

Lobbying

Civil Penalty Appeals

Presented by:

Heather Dalberg

Paralegal II

CONSENT AGENDA APPEALS UNDER AS 24.45.141; 2 AAC 50.855 -**Lobbying Reporting
June 10-11, 2021 Meeting****Civil Penalty Appeals:**

ITEM #	APPEAL FILED BY:	STAFF RECOMM	PAGE #:	COMMISSION ACTION:
1	Alaska Association for Personal Care Supports, Inc.	Uphold \$100	1-11	
2	Matt Hickey	Waive	12-23	

Referrals:

ITEM #	Group and Assessed Penalty	STAFF RECOMM	PAGE #:	COMMISSION ACTION:

Removed from Consent Agenda:



ALASKA PUBLIC OFFICES COMMISSION
STAFF RECOMMENDATION FOR COMMISSION ACTION

PREPARED BY: Heather Dalberg DATE: May 19, 2021

RESPONDENT: Alaska Association for Personal Care Supports (AAPCS)

CIVIL PENALTY

ASSESSED UNDER:

- ☐ Campaign Disclosure: AS 15.13.390, 2 AAC 50.855
- ☒ Lobbying: AS 24.45.141, 2 AAC 50.855
- ☐ Public Official Financial Disclosure: AS 39.50.135, 2 AAC 50.855
- ☐ Legislative Financial Disclosure: AS 24.60.240, 2 AAC 50.855

REASON FOR FILING: Employer of a Lobbyist

LATE REPORT(S):

- Lobbyist and Employer of Lobbyist Reports
 - ☐ Lobbyist Report _____
 - ☒ Employer of Lobbyist Report 2021 1st Quarter
 - ☐ Other _____

REASON FOR FILING OR DATE OF ELECTION: 1st Quarter Employer of Lobbyist Report

DUE DATE OF LATE REPORT: April 30, 2021

REPORT FILED ON: May 10, 2021

NUMBER OF DAYS LATE: 10

DATE DELINQUENCY NOTICE(S) SENT: May 11, 2021

DATE CIVIL PENALTY APPEAL RECEIVED: May 18, 2021

MAXIMUM STATUTORY PENALTY: \$100.00

RECOMMENDATION: Uphold

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

AFFIANT'S STATEMENT OF MITIGATING FACTS:

On April 30, 2021, affiant was required to file a 1st Quarter Employer of Lobbyist Report. Affiant states that as the person responsible for filing on behalf of AAPCS, she had pneumonia for over a month and missed the deadline as a result. Affiant called APOC staff after the filing deadline to ask how to handle the late filing. When she was able to return to the office, she filed the report on May 10, 2021.

STAFF'S ANALYSIS OF FACTS FOR COMMISSION REVIEW

As a registered employer of a lobbyist, AAPCS is required to file quarterly employer of lobbyist reports.¹ The 2021 1st Quarter Employer of Lobbyist Report was due on April 30, 2021. Automatic emails are sent to all employers on the first of the month of the reporting due date as a courtesy reminder. APOC staff sends more reminders via email leading up to the final due date, the first of which was sent for the 1st Quarter Report on April 15, 2021. Following reminder emails are sent to employers who have not yet filed. On the due date, April 30, 2021, APOC staff sent a final reminder email in the morning and made reminder calls to those who had not yet filed in the afternoon. Among the reminder calls made, staff left a voicemail message for Alaska Association for Personal Care Supports (AAPCS).

On Monday, May 3, 2021, APOC staff sent emails to filers who had not submitted reports. Cheri Day called APOC staff, on behalf of AAPCS, later that day and stated that she had pneumonia and had been out of the office for several weeks. She said she would try to go to the office that day if she was feeling better. Ms. Day was not able to return to the office, however, until May 10, 2021, when she filed the report. The report was 10 days late and accrued a late fee of \$100.00.

Although mitigation criteria allows for a reduction of greater than 50%, up to a complete waiver, when the person required to file experiences a personal catastrophe/emergency or incapacitating illness, this mitigating factor is only available to a natural person.² AAPCS is an employer of a lobbyist and not a natural person and, therefore, does not qualify for a reduction based on Ms. Day's illness.

