

**ALASKA PUBLIC OFFICES COMMISSION  
MINUTES  
REGULAR COMMISSION MEETING  
FEBRUARY 11-12, 2008**

A regular meeting of the Alaska Public Offices Commission came to order on 9:03 a.m. Wednesday, February 11, 2009. The meeting was held on the 10<sup>th</sup> 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)  
Roger Holl – Commissioner (Absent)  
Shirley Dean – Commissioner  
Kathleen (Kate) Ballenger – Commissioner

**Staff:**

Holly R. Hill – Executive Director  
Chris Ellingson – Assistant Director  
Patty Ware – Project Coordinator  
Jerry Anderson – Associate Attorney (via teleconference)  
Jeff Berliner – Investigator (via teleconference)  
Kim Wilson – Paralegal (via teleconference)  
Vullnet Greva – Paralegal (via teleconference)  
Joan Mize – Paralegal  
Maria Bulfa – Executive Secretary (via teleconference)

**Attendees:**

Annette Kreitzer – DOA Commissioner  
Rachael Petro – DOA Deputy Commissioner (via teleconference)  
Derek Miller – Rep. Mike Kelly’s office  
Bill Milks – Assistant Attorney General, Dept. of Law  
Monica Koethke – Project Manager, Enterprise Technology Services (via teleconference)  
Tom Dosik – Attorney General, Dept. of Law (via teleconference)  
Kevin Brooks – Deputy Commissioner, Dept. of Administration  
Anand Dubey – Director, Enterprise Technology Services, Dept. of Administration  
Mike Sica – Representative Bob Lynn’s Office

**ON RECORD 9:03 a.m.**

Chair Hickerson introduced herself and the commission members present in person and telephonically. Chair Hickerson and the commission members acknowledged Christina Ellingson's forthcoming retirement on April 30, 2009 from APOC as the Assistant Director and thanked her for years of service with the State of Alaska and to the public.

### **Approval of Agenda**

The commission approved the meeting agenda.

### **Approval of Minutes [1]**

The Commission approved November 10, 19-21 and December 11, 2008 meeting minutes as revised.

Derek Miller, staff director for Representative Mike Kelly, was present in person and gave an overview presentation of proposed legislation that would affect the Public Official Financial Disclosure and Legislative Financial Disclosure Laws. Mr. Miller wanted to give the Commission this information in order to obtain any comments they might have regarding ways to improve these laws.

The Staff was directed by the Chair to come up with comments to provide to Mr. Miller regarding Representative Kelly's proposed changes in the disclosure law

Annette Kreitzer, Commissioner, Department of Administration participated in person with the discussion of state budget issues, commission members per diem, honorarium payments, and the Senate Committee meeting scheduled on February 12<sup>th</sup> at 5:00 pm.

### **Public Comment Period**

No attendees were present. No public comments were received.

**OFF RECORD 9:50 am**

**Break**

**ON RECORD 10:00 am**

### **Executive Director Report [3]**

Ms. Hill presented the Executive Director's report that was included in the packet.

Deputy Commissioner, Kevin Brooks was present in person to answer any question the commission might have regarding the FY10 budget.

### **Insight Project Update [2]**

Monica Koethke, ETS, Project Manger was present telephonically to give an update to the staff and commission members on the status of the Insight Project.

After the Insight presentation, Chair Hickerson asked the Commissioners to go back to the Executive Director's report to address Ms. Hill's request to allow expenditure of operating funds to move the Insight project to the next phase.

**Commissioner Dean made a motion to accept staff's budget request of authorizing \$84,605.00 to go forward on the Insight project's next phase under the preapproved Charter.**

**Commissioner Ballenger seconded the motion.**

**The motion passed 4-0**

**Executive Director's Report Continuation [3]**

Mr. Berliner presented the complaint status report that was included in the Executive Director report to staff and commission members.

**OFF RECORD 11:00 a.m**

**Break**

**ON RECORD 11:15 a.m**

**Discussion of Mitigation Criteria [4]**

Ms. Ware and staff presented an updated draft of the proposed mitigation criteria that the Commission had previously discussed at the November Commission meeting.

Following the discussion, the commission asked Ms. Ware to make recommended changes on the Mitigation Criteria and re-present on February 12, 2009 with the revision.

