



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

Commission Meeting 07/20/2016  
Agenda Item #6

To: Commissioners

From: Jonathan Wayne, Executive Director  
Lorrie Brann, Commission Assistant

Date: July 12, 2016

Re: Request for Waiver of Late-Filing Penalty by the Lincoln County Democratic Committee

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In the thirteen days before an election, all political action committees, ballot question committees and political parties must file a report within 24 hours of receiving any single contribution of \$5,000 or more or making any expenditure of \$1,000 or more.<sup>1</sup> On June 4, 2016, the Lincoln County Democratic Committee (the Committee) made an expenditure of \$1,610.00 for hall rental and food for a fundraiser. It was required to report this expenditure in a 24-Hour Report by June 5, 2016, but did not do so until June 28, 2016.

### **LEGAL REQUIREMENTS**

Local party committees are required to report any single contribution of \$5,000 or more received or single expenditure of \$1,000 or more made during the 13 days before an election within 24 hours of that transaction. (21-A M.R.S.A. § 1017(4-B)) If the committee is late in filing the 24-hour report, the amount of the penalty is set by a formula which takes into consideration the amount of the transaction, the number of prior

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<sup>1</sup> Candidates have a similar 24-hour reporting requirement, except with a lower reporting threshold (\$1,000) for contributions.

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**

On June 4, 2016, the Committee held a fundraiser at the Damariscotta Lake Farms Restaurant. The Committee paid \$1,610.00 for rental of the Perkins Banquet hall and for food. The Committee made the rental and food arrangements in April but did not pay for them until June 4 (the day of the fundraiser). This expenditure was not entered into the Commission’s e-filing system until June 28<sup>th</sup>, which triggered the system to remind the Committee of the late 24-Hour Report. The Committee immediately filed the report.

Based on the statutory formula for calculating late-filed report penalties, the preliminary penalty amount totals \$500, calculated as follows:

<b>Transactions</b>	<b>Date Due</b>	<b>Financial Activity</b>	<b>Penalty Rate</b>	<b>Days Late</b>	<b>Preliminary Penalty</b>
24-Hr Report	06/05/2016	\$1610.00	2%	23	\$500.00

The Committee asks that the Commission waive the penalty because the debt was incurred in April but the final payment was made in June. The treasurer, Sandra O’Farrell, was unaware that she was required to file a 24-Hour Report for this expenditure. She thought the 24-hour reporting requirement was only applicable to direct contributions to candidates. The Committee had contracted with Damariscotta Lake Farms Restaurant on April 8, 2016 for use of the Perkins Banquet Hall and provision of food for a fundraising dinner. The final payment date was June 4, 2016. The treasurer stated she had performed her last input to the e-file system in April and had not received any notification of a report due or noticed that a new reporting requirement had been

added to the “Reports Due” section. She is requesting a waiver because there was no intent to deceive or falsify a report and arrangements for this expenditure were made in April.

The Commission’s website contains a filing schedule for local party committees (attached), but this requires local party officers to take the initiative and look at the website. Local party committees are not required to file a regularly scheduled report before a primary election and our perception is that there is less need for them to make large expenditures in the two weeks before a primary election. Consequently, the Commission staff did not send a separate mailing notifying local party committees of the 24-hour reporting period before the June 14 primary.

#### **STAFF RECOMMENDATION**

The Commission staff believes that the preliminary penalty of \$500 is disproportionate to the harm to the public resulting from this late filing. This report was of a single expenditure to a local restaurant for a committee fundraiser that was unrelated to the June 14, 2014 primary election. We recommend a penalty of \$150, which is the same amount as a penalty assessed in January 2016 against the York County Republican Committee for filing an independent expenditure report late in a special election.

The recommended penalty of \$150 is consistent with the past history of the Commission in granting significant reductions in penalties against municipal and county party committees:

- \$150 assessed on 1/16/2016 against the York County Republican Committee (late independent expenditure report in special election)
- \$100 assessed on 4/27/2016 against the Androscoggin County Republican Committee (two late semiannual reports caused by malfeasance of a prior committee treasurer)
- \$50 against the Somerset County Democratic Committee (late semiannual campaign finance report)
- \$200 against the Sagadahoc County Democratic Committee (late 24-hour report)
- \$150 against the Kennebunk County Democratic Committee (two late semiannual reports)

Reductions for local party committees have seemed appropriate in light of frequent turnover of committee officers, little training provided by the state party or outgoing officers, and occasional notice problems due to incorrect contact information on file with the Commission. In this case, the committee treasurer apparently has performed her duties for years, but did not understand the full scope of the 24-hour reporting requirement.

Thank you for your consideration of this memo.

