



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

Commission Meeting 10/16/2020
Agenda Item #1

To: Commission
From: Michael Dunn, Esq., Political Committee and Lobbyist Registrar
Date: October 6, 2020
Re: Request for Waiver of Late-Filing Penalties by Jonathan Courtney, Lobbyist

Once registered, lobbyists are required to file monthly reports of their lobbying activities, using the Commission's electronic filing system. A lobbyist must file a monthly report for each client on the 15th day of the month that discloses their lobbying activities during the preceding month. Mr. Jonathan Courtney, the lobbyist for the Association for Accessible Medicines and Maine Credit Union League, was required to file a monthly lobbyist report for both clients on August 17, 2020 (August 15th fell on a Saturday), covering the month of July. Mr. Courtney believed that he did not have to file monthly reports for July because on July 4, 2020, he had tried to file a Request for a Non-Session Waiver, which would have exempted him from filing monthly reports for the rest of the lobbying year. The Commission's e-filing system confirms that Mr. Courtney logged into the system on July 4, 2020 but does not have a record that he filed the Non-Session Waiver Request for either client.

On August 18, 2020, Commission staff called Mr. Courtney to inform him that we had not received his monthly reports for July. He responded that he had not lobbied in July, so the Commission staff filed "short form" (no activity) reports on his behalf. ETH – 4-5. On August 18, 2020, Commission staff sent Mr. Courtney correspondence advising him of two preliminary late-filing penalties of \$50, totaling \$100. ETH – 2-3. On August 19, 2020, Mr. Courtney requested a waiver of the preliminary penalties. ETH – 1.

LEGAL REQUIREMENTS

All registered lobbyists are required to file monthly reports for each calendar month they are registered. Reports are due 11:59 p.m. on the 15th day of the following month (*i.e.*, the June lobbying report is due July 15th). 3 M.R.S. § 317. For late reports filed less than

24 hours past the deadline, the preliminary penalty is \$50. 3 M.R.S. § 319(1). ETH – 10. A lobbyist may request a waiver of the monthly reporting requirement when the Legislature is not in session, which removes their obligation to file monthly reports unless they engage in lobbying. 3 M.R.S. § 317(4). ETH – 8-9.

The Commission may waive the penalty in whole or in part based on several statutory factors, including if the Commission finds that a lobbyist made a bona fide effort to file the report in accordance with this chapter. 3 M.R.S. § 319(1). ETH – 10.

DISCUSSION AND STAFF RECOMMENDATIONS

Mr. Courtney registered as a lobbyist for the Association for Accessible Medicines and the Maine Credit Union League on February 18, 2020. He filed each monthly report on time through the year until the July Lobbyist Report, which was due on August 17, 2020. Mr. Courtney explains that he attempted to file a non-session waiver, but the system has no record of that submission. ETH – 1. Mr. Courtney also discontinued the use of the email address that the Commission had on file for these accounts.

Before each monthly filing deadline, the Commission’s e-filing system sends automated reminder emails to lobbyists at their email address on file in the system. Mr. Courtney’s records in the system had not been updated to reflect that his email address had changed from joncourtney@metrocast.net to jon@courtneypolicygroup.com. So, he had not received those automated notifications. Staff has since updated Mr. Courtney’s information. In addition, Commission staff sends reminder emails on the day a report is due to all lobbyists who have not yet filed their reports. On August 17, 2020, the Commission staff sent an email to Mr. Courtney at jon@courtneypolicygroup.com reminding him that two reports were due by 11:59 p.m. ETH – 6.

The Commission’s e-filing system shows that Mr. Courtney logged into his account on July 4, 2020 and filed the June Lobbyist Report. The system has no record of Mr. Courtney’s non-session waiver¹ submission for either client. At this point in the lobbying year, about 80 lobbyist accounts² have submitted non-session waiver requests. The

¹ The process for filing a non-session waiver is detailed on ETH – 11-12.

² Out of about 350 active accounts. An account is based on the joint registration of the lobbyist and employer. A single lobbyist may have multiple accounts.

