

CHUGACH ELECTRIC ASSOCIATION, INC.
Anchorage, Alaska

BOARD MEETING
AGENDA ITEM SUMMARY

April 18, 2007

ACTION REQUIRED

AGENDA ITEM NO. XIV.A.

Information Only
 Motion
 Resolution
 Executive Session
 Other

TOPIC

Demand for defense and indemnification by Ray Kreig, Stephen Routh and Chugach Consumers in Chugach Electric Association, Inc. v. Ray Kreig, Stephen Routh and Chugach Consumers, Case No. 3AN-06-13743 CI

DISCUSSION

On March 8, 2007, Kenneth P. Jacobus, attorney for Ray Kreig, Stephen Routh and Chugach Consumers in the referenced lawsuit, wrote to Chugach's outside counsel in the above matter, Robert K. Stewart Jr., tendering defense of Mr. Kreig, Mr. Routh and Chugach Consumers to Chugach and all applicable Chugach liability insurance carriers. A copy of Mr. Jacobus' letter is attached. While there is no explicit reference in Mr. Jacobus' letter to Article XVI of Chugach's Bylaws, the tender to Chugach in addition to its insurance carriers arguably states a demand for defense and indemnity under Chugach's Bylaws.

Mr. Kreig was a member of Chugach's Board of Directors from May of 1994 through April of 2000 and from July 2005 through April 2006. Mr. Routh was a member of the Chugach Bylaws Committee, as provided in Article XIII, Section 2 of Chugach's Bylaws, from 1993 through 1994. Chugach Consumers has no relationship with Chugach.

A copy of the Complaint for Declaratory and Injunctive Relief and Damages ("Complaint") filed by Chugach in the referenced lawsuit is attached. Contrary to Mr. Jacobus' assertion, none of the causes of actions alleged in the Complaint are based upon acts or omissions by Mr. Kreig or Mr. Routh occurring during periods in which they served on the Board of Directors or the Bylaws Committee, respectively.

Chugach has forwarded Mr. Jacobus' letter to its insurance brokers for further transmittal to the carriers for all potentially applicable insurance carriers.

LAW OFFICES OF
KENNETH P. JACOBUS
A PROFESSIONAL CORPORATION
310 K Street, Suite 200
ANCHORAGE AK 99501-2064
TELEPHONE (907) 277-3333
FAX (907) 264-6666

HAND DELIVERY

March 8, 2007

Robert K. Stewart, Jr.
Davis Wright Tremaine LLP
701 West 8th Avenue, Suite 800
Anchorage AK 99501

DAVIS WRIGHT TREMAINE

Date: 3-8-07

Time: 10:10

Logged By PG

Re: Chugach Electric Assn./Kreig
Case No. 3AN-06-13743 CI
File No. 248-06
Tender of Defense and Request for Indemnity

Dear Mr. Stewart,

I am writing this letter to you as the attorney for Chugach Electric Association in this case, and request that you pass this letter on to the appropriate person or persons within Chugach Electric Association or its insurance carriers.

This lawsuit against Ray Kreig seeks damages and an injunction against him for allegedly wrongful acts performed as a member of the Board of Directors of Chugach Electric Assn. and actions taken subsequently which arose out of his activities as a Board member. Accordingly, it would appear that this case against him would fall within the coverage of the Directors and Officers Liability Insurance Policy of Chugach Electric Assn.

Accordingly, we hereby tender the defense of Ray Kreig, Chugach Consumers and Steve Routh to Chugach Electric Assn., its D&O insurance carrier, and to whatever other liability insurance carrier of Chugach Electric Assn. that might provide coverage for this litigation. We hereby request that Chugach Electric Assn. and its insurance carriers assume the defense or cost of defense, and indemnify these defendants against any judgment that might be entered against them.

Thank you very much for your prompt attention to this matter.

Very truly yours,

KENNETH P. JACOBUS, P.C.

By


Kenneth P. Jacobus

KPJ:me

1 Robert K. Stewart, Jr.
2 Karmyn A. Olmstead
3 Davis Wright Tremaine LLP
4 701 W. 8th Avenue, Suite 800
5 Anchorage, Alaska 99501
6 (907) 257-5300, telephone
7 (907) 257-5399, facsimile

8 Attorneys for Plaintiff
9 Chugach Electric Association, Inc.

10 IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

11 THIRD JUDICIAL DISTRICT AT ANCHORAGE

12 CHUGACH ELECTRIC)
13 ASSOCIATION, INC.,)

14 Plaintiff,)

15 vs.)

