



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

To: Commissioners
From: Martha Currier, Assistant Director
Date: July 16, 2024
Re: Building the Maine House – Request to Invoke a Special Penalty and/or Referral to the Office of the Attorney General

The registered political action committee (PAC), Building the Maine House, was required to file the 11-Day Pre-Primary Report on May 31, 2024, but did not file it until July 16, 2024 (46 days late). Building the Maine House is a leadership PAC formed by State Representative Richard Campbell. The PAC has a unique history of showing insufficient attention to filing campaign finance reports on time. Commission staff recommends consideration of a penalty for the failure of filing the required campaign finance report with 30 days of the filing deadline as required by law or referral of the PAC's principal officer to the Office of the Attorney General for prosecution of a Class E crime.

LEGAL REQUIREMENTS

A political action committee registered with the Commission must file regular campaign finance reports. 21-A M.R.S. § 1059.

If a person is late in filing a campaign finance report, the amount of the penalty is set by a formula that takes into consideration a percentage of the total contributions or expenditures, whichever is greater, the number of prior violations within a two-year period, and the number of days the report is late. 21-A M.R.S. § 1020-A(4-A).

The PAC's treasurer and principal officer are jointly responsible for the committee's compliance with Maine's campaign finance laws and can be held jointly and severally liable for any violations. 21-A M.R.S. § 1054-A(2).

A person fails to file a report as required by law within 30 days of the filing deadline is guilty of a Class E crime. 21-A M.R.S. § 1062-A(8).

The Commission may assess a civil penalty for failure to file a campaign finance report of \$10,000 or the amount of financial activity not reported, whichever is greater. 21-A M.R.S. § 1062-A(8-A).

Subsection 4 of the Commission’s investigations statute states that “The commission shall refer any apparent violations of this chapter to the Attorney General for prosecution.” 21-A M.R.S. § 1003(4).

DISCUSSION

Building the Maine House is one 134 PACs and has been registered with the Commission since September 2017. For the last four years it has been a dormant PAC, meaning it has not reported any contributions or expenditures. Its last reported contribution was received in October 2019, and last expenditure was reported in February 2020. A PAC is required to file regular campaign finance reports with the Commission until it terminates its registration, which can only be done once its campaign balance is whittled down to zero. The cash balance at the end of the 11-Day Pre-Primary report is \$7,963.94. PACs can stay active for as long as they like, however, they must file the regularly required campaign finance reports.

Building the Maine House has a history of late reporting with the Commission. However, when a PAC files a report within 30 days, the statutory penalty matrix does not deter future non-compliance on a no-activity report. This is because penalties are assessed based on a percentage of the total contributions or expenditures for the late filing period, whichever is greater, multiplied by the number of calendar days late. 21-A M.R.S. § 1062-A(2)&(3). As such, a PAC with no activity cannot be assessed a penalty under § 1062-A(2)&(3) when their report is filed late.

Year	Report	Days Late
2024	11-Day Pre-Primary	46
2024	April Quarterly	6
2023	October Quarterly	72
2022	11-Day Pre-General	4
2022	11-Day Pre-Primary	3
2021	July Quarterly	55
2020	11-Day Pre-General	6
2019	January Quarterly	2
2019	October Quarterly	1

Commission staff go to great lengths to inform filers of their reporting obligations in advance of and after the deadline by posting the filing schedule on www.maine.gov/ethics, listing the filing schedule annually on the PACs eFiling homepage, sending multiple reminder emails before the deadline, sending email reminders on the day of the deadline, and sending email and letter reminders once the deadline has passed. For Building the Maine House, staff have spent an enormous number of resources reaching out to Rep. Campbell regarding his filing obligations through the Political and Lobbyist Registrar, Assistant Director, and Executive Director.

The eFiling system keeps a history of when filers login to the system – see attached. Historically, the PAC was able to file its reports without issue. In August 2020, Rep. Campbell contacted the office and asked that the 42-Day Post Primary Report be filed by staff because he had no activity during the reporting period. Unfortunately, this resulted in a two-year pattern of behavior where Rep. Campbell would call the office around the filing deadlines for similar accommodation, which is why the event log lists multiple staff members filing his reports. When this came to my attention in mid-2022 I asked staff to instruct him to file his own reports as required of all other filers with the Commission. Rep. Campbell does not qualify for an exemption for electronic filing of his campaign finance reports – he does not lack the technology (he has multiple email addresses, social media, a computer, smart phone, files his candidate reports, etc.). Staff have repeatedly walked him through the process to file his reports, which he has now successfully done since early 2023.

