

# Agenda

## Item #6



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

To: Commissioners  
From: Jonathan Wayne, Executive Director  
Date: January 14, 2015  
Re: Request for Waiver of Late-Filing Penalty by William DeSena Campaign

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William DeSena was a candidate for State Senate from Cape Elizabeth, Maine. He lost the general election. On October 27 and 29, he made expenditures of \$1,061.20 and \$1,300.00 for print advertising. He was required to report them in 24-Hour Reports, but did not. The preliminary penalties for the two late reports total \$1,817.79.

#### LEGAL REQUIREMENTS

Candidates are required to report any single contribution received or single expenditure made of \$1,000 or more during the 13 days before an election within 24 hours of that transaction. (21-A M.R.S.A. § 1017(3-A)(C)) If the candidate is late in filing a 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.A. § 1020-A)(4-A))

#### DISCUSSION

Mr. DeSena made the following two expenditures in the last 13 days before the November 4, 2014 general election:

10/27/2014	Mainely Media	Full page color ad	\$1,061.20
10/29/2014	Forecaster	Full page ad	\$1,300.00

These were required to be disclosed to the public prior to the election in 24-Hour Reports, but were not. Based on the statutory formula for calculating late-filed report penalties, the preliminary penalties for the late reports are:

Report	Deadline	Financial Activity	Penalty Rate	Days Late	Preliminary Penalty
24-Hour Report	10/28/2014	\$1,061.20	1%	39	\$413.79
24-Hour Report	10/30/2014	\$1,300.00	3%	36	\$1,404.00

Mr. DeSena requests a waiver because:

- He is a first-time candidate for public office
- His treasurer had no prior experience as campaign treasurer
- The treasurer did not realize that the campaign was required to report expenditures over \$1,000 within 24 hours during the last two weeks before the election
- This is the first time that Mr. DeSena was late in filing a campaign finance report
- The sponsor of the advertisements (the candidate) was listed in the ads themselves, so there was little or no harm to the public
- The amounts of the preliminary penalties totaling \$1,817.79 are disproportionate to the experience of the candidate and treasurer and the size of the campaign

#### **STAFF RECOMMENDATION**

24-Hour Reports provide the public with important information concerning last-minute financial activity to influence an election. The information is also valuable to opposing candidates and political groups. Because the Maine Legislature has required the disclosure of this information, harm to the public should be presumed even if the harm is difficult to measure.

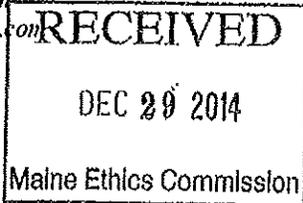
The Maine Legislature has authorized the Commission to waive the preliminary penalty if it is disproportionate to the harm suffered by the public, the level of experience of the campaign, or the size of the campaign.

The preliminary penalty of \$1,817.79 is disproportionately high. The Commission staff recommends granting a partial waiver and reducing the penalty to a total of \$200 for both late reports. Following the primary election, you assessed penalties of \$100 - \$150 for late filing of 24-hour reports in contested primary elections. In this case, the staff recommends \$200, because we believe the penalty for a late 24-Hour Report for the general election should be higher. For purposes of consistency, this was the same amount that you assessed against a Washington County Sheriff candidate for a late 24-Hour Report at your December 22 meeting.

Thank you for your consideration of this memo.

IRWIN  
TARDY  
MORRIS

William P. Logan  
wlogan@itmlaw.com



159 Main Street  
P.O. Box 476  
Newport, Maine 04953

207.368.2828 T  
207.368.2822 F

December 23, 2014

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

Re: *Request for Waiver of Preliminary Penalty – William Desena*

Dear Jonathan:

I represent William Desena. Please accept this letter as a request for a waiver of the preliminary penalty amounts assessed in two letters dated December 8, 2014 from Elizabeth Hudson.

As background information, in 2014 Mr. Desena was a first-time candidate for public office. His campaign's treasurer had no prior experience as a treasurer for a campaign. After filing the 11-day Pre-General report, the treasurer believed the next report would be 42-Day Post-General report. The treasurer did not realize that he would be required to file 24-hour reports for expenditures of over \$1,000.00 occurring during the two weeks before the election.

