



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

To: Commissioners

From: Benjamin Dyer, Political Committee and Lobbyist Registrar

Date: August 17, 2016

Re: Request for Waiver of Late-Filing Penalty by the Androscoggin County
Republican Committee

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.¹ On June 7, 2016, the Androscoggin County Republican Committee (the Committee) made an expenditure of \$5,190.09 for a venue rental for a fundraiser. It was required to report this expenditure in a 24-Hour Report by June 8, 2016, but did not do so until July 10, 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 violations within a two-year period, and the number of days the report is late. (21-A

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

M.R.S.A. § 1020-A(4-A)) The penalty for the late-filing of a 24-Hour Report by a local party committee may not exceed \$500.00. (21-A M.R.S.A. § 1020-A(5-A))

DISCUSSION

On June 7, 2016, the Committee paid \$5,190.09 for the rental of the Franco American Heritage Center for its annual Lincoln Day dinner and fundraiser in May. This expenditure was not entered into the Commission’s e-filing system until July 10th, 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:

Transactions	Date Due	Financial Activity	Penalty Rate	Days Late	Preliminary Penalty
24-Hr Report	06/08/2016	\$5,190.09	4%	32	\$500.00*

* Statutory maximum penalty

The Committee asks that the Commission waive the penalty because the Committee did not know 24-Hour Reports were required under these circumstances, due to the inexperience of the Committee treasurer and the Committee’s Executive Board.

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. The state party committees are also required by statute to “notify all county, district and municipal party committees of the same political party of the party committee reporting requirements,” but Commission staff has no information as to whether they do

so. (21-A M.R.S.A. § 1017-A(6)) 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 hall for a committee dinner and fundraiser that was unrelated to the June 14, 2016 primary election. We recommend a penalty of \$150, which is the same amount as penalties assessed in July of 2016 against the Lincoln County Democratic Committee for filing a 24-Hour Report of an expenditure related to a fundraising dinner late and January of 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 7/20/2016 against the Lincoln County Democratic Committee (late 24-Hour Report for fundraising dinner)
- \$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 and the Committee's executive committee are new in their positions and did not understand the full scope of the 24-hour reporting requirement.

Thank you for your consideration of this memo.

8/7/2016

Leslie E. Gibson, Treasurer
Androscoggin County Republican Committee

Mr. Benjamin P. Dyer
Political Committee and Lobbyist Registrar
Maine Ethics Commission

Dear Mr. Dyer

This letter is submitted as a formal request of waiver/reduction of the penalty levied against the Androscoggin County Republican Committee for late filing of the required 24 hour reporting for an expenditure related to the county committees annual Lincoln Day Dinner to the Maine Ethics Commission. We feel a waiver/reduction request is wholly appropriate given that due to the inexperience of me as committee treasurer in these matters, as well as the inexperience of our Executive Board as a whole. None of us were aware of the requirement to report this transaction via a 24 hour report.

The transaction in question is the \$5190.00 payment that the Androscoggin County Republican Committee made to the Lewiston Franco American Heritage Center for hosting our annual Lincoln Dan Dinner this past May.

I, as committee treasurer, was wholly unaware that this transaction required a 24 hour reporting submission. In addition, none of the other members of our Executive Board were aware of the requirement. We are all fairly new in our leadership positions and are basically 'learning as we go'. I can assure you that this oversight was not any attempt to hide this transaction or deceive the Ethics Commission.

As with all learning experiences, now that we are all knowledgeable of this requirement, moving forward this oversight will not be repeated.

Therefore, for the reasons stated, we respectfully request that the penalty levied against our committee be waived or reduced.

Thank you for your consideration of our request.

Respectfully,

Leslie E. Gibson, Treasurer
Androscoggin County Republican Committee



Commission on Governmental Ethics and Election Practices
Mail: 135 State House Station, Augusta, Maine 04333
Office: 45 Memorial Circle, Augusta, Maine
Website: www.maine.gov/ethics
Phone: 207-287-4179
Fax: 207-287-6775

24-HOUR REPORT OF CONTRIBUTIONS AND EXPENDITURES

2016 CAMPAIGN YEAR

COMMITTEE		TREASURER	
ANDROSCOGGIN COUNTY REPUBLICAN COMMITTEE 176 BEAR MOUNTAIN RD LIVERMORE, ME 04253 PHONE: (207) 897-4824 EMAIL: MJSID88@YAHOO.COM		LES GIBSON 177 MARSH RD SABATTUS, ME 04280 PHONE: (207) 212-8271 EMAIL: LESG45@YAHOO.COM	
REPORT	DUE DATE	REPORTING PERIOD	
24 Hour Report of Major Contributions and Expenditures	06/08/2016	06/07/2016 - 06/07/2016	

FINANCIAL ACTIVITY SUMMARY

CONTRIBUTIONS AND EXPENDITURES	
1. TOTAL CONTRIBUTIONS / LOANS	\$0.00
2. TOTAL EXPENDITURES	\$5,190.09
3. TOTAL DEBTS	\$0.00

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

REPORT FILED BY: LES GIBSON
REPORT FILED ON: 07/10/2016
LAST MODIFIED: 07/10/2016
PRINTED: 08/08/2016
COMMITTEE ID: 1215

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
6/7/2016	FRANCO AMERICAN HERITAGE CENTER 46 CEDAR STREET LEWISTON, ME 04240	VENUE FEE FOR HOSTING ANDROSCOGGIN COUNTY REPUBLICAN COMMITTEE LINCOLN DAY DINNER	FND	\$5,190.09
TOTAL EXPENDITURES FOR CANDIDATE:				\$5,190.09



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

July 27, 2016

Les Gibson, Treasurer
Androscoggin County Republican Committee
177 Marsh Rd
Sabattus, ME 04280

Re: Late Filing of 24-Hour Report

Dear Mr. Gibson,

The Commission staff has made a preliminary determination that the Androscoggin County Republican Committee (the Committee) was late in filing a 24-Hour Report due for a fundraising expenditure made on June 7, 2016. The report was not filed until July 10, 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 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."

