



Reconsideration of Motion to Accept a Late-filed Appeal in the Matter of Anchorage Likes Coffee

I. Procedural Posture

On February 10, 2016, the Alaska Public Offices Commission (Commission) reviewed the assessment of a \$61,000 civil penalty against Anchorage Likes Coffey (the Group) for referral to the Attorney General's Office. Art Hackney appeared before the Commission and testified that the Group wished to appeal the civil penalty. Because the Group had not filed a timely appeal, the Commission ordered that it would allow the Group to file a motion to accept a late-filed appeal.¹

The commission further ordered that the motion must be filed by March 3, 2016; and that the motion must be supported by an affidavit explaining why an appeal was not timely filed, and further explaining the more than three month delay in requesting leave to appeal.²

On March 3, 2016, the Group filed a "Request for late-filed appeal hearing", but, without an accompanying affidavit.³

After taking the Group's Request under advisement at its June 8, 2016 meeting, the Commission ordered that the Group would be allowed to amend its Request by submitting an affidavit in support of the Request.⁴

The Commission further ordered that the affidavit must be filed no later than June 24, 2016; that the affidavit must explain why an appeal was not timely filed, and further explain the more than 3 month delay in requesting leave to appeal; and that failure to file an affidavit in support would result in automatic referral to the Attorney General's Office for collection of the \$61,000 civil Penalty.⁵

On June 24, 2016, the Group timely filed an affidavit in support of its Request.⁶

¹ Exhibit 1, February 18, 2016 Commission Order
² Ibid.
³ Exhibit 2, Request for late-filed appeal hearing
⁴ Exhibit 3, June 17, 2016 Commission Order
⁵ Ibid.
⁶ Exhibit 4, General Affidavit for Alaska Public Offices Commission

The matter is now before the Commission to decide whether or not to grant leave for a late-filed appeal.

2. The Underlying Civil Penalty

The civil penalty of \$61,000 was assessed for a late-filed 24 hour report. The Group appealed the assessment,⁷ albeit untimely, and staff generated a Staff Recommendation in case the Commission decided it would accept the late-filed appeal. The Group was served with the Staff Recommendation when it was served with the Notice of Hearing for the Commission's February 10, 2016 meeting.⁸

In the Group's March 3, 2016 request for late-filed appeal hearing, the Group indicates that staff's recommendation to reduce the civil penalty by 99% to \$610 seemed reasonable.⁹

Staff provides this information and the Recommendation so that the Commission may, if it desires, rule on staff's Recommendation should it decide to allow the late-filed appeal.

⁷ Exhibit 5, February 3, 2016 Late Appeal

⁸ Exhibit 6, Notice of Hearing and Staff Recommendation

⁹ Exhibit 2, last paragraph

BEFORE THE ALASKA PUBLIC OFFICES COMMISSION

In re)
)
 ANCHORAGE LIKES COFFEY)
 _____)
)
) CIVIL PENALTY APPEAL

FINAL ORDER

On February 10, 2016, the Commission reviewed the assessment of a \$61,000 penalty against Anchorage Likes Coffey for referral to the Attorney General’s Office for collection. On March 30, 2015, Anchorage Likes Coffey received a campaign contribution in the amount of \$300. During the nine days prior to an election, candidates and groups are required to disclose contributions that exceed \$250 within 24 hours of receiving them.¹ Although the March 30, 2015 contribution was received within nine days of the election and exceeded \$250, Anchorage Likes Coffey did not disclose the donation within 24 hours. The contribution was not disclosed until July 31, 2015, 122 days after the disclosure was due.

Failure to timely file this disclosure carries a maximum penalty of \$500 per day until it is filed. As a result, Anchorage Likes Coffey was assessed a penalty of \$61,000 for the late filing of the disclosure.² Anchorage Likes Coffey was notified of the penalty

¹ AS 15.13.110(b).

² Anchorage Likes Coffey was originally served with a Notice of Penalty Assessment on August 7, 2015. However, the original Notice of Penalty Assessment contained incorrect information and an Amended Notice of Penalty Assessment was issued on October 26, 2015.

as well as its right to appeal the penalty in a letter dated October 26, 2015.³ The deadline to appeal the civil penalty was November 25, 2015, 30 days from when the Amended Notice of Penalty Assessment was sent to Anchorage Likes Coffey. No appeal of the civil penalty was filed.

This matter came before the Commission on February 10, 2016 for referral to the Attorney General's Office for collection of the civil penalty. Art Hackney appeared before the Commission and testified that Anchorage Likes Coffey wishes to appeal the civil penalty. However, Anchorage Likes Coffey has not filed a written request to accept a late-filed appeal of the civil penalty.

