

# 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  
Benjamin Dyer, Political Committee and Lobbyist Registrar

Date: April 16, 2014

Re: Request for Waiver of Penalty by the Maine Guides BQC

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This memo provides the recommendation of the Commission staff on a request by the Maine Guides Association for a waiver of late-filing penalties. In September 2013, the association began raising money from its members in opposition to the anticipated citizen initiative restricting bear hunting practices. By October 15, 2013, it raised more than \$5,000 for this purpose. The association donated the money to a PAC formed for the purpose of opposing the question. The initiative will be on the ballot November 4, 2014.

Upon reaching the \$5,000 threshold, the association was required by 21-A M.R.S.A. §§ 1056-B & 1059 to register a ballot question committee (BQC) with the Commission and to file an Initial Campaign Finance Report. The registration and finance report should have been filed on or before Monday, October 23, 2013. As a result of a conversation between a political consultant opposing the initiative and the Commission staff, the association learned of the filing requirements and registered 61 days late on December 23, 2013. The association's Executive Director, Don Kleiner, was listed as the treasurer of the BQC.

Based on the amount of financial activity, the number of days late, and the violation history, the Commission staff notified Mr. Kleiner that the preliminary penalty is \$5,520.50. The BQC has requested a waiver through a letter from Mr. Kleiner dated February 7, 2014.

### **Late Registration**

The BQC exceeded \$5,000 in contributions for the purpose of influencing a Maine ballot question on October 15, 2013. Under Maine law, an organization that raises or spends more than \$5,000 to influence a ballot question must register as a ballot question committee within 7 days of meeting that threshold. (21-A M.R.S.A. § 1056-B) Therefore, the BQC was required to register with the Commission on Monday, October 23, 2013.

## **Late Report – Initial Campaign Finance Report**

Along with the registration, the BQC was also required to file an initial campaign finance report disclosing all contributions received and expenditures made as of the date of the report. (21-A M.R.S.A. § 1059) Based on the dates of contributions received by the BQC, the Commission staff calculated that the initial report should have included \$9,050.00 in contributions. The BQC made no expenditures during the period which the Initial Report would have covered. The initial report was filed 61 days late on December 23, 2013 and disclosed all the contributions received and expenditures made by the BQC through that date.

## **Request for Waiver of Penalty**

In its letter, the BQC concedes that it was late in registering and filing its Initial Report. However, the BQC requests a full waiver of the preliminary penalty due to mitigating circumstances. The BQC points to the lack of harm to the public by the late filing, its lack of familiarity with Maine's campaign finance laws, and its good-faith efforts to correct its error and subsequently comply with the applicable laws.

The BQC argues that had it timely filed its Initial Report, it would have only reported a relatively modest \$9,050.00 in contributions and that the formulaic preliminary penalty of \$5,520.50 is disproportionate to the contributions received. It also notes that there were no expenditures made during this time period and, at the time the Initial Report was due, the citizen's initiative was not approved for the ballot.

The BQC finally argues that the penalty is disproportionate to its level of experience. The Maine Guides Association states that it has a small, part-time staff that is typically uninvolved with political campaigns.

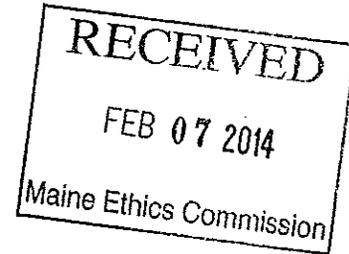
## **Staff Recommendation**

The Commission staff recommends that the Commission find the BQC in violation for failing to timely register and file an Initial Report, but assess no penalty for the violation. The mitigating factors, outlined by the BQC in its waiver request, are significant. The association's experience in political campaigns is very limited. The harm to the public was low given how early in the campaign the violation occurred – before the ballot question was even approved. Additionally, by the time of the next scheduled off-year reporting deadline, the January Quarterly, the BQC had fully disclosed its contributions and expenditures. When considering the aggravating (lateness of 61 days) and mitigating factors in balance, we view the \$5,520.50 preliminary penalty as disproportionately high compared to the harm caused by the violation.

Thank you for your consideration of this memo.

February 5, 2014

Mr. Benjamin Dyer Commission on  
Governmental Ethics and Election Practices  
135 State House Station  
Augusta, Maine 04333-0135



Dear Mr. Dyer,

Pursuant to 21-A §1062-A(5), the Maine Guides BQC ("MGBQC") hereby requests a Commission determination to waive in full the violation and penalty preliminarily assessed by Commission staff for the filing of MGBQC's initial campaign finance report.