Les Gibson, Treasurer
Androscoggin County Republican Committee
177 Marsh Rd
Sabattus, ME 04280

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

Party Name: Androscoggin County Republican Committee
Prior Violations: 1/17/2016

Report Name	Activity Amount	Due Date	Days Late	Penalty Prescribed	Penalty
24-Hour Report (Payee Franco American Heritage Center)	\$5190.09	06/08/2016	32	4%	\$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.



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.

21-A MRS § 1020-A. FAILURE TO FILE ON TIME

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



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

- A. A valid emergency determined by the commission, in the interest of the sound administration of justice, to warrant the waiver of the penalty in whole or in part; [1999, c. 729, §5 (AMD).]
- B. An error by the commission staff; [1999, c. 729, §5 (AMD).]
- C. Failure to receive notice of the filing deadline; or [1999, c. 729, §5 (AMD).]
- D. Other circumstances determined by the commission that warrant mitigation of the penalty, based upon relevant evidence presented that a bona fide effort was made to file the report in accordance with the statutory requirements, including, but not limited to, unexplained delays in postal service or interruptions in Internet service. [2009, c. 190, Pt. A, §13 (AMD).]

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

4. Basis for penalties.

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



4-A. Basis for penalties. The penalty for late filing of a report required under this subchapter is a percentage of the total contributions or expenditures for the filing

period, whichever is greater, multiplied by the number of calendar days late, as follows:

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

Any penalty of less than \$10 is waived.

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

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

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

5. Maximum penalties.

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

5-A. Maximum penalties. Penalties assessed under this subchapter may not exceed:

- A. Five thousand dollars for reports required under section 1017, subsection 2, paragraph B, C, D, E or H; section 1017, subsection 3-A, paragraph B, C, D, D-1 or F; and section 1017, subsection 4; [2011, c. 389, §23 (AMD).]
- A-1. Five thousand dollars for reports required under section 1019-B, subsection 4, except that if the financial activity reported late exceeds \$50,000, the maximum penalty is 1/5 of the amount reported late; [2011, c. 389, §24 (NEW).]
- B. Five thousand dollars for state party committee reports required under section 1017-A, subsection 4-A, paragraphs A, B, C and E, except that if the financial activity reported late exceeds \$50,000, the maximum penalty is 1/5 of the amount reported late; [2011, c. 389, §25 (AMD).]
- C. One thousand dollars for reports required under section 1017, subsection 2, paragraphs A and F and section 1017, subsection 3-A, paragraphs A and E; or [2011, c. 558, §4 (AMD).]
-  D. Five hundred dollars for municipal, district and county committees for reports required under section 1017-A, subsection 4-B. [2011, c. 558, §4 (AMD).]
- E. [2011, c. 558, §5 (RP).]

[2011, c. 558, §§4, 5 (AMD) .]

6. Request for a commission determination. If the commission staff finds that a candidate or political committee has failed to file a report required under this subchapter, the commission staff shall mail a notice to the candidate or political committee within 3 business days following the filing deadline informing the candidate or political committee that a report was not received. If a candidate or a political committee files a report required under this subchapter late, a notice of preliminary penalty must be sent to the candidate or political committee whose registration or campaign finance report was not received by 11:59 p.m. on the deadline date, informing the candidate or political committee of the staff finding of violation and preliminary penalty calculated under subsection 4-A and providing the candidate or political committee with an opportunity to request a determination by the commission. Any request for a determination must be made within 14 calendar days of receipt of the commission's notice. A candidate or political committee requesting a determination may either appear in person or designate a representative to appear on the candidate's or political committee's behalf or submit a sworn statement explaining the mitigating circumstances for consideration by the commission. A final determination by the commission may be appealed to the Superior Court in accordance with Title 5, chapter 375, subchapter 7 and the Maine Rules of Civil Procedure, Rule 80C.

[2013, c. 334, §17 (AMD) .]

7. Final notice of penalty. If a determination has been requested by the candidate or political committee and made by the commission, notice of the commission's final determination and the penalty, if any, imposed pursuant to this subchapter must be sent to the candidate and the political committee.

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

[2009, c. 302, §6 (AMD) .]

8. Failure to file report. The commission shall notify a candidate who has failed to file a report required by this subchapter, in writing, informing the candidate of the requirement to file a report. The notice must be sent by certified mail. If a candidate fails to file a report after 2 notices have been sent by the commission, the commission shall send a final notice by certified mail informing the candidate of the requirement to file and that the matter may be referred to the Attorney General for criminal prosecution. A candidate who fails to file a report as required by this subchapter after the commission has sent the notices required by this subsection is guilty of a Class E crime.

[2007, c. 443, Pt. A, §25 (AMD) .]

8-A. Penalties for failure to file report. The penalty for failure to file a report required under this subchapter may not exceed the maximum penalties as provided in subsection 5-A.

[2003, c. 628, Pt. A, §6 (NEW) .]

9. List of late-filing candidates. The commission shall prepare a list of the names of candidates who are late in filing a report required under section 1017, subsection 2, paragraph C or D or section 1017, subsection 3-A, paragraph B or C within 30 days of the date of the election and shall make that list available for public inspection.

[1995, c. 483, §15 (NEW) .]

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

[2009, c. 302, §7 (RPR) .]