

BEFORE THE
DEPARTMENT OF HEALTH CARE ACCESS AND INFORMATION
STATE OF CALIFORNIA

In the Matter of the Penalty Issued to:	}	
BRIDGE 2 LIFE – EL NIDO, LLC	}	HCAI No. 23-012-LTC
Appellant.	}	
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PROPOSED DECISION

This matter was heard before John Gray, Hearing Officer, Department of Health Care Access and Information (“HCAI”), State of California, on October 24, 2023 beginning at 10:31 A.M.

HCAI was represented by Ty Christensen, Manager, Accounting and Reporting Systems Section. Tina Tran, Associate Governmental Program Analyst, Accounting and Reporting Systems Section was also present on behalf of HCAI.

Bridge 2 Life – El Nido, LLC,¹ “Appellant,” was represented by Obaid Asif, Chief Financial Officer.

Both documentary and testamentary evidence was received. The matter was submitted for decision and the record was closed on October 24, 2023 at 10:46 A.M.

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¹ Department of Public Health, CalHealth Find Database [Facility Detail \(ca.gov\)](https://www.cdph.ca.gov/Programs/CID/DCDC/Pages/Imz.aspx) (last accessed June 7, 2024).

PROCEDURAL FINDINGS

1. On August 1, 2023, HCAI assessed a penalty against Appellant in the amount of \$300 for its delinquent Long Term Care Annual Disclosure Report for report period (RPE) 12/31/2022.
2. Appellant appealed the penalty by submitting a Request for Administrative Hearing form dated August 11, 2023 and received by the HCAI Hearing Office on September 7, 2023.
3. Appellant submitted its appeals within the required fifteen business days from receipt of the penalty letters.²
4. HCAI submitted written exhibits to the Hearing Office and Appellant in advance of the hearing in a timely manner. Exhibits 1 through 12 were found to be authentic and relevant and admitted to the record.
5. Appellant submitted a written exhibit to the Hearing Office and HCAI in advance of the hearing in a timely manner. Appellant submitted a letter explaining the circumstances surrounding the delinquent report as Exhibit A. Exhibit A was found to be authentic and relevant and admitted to the record.

FACTUAL FINDINGS

1. Appellant was required under Health and Safety Code section 128770 to file RPE 12/31/2022 by April 30, 2023.³ Two extensions were filed by Appellant extending the deadline to file the RPE 12/31/2022 to July 29, 2023. Penalties accrued from July 29, 2023 until August 1, 2023.
2. The report was filed on August 1, 2023 by emailing the report to HCAI staff.⁴
3. In accordance with Health and Safety Code section 128770, subsection (a), HCAI assessed penalties in the amount of \$100 per day for 3 days, resulting in a total penalty amount of \$300.⁵

² Health & Saf. Code, § 128770.

³ Exhibit 13.

⁴ Exhibit 11.

4. HCAI sent a reminder email to Appellant on Wednesday, April 5, 2023 that the report was coming due.⁶
5. Appellant filed an extension request, extending the deadline to submit to June 29, 2023.⁷ HCAI sent another reminder email to Appellant on June 4, 2023.⁸ HCAI sent another reminder email to Appellant on June 19, 2023.⁹
6. Appellant filed a second extension request, extending the deadline to submit to July 29, 2023.¹⁰ HCAI sent another reminder email to Appellant on July 4, 2023.¹¹ HCAI sent another reminder email to Appellant on July 19, 2023.¹² HCAI sent a final reminder email to Appellant on July 28, 2023.¹³
7. Appellant submitted the report on August 1, 2023.¹⁴ HCAI issued a penalty notice of \$300.¹⁵ The penalty letter was delivered to the facility on August 15, 2023.¹⁶
8. These facts were substantiated both by oral statements made under oath by Ty Christensen at the hearing and written exhibits.
9. Mr. Asif briefly testified on behalf of the Appellant. Mr. Asif noted that the due date of July 29, 2023 fell on a Saturday and argued that the penalty should be reduced from three days to one day to account for the due date falling on a weekend. Mr. Asif made no further arguments and entered no new facts into evidence.
10. Exhibit 12 showed that Appellant does have a history of filing required reports in a timely manner.

⁵ Health & Saf. Code, § 128770.

⁶ Exhibit 1.

