

# MEMORANDUM

(Open Session Report)

State of Alaska  
Department of Law

to: Board of Agriculture and  
Conservation  
  
Division of Agriculture,  
Department of Natural Resources

DATE: January 7, 2009

FILE NO.: BAC general

TEL. NO.: (907) 269-3039

SUBJECT: AAG report for  
January 21, 2009 BAC  
meeting

FROM: Bob McFarlane  
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Commercial & Fair Business Section  
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## **PART 1: NON CONFIDENTIAL MATTERS FOR OPEN MEETING SESSION**

Report on ability of BAC to promote agriculture through advertising or other expenditures of money:

**Issue:** Can the BAC spend money for advertising and other promotional activities in order to promote agriculture in Alaska?

**Answer:** There is only one ARLF statute or regulation that touches on the ability of the BAC to spend money to promote agriculture. 11 AAC 39.011 (b)(7) allows the director to “provide information and services” to the public which relate to the fund. Under this section the BAC can request the director to spend money for advertising, but any such advertising must relate to the fund (i.e. the making of agricultural loans) and not to agriculture in a general sense. For example, the BAC could request the director to advertise the availability of loans for eligible farmers and businesses but it could not require the director to pay for advertising simply urging consumers to buy Alaska grown lettuce or other agricultural products since that kind of advertising does not “relate to the fund”. Advertising of agricultural events, the purchase of Alaska grown agricultural products and other such matters is the responsibility of the Division of Agriculture and not the BAC. (See A.S. 03.05.010).

**PART 2: CONFIDENTIAL MATTERS FOR EXECUTIVE SESSION**

Open Meetings Act – A.S. 44.62.310(b)<sup>1</sup>  
Attorney Client Privilege - Alaska Evidence Code §503(b)<sup>2</sup>

1. There are no confidential AGO matters for discussion at this board meeting.

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<sup>1</sup> A motion to convene in executive session must clearly and with specificity describe the subject of the proposed executive session. A.S. 44.62.310(b).

<sup>2</sup> Section 503(b) of the Alaska Evidence Code states in relevant part: “A client has a privilege to refuse to disclose and to prevent any other person from disclosing confidential communications made for the purpose of facilitating the rendition of professional legal services to the client...”