Commission staff is not aware of a problem with its e-filing system accepting waiver requests. Staff accepts that Mr. Courtney attempted to file non-session waiver requests on July 4, 2020 but, due to an unknown reason, the system did not record that he successfully filed the requests.³

The harm to the public from the late filing of the no-activity reports was minimal. The Legislature was not in session. Mr. Courtney had performed no lobbying activity during July for either client. The two reports were only about 11 hours late. In addition, the Commission has previously considered that when multiple violations occur because of the same nexus of information on the part of the filer, that it can be appropriate to treat the multiple violations as a single violation for penalty purposes. See Mainers for Local Power (03/10/2020) (treating two late major contributor notices as a single violation and reducing the total preliminary penalty from \$53,000 to \$2,500). Here, it is unknown why the system didn't record that Mr. Courtney filed a waiver requests.

The Commission staff recommends that the Commission reduce Mr. Courtney's penalties to a total of \$50. The public did not suffer significant harm by the late filing of two no-activity reports. Mr. Courtney has a good track record of filing his reports on time and Commission staff accepts that he attempted to file the non-session waivers.

Thank you for your attention to this matter.

³ Once a lobbyist has successfully filed a non-session waiver request, (s)he sees a pop-up screen confirming that the waiver request has been filed. Also, the e-filing system sends a confirmation email to the lobbyist.



Courtney Policy Group

6 Woodland Rd.
Pownal, ME 04069
jon@courtneypolicygroup.com

August 19, 2020

Mr. Michael Dunn, Esq.
Commission on Governmental Ethics
135 State House Station
Augusta, ME 04333-0135

Dear Mr. Dunn.

Thank you for your help filing my Lobbyist Reports yesterday.

Following up, I am requesting that the Ethics Commission waive the \$100.00 in penalties for late filing. As I mentioned I thought that I filed a non-session waiver but apparently I did not. To compound this unfortunate error the notices were going to my old "metrocast" e-mail account which was recently discontinued so I did not receive the notice. We have since updated our email and should not have a problem in the future.

Thank you for your consideration.

Best,

Jon Courtney



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AUGUSTA, MAINE 04333-0135

August 18, 2020

Jonathan Courtney
Courtney Policy Group
1298 Main St.
Sanford, ME 04073

Re: Late Filing – July 2020 Lobbyist Disclosure Report

Dear Mr. Courtney:

The Commission staff has made a preliminary determination that a penalty of \$50 applies for the late filing of the July 2020 lobbyist disclosure report for your client, Association for Accessible Medicines. See, 3 MRSA § 319. The report was due on 08/17/2020 but was not filed until 08/18/2020.

If you disagree with the preliminary penalty, you may request a waiver by submitting a statement, in writing, to the Commission stating the reason the report was filed late and requesting that the preliminary penalty be waived. All requests for waiver will be included on the agenda for the next Commission meeting.

If you do not intend to seek a waiver of the preliminary penalty, please mail a check, payable to “Treasurer, State of Maine,” for the above amount to the Ethics Commission at 135 State House Station, Augusta, Maine 04333. You may also pay with a Visa or MasterCard online at www.maine.gov/ethics by selecting the “penalty payment” option.

Please either pay the preliminary penalty or submit a request for waiver within 14 days of the date of this letter. Please call me at (207) 287-4709 or send me an email at michael.dunn@maine.gov if you have questions.

Sincerely,

Michael J. Dunn

Michael J. Dunn, Esq.
Political Committee and Lobbyist Registrar

If paying by check, please return this portion with your payment. Thank you.

From: Association for Accessible Medicines
Re: Penalty for late filing of July 2020 Lobbyist Disclosure Report (\$50).

Enclosed: \$ _____ Check/M.O. No.# _____

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

PHONE: (207) 287-4179

FAX: (207) 287-6775



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August 18, 2020

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1298 Main St.
Sanford, ME 04073

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Please either pay the preliminary penalty or submit a request for waiver within 14 days of the date of this letter. Please call me at (207) 287-4709 or send me an email at michael.dunn@maine.gov if you have questions.

Sincerely,

Michael J. Dunn

Michael J. Dunn, Esq.
Political Committee and Lobbyist Registrar

If paying by check, please return this portion with your payment. Thank you.