Based on the foregoing, APOC staff recommends the Commission uphold the assessed amount of \$100.00.

FILER'S REPORTING HISTORY:

The affiant has been a registered employer of a lobbyist since 2018. This is their second late filing.

STAFF'S RECOMMENDATION BASED ON STANDARD MITIGATION CRITERIA

Staff recommends the Commission uphold the assessed amount of \$100.00.

¹ AS 24.45.061(b)

² 2 AAC 50.865(b)(1)

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). **2 AAC 50.865(a)(1)(A)**
- ☐ Inexperienced filer.³ **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. **2 AAC 50.865(b)(2)**
- ☐ Report included only administrative costs. **2 AAC 50.865(b)(3)**
- ☐ No significant harm to the public and no aggravating factors.⁴ **2 AAC 50.865(b)(4)**
- ☐ The civil penalty is significantly greater and out of proportion to the degree of harm to the public for not having the information.⁵ **2 AAC 50.865(b)(5)**
- ☐ A unique circumstance. **2 AAC 50.865(b)(6)**

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

The Commission will not accept the following 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)**
- ☐ 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)(7)**

³ Any entity or filer subject to a registration or reporting requirement for less than 365 days.

⁴ The amount missing is \$100 or less; the 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.

⁵ Penalty exceeds the value of late or unreported transactions or for 24-hour and 7-day reports, the penalty exceeds twice the value of the late or unreported transactions

Aggravating Factors [2 AAC 50.865(d)]:

- ☐ Failure to comply by omitting a significant source of income, interest in real property, loan, trust, business, or other substantial financial interest.⁶ **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)**
- ☐ A violation under AS 15.13, AS 24.45, AS 244.60.200-260, or AS 39.50 in the preceding 5 years. **2 AAC 50.865(d)(2)(D)**

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

- ☐ **Waived**
- ☐ **Reduced by _____ to _____**
- ☒ **Upheld at the assessed amount of \$100.00**

⁶ Value greater than \$1000.



THE STATE
of **ALASKA**
GOVERNOR MIKE DUNLEAVY

Department of Administration

ALASKA PUBLIC OFFICES COMMISSION

P.O. Box 110222
240 Main Street, Room 201
Juneau, Alaska 99811-0222
Main: 907.465.4864
Toll Free in Alaska: 866.465.4864
Email: doa.apocjnu@alaska.gov
www.doa.alaska.gov/apoc

May 11, 2021

Alaska Association for Personal Care Supports, Inc.
ATTN: Cheri Day
1217 East 10th Avenue
Anchorage, AK 99501

RE: 1st Quarter Employer of Lobbyist Report Civil Penalty Assessment

Dear Ms. Day:

According to our records you did not file your 1st Quarter Employer of Lobbyist Report that was due on April 30, 2021. Instead, your report was filed on May 10, 2021 (10 days late). By law a maximum penalty of \$10.00 accrues each day the report is late.¹ The maximum penalty the Alaska Public Offices Commission could assess you is **\$100.00**.²

You have a number of options in this matter:

- 1) You may pay this penalty and avoid formal Commission action by remitting payment by check or money order payable to the State of Alaska to the Alaska Public Offices Commission at the address above; or, you may pay in cash at our offices. **Payment must be made within thirty days of the date of this letter.** If you are unable to pay the entire assessed penalty in a single payment and wish to discuss a payment plan, or have any other question concerning this matter, please contact the APOC staff.
- 2) Alternatively, you have the right to appeal staff's conclusion that a violation has occurred or the penalty amount assessed.³ **If you wish to appeal you must submit the enclosed appeal affidavit to APOC within thirty days of the date of this letter.**⁴

If you appeal, staff will review your affidavit and prepare a recommendation for the Commission to consider concerning the violation and the penalty amount. You will receive a copy of that recommendation and a notification of when the Commission will meet to consider the matter. When the Commission reviews the appeal and recommendation you will have the opportunity to participate in the meeting either in person or telephonically.