Received

JUL 12 2016

Maine Ethics Commission

**July 7, 2016**

**State of Maine  
Commission on Governmental Ethics  
And Election Practices  
135 State House Station  
Augusta, ME 04333-0135**

**RE; Lincoln County Democrats**

**Dear Mr. Dyer;**

**I have received your notification of penalty of 24 hour reporting. I would like to humbly ask for a waiver of this penalty.**

**I have been the Treasurer for many years and have always filed my report as close to deadline as possible. This was in case of any errors. I do not recall ever having to do a 24 hour report as a committee unless direct contribution to a candidate, which this was not. I had not received any notifications nor did I notice on the website where reports due listing this. I also started filing my reports every couple of months in advance in order to not have mistakes and easier to double check. My last input was in April. I had not noticed that there was a report due on web page stating the 24 hour reporting. Thus why I had input on 28<sup>th</sup>, of June to file on July 1.**

**I had no intentions to deceive or falsify on any report.**

**I had made this contract/debt/agreement with Damariscotta Lake Farms on 4/8/16, as we had to advertise and other essentials putting on a fundraiser for the county, i.e. ads, invitations. The contract/debt agreed was that final payment due on date of their fulfillment of contract/agreement, which was 6/4/16.**

**Again, I humbly ask that you waiver this penalty as original debt made in April, with fulfillment due in June. I will definitely make sure that I do not make this mistake again.**

**Sincerely**

A handwritten signature in cursive script that reads "Sandra O'Farrell". The signature is written in black ink and is positioned to the right of the word "Sincerely".

**Sandra O'Farrell**

**Lincoln County Democrats**



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
LINCOLN COUNTY DEMOCRATIC COMMITTEE P.O. BOX 336 WALDOBORO, ME 04572 PHONE: (207) 832-7870 EMAIL: OFIE06@ADELPHIA.NET		Sandra O'Farrell P.O. Box 336 Waldoboro, ME 04572 PHONE: (207) 832-7870 EMAIL: ofie06@adelphia.net
REPORT	DUE DATE	REPORTING PERIOD
24 Hour Report of Major Contributions and Expenditures	06/05/2016	06/04/2016 - 06/04/2016

### FINANCIAL ACTIVITY SUMMARY

CONTRIBUTIONS AND EXPENDITURES	
1. TOTAL CONTRIBUTIONS / LOANS	\$0.00
2. TOTAL EXPENDITURES	\$1,610.00
3. TOTAL DEBTS	\$0.00

I, SANDRA O'FARRELL, CERTIFY THAT THE INFORMATION CONTAINED IN THIS REPORT IS TRUE, ACCURATE, AND COMPLETE TO THE BEST OF MY KNOWLEDGE.

REPORT FILED BY: SANDRA O'FARRELL  
REPORT FILED ON: 06/28/2016  
LAST MODIFIED: 06/28/2016  
PRINTED: 07/12/2016  
COMMITTEE ID: 1186

## 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
6/4/2016	DAMARISCOTTA LAKE FARMS RESTAURANT 15 BUNKER HILL ROAD JEFFERSON, ME 04348	PERKINS BANQUET HALL AND FOOD FUNDRAISER	FND	\$1,610.00
<b>TOTAL EXPENDITURES FOR CANDIDATE:</b>				<b>\$1,610.00</b>



## 2016 FILING SCHEDULE

### FOR MUNICIPAL, DISTRICT AND COUNTY POLITICAL PARTY COMMITTEES

Primary Election June 14, 2016		General Election November 8, 2016	
TYPE OF REPORT	FILING DEADLINE (11:59 P.M.)	REPORT PERIOD	
July Semiannual	July 15, 2016	January 1 — June 30	
11-Day Pre-General	October 28, 2016	July 1 — October 25	
January Semiannual	January 17, 2017	October 26 — December 31	

**NOTE:** Only party committees that raise more than \$1,500 or spend more than \$1,500 during the calendar year are required to file reports. The requirement to file is triggered when the committee exceeds \$1,500 in contributions or expenditures. The first report due after exceeding \$1,500 in contributions or expenditures is the next scheduled report. A committee's first report in a year should include all activity since the beginning of the year.

### 24-HOUR REPORT OF CONTRIBUTIONS AND EXPENDITURES

24-HOUR REPORTING PERIOD	WHAT CONTRIBUTIONS SHOULD BE REPORTED
The reporting period begins 13 days before an election and runs through the day before the election.	Any <u>single</u> contribution of \$5,000 or more received during the reporting period.
WHEN TO FILE	WHAT EXPENDITURES SHOULD BE REPORTED
Within 24 hours, including Saturdays and Sundays, of receiving the contribution or making the expenditure, incurring the obligation, or placing the order. Reports can be filed via the committee's electronic filing website.	Any <u>single</u> expenditure of \$1,000 or more made during the reporting period. Orders placed with or obligations made to vendors for goods or services are considered expenditures at the time the orders or obligations are made. Overhead costs, such as rent, taxes, utilities and some salary payments are not required to be reported.

### IMPORTANT INFORMATION

All regular campaign finance reports are due by 11:59 p.m. on the due date. Committee treasurers must enter the required information and click "File Report" by 11:59 p.m. on the filing deadline.