**Assessments for Late Group Campaign Disclosure Report [5]**

RESPONDENT:	<b>AK Right to Life</b>
LATE REPORT:	30 Day Primary, 30 Day General, and 7 Day General
MAXIMUM CIVIL PENALTY:	<b>\$210</b> for 30 Day Primary [21 days late at \$10 a day]
	<b>\$670</b> for 30 Day General [67 days late at \$10 a day]
	<b>\$2,250</b> for 7 Day General [45 days late at \$50 a day]
	<b>\$3,130 Total</b>

STAFF RECOMMENDATION: Waive Penalty

The last time **Alaska Right to Life PAC** had filed a late report was in 2006 for a late 30 day and 7 day Municipal report; both reports only showing administrative costs and show no activity influencing the outcome of the election. Before that the last filed report was in 2003 both 30 day and 7 day Municipal report showing “**No Activity**”, both were waived

**Staff offers the following facts as stated by the respondent that support waiving the penalty:**

- Michael Stafford has been the group’s treasurer for several years
- Mr. Stafford moved out of state over a year ago but agreed to fulfill the position of treasurer until the group finds a replacement.
- All mail correspondence was mailed to an address here in Alaska and then forwarded to Mr. Stafford out of state.
- In the later part of 2008 Mr. Stafford’s diabetes took a turn for the worse. Mr. Stafford’s feet turned black and from the diabetes and the VA hospital had to take care of him during the worst part of his illness.

**Staff recommendation**

Due to the incapacitating illness of Mr. Stafford and the death of a loved one it was recommended by staff that the penalties be waived. It should also be noted that Karen Lewis, Executive Director of AK Right to Life PAC immediately came to the Anchorage APOC office after finding out that the group had not filed. She asked to be shown how to report and what to report to correct all the problems. She then filed all the missing reports the next business day.

**Commissioner Dean made a motion to uphold the full penalty of \$210, 30-Day primary, and waived the 30-Day General and 7- Day general reports due to an illness.**

**Commissioner Ballenger seconded the motion.**

The Commission found that the following reason(s) supported waiving the two penalties for the General reports and for upholding the penalty for the one late Primary report:

- Due to the incapacitating illness and the personal catastrophe to Mr. Stafford during the reporting period the commission waived the penalties for the late 30 day and 7 day General reports.
- Mr. Stafford was not hospitalized during the reporting period for the Primary report and was able to file the report on time but did not.

**The motion passed 4-0**

RESPONDENT: **DSA - 35 Democrats**

LATE REPORT: 30 Day Primary

MAXIMUM CIVIL PENALTY: **\$40** for 30 Day Primary – Due 07/28/08  
[4 days late at \$10 a day]

STAFF RECOMMENDATION: Waive Penalty

The group has been active since 2006 and this is the first late report.

**Staff offers the following facts as stated by the respondent that support waiving the penalty:**

- o The treasurer lives in Homer.
- o The treasurer’s son had open-heart surgery in Anchorage during the reporting period and the treasurer did not get back home to Homer until July 30, two days after the July 28 deadline.
- o The treasurer immediately put the report together and then filed August 1, 2008 by post mail

**Staff Recommendation**

Due to the incapacitating illness of the treasurer’s son it is recommended by staff that the penalty be waived.

**Commissioner Dean moved to adopt staff recommendation the civil penalty be waived due to an incapacitating illness.**

**Commissioner Ballenger seconded the motion.**

The Commission found that the following reason(s) supported waiving the penalty:

- o Due to the incapacitating and unplanned illness and surgery of the treasurer’s son.

**The motion passed 4-0**

RESPONDENT: **RSA – Mat-Su Republican Women’s Club**

LATE REPORT: 30 Day Primary

MAXIMUM CIVIL PENALTY: **\$630** for 30 Day Primary – Due 10/06/08  
[63 days late at \$10 a day]

STAFF RECOMMENDATION: Waive Penalty

The group has been active since 2002 and this is their first late report.

**Staff offers the following facts as stated by the respondent that support waiving the penalty:**

- This is the treasurer's first year of filing, treasurer is an inexperienced filer
- The treasurer was recovering from knee surgery in October.

