



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

Commission Meeting: 12/18/2019
Agenda Item #4

To: Commissioners
From: Michael Dunn, Esq., Political Committee and Lobbyist Registrar
Date: December 11, 2019
Re: Request for Waiver of Late-Filing Penalty by Unite Portland

Unite Portland is a political action committee (PAC) which registered on August 19, 2019 with the Portland City Clerk in opposition to the re-election of Ethan Strimling to the position of Mayor of Portland. Its principal officer is Dory Waxman, who is a former member of the Portland City Council. The PAC hired a political consulting company, TCV Group, LLC, to develop communications to voters opposing Ethan Strimling. These included a website and Facebook page which featured videos of Portland residents explaining their view that Portland needed new leadership. The PAC also paid for online advertising to voters through Facebook.

On September 1 and 26, 2019, the PAC financed these communications by making payments to TCV Group, LLC (“TCV Group”). TCV Group provided consulting services directly to the PAC and paid sub-vendors such as Facebook for advertising and GoDaddy for a web address registration. The PAC was required to file independent expenditure (IE) reports for these websites, videos, and Facebook ads because they were paid communications to the public advocating against Mayor Strimling’s re-election. Unite Portland filed its regular campaign finance reports with the Portland City Clerk but did not file the required IE reports until the Strimling campaign began filing complaints with the Portland City Clerk. Unite Portland filed one IE report on October 21 and filed another IE report on October 24. The preliminary penalties for the two late reports total \$7,052.16. The PAC is requesting a waiver of the penalties.

This matter was referred to the Commission by the Portland City Clerk. The Strimling campaign and Unite Portland filed complaints against each other concerning other compliance issues, but those have been withdrawn. The only enforcement issue currently before you is the late filing of the two IE reports by Unite Portland.

LEGAL REQUIREMENTS

Any person making an IE in excess of \$250 per candidate before September 5th was required to file an IE Report by September 6, 2019. Additionally, any person making the same expense between September 6th and October 22nd was required to file an IE Report within two calendar days. (21-A M.R.S.A. § 1019-B(4), Comm. Rules Ch. 1, § 10(3)). If a committee is late in filing the IE Report, the amount of the penalty is set by a formula which takes into consideration the amount of the transaction, the number of prior violations within a two-year period, and the number of days the report is late. (21-A M.R.S.A. § 1020-A(4-A)).

DISCUSSION

Payments for paid communications. On Sept. 1, 2019, Unite Portland paid \$10,000 to TCV Group. In campaign finance reports subsequently filed with the Portland City Clerk, Unite Portland broke down this payment into the following categories:

- \$20.16 paid to a subvendor, GoDaddy, to register an address for the website
- \$2,979.84 for website development services by TCV Group
- \$3,000.00 for video production services by TCV Group
- \$4,000.00 for campaign consulting services by TCV Group.

TCV Group appears to be a limited liability company operated by political consultant Lance Dutson.

On September 25, 2019, Unite Portland paid \$4,664.00 to TCV Group for the purchase of Facebook ads.

Registration and finance reports filed by Unite Portland. The PAC was registered with the Portland City Clerk on August 19, 2019. Dory Waxman, a former member of the Portland City Council, was listed as the PAC's principal officer. Its treasurer was Elliot Vrana, who is an accountant. Its initial campaign finance report indicated no financial activity.

On October 7, 2019, the PAC filed an October quarterly campaign finance report with the Portland City Clerk. The report was insufficient because it did not identify Facebook and GoDaddy as subvendors, as required by state election law. The report described one payment to

TCV Group as for media production but did not specify TV production and website services. On October 8, 2019, the Strimling Campaign filed an initial complaint against the PAC alleging several deficiencies in the report and the PAC's registration. On October 15, 2019, Unite Portland amended its October quarterly campaign finance report. On October 16, 2019, the Strimling campaign filed a new complaint, which alleged a failure to file IE reports.

On October 21, 2019, the PAC filed an IE Report, disclosing a September 26, 2019 expenditure to Facebook through TCV Group. On October 24, 2019, Unite Portland, after consultation with Commission staff, filed an amended IE report correcting the September 26, 2019 expenditure, and filed another IE report disclosing a September 1, 2019 payment for website development and video production services.¹

Based on the statutory formula for calculating late-filed report penalties, the preliminary penalty amount is \$7,052.16, calculated as follows:

Report Name	Activity Amount	Due Date	Date Filed	Days Late	Penalty Rate	Penalty
60-Day Pre-Election IE Report	\$5,979.84	09/06/2019	10/24/2019	48	2%	\$5,000 ² (Subject to Max)
2-Day IE Report	\$4,664.00	09/29/2019	10/22/2019	22	2% ³	\$2,052.16

TOTAL:

\$ 7,052.16

Waiver request by Unite Portland. On November 18, 2019, Unite Portland requested a waiver of the \$7,052.16 late filing penalty⁴. The PAC contends that: (1) all information was contained in the October 7th Quarterly Report so there was no failure to disclose; (2) once Unite Portland was made aware of the requirement they worked with Commission staff to file the

¹ The initial IE report failed to disclose the spending of the sub-contractor as required by CMR 94-270-001(7).

² The full penalty would be \$5,740.65 without the maximum limitation.

³ Commission staff kept the penalty rate at 2% for the subsequent violation because both violations arise from the same nexus of information.

⁴ The PAC also made an expenditure of \$15,000 on October 21, 2019 but filed a timely IE report on October 22, 2019.

information before the election; and (3) the inexperience of the principal manager and treasurer of the PAC.

STAFF RECOMMENDATION

The Commission staff agrees that a partial waiver of the penalties is warranted in this case, but we do not agree with the PAC's first two arguments. While the Committee disclosed the expenditures in the October 7th report, this disclosure effectively deprived the public of expenditure information for approximately one month. While the PAC worked closely with Commission staff following the complaint, this involved numerous issues with amending campaign finance reports and the filing of IE reports. The Commission staff is also unpersuaded that a waiver should be granted due to the reports having been filed before the election because it is doubtful that the reports would have been filed absent the complaint from the Strimling campaign.

The Commission staff is persuaded that inexperience of the PAC's officers (Dory Waxman and Elliot Vrana) was a contributing factor to the failure to file timely IE reports. The PAC made numerous corrections to their campaign finance reports at the direction of Commission staff (mostly in relation to the failure to report sub-contractor expenditures appropriately). The PAC also disclosed the IE expenditures in their October 7th campaign finance report. This evidence suggests that the PAC did not act with bad intent but that these errors are due to the inexperience of the PAC's officers. We have asked legal counsel to be prepared to describe more specifically Ms. Waxman's and Mr. Vrana's prior campaign experience at your December 18th meeting.

Through its attorney, the Strimling campaign has submitted a letter urging the Commission to triple the penalties, which should total \$29,552. We recommend giving the Strimling campaign's arguments due consideration particularly on the issue of harm to the public, but a penalty of that magnitude would complicate the Commission's ongoing efforts to assess consistent penalties.⁵ Additionally, such a high penalty would serve no purpose as a

⁵ The Strimling campaign points out that the PAC had access to Mr. Lance Dutson, who is the consultant with the TCV corporation (the payee in the IE reports), and who has more experience with campaign finance. His role is not entirely clear to Commission staff. He spoke with Commission staff several times after the filing of the Complaint, but this was generally around the requirements of the Committee to report expenditures by him as a subcontractor. Generally, we do not expect campaign consultants to be responsible for filing financial reports on behalf of a PAC. That duty typically belongs to the officers of the PAC, particularly the treasurer.

deterrent because the late filings resulted from a lack of understanding rather than an intentional wrong doing.

Following your request at the April 2018 meeting, it has been the Commission staff's intention to recommend penalties that are higher than those you assessed previously. In 2018 and 2019 enforcement memoranda, we indicated that we will be assessing penalties of \$750 or more when a PAC files a campaign finance report late. Our intention is that \$750 will be the low-end of the range for penalty recommendations. More serious violations will be higher, but generally we do not expect that they will exceed \$5,000.

In this case, we recommend assessing a penalty of \$1,250 for the first late report (due Sept. 6) and \$750 for the second late report (due Sept. 29), for a total of \$2,000. The recommended penalty for the first late report is higher because financial information concerning video production and website development was withheld from the public for more than a month until the PAC filed its regular campaign finance report on October 7, 2019.

Thank you for your consideration of this memo.

November 18, 2019

***Via Email: michael.dunn@maine.gov
and U.S. Mail***

Michael J. Dunn, Esq.
State of Maine
Commission on Governmental Ethics
and Election Practices
135 State House Station
Augusta, ME 04333-0135

RE: Unite Portland – Penalty for late filing of IE reports

Dear Mr. Dunn:

UnitePortland hereby requests a waiver of the preliminary penalty set out in your letter of November 4, 2019. That proposed penalty totals \$7,052.16. We believe the following circumstances support this request.

First, with respect to the IE report due on September 6, all the information that would have been contained in such a filing was in fact disclosed in UnitePortland's October 7 quarterly report. There was thus no actual failure to disclose.

Second, once UnitePortland became aware of the need to file IE reports, it promptly filed them and worked closely with Commission staff to be sure they were correct. Critically, the filings were all made well before the election at issue so that no campaign or member of the public was deprived of important information before the vote.

Finally, the failure to timely file the required IE reports was simply the result of the inexperience of the principal manager and treasurer of the PAC with independent expenditure PAC's. Neither had had any experience with independent expenditure PAC's prior to UnitePortland. As a result, they were unaware of the separate reporting requirements for PAC's making independent expenditures, *i.e.* the requirement that in addition to the regular reports required of PAC's, an additional, separate independent expenditure report was necessary for this type of PAC. They diligently acted to come into compliance as soon as they became aware of the requirements.

November 18, 2019

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For all these reasons, we request a waiver of the proposed penalty. We do recognize, however, that independent expenditure reports are vitally important to the system of disclosure the Commission administers and that as a result some penalty might be appropriate. In other cases, the Commission has reduced initial penalties as high as \$10,000 to \$1,000 (New Mainers PAC) and we are aware of the staff's proposed guideline penalty of \$750 for late-filed PAC reports. Should a penalty be required, a \$750 penalty under the circumstances here seems appropriate.

I'd be happy to answer any questions or provide further information if that would be helpful.

Sincerely,

A handwritten signature in blue ink that reads "James T. Kilbreth". The signature is written in a cursive style with a large initial "J" and a distinct "K".

James T. Kilbreth

JTK/sab

cc: Dory Waxman

December 9, 2019

Mr. Jonathan Wayne
Executive Director
Maine Commission on Governmental Ethics and Election Practices
135 State House Station
Augusta, Maine 04333

RE: Penalties for Unite Portland's Campaign Finance Violations in the Portland Mayoral Election

Dear Jonathan,

On behalf of the Ethan Strimling for Mayor Campaign, I respectfully request that the Commission fine Unite Portland ("UP") to the fullest extent of the law - \$29,551.68. This penalty is appropriate considering the proximity of the violations to the election; the number of repeated violations; and the political experience and savvy of those involved in UP. These mistakes were not mere slip-ups, they allowed for the public to not be aware of the source of the UP independent expenditures and attack ads for well over a month in the middle of the mayoral election in our State's largest city. Next to statewide races, more money is spent on Portland municipal elections than in any other election in the State, including races for the State House, specifically hundreds of thousands of dollars. Therefore, it is crucial that the Ethics Commission step in when there have been serious violations in these major elections and levy appropriate penalties.

BACKGROUND

The Strimling Campaign originally filed a complaint against UP with the City of Portland on October 8, 2019, a month before the mayoral election, regarding, among other things, the failure of UP to disclose significant independent expenditures, which were funding a communication campaign against Strimling. On that date, the Strimling Campaign requested, pursuant to statute, that the complaint be referred to the Maine Commission on Governmental Ethics and Election Practices ("Ethics Commission"). However, the City did not refer the matter, even when the Strimling Campaign needed to file another complaint against UP on October 16, 2019, after reviewing UP's October amended quarterly report (filed on October 15, 2019). It was not until Saturday, October 26, 2019, ten days before the election when the City Clerk finally referred the complaints to the Ethics Commission.

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At the time the first complaint was filed with Portland, UP still had failed to file any reports for these independent expenditures. It was only after the filing of these complaints did UP file any independent expenditure reports at all, and at this point, one of the reports was a month and a half late and the other report was nearly a month late.

UNITE PORTLAND HID INDEPENDENT EXPENDITURES FROM PUBLIC FOR 48 AND 26 DAYS.

According to 21-A MRSA § 1019-B(4), “A person, party committee, political committee or political action committee that makes any independent expenditure in excess of \$250 during any one candidate's election shall file a report with the commission. In the case of a municipal election, the report must be filed with the municipal clerk.”

An “independent expenditure” is defined in 21-A MRSA § 1019-B(1) as “any expenditure made by a person, party committee, political committee or political action committee, other than by contribution to a candidate or a candidate's authorized political committee, for any communication that expressly advocates the election or defeat of a clearly identified candidate; and is presumed to be any expenditure made to design, produce or disseminate a communication that names or depicts a clearly identified candidate and is disseminated...from Labor Day to a general election day.”

Under section 1020-A, sub-section 4-A, the basis for a penalty for late filing of a campaign finance report 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%.”

UP filed two IE Reports with the City of Portland on October 24, 2019 totaling \$19,664 in expenditures.

1. Late 60-Day Independent Expenditure Report

In the amended October Quarterly finance report filed by UP on 10/15/2019, in Schedule B, UP reported two expenditures on 9/1/2019 that are defined as independent expenditures by statute and, therefore, required the filing of a 60-Day Pre-Election Independent Expenditure Report.

- a. UP states that they spent \$5,979.84 on 9/1/2019 to the TCV Group, LLC for video production and website development. This was reported in Schedule B as an expenditure to oppose Ethan Strimling for Mayor. Because this expense is a payment, “...for any communication that expressly advocates the election or defeat of a clearly identified candidate...” and exceeds \$250, UP was required by law to file an independent expenditure report. According to the independent expenditure reporting schedule, it should have been reported by 5:00 p.m. on 9/6/2016.

