



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

Commission Meeting 5/28/2015  
Agenda Item #5

To: Commissioners  
From: Benjamin Dyer, Political Committee and Lobbyist Registrar  
Date: May 11, 2015  
Re: Request for Waiver of Late-Filing Penalty by Elise Baldacci

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Once registered, lobbyists are required to file monthly reports of their lobbying activities. Monthly reports are due on the 15<sup>th</sup> of the month for the preceding month. Elise Baldacci, the lobbyist for the Maine Credit Union League, was required to file a monthly lobbyist report on April 15, 2015, but did not file the report until April 16, 2015. On April 17, 2015, Commission staff assessed a \$50 penalty on Ms. Baldacci for the day-late report filing.

### **LEGAL REQUIREMENTS**

All registered lobbyists are required to file monthly reports for each calendar month they are registered. Reports are due 11:59 p.m. on the 15<sup>th</sup> day of the following month (*i.e.*, the March lobbying report is due April 15<sup>th</sup>). (3 M.R.S.A. §317) For late reports filed within 24 hours of the deadline, the preliminary penalty is \$50. (3 M.R.S.A. §319)

### **DISCUSSION**

Ms. Baldacci registered online on March 25, 2015 and paid for her registration on March 31, 2015. Commission staff accepted her registration and the Commission's lobbyist filing system generated and sent an email with login credentials on March 31, 2015.

Because Ms. Baldacci registered in March, her first report for the lobbying year was the March report, due on April 15, 2015. She did not file that report until April 16, 2015.

Ms. Baldacci asks that the Commission waive the penalty because she did not receive her login credentials until Monday, April 13, 2015 and was out of the rest of the week sick. She mistakenly states that the report was due on April 16, when it was due on April 15.

### **STAFF RECOMMENDATION**

The Commission staff is sympathetic to Ms. Baldacci and recognizes that illness is often inconvenient, but it recommends that the Commission deny the waiver request and impose the preliminary penalty of \$50. This situation does not contain any of the “mitigating circumstances” listed in 3 M.R.S.A. §319 as valid reasons for waiving the preliminary penalty. There are no indications that Ms. Baldacci’s illness rises to the level of a “valid emergency.” There were no technical issues with the Commission’s lobbyist filing system or other errors by the Commission which prevented Ms. Baldacci from filing.

The email with her login credentials was sent on March 31, 2015 (attached), and it is unclear why she obtained it on April 13, 2015. She used the credentials to log into the system during the mornings of April 13 and 15 (see attached login record). Both logins were before the filing deadline of 11:59 p.m. on April 15. Ms. Baldacci could have filed her report during those sessions. As for the preliminary penalty being disproportionate to the level of experience of the lobbyist or the harm suffered by the public, the Legislature has already provided for a one-half reduction in the preliminary penalty for a lobbyist

report filed only one day late (from \$100 to \$50). The Commission staff recommends the \$50 penalty to remain consistent with its past decisions holding lobbyists to high standards for timely filing.

Thank you for your consideration of this memo.



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

April 16, 2015

Elise Baldacci  
 PO Box 1236  
 Portland, ME 04104

Re: Late-Filed Lobbyist Report

Dear Ms. Baldacci:

The Commission staff has made a preliminary determination that a penalty of \$50 applies for the late filing of the March lobbyist disclosure report. See, 3 MRSA § 319. The report was due on April 15, 2015 and was not filed until April 16th.

If you disagree with the preliminary penalty, you may request a waiver by submitting a statement, in writing, to the Commission stating the reason the report was filed late and requesting that the preliminary penalty be waived. All requests for waiver will be included on the agenda for the next Commission meeting.

If you do not intend to seek a waiver of the preliminary penalty, please mail a check, payable to "Treasurer, State of Maine," for the above amount to the Ethics Commission at 135 State House Station, Augusta, Maine 04333. You may also pay with a Visa or MasterCard online at [www.maine.gov/ethics](http://www.maine.gov/ethics) by selecting the "penalty payment" option.

Please either pay the preliminary penalty or submit a request for waiver within 14 days of the date of this letter. Please direct any questions you may have to me at (207) 287-4179 or [benjamin.p.dyer@maine.gov](mailto:benjamin.p.dyer@maine.gov).

