

Agenda

Item #4



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: July 17, 2012

Re: Request for Penalty Waiver by Maine Senate Republican Majority PAC

Political action committees were required to file a pre-primary election campaign finance report that covered all financial activity through May 29, 2012 (fourteen days before the primary election). The campaign finance law requires that a PAC “shall report any expenditure of \$500 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 expenditure.” (21-A M.R.S.A. § 1059(2)(E), attached)

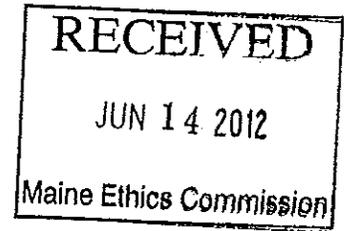
On June 5, 2012, the new treasurer for the Senate Republican Majority PAC filed 24-Hour Reports of three payments made to consultants totaling \$7,444.64. The treasurer, Sara Vanderwood, explained to the Commission’s PAC Registrar that she believed the 24-hour reporting requirement covered expenses over \$500 to support or oppose candidates in an upcoming election, and did not realize that the requirement covered administrative expenses as well.

The report is four days late. Based on the formula in statute, the preliminary penalty is \$317.80. The PAC requests a waiver, because the amount of \$317.80 is disproportionate to the level of experience of the person filing the report.

The staff of the Commission recommends reducing the penalty by 50% to \$158.90, due to the lack of experience of Ms. Vanderwood in filing reports for the PAC and because of the minimal harm to the public resulting from the late report. We believe that the 2012 primary election was the first 24-hour reporting period during which Ms. Vanderwood served as the PAC's treasurer. The three expenditures reported late were payments to the PAC's consultants Jessica Corbett and Megan Sanborn, and did not relate to the June 12, 2012 primary election.

Thank you for your consideration of this memo.

Sara Vanderwood
65 French Road
Oxford, Maine 04270
(c) 207-485-4945



June 14, 2012

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

Re: Late Filing 24 Hour Report

Dear Ethics Commission Staff:

On June 7, 2012 I received notification that the PAC I am treasurer of, the Maine Senate Republican Majority PAC, was assessed a fine of \$317.80 for failure to file a 24 hour campaign finance report. The notice further states that I may make written request that the Commission waive the violation or penalty in whole or in part within 14 days of the notification. Please consider this letter as such.

As I am new to the position of treasurer, I was not fully aware of what triggered a 24 hour report and therefore did not file the report in a timely manner. The expenses made were for operating costs only and in my opinion did not influence the outcome of the primary election(s). I filed the report as soon as I realized my error and spoke with Commissioner staff member, Matthew Marrett, about my mistake. It is also noted in the notice that "the Commission may waive the penalty if it is disproportionate to the level of experience of the person filing the report."

Given the reasons above, I respectfully request that the Commission waive the penalty assessed, in whole or in part. I would be happy to answer any questions you may have regarding this issue. I look forward to receiving a positive outcome to this request.

Respectfully,

A handwritten signature in black ink, appearing to be "Sara Vanderwood". The signature is fluid and cursive, with a large loop at the end.

Sara Vanderwood
Treasurer, Maine Senate Republican Majority PAC

Cc: Thomas Saviello, State Senator
Nichi Farnham, State Senator

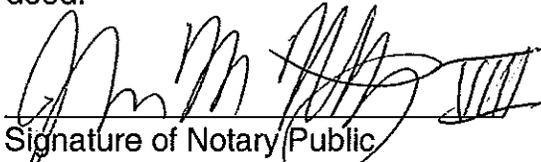
General Affidavit

Date June 14, 2012

State of Maine

County of Kennebec

The foregoing instrument was acknowledged before me this 14 day of June, 2012, at Augusta, Maine, by Sara Vanderwood to be his/her free act and deed.


Signature of Notary Public

John M Nutting III
Name of Notary Public

Notary Public, State of Maine

My commission expires: October 24, 2018



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

June 7, 2012

By E-Mail and Hand Delivery

Ms. Sara Vanderwood, Treasurer
Maine Senate Republican Majority

Re: Late Filing of 24 Hour Report

Dear Ms. Vanderwood,

The Commission staff has made a preliminary determination that the Maine Senate Republican Majority PAC was late in filing a 24 hour campaign finance report. The report was due within 24 hours of the expenditure – made 5/31/12 – but was not received until 6/5/12. 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 PACs history of violations, a penalty of \$317.80 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 notarized and contain a full explanation of the reasons the committee 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 committee 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 Matthew.Marett@Maine.gov if you have questions.

Sincerely,

Matthew Marett
PAC, Party & Lobbyist Registrar

Enclosure: PAC penalty matrix

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

PHONE: (207) 287-4179

FAX: (207) 287-6775

Maine Senate Republican Majority PAC - Late 24 Hour Report.

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>\$7,944.64</u>
		x	
		Percent Prescribed:	<u>1%</u>
X .01	Percent prescribed for first violation		
			<u>\$79.45</u>
		x	
\$25.00	One percent of total contributions	Number of days late:	<u>4</u>
X 2	Number of calendar days late		
		Total penalty accrued:	<u>\$317.80</u>
\$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.



