

Agenda

Item #10



STATE OF MAINE
COMMISSION ON GOVERNMENTAL ETHICS
AND ELECTION PRACTICES
135 STATE HOUSE STATION
AUGUSTA, MAINE
04333-0135

To: Commissioners
From: Jonathan Wayne, Executive Director
Emma Burke, Candidate Registrar
Date: January 14, 2015
Re: Request for Waiver of Late-Filing Penalty for Substantial Non-Compliant Report
Filed by Campaign of John Michael

In the 2014 elections, John Michael was a candidate for the open seat in District 62 of the Maine House of Representatives. He did not win the general election. On October 24, 2014, all candidates were required to file an 11-Day Pre-General Report. Mr. Michael's campaign filed the report on time, and it disclosed that he had received \$2,900 in contributions from the candidate. On December 12, 2014, the campaign filed an amended report which showed that, during the period of the report, the campaign had also received a loan of \$1,000 from the candidate. The 11-Day Pre-General Report is considered 49 days late, because it did not substantially conform to the disclosure requirements at the time it was originally filed.

LEGAL REQUIREMENTS

Candidates are required to file a campaign finance report on the eleventh day before the date on which an election is held and must be complete for the filing period as of the fourteenth day before that date. (21-A M.R.S.A. § 1017(3-A)(B)) Candidates are required to report all contributions received during the report period. (21-A M.R.S.A. § 1017(5)) A loan is form of contribution, although it is listed on a separate schedule in the Commission's reporting forms. (21-A M.R.S.A. § 1012(2)(A)(1))

A report is not timely filed unless a substantially conforming report is submitted to the Commission by the filing deadline. (21-A M.R.S.A. § 1020-A(2)) If the candidate is late in filing a report, the amount of the penalty is set by a formula which takes into consideration a percentage of the total contributions or expenditures, whichever is greater, the number of prior violations within a two-year period, and the number of days the report is late. (21-A M.R.S.A. § 1020-A(4-A))

DISCUSSION

The original version of Mr. Michael’s 11-Day Pre-General Report was filed on the due date of October 24, 2014. The original report omitted a \$1,000 loan from the candidate to the campaign dated October 11, 2014. An amended version, which increased the amount of cash receipts from \$2,900 to \$3,900, was filed December 12, 2014.

Commission staff received notice of the filing of an amended report via the e filing system, which led to a routine review of the amended version of the report. The staff noted that the amount of contributions from the original filing to the amended version increased nearly 35%, meaning that the original report was substantially non-compliant. The loan was given to the campaign on October 11, 2014, almost two weeks before the report was filed.

Based on the statutory formula for calculating late-filed report penalties, the preliminary penalty amount totals \$1,911 calculated as follows:

Report	Date	Financial Activity	Penalty Rate	Days Late	Preliminary Penalty
11-Day Pre-General Report	10/24/2014	\$3,900	1%	49	\$1,911

CANMPAIGN'S REQUEST FOR WAIVER

In support of the request for a waiver, the campaign has submitted a letter from the candidate and from his final campaign treasurer, Belinda Gerry. Ms. Gerry offers some possible reasons for the omission of the \$1,000 loan, but she appears to be speculating. Ms. Gerry was the campaign treasurer from the commencement of the campaign in May until October, when she resigned due to her public duties in Auburn. Ronald "Joe" Uharriet took over as treasurer in October 2014, and was responsible for filing the 11-Day Pre-General report on October 24, 2014. Shortly after the report was filed, he had to leave the state due to a family medical situation, and Ms. Gerry resumed the position of treasurer. Accordingly, she does not know the reason Mr. Uharriet did not report the loan.

Ms. Gerry writes that she believes Mr. Uharriet tried in good faith to file a complete report. She speculates that the omission occurred in transferring data from another software to Excel or perhaps Mr. Uharriet had entered it on the [the efilng] site and "forgot to save it."

Ms. Gerry says that the campaign noticed that the \$1,000 loan was not reported in December when filing the final campaign report for the year, and amended the 11-Day Pre-General Report to include the loan.

