



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

To: Commissioners  
From: Emma Burke, Candidate Registrar  
Date: April 14, 2016  
Re: Request for Waiver of Late-Filing Penalties by Stephen Martin

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Stephen Martin was a Maine Clean Election Act candidate for the Maine Senate in the special election in Senate District 32 that took place March 29, 2016. He did not win the election. During the 13 days prior to an election, candidates who receive a contribution or make an expenditure of \$1,000 or more are required to file a supplemental campaign finance report within twenty-four hours of receiving the contribution or making the expenditure.

Mr. Martin made two expenditures of \$1,000 or more during the 24-hour reporting period prior to the March 29<sup>th</sup> special election. Accordingly, he was required to file a 24-Hour Report on March 18<sup>th</sup>, and another on March 22<sup>nd</sup>. He filed both reports late on March 24<sup>th</sup>. The reports were six days and two days late, respectively.

### **LEGAL REQUIREMENTS**

Candidates are required to file 24-Hour Reports with the Commission during the 13 days prior to an election if they receive a contribution or make an expenditure of \$1,000 or more. (21-A M.R.S.A. § 1017(3-A)(C)) If the candidate is late in filing a 24-Hour 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**

The Commission’s management assigned Candidate Registrar Emma Burke to administer the March 29<sup>th</sup> special election. She was in telephone contact with both candidates. She notified them that as candidates in the special election they would need to file campaign finance reports and they agreed to receive the filing schedule in the form of an email from Ms. Burke. On February 3<sup>rd</sup>, she sent them an email that included the details of the filing schedule. (The email is among the attached materials.)

The email contained the following language: “24-Hour Reporting Period: March 16th-March 28<sup>th</sup>. Any single expenditure of \$1,000 or more must be reported in no more than 24 hours during this time period. Reports must be filed within 24 hours, even if the due date is a weekend or holiday.”

On March 24, 2016, Ms. Burke received a call from Mr. Martin, during which he self-reported that he had made two expenditures of \$1,000 or more in the past week, and had not yet filed the required 24-Hour Reports. Mr. Martin began the conversation stating he had just been told that 24-Hour Reports were a requirement, and asked if that was true. Ms. Burke stated it was; Mr. Martin then explained the two details of the expenditures, and Ms. Burke entered the transactions into E-Filing, and filed the two 24-Hour Reports to assist the campaign.

Based on the statutory formula for calculating late-filing penalties, the preliminary penalties are \$383.02 and \$165.23:

<b>Report</b>	<b>Due Date</b>	<b>Financial Activity</b>	<b>Penalty Rate</b>	<b>Days Late</b>	<b>Preliminary Penalty</b>
24-Hour Report	03/18/2016	\$3,191.88	2%	6	\$383.02
24-Hour Report	03/22/2016	\$4,130.90	2%	2	\$165.23

## **STAFF COMMENTS**

Violations of the 24-hour reporting requirements can be serious matters. 24-Hour Reports play an important role in informing the electorate about how money is being spent to influence voters in the critical days just before an election.

The special election was Mr. Martin's first experience as a candidate. As noted above, he self-reported to the Commission immediately upon learning that he may have been late in filing required reports, and cooperated with Commission staff to get the reports filed as quickly as possible.

In his written request for a waiver, Mr. Martin states multiple mitigating circumstances, including this was his first experience as a candidate, and the time pressure of the special election schedule along with being an Maine Clean Election Act candidate was overwhelming at times. Mr. Martin also notes that he was often in contact with his Candidate Registrar, Emma Burke, to ask questions and receive help. Additionally, Mr. Martin makes mention of his occupation, which is a state bail commissioner – a position that entails around-the-clock responsibilities.

## **RECOMMENDATION**

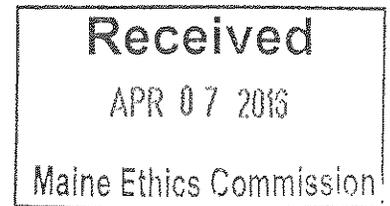
The Commission staff recommends a partial penalty waiver for both penalties:

- for the late 24-Hour Report due on March 18, 2016 (six days late), the staff recommends a final penalty of \$100;
- for the late 24-Hour Report due on March 22, 2016 (two days late), the staff recommends a final penalty of \$50.

