



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

Commission Meeting 10/01/2015
Agenda Item #2

To: Commissioners
From: Jonathan Wayne, Executive Director
Benjamin Dyer, Political Committee and Lobbyist Registrar
Date: September 21, 2015
Re: Request for Waiver of Late-Filing Penalties by the Campaign for Maine PAC

This matter is a request by the Campaign for Maine political action committee (PAC) for a waiver of two late-filing penalties totaling \$15,000 relating to a payment of \$25,000 for television advertising that was not reported on time. The Commission staff finds it credible that the omission was an oversight, and recommends reducing the penalties to \$1,250. The PAC accepts the staff's recommendation.

When PACs, party committees and others spend money on communications to voters advocating for or against candidates, they are required to file independent expenditure (IE) reports. Prior to the election, these reports provide detailed financial information to the public, the press and the candidates concerning the communications that voters are seeing in their mailboxes and on their TV screens. The reports also contain a sworn statement that the expenditure was made independently of the candidates and their political committees. This is important for purposes of verifying that the expenditure is not coordinated and does not violate the contribution limits for candidates. The IE reports are due within one calendar day, for expenditures made in the last 13 days before a general election. In addition, the spenders are required to include these same payments in a 42-Day Post-General campaign finance report due in mid-December.

Campaign for Maine is a PAC that was formed in 2010 for the purpose of supporting the election of Eliot Cutler to the office of Governor. In 2014, it again made IEs in support of Mr. Cutler. Its total spending in 2014 was \$522,192. In July 2014, its campaign

manager, Betsy Smith, terminated her involvement in the PAC. According to the PAC, a volunteer (C.C. Stockly) undertook the management of the day-to-day activities of the PAC, including the filing of campaign finance reports.

On October 29, 2014, Campaign for Maine made a \$25,000 payment for television advertising in support of Mr. Cutler. The PAC should have disclosed this payment in an IE Report filed by the next day (October 30, 2014) and on a 42-Day Post-General report by December 16, 2014, but did not disclose this transaction on either report until July 16, 2015.

LEGAL REQUIREMENTS

IE reports for expenditures made between October 22, 2014 and November 4, 2014 for amounts over \$100 per candidate were due within one calendar day of the expenditure. (Commission Rules, Chapter 1, Section 10(3)) If a PAC is late in filing the IE 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 M.R.S.A. § 1020-A(4-A)) In addition, filed reports must “substantially conform[] to the disclosure requirements” to be considered timely filed. (21-A M.R.S.A. §1062-A(2)) If a report is substantially non-compliant, a similar formula is used to calculate the penalty. (21-A M.R.S.A. § 1062-A(3)) The statutory maximum penalty for a late IE report is \$5,000, while the statutory maximum penalty for a late campaign finance report is \$10,000, unless the financial activity exceeds \$50,000, in which case the maximum penalty is 1/5 of the amount reported late. (21-A M.R.S.A. §1020-A(5-A)(A-1), 21-A M.R.S.A. §1062-A(4))

DISCUSSION

C.C. Stockly, an authorized agent for the PAC,¹ contacted Commission staff on July 16, 2015 and reported that, as she was reconciling the PAC’s bank records and campaign finance reports, she discovered the PAC failed to record a \$25,000 expenditure for television ads. The PAC, in its July 30, 2015 waiver request, writes that the failure to file

¹ An “authorized agent” is someone the PAC has authorized to make campaign finance report filings on its behalf.

this transaction was an oversight resulting from this transaction being paid by wire transfer by someone other than Ms. Stockley. Ms. Stockley was responsible for payments by check. The PAC filed its 42-Day Post-General Report on December 15, 2014, but did not include this transaction on that report.

Based on the statutory formula for calculating late-filed report penalties, the preliminary penalties rise to the statutory maximum of \$15,000, calculated as follows:

Report	Date Due	Financial Activity	Penalty Rate	Days Late	Preliminary Penalty
IE Report	10/30/2014	\$25,000.00	1%	259	\$5,000
42-Day Post-General	12/16/2014	\$201,836.92	3%	212	\$10,000 ²

The PAC argues that the Commission should waive the preliminary penalty in whole or in substantial part because of two factors. First, the PAC argues that the preliminary penalty is disproportionate to the level of experience of the authorized agent, Ms. Stockly. Second, the PAC argues that the preliminary penalties are disproportionate to the harm to the public, because the ads disclosed who paid for them and the unreported \$25,000 was a small amount compared to the \$150,000 in television advertising the PAC timely reported during that same reporting period.

