



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
Benjamin Dyer, Political Committee and Lobbyist Registrar

Date: April 15, 2016

Re: Request for Waiver of Late-Filing Penalty by the Proteus Action League BQC

INTRODUCTION

A ballot question committee (BQC) is an organization with a major purpose other than influencing a Maine election that raises or spends more than \$5,000 to influence a ballot question in Maine. A BQC must register with the Commission and file financial reports – similar to political action committees (PACs). Typically, a BQC is an organization with a purpose or mission that pre-existed the ballot question, such as a public policy advocacy organization, a trade association or a labor union.

All BQCs are required to file campaign finance reports by deadlines set in statute.

Beyond simply filing the report by the deadline, a timely-filed campaign finance report must substantially conform to the disclosure requirements of Maine Election Law. If the BQC has donated or spent its own general treasury to influence the ballot question, the BQC must disclose those general treasury funds *as a contribution to the BQC* on Schedule A of the campaign finance report. In other words, the BQC must disclose that it was self-funding its political expenditures.

The Proteus Action League is a not-for profit corporation that registered as a ballot question committee in August 2015 in support of the November 3, 2015 campaign finance citizen initiative. It filed a quarterly report by the deadline of October 5, 2015. The report is considered late because the BQC did not indicate on Schedule A that it had self-funded roughly \$253,547 that it donated and spent to promote the initiative. Both the originally filed report (dated 10/05/2015) and a later version (amended on 1/15/2016) are attached for your reference. Because of the large amount of money involved, the preliminary penalty is quite high (\$172,412.61).

LEGAL REQUIREMENTS

Definition of BQC. The reporting requirements for ballot question committees are set out within a single statute, 21-A M.R.S.A. § 1056-B (attached).

Reporting requirements. Under the BQC statute (§ 1056-B), BQCs are required to file campaign finance reports according to the same filing schedule as PACs. (21-A M.R.S.A. §1059(2)) According to this schedule, the BQC was required to file a quarterly campaign finance report by October 5, 2015. The time period of the report was the date of the BQC's registration (August 24, 2015) through September 30, 2015.

Duty to report contributions. BQCs are required to report the names and addresses of contributors giving more than \$100 to the BQC in any election and the amounts and dates of each contribution. (21-A M.R.S.A. §1056-B(2)) Subsection §1056-B(2-A) specifies those types of "contributions" that must be reported. One of these types is:

Funds or transfers from the general treasury of an organization filing a ballot question report.

(21-A M.R.S.A. § 1056-B(2-A)(D))

Late-filing procedures. A campaign finance report is not timely filed unless it substantially conforms to the disclosure requirements of Chapter 13, Subchapter 4. (21-A M.R.S.A. §1062-A(2)) If a BQC is late in filing a campaign finance report, the amount of the preliminary penalty is set by a formula which takes into consideration a percentage of the financial activity reported late, and the number of days the report was late. (21-A M.R.S.A. § 1062-A(3))

The November 3, 2015 citizen initiative amended the Commission’s penalty statutes, including 21-A M.R.S.A. §1062-A. The changes went into effect on December 23, 2015.

The statutory changes are attached for your reference.

	Through 12/22/2015	Beginning on 12/23/2015
Percentage of financial activity reported late (for 1 st violation)	1%	2%
Maximum penalty, when more than \$50,000 in financial activity is reported late	1/5 of financial activity reported late	100% of financial activity reported late

LATENESS OF REPORT AND PRELIMINARY PENALTY

The BQC was created by the Proteus Action League (PAL), a 501(c)(4) nonprofit organization allowed to engage in political activity. PAL is an affiliate of the Proteus Fund, a foundation managing collaborative grant-making over a range of social change

issues nationwide. The BQC registered and filed an initial report on August 24, 2015 showing no financial activity. On October 5, 2015, the BQC filed its 2015 October Quarterly report indicating a single \$100,000 contribution from an individual, \$350,000 in expenditures in the form of contributions to the Mainers for Accountable Elections (a BQC formed to support the 2015 citizen initiative), and a \$3,547 expenditure for phone banking in support of the citizen initiative.

In January 2016, the BQC contacted Commission staff with a question about its 2016 January Quarterly report. The Commission staff noticed a significant deficit in the report balance of the campaign account and brought this to the attention of the BQC. The BQC's treasurer indicated that the BQC believed that it did not have to report general treasury transfers. On January 15, 2016, the BQC amended Schedule A of the report to include two contributions totaling \$253,547.87 from the general treasury of the organization.

Based on the statutory formula for calculating late-filed report penalties, the Commission staff has calculated the preliminary penalty as follows:

Report Name	Activity Amount	Due Date	Days Late	Per Diem	Preliminary Penalty	Report Name
2015 October Quarterly	\$253,547.87	10/5/2015	78 (pre-12/23/2015)	1%	\$50,709.57	2015 October Quarterly
			24 (post-12/23/2015)	2%	<u>\$121,703.04</u>	
					Total:	

Following suggestions from the Commission Counsel, the staff calculated the penalty based on two periods:

- For the 78-day period of October 6 – December 23, 2015, the Commission staff used 1% to calculate the per diem penalty and capped the penalty for this period at \$50,709.57 (1/5 of the amount of financial activity reported late).
- For the 24-day period of December 23, 2015 – January 15, 2016, the Commission staff used 2% to calculate the per diem penalty. The penalty for this period came to \$121,703.04, which did not exceed the new statutory maximum penalty for that period.

REQUEST BY BQC FOR WAIVER OF LATE-FILING PENALTY

The BQC requests a waiver of the \$172,412.61 penalty, through a letter from its counsel (attached). The BQC begins its waiver request by accepting full responsibility for its filing error and stating that it has undertaken steps to ensure that no further mistakes will occur.¹ The BQC asks that the Commission reduce the preliminary penalty to \$50,709.57, arguing that the Commission should apply the statutory maximum penalty in effect on the first day that the BQC was late in filing a complete report.²

The BQC argues that it made a bona fide effort to file a complete report, and that its inability to file a complete report was the result of its misunderstanding of Maine's BQC contribution reporting laws. After consulting both internally and with outside sources, the BQC believed that it did not have to report general treasury transfers and was only

¹ Because the BQC was formed to influence the 11/3/2015 Maine election, the BQC has now terminated.