**Staff Recommendation**

Staff recommends the penalty be waived due to the fact that the group has a new inexperienced treasurer and that during the reporting period the treasurer underwent surgery and that the group has an excellent filing history for over 5 years.

**Commissioner Ballenger made a motion to reduce the maximum civil penalty of 50% to \$315 due to unique circumstances.**

**Commissioner Dean seconded the motion.**

The Commission found that the following reason(s) supported reducing the penalty:

- Due to unique circumstances. Knee surgery on October 2, 2008, however report filed was more than two months after surgery.

**The motion passed 4-0**

**OFF RECORD 12:50 p.m**

**Lunch**

**ON RECORD 2:33 p.m**

**Advisory Opinion Request, AO-08-19-LOB ( Gravo)**

Ms. Ware presented the advisory opinion request for Mitchell D. Gravo.

Mr. Dosik participated by teleconference to answer any questions the Commission or its counsel might have regarding the opinion request and staff's proposed answer.

**Advisory Opinion Request, AO-09-01-CD (Claman) [7]**

Mr. Greva telephonically presented the advisory opinion request for Matt Claman. Mr. Mr. Dosik participated by teleconference to answer any questions the Commission or its counsel might have regarding the opinion request and staff's proposed answer.

Commissioner Dean moved to go into executive session to discuss the advisory opinion request AO-08-19-LOB-Gravo and AO-09-01-CD. **Bill Milks, Assistant Attorney General, Department of Law and Tom Dosik, Assistant Attorney General, Department of Law, Anchorage were requested to attend the executive session.**

Commissioner Frederick seconded the motion.

**OFF RECORD 2:45 pm**

**Executive session**

**ON RECORD 3:20 pm**

The commission came out of executive session.

During the discussion, Chair Hickerson asked Mr. Dosik, Assistant Attorney General, Dept of Law to revise AO-08-19-LOB (Gravo) advisory opinion request. The changes will reflect that Mr. Gravo needs to better identify his activities. Mr. Dosik was asked to present the revised proposed advice on Thursday, February 12, 2009 at the commission meeting.

Commissioner Ballenger made a motion to adopt the proposed advisory opinion request for Matt Claman as revised.

Commissioner Dean seconded the motion.

The motion passed 4-0

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

The following Employers of Lobbyists and Lobbyists were not included in the consent agenda process, at the direction of the Commission:

- Hoffman LaRoche, Inc
- The Kuskokwim Corporation
- Metlakatla Indian Community
- Alaska Bankers Association
- Assets, Inc
- Tanana Chiefs Conference
- ACCA (AK Center of Children & Adults)
- Bruce Johnson
- Carl Rose
- Lauren Oakes

Commissioner Dean declared a possible conflict of interest with Peggy Brown. A few years ago Ms. Dean had a contract with the Alaska **Network on Domestic Violence and Sexual Assault**. Ms. Brown was a co-worker at that time. Commissioner Dean stated her belief that this association would not affect her consideration of the issue and announced she would participate in the consideration of the issue.

Commissioner Ballenger made a motion to adopt the remaining items on the consent agenda and accept the staff recommendation as presented to the commission.

**Commissioner Dean seconded the motion.**

**The motion passed 4-0**

RESPONDENT: **The Kuskokwim Corporation**

STATUS: 2007 Employer of Lobbyist: Retained Paul Fuhs

LATE REPORT: 2007 2<sup>nd</sup>, 3<sup>rd</sup> and 4<sup>th</sup> Quarter Employer of Lobbyist Reports

MAXIMUM CIVIL PENALTY: **\$10,950**

The Kuskokwim Corporation's first year of filing was 2005. They had a late 1<sup>st</sup> Quarter 2006 and a late 1<sup>st</sup> Quarter 2007 report; therefore, they do not meet the definition of good filing history.