The Commission will allow Anchorage Likes Coffey to file a motion to accept a late-filed appeal. That motion must be filed no later than March 3, 2016. In addition, the motion must be supported by an affidavit explaining why an appeal was not timely filed, and further explaining the more than three month delay in requesting leave to appeal. Failure to file a motion to accept a late-filed appeal within two weeks from the date of this order will result in automatic referral to the Attorney General's Office for collection of the \$61,000 civil penalty.

This is a final Commission order. It may be appealed to superior court within 30 days from the date of this order under AS 44.62. A request for the Commission to reconsider this order must be filed within 15 days from the date this order is delivered or mailed pursuant to 2 AAC 50.891(g).

³ The October 26, 2015 letter was served by both email and registered mail.

Dated: February 18, 2016

BY ORDER OF THE ALASKA PUBLIC OFFICES COMMISSION⁴

⁴ Commissioners Irene Catalone, Mark Fish, Ronald King, Kenneth Kirk, and Vance Sanders participated in this matter. The decision was made on a 5-0 vote.

BEFORE THE ALASKA PUBLIC OFFICES COMMISSION

In re)
)
 ANCHORAGE LIKES COFFEY,)
)
 _____)

CERTIFICATE OF SERVICE

I hereby certify that on this date, I caused a true and correct copy of the Alaska Public Offices Commission's Final Order and this Certificate of Service to be delivered as indicated to the following:

Anchorage Likes Coffey Attn: Art Hackney 1407 W 31 st Ave, Ste 100 Anchorage, AK 99503 art@hackney2.com	<input checked="" type="checkbox"/> Email <input checked="" type="checkbox"/> Certified Mail
---	---

ALASKA PUBLIC OFFICES COMMISSION

Michael F. Schwahn 2-18-2016
Law Office Assistant Date

9171-9690-0935-0096-9808-94

Schwahn, Michael F (DOA)

From: Microsoft Outlook
To: art@hackney2.com
Sent: Thursday, February 18, 2016 1:47 PM
Subject: Relayed: Commission Final Order

Delivery to these recipients or groups is complete, but no delivery notification was sent by the destination server:

art@hackney2.com (art@hackney2.com)

Subject: Commission Final Order

Date: February 26, 2016

Michael Schwahn:

The following is in response to your February 26, 2016 request for delivery information on your Certified Mail™ item number 9171969009350096980894. The delivery record shows that this item was delivered on February 19, 2016 at 10:05 am in ANCHORAGE, AK 99503. The scanned image of the recipient information is provided below.

Signature of Recipient :



Address of Recipient :



Thank you for selecting the Postal Service for your mailing needs.

If you require additional assistance, please contact your local Post Office or postal representative.

Sincerely,
United States Postal Service

ARRIVED

3-3-2016

**APOC - ANCH
PM HC FAX ELE**

ANCHORAGE LIKES COFFEY – Request for late-filed appeal hearing

Tamara,

I humbly request that a late-filed appeal be heard in this matter.

As I have explained, this was a very small election effort where only a total of \$3,500 in contributions were received. Only \$50 was received within the final week.

The campaign treasurer, Amie Haakenson, failed to record two cash contributions that came in prior to the last week. This did not come to my attention until shutting down the group account in July and I told her that this money needed to be reported.

Instead of filing an amended report, she filed as though this money had come in during the final week.

This fine is based on not filing a 24 hr report. All dollars received were given to the Treasurer to timely report, and to my knowledge that was being done properly as we had paid for her to go through APOC training. Deposits show that this money was clearly received/deposited prior to the 30th of March. My wife and I meticulously recorded and processed the small number of contributions and gave them to the Treasurer for proper filing. You now have the documents showing this.

The fact that this is a delayed appeal is not something that we are happy about, but I was not dealing directly with APOC and was under the impression that the premise for the fine was not correct.

When I was contacted about the amount of contributed cash being over the amount allowed, I immediately returned the money to the contributor.

When a fine was assessed, which I thought was what would resolve this, I immediately paid it personally. When I was told there was an additional issue regarding the accruing fine for a 24 hr report I requested the back-up materials from Ms Haakenson to show that the requirement for a 24 hr report was never triggered. She never provided this information. My wife, who was out of Anchorage for an extended period caring for a sick friend, had actually made copies of the campaign receipts and when I finally discovered this and had the information to show what had transpired, I had it scanned and sent it to APOC staff.

I don't argue that a fine is appropriate – but the nature of this infraction involves no abuse of public disclosure and the fine recommended by staff seems reasonable – although painful - since this is a fine that will end up being paid by us personally.

I have not been the person dealing with APOC directly or I would have understood what needed to be done. I can certainly attest that I will have no excuse for ever letting a situation like this arise again in the future.

