

Agenda

Item #3

Request for Waiver – Gary E. Capehart



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
Beth Hudson, Candidate Registrar
Date: September 12, 2014
Re: Request by Gary Capehart for Waiver of Staff Finding of a Late Report

Mr. Capehart is a candidate for Maine House of Representatives, District 125. Mr. Capehart was required to file a report at 11:59 p.m. on Tuesday, July 22, 2014. Mr. Capehart's report was filed on July 28th, which was six days after the deadline. (The correspondence from the Commission staff erroneously described the report as being three days late, due to an error in counting the days.)

On July 3, 2014, Mr. Capehart logged on to the e-filing system and entered one contribution and one expenditure. According to Mr. Capehart, he intended to file the report that day, because he knew that he would be on vacation on the deadline of July 22. When he returned from vacation on Sunday, July 27th he found an email indicating that his report had not been filed. He called the Ethics Commission on Monday, July 28th and expressed surprise. During this conversation, he asked Ms. Hudson to file the report for him, since all transactions for the filing period had been entered.

Request for waiver by Gary Capehart. Through his attorney, Mr. Capehart is requesting a waiver from the staff's preliminary finding that the report was late because

- he made a bona fide effort to file his report on time on July 3,
- was on vacation when the Commission staff sent an email on July 23 that his report was late,
- is a first time candidate with "no prior reporting experience," and
- problems with the Commission's e-filing system.

Attempted Filing on July 3 Not Completed

In the opinion of the Commission staff, the report was late because on July 3, Mr. Capehart did not file the report by clicking on the "File button." There was no "system error" that impacted his completion of the report. (In other words, the File button works just fine. If a user clicks on the File button, the report is filed.) We cannot offer an explanation as to why Mr. Capehart did not file the report.

This week, the e-filing system was updated to make the filing process more user-friendly for all filers. More improvements are being planned.

Server problem on July 22, 2014

The IT problems that occurred on July 22, 2014 did *not* contribute to the late filing by Mr. Capehart. The Commission's e-filing system is housed on servers that are located in Texas and maintained by a technology subcontractor, Terremark Worldwide, Inc. Regrettably, around 9:45 p.m. on July 22, on Terremark shut down its servers in order to update them. They resumed functioning sometime around 11:00 p.m. Some candidates, PACs, and others that were filing reports within a few hours of the 11:59 p.m. deadline were understandably frustrated that they could not file their reports, which we regret.

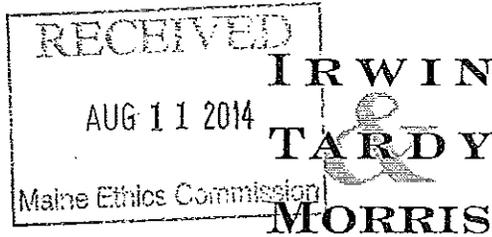
The Commission staff decided to give an extension to candidates and others who tried to file the report during the evening of July 22, but were prevented by the server shutdown. As part of this extension, the e-filing system assigned a "filed date" of July 22 to certain campaign finance reports, so that they would not be considered late. That is why Mr. Capehart received an email notice that his report "was successfully filed on 07/22/2014," when he actually filed the report on July 28.

Staff Recommendation

The staff recommends the Commission waive the \$18 penalty, but find that the report was late, for the following reasons:

- We do believe a finding that the report was late is appropriate, in order to reinforce that candidates need to complete the filing process. It is not unreasonable to hold candidates to the standard that they have to file the report.
- The Commission staff is persuaded that the candidate genuinely tried to file the report on July 3.
- Mr. Capehart is a first-time candidate. This is his second filed report. These circumstances could have been factors in his attempted filing on July 3.

Thank you for your consideration of this memo.



William P. Logan
wlogan@itmlaw.com

159 Main Street
P.O. Box 476
Newport, Maine 04953

207.368.2828 T
207.368.2822 F

August 8, 2014

Jonathan Wayne, Executive Director
Maine Commission on Governmental Ethics and Election Practices
135 State House Station
Augusta, ME 04333

Re: *Request for Waiver- Gary Capehart*

Dear Jonathan:

I represent Gary Capehart. Please accept this letter as a request for a waiver of the violation and penalty set forth in the July 28, 2014 correspondence from Beth Hudson relating to the finding that Mr. Capehart failed to timely file his 11-day post-primary report.

Mr. Capehart and his campaign intended to comply with the reporting requirements. In fact, Mr. Capehart logged into the reporting website on July 3, 2014 and inputted the transactions for the reporting period (of which there were only two) and filed the report. The reason Mr. Capehart did this so far in advance of the reporting deadline is because he knew he would be away on vacation during the reporting period and wanted to make sure that his report was filed.

