

ALASKA PUBLIC OFFICES COMMISSION
MINUTES
REGULAR COMMISSION MEETING
FEBRUARY 11-12, 2009

A regular meeting of the Alaska Public Offices Commission came to order at 10:20 a.m. Thursday, February 12, 2009. The meeting was held on the 10th Floor of the State Office Building, 333 Willoughby, in Juneau, Alaska.

Brackets [] indicate an agenda item number and that an information packet is included in the meeting binders.

Asterisk * indicates no information was included in the meeting binders.

In Attendance:

COMMISSION: Elizabeth Hickerson - Chair
Kathleen Frederick – Vice chair, (via teleconference)(1:30pm)
Roger Holl – Commissioner (Absent)
Shirley Dean – Commissioner
Kathleen (Kate) Ballenger – Commissioner

Staff: Holly R. Hill – Executive Director
Chris Ellingson – Assistant Director
Jerry Anderson – Associate Attorney (via teleconference)
Jeff Berliner – Investigator (via teleconference)
Kim Wilson – Paralegal II (via teleconference)
Vullnet Greva – Paralegal II (via teleconference)
Joan Mize – Paralegal I
Patty Ware – Project Coordinator Juneau Office

Attendees: Krista Stearns, Assistant Attorney General, Dept. of Law
Jean Clarkin, Litigation Assistant, Dept. of Law (via teleconference)
Jan DeYoung, Chief Assistant Attorney General, Dept. of Law

ON RECORD 10:20 a.m.

Chair Hickerson introduced herself and the commission members present.

Executive Director’s Report Continuation [3]

The commission approved the commission meeting dates for calendar year 2009 of June 17, 18, 19 and September 23, 24, 25. Possible other meeting dates as needed included March 24, 25; April 23 and 24; and August 6, 7.

Consent Agenda Request to Reduce or Waive Civil Penalty Assessments for Late Lobbyists or Employer of Lobbyist Report [8]

RESPONDENT: **Hoffman LaRoche, Inc**

STATUS: 2007 Employer of Lobbyist: Retained
John Walsh

LATE REPORT: 2007 4th Quarter Employer of Lobbyist
Reports

MAXIMUM CIVIL PENALTY: **\$410 – filed 41 days late**

2007 First Year Filer – No other late reports as they not registered until November 2007. Filer had not employed a lobbyist in Alaska until the 4th quarter of 2007. Filer erroneously considered the employer to be the home office in New Jersey and was not aware of the need to file a report. Filer does not dispute the fact that some type of mass distribution email went out but has no recollection of receiving it. APOC did not send a US mail notification of the overdue report until one and ½ months after the filing deadline, incurring over \$400 in fines by that time. Filer staff took online training and sought assistance and clarification from APOC via phone and email several times, and responded to the overdue report notification on the day it was received.

Staff Analysis of Facts for Commission Review and Staff Recommendation:

- Affiant is a first time filer.
- First notice of delinquency letter was sent 03/04/2008. The report was signed on 03/10/2008 and faxed on 03/12/2008.
- An APOC courtesy e-mail reminder was sent to lobbyists and employers on January 4th reminding them that the 4th Quarter report was due on January 31st. Eileen Sullivan of Hoffman LaRoche was on the distribution list.

Staff Recommendation

Submitted the late report within eight days of the date of the notice. There was a good faith effort made in contacting APOC. There were valid filer reasoning regarding status as employer of lobbyist.

Commissioner Dean made a motion to assess a civil penalty of \$205 or 50% of the maximum civil penalty of \$410 for late filing.

Commissioner Ballenger seconded the motion.

The Commission determined that the Filer should have the penalty reduced by 50% to \$205 since the Filer was a first time filer.

The motion passed 3-0

Ms. Ellingson notified the commission that Ken Peltier was removed from the proposed consent agenda of the Public Official Financial Disclosure civil penalty assessments. He requested that his appeal would be presented at the next commission meeting. Mr. Peltier wanted to be present in person for his civil penalty appeal; however, he was recently diagnosed with cancer and is currently out of state seeking treatment.