Respectfully,
Art Hackney

BEFORE THE ALASKA PUBLIC OFFICES COMMISSION

In re)
)
 ANCHORAGE LIKES COFFEY)
 _____)
)

CIVIL PENALTY APPEAL

FINAL ORDER

On February 10, 2016, the Commission reviewed the assessment of a \$61,000 penalty against Anchorage Likes Coffey for referral to the Attorney General’s Office for collection. Art Hackney appeared before the Commission and testified that Anchorage Likes Coffey wishes to appeal the civil penalty. However, Anchorage Likes Coffey had not filed a written request to accept a late-filed appeal of the civil penalty.

On February 18, 2016, the Commission issued an order in this matter, allowing Anchorage Likes Coffey to file a motion to accept a late-filed appeal under two conditions. First, the motion was to be filed no later than March 3, 2016. Second, the Commission ordered that the motion must be supported by an affidavit explaining why an appeal was not timely filed, and further explaining the more than three month delay in requesting leave to appeal.

On March 3, 2016, Anchorage Likes Coffey filed a “request for late-filed appeal hearing.” However, no affidavit was submitted in support of the request for late-filed appeal hearing. For this reason, the request for late-filed appeal hearing does not comply with the requirements set forth in the Commission’s February 18, 2016 order.

The Commission will allow Anchorage Likes Coffey to amend its request for late-filed appeal hearing by submitting an affidavit in support of its request. That affidavit must be filed no later than June 24, 2016. That affidavit must explain why an appeal was not timely filed, and further explain the more than three month delay in requesting leave to appeal. Failure to file an affidavit in support of the request for late-filed appeal by June 24, 2016, will result in automatic referral to the Attorney General's Office for collection of the \$61,000 civil penalty.

This is a final Commission order. It may be appealed to superior court within 30 days from the date of this order under AS 44.62. A request for the Commission to reconsider this order must be filed within 15 days from the date this order is delivered or mailed pursuant to 2 AAC 50.891(g).

Dated: June 17, 2016

BY ORDER OF THE ALASKA PUBLIC OFFICES COMMISSION¹

¹ Commissioners Irene Catalone, Mark Fish, Ronald King, Vance Sanders, and Thomas Temple participated in this matter. The decision was made on a 5-0 vote.

Schwahn, Michael F (DOA)

From: Microsoft Outlook
To: art@hackney2.com
Sent: Friday, June 17, 2016 3:42 PM
Subject: Relayed: Anchorage Likes Coffey - Commission Order

Delivery to these recipients or groups is complete, but no delivery notification was sent by the destination server:

art@hackney2.com (art@hackney2.com)

Subject: Anchorage Likes Coffey - Commission Order

Date: June 23, 2016

Maria Bulfa:

The following is in response to your June 23, 2016 request for delivery information on your Certified Mail™ item number 9171969009350107700497. The delivery record shows that this item was delivered on June 21, 2016 at 10:10 am in ANCHORAGE, AK 99503. The scanned image of the recipient information is provided below.

Signature of Recipient :



Address of Recipient :



Thank you for selecting the Postal Service for your mailing needs.

If you require additional assistance, please contact your local Post Office or postal representative.

Sincerely,
United States Postal Service

ARRIVED

JUN 24 2016

APOC - ANCH
PM HC FAX ELE

Courier

General Affidavit for Alaska Public Office Commission

Arthur Hackney, who is a resident of Anchorage, Alaska, personally came and appeared before me, the undersigned Notary Public, and makes the following statement in good faith, and personal knowledge that it is true and correct to the best of his knowledge:

I, Arthur Hackney, formally request consideration of a late-filed Civil Penalty appeal for the assessment of a \$61,000 penalty against Anchorage Likes Coffey. I was formerly a Director of this now closed group.

Anchorage Likes Coffey collected a total of \$3,500. All contributions were copied and provided to the group Treasurer for proper filing with APOC.

The Treasurer did not include two cash contributions in the filings she made, (one for \$300 and one for \$100) which I did not become aware of until I went to close down the account. I told her she had to properly file them with APOC.

Instead of amending the report for the period when they were actually received, the Treasurer filed as though the \$400 in contributions came in during the 24 hr reporting period. They did not. She also did not tell me that one of the contributions exceeded the allowable amount and when that was pointed out by APOC, I immediately returned the non-allowable \$200 portion of the contribution to the contributor.

I received notice of a fine from APOC and personally paid it, thinking that this resolved the issue. I also asked the Treasurer for copies of all documents for Anchorage Likes Coffey, which she never provided.

When APOC informed me that there was a large fine accruing for not filing a 24-hour report I tried again to get the documents to show that no 24-hour report should have been required. Ultimately, my wife, who had been caring for a sick friend for several months returned and informed me that she had kept copies of these documents because she didn't feel comfortable with the Treasurer's bookkeeping.