As the Commission may be aware, the reporting website was experiencing problems during the month of July, culminating in a system "crash" on July 22, which resulted in many candidates and PACs being unable to input data and file their reports. In response, I understand that Commission staff appropriately notified individuals and entities (by email generally) on July 23, 2014 if their reports had not been filed that they could file them on the 23rd without being late. I understand Ms. Hudson sent an e-mail to Mr. Capehart indicating that his report was unfiled as of that date.

Unfortunately, Mr. Capehart was on vacation and did not receive this e-mail. It was not until his return from vacation that he viewed the email on July 27, which was a Sunday. On Monday the 28th, he contacted Ms. Hudson to discuss the issue believing the report had already been filed. Ms. Hudson could see that the transactions had been entered, but the report, for some reason, was not recorded as "filed" by the system.

Jonathan Wayne
Page 2 of 2
August 8, 2014

I understand Ms. Hudson then filed the report for Mr. Capehart on July 28, 2014. Interestingly, the e-mail notification of the successful filing, a copy of which is attached, indicates that the report was successfully filed on July 22, 2014, which is the reporting date. If my understanding of events is correct, it appears that there may still be some remaining issues with the reporting software to be addressed.

Mr. Capehart made a *bona fide* effort to file his report on July 3, 2014. He wanted the report filed before he went on vacation and legitimately believed that it had been filed. For whatever reason, perhaps system error, the transactions were recorded, but the report remained unfiled. I also point out that Mr. Capehart is a first-time candidate with no prior reporting experience, which together with the system problems, may have contributed to this matter.

In light of the foregoing facts concerning Mr. Capehart's *bona fide* efforts to file the report ahead of time, Mr. Capehart requests that the Commission find that there was no violation for a late-filed report. If the staff or the Commission requires any additional information, please feel free to contact me at your convenience. Both Mr. Capehart and myself plan to be present at the Commission meeting this matter is scheduled for to respond to any inquiries. Thank you for your attention to this request.

Sincerely,



William P. Logan, Esq.

cc: Gary Capehart

Subject: FW: Confirmation of Electronic Campaign Finance Filing for GARY E CAPEHART

Date: Wednesday, August 6, 2014 at 11:10 AM

From: suzy pope <suzyjpq@hotmail.com>

To: Bill Logan <wlogan@itmlaw.com>, gary capehart <gary27bu@msn.com>

Der Bill:

Here is the electronic confirmation of the receipt by the Maine Ethics Commission of Gary's timely filing of his campaign finance report.

Please call me if there is any question about this matter. Gary does wish to contend the allegation that he didn't timely file or that he owes a fine.

Thank you!

suzy

From: gary27bu@msn.com

To: suzyjpq@hotmail.com; susan.j.pope@maine.gov

Subject: FW: Confirmation of Electronic Campaign Finance Filing for GARY E CAPEHART

Date: Fri, 1 Aug 2014 10:53:53 +0000

From: ethics@maine.gov

To: GARY27BU@MSN.COM

Date: Mon, 28 Jul 2014 10:20:03 -0400

Subject: Confirmation of Electronic Campaign Finance Filing for GARY E CAPEHART

Page title here The campaign finance report due 07/22/2014 was successfully filed with the Maine Ethics Commission on 07/22/2014.



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

July 28, 2014

Gary E. Capehart
PO Box 2822
Bangor, Maine 04402-2822

Re: Notice of Violation and Penalty for Late-Filed 42-Day Post-Primary Report

Dear Mr. Capehart:

You were required to file the 42-Day Post-Primary Report on 07/22/2014 by 11:59 p.m. (due to system issues the deadline was extended to 07/23/2014), but the report was not filed until 07/28/2014. 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 filing the report late is \$18.00. 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 by clicking the "Penalty Payment" link. Please contact the Commission staff at (207) 287-4179 or ethics@maine.gov if you have any questions.

Sincerely,

A handwritten signature in cursive script that reads "Beth".

Beth Hudson
Candidate Registrar

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 1st 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: Gary E. Capehart			
Late-Filed Report: 42-Day Post-Primary			
Contributions	\$600.00	Penalty Base Amount	\$600.00
Expenditures	\$	Percentage	1%
Due Date	07/22/2014 (07/23/2014)	Daily Accrual Rate	\$6.00
Date Filed	7/28/2014	Days Late	3
Previous Violations	0	Your Total Penalty	\$18.00

PAYMENT STATEMENT AND PAYMENT OPTIONS

From: Gary E. Capehart

Penalty Amount: \$ 18.00

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. Please include the penalty ID so that your payment will be properly accounted for.