16 RAY KREIG, STEPHEN ROUTH)
17 and CHUGACH CONSUMERS,)

18 Defendants.)

19 _____) Case No. 3AN-06-_____ Civil

20 COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF
21 AND DAMAGES

22 COMES NOW Plaintiff Chugach Electric Association, Inc., by and through its
23 attorneys, Davis Wright Tremaine LLP, and for its complaint against defendants Ray
24 Kreig, Stephen Routh and Chugach Consumers, alleges as follows:

25 1. Plaintiff Chugach Electric Association, Inc. ("Chugach") is an electric
cooperative corporation organized under the laws of the state of Alaska, with its principal
place of business in Anchorage, Alaska.

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2. On information and belief, Chugach Consumers is an unincorporated association operating in Alaska whose chairman is Stephen Routh (“Routh”) and whose vice chairman is Ray Kreig (“Kreig”). Kreig and Routh are Alaska residents.

3. Kreig was a member of Chugach’s Board of Directors from May of 1994 through April of 2000 and from July of 2005 through April 2006.

4. From time to time during the periods described in Paragraph 3, Kreig was given access to, and in some cases copies of, highly confidential and privileged documents regarding Chugach (“Confidential Chugach Documents”) solely for the purpose of discharging his duties as a member of Chugach’s Board of Directors.

5. In particular, in his capacity as a member of the Chugach Board of Directors, Kreig was provided with copies of the following Confidential Chugach Documents:

a. On January 18, 2006, Kreig was present at an executive session board meeting at which Chugach’s attorneys presented information and strategies for use in upcoming labor negotiations with the International Brotherhood of Electrical Workers, Local Union 1547 (“IBEW”). At that executive session, Kreig received a numbered binder containing a hard copy of the information presented in executive session (called the “Black Book”). The Black Book contains privileged attorney-client communications and proprietary information owned by Chugach.

b. On April 16, 2006, Kreig distributed a memo to Chugach’s Board of Directors discussing proposed alternatives for negotiating with the IBEW (the “April

1 2006 Memo”), which included a summary of the findings contained in, and excerpts
2 from, the Black Book. The April 2006 Memo constitutes a privileged attorney-client
3 communication and consists of proprietary information owned by Chugach.

4 c. In 1996, Kreig received a copy of a study prepared for Chugach by
5 UMS Group, Inc. (“UMS”) (the “UMS Study”). The UMS Study was created pursuant to
6 a contract between UMS and Chugach that required Chugach to treat all project
7 information as confidential and not to be distributed beyond Chugach’s managers and
8 employees without prior written permission from UMS. Kreig is aware of that
9 requirement and has been so advised on numerous occasions. Kreig is also aware that
10 UMS has refused to consent to the distribution of the UMS Study. A true and correct
11 copy of the contract between Chugach and UMS is attached hereto as Exhibit A and
12 incorporated herein.
13

14 6. Chugach Board Policy 128, Confidentiality, provides that attorney-client
15 communications, information that Chugach is contractually required to keep confidential,
16 statutory and common law trade secrets and information discussed or disclosed in
17 executive session are among the types of information required to be kept confidential by
18 Chugach board members. Pursuant to the policy, only the full Board of Directors, acting
19 in its official capacity, and the CEO have the authority to waive the confidentiality of or
20 to authorize the release of confidential information and documents. True and correct
21 copies of Chugach Board Policy 128 as it existed at the time Kreig ceased to serve on
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1 Chugach's Board of Directors and as it currently exists are attached hereto as Exhibits B
2 and C, respectively, and incorporated herein.

3 7. Following Kreig's departure from Chugach's Board of Directors,
4 Chugach's board chairman sent two letters to Kreig demanding that he return all
5 Confidential Chugach Documents in his possession and delete those maintained in his
6 possession or under his control in an electronic format. When Kreig did not respond to
7 those letters, Chugach's general counsel called to inquire whether Kreig planned to
8 comply with those requests. Kreig refused to agree to comply with Chugach's written
9 demands.

10 8. Despite Chugach's repeated demands, Kreig has refused to return copies of,
11 or delete any electronic versions of, the Confidential Chugach Documents in his
12 possession, including, but not limited to, the Black Book, the April 16 Memo and the
13 UMS Study.