**Staff Analysis of Fact for Commission Review and Staff Recommendation:**

- 2<sup>nd</sup> Quarter 2007 Report - No delinquency notice was mailed by former APOC staff since there was no lobbying administrator or clerk in the Juneau office during this period. No delinquency was noticed until current staff were preparing the 2007 Year End Report in the Microsoft Access Database and had issued the 3<sup>rd</sup> and 4<sup>th</sup> quarter delinquency letters.
- 3<sup>rd</sup> Quarter 2007 Report – 1<sup>st</sup> notice of delinquency was mailed 12/12/07. 2<sup>nd</sup> notice of delinquency was mailed 02/20/08. Final notice of delinquency was mailed 08/20/2008.
- 4<sup>th</sup> Quarter 2007 Report – 1<sup>st</sup> notice of delinquency was mailed 03/04/2008. Final notice of delinquency was mailed 08/20/2008.
- APOC sent courtesy e-mail to both lobbyist and employer on 10/05/2007, 11/09/200, and 01/04/2008 reminding them of reports due. Kuskokwim Corporation received the e-mails at [hea@kuskokwim.com](mailto:hea@kuskokwim.com).
- On 04/16/2008 a call was made to Tara Jo Brown reminding her that reports must be filed and fines continue to accrue. Staff explained that Kuskokwim Corporation could appeal penalties, but reports must first be filed.
- All three reports were received on 10/31/2008.

**Staff Recommendation**

**2<sup>nd</sup> Quarter 2007** – Waiver of penalty due to no delinquency notice except verbally in October 2008.

**3<sup>rd</sup> Quarter 2007** – Uphold maximum penalty of \$3,650 as employer does not meet criteria for waiver or reduction of penalty.

**4<sup>th</sup> Quarter 2007** – Uphold maximum penalty of \$2,730 as employer does not meet criteria for waiver or reduction of penalty.

**Commissioner Ballenger made a motion to accept the staff recommendation waiving the 2007 2<sup>nd</sup> Quarter report and to impose a full penalty for both 2007 3<sup>rd</sup> Quarter and 4<sup>th</sup> Quarter report due to failure to follow the standard mitigation procedure during past decisions.**

**Commissioner Dean seconded the motion.**

The Commission found that the following reasons supported waiving the assessed civil penalty for 2007 2<sup>nd</sup> Quarter:

- APOC Staff Error: Failure to follow standard office procedure in not sending written notice of delinquency.

The Commission voted 4-0 to uphold the maximum civil penalty for 2007 3<sup>rd</sup> & 4<sup>th</sup> Quarters for the following reason:

- Filer does not meet the criteria for a waiver or reduction of the penalty.

**The motion passed-4-0**

RESPONDENT:	<b>Metlakatla Indian Community</b>
STATUS:	2007 Employer of Lobbyist: Retained Larry Markley
LATE REPORT:	2007 4 <sup>th</sup> Quarter Employer of Lobbyist Reports
MAXIMUM CIVIL PENALTY:	<b>\$2,050 – filed 205 days late</b>

Metlakatla Indian Community has been an employer of lobbyists since 1989. Submitted documentation from staff shows the employer filed six late reports, of which four were paid; one was waived administratively, and one still pending.

**Staff Analysis of Facts for Commission Review and Staff Recommendation:**

- A courtesy reminder e-mail was sent to all lobbyists and employers on January 4th that the 4th quarter report was due January 31, 2008. Metlakatla Indian Community is on the e-mail distribution list.
- The report is dated 03/07/2008, supporting affiant's assertion that this is the date the report was originally faxed. This would make the report 45 days late for a civil penalty of \$450.
- APOC sent a delinquency notice to the filer on March 4, 2008 and didn't receive a response.
- APOC mailed a second notice of delinquency August 21, 2008 stating that the report was significantly late and filer had accrued \$2,000 in civil penalties. Paul Brendible, Director of Contracts for Metlakatla, called APOC on August 26th stating they had

faxed the report on March 17<sup>th</sup>. APOC files, including the 2007 files, revealed no report. APOC staff told him the report was not there so he should file immediately to avoid additional penalties.

### **Staff Recommendation**

Staff recommendation: Reduce the penalty from \$2,050 to \$450 due to the potential technical error of the fax not having been received by APOC. The lower fine equates to the report being 45 days late rather than 205 days late.

**Commissioner Dean moved to accept staff recommendation to reduce civil penalty to from \$2,050 to \$450 due to technical difficulty.**

**Commissioner Ballenger seconded the motion.**

The Commission found that the following reasons supported reducing the 2007 4<sup>th</sup> Quarter civil penalty to \$450.00 (45 days late @ \$10 day):

- Potential technical error with fax machine – report would have only been 45 days late instead of 205 days late.