STAFF RECOMMENDATION

Violations of the IE reporting requirements can be serious matters. IE reports are arguably the most important disclosures organizations are required to make, as they are critical to informing the electorate about how money is being spent and who is trying to influence their vote in the last days before an election. In this situation, \$25,000 of television advertising, perhaps the most prominent form of campaign advertising to the

² In correspondence dated July 16, 2015, the Commission staff calculated this late filing penalty to be \$40,367.84, which is the amount that the PAC cites in its July 30, 2015 waiver request. Subsequently, the Commission staff re-examined how to apply the penalty statute to the PAC's late reports, and determined that the preliminary penalties for the two late reports should be capped at a maximum of \$15,000. We communicated this to the PAC in a letter dated September 14, 2015.

public in modern elections, was not reported in the final week of the election or on the appropriate post-election report.

Addressing the PAC's rationales for a waiver, the failure to file in this case did not result from Ms. Stockly's inexperience in filing campaign finance reports. She successfully filed IE reports before and after this particular transaction. Rather, it was from a preventable breakdown in the communications between the person making the wire transfer and Ms. Stockly, who reported expenditures for the PAC.

As for the disclosures on the ads themselves being sufficient information for the public, the Commission staff would note that that is not the only disclosure system in place in Maine. The disclosures in the advertisements contain less information concerning the transaction than those on the independent expenditure report, including how much was spent on the ads or who produced them. Also, the IE report contains a sworn statement that the expenditure was made independently of the candidate and the candidate's campaign committee. This statement was relevant to the public and the other candidates prior to the election, because Campaign for Maine was a PAC primarily organized to promote Mr. Cutler.

Finally, the amount of the unreported payment (\$25,000) is significant – even in the context of a gubernatorial election. While the payment represented 15% of the television advertising that the PAC purchased during that period, the percentage of 15% is not insignificant.

That said, there are mitigating factors that suggest a reduction in the preliminary penalty may be appropriate. Other IE reports made it clear that the PAC was purchasing television advertising support, so the public was not unaware the PAC was spending significant amounts of money supporting the Cutler for Governor campaign. In addition, the Commission staff has no reason to doubt the PAC's assertions that the failure to file reports concerning the television advertisement purchase at issue was inadvertent.

The staff recommends that the Commission reduce the penalties to a total of \$1,250:

- \$1,000 for the late-filed IE-report, and
- \$250 for the late-filed 42-Day Post-General report.

For your reference with regard to proportionality, I have attached a short summary of penalty waiver requests for late IE reports and 24-Hour Reports due just before the 2014 general election. As stated above, we view the omission of a \$25,000 payment from independent expenditure reporting as a significant omission. In our opinion, the violation is more serious than the late reports by Worker's Voice and the AFL-CIO (\$1,000 penalties), but less serious than the violation by the Maine Republican Party (\$5,000).

In arguing in its July 30, 2015 waiver request that the penalty should not exceed \$250, Campaign for Maine compares its own late report to other late-filing matters considered by the Commission. The Commission staff briefly responds:

- The *Equality Maine* case, decided by the Commission at its April 2015 meeting, is dissimilar to the late report by Campaign for Maine. The Equality Maine PAC filed a 24-Hour Report on time for two phone bank expenditures totaling \$24,657. Instead, the PAC should have filed an IE report. The expenditure information was available to the public on time and prior to the election, but on the wrong type of report. The harm to the public was significantly less. Had Equality Maine checked a box in the Commission's online e-filing system, the report would have been the correct type. The Commission assessed a penalty of \$250.
- The *Maine Republican Party* case was more serious than the Campaign for Maine violation, because of the large amount of expenditures (\$124,000) reported after the election. The party had hired a consulting firm to file campaign finance reports. The firm failed to correctly interpret the party's database and did not recognize that five 24-Hour Reports were due. The payments were fees to consultants and a contribution to a PAC. The Maine Republican Party is a more sophisticated actor in Maine politics than Campaign for Maine. Although the party's expenditures were large, these payments as less critical for the public to

access than a communication to influence voters. Overall, the penalty assessed by the Commission was \$5,000, which reflected the seriousness of the violation and the sophistication of the Maine Republican Party.