14 9. Kreig's refusal to return the Confidential Chugach Documents constitutes
15 an ongoing breach of his duties of good faith and loyalty owed to Chugach.

16 10. On December 6, 2006, Kreig and Chugach Consumers filed copies of the
17 Black Book, the April 16 Memo, the UMS Study and other Confidential Chugach
18 Documents with the Regulatory Commission of Alaska ("RCA") and in the Superior
19 Court for the State of Alaska.

20 11. Kreig had no authority to disclose those Confidential Chugach Documents
21 to any third persons, including the RCA, the Superior Court, his attorney, Kenneth P.
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1 Jacobus, or Chugach Consumers without the express consent of Chugach and such
2 actions constitute a breach of his continuing duties of good faith and loyalty as a former
3 Chugach director.

4 12. On information and belief, Kreig has unlawfully disclosed Confidential
5 Chugach Documents on other occasions to Routh, LeaAnn Gearhart, members of
6 Chugach Consumers and other third persons.

7 For the foregoing reasons, Chugach respectfully requests that the Court grant the
8 following declaratory and injunctive relief:

9 1. A declaration that all Confidential Chugach Documents in the possession of
10 Kreig, Routh, Chugach Consumers and any other third persons, in whatever form or media,
11 are the property of Chugach;

12 2. An order that defendants cease and desist from in any manner releasing,
13 distributing, or disclosing any Confidential Chugach Documents without the express
14 authorization to do so by Chugach's Board of Directors, acting as such;

15 3. An order that defendants immediately return to Chugach all Confidential
16 Chugach Documents obtained during Kreig's tenure as a Chugach director or otherwise,
17 through any means and in whatever form or media, including all copies, excerpts and
18 summaries of same, to Chugach;

19 4. An order that defendants identify in writing all individuals or entities to
20 whom defendants have provided copies, excerpts or summaries of any Confidential
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1 Chugach Documents in their possession now or at any time, and to whom defendants
2 have disclosed any information contained in the same;

3 5. A declaration that Kreig has breached the duty of good faith and loyalty he
4 owes to Chugach;

5 6. An order that Kreig comply with all aspects of Chugach Board Policy 128;

6 7. An order awarding Chugach all damages it has sustained by reason of
7 defendants' wrongful actions;

8 8. An order awarding Chugach its actual costs and attorneys' fees incurred
9 herein; and

10 9. Such other and further relief as the Court deems just and proper under the
11 circumstances.
12

13 Dated this 22nd day of December, 2006.

14
15 Davis Wright Tremaine LLP
16 Attorneys for Plaintiff
17 Chugach Electric Association, Inc.

18 By: 

19 Robert K. Stewart, Jr.
20 Alaska Bar No. 8506082

21 By: 

22 Karmyn A. Olmstead
23 Alaska Bar No. 0311073
24
25



CORPORATE OFFICES

Suite 410

Waterview Plaza

2001 Route 46

Parsippany, NJ 07054

(201) 335-3555

FAX (201) 335-7738

**PARTICIPATION AGREEMENT
- 1996 PACE OPS PROJECT -**

April 11, 1996

Mr. Lee D. Thibert
Executive Manager, Operations Division
Chugach Electric Association, Inc.
5601 Minnesota Drive
Anchorage, AK 99519-6300

RECEIVED

APR 15 1996

EXECUTIVE MANAGER
OPERATING DIVISIONS

Dear Mr. Thibert:

Welcome to PACE OPS. We are delighted to have Chugach Electric Association, Inc. (Client) as a member of the PACE operations benchmarking program. The studies are designed to identify the best performers in each area of utility operations and to discover innovative and leading edge practices from within and beyond the utility industry. UMS Group Inc. will coordinate and lead the project efforts in data collection, analysis, and practices interviews.

Confidentiality

To protect the interest of Client, UMS shall safeguard all company reports, documents and other materials received from Client, shall store such materials in a secure place and, at the completion of PACE OPS, shall return or destroy such materials, at Client's discretion. Draft and final participant reports from PACE OPS shall be distributed by UMS only to participating companies. Furthermore, all PACE OPS data, findings and conclusions relating to individual company performance will appear in print only with the identities of individual companies masked, with the exception of "best performers." In order to facilitate the exchange of information among participating companies, UMS will, with each client's permission, share the names of best performers in each operating subfunction with other participants.