On December 6, 2014, Mr. Desena's treasurer began inputting information for the post-general report. While doing so, the system alerted him that two expenditures required 24-hour reports that were now late. He filed both reports on December 7, 2015. One was an expenditure of \$1,061.20 for a print ad. The other was \$1,300.00 for another print ad. Due to the daily multipliers, the preliminary penalty for the first report is \$413.79, approximately 40% of the expenditure. The preliminary penalty for the second report is \$1,404.00, which is actually \$104.00 more than the original expenditure itself.

In addition to the above, we submit the following factors for your consideration in this request for a waiver of the preliminary penalties:

1. **No Prior Violations.** Mr. Desena has no history of prior violations of Ethics rules or statutes. This failure to file a 24-hour report is an aberration in an otherwise clean filing record with the Commission.

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Jonathan Wayne  
December 23, 2014  
Page 2 of 2

2. **Little or No Public Harm.** There is little or no appreciable public harm resulting from the late report. First, the expenditures were for print ads so the public viewing such ads could easily discern the identity of the person financing the ads from the disclaimers. Secondly, Mr. Desena did not win his race, so the late filing of the 24-hour report did not influence the election. Finally, to the extent that there was any public harm, it simply was the fact that the small section of the public which chooses to review finance reports was not made aware of the *amount* of the expenditures until 36 and 39 days after the expenditures were made. While the Commission believes that 24-hour reports can be serious violations, I suggest that the failure to file timely 24-hour reports of these types of expenditures under the circumstances described above fall on the lower end of the spectrum and justify a waiver of the penalties.
  
3. **Penalty Disproportionate.** The preliminary penalties of \$413.79 and \$1,404.00, are amounts that are disproportionate to the campaign and/or the expenditures. First, both expenditures totaled \$2,361.20. Therefore, due solely to the multipliers, the penalty amounts (\$1,817.79 total) are close to the actual expenditure amounts themselves and are grossly disproportionate penalties in relation to the actual expenditures themselves and the contributions and expenditures of the campaign as a whole. Also, as described above, Mr. Desena and his treasurer were "rookies" in campaigns and campaign finance. The lack of experience of both the candidate and the treasurer further argue in favor of a waiver of the penalties. Finally, the relative lack of harm further demonstrates that the preliminary penalties are disproportionate and militate in favor of the Commission granting a waiver.

In light of the foregoing facts, Mr. Desena requests that the Commission waive the preliminary penalties assessed by Commission Staff, either in whole or in part. If the staff or the Commission requires additional information, please feel free to contact me at your convenience. I will be present at the Commission meeting this matter is scheduled for to respond to any inquiries. Thank you for your attention to this request.

Sincerely,



William P. Logan, Esq.

cc: William Desena  
William Gross

## 21-A MRS § 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 \$10. 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; [1999, c. 729, §5 (AMD).]
- B. An error by the commission staff; [1999, c. 729, §5 (AMD).]
- C. Failure to receive notice of the filing deadline; or [1999, c. 729, §5 (AMD).]
- 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. [2009, c. 190, Pt. A, §13 (AMD).]

**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. Basis for penalties.**

[ 2001, c. 470, §7 (AMD); T. 21-A, §1020-A, sub-§4 (RP) .]

**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, 1%; [2001, c. 714, Pt. PP, §1 (NEW); 2001, c. 714, Pt. PP, §2 (AFF).]
- B. For the 2nd violation, 3%; and [2001, c. 714, Pt. PP, §1 (NEW); 2001, c. 714, Pt. PP, §2 (AFF).]
- C. For the 3rd and subsequent violations, 5%. [2001, c. 714, Pt. PP, §1 (NEW); 2001, c. 714, Pt. PP, §2 (AFF).]

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. Maximum penalties.**

[ 2001, c. 470, §8 (AMD); T. 21-A, §1020-A, sub-§5 (RP) .]