² The Commission staff may provide you with further comment on the argument for a recalculation of the penalty, after an opportunity to confer with Commission Counsel.

required to report contributions raised specifically to influence the citizen initiative. The BQC also maintains that the consequences of this misunderstanding were further exasperated by the inexperience of its treasurer and the fact the Commission's e-filing system allowed the filing of a report with a negative balance. The BQC further argues that the preliminary penalty is disproportionate to the harm to the public resulting from the misreporting.

Finally, the BQC argues that the preliminary penalty is vastly larger than any other fine imposed by the Commission and that other Commission decisions suggest a significantly lower penalty is appropriate. It points to the Commission's decision in January of 2015 to impose a \$1,000 fine on the AFL-CIO COPE PAC under what the BQC asserts are similar factual circumstances.

STAFF RECOMMENDATION

The timely filing of accurate campaign finance reports is the bedrock of Maine's campaign finance disclosure system, as one of the chief purposes of campaign finance laws is to timely inform voters of who is trying to persuade them at the ballot box. Voters are barraged with campaign messages and, as a shorthand or filter, some voters will give the messages more or less credibility or weight based on their evaluation of the trustworthiness of the source of the message (*e.g.*, labor vs. business, party-based organizations, in-state vs out-of-state advocates, religious organizations). These are some of the reasons that Maine voters just approved the inclusion of top-three donors in independent expenditure communications to influence candidate races.

The Commission staff disagrees that the harm to the public was minimal when the BQC failed to disclose that it self-funded some \$250,000 in campaign contributions and spending. The public deserved to know the source of the funds during the weeks leading up to the election. There is growing concern nationally about money being spent to influence elections without the voters knowing the source of those funds. This is especially a concern for ballot questions in which national organizations with various agendas (marriage, gun restrictions, marijuana legalization, hunting) are increasingly active in influencing state laws through the initiative or referendum process.

Commission staff also disagrees with the BQC that concerned members of the public would have inferred from the originally filed campaign finance report that PAL was spending its own money. It seems equally likely that the public would be unsure how to interpret the quarterly campaign finance report as it was originally filed.

Commission staff is not convinced that the mitigating circumstance of a bona fide effort to file is present. Based on the examples in statute, the bona fide effort circumstance appears to be intended to cover situations where events outside the control of the filer prevented filing, such as postal or internet problems. The Commission staff does not doubt the earnest intention of the BQC to file a complete report, but good intentions are not sufficient to grant a full waiver. Many past waiver requests involved situations in which there was an intent to file, but a report was incomplete because of misunderstandings, communication problems within an organization, or bad record-keeping.

The BQC has also suggested that the Commission's campaign finance reporting system contributed to its treasurer's confusion and that neither the e-filing system nor Commission staff alerted her to a problem with the BQC's reported balance. The unfiled transactions message that Ms. Magua saw on January 15 did not relate to the negative balance, but rather to another issue.

The current e-filing website is not designed to warn filers if they filed reports with total expenditures exceeding contributions, resulting in a negative cash balance. The Commission moved to a new e-filing system in late 2013. All IT improvements cost money and time, and the Commission has limited money to spend. We are planning for a significant usability overhaul this year and may consider other refinements thereafter. Warning or preventing a filer from filing a report with a negative balance is worthy of consideration, but the absence of this warning is not a defect in the system. Negative balance issues are relatively rare.

The ultimate responsibility for filing a complete campaign finance report falls on the filer. The Commission staff does the best that it can to help prevent our filers from making errors or to help them in correcting those errors quickly, but staff time is limited. The same employee who examines BQC reports for completeness also reviews the financial reports of all PACs, state party committees, and all lobbyists. There is insufficient staff time to look at every report filed. After the October 2015 quarterly reports were filed, in an attempt to efficiently check on errors that are most likely to occur for that reporting period, the Commission staff reviewed system-generated reports of contributions and expenditures by BQCs. Thus, Commission staff notified the Proteus

Action League that when it made a contribution to Mainers for Accountable Elections, it should have used the expenditure type of CON – regardless how the recipient organization was planning on using those funds. This did not alert the Commission staff that the BQC had a negative balance.

Finally, this BQC's founding organization is a sophisticated organization involved in advocating on public policy matters nationally. Some significant penalty is necessary to encourage such organizations to establish systems to ensure compliance with state campaign finance reporting laws.

That said, this case also contains mitigating factors which suggest that a reduction in the significant preliminary penalty would be appropriate. The preliminary penalty, at over two-thirds the value of the general treasury transfer, may be considered disproportionate to the harm to the public, especially where the expenditures the BQC made were reported on its reports. The BQC had no prior violations this year.

The Commission staff agrees that there are similarities between this matter and an incomplete campaign finance report filed 11 days before the 2014 general election by the PAC associated with the Maine AFL-CIO. In that case, the PAC failed to report that the AFL-CIO had transferred \$40,000 from the general treasury of the labor association to the PAC. In that case, the Commission reduced the late-filing penalty from \$10,000 to \$1,000. However, the AFL-CIO matter can be distinguished from the present matter in three respects:

- First, the amount of self-funding that the Proteus Action League failed to report (\$253,547) is quite large and more than six times the amount of general treasury transfer unreported by the AFL-CIO's PAC.
- Second, the voters spoke on November 3, 2015 in favor of higher penalties for financial reporting violations by PACs and BQCs. Specifically, they approved a five-fold increase in the maximum penalty when more than \$50,000 in financial activity is reported late.
- Third, there was a mitigating factor present in the AFL-CIO PAC that is absent here. Although the AFL-CIO PAC did file an incomplete report, the PAC had disclosed sufficient revenue from identified sources to sufficiently explain to the public the sources of money that the PAC used for political purposes.

The staff of the Commission accepts that a general increase in penalties assessed against PACs, BQCs, and state party committees would be appropriate for the 2016 election cycle, in light of a number of factors.³ In this particular matter, we recommend a penalty in the range of \$7,500 - \$10,000 on the premise that we will be recommending higher penalties generally against other PACs, BQCs, and state parties this year. If you are uncomfortable with this premise, you may wish to assess a penalty of \$5,000.