As you know, the commission may waive the penalty in whole or in part if the commission determines that the penalty proposed is disproportionate to the harm to the public or the experience of the filer. Additionally, mitigating circumstances including a valid emergency, error by Commission staff or other relevant circumstances may be claimed to reduce or remove proposed penalties.

MGBQC believes that for the following reasons, the Commission should eliminate the proposed penalties:

**1) The Penalty Amounts are Disproportionate when Weighing the Harm to the Public.**

- The initial campaign finance reports only lists \$9,050 contributed to the BQC. § We feel that the formula for the penalty and violation are disproportionate to the amount of money that had been reported in the initial campaign finance report. In this case, the financial penalty of \$5,520.50 would eliminate over half of the \$9,050 that our members contributed for this purpose during that time period.
- The amount of money reported in the initial finance report was extremely modest, relatively speaking and completely disclosed;
- There were no expenditures in the way of political advertisements that may have given us an unfair advantage;
- The proposed initiative that we are seeking to oppose is not even on the ballot- and we won't officially know if it is before March;
- All financial information- not just the initial finance report information that is required - was disclosed for the Commission immediately upon our registration, well before the campaign finance period ended.

**2) The Penalty Amounts are Disproportionate to the Level of Experience of the Organization.**

The Maine Guides Association has almost no experience in regards to campaign finance reporting. After we learned from our campaign manager that any organization that is explicitly raising money to influence a ballot question must register and disclose financial information with the Commission, we immediately requested his assistance to help us put together a plan that would allow us to report the necessary information and be in compliance with Commission requirements. We feel that the penalty and violation are disproportionate to the level of experience of our organization. The Maine Guides

Association does little work in the political arena, and it is not common practice for us to engage

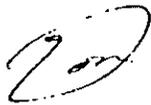
in political campaigns of any nature. We have an extremely small, part-time staff, and have not engaged in any campaign since the last bear referendum. In addition, during the last bear referendum (2004), today's Ballot Question Committee requirements and associated statutes did not even exist.

**3)MGBQC Worked Diligently with Commission Staff to Comply with Applicable Laws and Timely Amend Reports.**

Lastly, we continue to work proactively with the Commission through the campaign and maintain our commitment to providing you with any and all information that you need in the most timely manner possible. After learning that registering with the Commission was a requirement, we immediately worked with our campaign manager to do so. Our campaign manager has been in regular communication with both Benjamin Dyer and Paul Lavin since the reports were filed, and has spent numerous hours on phone, email, and at a meeting in person to ensure that we are in full compliance.

Thank you for your consideration.

Sincerely,



Don Kleiner, Maine Professional Guides Association  
*on behalf of the Maine Guides BQC*



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

January 24, 2014

Mr. Don Kleiner, Treasurer  
Maine Guides BQC  
69 Beote Road  
Union, ME 04862

Re: Late Filing of Initial Campaign Finance Report

Mr. Kleiner,

The Commission staff has made a preliminary determination that the Maine Guides BQC (the BQC) was late in filing its Initial campaign finance report. The report was due by 11:59 p.m. on October 15, 2013, but was not filed until December 23, 2013. Under the Commission's statutes, the late filing of a report triggers an enforcement process. (21-A M.R.S.A. § 1062-A(3)). The preliminary penalty amount for the late filing of your report is \$5520.50. (Please refer to the enclosed penalty matrix for the calculation.) If you agree to pay the penalty, please use the enclosed billing statement.

The BQC 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 BQC 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) 287-6221 or send me an email at [benjamin.p.dyer@maine.gov](mailto:benjamin.p.dyer@maine.gov) if you have questions.

Sincerely,

A handwritten signature in cursive script that reads 'Benjamin P. Dyer'.

Benjamin P. Dyer  
Political Committee and Lobbyist Registrar

Cc: James Cote

OFFICE LOCATED AT: 45 MEMORIAL CIRCLE, AUGUSTA, MAINE  
WEBSITE: [WWW.MAINE.GOV/ETHICS](http://WWW.MAINE.GOV/ETHICS)

PHONE: (207) 287-4179

FAX: (207) 287-6775

January 24, 2014

Mr. Don Kleiner, Treasurer  
Maine Guides BQC  
69 Beote Road  
Union, ME 04862

The Commission staff has calculated a preliminary penalty amount for the late filing of your Initial campaign finance report. Please pay the penalty or request a waiver within 14 days of receiving this notice. If the Commission does not receive a payment or waiver request, the Commission will send you a final notice requesting payment within 30 days.

