

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 9:03 a.m. on Thursday, November 20, 2008. The meeting was held 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 – Administrator Juneau Office (via teleconference)
Jeff Berliner – Investigator
Vullnet Greva – Group Coordinator
Joan Mize – Paralegal Juneau Office (via teleconference)
Maria Bulfa – Recording Secretary

Attendees: William Milks, Assistant Attorney General, Dept. of Law (Juneau)
Jan DeYoung, Chief Assistant Attorney General, Dept. of Law
Tom Amodio, Respondent’s Attorney 08-01-CD
Dan Coffey, Respondent 08-01-CD
David Shield, Director of Budget & Finance, Lower Yukon School District (via teleconference)
Heidi Alleva, Executive Director, Alaska Independent Insurance Agents & Brokers (AIIA&B)
Douglas Schaffer, President, Alaska Independent Insurance Agents & Brokers (AIIA&B)
Frank Griswold, Complainant 08-04-CD
Thomas Klinkner, Respondent’s Attorney, City of Homer 08-04-CD
Walt Wrede, City of Homer Manager (Respondent Representative) 08-04-CD
Tom Dosik, Assistant Attorney General, Dept. of Law

Dick Randolph, Chair, Committee to Stop Corruption, 08-15-CD
(via teleconference)
Kenneth Jacobus Attorney for the Respondent, 08-15-CD
Steve Cleary, Complainant, 08-15-CD

ON RECORD 9:03 a.m.

Chair Hickerson called the meeting to order.

APOC v Coffey, 08-01-CD [10]

Chair Hickerson asked individuals who would be participating in case number 08-01-CD to introduce themselves.

Mr. Amodio appeared in person as Mr. Coffey's representative in this complaint.

Mr. Coffey was present in person and gave oral testimony in defense of his case.

Ms. DeYoung appeared in person and provided legal argument for staff.

Mr. Berliner presented staff report.

OFF RECORD 10:09 a.m.

Break/Deliberation

ON RECORD 10:50 a.m.

The Commission came out deliberations.

Commissioner Holl moved to adopt the Notice of Stipulation provided by staff, signed by Mr. Berliner and Attorney Tom Amodio, respondent's attorney.

Commissioner Dean seconded the motion.

The motion passed 5-0

Mr. Amodio gave a statement in support of Mr. Coffey's case.

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

Chair Hickerson asked individuals who would be participating on case number 08-15-CD to introduce themselves.

Steve Cleary appeared in person to give oral testimony in support of his complaint.

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

After taking testimony and hearing evidence the Commission had several questions that Mr. Jacobus could not answer. The Commission agreed to recess until the morning of November 21, 2008. Chair Hickerson requested Mr. Jacobus to provide rental space lease information and that Mr. Randolph, if possible, appear to answer questions.

OFF RECORD 12:25 p.m.

Lunch

ON RECORD 1:10 p.m.

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

Robert Adams

Lobbyist Lobbyist for Alliance for Marriage Foundation, Inc

STATUS:

2007 Compensation of \$0 and 2007 expenditures of \$0

LATE REPORT:

2007 November Special Session Lobbyist Report

MAXIMUM CIVIL PENALTY:

\$170 - Filed 17 days after the due date

STAFF RECOMMENDATION:

Uphold Maximum Penalty

Mr. Adams stated that he had no lobbying activity during 2007. He had many reports waiting to go out in the mail and the report was unfortunately in the wrong pile; he works from home and monthly reports are sent to him for his signature. The organization he works for is a nonprofit organization.

APOC courtesy e-mail reminders were sent to Lobbyists on October 4, 2007 reminding them of the need to file two reports for special session, with a due date of November 30, 2007 for October activity and a due date of December 31, 2007 for November activity. A special session report form was attached. Mr. Adams was on the distribution list.

Staff sent the second reminder to the lobbyist November 9, 2007 reminding of the second special session report due and explicitly stating that if filers were not lobbying they still needed to submit a zero report. Mr. Adams was on the distribution list.

Commissioner Frederick made a motion to assess \$85 or 50% of the total amount assessed for the late report. The 50% reduction was due to being a new filer and zero report.

Commissioner Ballenger seconded the motion.

The motion passed 5-0

Patton Boggs/Robert Evans

Lobbyist for CH2MHill

STATUS: 2007 Compensation of \$35,863.00 and 2007 expenditures of \$0

LATE REPORT: 2007 November Special Session Lobbyist Report

MAXIMUM CIVIL PENALTY: \$2,370 – Report filed 237 days after the due date

STAFF RECOMMENDATION: Reduce civil penalty to \$830

Affiant states that he does not remember receiving the first notice mailed on February 25, 2008, but acknowledges that it is their responsibility to file timely reports so that no notices are required to be sent by APOC. The paralegal assigned to file the reports did not have a deadline in the tracking system that a report was due, but again affiant acknowledges that this is their mistake and that all deadlines will be in the system so that this failure to report does not happen again.

