APFC ALASKA PERMANENT FUND CORPORATION
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April 12, 2022

Board of Trustees Respond to LB&A on Investigation

The Board of Trustees of the Alaska Permanent Fund Corporation (APFC) is committed to service to the State of Alaska and Alaskans and maintaining the highest standards in the management and investment of the Alaska Permanent Fund. As fiduciaries, our decisions are, and must be, driven by and consistent with the best interests of the Alaska Permanent Fund, which, in turn, is in the best interests of all current and future generations of Alaskans.

The Board of Trustees recognizes the LB&A Committee wants to know more about the removal of the former Executive Director and the process surrounding this decision. Typically, the process and facts surrounding a decision to terminate an employee are confidential to protect that employee's reputation. In this case, however, the Board's decision has become a matter of substantial interest and the subject of numerous public records requests, news articles, committee hearings, and a formal legislative investigation. Significantly, the former APFC executive director has now waived the Executive Session privilege that previously constrained what the Trustees could say publicly.

The Board of Trustees offered to appear at a public hearing before members of the LB&A Committee to explain their personnel decision, but the Committee has declined to hold such a hearing. Instead, at the Committee's insistence, the Board of Trustees has agreed to voluntarily sit for depositions by LB&A's investigator according to the Alaska Rules of Civil Procedure and reasonable ground rules to be worked out in the near future by the lawyers.

Yesterday, through counsel, the Board provided the LB&A Committee with the attached letter informing them of the Board's decision.

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THE STATE of ALASKA
GOVERNOR MIKE DUNLEAVY

Department of Law
CIVIL DIVISION

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April 11, 2022

Legislative Budget & Audit Committee
Alaska State Capitol, Room 504
Juneau, AK 99801

Sent *via* email

Re: *Legislative Budget and Audit Committee Investigation*
AGO No. 2021200596

Honorable Members of the Legislative Budget & Audit Committee and Legal Counsel:

The Board of Trustees of the Alaska Permanent Fund Corporation ("APFC") is both surprised and disappointed by the decision of the Legislative Budget and Audit Committee ("LB&A" or "Committee") to reject public testimony of the Trustees at a Committee hearing regarding their decision to terminate APFC's former executive director. While the Board is confused by LB&A's reasoning to reject a public hearing given its ability to meet both during and outside regular session, it accepts the Committee's decision.

The Trustees agree to depositions under oath pursuant to the Alaska Rules of Civil Procedure in this matter consistent with the offer made by legal counsel for the Committee in his April 5, 2022 letter[1] and pursuant to LB&A's statutory framework.[2] As such, it is unnecessary at this time for the Committee to serve subpoenas to compel testimony. The Trustees are working with their attorneys from the Department of Law to determine their availability for depositions. I will send you an update on this information by April 20, 2022. We will obviously need to discuss the applicable ground rules for the depositions and your dates of availability prior to scheduling depositions. My office will

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[1] Schwabe Williamson & Wyatt letter dated April 5, 2022 at 2-3 ("…we are willing to have their testimony…be under oath and either recorded, transcribed, or both.")

[2] AS 24.20.201(a)(2) ("The [LB&A] has the power to…have the deposition of witnesses taken in a manner prescribed by court rule or law for taking depositions in civil actions.").

accept your notices of deposition on behalf of the Trustees once we have agreed on those rules and a schedule.[3]

Although the Trustees have agreed to submit to depositions as outlined above, the Board requests that you seriously reconsider involving APFC employees in your investigation. As noted in the Board's March 28, 2022 letter, these employees were not responsible for the Board's personnel decisions related to the former executive director. Subjecting them to questioning in the Committee's investigation on a matter in which they had no responsibility will only serve to harm employee morale, impact APFC's ability to retain its highly qualified staff in the future, and potentially harm the performance of the Permanent Fund as staff are unnecessarily distracted from the very important work they do on behalf of all Alaskans. The Committee should, at the least, table its decision to force employees to testify before investigators until after the Trustees have been deposed. If LB&A still believes compelled testimony of the employees is necessary at that point, we can discuss the matter again. As you know, we also represent the APFC employees. So, if the Committee still insists on employees testifying in this investigation, we request you contact my office prior to serving subpoenas.

The April 5, 2022 letter from the Committee's attorney also mentioned document productions made in response to LB&A requests for records.[4] I will send a separate letter to legal counsel for LB&A to address that issue in the next few days.

Finally, this investigation and the correspondence between the Committee and the Board are a matter of public interest and public record. As you know, APFC is subject to the Alaska Public Records Act. Since the commencement of this investigation APFC has received numerous public records requests from reporters, including requests for correspondence between APFC and LB&A. The expectation should be that the public's interest in this matter will continue to trigger additional public records requests for all of the correspondence between APFC and LB&A going forward.

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[3] The one exception to this is any notice of deposition for Chair Richards, who is represented by separate legal counsel. I would request that the attorneys for LB&A provide a courtesy copy of any notice of deposition for Chair Richards to the Department of Law.

[4] Schwabe Williamson & Wyatt letter dated April 5, 2022 at 3.

Sincerely,

TREG R. TAYLOR
ATTORNEY GENERAL

By:

Benjamin J. Hofmeister
Senior Assistant Attorney General
Public Corporations and Government
Services Section

BJH/RRI
Cc: Board of Trustees