The Michael campaign asks that the Commission waive the preliminary penalty for the following reasons:

- The omission was unintentional
- The harm to the public was diminished, because the candidate contributed the funds, rather than a "special interest"
- The harm was also diminished because the originally filed report demonstrated to the public that Mr. Michael was self-funding his campaign
- Mr. Michael gained no campaign advantage due to the omission

- The candidate was distracted by unfair tactics of his opponent in circumventing the campaign finance laws, and because Mr. Michael had agreed to voluntary spending limits.

Mr. Michael urges the Commission to waive the penalty in its entirety or reduce it to something in the range of \$100.

STAFF RECOMMENDATION

Accurate and complete campaign finance reports are an integral part of Maine Campaign Finance Law. Incomplete and nonconforming reports are harmful to both the public and the opposing candidate and political committees.

The request does not include a clear explanation of the situation that led to the omission of the \$1,000 loan. Some of the factors mentioned by Mr. Michael are not set out in statute as justifiable reasons for a waiver. There is no suggestion in statute that reporting violations involving self-funded campaign activity is less serious. Nevertheless, the preliminary penalty of \$1,911 is disproportionately high relative to the harm to the public, in the opinion of the Commission staff. The Commission staff recommends a reduction of the penalty to \$150.

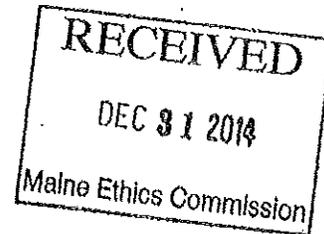
Thank you for your consideration of this memo.

John M. Michael

P.O. Box 233 • Auburn, Maine • 04212 • 207-518-8060 • PoliticsUSA@gmail.com

12/30/2014

Emma Burke
Candidate Registrar
State of Maine
Commission on Governmental Ethics
And Election Practices
135 State House Station
Augusta, Maine 04333-0135



Re: 12/16/2014 Letter of Notice of Violation and Penalty for Late-Filed 11 Day Pre-General Report

Dear Ms Burke:

Thank you for your letter of December 16, 2014 outlining the Commissions penalty to me for neglecting to list a thousand dollar contribution from myself to the campaign.

I apologize for this oversight. It was not our intention to leave anything out of the Pre-Election Report, nor was there any benefit to the campaign for doing so.

I request that you waive the penalty for several reasons.

1. The omission was unintentional.
2. The omission did not significantly alter the context of the report. A report that shows self-funding expenses under \$750.00 and \$2,900.00 donated by the candidate, instead of \$3,900.00 donated should not change the public perception of the report. On the other hand, if the report had omitted contributions from special interests, PACs, unions controversial donors or out-of-state interests it could be said that such information might have been valuable to criticize the campaign for accepting certain donors.

Neglecting to list one contribution from myself to myself withholds no valuable information. Ironically it wound up thwarting my intention because although I had spent little money to date I wanted to put some contributions on the record for the report in case the newspaper did a story on the various campaigns' funding. I did not wish to be perceived as weak in funding because people sometime give up on the candidates who have less money thinking they can't win. So if anything it might have harmed my campaign had there been a newspaper story making me appear weaker financially than I was.

3. The campaign was intentionally designed to be operated without any outside contributions such that it and the candidate could not be influenced in any way by special interests.

4. Ironically I and the campaign were distracted, stressed and placed off-balance when we had to re-tool the entire campaign to respond to highly dishonest but apparently legal spending by the opponent's personal political club as well as the opponent's political party. This spending was pre-meditated, intentional and directly violated the spirit and stated purpose of the Maine Clean Elections Act.

I served as the nation's first clean elections elected independent house member from 2000 to 2002. There were no such outrageous financial circumventions of financing that went on at that time. So quite frankly I was caught off-guard by the severity of the organized shenanigans in my and other races this year. I had intended to spend \$5,500.00 per the volunteer pledge we were asked or required to sign.