**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; [2011, c. 389, §23 (AMD).]
- A-1. Five thousand dollars for reports required under section 1019-B, subsection 4, except that if the financial activity reported late exceeds \$50,000, the maximum penalty is 1/5 of the amount reported late; [2011, c. 389, §24 (NEW).]
- 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 financial activity reported late exceeds \$50,000, the maximum penalty is 1/5 of the amount reported late; [2011, c. 389, §25 (AMD).]
- 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 [2011, c. 558, §4 (AMD).]
- D. Five hundred dollars for municipal, district and county committees for reports required under section 1017-A, subsection 4-B. [2011, c. 558, §4 (AMD).]
- E. [2011, c. 558, §5 (RP).]

[ 2011, c. 558, §§4, 5 (AMD) .]

**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.

[ 2013, c. 334, §17 (AMD) .]

**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.

[ 2009, c. 302, §6 (AMD) .]

**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.

[ 2007, c. 443, Pt. A, §25 (AMD) .]

**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.

[ 2003, c. 628, Pt. A, §6 (NEW) .]

**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.

[ 1995, c. 483, §15 (NEW) .]

**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.

[ 2009, c. 302, §7 (RPR) .]



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](http://www.maine.gov/ethics)  
Phone: 207-287-4179  
Fax: 207-287-6775

## 24-HOUR REPORT OF CONTRIBUTIONS AND EXPENDITURES

2014 CAMPAIGN YEAR

COMMITTEE		TREASURER	
WILLIAM R DESENA 11 WAINWRIGHT DR CAPE ELIZABETH, ME 04107 PHONE: (207) 776-5565 EMAIL: WDESENA@MAINE.RR.COM		MS. LINDA R BOUDREAU 293 SAWYER STREET SOUTH PORTLAND, ME 04106 PHONE: (207) 799-6138 EMAIL: LRB@MAINE.RR.COM	
REPORT	DUE DATE	REPORTING PERIOD	
24 Hour Report of Major Contributions and Expenditures	10/28/2014	10/27/2014 - 10/27/2014	

### FINANCIAL ACTIVITY SUMMARY

CONTRIBUTIONS AND EXPENDITURES	
1. TOTAL CONTRIBUTIONS / LOANS	\$0.00
2. TOTAL EXPENDITURES	\$1,061.20
3. TOTAL DEBTS	\$0.00

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

REPORT FILED BY: MR. BILL GROSS  
REPORT FILED ON: 12/07/2014  
LAST MODIFIED: 12/07/2014  
PRINTED: 01/08/2015  
COMMITTEE ID: 8011

**24-HOUR EXPENDITURE AND PAYEE INFORMATION**

EXPENDITURE TYPES				
CNS	Campaign consultants	POL	Polling and survey research	
CON	Contribution to other candidate, party, committee	POS	Postage for U.S. Mail and mail box fees	
EQP	Equipment (office machines, furniture, cell phones, etc.)	PRO	Other 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	Print 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			
DATE OF EXPENDITURE	PAYEE	REMARK	TYPE	AMOUNT
10/27/2014	MAINELY MEDIA P.O. BOX 1894 BIDDEFORD, ME 04005	CK# 1012 SO PORTLAND SENTRY FULL PAGE COLOR AD	PRT	\$1,061.20
<b>TOTAL EXPENDITURES FOR CANDIDATE:</b>				<b>\$1,061.20</b>



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

## 24-HOUR REPORT OF CONTRIBUTIONS AND EXPENDITURES

2014 CAMPAIGN YEAR

COMMITTEE		TREASURER
WILLIAM R DESENA 11 WAINWRIGHT DR CAPE ELIZABETH, ME 04107 PHONE: (207) 776-5565 EMAIL: WDESENA@MAINE.RR.COM		MS. LINDA R BOUDREAU 293 SAWYER STREET SOUTH PORTLAND, ME 04106 PHONE: (207) 799-6138 EMAIL: LRB@MAINE.RR.COM
REPORT	DUE DATE	REPORTING PERIOD
24 Hour Report of Major Contributions and Expenditures	10/30/2014	10/29/2014 - 10/29/2014

### FINANCIAL ACTIVITY SUMMARY

CONTRIBUTIONS AND EXPENDITURES	
1. TOTAL CONTRIBUTIONS / LOANS	\$0.00
2. TOTAL EXPENDITURES	\$1,300.00
3. TOTAL DEBTS	\$0.00