To pay the penalty, submit a check or money order to the address below, along with the bottom half of this letter. Or you can pay on-line. If you would like to request a waiver of the preliminary penalty, please see the instructions included in the attached letter.

Failure to pay the full amount of an assessed penalty is a civil violation. The Commission is required to report to the Attorney General the name of any person who fails to pay a late-filing penalty. If you have questions, please call Benjamin Dyer at (207) 287-6221.

Cut Along Dotted Line

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For Office Use Only:  
Account: MCGEEP

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

From: Mr. Brian Cogill, Treasurer

RE: Penalty for late filing of Initial Campaign Finance Report

BQC: Maine Trappers BQC

Amount Enclosed: \$ \_\_\_\_\_

Check/M.O. No.: # \_\_\_\_\_

**Please Make Check or Money Order Payable to Treasurer, State of Maine  
Or Pay Online at <http://www.maine.gov/online/ethics/penalties>**

**COMMISSION ON GOVERNMENTAL ETHICS AND ELECTION PRACTICES  
PENALTY MATRIX FOR LATE BALLOT QUESTION COMMITTEE REPORT FILINGS**

**BASIS FOR PENALTIES  
21-A M.R.S.A. Section 1062-A**

**Committee Name:** Maine Guides BQC

**Report Title:** Initial

**Due Date:** 10/22/2013

**Previous Violation(s):** 0

**Filed Date:** 12/23/2013

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 BQC's report two (2) days late. The BQC has not had any previous late violations this biennium. The BQC 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:	\$9,050.00
X .01	Percent prescribed for first violation	Percent Prescribed:	1%
\$25.00	One percent of total contributions	Number of days late:	61
X 2	Number of calendar days late	Total penalty accrued:	\$5,520.50
\$50.00	Total Penalty		

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.



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

## 2013 CAMPAIGN FINANCE REPORT

### FOR BALLOT QUESTION COMMITTEES

COMMITTEE		TREASURER
MAINE GUIDES BQC 69 BEOTE ROAD UNION, ME 04862 PHONE: (207) 785-4496 EMAIL: DKLEINER@MAINEGUIDES.ORG		MR. DON KLEINER 69 BEOTE ROAD UNION, ME 04862 PHONE: (207) 785-4496 EMAIL: DKLEINER@MAINEGUIDES.ORG
REPORT	DUE DATE	REPORTING PERIOD
INITIAL FINANCIAL REPORT	12/23/2013	01/01/2000 - 12/23/2013

#### FINANCIAL ACTIVITY SUMMARY

RECEIPTS	TOTAL FOR THIS PERIOD	TOTAL FOR YEAR
1. CASH CONTRIBUTIONS (SCHEDULE A)	\$10,100.00	\$10,100.00
2. OTHER CASH RECEIPTS (INTEREST, ETC)	\$0.00	\$0.00
3. LOANS (SCHEDULE C)	\$0.00	\$0.00
4. TOTAL RECEIPTS	\$10,100.00	\$10,100.00
EXPENDITURES		
5. EXPENDITURES (SCHEDULE B)	\$6,100.00	\$6,100.00
6. LOAN REPAYMENTS (SCHEDULE C)	\$0.00	\$0.00
7. TOTAL PAYMENTS	\$6,100.00	\$6,100.00
CASH SUMMARY		
8. CASH BALANCE AT BEGINNING OF PERIOD	\$0.00	
9. PLUS TOTAL RECEIPTS THIS PERIOD (LINE 4)	\$10,100.00	
10. MINUS TOTAL PAYMENTS THIS PERIOD (LINE 8)	\$6,100.00	
11. CASH BALANCE AT END OF PERIOD	\$4,000.00	
OTHER ACTIVITY		
12. IN-KIND CONTRIBUTIONS (SCHEDULE A-1)	\$0.00	\$0.00
13. TOTAL LOAN BALANCE AT END OF PERIOD (SCHEDULE C)	\$0.00	
14. TOTAL UNPAID DEBTS AT END OF PERIOD (SCHEDULE D)	\$0.00	

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

REPORT FILED BY: PAUL LAVIN  
REPORT FILED ON: 12/23/2013  
LAST MODIFIED: 12/23/2013  
PRINTED: 04/16/2014  
COMMITTEE ID: 7016