¹ AS 15.13.390(a); AS 39.50.135; AS 24.60.240; AS 24.45.141.

² 2 AAC 50.855(a).

³ AS 15.13.390(a); AS 39.50.135; AS 24.60.240; AS 24.45.141.

⁴ 2 AAC 50.831(a).

Failure to respond to this notice by either making arrangement for payment within thirty days or submitting an appeal within thirty days will result in staff presenting this matter to the Commission for a final order in the amount of the assessed penalty and referral to the Attorney General's Office.

A copy of this letter will be placed in your APOC file and is considered a public document. If you have any questions about this matter, please contact APOC staff.

ALASKA PUBLIC OFFICES COMMISSION

A handwritten signature in black ink, appearing to read 'Heather Dalberg', is positioned above the printed name.

Heather Dalberg
Paralegal II
heather.dalberg@alaska.gov
(907) 465-4864

Encl: Civil Penalty Appeal Affidavit

ARRIVED

MAY 18 2021

APOC-JUNEAU
PM HC FAX EM

Civil Penalty Appeal Affidavit

AS 24.45 Alaska Lobbying Law

Name of Appellant

(Lobbyist or Employer): AAPCS ASSOC

Employer (if a lobbyist): _____

Penalty issued in connection with (check box or boxes):

☐

Lobbyist Report for _____ (month or quarter)

☒

Employer of Lobbyist Report for 2021-1ST (quarter)

Specify Year: 2021

Instructions: If you send payment, you need not file this form. An affidavit is required only if you are appealing the civil penalty assessment. An affidavit must be self-certified or notarized by any person authorized to administer oaths and must be mailed or faxed to APOC within thirty (30) days of your notice of civil penalty assessment.

Statement:

I do hereby swear and affirm that this statement of facts is offered in mitigation of the civil penalty issued in connection with a violation of AS 24.45, the Alaska Lobbying Law.

State the reasons why the reporting violation occurred and any reasons why the civil penalty should not be assessed:

I am responsible for submitting the 1/4ly reports and unfortunatley, I had pneumonia and was out of the office for over 1 month. I missed the deadline for filing the 2021 1st quarter but I did call the Commisioners office and asked how to handle the late filing.
I did file as soon as I could get back into the office on May 10, 2021.
Thank you for your time and consideration.
Cheri Day, vice president
AAPCS Assoc
907-354-5549

Certification:

I, the undersigned, certify that the information in this Statement is, to the best of my knowledge, true, correct and complete. By statute, a person who makes a false sworn certification which s/he does not believe to be true is guilty of perjury.

Signed/Date:

Cheri Day

Type/Print Signer's Name: CHERI DAY

EMPLOYER OF LOBBYIST REPORT FORM

COMPLETED

Signed **05/10/2021**
 Year: **2021**
 Report: **1st Quarter**

Filer First Name: **CHERI**
 Filer Middle Name:
 Filer Last Name: **DAY**

EMPLOYER INFORMATION

Employer Name: **Alaska Association for Personal Care Supports, Inc.**

Mailing Address: **1217 East 10th Avenue**
 City, State Zip: **Anchorage, Alaska 99501**
 Phone: **907354-5549**
 E-mail: **akhcare@mtaonline.net**
 Fax:

GIFTS

Date	Name	Position	Nature of Gift	Value
No Gifts Given				

NOTICE OF TERMINATION

Lobbyist Name	Termination Date
No Notice of Terminations	

INTERESTS OF EMPLOYER

General description of the legislative and administrative action the employer of lobbyist attempted to influence during the period. Report specific bill numbers when possible. AS 24.45.061(a)(5).