December 9, 2019

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- b. UP paid TCV \$4,000 on 9/1/2019 for campaign consulting. This was reported in Schedule B as an expenditure to oppose Ethan Strimling for Mayor. In Dory Waxman's 10/15/2019 letter to the City of Portland she states that UP has retained "a vendor who provides media production and ad placement services." Given that TCV is the only disclosed vendor, this payment has clearly been made to "design, produce, or disseminate" their communications. According to statute "any expenditure made to design, produce or disseminate" a communication that "expressly advocates the election or defeat of a clearly identified candidate" must be filed on an independent expenditure report. According to the independent expenditure reporting schedule, it should have been reported by 5:00 p.m. on 9/6/2016.

UP filed this 60-day Independent Expenditure report on 10/24/2019, but included only the above expenditure (a). Based on the aforementioned fee structure, the penalty for this 48 days late report would be \$9,580.65¹, assuming UP even filed an Independent Expenditure report for the \$4,000, which it did not. However, under § 1020-A(5-A) the maximum penalty for this violation is \$5,000. Under 21-A MRSA § 1004-C the penalty should be enhanced to **\$15,000** given the aggravating circumstances, as the Commission is authorized to triple the penalty when the late filing occurs within 14 days of an election.

2. Late 2-Day Independent Expenditure Report

The second report included a 9/26/2019 \$4,664 expenditure for Facebook ads. This report was due 9/28/2019 and, thus, filed 26 days late. Based on the fee schedule outlined in 21-A MRSA § 1020-A(4-A), the penalty for the late filing is \$4,850.56.² Given this penalty has occurred "within 14 days" of election day, 21-A MRSA § 1004-C authorizes the penalty to be tripled. Thus, the penalty should be assessed at **\$14,551.68**.

Therefore, the Ethics Commission should be seeking a penalty of \$29,551.68.

SUPPORT FOR PENALTY

UP flagrantly ignored multiple Maine statutes and Maine Ethics Commission rules and left the people of the City of Portland in the dark for over a month, not knowing who was expending funds in a covert campaign against Mayor Strimling. Those violations, so close to the election, undoubtably had a significant impact on the outcome of the election.

Those involved in the UP campaign knew better and simply flouted the law. Dory Waxman and her campaign consultants have, collectively, decades of political experience and have managed countless political campaigns. Additionally, a number of donors to the campaign (both direct

¹ Pursuant to §1020-A, a penalty for a late filed expenditure would be: \$9,979.84 (5,979.84 + 4,000) x 2% (first violation) x 48 (number of days late) = \$9,580.65.

² Pursuant to §1020-A, a penalty for a late filed expenditure would be: \$4,664 x 4% (second violation) x 26 (number of days late) = \$4,850.56.

PRETI FLAHERTY

December 9, 2019

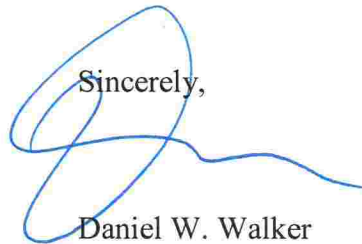
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and inkind) are high profile political individuals. Waxman is a former City Councilor, Treasurer for a past campaign of Mayor Strimling, and has worked within numerous political campaigns. Lance Dutson was UP's primary paid political consultant under the newly formed entity, the TCV Group LLC, and has years of political experience, including as the CEO of the Maine Heritage Policy Center, consultant for a number of Republican candidates, and as Senator Susan Collins' communication director during her 2014 re-election campaign. Elliot Vrana, UP's Treasurer, has been a Treasurer of other PACs involved in Portland elections. They knew exactly how to comply with Maine election law but they chose not to as a matter of political strategy. They calculated that the risk of penalty was worth the reward of winning the election. To assess any fine less than the full penalty available to the Commission would be to send a message for future violations that such brazen disregard of Maine election law is permissible. It would set an unfortunate and dangerous precedent if these multiple violations were not penalized to the fullest extent of the law - through more than \$29,000 in penalties. Portlanders, and Mainers more generally, deserve transparency around PACs trying to influence elections, and Unite Portland must be held accountable.

Pursuant to the foregoing reasons, Ethan Strimling for Mayor respectfully requests that the Commission fully penalize Unite Portland for its serious failures in complying with Maine election law.

Thank you for your attention to this matter.

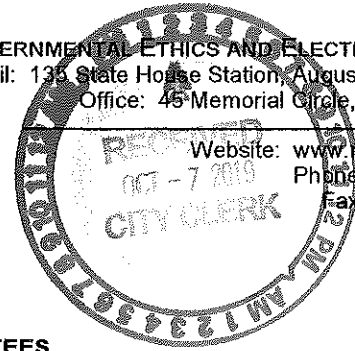
Sincerely,



Daniel W. Walker
Counsel to Ethan Strimling for Mayor

DWW:dal

cc: James T. Kilbreth
Michael E. Carey



2019 CAMPAIGN FINANCE REPORT

FOR POLITICAL ACTION COMMITTEES AND BALLOT QUESTION COMMITTEES

Please complete ALL entries.

NAME OF COMMITTEE	UNITE PORTLAND			<input type="checkbox"/> CHECK IF CHANGED FROM PREVIOUS REPORT
STREET	PO BOX 5200			
CITY AND ZIP CODE	PORTLAND 04101	TELEPHONE NUMBER	(207) 332-4634	
E-MAIL	N/A			
NAME OF TREASURER	ELLIOT VRANA			<input type="checkbox"/> CHECK IF CHANGED FROM PREVIOUS REPORT
MAILING ADDRESS STREET	PO BOX 8778			
CITY AND ZIP CODE	PORTLAND 04104	TELEPHONE NUMBER	(207) 441-1433	
E-MAIL	elliott.vrana@gmail.com			

<u>Type of Report</u>	<u>Due Date</u>	<u>Dates of Report Period</u>
<input type="checkbox"/> Initial	Date of Registration	January 1, 2019 — date of registration
<input type="checkbox"/> April Quarterly	April 10, 2019	January 1, 2019 — March 31, 2019
<input type="checkbox"/> July Quarterly	July 15, 2019	April 1, 2019 — June 30, 2019
<input checked="" type="checkbox"/> October Quarterly	October 7, 2018	July 1, 2019 — September 30, 2019
<input type="checkbox"/> January Quarterly	January 15, 2020	October 1, 2019 — December 31, 2019
<input type="checkbox"/> Amendment to: _____		
<input type="checkbox"/> No Activity Report: Use only if the committee had no contributions and no expenditures and did not incur any unpaid debts or obligations during the reporting period. Check the appropriate report above as well.		
<input type="checkbox"/> Termination Report: If the committee will have no further activity. Check the appropriate report above as well.		

I CERTIFY THAT I HAVE EXAMINED THIS REPORT AND TO THE BEST OF MY KNOWLEDGE IT IS TRUE, CORRECT, AND COMPLETE.

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10/07/2019

Treasurer's Signature

Date **ETH - 7** 03/2019

**SCHEDULE A
CASH CONTRIBUTIONS**

- For contributors who gave more than \$50, the committee must report the contributor's name, address, occupation, and employer.
- If employment information has been requested from the contributor and the contributor has not provided it, indicate "information requested" for the occupation and employer.
- For cash contributions totaling \$50 or less, please enter "unitemized contributions" as the contributor and the total amount and the appropriate key code on a line on this page. Once a contributor has given the committee more than \$50 in a report period, you must list that contributor separately.

DATE RECEIVED	CONTRIBUTOR'S NAME, ADDRESS, ZIP	OCCUPATION AND EMPLOYER	TYPE (use key code)	AMOUNT
08/20/2019	TOM WATSON AND CO 188 STATE ST STE 303 PORTLAND, ME 04101	PORT PROPERTY MANAGEMENT	1	\$5,000
08/20/2019	JAMES & JULIA BRADY PO BOX 7486 PORTLAND, ME 04112	REAL ESTATE MANAGEMENT BRADY ENTERPRISES, INC.	1	5,000
08/20/2019	JED TROUBH 35 PADDOCK WAY FALMOUTH, ME 04105	SELF EMPLOYED REAL ESTATE DEVELOPMENT	1	250
08/20/2019	MICHAEL PIZZO & MARIA TRIVELLIN 88 CHRISTY RD PORTLAND, ME 04103	RETIRED	1	250
08/20/2019	HAROLD PACHIOS 882 SHORE RD CAPE ELIZABETH, ME 04107	LAWYER PRETI FLAHERTY	1	100
09/06/2019	DANIEL & CONNIE HALEY 140 EASTERN PROMENADE PORTLAND, ME 04101	RETIRED	1	250

Total cash contributions (this page only) ⇒ \$10,850
(combined totals from all Schedule A pages must be listed on Schedule F)

Key Codes:

- | | |
|--------------------------------|---------------------------------------|
| 1 = Individuals | 7 = Ballot Question Committee |
| 3 = Commercial Source | 9 = Candidate/Candidate Committees |
| 4 = Non Profit Organization | 10 = General Treasury Transfer |
| 5 = Political Action Committee | 12 = Contributors giving \$50 or Less |
| 6 = Political Party Committee | 16 = Financial Institution |

**SCHEDULE A (continued)
CASH CONTRIBUTIONS**

DATE RECEIVED	CONTRIBUTOR'S NAME, ADDRESS, ZIP	OCCUPATION AND EMPLOYER	TYPE (use key code)	AMOUNT
09/06/2019	CYRUS HAGGE 225 COMMERCIAL ST STE 502 PORTLAND, ME 04101	SELF REAL ESTATE	1	\$2,500
09/26/2019	MARY COSTIGAN 86 CHENERY ST PORTLAND, ME 04103	LAWYER BERNSTEIN SHUR	1	250
09/26/2019	ISA & JAMES RATHBAND PO BOX 17851 PORTLAND, ME 04112	REAL ESTATE BROKER KELLER WILLIAMS REALTY	1	150
09/26/2019	JOAN MORTAY & MICHAEL BRENNAN 49 WELLINGTON RD PORTLAND, ME 04103	STATE OF MAINE STATE LEGISLATOR	1	100
09/26/2019	RACHAEL ALFOND 143 VAUGHAN ST PORTLAND, ME 04102	N/A N/A	1	5000
09/26/2019	THOMAS & CATHERINE WALLACE 68 NEAL ST PORTLAND, ME 04102	SELF-EMPLOYED FREELANCE WRITER	1	100
Total cash contributions (this page only) ⇒				\$8,100
(combined totals from all Schedule A pages must be listed on Schedule F)				

Key Codes:

- | | |
|--------------------------------|---------------------------------------|
| 1 = Individuals | 7 = Ballot Question Committee |
| 3 = Commercial Source | 9 = Candidate/Candidate Committees |
| 4 = Non Profit Organization | 10 = General Treasury Transfer |
| 5 = Political Action Committee | 12 = Contributors giving \$50 or Less |
| 6 = Political Party Committee | 16 = Financial Institution |

**SCHEDULE B - 1
OPERATING EXPENSES**

List all operational expenditures made to a single payee or creditor that were made during this reporting period. Multiple expenditures for bank fees and vehicle travel may be aggregated and listed as a lump sum provided that the time period of the expenditure be identified in the remark section.

EXPENDITURE TYPES			
CON	Contribution to candidate, party or committee	POL	Polling and survey research
CNS	Campaign consultants	POS	Postage for U.S. Mail and mail box fees
EQP	Equipment (office machines, furniture, cell phones)	PRO	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	Printing 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		

! REMARKS REQUIRED FOR ALL EXPENDITURE TYPES !

DATE	PAYEE NAME & ADDRESS	TYPE	REMARKS (REQUIRED)	AMOUNT
09/01/2019	THE TCV GROUP, LLC 201 US ROUTE ONE #131 SCARBOROUGH, ME 04074	CNS	CAMPAIGN CONSULTING AND MEDIA PRODUCTION	\$10,000
09/26/2019	THE TCV GROUP, LLC 201 US ROUTE ONE #131 SCARBOROUGH, ME 04074	CNS	DIGITAL ADVERTISING	4,664

Total expenditures (this page only) ⇒ **\$14,664**
(combined totals from all Schedule B-1 pages must be listed on Schedule F)

PAC/BQC Name: UNITE PORTLAND

**SCHEDULE F
SUMMARY SCHEDULE**

CASH ACTIVITY

Receipts	Total for this Period
1. Cash Contributions (Schedule A)	\$18,950
2. Other Cash Receipts (interest, etc.)	-
3. Loans (Schedule C)	-
4. Total Receipts (lines 1 + 2 + 3)	\$18,950
Expenditures	Total for this Period
5. Expenditures to Support or Oppose (Schedule B)	\$ -
6. Operating Expenditures (Schedule B-1)	14,664
7. Loan Repayment (Schedule C)	-
8. Total Payments (lines 5 + 6 + 7)	\$14,664

CASH SUMMARY

	Total for This Period
9. Cash Balance at Beginning of Period	\$ -
10. Plus Total Receipts This Period (line 4 above)	18,950
11. Minus Total Payments This Period (line 8 above)	(14,664)
12. Cash Balance at End of Period	4,286

OTHER ACTIVITY

	Total for This Period
13. In-Kind Contributions (Schedule A-1)	\$ -
14. Total Loan Balance at End of Period (Schedule C)	-
15. Total Unpaid Debts at End of Period (Schedule D)	-

Memo

To: Kathy Jones <KLJ@portlandmaine.gov>

From: Stephanie Clifford <stephanie@baldaccicomunications.com>

Cc: Melissa Caiazzo <mcaiazzo@portlandmaine.gov>; <cityclerk@portlandmaine.gov>; Benjamin Gagnon <benjaminmgagnon@gmail.com>; Emma Burke <emma.burke@maine.gov>

Date: October 8, 2019

Re: Unite Portland October Quarterly Finance Report and Registration

Given that under 21-A MRSA §§ 1011 and 1053 you, as the municipal clerk, are “responsible for any duty assigned to the commission” in Chapter 13 of Title 21-A as it pertains to municipal elections in Portland, I’m writing to bring to your attention the various errors and irregularities in Unite Portland’s filings.