Commission staff have advised the PAC that they could terminate it and donate the money to another group or cause, but they have declined that suggestion. Commission staff do not wish to stifle a group's desire to participate in the political process; however, we do need to stress the need for a registered PAC to follow the laws and rules associated with this responsibility.

When a PAC does not file timely campaign finance reports it deprives the public of information it is allowed to have under the law. While a no-activity report filing may seem innocuous to some, making the public wait for information was not the system the legislature envisioned when it set up the reporting deadlines. This is why the legislature created penalties for PACs who failed to file their reports after 30 days including a Class E crime (the lowest misdemeanor level in Maine), and a penalty of \$10,000 or the amount of financial activity not reported, whichever is greater. In Maine, Class E crimes are punishable by up to 364 days in jail and a \$1,000 fine.

Current Commission staff cannot recall a specific case in the last 20 years when either 21-A M.R.S. § 1062-A(8) or 21-A M.R.S. § 1062-A(8-A) has been invoked. But at no time in the last 20 years has a PAC so consistently and blatantly disregarded Maine's campaign finance reporting requirements.

STAFF RECOMMENDATION

Staff seek the Commission's consideration to invoke its statutory authority to impress upon all filers the importance of filing timely campaign finance reports. There are several options available to deter future behavior including a formal referral to the Office of the Attorney General for the prosecution of a Class E crime for the treasurer and principal officer; a penalty of \$10,000 for failure to file the required campaign finance report; or a lesser penalty amount.

The Commission's managers initiated this enforcement proceeding because of the inordinate amount of time and effort spent by staff members in getting this PAC to file campaign finance reports. The table of late filings on page 3 does not reflect the degree of time and effort. When initiating this enforcement proceeding, the intention of the Commission staff was to recommend the assessment of a civil penalty for failing to file a report in the range of \$750-\$1,000 pursuant to § 1062-A(8-A). Because of the initiation of this action, Rep. Campbell filed the 11-day Pre-Primary report on July 16, 2024 as the meeting materials for this agenda item were being finalized.

Prior to the Commission's July 24, 2024 meeting, Commission staff will confer with agency counsel to confirm whether the assessment of penalties is available under § 1062-A(2)&(3), or (8-A) and whether criminal referral would be appropriate under § 1062-A(8-A).

The Commission's managers support an enforcement outcome that is proportionate to the violation but that would also effectuate a course correction by this PAC. In the opinion of the Commission's executive director, no matter how good Rep. Campbell's intentions are, he simply cannot be counted on to file campaign finance reports on time. If Rep. Campbell wishes to continue this PAC that has been essentially dormant for years, the logical solution is for the PAC to designate a new person as treasurer or authorized agent who will use their own assigned username to file PAC reports. The PAC's current treasurer is in name only. Our records indicate she has never logged into the Commission's eFiling system.

You are working on behalf of Building The Maine House.

Committee Details

0
EXIT 0

Name
Building The Maine House - Active

Address
321 River Road, Orrington, ME 04474

Type
Political Action Committee (Traditional)

ID
5658

Jurisdiction
STATE

PAST REGISTRATIONS 0
\$7,963.94

Officers

Kathy Downes Active
Treasurer
(207) 949-3593
KathyDownes1952@gmail.com
(mailto:KathyDownes1952@gmail.com)
P O Box 59, Bucksport, ME 04416
Active Date: 01/17/2023
\$0.00

Richard Camobell Active
Decision
Maker,Fundraiser,Legislator,Candidate
Dickcampbellr@gmail.com
(mailto:Dickcampbellr@gmail.com)
N/A
Active Date: 02/08/2024
\$0.00

RICHARD CAMPBELL Active
Principal Officer
(207) 745-7748
BUILDINGTHEMAINEHOUSE@GMAIL.COM
(mailto:BUILDINGTHEMAINEHOUSE@GMAIL.COM)
321 River Road, Orrington, ME 04474
Active Date: 09/07/2017
\$0.00