From: Maine Credit Union League
Re: Penalty for late filing of July 2020 Lobbyist Disclosure Report (\$50).

Enclosed: \$ _____ Check/M.O. No.# _____

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

PHONE: (207) 287-4179

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Website: www.maine.gov/ethics
Phone: 207-287-4179
Fax: 207-287-6775

LOBBYIST DISCLOSURE REPORT FOR JULY 2020

LOBBYIST INFORMATION	
JONATHAN COURTNEY 1298 MAIN ST. SANFORD, ME 04073	Telephone: (207) 651-1947 Fax: (207) 651-1947 JON@COURTNEYPOLICYGROUP.COM ID: 11925
CLIENT INFORMATION	
Association for Accessible Medicines Principal Contact: Ashlie Van Meter 601 New Jersey Ave. STE 850 Washington , DC 20001	Telephone: (203) 463-0540 Ashlie.Van Meter@accessiblemeds.org 601 NEW JERSEY AVE, NW
CERTIFICATION	
<p>I, MICHAEL DUNN, affirm that, during the month of the report, the lobbyist named above did not lobby on behalf of the named client and did not make any expenditures in support of lobbying or to or on behalf of any covered official or a family member of a covered official; and that the client received no contributions or payments from another during the month of the report for the purposes of lobbying; and that no information is knowingly withheld to the best of my knowledge.</p> <p>Report Filed by: MICHAEL DUNN Report Filed on: August 18, 2020</p> <p>If this report is filed by an authorized agent of the Principal Lobbyist, the Principal Lobbyist and the agent are liable for any violations of the Lobbyist Disclosure Law (3 M.R.S.A Chapter 15) that may result from the filing of a false or inaccurate report</p> <p>Unsworn falsification is a Class D crime (17-A M.R.S.A. § 453).</p>	



Commission on Governmental Ethics and Election Practices
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Fax: 207-287-6775

LOBBYIST DISCLOSURE REPORT FOR JULY 2020

LOBBYIST INFORMATION	
JONATHAN COURTNEY Courtney Policy Group 1298 MAIN ST. SANFORD, ME 04073	Telephone: (207) 651-1947 Fax: (207) 651-1947 JON@COURTNEYPOLICYGROUP.COM ID: 11926
CLIENT INFORMATION	
Maine Credit Union League Principal Contact: Rob Caverly 2 Ledgeview Dr. Westbrook, ME 04092	Telephone: (207) 773-5671 rcaverly@mainecul.org
CERTIFICATION	
<p>I, MICHAEL DUNN, affirm that, during the month of the report, the lobbyist named above did not lobby on behalf of the named client and did not make any expenditures in support of lobbying or to or on behalf of any covered official or a family member of a covered official; and that the client received no contributions or payments from another during the month of the report for the purposes of lobbying; and that no information is knowingly withheld to the best of my knowledge.</p> <p>Report Filed by: MICHAEL DUNN Report Filed on: August 18, 2020</p> <p>If this report is filed by an authorized agent of the Principal Lobbyist, the Principal Lobbyist and the agent are liable for any violations of the Lobbyist Disclosure Law (3 M.R.S.A Chapter 15) that may result from the filing of a false or inaccurate report</p> <p>Unsworn falsification is a Class D crime (17-A M.R.S.A. § 453).</p>	

From: [Dunn, Michael](#)
To: ["jon@courtneypolicygroup.com"](mailto:jon@courtneypolicygroup.com)
Subject: Lobbyist Report Reminder
Date: Monday, August 17, 2020 11:38:47 AM

To Whom It May Concern:

Please note that the deadline for filing your monthly Lobbyist Report is 11:59 PM tonight. Failure to file may result in late penalties being assessed. I am available until 5:00 PM tonight if you require any assistance in filing your report. Your accounts that require reports are:

Jonathan Courtney for Maine Credit Union League
Jonathan Courtney for Association for Accessible Medicines

Sincerely,

Michael J. Dunn, Esq.
Political Committee and Lobbyist Registrar
Maine Ethics Commission
135 State House Station
Augusta, Maine 04333
Phone: (207) 287-4179 Fax: (207) 287-6775

Confidentiality Notice | This e-mail message, including any attachments, has been sent from the Commission on Governmental Ethics and is for the sole use of the intended recipient(s). If you are not the intended recipient, you are asked not to distribute this message. If you are not the intended recipient, please delete it and contact the sender by reply e-mail. Thank you.

