

Agenda

Item #3



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
Date: February 21, 2012
Re: Request for Waiver of Late-Filing Penalty/Lobbyist Rebecca D. Edmondson, Esq.

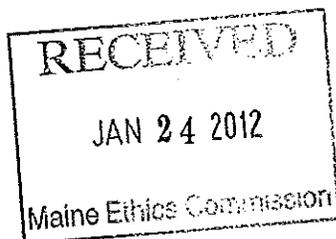
Rebecca D. Edmondson registered for the first time as a lobbyist with the State of Maine in August 2011 on behalf of College Board (formerly known as the College Entrance Examination Board). She filed monthly lobbyist reports through November 2011. On December 19, 2011, she registered for the coming lobbying year. (Lobbying years run from December 1 to November 30 of the following year.)

Ms. Edmondson was required to file a monthly lobbyist report covering December 2011 by the deadline of January 17, 2012. During that month, she conducted no lobbying for the College Board. During the first week of January, when she attempted to file the monthly report, she selected the 2011 lobbying year in the Commission's e-filing website (not realizing that December 2011 was part of the 2012 lobbying year). She then filed the annual report for 2011. The Commission staff views this as an understandable mistake.

After the Commission staff sent Ms. Edmondson a notice that we had not received the monthly report for December 2011, she filed the report six days late on January 23, 2012. She has requested a waiver of the \$100 penalty through a letter dated January 23, 2012.

The staff recommends granting the waiver because she made bona fide effort to file the December 2011 report on time (accidentally filing the wrong report) and she is relatively inexperienced. When she did file the correct report, it indicated that she performed no lobbying during the month of December. So, the late filing resulted in minimal harm to the public.

Thank you for your consideration of this memo.



January 23, 2012

State of Maine
Commission on Governmental Ethics and Elections Practices
135 State House Station
Augusta, Maine 04333

Dear Commission on Governmental Ethics and Election Practices:

I am writing to appeal the recent penalty levied against me due to a failure to file a monthly lobbyist report for December 2011.

My registration with the State of Maine as a lobbyist is new as of August 23, 2011. I filed my first three monthly reports without incident and by the deadline of the 15th of the following month. For December 2011, I went under the "2011" heading and looked for the "December 2011" report and, when I did not find it; I filed the "Annual Disclosure Report" thinking this was the proper and correct filing for the State of Maine.

It was not until I had received the letter from the Commission that I realized I had not correctly completed the lobbyist filing for "December 2011". After receiving the letter, I immediately called to rectify the situation and filed my monthly report for which I had no activity to report. It was not until then that I learned that the "December 2011" filing was under the "2012" heading.

I am appealing the penalty of \$100 for failing to file the proper report because I tried to the best of my knowledge and ability to file said report by the proper deadline. The December report was a non-activity report and I did try to convey this information appropriately within the annual report. As there was an effort to comply with the letter and spirit of the law, and no activity needed reporting, I feel that there was no harm done to the public. I therefore respectfully request that my fine penalty be waived due to my efforts to comply.

Thank you for your time and attention to the matter.

Sincerely,


Rebecca D. Edmondson, Esq.



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

January 19, 2012

BY CERTIFIED MAIL AND REGULAR MAIL

Rebecca Deane Edmondson
The College Board
1601 Trapelo Road, Suite 12
Waltham, MA 02134

Re: The College Board

Dear Ms. Edmondson,

Our records show that your December monthly lobbyist disclosure report has not been filed to date. The monthly report, due on the 15th of every month – or the next business day if the 15th falls on a weekend or holiday, is required to be filed *electronically* by all lobbyists registered with the Commission by 11:59 p.m. The **December** report was due by 11:59 p.m. on January 17, 2012.

In addition, 3 M.R.S.A. §319(1) states that any person who fails to file a timely report may be assessed, after the first 24 hours after a filing deadline, a penalty of \$100 for every month the person is delinquent in filing the report; thus, to date your penalty is **\$100**. If you agree with this preliminary determination, you may use the attached billing statement to pay that penalty within 30 days of the date of this notice

However, if you have a valid reason for filing late, you may request a final penalty determination by the Commission. The Commission will notify you of the disposition of your case within 10 days after its determination.

To avoid further penalty, you should file the report as soon as possible. Pursuant to 3 M.R.S.A. § 319(1-A), any person who fails to file a report or pay a fee may be suspended from further lobbying by written notice of the Commission until such failure is corrected.

Please direct any questions you may have about this matter to me at (207) 287-6221.

Sincerely,

A handwritten signature in black ink, appearing to read 'C. Sullivan'.

Cindy Sullivan
PAC, Party & Lobbyist Registrar

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

PHONE: (207) 287-4179

FAX: (207) 287-6775

To: Commission on Governmental Ethics and Election Practices
135 State House Station
Augusta, Maine 04333

From: Rebecca Deane Edmondson, Lobbyist for:
The College Board

Re: Penalty for late filing of the December 2011 monthly lobbyist disclosure report (\$100)

Amount Enclosed: \$ _____

Please Make Check or Money Order Payable to:
Treasurer, State of Maine

Check/M.O. No.: # _____

Or you can go to www.maine.gov/ethics > Penalty Payment and pay on-line with a credit card

3 MRS § 319. PENALTY

1. Failure to file registration or report. Any person who fails to file a registration or report as required by this chapter may be assessed a fine of \$100 for every month the person fails to register or is delinquent in filing a report pursuant to section 317. If a registration or report is filed late, the commission shall send a notice of the finding of violation and preliminary penalty. The notice must provide the lobbyist with an opportunity to request a waiver of the preliminary penalty. If a lobbyist files a report required pursuant to section 317 within 24 hours after the deadline, the amount of the preliminary penalty is \$50. The commission may waive the fine or penalty in whole or in part if the commission determines the failure to register or report was due to mitigating circumstances or the fine or penalty is disproportionate to the level of experience of the lobbyist or the harm suffered by the public from the late registration or report. For purposes of this subsection, "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 fine or penalty in whole or in part; [2011, c. 179, §7 (NEW).]

B. An error by the commission; or [2011, c. 179, §7 (NEW).]

C. Circumstances determined by the commission to warrant the waiver of the fine or penalty in whole or in part, based upon relevant evidence presented that a bona fide effort was made to file the report in accordance with this chapter, including, but not limited to, unexplained delays in Internet service. [2011, c. 179, §7 (NEW).]

[2011, c. 179, §7 (RPR) .]

1-A. Notice of suspension. Any person who fails to file a report or pay a fee as required by this chapter may be suspended from further lobbying by written notice of the commission until such failure is corrected.

[1993, c. 446, Pt. B, §12 (AMD) .]

2. [1979, c. 632, §3 (RP) .]

3. Exemption. Notwithstanding section 317, subsection 1, a registered lobbyist is exempt from the penalty imposed under this section if, while the Legislature is convened in special session, the lobbyist failed to file a report with the commission pursuant to section 317 if no lobbying has been performed during that special session.

[1993, c. 446, Pt. B, §13 (AMD) .]

SECTION HISTORY

1975, c. 576, (NEW). 1975, c. 621, §2 (RP). 1975, c. 724, (REEN). 1977, c. 696, §17 (AMD). 1979, c. 632, §3 (RPR). 1989, c. 114, (AMD). 1991, c. 465, §2 (AMD). 1993, c. 446, §§A15,B11-13 (AMD). 1993, c. 691, §22 (AMD). 2011, c. 179, §7 (AMD).