

BEFORE THE ALASKA PUBLIC OFFICES COMMISSION

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PAULA DELAIARRO,)
)
 Complainant,)
)
 v.)
)
 LANCE PRUITT,)
)
 Respondent.)
 _____)

APOC Case No. 20-08-CD

FINAL ORDER

Paula DeLaiarro alleges that former Representative Lance Pruitt violated multiple campaign finance and disclosure laws during two campaigns for House District 27 and on his legislative financial disclosure statements covering two years. During Rep. Pruitt’s 2016 and 2018 campaigns, Ms. DeLaiarro alleges that he (1) did not timely report incurred expenditures as debts, (2) failed to provide details for media and consulting services, (3) made untimely reimbursements to himself for campaign expenses, and (4) accepted prohibited contributions. Ms. DeLaiarro also contends that Rep. Pruitt failed to disclose his spouse’s clients on legislative financial disclosures filed in 2019 and 2020. After a hearing on June 10, 2021, the Alaska Public Offices Commission concludes that Rep. Pruitt violated multiple campaign finance and disclosure laws with sloppy reporting, untimely reimbursements, and acceptance of a prohibited contribution, and imposes a civil penalty of \$19,716.40 for all the violations.

I. Representative Pruitt failed to report expenditures when incurred on his 2016 and 2018 campaign reports and to provide details about ad placements.

As a candidate for the state House in 2016 and 2018, Rep. Pruitt was required to

disclose his financial activity for his campaigns on reports filed 30 days and seven days before the primary and general elections, and on February 15 in the year following the election.¹ Nine of these campaign reports were inaccurate. Rep. Pruitt disclosed more than \$40,000 in expenditures late, waiting for invoices to report expenses incurred weeks or months earlier when the services were rendered. He also left out required details about media placement and consulting services.

Rep. Pruitt's practice of reporting campaign expenses when he received invoices violated requirements to provide a "full report" of "all expenditures" at specified times leading up and after an election.² Candidates are required to report campaign expenses when incurred even if these expenses have not been invoiced or paid because a "promise or agreement to purchase or transfer money or anything of value, incurred or made" for the purposes of influencing an election, is an "expenditure."³ The regulations make this clear by listing the details that must be included "under the debt section of the report, for each expenditure incurred but not paid."⁴ Rep. Pruitt contends that he timely reported his campaign expenses by including them on his reports at the time he received an invoice or paid, regardless of when services were rendered. But reporting expenditures only when invoiced is not only contrary to the definition of "expenditure," it also would defeat the law's goal of transparency about campaign spending. Candidates could ask vendors and

¹ AS 15.13.110(a).

² AS 15.13.040(a), AS 15.13.110(a).

³ AS 15.13.400(6)(A) (eff. 2014).

⁴ 2 AAC 50.321(a)(6).

consultants to invoice them for goods and services *after* the election, hiding from voters the campaign’s financial activities leading up to the election.

In Rep. Pruitt’s case, waiting for invoices to report expenditures resulted in late reporting of at least \$39,000 during his 2016 campaign and at least \$5,900 during his 2018 campaign. The Commission agrees with staff’s analysis that Rep. Pruitt failed to report multiple expenditures to Hellenthal & Associates as debt when incurred. Staff detailed in its report on pages 6-7 the expenditures that Rep. Pruitt reported weeks or months after services were rendered.

The Commission also agrees with staff that Rep. Pruitt failed to provide necessary details for media and consulting services on his campaign reports. Expenditures made to advertising agencies or campaign consultation or management services must “disclose in detail all services rendered, including the name of each business from which campaign goods or services were purchased or subcontracted or media advertising placed, and the amount of the expenditure.”⁵ Multiple entries for consulting firm Hellenthal & Associates described expenses for media agencies as “media” and did not identify where advertising was placed. A January 31, 2017, entry also described a \$3,000 expense for Hellenthal & Associates as “consulting,” rather than describing the provided services.

