

Agenda

Item #7

**Request for Waiver –
Committee to Rebuild Maine's Middle Class PAC**



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

To: Commissioners

From: Benjamin Dyer, Political Committee and Lobbyist Registrar

Date: September 15, 2014

Re: Request for Waiver of Late-Filing Penalty by the Committee to Rebuild Maine's Middle Class PAC

All political action committees are required to file campaign finance reports by the deadlines set in statute. Beyond simply filing the report by the deadline, a timely-filed campaign finance report must substantially conform to the disclosure requirements of Maine Election Law. This includes accurately reporting cash and in-kind contributions received during the reporting period. The Committee to Rebuild Maine's Middle Class PAC (the PAC) filed its 2014 11-Day Pre-Primary report by the deadline of May 30, 2014, but this report did not include any of the substantial in-kind contributions received during the reporting period.

LEGAL REQUIREMENTS

PACs are required to file campaign finance reports according to a schedule set by statute. (21-A M.R.S.A. §1059(2)) The 2014 11-Day Pre-Primary report was due on May 30, 2014 and covered the reporting period of April 1, 2014 through May 27, 2014. PACs are required to report the names and addresses of contributors giving more than \$50 to the PAC during the reporting period and the amounts and dates of each contribution. (21-A M.R.S.A. §1060(6)) A campaign finance report is not timely filed unless it substantially

conforms to the disclosure requirements of Chapter 13, Subchapter 4. (21-A M.R.S.A. §1062-A(2)) If a PAC is late in filing a campaign finance report, the amount of the preliminary penalty is set by a formula which takes into consideration the amount of the transaction, 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. § 1062-A(3)) PACs may request a full or partial waiver of the penalty. Maximum penalties for PACs are \$10,000, except if the financial activity reported late exceeds \$50,000, the maximum penalty is 1/5 of the amount reported late. (21-A M.R.S.A. §1062-A(4))

DISCUSSION

The Committee to Rebuild Maine's Middle Class is an umbrella organization which is supported by a number of other PACs and unions. The PAC receives a significant amount of its contributions in the form of in-kind contributions of staff time from other organizations. On July 22, 2014, the PAC treasurer contacted the Commission staff and indicated the PAC had to amend a prior report. When initially filed on May 27, 2014, the PAC's 11-Day Pre-Primary report indicated it had no activity during the reporting period. When amended on July 22, 2014, the report showed that the PAC actually received \$10,256.31 in in-kind contributions during the reporting period consisting of staff time contributed by supporting organizations.

Based on the statutory formula for calculating late-filed report penalties, the preliminary penalty amount is calculated as follows:

Filing	Due Date	Financial Activity	Penalty Rate	Days Late	Calculated Penalty
2014 11-Day Pre-Primary Report	5/30/2014	\$10,256.31	1%	53	\$5,435.68

In its request for a waiver, the PAC accepts full responsibility for the filing errors, but asks that the Commission waive or significantly reduce the preliminary penalty. The PAC admits it made an oversight in not reporting the in-kind contributions received. In requesting the waiver, the PAC writes that the treasurer was unaware the PAC's committee members had begun meeting in April and was not informed by the committee until July.

STAFF RECOMMENDATION

The timely filing of accurate campaign finance reports is the bedrock of Maine's campaign finance disclosure system. Violations of these reporting requirements can be serious because the public is denied information it needs to determine who is financing campaign activity in Maine and the connections among entities that money creates. In this case, a PAC that initially reported no activity later amended its report to reveal it had over \$10,000 of in-kind staff time contributed to it by supporting organizations. This PAC and its constituent organizations have considerable campaign experience, and the PAC has reported receiving similar large in-kind contributions in previous election years.

