

anc.law.ecf@alaska.gov

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA
THIRD JUDICIAL DISTRICT AT ANCHORAGE

RANDALL KOWALKE,)
)
 Plaintiff,)
)
 v.)
)
 DAVID EASTMAN, STATE OF)
 ALASKA, DIVISION OF)
 ELECTIONS, and GAIL FENUMIAI)
 in her official capacity as Director of)
 Elections,)
)
 Defendants.)

Case No. 3AN-22-07404 CI

ANSWER
of defendants STATE OF ALASKA DIVISION OF ELECTIONS and
GAIL FENUMIAI in her official capacity as director of elections

1. The first sentence is denied for lack of knowledge or information sufficient to admit or deny. The second sentence is admitted.
2. The first sentence is denied on the grounds that the quotation erroneously omits the words “of the government.” The second sentence is denied for lack of knowledge or information sufficient to admit or deny.
3. Denied.
4. The first sentence is admitted on information and belief. The second sentence is denied for lack of knowledge or information sufficient to admit or deny.
5. Admitted.
6. Admitted.

7. Admitted.
8. Admitted based on information and belief.
9. Denied on the grounds that the quotation erroneously omits the words “of the government.”
10. Admitted.
11. Admitted.
12. Admitted.
13. Denied for lack of knowledge or information sufficient to admit or deny.
14. Denied for lack of knowledge or information sufficient to admit or deny.
15. Denied for lack of knowledge or information sufficient to admit or deny.
16. Denied for lack of knowledge or information sufficient to admit or deny.
17. Denied for lack of knowledge or information sufficient to admit or deny.
18. Denied for lack of knowledge or information sufficient to admit or deny.
19. Denied for lack of knowledge or information sufficient to admit or deny.
20. Denied for lack of knowledge or information sufficient to admit or deny.
21. Denied for lack of knowledge or information sufficient to admit or deny.
22. Denied for lack of knowledge or information sufficient to admit or deny.
23. Admitted based on information and belief.
24. Denied for lack of knowledge or information sufficient to admit or deny.
25. Admitted.
26. Admitted that the letter attached to this Answer as Exhibit A is a true and correct copy of a letter received by the Division from the plaintiff dated

June 20, 2022. That letter speaks for itself. All averments in Paragraph 26 inconsistent with that letter are denied.

27. Admitted that the letter attached to the Complaint as Exhibit 1 is a true and correct copy a letter sent by the Division to the plaintiff dated June 20, 2022. That letter speaks for itself. All averments in Paragraph 27 inconsistent with that letter are denied.
28. Denied for lack of knowledge or information sufficient to admit or deny.
29. The foregoing paragraphs of this Answer are incorporated herein as though fully set forth.
30. Denied for lack of knowledge or information sufficient to admit or deny.
31. Denied for lack of knowledge or information sufficient to admit or deny.
32. Denied for lack of knowledge or information sufficient to admit or deny.
33. Denied for lack of knowledge or information sufficient to admit or deny.
1. The foregoing paragraphs of this Answer are incorporated herein as though fully set forth.
2. Denied. AS 24.05.060 does not give any direction or duty to the Division of Elections or its director, and therefore they cannot “follow” it. Further, denied that the Division of Elections and its Director have the authority to determine whether a candidate is disqualified from office under AS 24.05.060.
3. Admitted.

4. Denied. AS 24.05.060 does not give any direction or duty to the Division of Elections or its Director, and therefore they cannot “violate” it. Further, the characterization of Exhibit 1 in this paragraph is denied.
5. Denied.
6. Denied.
7. Denied.

GENERAL DENIAL

Any averment in the complaint not specifically admitted in this Answer is denied.

AFFIRMATIVE DEFENSES

1. The Court lacks jurisdiction over the plaintiff’s claims against the Division: the plaintiff’s claims are in essence an administrative appeal under AS 22.10.020(d) and jurisdiction is not proper under AS 22.10.020(c) or (g).
2. The complaint fails to state a claim against the Division on which relief can be granted.
3. Laches bars the plaintiff’s claim against the Division.
4. Division reserves the right to assert additional affirmative defenses that may be identified as the case proceeds.

PRAYER FOR RELIEF

The State of Alaska Division of Elections and its Director Gail Fenumiai pray this Court to dismiss the plaintiff’s claims against them, that the plaintiff obtain no relief against them and take nothing from them. The State of Alaska Division of Elections

further prays for an award of attorney's fees against the Plaintiff to the extent that the plaintiff's claims do not arise under the Alaska Constitution.

DATED September 22, 2022.

TREG R. TAYLOR
ATTORNEY GENERAL

By: /s/ Lael Harrison
Lael Harrison
Alaska Bar No. 0811093
Thomas S. Flynn
Alaska Bar No. 1910085
Assistant Attorneys General

June 10, 2022

From: Randall Kowalke
PO Box 516, 14137 E Wilderness Rim Road
Willow, Alaska 99688

To: Gail Fenumiai
Director of Elections
Alaska Division of Elections

Sent by email: elections@alaska.gov
gail.fenumiai@alaska.gov

Dear Ms. Fenumiai,

David Eastman, a candidate for House District 27, is ineligible for public office per the Alaska and U.S. Constitutions.

Article XII, Section 4 of the Alaska Constitution states: "No person...who aids or belongs to any party or organization or association which advocates, the overthrow by force or violence of the government of the United States or of the State shall be qualified to hold any public office of trust or profit under this constitution." Eastman is a member of Oath Keepers, an organization which advocates the overthrow by force or violence of the government of the United States.

Amendment XIV, Section 3 of the U.S. Constitution states: "No person shall. . . hold any office, civil or military, under the United States, **or under any State**, who, having previously taken an oath, as a member of Congress, or as an officer of the United States, **or as a member of any State legislature**...to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof." Eastman has given aid and comfort to participants in the January 6th insurrection against the government of the United States.

Respectfully,



Randall Kowalke
(907)315-0805