Also, for a sense of proportionality you may wish to refer to Chart #2 included in the materials for agenda item #2, which includes a detailed explanation of penalties of \$5,000 or more assessed against PACs, BQCs, and party committees. Please keep in mind that

³ These factors include the results of the 11/3/2015 citizen initiative, improved legal requirements for PACs and BQCs, improved written guidance from the Commission staff, and a more professional, available Commission staff that stands ready to provide any amount of filing assistance needed by PACs, BQCs, and state parties

those penalties were generally bound by a maximum penalty of \$10,000 per late report, which was in effect for violations occurring through fall of 2011.

Thank you for your consideration of this memo.



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April 12, 2016

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***RE: Proteus Action League BQC Waiver Request for Late Filing of the 2015
October Quarterly Campaign Finance Report***

Dear Mr. Dyer:

On behalf of my client, Proteus Action League BQC (“PAL” or “BQC”), and pursuant to 21-A M.R.S.A. §1062(A)(5), I write to request both a recalculation and a waiver of the preliminary penalties issued by the Commission staff for late filing of the 2015 October Quarterly campaign finance report. While BQC did timely file a report, that report has been deemed late by virtue of the failure to include a general treasury transfer from Proteus Action League to its BQC.

First and foremost, BQC accepts full responsibility for the filing error, and is taking steps to ensure no further mistakes occur. The failure to report the transfer resulted from the simple misunderstanding that general treasury transfers were not considered “contributions” as long as the transferred funds were not raised specifically to fund the contribution. Immediately upon discovery that the BQC’s understanding was incorrect, the BQC updated the report to include the required general treasury transfer. As described in the Factual Summary below, an unusual chain of events led to the passage of a substantial amount of time before the error was identified, such that a statutory amendment regarding calculation of penalties went into effect before the report was corrected.

The purpose of this letter is to respectfully request 1) that the Commission recalculate the preliminary penalties based on the penalty provisions that were in place at the time the report was *filed*, in October of 2015, because that is when the BQC’s failure to report made it subject to a penalty, and 2) that the Commission waive or significantly reduce the preliminary penalties due to mitigating circumstances.

FACTUAL SUMMARY

The Proteus Fund was founded in 1997 as a public foundation to design and manage collaborative grant making on a range of social change arenas – including curbing the growing influence of money in politics. The Proteus Fund has an affiliated 501(c)(4) grant making organization - Proteus Action League. In April 2015, the Proteus Fund became aware of the Maine clean elections referendum and began discussions about how they might participate in support of the referendum. Shortly thereafter, the BQC registered with the Ethics Commission and indicated Muthoni Magua as its Treasurer. Ms. Magua serves as the Proteus Fund’s Director of Finance and Administration but had not to date ever served as the Treasurer of a BQC.

After its initial registration, PAL filed its regular report in August of 2015. Before filing that report, she consulted with several experts, including counsel, to ensure the reports were properly filed.

In late September, early October, the BQC consulted with Mainers for Accountable Elections as well as other individuals involved in campaign activities to ensure that all activity was properly being reported. Much of that discussion revolved around in-kind activities and how they should be properly attributed on reports. In these discussions, it was also made clear that any individual Maine specific donors to the BQC must be listed individually on the reports. On October 5, 2015, treasurer for the BQC, submitted a quarterly report properly disclosing all direct contributions, but failing to disclose a general treasury transfer resulting in a negative balance. Apparently, the focus on disclosing donors who intended their contributions to be used for the Maine campaign – left the misimpression that general treasury transfers need not be included.¹ The report was successfully filed with a negative balance; she received the automatic response message that the report had been timely filed.

The very next day, on October 6, Commission staff sent an email to the treasurer stating that *“Reviewing the expenditures, I noticed you coded the two to Mainers for Accountable Elections as SAL (salary). That suggests that your BQC paid salary to the BQC. I think the coding should actually be CON, for contributions to other committees. Please make those amendments and let me know when you have finished.”* No mention was made of the negative balance at that time.

On October 23, the 11 day pre-election report was filed properly and without an error message.

On October 27, the 24-hour report was filed properly and without an error message.

¹ The contribution to Mainers for Accountable Elections was properly disclosed on their October 2015 report.

On December 14, the 42-day post-election report was filed properly and without an error message.

On the afternoon of January 15, 2016, Ms. Magua logged onto the website to file the January report but found a message stating that the BQC had “unfiled transactions.” After searching for those transactions and not finding them, Ms. Magua reached out to commission staff, and was informed that the error message was flagging a negative balance. The report was corrected that very day. The negative balance had been present in reports since October 5, 2015 – yet for some reasons was only flagged by the system on January 15, 2016.

REQUEST FOR AMENDED PENALTY CALCULATION

Per this letter, the BQC not only requests a waiver from the preliminary penalties, but a recalculation of those penalties based on the statutory structure in place at the time the violation occurred. Under the penalty structure proposed by the staff, the BQC is subject to significantly more stringent fines because a statutory change in the penalty structure occurred *after* the violation occurred but *before* it was discovered and corrected. The BQC strongly contends that this creates an unfair and unjust result as there is nothing in statute that expressly deems violations be considered as individual and separate violations for each day they occur and thus subject to changing penalty structures.

At the time of the violation, the penalty for late filing of a quarterly campaign finance report was capped at 1/5th of the activity reported late at the time the BQC erroneously submitted a non-compliant report. While the penalty itself is calculated based on the number of days of the failure to timely report, *the passage of time is not relevant to the violation itself*. It is the due date of the report alone (here, October 5, 2015) that determines whether there was a late filing of a required report, and therefore a violation. While the penalty provisions of the law were amended after the violation occurred, the preliminary penalties set forth in the preliminary penalty letter are calculated as if the offense occurred both before and after the amendment to the penalty provisions.

In fact, penalties are typically calculated based on the law in effect at the time of the violation. 1 MRSA §302, which contains general provisions of law applicable here, specifically states in relevant part:

“The repeal or Amendment of an Act or ordinance does not affect any punishment, penalty or forfeiture incurred before the repeal or amendment takes effect, or any action or proceeding pending at the time of the repeal or amendment...for an offense committed or for recovery of a penalty or forfeiture incurred under the Act or ordinance repealed or amended.” (emphasis added).

Here, BQC became subject to penalty prior to the amendment – and those penalties should be calculated under the system in place in October 2015.