Title 3 M.R.S.

Current with the Second Regular Session of the 129th Maine Legislature.

§ 317. Reports

Reports required by this section must be on forms prescribed or approved by the commission. The forms must provide for a sworn statement that the persons signing the report acknowledge the truth and completeness of all the information contained therein.

1. Monthly session reports. During the period in which the Legislature is in session, every registered lobbyist shall file with the commission, no later than 11:59 p.m. on the 15th calendar day of each month, a report concerning the lobbyist's activities for the previous month regarding each employer.

Every lobbyist shall report that lobbyist's lobbying activities for each month that the Legislature is in session, even if no lobbying has been performed or compensation or reimbursement for expenses received for the month. In the case of a lobbyist representing multiple employers, if no lobbying or services in support of lobbying were performed, one report listing each employer on whose behalf no lobbying was conducted may be submitted. The monthly report must contain the following information:

- A. The month to which the report pertains;
- B. The name and address of the lobbyist and employer;
- C. The names of the individuals who lobbied during the month;
- D.

The specific dollar amount of compensation received for lobbying activities, as defined in section 312-A, subsection 9, during the month. The amount of compensation received for lobbying officials in the legislative branch, officials in the executive branch and constitutional officers must be reported separately.

In the case of a regular employee, the specific dollar amount must be computed by multiplying the number of hours devoted to the preparation of documents and research for the primary purpose of influencing legislative action and to lobbying by the employee's regular rate of pay based on a 40-hour week;

E. The specific dollar amount of expenditures made or incurred by the lobbyist during the month that is the subject of the report for purposes of lobbying as defined in section 312-A, subsection 9 for which the lobbyist has been or expects to be reimbursed. The amount of expenditures for lobbying officials in the legislative branch, officials in the executive branch and constitutional officers must be reported separately;

E-1. When expenditures for the purposes of indirect lobbying exceed \$ 15,000 during the month that is the subject of the report, the specific dollar amount of expenditures for indirect lobbying made or incurred during the month by a lobbyist, lobbyist associate or employer, with separate totals for expenditure categories as determined by the commission, the legislative

actions that are the subject of the indirect lobbying and a general description of the intended recipients;

F. The total amount of expenditures by the lobbyist or the employer directly to or on behalf of one or more covered officials, including members of the official's immediate family;

G. For any expenditure of money or anything of value made by the lobbyist or employer on behalf of a covered official or a member of the official's immediate family with a total retail value of \$ 25 or more, the name of the official or family member, the person making the expenditure and the date, amount and purpose of the expenditure;

G-1. The date and a description of an event, a list of all officials in the legislative branch or executive branch or members of an official's immediate family in attendance and the total amount of expenditures for the event, if the total amount of the expenditures for officials and family members is \$ 250 or more;

H. A list of each legislative action by Legislative Document number, specific issue, nomination or other matter in connection with which the lobbyist is engaged in lobbying;

I. A list specifically identifying each legislative action for which the lobbyist was compensated or expects to be compensated, or expended in excess of \$ 1,000 for lobbying activities related to those actions and a statement of the amounts compensated or expended for each; and

J. A list of all of the employer's original sources and a statement of the dollar amounts contributed or paid by the original sources to the employer. If the original source is a corporation formed under Title 13 or 13-C or former Title 13-A, nonprofit corporation formed under Title 13-B or limited partnership under Title 31, the corporation, nonprofit organization or limited partnership, not the individual members or contributors, must be listed as the original source.

