



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

Commission Meeting 01/27/2021
Agenda Item #4

To: Commissioners
From: Emma Burke, Candidate Registrar
Date: January 19, 2021
Re: Request by Scott Gaiason Campaign for Waiver of Late-Filing Penalty Due to
Late 11-Day Pre-General Report

Scott Gaiason was a Maine Clean Election Act (MCEA) candidate running for the Maine House, District 56. Mr. Gaiason is an experienced candidate, having previously run three times for the Maine House of Representatives.

Mr. Gaiason's campaign was required to file the regularly scheduled 11-Day Pre-General Report by 11:59 p.m. on October 23, 2020. Mr. Gaiason filed the report on October 24th, one day late. The preliminary penalty for the late report is \$109.54. Mr. Gaiason's campaign is requesting a waiver of the penalty.

LEGAL REQUIREMENTS

Candidates are required to file the 11-Day Pre-General Report no later than 11:59 p.m. on the 11th day before the date on which an election is held and must be complete for the filing period as of the 14th day before that date. 21-A M.R.S. § 1017(3-A)(B). If the candidate is late in filing a regularly scheduled campaign finance report, the amount of the penalty is set by a formula which takes into consideration a percentage of the total contributions or expenditures, whichever is greater, the number of prior violations within a two-year period, and the number of days the report is late. 21-A M.R.S. § 1020-A(4-A).

DISCUSSION

On October 23, 2020, at 3:01 p.m., Candidate Registrar Emma Burke sent an email message (attached) to all her assigned candidates who had not yet filed their 11-Day Pre-General Reports. This included Mr. Gaiason. At 8:13 p.m., also on October 23rd, Ms. Burke sent another reminder email to all candidates whose reports were not filed yet (attached), which again included Mr. Gaiason, reminding them they only had a few hours to file their reports.

In addition to these two emails sent by Ms. Burke the day of the report deadline, the Commission's eFiling website also sends automatic reminder emails to candidates and treasurers two weeks, one week, and one day before the filing due date. This means that Mr. Gaiason received four emails about the 11-Day Pre-General Report's due date. Mr. Gaiason did not respond to any of these communications.

Based on the statutory formula for calculating late-filing penalties, the preliminary penalty amount is \$109.54, calculated as follows:

Report	Deadline	Financial Activity	Penalty Rate	Days Late	Preliminary Penalty
11-Day Pre-General Report	10/23/2020	\$5,477	2%	1	\$109.54

Mr. Gaiason's report was filed at 1:08 a.m. on October 24th, making the report slightly over an hour late. In Mr. Gaiason's waiver request, he states that he "update[ed] expenditures" in the eFiling website shortly after 9:00 p.m. on October 23rd. However, according to the eFiling event log (attached), Mr. Gaiason did not log into the eFiling website between September 22nd (the date of the last reporting deadline) and October 24th. Mr. Gaiason also only had one expenditure to enter.

Also in Mr. Gaiason's waiver request, he states that he did not have time to regularly access the email address we use for him, and that he has other email addresses he uses more often. The email address we use for Mr. Gaiason is the one he registered with, and he has not previously mentioned he has other email addresses that he communicates with

more regularly. Mr. Gaiason had the ability to change the email address we use for him on the eFiling website, or he could have notified Ms. Burke it would be better if she used a different email address. Mr. Gaiason also started receiving email reminders for the October 23rd filing deadline two weeks prior the deadline.

It should also be noted that Mr. Gaiason admits to logging in to the eFiling system under his treasurer's username (who is his wife) and filing his own report. Candidates who are participating in the MCEA are prohibited from filing their own reports, according to 21-A M.R.S. § 1125(12-D).

STAFF RECOMMENDATION

Timely campaign finance reports are an integral part of campaign finance transparency and disclosure. It is clear that their timely filing is considered to be of utmost importance, as statute requires late-filing penalties to increase by each day past the due date the report is filed. All campaigns, particularly experienced ones, are expected to pay attention to and meet all reporting deadlines, especially when multiple reminders are sent for each due date.