Analogous case law further supports this understanding - in a criminal case where the trial court applied a newly enacted sentencing law which was amended between the time the crime was committed and the sentencing phase of the trial. In Hardy v. State, 489 A.2d 508 (1985), the Law Court, citing 1 MRSA § 302, held that the sentence was illegal because the trial judge used the sentencing law in effect at the time of sentencing not the law in effect at the time of the offense. Moreover, it is typical that outcomes are driven by the law in place at the time of an individual or entity's conduct. For example, applications for permits or licenses made to the State of Maine are judged by the laws and rules in place while the application is pending, not necessarily at the time the permit or license is issued. 1 M.R.S. § 302.

Further, Maine's ethics laws are unlike other statutory penalty regimes that consider each passing day to be a new violation with a separate penalty incurred for each violation (e.g. 38 M.R.S. § 480-R, "each day of a violation shall be considered a separate offense"), here there is one penalty incurred for a single violation – the late filing of the report. In this instance, the violation clearly occurred, and BQC therefore became subject to penalty, in October of 2015. For all the above reasons, the preliminary penalties be recalculated based on the law that was in place at the time of the violation – creating a maximum penalty of \$50,709.57

REQUEST FOR WAIVER OR SUBSTANTIAL REDUCTION

The BQC requests that the Commission take the following into consideration as mitigating circumstances in the consideration for reduction of the \$50,709.57 proposed fine:

1. The BQC made a bona fide effort to file the report on time.

While the mitigating circumstance of a bona fide effort to file is typically invoked when the filing of a report was interrupted due to technical difficulties, we think it is important to note that it was the intent of the BQC to file a complete report in a timely fashion. The earnestness of this desire is evidenced by the timely filing of the deficient report, the immediate contact with the Commission upon seeing an error message, and the immediate correction of the report. The failure to deliver on this intent was due exclusively to a mistake, which was in large part due to the inexperience of the treasurer filing the report. Based on the fact that there was a legitimate intent to disclose, and no intent to conceal, we respectfully request that the Commission waive or substantially reduce the preliminary penalties.

2. The penalty is disproportionate where the treasurer filing the report was inexperienced.

The BQC takes full responsibility for the filing error, and has reviewed the substance and procedure of filing reports with the treasurer to prevent future errors.

Ms. Magua is certainly experienced in the field of administrative finance. She is also experienced enough to know that Maine election law was not something in which she was conversant – and knew to reach out both to the Mainers for Accountable Elections campaign and to her own consultants to ensure compliance. There was a great deal of email and phone discussion about the proper ways to disclose both staff time and other in-kind campaign contributions. A great deal of time and discussion also focused on how to capture individual donors who may have now or in the future given to Proteus Action League specifically for the Maine campaign. Ms. Magua was very aware of this requirement and spent a great deal of internal compliance time ensuring that these donors were captured and properly disclosed. In the focus on the other, more complicated aspects of campaign compliance – the issue of reporting general treasury transfers simply did not come up.

While general treasury transfers in PACs are easy to trace (because PACs are required to have a separate segregated funds), the same is not true for BQCs. In fact, most BQCs do not have separate bank accounts – they utilize one account (since campaigns are not their primary purpose) and pull out all transactions which relate to campaign activity for their reports. In this case, there was no physical “transfer” which would show up on a bank statement – just the outgoing contributions to Mainers for Accountable Elections (which was properly reported). This is all to say that it is easy to see how this error occurred despite the BQC and Ms. Magua’s most diligent efforts to comply with the more complicated and nuanced parts of the law.

While it is not excusable, it is important to recognize the cumulative impact on an inexperienced treasurer of i) the October 5 system response confirming timely filing, ii) the three subsequent successful filings with no error message was that the treasurer believed the report had been timely filed, and she maintained that belief through each of those events until the error message delivered in January of 2016. The treasurer’s immediate action to correct the report is clear indication that, had the treasurer received any feedback or error message prior to January, the report would have been corrected that many days sooner. Based on the treasurer’s level of inexperience, the fact that the failure to report was a mistake, and the fact that the length of violation was influenced by a number of factors that continually reinforced her mistaken impression that there were no issues with the October 5 report, we respectfully request that the Commission waive or substantially reduce the preliminary penalties.

3. The penalty is disproportionate where there was no harm to the public from the late disclosure.

The BQC understands that full and timely reporting is its responsibility. It also believes that the preliminary penalty of \$50,709.57 is vastly unfair and unjust given the limited harm to the public. In this case, the expenditure at issue did not involve direct spending or voter contact. The expenditure was not an Independent Expenditure intended to influence voters on behalf on the BQC. The BQC did not raise money specifically for the Maine campaign and then neglect to report those donors. The report at issue clearly stated that PAL made a large contribution to Mainers for Accountable Elections and Mainers for Accountable Elections clearly reported that contribution appropriately for all the public to review. The only thing that the BQC didn't report was that it used its own money to make the contributions. While we do not argue that the missing information should have been included, most members of the public would see those two transactions and assume that contribution had come from PAL (which is exactly what happened).

The proposed fine would dwarf all other fines issued by this Commission – for significantly more serious violations, including fraud and theft. In fact, in January 2015, this Commission heard a matter which facts virtually identical to this one and instituted a mere \$1,000 penalty. In supporting a penalty reduction, the staff noted that the PAC had no prior violations, that the receiving organization timely reported the contribution, and that the proposed penalty was almost 50% of the omitted transaction – all factors present here.

CONCLUSION

In sum, we believe that the BQC's activities are subject to the enforcement provisions at the time the violation occurred. We further contend that a significant and substantial reduction in those penalties is justified given the inexperience of the Treasurer and the very limited harm to the public.

Finally, the BQC takes full responsibility for the error and wishes to acknowledge its continued commitment to complying with all campaign finance rules in Maine.

Sincerely,

Kate Knox

21-A M.R.S.A. § 1056-B. BALLOT QUESTION COMMITTEES

A person not defined as a political action committee who receives contributions or makes expenditures, other than by contribution to a political action committee, aggregating in excess of \$5,000 for the purpose of initiating or influencing a campaign as defined by section 1052, subsection 1, shall file reports with the commission in accordance with this section. For the purposes of this section, "campaign" does not include activities to influence the nomination or election of a candidate. Within 7 days of receiving contributions or making expenditures that exceed \$5,000, the person shall register with the commission as a ballot question committee. For the purposes of this section, expenditures include paid staff time spent for the purpose of initiating or influencing a campaign. The commission must prescribe forms for the registration, and the forms must include specification of a treasurer for the committee, any other principal officers and all individuals who are the primary fund-raisers and decision makers for the committee. [2011, c. 389, §38 (AMD); 2011, c. 389, §62 (AFF).]