- The *Maine Truck PAC* case (final penalty of \$1,500) is also distinguishable. Due to a miscommunication, the Maine Truck PAC failed to report 34 contributions received over the course of three regularly scheduled reports in 2014. The PAC did not spend the cash for political purposes in 2014. The reports were considered 8-12 months late because they were not substantially complete when filed. The Commission assessed a penalty of \$1,500.
- The *Environment Maine* case (\$500 penalty) involved a late 24-Hour Report for a contribution received during the 24-hour reporting period. In that situation the harm to the public was mitigated because the donating organization filed a 24-Hour Report for its contribution made. The Environment Maine PAC did not spend any of the money it received to influence a Maine election because the PAC was not aware that it had received the contribution.

Thank you for your consideration of this memo.

Penalty Waivers by Commission – 24-Hour Reports and Independent Expenditure Reports

Maine Society of Anesthesiologists PAC (Nov 2014 meeting)

- Maine Society of Anesthesiologists PAC was 46 days late filing 24-hour reports of two \$1,000 contributions to other PACs made prior to the primary election.
- Preliminary penalties were \$1,040
- Staff recommended \$250, which Commission adopted

Equality Maine PAC (Nov 2014 meeting)

- Equality Maine PAC was one day late filing an IE report for a \$5,000 expenditure for consulting and a phone bank in support of the Michaud campaign. The PAC was also 1 day late filing the 11-Day Pre-General report
- Preliminary penalties were \$350
- Staff recommended \$250, which Commission adopted

Maine Economic Growth Coalition PAC (Dec 2014 meeting)

- The Maine Economic Growth Coalition PAC was 8 to 17 days late filing four 24-hour reports for expenditures for online advertising supporting Question 2 between October 28, 2014 and November 4, 2014
- Preliminary penalties were \$1,819.84
- Staff recommended \$250, Commission declined to adopt and assessed \$500

Mainers for Fair Bear Hunting BQC (Dec 2014 meeting)

- Mainers for Fair Bear Hunting BQC was one day late filing a 24-hour report for a \$50,000 contribution it received in the 24-hour reporting period prior to the general election
- The BQC entered the transaction in the Commission's e-filing system, but did not file the report
- Preliminary penalty was \$1,500
- Staff recommended \$500, which Commission adopted

Worker's Voice Maine PAC (Jan 2015 meeting)

- Failed to report contribution of \$7,155, and three IEs totaling roughly \$9,100
- IEs were for relatively small payments (in context of gubernatorial election) for digital advertising
- Commission assessed penalties totaling \$1,000

AFL-CIO COPE PAC (Jan 2015 meeting)

- The PAC failed to report a contribution of \$10,000 from the organization's general treasury in a 24-Hour Report
- Commission assessed \$1,000 penalty

Anne PAC (Jan 2015 meeting)

- Anne PAC is the leadership PAC of State Sen. Anne Haskell
- The PAC made a \$3,500 payment to Senate Democratic Campaign Committee PAC
- The SDCC PAC disclosed the contribution in a 24-Hour Report
- Commission assessed \$250 penalty

Eliot Cutler Campaign (Jan 2015 meeting)

- Cutler campaign did not disclose \$2,877 for automated phone calls in 24-Hour Report
- Commission assessed \$200 for violation.
- Commission also assessed \$400 penalty for filing the 42-Day Post-General Election Report one day late

Environment Maine PAC (Feb 2015 meeting)

- Received \$10,000 contribution from NextGen Climate Action Committee
- Did not file 24-Hour Report
- Commission assessed \$500 penalty

Maine Republican Party Penalty (Feb 2015 meeting)

- MRP did not file five 24-hour reports for expenditures totaling \$124,000
- Payments were for consulting and one contribution, not for paid communications to voters
- MRP's outside consultant mistakenly did not recognize that the payments must be disclosed in 24-Hour Reports
- MRP is very experienced political committee, with hired professional consultants
- Preliminary penalty was \$37,400.
- Staff recommended \$5,000, which Commission adopted.

