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STATE OF ALASKA
Division of Elections
Office of the Lieutenant Governor

June 21, 2022

Ms. Stacey Stone
Holmes Weddle & Barcott, P.C.
701 West Eighth Avenue, Suite 700
Anchorage, AK 99501-3408

Sent via email: SNichols@hwb-law.com

Dear Ms. Stone:

Earlier today, you asked whether the fifth-place candidate will advance to the August 16 special general election due to today's withdrawal of the candidate currently in third place. Because this withdrawal occurred less than 64 days before the election, Alaska law does not permit the fifth-place candidate to advance. AS 15.25.100(c) provides:

[I]f a candidate nominated at the primary election . . . withdraws . . . after the primary election and 64 or more days before the general election, the vacancy shall be filled by the director by replacing the withdrawn candidate with the candidate who received the fifth most votes in the primary election.¹

Although the election is not yet certified, Dr. Al Gross is currently in third place in the unofficial special primary results, so he would likely advance to the special general election. Dr. Gross, however, withdrew his candidacy from the special general and regular primary elections today. The special general election is 56 days away. Because there are fewer than 64 days before the election, the statute does not allow the Division of Elections to place the fifth-place candidate on the ballot.

The Division will, however, remove Dr. Gross' name from the special general ballot. The Division set the administrative deadline of noon on Sunday, June 26 to give candidates a chance to remove their names from the ballot after the Division certifies the election but before it begins printing ballots. The Division expects to certify the election on or before Saturday, June 25 and it must finalize the ballot on Tuesday, June 28.

Any party that disagrees with these decisions should file suit immediately. The Division requires a final determination from the courts by noon on Tuesday, June 28 in order to print ballots in time to meet state and federal deadlines and keep the special general election on schedule to be combined with the regular August 16 primary.

Sincerely,

A handwritten signature in blue ink that reads "Gail Fenumiai".

Gail Fenumiai, Director

¹ See also AS 15.40.220 (providing that "all provisions regarding the conduct of the . . . general election shall govern the conduct of the . . . special election of United States representative," unless specifically provided otherwise).