Consent Agenda Requests to Reduce or Waive Civil Penalty Assessments for Public Official Financial Disclosures [10]

Respondent:	Edward D. Kern
Status:	Member, Agricultural and Conservation Board
Late Report:	2007 Annual Statement
Maximum Penalty:	\$135 – Report filed 21 days late at \$5/day for the first 15 days and \$10/day each day thereafter.
Staff Recommendation:	Waived the maximum assessed civil penalty of \$135

Filing History

- 2007 – Annual Statement filed 21 days late, \$135 civil penalty, subject of this appeal.
- 2006 – Annual Statement filed on time;
- 2005 – Annual Statement filed on time;
- 2004 – Initial Statement filed on time

Staff Review of the Facts

- Mr. Kern states that he was out of state from January 11 through April 3rd. It was his intent to return earlier, but due to medical problems was unable to do so, thus causing the delinquent filing of this report

Recommended Conclusion

- The maximum penalty should be waived due to Mr. Kern’s medical issues as stated in his affidavit.

Commissioner Dean moved to accept staff’s recommendation to waive the civil penalty based on personal catastrophe under the proposed mitigation criteria.

Commissioner Ballenger seconded the motion.

The motion passed 3-0

Respondent:	Craig L. Fleener
Status:	Member, Board of Game

Late Report: 2008 Initial Statement
Maximum Penalty: \$695 – Report filed 77 days late at \$5/day for the first 15 days and \$10/day each day thereafter.
Staff Recommendation: Waived the maximum assessed civil penalty of \$135

Filing History

- 2008 – Initial statement filed 77 days late, \$695 civil penalty subject of this appeal.
- Staff Review of the Facts
- Mr. Fleener’s information regarding the initial filing was mailed to the wrong address.
- Mr. Fleener found out about the delinquency notice while he was on military deployment with the National Guard. Once he was made aware of the requirement to file, he completed the necessary forms, and submitted them immediately via fax transmission.

Recommended Conclusion

- The maximum penalty should be waived due to staff error by failing to mail the forms to a correct address.

Commissioner Dean made a motion to accept staff’s recommendation due to staff’s error.

Commissioner Ballenger seconded the motion.

The motion passed 3-0

Review and Approval of Candidate Manual Chapters 1,2,3 and Discussion of Candidate Process [9]

Ms. Hill, Executive Director, and Ms Wilson, gave an overview of the proposed draft Candidate Manual to the Commission.

Ms. Wilson attended telephonically to answer any questions.

During the discussion, the Commission agreed that Chair Hickerson would work with Ms. Wilson in drafting the first proposed Candidate Manual.

Commissioner Dean made a motion to go into Executive session to discuss personnel matters. The following individuals are requested to attend: Ms. Hill, Executive Director and Commissioner Annette Kreitzer.

Commissioner Ballenger seconded the motion.

The motion passed 3-0

OFF RECORD 11:14 am

Executive session

ON RECORD 1:30 pm

The Commission came out of executive session.

Vice-Chair Frederick joined the meeting at 1:30 p.m.

Commissioner Dean made a motion to give Executive Director, Ms. Hill authorization to discuss Insight project issues with the Department of Administration and the legislative branch.

Commissioner Ballenger seconded the motion.

The motion passed 4-0

Presentation on Collections Process [11]

The staff from Department of Law proposed a procedure for the collection of civil penalties assessment by the Alaska Public Offices commission.

Additional Attendee:

- Jan DeYoung – In person
- Krista Stearns – In person
- Jean Clarkin – Teleconference

Commissioner Dean made a motion to approve the Department of Law's proposed collection procedures.

Commissioner Ballenger seconded the motion.

The motion passed 4-0.

Jan DeYoung gave a quick overview on the status of the regulation project to commission members.

Advisory Opinion Request continuation, AO-08-09-LOB (Gravo)

Ms. Ware presented the revised advisory opinion request by Mr.Gravo to the commission members.

Commissioner Dean moved to approve the revised advisory opinion AO-08-09 LOB (Gravo).

Commissioner Ballenger seconded the motion.

The motion passed 4-0

Ms. Hill asked the Chair to go back into executive session to finish discussing personnel matters.

OFF RECORD 2:20 pm

Executive session

ON Record 2:50 pm

The commission came out of executive session and directed Ms. Hill to continue working with staff to address issues that arise concerning completing the Commission's work as expeditiously as possible, considering the lack of staff and the upcoming reporting periods.

Chair Hickerson moved to adjourn

ADJOURNED

OFF RECORD 5:55 pm