Equality Maine (April 2015 Meeting)

- The PAC disclosed two payments for phone banks in support of Michael Michaud totaling \$24,657 on 24-Hour Reports, rather than IE reports.
- The expenditure information was accessible to the public within one day and prior to the election, but on the wrong report.
- Commission staff recommended \$250, which Commission adopted.

Reporting Requirements

IE reports are due for paid communications to voters advocating for or against candidates

24 Hour Reports must be filed by PACs and party committees for any expenditure of \$1,000 or more made in last 13 days before a general election, or any contribution of \$5,000 or more received during that period.

Wayne, Jonathan

From: James T. Kilbreth <JKilbreth@dwmlaw.com>
Sent: Tuesday, September 22, 2015 11:48 AM
To: Wayne, Jonathan
Subject: RE: Staff Memo and Attachment

Jonathan,

Thank you for forwarding the staff recommendation. Your statement that the "PAC accepts the staff recommendation" is accurate.

As you know, I won't be able to attend the Commission meeting on October 1, but on behalf of the PAC wanted to express our appreciation for the thoughtfulness and effort the staff has put into this and your recognition that this failure to report was the inadvertent result of a single breakdown in communication. The PAC appreciates the importance of the campaign finance disclosure provisions and made every attempt to comply with those laws and did so with this one inadvertent exception.

Regards,

Jamie



YEARS OF SERVICE TO OUR CLIENTS AND COMMUNITIES

James T. Kilbreth
Attorney

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From: Wayne, Jonathan [<mailto:Jonathan.Wayne@maine.gov>]
Sent: Monday, September 21, 2015 10:18 AM
To: James T. Kilbreth
Subject: Staff Memo and Attachment

Jamie,

I have attached the memo by the Commission staff making a recommendation to the Commission on the Campaign for Maine penalty request. In the first paragraph, I mention that "The PAC accepts the staff's recommendation." If this phrasing is not accurate, please let me know.

I have also attached a summary of late-filing waiver requests considered by the Commissioners for 24-Hour and IE reports that the Commissioners may find helpful for comparison purposes.

We will be mailing the packet of materials to the Commissioners tomorrow afternoon.

Thank you.

Jonathan Wayne
Executive Director
Maine Ethics Commission
135 SHS
Augusta, ME 04333
287-4179



YEARS OF SERVICE TO OUR CLIENTS AND COMMUNITIES

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July 30, 2015

Jonathan Wayne
Executive Director
Maine Ethics Commission
135 State House Station
Augusta, Maine 04333

Re: Campaign for Maine

Dear Mr. Wayne:

This is in response to the letters of July 16, 2015, setting out the Commission Staff's preliminary determinations that the Campaign for Maine ("CFM") was late in filing (i) an independent expenditure report and (ii) its 2014 42-day post-general campaign finance report. CFM respectfully requests a waiver of any penalty in connection with these reporting issues for the reasons set out below.

Background

CFM is a political action committee initially formed in connection with the 2010 gubernatorial election to support the candidacy of Eliot Cutler. It also supported other independent candidates during that election. In the 2014 election it again supported the candidacy of Eliot Cutler.

During 2014, CFM underwent several personnel changes, including the departure of its then campaign manager, Betsy Smith, in July. Shortly thereafter CC Stockly, a volunteer, undertook to manage the day-to-day activities of the organization, including the filing of campaign reports. Ms. Stockly is not a political activist nor has she any experience in managing political campaigns or filing campaign reports. Nonetheless, between October 1st and November 4th, 2014, Ms. Stockly filed 12 campaign reports, including 7 between October 27th and October 31st. Among those were several independent expenditure reports detailing expenditures by CFM to Old Town Media, one in the amount of \$100,000, made on October 27, 2014, the report for which was filed on October 27, 2014, and a second one for Old Town Media for an expenditure made on October 28, 2014, in the amount of \$50,000, which was filed on October 29th. Finally, on October 30, 2014, Ms. Stockly filed another independent expenditure report in the amount of \$25,673.82 for three expenditures to the Portland Press Herald, the Lewiston Sun Journal, and the Bangor Daily News. That report was amended on November 4th to correct the amount paid to the Bangor

July 30, 2015

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Daily News. She also timely filed the organization's 42-day post-general election report on December 15, 2014.