⁷ Exhibit 2.

⁸ Exhibit 3.

⁹ Exhibit 4.

¹⁰ Exhibit 5.

¹¹ Exhibit 6.

¹² Exhibit 7.

¹³ Exhibit 8.

¹⁴ Exhibit 9.

¹⁵ Exhibit 10.

¹⁶ Exhibit 11.

DISCUSSION AND LEGAL CONCLUSIONS

1. The issue here is whether Appellant had good cause, as required by Health and Safety Code section 128770, for failing to file its report by July 29, 2023 and whether the penalty should be waived in whole or in part.
2. Under Health and Safety Code section 128770, subsection (c), a penalty may “be reviewed on appeal, and the penalty may be reduced or waived for good cause.” In *Waters v. Superior Court*, the California Supreme Court stated that, “good cause may be equated to a good reason for a party’s failure to perform that specific requirement from which he seeks to be excused.”¹⁷ Good cause must be directly related to the specific legal requirement which the party failed to perform and should be outside the reasonable control of the party.¹⁸ Good cause is sometimes defined as circumstances beyond the party’s control, and not related to the party’s own negligent act or failure to act. On an individual basis, courts and administrative bodies have often found that hospitalization, incapacitation, accident involvement, or loss or unavailability of records may constitute good cause.¹⁹ The determination of good cause in a particular context should utilize common sense based on the totality of the circumstances, including the underlying purpose of the statutory scheme.²⁰
3. The only question at issue is whether the due date of July 29, 2023 falling on a Saturday justifies a reduction in penalty. Government Code section 6707 states that “When the last day for filing any instrument or other document with a state agency falls upon a Saturday or holiday, such act may be performed upon the next business day with the same effect as if it had been

¹⁷ *Waters v. Super. Ct. of Los Angeles County* (1962) 58 Cal2d 885, 893 (hereafter *Waters*).

¹⁸ *Waters, supra*, 58 Cal.2d 885,893 and Secretary of State, “Good Cause” Reasons for Waiving Late Campaign & Lobbying Filing Fees <https://www.sos.ca.gov/campaign-lobbying/good-cause-reasons-waiving-late-campaign-lobbying-filing-fees/> [as of December 4, 2019].

¹⁹ Fair Political Practices Commission, Guidelines for Waiving Late Fines (Nov. 2017) <http://www.fppc.ca.gov/content/dam/fppc/NS-Documents/TAD/FilingOfficer/700FO-Folder/Late%20Fine%20Guidelines.pdf> [as of November 15, 2022]. See also *Waters, supra*, 58 Cal.2d 885, 893.

²⁰ *Laraway v. Sutro & Co.* (2002) 96 Cal.App.4th 266, 274.

performed upon the day appointed.” Government Code section 6700(a)(1) states that every Sunday is considered a holiday in the state of California. In this case, the reporting deadline fell on July 29, 2023, which was a Saturday. July 30, 2023 is considered a holiday under Government Code section 6700(a)(1). Thus, the effective deadline for filing the report should fall on the following business day, July 31, 2023. The penalty is therefore reduced from \$300 to \$100.

4. A party’s diligence is a factor in determining good cause for an extension or a delay.²¹ Here, Appellant has demonstrated a consistent record of timely reporting in the past. However, Appellant has made no further showing of a good cause reduction for the penalty accrued from July 31, 2023 to August 1, 2023. A party’s past diligence alone is insufficient to justify a reduction in penalties. Thus, the \$100 penalty accrued between July 31, 2023 and August 1, 2023 is not waived.

5. The substantiated facts show good cause for reduction of the penalty assessed from \$300 to \$100.

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²¹ *People v. Financial & Surety, Inc.* (2016) 2 Cal.5th 35, 47. See also *Wang v. Unemployment Ins. Appeals Bd.* (1990) 225 Cal.App.3d 412, 420.

PROPOSED ORDER

The assessed penalty is waived in part.

Dated: June 7, 2024 //original signed//
JOHN GRAY
Hearing Officer
Department of Health Care Access and Information

DECISION

Pursuant to Health and Safety Code section 128775, after due consideration of the record,
the Proposed Decision is:

Accepted

Rejected

Dated: June 17, 2024 //original signed//
ELIZABETH A. LANDSBERG
Director
Department of Health Care Access and Information