SERVICES FOR DISABLED AND/OR ELDERLY PERSONS RECEIVING PCA AND/OR WAIVER SERVICES

Nature and interest of the entity employing or retaining lobbying services:

AAPCS is an entity composed of providers that deliver Medicaid services; including but not limited to: PCA, RESPITE, DAYHAB, SUPPORTED LIVING, CARE COORDINATION and other services to the elderly and/or disabled Alaskan person

SCHEDULE A (COMPENSATION AND EXPENSES PAID TO OR ON BEHALF OF THE LOBBYIST)

Lobbyist Name	Compensation		Expenses	
2021 - Jardell, Kevin (K Jardell Co.)	Fee / Salary	\$15,000.00	Food / Beverage	\$0.00
	Other	\$0.00	Living	\$0.00
			Travel	\$0.00
			Other	\$0.00
	Totals		Totals	
	This Report	\$15,000.00	This Report	\$0.00
	Previous Total	\$0.00	Previous Total	\$0.00
	New Total	\$15,000.00	New Total	\$0.00

SCHEDULE B (COSTS RELATED TO LOBBYING)

2021 Lobbyist Civil Penalty Appeals.

In-House Costs Related to Lobbying

Employee Name	Lobbying Activity	Support of Lobbying	Amount
No In-House Lobbying Costs			

Outsourced Costs Related to Lobbying

Date	Payee/Vendor	Address	Purpose	Amount
No Outsourced Lobbying Costs				

Costs Related to Lobbying Totals

This Report		\$0.00
Previous Total		\$0.00
New Total		\$0.00



THE STATE
of **ALASKA**
GOVERNOR MIKE DUNLEAVY

Department of Administration

ALASKA PUBLIC OFFICES COMMISSION

2221 E. Northern Lights Blvd., Rm. 128
Anchorage, AK 99508-4149
Main: 907.276.4176
Fax: 907.276.7018
www.doa.alaska.gov/apoc

May 19, 2021

Alaska Association for Personal Care Supports, Inc.
ATTN: Cheri Day
1217 East 10th Avenue
Anchorage, AK 99501
akhcare@mtaonline.net

Re: COMMISSION MEETING NOTICE

Ms. Day:

At its June 9, 2021 Commission Meeting in Anchorage, the Commission will review the matter of your delinquent Employer of Lobbyist Report. I have enclosed the Staff Recommendation that will be presented to the Commission at the meeting.

You have a right to participate at the meeting by telephone (1-650-479-3207, Access Code 177 615 2876, Password 32889562) or by Webex.¹ Please notify our office if you intend to participate. CPAs for Lobbyist and Employer of Lobbyist Reports are expected to begin at **10:00 a.m. on Wednesday, June 9, 2021**. Staff will send you a copy of the final decision by the Commission. If you have any questions, contact APOC.

Sincerely,

ALASKA PUBLIC OFFICES COMMISSION

A handwritten signature in black ink, appearing to read "Heather Dalberg".

Heather Dalberg
APOC Paralegal II

Encl: Staff Recommendation

¹ This meeting will be held remotely, individuals seeking to participate **should not appear in-person** but should use the call-in information noted above to attend. If you choose to participate via Webex, please contact our offices so that we may send you a meeting invitation.

Certificate of Service I emailed and certified mailed a true and correct copy of the foregoing to:

Alaska Association for Personal Care Supports, Inc.

ATTN: Cheri Day

1217 East 10th Avenue

Anchorage, AK 99501

akhcare@mtaonline.net



Paralegal II

5/19/21 Date



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

PREPARED BY: Heather Dalberg **DATE:** May 19, 2021

RESPONDENT: Mark Hickey

CIVIL PENALTY

ASSESSED UNDER:

- ☒ Campaign Disclosure: AS 15.13.390, 2 AAC 50.855
- ☒ Lobbying: AS 24.45.141, 2 AAC 50.855
- ☐ Public Official Financial Disclosure: AS 39.50.135, 2 AAC 50.855
- ☐ Legislative Financial Disclosure: AS 24.60.240, 2 AAC 50.855

REASON FOR FILING: Registered Lobbyist

LATE REPORT(S):

- **Lobbyist and Employer of Lobbyist Reports**
 - ☐ Lobbyist Report _____
 - ☐ Employer of Lobbyist Report _____
 - ☒ Other 15-5A Lobbyist Contribution