This would reduce Mr. Martin's combined final penalty to \$150. The Commission staff believes this is a fair reduction, as Mr. Martin's mitigating circumstances are credible and understandable. However, timely 24-Hour Reports are essential to public disclosure, especially during the compressed timeline of a special election. Therefore, the Commission staff is of the opinion that a not insignificant amount of public harm resulted from the late-filing of these two 24-Hour Reports, and therefore a penalty of \$150 is appropriate. Thank you for your consideration of this memo.

4/4/2016

Emma Burke  
Candidate Registrar



Re: Notice of Violation and Penalty for Late-Filed 24 Hour Reports

Dear Emma,

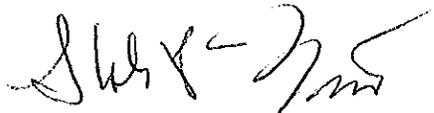
I am writing to appeal the penalty imposed for late filing of expenditures greater than one thousand (\$1000.00) within the twenty four (24) hour time limit.

The oversight was nobody else's responsibility but my own. However I believe there are mitigating circumstances to be taken into consideration that would permit a waiving of the penalty or finding there was no violation due to the following facts.

1. This is my first attempt at public office in which clean election funds were to be secured.
2. From the beginning I have been in regular contact with the Ethics Commission office concerning compliance with the clean election laws.
3. The election in question was a special election, not a regular election. At first even the Ethics Commission was having some legal questions concerning the special election with respect to clean elections laws.
4. Due to the sort notice involved with this election, time was of the essence and a great deal of it was spent obtaining the requisite funding and campaigning.
5. I had to perform my bail commissioner duties virtually 24/7 as usual. This at times resulted in very little sleep, yet I still had to keep busy with all the special election campaign entailed.
6. During the two weeks leading up to the election I was also quite sick with a virus that kept me at home several days. I am still not completely recovered from it.
7. Taken as a whole, the entire process was overwhelming at times.
8. On March 24, 2016 I was asked by an individual more experienced in clean election campaigns if I had yet filed my expenditures that were in excess of the \$1000.00 threshold for reporting.

9. Since I had not yet filed such expenditures I went over the 2016 Candidate Quick Guide to see what I was supposed to. I did not see it right away so I called you to advise what I needed to do.
10. You did point out that I was late in reporting and walked me through it. From there we entered the information over the phone and took care of it right then and there.
11. Up until this point I was in compliance with all other aspects of the clean election funding process.
12. The violation in question was a clerical error on my part and self-reported.
13. Furthermore, on March 8, if you recall I would not let my treasurer electronically file one of the report as I found a discrepancy between the electronic version and my paper version. We wanted to be accurate and in compliance. You did determine that it was due to a wrong date entered and was subsequently corrected and the information properly filed.

Very truly yours,

A handwritten signature in black ink, appearing to read "Stephen P. Martin", with a stylized flourish extending to the right.

Stephen P. Martin

cc: Jennifer Martin

March 25, 2016

Stephen Martin  
4 Southgate Avenue  
Biddeford, Maine 04005

Re: Notice of Violation and Penalty for Late-Filed 24-Hour Reports

Dear Mr. Martin:

You were required to file two 24-Hour Reports on 03/18/2016 and 03/22/2016, but the reports were not filed until 03/24/2016. Under the Commission's statutes (21-A M.R.S.A. § 1020-A(4-A)) the late filing of a report triggers an enforcement process. The Commission staff has made a preliminary finding of violation and determined that the preliminary penalty for the late filing of the report due 03/18/2016 is \$383.02, and for the report due 03/22/2016 the preliminary penalty is \$165.23. Please see the next page for the penalty calculation.

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

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

The staff requests that you pay the preliminary penalty within 14 days of the date of your receipt of this notice if you do not intend to request a waiver. Please use the payment statement on the next page when paying by mail. You may also make a payment online at [www.maine.gov/ethics](http://www.maine.gov/ethics) by clicking the "Penalty Payment" link. Please contact the Commission staff at (207) 287-4179 or [ethics@maine.gov](mailto:ethics@maine.gov) if you have any questions.

Sincerely,

Emma Burke  
Candidate Registrar

cc: Jennifer Martin

## PENALTY CALCULATION

The penalty for filing a campaign finance report late is based on a percentage of the total contributions or expenditures for the reporting period, whichever is greater, multiplied by the number of days late. The percentage is based on your history of past violations: 1% for the first violation, 3% for the second violation, and 5% for the third and each subsequent violation. Violations for late-filed reports accumulate in the two-year period beginning on January 1<sup>st</sup> of each even-numbered year. A penalty accrues daily beginning on the day following the filing due date. Any penalty of less than \$10 is automatically waived.

