

STATE OF ALASKA
DEPARTMENT OF COMMERCE, COMMUNITY, AND ECONOMIC DEVELOPMENT
DIVISION OF BANKING AND SECURITIES

IN THE MATTER OF:) **ORDER NO. 22-15-2-S**
Yak-Tat Kwaan, Inc.) **AMENDED TEMPORARY ORDER TO**
) **CEASE AND DESIST, ASSESSING CIVIL**
) **PENALTIES, WITH NOTICE OF**
) **HEARING RIGHTS AND NOTICE OF**
) **FINAL CEASE AND DESIST ORDER**
Respondent.)
_____)

The Director of the Department of Commerce, Community, and Economic Development, Division of Banking and Securities (“Administrator”), has conducted an investigation into certain activities of Yak-Tat Kwaan, Inc. (“Respondent”), and has determined that Respondent violated certain provisions of the Alaska Native Claims Settlement Act Corporations Proxy Solicitation and Stock Act, Alaska Statute (AS) 45.55 et seq (“ANCSA Corporations Proxy Solicitations Act”). This Amended Order replaces and supersedes the Temporary Cease and Desist Order Effective Immediately, Assessing Civil Penalties, with Notice of Hearing Rights and Notice of Final Cease and Desist Order dated October 7, 2022.

I. FINDINGS OF FACT

1. Respondent is organized pursuant to the Alaska Native Claims Settlement Act (“ANCSA”), 43 U.S.C. 1601 *et seq.*

2. Respondent has certified to the Administrator that it has more than 500 shareholders and total assets exceeding \$1,000,000.

3. On October 7, 2021, Respondent sent a one-page letter to shareholders

1 announcing it set its 48th Annual Meeting date for November 20, 2021. On this date, the
2 Respondent did not have over 500 shareholders and was not subject to the Administrator's
3 jurisdiction.

4 4. On October 21, 2021, Respondent sent the 48th Annual Meeting packet to
5 shareholders, which included Respondent's Proxy Statement; Respondent's 2020 Audited
6 Financial Report, which included consolidated financials from year end December 31, 2019
7 and 2020; Respondent's Rules of Annual Meeting, Respondent's Proxy Card, and campaign
8 letters from seven candidates to shareholders.

9 5. On November 12, 2021, Respondent sent a letter to shareholders postponing the
10 48th Annual Meeting until January 8, 2022.

11 6. On December 23, 2021, Respondent cancelled the 48th Annual Meeting that was
12 scheduled for January 8, 2022, voided Respondent's proxies, set a new record date of January
13 27, 2022, noticed a new annual meeting date for February 26, 2022, and provided a net/profit
14 loss bar chart that included 2021 information.

15 7. On December 31, 2021, Respondent verified it had over 500 shareholders and
16 met the filing requirements for AS 45.55.139.

17 8. On January 13, 2022, Respondent sent a letter to shareholders announcing it set
18 the new 48th Annual Meeting date for February 26, 2022.

19 9. On or about February 3, 2022, Respondent resent a 48th Annual Meeting Packet
20 to shareholders that included the Proxy Statement, Rules of Annual Meeting, Proxy Card, and
21 candidate biographies ("Current Annual Meeting Packet") to all shareholders. Respondent
22 did not file the Current Annual Meeting Packet with the Administrator until March 18, 2022.

23 10. On or about February 10, 2022, Respondent sent a letter to shareholders
24 updating its proxy statement that was originally mailed out on February 4, 2022.

11. On or about February 24, 2022, Respondent sent a letter to shareholders

1 postponing the 48th Annual Meeting to April 9, 2022 due to receiving, “a low 57% of the
2 50,199 proxies needed to ensure a quorum for our 48th Annual Meeting.” With the letter, the
3 Respondent provided a document that stated: “Shareholder Annual Meeting 2022.”

4 12. On April 9, 2022, Respondent held a meeting.

5 13. On or about April 21, 2022, Respondent sent a letter to shareholders, which
6 stated: “At the scheduled annual shareholder meeting, dated April 9, 2022, a lack of a quorum
7 was declared by the Election Judge. Because of this, the meeting could not be lawfully
8 convened. Instead, the time was used for a shareholder informational meeting with questions
9 and answers from shareholders who were present in person and by Zoom.”