To protect the interests of UMS and other PACE OPS participants, Client shall treat all project information as confidential, not to be distributed beyond Client's managers and employees. In addition, all PACE OPS data collection materials, including but not limited to data disks, practices questionnaires, process surveys and documents describing PACE OPS methodologies and processes are proprietary to UMS. Client agrees not to copy or distribute this material without prior written permission from UMS. Client also agrees to support UMS's confidentiality commitment by ensuring that participant codes are not shared or distributed in written, verbal, electronic, or any other form.

Schedule and Work Product

UMS and Client agree to devote their best efforts to maintain the following general project schedule for the Substation and Transmission Operations & Maintenance study:

Data Collection Facilitation Workshops	January - April
Data Collection & Validation	February - May
Data Review Process	May
Analysis & Results	April - June
Annual Conferences	July
Executive Conference	October
On-site Results Workshop	(Scheduled at your reasonable convenience)

In addition, Client recognizes the importance of schedule compliance to the successful completion of the project and to the ability of UMS to deliver promised analyses, interviews and insights into performance and practices. Client therefore agrees to meet agreed upon due dates for data submittal as established by the participant design review committee in each functional area, and to actively support subsequent UMS data validation efforts. UMS shall make all reasonable efforts to quickly process data submitted after these due dates, but in the interest of the overall schedule, it is likely the analysis of such data will be delayed.

There shall be six primary work products for each program (Substation and Transmission Operations & Maintenance, Distribution, and Project Implementation):

- One day of *on-site data collection facilitation and support* including selected practices interviews with key stakeholders and process owners.
- A *Data Review Workshop* at which preliminary findings and conclusions on cost and service level performance will be presented and discussed.
- A *Confidential Participant Report* that includes: intercompany performance comparisons of operations functions; descriptions of management systems and processes; statistical profiles; descriptions and analysis of organization and staffing of operations functions, technologies, methods and practices employed; and related topics.
- Attendance at the *PACE Annual Benchmarking Conference* at which best performance levels and associated best practices are examined in a highly participative environment.
- Attendance at the *PACE Executive Conference* for functional officers and management to review project findings, insights, and strategic implications for your company.
- An *On-Site Results Workshop*, that includes a profile of your company's performance results and practices insights, a prioritization of the most relevant practices, and an executive briefing of the most significant opportunities.

Initial	Participation Costs	Fee*
<input type="checkbox"/> 1.	Substation and Transmission Operations & Maintenance	\$40,000
<input type="checkbox"/> 2.	On-site Orientation (additional labor)	\$5,000
<input type="checkbox"/> 3.	On-site Results (additional labor)	\$5,000
Total:		\$50,000

* *The participation fee covers all professional time incurred by UMS in conducting the PACE project. The participation fee does not include out of pocket incremental expenses incurred by UMS in performing project activities. Direct out of pocket expenses, such as travel, hotel, communications, phone and delivery, incurred by UMS in delivering the project are additional and are billed at UMS cost. These expenses are estimated at 10-15% of professional fees. Additional data collection, support and facilitation (beyond the initial days outlined above) is available if desired and would be billed on a time and expense basis. Participation fee shall be payable in two installments: one half payable upon acceptance of Client into study; balance payable on May 28, 1996*

Participation Agreement Validity Period

This agreement will become effective upon execution by both parties. The offer of participation will remain open for 21 days from the date of its issue.

EXHIBIT A
page 2 of 3

Customer Satisfaction Guarantee

We will devote our best professional efforts to this assignment. Our findings, conclusions, recommendations and all written material that we provide will represent our best professional judgement based on the information available to us at the time. We warranty the quality of our services and will continue to work to ensure complete client satisfaction. Our professional liability is limited to professional fees paid.

UMS Group, Inc.

Chugach Electric Association, Inc.

By: John M. Shearman
President, UMS Group, Inc.

By:

(Print Name)

(Title)

Purchase Order or Billing Reference

Please return both executed agreements to:

UMS Group, Inc.
Attn: Contracts
2001 Route 46 East
Waterview Plaza, Suite 410
Parsippany, NJ 07054

One fully executed original will then be returned for your records.

EXHIBIT A
Page 3 of 3

CHUGACH ELECTRIC ASSOCIATION, INC.

BOARD POLICY: 128

DATE: February 15, 2006

CONFIDENTIALITY

I. PURPOSE

To adopt policies and procedures to insure the protection of confidential information and documents of the Association, its customers and third parties with whom it does business.