Generally, in 2018, the Commission waived late-filing penalties against candidates downward to a range of \$300 - \$400, for example:

- from \$2,565.38 to \$300 – late 24-Hour Report by Jan Collins
- from \$1,739.73 to \$400 – incomplete 11-Day Pre-Primary Report by Mark Lawrence
- from \$384.00 to \$300 – late 24-Hour Report by Ian Schwartz

The Commission *declined* to waive preliminary penalties that were already below \$300:

- \$112.00 – late July Semiannual Report by Jeffrey Slocum
- \$115.93 – late 24-Hour Report by Dana Dow
- \$235.03 – late 24-Hour Reports by James LeBrecque

In this case, the preliminary penalty of \$109.54 is well below the \$300-\$400 range, and there are few to no mitigating factors. Mr. Gaiason is a very experienced candidate, and has been penalized in a prior election for filing a late report. He should be very aware of filing deadlines and requirements.

Mr. Gaiason is an experienced candidate who received a multitude of reminders for the filing deadline. His waiver request does not describe any of the mitigating factors set out in statute, and does make some claims that are not supported by the event log in the Commission's eFiling system. Therefore, the Commission staff recommends not reducing or waiving the penalty of \$109.54.

Thank you for your consideration of this memo.

Burke, Emma

From: scott gaiason <scottgaiason@gmail.com>
Sent: Tuesday, January 12, 2021 2:38 PM
To: Burke, Emma
Subject: Waiver

EXTERNAL: This email originated from outside of the State of Maine Mail System. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Maine Ethics Commission

I am requesting a waiver for the late filing charge. Given the very difficult effort to campaign during this pandemic, I have had limited time on my email address which I use for the campaign and which is the one you use for me. (I have other emails which I use much more regularly.) As such, I saw the notification of the filing deadline rather close to that deadline. I got on my computer on the last day to make sure I had all my expenses entered. (And given what became my low key campaign, here were few.) After updating expenses, it was now after 9:00 in the evening and my treasurer, and wife, was going to bed so I gathered up her computer so it could be filed. I had some difficulty getting her computer working and subsequently fell asleep while working on this in my living room. I woke up and filed then, but it was after midnight by then.

This is the data regarding that date and the reason I am requesting a waiver.

Scott Gaiason

October 28, 2020

Scott Gaiason
32 Huston Street
Lisbon Falls, Maine 04252

Re: Notice of Violation and Penalty for Late-Filed 11-Day Pre-General Report

Dear Mr. Gaiason:

You were required to file the 11-Day Pre-General Report on October 23, 2020 by 11:59 p.m., but the report was not filed until October 24, 2020. Under the Commission's statutes (21-A M.R.S.A. § 1020-A(4-A)), the late filing of a report triggers an enforcement process. The Commission staff has made a preliminary finding of violation and determined that the preliminary penalty for filing the report late is \$109.54. Please see the next page for the penalty calculation.

You may request that the Commission waive the penalty in whole or in part or find that there was no violation. The request must be made within 14 calendar days of your receipt of this notice. The request must be in writing and contain a full explanation of the reasons the report was filed late. Upon receiving your request, the Commission staff will schedule your request to be heard at an upcoming Commission meeting. You or your designee will have an opportunity to be heard at the meeting or you may submit a sworn statement to the Commission explaining the mitigating circumstances for its consideration.

The Commission may waive or reduce the penalty or find that there was no violation if it determines that the report was late due to mitigating circumstances, which are defined as (1) a valid emergency; (2) an error made by the Commission staff; or (3) relevant evidence that a bona fide effort was made to file the report on time. The Commission may also consider whether 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 to the public caused by the late disclosure.

The staff requests that you pay the preliminary penalty within 14 days of the date of your receipt of this notice if you do not intend to request a waiver. Please use the payment statement on the next page when paying by mail. You may also make a payment online at www.maine.gov/ethics by clicking the "Penalty Payment" link. Please contact me at (207) 287-4727 or emma.burke@maine.gov if you have any questions.

Sincerely,

Emma Burke

Emma Burke
Candidate Registrar

Penalty Calculation

The penalty for filing a campaign finance report late is based on a percentage of the total contributions or expenditures for the reporting period, whichever is greater, multiplied by the number of days late. The percentage is based on your history of past violations: 2% for the first violation, 4% for the second violation, and 6% for the third and each subsequent violation. Violations for late-filed reports accumulate in the two-year period beginning on January 1st of each even-numbered year. A penalty accrues daily beginning on the day following the filing due date. Any penalty of less than \$10 is automatically waived.