## HOW YOUR PENALTY WAS CALCULATED

Filer: Stephen Martin			
Late-Filed Report: 24-Hour Report (2)			
Contributions	\$0.00; \$0.00	Penalty Base Amount	\$3,191.88; \$4,130.90
Expenditures	\$3,191.88; \$4,130.90	Percentage	2%
Due Date	03/18/2016; 03/22/2016	Daily Accrual Rate	\$63.83; \$82.61
Date Filed	03/24/2016	Days Late	6; 2
Previous Violations	0	Your Total Penalty	\$383.02; \$165.23

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## PAYMENT STATEMENT AND PAYMENT OPTIONS

**From:** Stephen Martin

**Penalty Amount:** \$ 548.25

**Penalty ID:** N/A

**Amount Enclosed:** \_\_\_\_\_

**Check/M.O. #:** \_\_\_\_\_

**BY MAIL:** Enclose this payment statement with your payment so that it will be properly accounted for.

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

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

**ONLINE:** Go to [www.maine.gov/online/ethics/penalties](http://www.maine.gov/online/ethics/penalties). Please include the penalty ID so that your payment will be properly accounted for.

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

### 2016 CAMPAIGN YEAR

COMMITTEE		TREASURER	
STEPHEN P MARTIN (SPECIAL) 4 SOUTHGATE AVENUE BIDDEFORD, ME 04005 PHONE: (207) 229-3189 EMAIL: SPMARTIN@GWI.NET		JENNIFER L MARTIN 245 HILL STREET BIDDEFORD, ME 04005 PHONE: (207) 229-2447 EMAIL: JENNIFERMARTIN173@GMAIL.COM	
REPORT	DUE DATE	REPORTING PERIOD	
24 Hour Report of Major Contributions and Expenditures	03/18/2016	03/17/2016 - 03/17/2016	

### FINANCIAL ACTIVITY SUMMARY

CONTRIBUTIONS AND EXPENDITURES	
1. TOTAL CONTRIBUTIONS / LOANS	\$0.00
2. TOTAL EXPENDITURES	\$3,191.88
3. TOTAL DEBTS	\$0.00

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

REPORT FILED BY: EMMA BURKE  
REPORT FILED ON: 03/24/2016  
LAST MODIFIED: 03/24/2016  
PRINTED: 04/10/2016  
COMMITTEE ID: 9107

## 24-HOUR EXPENDITURE AND PAYEE INFORMATION

EXPENDITURE TYPES				
<p>CNS Campaign consultants</p> <p>CON Contribution to other candidate, party, committee</p> <p>EQP Equipment (office machines, furniture, cell phones, etc.)</p> <p>FND Fundraising events</p> <p>FOD Food for campaign events, volunteers</p> <p>LIT Print and graphics (flyers, signs, palmcards, t-shirts, etc.)</p> <p>MHS Mail house (all services purchased)</p> <p>OFF Office rent, utilities, phone and internet services, supplies</p> <p>OTH Other</p> <p>PHO Phone banks, automated telephone calls</p>	<p>POL Polling and survey research</p> <p>POS Postage for U.S. Mail and mail box fees</p> <p>PRO Other professional services</p> <p>PRT Print media ads only (newspapers, magazines, etc.)</p> <p>RAD Radio ads, production costs</p> <p>SAL Campaign workers' salaries and personnel costs</p> <p>TRV Travel (fuel, mileage, lodging, etc.)</p> <p>TVN TV or cable ads, production costs</p> <p>WEB Website design, registration, hosting, maintenance, etc.</p>			
DATE OF EXPENDITURE	PAYEE	REMARK	TYPE	AMOUNT
3/17/2016	SPECTRUM MARKETING 95 EDDY RD MANCHESTER, NH 03102	CAMPAIGN SIGNS & PALMCARDS	LIT	\$3,191.88
<b>TOTAL EXPENDITURES FOR CANDIDATE:</b>				<b>\$3,191.88</b>

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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

### 2016 CAMPAIGN YEAR

COMMITTEE		TREASURER	
STEPHEN P MARTIN (SPECIAL) 4 SOUTHGATE AVENUE BIDDEFORD, ME 04005 PHONE: (207) 229-3189 EMAIL: SPMARTIN@GWI.NET		JENNIFER L MARTIN 245 HILL STREET BIDDEFORD, ME 04005 PHONE: (207) 229-2447 EMAIL: JENNIFERMARTIN173@GMAIL.COM	
REPORT	DUE DATE	REPORTING PERIOD	
24 Hour Report of Major Contributions and Expenditures	03/22/2016	03/21/2016 - 03/21/2016	