II. CONTENT

A. Types of Confidential Information and Documents.

Though not necessarily limited to the list below, confidential information and documents of the Association will generally fall into one of the following classifications:

1. Attorney-client communications;
2. Attorney work product;
3. Statutory trade secrets;
4. Common law trade secrets;
5. Personnel records;
6. Information which Chugach is contractually required to keep confidential, including information belonging to third persons; and
7. Information discussed or disclosed in executive session.

Confidential information and documents of the Association may include, by way of example and without limitation: reports and surveys, studies, memoranda, confidential business information, marketing plans, information as to existing or future services, analyses, computer programs, financial projections, customer and supplier lists (including customer identity, rates, services and contract terms), confidential cost and pricing information, concepts, techniques, methods, systems, research, development or experimental work, work in process, operations, schedules of employee compensation, personnel records, and all copies thereof.

If a director or employee has any questions concerning what comprises confidential information and documents of the Association, they should consult with the Chief Executive Officer.

B. Obligations to Maintain Confidentiality.

1. Directors and employees shall not, during the term of their membership on the Association's Board of Directors or employment with the Association, or at any time thereafter, either directly or indirectly, disclose or permit the disclosure of, reproduce, or in any other way publicly or privately disseminate, any confidential information or documents of the Association to any third parties except as and to the extent expressly authorized by the Association in order to carry out their duties to the Association, or in the case of confidential information or documents belonging solely to customers of the Association and third parties with whom the Association does business, as may be expressly contractually authorized by those persons.
2. Directors and employees shall not, during the term of their membership on the Association's Board of Directors or employment with the Association, or at any time thereafter, make any use of any confidential information or documents of the Association (including, but not limited to, bids, awarding of contracts, or other information of a competitive nature, real estate transactions, personnel records, salary information) for their own purposes, such as for personal gain or advancement, or to the detriment of the Association.
3. Directors and employees shall not remove any confidential information or documents of the Association from the Association's facilities at any time during or after their membership on the Association's Board of Directors or employment with the Association except as necessary in the performance of their duties.
4. All confidential information or documents of the Association which are furnished to directors and employees by the Association, used by them on the Association's behalf, or generated or obtained by them during their membership on the Association's Board of Directors or employment with the Association shall be and remain the property of the Association.
5. Directors, at the discretion of the Board of Directors, and employees, at the discretion of the Chief Executive Officer, may be required to sign written confidentiality agreements in order to effectuate the terms of this policy.

6. This policy is intended to supplement, and does not supersede, those duties and obligations imposed upon directors and employees by the Alaska Uniform Trade Secrets Act, Alaska Stat. sec. 45.50.910, et seq., and all other applicable laws and regulations.

C. Obligations Upon Termination of Employment and Board Membership.

1. Employees shall immediately return all confidential information or documents of the Association in their possession to the Association upon request of the Association, and, in any event, upon termination of their employment with the Association including those in electronic format.
2. The duties and obligations of directors and employees under this policy shall survive the termination of their membership on the Association's Board of Directors or their employment with the Association.

D. Procedures for Waiver or Release of Confidential Information and Documents.

1. It is the general policy of the Association that the confidentiality which attaches to confidential information and documents of the Association shall continue indefinitely.
2. Only the Association's Board of Directors, acting in its official capacity, and Chief Executive Officer have the authority to waive the confidentiality protections which attach to confidential information and documents of the Association or authorize the release of confidential information and documents of the Association as an exception to this policy.
3. If a Director believes that it is in the best interests of the Association to waive the confidentiality protections of particular confidential information and documents of the Association, or to release particular confidential information and documents of the Association as an exception to this policy; or that particular trade secret or executive session information or documents are no longer legally entitled to confidential treatment, he or she may bring such matter to the attention of the Board of Directors, acting in its official capacity, for consideration and action.
4. Nothing in this policy shall prohibit the Association from complying with obligations it may have under state and federal law, legal process issued pursuant thereto or lawful orders of governmental authorities, to disclose confidential information and documents of the Association.