How Your Penalty Was Calculated

Filer: Scott Gaiason			
Late-Filed Report: 11-Day Pre-General Report			
Contributions	\$1,325.00	Penalty Base Amount	\$5,477.00
Expenditures	\$5,477.00	Percentage	2%
Due Date	October 23, 2020	Daily Accrual Rate	\$109.54
Date Filed	October 24, 2020	Days Late	1
Previous Violations	0	Your Total Penalty	\$109.54

Payment Statement and Payment Options

From: Scott Gaiason

Penalty Amount: \$109.54

Amount Enclosed: _____

Check/M.O. #: _____

BY MAIL: Enclose this payment statement with your payment.

Please make check or money order payable to: Treasurer, State of Maine

Mail to: Maine Ethics Commission
135 State House Station
Augusta, Maine 04333-0135

ONLINE: Go to www.maine.gov/online/ethics/penalties.



Commission on Governmental Ethics and Election Practices
Mail: 135 State House Station, Augusta, Maine 04333
Office: 45 Memorial Circle, Augusta, Maine
Website: www.maine.gov/ethics
Phone: 207-287-4179
Fax: 207-287-6775

2020 CAMPAIGN FINANCE REPORT

FOR MCEA CANDIDATES

COMMITTEE		TREASURER	
Mr. Scott N Gaiason 32 Huston Street Lisbon Falls, ME 04252 PHONE:(207) 751-4799 EMAIL: gaiasonformaine@gmail.com		Carolynn Gaiason 32 Huston Street Lisbon Falls, ME 04252 PHONE: EMAIL: carolynn.gaiason@gmail.com	
REPORT	DUE DATE	REPORTING PERIOD	
11-Day Pre-General Report	10/23/2020	09/16/2020 - 10/20/2020	

FINANCIAL ACTIVITY SUMMARY

CASH ACTIVITY		
	TOTAL FOR PERIOD	TOTAL FOR CAMPAIGN
1. CASH BALANCE FROM LAST REPORT	\$5,577.56	
2. SEED MONEY CONTRIBUTIONS	\$0.00	\$610.00
3. MAINE CLEAN ELECTION ACT PAYMENTS & AUTHORIZATIONS	\$1,325.00	\$7,150.00
4. SALE OF CAMPAIGN PROPERTY (SCHEDULE E, PART 2)	\$0.00	\$0.00
5. OTHER CASH RECEIPTS (INTEREST, ETC.,)	\$0.00	\$0.00
6. MINUS EXPENDITURES (SCHEDULE B)	\$5,477.00	\$6,334.44
7. CASH BALANCE AT CLOSE OF PERIOD	\$1,425.56	
OTHER ACTIVITY		
8. IN-KIND SEED MONEY CONTRIBUTIONS	\$0.00	\$0.00
9. TOTAL UNPAID DEBTS AT CLOSE OF PERIOD (SCHEDULE D)	\$0.00	

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

REPORT FILED BY: Carolynn Gaiason
REPORT FILED ON: 10/24/2020 1:08:00 AM
LAST MODIFIED:
COMMITTEE ID: 362830

**SCHEDULE A
CASH CONTRIBUTIONS**

- For contributors who gave more than \$50, the names, address, occupation, and employer must be reported. If "information requested" is listed instead of occupation and employer, the candidate is waiting to receive that information.
- Cash contributions of \$50 or less can be added together and reported as a lump sum.
- Contributor Types

- | | |
|--|--|
| 1 = Individual | 9 = Candidate / Candidate Committee |
| 2 = Candidate/ Spouse/ Domestic Partner | 10 = General Treasury Transfer |
| 3 = Commercial Source | 11 = Transfer from Previous Campaign |
| 4 = Nonprofit Organization | 12 = Contributors giving \$50 or less |
| 5 = Political Action Committee | 13 = Contributors giving \$100 or less |
| 6 = Political Party Committee | 14 = Contributors giving \$200 or less |
| 7 = Ballot Question Committee | 15 = MCEA Payment |
| 8 = Other Candidate/ Candidate Committee | 16 = Financial Institution |

DATE RECEIVED	CONTRIBUTOR	EMPLOYER AND OCCUPATION	TYPE	AMOUNT
10/15/2020	MCEA Payment	Supp Group 1	15	\$1,325.00
TOTAL CASH CONTRIBUTIONS				\$1,325.00

