence. *See* Alaska Admin. Code tit. 6, § 25.260(h); *supra* pp. 10.

Of the three statutory bases for review of the Director's action, Appellant limits his arguments to the first. He makes no argument that the Director's hearing and process were not "fair" or that the Director's findings or the evidence are inadequate to support the Director's action. *See* Appellant Br. 7–16. Instead, Appellant argues only that the

Director's action exceeds her jurisdiction and legal authority. *See id.* In particular, Appellant asserts that the Director's action was not "grounded in the declaration of candidacy," that the Director imposed an allegedly unlawful "good faith" requirement, that the Director violated a "ministerial duty," and that Alaska law limits the Director to addressing the confusion Appellant sought to create through ballot design, not excluding him from the ballot. *See id.* These arguments misread Alaska law and misrepresent the Director's action.

Indeed, all of these arguments suffer from the same fundamental flaw: They assume that the Director's only legal authority is to rubber-stamp candidate declaration forms that a person has filled out completely, *regardless* of the accuracy of the person's statements. *See id.* Appellant says *nothing* about the Director's statutory obligations to maintain "the nonpartisan nature, integrity, credibility, and impartiality of the administration of elections," to provide "administrative supervision over the conduct of state elections," and to "prepare all official ballots to facilitate fairness, simplicity, and clarity in the voting procedure." Alaska Stat. §§ 15.10.105, 15.15.010, 15.15.030. If the Director is not empowered to enforce these statutory requirements, they offer no more than paper guarantees of election integrity.

A threshold obligation to carrying out all of those duties—as well as the duty to review candidate declaration forms, *id.* § 15.25.030(a); Alaska Admin. Code tit. 6, § 25.260(h)—is to determine whether the person seeking to appear on the ballot *is actually a candidate at all. See* Alaska Stat. §§ 15.10.105, 15.15.010, 15.15.030; *see also id.* § 15.25.030(a) (candidate declaration form may be submitted only by "[a] person who

seeks to become *a candidate*," not a person who files for some other purpose) (emphasis added). The candidate declaration form thus requires the person to "declare [himself] to be a *candidate*" for the indicated office. App. 1 (emphasis added).

Thus, contrary to Appellant's argument, the Director's determination that he is not a "genuine[]" candidate for "election as Alaska's U.S. Senator," App. 27, *is* grounded in Appellant's "declaration of candidacy" and does properly carry out the Director's "duty" with respect to her review of candidate declarations (and the discharge of her other statutory duties), *see* Appellant Br. 7–14. Moreover—again contrary to Appellant's argument—the Director did not impose some unlawful "good faith" requirement, but instead recognized that only *actual* candidates may appear on the ballot and that Appellant's lack of good faith demonstrated that he is not such a candidate. *See id.*; App. 26–28.

Furthermore, the Director was not limited to addressing Appellant's attempt to sow confusion, "mislead[] the electorate and compromis[e] the fairness of the ballot," App. 27, through ballot design, Appellant's Br. 14–16. Rather, the Director properly pointed to Appellant's attempt to work this mischief in Alaska's elections as a basis to conclude that he is *not* actually a candidate for United States Senator. *See* App. 27. And because only "*candidates*" may appear on the ballot in Alaska, Alaska Stat. § 15.15.030(5) (emphasis added), the Director's exclusion of *non-candidate* Appellant was proper, *see, e.g.*, *id.*

To be sure, the Director has not previously excluded a person from the ballot on this basis. But that lack of precedent reflects the "utterly unprecedented facts" and "circumstances unlike any previously presented to the Division" that arise from Appellant's audacious design. App. 27. It proves that Appellant's "candidacy" is a sham,

id., *not* a lack of legal authority or obligation in the Director to stop that sham, *see* Alaska Stat. §§ 15.10.105, 15.15.010, 15.15.030; 15.25.030(a). Appellant's effort to circumvent the requirements of Alaska law and to thwart the integrity of Alaska's elections is an affront to all Alaskans—and it fails. The Court should deny Appellant's appeal and uphold the Director's action.