That said, this case also contains mitigating factors which suggest that a reduction in the preliminary penalty would be appropriate. The preliminary penalty, at over half the value

of the in-kind contribution, is disproportionate to the harm to the public. The amendment was made well before the November 4, 2014 election. The PAC did make the corrections on its own. Weighing the factors, the staff recommends that the Commission find that, because the report was substantially out of compliance with reporting requirements, the PAC failed to timely file the 2014 11-Day Pre-Primary Report and assess a penalty of \$500 for the late report.

Thank you for your consideration of this memo.



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 POLITICAL ACTION COMMITTEES

COMMITTEE		TREASURER	
THE COMMITTEE TO REBUILD MAINE'S MIDDLE CLASS P.O. BOX 3 AUBURN, ME 04212 PHONE: (207) 622-4418 EMAIL: TSIMPSON@MAINEEA.ORG		TAMMY SIMPSON P.O. BOX 3 AUBURN, ME 04212 PHONE: (207) 622-4418 EMAIL: TSIMPSON@MAINEEA.ORG	
REPORT	DUE DATE	REPORTING PERIOD	
11-DAY PRE-PRIMARY	05/30/2014	04/01/2014 - 05/27/2014	

FINANCIAL ACTIVITY SUMMARY

RECEIPTS	TOTAL FOR PERIOD	TOTAL FOR YEAR
1. CASH CONTRIBUTIONS (SCHEDULE A)	\$0.00	\$0.00
2. OTHER CASH RECEIPTS (INTEREST, ETC.)	\$0.00	\$0.00
3. LOANS (SCHEDULE C)	\$0.00	\$0.00
4. TOTAL RECEIPTS (LINE 1 + 2 + 3)	\$0.00	\$0.00
EXPENDITURES		
5. EXPENDITURES TO SUPPORT OR OPPOSE (SCHEDULE B)	\$0.00	\$0.00
6. OPERATING EXPENDITURES (SCHEDULE B-1)	\$0.00	\$355.50
7. LOAN REPAYMENTS (SCHEDULE C)	\$0.00	\$0.00
8. TOTAL PAYMENTS (LINE 5 + 6 + 7)	\$0.00	\$355.50
CASH SUMMARY		
9. CASH BALANCE AT BEGINNING OF PERIOD	\$12,831.83	
10. PLUS TOTAL RECEIPTS THIS PERIOD (LINE 4)	\$0.00	
11. MINUS TOTAL PAYMENTS THIS PERIOD (LINE 8)	\$0.00	
12. CASH BALANCE AT END OF PERIOD	\$12,831.83	
OTHER ACTIVITY		
13. IN-KIND CONTRIBUTIONS (SCHEDULE A-1)	\$10,256.31	\$10,256.31
14. TOTAL LOAN BALANCE AT END OF PERIOD (SCHEDULE C)	\$0.00	
15. TOTAL UNPAID DEBTS AT END OF PERIOD (SCHEDULE D)	\$0.00	

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

REPORT FILED BY: TAMMY SIMPSON
REPORT FILED ON: 05/27/2014
LAST MODIFIED: 07/22/2014
PRINTED: 09/17/2014
COMMITTEE ID: 6297

**SCHEDULE A - 1
IN-KIND CONTRIBUTIONS**

- In-kind contributions are goods and services (including facilities) that a candidate received at no cost or at a cost less than the fair market value. they include all goods and services purchased for the campaign by the candidate or supporters If the campaign does not expect to reimburse the candidate or supporter. These contributions may come from the candidate, candidate's family, supporters, PACs, party committees, or other entities.
- 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.
- In-kind contributions of \$50 or less can be added together and reported as a lump sum.
- If the candidate received a discount on goods and services, the amount of the discount must be reported as an in-kind contribution.
- Total contributions (cash and in-kind) from the same source (except the candidate and candidate's spouse or domestic partner) may NOT exceed \$350 in any election for the legislative candidates, \$750 for county candidates, or \$1500 for gubernatorial candidates. For party candidates, the primary and general elections are considered separate election. For non-party candidates, there is only one election, the general election.

