

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

11 5. Montana Outfitters & Guides failed to file its L-5A on or before February
12 15, 2007.

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

19 7. On February 22, 2007, the principal filed its report. Because the report
20 was filed 6 business days late (Monday, the 19th being a holiday), a \$300 civil
21 penalty was assessed.

22 8. Montana Outfitters & Guides requested a hearing to contest the civil
23 penalty. The Commissioner issued a Notice of Agency Action and Opportunity for
24 Hearing on May 2, 2007. Montana Outfitters & Guides filed a written Waiver of
25 Hearing and submitted a written statement for the Commissioner's consideration.

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1 9. In its written statement, Montana Outfitters & Guides contends that in the
2 past it depended on written notices from the Commissioner's office regarding
3 upcoming deadlines for filing lobbying reports, and it did not receive a notice in the
4 mail this year. The Association requests waiver of the civil penalty because it
5 overlooked the reporting deadline.

6 **CONCLUSIONS OF LAW**

7 1. The Commissioner has jurisdiction over this matter pursuant to §§ 2-4-
8 604 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
20 with 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
22 February 1." § 5-7-208(4), MCA, states that if no payments are made during the
23 reporting 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 Outfitters & Guides to file a report for January, 2007, even if no lobbying payments
26 were made during the reporting period.
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ORDER

THEREFORE, IT IS HEREBY ORDERED that Montana Outfitters & Guides shall pay a civil penalty of \$300 to this office no later than August 24, 2007.

DATED this 19th 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:

Mac Minard
Montana Outfitters & Guides
2033 11th Ave
Helena MT 59601

DATED: July 19th, 2007

Mary Baker
Program Supervisor