RECEIVED
 JUN 5 2012
 Maine Ethics Commission

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

**2012 24-HOUR REPORT OF EXPENDITURES
 POLITICAL ACTION COMMITTEES**

Name of committee <i>Senate Republican Majority PAC</i>	
Mailing address <i>P.O. Box 1</i>	Acronym of PAC
City, state, zip code <i>Augusta, ME 04332</i>	Telephone
Candidate(s) or ballot question(s) this PAC supports/opposes (if any) <i>Support Republican candidates</i>	

TREASURER INFORMATION

Name of treasurer <i>Sara Vanderwood</i>	Telephone <i>(h) 207 539 9685 (c) 207 485 4945</i>
Mailing address, city, state, zip code <i>65 French Rd, Oxford, ME 04270</i>	

EXPENDITURES

Payee/Creditor <i>Jessica Corbett</i>	Date of expenditure <i>5/31</i>
Address <i>10000 SW 52nd Ave #106</i>	Amount of expenditure <i>6,500.00</i>
City, state, zip code <i>Gainesville, FL 32608</i>	Purpose of expenditure <i>fees</i>
Expenditure made on behalf of (name of candidate or ballot question, if any): <i>consulting fees</i>	In support or opposition? <i>N/A</i>

Payee/Creditor <i>Jessica Corbett</i>	Date of expenditure <i>5/31</i>
Address <i>10000 SW 52nd Ave #106</i>	Amount of expenditure <i>944.64</i>
City, state, zip code <i>Gainesville, FL 32608</i>	Purpose of expenditure <i>expenses</i>
Expenditure made on behalf of (name of candidate or ballot question, if any): <i>consultant expenses</i>	In support or opposition? <i>N/A</i>

I, *Sara Vanderwood*, certify that the information in this report is true, correct and complete.

Signature of Treasurer

Date

5/5/12



RECEIVED
 JUN 5 2012
 Maine Ethics Commission

COMMISSION ON GOVERNMENTAL ETHICS AND ELECTION PRACTICES
 Mail: 135 State House Station, Augusta, Maine 04333
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 POLITICAL ACTION COMMITTEES**

Name of committee <i>Senate Republican Majority PAC</i>	
Mailing address <i>P.O. Box 1</i>	Acronym of PAC
City, state, zip code <i>Augusta ME 04332</i>	Telephone
Candidate(s) or ballot question(s) this PAC supports/opposes (if any) <i>Support Republican candidates</i>	

TREASURER INFORMATION

Name of treasurer <i>Sara Vanderwood</i>	Telephone <i>(H) 207 539 9685</i> <i>(C) 207 485 4945</i>
Mailing address, city, state, zip code <i>65 French Rd, Oxford, ME 04270</i>	

EXPENDITURES

Payee/Creditor <i>Megan Sanborn</i>	Date of expenditure <i>5/31</i>
Address <i>66 Greens Way</i>	Amount of expenditure <i>500.00</i>
City, state, zip code <i>Readfield, ME 04355</i>	Purpose of expenditure <i>PAC admin</i>
Expenditure made on behalf of (name of candidate or ballot question, if any): <i>data entry etc...</i>	In support or opposition? <i>N/A</i>

Payee/Creditor	Date of expenditure
Address	Amount of expenditure
City, state, zip code	Purpose of expenditure
Expenditure made on behalf of (name of candidate or ballot question, if any):	In support or opposition?

I, *Sara Vanderwood*, certify that the information in this report is true, correct and complete.

Signature of Treasurer

Date *6/5/12*

21-A MRSA §1059. REPORT; FILING REQUIREMENTS

Committees required to register under section 1053, 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. [2011, c. 389, §43 (AMD); 2011, c. 389, §62 (AFF).]

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. (CONFLICT: Text as amended PL 2011, c. 367, §2) Quarterly reports must be filed:

- (1) On January 15th and must be complete as of December 31st;
- (2) On April 10th and must be complete as of March 31st;
- (3) On July 15th and must be complete as of June 30th; and
- (4) On October 5th and must be complete as of September 30th. [2011, c. 367, §2 (AMD) .]

A. (CONFLICT: Text as amended by PL 2011, c. 389, §44) All committees shall file quarterly reports :

- (1) On January 15th and must be complete as of December 31st;
- (2) On April 10th and must be complete as of March 31st;
- (3) On July 15th and must be complete as of June 30th; and
- (4) On October 10th and must be complete as of September 30th. [2011, c. 389, §44 (AMD) .]

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 expenditure of \$500 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 expenditure. [2007, c. 443, Pt. A, §35 (AMD) .]

[2011, c. 367, §2 (AMD); 2011, c. 389, §§44, 45 (AMD) .]

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

[1989, c. 504, §§28, 31 (RP) .]

21-A M.R.S.A. § 1062-A. FAILURE TO FILE ON TIME

1. Registration. A political action committee required to register under section 1053 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 \$250.

[2009, c. 190, Pt. A, §28 (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) .]