1 = Individual

2 = Candidate/ Spouse/ Domestic Partner

3 = Commercial Source

4 = Nonprofit Organization

5 = Political Action Committee

6 = Political Party Committee

7 = Ballot Question Committee

8 = Other Candidate/ Candidate Committee

9 = Candidate / Candidate Committee

10 = General Treasury Transfer

11 = Transfer from Previous Campaign

12 = Contributors giving \$50 or less

13 = Contributors giving \$100 or less

14 = Contributors giving \$200 or less

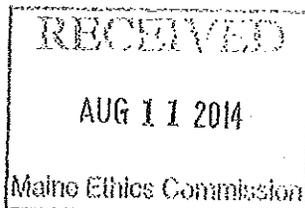
15 = MCEA Payment

16 = Financial Institution

DATE RECEIVED	CONTRIBUTOR'S NAME, ADDRESS, ZIP	OCCUPATION AND EMPLOYER	DESCRIPTION (of goods, services, facilities, or discounts received)	TYPE	AMOUNT
4/1/2014	MINERVA CONSULTING PO BOX 4876 PORTLAND, ME 04112		STAFF TIME/1 STAFF - APRIL 1 THROUGH APRIL 30 - MEETINGS, PLANNING	3	\$1,020.00
4/4/2014	MAINE EDUCATION ASSOCIATION 35 COMMUNITY DRIVE AUGUSTA, ME 04330		STAFF TIME/1 STAFF - PLANNING MEETINGS	3	\$154.14
4/10/2014	MAINE AFL-CIO 21 GABRIEL DRIVE AUGUSTA, ME 04330		STAFF TIME/1 STAFF - PLANNING CALL	3	\$44.01
4/10/2014	Maine People's Alliance 565 Congress Street, Suite 200 Portland, ME 04101		STAFF TIME/2 STAFF - PLANNING MEETINGS	3	\$229.98
4/11/2014	MSEA-SEIU LOCAL 1989 65 STATE STREET, PO BOX 1072 AUGUSTA, ME 04332		STAFF TIME/1STAFF - STEERING COMMITTEE	3	\$69.12
4/15/2014	MAINE VOTES/MAINE PEOPLE'S ALLIANCE 565 CONGRESS STREET, SUITE 200 PORTLAND, ME 04101		STAFF TIME/1 STAFF - DATA & TARGETING	4	\$182.64
4/17/2014	MAINE AFL-CIO 21 GABRIEL DRIVE AUGUSTA, ME 04330		STAFF TIME/1 STAFF - PLANNING MEETINGS	3	\$44.01