The Commission imposes a penalty for these violations in the amount discussed

⁵ 2 AAC 50.321(d).

below,⁶ rejecting Rep. Pruitt’s contention that the late-reported expenditures cannot result in a civil penalty against him because he reported consistently with his own purportedly reasonable interpretation of an ambiguous or imprecise law.⁷ He argues that because the law requires reporting an “amount” of the expenditure, he was not required to report until invoiced since he did not know the “amount.” But the law is unequivocally clear that a “promise or agreement” to purchase goods or services for an election campaign is an “expenditure.”⁸ And promises or agreements “*incurred* or made for the purpose of . . . influencing the nomination or election of a candidate” must be reported at specified times leading up to and after the election.⁹

II. Representative Pruitt made at least five untimely reimbursements to himself for campaign expenses.

The Commission concludes that Rep. Pruitt violated AS 15.13.078 by waiting too long to reimburse himself for campaign expenses that he personally paid. Candidates may personally pay for campaign expenses and reimburse themselves out of campaign funds within three days of the expense without reporting it as a “contribution.”¹⁰ Alternatively,

⁶ AS 15.13.390(a) (providing for civil penalties of no more than \$50 per day for late-filed 30-day and year-end reports and civil penalties of no more than \$500 per day for late-filed seven-day reports); *see* 2 AAC 50.855(b)(5).

⁷ *See Alaska Pub. Offices Comm’n v. Stevens*, 205 P.3d 321, 326 (Alaska 2009) (holding that “imprecise, indefinite, or ambiguous statutory or regulatory requirements must be strictly construed in favor of the accused before an alleged breach may give rise to a civil penalty”).

⁸ AS 15.13.400(6)(A) (eff. 2014).

⁹ AS 15.13.400(6)(A)(i) (eff. 2014) (emphasis added), AS 15.13.040(a)(1)(A), AS 15.13.110(a).

¹⁰ 2 AAC 50.990(7)(C)(x).

candidates may loan specified amounts to their campaigns if they report the loan within five days of making it and they also may contribute unlimited amounts to their campaigns; they must report personal contributions and loans as “contributions.”¹¹

Rep. Pruitt did not comply with any of these options.

Staff concluded that Rep. Pruitt made at least five untimely reimbursements to himself for his 2016 campaign, and the Commission agrees.¹² Rep. Pruitt had a recurring monthly charge for \$40 for Constant Contact on the 25th of every month but frequently the campaign did not repay him for this expense until *months* after the charges. The campaign repaid him on February 1, 2016, for three months of Constant Contact charges; on July 15, 2016, for five months of Constant Contact charges; on August 6, 2016, for a Constant Contact charge made 12 days earlier; and on October 7, 2016, for two months of Constant Contact. The fifth untimely reimbursement occurred on October 25, 2016, for more than \$200 of promotional materials that Rep. Pruitt bought five days earlier. These reimbursements were not made within three days of incurring the campaign expense and so violated the requirements for contributions and loans from a candidate.¹³

The Commission imposes a penalty for the violations as discussed below.¹⁴

¹¹ AS 15.13.078(a), (b).

¹² Staff could not determine whether there were other untimely reimbursements for office supplies and postage during the 2016 campaign and for office supplies and direct promotionals during the 2018 campaign because Rep. Pruitt’s reports and records were unclear about when the reimbursed expenses were incurred. See staff report at pgs 3-4.

¹³ AS 15.13.078, 2 AAC 50.990(7)(C)(x).

¹⁴ AS 15.13.390(a) (providing for civil penalties of no more than \$50 per day).

III. Representative Pruitt accepted a contribution that was over the limit from one individual in 2016 and did not promptly return it.

The Commission concludes that Rep. Pruitt violated AS 15.13.072(a)(1) and AS 15.13.114(a) by accepting a contribution from an individual that was over the \$500 limit and not exercising his best efforts to discover the excess contribution and immediately return it. An individual may not contribute more than \$500 per year to a candidate.¹⁵ In 2016, Bryan Clemenz gave Rep. Pruitt two contributions nine months apart; the second contribution exceeded the limit by \$250.¹⁶ Rep. Pruitt testified that this was a clerical error and that he overlooked the excess contribution during the campaign.

Rep. Pruitt should have returned the excess amount to Mr. Clemenz “immediately, upon discovery that contribution is prohibited.”¹⁷ As the treasurer for his own campaign, he was required to “use best efforts” to discover and return prohibited contributions within 10 days of receipt.¹⁸ But he testified that he did not know about the excess contribution until Ms. DeLaiarro filed the complaint in October 2020. He returned the contribution to Mr. Clemenz more than 20 days after the complaint was filed—well beyond the rules to return a prohibited contribution “immediately, upon discovery” and

¹⁵ AS 15.13.070(b)(1).

¹⁶ Year Start Report for 2016 for Lance Pruitt (available at <https://aws.state.ak.us/ApocReports/Common/View.aspx?ID=16609&ViewType=CD>); Seven Day Report for 2016 General Election for Lance Pruitt (available at <https://aws.state.ak.us/ApocReports/Common/View.aspx?ID=20006&ViewType=CD>).