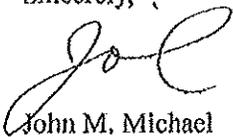
5. I'm sure it was not intentional by the Commission, but the volunteer \$5,500.00 pledge in itself gives the impression that there is a high-integrity system of "clean elections" being conducted that can be trusted, when in fact there is none. I admit to being suckered by the pledge into believing that the campaigns would be conducted with relative decency and general fairness and not pure unadulterated loop-holed dishonesty. The shock of realizing we had been snookered and conned and were about to be outspent 3 to 1 left us reacting desperately to the overwhelming boost my opponent received from her party and personal club. We had to try to quickly switch from a creative campaign to one that was reactionary instead, trying to recover from suddenly being heavily out-spent.

We could no longer implement our game plan and had to re-strategize the entire campaign in the last few weeks. We were stressed-out about the situation we'd been lured into. When you're knocked off balance by dishonest but legal money, everything becomes hectic and less efficient as you lose sleep and rhythm. I am certain this contributed greatly to missing the one self-contribution.

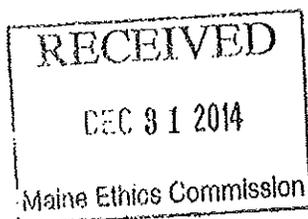
6. Considering all of the reasons above but particularly the fact that there was no advantage to my campaign "hiding" a contribution from myself to myself and that it would have made no sense to have done so on purpose, I request that the Commission waive the penalty or reduce it to something sane such as in the range of \$100.00. Quite frankly through no fault of the Commission, the entire system is dysfunctional as it pertains to so many of the candidates feigning a "clean" status when they know their organized political friends will run a simultaneous "traditional" campaign under the cover of "independent expenditures". My oversight pales in comparison to the hundreds of thousands dollars of crooked money poured into the clean races by design.

Thank you for your consideration. I do understand that you have a difficult job to do and appreciate that you are not always equipped with all the tools and authority that might make your lives easier and your task more administerable.

Sincerely,



John M. Michael
Candidate, District 62



Belinda A. Gerry
Deputy Treasurer
John Michael
for
State House Dist.62
143 Mill St., Apt. 100#
Auburn, ME 04210

State of Maine
Commission on Governmental Ethics
And Election Practices
135 State House Station
Augusta, Maine 04333-0135

Re: Response to the Notice of Violation and Penalty for Late-Filled 11-Day Pre- General Report for John Michael, House 62 by Belinda Gerry, Assistant Treasurer

Dear Commission and Staff:

First I would like to thank the Candidate Registrar, Emma Burke for her kind help and patience with me during numerous calls to her. I don't know what I would have done without her support.

I am not new to filing candidate reports (at least on paper) but found it harder to file them electronically using the system. It is difficult to remain proficient in a system when you only use it a few times every few years.

I admit I am not tech savvy and feel like a doe in headlights afraid of making mistakes. Ms. Burke had to walk and talk me through many steps in your system to enter the data I needed to file. She told me not to be afraid of making mistakes that some candidates do and some reports get amended several times and if I find that I have made a mistake that it can be corrected.

I was Mr. Michael's treasure for his 42 Day Post General report and the 42 Day Pre-General Report. For both of these reports your system refused to let me in so that I could file no activity for the report periods. Ms. Burke and I tried and tried and eventually she had to manually click the no activity box from her end. It was thought that my computer was old, web access not secure and your system may have thought that I was a possible threat to it.

Mr. Ronald Uharriet became Mr. Michael's treasure when I asked to be replaced because I needed to devote more time to my City Council activities because our City Manager had resigned. Mr. Uharriet was the treasurer for the report in question for the 11 Day Pre-General Report. Mr. Uharriet had never worked on this type of project and everything was brand new to him.. (I wasn't around to help him and do not know if he talked to Ms. Burke for help.)

I do know that Mr. Uharriet did in good faith file this report on time thinking he had included all the information/transactions that had to be filed and got confirmation that the report was filed.