Sincerely,

Benjamin P. Dyer  
 Political Committee and Lobbyist Registrar

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*Please return this portion with your payment. Thank you.*

From: Elise Baldacci for Maine Credit Union League  
 Re: Penalty for late filing of March 2015 Lobbyist Disclosure Report (\$50.00).  
 Enclosed: \$ \_\_\_\_\_ Check/M.O. No.# \_\_\_\_\_

**From:** [Baldacci, Elise](#)  
**To:** [Dyer, Benjamin P](#)  
**Subject:** Late-Filed Lobbyist Report  
**Date:** Monday, April 20, 2015 11:16:13 AM

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Good morning, Ben,

I'm requesting a waiver of the \$50 dollar penalty for the late filing of the March lobbyist disclosure report. I received my log-in on Monday, April 13, with the report being due on Thursday, April 16. I was not in my office for the remainder of the week to log-in and complete my report and came home early from the State House on Thursday with flu-like symptoms. Having realized my late-filing, I made sure to file it at about 6:45am on Friday, only missing the deadline by 6 hours and 45 minutes.

I understand the importance of timely filing of lobbyist and PAC reports, and have never filed an untimely report. I hope you consider waiving the \$50 late fee, with the understand that the penalty will be assessed should this ever happen again.

Best regards,  
Elise Baldacci

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**Elise M. Baldacci**

Director of Governmental Affairs  
Maine Credit Union League  
Voice: 207.773.5671 ext. 265  
Toll-Free In-State: 800.442.6715  
Toll-Free Out-Of-State: 800.341.0180  
Cell: 207.299.0226  
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**From:** [ethics@maine.gov](mailto:ethics@maine.gov)  
**To:** [EBALDACCI@MAINECUL.ORG](mailto:EBALDACCI@MAINECUL.ORG)  
**Subject:** Confirmation of Registration with Maine Ethics Commission  
**Date:** Tuesday, March 31, 2015 3:50:03 PM

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Thank you for registering with the Maine Ethics Commission.

This email has your username and a link to your temporary PIN (password) to access the electronic filing system for political candidates, political committees and lobbyists in Maine. Please click the link and follow the instructions to create a permanent PIN. Your temporary PIN will expire in 30 days. So please create a permanent PIN as soon as possible.

Once you have established your permanent PIN, you can access the e-filing system at <http://mainecampaignfinance.com> and clicking Filer Login.

If you already have an active user name and PIN and would like to use one user name and password for both accounts, contact the Commission Staff.

If you did not make this request or have any questions, please contact the Commission Staff.

Your username: EBALDACCI8507

PIN link: <https://secure.mainecampaignfinance.com/CampaignFinance/RetrievePassword.aspx?NU=Y&Key=39edffbd-beab-4b34-b9b7-81f9411f9563>

Thank you,  
MAINE ETHICS COMMISSION STAFF  
(207) 287-4179  
[ethics@maine.gov](mailto:ethics@maine.gov)

## Event Log

[Add](#)

Description	Event Date	Due Date	Notes	Inactive	Create User	Create Timestamp	
User Login	5/8/2015 12:35:12 PM		USER EBALDACC18507 LOGGED IN.	<input type="checkbox"/>	BALDACCI, ELISE	5/8/2015 12:35:12 PM	<a href="#">Edit</a>
User Login	4/16/2015 7:07:46 AM		USER EBALDACC18507 LOGGED IN.	<input type="checkbox"/>	BALDACCI, ELISE	4/16/2015 7:07:46 AM	<a href="#">Edit</a>
User Login	4/16/2015 6:55:19 AM		USER EBALDACC18507 LOGGED IN.	<input type="checkbox"/>	BALDACCI, ELISE	4/16/2015 6:55:19 AM	<a href="#">Edit</a>
User Login	4/15/2015 8:47:26 AM		USER EBALDACC18507 LOGGED IN.	<input type="checkbox"/>	BALDACCI, ELISE	4/15/2015 8:47:26 AM	<a href="#">Edit</a>
User Login	4/13/2015 11:33:51 AM		USER EBALDACC18507 LOGGED IN.	<input type="checkbox"/>	BALDACCI, ELISE	4/13/2015 11:33:51 AM	<a href="#">Edit</a>
Registration Accepted	3/31/2015 3:45:46 PM			<input type="checkbox"/>	DYER, BEN	3/31/2015 3:45:46 PM	<a href="#">Edit</a>

