

ALASKA STATE LEGISLATURE

LEGISLATIVE BUDGET AND AUDIT COMMITTEE

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January 4, 1999

Members of the Legislative Budget
and Audit Committee:

In accordance with the provisions of Title 24 of the Alaska Statutes, the attached report is submitted for your review.

DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT
DIVISION OF BANKING, SECURITIES AND CORPORATIONS
ALASKA NATIVE CORPORATION ISSUES RELATING
TO PROXY SOLICITATIONS

January 4, 1999

Audit Control Number

08-4572-99

This report documents our review of the Department of Commerce and Economic Development, Division of Banking, Securities and Corporations' (BSC) proxy filings and solicitation responsibilities as they relate to Alaska's Native corporations. Our audit included a review of BSC's oversight practices assigned that division as a result of the passage of the Alaska Native Claims Settlement Act (ANCSA). Our review addressed other professional studies performed on ANCSA corporate practices and identified significant issues and weaknesses noted in BSC's administrative practices.

The audit was conducted in accordance with generally accepted government auditing standards. Fieldwork procedures utilized in the course of developing the findings and discussion presented in this report are discussed in the Objectives, Scope, and Methodology section.

A handwritten signature in cursive script that reads "Pat Davidson".

Pat Davidson, CPA
Legislative Auditor

Compliments of Landye Bennett Blumstein

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OBJECTIVES, SCOPE, AND METHODOLOGY

Objectives

In accordance with Title 24 of the Alaska Statutes and a special request by the Legislative Budget and Audit Committee, we conducted a review of the Alaska Native corporation proxy filing process administered by the Department of Commerce and Economic Development (DCED), Division of Banking, Securities and Corporations (BSC). Specifically we reviewed the administrative practices employed by BSC in regulating Native corporation proxy filings under the Alaska Securities Act of 1959 (AS 45.55). Also we reviewed selected Native corporation disclosure requirements as provided in the Alaska Corporations Code (AS 10.06). We reviewed the division's policies, procedures and management information systems implemented for administering the Native corporation proxy filing and disclosure requirements. We also reviewed BSC's Native corporation proxy filing complaints process.

Scope and Methodology

The primary focus of our review was the policies and procedures used by the division in administering the Native corporation proxy filing, complaint and disclosure statutes and regulations. A complete review was not practicable due to the limited management information system maintained by BSC; therefore the analysis of the proxy filings and complaints on the proxy filings was limited to 1996 and later years.

During the course of our examination, we interviewed various state employees within DCED and Legislative Affairs Agency - Legislative Research section. We also held discussions with representatives from the Native regional corporations, Native village corporations, Securities and Exchange Commission (SEC), United States Department of the Interior, Bureau of Indian Affairs and with individual Native shareholders and university professors. Specifically, we held discussions with the following:

1. Michael Jung, Alaska Department of Revenue.
2. Dr. Edward Rice, University of Washington.
3. Steve Colt, Ph.D. Institute for Social and Economic Research, University of Alaska Anchorage.
4. Francis Dunne, U.S. Department of the Interior, Bureau of Indian Affairs.
5. William Morley, Securities and Exchange Commission.
6. Laura Badien, Securities and Exchange Commission.
7. Vicki Otte, Alaska Native Justice Center, Incorporated.
8. John Havelock, Native shareholder attorney.

We also held discussions with corporate officers and or legal counsels for the following Native corporations:

1. Calista Corporation.
2. Chugach Alaska Corporation.
3. Cook Inlet Region Corporation.
4. Doyon Incorporated.
5. Goldbelt, Incorporated.
6. Kake Tribal Corporation.
7. Koniag Incorporated.
8. Kootznoowo, Incorporated.
9. Sealaska Corporation.

In addition, we reviewed and evaluated the following:

1. Applicable sections of state statutes and regulations.
2. Reports from BSC's proxy filings and complaint databases.
3. Regulations of the Securities and Exchange Commission.
4. Native regional corporations: "*Financial Performance and Officer and Board Member Compensation*" – study by Legislative Research section.
5. Various pronouncements of the American Institute of Certified Public Accountants, including -- Opinions of the Accounting Principles Board Number 29.
6. Regional Native corporation proxy filings, including annual reports, newsletters and "Annual Meeting Notice and Proxy Statements."
7. Cook Inlet Regional Corporation (CIRI) – Direction for the Future – videos and pamphlets.
8. CIRI - Board of Directors Position Statements.
9. Various newspaper articles from the Juneau Empire, Southeast Empire and Anchorage Daily News.
10. Public Law 92-203, Alaska Native Claims Settlement Act (ANCSA) and amendments.
11. "Financial Performance of Native Regional Corporations" by Steve Colt, published in the Alaska Review of Social and Economic Conditions, December 1991.
12. "Two Views of the "New Harpoon": Economic Perspectives on Alaska's Native Regional Corporations" by Steve Colt, October 1997.
13. "Strategies for ANCSA Regional Corporations with Attention to Sealaska" by Steve Colt, April 1997.
14. "Alaska Native Corporations" by Jonathan M. Karpoff and Edward M. Rice published in Contemporary Policy Issues, July 1992.
15. "Organizational Form, Share Transferability, and Firm Performance" by Jonathan M. Karpoff and Edward M. Rice published in the Journal of Financial Economics, 1989.
16. "State Regulation of Proxies in Alaska Native Corporations" by Douglas S. Waggaman published in the UCLA-Alaska Law Review, 1982.
17. "Square Pegs in Round Holes: Alaska Native Claims Settlement Corporations under Corporate Law" by Douglas M. Branson, 1979.