REASON FOR FILING OR DATE OF ELECTION: Lobbyist Contribution to Legislative Candidate

DUE DATE OF LATE REPORT: August 15, 2020

REPORT FILED ON: December 23, 2020

NUMBER OF DAYS LATE: 130

DATE DELINQUENCY NOTICE(S) SENT: December 29, 2020

DATE CIVIL PENALTY APPEAL RECEIVED: December 30, 2020

MAXIMUM STATUTORY PENALTY: \$6,500.00

PENALTY ASSESSED¹: \$1,625.00

RECOMMENDATION: Waive

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

¹ Reduced to 25% of maximum under 2 AAC 50.855(b)(2)(B)(ii).

AFFIANT'S STATEMENT OF MITIGATING FACTS:

On December 23, 2020, affiant self-reported to APOC staff that he had not filed the 15-5A by its due date and filed the same day. Affiant's wife made a contribution on his behalf to a legislative candidate for the 2020 State Primary Election on July 15, 2020. Affiant does not recall confirming whether his name was included prior to December 23, 2020, but recalls his wife asking his permission to include his name.

The contribution was disclosed on July 19, 2020, on the candidate's 30-day primary campaign disclosure report and included both affiant's and his wife's names.

Affiant further states that in the weeks leading up to the August 15, 2020, report due date, he was recovering from an August 3, 2020, surgery.

Affiant states he has timely filed previous statements of contributions and that the dollar amount of the fine is out of proportion to the degree of harm to the public, as the contribution was reported by the candidate and the fine exceeds the amount of the contribution.

STAFF'S ANALYSIS OF FACTS FOR COMMISSION REVIEW

As a registered lobbyist, Mr. Hickey may contribute to candidates for legislative office in the district in which he is eligible to vote, but he must submit a 15-5A report within 30 days of the contribution.² The contribution at issue was made on July 15, 2020 and because Mr. Hickey's name was included on the contribution, a 15-5A report was due by August 15, 2020. On December 23, 2020, Mr. Hickey self-reported the incident to APOC staff and promptly filed his 15-5A the same day.

Mitigation criteria allows for a reduction of greater than 50%, up to a complete waiver when the civil penalty assessment is significantly out of proportion to the degree of harm to the public for not having the information. An assessed penalty is significantly out of proportion if it exceeds the value of the transactions that were not reported or were reported late.³ In this case, the assessed penalty of \$1,625.00 exceeds the reported contribution of \$250.00.

Mitigation criteria also allows for a reduction of greater than 50%, up to a complete waiver, when there is no significant harm to the public.⁴ A late report is considered to be of no significant harm to the public when the dollar amount for the information missing on the form is more than \$100.00 but no more than \$1,000.00, and the person self-reported the error; and the missing or incomplete information is readily available to the public through another forum. Here, the contribution was \$250.00 and the candidate's campaign disclosure report, disclosing Mr. Hickey's contribution was submitted four days after the contribution was made and was therefore readily available to the public.

Based on the foregoing, APOC staff recommends a complete waiver.

FILER'S REPORTING HISTORY:

The affiant has a good filing history with no late reports prior to this report in the last 5 years.⁵

² 2 AAC 50.570(d)

³ 2 AAC 50.865(b)(5)

⁴ 2 AAC 50.865(b)(4)

⁵ 2 AAC 40.865(a)(1)(A)

STAFF'S RECOMMENDATION BASED ON STANDARD MITIGATION CRITERIA

Staff recommends a waiver based on the civil penalty is significantly greater and out of proportion to the degree of harm to the public for not having the information, no significant harm to the public and no aggravating factors, and a unique circumstance.

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). **2 AAC 50.865(a)(1)(A)**
- ☐ 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. **2 AAC 50.865(b)(2)**
- ☐ Report included only administrative costs. **2 AAC 50.865(b)(3)**
- ☒ No significant harm to the public and no aggravating factors.⁷ **2 AAC 50.865(b)(4)**
- ☒ The civil penalty is significantly greater and out of proportion to the degree of harm to the public for not having the information.⁸ **2 AAC 50.865(b)(5)**
- ☒ A unique circumstance. **2 AAC 50.865(b)(6)**

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

⁷ The amount missing is \$100 or less; the 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.