Unite Portland (“UP”) registered as a PAC with your office on 8/19/2019. They are registered solely to oppose Strimling for Mayor. Dory-Ann Richards Waxman is listed as the Principal Officer and Elliot Thomas Vrana is listed as the treasurer. No other decision-makers or primary fundraisers are listed.

ERRORS IN THE OCTOBER QUARTERLY FINANCE REPORT:

1. Purchases made by a consultant or firm are required to be reported as though the campaign made them directly. UP has attempted to shield all of its expenditures under a single consulting firm, “The TVN Group, LLC.” UP must list any sub-vendor that receives a payment of more than \$50 from a consultant (see attached example from the Maine Ethics Handbook). Ethics Rules further state that “it is the campaign’s responsibility to find out about expenditures made by consultants on the campaign’s behalf and to report those expenditures.”
2. UP has failed to report any expenses associated with their website UnitePortland.org. We know from publicly available domain information that the domain is registered by Domain By Proxy LLC (“DBP”) in Arizona. DPB is a company that is hired to keep the owner of a domain private in the WHOIS directory. The expenditures for DPB and the purchase of the domain itself should be reported.
3. We know from public Facebook disclosure that UP has spent about \$3,200 on Facebook ads during the filing period—including ads that violate 21-A MRSA § 1014’s disclaimer requirements (see attached). However, UP lumps all “digital advertising”

(\$4,664) into one payment to The TCV Group, LLC. The public has no way of knowing where the other almost \$1,400 was spent. UP must list Facebook and any other vendors it has paid for advertising.

4. The PAC lists its address as “PO Box 5200, Portland” on both the registration and finance report. However, there is no expenditure to the United States Postal Service for a PO Box Fee or an In-Kind contribution for the use of another entity’s PO Box.
5. Contributor “Tom Watson and Co” is an LLC registered with the Maine Secretary of State, however the \$5,000 contribution is coded as coming from an individual.
6. Six contributions are listed as coming from two individuals. A single contribution cannot come from two people.
7. UP fails to disclose an occupation or employer for contributor “Rachel Alfond.” “N/A” is not a valid response.
8. UP has incorrectly reported the media production and digital advertising expenses. These should be reported as TVN and WEB, respectively.
9. We do not know if there are any other missing expenditures from the report, but there is a clear pattern demonstrated here of UP trying to hide its spending from the public.

ERRORS IN THE REGISTRATION

The PAC was registered on 8/19/19 and has not filed any amendments. According to 21-A MRSA § 1052-A(1) “a committee shall amend the registration within 10 days of a change in the information.” No amendment to the original registration has been filed. The registration discloses no additional decision-makers or fundraisers other than the principal officer, Dory Waxman. In the signed acknowledgement of responsibilities Waxman agrees to participate in “any spending decisions of the committee” until she resigns or is removed from the committee. However, in a 10/02/2019 Portland Press Herald article, Waxman told a reporter that she was not aware an ad had been removed from Facebook. Additionally she said she would need to “speak with the campaign's social media coordinator to figure out why.”

There are at least four issues with UP’s registration:

1. Waxman has publicly acknowledged she is not involved in all spending decisions of the PAC as is required by 21-A MRSA § 1052-A.
2. State election law and Commission rules require UP’s registration to contain any “individuals who are primarily responsible for making decisions” for the PAC. Waxman has admitted publicly that there is at least one undisclosed decision-maker. Since this social media coordinator is the individual deciding when to spend and stop spending ad money, this individual's name and address must be disclosed on the registration.
3. Whoever the individuals are behind The TCV Group, LLC, (more information below) they must be disclosed by UP on their registration as decision-makers.
4. UP has not disclosed any fundraisers on their registration. 21-A MRSA § 1052-A requires the committee to disclose the individuals who are “primarily responsible for

raising contributions for the committee.” The PAC has raised \$18,950 and must disclose any individual who solicited any of those contributions on behalf of the PAC.

THE TCV GROUP, LLC

The only payee on Unite Portland’s Finance Report is The TCV Group, LLC (TCV). TCV is being used to shield all sub-vendors and additional payees of the PAC. Commission Rules and State Statute require UP to report expenditures made on behalf of the PAC by a consultant as though the campaign made them directly (see attached example from the Maine Ethics Handbook).

What we know about TCV:

1. TCV is an LLC that filed a certificate of formation (attached) with the Maine Secretary of State Division of Corporations on 7/15/2019.
2. The only disclosed registered agent or authorized person is Gregory P Dorr.
 - a. Dorr is an attorney with the Bangor Law Firm Farrell, Rosenblatt, & Russell.
3. TCV’s address is a UPS Box in Scarborough.

TCV does not have to file an annual report with the Maine Secretary of State— which will list the LLC’s officers— until 6/01/2020.

CONCLUSION

Given we are just 4 weeks away from election day, your office—as an agent of the Maine Ethics Commission—must intervene immediately. Public disclosure laws exist for a reason, and Unite Portland cannot be allowed to withhold information they are legally required to reveal to the voters of Portland.


Under 21-A MRSA § 1011(3-A) “if a clerk of a town or city that is governed by this chapter pursuant to Title 30-A, section 2502 becomes aware of a potential violation of this chapter that the clerk considers to be substantial, the clerk may refer the matter to the commission for enforcement. Substantial violations include, but are not limited to...failing to file a report that substantially complies with the disclosure requirements of section 1017.”


We contend that Unite Portland has failed to file a report and a registration that substantially comply with disclosure requirements, and we urge you to refer this matter to the Maine Ethics Commission.

EXAMPLE: REPORTING PAYMENTS MADE TO A VENDOR WHO USED A SUB-VENDOR				
SCHEDULE B – EXPENDITURES				
DATE	NAME OF PAYEE	EXPENDITURE TYPE (use code)	REMARK	AMOUNT
8/10/2019	MEDIA ASSOCIATES	CNS	CONSULTING SERVICES FOR TV AD ; TOTAL PAID TO MEDIA ASSOC. \$32,600	\$1,600
8/10/2019	WMTW TV	TV	PAID BY MEDIA ASSOC ON BEHALF OF THE CAMPAIGN	\$20,000
8/10/2019	WABI TV	TV	PAID BY MEDIA ASSOC ON BEHALF OF THE CAMPAIGN	\$11,000


Source: Guidebook for Political Action Committees & Ballot Question Committees, Commission on Governmental Ethics and Election Practices

● Active
Started running on Aug 30, 2019

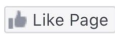
 About social issues, elections or politics

 **Unite Portland**
Sponsored • Paid for by Unite Portland, Elliot Vrana, Treasurer

It's time for a change. It's time for a new mayor.





Unite Portland
Political Organization
232 people like this

 Like Page

Launched September 2019


● Inactive
Sep 30, 2019 - Oct 5, 2019

 About social issues, elections or politics

 **Unite Portland**
Sponsored • Paid for by Unite Portland

"But the progressives who think that that they've seen the real Strimling should talk to the fans of the 2011 Ethan – who wanted to teach us how to say "yes please" and "thank you" to developers – or the "Kumbaya" candidate of 2015.

There's a reason he needs to change costume so often. These acts have a way of getting old, fast."



Source: Facebook, Unite Portland

21-A MRSA § 1014(2): “If the communication has not been authorized by a candidate, a candidate’s authorized political committee, or the candidate’s agents, the communication must clearly and conspicuously state that the communication is not authorized by any candidate and state the name and address of the person who made or financed the expenditure for the communication. “

UNITE PORTLAND



October 15, 2019

Katherine Jones, City Clerk
389 Congress Street
Room 203
Portland, ME 04101

Dear Kathy,

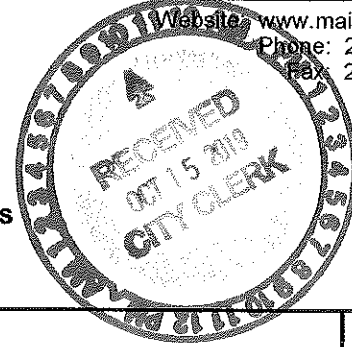
Enclosed is our amended October Quarterly finance report. There were a few categorization errors in our original submission, and we have provided further detail on expenditures to clarify the specific online advertising medium we used:

- Schedule A:
 - o Recategorized donation from Tom Watson and Company as a commercial source;
 - o Updated employer/occupation information for Rachel Alford;
 - o Removed partner names from several donations;
- Schedule A1:
 - o Added an in-kind expenditure for use of post office box;
- Schedule B:
 - o Moved expenditures from Schedule B1 (Operating Expenses) to Schedule B;
 - o Separated vendor payments to detail purchases for website domain and online advertising;

In reference to questions about organizational decision making, our initial registration addressed this appropriately. Unite Portland has a strong base of volunteer support, and there are many Portlanders who have stepped up to provide insight and voice concerns about the future of our city and this mayoral campaign. We also retain a vendor who provides media production and ad placement services. At the end of the day, both our volunteers and our vendors serve at my direction, as the decision maker for the PAC.

Sincerely,

Dory Waxman
Unite Portland



2019 CAMPAIGN FINANCE REPORT

FOR POLITICAL ACTION COMMITTEES AND BALLOT QUESTION COMMITTEES

Please complete ALL entries.

NAME OF COMMITTEE	UNITE PORTLAND			<input type="checkbox"/> CHECK IF CHANGED FROM PREVIOUS REPORT
STREET	PO BOX 5200			
CITY AND ZIP CODE	PORTLAND 04101	TELEPHONE NUMBER	(207) 332-4634	
E-MAIL	N/A			
NAME OF TREASURER	ELLIOT VRANA			<input type="checkbox"/> CHECK IF CHANGED FROM PREVIOUS REPORT
MAILING ADDRESS STREET	PO BOX 8778			
CITY AND ZIP CODE	PORTLAND 04104	TELEPHONE NUMBER	(207) 441-1433	
E-MAIL	elliott.vrana@gmail.com			

<u>Type of Report</u>	<u>Due Date</u>	<u>Dates of Report Period</u>
<input type="checkbox"/> Initial	Date of Registration	January 1, 2019 — date of registration
<input type="checkbox"/> April Quarterly	April 10, 2019	January 1, 2019 — March 31, 2019
<input type="checkbox"/> July Quarterly	July 15, 2019	April 1, 2019 — June 30, 2019
<input type="checkbox"/> October Quarterly	October 7, 2018	July 1, 2019 — September 30, 2019
<input type="checkbox"/> January Quarterly	January 15, 2020	October 1, 2019 — December 31, 2019
<input checked="" type="checkbox"/> Amendment to: <u>OCTOBER QUARTERLY</u>		
<input type="checkbox"/> No Activity Report: Use only if the committee had no contributions and no expenditures and did not incur any unpaid debts or obligations during the reporting period. Check the appropriate report above as well.		
<input type="checkbox"/> Termination Report: If the committee will have no further activity. Check the appropriate report above as well.		

I CERTIFY THAT I HAVE EXAMINED THIS REPORT AND TO THE BEST OF MY KNOWLEDGE IT IS TRUE, CORRECT, AND COMPLETE.

[Handwritten Signature]

10/15/2019

Treasurer's Signature

Date **ETH - 17**
03/2019

**SCHEDULE A
CASH CONTRIBUTIONS**

- For contributors who gave more than \$50, the committee must report the contributor's name, address, occupation, and employer.
- If employment information has been requested from the contributor and the contributor has not provided it, indicate "information requested" for the occupation and employer.
- For cash contributions totaling \$50 or less, please enter "unitemized contributions" as the contributor and the total amount and the appropriate key code on a line on this page. Once a contributor has given the committee more than \$50 in a report period, you must list that contributor separately.

DATE RECEIVED	CONTRIBUTOR'S NAME, ADDRESS, ZIP	OCCUPATION AND EMPLOYER	TYPE (use key code)	AMOUNT
08/20/2019	TOM WATSON AND CO 188 STATE ST STE 303 PORTLAND, ME 04101	PORT PROPERTY MANAGEMENT	3	\$5,000
08/20/2019	JAMES BRADY PO BOX 7486 PORTLAND, ME 04112	REAL ESTATE MANAGEMENT BRADY ENTERPRISES, INC.	1	5,000
08/20/2019	JED TROUBH 35 PADDOCK WAY FALMOUTH, ME 04105	SELF EMPLOYED REAL ESTATE DEVELOPMENT	1	250
08/20/2019	MICHAEL PIZZO 88 CHRISTY RD PORTLAND, ME 04103	RETIRED	1	250
08/20/2019	HAROLD PACHIOS 882 SHORE RD CAPE ELIZABETH, ME 04107	LAWYER PRETI FLAHERTY	1	100
09/06/2019	DANIEL HALEY 140 EASTERN PROMENADE PORTLAND, ME 04101	RETIRED	1	250
Total cash contributions (this page only) =>				\$10,850
(combined totals from all Schedule A pages must be listed on Schedule F)				

Key Codes:

- | | |
|--------------------------------|---------------------------------------|
| 1 = Individuals | 7 = Ballot Question Committee |
| 3 = Commercial Source | 9 = Candidate/Candidate Committees |
| 4 = Non Profit Organization | 10 = General Treasury Transfer |
| 5 = Political Action Committee | 12 = Contributors giving \$50 or Less |
| 6 = Political Party Committee | 16 = Financial Institution |

**SCHEDULE A (continued)
CASH CONTRIBUTIONS**

DATE RECEIVED	CONTRIBUTOR'S NAME, ADDRESS, ZIP	OCCUPATION AND EMPLOYER	TYPE (use key code)	AMOUNT
09/06/2019	CYRUS HAGGE 225 COMMERCIAL ST STE 502 PORTLAND, ME 04101	SELF REAL ESTATE	1	\$2,500
09/26/2019	MARY COSTIGAN 86 CHENERY ST PORTLAND, ME 04103	LAWYER BERNSTEIN SHUR	1	250
09/26/2019	JAMES RATHBAND PO BOX 17851 PORTLAND, ME 04112	REAL ESTATE BROKER KELLER WILLIAMS REALTY	1	150
09/26/2019	MICHAEL BRENNAN 49 WELLINGTON RD PORTLAND, ME 04103	STATE OF MAINE STATE LEGISLATOR	1	100
09/26/2019	RACHAEL ALFOND 143 VAUGHAN ST PORTLAND, ME 04102	HOMEMAKER SELF	1	5000
09/26/2019	THOMAS WALLACE 68 NEAL ST PORTLAND, ME 04102	SELF-EMPLOYED FREELANCE WRITER	1	100
Total cash contributions (this page only) => (combined totals from all Schedule A pages must be listed on Schedule F)				\$8,100

Key Codes:

- | | |
|--------------------------------|---------------------------------------|
| 1 = Individuals | 7 = Ballot Question Committee |
| 3 = Commercial Source | 9 = Candidate/Candidate Committees |
| 4 = Non Profit Organization | 10 = General Treasury Transfer |
| 5 = Political Action Committee | 12 = Contributors giving \$50 or Less |
| 6 = Political Party Committee | 16 = Financial Institution |

**SCHEDULE A-1
IN-KIND CONTRIBUTIONS**

- In-kind contributions are goods and services (including facilities) that a committee received at no cost or at a cost less than the fair market value. They include all goods and services purchased for the committee by others if the committee does not expect to reimburse the person who made the purchase.
- For contributors who gave more than \$50, the committee must report the contributor's name, address, occupation, and employer.
- If employment information has been requested from the contributor and the contributor has not provided it, indicate "information requested" for the occupation and employer.
- For contributions totaling \$50 or less, please enter "unitemized contributions" as the contributor and the total amount and the appropriate key code on a line on this page. Once a contributor has given the committee more than \$50 in a report period, you must list that contributor separately.