Thus, throughout the reporting period Ms. Stockly diligently filed reports and corrected any errors she discovered. Because she was personally handling the checks when payment was made in that form and another person was handling wire transfers, she was unaware of a third wire transfer to Old Town Media in the amount of \$25,000 on October 29th. In the process of closing out the organization as part of its dissolution process, she discovered this additional payment, promptly reported it to the Commission, and, based on her conversations with staff, immediately filed the appropriate reports.¹ It is that single \$25,000 expenditure that is the basis for the two late filing penalties of \$5,000 and \$40,367.84 set out in the Staff's letters of July for failure to file an independent expenditure report and failure to file a 42-day post-general election report (even though the latter was originally timely filed but not amended to reflect this transaction until July of this year).

Argument

As the facts set out above demonstrate, this was a simple mistake. One among many payments just got overlooked because of a breakdown in communication between the person handling the wire transfers and Ms. Stockly. Ms. Stockly has never filed campaign finance reports before but did her best to comply with the reporting requirements conscientiously and as thoroughly and accurately as possible. And she did an admirable job. As the record set out above amply demonstrates, she had no intention to not disclose any expenditure but worked hard to file complete information on a timely basis and made a good faith effort to remedy any mistake immediately upon its discovery. There was no intent to not disclose or in any way evade the requirements of the campaign finance reporting requirements.

Nor is there any harm to the public here in terms of the objectives of the financial disclosure reporting system. All TV ads bear a disclosure that they were paid for by the Campaign for Maine. The \$150,000 in expenditures to Old Town Media that were disclosed dwarf the one expenditure of \$25,000 that was inadvertently overlooked in that same period. That \$25,000 is less than 15% of the total spent on television at that time; disclosure of more than 85% cannot be construed as somehow less than meaningful disclosure.

Finally, the circumstances here should be evaluated in light of several other recent late filing decisions of the Commission. The most relevant one in our view is the one involving the Maine Republican Party where five separate expenditures made between October 22 and October 31, ranging from \$5,000 to \$87,000 and totaling \$124,000, were not disclosed. The initial penalty assessed was \$37,400; the Commission reduced it to \$5,000. In contrast to the Maine Republican Party, the Campaign for Maine does not have professionals or seasoned political operatives managing it and it failed to report only a single expenditure one time. Similarly, Equality Maine, which has been running active campaigns in the State for years, was 125 days

¹ It continues to be the Campaign for Maine's intention to terminate its existence upon resolution of this matter. It currently has a total of \$1,937.40 in its checking account.

July 30, 2015

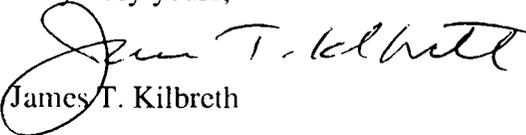
Page 3

late reporting a \$24,000 expenditure and was initially assessed a \$5,000 penalty for a late independent expenditure report; that penalty was reduced to \$250. Finally, the Maine Truck PAC, another sophisticated long-time political actor, had an initial penalty of \$30,000 that was reduced to \$1,500. *See also* Environment Maine.

For all these reasons, we believe the proposed penalties are wildly disproportionate to both any conceivable harm to the public that might have arisen from the failure to report and to penalties assessed in comparable circumstances. Since the 42-day post-general election report merely captures the same failure to report that the violation for the late filed independent expenditure report captures, and there is absolutely no harm that can be shown to the public from the post-election filing, we believe that this \$40,367.84 penalty should be waived in its entirety. With respect to the independent expenditure report, we believe that, consistent with the Commission's action with respect to Equality Maine, the penalty should be a maximum of \$250.

I would be pleased to discuss this with you to see if there is a way to resolve it promptly. Thank you for your attention to this matter.

