

1 3. The initial 2007 lobbying disclosure report for Montana Association of
2 Marriage & Family Therapists was required to be filed no later than February 15, 2007.

3 4. On January 29, 2007 the office of the Commissioner sent an email to all
4 principals, including Montana Association of Marriage & Family Therapists. The
5 email advised principals that a lobbying financial disclosure report covering the
6 month of January, 2007 was required to be filed by February 15, 2007. The email
7 referenced the appropriate form that was required to be filed, known as a form L-
8 5A, and noted that it was available for download on the Commissioner's website.
9 Citing the provisions of § 5-7-208(4), MCA, the email stated: "A report must be
10 filed in this office even though neither lobbying nor incurring of lobbying expenses
11 may have occurred."

12 5. Montana Association of Marriage & Family Therapists failed to file its L-5A
13 on or before February 15, 2007.

14 6. On February 20, 2007, the Commissioner sent a letter to Don Hargrove
15 stating that the January L-5A report was due February 15, 2007, but had not been
16 received. The letter stated that a civil penalty started being assessed on February 16,
17 2007, at \$50 per day, and would continue until the report was filed or until the
18 penalty amount reached \$2,500. The letter urged the principal to fax the delinquent
19 report immediately, followed by a hard copy.

20 7. On February 22, 2007, the principal filed its report. Because the report was
21 filed 4 business days late (Monday, the 19th being a holiday), a \$200 civil penalty
22 was assessed.

23 8. Montana Association of Marriage & Family Therapists requested a hearing to
24 contest the civil penalty. The Commissioner issued a Notice of Agency Action and
25 Opportunity for Hearing on June 11, 2007. Montana Association of Marriage &
26 Family Therapists filed a written Waiver of Hearing and submitted a written
27 statement for the Commissioner's consideration.

1 9. In its written statement, Montana Association of Marriage & Family
2 Therapists asked that the penalty be waived because the organization is composed of
3 professional mental health people who do not normally deal with government and
4 the principal's authorized agent (principal authority) Don Hargrove did not inform
5 them in a timely manner.

6 **CONCLUSIONS OF LAW**

7 1. The Commissioner has jurisdiction over this matter pursuant to §§ 2-4-604
8 and 5-7-306, MCA.

9 2. Notice of the hearing was provided as required by law. § 2-4-601, MCA.

10 3. § 5-7-306, MCA, provides:

11 **Civil penalties for delays in filing -- option for hearing --**
12 **suspension of penalty.** (1) In addition to any other penalties or
13 remedies established by this chapter, a person who fails to file a report
14 within the time required by this chapter is subject to a civil penalty of
\$50 for each working day that the report is late until the report is filed
or until the penalties reach a maximum of \$2,500 for each late report.

15 The person against whom a penalty is assessed may request an informal contested
16 case hearing before the Commissioner. At the hearing, the Commissioner is
17 required to consider any factors or circumstances in mitigation, and may reduce or
18 waive the civil penalty. § 5-7-306(3), MCA.

19 4. § 5-7-208(2)(a), MCA, requires a lobbying disclosure report to be filed with
20 the Commissioner "by February 15th of any year the legislature is in session . . ."
21 The report "must include all payments made in that calendar year prior to February
22 1." § 5-7-208(4), MCA, states that if no payments are made during the reporting
23 period, "the principal shall file a report stating that fact."

24 5. §§ 5-7-208(2)(a) and 5-7-208(4), MCA, read together, required Montana
25 Association of Marriage & Family Therapists to file a report for January, 2007,
26 even if no lobbying payments were made during the reporting period.
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ORDER

THEREFORE, IT IS HEREBY ORDERED that Montana Association of Marriage & Family Therapists shall pay a civil penalty of \$200 to this office no later than August 24, 2007.

DATED this 18th day of July, 2007.



Dennis Unsworth
Commissioner of Political Practices

NOTICE: This is a final decision in a contested case. You have the right to seek judicial review of this decision pursuant to the provisions of Mont. Code Ann. §§ 2-4-701 through 2-4-711.

CERTIFICATE OF SERVICE

I hereby certify that I caused a true and accurate copy of the foregoing FINDINGS OF FACT, CONCLUSIONS OF LAW, ORDER, AND MEMORANDUM OPINION to be mailed to:

Don Hargrove
Montana Association of Marriage & Family Therapists
1245 Windflower
Helena MT 59601

DATED: July 18th, 2007

Mary Baker
Program Supervisor