DATE RECEIVED	CONTRIBUTOR'S NAME, ADDRESS, ZIP	OCCUPATION AND EMPLOYER	DESCRIPTION (of goods, services, facilities, or discounts received)	TYPE (use key code)	VALUE (estimated fair market value)
09/01/2019	JUSTIN ALFOND 143 VAUGHAN ST PORTLAND, ME 04102	ENTREPRENEUR SELF	POST OFFICE BOX RENTAL FEE	1	\$61.00
Total in-kind contributions (this page only) => (combined totals from all Schedule A-1 pages must be listed on Schedule F)					\$61.00

Key Codes:

- | | |
|--------------------------------|---------------------------------------|
| 1 = Individuals | 7 = Ballot Question Committee |
| 3 = Commercial Source | 9 = Candidate/Candidate Committees |
| 4 = Non Profit Organization | 10 = General Treasury Transfer |
| 5 = Political Action Committee | 12 = Contributors giving \$50 or Less |
| 6 = Political Party Committee | 16 = Financial Institution |

**SCHEDULE B
EXPENDITURES TO SUPPORT OR OPPOSE**

- Enter all expenditures, including cash contributions from this committee, made to support or oppose a candidate, political action committee, ballot question committee, or party committee.
- Enter all expenditures made to support or oppose a ballot question, referendum, or citizen initiative, including expenditures made in the signature-gathering phase.
- Enter the name of the candidate, ballot question, or committee supported or opposed by the expenditure and indicate whether the expenditure was made in support or opposition.

If a single expenditure is made to support or oppose multiple candidates, committees, or ballot questions, the expenditure must be itemized by the amount spent per candidate, committee, or ballot question, not as a single expenditure, and each candidate, committee, or ballot question must be identified.

EXPENDITURE TYPES			
CON	Contribution to candidate, party or committee	POL	Polling and survey research
CNS	Campaign consultants	POS	Postage for U.S. Mail and mail box fees
EQP	Equipment (office machines, furniture, cell phones)	PRO	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	Printing 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		

REMARKS REQUIRED ON ALL EXPENDITURE TYPES!

Date: 09/01/2019	Payee Name and Address: THE TCV GROUP, LLC 201 US ROUTE ONE #131 SCARBOROUGH, ME 04074	Amount
Type: WEB	Remarks (Required): VIDEO PRODUCTION, WEBSITE DEVELOPMENT	\$5,979.84
<input type="checkbox"/> Support <input checked="" type="checkbox"/> Oppose	Candidate Name/Ballot Question: ETHAN STRIMLING FOR MAYOR	
Date: 09/01/2019	Payee Name and Address: THE TCV GROUP, LLC 201 US ROUTE ONE #131 SCARBOROUGH, ME 04074	Amount
Type: CNS	Remarks (Required): CAMPAIGN CONSULTING	4,000.00
<input type="checkbox"/> Support <input checked="" type="checkbox"/> Oppose	Candidate Name/Ballot Question: ETHAN STRIMLING FOR MAYOR	
Total expenditures this page only ⇒ (combined totals from all Schedule B pages must be listed on Schedule F)		\$9,979.84

**SCHEDULE B (continued)
EXPENDITURES TO SUPPORT OR OPPOSE**

Date: 09/01/2019	Payee Name and Address: THE TCV GROUP, LLC 201 US ROUTE ONE #131 SCARBOROUGH, ME 04074	Amount \$20.16
Type: WEB	Remarks (Required): DOMAIN NAME REGISTRATION - GODADDY	
<input type="checkbox"/> Support <input checked="" type="checkbox"/> Oppose	Candidate Name/Ballot Question: ETHAN STRIMLING FOR MAYOR	
Date: 09/26/2019	Payee Name and Address: THE TCV GROUP, LLC 201 US ROUTE ONE #131 SCARBOROUGH, ME 04074	Amount 4,664.00
Type: WEB	Remarks (Required): FACEBOOK ADVERTISING	
<input type="checkbox"/> Support <input checked="" type="checkbox"/> Oppose	Candidate Name/Ballot Question: ETHAN STRIMLING FOR MAYOR	
Date:	Payee Name and Address:	Amount
Type:	Remarks (Required):	
<input type="checkbox"/> Support <input type="checkbox"/> Oppose	Candidate Name/Ballot Question:	
Date:	Payee Name and Address:	Amount
Type:	Remarks (Required):	
<input type="checkbox"/> Support <input type="checkbox"/> Oppose	Candidate Name/Ballot Question:	
Total expenditures this page only ⇒ (combined totals from all Schedule B pages must be listed on Schedule F)		\$4,684.16

PAC/BQC Name: UNITE PORTLAND

**SCHEDULE F
SUMMARY SCHEDULE**

CASH ACTIVITY

Receipts	Total for this Period
1. Cash Contributions (Schedule A)	\$18,950
2. Other Cash Receipts (interest, etc.)	-
3. Loans (Schedule C)	-
4. Total Receipts (lines 1 + 2 + 3)	\$18,950
Expenditures	Total for this Period
5. Expenditures to Support or Oppose (Schedule B)	\$ 14,664
6. Operating Expenditures (Schedule B-1)	-
7. Loan Repayment (Schedule C)	-
8. Total Payments (lines 5 + 6 + 7)	\$14,664

CASH SUMMARY

	Total for This Period
9. Cash Balance at Beginning of Period	\$ -
10. Plus Total Receipts This Period (line 4 above)	18,950
11. Minus Total Payments This Period (line 8 above)	(14,664)
12. Cash Balance at End of Period	4,286

OTHER ACTIVITY

	Total for This Period
13. In-Kind Contributions (Schedule A-1)	\$ 61
14. Total Loan Balance at End of Period (Schedule C)	-
15. Total Unpaid Debts at End of Period (Schedule D)	-

Memo

To: Kathy Jones <KLJ@portlandmaine.gov>

From: Stephanie Clifford <stephanie@baldaccicomunications.com>

Cc: Melissa Caiazzo <mcaiazzo@portlandmaine.gov>; <cityclerk@portlandmaine.gov>; Benjamin Gagnon <benjaminmgagnon@gmail.com>; Emma Burke <emma.burke@maine.gov>; Michael Dunn <michael.dunn@maine.gov>

Date: October 16, 2019

Re: Unite Portland Complaint

After reviewing the initial filings of Unite Portland (“UP”) and their amended report, it is clear that they are continuing to violate state ethics rules and state statutes. Please consider this memo describing the violations as a formal complaint we request be immediately referred to the Maine Commission on Governmental Ethics and Election Practices pursuant to 21-A MRSA § 1011(3-A).

UNITE PORTLAND HAS NOT FILED ANY INDEPENDENT EXPENDITURE REPORTS

According to 21-A MRSA § 1019-B(4), “A person, party committee, political committee or political action committee that makes any independent expenditure in excess of \$250 during any one candidate's election shall file a report with the commission. In the case of a municipal election, the report must be filed with the municipal clerk.”

An “independent expenditure” is defined in 21-A MRSA § 1019-B(1) as “any expenditure made by a person, party committee, political committee or political action committee, other than by contribution to a candidate or a candidate's authorized political committee, for any communication that expressly advocates the election or defeat of a clearly identified candidate; and is presumed to be any expenditure made to design, produce or disseminate a communication that names or depicts a clearly identified candidate and is disseminated...from Labor Day to a general election day.”

In the amended October Quarterly finance report filed by UP on 10/15/2019, in Schedule B, UP reports three expenditures that are defined as independent expenditures by statute and, therefore, required the filing of an independent expenditure report.

1. UP states that they spent \$5,979.84 on 9/1/2019 to the TCV Group, LLC for video production and website development. Because this expense is a payment, “...for any communication that expressly advocates the election or defeat of a clearly identified

candidate...” and exceeds \$250, UP was required by law to file an independent expenditure report. According to the independent expenditure reporting schedule, it should have been reported by 5:00 p.m. on 9/6/2016.

2. UP paid TCV \$4,000 on 9/1/2019 for campaign consulting. According to statute “any expenditure made to design, produce or disseminate” a communication that “expressly advocates the election or defeat of a clearly identified candidate” must be filed on an independent expenditure report. In Dory Waxman’s letter to your office yesterday she states that UP has retained “a vendor who provides media production and ad placement services.” Given that TCV is the only disclosed vendor, this payment has clearly been made to “design, produce, or disseminate” their communications. According to the independent expenditure reporting schedule, it should have been reported by 5:00 p.m. on 9/6/2016.
3. UP expended \$4,664 for Facebook Advertising on 9/26/2019 and this falls within the statute of “...any communication that expressly advocates the election or defeat of a clearly identified candidate...” and, again, the expenditure exceeds \$250. The Reporting language states that any expenditure, “From September 6 through October 22 (60 days before the election) must be reported within 2 calendar days of making the expenditure.”

In addition, we know UP has spent additional money on Facebook ads since filing their last report. Per reporting requirements for independent expenditures, they must file an independent expenditure report within 2 calendar days of making the expenditure.

Through 10/12/2019 UP has spent an additional \$469 on Facebook ads since what was reported on the October Quarterly Filing. At the very least, UP had to spend an additional \$469 on 10/12/2019. Thus, an Independent Expenditure should have been filed by 5pm on 10/14/2019.

OVER \$8,000 AND UP TO \$17,200 IN PENALTIES ASSOCIATED WITH THE ABOVE VIOLATIONS

There are specific statutes that address the fines and/or penalties that are required when a PAC violates the independent expenditure reporting requirements:

21-A MRSA § 1020-A(4-A) states “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 second violation, 4%
- C. For the 3rd and subsequent violations, 6%

The following would be the penalties as defined by statute for UP's late independent expenditure reports as of today:

- 9/1/2019 video production expenditure plus 9/1/2019 consulting expenditure (\$9,979.84 x 2% x 41 days): \$8,183 fine (under § 1020-A(5-A) the maximum penalty for this violation is \$5,000)
- 9/26/2019 Facebook expenditure (\$4,664 x 4% x 19 days): \$3,544.64 fine
- 10/12/2019 Facebook expenditure (\$469 x 6% x 2 days): \$56.28 fine

Additionally, state statute outlines enhanced penalties for violations with aggravating circumstances under 21-A MRSA § 1004-C "when assessing a penalty or monetary sanction, the commission may double the authorized penalty or monetary sanction for a violation occurring less than 28 days prior to an election day and may triple the authorized penalty or monetary sanction for a violation occurring less than 14 days prior to an election day." Given these violations have continued to occur within 28 days of election day, the \$8,600.92 total fines may be doubled to \$17,201.84.

21-A MRSA § 1020-A(3) states that "the municipal clerk...shall notify the commission of any late reports subject to a penalty." Additionally, A(8): states that "the commission [Clerk] shall notify a candidate [PAC] who has failed to file a report required by this subchapter, in writing, informing the candidate [PAC] of the requirement to file a report. The notice must be sent by certified mail. If a candidate [PAC] fails to file a report after 2 notices have been sent by the commission, the commission shall send a final notice by certified mail informing the candidate of the requirement to file and that the matter may be referred to the Attorney General for criminal prosecution. A candidate [PAC] who fails to file a report as required by this subchapter after the commission has sent the notices required by this subsection is guilty of a Class E crime."

LACK OF DISCLOSURE OF DECISION MAKERS AND FUNDRAISERS

UP registered as a PAC with your office on 8/19/2019. They are registered solely to oppose Strimling for Mayor. Dory-Ann Richards Waxman is listed as the Principal Officer and Elliot Thomas Vrana is listed as the treasurer. No other decision-makers or primary fundraisers are listed.

In a letter submitted to your office on 10/15/2019, Dory Waxman doubled-down on the notion that she is the only decision-maker for UP. This claim does not stand up against the facts:

21-A MRSA § 1052-A(2) requires a PAC to disclose on its registration any individuals who are "primarily responsible for making decisions for the committee." Waxman claims in her letter that all other individuals associated with UP serve at her "direction" as the sole decision-maker of UP. However, this is not the standard set out in statute. Waxman may very well be the highest in command, but any other individual who is empowered to make

decisions on behalf of UP *must* be disclosed as a decision-maker. It is clear that such individuals exist.