**The motion passed 4-0**

RESPONDENT:	<b>Alaska Bankers Association</b>
STATUS:	2008 Employer of Lobbyist: Retained Thyes Shaub
LATE REPORT:	2008 1 <sup>st</sup> Quarter Employer of Lobbyist Reports
MAXIMUM CIVIL PENALTY:	<b>\$610 – filed 61 days late</b>

Experienced filer. No late report in the previous five years.

### **Staff Analysis of Facts for Commission Review and Staff Recommendation:**

- Affiant states that the 1st Quarter report was completed on-line in a timely manner; however, it appears that an error was made by filer in the completion of the electronic submission.
- While checking other filings at the end of June it was determined that submission of the 1st Quarter report had not been electronically received by APOC. It was resubmitted in Insight.
- On-line completion documentation is now printed and retained.
- Affiant respectfully requests the Commission's understanding of the error with the electronic filing portion of the report and waive the late fee.

## Staff Recommendation

Waiver (100% Reduction) due to confirmed technical issues with the reporting capability in Insight.

**Commissioner Dean moved to accept staff recommendation to waive 100% of the civil penalty, due to confirmed technical issues.**

**Commissioner Ballenger seconded the motion.**

The commission found that the following reasons supported waiving the civil penalty for the 2008 1<sup>st</sup> Quarter Employer of Lobbyist Report:

- Confirmed Technical Issue - Filer misunderstanding between completion of a report in the electronic system and how to ensure the completed report was “submitted” or electronically signed.

**The motion passed 4-0**

RESPONDENT:	<b>Assets, Inc</b>
STATUS:	2008 Employer/Reimbursing Entity of Representational Lobbyists
LATE REPORT:	2008 1 <sup>st</sup> Quarter Reports
MAXIMUM CIVIL PENALTY:	<b>\$70 – filed 7 days late</b>

For over 20 years not-for-profit developmental disability organizations like Assets have supported individuals with disabilities by helping them go to Juneau to self-advocate. Assets, Inc. was unaware of the reporting requirement until notified by APOC in May of 2008.

### **Staff Analysis of Facts for Commission Review and Staff Recommendation:**

- Staff worked the end of April 2008 and beginning of May 2008 to organize and file the new APOC Group Lobbyist Registration Form for Legislative Fly-Ins that had been submitted in February and March of 2008.
- Reports had been received by APOC from some organizations, but were stacked in a basket labeled “To Be Filed – MISC”.
- An e-mail was sent on May 5, 2008 to those entities that APOC staff did not find a report for while organizing and filing forms and reports
- There was a lack of understanding/Training of new process for representational lobbyist’s registration and what “reports” were required.

## Staff Recommendation

Waiver (100% Reduction) due to confusion regarding reporting requirements and what report should be filed.

**Commissioner Ballenger made a motion to accept staff recommendation of 100% waiver due to staff error and changing the procedure without notifying the filers.**

**Commissioner Dean seconded the motion.**

The commission found that staff error and a change in procedure without notifying the filer supported waiving the civil penalty for the 2008 1<sup>st</sup> Quarter Employer of Lobbyist Report.

**The motion passed 4-0**

RESPONDENT:	<b>Tanana Chiefs Conference</b>
STATUS:	2008 Employer/Reimbursing Entity of Representational Lobbyists
LATE REPORT:	2008 1 <sup>st</sup> Quarter Reports
MAXIMUM CIVIL PENALTY:	<b>\$90 – filed 9 days late</b>

The Petruska's are parents of a child with a disability and only spoke to Senator Kookesh to tell him their hardships. Affiant, Amanda Race, Program Coordinator, states she assisted them around the capitol for 2 days in an "escort" capacity and they gave information but did not "lobby" anyone. Stated she was unaware of the reporting requirement until May 1, 2008.