4/18/2014	MAINE EDUCATION ASSOCIATION 35 COMMUNITY DRIVE AUGUSTA, ME 04330		STAFF TIME/1 STAFF - PLANNING MEETINGS	3	\$205.52
4/18/2014	MSEA-SEIU LOCAL 1989 65 STATE STREET, PO BOX 1072 AUGUSTA, ME 04332		STAFF TIME/1 STAFF - STEERING COMMITTEE	3	\$92.16
4/18/2014	NATIONAL EDUCATION ASSOCIATION 1201 16TH STREET, NW WASHINGTON, DC 20036		STAFF TIME/1 STAFF - CAMPAIGN CONSULTATION	3	\$467.53
4/24/2014	MAINE AFL-CIO 21 GABRIEL DRIVE AUGUSTA, ME 04330		STAFF TIME/1 STAFF - PLANNING MEETINGS	3	\$66.02
4/25/2014	Maine People's Alliance 565 Congress Street, Suite 200 Portland, ME 04101		STAFF TIME/2 STAFF - PLANNING MEETINGS	3	\$229.96
4/30/2014	MAINE VOTES/MAINE PEOPLE'S ALLIANCE 565 CONGRESS STREET, SUITE 200 PORTLAND, ME 04101		STAFF TIME/1 STAFF - DATA & TARGETING	4	\$182.64
5/1/2014	MINERVA CONSULTING PO BOX 4876 PORTLAND, ME 04112		STAFF TIME/1 STAFF - MAY 1 THROUGH MAY 27 - MEETINGS, PLANNING	3	\$850.00
5/2/2014	MAINE EDUCATION ASSOCIATION 35 COMMUNITY DRIVE AUGUSTA, ME 04330		STAFF TIME/1 STAFF - PLANNING MEETINGS	3	\$205.52
5/2/2014	MSEA-SEIU LOCAL 1989 65 STATE STREET, PO BOX 1072 AUGUSTA, ME 04332		STAFF TIME/1 STAFF - STEERING COMMITTEE	3	\$92.16
5/2/2014	NATIONAL EDUCATION ASSOCIATION 1201 16TH STREET, NW WASHINGTON, DC 20036		STAFF TIME/1 STAFF - CAMPAIGN CONSULTATION	3	\$267.16
5/8/2014	MAINE AFL-CIO 21 GABRIEL DRIVE AUGUSTA, ME 04330		STAFF TIME/2 STAFF - PLANNING & PLANNING MEETINGS	3	\$236.09
5/8/2014	Maine People's Alliance 565 Congress Street, Suite 200 Portland, ME 04101		STAFF TIME/3 STAFF - PLANNING MEETINGS	3	\$534.88
5/9/2014	MSEA-SEIU LOCAL 1989 65 STATE STREET, PO BOX 1072 AUGUSTA, ME 04332		STAFF TIME/1 STAFF - COMMITTEE FIELD WORK	3	\$276.48
5/15/2014	MAINE AFL-CIO 21 GABRIEL DRIVE AUGUSTA, ME 04330		STAFF TIME/1 STAFF - PLANNING MEETINGS	3	\$220.07
5/15/2014	MAINE VOTES/MAINE PEOPLE'S ALLIANCE 565 CONGRESS STREET, SUITE 200 PORTLAND, ME 04101		STAFF TIME/1 STAFF - DATA & TARGETING	4	\$182.64
5/16/2014	MAINE EDUCATION ASSOCIATION 35 COMMUNITY DRIVE AUGUSTA, ME 04330		STAFF TIME/1 STAFF - PLANNING MEETINGS	3	\$924.84
5/16/2014	MSEA-SEIU LOCAL 1989 65 STATE STREET, PO BOX 1072 AUGUSTA, ME 04332		STAFF TIME/1 STAFF - STEERING COMMITTEE & FUNDRAISING	3	\$145.17
5/16/2014	NATIONAL EDUCATION ASSOCIATION 1201 16TH STREET, NW WASHINGTON, DC 20036		STAFF TIME/1 STAFF - CAMPAIGN CONSULTATION	3	\$1,202.22

5/22/2014	MAINE AFL-CIO 21 GABRIEL DRIVE AUGUSTA, ME 04330		STAFF TIME/2 STAFF - PLANNING & PLANNING MEETINGS	3	\$266.11
5/22/2014	Maine People's Alliance 565 Congress Street, Suite 200 Portland, ME 04101		STAFF TIME/3 STAFF - PLANNING MEETINGS & TRAINING PREP	3	\$534.88
5/23/2014	MSEA-SEIU LOCAL 1989 65 STATE STREET, PO BOX 1072 AUGUSTA, ME 04332		STAFF TIME/1 STAFF - STEERING COMMITTEE & DATA PLANNING	3	\$145.17
5/27/2014	MAINE AFL-CIO 21 GABRIEL DRIVE AUGUSTA, ME 04330		STAFF TIME/2 STAFF - PLANNING & PLANNING MEETINGS	3	\$184.07
5/27/2014	MAINE EDUCATION ASSOCIATION 35 COMMUNITY DRIVE AUGUSTA, ME 04330		STAFF TIME/1 STAFF - PREPARING PAC REPORT AND OTHER COMMITTEE ACCOUNTING WORK	3	\$118.98
5/27/2014	Maine People's Alliance 565 Congress Street, Suite 200 Portland, ME 04101		STAFF TIME/3 STAFF - PLANNING MEETINGS & TRAINING PREP	3	\$347.84
5/27/2014	NATIONAL EDUCATION ASSOCIATION 1201 16TH STREET, NW WASHINGTON, DC 20036		STAFF TIME/1 STAFF - CAMPAIGN CONSULTATION	3	\$534.32
TOTAL IN-KIND CONTRIBUTIONS					\$10,256.31