Vendor Users

+ ADD VENDOR

2024 PACs | BQCs | State Party Committees

SUMMARY	PENALTIES	DOCUMENT IMAGES
Account Status		
Ending Balance (04/16/2024)		
Unfiled Contributions		
Unfiled Expenditures		
Unfiled Loans		
Unfiled Debt Balances		
Unfiled In-Kind Contributions		
Transaction History (2024 PACs BQCs State Party Committees)		
Filed Contributions		
Filed Expenditures		
Filed Loans		
Filed Debt Balances		
Filed In-Kind Contributions		

Administrative Notes

Event Log

Report Filed - Committee April Quarterly	CAMPBELL, RICHARD	04.16.2024 5:26:08 PM
User Login User RCAMPBELL10155 logged in.	CAMPBELL, RICHARD	04.16.2024 5:22:52 PM
User Login User RCAMPBELL10155 logged in.	CAMPBELL, RICHARD	02.08.2024 12:41:34 PM
User Login User RCAMPBELL10155 logged in.	CAMPBELL, RICHARD	01.18.2024 8:11:29 AM
Report Filed - Committee January Quarterly	CAMPBELL, RICHARD	01.16.2024 7:21:22 PM
User Login User RCAMPBELL10155 logged in.	CAMPBELL, RICHARD	01.16.2024 7:20:32 PM
Report Filed - Committee October Quarterly	CAMPBELL, RICHARD	12.16.2023 8:59:45 PM
User Login User RCAMPBELL10155 logged in.	CAMPBELL, RICHARD	12.16.2023 8:59:05 PM
User Login User RCAMPBELL10155 logged in.	CAMPBELL, RICHARD	11.21.2023 1:15:05 PM
User Login User RCAMPBELL10155 logged in.	CAMPBELL, RICHARD	11.21.2023 1:00:04 PM
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User Login User RCAMPBELL10155 logged in.	CAMPBELL, RICHARD	04.10.2023 2:47:08 PM
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Report Filed - 42-Day Post-General Report	BURKE, EMMA (Admin)	12.20.2022 11:08:42 AM
Report Filed - 11-Day Pre-General Report	CAMPBELL, RICHARD	11.01.2022 1:23:02 PM
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User Login User RCAMPBELL10155 logged in.	CAMPBELL, RICHARD	10.28.2022 9:07:11 AM
Report Filed - Committee October Quarterly	CAMPBELL, RICHARD	10.05.2022 10:46:43 AM
User Login User RCAMPBELL10155 logged in.	CAMPBELL, RICHARD	10.05.2022 10:45:44 AM
Report Filed - 42-Day Post-Primary Report	BURKE, EMMA (Admin)	07.20.2022 9:33:44 AM
Report Filed - 11-Day Pre-Primary Report	BURKE, EMMA (Admin)	06.07.2022 11:38:27 AM
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Report Filed - Committee January Quarterly	Dunn, Michael (Admin)	01.11.2022 10:56:49 AM
Report Filed - Committee October Quarterly	Dunn, Michael (Admin)	09.08.2021 10:44:58 AM
Report Filed - Committee July Quarterly	Dunn, Michael (Admin)	09.08.2021 10:43:44 AM
Report Filed - Committee April Quarterly	BRANN, LORRIE (Admin)	04.08.2021 8:07:24 AM
Report Filed - January Quarterly	BRANN, LORRIE (Admin)	01.14.2021 1:43:20 PM
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Report Filed - 11-Day Pre-General Election Report	Dunn, Michael (Admin)	10.29.2020 9:45:05 AM