⁸ Penalty exceeds the value of late or unreported transactions or for 24-hour and 7-day reports, the penalty exceeds twice the value of the late or unreported transactions

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

The Commission will not accept the following 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)**
- ☐ 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)(7)**

Aggravating Factors [2 AAC 50.865(d)]:

- ☐ Failure to comply by omitting a significant source of income, interest in real property, loan, trust, business, or other substantial financial interest.⁹ **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)**
- ☐ A violation under AS 15.13, AS 24.45, AS 244.60.200-260, or AS 39.50 in the preceding 5 years. **2 AAC 50.865(d)(2)(D)**

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

- ☒ **Waived**
- ☐ **Reduced by _____ to _____**
- ☐ **Upheld at the assessed amount of \$ _____**

⁹ Value greater than \$1000.



THE STATE
of **ALASKA**
GOVERNOR MIKE DUNLEAVY

Department of Administration

ALASKA PUBLIC OFFICES COMMISSION

P.O. Box 110222
240 Main Street, Room 201
Juneau, AK 99811-0222
Main: 907.465.4864
Fax: 907.276.7018
www.doa.alaska.gov/apoc

December 29, 2020

VIA EMAIL & CERTIFIED MAIL

Mark Hickey
211 4th Street, Suite 110
Juneau, AK 99801
mshickey@gci.net

RE: Notice of Penalty Assessment – 15-5A Lobbyist Contribution Report

Mr. Hickey:

According to our records you did not timely file your 15-5A Lobbyist Contribution Report that was due on August 15, 2020. Instead, the report was filed on December 23, 2020 (130 days late). By law, a maximum penalty of \$50 accrues each day the report is late.¹ The maximum penalty the Alaska Public Offices Commission could assess you is \$6,500.00.²

On December 23, 2020 you notified staff that you failed to timely file the report. Staff is ceasing the accrual of penalties as of the day you self-reported and is reducing the penalty to 25% of the adjusted maximum civil penalty that could have been assessed because you self-reported the missing information and disclosed the information within 7 days of self-reporting.³ The assessed civil penalty is **\$1,625.00**.

You have a number of options in this matter:

- 1) You may pay this penalty and avoid formal Commission action by remitting payment by check or money order payable to the State of Alaska to the Alaska Public Offices Commission at the address above; or, you may pay in cash at our offices. **Payment must be made within thirty days of the date of this letter.** If you are unable to pay the entire assessed penalty in a single payment and wish to discuss a payment plan, or have any other question concerning this matter, please contact the APOC staff.

¹ AS 15.13.390(a).
² 2 AAC 50.855(a).
³ 2 AAC 50.855(b)(2)(B)(ii).

- 2) Alternatively, you have the right to appeal staff's conclusion that a violation has occurred or the penalty amount assessed.⁴ **If you wish to appeal you must submit the enclosed appeal affidavit to APOC within thirty days of the date of this letter.**⁵

If you appeal, staff will review your affidavit and prepare a recommendation for the Commission to consider concerning the violation and the penalty amount. You will receive a copy of that recommendation and a notification of when the Commission will meet to consider the matter. When the Commission reviews the appeal and recommendation you will have the opportunity to participate in the meeting either in person or telephonically.

Failure to respond to this notice by either making arrangements for payment within thirty days or submitting an appeal within thirty days will result in staff presenting this matter to the Commission for a final order in the amount of the assessed penalty and referral to the Attorney General's Office.

A copy of this letter will be placed in your APOC file and is considered a public document. If you have any questions about this matter, please contact APOC staff.

ALASKA PUBLIC OFFICES COMMISSION



Heather L. Dalberg
Paralegal II

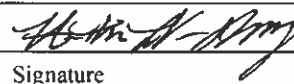
Encl: Civil Penalty Appeal Affidavit
2 AAC 50.865

CERTIFICATE OF SERVICE:

I hereby certify that on this date, I caused a true and correct copy of the foregoing to be delivered to:

Mark Hickey
211 4th Street, Suite 110
Juneau, AK 99801
mshickey@gci.net

☒ Email
☒ Certified Mail


Signature

12/29/20
Date

⁴ AS 15.13.390(a).