1. Filing requirements. A report required by this section must be filed with the commission according to the reporting schedule in section 1059. After completing all financial activity, the committee shall terminate its campaign finance reporting in the same manner provided in section 1061. The committee shall file each report required by this section through an electronic filing system developed by the commission unless granted a waiver under section 1059, subsection 5.

[2009, c. 190, Pt. A, §20 (AMD) .]

2. Content. A report must contain an itemized account of each expenditure made to and contribution received from a single source aggregating in excess of \$100 in any election; the date of each contribution; the date and purpose of each expenditure; the name and address of each contributor, payee or creditor; and the occupation and principal place of business, if any, for any person who has made contributions exceeding \$100 in the aggregate. The filer is required to report only those contributions made to the filer for the purpose of initiating or influencing a campaign and only those expenditures made for those purposes. The definitions of "contribution" and "expenditure" in section 1052, subsections 3 and 4, respectively, apply to persons required to file ballot question reports.

[2011, c. 389, §39 (AMD) .]

2-A. Contributions. For the purposes of this section, "contribution" includes, but is not limited to:

A. Funds that the contributor specified were given in connection with a campaign; [2009, c. 524, §10 (AMD).]

B. Funds provided in response to a solicitation that would lead the contributor to believe that the funds would be used specifically for the purpose of initiating or influencing a campaign; [2011, c. 389, §40 (AMD).]

C. Funds that can reasonably be determined to have been provided by the contributor for the purpose of initiating or influencing a campaign when viewed in the context of the contribution and the recipient's activities regarding a campaign; and [2011, c. 389, §41 (AMD).]

D. Funds or transfers from the general treasury of an organization filing a ballot question report. [2007, c. 477, §4 (NEW).]

[2011, c. 389, §§40, 41 (AMD) .]

3. Forms. A report required by this section 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.

[1999, c. 729, §8 (NEW) .]

4. Records. A person filing a report required by this section shall keep records as required by this subsection for 4 years following the election to which the records pertain.

A. The filer shall keep a detailed account of all contributions made to the filer for the purpose of initiating or influencing a campaign and all expenditures made for those purposes. [2011, c. 389, §42 (AMD).]

B. The filer shall retain a vendor invoice or receipt stating the particular goods or services purchased for every expenditure in excess of \$50. [2007, c. 477, §4 (NEW).]

[2011, c. 389, §42 (AMD) .]

SECTION HISTORY

1999, c. 729, §8 (NEW). 2007, c. 477, §4 (AMD). 2009, c. 190, Pt. A, §20 (AMD). 2009, c. 366, §7 (AMD). 2009, c. 366, §12 (AFF). 2009, c. 524, §8-13 (AMD). 2011, c. 389, §§38-42 (AMD). 2011, c. 389, §62 (AFF).

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2015 CAMPAIGN FINANCE REPORT
FOR BALLOT QUESTION COMMITTEES

COMMITTEE		TREASURER	
PROTEUS ACTION LEAGUE BQC 15 RESEARCH DR, STE B AMHERST, MA 01002 PHONE: (413) 256-0349 EMAIL: MMAGUA@PROTEUSACTIONLEAGUE.ORG		MUTHONI MAGUA 15 RESEARCH DR, STE B AMHERST, MA 01002 PHONE: (413) 256-0349 EMAIL: MMAGUA@PROTEUSACTIONLEAGUE.ORG	
REPORT	DUE DATE	REPORTING PERIOD	
OCTOBER QUARTERLY REPORT	10/05/2015	08/25/2015 - 09/30/2015	

FINANCIAL ACTIVITY SUMMARY

RECEIPTS	TOTAL FOR THIS PERIOD	TOTAL FOR YEAR
1. CASH CONTRIBUTIONS (SCHEDULE A)	\$100,000.00	\$100,000.00
2. OTHER CASH RECEIPTS (INTEREST, ETC)	\$0.00	\$0.00
3. LOANS (SCHEDULE C)	\$0.00	\$0.00
4. TOTAL RECEIPTS	\$100,000.00	\$100,000.00
EXPENDITURES		
5. EXPENDITURES (SCHEDULE B)	\$353,547.87	\$353,547.87
6. LOAN REPAYMENTS (SCHEDULE C)	\$0.00	\$0.00
7. TOTAL PAYMENTS	\$353,547.87	\$353,547.87
CASH SUMMARY		
8. CASH BALANCE AT BEGINNING OF PERIOD	\$0.00	
9. PLUS TOTAL RECEIPTS THIS PERIOD (LINE 4)	\$100,000.00	
10. MINUS TOTAL PAYMENTS THIS PERIOD (LINE 8)	\$353,547.87	
11. CASH BALANCE AT END OF PERIOD	(\$253,547.87)	
OTHER ACTIVITY		
12. IN-KIND CONTRIBUTIONS (SCHEDULE A-1)	\$0.00	\$0.00
13. TOTAL LOAN BALANCE AT END OF PERIOD (SCHEDULE C)	\$0.00	
14. TOTAL UNPAID DEBTS AT END OF PERIOD (SCHEDULE D)	\$0.00	

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

REPORT FILED BY: MUTHONI MAGUA
 REPORT FILED ON: 10/05/2015
 LAST MODIFIED: 10/05/2015
 PRINTED: 04/04/2016
 COMMITTEE ID: 8609

**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	OCCUPATION AND EMPLOYER	TYPE	AMOUNT
8/27/2015	BERNARD SCHWARTZ 745 FIFTH AVENUE 31ST FLOOR NEW YORK, NY 10151	BLS INVESTMENTS LLC DESCRIPTION: Financial/Investment	1	\$100,000.00
TOTAL CASH CONTRIBUTIONS				\$100,000.00