After I had the documents, I scanned them and sent them to APOC staff, which I am told you have received.

The fact that an appeal was not filed within the required timeframe is entirely due to my ignorance and inexperience with the APOC process. I had always been in situations where a Treasurer or election lawyer handled APOC issues and I simply didn't know how to handle it and was exhausted from trying to keep my business from falling apart during a very difficult year. I genuinely and naively thought that when the facts were presented this would be cleared up as, at most, a minor infraction, as no attempt to avoid disclosure ever existed and the fine was based on a report that was not actually triggered.

Tamara Douglas finally guided me through the process of properly shutting down the group. The failure to file a timely appeal is entirely due to my inexperience and lack of understanding that it was more about process than about the size of the mistake.

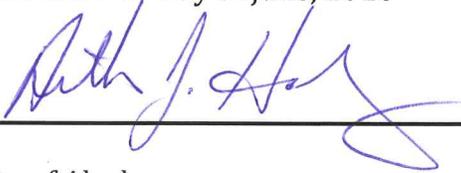
I respectfully request that a late-filed appeal be considered because the facts clearly show that I provided full disclosure in a timely way to the Treasurer and that the public was in no way being kept in the dark about a campaign finance issue, as so many cases involve.

With Tamara's assistance I now understand the gravity of the process issue involved and if ever in a position to be involved with APOC in the future I would not trust a rented Treasurer and would seek staff assistance in ensuring full compliance.

Again, I humbly request that a late-filed appeal be accepted to reconsider the size of the punishment based on the fact that no actual offense was ever committed in the disclosure of Anchorage Likes Coffey operations and reporting - just a Treasurer not correctly amending an existing filing as I had instructed her to do.

Thank you for your consideration.

Dated this 24th day of June, 2016



State of Alaska

Subscribed and sworn to, or affirmed, before me on this 24th day of June, 2016 by Affiant Arthur Hackney. *at ANCHORAGE, ALASKA*



COMMISSION EXPIRES 7/26/2018

*Tamara -
Please let me know
if this is not what
is required.
Art*

JUN 24 2016

Anchorage Likes Coffey

ARRIVED

FEB 03 2016

**APOC - ANCH
PM HC FAX ELE**

Courier

Arthur J. Hackney

HACKNEY & HACKNEY 
CORPORATE & POLITICAL COMMUNICATIONS

tel: 907.868.1996 • *cel:* 907.748.2776

E-Mail: art@hackney2.com

1407 W. 31st Avenue, Ste 100, Anchorage, Alaska 99503

fax: 907.868.7933 • www.hackney2.com

Amie Haakenson was Treasurer for Anchorage Likes Coffey. Anchorage Likes Coffey collected a total of \$3500. All but \$50 of this was collected prior to the final week of the campaign.

ARRIVED

FEB 03 2016

**APOC - ANCH
PM/HC FAX ELE**

Courier

(all campaign deposits are attached)

Amie Haakenson received all of the attached documentation. Even though she claimed to have gone through APOC training, Amie did not inform me that cash above \$100 could not be accepted.

She further ignored the two cash contributions and filed reports without these contributions included in the reporting period where they were received and deposited.

When I was about to close out the group in late July I noticed that \$400 wasn't reflected. She admitted she didn't include the cash in the report and claimed I hadn't given her information about who gave the money. I did. But she had never indicated there was any issue with these simple reports. I told her it needed to be amended.

Clearly, she then filed a final report that made it appear that \$450 was received in the final week. **ONLY \$50 was actually received within the 24-hour reporting period so a 24-hour report should never have been an issue.**

As soon as I was made aware of the cash restriction - which Amie never indicated as a problem even though she had supposedly been through APOC training - I immediately refunded \$200 to Perry Green, who had given \$300 in cash.

(refund check is attached).

When this became an issue with APOC I asked Amie to correct it. She indicated an appeal was necessary and I then asked for all paperwork on the account. She never provided anything.

My wife, who had been out of town for an extended period taking care of a dying family friend, returned and provided me with copies she had made of all the materials Amie had received, which is the only reason I now have this back-up.

All files are attached and clearly show when money was received and deposited.

The public was never willfully misled and a 24-hour report should never have been triggered if Amie had amended the earlier report to reflect when the money was received.

Anchorage Likes Coffey no longer exists, we no longer have anything to do with Amie as a Treasurer for an APOC-able group, and this fine is excessive for the level of the mistake and the fact that no great public trust issue was involved.



THIS IS YOUR RECEIPT

Checks and other items received for deposit are subject to the Deposit Account Agreement, Disclosures, Rules and Regulations of Northrim Bank.

northrim.com

WAB 03-25-2015 01:33:13 #39

Deposit \$1,400.00

*****6211

We're all in. 100% 907.