⁵ 2 AAC 50.831(a).

ARRIVED

DEC 30 2020

APOC-JUNEAU
PM HC FAX EM

Civil Penalty Appeal Affidavit

AS 15.13 Alaska Campaign Disclosure Law

Name of Appellant: Mark S. Hickey

Office: Hickey & Associates

Penalty issued in connection with (check box or boxes):

- | | | |
|---|---|---|
| <input type="checkbox"/> Previous Year Start Report | <input type="checkbox"/> 7 Day Report | <input type="checkbox"/> Year End Report |
| <input type="checkbox"/> Year Start Report | <input type="checkbox"/> 24 Hour Report | <input type="checkbox"/> Future Campaign Account |
| <input type="checkbox"/> 30 Day Report | <input type="checkbox"/> 105 Day Report | <input type="checkbox"/> Public Office Expense Term |
| <input checked="" type="checkbox"/> Other: <u>late filing of 15-SA Lobbyist Contribution Form</u> | | |

Specify year & election, if late report (e.g. 04 Primary, 03 Muni, etc.): 20 Primary

Instructions: If you send payment, you need not file this form. An affidavit is required only if you are appealing the civil penalty assessment. An affidavit must be self-certified or notarized by any person authorized to administer oaths.

Statement:

I do hereby swear and affirm that this statement of facts is offered in mitigation of the civil penalty issued in connection with a violation of the AS 15.13, the Alaska Campaign Disclosure Law.

State the reasons why the reporting violation occurred and any reasons why the civil penalty should not be assessed:

See attached letter to APOC dated
December 30, 2020

Certification:

I, the undersigned, certify that the information in this Statement is, to the best of my knowledge, true, correct and complete. By statute, a person who makes a false sworn certification which s/he does not believe to be true is guilty of perjury.

Signed/Date: Mark S. Hickey 12/30/20

ARRIVED

DEC 30 2020

APOC-JUNEAU
PM HC FAX EM

HICKEY & ASSOCIATES

Planning * Management * Lobbying

211 Fourth Street, Suite 110, Juneau, Alaska 99801

Telephone: 907-723-8574

Email: mshickey@gci.net

December 30, 2020

Ms. Heather L. Dalberg
Paralegal II
Alaska Public Offices Commission
PO Box 10222
Juneau, AK 99811-0222

RE: Appeal of Penalty Assessment – 15-5A Lobbyist Contribution Report Fine

Dear Ms. Dalberg:

I am in receipt of your letter of December 29, 2020 notifying me of a fine of \$1,625.00 due to my late filing of a 15-5A contribution report which I self-reported on December 23, 2020. I wish to appeal the fine and request the fine be reduced or waived based on the following information.

Facts

1. On December 23, 2020 I self-reported to APOC a late filing of a 15-5A contribution report. My email of 12/23/20 to Heather Dalberg explains what happened.

“Going through my training online today which made me check on a contribution of \$250 to Rep. Story made in July. I thought this was done in my wife’s name only. I looked at the campaign disclosure form and realized it shows up in both our names. I went ahead and completed the 15-5A form today. I apologize for the mistake on my part. I listed the full \$250 but could have split it between us.”
2. This contribution was made by my wife using a credit card. I’m usually very prompt in filing the 15-5A report when I make the contribution. I don’t recall checking to see if the contribution was made in both our names. I do remember my wife asking if I was okay if my name showed up in a signature ad and I said yes.
3. Rep. Story reported the contribution from both my wife and I in her thirty day campaign disclosure report dated 7/22/20.
4. Another mitigating factor is I had surgery on August 3, 2020 to repair a problem caused by several surgeries I had in 2019. I did not have to stay overnight but was at the hospital for about 14-16 hours and then needed some time to recuperate.

