

February 23, 2011

Testimony of Theresa Nangle Obermeyer, Ph.D.

APOC Public Hearing "Public Official Financial Disclosure"

Alaska Department of Administration Conference Room Atwood Bldg., 550 West 7th
Avenue 19th Floor, Anchorage, Alaska

My testimony regards Alaska Permanent Fund Board (APFB) primarily as well as Alaska Judges/Justices and the lack of oversight of both bodies. Please review "Public Official Financial Disclosure AS 39.50.090 "Prohibited acts. (a) A public official may not use the official position or office for the primary purpose of obtaining personal financial gain . . ." APFB is doing exactly what is prohibited in the statute. I preface my comments by stating that I am not an expert on all of the APOC Regulations. Our committee <http://www.apfboardconfirmation.org> started posting "Individual Investment Transactions" of APFB in 2001 and began posting the yearly "APOC Financial Disclosure Statements" of APFB in 2006. We continue to post the documents at our expense. To date, we have had 13,251 hits at our website.

I have asked APOC since the "Landmark Ethics Legislation" in 2007 http://www.legis.state.ak.us/basis/get_bill.asp?bill=HB%20109&session=25 Page 28 which states: "AS 24.60.210 is amended by adding a new subsection to read: (c.) The Alaska Public Offices Commission shall require that the reports required under this section be submitted electronically. . ." This has been interpreted to mean that all financial disclosure statements be posted at <http://doa.alaska.gov/apoc/> but only the Alaska Legislators' "APOC Financial Disclosure Statements" are online at APOC's website to date per 2 AAC 50.801. You might recall that last year the public was led to believe that finally these documents would be posted on your website but at the 11th hour at your February, 2010 Meeting in Juneau an Assistant Attorney General testified that this should not be done with the excuse that it would protect the APFB and Alaska Judges/Justices. You went along and voted to wait to post the documents. APFB and Judges/Justices have had another year to prepare for the posting of this information or four years later. I respectfully request that you vote to make certain this is done after the submissions next month, March 15, 2011.

Please let me know that in the "Proposed Changes in Regulations of Alaska Public Offices Commission" specifically refer to the requirement that both APFB and the Judges/Justices "APOC Financial Disclosure Statements" must be put online at <http://doa.alaska.gov/apoc/> because I have not found it.

Other related issues:

1. Please review "Executive Branch Employees that Earned Greater than \$100,000 in _____ CY _____ 2009" <http://doa.alaska.gov/dop/fileadmin/socc/pdf/ExecutiveEarnedGreaterThan100000CY09.pdf> where you will observe that the highest paid employee in Alaska State Government at \$325,000 was Mr. Jeffery Scott, Chief Investment Officer, Alaska

Permanent Fund, who according to his “APOC Financial Disclosure Statement” in 2009 <http://www.apfboardconfirmation.org/pdfs/scottapoc09.pdf> and in 2010 <http://www.apfboardconfirmation.org/pdfs/scottapoc10.pdf> was not a homeowner in Alaska, and he, his wife, and two children did not receive PFDs last year or in 2008. I believe Mr. Scott’s salary is another game of Mr. Burns to take the focus off the Executive Director and to confuse us about Personnel procedures. Salaries are supposed to be based on job descriptions and levels of responsibility.

2. Alaska Permanent Fund Board Confirmation Committee started posting “APOC Financial Disclosure Statements” of Alaska Permanent Fund employees in 2009 and both “APOC Financial Disclosure Statements” and “Individual Investment Transaction Disclosures (IITDs)” in 2010 <http://www.apfboardconfirmation.org/apfemployees.html> . Please review A.S. 39.50.200 as regards “. . . (8) (J) the members of the board of trustees, the executive director, and the investment officers of the Alaska Permanent Fund Corporation. . .” (Emphasis added.) Of the 33 APFC employees only 17 submitted "2010 APOC Financial Disclosure Statements.” Why were some employees required to submit Financial Disclosure Statements and others not? On what basis are APFC employees paid? APOC should spell out exactly which employees of Alaska Permanent Fund should submit “APOC Financial Disclosure Statements.” I believe all 33 employees should.