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

REPORT FILED BY: MR. BILL GROSS  
REPORT FILED ON: 12/07/2014  
LAST MODIFIED: 12/07/2014  
PRINTED: 01/08/2015  
COMMITTEE ID: 8011

**24-HOUR EXPENDITURE AND PAYEE INFORMATION**

EXPENDITURE TYPES				
CNS	Campaign consultants	POL	Polling and survey research	
CON	Contribution to other candidate, party, committee	POS	Postage for U.S. Mail and mail box fees	
EQP	Equipment (office machines, furniture, cell phones, etc.)	PRO	Other 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	Print 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			
DATE OF EXPENDITURE	PAYEE	REMARK	TYPE	AMOUNT
10/29/2014	THE FORECASTER 5 FUNDY ROAD FALMOUTH, ME 04105	CK# 1013 FULL PAGE AD	PRT	\$1,300.00
<b>TOTAL EXPENDITURES FOR CANDIDATE:</b>				<b>\$1,300.00</b>



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

December 8, 2014

William R. Desena  
11 Wainwright Drive  
Cape Elizabeth, Maine 04107

**Re: Late Penalty for 24-Hour Report of Contributions and Expenditures Campaign  
Finance Report – Due 10/28/2014**

Dear Mr. Desena:

*Preliminary penalty amount.* You filed a 24-Hour Report for Contributions and Expenditures campaign finance report on December 7, 2014. Under the Election Law, the Commission must calculate a preliminary penalty for the late filing, based on the amount of financial activity during the report period, the number of days the report was filed late, and the candidate's filing record. The preliminary penalty for the late filing of your report is \$413.79. (Please refer to the enclosed penalty matrix for the calculation.) If you agree to pay the penalty, please use the enclosed billing statement within 14 days of receiving this letter. Please do not use Maine Clean Election Act funds to pay the penalty.

*Requesting a waiver.* You may ask the members of the Ethics Commission to waive the preliminary penalty due to mitigating circumstances (defined below). To request a waiver, please send a letter within 14 days of receiving this notice that contains a full explanation of the reasons you filed late. If you request a waiver, the Commission staff will notify you of the date and time of the public meeting at which the Commissioners will consider your request. You or a person you designate may appear at the meeting. The Commission staff will notify you of the Commissioners' decision shortly afterward.

*Mitigating circumstances.* The Election Law defines mitigating circumstances as: (1) a valid emergency, (2) an error by the Commission staff, (3) failure to receive notice of the filing deadline, or (4) relevant evidence presented that a *bona fide* effort was made to file the report in accordance with the statutory requirements. Also, the Commission may waive a preliminary penalty 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.

Please call me at 287-4179 if you have any questions.

Sincerely,

Beth Hudson  
Candidate Registrar

cc: Ms. Linda Boudreau  
Mr. Bill Gross

December 8, 2014

The Commission staff has calculated a preliminary penalty of \$413.79 for the late filing of your 24-Hour Report of Contributions and Expenditures campaign finance report. Please pay the penalty or request a waiver within 14 days of receiving this notice. If the Commission does not receive a payment or waiver request, the Commission will send you a final notice requesting payment within 30 days.

To pay the penalty, submit a check or money order to the address below, along with the bottom half of this letter. Or, please pay online using a credit or debit card at the web address listed below. If you would like to request a waiver of the preliminary penalty, please see the instructions included in the attached letter.

Failure to pay the full amount of an assessed penalty is a civil violation. The Commission is required to report to the Attorney General the name of any person who fails to pay a late-filing penalty. If you have questions, please call Beth Hudson at 287-4179.