Staff courtesy e-mail reminders were sent to lobbyists on October 4, 2007 reminding them of the need to file two reports for special session, with a due date of November 30, 2007 for October activity and a due date of December 31, 2008 for November activity. A special session report form was attached. Mr. Patton is an experienced filer. Patton Boggs/Robert Evans was on the distribution list.

Commissioner Frederick moved to assess a civil penalty of \$1,185 or 50% of the maximum civil penalty of \$2,370 for late filing.

Commissioner Holl seconded the motion.

The motion passed 5-0

Bruce Johnson

Lobbyist for Association of Alaska School Boards

STATUS: 2007 Compensation of \$4,304.70

LATE REPORT: 2007 4th Quarter Lobbyist Report

MAXIMUM CIVIL PENALTY: \$350 – Report filed 35 days after the due date

STAFF RECOMMENDATION: Waiver

Affidavit prepared by Diana Miller, AASB Business Manager. Ms. Miller states that she prepares the lobbyist and employer of lobbyist reports. She states the problem occurred in the copying and mailing of the 2007 4th quarter reports and only a part of the report was 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.

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.

Commissioner Frederick moved to uphold the maximum civil penalty.

Commissioner Frederick withdrew her motion for lack of a second.

Commissioner Ballenger made a motion to adopt staff recommendation to waive the civil penalty.

Commissioner Dean seconded the motion for the purposes of discussion.

During the discussion the Commission found that it might have been a mailing error. The Commission requested more information from the respondent.

Commissioner Frederick moved to table the motion.

Commissioner Ballenger objected to the tabling the motion.

The motion passed 4-1

Commissioner Frederick requested that Ms. Mize ask the respondent to produce the signed return receipt before they go further with the deliberations.

Commissioner Dean seconded the motion.

The motion passed 5-0

Carl Rose

Lobbyist for Association of Alaska School Boards

STATUS:

2007 Compensation of \$12,149.30

LATE REPORT:

2007 4th Quarter Lobbyist Report

MAXIMUM CIVIL PENALTY:

\$350 – Report filed 35 days after the due date

STAFF RECOMMENDATION: Waiver

Affidavit prepared by Diana Miller, AASB Business Manager. Ms. Miller states that she prepares the lobbyist and employer of lobbyist reports. She states the problem occurred in the copying and mailing of the 2007 4th quarter 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.

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. 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.

Commissioner Frederick moved to uphold the full penalty.

Commissioner Frederick withdrew her motion for lack of a second.

Commissioner Ballenger made a motion to adopt staff's recommendation to waive the civil penalty.

Commissioner Dean seconded the motion for the purposes of discussion.

During the discussion, the Commission found that it might have been a mailing error. The Commission requested more information from the respondent.

Commissioner Frederick moved to table the motion.

Commissioner Ballenger objected to tabling the motion.

The motion passed 4-1

As in the previous appeal, Commissioner Frederick requested that Ms. Mize ask the respondent to produce the signed return receipt before they go further with their deliberations.

Commissioner Dean seconded the motion.

The motion passed 5-0

HSBC GR Corp

Employer of Lobbyist

STATUS:

2007 Employer of Lobbyist: Retained Tom Echols

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|------------------------|--|
| LATE REPORT | 2007 3 rd Quarter Employer of Lobbyist Report |
| MAXIMUM CIVIL PENALTY: | \$490 – Report filed 49 days after the due date |
| STAFF RECOMMENDATION: | Waiver |

Affiant states that he is based in Olympia, Washington and prepares both the lobbyists and employer of lobbyists report and faxes his to APOC and the employer report to his principal in Washington, D.C. for signatures. He acknowledges that it is his responsibility to insure that all ethics and lobbying reports are filed in a timely manner and that they maintain strict compliance with all lobbying and ethics laws. Affiant did fax his lobbyist report to APOC on October 18, 2007. Affiant states he faxed the employer report (which he prepares) to Washington, D.C. on the same date to the personal assistant of his employer, but was unaware the personal assistant was on maternity leave and faxed it to the wrong number. He usually follows up in a few days to insure the report has been signed and filed. However, he had an urgent family matter, and had to fly to Georgia for the last two weeks of October, and did not follow up with the employer. He was unaware the report had not been filed until receipt of the letter from APOC that was written on December 12, 2007 and received on December 18, 07.

HSBC GR Corp is an experienced filer. A courtesy e-mail reminder from APOC was sent to employers on October 4, 2008 reminding them that the 3rd Quarter report was due October 31, 2008. Mr. Echols was on the e-mail list.

Commissioner Frederick made a motion assess \$245 or 50% of the maximum civil penalty for late filing. The 50% reduction is due to a good filing and zero report.

Commissioner Ballenger seconded the motion.

