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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) Case No. 3AN-06-13743 Civil
17 and CHUGACH CONSUMERS,)

18 Defendants.)
19 _____)

20 ORDER COMPELLING ANSWERS TO INTERROGATORIES

21 THIS MATTER having come on before the above-entitled Court on plaintiff
22 Chugach Electric Association, Inc.'s ("Chugach") Motion to Compel Answers to
23 Interrogatories, the Court having reviewed the pleadings pertinent thereto, the files and
24 records contained herein, and being otherwise fully apprised in the premises; NOW,
25 WHEREFORE

IT IS HEREBY ORDERED that Chugach's Motion to Compel Answers to
Interrogatories is granted, and

1 IT IS FURTHER ORDER that defendants Ray Kreig and Chugach Consumers
2 shall answer Interrogatories Nos. 1 and 2 contained in Plaintiff Chugach Electric
3 Association, Inc.'s First Set of Interrogatories to Defendant Ray Kreig and Plaintiff
4 Chugach Electric Association, Inc.'s First Set of Interrogatories to Defendant Chugach
5 Consumers fully and completely.

6 DONE this _____ day of _____, 2007.

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9
10 _____
11 The Honorable Craig F. Stowers
12 Superior Court Judge

13 Certificate of Service

14 I hereby certify that a true copy
15 of the above was hand delivered on the
16 22nd day of March, 2007, to:

17 Kenneth P. Jacobus
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12 CHUGACH ELECTRIC)
13 ASSOCIATION, INC.,)

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15 vs.)

16 RAY KREIG, STEPHEN ROUTH) Case No. 3AN-06-13743 Civil
17 and CHUGACH CONSUMERS,)

18 Defendants.)
19 _____)

20 MOTION TO COMPEL ANSWERS TO INTERROGATORIES

21 Plaintiff Chugach Electric Association, Inc. moves the court, pursuant to Alaska
22 R. Civ. P. 37(a), for an order directing defendants Ray Kreig ("Kreig") and Chugach
23 Consumers to respond fully and completely to Interrogatories Nos. 1 and 2 of Plaintiff
24 Chugach Electric Association, Inc.'s First Set of Interrogatories to Defendant Ray Kreig
25 and Plaintiff Chugach Electric Association, Inc.'s First Set of Interrogatories to
26 Defendant Chugach Consumers.

This motion is made on the basis of the memorandum in support and Affidavit of

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8 Attorneys for Plaintiff
9 Chugach Electric Association, Inc.

10 IN THE SUPERIOR COURT FOR THE STATE OF ALASKA
11
12 THIRD JUDICIAL DISTRICT AT ANCHORAGE

13 CHUGACH ELECTRIC)
14 ASSOCIATION, INC.,)
15)
16 Plaintiff,)
17)
18 vs.)
19)
20 RAY KREIG, STEPHEN ROUTH)
21 and CHUGACH CONSUMERS,)
22)
23 Defendants.)
24)
25)

Case No. 3AN-06-13743 Civil

26 MEMORANDUM IN SUPPORT OF
27 MOTION TO COMPEL ANSWERS TO INTERROGATORIES

28 Plaintiff Chugach Electric Association, Inc. ("Chugach") respectfully submits this
29 memorandum in support of its Motion to Compel Answers to Interrogatories.

30 On March 8, 2007, defendants Ray Kreig ("Kreig") and Chugach Consumers
31 served their answers to Plaintiff Chugach Electric Association, Inc.'s First Set of
32 Interrogatories to Defendant Ray Kreig and Plaintiff Chugach Electric Association, Inc.'s
33 First Set of Interrogatories to Defendant Chugach Consumers.

1 Among other things, Kreig and Chugach Consumers objected to and refused to
2 answer Interrogatories Nos. 1 and 2. Affidavit of Robert K. Stewart, Jr. ("Stewart Aff."),
3 ¶ 2, Exs. A and B. The full text of the Interrogatories Nos. 1 and 2 and Kreig's and
4 Chugach Consumers' responses thereto are as follows:

5 INTERROGATORY NO. 1: Please identify all persons who been
6 members of Chugach Consumers at any time between January 1, 2002, to
7 the present date by name, address and telephone number, and for each such
8 person state the inclusive dates of their membership.

9 ANSWER: This question is objected to because (1) it is not relevant
10 nor will it lead to relevant evidence, and (2) disclosure of this confidential
11 information may expose those persons to possible intimidation, financial
12 and possibly physical harm to them at the hands of the IBEW Union.

13 INTERROGATORY NO. 2: Please identify all persons who have
14 provided anything of value to Chugach Consumers at any time between
15 January 1, 2002, to the present date by name, address and telephone
16 number, and for each such person state what it is they provided to Chugach
17 Consumers, the date the thing was provided and the value of the thing.

18 ANSWER: Same as Answer to Interrogatory #1.

19 Id.

20 On March 8, 2007, the undersigned counsel for Chugach had a telephone
21 conversation with counsel for Kreig and Chugach Consumers, Kenneth P. Jacobus, in
22 which he stated that Chugach would file a motion to compel full and complete answers to
23 Interrogatories Nos. 1 and 2 absent a commitment that answers would be forthcoming
24 from Kreig and Chugach Consumers. Stewart Aff., ¶ 3. Counsel for Kreig and Chugach
25 Consumers stood on his objections and refused to offer such a commitment. Id.