In the signed acknowledgement of responsibilities Waxman agrees to participate in “any spending decisions of the committee” until she resigns or is removed from the committee. However, in a 10/02/2019 Portland Press Herald article, Waxman told a reporter that she was not aware an ad featuring Avesta Housing CEO Dana Totman had been removed from Facebook. Additionally she said she would need to “speak with the campaign's social media coordinator to figure out why.” In addition, when Waxman was notified of our original complaint, your office communicated to us that she requested additional time to address the complaint because she would “need to get in touch with the UP group.” 8 days elapsed between when our complaint was filed and when UP responded. If she was the sole decision maker, we contend it would not take her 8 days to file an amended report.

In addition to the aforementioned “social media coordinator” we have been told that a consultant from the law firm Drummond Woodsum who has a history of working with PACs in Portland is intimately involved in UP.

There are still at least four issues with UP’s registration:

1. Waxman has publicly acknowledged she is not involved in all spending decisions of the PAC as is required by 21-A MRSA § 1052-A. If she is unaware of ad placement decisions, she is not involved in all spending decisions.
2. State election law and Commission rules require UP’s registration to contain any “individuals who are primarily responsible for making decisions” for the PAC. Waxman has admitted publicly that there is at least one undisclosed decision-maker. Since this social media coordinator is the individual deciding when to spend and stop spending ad money, this individual's name and address must be disclosed on the registration.
3. Whoever the individuals are behind The TCV Group, LLC, (more information below) they must be disclosed by UP on their registration as decision-makers.
4. UP has not disclosed any fundraisers on their registration. Waxman does not address this in her response letter. 21-A MRSA § 1052-A requires the committee to disclose the individuals who are “primarily responsible for raising contributions for the committee.” UP has raised \$18,950 and must disclose any individual who solicited any of those contributions on behalf of the PAC. Waxman is asserting that all \$18,950 was contributed unsolicited by the PAC.

THE TCV GROUP, LLC IS SHIELDING INDIVIDUAL SUB-VENDORS AND CONSULTANTS FROM THE PUBLIC

The only payee on Unite Portland’s Finance Report is The TCV Group, LLC (TCV). TCV appears to be a shell corporation being used to shield all sub-vendors, consultants, and additional payees from the public. Commission Rules and State Statute require UP to report

expenditures made on behalf of the PAC by a consultant as though the campaign made them directly (see attached example from the Maine Ethics Handbook). In Waxman's letter and amendment to the October Quarterly Filing submitted to your office yesterday she asserts that TCV is a one-stop shop consulting firm— whose only address is a UPS mailbox in a strip mall in Scarborough. In addition, there is no website and absolutely no information for this company on the internet. Despite not existing before 7/15/2019, they are allegedly providing UP with campaign management, video production, video editing, graphic design, website design, social media coordination, ad placement, and more—without using any sub-vendors. This does not pass the straight face test. Any other firms, or individuals being paid for their professional services must be disclosed regardless if they are a sub-vendor of TCV.

What we know about TCV:

1. TCV is a LLC that filed a certificate of formation (attached) with the Maine Secretary of State Division of Corporations on 7/15/2019.
2. The only disclosed registered agent or authorized person is Gregory P Dorr.
 - a. Dorr is an attorney with the Bangor Law Firm Farrell, Rosenblatt, & Russell.
3. TCV's address is a UPS Box in Scarborough.

TCV does not have to file an annual report with the Maine Secretary of State— which will list the LLC's officers— until 6/01/2020.

DISCLAIMER VIOLATIONS

Multiple Facebook ads paid for by UP violate 21-A MRSA § 1014's disclaimer requirements (examples attached). If a communication has not been authorized by a candidate, the communication must clearly and conspicuously state that the communication is not authorized by any candidate and state the name and address of the entity that made or financed the expenditure for the communication.

CONCLUSION

We are now less than 3 weeks away from election day— absentee ballots are out and early voting has begun. Unite Portland has flagrantly ignored multiple Maine statutes and Maine Ethics Commission rules. This matter must be referred to the Maine Ethics Commission for immediate investigation and enforcement. Portlanders deserve transparency around PACs trying to influence elections, and Unite Portland must be held accountable.

● Active
Started running on Oct 15, 2019

About social issues, elections or politics

UNITE PORTLAND
Sponsored • Paid for by Unite Portland

Results that matter require priorities that make sense. But when Ethan took office, his focus wasn't on Portland - it was on remodeling his office and hiring himself a speechwriter. Please be sure to Like and Share to make sure Portland voters get the facts.



Launched September 2019


● Inactive
Sep 30, 2019 - Oct 5, 2019

About social issues, elections or politics

UNITE PORTLAND
Sponsored • Paid for by Unite Portland

"But the progressives who think that that they've seen the real Strimling should talk to the fans of the 2011 Ethan - who wanted to teach us how to say "yes please" and "thank you" to developers - or the "Kumbaya" candidate of 2015.

There's a reason he needs to change costume so often. These acts have a way of getting old, fast."




● Active
Started running on Aug 30, 2019

About social issues, elections or politics

UNITE PORTLAND
Sponsored • Paid for by Unite Portland, Elliot Vrana, Treasurer

It's time for a change. It's time for a new mayor.



Unite Portland
Political Organization
232 people like this

Source: Facebook, Unite Portland

21-A MRSA § 1014(2): "If the communication described in subsection 1 is not authorized by a candidate, a candidate's authorized political committee or their agents, the communication must clearly and conspicuously state that the communication is not authorized by any candidate and state the name and address of the person who made or financed the expenditure for the communication... If the communication is in written form, the communication must contain at the bottom of the communication in print that is no smaller in size than 12-point bold print, Times New Roman font, the words 'NOT PAID FOR OR AUTHORIZED BY ANY CANDIDATE.'"

INDEPENDENT EXPENDITURE REPORT – NOVEMBER 5, 2019 MUNICIPAL ELECTION

Name of Person/Committee Making Expenditure(s): UNITE PORTLAND

Mailing Address: PO BOX 5200

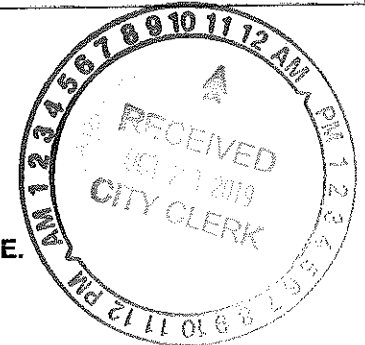
City, State, Zip Code: PORTLAND MAINE 04101 Telephone: _____

Please check the appropriate box for the report you are filing and complete the notarized affidavit and attached schedules. Reports must be filed on Saturday or Sunday. If that is when they are due, please contact the municipal clerk's officer for the procedure for filing by fax or e-mail. The municipal clerk must receive the signed original report within 5 days after the preliminary report was filed.

Check here if this report is an amendment to a previously filed report. Date of original report: _____

Independent Expenditures of more than \$250 per candidate must reported according to the schedule below.

Report	Expenditure Made	Report Due Date
<input type="checkbox"/> 60-Day Pre-Election Report	On or before September 5, 2019	September 6, 2019
<input checked="" type="checkbox"/> 2-Day Report	Between September 6 - October 22, 2019	Within 2 calendar days of making the expenditure
<input type="checkbox"/> 1-Day Report	Between October 23 - November 5, 2019	Within 1 calendar day of making the expenditure



I CERTIFY THAT THE INFORMATION IN THIS REPORT IS TRUE, CORRECT AND COMPLETE.

Dory - Ann Richards Waxman
 Signature of PAC or Party Treasurer, or
 Other Authorized Person Making Expenditure(s)

Oct 22, 2019
 Date

Dory - Ann Richards Waxman

INDEPENDENT EXPENDITURE REPORT – 2019 MUNICIPAL ELECTION

AFFIDAVIT

STATE OF Maine

COUNTY OF Cumberland

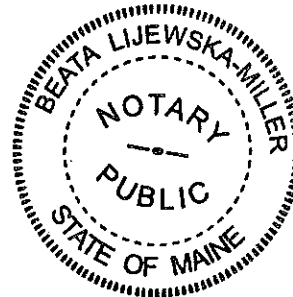
I, Dory-Ann Richards Waxman, being duly sworn, attest that I made each of the expenditures listed in the attached report independently, and not in cooperation, consultation, or concert with, or at the request or suggestion of, any candidate, authorized committee or agent of a candidate in a race affected by any expenditure listed in this report.

Dory-Ann Richards Waxman
Signature of Affiant

Sworn to before me, this 22nd day of October 2019

[Signature]
(Notary Public/Attorney at Law)

My commission expires: August 1st 2021



**Schedule B-IE-1
CANDIDATE(S) SUPPORTED/OPPOSED**

- Please list all candidates that were the subjects of independent expenditures.
- If more than one candidate was the subject of the expenditure, allocate the expenditure among the candidates.

Office sought by candidate (including district # or county)	Candidate's Name	Indicate whether expenditure was made in support of or in opposition to the candidate	Amount expended this reporting period for each candidate
MAYOR	ETHAN STRIMLING	OPPOSITION	\$4664.00
Total expenditures for all candidates this reporting period. <i>This amount should equal the total independent expenditures listed on Schedule B-IE-2, Line C. ⇒</i>			\$4664.00

**Schedule B-IE-2
PAYMENTS AND OBLIGATIONS**

- Please indicate the date, payee, expenditure type, and amount of each expenditure.
- If you are reporting an agreement or obligation to make a future payment, please check (✓) the box next to the expenditure type.

Expenditure Types				
LIT	Printing and graphics (flyers, signs, palmcards, etc.)	PRT	Print media ads only (newspapers, magazines)	
MHS	Mail house (all services purchased)	RAD	Radio ads, production costs	
PHO	Phone banks, automated telephone calls	TVN	TV or cable ads, production costs	
POL	Polling and research survey	WEB	Website design, registration, hosting, maintenance, etc.	
POS	Postage for U.S. Mail and mail box fees	OTH	Other (include description)	
Date of Expenditure	Payee, Address, Zip Code	Expenditure Type	✓	Amount
9/26/19	TCV GROUP LLC 201 US Route 1 #131 Scarborough ME 04074	OTH Facebook ads		\$4664.00
A. Expenditures for this page ⇒				\$4664.00
B. Total for all other Schedule B-IE-2 pages (if any) ⇒				
C. Total independent expenditures for this reporting period (A+B). This amount should equal the total amount for all candidates listed on Schedule B-IE-1. ⇒				\$4664.00



INDEPENDENT EXPENDITURE REPORT – NOVEMBER 5, 2019 MUNICIPAL ELECTION

Name of Person/Committee Making Expenditure(s): UNITE PORTLAND

Mailing Address: PO BOX 5200

City, State, Zip Code: PORTLAND MAINE 04101 Telephone: (207) 332-4634

Please check the appropriate box for the report you are filing and complete the notarized affidavit and attached schedules. Reports must be filed on Saturday or Sunday. If that is when they are due, please contact the municipal clerk's officer for the procedure for filing by fax or e-mail. The municipal clerk must receive the signed original report within 5 days after the preliminary report was filed.

Check here if this report is an amendment to a previously filed report. Date of original report: 10/21/19

Independent Expenditures of more than \$250 per candidate must reported according to the schedule below.

Report	Expenditure Made	Report Due Date
<input type="checkbox"/> 60-Day Pre-Election Report	On or before September 5, 2019	September 6, 2019
<input checked="" type="checkbox"/> 2-Day Report	Between September 6 - October 22, 2019	Within 2 calendar days of making the expenditure
<input type="checkbox"/> 1-Day Report	Between October 23 - November 5, 2019	Within 1 calendar day of making the expenditure

I CERTIFY THAT THE INFORMATION IN THIS REPORT IS TRUE, CORRECT AND COMPLETE.

Douglas - Ann Richard Waxman
 Signature of PAC or Party Treasurer, or
 Other Authorized Person Making Expenditure(s)

Oct 24 2019
 Date

INDEPENDENT EXPENDITURE REPORT – 2019 MUNICIPAL ELECTION

AFFIDAVIT

STATE OF Maine

COUNTY OF Cumberland

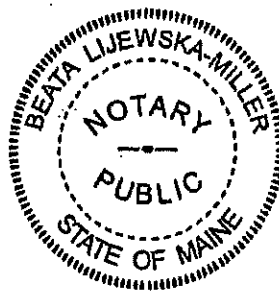
I, Dorcy - Ann Richards Waxman being duly sworn, attest that I made each of the expenditures listed in the attached report independently, and not in cooperation, consultation, or concert with, or at the request or suggestion of, any candidate, authorized committee or agent of a candidate in a race affected by any expenditure listed in this report.

Dorcy - Ann Richards Waxman
Signature of Affiant

Sworn to before me, this 24th day of October 2019

Ciperin
(Notary Public/Attorney at Law)

My commission expires: August 1st 2021



**Schedule B-IE-2
PAYMENTS AND OBLIGATIONS**

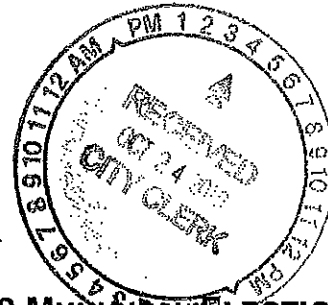
- Please indicate the date, payee, expenditure type, and amount of each expenditure.
- If you are reporting an agreement or obligation to make a future payment, please check (✓) the box next to the expenditure type.