**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	AMOUNT
9/4/2013	STANLEY KRUSZEWSKI 2212 COMMONWEALTH AVENUE NEWTON, MA 02466		1	\$50.00
9/26/2013	JEFFREY GERSON 3 NICOLS COURT WEST HARRISON, NY 10604	GUIDE Info Requested	1	\$1,000.00
9/26/2013	JIM HARRIS PO BOX 26 FAIRLEE, VT 05045	GRANITE COMPANY Retail Sales	1	\$2,000.00
9/30/2013	WAYNE BOSOWICZ 131 LADD ROAD SEBEC, ME 04481	BOSOWICZ GUIDE SERVICE GUIDE Info Requested	1	\$1,000.00
10/2/2013	DOUG MCCAFFERTY 103 TAYLOR WOODS ROAD BELGRADE, ME 04917	GUIDE Info Requested	1	\$500.00
10/15/2013	PAUL LANEY 165 MILFORD ROAD GRAND LAKE STREAM, ME 04668	GUIDE Info Requested	1	\$1,000.00
10/17/2013	DON KLEINER 69 BEOTE ROAD UNION, ME 04862	MAINE OUTDOORS GUIDE Info Requested	1	\$1,000.00
10/20/2013	PETER FLANAGAN 6 OTTAWA WOODS ROAD SCARBOROUGH, ME 04074		1	\$500.00
10/20/2013	DON HELSTROM HCR 69 BOX 558 MEDWAY, ME 04460	TURNPIKE RIDGE OUTFITTERS GUIDE Info Requested	1	\$1,000.00
10/20/2013	DALE TOBEY PMB #74 3 WATER STREET GRAND LAKE STREAM, ME 04637	GUIDE Info Requested	1	\$1,000.00
10/24/2013	JEFFREY ANDERSON 171 EASTWOOD DRIVE INDUSTRY, PA 15052	GUIDE Info Requested	1	\$50.00
11/6/2013	BOB PARKER 55 MORRISON HILL ROAD WILTON, ME 04294	STONY BROOK OUTFITTERS GUIDE	1	\$1,000.00

TOTAL CASH CONTRIBUTIONS	\$10,100.00
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**SCHEDULE B  
EXPENDITURES TO SUPPORT OR OPPOSE**

EXPENDITURE TYPES				
CNS	Campaign consultants	POL	Polling and survey research	
CON	Contribution to other candidate, party, committee	POS	Postage for U.S. Mail and mail box fees	
EQP	Equipment (office machines, furniture, cell phones, etc.)	PRO	Other professional services	
FND	Fundraising events	PRT	Print media ads only (newspapers, magazines, etc.)	
FOD	Food for campaign events, volunteers	RAD	Radio ads, production costs	
LIT	Print and graphics (flyers, signs, palmcards, t-shirts, etc.)	SAL	Campaign workers' salaries and personnel costs	
MHS	Mail house (all services purchased)	TRV	Travel (fuel, mileage, lodging, etc.)	
OFF	Office rent, utilities, phone and internet services, supplies	TVN	TV or cable ads, production costs	
OTH	Other	WEB	Website design, registration, hosting, maintenance, etc.	
PHO	Phone banks, automated telephone calls			
DATE OF EXPENDITURE	PAYEE	REMARK	TYPE	AMOUNT
11/15/2013	MAINE WILDLIFE CONSERVATION COUNCIL 205 CHURCH HILL ROAD AUGUSTA, ME 04330	CONTRIBUTION TO COALITION OPPOSING PROPOSED INITIATIVE	CON	\$6,100.00
<b>TOTAL EXPENDITURES TO SUPPORT OR OPPOSE:</b>				<b>\$6,100.00</b>

## 21-A M.R.S.A. § 1056-B. BALLOT QUESTION COMMITTEES

✓ A person not defined as a political action committee who receives contributions or makes expenditures, other than by contribution to a political action committee, aggregating in excess of \$5,000 for the purpose of initiating or influencing a campaign as defined by section 1052, subsection 1, shall file reports with the commission in accordance with this section. For the purposes of this section, "campaign" does not include activities to influence the nomination or election of a candidate. Within 7 days of receiving contributions or making expenditures that exceed \$5,000, the person shall register with the commission as a ballot question committee. For the purposes of this section, expenditures include paid staff time spent for the purpose of initiating or influencing a campaign. The commission must prescribe forms for the registration, and the forms must include specification of a treasurer for the committee, any other principal officers and all individuals who are the primary fund-raisers and decision makers for the committee. [2011, c. 389, §38 (AMD); 2011, c. 389, §62 (AFF).]

✓ **1. Filing requirements.** A report required by this section must be filed with the commission according to the reporting schedule in section 1059. After completing all financial activity, the committee shall terminate its campaign finance reporting in the same manner provided in section 1061. The committee shall file each report required by this section through an electronic filing system developed by the commission unless granted a waiver under section 1059, subsection 5.