III. RESPONSIBILITIES

- A. Each Director and employee shall comply with the letter and the spirit of this policy.
- B. The Chief Executive Officer shall inform all employees about the content of this policy and insure that it is complied with.
- C. Each Director and employee shall disclose any situation which violates, may violate, or could appear to violate the intent of this policy.
- D. Any Director or employee whose conduct violates this policy shall be subject to: (1) if Chief Executive Officer, termination by appropriate action of the Board of Directors in accordance with any contract of employment; (2) if an employee, termination by appropriate action of the Chief Executive Officer; or (3) if a Director, removal pursuant to Article IV, Section 7 of the Association's Bylaws.
- E. In addition to the disciplinary provisions of Section III.D, the Association may seek legal and equitable relief in any court of competent jurisdiction to prevent or restrain any disclosure, breach or threatened breach of this policy and the legal protections afforded to confidential information and documents of the Association by any current or former director, employee, their partners, agents, representatives, employers, employees, and all other persons acting for or with them. Equitable relief may include, but not be limited to, temporary restraining orders, preliminary injunctions, and permanent injunctions. The equitable remedies described above are in addition to, and not any limitation upon, all rights and remedies as the Association may be entitled under applicable law.

Date Approved: 02/15/06

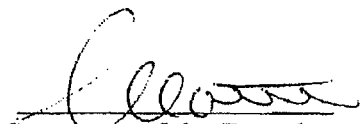
Attested: 
Secretary of the Board

EXHIBIT B
Page 4 of 4

CHUGACH ELECTRIC ASSOCIATION, INC.

BOARD POLICY: 128

DATE: June 21, 2006

CONFIDENTIALITY

I. PURPOSE

To adopt policies and procedures to insure the protection of confidential information and documents of the Association, its customers and third parties with whom it does business.

II. CONTENT

A. Types of Confidential Information and Documents.

Though not necessarily limited to the list below, confidential information and documents of the Association will generally fall into one of the following classifications:

1. Attorney-client communications;
2. Attorney work product;
3. Statutory trade secrets;
4. Common law trade secrets;
5. Personnel records;
6. Information which Chugach is contractually required to keep confidential, including information belonging to third persons; and
7. Information discussed or disclosed in executive session.

Confidential information and documents of the Association may include, by way of example and without limitation: reports and surveys, studies, memoranda, confidential business information, marketing plans, information as to existing or future services, analyses, computer programs, financial projections, customer and supplier lists (including customer identity, rates, services and contract terms), confidential cost and pricing information, concepts, techniques, methods, systems, research, development or experimental work, work in process, operations, schedules of employee compensation, personnel records, and all copies thereof.

If a director or employee has any questions concerning what comprises confidential information and documents of the Association, they should consult with the Chief Executive Officer.

B. Obligations to Maintain Confidentiality.

1. Directors and employees shall not, during the term of their membership on the Association's Board of Directors or employment with the Association, or at any time thereafter, either directly or indirectly, disclose or permit the disclosure of, reproduce, or in any other way publicly or privately disseminate, any confidential information or documents of the Association to any third parties except as and to the extent expressly authorized by the Association in order to carry out their duties to the Association, or in the case of confidential information or documents belonging solely to customers of the Association and third parties with whom the Association does business, as may be expressly contractually authorized by those persons.
2. Directors and employees shall not, during the term of their membership on the Association's Board of Directors or employment with the Association, or at any time thereafter, make any use of any confidential information or documents of the Association (including, but not limited to, bids, awarding of contracts, or other information of a competitive nature, real estate transactions, personnel records, salary information) for their own purposes, such as for personal gain or advancement, or to the detriment of the Association.
3. Directors and employees shall not remove any confidential information or documents of the Association from the Association's facilities at any time during or after their membership on the Association's Board of Directors or employment with the Association except as necessary in the performance of their duties.
4. All confidential information or documents of the Association which are furnished to directors and employees by the Association, used by them on the Association's behalf, or generated or obtained by them during their membership on the Association's Board of Directors or employment with the Association shall be and remain the property of the Association.
5. Directors, at the discretion of the Board of Directors, and employees, at the discretion of the Chief Executive Officer, may be required to sign written confidentiality agreements in order to effectuate the terms of this policy.

6. This policy is intended to supplement, and does not supersede, those duties and obligations imposed upon directors and employees by the Alaska Uniform Trade Secrets Act, Alaska Stat. sec. 45.50.910, et seq., and all other applicable laws and regulations.

C. Obligations Upon Termination of Employment and Board Membership.

1. Directors and employees shall immediately return all confidential information or documents of the Association in their possession to the Association upon request of the Association, and, in any event, upon termination of their employment with the Association or their membership on the Association's Board of Directors including those in electronic format.
2. The duties and obligations of directors and employees under this policy shall survive the termination of their membership on the Association's Board of Directors or their employment with the Association.