III. THE DIRECTOR'S ACTION UPHOLDS, RATHER THAN VIOLATES, THE U.S. CONSTITUTION.

Appellant's alternative argument—that the Director's action violates the U.S. Constitution's Qualifications Clause, *see* Appellant's Br. 16–19—is meritless because the Director's action upholds, rather than violates, the Constitution. Appellant's cited cases in which courts found Qualifications Clause violations involved state laws that placed restrictions on who could *serve* in federal offices established by the U.S. Constitution. *See, e.g.*, *U.S. Term Limits, Inc. v. Thornton*, 514 U.S. 779 (1995) (state law permitting only individuals who had not exceeded state-prescribed term limits could serve in Congress) (cited at Appellant's Br. 16); *Schaefer v. Thompson*, 215 F.3d 1031 (9th Cir. 2000) (residency requirement) (cited at Appellant's Br. 18); *Shub v. Simpson*, 76 A.2d 332 (Md. 1950) (state law prohibiting persons who did not swear a loyalty oath from serving in Congress) (cited at Appellant's Br. 18); *Stack v. Adams*, 315 F. Supp. 1296 (N.D. Fla. 1970) (involving resign-to-serve rule) (cited at Appellant's Br. 18). The remainder of Appellant's cited cases were resolved on grounds other than the Qualifications Clause. *See Trump v. Anderson*, 601 U.S. 100 (2024) (involving Congress's authority under the Fourteenth Amendment) (cited at Appellant's Br. 18–19); *Gralike v. Cook*, 191 F.3d 911

(8th Cir. 1999) (cited at Appellant's Br. 16), *aff'd on other grounds*, *Cook v. Gralike*, 531 U.S. 510 (2001); *Comm. to Recall Robert Menendez From Office of U.S. Senator v. Wells*, 7 A.3d 720 (N.J. 2010) (involving U.S. Constitution's provision setting term of service for U.S. Senators) (cited at Appellant's Br. 18); *see also Kohlhaas v. State, Office of Lieutenant Governor*, 147 P.3d 714 (Alaska 2006) (involving proposed state succession initiative) (cited at Appellant's Br. 19).

By contrast, courts, including the United States Supreme Court, have made clear that a State's enforcement of reasonable and neutral ballot access rules governing who may *appear on the ballot* for federal office do not even implicate, let alone violate, the Qualifications Clause. *See, e.g.*, *Munro v. Socialist Workers Party*, 479 U.S. 189 (1986) (upholding minimum-support requirement to appear on the general election ballot as applied to U.S. Seante candidate under the First and Fourteenth Amendments); *Cartwright v. Barnes*, 304 F.3d 1138 (11th Cir. 2002) (signature requirement to qualify to appear on the ballot does not violate the Qualifications Clause); *Van Susteren v. Jones*, 331 F.3d 1024 (9th Cir. 2003) (partisan disaffiliation requirement for congressional candidates does not violate the Qualifications Clause); *Wood v. Quinn*, 104 F. Supp. 2d 611 (E.D. Va. 2000) (signature requirement for U.S. Senate candidates does not violate the Qualifications Clause).

The Director's action arises squarely within these ballot access precedents. The Director made no determination as to whether Appellant is qualified to serve as a United States Senator. Instead, she concluded, based on the "unique" and "utterly unprecedented facts" in the record, that Appellant is not a *candidate* who can appear on the ballot under

Alaska law. App. 27. The Director's action therefore does not even implicate, let alone violate, the Qualifications Clause. *See, e.g.*, *Munro*, 479 U.S. 189; *Cartwright*, 304 F.3d 1138; *Van Susteren*, 331 F.3d 1024; *Wood*, 104 F. Supp. 2d 611.

