

1 BEFORE THE COMMISSIONER OF POLITICAL PRACTICES
2 STATE OF MONTANA

3 IN THE MATTER OF THE CIVIL
4 PENALTY IMPOSED AGAINST
5 THE MONTANA LEAGUE OF
6 CITIES AND TOWNS

7 FINDINGS OF FACT, CONCLUSIONS OF LAW,
8 ORDER, AND MEMORANDUM OPINION

9 These informal contested case proceedings were filed before the Commissioner
10 of Political Practices (Commissioner) to consider the appeal of the principal
11 referenced above. Pursuant to the provisions of § 5-7-306, MCA, the principal
12 appealed the Commissioner's assessment of a civil penalty resulting from its late
13 filing of a lobbying financial disclosure report.

14 A hearing was held on December 18, 2007. Mary Baker, Program Supervisor
15 for the Commissioner's office, and Alec Hansen, Executive Director of the Montana
16 League of Cities and Towns, were sworn and testified. The parties agreed that
17 following the hearing Commissioner's Exhibit 1 would be admitted into evidence
18 without objection. Exhibit 1 is a true and accurate copy of relevant documents in
19 the Commissioner's office file.

20 Based on the evidence presented at the hearing and the applicable law, the
21 Commissioner makes the following findings of fact, conclusions of law, and order.

22 **FINDINGS OF FACT**

23
24 1. The Montana League of Cities and Towns (League) is a principal registered with
25 the Commissioner. The League engaged in lobbying during the 2007 regular and special
26 sessions of the Montana Legislature.

27 2. § 5-7-306, MCA, establishes civil penalties that are required to be assessed against

1 any person who fails to file lobbying financial disclosure reports within the time required
2 by law.

3 3. The post-session lobbying financial disclosure report following adjournment
4 of the September, 2007 special session was required to be filed no later than October 5,
5 2007.

6 4. On August 29, 2007, and again on September 28, 2007, the office of the
7 Commissioner emailed reminders to all principals, including the League, advising
8 that Montana law requires principals to file post-session reports within 30 days
9 following adjournment of the special session. The emails noted that the report form
10 was available for download on the Commissioner's website. The second email
11 advised that a post-special session lobbying financial disclosure report was required
12 to be filed no later than October 5, 2007. The email also stated that if the report was
13 not filed by the due date, a penalty of \$50 a day would begin accruing, up to a
14 maximum penalty of \$2,500.

15 5. The League failed to file its post-special session lobbying financial disclosure
16 report on or before the due date. The League filed its report on October 9, 2007.
17 Because the report was filed one working day late (October 8 was a holiday), the
18 civil penalty amount was \$50.

19 6. The League requested a hearing to contest the civil penalty. A hearing was
20 held on December 18, 2007. At the hearing the League presented the testimony of
21 Alec Hansen, its Executive Director. Hansen testified that the Society inadvertently
22 failed to file a post-special session report on time because its entire staff was at the
23 annual state conference in Bozeman during the week that the report was due.
24 Hansen stated that the League has a good record of compliance with the lobbying
25 statutes and rules, and he does not want this violation to remain as a blemish on the
26 League's record. Hansen requests that the civil penalty be waived because the
27 League did not intentionally violate the law.

1 7. During the 2007 regular and special sessions of the Montana Legislature, the
2 League reported lobbying payments exceeding \$2,300.

3 **CONCLUSIONS OF LAW**

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

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

7 3. § 5-7-306, MCA, provides:

8 **Civil penalties for delays in filing -- option for hearing --**

9 **suspension of penalty.** (1) In addition to any other penalties or
10 remedies established by this chapter, a person who fails to file a report
11 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.

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

16 4. § 5-7-208(2)(c), MCA, requires a lobbying disclosure report to be filed with
17 the Commissioner “no later than 30 days following adjournment of a legislative
18 session,” and the report must include “all payments made during the session, except
19 as previously reported.”

20 5. § 5-7-112, MCA established a monetary threshold of \$2,150 for calendar
21 years 2002 through 2004. The threshold amount is adjusted according to the
22 consumer price index in the year following a general election. The adjusted
23 payment threshold for calendar years 2007 and 2008 is \$2,300. ARM 44.12.204.

24
25 **MEMORANDUM OPINION**

26 Information and testimony presented at the hearing establishes that the League
27 registered to lobby and engaged in lobbying activities during calendar year 2007.

1 The League's lobbying activities and payments in 2007 exceeded the level requiring
2 registration and reporting.

3 The League did not provide evidence establishing any factors or circumstances
4 in mitigation that would justify waiver or reduction of the civil penalty. While I
5 understand the League's desire to maintain its good record of compliance, mere
6 neglect to file a report by the due date, absent other compelling or exigent
7 circumstances, is not sufficient to justify waiver or reduction of the civil penalty.
8 The filing deadlines for lobbying financial disclosure reports are established by
9 statute, and cannot be extended. Further, although the office of the Commissioner
10 has no legal obligation to do so, reminders are typically sent to principals before the
11 filing deadlines. Reminders were sent to the League prior to the due date for the
12 post-special session report. I urge principals to carefully review and understand the
13 statutory filing requirements to ensure that they comply with the law, and to avoid
14 the assessment of civil penalties.

15 **ORDER**

16 THEREFORE, IT IS HEREBY ORDERED that the Montana League of Cities
17 and Towns shall pay a civil penalty of \$50 to this office no later than January 21,
18 2008.

19 DATED this 27th day of December, 2007.

20
21 

22 Dennis Unsworth
23 Commissioner of Political Practices

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25 **NOTICE:** This is a final decision in a contested case. You have the right to seek
26 judicial review of this decision pursuant to the provisions of §§ 2-4-701 through 2-
27 4-711, MCA.

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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:

Alec Hansen
Executive Director
Montana League of Cities and Towns
P.O. Box 1704
Helena, MT 59601

DATED: December 27th, 2007

Mary Baker
Program Supervisor