

ALASKA PUBLIC OFFICES COMMISSION
MINUTES
REGULAR COMMISSION MEETING
NOVEMBER 19-21, 2008

A regular meeting of the Alaska Public Offices Commission came to order at 9:00 a.m. on Thursday, November 21, 2008. The meeting convened at 2221 E. Northern Lights Blvd. Rm. 128, Anchorage, Alaska.

Brackets [] indicate an agenda item number and that an information packet is included in the meeting binders. An asterisk * indicates no information was included in the meeting binders.

In Attendance:

COMMISSION: Elizabeth Hickerson - Chair
Kathleen Frederick – Vice chair
Roger Holl – Commissioner
Shirley Dean – Commissioner
Kathleen (Kate) Ballenger – Commissioner

Staff: Holly R. Hill – Executive Director
Chris Ellingson – Assistant Director
Patty Ware – Project Coordinator Juneau Office (via Tel-conf)
Jeff Berliner – Investigator
Vullnet Greva – Group Coordinator
Joan Mize – Paralegal Juneau Office (via Tel-conf)
Maria Bulfa – Recording Secretary

Attendees: Tom Amodio, Complainant’s Attorney 08-10-CD
Scott Kendall, Respondent’s Attorney 08-10-CD
Kenneth Jacobus, Treasurer for the Committee to Stop the Corruption 08-15-CD
Bob Adney, witness for the Committee to Stop the Corruption 08-15-CD
Sandra Wiese, VP, Government Affairs & Law, Data Recognition Corp (Tel-conf)
Joseph Paskvan,-Appeal of staff determination of denial of exemption request under AS 39.50
Steven Van Goor, Alaska Bar Association

ON RECORD 9:00 a.m.

Chair Hickerson called the meeting to order.

Alaskans Against the Mining Shutdown (AAMS) v. Americans for Job Security (AJS), 08-10-CD

Chair Hickerson asked individuals to introduce themselves and identify who would be participating in case number 08-10-CD.

Mr. Amodio appeared telephonically for AAMS.

Tom Dosik appeared on behalf of staff, Mr. Berliner was sworn in to give testimony on the information contained in his investigation report.

OFF RECORD 10:23 a.m.

BREAK

ON RECORD 10:33 a.m.

Mr. Kendall appeared in person as the representative for AJS in this complaint.

Commissioner Frederick requested a brief recess.

OFF RECORD 10:54 a.m.

BREAK

ON RECORD 10:55 a.m.

After the brief recess, the commission continued the hearing.

OFF RECORD 11:15 a.m.

Break

ON RECORD 11:18 a.m.

AKPIRG v. Committee to Stop the Corruption, cont. 08-15-CD [11]

Ken Jacobus appeared in person on the behalf of the Committee to Stop the Corruption, 08-15-CD

Bob Abney joined telephonically, and gave sworn testimony in support of Ken Jacobus's statements.

Mr. Cleary was not present during the continuation of the discussion in this matter.

The Commission took 08-15-CD under consideration.

OFF RECORD 12:12 p.m.

Lunch

ON RECORD 1:10 p.m.

Request to Reduce or Waive Civil Penalty Assessments for Late Lobbyists or Employer or Lobbyist Reports, cont. [12]

Commissioner Frederick moved to leave Bruce Johnson and Carl Rose lobbyist CPAs tabled until staff receives additional documentation from the respondents.

Commissioner Dean seconded the motion.

The motion passed 5-0

Glaxo Smith Kline

Employer of Lobbyist

STATUS:

Retained Lobbyist Pat Carter

LATE REPORT:

2007 3rd Quarter Employer of Lobbyist Report

MAXIMUM CIVIL PENALTY:

\$440 – Report filed 44 days after the due date

STAFF RECOMMENDATION:

Waiver or 50% Reduction

Affiant states that he faxed the reports to the APOC office and has no idea why the report was not on time. He guessed that he might have sent it to 907-276-7018. He has purchased a new fax machine that will provide him with a confirmation receipt in an attempt to eliminate the cause of the problem.

Affiant is an experienced filer and has only one other late report in five years. A courtesy e-mail reminder from APOC was sent to employer on October 4th reminding them that the 3rd Quarter report was due October 31st. Mr. Guthrie was on the e-mail list.

Commissioner Dean moved to accept staff's report and reduce the civil penalty to 50% of \$440 or \$220 due to a potential technical error at the commission.

Commissioner Holl seconded the motion.

The motion passed 5-0

Data Recognition Corporation

Employer of Lobbyist

STATUS:

Retained Lobbyist Robert Evans

LATE REPORT:

2007 4th Quarter Employer of Lobbyist Report

MAXIMUM CIVIL PENALTY:

\$400 – Report filed 40 days after the due date

STAFF RECOMMENDATION:

Reduce civil penalty by 50%

DRC is fully committed to providing accurate and timely reports that meet requirements. Unfortunately, there was an error related to the filing of the 4th Quarter Report. Affiant states that during the month of January they were in the process of an internal staff transition and experienced a mix-up as to the filing of this report. This resulted from confusion related to efforts to become registered with APOC's new electronic system and at the same time meeting pre-existing quarterly filing requirements. DRC has been working diligently to get their company registered with the new electronic filing system.