Commission staff will be available until 5:00 p.m. on all filing deadlines to offer assistance. Failure to seek out timely assistance from staff regarding the filing of reports will not be considered a mitigating circumstance if a report is filed late.



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

July 5, 2016

Ms. Sandra O'Farrell, Treasurer  
Lincoln County Democratic Committee  
PO Box 336  
Waldoboro, ME 04572

Re: Late Filing of 24-Hour Report

Dear Ms. O'Farrell,

The Commission staff has made a preliminary determination that the Lincoln County Democratic Committee (the Committee) was late in filing a 24-Hour Report due for a fundraising expenditure made on June 4, 2016. The report was not filed until June 28, 2016. Under the Commission's statutes, the late filing of a report triggers an enforcement process. (21-A M.R.S.A. § 1020-A(4-A)). Based on the amount of financial activity in the report, the number of calendar days the report was late, and the Committee's history of violations, the commission staff has determined that a preliminary penalty of \$500.00 is owed. (Please see attached penalty matrix for the calculation).

The Committee may make a written request that the Commission waive the violations or penalties in whole or in part. Any request for a waiver 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 Committee filed late. Upon receiving your request, the Commission staff will schedule your appeal for an upcoming Commission meeting.

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 Committee 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 [ethics@maine.gov](mailto:ethics@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

Enclosure: payment receipt & penalty matrix

## Payment Receipt

Mail payment to:

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

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

Ms. Sandra O'Farrell, Treasurer  
Lincoln County Democratic Committee  
PO Box 336  
Waldoboro, ME 04572

**Violation:** Late 24-Hour Report  
**Amount Due:** \$500.00

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**Party Name:** Lincoln County Democratic Committee  
**Prior Violations:** N/A

Report Name	Activity Amount	Due Date	Days Late	Penalty Prescribed	Penalty
24-Hour Report (Payee Damariscotta Lake Farms Restaurant)	\$1,610.00	06/05/2016	24	2%	\$500.00*

**Total:** \$500.00\*

\* Penalty at statutory maximum.

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

For the first violation, 2%

For the second violation, 4%

For the third and each subsequent violation, 6%

**A penalty begins to accrue at 11:59 p.m. on the day the report is due.**

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

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

**MAXIMUM PENALTIES**

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

\$500.00 for Pre- and Post-Election Reports, Quarterly Reports and 24-Hour Reports.

**Maine Revised Statutes**  
**Title 21-A: ELECTIONS**  
**Chapter 13: CAMPAIGN REPORTS AND FINANCES**

**§1020-A. FAILURE TO FILE ON TIME**

**1. Registration.** A candidate that fails to register the name of a candidate, treasurer or political committee with the commission within the time allowed by section 1013-A, subsection 1 may be assessed a forfeiture of \$10. The commission shall determine whether a registration satisfies the requirements for timely filing under section 1013-A, subsection 1.

[ 1995, c. 483, §15 (NEW) .]

**2. Campaign finance reports.** A campaign finance report is not timely filed unless a properly signed or electronically submitted copy of the report, substantially conforming to the disclosure requirements of this subchapter, is received by the commission by 11:59 p.m. on the date it is due. Except as provided in subsection 7, the commission shall determine whether a report satisfies the requirements for timely filing. The commission may waive a penalty in whole or in part if the commission determines that the penalty is disproportionate to the size of the candidate's campaign, the level of experience of the candidate, treasurer or campaign staff or the harm suffered by the public from the late disclosure. The commission may waive the penalty in whole or in part if the commission determines the failure to file a timely report was due to mitigating circumstances. For purposes of this section, "mitigating circumstances" means:

A. A valid emergency determined by the commission, in the interest of the sound administration of justice, to warrant the waiver of the penalty in whole or in part; [1999, c. 729, §5 (AMD) .]

B. An error by the commission staff; [1999, c. 729, §5 (AMD) .]

C. Failure to receive notice of the filing deadline; or [1999, c. 729, §5 (AMD) .]

D. Other circumstances determined by the commission that warrant mitigation of the penalty, based upon relevant evidence presented that a bona fide effort was made to file the report in accordance with the statutory requirements, including, but not limited to, unexplained delays in postal service or interruptions in Internet service. [2009, c. 190, Pt. A, §13 (AMD) .]

[ 2009, c. 190, Pt. A, §13 (AMD) .]

**3. Municipal campaign finance reports.** Municipal campaign finance reports must be filed, subject to all the provisions of this subchapter, with the municipal clerk on forms prescribed by the Commission on Governmental Ethics and Election Practices. The municipal clerk shall send any notice of lateness required by subsection 6 and shall notify the commission of any late reports subject to a penalty.

[ 2011, c. 389, §22 (AMD); 2011, c. 389, §62 (AFF) .]

**4. Basis for penalties.**

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