August 7, 2014

Benjamin P. Dyer
Political Committee and Lobbyist Registrar
State of Maine Commission on Governmental Ethics and Election Practices
135 State House Station
Augusta, ME 04333-0135

Re: Late Filing of 11-Day Pre-Primary Report

Dear Mr. Dyer:

On August 6th I received a letter from the Commission on Governmental Ethics and Election Practices office with notice that the Commission has made a preliminary determination that The Committee to Rebuild Maine's Middle Class PAC was late in filing our 2014 11-Day Pre-Primary campaign finance report.

This letter is our written request that the Commission waive the violation or penalty in whole or in part. The preliminary determination of penalty for the late filing was in the amount of \$5,435.68.

I was elected treasurer to the Committee to Rebuild Maine's Middle class for the 2012 election cycle and this was the first experience I had with any type of PAC filings. In 2012, I completed the appropriate PAC/Independent Expenditures filings by the filing deadline dates and to the best of my knowledge I met all of the requirements of the filings. Our PAC has made its best effort to comply with the applicable rules at all times and has not had any prior assessed penalties in this or prior election cycles.

In 2013, I timely filed all of the regular PAC campaign finance reports and reported all contributions and expenditures as required. Due to the limited amount of activity occurring in our committee, there weren't any in-kind contributions of paid staff time to be reported during this period. The lack of in-kind contributions to the PAC continued through the first part of 2014 for the April Quarterly filing.

I filed the 11-Day Pre-Primary Report on May 27th. The 11-Day Pre-Primary Report was timely filed and included all cash contributions and expenditures as required. However, this filing was done based on my understanding that the committee members had not begun the committee work during this time frame. Therefore, for this reporting cycle, to my knowledge there weren't any in-kind contributions of paid staff time to be reported. I understand as the Treasurer, it was my responsibility to know for sure that there wasn't any in-kind contributions to be filed and I shouldn't have assumed non-activity.

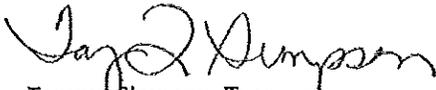
In July 2014, I first became aware that the committee had begun the initial planning meetings in April and therefore there were in-kind contributions of staff time that should have been reported on the 11-Day Pre-Primary Report. As soon as I became aware of that, I requested that the members send me the time they contributed in working for the committee so that I could do an amended filing as soon as possible. The amended filing was done on July 22, 2014 to include all in-kind contributions for that period.

I truly apologize for this oversight on my behalf and I in no way intended to be non-compliant for the 11-Day Pre-Primary reporting. At the time, I felt I was in compliance and as soon as I learned that in-kind

contributions should have been reported for April/May, I filed the amendment immediately and I notified your office by email that an amended filing had incurred. Our PAC takes full responsibility for the oversight, and we made our best good-faith efforts to comply with the applicable rules by immediately notifying the Commission of the error and filing the amended report. To ensure that future filing violations do not occur, I have enrolled in a non-profit/PAC filing seminar in September sponsored by Macpage.

Please call me at (207)622-4418 ext. 221 or email me at tsimpson@maineea.org if you have any additional questions/concerns.

Sincerely,

A handwritten signature in cursive script that reads "Tammy Simpson".