Report Filed - October Quarterly Report	LAVIN, PAUL (Admin)	09.30.2020 12:11:01 PM
Report Filed - 42-Day Post-Primary Election Report	Dunn, Michael (Admin)	08.21.2020 3:27:52 PM
Report Filed - 11-Day Pre-Primary Election Report	CAMPBELL, RICHARD	07.06.2020 9:28:39 AM
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User Login User RCAMPBELL10155 logged in.	CAMPBELL, RICHARD	05.29.2020 8:38:28 AM
Report Filed - April Quarterly	CAMPBELL, RICHARD	04.08.2020 11:17:51 AM
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Report Filed - January Quarterly Report	CAMPBELL, RICHARD	01.17.2020 3:54:41 PM
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Report Filed - July Quarterly Report	CAMPBELL, RICHARD	07.15.2019 7:58:48 AM
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User Login User RCAMPBELL10155 logged in.	CAMPBELL, RICHARD	01.15.2019 8:39:35 AM
Report Filed - 42-DAY POST-GENERAL REPORT	CAMPBELL, RICHARD	12.12.2018 11:02:29 AM
User Login User RCAMPBELL10155 logged in.	CAMPBELL, RICHARD	12.12.2018 10:36:39 AM
User Login User RCAMPBELL10155 logged in.	CAMPBELL, RICHARD	11.28.2018 9:04:40 AM
Report Amended - 1-Day Report	CAMPBELL, RICHARD	11.01.2018 11:52:57 AM
User Login User RCAMPBELL10155 logged in.	CAMPBELL, RICHARD	11.01.2018 10:54:12 AM

Report Amended - 11-DAY PRE-GENERAL REPORT	CAMPBELL, RICHARD	10.31.2018 1:56:03 PM
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Report Amended - 1-Day Report	CAMPBELL, RICHARD	10.29.2018 8:04:01 PM
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User Login User RCAMPBELL10155 logged in.	CAMPBELL, RICHARD	10.29.2018 7:56:34 PM
24 Hour Report Filed	CAMPBELL, RICHARD	10.29.2018 8:23:52 AM
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Report Filed - 11-DAY PRE-GENERAL REPORT	CAMPBELL, RICHARD	10.26.2018 6:21:16 PM
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Report Filed - OCTOBER QUARTERLY REPORT	CAMPBELL, RICHARD	10.04.2018 4:27:38 PM
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User Login USER RCAMPBELL10155 LOGGED IN.	CAMPBELL, RICHARD	05.28.2018 4:04:08 PM
User Login USER RCAMPBELL10155 LOGGED IN.	CAMPBELL, RICHARD	04.04.2018 5:46:08 PM
User Login USER RCAMPBELL10155 LOGGED IN.	CAMPBELL, RICHARD	03.21.2018 3:25:55 PM
User Login USER RCAMPBELL10155 LOGGED IN.	CAMPBELL, RICHARD	01.16.2018 4:03:34 PM
User Login USER RCAMPBELL10155 LOGGED IN.	CAMPBELL, RICHARD	01.10.2018 5:57:00 PM
SCHEDULE ASSIGNED (PAC REPORTS)	DYER, BEN (Admin)	12.15.2017 3:06:43 PM
User Login USER RCAMPBELL10155 LOGGED IN.	CAMPBELL, RICHARD	10.04.2017 1:22:51 PM
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Registration Accepted	DYER, BEN (Admin)	09.07.2017 2:39:16 PM



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

June 3, 2024

Ms. Kathy Downes, Treasurer
Building the Maine House
PO Box 59
Bucksport, ME 04416

Re: Unfiled 11-Day Pre-Election Report

Dear Ms. Downes,

Our records show Building the Maine House has not filed its 11-Day Pre-Election Report. The report was due by 11:59 p.m. on May 31, 2024. **Please file this report as soon as possible.**

State law (21-A M.R.S. § 1062-A) requires a penalty be assessed for late reports based on the amount of financial activity conducted during the filing period, the number of calendar days filed late, and the committee's filing record. If the committee raised or spent money during the filing period, it could be subject to civil penalties that are accruing daily. Once the report is filed, we will calculate and notify you of the amount of the penalty.

Sincerely,

A handwritten signature in blue ink that reads "Martha Currier".

Martha Currier
Assistant Director



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

Via Electronic and US Mail

July 11, 2024

Representative Richard Campbell
321 River Road
Orrington, ME 04474

Ms. Kathy Downes, Treasurer
PO Box 59
Bucksport, ME 04416

Re: Failure to File 11-Day Pre-Election Report

Dear Rep. Campbell and Ms. Downes,

The purpose of this letter is to provide notice that the Building the Maine House PAC will be on the next public meeting agenda of the Ethics Commission on Wednesday, July 24, 2024 at 9:00 a.m. regarding its failure to file the 11-Day Pre-Election Report that was due on May 31, 2024.