**Staff Analysis of Facts for Commission Review and Staff Recommendation:**

- Staff worked the end of April and beginning of May 2008 to organize and file the new APOC Group Lobbyist Registration Form for Legislative Fly-Ins that had been submitted in February and March of 2008.
- Reports had been received by APOC from some organizations, but were stacked in a basket labeled "To be filed" – Misc"
- An e-mail was sent on May 5, 2008 to those entities that APOC staff did not find a report for while organizing and filing forms and reports.
- There was a lack of understanding/training of new process for representational lobbyists' registration and what "reports" were required.

**Staff Recommendation**

Waiver (100% Reduction) due to confusion regarding reporting requirements and what report should be filed.

**Commissioner Dean made a motion to accept staff recommendation of 100% waiver due to staff error and changing the procedure without notifying the filers.**

**Commissioner Ballenger seconded the motion.**

**The motion passed 4-0**

RESPONDENT: **Alaska Center For Children & Adults (ACCA)**

STATUS: 2008 Employer/Reimbursing Entity of Representational Lobbyists

LATE REPORT: 2008 1<sup>st</sup> Quarter Reports

MAXIMUM CIVIL PENALTY: **\$700 – filed 7 days late**

Andrea Hammond, former ACCA Executive Director, was responsible for filing the reports. Ms. Hammond was gathering the necessary information for this report when she experienced a disabling back injury. Ms. Hammond's back injury resulted in back surgery which prevented her from working from May 15, 2008 to July 18, 2008. Ms. Hammond was able to complete and send this report to APOC on July 11, 2008 as she was able to work from home, although not officially released to return to work. This is the first experience ACCA had with this report, so the report and process were unfamiliar. Due to the extenuating circumstance, ACCA respectfully requests waiver of the penalty.

**Staff Analysis of Facts for Commission Review and Staff Recommendation:**

- Staff worked the end of April and beginning of May 2008 to organize and file the new APOC Group Lobbyist Registration Form for Legislative Fly-Ins that had been submitted in February and March of 2008.
- Reports had been received by APOC from some organizations, but were stacked in a basket labeled "To be filed" – Misc"
- An e-mail was sent on May 5, 2008 to those entities that APOC staff did not find a report for while organizing and filing forms and reports. Staff received a reply from ACCA – Andrea Hammond on May 6, 2008 stating, "I did this back in February." APOC staff sent a second e-mail to ACCA on 5/22/08.
- On 6/30/08 (Post Marked 6/24/08) APOC received a copy of the 5/22/08 e-mail and a copy of the Group Lobbyist Registration Form. There was a handwritten note on the copy of the 5/22/08 e-mail that said "This was sent previously 3/23/08". APOC staff called and left a message asking for Ms. Hammond to call our office. When she did so, It was explained what had to be completed and she was told that APOC would mail her a copy of the 2008 Employer of Lobbyist Report form as she was at home after having had back surgery in May.
- Report was received by APOC on July 11, 2008.

### **Staff Recommendation**

Waiver (100% Reduction) due to confusion regarding reporting requirements, what report should be filed, and the fact that the filer had an incapacitating illness/surgery that prevented her from working from May 15<sup>th</sup> until July 18<sup>th</sup>.

**Commissioner Dean made a motion to accept staff's recommendation of 100% waiver due to staff error and changing the procedure without notifying the filers.**

**Commissioner Frederick seconded the motion.**

**The motion passed 4-0**

RESPONDENT: **Bruce Johnson, Lobbyist**

STATUS: Lobbyist for Association of Alaska School Board: 2007 Compensation of \$4,304.70

LATE REPORT: 2007 4<sup>th</sup> Quarter Lobbyist Report

MAXIMUM CIVIL PENALTY: **\$350 – filed 35 days late**

Mr. Johnson is an experienced filer (since 2002) and has an excellent reporting history with no late filings. Affidavit was prepared by Diana Miller, AASB Business Manager. Ms. Miller states that she prepares the lobbyists and employer of lobbyist reports. She states that the problem occurred in the copying and mailing of the 2007 4<sup>th</sup> quarter reports and only a part of the reports were copied and mailed. Her file copy has all three reports attached to the Certified/Return Receipt that was always sent with the APOC reports which led her to believe that they had all been sent and received on time. Upon notice by APOC she immediately faxed over the file copies. Past filing history will show that she has always submitted reports in a timely manner over many years.