Tammy Simpson, Treasurer

The Committee to Rebuild Maine's Middle Class



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

August 6, 2014

Tammy Simpson, Treasurer
The Committee to Rebuild Maine's Middle Class PAC
PO Box 3
Auburn, ME 04212

Re: Late Filing of 11-Day Pre-Primary Report

Dear Ms. Simpson:

The Commission staff has made a preliminary determination that The Committee to Rebuild Maine's Middle Class PAC (the PAC) was late in filing its 2014 11-Day Pre-Primary campaign finance report. The Commission staff considers the report late as a result of substantial non-conformity with disclosure requirements. Under the Commission's statutes, the late filing of a report triggers an enforcement process. (21-A M.R.S.A. § 1062-A(3)). Based on the amount of financial activity in the report, the number of calendar days the report was late, and the PAC's history of violations, the commission staff has determined that a penalty of \$5,435.68 is owed. (Please see attached penalty matrix for the calculation).

The PAC may make a written request that the Commission waive the violation or penalty in whole or in part. Any request for a waiver 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 PAC filed late. Upon receiving your request, the Commission staff will schedule your appeal for an upcoming Commission meeting.

The Commission may waive the penalty 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 the PAC made a bona fide effort to file the report on time. Also, the Commission may waive the penalty if it is disproportionate to the level of experience of the person filing the report or the harm suffered by the public from the late disclosure.

Please call me at (207) 287-4179 or send me an email at benjamin.p.dyer@maine.gov if you have questions.

Sincerely,


Benjamin P. Dyer
Political Committee and Lobbyist Registrar

Payment Receipt

Mail payment to:

The Maine Ethics Commission
135 State House Station
Augusta, ME 04333

Make checks payable to: "Treasurer, State of Maine."

Tammy Simpson, Treasurer
The Committee to Rebuild Maine's Middle Class PAC
PO Box 3
Auburn, ME 04212

Violation: Late 2014 11-Day Pre-Primary Report
Amount Due: \$5,435.68

Committee Name: Committee to Rebuild Maine's Middle Class PAC

Report Title: 2014 11-Day Pre-Primary
Due Date: May 30, 2014

Previous Violation(s): N/A

Filed Date: July 22, 2014

The penalty for late filing of a required report is a percentage of the total contributions or expenditures for the filing period, whichever is greater, multiplied by the number of calendar days the report is filed late, as follows:

For the first violation, 1%

For the second violation, 3%

For the third and each subsequent violation, 5%

A penalty begins to accrue at 11:59 p.m. on the day the report is due.

Penalty Example:		Your Penalty is calculated as follows:	
The treasurer files the PAC's report two (2) days late. The PAC has not had any previous late violations this biennium. The PAC reports a total of \$2,500 in contributions and \$1,500 in expenditures for the filing period. The penalty is			
\$2,500	Greater amount of the total contributions received or expenditures made during the filing period	Contributions / Expenditures:	<u>\$10,256.31</u>
		X	
		Percent Prescribed:	<u>1%</u>
X .01	Percent prescribed for first violation		<u>\$102.56</u>
		X	
\$25.00	One percent of total contributions	Number of days late:	<u>53</u>
X 2	Number of calendar days late		
\$50.00	Total Penalty	Total penalty accrued:	<u>\$5,435.68</u>

Any penalty of less than \$10 is waived.

Violations accumulate on reports with filing deadlines in a 2-year period that begins on January 1st of each even-numbered year. Waiver of a penalty does not nullify the finding of a violation.

A required report that is sent by certified or registered United States mail and postmarked at least 2 days before the deadline is not subject to penalty.

MAXIMUM PENALTIES

21-A M.R.S.A. Section 1062-A(3)

\$10,000 for Pre- and Post-Election Reports, Quarterly Reports and 24-Hour Reports, except that if the financial activity reported late exceeds \$50,000, the maximum penalty is one-fifth of the amount reported late.