T-30E (Rev.1/11)

DEPOSITS MAY NOT BE AVAILABLE FOR IMMEDIATE CREDIT.

Member FDIC 

FEB 03 2016

Exhibit 5

Page 3 of 13

3-24-15

MYRNA MAYNARD
2237 FOREST PARK DRIVE
ANCHORAGE, AK 99517
907-272-3357

163
89-517252-3456
00010715837

3/25/2015
Date

PAY to the Order of Anchorage Town Botley \$ 500.00
Two hundred and 00/100 Dollars

TRUE NORTH
FEDERAL CREDIT UNION
www.truenorthfd.com

For Myrna M. Maynard

KENNETH D. MAYNARD
Lic. 0185632
2237 Forest Park Dr. 907-272-3357
Anchorage, AK 99517

4414
89-517252-3456
00010715837

Yosemite National Park
Nov. 25, 2015
Date

Pay to the Order of Anchorage Loves Coffee \$ 100.00
One hundred & 00/100 Dollars

WELLS FARGO
Wells Fargo Bank, N.A.
www.wellsfargo.com

Kenneth Maynard

LILE R. GIBBONS
27 SUNSET RD
OLD GREENWICH, CT 06870-2109

1621
89-517252-3456
00010715837

3/16/15
Date

Pay to the Order of Anchorage Loves Coffee Saga Pkt \$ 500.00
Five hundred & 00/100 Dollars

WELLS FARGO
Wells Fargo Bank, N.A.
www.wellsfargo.com

For Lile R. Gibbons

DALE G. ORLANDI/ETEK. FOX
4600 GALACTICA DR.
ANCHORAGE, AK 99517

41295
89-517252-3456
00010715837

3-24-15
Date

Pay to the Order of Anchorage Loves Coffee \$ 100.00
One hundred and 00/100 Dollars

WELLS FARGO
Wells Fargo Bank, N.A.
www.wellsfargo.com

For Dale Fox

GEORGE P WUERCH
BRENDA B WUERCH
PH: (907) 563-2737
1332 CRESCENT DR
ANCHORAGE, AK 99508-5006

858
89-517252-3456
00010715837

3/24/15
Date

Pay to the Order of Anchorage Loves Coffee \$ 200.00
Two hundred & 00/100 Dollars

WELLS FARGO
Wells Fargo Bank, N.A.
www.wellsfargo.com

George Wuerch

WILLIAM J SHEFFIELD
3725 SUSTANA VIEW CT
ANCHORAGE, AK 99517-1185

8348
89-517252-3456
1100227048

3-24-15
Date

PAY TO THE ORDER OF Anchorage Loves Coffee \$ 200.00
Two Hundred and 00/100 DOLLARS

WELLS FARGO
Wells Fargo Bank, N.A.
www.wellsfargo.com

For William J Sheffield

FEB 03 2016

Exhibit 5



081m



FEB 03 2016



THIS IS YOUR RECEIPT

Checks and other items received for deposit are subject to the Deposit Account Agreement, Disclosures, Rules and Regulations of Northrim Bank.

northrim.com

WAB 03-26-2015 11:02:41 #40

Deposit \$1,000.00

*****6211

We're all in. 100% 907.

T-30E (Rev.1/11)

DEPOSITS MAY NOT BE AVAILABLE FOR IMMEDIATE CREDIT.

Member FDIC



FEB 03 2016



M. V. TAPP
200 W 34TH AVE # 809
ANCHORAGE, AK 99503

5065
89-7202/3252

26 APRIL 15

Date

PAY to the
order of

ANCHORAGE LIKES COFFEY \$ 1000.00

ONE THOUSAND AND NO/100

Dollars



Security
Features
Details
Back

AlaskaUSA
Federal Credit Union

Toll free (800) 525-9094
Anchorage (907) 553-4567
www.alaskausa.org

For

PAC

M. V. Tapp

MP

Harland Clark

COLONIAL CLASSIC

FEB 03 2016



THIS IS YOUR RECEIPT

Checks and other items received for deposit are subject to the Deposit Account Agreement, Disclosures, Rules and Regulations of Northrim Bank.

northrim.com

WAB 03-30-2015 12:32:20 #40

Deposit \$950.00

*****6211

We're all in. 100% 907.

T-30E (Rev.1/11)

DEPOSITS MAY NOT BE AVAILABLE FOR IMMEDIATE CREDIT.