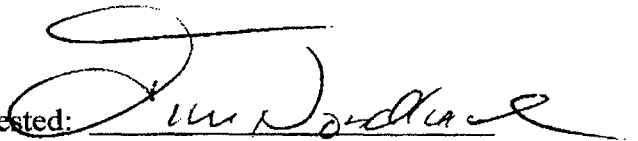
D. Procedures for Waiver or Release of Confidential Information and Documents.

1. It is the general policy of the Association that the confidentiality which attaches to confidential information and documents of the Association shall continue indefinitely.
2. Only the Association's Board of Directors, acting in its official capacity, and Chief Executive Officer have the authority to waive the confidentiality protections which attach to confidential information and documents of the Association or authorize the release of confidential information and documents of the Association as an exception to this policy.
3. If a Director believes that it is in the best interests of the Association to waive the confidentiality protections of particular confidential information and documents of the Association, or to release particular confidential information and documents of the Association as an exception to this policy; or that particular trade secret or executive session information or documents are no longer legally entitled to confidential treatment, he or she may bring such matter to the attention of the Board of Directors, acting in its official capacity, for consideration and action.
4. Nothing in this policy shall prohibit the Association from complying with obligations it may have under state and federal law, legal process issued pursuant thereto or lawful orders of governmental authorities, to disclose confidential information and documents of the Association.

III. RESPONSIBILITIES

- A. Each Director and employee shall comply with the letter and the spirit of this policy.
- B. The Chief Executive Officer shall inform all employees about the content of this policy and insure that it is complied with.
- C. Each Director and employee shall disclose any situation which violates, may violate, or could appear to violate the intent of this policy.
- D. Any Director or employee whose conduct violates this policy shall be subject to: (1) if Chief Executive Officer, termination by appropriate action of the Board of Directors in accordance with any contract of employment; (2) if an employee, termination by appropriate action of the Chief Executive Officer; or (3) if a Director, removal pursuant to Article IV, Section 7 of the Association's Bylaws.
- E. In addition to the disciplinary provisions of Section III.D, the Association may seek legal and equitable relief in any court of competent jurisdiction to prevent or restrain any disclosure, breach or threatened breach of this policy and the legal protections afforded to confidential information and documents of the Association by any current or former director, employee, their partners, agents, representatives, employers, employees, and all other persons acting for or with them. Equitable relief may include, but not be limited to, temporary restraining orders, preliminary injunctions, and permanent injunctions. The equitable remedies described above are in addition to, and not any limitation upon, all rights and remedies as the Association may be entitled under applicable law.

Date Approved. June 21, 2006

Attested: 
Secretary of the Board

Article XVI of Chugach's Bylaws and Board Policy No. 125, which address the indemnification of directors, officers, employees and agents of Chugach, limits Chugach's defense and indemnification obligations to cases where "[t]he acts complained of [were] performed within the scope of the director's, officer's, employee's or agent's duties." Board Policy No. 125 provides that the Board shall act on all demands for indemnification received from directors and agents. Board Policy No. 125 is silent as to who makes the decision on demands for indemnification by an organization such as Chugach Consumers which is not a director, officer, employee or agent of Chugach. Because decisions as to employees are relegated to the Chief Executive Officer, we believe it is appropriate for the Chief Executive Officer to decide whether an organization is ineligible for indemnification because it is not a director, officer, employee or agent of Chugach.

In this case, defense and indemnification of Mr. Kreig and Mr. Routh pursuant to Article XVI of Chugach's Bylaws is not authorized because the conduct complained of in the Complaint was not performed within the scope of their duties for the Association. The Chief Executive Officer has determined that defense and indemnification of Chugach Consumers pursuant to Article XVI of Chugach's Bylaws is not authorized because it is not a "protected person" as provided by that Bylaw.

MOTION

Motion: Move that the Chugach Board of Directors deny Ray Kreig's and Stephen Routh's demands for defense and indemnification arguably made in Kenneth P. Jacobus' March 8, 2007 letter because defense and indemnification of Mr. Kreig and Mr. Routh is not authorized pursuant to Article XVI of Chugach's bylaws because the conduct complained of in the Complaint in Chugach Electric Association, Inc. v. Chugach Consumers and Ray Kreig, Case No. 3AN-06-13743 CI was not performed within the scope of their duties for the Association.