Chugach now seeks an order of this Court directing Kreig and Chugach

MEMORANDUM IN SUPPORT OF MOTION TO COMPEL - 2 of 6

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1 Consumers to answer Interrogatories Nos. 1 and 2 fully and completely. As Chugach
2 Consumers and Kreig both admit, Chugach Consumers is an unincorporated association.
3 Answer of Chugach Consumers, Ray Kreig, and Stephan Routh, ¶ 2. Kreig is the vice
4 chairman of Chugach Consumers. Id. On December 6, 2006, both Chugach Consumers
5 and Kreig improperly disclosed copies of the Confidential Chugach Documents which
6 are at issue in this case, including the Black Book and the UMS Studies, when they filed
7 those documents with the Regulatory Commission of Alaska (“RCA”) and in the
8 Superior Court for the State of Alaska, without the permission of Chugach’s Board of
9 Directors. Id., ¶ 10.

11 As an unincorporated association, Chugach Consumers is generally viewed as
12 having legal attributes which are similar to those of a partnership. Alaska Marine Pilots
13 v. Hendsch, 950 P.2d 98, 112 n.19 (Alaska 1997). Knowledge, and by extension
14 possession, of documents by one member of a partnership is deemed to constitute
15 constructive knowledge by all members of the partnership. 59A Am.Jur.2d Partnership §
16 209, at 324 (2003).

18 As to liability, members of a partnership are legally responsible for acts
19 undertaken in the name of the partnership. 59A Am.Jur.2d Partnership § 767, at 616
20 (1987). While Alaska has yet to decide the exact scope of associational liability, at a
21 minimum it extends to those association members who participated in or approved of the
22 wrongful acts. Hendsch, 950 P.2d at 112 n.19. See also 6 Am.Jur.2d Associations and
23 Clubs § 49, at 436 (1999) (liability for actions undertaken, authorized, assented to and
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25

1 ratified). Here, Chugach Consumers, acting in its own name, improperly disclosed
2 Chugach Confidential Documents. Thus some, if not all, of its members may be held
3 liable for that conduct. Chugach cannot explore the issues of participation, approval,
4 assent and ratification without first learning the identities of the members of Chugach
5 Consumers.

6 In light of those legal principles, the first ground for Kreig's and Chugach
7 Consumers' objection is utterly without merit. Chugach is entitled to information
8 relating to the membership and financial supporters of Chugach Consumers for several
9 reasons. First, Chugach is entitled to investigate how broadly the Chugach Confidential
10 Documents have been actually, in addition to constructively, disseminated and disclosed
11 within Chugach Consumers. Kreig has already freely admitted that he has provided
12 copies of the Black Book, the UMS Studies and other Confidential Chugach Documents
13 to his wife, Lee Ann Kreig, who is understood to be a Chugach Consumers member.
14 Stewart Aff., ¶ 2, Ex. A (Interrogatory Answer No. 4). There is more than ample reason
15 to suspect the disclosures have been more widespread than is currently admitted.

16 Further, Chugach is entitled to identify the persons who have been involved in or
17 influenced the decisionmaking to improperly disclose the Chugach Confidential
18 Documents to the RCA, the Superior Court and, possibly, elsewhere. There may be
19 additional persons within Chugach Consumers who should be named as parties to this
20 action based on the results of this discovery.

21 Finally, under Alaska R. Civ. P. 23.2, Chugach had the option of suing Chugach
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1 Consumers “as a class by naming certain members as representative parties . . .” Where
2 Chugach could sue the members of Chugach Consumers individually, it certainly has a
3 right to discovery as to the membership of that unincorporated association. Chugach and
4 the Court also has a right to that same membership information to confirm that those
5 persons acting as *de facto* representative members, Kreig and Routh, will in fact “fairly
6 and adequately protect the interest of the association and its members.” *Id.*

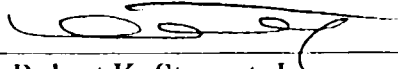
7 The second ground for objection, based upon fears of “intimidation, financial and
8 possibly physical harm” by the IBEW, is equally meritless. Neither Kreig nor Chugach
9 Consumers submit any evidence to substantiate their unfounded fears. Kreig, as a
10 member of Chugach’s Board of Directors for substantial periods of time during the past
11 decade, is well known to the public, including the IBEW. There is no evidence the
12 IBEW has at any time during period intimidated or threatened him with financial or
13 physical harm. Without substantiation, this ground for objection should be dismissed out
14 of hand as frivolous.
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17 For the foregoing reasons, this Court should order Kreig and Chugach Consumers
18 to answer Interrogatories Nos. 1 and 2 fully and completely.
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Dated this 22nd day of March, 2007.


Davis Wright Tremaine LLP
Attorneys for Plaintiff
Chugach Electric Association, Inc.

By: 
Robert K. Stewart, Jr.
Alaska Bar No. 8506082

Certificate of Service

I hereby certify that a true copy
of the above was hand delivered on the
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