Cut Along Dotted Line

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For Office Use Only:  
Account: MCGEEP

To            Commission on Governmental Ethics and Election Practices  
              .135 State House Station  
              Augusta, Maine 04333

From:        Mr. William R. Desena

RE:          Penalty for late filing of 24-Hour Report of Contributions and Expenditures  
              Campaign Finance Report

Amount Enclosed:    \$ \_\_\_\_\_

Check/M.O. No.:     # \_\_\_\_\_

Please Make Check or Money Order Payable to Treasurer, State of Maine  
Or Pay Online at <http://www.maine.gov/online/ethics/penalties>

COMMISSION ON GOVERNMENTAL ETHICS AND ELECTION PRACTICES

PENALTY MATRIX FOR LATE CANDIDATE REPORT FILINGS

BASIS FOR PENALTIES  
21-A M.R.S.A. Section 1020-A(4-A)

The penalty for late filing of a required report is a percentage of the total contributions or expenditures for the filing period, whichever is greater, multiplied by the number of calendar days the report is filed late, as follows:

- For the first violation, 1%
- For the second violation, 3%
- For the third and each subsequent violation, 5%

Example: The treasurer files the candidate's report two (2) days late. The candidate has not had any previous late violations this biennium. The candidate reports a total of \$2,500 in contributions and \$1,500 in expenditures for the filing period. The penalty is calculated as follows:

\$2,500	Greater amount of the total contributions received or expenditures made during the filing period
<u>X .01</u>	Percent prescribed for first violation
\$25.00	One percent of total contributions
<u>X 2</u>	Number of calendar days late
\$50.00	Total penalty

Your penalty is calculated as follows:

Receipts/Expenditures:	\$1,061.20
Percent prescribed:	X <u>.01</u>
One Percent of total contributions	\$10.61
Number of days late:	X 39
Total penalty accrued:	<u>\$413.79</u>

A penalty begins to accrue on the day following the due date of the report.

Any penalty of less than \$10 is waived.

Violations accumulate on reports with filing deadlines in a 2-year period that begins on January 1st of each even-numbered year. Waiver of a penalty does not nullify the finding of a violation.

A required report that is sent by certified or registered United States mail and postmarked at least 2 days before the deadline is not subject to penalty.

MAXIMUM PENALTIES  
21-A M.R.S.A. Section 1020-A(5-A)

\$5,000 for reports required to be filed 42 days before an election,  
11 days before an election, 42 days after an election, and for 24-hour reports;  
\$1,000 for semiannual reports.



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

December 8, 2014

William R. Desena  
11 Wainwright Drive  
Cape Elizabeth, Maine 04107

**Re: Late Penalty for 24-Hour Report of Contributions and Expenditures Campaign  
Finance Report – Due 10/30/2014**

Dear Mr. Desena:

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*Requesting a waiver.* You may ask the members of the Ethics Commission to waive the preliminary penalty due to mitigating circumstances (defined below). To request a waiver, please send a letter within 14 days of receiving this notice that contains a full explanation of the reasons you filed late. If you request a waiver, the Commission staff will notify you of the date and time of the public meeting at which the Commissioners will consider your request. You or a person you designate may appear at the meeting. The Commission staff will notify you of the Commissioners' decision shortly afterward.

*Mitigating circumstances.* The Election Law defines mitigating circumstances as: (1) a valid emergency, (2) an error by the Commission staff, (3) failure to receive notice of the filing deadline, or (4) relevant evidence presented that a *bona fide* effort was made to file the report in accordance with the statutory requirements. Also, the Commission may waive a preliminary penalty 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.

Please call me at 287-4179 if you have any questions.

Sincerely,

Beth Hudson  
Candidate Registrar

cc: Ms. Linda Boudreau  
Mr. Bill Gross

December 8, 2014

The Commission staff has calculated a preliminary penalty of \$1,404.00 for the late filing of your 24-Hour Report of Contributions and Expenditures campaign finance report. Please pay the penalty or request a waiver within 14 days of receiving this notice. If the Commission does not receive a payment or waiver request, the Commission will send you a final notice requesting payment within 30 days.

To pay the penalty, submit a check or money order to the address below, along with the bottom half of this letter. Or, please pay online using a credit or debit card at the web address listed below. If you would like to request a waiver of the preliminary penalty, please see the instructions included in the attached letter.

Failure to pay the full amount of an assessed penalty is a civil violation. The Commission is required to report to the Attorney General the name of any person who fails to pay a late-filing penalty. If you have questions, please call Beth Hudson at 287-4179.