Affiant is a first year filer. First notice of delinquency was sent on March 4, 2008. The report was signed on March 1, 2008 and submitted on March 11, 2008. An APOC courtesy e-mail reminder was sent to lobbyists and employers on January 4, 2008 reminding them that the 4th Quarter report was due on January 31, 2008. Data Recognition Corporation – Sandra Wiese was on the distribution list.

Sandra Wiese, VP, Government Affairs, & Law appeared telephonically, gave oral testimony.

Commissioner Ballenger moved to accept staff's recommendation and to reduce the civil penalty to 50% of \$400 or \$200 because this is a first time filer.

Commissioner Frederick seconded the motion.

The motion passed 5-0

Rent-A-Center West, Inc.

Employer of Lobbyist

STATUS:

Retained Lobbyist Ashley Reed

LATE REPORT:

2007 3rd Quarter Employer of Lobbyist Report

MAXIMUM CIVIL PENALTY:

\$690 – Report Filed 69 days after the due date

STAFF RECOMMENDATION:

Reduced civil penalty by 50%

RAC never had cause for filing a lobbyist report in Alaska and did not learn of the requirement to file until receiving notification from APOC of the delinquency. RAC was not aware that it was a state requirement to file a zero report. In mid-December when RAC learned of the delinquency, they were already embroiled in year-end urgent business activities, office closure due to upcoming holiday, and unavailability of the authorized representative for signature. They are requesting a waiver of the late filing fee for 3rd Quarter.

Affiant is a new filer. First letter was sent December 12, 2007 and the report was filed on January 8, 2008. An APOC courtesy e-mail reminder was sent to lobbyists and employers on October 4, 2007 reminding them of the need to file reports for 3rd Quarter which was due on October 31, 2007. Dwight Dumler, preparer of reports for Rent-A-Center West, Inc., was on the distribution list.

Commissioner Frederick moved to accept staff report and to reduce civil penalty to 50% of \$690 or \$345 based on mitigation criteria of first time filer and zero report.

Commissioner Dean seconded the motion.

The motion passed 5-0

Provider Inc.	Employer of Lobbyist
STATUS:	Retained Lobbyist Robert Thorstenson
LATE REPORT:	2007 3 rd Quarter and 4 th Quarter Employer of Lobbyist Reports
MAXIMUM CIVIL PENALTY:	3 rd Quarter - \$1,210 – Report filed 121 days late 4 th Quarter - \$ <u>290</u> – Report filed 29 days late Total \$1,500
STAFF RECOMMENDATION:	Reduce civil penalty by 50%

Affiant states that a letter was received about a late filing last year, but on December 19, 2007 she had a voicemail message from Krista at APOC who had said the letter had been sent in error because their account was terminated May 31, 2007. The number called from was 907-465-4864. Affiant thought they did not need to file further reports for 2007. (Same statement on both 3rd and 4th Quarter appeals).

Affiant is a new filer. First notice of delinquency was sent December 12, 2007. Second notice of delinquency was sent February 20, 2008. Report was received February 29, 2008. In addition, a courtesy e-mail reminder was sent to lobbyists and employers on October 4, 2007 reminding them of the need to file reports for the 3rd Quarter which were due on October 31, 2007. Teressa Kandiawis was on the e-mail list.

Commissioner Holl moved to assess a civil penalty of 3rd quarter report \$245 and \$145 for 4th quarter report.

Reasons for 3rd quarter reduction:

- Staff error in leaving a message on December 19th that no reports were due resulted in waiving the fines accrued after this message was left.

- Fines accruing from the due date of the report through December 19th (49 days) were reduced because the filer is an inexperienced filer and the report was a zero report.

Reasons for 4th quarter reduction to 50% of the maximum: Inexperienced filer and zero report.

Commissioner Ballenger seconded the motion.

The motion passed 5-0

JP Morgan

Employer of Lobbyist

STATUS:

Retained Lobbyist Ashley Reed

LATE REPORT:

2007 3rd Quarter and 4th Quarter Employer of Lobbyist Reports

MAXIMUM CIVIL PENALTY:

3rd Quarter - \$1,210 – Report filed 121 days late
 4th Quarter - \$ 290 – Report filed 29 days late
 Total **\$1,500**

STAFF RECOMMENDATION:

Uphold Maximum Penalty

The notice of delinquency did not reach the appropriate person. Affiant has corrected this. In other states, the lobbyist usually handles any reporting. Affiant has corrected this oversight. All reports are current and Affiant intends on fully complying in a timely fashion with the next reporting period deadline of April 30, 2009 as well as all future reporting requirements.

First notice of the delinquency for the 3rd Quarter report was sent on December 12, 2007. Second notice of delinquency of 3rd Quarter report was sent on February 2, 2008. The 3rd Quarter report was received February 29, 2008. An APOC courtesy e-mail reminder was sent to lobbyist and employers on October 4, 2007 reminding them of the need to file the 3rd Quarter report which was due on October 31, 2007. Another APOC courtesy e-mail reminder was sent to lobbyists and employers on January 4, 2008 reminding them that the 4th Quarter report was due January 31, 2008. These e-mails were sent to JP Morgan.