2. Repealed. Laws 2011, c. 179, § 5.

2-A. Electronic filing. Beginning January 1, 2006, a lobbyist shall file monthly session reports under subsection 1 through an electronic filing system developed by the commission. The commission may make an exception to this electronic filing requirement if a lobbyist submits a written request that states that the lobbyist lacks access to the technology or the technological ability to file reports electronically. The request for an exception must be submitted at least 10 days prior to the deadline for the first report that the lobbyist is required to file for the lobbying year. The commission shall grant all reasonable requests for exceptions.

3. Facsimile copies. The commission may, by rules adopted pursuant to the Maine Administrative Procedure Act, Title 5, chapter 375, establish procedures and fees by which facsimile copies of duly executed reports required by this section may be received and filed with the commission.

4. Monthly nonsession reports. When the Legislature is not in regular session, every registered lobbyist must either file:

A. With the lobbyist's last monthly report for that regular session a statement that the lobbyist will not engage in lobbying activities when the Legislature is not in session. The lobbyist is required to file a monthly report for lobbying activity conducted during a special session; or

B. If the lobbyist is engaged in lobbying in any of those months, a monthly report in the manner prescribed in subsection 1 even if compensation or reimbursement for expenses has not been received for the month.

If the lobbyist did not expect to be engaged in lobbying when the Legislature was not in session, the commission may waive the requirement for the months between the end of the session and the renewal of lobbying.

Title 3 M.R.S.

Current with the Second Regular Session of the 129th Maine Legislature.

§ 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;
- B. An error by the commission; or
- 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.

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.


2. Repealed. Laws 1979, c. 632, § 3.

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.

MEC LOBBYIST NON-SESSION WAIVER REQUEST

1) Select Non-Session Waiver option in the upcoming reports section

Reports Due

Submit Non-Session Waiver 


Report	Period Begin	Period End	Due Date	Status	Action
SEPTEMBER LOBBYIST REPORT	9/1/2020	9/30/2020	10/15/2020	Not Filed	File Long Form File Short Form Check-In
OCTOBER LOBBYIST REPORT	10/1/2020	10/31/2020	11/16/2020	Not Filed	
NOVEMBER LOBBYIST REPORT	11/1/2020	11/30/2020	12/15/2020	Not Filed	

2) Enter the effective date of the Non-Session Waiver and submit the waiver

Please note: If the lobbyist has engaged in any lobbying activities during the month in which this non-session waiver is filed, the lobbyist must file a monthly report.

By clicking **Submit Waiver** I, hereby swear or affirm that I do not expect to be engaged in lobbying after the adjournment of the Second Regular Session of the 129th Legislature, and before December 1, 2020. I therefore request a waiver, effective on the date entered below, of the monthly non-session reporting requirement as provided by 3 M.R.S.A. Section 317(4). I understand that if I resume lobbying activities after the date of adjournment and before December 1, 2020, I must file report(s) as required by 3 M.R.S.A. Section 317(4)(B).

Effective Date of Non-Session Waiver:

Submit Waiver 

3) The system will provide a confirmation page with an option to view the filing

Your filing has been successfully submitted.
To view click the link below.

[Click Here to View Report](#)

Finished

In order to view the reporting forms, you will need to have Adobe Acrobat Reader loaded on your computer.

You can download it for free by clicking on the Get Acrobat Reader image below.

4) The waiver will show-up in the filing history and the status of subsequent reports will change to Waiver Filed.

Reports Due

[Submit Non-Session Waiver](#)

Report	Period Begin	Period End	Due Date	Status	Action
SEPTEMBER LOBBYIST REPORT	9/1/2020	9/30/2020	10/15/2020	Waiver Filed	File Long Form File Short Form Check-In
OCTOBER LOBBYIST REPORT	10/1/2020	10/31/2020	11/16/2020	Waiver Filed	
NOVEMBER LOBBYIST REPORT	11/1/2020	11/30/2020	12/15/2020	Waiver Filed	

Filing History

Report	Period Begin	Period End	Due Date	Filed	Amended	View	Amend Report	Correct	Audit
AUGUST LOBBYIST REPORT	8/1/2020	8/31/2020	9/15/2020	9/12/2020	No	View	Amend		Process
Lobbyist Non-Session Waiver effective as of 07/31/2020	7/31/2020	11/30/2020		8/18/2020	No	View			