A few days later Ms. Burke send him and Mr. Michael emails stating that the report had to be amended because he had put some transactions in twice. He had added the in-kind donations in with the expenses and needed to list the Candidate employer and what he did for work. She requested this be done before the next report.

Unfortunately, Mr. Uharriet had to travel out of state shortly after the report was filed to assist his youngest adult son with a medical emergency. It is unclear when he will be back in Maine.

Near the end of November when my life returned back to normal Mr. Michael asked me to look at the e-mail that Ms. Burke had send them and if I knew how to fix what was requested. After one look at the e-mail I knew what she wanted.

Mr. Michael sent a new candidate registration form listing me as Deputy Treasurer. I then got access to be able to file the amendment which I did and amended the report on Dec. 2nd. I still had difficulty trying to get your system to recognize my donor information. Ms. Burke said that it was there even though I couldn't see it and that your system was having some issues that your agency was addressing.

Because Ms Burke's request was a simple one, I didn't bother checking the report further.

It wasn't until a few days later when we sat down to put things in order to file the 42 Day Post General report that we discovered that a \$1000.00 loan was not listed on it.

It is unclear if the information was lost when the original Mr. Uharriet had been working on and transferred it from Open Office to Excel, or perhaps he had entered it on your site he forgot to save it.

More than likely it was when he transferred one file to another program he was not familiar with that he didn't notice the error when he reviewed the report to his file before he sent it to you..

When we noticed the mistake when reconciling the numbers for the 42 Day Post Report, Mr. Michael immediately asked me to file the amendment which I did on Dec. 12th as soon as I could get in to your site.

It was also during this time of going through folders that Mr. Michael had discovered that there were several stamps not used and I had to call Ms. Burke as to how to make this adjustment for an expense on Mr. Michael's final report.

No matter how she explained it I couldn't figure this out so in the end Ms. Burke had to enter this in for me as well, so that the report was right when I sent it.

In conclusion I must respectfully dispute the Commissions' findings and the amount of penalty.

I would also respectfully request that the Commission take into consideration:

1. Mr. Uharriet's lack of experience and the fact that he did not intentionally leave out the \$1,000.00 loan.
2. That when the error was found it was corrected as quick as possible.
3. That I was OK with doing reports but lack computer experience especially with your system.
4. We reported back unused stamps to make the report right instead of just quietly keeping them to avoid bothering with the paperwork, as I suspect many candidates might have done.
5. There was no benefit to the campaign to not list the \$1,000.00 nor any reason to withhold the information

I request that you wave the fine or significantly reduce the amount levied.

Thank you for your time.

Respectfully,



Belinda A. Gerry
Deputy Treasurer, John Michael for State House



Commission on Governmental Ethics and Election Practices
 Mail: 135 State House Station, Augusta, Maine 04333
 Office: 45 Memorial Circle, Augusta, Maine
 Website: www.maine.gov/ethics
 Phone: 207-287-4179
 Fax: 207-287-6775

original
report

2014 CAMPAIGN FINANCE REPORT
FOR PRIVATELY FINANCED CANDIDATES

COMMITTEE		TREASURER	
JOHN M MICHAEL PO BOX 233 AUBURN, ME 04212 PHONE: (207) 518-8060 EMAIL: POLITICSUSA@GMAIL.COM		RONALD JOE UHARRIET 163 SUMMER ST, #1 AUBURN, ME 04210 PHONE: (207) 241-7004 EMAIL: JOE@UHARRIET.COM	
REPORT	DUE DATE	REPORTING PERIOD	
11-DAY PRE-GENERAL	10/24/2014	09/17/2014 - 10/21/2014	