The motion passed 5-0

| Lower Yukon School District | Employer of Lobbyist |
|------------------------------------|---|
| STATUS: | 2007 Employer of Lobbyist: Retained John Walsh |
| LATE REPORT: | 2007 1 st , 2 nd , 3 rd and 4 th Quarter Employer of Lobbyist Reports |
| MAXIMUM CIVIL PENALTY: | \$6,800 |
| STAFF RECOMMENDATION: | Uphold Maximum Penalty |

Former business manager left suddenly at the end of March 2007. Mr. David Shields was hired as the new business manager in the middle of July. The bulk of lobbying expenses are a result of legislative fly-ins. As a public K-12 School District that was created by the legislature in 1976 and is state funded, Mr. Shields requests a waiver of the accrued penalties for 2007. States he has registered the District on-line in Insight and future reports will not be late.

Lower Yukon School District is an experienced filer with a good filling history. Delinquency notices were sent to John Lamont, Superintendent, on May 7, 2007 and July 11, 2007 for 1st Quarter 2007 by Tammy Kempton. An e-mail from Mr. Shields was sent to Angela Fagerstrom, APOC clerk, on July 27, 2007 stating that he was the new Director of Budget & Finance, having replaced Karen Goodwin. He was now responsible for completing the Lobbying Reports and asked that records be changed to reflect that he is the new contact person.

Commissioner Holl made a motion to assess \$3,400 or 50% of the maximum civil penalty for late filing. Reasons cited for 50% reduction were:

- Staff turnover resulting in individuals responsible for filing qualifying as inexperienced filer(s)
- Minimal lobbying activity disclosed on the late reports
- Good filing history

Commissioner Ballenger seconded the motion.

Roll call vote:

Commissioner Holl – Yes

Commissioner Dean – Yes

Commissioner Ballenger – Yes

Commissioner Frederick – No

Chair Hickerson – No

The motion passed 3-2

Holland America Line

Employer of Lobbyist

STATUS:

2007 Employer of Lobbyist: Jerry Mackie

LATE REPORT

2007 4th Quarter Employer of Lobbyist Report

MAXIMUM CIVIL PENALTY:

\$280

STAFF RECOMMENDATION:

Reduce civil penalty to 50%

The legal department, which is the department responsible for completing the reports, has undergone numerous personnel changes since September 2007. In December 2007, the most senior paralegal retired and her replacement was hired in mid-November. The new paralegal had to learn the new position and also had to interview, hire and train the new administrative assistant and second paralegal.

Commissioner Frederick made a motion to uphold the maximum civil penalty due to lack of mitigating criteria.

Commissioner Dean seconded the motion.

The motion passed 5-0

**Alaska Independent Insurance
Agents & Brokers (AIIA&B)**

Employer of Lobbyist

STATUS:

2007 Employer of Lobbyist: Retained John Walsh

LATE REPORT:

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

MAXIMUM CIVIL PENALTY:

3rd Quarter - \$2,990 – Report filed 299 days late
4th Quarter - \$2,070 – Report filed 207 days late
Total \$5,060

STAFF RECOMMENDATION:

Reduce civil penalty to 50%

The previous executive director left at the end of February 2008 and the new executive director has not been able to contact her or get a response to questions regarding the operations and reporting discrepancies they have discovered. They had discovered monthly and quarterly reports to other agencies had not been completed or were done incorrectly. They have had to rebuild records from scratch as there were none in the office they started pursuing a new executive director.

Affiant is an experienced employer of lobbyists and has a poor filing history. First notice of delinquency for the 3rd Quarter report was sent on December 12, 2007. Second notice of delinquency of 3rd Quarter report was sent on February 20, 2008. The third notice of delinquency for the 3rd Quarter report was sent on August 20, 2008. The 3rd and 4th Quarter reports were received on August 28, 2008.

Commissioner Holl made a motion to waive the civil penalty for late filing due to:

- Unique circumstance of extreme agency turmoil
- Possible staff error in telling filer the reports were up to date

Commissioner Frederick seconded the motion.

Commissioner Frederick withdrew her second.

Commissioner Dean made a motion to accept staff's recommendation to assess \$2,530 or 50% of the maximum civil penalty.

The motion passed 5-0

Griswold v. Homer, 08-04-CD [13]

Chair Hickerson asked individuals who would be participating on case number 08-04-CD to introduce themselves.

Mr. Frank Griswold appeared in person on his own behalf. Mr. Griswold gave testimony in support of his complaint.

Mr. Wrede, Homer City Manager, was present and gave testimony regarding the issues in this complaint. 08-04-CD

Mr. Thomas Klinkner, City Attorney for City of Homer, appeared and gave testimony regarding the issues in this complaint – 08-04-CD.

The commission agreed to continue Griswold v. City of Homer until after they have completed reviewing the public file.

Public Comment Period [*]

There were no participants in attendance during the public comment period.

OFF RECORD 4:45 p.m.

Break

ON RECORD 5:00 p.m.

Commissioner Dean made a motion to recess until November 21, 2008 at 9:00 a.m.

Commissioner Ballenger seconded the motion.

OFF RECORD 5:24 p.m.