Commissioner Holl moved to adopt staff's recommendation to uphold the maximum penalty of \$1,500.

Commissioner Dean seconded the motion.

The motion passed 5-0

Ms. Ware asked the Commission to postpone hearing on the Hoffman LaRoche, Inc. Civil Penalty Assessment until the next commission meeting due to a personal catastrophe.

Lake and Peninsula Borough

Employer of Lobbyist

STATUS: Retained Lobbyist Mark Hickey

LATE REPORT: 2007 4th Quarter Employer of Lobbyist Reports

MAXIMUM CIVIL PENALTY: \$500 – Report filed 50 days after the due date

STAFF RECOMMENDATION: Uphold maximum penalty

The Borough manager position was involved in transition matters. The new manager (February 1, 2008) was unaware that the needed paperwork was not forwarded to APOC.

Affiant is an experienced filer. The notice delinquency was mailed on March 4, 2008. The report was signed on March 14, 2008 and mailed on March 21, 2008. An APOC courtesy e-mail reminder was sent to lobbyists and employers on January 4, 2008 reminding them that the 4th Quarter report was due on January 31, 2008. Lake and Peninsula, Jeff Currier, was on the distribution list.

Commissioner Dean moved to accept staff's report to uphold the maximum penalty of \$500.

Commissioner Frederick seconded the motion.

The motion passed 5-0

March of Dimes

Employer of Lobbyist

STATUS: Retained Lobbyist Mary Lee-Allen

LATE REPORT: 2007 4th Quarter Employer of Lobbyist Reports

MAXIMUM CIVIL PENALTY: \$620 – Report filed 62 days after the due date

STAFF RECOMMENDATION: Reduce civil penalty by 50%

The office moved on February 29, 2008 and has been having phone and mail problems. The delinquency notice mailed March 4, 2008 was not received timely as it was mailed to the old address and had to be forwarded. The new director did not realize she had to file reports for 2007.

Affiant is an experienced filer. A delinquency notice letter was mailed on March 4, 2008. First contact from affiant was by e-mail on Friday, March 28, 2008. The report was signed and faxed to APOC on Monday, April 2, 2008. An APOC courtesy e-mail reminder was sent to all lobbyists and employers on January 4th reminding them that the 4th Quarter report was due on January 31, 2008 March of Dimes, Kathy Ellis, was on the distribution list.

Commissioner Ballenger moved to accept staff's report to reduce the civil penalty to 50% of \$620 or \$310.

Commissioner Dean seconded the motion.

The motion passed 5-0

Revised Mitigation Criteria Discussion, cont [5]

The Commission reviewed the revised draft mitigation criteria that Ms. Ware presented.

OFF RECORD 2:24 p.m.

Break

ON RECORD 2:31 p.m.

Appeal of Staff's Determination on Disclosure of Client Information under AS 39.50 (POFD) [2]

Chair Hickerson asked staff, in person and telephonic attendees to introduce themselves.

The following individuals appeared in person and telephonically to give oral statements regarding this matter:

Ms. Ellingson, APOC Staff

Ms. DeYoung, Department of Law in support of the staff

Mr. Van Goor, Alaska Bar Association

Mr. Paskvan, Requestor (via Teleconference)

OFF RECORD 3:11 p.m.

Break

ON RECORD 3:16 p.m.

Appeal of Staff's Determination on Disclosure of Client Information, cont. (POFD)
[2]

Commissioner Holl moved to postpone the hearing on this request and to order Mr. Paskvan file the pertinent required information as prescribed in 39.30.030, which will give him a chance to get client consent if possible and if it is not possible file an exemption under 39.30.035.

The motion died for lack of a second.

Chair Hickerson asked to recess the hearing and consult with the Commission attorney, Mr. Milks from the Department of Law.

Commissioner Holl moved to recess.

Commissioner Ballenger seconded the motion.

The motion passed 5-0.

OFF RECORD 4:00 p.m.

Recess

ON RECORD 4:36 p.m.

The Commission requested that Mr. Paskvan try to obtain consent, pertaining to disclosure of his attorney fees, from his clients. If Mr. Paskvan has a client that refuses to provide a consent form, then Mr. Paskvan is required to have a written statement explaining the reason of refusal. He is expected to provide copies of the client consent forms before close of business on December 9, 2008.

The following information is required for the December 18, 2008, Paskvan hearing.

- December 4, 2008 initial briefs from both parties
- December 9, 2008 reply briefs from both parties

Mr. Van Goor is invited to submit briefs if he wishes.

Commissioner Dean moved to go on executive session to discuss personnel issues.

Commissioner Frederick seconded the motion

The motion passed 5-0

OFF RECORD 4:50 p.m.

Executive session

ON RECORD 5:10 p.m.

Commissioner Ballenger moved to adjourn.

Commissioner Frederick seconded the motion.

OFF RECORD 5:11 p.m.