FINANCIAL ACTIVITY SUMMARY

RECEIPTS	TOTAL FOR THIS PERIOD	TOTAL FOR CAMPAIGN
1. CASH CONTRIBUTIONS FOR THE PRIMARY ELECTION (SCHEDULE A)		
1A. CASH CONTRIBUTIONS FOR THE GENERAL ELECTION(SCHEDULE A) <i>For party candidates, general election contributions will only appear on this line after the primary.</i>	\$2,900.00	\$2,900.00
1B. CASH CONTRIBUTIONS FOR THE GENERAL ELECTION RAISED PRIOR TO PRIMARY (Not shown on Schedule A of this report)		
2. OTHER CASH RECEIPTS (INTEREST, ETC)	\$0.00	\$0.00
3. LOANS (SCHEDULE C)	\$0.00	\$0.00
4. TOTAL RECEIPTS	\$2,900.00	\$2,900.00
EXPENDITURES		
5. EXPENDITURES (SCHEDULE B)	\$1,299.49	\$1,299.49
6. LOAN REPAYMENTS (SCHEDULE C)	\$0.00	\$0.00
7. TOTAL PAYMENTS	\$1,299.49	\$1,299.49
CASH SUMMARY		
8. CASH BALANCE AT BEGINNING OF PERIOD	\$0.00	
9. PLUS TOTAL RECEIPTS THIS PERIOD (LINE 4)	\$2,900.00	
10. MINUS TOTAL PAYMENTS THIS PERIOD (LINE 8)	\$1,299.49	
11. CASH BALANCE AT END OF PERIOD	\$1,600.51	
OTHER ACTIVITY		
12. IN-KIND CONTRIBUTIONS (SCHEDULE A-1)	\$556.87	\$556.87
13. TOTAL LOAN BALANCE AT END OF PERIOD (SCHEDULE C)	\$0.00	
14. TOTAL UNPAID DEBTS AT END OF PERIOD (SCHEDULE D)	\$0.00	
FOR PARTY CANDIDATES ONLY: CASH CONTRIBUTIONS FOR THE GENERAL ELECTION RAISED PRIOR TO PRIMARY ELECTION (INCLUDED IN LINE 1A AFTER PRIMARY ELECTION)		

I, RONALD JOE UHARRIET, CERTIFY THAT THE INFORMATION CONTAINED IN THIS REPORT IS TRUE, ACCURATE, AND COMPLETE TO THE BEST OF MY KNOWLEDGE.

REPORT FILED BY: RONALD JOE UHARRIET
 REPORT FILED ON: 10/24/2014
 LAST MODIFIED: 10/24/2014
 PRINTED: 01/15/2015
 COMMITTEE ID: 7935

original
report

SCHEDULE A CASH CONTRIBUTIONS

- For contributors who gave more than \$50, the names, address, occupation, and employer must be reported. If "information requested" is listed instead of occupation and employer, the candidate is waiting to receive that information.
- Cash contributions of \$50 or less can be added together and reported as a lump sum.
- Contributor Types

- | | |
|--|--|
| 1 = Individual | 9 = Candidate / Candidate Committee |
| 2 = Candidate/ Spouse/ Domestic Partner | 10 = General Treasury Transfer |
| 3 = Commercial Source | 11 = Transfer from Previous Campaign |
| 4 = Nonprofit Organization | 12 = Contributors giving \$50 or less |
| 5 = Political Action Committee | 13 = Contributors giving \$100 or less |
| 6 = Political Party Committee | 14 = Contributors giving \$200 or less |
| 7 = Ballot Question Committee | 15 = MCEA Payment |
| 8 = Other Candidate/ Candidate Committee | 16 = Financial Institution |

DATE RECEIVED	CONTRIBUTOR	OCCUPATION AND EMPLOYER	TYPE	ELECTION	AMOUNT
10/9/2014	JOHN M MICHAEL 163 SUMMER ST AUBURN, ME 04210		2	General	\$100.00
10/9/2014	JOHN M MICHAEL 163 SUMMER ST AUBURN, ME 04210		2	General	\$800.00
10/16/2014	JOHN M MICHAEL 163 SUMMER ST AUBURN, ME 04210		2	General	\$2,000.00
TOTAL CASH CONTRIBUTIONS FOR PRIMARY					\$0.00
TOTAL CASH CONTRIBUTIONS FOR GENERAL					\$2,900.00

