

Advisory Opinion

IECDB AO 2003-02

January 23, 2003

TO ALL INTERESTED PERSONS:

Pursuant to Iowa Code section 68B.32A(11) and rule 351-1.2, the Iowa Ethics and Campaign Disclosure Board takes the opportunity to issue its opinion on the effect of a granted civil penalty waiver request when there is a repeat delinquency. We note at the outset that the Board's jurisdiction is limited to the application of Iowa Code chapters 56 and 68B and rules in Iowa Administrative Code chapter 351.

OPINION:

The Board's rules provide for an automatic civil penalty to be assessed when campaign disclosure reports and executive branch lobbyist and client reports are filed late. These penalties increase when there is a repeat delinquency within a certain time period. Persons are permitted to request a waiver from an assessed penalty when mitigating circumstances exist.

In IECDB Advisory Opinion 2000-18, the Board opined that in situations where a waiver was granted another late report would result in the higher repeat delinquency penalty. After reviewing this policy in contested case proceedings, the Board is now of the opinion that a granted waiver request should not trigger the repeat delinquency penalty if another report is filed late within the prescribed time period. The Board extends the holding of this opinion to both campaign reports and reports filed by executive branch lobbyists and lobbyist clients.

This opinion applies only in situations where the Board grants a complete waiver of the penalty after initially reviewing the request or as a result of a contested case. A late-filed report that results in a partial waiver will trigger the repeat delinquency penalty if another report is filed late.

The Board hereby rescinds IECDB Advisory Opinion 2000-18.

BY DIRECTION AND VOTE OF THE BOARD

James Albert, Board Chair

1st Vice-Chair Geraldine Leinen

2nd Vice-Chair Gwen Boeke

Mark McCormick

Bernie McKinley

Phyllis Peters

Submitted by: W. Charles Smithson, Board Legal Counsel