**SCHEDULE B
EXPENDITURES TO SUPPORT OR OPPOSE**

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
8/25/2015	MAINERS FOR ACCOUNTABLE ELECTIONS 142 STATE STREET PORTLAND, ME 04101	EFFORTS TO WIN CLEAN ELECTIONS BALLOT INITIATIVE BALLOT MEASURE THROUGH LOBBYING, VOTER MOTOBILZTION, AND HIGH LEVEL STAKEHOLDER ENGAGEMENT STRATEGIES PAYMENT OF \$250,000.00 TO SUPPORT: AN ACT TO STRENGTHEN THE MAINE CLEAN ELECTION ACT, IMPROVE DISCLOSURE AND MAKE OTHER CHANGES TO THE CAMPAIGN FINANCE LAWS	SAL	\$250,000.00
9/23/2015	MAINERS FOR ACCOUNTABLE ELECTIONS 142 STATE STREET PORTLAND, ME 04101	EFFORTS TO WIN THE CLEAN ELECTIONS INITIATIVE BALLOT MEASURE THROUGH LOBBYING, VOTER MOBILIZATION, AND HIGH-LEVEL STAKEHOLDER ENGAGEMENT STRATEGIES PAYMENT OF \$100,000.00 TO SUPPORT: AN ACT TO STRENGTHEN THE MAINE CLEAN ELECTION ACT, IMPROVE DISCLOSURE AND MAKE OTHER CHANGES TO THE CAMPAIGN FINANCE LAWS	SAL	\$100,000.00
9/30/2015	STONES' PHONES 41-750 RANCHO LAS PALMAS DRIVE SUITE E-3 RANCHO MIRAGE, CA 92270	DATA MATCHING AND AUTOMATED CALLS PAYMENT OF \$3,547.87 TO SUPPORT: AN ACT TO STRENGTHEN THE MAINE CLEAN ELECTION ACT, IMPROVE DISCLOSURE AND MAKE OTHER CHANGES TO THE CAMPAIGN FINANCE LAWS	PHO	\$3,547.87
TOTAL EXPENDITURES TO SUPPORT OR OPPOSE:				\$353,547.87



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

2015 CAMPAIGN FINANCE REPORT
FOR BALLOT QUESTION COMMITTEES

COMMITTEE		TREASURER	
PROTEUS ACTION LEAGUE BQC 15 RESEARCH DR, STE B AMHERST, MA 01002 PHONE: (413) 256-0349 EMAIL: MMAGUA@PROTEUSACTIONLEAGUE.ORG		MUTHONI MAGUA 15 RESEARCH DR, STE B AMHERST, MA 01002 PHONE: (413) 256-0349 EMAIL: MMAGUA@PROTEUSACTIONLEAGUE.ORG	
REPORT	DUE DATE	REPORTING PERIOD	
OCTOBER QUARTERLY REPORT	10/05/2015	08/25/2015 - 09/30/2015	

FINANCIAL ACTIVITY SUMMARY

RECEIPTS	TOTAL FOR THIS PERIOD	TOTAL FOR YEAR
1. CASH CONTRIBUTIONS (SCHEDULE A)	\$353,547.87	\$353,547.87
2. OTHER CASH RECEIPTS (INTEREST, ETC)	\$0.00	\$0.00
3. LOANS (SCHEDULE C)	\$0.00	\$0.00
4. TOTAL RECEIPTS	\$353,547.87	\$353,547.87
EXPENDITURES		
5. EXPENDITURES (SCHEDULE B)	\$353,547.87	\$353,547.87
6. LOAN REPAYMENTS (SCHEDULE C)	\$0.00	\$0.00
7. TOTAL PAYMENTS	\$353,547.87	\$353,547.87
CASH SUMMARY		
8. CASH BALANCE AT BEGINNING OF PERIOD	\$0.00	
9. PLUS TOTAL RECEIPTS THIS PERIOD (LINE 4)	\$353,547.87	
10. MINUS TOTAL PAYMENTS THIS PERIOD (LINE 8)	\$353,547.87	
11. CASH BALANCE AT END OF PERIOD	\$0.00	
OTHER ACTIVITY		
12. IN-KIND CONTRIBUTIONS (SCHEDULE A-1)	\$0.00	\$0.00
13. TOTAL LOAN BALANCE AT END OF PERIOD (SCHEDULE C)	\$0.00	
14. TOTAL UNPAID DEBTS AT END OF PERIOD (SCHEDULE D)	\$0.00	

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

REPORT FILED BY: MUTHONI MAGUA
 REPORT FILED ON: 10/05/2015
 LAST MODIFIED: 01/15/2016
 PRINTED: 04/04/2016
 COMMITTEE ID: 8609

**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 |
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| 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	OCCUPATION AND EMPLOYER	TYPE	AMOUNT
8/25/2015	PROTEUS ACTION LEAGUE 15 RESEARCH DRIVE SUITE B AMHERST, MA 01002		4	\$250,000.00
8/27/2015	BERNARD SCHWARTZ 745 FIFTH AVENUE 31ST FLOOR NEW YORK, NY 10151	BLS INVESTMENTS LLC DESCRIPTION: Financial/Investment	1	\$100,000.00
9/30/2015	PROTEUS ACTION LEAGUE 15 RESEARCH DRIVE SUITE B AMHERST, MA 01002		4	\$3,547.87
TOTAL CASH CONTRIBUTIONS				\$353,547.87

**SCHEDULE B
EXPENDITURES TO SUPPORT OR OPPOSE**

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
8/25/2015	MAINERS FOR ACCOUNTABLE ELECTIONS 142 STATE STREET PORTLAND, ME 04101	EFFORTS TO WIN CLEAN ELECTIONS BALLOT INITIATIVE BALLOT MEASURE THROUGH LOBBYING, VOTER MOTOBILZTION, AND HIGH LEVEL STAKEHOLDER ENGAGEMENT STRATEGIES PAYMENT OF \$250,000.00 TO SUPPORT: AN ACT TO STRENGTHEN THE MAINE CLEAN ELECTION ACT, IMPROVE DISCLOSURE AND MAKE OTHER CHANGES TO THE CAMPAIGN FINANCE LAWS	SAL	\$250,000.00
9/23/2015	MAINERS FOR ACCOUNTABLE ELECTIONS 142 STATE STREET PORTLAND, ME 04101	EFFORTS TO WIN THE CLEAN ELECTIONS INITIATIVE BALLOT MEASURE THROUGH LOBBYING, VOTER MOBILIZATION, AND HIGH-LEVEL STAKEHOLDER ENGAGEMENT STRATEGIES PAYMENT OF \$100,000.00 TO SUPPORT: AN ACT TO STRENGTHEN THE MAINE CLEAN ELECTION ACT, IMPROVE DISCLOSURE AND MAKE OTHER CHANGES TO THE CAMPAIGN FINANCE LAWS	SAL	\$100,000.00
9/30/2015	STONES' PHONES 41-750 RANCHO LAS PALMAS DRIVE SUITE E-3 RANCHO MIRAGE, CA 92270	DATA MATCHING AND AUTOMATED CALLS PAYMENT OF \$3,547.87 TO SUPPORT: AN ACT TO STRENGTHEN THE MAINE CLEAN ELECTION ACT, IMPROVE DISCLOSURE AND MAKE OTHER CHANGES TO THE CAMPAIGN FINANCE LAWS	PHO	\$3,547.87
TOTAL EXPENDITURES TO SUPPORT OR OPPOSE:				\$353,547.87