Amended
report



Commission on Governmental Ethics and Election Practices
 Mail: 135 State House Station, Augusta, Maine 04333
 Office: 45 Memorial Circle, Augusta, Maine
 Website: www.maine.gov/ethics
 Phone: 207-287-4179
 Fax: 207-287-6775

2014 CAMPAIGN FINANCE REPORT
FOR PRIVATELY FINANCED CANDIDATES

COMMITTEE		TREASURER	
JOHN M MICHAEL PO BOX 233 AUBURN, ME 04212 PHONE: (207) 518-8060 EMAIL: POLITICSUSA@GMAIL.COM		RONALD JOE UHARRIET 163 SUMMER ST, #1 AUBURN, ME 04210 PHONE: (207) 241-7004 EMAIL: JOE@UHARRIET.COM	
REPORT	DUE DATE	REPORTING PERIOD	
11-DAY PRE-GENERAL	10/24/2014	09/17/2014 - 10/21/2014	

FINANCIAL ACTIVITY SUMMARY

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1B. CASH CONTRIBUTIONS FOR THE GENERAL ELECTION RAISED PRIOR TO PRIMARY (Not shown on Schedule A of this report)		
2. OTHER CASH RECEIPTS (INTEREST, ETC)	\$0.00	\$0.00
3. LOANS (SCHEDULE C)	\$1,000.00	\$1,000.00
4. TOTAL RECEIPTS	\$3,900.00	\$3,900.00
EXPENDITURES		
5. EXPENDITURES (SCHEDULE B)	\$742.62	\$742.62
6. LOAN REPAYMENTS (SCHEDULE C)	\$0.00	\$0.00
7. TOTAL PAYMENTS	\$742.62	\$742.62
CASH SUMMARY		
8. CASH BALANCE AT BEGINNING OF PERIOD	\$0.00	
9. PLUS TOTAL RECEIPTS THIS PERIOD (LINE 4)	\$3,900.00	
10. MINUS TOTAL PAYMENTS THIS PERIOD (LINE 8)	\$742.62	
11. CASH BALANCE AT END OF PERIOD	\$3,157.38	
OTHER ACTIVITY		
12. IN-KIND CONTRIBUTIONS (SCHEDULE A-1)	\$556.87	\$556.87
13. TOTAL LOAN BALANCE AT END OF PERIOD (SCHEDULE C)	\$1,000.00	
14. TOTAL UNPAID DEBTS AT END OF PERIOD (SCHEDULE D)	\$0.00	
FOR PARTY CANDIDATES ONLY: CASH CONTRIBUTIONS FOR THE GENERAL ELECTION RAISED PRIOR TO PRIMARY ELECTION (INCLUDED IN LINE 1A AFTER PRIMARY ELECTION)		

I, BELINDA GERRY, CERTIFY THAT THE INFORMATION CONTAINED IN THIS REPORT IS TRUE, ACCURATE, AND COMPLETE TO THE BEST OF MY KNOWLEDGE.

REPORT FILED BY: BELINDA GERRY
 REPORT FILED ON: 10/24/2014
 LAST MODIFIED: 12/12/2014
 PRINTED: 01/15/2015
 COMMITTEE ID: 7935

Amended
report

**SCHEDULE A
CASH CONTRIBUTIONS**

- For contributors who gave more than \$50, the names, address, occupation, and employer must be reported. If "Information requested" is listed instead of occupation and employer, the candidate is waiting to receive that information.
- Cash contributions of \$50 or less can be added together and reported as a lump sum.
- Contributor Types

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| 2 = Candidate/ Spouse/ Domestic Partner | 10 = General Treasury Transfer |
| 3 = Commercial Source | 11 = Transfer from Previous Campaign |
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| 6 = Political Party Committee | 14 = Contributors giving \$200 or less |
| 7 = Ballot Question Committee | 15 = MCEA Payment |
| 8 = Other Candidate/ Candidate Committee | 16 = Financial Institution |

