

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

12 5. The Montana Psychiatric Association failed to file its L-5A on or before
13 February 15, 2007.

14 6. On February 20, 2007, the Commissioner sent a letter to Jerri Ann Gillibrand
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 23, 2007, the principal filed its report. Because the report was
21 filed 5 business days late (Monday, the 19th being a holiday), a \$250 civil penalty
22 was assessed.

23 8. The Montana Psychiatric Association requested a hearing to contest the civil
24 penalty. The Commissioner issued a Notice of Agency Action and Opportunity for
25 Hearing on May 1, 2007. The Montana Psychiatric Association filed a written
26 Waiver of Hearing and submitted a written statement for the Commissioner's
27 consideration.

1 9. In its written statement, the Montana Psychiatric Association asked that the
2 penalty be waived. Association Secretary Virginia Hill contends the Association is
3 new to the lobbying process and was confused regarding the filing process and
4 deadlines.

5 **CONCLUSIONS OF LAW**

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

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

9 3. § 5-7-306, MCA, provides:

10 **Civil penalties for delays in filing -- option for hearing --**
11 **suspension of penalty.** (1) In addition to any other penalties or
12 remedies established by this chapter, a person who fails to file a report
13 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.

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

18 4. § 5-7-208(2), MCA, requires a lobbying disclosure report to be filed with the
19 Commissioner “by February 15th of any year the legislature is in session,” and the
20 report must include “all payments made in that calendar year prior to February 1.” §
21 5-7-208(4), MCA.

22 **MEMORANDUM OPINION**

23 The filing deadlines for lobbying disclosure reports are established by statute,
24 and cannot be extended. While we acknowledge that filing can be confusing, the
25 Commissioner’s staff is readily available to answer questions and assist those who
26 request help.
27

1 Subsequent to the late filing the Association has made a good faith effort to
2 understand the reporting requirements. and that could help ensure they are in
3 compliance with the law in the future. However, a claim of confusion, standing
4 alone, generally has no bearing on the requirement for timely filing of a lobbying
5 report, and is not a sufficient basis for reducing or waiving a civil penalty.

6 **ORDER**

7 THEREFORE, IT IS HEREBY ORDERED that the Montana
8 Psychiatric Association shall pay a civil penalty of \$250 to this office no later than
9 August 31, 2007.
10

11 DATED this 25th day of July, 2007.

12
13 

14
15 Dennis Unsworth
Commissioner of Political Practices

16
17 **NOTICE:** This is a final decision in a contested case. You have the right to seek
18 judicial review of this decision pursuant to the provisions of Mont. Code Ann. §§ 2-
4-701 through 2-4-711.

19
20 **CERTIFICATE OF SERVICE**

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

23 Jerri Ann Gillibrand
24 Montana Psychiatric Association
Drawer N
Warm Springs MT 59756

25
26 DATED: July 25th, 2007

27

Mary Baker
Program Supervisor