MARGARET CAPEHART	Authorized Agent	207-947-7399	Inactive	Update
SUSAN J POPE-CAPEHART	Deputy Treasurer	207-990-1378	Inactive	Update

Vendor Users

No Vendor User(s) found

Campaign

Election Cycle	Party	Office	Campaign Status
2014 ELECTION (2 YEAR CYCLE)	REPUBLICAN	REPRESENTATIVE 125	Active

Filing Schedule

Filter: [Go](#)

Description	Period Begin	Period End	Due Date	Extension Date	Filed Date	Report Status
42-DAY POST-PRIMARY	5/28/2014	7/15/2014	7/22/2014		7/22/2014	Filed
11-DAY PRE-PRIMARY	1/1/2014	5/27/2014	5/30/2014		5/29/2014	Filed
Candidate Registration					3/28/2014	Filed
42-DAY PRE-GENERAL	7/16/2014	9/16/2014	9/23/2014			Not Filed
11-DAY PRE-GENERAL	9/17/2014	10/21/2014	10/24/2014			Not Filed
42-DAY POST-GENERAL	10/22/2014	12/9/2014	12/16/2014			Not Filed

Administrator Notes

[Update](#)

Event Log

[Go](#)

Description	Event Date	Due Date	Notes	Inactive	Create User	Create Timestamp	
Committee Information Changed	7/28/2014 3:57:51 PM		Deputy Treasurer SUSAN J POPE-CAPEHART removed from committee.	<input type="checkbox"/>	HUDSON, ELIZABETH	7/28/2014 3:57:51 PM	Edit
Committee Information Changed	7/28/2014 3:57:50 PM		Authorized Agent MARGARET CAPEHART removed from committee.	<input type="checkbox"/>	HUDSON, ELIZABETH	7/28/2014 3:57:51 PM	Edit
Committee Information Changed	7/28/2014 3:57:47 PM		Phone amended. OLD: 207 - NEW: 207 - 990-1378	<input type="checkbox"/>	HUDSON, ELIZABETH	7/28/2014 3:57:47 PM	Edit
Committee Information Changed	7/28/2014 3:57:47 PM			<input type="checkbox"/>	HUDSON, ELIZABETH	7/28/2014 3:57:47 PM	Edit
User Login	7/28/2014 2:23:41 PM		USER GCAPEHART7818 LOGGED IN.	<input type="checkbox"/>	CAPEHART, GARY	7/28/2014 2:23:41 PM	Edit
User Login	7/28/2014 10:31:08 AM		USER GCAPEHART7818 LOGGED IN.	<input type="checkbox"/>	CAPEHART, GARY	7/28/2014 10:31:08 AM	Edit

User Login	7/27/2014 5:15:18 PM		USER GCAPEHART7818 LOGGED IN.	<input type="checkbox"/>	CAPEHART, GARY	7/27/2014 5:15:18 PM	Edit
User Login	7/3/2014 2:45:36 PM		USER GCAPEHART7818 LOGGED IN.	<input type="checkbox"/>	CAPEHART, GARY	7/3/2014 2:45:36 PM	Edit
User Login	6/3/2014 6:02:59 PM		USER GCAPEHART7818 LOGGED IN.	<input type="checkbox"/>	CAPEHART, GARY	6/3/2014 6:02:59 PM	Edit
User Login	6/3/2014 3:18:10 PM		USER GCAPEHART7818 LOGGED IN.	<input type="checkbox"/>	CAPEHART, GARY	6/3/2014 3:18:10 PM	Edit
User Login	5/29/2014 6:57:28 PM		USER JCAPEHART7818 LOGGED IN.	<input type="checkbox"/>	CAPEHART, JOSEPH	5/29/2014 6:57:28 PM	Edit
User Login	5/29/2014 6:54:26 PM		USER JCAPEHART7818 LOGGED IN.	<input type="checkbox"/>	CAPEHART, JOSEPH	5/29/2014 6:54:26 PM	Edit
User Login	5/29/2014 5:17:25 PM		USER GCAPEHART7818 LOGGED IN.	<input type="checkbox"/>	CAPEHART, GARY	5/29/2014 5:17:25 PM	Edit
User Login	5/29/2014 9:16:51 AM		USER GCAPEHART7818 LOGGED IN.	<input type="checkbox"/>	CAPEHART, GARY	5/29/2014 9:16:51 AM	Edit
User Login	4/4/2014 5:59:03 AM		USER GCAPEHART7818 LOGGED IN.	<input type="checkbox"/>	CAPEHART, GARY	4/4/2014 5:59:03 AM	Edit
User Login	4/4/2014 5:53:31 AM		USER GCAPEHART7818 LOGGED IN.	<input type="checkbox"/>	CAPEHART, GARY	4/4/2014 5:53:31 AM	Edit
Registration Accepted	3/28/2014 1:32:40 PM			<input type="checkbox"/>	PHILLIPS, CYNDI	3/28/2014 1:32:40 PM	Edit