DATE RECEIVED	CONTRIBUTOR	OCCUPATION AND EMPLOYER	TYPE	ELECTION	AMOUNT
10/9/2014	JOHN M MICHAEL 163 SUMMER ST AUBURN, ME 04210		2	General	\$100.00
10/9/2014	JOHN M MICHAEL 163 SUMMER ST AUBURN, ME 04210		2	General	\$800.00
10/16/2014	JOHN M MICHAEL 163 SUMMER ST AUBURN, ME 04210		2	General	\$2,000.00
TOTAL CASH CONTRIBUTIONS FOR PRIMARY					\$0.00
TOTAL CASH CONTRIBUTIONS FOR GENERAL					\$2,900.00

Amended
report

**SCHEDULE C
LOANS/LOAN PAYMENTS**

- Loan types: FI for Financial Institution; IND for Individual; and OTH for Other Sources.

LOAN TRANSACTIONS FOR THIS REPORTING PERIOD							
LENDER	LOAN TYPE	DATE	LOAN ACTIVITY				AMOUNT
JOHN M MICHAEL	OTH	10/11/2014	New Loan or Additional Amount Loaned				\$1,000.00
LOAN ACTIVITY FOR THIS CAMPAIGN							
LENDER	LOAN TYPE	ORIGINAL LOAN AMOUNT	DATE	NEW LOAN OR ADDITIONAL AMOUNT LOANED	AMOUNT REPAYED	AMOUNT FORGIVEN	LOAN BALANCE AT END OF PERIOD
JOHN M MICHAEL	OTH	\$1,000.00		\$1,000.00	\$0.00	\$0.00	\$1,000.00
			10/11/2014	\$1,000.00			
TOTAL LOAN TRANSACTIONS		\$1,000.00		\$1,000.00			\$1,000.00

21-A MRS § 1020-A. FAILURE TO FILE ON TIME

1. Registration. A candidate that fails to register the name of a candidate, treasurer or political committee with the commission within the time allowed by section 1013-A, subsection 1 may be assessed a forfeiture of \$10. The commission shall determine whether a registration satisfies the requirements for timely filing under section 1013-A, subsection 1.

2. Campaign finance reports. A campaign finance report is not timely filed unless a properly signed or electronically submitted copy of the report, substantially conforming to the disclosure requirements of this subchapter, is received by the commission by 11:59 p.m. on the date it is due. Except as provided in subsection 7, the commission shall determine whether a report satisfies the requirements for timely filing. The commission may waive a penalty in whole or in part if the commission determines that the penalty is disproportionate to the size of the candidate's campaign, the level of experience of the candidate, treasurer or campaign staff or the harm suffered by the public from the late disclosure. The commission may waive the penalty in whole or in part if the commission determines the failure to file a timely report was due to mitigating circumstances. For purposes of this section, "mitigating circumstances" means:

- A. A valid emergency determined by the commission, in the interest of the sound administration of justice, to warrant the waiver of the penalty in whole or in part; [1999, c. 729, §5 (AMD).]
- B. An error by the commission staff; [1999, c. 729, §5 (AMD).]
- C. Failure to receive notice of the filing deadline; or [1999, c. 729, §5 (AMD).]
- D. Other circumstances determined by the commission that warrant mitigation of the penalty, based upon relevant evidence presented that a bona fide effort was made to file the report in accordance with the statutory requirements, including, but not limited to, unexplained delays in postal service or interruptions in Internet service. [2009, c. 190, Pt. A, §13 (AMD).]

3. Municipal campaign finance reports. Municipal campaign finance reports must be filed, subject to all the provisions of this subchapter, with the municipal clerk on forms prescribed by the Commission on Governmental Ethics and Election Practices. The municipal clerk shall send any notice of lateness required by subsection 6 and shall notify the commission of any late reports subject to a penalty.

4. Basis for penalties.

[2001, c. 470, §7 (AMD); T. 21-A, §1020-A, sub-§4 (RP) .]