Member FDIC 

TRACI A. HAYDEN-TRUJILLO
WK. 907-762-9212
5522 CAPE SEVILLE
ANCHORAGE, AK 99516

2888
89-93/1252

3/26/15

date

FRAUDARMOR

pay to the order of

Anchorage Likes Coffee

\$ 50⁰⁰/₁₀₀

dollars



Security Features
Details on
Back

Northrim Bank

for

[Redacted]

BEYOND LOGS

GLENN HACKNEY, AKDL 0027487
PH. 474-0610
1136 SUNSET DR
FAIRBANKS, AK 99709-4744

9595
89-93/1252

MAR. 25 2015

Date

FRAUDARMOR

PAY TO THE ORDER OF

ANCHORAGE LIKES COFFEE

\$ 100⁰⁰/₁₀₀

ONE HUNDRED ⁰⁰/₁₀₀

Dollars



Security Features
Details on
Back

Northrim Bank

FOR

[Redacted]

Glenn Hackney

ARCTIC



BARBARA JO CARRIG
P.O. BOX 191
REEDSBURG, WI 53959-0191

79-322/759

3983

DATE 3/25/15

PAY TO THE ORDER OF

Anchorage Likes Coffee

\$ 500.00

Five hundred & 00/100

DOLLARS



Security Features
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COMMUNITY FIRST BANK

REEDSBURG, WI 53959
www.cfbank.com

MEMO

[Redacted]

Barbara Carrig

FEB 03 2016



Army Green



FEB 03 2016

Exhibit 5

Page 10 of 13



THIS IS YOUR RECEIPT

Checks and other items received for deposit are subject to the Deposit Account Agreement, Disclosures, Rules and Regulations of Northrim Bank.
northrim.com

WAB 04-01-2015 10:44:55 #34

Deposit \$50.00

*****6211

We're all in. 100% 907.

T-30E (Rev. 1/11)

DEPOSITS MAY NOT BE AVAILABLE FOR IMMEDIATE CREDIT.

Member FDIC 

FEB 03 2016

Erik C. Burney
Angelina Estrada-Burney
13371 Brant Way
Anchorage, AK 99515
Ph. 868-4635

89-7202-3252

EZShield® Check
Fraud Protection

3795

Date 3/30/15

Pay to the
Order of

Anchorage Likes Coffee

\$ 50.00

fifty

Security Features
Included.
Details on Back.

ALASKA USA FEDERAL CREDIT UNION
TOLL FREE (800) 525-9094
ANCHORAGE (907) 563-4567
WWW.ALASKAUSA.ORG

Angelina Burney

For



FEB 03 2015

HACKNEY & HACKNEY, INC.
1407 W 31ST AVE STE 100
ANCHORAGE, ALASKA 99503-4046

7929

89-93/1252

DATE 8-01-2015

SECURE CHECK MARKING

PAY TO THE ORDER OF

Perry Green
First National and

100⁰⁰ DOLLARS

100⁰⁰ DOLLARS

Security Deposit on Demand

FOR Northern Bank
Contributions Return



APR 15 2015
ATLANTA

FEB 03 2016



February 8, 2016

Anchorage Likes Coffey

Attn: Art Hackney
art@hackney2.com
amiehaakenson@outlook.com

Re: COMMISSION MEETING NOTICE

Mr. Hackney:

At its February 10, 2016, Commission meeting in Anchorage, the Commission will consider the matter of the civil penalty assessment for your late-filed 24 hour report campaign disclosure report.

Currently the matter is on the agenda as a referral to the Attorney General's Office. On February 3, 2016, you submitted what appears to be an appeal of the assessment. However, because your right to appeal expired on November, 25, 2015, it is untimely. Regardless, staff intends to inform the Commission of your late-filed appeal, and if the Commission wishes to consider the appeal, staff has also prepared a recommendation, a copy of which is enclosed.

You have a right to participate at the meeting either in person or by telephone (1-800-315-6338, code 41761#); please notify our office if you intend to participate. Civil penalty appeals are expected to begin at **9:30 a.m. on Wednesday, February 10, 2016.**

Although the referral will initially be presented to the Commission on a Consent Agenda, staff intends to inform the Commission of your late-filed appeal. Should the Commission decide to consider your late-filing, the referral will be removed from the agenda, and the matter will instead be considered as an appeal at that time. If you wish to present your appeal or make a statement before the Commission, please notify staff or the Commission prior to the approval of the consent agenda.

If you do not attend or participate, staff will send you a final order notifying you of the Commission's decision. If you have any questions or desire further information, please do not hesitate to contact our office.