Expenditure Types					
LIT	Printing and graphics (flyers, signs, palmcards, etc.)	PRT	Print media ads only (newspapers, magazines)		
MHS	Mail house (all services purchased)	RAD	Radio ads, production costs		
PHO	Phone banks, automated telephone calls	TVN	TV or cable ads, production costs		
POL	Polling and research survey	WEB	Website design, registration, hosting, maintenance, etc.		
POS	Postage for U.S. Mail and mail box fees	OTH	Other (include description)		
Date of Expenditure	Payee, Address, Zip Code		Expenditure Type	✓	Amount
9/26/19	Facebook 1 Hacker Way Menlo Park, CA 94025	VIA TCV GROUP LLC 201 US Route 1 #131 Scarborough ME 04074	OTH Facebook ads		\$4664.00
A. Expenditures for this page ⇒					\$4664.00
B. Total for all other Schedule B-IE-2 pages (if any) ⇒					
C. Total independent expenditures for this reporting period (A+B). This amount should equal the total amount for all candidates listed on Schedule B-IE-1. ⇒					\$4664.00

Schedule B-IE-1
CANDIDATE(S) SUPPORTED/OPOSED

- Please list all candidates that were the subjects of independent expenditures.
- If more than one candidate was the subject of the expenditure, allocate the expenditure among the candidates.

Office sought by candidate (including district # or county)	Candidate's Name	Indicate whether expenditure was made in support of or in opposition to the candidate	Amount expended this reporting period for each candidate
MAYOR	ETHAN STRIMLING	OPPOSITION	\$4664.00
Total expenditures for all candidates this reporting period. <i>This amount should equal the total independent expenditures listed on Schedule B-IE-2, Line C. ⇒</i>			\$4664.00



INDEPENDENT EXPENDITURE REPORT – NOVEMBER 5, 2019 MUNICIPAL ELECTION

Name of Person/Committee Making Expenditure(s): UNITE PORTLAND

Mailing Address: PO BOX 5200

City, State, Zip Code: PORTLAND MAINE 04101 Telephone: (207) 332-4634

Please check the appropriate box for the report you are filing and complete the notarized affidavit and attached schedules. Reports must be filed on Saturday or Sunday. If that is when they are due, please contact the municipal clerk's officer for the procedure for filing by fax or e-mail. The municipal clerk must receive the signed original report within 5 days after the preliminary report was filed.

Check here if this report is an amendment to a previously filed report. Date of original report: _____

Independent Expenditures of more than \$250 per candidate must reported according to the schedule below.

Report	Expenditure Made	Report Due Date
<input checked="" type="checkbox"/> 60-Day Pre-Election Report	On or before September 5, 2019	September 6, 2019
<input type="checkbox"/> 2-Day Report	Between September 6 - October 22, 2019	Within 2 calendar days of making the expenditure
<input type="checkbox"/> 1-Day Report	Between October 23 - November 5, 2019	Within 1 calendar day of making the expenditure

I CERTIFY THAT THE INFORMATION IN THIS REPORT IS TRUE, CORRECT AND COMPLETE.

Dany-Ann Richards Waxman
Signature of PAC or Party Treasurer, or
Other Authorized Person Making Expenditure(s)

Oct 24 2019
Date

INDEPENDENT EXPENDITURE REPORT – 2019 MUNICIPAL ELECTION

AFFIDAVIT

STATE OF Maine

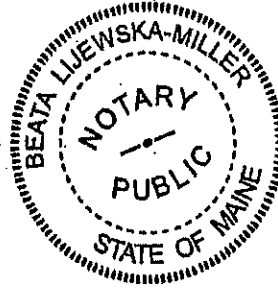
COUNTY OF Cumberland

I, Dory-Ann Richards Waxman being duly sworn, attest that I made each of the expenditures listed in the attached report independently, and not in cooperation, consultation, or concert with, or at the request or suggestion of, any candidate, authorized committee or agent of a candidate in a race affected by any expenditure listed in this report.

Dory-Ann Richards Waxman
Signature of Affiant

Sworn to before me, this 24th day of October 2019

[Signature]
(Notary Public/Attorney at Law)



My commission expires: August 1st 2021

Schedule B-IE-2
PAYMENTS AND OBLIGATIONS

- Please indicate the date, payee, expenditure type, and amount of each expenditure.
- If you are reporting an agreement or obligation to make a future payment, please check (✓) the box next to the expenditure type.

Expenditure Types				
LIT	Printing and graphics (flyers, signs, palmcards, etc.)	PRT	Print media ads only (newspapers, magazines)	
MHS	Mail house (all services purchased)	RAD	Radio ads, production costs	
FHO	Phone banks, automated telephone calls	TVN	TV or cable ads, production costs	
POI	Polling and research survey	WEB	Website design, registration, hosting, maintenance, etc.	
ROS	Postage for U.S. Mail and mail box fees	OTH	Other (include description)	
Date of Expenditure	Payee, Address, Zip Code	Expenditure Type	✓	Amount
9/1/19	TCV GROUP LLC 201 US Route 1 #131 Scarborough ME 04074	WEB		\$2979.84
9/1/19	TCV GROUP LLC 201 US Route 1 #131 Scarborough ME 04074	OTH Video production		\$3000.00
A. Expenditures for this page ⇒				\$5979.84
B. Total for all other Schedule B-IE-2 pages (if any) ⇒				
C. Total independent expenditures for this reporting period (A+B). <i>This amount should equal the total amount for all candidates listed on Schedule B-IE-1.</i> ⇒				\$5979.84

**Schedule B-IE-1
CANDIDATE(S) SUPPORTED/OPPOSED**

- Please list all candidates that were the subjects of independent expenditures.
- If more than one candidate was the subject of the expenditure, allocate the expenditure among the candidates.

Office sought by candidate (including district # or county)	Candidate's Name	Indicate whether expenditure was made in support of or in opposition to the candidate	Amount expended this reporting period for each candidate
MAYOR	ETHAN STRIMLING	OPPOSITION	\$5979.84
Total expenditures for all candidates this reporting period. <i>This amount should equal the total independent expenditures listed on Schedule B-IE-2, Line C. →</i>			\$5979.84



November 4, 2019

James T. Kilbreth, Esq.
Drummond Woodsum
84 Marginal Way, Suite 600
Portland, ME 04101-2480

Re: Unite Portland - Penalty for late filing of IE reports

Dear Mr. Kilbreth:

The Commission staff has made a preliminary determination that your client, Unite Portland, was late in filing two (2) Independent Expenditure (IE) reports. IE reports for expenditures made before September 5, 2019 were due on September 6, 2019, and expenditures made after September 6, 2019 but before October 22, 2019, were due within two (2) calendar days of making the expenditure. On September 1, 2019, Unite Portland made expenditures totaling \$5,979.84 to oppose Mr. Ethan Strimling but did not file the IE report until October 24, 2019. On September 26, 2019, Unite Portland made expenditures totaling \$4,664.00 to oppose Mr. Strimling but did not file the IE report until October 22, 2019. Under the Commission's statutes, the late filing of an IE report triggers an enforcement process. Based on the amount of financial activity in the reports, the number of calendar days the reports were late, and any history of violations by Unite Portland, the commission staff has determined that a penalty of **\$7,052.16** is now due. (Please see attached penalty matrix for the calculations).

Unite Portland may make a written request for waiver to the Commission any time within 14 calendar days of the receipt of this notice. The request must contain a full explanation of the reasons the Unite Portland filed late. Upon receiving the request, the Commission staff will schedule the 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 or Clerk staff; (3) failure to receive notice of the filing deadline; or (4) relevant evidence that Unite Portland 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. (21-A M.R.S.A. § 1020-A(2)).

The staff requests that Unite Portland pay the preliminary penalty within 14 days of the date of this letter if it does not intend to request a waiver. Please use the payment receipt below when mailing payments. Payments may also be made online at www.maine.gov/ethics by clicking on the "penalty payment" link. Please call me at (207) 287-4709 or send me an email at michael.dunn@maine.gov if you have any questions.

Sincerely,

Michael J. Dunn

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

Enclosure: payment receipt & penalty matrix

PAYMENT RECEIPT

Mail payment to:

The Maine Ethics Commission
135 State House Station
Augusta, ME 04333

Make checks payable to: "Treasurer, State of Maine."

Ms. Dory Waxman
Unite Portland
PO Box 5200
Portland, ME 04101

Violation: Late IE Reports
Amount Due: \$ 7,052.16

PENALTY MATRIX

Committee Name: Unite Portland
Prior Violations: N/A

Report Name	Activity Amount	Due Date	Date Filed	Days Late	Penalty Rate	Penalty
60-Day Pre-Election IE Report	\$5,979.84	09/05/2019	10/24/2019	48	2%	\$5,000 (Subject to Max)
2-Day IE Report	\$4,664.00	09/29/2019	10/22/2019	22	2%	\$2,052.16

TOTAL:

\$ 7,052.16

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, 2%

For the second violation, 4%

For the third and each subsequent violation, 6%

A penalty begins to accrue at 11:59 p.m. on the day the report is due.

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.

Violations accumulate on reports with filing deadlines in a 2-year period that begins on January

MAXIMUM PENALTIES

21-A M.R.S.A. Section 1020-A

\$5,000 for reports required under section 1019-B, subsection 4,
except that if the financial activity reported late exceeds \$50,000,
the maximum penalty is 100% of the amount reported late.

UNITE PORTLAND

October 17, 2019

Katherine Jones, City Clerk
389 Congress Street
Room 203
Portland, ME 04101

Dear Kathy,

On behalf of Unite Portland, a political action committee formed to engage voters in Portland's mayoral election, I am formally requesting your review of a series of irregularities in the financial reporting of candidate Ethan Strimling. Based on these irregularities, Unite Portland also formally requests that you refer this matter to the Maine Ethics Commission, so that they may determine the extent of potential legal ramifications.

There are numerous concerning issues with Mr. Strimling's campaign finance activity. Below is an overview:

- Progressive Portland is "a nonprofit that has endorsed Strimling for mayor and has helped him raise money," according to the [Portland Press Herald](#).
- Progressive Portland has engaged in online fundraising, messaging, and organizing for Ethan Strimling's campaign. (see attached examples)
- The services Progressive Portland has provided to Strimling's campaign are of value. (see explanation below)
- Progressive Portland's contribution of these valued services represents a clear in-kind donation to Mr. Strimling's campaign.
- However, Progressive Portland has not filed any campaign finance documents detailing their activities in this race.
- In his campaign finance report filed on September 24, 2019, Mr. Strimling did not report any in-kind contributions from Progressive Portland.
- Failing to report in-kind contributions is a violation of Maine campaign finance law.
- In-kind donations that surpass a total value of \$850 are also against the law. By failing to report these contributions, Mr. Strimling is masking a financial transaction that may also be in violation of campaign contribution limits.

The services Progressive Portland has contributed to Ethan Strimling's campaign are of value and are required to be reported as in-kind donations because a) they are executed by a professional political consultant who normally charges for these same services, and b) organizations like Progressive Portland are not exempted by the "volunteer" provision of Maine campaign finance disclosure law:

- Steven Biel is a professional political campaign consultant. His political consulting firm, [Steven Biel Strategies](#), advertises its services as "[email] list growth", "blockbuster online fundraising," "messaging and media strategy," "Distributed organizing and user-generated petitions," and a series of other political campaign services.

- Mr. Biel's email fundraising, organizing, and messaging services were provided to Strimling's campaign by Progressive Portland. Emails were sent on Progressive Portland's letterhead, and were signed by members of the organization - "the Progressive Portland team," as the signature reads.
- Maine finance law allows for individuals to volunteer their professional services to a candidate, but this provision does not cover organizations like Progressive Portland. If Progressive Portland passes on services of value to a campaign at no charge, those services must be reported as in-kind contributions, and they are limited to a total value of \$850.

An important note: It is immaterial whether Progressive Portland received Mr. Biel's professional services by donation or if he was paid. To use an analogy: if someone receives \$100 as a gift, that person still needs to follow finance laws if they give that same \$100 to a campaign. It doesn't matter how they came into the money, what matters is that they contributed an item or service of value to a campaign. This is critical, because otherwise a significant amount of value could be laundered into a campaign by a series of "donations" from one party to the next.

(An easy way to determine the value of the services Progressive Portland provided to the Strimling campaign would be to conduct an examination of Mr. Biel's client invoices. This would enable the city to put a market value on the specifics - email management, email fundraising, message consulting, and organizing - and then determine whether these services aggregate to an amount greater than the \$850 donation limit.)

There are other concerning dynamics in the arrangement between Progressive Portland, Steven Biel, and Ethan Strimling. For instance, both Mr. Strimling's campaign and Progressive Portland share the same return email address. Online fundraising links for both organizations appear to go to the same system, raising possible questions of mixed funds between Progressive Portland and Ethan Strimling's campaign.

Additionally, though Progressive Portland is an active participant in Portland's mayoral election, they have not filed campaign finance reports with the city. That means the financial arrangements between principals, vendors, donors and their organization are hidden from view. Progressive Portland, while acting as Mr. Strimling's de facto campaign and fundraising organization, is using their non-profit status to mask vendor and contributor information that Strimling's campaign is required by law to report.

Political participation in our municipal elections is something we all should encourage. But no one should be operating in the shadows. It is our hope that your office will recognize the concerning, potentially illegal relationships between Progressive Portland and Ethan Strimling, and exercise your best judgment about how to provide the citizens of Portland with the transparency they deserve and are legally entitled to.

Sincerely,

Dory Waxman
Unite Portland

Attachments:

- Email fundraising solicitation from Progressive Portland, 9/7/19
- Campaign email from Ethan Strimling, 7/20/19
- Volunteer organizing email solicitation from Progressive Portland, 9/27/19
- Screen shot, Steven Biel Strategies website, 10/10/19

If you support Clean Elections, please read this now



Inbox x

Progressive Portland <info@email.actionnetwork.org> [Unsubscribe](#)
to me ▾

Sat, Sep 7, 5:45 PM



Dear

Tuesday night was a sad night for democracy.

The Portland City Council voted to kill the Clean Elections ballot initiative for this November's election.

Fair Elections Portland collected more than 8,000 signatures to put Clean Elections on the ballot. But the council killed the initiative anyway, claiming that a Clean Elections program cannot be created without a charter revision--the city-level equivalent of a constitutional amendment.¹

While this is an infuriating setback, the fight is just beginning. Fair Elections Portland is considering a lawsuit to force the city to accept their petitions, and if they do, they will likely win (more on that below).