Very truly yours,

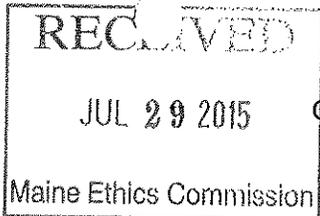


James T. Kilbreth

JTK/sab

cc: Hymie Gulak
CC Stockly
Benjamin Dyer

IE 438



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 INDEPENDENT EXPENDITURE REPORT

COMMITTEE		TREASURER
CAMPAIGN FOR MAINE 2 UNION STREET, FL 5 PORTLAND, ME 04101 PHONE: (207) 939-7769 EMAIL: TSATURLEY@TRANZON.COM		HYMAN GULAK 88 LAUREL COVE RD HARPSWELL, ME 04079 PHONE: (207) 415-1478 EMAIL: HYMIE1@COMCAST.NET
REPORT	DUE DATE	REPORTING PERIOD
Independent Expenditure Report	10/30/2014	10/29/2014 - 10/29/2014

FINANCIAL ACTIVITY SUMMARY

EXPENDITURES	
1. CANDIDATE(S) SUPPORTED/OPOSED	\$25,000.00
2. DEBTS AND OBLIGATIONS	\$0.00
3. TOTAL PAYMENTS (LINE 1 + 2)	\$25,000.00

AFFIDAVIT

STATE OF MAINE
COUNTY OF CUMBERLAND

CATHERINE STOCKLY, being duly sworn, attests that he/she made each of the expenditures listed in the attached report independently of, and not in cooperation, consultation, or concert with, or at the request or suggestion of, the candidate(s) named in the report, the political committee of the candidate(s), or their agents.

Catherine Stockly
(Signature of Affiant)

Sworn to before me this 29th day of JULY 2014 2015

Anne L. Brushwein
(Notary Public/Attorney-at Law)

ANNE L. BRUSHWEIN
Notary Public, Maine
My Commission Expires February 10, 2019
Perjury is a Class C Crime. (17-A MRSA § 451)

REPORT FILED BY: CATHERINE STOCKLY
REPORT FILED ON: 07/15/2015
LAST MODIFIED: 07/15/2015
PRINTED: 07/21/2015
COMMITTEE ID: 5330
REPORT NUMBER: 144240

**SCHEDULE B-IE-1
CANDIDATE(S) SUPPORTED/OPOSED**

Expenditure Date	Support / Oppose	Candidate Name	Office	District / County	Payee	Expenditure Amount
10/29/2014	SUPPORT	ELIOT R CUTLER	GOVERNOR		OLD TOWN MEDIA	\$25,000.00
Total expenditures for all candidates this reporting period						\$25,000.00

**SCHEDULE B-IE-2
PAYMENTS AND OBLIGATIONS**

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, address, zip code	Remark	Expenditure type	Net Amount
10/29/2014	OLD TOWN MEDIA 4507 PENWOOD DRIVE ALEXANDRIA, VA 22310	TV BUY	TVN	\$25,000.00
A. Total Expenditure Payments				\$25,000.00
B. Total Obligations				\$0.00
C. Total independent expenditures for this reporting period (A+B)				\$25,000.00

**SCHEDULE B
EXPENDITURES TO SUPPORT OR OPPOSE**

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
10/27/2014	OLD TOWN MEDIA 4507 PENWOOD DRIVE ALEXANDRIA, VA 22310	TELEVISION AD BUYS PAYMENT OF \$100,000.00 TO SUPPORT: ELIOT R CUTLER. JURISDICTION: STATEWIDE. PARTY: UNENROLLED. OFFICE: GOVERNOR. ELECTION YEAR: 2014	TVN	\$100,000.00
10/28/2014	OLD TOWN MEDIA 4507 PENWOOD DRIVE ALEXANDRIA, VA 22310	MEDIA BUY PAYMENT OF \$50,000.00 TO SUPPORT: ELIOT R CUTLER. JURISDICTION: STATEWIDE. PARTY: UNENROLLED. OFFICE: GOVERNOR. ELECTION YEAR: 2014	TVN	\$50,000.00
10/29/2014	Bangor Daily News PO Box 1329 Bangor, ME 04401	PRINT AD SPACE -- AMOUNT TO BE REIMBURSED TO CHRIS HARTE PAYMENT OF \$8,268.25 TO SUPPORT: ELIOT R CUTLER. JURISDICTION: STATEWIDE. PARTY: UNENROLLED. OFFICE: GOVERNOR. ELECTION YEAR: 2014	PRT	\$8,268.25
10/29/2014	Bangor Daily News PO Box 1329 Bangor, ME 04401	Offset due to update of filed item PAYMENT OF (\$8,268.25) TO SUPPORT: ELIOT R CUTLER. JURISDICTION: STATEWIDE. PARTY: UNENROLLED. OFFICE: GOVERNOR. ELECTION YEAR: 2014	PRT	(\$8,268.25)
10/29/2014	Bangor Daily News PO Box 1329 Bangor, ME 04401	PRINT AD SPACE -- AMOUNT TO BE REIMBURSED TO CHRIS HARTE PAYMENT OF \$8,318.25 TO SUPPORT: ELIOT R CUTLER. JURISDICTION: STATEWIDE. PARTY: UNENROLLED. OFFICE: GOVERNOR. ELECTION YEAR: 2014	PRT	\$8,318.25