A person who fails to file a report as required by law within 30 days of the filing deadline is guilty of a Class E crime (21-A M.R.S. § 1062-A(8)), which the Commission is now in a posture to refer to the Office of the Attorney General. Additionally, the Commission may assess a civil penalty for failure to file a campaign finance report of \$10,000 or the amount of financial activity not reported, whichever is greater. 21-A M.R.S. § 1062-A(8-A). The PAC's treasurer and principal officer are jointly responsible for the committee's compliance with Maine's campaign finance laws and can be held jointly and severally liable for any violations. 21-A M.R.S. § 1054-A(2).

If you wish to submit a response about this matter, please send it to Executive Director Jonathan Wayne at the address above or to jonathan.wayne@maine.gov. You will also be provided an opportunity to address the Commission in-person at the July 24 meeting.

Sincerely,

A handwritten signature in blue ink that reads "Martha Currier".

Martha Currier
Assistant Director

21-A M.R.S. § 1003. Investigations by commission

1. Investigations. The commission may undertake audits and investigations to determine whether a person has violated this chapter, chapter 14 or the rules of the commission. For this purpose, the commission may subpoena witnesses and records whether located within or without the State and take evidence under oath. A person or entity that fails to obey the lawful subpoena of the commission or to testify before it under oath must be punished by the Superior Court for contempt upon application by the Attorney General on behalf of the commission. The Attorney General may apply on behalf of the commission to the Superior Court or to a court of another state to enforce compliance with a subpoena issued to a nonresident person. Service of any subpoena issued by the commission may be accomplished by:

- A.** Delivering a duly executed copy of the notice to the person to be served or to a partner or to any officer or agent authorized by appointment or by law to receive service of process on behalf of that person;
- B.** Delivering a duly executed copy of the notice to the principal place of business in this State of the person to be served; or
- C.** Mailing by registered or certified mail a duly executed copy of the notice, addressed to the person to be served, to the person's principal place of business.

2. Investigations requested. A person may apply in writing to the commission requesting an investigation as described in subsection 1. The commission shall review the application and shall make the investigation if the reasons stated for the request show sufficient grounds for believing that a violation may have occurred.

...

3-A. Confidential records. Investigative working papers of the commission are confidential, except that the commission may disclose them to the subject of the audit or investigation, other entities as necessary for the conduct of an audit or investigation and law enforcement and other agencies for purposes of reporting, investigating or prosecuting a criminal or civil violation. For purposes of this subsection, "investigative working papers" means documents, records and other printed or electronic information in the following limited categories that are acquired, prepared or maintained by the commission during the conduct of an audit, investigation or other enforcement matter:

- A.** Financial information not normally available to the public;
- B.** Information that, if disclosed, would reveal sensitive political or campaign information belonging to a party committee, political action committee, ballot question committee, candidate or candidate's political committee, or other person who is the subject of an audit, investigation or other enforcement matter, even if the information is in the possession of a vendor or 3rd party;
- C.** Information or records subject to a privilege against discovery or use as evidence; and
- D.** Intra-agency or interagency communications related to an audit or investigation, including any record of an interview, meeting or examination.

The commission may disclose investigative working papers or discuss them at a public meeting, except for the information or records subject to a privilege against discovery or use as evidence, if the information or record is relevant to a memorandum or interim or final report by the commission staff or a decision by the commission concerning an audit, investigation or other enforcement matter. A memorandum or report on the audit or investigation prepared by staff for the commission may be disclosed at the time it is submitted to the commission, as long as the subject of the audit or investigation has an opportunity to review it first to identify material that the subject of the audit or investigation considers privileged or confidential under some other provision of law.

4. Attorney General. Upon the request of the commission, the Attorney General shall aid in any investigation, provide advice, examine any witnesses before the commission or otherwise assist the commission in the performance of its duties. The commission shall refer any apparent violations of this chapter to the Attorney General for prosecution.

21-A M.R.S. § 1054-A. Duties and liabilities of the treasurer, principal officer and primary decision maker of committees

1. Duties of the treasurer. The treasurer of the committee shall ensure that the committee files and amends the committee's registration, files complete and accurate financial reports with the commission and maintains the committee's records as required by this chapter and the commission's rules. The treasurer is responsible for the committee's performance of these duties regardless of whether the treasurer has delegated administrative tasks related to these duties to another individual.