¹⁷ AS 15.13.114(a).

¹⁸ 2 AAC 50.266(a).

“no later than 10 days after receipt.”¹⁹ The Commission concludes his actions violated AS 15.13.072(a)(1) and AS 15.13.114(a), and assesses a civil penalty in an amount discussed below.²⁰

Rep. Pruitt also appeared to have accepted a prohibited contribution from Tesoro Alaska Co. in 2018,²¹ but upon further investigation, staff determined that the actual source of the contribution was not a business but rather a group properly registered with the Commission to make campaign expenditures. At the hearing, staff recommended that the Commission find that Rep. Pruitt did not accept and fail to return a prohibited contribution from a business. The Commission agrees with staff and finds that Rep. Pruitt did not violate AS 15.13.072(a)(1) by accepting a prohibited business contribution.²²

IV. Representative Pruitt failed to report his wife’s clients on his legislative financial disclosures in 2019 and 2020—information he could have obtained from her public official financial disclosures.

The Commission concludes Rep. Pruitt violated AS 24.60.200 by failing to disclose his spouse Mary Ann Pruitt’s clients as the sources of her self-employment income on his annual legislative financial disclosures in 2019 and 2020.²³ As a legislator,

¹⁹ AS 15.13.114(a), 2 AAC 50.266(a).

²⁰ AS 15.13.390(a) (providing for civil penalties of no more than \$50 per day).

²¹ AS 15.13.072(a)(1), AS 15.13.074(f).

²² AS 15.13.074(f).

²³ Legislative Financial Disclosure Form for Lance Pruitt for 2018 (March 15, 2019) (available at <https://aws.state.ak.us/ApocReports/Common/View.aspx?ID=17713&ViewType=POFD>); Legislative Financial Disclosure Form for Lance Pruitt for 2019 (March 16, 2020) (available at <https://aws.state.ak.us/ApocReports/Common/View.aspx?ID=20878&ViewType=POFD>).

Rep. Pruitt was required to make annual disclosures that would present an “accurate representation” of his financial affairs, including his spouse’s sources of income over \$1,000.²⁴ For individuals like Ms. Pruitt who are self-employed through a corporation in which they hold a controlling interest, her sources of income include clients who paid more than \$1,000 in a calendar year to her corporation, PS Strategies, Inc.²⁵ Rep. Pruitt was required to make a good-faith effort to obtain the names of these clients and the amounts paid, which may be stated in ranges on the disclosures.²⁶ He did not make such an effort in the circumstances of this case.

Rep. Pruitt’s efforts fell short because he had access to the information—available on Ms. Pruitt’s own financial disclosures—but did not disclose it. He testified that he requested the client list in writing from PS Strategies, explaining why he needed the information in compliance with 2 AAC 50.690, and PS Strategies declined to provide the list. It is true that 2 AAC 50.690 provides that a “good-faith effort” *includes* making such a written request, but a good-faith effort to ascertain a spouse’s sources of income may require more depending on the particular circumstances. Here, the information about PS Strategies’ clients was public because Ms. Pruitt was required to file her own public official financial disclosures due to her position as communications director for the

²⁴ AS 39.50.030(a), (b)(1); *see* AS 24.60.200 (requiring legislators to make most of the disclosures required of public officials in AS 39.50.030), AS 24.60.210(a) (requiring the statements on or before March 15 each year, covering the previous calendar year).

²⁵ AS 39.50.200(a)(10).

²⁶ 2 AAC 50.685(c), 2 AAC 50.690.

governor.²⁷ She provided the client list, along with the ranges of amounts the clients paid, on her 2019 and 2020 statements.²⁸ Rep. Pruitt should have obtained the client list, which was already public, from Ms. Pruitt or her disclosures so that he could include the list and amounts paid on his own filings.

Rep. Pruitt's violation of AS 24.60.200 undermined the transparency the law requires, particularly because some of Ms. Pruitt's clients may have advocated before the legislature. The financial disclosure law is intended to discourage legislators from acting on private or business interests in the discharge of their duties, to assure that legislators do not present a conflict of interest with the public trust, either in fact or appearance, and to foster public confidence in office-holders.²⁹ Rep. Pruitt's incomplete disclosures were detrimental to those aims. The Commission orders Rep. Pruitt to amend his 2019 and 2020 statements to provide the information and imposes a penalty for this violation in an amount discussed below.³⁰

V. The Commission imposes a civil penalty of \$19,716.40, two percent of the total statutory maximum, for all the violations.