Reasons for Appeal

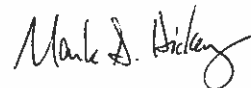
I don't dispute the factual conclusion by APOC staff. I should have realized the contribution was made in both our names and filed the 15-5A form within 30 days of making the contribution. I request the fine be reduced or waived pursuant to 2 AAC 50.865(b)(4) because the failure to report did not cause significant harm and the following factors apply.

1. The dollar amount of the \$250 contribution is more than \$100 but no more than \$1,000 and I self-reported the error immediately upon learning of the matter. (2 AAC 50.865(b)(4)(B)). A fine of \$1,625 strikes me as disproportionate to any harm that may have been caused by my failure to report the contribution in a timely manner.
2. The information about the contribution was "readily available to the public through another forum" since it was disclosed by the candidate within 10 days of making the contribution. (2 AAC 50.865(b)(4)(C))

I have worked as a contract lobbyist for 30 years and have an outstanding record with my reporting and disclosures. I recall one, maybe two occasions when I was late with a report filing. I take my APOC reporting obligations seriously and I apologize for this error.

Thank you for your consideration of my request. Please contact me if you have questions or need more information.

Sincerely,



Mark S. Hickey
President

LOBBYIST CONTRIBUTION TO LEGISLATIVE CANDIDATE (15-5A) FORM

COMPLETEDSigned **12/23/2020**Year: **2020**

LOBBYIST INFORMATION

First Name: **Mark**Middle Name: **S**Last Name: **Hickey**Business Name: **Hickey & Associates**Voter Registration District: **34Q - Mendenhall Valley**Permanent Mailing Address: **211 4th Street; Suite #110**City, State Zip: **Juneau, Alaska 99801**Phone: **9077238574**E-Mail: **mshickey@gci.net**

Fax:

Legislative Mailing Address: **211 4th Street; Suite #110**City, State Zip: **Juneau, Alaska 99801**Phone: **9077238574**E-Mail: **mshickey@gci.net**

Fax:

CONTRIBUTIONS

Date	Candidate Name	Type	Details	Amount
07/15/2020	2020 - Story, Andrea (State Primary Election, State General Election)	Credit Card		\$250.00
Total Contributions Reported:				\$250.00



THE STATE
of **ALASKA**
GOVERNOR MIKE DUNLEAVY

Department of Administration

ALASKA PUBLIC OFFICES COMMISSION

2221 E. Northern Lights Blvd., Rm. 128
Anchorage, AK 99508-4149
Main: 907.276.4176
Fax: 907.276.7018
www.doa.alaska.gov/apoc

May 19, 2021

Mark Hickey
211 4th Street, Suite 110
Juneau, AK 99801
mshickey@gci.net

Re: COMMISSION MEETING NOTICE

Mr. Hickey:

At its June 9, 2021 Commission Meeting in Anchorage, the Commission will review the matter of your delinquent 15-5A Lobbyist Contribution Report. I have enclosed the Staff Recommendation that will be presented to the Commission at the meeting.

You have a right to participate at the meeting by telephone (1-650-479-3207, Access Code 177 615 2876, Password 32889562) or by Webex.¹ Please notify our office if you intend to participate. CPAs for Lobbyist and Employer of Lobbyist Reports are expected to begin at **10:00 a.m. on Wednesday, June 9, 2021**. Staff will send you a copy of the final decision by the Commission. If you have any questions, contact APOC.

Sincerely,

ALASKA PUBLIC OFFICES COMMISSION

A handwritten signature in black ink, appearing to read "Heather Dalberg".

Heather Dalberg
APOC Paralegal II

Encl: Staff Recommendation

¹ This meeting will be held remotely, individuals seeking to participate **should not appear in-person** but should use the call-in information noted above to attend. If you choose to participate via Webex, please contact our offices so that we may send you a meeting invitation.

Certificate of Service I emailed and certified mailed a true and correct copy of the foregoing to:

Mark Hickey
211 4th Street. Suite 110
Juneau, AK 99801
mshickey@gci.net



Paralegal II

5/19/21

Date