[ 2009, c. 190, Pt. A, §20 (AMD) .]

**2. Content.** A report must contain an itemized account of each expenditure made to and contribution received from a single source aggregating in excess of \$100 in any election; the date of each contribution; the date and purpose of each expenditure; the name and address of each contributor, payee or creditor; and the occupation and principal place of business, if any, for any person who has made contributions exceeding \$100 in the aggregate. The filer is required to report only those contributions made to the filer for the purpose of initiating or influencing a campaign and only those expenditures made for those purposes. The definitions of "contribution" and "expenditure" in section 1052, subsections 3 and 4, respectively, apply to persons required to file ballot question reports.

[ 2011, c. 389, §39 (AMD) .]

**2-A. Contributions.** For the purposes of this section, "contribution" includes, but is not limited to:

A. Funds that the contributor specified were given in connection with a campaign; [2009, c. 524, §10 (AMD).]

B. Funds provided in response to a solicitation that would lead the contributor to believe that the funds would be used specifically for the purpose of initiating or influencing a campaign; [2011, c. 389, §40 (AMD).]

C. Funds that can reasonably be determined to have been provided by the contributor for the purpose of initiating or influencing a campaign when viewed in the context of the contribution and the recipient's activities regarding a campaign; and [2011, c. 389, §41 (AMD).]

D. Funds or transfers from the general treasury of an organization filing a ballot question report. [2007, c. 477, §4 (NEW).]

[ 2011, c. 389, §§40, 41 (AMD) .]

**3. Forms.** A report required by this section must be on a form prescribed and prepared by the commission. A person filing this report may use additional pages if necessary, but the pages must be the same size as the pages of the form.

[ 1999, c. 729, §8 (NEW) .]

**4. Records.** A person filing a report required by this section shall keep records as required by this subsection for 4 years following the election to which the records pertain.

A. The filer shall keep a detailed account of all contributions made to the filer for the purpose of initiating or influencing a campaign and all expenditures made for those purposes. [2011, c. 389, §42 (AMD).]

B. The filer shall retain a vendor invoice or receipt stating the particular goods or services purchased for every expenditure in excess of \$50. [2007, c. 477, §4 (NEW).]

[ 2011, c. 389, §42 (AMD) .]

SECTION HISTORY

1999, c. 729, §8 (NEW). 2007, c. 477, §4 (AMD). 2009, c. 190, Pt. A, §20 (AMD). 2009, c. 366, §7 (AMD). 2009, c. 366, §12 (AFF). 2009, c. 524, §8-13 (AMD). 2011, c. 389, §§38-42 (AMD). 2011, c. 389, §62 (AFF).

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PLEASE NOTE: The Revisor's Office cannot perform research for or provide legal advice or interpretation of Maine law to the public. If you need legal assistance, please contact a qualified attorney.

## 21-A M.R.S.A. § 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) .]

### 3. Report of expenditures made after the 11th day and more than 48 hours before any election.

[ 1989, c. 504, §§28, 31 (RP) .]

**4. Special election reports.**

[ 1989, c. 504, §§28, 31 (RP) .]

**5. Electronic filing.** Committees shall file each report required by this section through an electronic filing system developed by the commission. The commission may make an exception to this electronic filing requirement if a committee submits a written request that states that the committee lacks access to the technology or the technological ability to file reports electronically. The request for an exception must be submitted within 30 days of the registration of the committee. The commission shall grant all reasonable requests for exceptions.

[ 2007, c. 443, Pt. A, §35 (AMD) .]

## SECTION HISTORY

1985, c. 161, §6 (NEW). 1989, c. 7, §06 (AMD). 1989, c. 504, §§28, 31 (RPR). 1989, c. 833, §§16-20 (AMD). 1991, c. 839, §29 (AMD). 2003, c. 628, §B5 (AMD). 2005, c. 301, §§25, 26 (AMD). 2007, c. 443, Pt. A, §35 (AMD). 2007, c. 571, §9 (AMD). 2009, c. 190, Pt. A, §§23, 24 (AMD). 2009, c. 366, §9 (AMD). 2009, c. 366, §12 (AFF). 2009, c. 652, Pt. A, §22 (AMD). 2011, c. 367, §2 (AMD). 2011, c. 389, §§43-45 (AMD). 2011, c. 389, §62 (AFF). 2011, c. 691, Pt. A, §19 (AMD). 2013, c. 334, §§27, 28 (AMD).

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## 21-A M.R.S.A. § 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 E 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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