#### **Staff Analysis of Facts for Commission Review and Staff Recommendation:**

- An e-mail was sent to all lobbyists and employers of lobbyists on January 4, 2008 reminding them that the 4th Quarter lobbyist and employer of lobbyist reports were due by January 31st. Mr. Johnson and AASB were on the e-mail list.
- The delinquency notice was mailed on March 4, 2008 and the report was received on March 6, 2008.
- Form appears to have been completed on December 31, 2007, which would coincide with the completion of the Employer of Lobbyist report which was received by APOC timely.

### **Staff Recommendation**

Mr. Johnson has an excellent filing history.

Good Faith Effort was made in that the report was received 2 days after the date of the notice.

Report was dated 12/31/2007 and affiant believed report was mailed with the employer report which was dated the same date and was received by APOC.

**Commissioner Dean moved to reduce the civil penalty by 50% of the \$350 to \$175 due to unique circumstances and mailing error.**

**Commissioner Dean with drew her motion.**

**Commissioner Dean moved to impose the full civil penalty of \$350 for filing thirty-five days late at \$10 a day.**

**Commissioner Hickerson seconded the motion.**

The Commission determined to uphold the maximum assessed civil penalty of \$350.00 since, the filer does not meet the criteria of being a first time filer; this was not a zero report; and there was no personal catastrophe, incapacitating illness, or staff error warranting a waiver or reduction of the penalty.

**Voice Vote:**

**Commissioner Dean – Yes**

**Commissioner Ballenger – No**

**Chair Hickerson – Yes**

**The motion passed 2-1**

**OFF RECORD 4:27 pm**

**Meeting Break**

**ON RECORD 4:50 pm**

RESPONDENT:

**Carl Rose, Lobbyist**

STATUS:

Lobbyist for Association of Alaska School Board: 2007 Compensation of \$12,149.30

LATE REPORT:

2007 4<sup>th</sup> Quarter Lobbyist Report

MAXIMUM CIVIL PENALTY:

**\$350 – filed 35 days late**

Mr. Rose is an experienced filer and has an excellent reporting history with only two late reports in 20 years. Affidavit was prepared by Diana Miller, AASB Business Manager. Ms. Miller states that she prepares the lobbyists and employer of lobbyist reports. She states that the problem occurred in the copying and mailing of the 2007 4<sup>th</sup> quarter reports and only a part of the reports were copied and mailed. Her file copy has all three reports attached to the Certified/Return Receipt that was always sent with the APOC reports

which led her to believe that they had all been sent and received on time. Upon notice by APOC she immediately faxed over the file copies. Past filing history will show that she has always submitted reports in a timely manner over many years.

**Staff Analysis of Facts for Commission Review and Staff Recommendation:**

- An email was sent to all lobbyists and employers of lobbyists on January 4, 2008 reminding them that the 4th Quarter lobbyist and employer of lobbyist reports were due by January 31st. Mr. Rose and AASB were on the e-mail list.
- The Delinquency notice was mailed on March 4, 2008 and the report was received on March 6, 2008.
- The form appears to have been completed on December 31, 2007, which would coincide with the completion of the Employer of Lobbyist report, which was received by APOC timely.

**Staff Recommendation**

Mr. Rose has an excellent filing history.

Good faith effort was made in that the report was received 2 days after the date of the notice.

The report was dated 12/31/07 and the affiant believed the report was mailed with the employer report which was dated the same date and was received by APOC.

**Commissioner Dean made a motion to uphold the full penalty of \$350 for being 35 days late.**

**Chair Hickerson seconded the motion.**

The Commission determined to uphold the maximum assessed civil penalty of \$350.00 since, the filer does not meet the criteria of being a first time filer; this was not a zero report; and there was no personal catastrophe, incapacitating illness, or staff error warranting a waiver or reduction of the penalty.

**Voice Vote:**

**Commissioner Ballenger – No**

**Commissioner Dean Yes**

**Chair Hickerson – Yes**

**The motion passed 2-1**

RESPONDENT:

**Lauren Oakes, Lobbyist**

STATUS:

2007 Compensation and expenditures of \$100

LATE REPORT:

2007 4<sup>th</sup> Quarter Lobbyist Report

MAXIMUM CIVIL PENALTY:

**\$1,770 – filed 177 days late**

Lauren Oakes was a new lobbyist in 2007. She filed one late report in 2007 (October special session) and paid the civil penalty of \$310. All other 2007 reports were timely filed.

