

**COMPLAINT TO**

Lawrence M. Norton, Esq.  
General Counsel  
Federal Election Commission  
999 E Street, N.W.  
Washington, DC 20463

**5534**  
**MAIL #**

**COMPLAINANT**

Bridget Gallagher  
Alaska Democratic Party  
P O Box 231230  
Anchorage, AK 99523-1230

**RESPONDENTS**

Business Alaska  
# 100-817  
Anchorage, AK 99501  
(907) 743-0806,

Tom McGrath,  
Treasurer  
Business Alaska  
# 100-817  
Anchorage, AK 99501, and

Jack Frost  
Jack Frost and Friends  
700 W 41<sup>st</sup> Avenue  
Anchorage, AK 99503

RECEIVED  
FEDERAL ELECTION  
COMMISSION  
OFFICE OF GENERAL  
COUNSEL  
2004 SEP 17 P 1:16

**COMPLAINT**

Complainant brings this complaint against Business Alaska, Tom McGrath, treasurer, and Jack Frost, who both aided Business Alaska's political advertising and whose voice is used in a Business Alaska advertisement (collectively, "Respondents") The facts indicate that Respondents conspired to air electioneering communications, to fail to file with the Federal Election Commission, and to fail to abide by the "Stand By Your Ad" disclaimer requirements

## **I. FACTS**

On August 31, 2004, Business Alaska began to air television advertisements in Anchorage, Alaska. These advertisements began on only one station but quickly spread to others. The advertising buy extends through at least September 3, and cost at least \$6,658 (See Attachment A). The advertising buys were made through Jack Frost & Friends, an advertising agency.

The advertisements explicitly mention Governor Tony Knowles, the Democratic nominee for the United States Senate from Alaska. They criticize Governor Knowles for his participation in the Pew's Ocean Commission. The voice in the ad is that of Jack Frost, by Jack Frost & Friends. At the end of the ad, a written statement and a voice-over state that the ad is paid for by "Business Alaska," at the above address. (See Attachment B, a copy of the advertisement in question.)

There is also evidence that Business Alaska is expanding its activities. It has purchased a series of newspaper advertisements in the Anchorage Daily News, also targeting Governor Knowles. (See Attachment C.)

Business Alaska is not registered with the Internal Revenue Service as an entity organized under section 527 of the Internal Revenue Code. It has also not registered as a committee with either the Federal Election Commission or the Alaska Public Offices Commission. It is the understanding of the Complainant that Business Alaska has not filed, nor does it intend to file, with the Commission an electioneering communication report.

## **II. LEGAL ARGUMENT**

Business Alaska has failed to file with the Commission as a political committee or an organization making electioneering communications. The advertisements are also in violation of the disclaimer requirements of 2 U.S.C. § 441d(d)(2) (2004) and 11 C.F.R. § 110.11(c)(3)(4) (2004).

#### **A. The Advertisements Are Electioneering Communications**

An electioneering communication is defined as a "broadcast, cable, or satellite communication" that "refers to a clearly identified candidate for federal office," is made within "60 days before a general election" and that "is targeted to the relevant electorate " 2 U S C § 434(f)(3)(A)(i) The Commission's regulations further refine this definition, most importantly, the term "targeted to the relevant electorate" is defined as meaning that "the communication can be received by 50,000 or more persons" in the state the candidate seeks to represent, if a candidate is running for the United States Senate 11 C F R § 100 29(b)(5)

It is unquestionable that the attached advertisement by Business Alaska meets the definition of an electioneering communication. It clearly refers to Governor Knowles, both verbally and in writing, it airs on multiple Anchorage broadcast networks, enabling it to be seen by at least 50,000 persons, and it has aired 60 days before the November 2nd general election.

#### **B. Business Alaska Has Failed to File with the Commission**

Persons who make electioneering communications in excess of \$10,000 must report to the Commission within 24 hours. 2 U S C § 434(f)(1) The report must include the identification of the person making the disbursement, the principal place of business, the amount of each disbursement, the elections to which the communications pertain, and the names and addresses of contributors who contributed an aggregate amount of \$1,000 or more. *Id.* § 434(f)(2)

Business Alaska has purchased at least \$6,658 of television advertising time. It has also likely purchased additional time that the Complainant has not yet discovered, either on television or radio. Business Alaska also must have spent thousands of dollars to produce the television advertisement, these costs must be included when calculating the \$10,000 threshold. *See id.* § 434(f)(1) If Business Alaska does not file an electioneering report with

the Commission by 11 59 p m on Saturday, September 4, it will be in violation of federal election law See 11 C F R § 104 20(b)

**C. The Advertisements Do Not Have the Required Disclaimer**

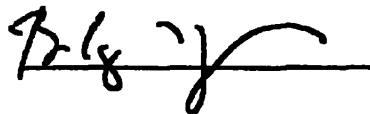
2 U S C § 441d(d)(2) requires that television electioneering communications include both "the following audio statement ' \_\_\_\_\_ is responsible for the content of this advertising,'" and a corresponding written statement that appears for at least 4 seconds The Commission's regulations repeat this requirement See 11 C F R § 100 11(c)(3)(4)

The attached television advertisement clearly fails this requirement While there is a "paid for by" statement that is both written and aural, the advertisement does not include either a written or audio statement conforming to the above requirements This constitutes a clear violation of federal election law

**III. REQUESTED ACTION**

As we have shown, the respondents have violated the Federal Election Campaign Act Accordingly, we request that they be enjoined from further violations, be required to repay their illegal contributions and be fined the maximum amount permitted by law

Sincerely,



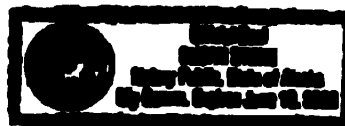
State of Alaska

SUBSCRIBED AND SWORN to before me this 15 day of September, 2004

  
\_\_\_\_\_  
Notary Public

My Commission Expires

10 June 2008



29044251591