Maine Revised Statutes
Title 21-A: ELECTIONS
Chapter 13: CAMPAIGN REPORTS AND FINANCES

§1059. REPORT; FILING REQUIREMENTS

Committees required to register under section 1052-A, 1053-B or 1056-B shall file an initial campaign finance report at the time of registration and thereafter shall file reports in compliance with this section. All reports must be filed by 11:59 p.m. on the day of the filing deadline, except that reports submitted to a municipal clerk must be filed by the close of business on the day of the filing deadline. [2013, c. 334, §27 (AMD) .]

1. Contents; quarterly reports and election year reports.

[2007, c. 443, Pt. A, §35 (RP) .]

→ **2. Reporting schedule. Committees shall file reports according to the following schedule.**

A. All committees shall file quarterly reports:

- (1) On January 15th, and the report must be complete as of December 31st;
- (2) On April 10th, and the report must be complete as of March 31st;
- (3) On July 15th, and the report must be complete as of June 30th; and
- (4) On October 5th, and the report must be complete as of September 30th. [2011, c. 691, Pt. A, §19 (RPR) .]

B. General and primary election reports must be filed:

- (1) On the 11th day before the date on which the election is held and must be complete as of the 14th day before that date; and
- (2) On the 42nd day after the date on which the election is held and must be complete as of the 35th day after that date. [2007, c. 443, Pt. A, §35 (AMD) .]

C. Preelection and post-election reports for special elections or ballot measure campaigns must be filed:

- (1) On the 11th day before the date on which the election is held and must be complete as of the 14th day before that date; and
- (2) On the 42nd day after the date on which the election is held and must be complete as of the 35th day after that date. [2011, c. 389, §45 (AMD) .]

D. A committee that files an election report under paragraph B or C is not required to file a quarterly report when the deadline for that quarterly report falls within 10 days of the filing deadline established in paragraph B or C. [1991, c. 839, §29 (RPR) .]

E. A committee shall report any single contribution of \$5,000 or more received or single expenditure of \$1,000 or more made after the 14th day before the election and more than 24 hours before 5:00 p.m. on the day of the election within 24 hours of that contribution or expenditure. The treasurer is not required to include in this report expenditures for overhead expenses or compensation paid to an employee or other member of the campaign staff who has received payments at regular intervals that have been disclosed in previously filed campaign finance reports. As used in this paragraph, "overhead expenses" includes, but is not limited to, rent, utility payments, taxes, insurance premiums or similar administrative expenses. [2013, c. 334, §28 (AMD) .]

[2013, c. 334, §28 (AMD) .]

Maine Revised Statutes
Title 21-A: ELECTIONS

Chapter 13: CAMPAIGN REPORTS AND FINANCES

§1062-A. FAILURE TO FILE ON TIME

1. **Registration.** A political action committee required to register under section 1052-A or 1053-B or a ballot question committee required to register under section 1056-B that fails to do so or that fails to provide the information required by the commission for registration may be assessed a fine of no more than \$2,500. In assessing a fine, the commission shall consider, among other things, whether the violation was intentional, the amount of campaign and financial activity that occurred before the committee registered, whether the committee intended to conceal its campaign or financial activity and the level of experience of the committee's volunteers and staff.

[2013, c. 334, §30 (AMD) .]

→ 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 6, the commission shall determine whether a required report satisfies the requirements for timely filing. The commission may waive a penalty in whole or in part if it is disproportionate to the level of experience of the person filing the report or to 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 of the committee treasurer 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, §9 (AMD) .]

B. An error by the commission staff; or [1999, c. 729, §9 (AMD) .]

C. 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. [2007, c. 443, Pt. A, §38 (AMD) .]

[2009, c. 190, Pt. A, §29 (AMD) .]

→ 3. **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 period, whichever is greater, multiplied by the number of calendar days late, as follows:

A. For the first violation, 1%; [1995, c. 483, §21 (NEW) .]

B. For the 2nd violation, 3%; and [1995, c. 483, §21 (NEW) .]

C. For the 3rd and subsequent violations, 5%. [1995, c. 483, §21 (NEW) .]

Any penalty of less than \$10 is waived.