10 The letter further states that Respondent’s board of directors met on April 12, 2022
11 postponing the meeting date to October 8, 2022 allowing Respondent time to provide
12 electronic voting to the shareholders for the upcoming meeting and that all voted proxies
13 remained valid. If shareholders wanted to change their proxy, they may submit a new proxy
14 up until 5:00 p.m. October 7, 2022. The letter informed shareholders that Respondent would
15 provide electronic voting for the upcoming meeting.

16 14. Between April 21, 2022 and October 7, 2022, Respondent did not provide
17 additional documents or make changes to the Current Annual Meeting Packet. The Current
18 Annual Meeting Packet continued to contain consolidated financial statements from year end
19 December 31, 2019 and 2020 and did not contain any consolidated financial statements from
20 fiscal year 2021. Respondent sent no new proxy cards or information regarding electronic
21 voting to shareholders to provide them a new way to vote, if they wanted to change their
22 original vote made for the 48th Annual Meeting.

23 15. The proxy statement Respondent provided to shareholders on or about February 3,
24 2022 only contained the percentage attendance during the last fiscal year at meetings of the
board, but did not contain the total number of board meetings, including regularly scheduled

1 and special meetings, and the number of meetings of committees on which the nominee or
2 director served.

3 16. By April 21, 2022, the 48th Annual Meeting had been rescheduled four times.
4 Respondent continued to use the Current Annual Meeting Packet stating the 48th Annual
5 Meeting was a 2021 meeting even though the document sent to shareholders on or about
6 February 24, 2022 stated: “Shareholder Annual Meeting 2022.” The Respondent continued
7 to rely on information from 2020 in both its Proxy Statement and Annual Report and did not
8 provide updated proxy cards or an electronic voting option for the October 8, 2022 meeting.

9 17. As of the date of this order, Respondent has not provided an annual report and
10 proxy statement from its last fiscal year.

11 II. CONCLUSIONS OF LAW

12 1. Respondent is subject to the filing requirements of AS 45.55.139 because it had
13 more than 500 shareholders who were eligible to vote at the October 8, 2022 annual meeting
14 and total assets exceeding \$1,000,000.

15 2. Respondent violated AS 45.55.139 by not filing its annual meeting materials with the
16 Administrator concurrently with its distribution to shareholders.

17 3. Respondent violated AS 45.55.139 and 3 AAC 08.345 by not providing
18 information from the corporation’s last fiscal year in its Proxy Statement and Annual Report

19 4. Respondent violated 3 AAC 08.345(b)(1)(D) by not providing the total number of
20 board meetings, including regularly scheduled and special meetings, and the number of
21 meetings of committees on which the nominee or director served, in its Proxy Statement.

22 5. Respondent is subject to a civil penalty pursuant to AS 45.55.920(c) because it
23 violated 3 AAC 08.345.

24 III. ORDER and NOTICE

Pursuant to AS 45.55.920, and on the basis of the Findings of Fact and Conclusions of

1 Law, the Administrator ORDERS:

2 1. Pursuant to AS 45.55.920(a)(1)(c), Respondent's proxies for the meeting
3 scheduled on October 8, 2022 are VOID.

4 2. Respondent will comply with all provisions of the ANCSA Corporations Proxy
5 Solicitations and Stock Act and associated regulations, including filing with the
6 Administrator Respondent's information for the most recent fiscal year.

7 Pay a civil penalty in the amount of five hundred dollars (\$500). This amount is immediately
8 due to the Administrator.

9 Pursuant to AS 45.55.920(d), if Respondent desires a hearing, it must file its request
10 for a hearing within 15 days after receipt of this order. The request for a hearing must be in
11 writing, must be directed to the Administrator, and must state the grounds for the request to
12 set aside or modify the Order. This order takes effect immediately, remains in effect until 10
13 days after the hearing is held, and becomes final if a hearing is not requested within 15 days
14 after the receipt of this notice.

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16 **IT IS SO ORDERED.**

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Julie Sande, Commissioner
Department of Commerce, Community and
Economic Development

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DATED: 11/7/22

/s/ Robert H. Schmidt

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BY: Robert H. Schmidt, Director
Division of Banking and Securities

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