But lawsuits take time. That's why, to keep Clean Elections alive, it's critical that we re-elect Mayor Ethan Strimling, our pro-Clean Elections mayor.

[Will you make a donation to Mayor Strimling's re-election campaign to make sure we can keep up the fight for Clean Elections after this election?](#)

The city's lawyer, Danielle West-Chuhta, shocked everyone with her recommendation that creating a Clean Elections program requires a charter revision.

Then again, Portland's lawyers have lost in court a lot lately.

In 2014, the City of Portland tried to block citizens from collecting petition signatures for a ballot initiative to save Congress Square Park. The Friends of Congress Square Park sued the city and won. The city was even forced to pay \$50,000 to cover their legal fees.

That same year, the ACLU successfully sued to overrule the city's unconstitutional panhandling ban. Then in 2015, the city was forced to pay damages of \$56,500 to anti-abortion protestors after the Supreme Court ruled that no-protest zones around abortion clinics are unconstitutional.²

If Fair Elections Portland sues the city, they will have a very good chance of winning as well.

You can read a [complete legal analysis here](#), but here's the basic gist: "By no stretch of the imagination does a voluntary public funding provision for candidates constitute a change in governmental structure. Therefore it does not trigger the call for a charter commission and the delay and expense that would result."

But even if Fair Elections Portland wins in court, it's clear that the opponents of Clean Elections in City Hall will do anything to stop us. One of those opponents is Councilor Spencer Thibodeau, who is running against Mayor Strimling. On Tuesday night, he voted to block Clean Elections from going to the ballot, and as mayor he'd have even more power to stop Clean Elections.

That's why it's so crucial that we re-elect Mayor Strimling for a second term.

[Will you donate to help re-elect Mayor Ethan Strimling, Portland's pro-Clean Elections mayor?](#)

Thanks for all you do for Portland!

UNITE PORTLAND PO BOX 5200 PORTLAND, MAINE 04101 UNITEPORTLAND.ORG

ETH - 48

Vicious attacks from the Maine Republican Party Inbox x

Ethan Strimling <info@email.actionnetwork.org> [Unsubscribe](#)
to me ▾

Thu, Jun 20, 9:37 AM ☆ ↶ ⋮

The Maine Republican Party has launched a wave of vicious attacks on me and the entire city of Portland.

Maine GOP Chairman Jason Savage sent a fundraising email last week calling me an "extreme liberal" because I welcomed asylum-seekers fleeing violence and persecution. Vice Chairman Nick Isgro went even further, spewing a bizarre conspiracy theory connecting Portland's immigrants to abortion rights.¹ And who could forget Paul LePage going on Fox News to attack Portland.²

The reason they're attacking us is because we're getting results with our forward-looking, progressive agenda, and it's driving them crazy.

We've improved schools while delivering property tax relief for seniors. We've raised wages while protecting the environment and funded hundreds of units of affordable housing. **And yes, I've stood up for the rights of our immigrant neighbors.**

[Will you help make sure we can keep delivering results that matter by making a donation to my re-election campaign today?](#)

The Maine GOP's attacks on Portland are never-ending.

After the state legislature voted to allow Portland to enact a local sales tax on tourists, GOP operative Matt Gagnon went after me personally, claiming that my plans for property tax relief and to improve public schools were "meaningless doublespeak."³

Well, sorry Matt. You've got the facts wrong.

Under my leadership, Portland has already delivered upwards of \$900 a year in targeted tax relief to seniors who need it most. We passed the best school budget in decades, doubled the number of kids in Pre-K, and passed a \$64 million bond to renovate the city's four crumbling elementary schools.

But that's just the beginning.

Our unemployment rate is 2.7 percent. We delivered higher wages by making sure city contractors pay workers fairly. We secured funding for hundreds of new affordable housing units. We installed the biggest solar array in the city's history.

Republicans don't want Maine people to know about these successes because other parts of the state might follow our lead. So instead of trying to learn from Portland, they resort to personal insults and race-baiting attacks on immigrants.

[Lance, I will never stop fighting to deliver results that matter or give in to the attacks of the Maine Republican Party. Will you join with me by making a donation to my re-election today?](#)

In unity,

Ethan Strimling
Mayor of Portland

Canvass for Mayor Strimling THIS WEEKEND! Inbox x



Progressive Portland <info@email.actionnetwork.org>
to me ▾

Fri, Sep 27, 6:24 PM (13 days ago)



Mayor Ethan Strimling has gotten results that matter as a champion for schools, workers, and clean elections.

But now a corporate PAC spending big on attack ads to defeat him for re-election, and if we want to keep making progress on these issues, we need to step up.

Starting this weekend, Team Strimling will be organizing volunteer door-to-door canvassing events every Saturday morning from 9 to noon and every Sunday from 3 to 6. We'll meet at Think Tank, the co-working space at 533 Congress St.

[Will you sign up to canvass to re-elect Mayor Ethan Strimling?](#)

The contrast between the candidates for mayor couldn't be stronger.

Ethan Strimling strongly supported clean elections, Spencer Thibodeau voted against it and Kate Snyder says she would have done the same thing.

Ethan championed paid sick leave, Spencer voted against it, and Kate Snyder says she would have done the same thing.

Ethan led the effort to pass the 4-school bond, and Spencer said he wanted to cut the bond by more than a third. Kate Snyder took no position on the 4-school bond at all.

Ethan has stuck his neck out, worked his butt off, and achieved results that matter for us—working people, immigrants, students, and seniors. Now, it's our turn to pound the pavement for him and help get the word out to voters across the city—which is especially important.

Canvassing door-to-door is one of the most effective ways to make a difference and win in November. It may sound intimidating but really it can be so rewarding to meet your neighbors and talk about how we can determine the future of our city, together.

Please join us on Saturday from 9-12 or Sunday from 3-6 at 533 Congress St. for an overview of the campaign, training, and canvassing. If you can't make any of these times, please click reply to this email and we'll work with you to canvass another time.

We need Ethan fighting for us. But it's going to take all of us coming together to make it happen.

SIGN UP HERE: <https://forms.gle/31WmgYQQj7q8kkmq5>

Thanks for all you do for **Portland**.

–Timmi, Jim, John, Steven, and the **Progressive Portland** team



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Consulting for progressive non-profits.



- Blockbuster online fundraising
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- Data analysis
- Messaging and media strategy
- Distributed organizing and user-generated petitions

Steven Biel Strategies
31 Cushman St.
Portland, ME
steven at stevenbielstrategies.com

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City Clerk
Katherine L. Jones

October 26, 2019

Mr. Jonathan Wayne
Ethics Commission Executive Director
135 State House Station
Augusta, ME 04333

Dear Mr. Wayne;

As we previously discussed, I am writing to inform you that there have been two (2) complaints filed with the Portland City Clerk's office. One complaint has been filed by the Ethan Stirmling Mayoral campaign against Unite Portland (a Political Action Committee), and the other has been filed by Unite Portland against the Ethan Strimling campaign. A copy of both complaints are attached hereto.

By way of this letter, I am referring the above-referenced complaints to the Ethics Commission. Maine law allows me to make such referrals when the complaints involved are substantial in nature. See 21-A M.R.S. section 1011(3-A). Since these complaints involve allegations of failure to file a required report and to report monetary campaign contributions, they have risen to such a level as to require review by the Commission under the aforementioned statute.

Please feel free to contact me at (207) 874-8614 or klj@portlandmaine.gov if you have any questions or require any additional information.

Sincerely,

Katherine L. Jones
City Clerk

Encls.

Cc: The Ethan Strimling Campaign; and
UnitePortland

Past Commission Determinations for Late PAC Filings

From April 2018 to Present

Committee	Report	Report Due	Preliminary Penalty	Staff Recommendation	Determination	Date of Meeting
Maine United Auto Worker's Council PAC	2018 January Quarterly	1/16/2019	\$ 400.00	\$ 400.00	\$ 400.00	4/25/2018
Fecteau Leadership PAC	24-Hour Report	6/5/2018	\$ 400.00	\$ 400.00	\$ 400.00	8/29/2018
Maine Health Care Association PAC	24-Hour Report	6/1/2018	\$ 2,760.00	\$ 500.00	\$ 500.00	8/29/2018
New Mainers PAC	24-Hour Report	11/2/2018	\$ 10,000.00	\$ 1,000.00	\$ 1,000.00	3/6/2019

Title 21-A Maine Revised Statutes

§ 1014. Publication or distribution of political communications

1. Authorized by candidate. Whenever a person makes an expenditure to finance a communication expressly advocating the election or defeat of a clearly identified candidate through broadcasting stations, cable television systems, newspapers, magazines, campaign signs or other outdoor advertising facilities, publicly accessible sites on the Internet, direct mails or other similar types of general public political advertising or through flyers, handbills, bumper stickers and other nonperiodical publications, the communication, if authorized by a candidate, a candidate's authorized political committee or their agents, must clearly and conspicuously state that the communication has been so authorized and must clearly state the name and address of the person who made or financed the expenditure for the communication. A communication financed by a candidate or the candidate's committee is not required to state the address of the candidate or committee that financed the communication. If a communication that is financed by someone other than the candidate or the candidate's authorized committee is broadcast by radio, only the city and state of the address of the person who financed the communication must be stated.

2. Not authorized by candidate. If the communication described in subsection 1 is not authorized by a candidate, a candidate's authorized political committee or their agents, the communication must clearly and conspicuously state that the communication is not authorized by any candidate and state the name and address of the person who made or financed the expenditure for the communication, except that a communication broadcast by radio is only required to state the city and state of the address of the person that financed the communication. If the communication is in written form, the communication must contain at the bottom of the communication in print that is no smaller in size than 12-point bold print, Times New Roman font, the words "NOT PAID FOR OR AUTHORIZED BY ANY CANDIDATE."

2-A. Other communications. Whenever a person makes an expenditure to finance a communication that names or depicts a clearly identified candidate and that is disseminated during the 28 days, including election day, before a primary election, during the 35 days, including election day, before a special election or during the period of time from Labor Day to the election day for a general election through the media described in subsection 1, the communication must state the name and address of the person who made or financed the communication and a statement that the communication was or was not authorized by the candidate, except that a communication broadcast by radio is only required to state the city and state of the address of the person that financed the communication. The disclosure is not required if the communication was not made for the purpose of influencing the candidate's nomination for election or election.

2-B. Top 3 funders; independent expenditures. A communication that is funded by an entity making an independent expenditure as defined in section 1019-B, subsection 1 must conspicuously include the following statement:

"The top 3 funders of (name of entity that made the independent expenditure) are (names of top 3 funders)."

The information required by this subsection may appear simultaneously with any statement required by subsection 2 or 2-A. A communication that contains a visual aspect must include the statement in written text. A communication that does not contain a visual aspect must include an audible statement. This statement is required only for communications made through broadcast or cable television, broadcast radio, Internet audio programming, direct mail or newspaper or other periodical publications.

A cable television or broadcast television communication must include both an audible and a written statement. For a cable television or broadcast television communication 30 seconds or less in duration, the audible statement may be modified to include only the single top funder.

The top funders named in the required statement consist of the funders providing the highest dollar amount of funding to the entity making the independent expenditure since the day following the most recent general election day.

A. For purposes of this subsection, “funder” includes:

- (1).** Any entity that has made a contribution as defined in section 1052, subsection 3 to the entity making the independent expenditure since the day following the most recent general election day; and
- (2)** Any entity that has given a gift, subscription, loan, advance or deposit of money or anything of value, including a promise or agreement to provide money or anything of value whether or not legally enforceable, except for transactions in which a fair value is given in return, since the day following the most recent general election day.

B. If funders have given equal amounts, creating a tie in the ranking of the top 3 funders, the tie must be broken by naming the tying funders in chronological order of the receipt of funding until 3 funders are included in the statement. If the chronological order cannot be discerned, the entity making the independent expenditure may choose which of the tying funders to include in the statement. In no case may a communication be required to include the names of more than 3 funders.

C. The statement required under this subsection is not required to include the name of any funder who has provided less than \$1,000 to the entity making the independent expenditure since the day following the most recent general election day.

D. If only one or 2 funders must be included pursuant to this subsection, the communication must identify the number of funders as "top funder" or "top 2 funders" as appropriate. If there are no funders required to be included under this subsection, no statement is required.

E. When compiling the list of top funders, an entity making an independent expenditure may disregard any funds that the entity can show were used for purposes unrelated to the candidate mentioned in the communication on the basis that funds were either spent in the order received or were strictly segregated in other accounts.

F. In any communication consisting of an audio broadcast of 30 seconds or less or a print communication of 20 square inches or less, the requirements of this subsection are satisfied by including the name of the single highest funder only.

G. If the list of funders changes during the period in which a recurring communication is aired or published, the statement appearing in the communication must be updated at the time that any additional payments are made for that communication.

H. The commission may establish by routine technical rule, adopted in accordance with Title 5, chapter 375, subchapter 2-A, forms and procedures for ensuring compliance with this subsection. Rules adopted pursuant to this paragraph must ensure that the information required by this subsection is effectively conveyed for a sufficient duration and in a sufficient font size or screen size where applicable without undue burden on the ability of the entity to make the communication. The rules must also provide an exemption for types of communications for which the required statement would be impossible or impose an unusual hardship due to the unique format or medium of the communication.

3. Broadcasting prohibited without disclosure. No person operating a broadcasting station or cable television system within this State may broadcast any communication, as described in subsections 1 to 2-A, without an oral or written visual announcement of the disclosure required by this section.

3-A. In-kind contributions of printed materials. A candidate, political committee or political action committee shall report on the campaign finance report as a contribution to the candidate, political committee or political action committee any contributions of in-kind printed materials to be used in the support of a candidate or in the support or defeat of a ballot question. Any in-kind contributions of printed materials used or distributed by a candidate, political committee or political action committee must include the name or title of that candidate, political committee or political action committee as the authorizing agent for the printing and distribution of the in-kind contribution.