In fact, the Director's action upholds the U.S. Constitution. It is "well settled" that the First and Fourteenth Amendments protect the associational freedom of political parties and their candidates and voters. *Eu v. San Francisco Cnty. Democratic Cent. Comm.*, 489 U.S. 214, 224 (1989). As the Alaska Supreme Court has noted, the Alaska Constitution likewise "inherently guarantees the rights of people, *and political parties*, to associate together to achieve their political goals." *Kohlhaas*, 518 P.3d at 1104. This right encompasses "a political party's right to choose its standard bearer" and the corresponding right "*not* to be forced" to associate with "a candidate the party does not want." *Id.* at 1107; *see also Cal. Democratic Party v. Jones*, 530 U.S. 567, 574 (2000) (First Amendment protects political party's right "not to associate" with unwanted voters and candidates).

The Director's action vindicates the constitutional rights of ARP, its voters, and its candidate, Senator Sullivan, not to associate with non-candidate Appellant and his assault on Alaskans and the State's elections. ARP, its voters, and its candidates have a right not "to be forced" to associate with Appellant, *Kohlhaas*, 518 P.3d at 1107, who is not "genuinely pursuing election as Alaska's U.S. Senator" but instead pursuing a ploy to "confus[e] and mislead[] the electorate and compromis[e] the fairness of the ballot." App. 27. As the Director concluded, such confusion and unfairness are precisely what would happen if Appellant were permitted to appear on primary election ballot. *See id.* 26–28. The Constitution protects ARP, its voters, and Senator Sullivan from Appellants' sham,

not Appellant's sham from the ballot access requirements of Alaska law. *See, e.g.*, *Munro*, 479 U.S. 189; *Cartwright*, 304 F.3d 1138; *Van Susteren*, 331 F.3d 1024; *Wood*, 104 F. Supp. 2d 611.

To be sure, the Alaska Supreme Court upheld the current jungle primary and ranked-choice voting scheme against a facial challenge that the scheme violates political parties' associational rights. *See Kohlhaas*, 518 P.3d 1095. That holding does not salvage Appellant's appeal or defeat ARP's right not to associate with Appellant for at least three reasons.

First, the Alaska Supreme Court there rested on a purported lack of evidence that this scheme would confuse voters as a facial matter, *see id.* at 1110, whereas here the Director *found*, based on the evidence in the record, that Appellant is seeking to appear on the ballot *precisely* to "confus[e] or mislead[] the electorate and compromis[e] the fairness of the ballot," App. 27. *Second*, the Alaska Supreme Court reasoned that, as a facial matter under the scheme, "candidates cannot lie about being affiliated with a particular party" and "may appear on the ballot as affiliated with a political party only if that candidate truly has registered with the Division of Elections as affiliated with that party." *Kohlhaas*, 518 P.3d at 1109. But Appellant does appear to have misrepresented his party affiliation and to have failed to "truly register[] with the Division of Election as affiliated with" the Republican Party. *See id.*; *supra* pp. 14. *Third*, the Alaska Supreme Court believed that a party can easily "warn voters about Trojan horse candidates—those who might run under a party's banner but do not share the party's values." *Kohlhaas*, 518 P.3d at 1109. Here, however, there will be nothing easy about issuing such a warning, where Appellant is engaged in an

affront to Alaskans and the State's elections through a variety of tactics, including a new and misleading name identification and deliberate copycatting of Senator Sullivan's website. App. 26. Alaska law and the Constitution required the Director's exclusion of non-candidate Appellant from the primary election ballot on these "unique" and "utterly unprecedented facts." *Id.* 27.

CONCLUSION

The Court should deny Appellant's appeal and uphold the Director's action.

DATED: June 24, 2026

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APPELLATE RULE 513.5(c)(3) CERTIFICATE

The undersigned certifies that the foregoing document is set in 13-point proportionally spaced Times New Roman, in conformity with Appellate Rule 513.5(c)(1)(A).

DATED: June 24, 2026

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