4-A. Basis for penalties. The penalty for late filing of a report required under this subchapter is a percentage of the total contributions or expenditures for the filing



STATE OF MAINE
COMMISSION ON GOVERNMENTAL ETHICS
AND ELECTION PRACTICES
135 STATE HOUSE STATION
AUGUSTA, MAINE
04333-0135

COPY

December 16, 2014

John Michael
PO Box 233
Auburn, Maine 04212

Re: Notice of Violation and Penalty for Late-Filed 11-Day Pre-General Report

Dear Mr. Michael:

You filed your 11-Day Pre-General Report on October 24, 2014, and subsequently filed an amended version of the report on December 12, 2014. The amended version of the report significantly increased the amount of contributions than originally reported. Therefore, the Commission staff considers the report late as a result of substantial non-conformity with disclosure requirements (21-A M.R.S.A. § 1020-A(2)). Under the Commission's statutes the late filing of a report triggers an enforcement process. The Commission staff has made a preliminary finding of violation and determined that the preliminary penalty for filing the report late is \$1,911. Please see the next page for the penalty calculation.

You may request that the Commission waive the penalty in whole or in part or find that there was no violation. The request must be made within 14 calendar days of your receipt of this notice. The request must be in writing and contain a full explanation of the reasons the report was filed late. Upon receiving your request, the Commission staff will schedule your request to be heard at an upcoming Commission meeting. You or your designee will have an opportunity to be heard at the meeting or you may submit a sworn statement to the Commission explaining the mitigating circumstances for its consideration.

The Commission may waive or reduce the penalty or find that there was no violation if it determines that the report was late due to mitigating circumstances, which are defined as (1) a valid emergency; (2) an error made by the Commission staff; or (3) relevant evidence that a bona fide effort was made to file the report on time. The Commission may also consider whether the penalty is disproportionate to the level of experience of the person filing the report or the harm to the public caused by the late disclosure.

The staff requests that you pay the preliminary penalty within 14 days of the date of your receipt of this notice if you do not intend to request a waiver. Please use the payment statement on the next page when paying by mail. You may also make a payment online at www.maine.gov/ethics by clicking the "Penalty Payment" link. Please contact the Commission staff at (207) 287-4179 or ethics@maine.gov if you have any questions.

Sincerely,

Emma Burke
Candidate Registrar

cc: Belinda Gerry

OFFICE LOCATED AT: 45 MEMORIAL CIRCLE, AUGUSTA, MAINE
WEBSITE: WWW.MAINE.GOV/ETHICS

PHONE: (207) 287-4179

FAX: (207) 287-6775

PENALTY CALCULATION

The penalty for filing a campaign finance report late is based on a percentage of the total contributions or expenditures for the reporting period, whichever is greater, multiplied by the number of days late. The percentage is based on your history of past violations: 1% for the first violation, 3% for the second violation, and 5% for the third and each subsequent violation. Violations for late-filed reports accumulate in the two-year period beginning on January 1st of each even-numbered year. A penalty accrues daily beginning on the day following the filing due date. Any penalty of less than \$10 is automatically waived.

HOW YOUR PENALTY WAS CALCULATED

Filer: John Michael			
Late-Filed Report: 11-Day Pre-General			
Contributions	\$3,900	Penalty Base Amount	\$3,900
Expenditures	\$742.62	Percentage	1%
Due Date	10/24/2014	Daily Accrual Rate	\$39.00
Date Filed	12/12/2014	Days Late	49
Previous Violations	0	Your Total Penalty	\$1,911.00

PAYMENT STATEMENT AND PAYMENT OPTIONS

From: John Michael

Penalty Amount: \$ 1,911.00

Penalty ID: N/A

Amount Enclosed: _____

Check/M.O. #: _____

BY MAIL: Enclose this payment statement with your payment so that it will be properly accounted for.

Please make check or money order payable to: Treasurer, State of Maine

Mail to: Maine Ethics Commission
135 State House Station
Augusta, Maine 04333-0135

ONLINE: Go to www.maine.gov/online/ethics/penalties. Please include the penalty ID so that your payment will be properly accounted for.