Import Data File

EDI FILERS:

If you are planning to upload a file containing your financial activity, please note that the file formats have changed. Your old file formats will not work. For the new file formats, please refer to the documentation and file templates below.

If you experience problems with your files or have other questions, please contact the Maine Ethics Commission at: ethics@maine.gov | (207) 287-4179

[Excel file instructions](#)

[XML file instructions](#)

[Excel file template](#)

[XML file schema \(XSD format\)](#)





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

2014 CAMPAIGN FINANCE REPORT
FOR PRIVATELY FINANCED CANDIDATES

COMMITTEE		TREASURER	
GARY E CAPEHART PO BOX 2822 BANGOR, ME 04402-2822 EMAIL: GARY27BU@MSN.COM		JOSEPH G CAPEHART 14 BOUTELLE ST BANGOR, ME 04401 PHONE: (207) 947-7399 EMAIL: GRISHAM1916@HOTMAIL.COM	
REPORT	DUE DATE	REPORTING PERIOD	
42-DAY POST-PRIMARY	07/22/2014	05/28/2014 - 07/15/2014	

FINANCIAL ACTIVITY SUMMARY

RECEIPTS	TOTAL FOR THIS PERIOD	TOTAL FOR CAMPAIGN
1. CASH CONTRIBUTIONS FOR THE PRIMARY ELECTION (SCHEDULE A)	\$600.00	\$730.00
1A. CASH CONTRIBUTIONS FOR THE GENERAL ELECTION(SCHEDULE A) <i>For party candidates, general election contributions will only appear on this line after the primary.</i>	\$0.00	\$0.00
1B. CASH CONTRIBUTIONS FOR THE GENERAL ELECTION RAISED PRIOR TO PRIMARY (Not shown on Schedule A of this report)	\$0.00	\$0.00
2. OTHER CASH RECEIPTS (INTEREST, ETC)	\$0.00	\$0.00
3. LOANS (SCHEDULE C)	\$0.00	\$0.00
4. TOTAL RECEIPTS	\$600.00	\$730.00
EXPENDITURES		
5. EXPENDITURES (SCHEDULE B)	\$526.45	\$526.45
6. LOAN REPAYMENTS (SCHEDULE C)	\$0.00	\$0.00
7. TOTAL PAYMENTS	\$526.45	\$526.45
CASH SUMMARY		
8. CASH BALANCE AT BEGINNING OF PERIOD	\$130.00	
9. PLUS TOTAL RECEIPTS THIS PERIOD (LINE 4)	\$600.00	
10. MINUS TOTAL PAYMENTS THIS PERIOD (LINE 8)	\$526.45	
11. CASH BALANCE AT END OF PERIOD	\$203.55	
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	
FOR PARTY CANDIDATES ONLY: CASH CONTRIBUTIONS FOR THE GENERAL ELECTION RAISED PRIOR TO PRIMARY ELECTION (INCLUDED IN LINE 1A AFTER PRIMARY ELECTION)		

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

REPORT FILED BY: ELIZABETH HUDSON
 REPORT FILED ON: 07/22/2014
 LAST MODIFIED: 07/22/2014
 PRINTED: 09/18/2014
 COMMITTEE ID: 7818

**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	ELECTION	AMOUNT
5/28/2014	SUSAN JEAN POPE-CAPEHART P.O. BOX 2822 BANGOR, ME 04402	STATE OF MAINE DESCRIPTION: Attorney/Legal FUNDS TO PAY FOR SIGNS. FROM OUR FAMILY CHECKING ACCOUNT.	2	Primary	\$600.00
TOTAL CASH CONTRIBUTIONS FOR PRIMARY					\$600.00
TOTAL CASH CONTRIBUTIONS FOR GENERAL					\$0.00

**SCHEDULE B
EXPENDITURES**

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
5/29/2014	BANGOR LETTER SHOP & COLOR COPY CENTER 99 WASHINGTON ST BANGOR, ME 04401-6518	SIGNS	LIT	\$526.45
TOTAL EXPENDITURES FOR CANDIDATE:				\$526.45

21-A MRSA § 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).]