Sincerely,
ALASKA PUBLIC OFFICES COMMISSION

Tamara M Douglas

Tamara M Douglas
Paralegal II, Groups
Enclosure: Staff Recommendation

CERTIFICATE OF SERVICE

I certify that on this date, I mailed by Email, a true and correct copy of the foregoing document to:

Anchorage Likes Coffey
Attn: Art Hackney
art@hackney2.com
amiehaakenson@outlook.com

Michael F. Schwahn 2/8/2016

Signed _____ Date _____
Alaska Public Offices Commission



**ALASKA PUBLIC OFFICES COMMISSION
STAFF RECOMMENDATION FOR COMMISSION ACTION**

PREPARED BY: Tamara Douglas

DATE: February 8, 2016

RESPONDENT: Anchorage Likes Coffey

CIVIL PENALTY

ASSESSED UNDER: **Campaign Disclosure: AS 15.13.390, 2 AAC 50.855**

REASON FOR FILING: Group

LATE REPORT(S):

- **Campaign Disclosure Reports**
 - February 15 Campaign Disclosure Report
 - 30 Day Campaign Disclosure Report
 - 7 Day Campaign Disclosure Report
 - 24 Hour Campaign Disclosure Report
 - Final Campaign Disclosure Report
 - 15-5 Statement of Contributions
 - 15-6 Independent Expenditures
 - Other: _____

REASON FOR FILING OR DATE OF ELECTION:

Anchorage Municipal Election

DUE DATE OF LATE REPORT:

March 31, 2015

REPORT FILED ON:

July 31, 2015

NUMBER OF DAYS LATE:

122

DATE DELINQUENCY NOTICE(S) SENT:

October 26, 2015

DATE CIVIL PENALTY APPEAL RECEIVED:

February 3, 2016

MAXIMUM CIVIL PENALTY ASSESSED UNDER STATUTE:

\$61,000

RECOMMENDATION SUGGESTED BY MITIGATION CRITERIA: **Reduction**

(See "Staff's Recommendation Based on Standard Mitigation Criteria")

AFFIANT'S STATEMENT OF MITIGATING FACTS:

1. Affiant states the group collected a total of \$3500 and all but \$50 was collected prior to the final week of the campaign. Affiant also states the public was never willfully misled and a 24 hour report was never required.
2. Affiant states there were some internal issues with the group, causing the filer to incorrectly report some group contributions.
3. Affiant states he did not know the group could not accept cash contributions over \$100 since it was the group's treasurer who had taken APOC training in the past and when he learned of the prohibited contribution, he returned the excess amount.
4. Affiant states the group no longer exists and the fine is excessive for the mistake and that there was no great public trust issue involved.

STAFF'S ANALYSIS OF FACTS FOR COMMISSION REVIEW

Anchorage Likes Coffey's 105 Day Anchorage Municipal Report disclosed receipt of a \$300 cash contribution during the Anchorage Municipal's 24 hour reporting period which should have been reported on a 24 hour report no later than March 31, 2015.¹ APOC staff issued a penalty assessment on October 26, 2015. The group filed a late appeal on February 3, 2016, stating that the contribution was actually received outside of the 24 hour reporting period. However, materials submitted with the appeal do not substantiate the reportable date of the contribution – the date the contribution was received.²

1. Affiant provided documentation showing the \$300 contribution in question was deposited into the group's bank account on March 30, 2015, during the 24 hour reporting period. However, there is nothing substantiating when the group received the contribution.
2. Although staff is empathetic to the group's internal difficulties, experiencing internal turmoil is not a mitigating criteria that staff can consider to reduce the amount of the penalty.³
3. Staff acknowledges that Mr. Hackney did return the excess cash contribution within 10 days of learning the contribution was prohibited.
4. In order for a group to close, they must first disburse its campaign account and file a final report demonstrating a zero balance.⁴ The group filed a final report on July 27, 2015, but the group has not yet completed their filing requirements because their "final" report still reflects a debt of -\$15,992. The group was made aware of this issue through an audit letter sent July 31, 2015, and also through telephone conversations with both the group's treasurer and chair.

¹ AS 15.13.110(b).

² 2 AAC 50.321.

³ 2 AAC 50.865(c)(7).

⁴ 2 AAC 50.384.

5. This civil penalty in this matter may be reduced by a percentage up to 50% because the group is an inexperienced filer, having been subject to a reporting requirement for less than 365 days.
6. The civil penalty in this matter may be reduced by a percentage up to 50% because the unreported information had a value of more than \$100 but, no more than \$1,000, and a mitigating factor warranting a reduction of 50% exists. This criteria is applicable given the report's activity of \$300 is within this range and the assessed penalty is significantly out of proportion to the degree of harm to the public.
7. Mitigation criteria allows for a reduction of greater than 50% when the civil penalty assessment is significantly out of proportion to the degree of harm to the public. Although the information was not disclosed to the public until after the election, a penalty assessment of \$61,000- 203⁵ times the amount to be disclosed- is significantly out of proportion to the degree of harm and warrants reduction.
8. Staff recommends that the civil penalty be reduced by 99% to \$610. Staff does not recommend a full waiver of the penalty because Anchorage Likes Coffey was statutorily required to accurately and timely disclose their campaign's finances to the public. Although applicable mitigating criteria is available to provide a complete waiver, it should not be used to diminish a group's responsibility to comply with Alaska's campaign disclosure law.