2. Joint responsibilities of the treasurer and principal officer. The treasurer and the principal officer are jointly responsible for the committee's compliance with the requirements of this chapter and the commission's rules. The treasurer and principal officer are responsible for accepting and responding to notices and correspondence from the commission on behalf of the committee.

3. Participation in spending decisions. An individual who is the treasurer, principal officer or primary decision maker of the committee and who has signed the acknowledgment statement required by section 1052-A, subsection 4 is deemed to have participated in the spending decisions of the committee until the commission receives the individual's resignation statement or a notice of the individual's involuntary removal from the committee.

4. Financial liability. The commission may hold the treasurer and principal officer jointly and severally liable with the committee for any fines assessed against the committee for violations of this chapter and chapter 14. In addition, the commission may assess all or part of a fine against any other agent of the committee who is directly responsible for a violation, including individuals who have resigned or have been removed involuntarily from the committee. In deciding whether to assess a penalty against a treasurer, principal officer or any other individual, the commission may consider, among other things, whether the individual had actual knowledge of the action that constituted the violation or had authorized that action and whether the violation was intentional or caused by an error by a vendor or someone outside the control of the committee.

21-A M.R.S. § 1059. Report; filing requirements

A committee required to register under section 1052-A or 1053-B shall file an initial campaign finance report within 7 days of registration or within 14 days of having been required to register, whichever comes first, 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.

1. Contents; quarterly reports and election year reports. [2007, ch. 443, § A-35 (RP).]

2. Reporting schedule. A committee shall file reports according to the following schedule.

A. A committee 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.

B. During any year in which primary and general elections are held, a committee shall file primary and general election reports in addition to the reports required under paragraph A:

- (1) On the 11th day before the date on which the election is held, which 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, which must be complete as of the 35th day after that date.

A committee shall file primary and general election reports even if the committee did not engage in financial activity to influence the primary or general election.

C. In any election year other than a year described in paragraph B, if a committee has received contributions or made expenditures for the purpose of influencing a ballot question election, a special election or a municipal candidate or referendum election subject to Title 30-A, section 2502, the committee shall file preelection and post-election reports:

- (1) On the 11th day before the date on which the election is held, which 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, which must be complete as of the 35th day after that date.

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.

E. If a committee is required to file a report 11 days before an election pursuant to paragraph B or C, the 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.

3. Report of expenditures made after the 11th day and more than 48 hours before any election. [1989, ch. 504, §§ 28, 31 (RP).]

4. Special election reports. [1989, ch. 504, §§ 28, 31 (RP).]

5. Electronic filing. A committee shall file each report required by this section through an electronic filing system developed by the commission. Notwithstanding any provision of this chapter to the contrary, for purposes of entering and retrieving information, the electronic filing system may categorize ballot question committees as a subcategory of political action committees. 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.

21-A M.R.S. § 1062-A. Failure to file on time

1. Registration. A political action committee required to register under section 1052-A, 1053-A or 1053-B or a ballot question committee required to register under section 1053-A 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.

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;
- B.** An error by the commission staff; or
- 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.

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, 2%;
- B.** For the 2nd violation, 4%; and
- C.** For the 3rd and subsequent violations, 6%.

Any penalty of less than \$25 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.

4. Maximum penalties. The maximum penalty under this subchapter is \$10,000 for reports required under section 1053-A or 1059, except that if the dollar amount of the financial activity that was not timely filed or did not substantially conform to the reporting requirements of this subchapter exceeds \$50,000, the maximum penalty is 100% of the dollar amount of that financial activity.

5. Request for a commission determination. If the commission staff finds that a committee has failed to file a report required under this subchapter, the commission staff shall mail a notice to the treasurer of the committee within 3 business days following the filing deadline informing the treasurer that a report was not received. If a committee files a report required under this subchapter late, a notice of preliminary penalty must be forwarded to the treasurer of the 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.

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 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 committee. A detailed summary of all notices must be provided to the commission.

7. List of late-filing committees. The commission shall prepare a list of the names of 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.

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.

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 1059 is \$10,000 or the amount of financial activity not reported, whichever is greater.

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.