Violations accumulate on reports with filing deadlines in a 2-year period that begins on January 1st of each even-numbered calendar year. Waiver of a penalty does not nullify the finding of a violation.

A report required to be filed under this subchapter that is sent by certified or registered United States mail and postmarked at least 2 days before the deadline is not subject to penalty.

A required report may be provisionally filed by transmission of a facsimile copy of the duly executed report to the commission, as long as an original of the same report is received by the commission within 5 calendar days thereafter.

[2007, c. 443, Pt. A, §39 (AMD) .]

→ 4. **Maximum penalties.** The maximum penalty under this subchapter is \$10,000 for reports required under section 1056-B or section 1059, except that if the financial activity reported late exceeds \$50,000, the maximum penalty is 1/5 of the amount reported late.

[2011, c. 389, §49 (AMD) .]

5. **Request for a commission determination.** If the commission staff finds that a political action committee has failed to file a report required under this subchapter, the commission staff shall mail a notice to the treasurer of the political action committee within 3 business days following the filing deadline informing the treasurer that a report was not received. If a political action committee files a report required under this subchapter late, a notice of preliminary penalty must be forwarded to the treasurer of the political action committee whose report is not received by 11:59 p.m. on the deadline date, informing the treasurer of the commission staff finding of violation and preliminary penalty calculated under subsection 3 and providing the treasurer with an opportunity to request a determination by the commission. A request for determination must be made within 14 calendar days of receipt of the commission's notice. A principal officer or treasurer requesting a determination may either appear in person or designate a representative to appear on the principal officer's or treasurer's behalf or submit a sworn statement explaining the mitigating circumstances for consideration by the commission. A final determination by the commission may be appealed to the Superior Court in accordance with Title 5, chapter 375, subchapter 7 and the Maine Rules of Civil Procedure, Rule 80C.

[2013, c. 334, §31 (AMD) .]

6. **Final notice of penalty.** After a commission meeting, notice of the final determination of the commission and the penalty, if any, imposed pursuant to this subchapter must be sent to the principal officer and the treasurer of the political action committee.

If a determination is not requested, the preliminary penalty calculated by the commission staff is final. The commission staff shall mail final notice of the penalty to the principal officer and to the treasurer of the political action committee. A detailed summary of all notices must be provided to the commission.

[2009, c. 302, §9 (AMD) .]

7. **List of late-filing committees.** The commission shall prepare a list of the names of political action committees that are late in filing a report required under section 1059, subsection 2, paragraph B, subparagraph (1) or section 1059, subsection 2, paragraph C or D within 30 days of the date of the election and shall make that list available for public inspection.

[2007, c. 443, Pt. A, §41 (AMD) .]

8. **Failure to file.** A person who fails to file a report as required by this subchapter within 30 days of the filing deadline is guilty of a Class B crime, except that, if a penalty pursuant to subsection 8-A is assessed and collected by the commission, the State may not prosecute a violation under this subsection.

[2003, c. 628, Pt. A, §8 (AMD) .]

8-A. Penalties for failure to file report. The commission may assess a civil penalty for failure to file a report required by this subchapter. The maximum penalty for failure to file a report required under section 1056-B or section 1059 is \$10,000.

[2009, c. 190, Pt. A, §31 (AMD) .]

9. Enforcement. A penalty assessed pursuant to this section that has not been paid in full within 30 days after issuance of a notice of the final determination may be enforced in accordance with section 1004-B.

[2009, c. 302, §10 (RPR) .]

SECTION HISTORY

1995, c. 483, §21 (NEW). 1999, c. 426, §34 (AMD). 1999, c. 729, §9 (AMD). 2003, c. 628, §§A7-9 (AMD). 2007, c. 443, Pt. A, §§38-41 (AMD). 2009, c. 190, Pt. A, §§28-31 (AMD). 2009, c. 302, §§8-10 (AMD). 2011, c. 389, §49 (AMD). 2013, c. 334, §§30, 31 (AMD).

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