**Maine Revised Statutes**  
**Title 3: LEGISLATURE**  
**Chapter 15: LOBBYIST DISCLOSURE PROCEDURES**

**§317. REPORTS**

Reports required by this section must be on forms prescribed or approved by the commission. The forms must provide for a sworn statement that the persons signing the report acknowledge the truth and completeness of all the information contained therein. [1993, c. 691, §18 (RPR).]

 **1. Monthly session reports.** During the period in which the Legislature is in session, every registered lobbyist shall file with the commission, no later than 11:59 p.m. on the 15th calendar day of each month, a report concerning the lobbyist's activities for the previous month regarding each employer.

Every lobbyist shall report that lobbyist's lobbying activities for each month that the Legislature is in session, even if no lobbying has been performed or compensation or reimbursement for expenses received for the month. In the case of a lobbyist representing multiple employers, if no lobbying or services in support of lobbying were performed, one report listing each employer on whose behalf no lobbying was conducted may be submitted. The monthly report must contain the following information:

- A. The month to which the report pertains; [1979, c. 632, §2 (RPR).]
- B. The name and address of the lobbyist and employer; [1979, c. 632, §2 (RPR).]
- C. The names of the individuals who lobbied during the month; [1979, c. 632, §2 (RPR).]
- D. The specific dollar amount of compensation received for lobbying activities, as defined in section 312-A, subsection 9, during the month. The amount of compensation received for lobbying officials in the legislative branch, officials in the executive branch and constitutional officers must be reported separately.  
  
In the case of a regular employee, the specific dollar amount must be computed by multiplying the number of hours devoted to the preparation of documents and research for the primary purpose of influencing legislative action and to lobbying by the employee's regular rate of pay based on a 40-hour week; [2007, c. 630, §14 (AMD).]
- E. The specific dollar amount of expenditures made or incurred by the lobbyist during the month that is the subject of the report for purposes of lobbying as defined in section 312-A, subsection 9 for which the lobbyist has been or expects to be reimbursed. The amount of expenditures for lobbying officials in the legislative branch, officials in the executive branch and constitutional officers must be reported separately; [2007, c. 630, §14 (AMD).]

E-1. When expenditures for the purposes of indirect lobbying exceed \$15,000 during the month that is the subject of the report, the specific dollar amount of expenditures for indirect lobbying made or incurred during the month by a lobbyist, lobbyist associate or employer, with separate totals for expenditure categories as determined by the commission, the legislative actions that are the subject of the indirect lobbying and a general description of the intended recipients; [2009, c. 282, §4 (NEW).]

F. The total amount of expenditures by the lobbyist or the employer directly to or on behalf of one or more covered officials, including members of the official's immediate family; [2007, c. 630, §14 (AMD).]

G. For any expenditure of money or anything of value made by the lobbyist or employer on behalf of a covered official or a member of the official's immediate family with a total retail value of \$25 or more, the name of the official or family member, the person making the expenditure and the date, amount and purpose of the expenditure ; [2007, c. 630, §14 (AMD).]

G-1. The date and a description of an event, a list of all officials in the legislative branch or executive branch or members of an official's immediate family in attendance and the total amount of expenditures for the event, if the total amount of the expenditures for officials and family members is \$250 or more; [2007, c. 373, §5 (AMD).]

H. A list of each legislative action by Legislative Document number, specific issue, nomination or other matter in connection with which the lobbyist is engaged in lobbying; [2007, c. 630, §14 (AMD).]

I. A list specifically identifying each legislative action for which the lobbyist was compensated or expects to be compensated, or expended in excess of \$1,000 for lobbying activities related to those actions and a statement of the amounts compensated or expended for each; and [2007, c. 630, §14 (AMD).]

J. A list of all of the employer's original sources and a statement of the dollar amounts contributed or paid by the original sources to the employer. If the original source is a corporation formed under Title 13 or 13-C or former Title 13-A, nonprofit corporation formed under Title 13-B or limited partnership under Title 31, the corporation, nonprofit organization or limited partnership, not the individual members or contributors, must be listed as the original source. [2009, c. 282, §5 (AMD).]