OLD 21-A M.R.S.A. § 1062-A. FAILURE TO FILE ON TIME

1. Registration. A political action committee required to register under section 1052-A or 1053-B or a ballot question committee required to register under section 1056-B that fails to do so or that fails to provide the information required by the commission for registration may be assessed a fine of no more than \$2,500. In assessing a fine, the commission shall consider, among other things, whether the violation was intentional, the amount of campaign and financial activity that occurred before the committee registered, whether the committee intended to conceal its campaign or financial activity and the level of experience of the committee's volunteers and staff.

[2013, c. 334, §30 (AMD) .]



2. Campaign finance reports. A campaign finance report is not timely filed unless a properly signed or electronically submitted copy of the report, substantially conforming to the disclosure requirements of this subchapter, is received by the commission by 11:59 p.m. on the date it is due. Except as provided in subsection 6, the commission shall determine whether a required report satisfies the requirements for timely filing. The commission may waive a penalty in whole or in part if it is disproportionate to the level of experience of the person filing the report or to the harm suffered by the public from the late disclosure. The commission may waive the penalty in whole or in part if the commission determines the failure to file a timely report was due to mitigating circumstances. For purposes of this section, "mitigating circumstances" means:



A. A valid emergency of the committee treasurer determined by the commission, in the interest of the sound administration of justice, to warrant the waiver of the penalty in whole or in part; [1999, c. 729, §9 (AMD).]

B. An error by the commission staff; or [1999, c. 729, §9 (AMD).]

C. Other circumstances determined by the commission that warrant mitigation of the penalty, based upon relevant evidence presented that a bona fide effort was made to file the report in accordance with the statutory requirements, including, but not limited to, unexplained delays in postal service or interruptions in Internet service. [2007, c. 443, Pt. A, §38 (AMD).]

[2009, c. 190, Pt. A, §29 (AMD) .]

3. Basis for penalties. The penalty for late filing of a report required under this subchapter is a percentage of the total contributions or expenditures for the filing period, whichever is greater, multiplied by the number of calendar days late, as follows:

A. For the first violation, 1%; [1995, c. 483, §21 (NEW).]

B. For the 2nd violation, 3%; and [1995, c. 483, §21 (NEW).]

C. For the 3rd and subsequent violations, 5%. [1995, c. 483, §21 (NEW).]

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 calendar year. Waiver of a penalty does not nullify the finding of a violation.

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

A required report may be provisionally filed by transmission of a facsimile copy of the duly executed report to the commission, as long as an original of the same report is received by the commission within 5 calendar days thereafter.

[2007, c. 443, Pt. A, §39 (AMD) .]

4. Maximum penalties. The maximum penalty under this subchapter is \$10,000 for reports required under section 1056-B or section 1059, 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, §49 (AMD) .]

5. Request for a commission determination. If the commission staff finds that a political action committee has failed to file a report required under this subchapter, the commission staff shall mail a notice to the treasurer of the political action committee within 3 business days following the filing deadline informing the treasurer that a report was not received. If a political action committee files a report required under this subchapter late, a notice of preliminary penalty must be forwarded to the treasurer of the political action committee whose report is not received by 11:59 p.m. on the deadline date, informing the treasurer of the commission staff finding of violation and preliminary penalty calculated under subsection 3 and providing the treasurer with an opportunity to request a determination by the commission. A request for determination must be made within 14 calendar days of receipt of the commission's notice. A principal officer or treasurer requesting a determination may either appear in person or designate a representative to appear on the principal officer's or treasurer's behalf or submit a sworn statement explaining the mitigating circumstances for consideration by the commission. A final determination by the commission may be appealed to the Superior Court in accordance with Title 5, chapter 375, subchapter 7 and the Maine Rules of Civil Procedure, Rule 80C.

[2013, c. 334, §31 (AMD) .]

6. Final notice of penalty. After a commission meeting, notice of the final determination of the commission and the penalty, if any, imposed pursuant to this subchapter must be sent to the principal officer and the treasurer of the political action committee.

If a determination is not requested, the preliminary penalty calculated by the commission staff is final. The commission staff shall mail final notice of the penalty to the principal officer and to the treasurer of the political action committee. A detailed summary of all notices must be provided to the commission.

[2009, c. 302, §9 (AMD) .]

7. List of late-filing committees. The commission shall prepare a list of the names of political action committees that are late in filing a report required under section 1059, subsection 2, paragraph B, subparagraph (1) or section 1059, subsection 2, paragraph C or D within 30 days of the date of the election and shall make that list available for public inspection.

[2007, c. 443, Pt. A, §41 (AMD) .]

8. Failure to file. A person who fails to file a report as required by this subchapter within 30 days of the filing deadline is guilty of a Class E crime, except that, if a penalty pursuant to subsection 8-A is assessed and collected by the commission, the State may not prosecute a violation under this subsection.

[2003, c. 628, Pt. A, §8 (AMD) .]

8-A. Penalties for failure to file report. The commission may assess a civil penalty for failure to file a report required by this subchapter. The maximum penalty for failure to file a report required under section 1056-B or section 1059 is \$10,000.

[2009, c. 190, Pt. A, §31 (AMD) .]

9. Enforcement. A penalty assessed pursuant to this section that has not been paid in full within 30 days after issuance of a notice of the final determination may be enforced in accordance with section 1004-B.

[2009, c. 302, §10 (RPR) .]

Amendments Effective December 23, 2015

~~This subsection takes effect August 1, 2011.~~

Sec. 7. 21-A MRSA §1020-A, sub-§4-A, ¶¶A to C, as enacted by PL 2001, c. 714, Pt. PP, §1 and affected by §2, are amended to read:

- A. For the first violation, ~~1%~~ 2%;
- B. For the 2nd violation, ~~3%~~ 4%; and
- C. For the 3rd and subsequent violations, ~~5%~~ 6%.