X

10/29/2014	Lewiston Sun Journal 104 Park Street Lewiston, ME 04240	PRINT AD SPACE PAYMENT OF \$3,802.48 TO SUPPORT: ELIOT R CUTLER. JURISDICTION: STATEWIDE. PARTY: UNENROLLED. OFFICE: GOVERNOR. ELECTION YEAR: 2014	PRT	\$3,802.48
10/29/2014	OLD TOWN MEDIA 4507 PENWOOD DRIVE ALEXANDRIA, VA 22310	TV BUY PAYMENT OF \$25,000.00 TO SUPPORT: ELIOT R CUTLER. JURISDICTION: STATEWIDE. PARTY: UNENROLLED. OFFICE: GOVERNOR. ELECTION YEAR: 2014	TVN	\$25,000.00
10/29/2014	Portland Press Herald/maine Sunday Telegram One City center, 5th Floor Portland, ME 04101	PRINT ADVERTISING -- REIMBURSEMENT TO BE MADE TO CHRIS HARTE, WHOSE CREDIT CARD WAS USED FOR PURCHASE PAYMENT OF \$13,603.09 TO SUPPORT: ELIOT R CUTLER. JURISDICTION: STATEWIDE. PARTY: UNENROLLED. OFFICE: GOVERNOR. ELECTION YEAR: 2014	PRT	\$13,603.09
10/31/2014	DAVID GILLIS DESIGNS 64 COLUMBIA AVE BRUNSWICK, ME 04011	DESIGN OF PRINT MEDIA AD PAYMENT OF \$585.00 TO SUPPORT: ELIOT R CUTLER. JURISDICTION: STATEWIDE. PARTY: UNENROLLED. OFFICE: GOVERNOR. ELECTION YEAR: 2014	PRT	\$585.00
TOTAL EXPENDITURES TO SUPPORT OR OPPOSE:				\$201,308.82



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

September 14, 2015

James T. Kilbreth, Esq.
 Drummond Woodsum & MacMahon, P.A.
 54 Marginal Way, Suite 600
 Portland, ME 04101-2480

Re: Revision of Preliminary Penalty for Late Report

Dear Mr. Kilbreth,

Thank you for your July 30, 2015 letter requesting a waiver of the late-filing penalty for the incomplete post-election report filed by the Campaign for Maine PAC on December 15, 2015. The Commission staff has reconsidered how to apply the PAC penalty statute to the factual circumstances of the late filing, and has determined that the \$10,000 maximum should apply to the late report. So, the preliminary penalties are now:

Independent expenditure report due 10/30/2014	\$5,000.00
Post-election report filed on 12/15/2014	\$10,000.00
Total	\$15,000.00

Post-election report considered late

When it filed its post-election report on December 15, 2014, Campaign for Maine omitted a payment of \$25,000 for television advertising. Seven months later, the PAC rectified the error in an amendment made on July 15, 2015:

	Original Report (12/15/2014)	Amended Report (7/15/2015)
Total Contributions	\$95,000.00	\$95,000.00
Total Expenditures	\$176,836.92	\$201,836.92

The staff of the Commission continues to believe that the post-election report should be considered late under 21-A M.R.S.A. § 1062-A(2), because it did not substantially conform to the disclosure requirements in PAC reporting laws.