3. “2 AAC 50.690 Good Faith effort to obtain information.” “Good faith” is defined in “Black’s Law Dictionary” as “. . . an intangible and abstract quality with no technical meaning or statutory definition, and it encompasses, among other things, an honest belief, the absence of malice and the absence of design to defraud or to seek an unconscionable advantage. . .” I have found only bad faith on the part of Mr. Michael Burns <http://www.apfboardconfirmation.org/mburns.html> and Mr. Steve Frank <http://www.apfboardconfirmation.org/sfrank.html> specifically per their lack of submissions to our Committee of their monthly “Individual Investment Transaction Disclosures (IITDs).” Mr. Burns, Executive Director, has not released an “Individual Investment Transaction Disclosures” since March 3, 2009 but when one reviews his “2010 APOC Financial Disclosure Statement” <http://www.apfboardconfirmation.org/pdfs/burnsapoc2010fds.pdf> “Schedule B Business Interest,” Mr. Burns lists 11 pages of stock investments. Therefore, we allege that Mr. Burns has deliberately not followed A.S. 37.13.110 (b) “If a member of the board or an employee of the corporation acquires, owns, or controls an interest, direct or indirect, in an entity or project in which fund assets are invested, the member shall immediately disclose the interest to the board. The disclosure is a matter of public record and shall be included in the minutes of the next board meeting following the disclosure.” Each “IITD” form refers to A.S. 37.13.110 (b) at the top on the right hand side. Mr. Burns filled these form out from 10/28/04 until 3/3/09 so he followed the law for five years and then stopped submitting them. It is his responsibility to collect these forms from the Board members and his staff. I brought this matter to Ms. Karen Loeffler, U.S. Attorney, in June, 2010 without response.

These are just a few examples of issues about the lack of accountability of APFB. Ethics complaints are supposed to be investigated as a result of “Ethics Legislation 2007.” Please review “2007 Request for Alaska Investigation” <http://www.apfboardconfirmation.org/pdfs/investigationrequest.pdf> After a complaint was filed with Select Committee on Legislative Ethics of Alaska, we were referred to the State of Alaska Attorney General’s Office of Opinions, Appeals, and Ethics. A formal complaint was filed “Alleging a Violation of the Alaska Legislative Ethics Law A.S. 24.60” on September 22, 2007. Ms. Julia Bockmon, Assistant Alaska Attorneys General, threatened sanctions if the “Ethics Complaint” was released per her letter of October 1, 2007 Pages 2 and 3 of 8 <http://www.apfboardconfirmation.org/pdfs/investigationrequest.pdf> . The last sentence on Page 3 refers to “may be subject to penalties.”

Additionally, there was an effort to get grant funding from Ms. Barbara Jones, Chair, Law Related Education (LRE) Committee of Alaska Bar Association in 2007 but the application was rejected. Since then, LRE Alaska Bar Association applications have not available to us. We also wrote a grant proposal in 2007 to Alaska Community Foundation for funding which was rejected. In the past, we have written proposals to Alaska Humanities Forum without success. We have let Foraker Group know about this website. There have been a few advertisements in the Alaska Bar Association Bar Rag, UAA Northern Light, and ongoing advertisements in the Catholic Anchor since September, 2007.

Lastly, I believe I have been targeted relentlessly because I have tried to bring accountability to APFB and Alaska Judges/Justice after the outrageous way I was treated as a result of ascending to Anchorage School Board 1990-1994. APFB and Alaska Judges/Justices will not regulate themselves. What we are allowing to happen in Alaska is that a handful of very wealthy people are “the super class” especially bankers whose banks are not under American banking laws. They are feeding off Permanent Fund money. Many of them are listed at the website of “Make Alaska Competitive Coalition” <http://www.makealaskacompetitive.com/members/>. I believe the way to bring the light of day on their activities is for Alaska Legislature to confirm APFB.

Please make sure that some level of accountability is brought to both Alaska Permanent Fund Board and Alaska Judges/Justices by at a minimum posting their yearly “APOC Financial Disclosure Statements” beginning with their March 15, 2011 submissions.

Thank you for hearing me today.