3-B. Newspapers. A newspaper may not publish a communication described in subsections 1 to 2-A without including the disclosure required by this section. For purposes of this subsection, “newspaper” includes any printed material intended for general circulation or to be read by the general public, including a version of the newspaper displayed on a website owned or operated by the newspaper. When necessary, a newspaper may seek the advice of the commission regarding whether or not the communication requires the disclosure.

4. Enforcement. A violation of this section may result in a civil penalty of no more than 100% of the amount of the expenditure in violation, except that an expenditure for yard signs lacking the required information may result in a maximum civil penalty of \$ 200. In assessing a civil penalty, the commission shall consider, among other things, how widely the communication was disseminated, whether the violation was intentional, whether the violation occurred as the result of an error by a printer or other paid vendor and whether the communication conceals or misrepresents the identity of the person who financed it. If the person who financed the communication or who committed the violation corrects the violation within 10 days after receiving notification of the violation from the commission by adding the missing information to the communication, the commission may decide to assess no civil penalty.

5. Telephone calls. Prerecorded automated telephone calls and scripted live telephone communications that name a clearly identified candidate during the 28 days, including election day, before a primary election, during the 35 days, including election day, before a special election or during the period of time from Labor Day to the general election day for a general election must

clearly state the name of the person who made or financed the expenditure for the communication and whether the communication was authorized by a candidate, except for prerecorded automated telephone calls paid for by the candidate that use the candidate's voice in the telephone call and that are made in support of that candidate. Telephone surveys that meet generally accepted standards for polling research and that are not conducted for the purpose of influencing the voting position of call recipients are not required to include the disclosure.

6. Exclusions. The requirements of this section do not apply to:

- A.** Handbills or other literature produced and distributed at a cost not exceeding \$ 100 and prepared by one or more individuals who are not required to register or file campaign finance reports with the commission and who are acting independently of and without authorization by a candidate, candidate's authorized campaign committee, party committee, political action committee or ballot question committee or an agent of a candidate, candidate's authorized campaign committee, party committee, political action committee or ballot question committee;
- B.** Campaign signs produced and distributed at a cost not exceeding \$ 100, paid for by one or more individuals who are not required to register or file campaign finance reports with the commission and who are acting independently of and without authorization by a candidate, candidate's authorized campaign committee, party committee, political action committee or ballot question committee or an agent of a candidate, candidate's authorized campaign committee, party committee, political action committee or ballot question committee;
- C.** Internet and e-mail activities costing less than \$ 100, as excluded by rule of the commission, paid for by one or more individuals who are not required to register or file campaign finance reports with the commission and who are acting independently of and without authorization by a candidate, candidate's authorized campaign committee, party committee, political action committee or ballot question committee or an agent of a candidate, candidate's authorized campaign committee, party committee, political action committee or ballot question committee;
- D.** Communications in which the name or address of the person who made or authorized the expenditure for the communication would be so small as to be illegible or infeasible, including communications on items such as ashtrays, badges and badge holders, balloons, campaign buttons, clothing, coasters, combs, emery boards, envelopes, erasers, glasses, key rings, letter openers, matchbooks, nail files, noisemakers, paper and plastic cups, pencils, pens, plastic tableware, 12-inch or shorter rulers, swizzle sticks, tickets to fund-raisers and similar items determined by the commission to be too small and unnecessary for the disclosures required by this section and in electronic media advertisements where compliance with this section would be impractical due to size or character limitations; and
- E.** Campaign signs that are financed by the candidate or candidate's authorized committee and that clearly identify the name of the candidate and are lettered or printed individually by hand

§ 1019-B. Reports of independent expenditures

1. Independent expenditures; definition. For the purposes of this section, an “independent expenditure”:

A. Is any expenditure made by a person, party committee or political action committee, other than by contribution to a candidate or a candidate’s authorized political committee, for any communication that expressly advocates the election or defeat of a clearly identified candidate; and

B. Is presumed to be any expenditure made to design, produce or disseminate a communication that names or depicts a clearly identified candidate and is disseminated during the 28 days, including election day, before a primary election; during the 35 days, including election day, before a special election; or from Labor Day to a general election day.

2. Rebutting presumption. A person presumed under this section to have made an independent expenditure may rebut the presumption by filing a signed written statement with the commission within 48 hours of disseminating the communication stating that the cost was not incurred with the intent to influence the nomination, election or defeat of a candidate, supported by any additional evidence the person chooses to submit. The commission may gather any additional evidence it deems relevant and material and shall determine by a preponderance of the evidence whether the cost was incurred with intent to influence the nomination, election or defeat of a candidate.

3. Report required; content; rules. [2009, c. 524, § 6 (RPR); MRSAT. 21-A, § 1019-B, sub—§ 3 (RP).]

4. Report required; content; rules. A person, party committee or political action committee that makes any independent expenditure in excess of \$250 during any one candidate’s election shall file a report with the commission. In the case of a municipal election, the report must be filed with the municipal clerk.

A. A report required by this subsection must be filed with the commission according to a reporting schedule that the commission shall establish by rule that takes into consideration existing campaign finance reporting requirements. Rules adopted pursuant to this paragraph are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

B. A report required by this subsection must contain an itemized account of each expenditure in excess of \$250 in any one candidate’s election, the date and purpose of each expenditure and the name of each payee or creditor. The report must state whether the expenditure is in support of or in opposition to the candidate and must include, under penalty of perjury, as provided in Title 17-A, section 451, a statement under oath or affirmation whether the expenditure is made in cooperation, consultation or concert with, or at the request or suggestion of, the candidate or an authorized committee or agent of the candidate.

C. A report required by this subsection 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. The commission may adopt procedures requiring the electronic filing of an independent expenditure report, as long as the commission receives the statement made under oath or affirmation set out in paragraph B by the filing deadline and the commission adopts an exception for persons who lack access to the required

technology or the technological ability to file reports electronically. The commission may adopt procedures allowing for the signed statement to be provisionally filed by facsimile or electronic mail, as long as the report is not considered complete without the filing of the original signed statement.

5. Exclusions. An independent expenditure does not include:

- A.** An expenditure made by a person in cooperation, consultation or concert with, or at the request or suggestion of, a candidate, a candidate's political committee or their agents;
- B.** A telephone survey that meets generally accepted standards for polling research and that is not conducted for the purpose of changing the voting position of the call recipients or discouraging them from voting;
- C.** A telephone call naming a clearly identified candidate that identifies an individual's position on a candidate, ballot question or political party for the purpose of encouraging the individual to vote, as long as the call contains no advocacy for or against any candidate; and
- D.** A voter guide that consists primarily of candidates' responses to surveys and questionnaires and that contains no advocacy for or against any candidate.

§ 1020-A. Failure to file on time

1. Registration. A candidate that fails to register the name of a candidate, treasurer or political committee with the commission within the time allowed by section 1013-A, subsection 1 may be assessed a forfeiture of \$100. The commission shall determine whether a registration satisfies the requirements for timely filing under section 1013-A, subsection 1.

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 7, the commission shall determine whether a report satisfies the requirements for timely filing. The commission may waive a penalty in whole or in part if the commission determines that the penalty is disproportionate to the size of the candidate's campaign, the level of experience of the candidate, treasurer or campaign staff or 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 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;
- C.** Failure to receive notice of the filing deadline; or
- D.** 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. Municipal campaign finance reports. Municipal campaign finance reports must be filed, subject to all the provisions of this subchapter, with the municipal clerk on forms prescribed by the Commission on Governmental Ethics and Election Practices. The municipal clerk shall send any notice of lateness required by subsection 6 and shall notify the commission of any late reports subject to a penalty.

4. Repealed. Pursuant to its terms, eff. Aug. 1, 2002.

4-A. 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 \$ 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 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 registration or report may be provisionally filed by transmission of a facsimile copy of the duly executed report to the commission, as long as the facsimile copy is filed by the applicable deadline and an original of the same report is received by the commission within 5 calendar days thereafter.

5. Repealed. Pursuant to its terms, eff. Aug. 1, 2002.

5-A. Maximum penalties. Penalties assessed under this subchapter may not exceed:

A. Five thousand dollars for reports required under section 1017, subsection 2, paragraph B, C, D, E or H; section 1017, subsection 3-A, paragraph B, C, D, D-1 or F; and section 1017, subsection 4, 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;

A-1. Five thousand dollars for reports required under section 1019-B, subsection 4, 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;

B. Five thousand dollars for state party committee reports required under section 1017-A, subsection 4-A, paragraphs A, B, C and E, 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;

C. One thousand dollars for reports required under section 1017, subsection 2, paragraphs A and F and section 1017, subsection 3-A, paragraphs A and E; or

D. Five hundred dollars for municipal, district and county committees for reports required under section 1017-A, subsection 4-B.

E. Repealed. Laws 2011, c. 558, § 5.

6. Request for a commission determination. If the commission staff finds that a candidate or political committee has failed to file a report required under this subchapter, the commission staff shall mail a notice to the candidate or political committee within 3 business days following the filing deadline informing the candidate or political committee that a report was not received. If a candidate or a political committee files a report required under this subchapter late, a notice of preliminary penalty must be sent to the candidate or political committee whose registration or campaign finance report was not received by 11:59 p.m. on the deadline date, informing the candidate or political committee of the staff finding of violation and preliminary penalty calculated under subsection 4-A and providing the candidate or political committee with an opportunity to request a determination by the commission. Any request for a determination must be made within 14 calendar days of receipt of the commission's notice. A candidate or political committee requesting a determination may either appear in person or designate a representative to appear on the candidate's or political committee'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.

7. Final notice of penalty. If a determination has been requested by the candidate or political committee and made by the commission, notice of the commission's final determination and the penalty, if any, imposed pursuant to this subchapter must be sent to the candidate and the political 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 candidate and treasurer. A detailed summary of all notices must be provided to the commission.

8. Failure to file report. The commission shall notify a candidate who has failed to file a report required by this subchapter, in writing, informing the candidate of the requirement to file a report. The notice must be sent by certified mail. If a candidate fails to file a report after 2 notices have been sent by the commission, the commission shall send a final notice by certified mail informing the candidate of the requirement to file and that the matter may be referred to the Attorney General for criminal prosecution. A candidate who fails to file a report as required by this subchapter after the commission has sent the notices required by this subsection is guilty of a Class E crime.

8-A. Penalties for failure to file report. The penalty for failure to file a report required under this subchapter may not exceed the maximum penalties as provided in subsection 5-A.

9. List of late-filing candidates. The commission shall prepare a list of the names of candidates who are late in filing a report required under section 1017, subsection 2, paragraph C or D or section 1017, subsection 3-A, paragraph B or C within 30 days of the date of the election and shall make that list available for public inspection.

10. 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.

§ 1052-A. Registration

A political action committee shall register with the commission and amend its registration as required by this section. A registration is not timely filed unless it contains all the information required in this section.

1. Deadlines to file and amend registrations. A political action committee shall register and file amendments with the commission according to the following schedule.

A. A political action committee as defined under section 1052, subsection 5, paragraph A, subparagraph (1) or (4) that receives contributions or makes expenditures in the aggregate in excess of \$1,500 and a political action committee as defined under section 1052, subsection 5, paragraph A, subparagraph (5) that receives contributions or makes expenditures in the aggregate in excess of \$5,000 for the purpose of influencing the nomination or election of any candidate to political office shall register with the commission within 7 days of exceeding the applicable amount.

B. A committee shall amend the registration within 10 days of a change in the information that committees are required to disclose under this section.

C. A committee shall file an updated registration form between January 1st and March 1st of each year in which a general election is held. The commission may waive the updated registration requirement for a newly registered political action committee or other registered political action committee if the commission determines that the requirement would cause an administrative burden disproportionate to the public benefit of the updated information.

2. Disclosure of treasurer and officers. A committee must have a treasurer and a principal officer. The same individual may not serve in both positions. The committee's registration must contain the names and addresses of the following individuals:

A. The treasurer of the committee;

B. A principal officer of the committee;

C. Any other individuals who are primarily responsible for making decisions for the committee;

D. The individuals who are primarily responsible for raising contributions for the committee; and

E. The names of any other candidates or Legislators who have a significant role in fund-raising or decision-making for the committee.

3. Other disclosure requirements. A committee's registration must also include the following information:

A. A statement indicating the specific candidates, categories of candidates or campaigns that the committee expects to support or oppose;

- B.** If the committee is formed to influence the election of a single candidate, the name of that candidate;
- C.** The form or structure of the organization, such as a voluntary association, membership organization, corporation or any other structure by which the committee functions, and the date of origin or incorporation of the organization;
- D.** If the committee has been formed by one or more for-profit or nonprofit corporations or other organizations for the purpose of initiating or influencing a campaign, the names and addresses of the corporations or organizations;
- E.** The name of the account that the committee will use to deposit contributions and make expenditures pursuant to section 1054, and the name and address of the financial institution at which the account is established; and
- F.** Any additional information reasonably required by the commission to monitor the activities of political action committees in this State under this subchapter.

4. Acknowledgment of responsibilities. The treasurer, principal officer and any other individuals who are primarily responsible for making decisions for the committee shall submit a signed statement acknowledging their responsibilities on a form prescribed by the commission within 10 days of registering the committee. The signed acknowledgment statement serves as notification of the responsibilities of the committee to comply with the financial reporting, record-keeping and other requirements of this chapter and the potential personal liability of the treasurer and principal officer for civil penalties assessed against the committee. The commission shall notify the committee of any individual who has failed to submit the acknowledgment statement. Failure to return the acknowledgment statement is a violation of this subchapter for which a fine of \$100 may be assessed against the committee. This section also applies to individuals named in an updated or amended registration required by this subsection who have not previously submitted an acknowledgment statement for the committee with the commission.

5. Resignation and removal. An individual who resigns as the treasurer, principal officer or primary decision-maker of a committee shall submit a written resignation statement to the commission. An individual's resignation is not effective until the commission receives the written resignation statement from the individual. If an individual is involuntarily removed from the position of treasurer, principal officer or primary decision-maker by the committee, the committee shall notify the commission in writing that the individual has been removed from the position. The commission may prescribe forms for these purposes.