**SCHEDULE B
EXPENDITURES**

EXPENDITURE TYPES				
APP	Apparel (t-shirts, hats, embroidery, etc.)	CON	Contribution to party committee, non-profit, other candidate, etc.	
EQP	Equipment of \$50 or more (computer, tablet, phone, furniture, etc.)	EVT	Campaign and fundraising events (venue or booth rental, entertainment, supplies, etc.)	
FOD	Food for campaign events or volunteers, catering	HRD	Hardware and small tools (hammer, nails, lumber, paint, etc.)	
LIT	Printed campaign materials (palmcards, signs, stickers, flyers, etc.)	MHS	Mail house and direct mail (design, printing, mailing, and postage all included)	
NEW	Newspaper and print media ads only	OFF	Office supplies, rent, utilities, internet service, phone minutes and data	
ONL	Social media and online advertising only	OTH	Other and fees (bank, contribution, and money order fees, etc.)	
PER	Personnel and campaign staff, consulting, and independent contractor costs	PHO	Phones (phone banking, robocalls and texts)	
POL	Polling and survey research	POS	Postage for U.S. Mail and mail box fees	
PRO	Professional services (graphic design, legal services, web design, etc.)	RAD	Radio ads, production costs	
TKT	Entrance cost to event (bean suppers, fairs, party events, etc.)	TRV	Travel (fuel, mileage, lodging, etc.)	
TVN	TV/cable ads, production, and media buyer costs only	WEB	Website and internet costs (website domain and registration, etc.)	
DATE OF EXPENDITURE	PAYEE	REMARK	TYPE	AMOUNT
9/17/2020	Frame Strategies 188 State Street, Suit 202 Portland, ME, 04101	campaign marketing with multiple flyers and palm cards	MHS	\$5,477.00
TOTAL EXPENDITURES FOR CANDIDATE:				\$5,477.00

Report Filed - 11-Day Pre-General Report

Gaiason,Carolynn

10.24.2020 1:08:01 AM

User Login

User CGaiason04 logged in.

Gaiason,Carolynn

10.24.2020 1:07:36 AM

User Login

User SGaiason04 logged in.

Gaiason,Scott N

10.24.2020 1:04:32 AM

Report Filed - 42-Day Pre-General Report

Gaiason,Carolynn

09.22.2020 10:49:26 PM

Burke, Emma

From: Burke, Emma
Sent: Friday, October 23, 2020 8:13 PM
To: Burke, Emma
Subject: FINAL REMINDE - REPORT DUE TONIGHT!

This is your **FINAL REMINDER** that your 11-Day Pre-General Report is due before midnight TONIGHT.

If you are receiving this email your report has **NOT BEEN FILED YET.**

Please log into www.mainecampaignfinance.com to get started.

Emma J. Burke
Candidate Registrar
Maine Ethics Commission
(207) 287-4727

Stay safe. Stay home. Thank your essential workers.

From: Burke, Emma
Sent: Friday, October 23, 2020 3:01 PM
To: Burke, Emma <Emma.Burke@maine.gov>
Subject: IMPORTANT REMINDER! Report Due TODAY!

Hello candidates and treasurers,

This is a reminder that you are required to file the **11-Day Pre-General Report** which is due **TODAY.**

If you are receiving this notice, **your report has not been filed yet.**

Please note Commission staff are available until 5pm tonight, and penalties automatically accrue by the day on late reports, including weekends.

Please log in at www.mainecampaignfinance.com to get started.

Emma J. Burke
Candidate Registrar
Maine Ethics Commission
(207) 287-4727

Stay safe. Stay home. Thank your essential workers.

Burke, Emma

From: Burke, Emma
Sent: Friday, October 23, 2020 3:01 PM
To: Burke, Emma
Subject: IMPORTANT REMINDER! Report Due TODAY!

Hello candidates and treasurers,

This is a reminder that you are required to file the **11-Day Pre-General Report** which is due **TODAY**.

If you are receiving this notice, [your report has not been filed yet.](#)

Please note Commission staff are available until 5pm tonight, and penalties automatically accrue by the day on late reports, including weekends.

Please log in at www.mainecampaignfinance.com to get started.

Emma J. Burke
Candidate Registrar
Maine Ethics Commission
(207) 287-4727

Stay safe. Stay home. Thank your essential workers.