The Commission imposes a total civil penalty of \$19,716.40, which is two percent of the statutory maximum, for the widespread campaign and financial reporting violations, unauthorized campaign reimbursements, and receipt of a prohibited campaign

²⁷ AS 39.50.200(a)(9).

²⁸ Staff exhibit 2, pages 31-36.

²⁹ AS 39.50.010.

³⁰ AS 24.60.240 (providing that the civil penalty is "not more than \$10 a day for each day" the report is not "properly completed").

contribution. The Commission adjusts staff's calculations of the maximum penalties for the inaccurate campaign reports, the unauthorized reimbursements, and the prohibited contribution from Mr. Clemenz to correct dates. The complaint was filed October 7, 2020, not October 14, which ended the accrual of the penalties, and Mr. Clemenz made the excess contribution on October 13, 2016, not October 23. Thus, the combined maximum penalty is \$978,250. The maximum penalty for violating the legislative financial disclosure requirements is \$7,570, calculated as follows:

- **For the financial disclosures due in 2019:** 552 days from April 4, 2019, the date Ms. Pruitt included her client list on her amended disclosure statement, to October 7, 2020, the filing date of the complaint, multiplied by \$10 a day equals \$5,520.³¹
- **For the financial disclosures due in 2020:** 205 days from March 16, 2020, the due date of Rep. Pruitt's report³² (Ms. Pruitt's 2019 client list was public as of her final disclosure statement filed in January 2020), to October 7, 2020, the filing date of the complaint, multiplied by \$10 a day equals \$2,050.³³

The total combined maximum penalty is \$985,820. Two percent of that is \$19,716.40.

The Commission decides that the widespread and serious nature of the violations warrant a penalty of this size. Rep. Pruitt's testimony before the Commission was unconvincing and appeared to be self-serving—at best, his reporting and attempted compliance with the law was haphazard, at worst, he engaged in deliberate non-reporting.

³¹ *Id.*

³² AS 24.60.210(a) (providing that the report's due date is March 15); 2 AAC 50.811(d) (providing that filings are due on the next business day if the due date falls on a weekend or state holiday).

³³ AS 24.60.240 (providing that the civil penalty is "not more than \$10 a day for each day" the report is not "properly completed" or late).

The penalty amount must be high enough to ensure that he takes care to accurately file disclosure reports should he again be a candidate, legislator, or public official subject to disclosure requirements. But the Commission reduces the maximum penalty amount by 98 percent to avoid imposing a penalty that is overly excessive.

The Commission does not order Rep. Pruitt to pay staff's investigation costs because he cooperated with the investigation.³⁴

VI. CONCLUSION

The Commission orders Rep. Pruitt to pay a civil penalty of \$19,716.40, for violations of multiple campaign finance and disclosure laws, specifically:

- AS 15.13.040(a), AS 15.13.110(a), and 2 AAC 50.321 by failing to report incurred expenditures as debt and to provide details about media placement and consulting services.
- AS 15.13.078 and 2 AAC 50.990(7)(C)(x) by making untimely reimbursements to himself for campaign expenses.
- AS 15.13.072(a)(1) and AS 15.13.114 by accepting and not promptly returning an excess contribution from an individual.
- AS 24.60.200 by failing to disclose his spouse's clients on his annual legislative financial disclosures in 2019 and 2020.

The Commission orders Rep. Pruitt to amend his 2019 and 2020 legislative financial disclosures to include the clients who paid more than \$1,000 in a calendar year to his spouse's corporation and the range of amounts they paid.³⁵

This is a final Commission order. It may be appealed to the superior court within

³⁴ See 2 AAC 50.891(h).

³⁵ AS 39.50.030(b)(1), 2 AAC 50.685(c).

30 days from the date of this order.³⁶ A request for the Commission to reconsider this order must be filed within 15 days from the date this order is delivered or mailed.³⁷

Dated: June 21, 2021.

BY ORDER OF THE ALASKA PUBLIC OFFICES COMMISSION³⁸

Certificate of Service:

I hereby certify that on this date, I served, by **certified mail** and **email** a true and correct copy of the foregoing in this proceeding on the following:

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Paralegal

6/21/21
Date

³⁶ AS 15.13.380(g), AS 44.62.560, Alaska R. App. P. 602.

³⁷ 2 AAC 50.891(g).

³⁸ Commissioners Anne Helzer, Richard Stillie, Suzanne Hancock, Dan LaSota, and Van Lawrence participated in this decision. The decision was made on a 5-0 vote.