[ 2009, c. 282, §§4, 5 (AMD) .]

## **2. Annual report.**

[ 2011, c. 179, §5 (RP) .]

**2-A. Electronic filing.** Beginning January 1, 2006, a lobbyist shall file monthly session reports under subsection 1 through an electronic filing system developed by the commission. The commission may make an exception to this electronic filing requirement if a lobbyist submits a written request that states that the lobbyist lacks access to the technology or the technological ability to file reports electronically. The request for an

exception must be submitted at least 10 days prior to the deadline for the first report that the lobbyist is required to file for the lobbying year. The commission shall grant all reasonable requests for exceptions.

[ 2011, c. 179, §6 (AMD) .]

**3. Facsimile copies.** The commission may, by rules adopted pursuant to the Maine Administrative Procedure Act, Title 5, chapter 375, establish procedures and fees by which facsimile copies of duly executed reports required by this section may be received and filed with the commission.

[ 1993, c. 446, Pt. B, §10 (AMD) .]

**4. Monthly nonsession reports.** When the Legislature is not in regular session, every registered lobbyist must either file:

A. With the lobbyist's last monthly report for that regular session a statement that the lobbyist will not engage in lobbying activities when the Legislature is not in session. The lobbyist is required to file a monthly report for lobbying activity conducted during a special session; or [1993, c. 446, Pt. A, §14 (NEW); 1993, c. 446, Pt. A, §20 (AFF).]

B. If the lobbyist is engaged in lobbying in any of those months, a monthly report in the manner prescribed in subsection 1 even if compensation or reimbursement for expenses has not been received for the month. [1993, c. 446, Pt. A, §14 (NEW); 1993, c. 446, Pt. A, §20 (AFF).]

If the lobbyist did not expect to be engaged in lobbying when the Legislature was not in session, the commission may waive the requirement for the months between the end of the session and the renewal of lobbying.

[ 1993, c. 691, §21 (AMD) .]

**Maine Revised Statutes**  
**Title 3: LEGISLATURE**  
**Chapter 15: LOBBYIST DISCLOSURE PROCEDURES**

**§319. PENALTY**



**1. Failure to file registration or report.** Any person who fails to file a registration or report as required by this chapter may be assessed a fine of \$100 for every month the person fails to register or is delinquent in filing a report pursuant to section 317. If a registration or report is filed late, the commission shall send a notice of the finding of violation and preliminary penalty. The notice must provide the lobbyist with an opportunity to request a waiver of the preliminary penalty. If a lobbyist files a report required pursuant to section 317 within 24 hours after the deadline, the amount of the preliminary penalty is \$50. The commission may waive the fine or penalty in whole or in part if the commission determines the failure to register or report was due to mitigating circumstances or the fine or penalty is disproportionate to the level of experience of the lobbyist or the harm suffered by the public from the late registration or report. For purposes of this subsection, "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 fine or penalty in whole or in part; [2011, c. 179, §7 (NEW).]

B. An error by the commission; or [2011, c. 179, §7 (NEW).]

C. Circumstances determined by the commission to warrant the waiver of the fine or penalty in whole or in part, based upon relevant evidence presented that a bona fide effort was made to file the report in accordance with this chapter, including, but not limited to, unexplained delays in Internet service. [2011, c. 179, §7 (NEW).]

[ 2011, c. 179, §7 (RPR) .]

**1-A. Notice of suspension.** Any person who fails to file a report or pay a fee as required by this chapter may be suspended from further lobbying by written notice of the commission until such failure is corrected.

[ 1993, c. 446, Pt. B, §12 (AMD) .]

**2. Class E crime.**

[ 1979, c. 632, §3 (RP) .]

**3. Exemption.** Notwithstanding section 317, subsection 1, a registered lobbyist is exempt from the penalty imposed under this section if, while the Legislature is convened in special session, the lobbyist failed to file a report with the commission pursuant to section 317 if no lobbying has been performed during that special session.

[ 1993, c. 446, Pt. B, §13 (AMD) .]