### FINANCIAL ACTIVITY SUMMARY

CONTRIBUTIONS AND EXPENDITURES	
1. TOTAL CONTRIBUTIONS / LOANS	\$0.00
2. TOTAL EXPENDITURES	\$4,130.90
3. TOTAL DEBTS	\$0.00

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

REPORT FILED BY: EMMA BURKE  
REPORT FILED ON: 03/24/2016  
LAST MODIFIED: 03/24/2016  
PRINTED: 04/10/2016  
COMMITTEE ID: 9107

## 24-HOUR EXPENDITURE AND PAYEE INFORMATION

EXPENDITURE TYPES				
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DATE OF EXPENDITURE	PAYEE	REMARK	TYPE	AMOUNT
3/21/2016	BANGOR LETTER SHOP 99 WASHINGTON STREET BANGOR, ME 04401	POSTAGE FOR PRE-SORTED MAILINGS	POS	\$1,830.90
3/21/2016	RAVEN STRATEGIES UNKNOWN SCARBOROUGH, ME 04070	PR CONSULTING	CNS	\$2,300.00
<b>TOTAL EXPENDITURES FOR CANDIDATE:</b>				<b>\$4,130.90</b>

**From:** Burke, Emma  
**Bcc:** "[SPMARTIN@GWI.NET](mailto:SPMARTIN@GWI.NET)"; "[SDESCHAM@MAINE.RR.COM](mailto:SDESCHAM@MAINE.RR.COM)"  
**Subject:** Important Dates and Deadlines for SD 32 Special Election  
**Date:** Wednesday, February 03, 2016 3:46:00 PM

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Hello,

Now that the special election date has been set for March 29<sup>th</sup>, the Ethics Commission has set the following deadlines:

- Qualifying contribution collection period: February 1<sup>st</sup>-March 8<sup>th</sup>
  - You can collect qualifying contributions in this time period only
- MCEA Deadline: March 8<sup>th</sup> at 5:00pm
  - You must submit the following materials to the Ethics Commission no later than 5:00pm on March 8<sup>th</sup>:
    - Original Receipt & Acknowledgement Forms (signed by contributors and circulators, verified by municipal clerks)
    - Checks and money orders clipped to corresponding R&A Form
    - Alphabetical list of all QC contributors
    - Seed Money Report
    - Signed Request for Certification Form
- 11-Day Pre-Election Report: March 18<sup>th</sup>
  - Reporting period covers the day the Seed Money Report is filed to March 15<sup>th</sup>
- 42-Day Post-Election Report: May 10<sup>th</sup>
  - Reporting period covers March 16<sup>th</sup>-May 3<sup>rd</sup>
- 24-Hour Reporting Period: March 16<sup>th</sup>-March 28<sup>th</sup>
  - Any single expenditure of \$1,000 or more must be reported in no more than 24 hours during this time period
  - Reports must be filed within 24 hours, even if the due date is a weekend or holiday

Also, please be aware that due to the passage of the Citizen's Initiative in November, you are able to collect additional qualifying contributions in an effort to receive supplemental payments of MCEA funds. By statute, additional qualifying contributions must be turned into the Ethics Commission no later than three weeks before the date of an election, which is March 8<sup>th</sup>. So, in short, all qualifying contributions are due by 5:00pm on March 8<sup>th</sup>. Please see the following information:

- You need 175 qualifying contributions to become certified as an MCEA candidate.
  - If you do not reach 175 QCs, you will not receive MCEA funds and will need to run as traditionally financed
- You may collect up to eight groups of 45 qualifying contributions above and beyond the 175 needed for certification
  - Each group of 45 qualifying contributions will get you another \$5,000 for the contested election
- You will receive \$20,000 for the contested election once you are certified; with a full eight groups of additional qualifying contributions, you could receive \$60,000
- You should spend any seed money you raise before requesting certification – any

seed money left at the time of certification will be deducted from your MCEA fund payment.

If you have any other questions, please feel free to contact me.

Best regards,

*Emma J. Burke*

*Candidate Registrar*

Maine Ethics Commission

(207) 287-4727 | [www.maine.gov/ethics](http://www.maine.gov/ethics)

135 State House Station, Augusta, ME 04333-0135

45 Memorial Circle, Augusta, ME