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Account: MCGEEP

To            Commission on Governmental Ethics and Election Practices  
              135 State House Station  
              Augusta, Maine 04333

From:        Mr. William R. Desena

RE:         Penalty for late filing of 24-Hour Report of Contributions and Expenditures  
              Campaign Finance Report

Amount Enclosed:    \$ \_\_\_\_\_

Check/M.O. No.:     # \_\_\_\_\_

Please Make Check or Money Order Payable to Treasurer, State of Maine  
Or Pay Online at <http://www.maine.gov/online/ethics/penalties>

COMMISSION ON GOVERNMENTAL ETHICS AND ELECTION PRACTICES

PENALTY MATRIX FOR LATE CANDIDATE REPORT FILINGS

BASIS FOR PENALTIES  
21-A M.R.S.A. Section 1020-A(4-A)

The penalty for late filing of a required report is a percentage of the total contributions or expenditures for the filing period, whichever is greater, multiplied by the number of calendar days the report is filed late, as follows:

- For the first violation, 1%
- For the second violation, 3%
- For the third and each subsequent violation, 5%

*Example:* The treasurer files the candidate's report two (2) days late. The candidate has not had any previous late violations this biennium. The candidate reports a total of \$2,500 in contributions and \$1,500 in expenditures for the filing period. The penalty is calculated as follows:

\$2,500	Greater amount of the total contributions received or expenditures made during the filing period
<u>X .01</u>	Percent prescribed for first violation
\$25.00	One percent of total contributions
<u>X 2</u>	Number of calendar days late
\$50.00	Total penalty

Your penalty is calculated as follows:

Receipts/Expenditures:	\$1,300.00
Percent prescribed:	X <u>.03</u>
One Percent of total contributions	\$39.00
Number of days late:	X 36
Total penalty accrued:	<u>\$1,404.00</u>

A penalty begins to accrue on the day following the due date of the report.

Any penalty of less than \$10 is waived.

Violations accumulate on reports with filing deadlines in a 2-year period that begins on January 1st of each even-numbered year. Waiver of a penalty does not nullify the finding of a violation.

A required report that is sent by certified or registered United States mail and postmarked at least 2 days before the deadline is not subject to penalty.

MAXIMUM PENALTIES  
21-A M.R.S.A. Section 1020-A(5-A)

\$5,000 for reports required to be filed 42 days before an election,  
11 days before an election, 42 days after an election, and for 24-hour reports;  
\$1,000 for semiannual reports.

Phillips, Cyndi

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From: Bill DeSena <wdesena@maine.rr.com>  
Sent: Sunday, December 07, 2014 10:29 AM  
To: Ethics Commission  
Subject: RE: NOTICE OF UNFILED REPORT

Oops! I jus read this. We'll get 'er done today. I thought the 16<sup>th</sup> was our deadline. Will keep you posted on this one

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From: [ethics@maine.gov](mailto:ethics@maine.gov) [mailto:[ethics@maine.gov](mailto:ethics@maine.gov)]  
Sent: Sunday, December 7, 2014 1:50 AM  
To: [WDESENA@MAINE.RR.COM](mailto:WDESENA@MAINE.RR.COM)  
Subject: NOTICE OF UNFILED REPORT

Maine Ethics Commission  
135 State House Station  
Augusta ME 04333-0135  
207-287-4179

12/07/2014

WILLIAM R DESENA  
Candidate

### **NOTICE OF PAST DUE REPORT**

According to our records, you have not filed the report listed below with the Maine Ethics Commission:

Report: 24 Hour Report of Major Contributions and Expenditures  
Due Date: 10/30/2014

Please file this report as soon as possible. Penalties for late-filed reports begin to accumulate from the day after the deadline until the report is filed.

To file your report, log into the e-filing website at [www.mainecampaignfinance.com](http://www.mainecampaignfinance.com). If you need assistance in filing this report or have questions about the reporting requirements, please contact the Maine Ethics Commission staff at (207) 287-4179, or by email at [ethics@maine.gov](mailto:ethics@maine.gov).

If you believe you have received this e-mail in error, please contact us so that we can correct our records. Thank you.