Sec. 8. 21-A MRSA §1020-A, sub-§5-A, as amended by PL 2011, c. 558, §§4 and 5, is further amended to read:

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 financial activity reported late exceeds \$50,000, the maximum penalty is 100% of the amount reported late;

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~~ 100% of the amount reported late;

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~~ 100% of the amount reported late;

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.

Sec. 9. 21-A MRSA §1062-A, sub-§3, as amended by PL 2007, c. 443, Pt. A, §39, is further amended to read:

 **3. Basis for penalties.** The penalty for late filing of a report required under this subchapter is a percentage of the total contributions or expenditures for the filing period, whichever is greater, multiplied by the number of calendar days late, as follows:

- A. For the first violation, ~~1%~~ 2%;
- B. For the 2nd violation, ~~3%~~ 4%; and
- C. For the 3rd and subsequent violations, ~~5%~~ 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 calendar year. Waiver of a penalty does not nullify the finding of a violation.

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

A required report may be provisionally filed by transmission of a facsimile copy of the duly executed report to the commission, as long as an original of the same report is received by the commission within 5 calendar days thereafter.

Sec. 10. 21-A MRSA §1062-A, sub-§4, as amended by PL 2011, c. 389, §49, is further amended to read:

4. Maximum penalties. The maximum penalty under this subchapter is \$10,000 for reports required under section 1056-B or section 1059, except that if the financial activity reported late exceeds \$50,000, the maximum penalty is ~~1/5~~ 100% of the amount reported late.

Sec. 11. 21-A MRSA §1062-A, sub-§8-A, as amended by PL 2009, c. 190, Pt. A, §31, is further amended to read:

8-A. Penalties for failure to file report. The commission may assess a civil penalty for failure to file a report required by this subchapter. The maximum penalty for failure to file a report required under section 1056-B or section 1059 is \$10,000 or the amount of financial activity not reported, whichever is greater.

Sec. 12. 21-A MRSA §1062-B, as enacted by PL 2013, c. 334, §32, is amended to read:

§1062-B. Failure to keep records

A committee that fails to keep records required by this chapter may be assessed a fine of up to ~~\$2,500~~ \$10,000 or the amount of financial activity for which no records were kept, whichever is greater. In assessing a fine, the commission shall consider, among other things, whether the violation was intentional, whether the violation occurred as the result of an error by someone outside the control of the committee, whether the committee intended to conceal its financial activity, the amount of financial activity that was not documented and the level of experience of the committee's volunteers and staff.

Sec. 13. 21-A MRSA §1122, sub-§3-A is enacted to read:

3-A. Election cycle. "Election cycle" means the period beginning on the day after the general election for any state, county or municipal office and ending on the day of the next general election for that office.

Sec. 14. 21-A MRSA §1124, as amended by PL 2011, c. 389, §50, is further amended to read:

§1124. The Maine Clean Election Fund established; sources of funding

1. Established. The Maine Clean Election Fund is established to finance the election campaigns of certified Maine Clean Election Act candidates running for



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

March 9, 2016

Katherine Knox, Esq.
Bernstein Shur
PO Box 5057
Augusta, ME 04333-5057

Re: Late Filing of Proteus Action League BQC 2015 October Quarterly Campaign Finance Report

Dear Ms. Knox:

The Commission staff has made a preliminary determination that the Proteus Action League BQC (the BQC) was late in filing its 2015 October Quarterly Report. The Commission staff considers the report late as a result of substantial non-conformity with disclosure requirements. The BQC initially reported \$100,000.00 in contributions, but later amended its report to show \$353,547.87 in contributions. Under the Commission's statutes, the late filing of a report triggers an enforcement process. (21-A M.R.S.A. § 1062-A(3)). Based on the amount of financial activity in the report, the number of calendar days the report was late, and the BQC's history of violations, the commission staff has calculated the preliminary penalty to be \$172,412.61. (Please see attached penalty matrix for the calculation).

The BQC may make a written request that the Commission waive the violation or penalty in whole or in part. The Commission staff would like to schedule the waiver request for the next meeting of the Commission on March 30, 2015 at 9:00 a.m. In order for the request to be scheduled for that meeting, however, the Commission staff would need to receive the BQC's waiver request by the morning of March 21 at the very latest. If that is not feasible, the staff can schedule the waiver request for the Commission's meeting on Wednesday, April 27.

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 staff; or (3) relevant evidence that the BQC 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.

Please call me at (207) 287-4179 or send me an email at benjamin.p.dyer@maine.gov if you have questions.

Sincerely,

A handwritten signature in cursive script that reads 'Benjamin P. Dyer'.

Benjamin P. Dyer
Political Committee and Lobbyist Registrar

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

PHONE: (207) 287-4179

FAX: (207) 287-6775

Payment Receipt

Mail payment to:

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

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

Muthoni Magua, Treasurer
Proteus Action League BQC
15 Research Dr, Ste B
Amherst, MA 01002

Violation: Late 2015 October Quarterly Report
Amount Due: \$172,412.61

Organization Name: Proteus Action League BQC
Prior Violations: N/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:

Report Name	Activity Amount	Due Date	Days Late	Per Diem	Preliminary Penalty
2015 October Quarterly	\$253,547.87	10/5/2015	78 (pre-12/24/2015)	1%	\$50,709.57*
			24 (post-12/24/2015)	2%	<u>\$121,703.04</u>
					Total: \$172,412.61

* Before December 23, 2015, the statutory maximum penalty for the late filing of a quarterly campaign finance report was 1/5th of the activity reported late. The citizen's initiative passed on November 3, 2015 became effective on December 23, 2015 and increased the maximum penalty to 100% of the activity reported late.

MAXIMUM PENALTIES
21-A M.R.S.A. Section 1062-A(3) & (4)

Pre-December 23, 2015:
\$10,000 for Pre- and Post-Election Reports, Quarterly Reports and 24-Hour Reports, except that if the financial activity reported late exceeds \$50,000, the maximum penalty is one-fifth of the amount reported late.

Post-December 23, 2015:
\$10,000 for Pre- and Post-Election Reports, Quarterly Reports and 24-Hour Reports, except that if the financial activity reported late exceeds \$50,000, the maximum penalty is 100% of the amount reported late.