

BEFORE THE ALASKA PUBLIC OFFICES COMMISSION

In re)
) CIVIL PENALTY APPEAL
Anchorage Central)
Labor Council)
_____)

FINAL ORDER

On September 18, 2019, the Alaska Public Offices Commission reviewed the assessment of a civil penalty against the Anchorage Central Labor Council for a late-filed 24-hour report. For the following reasons, the Commission orders that the council pay a reduced civil penalty of \$2,500.

The council was required to disclose a contribution of \$1,000 within 24 hours of receipt on November 1, 2018, because the contribution was made within nine days of the state general election.¹ The council reported the contribution 20 days late on November 21, 2018. Failure to timely make the disclosure carries a maximum civil penalty of \$500 per day until reported.² This resulted in a maximum possible penalty of \$10,000, but the staff assessed a penalty of \$5,000.

The council appealed the penalty assessment to the Commission. The treasurer and an attorney for the council, Holly Wells, appeared in person at the September 18, 2019, meeting. The treasurer explained that she mistakenly failed to include the contribution on a 24-hour report that was filed for a different contribution on the same day as the due date

¹ See AS 15.13.110(b).

² AS 15.13.390(a).

for the late-reported one. Other than this late 24-hour report, the council had previously filed two reports a day late in 2017 and 2018; one was a 30-day pre-election report and the other, a 105-day post-election report.³ Ms. Wells argued that the two reports that were only one day late in two separate years for a filer that had more than 35 timely reports in five years was not evidence of a poor filing history. She also argued that the assessed penalty was disproportionate to any harm to the public since it was five times the amount of the contribution.

Staff pointed out that a mitigating factor—that the assessed penalty was significantly out of proportion to the harm to the public since it exceeded twice the value of the late-reported contribution—did not apply because the council had an aggravating factor of more than one late filing in the preceding five years.⁴ But staff recommended that the Commission reduce the assessed penalty because it was five times the amount of the late-filed contribution and no evidence suggested it was due to anything other than a good-faith mistake.

The Commission concludes that the contribution was reported late,⁵ and consequently a penalty is due.⁶ The council had two previous late-filed reports. Since this circumstance is an aggravating factor, the Commission does not reduce the penalty to an amount lower than twice the value of the unfiled contribution as it may do when 2 AAC

³ See AS 15.13.110(a) (providing due dates of required reports).

⁴ 2 AAC 50.865(b)(5), (d)(2)(A).

⁵ AS 15.13.110(b).

⁶ AS 15.13.390(a).

50.865(b)(5) applies. But the late-reported information had a value of no more than \$1,000 and “unique circumstance[s]” justify a reduction.⁷ The council’s overall reporting history is not so poor that no reduction is appropriate, and the assessed penalty is five times the amount of the late contribution. In addition, the Commission finds credible the treasurer’s statement that the late-filed report was a nonintentional, good-faith mistake. For these reasons, the Commission reduces the assessed penalty by 50 percent and orders the Anchorage Central Labor Council to pay a penalty of \$2,500.

This is a final Commission order. It may be appealed to the superior court within 30 days from the date of this order.⁸ A request for the Commission to reconsider this order must be filed within 15 days from the date this order is delivered or mailed.⁹

Dated: September 27, 2019

BY ORDER OF THE ALASKA PUBLIC OFFICES COMMISSION¹⁰

⁷ See 2 AAC 50.865(a)(4) (providing that an assessed penalty “may be reduced by up to 50 percent if . . . any unreported or mistakenly reported information had a value higher than \$100 but no more than \$1,000 and a factor listed in (b) of this section also applies”); 2 AAC 50.865(b)(6) (This factor listed in (b) of the regulation provides that “a unique circumstance may justify a reduction.”).

⁸ AS 44.62.560, Alaska R. App. P. 602.

⁹ 2 AAC 50.891(g).

¹⁰ Commissioners Anne Helzer, Robert Clift, Suzanne Hancock, Van Lawrence, and Richard Stillie participated in this matter. The decision was made on a 5-0 vote.