The Affiant stated that:

1. APOC staff never entered her registration information into the database where all lobbyist records were kept in 2007 and she believed her reports were filed and up to date.
2. Affiant called APOC to see if anything was overdue and was told paper reports were sufficient and that the electronic filing system would be used by all filers at a later date.
3. She reviewed APOC reporting requirements and understood there were extra reports due during special session. She acknowledges her October special session report was late and paid that civil penalty without appeal.
4. She didn't receive a delinquency notice from APOC for the late 4<sup>th</sup> quarter report until July 16, 2008, 164 days after the report was due. She was on vacation during this period but filed the report immediately upon her return.
5. Affiant requests a waiver of the civil penalty due to these circumstances.

**Staff Analysis of Facts for Commission Review and Staff Recommendation:**

- Ms. Oakes registered as a new lobbyist with a start date of October 30, 2007. Her November special session report was timely filed and she paid a civil penalty of \$310 for a late October special session report.
- Prior to Insight development (including all of 2007) APOC maintained all lobbyist and employer data in a Microsoft Access database. This was also used to generate delinquency reports and letters to filers for both delinquencies and civil penalty assessments.
- The Juneau office was un-staffed for approximately one month during late summer of 2007 and without a clerk for approximately three months that fall, leading to a significant work backlog, including data entry in the Microsoft Access database. Ms. Oakes is correct that due to her registration late in the lobbying year, her information wasn't entered into the database, a process normally done early in the calendar year.
- New APOC staff were unable to successfully create a record for Ms. Oakes in the Microsoft Access database due to the complexity of the process but did create a lobbyist paper file containing the registration and reports.
- Ms. Oakes did not receive a courtesy reminder e-mail sent to lobbyists and employers on January 4th that the 4th quarter report was due January 31, 2008. Due to the lateness of her registration, her email hadn't been added to the master email list.
- APOC mailed delinquency notices for late 4th quarter reports on 3/4/08 but Ms. Oakes did not receive one since these letters were generated from information in the Microsoft Access database. As stated above, since Ms. Oakes' registration wasn't in the database, staff didn't realize Ms. Oakes was delinquent.
- It is possible Ms. Oakes called APOC staff but there is no record of this in the file. Discussion of the new (at that time, as yet to be deployed) Insight electronic filing

system may have been confusing as to what was currently due versus the future electronic registration and filing process.

- While conducting a year-end review of 2007 reports in July 2008, staff noted the missing late 4th quarter report and on 7/16/08 emailed, mailed and called Ms. Oakes about the delinquency.
- Ms. Oakes was on vacation when APOC sent the notices but filed the report immediately upon her return.

### **Staff Recommendation**

Affiant' registration information wasn't in the Microsoft Access database that generated delinquency reports so filer didn't receive notice until 164 days after the delinquency. APOC staff may have given affiant confusing information about electronic filing and how this related to 2007 reports (due in early 2008, during the same time Insight was being deployed).

**Commissioner Dean made a motion to accept staff recommendation 100% waiver due to staff error.**

**Commissioner Ballenger seconded the motion.**

The Commission determined to waive the penalty due to Staff Error. Registration information was not entered into the Microsoft Access Database that generated delinquency reports so the filer did not receive notice until 164 days after the delinquency. Also, staff may have given affiant confusing information about electronic filing and how this related to 2007 reports (due in early 2008 during the same time Insight was being deployed).

**The motion passed 4-0**

The Commission next entertained issues relating to the scheduling of two hearings. Mr. Berliner was present telephonically to answer any questions regarding 08-16-CD Alaska Democratic Party v Alaska Republican Party, Randy Ruedrich, Chair and Gene Brokaw and 08-17-CD David Valentine v. Alaska Republican Party, Randy Ruedrich, Chair and Sue Hull

The commission directed staff to get all parties to stipulate mutually agreeable dates and get back to the commission with those dates.

**The commission recessed until Thursday, February 12, 2009 at 10:00 am**

**OFF RECORD 5:18 pm**