FILER'S REPORTING HISTORY:

2015 Registration – Filed 2/11/2015
 2015 Anchorage Municipal – 30 Day Report – Timely
 2015 Anchorage Municipal – 7 Day Report – Timely
2015 Anchorage Municipal – 105 Day Report – LATE (6 Days Late)
2015 Independent Expenditure Report – 24 Hour – LATE (122 Days Late)
 2015 Independent Expenditure Report – Timely

ACTIVITY ON LATE REPORT:

Income:	\$300
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STAFF'S RECOMMENDATION BASED ON STANDARD MITIGATION CRITERIA

Staff finds the following mitigation criteria applicable to the respondent's appeal:

Criteria for up to 50% reduction of the maximum civil penalty [2 AAC 50.865(a)]:

- Good filing history (no late filings in the previous 5 years) AND zero report. **2 AAC 50.865(a)(1)(A)**

⁵ \$61,000/\$300=203
 Civil Penalty Appeal - Staff Recommendation

- Inexperienced filer.⁶ **2 AAC 50.865(a)(1)(B)**
- Technical error at APOC. **2 AAC 50.865(a)(2)**
- Reported information had a value of \$100 or less. **2 AAC 50.865(a)(3)**
- Reported information had a value between \$100 and \$1000 AND any factor listed in 2 AAC 50.865(b) also applies. **2 AAC 50.865(a)(4)**

Criteria for greater than 50% reduction, up to complete waiver [2 AAC 50.865(b)]:

- Personal catastrophe/emergency or incapacitating illness. **2 AAC 50.865(b)(1)**
- APOC Staff error, including confirmed technical problems with electronic filing system. **2 AAC 50.865(b)(2)**
- Failure of a municipal clerk to provide notice to a municipal official of delinquency, or, failure of a municipal clerk to provide notice to a municipal official that a report does not meet the filing requirements under 2 AAC 50.850(f). **2 AAC 50.865(b)(3)**
- Report included only administrative costs (Groups only). **2 AAC 50.865(b)(4)**
- No significant harm to the public⁷ AND no aggravating factors. **2 AAC 50.865(b)(5)**
- The maximum civil penalty assessment is significantly greater and out of proportion to the degree of harm to the public for not having the information. **2 AAC 50.865(b)(6)**
- A unique circumstance. **2 AAC 50.865(b)(7)**

Non-mitigating factors [2 AAC 50.865(c)]:

The Commission will not accept the following as mitigating factors to reduce the amount of a penalty.

- Relying on another person or mailroom to mail, or submit the statement timely. **2 AAC 50.865(c)(1)**
- Forgetting to file. **2 AAC 50.865(c)(2)**
- Being a volunteer. **2 AAC 50.865(c)(3)**
- Having no change in data from previous statements on file. **2 AAC 50.865(c)(4)**
- Reliance on filer's own staff to remind him or her of the filing deadline. **2 AAC 50.865(c)(5)**
- Being too busy to file. **2 AAC 50.865(c)(6)**
- Staff turnover, unless turnover created turmoil serious enough to justify a finding of unique circumstances. **2 AAC 50.865(c)(7)**
- Absence caused by travel, unless the travel was unplanned or unavoidable such as travel for personal emergency or weather-related travel problems. **2 AAC 50.865(c)(8)**

Aggravating Factors [2 AAC 50.865(d)]:

⁶ Any entity or filer subject to a registration or reporting requirement for less than 365 days.

⁷ The dollar amount missing is \$100 or less; the dollar amount missing is more than \$100 but less than \$1,000 and the filer self reported; or the missing information is readily available to the public through another forum.

- Failure to comply with disclosure requirements by omitting a significant source of income, interest in real property, business interest, loan, trust, or other substantial financial interest.⁸ **2 AAC 50.865(d)(1)**
- More than one late filing in the preceding 5 years. **2 AAC 50.865(d)(2)(A)**
- Evidence suggesting deliberate non-reporting. **2 AAC 50.865(d)(2)(B)**
- Failure to cooperate with staff. **2 AAC 50.865(d)(2)(C)**

Based on the applicable standard mitigation criteria, staff recommends that the maximum civil penalty assessment be:

- Reduced by 99% to \$610**

⁸ Value greater than \$1000.
Civil Penalty Appeal - Staff Recommendation

Schwahn, Michael F (DOA)

From: Microsoft Outlook
To: art@hackney2.com; amiehaakenson@outlook.com
Sent: Monday, February 08, 2016 2:34 PM
Subject: Relayed: Commission Meeting Notice

Delivery to these recipients or groups is complete, but no delivery notification was sent by the destination server:

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amiehaakenson@outlook.com (amiehaakenson@outlook.com)

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