Calculating the Maximum Penalty

When a PAC report is filed late, the Commission is directed in our PAC penalty statute to calculate a preliminary penalty based on “the total contributions or expenditures for the filing

James T. Kilbreth, Esq.
Page 2
September 14, 2015

period, whichever is greater.” (21-A M.R.S.A. § 1062-A(3)) Accordingly, when calculating the penalty for the post-election report, the Commission staff used the base of \$201,836.92 (the PAC’s total expenditures for the filing period).

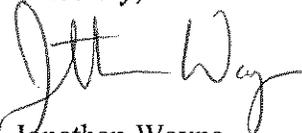
In order to be consistent, when determining the maximum penalty that could apply under 21-A M.R.S.A. § 1062-A(4), we used this same amount as the base for the calculation. We calculated the maximum penalty to be 1/5 of \$201,836.92, or \$40,367.38.

Upon further reflection, we believe that the Legislature intended the maximum penalty to be 1/5 of financial activity *only* “if the financial activity reported late exceeds \$50,000.” In the case of the PAC’s post-election report, the “financial activity reported late” was \$25,000. Accordingly, the maximum penalty that should apply is \$10,000.

We apologize to the PAC that this change is necessary, but hope it will be viewed as good news. It is the result of continuing ambiguity in how the Legislature intended the Commission to apply subsections 1062-A(3) and (4) when PACs file campaign finance reports that are on time but incomplete. I take responsibility for not providing clearer guidance to my colleagues. The Commission made a statutory proposal to resolve the ambiguity earlier this year, but it was not enacted.

If you have any questions, please call me at 287-4179 or email me at Jonathan.Wayne@maine.gov.

Sincerely,



Jonathan Wayne
Executive Director



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

July 16, 2015

Hyman Gulak, Treasurer
Campaign for Maine PAC
88 Laurel Cove Rd
Harpswell, ME 04079

Re: Late Filing of Independent Expenditure Report

Dear Mr. Gulak:

The Commission staff has made a preliminary determination that the Campaign for Maine PAC (the PAC) was late in filing an Independent Expenditure report for television ads in support of the Cutler for Governor campaign. The report was due by 11:59 p.m. on October 30, 2014 but was not filed until July 15, 2015. Under the Commission's statutes, the late filing of a report triggers an enforcement process. (21-A M.R.S.A. § 1062-A(3)). Based on the amount of financial activity in the report, the number of calendar days the report was late, and the PAC's history of violations, the commission staff has determined that the statutory maximum penalty of \$5,000.00 is owed. (Please see attached penalty matrix for the calculation).

The PAC may make a written request that the Commission waive the violation or penalty 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 PAC 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 PAC 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 benjamin.p.dyer@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

Payment Receipt

Mail payment to:

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

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

Hyman Gulak, Treasurer
Campaign for Maine PAC
88 Laurel Cove Rd
Harpwell, ME 04079

Violation: Late IE Report
Amount Due: \$5,000.00

Committee Name: Campaign for Maine PAC

Report Title: IE Report

Due Date: October 30, 2014

Previous Violation(s): N/A

Filed Date: July 16, 2015

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, 1%

For the second violation, 3%

For the third and each subsequent violation, 5%

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

Penalty Example:		Your Penalty is calculated as follows:	
The treasurer files the PAC's report two (2) days late. The PAC has not had any previous late violations this biennium. The PAC reports a total of \$2,500 in contributions and \$1,500 in expenditures for the filing period. The penalty is			
\$2,500	Greater amount of the total contributions received or expenditures made during the filing period	Contributions / Expenditures:	<u>\$25,000.00</u>
		X	
		Percent Prescribed:	<u>1%</u>
X .01	Percent prescribed for first violation		<u>\$250.00</u>
		X	
\$25.00	One percent of total contributions	Number of days late:	<u>259</u>
X 2	Number of calendar days late		
		Statutory maximum penalty:	<u>\$5,000.00</u>
\$50.00	Total Penalty		

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 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.

MAXIMUM PENALTIES

21-A M.R.S.A. Section 1020-A(5-A)(A-1)
\$5,000 for Independent Expenditure Reports,
except that if the financial activity reported late exceeds \$50,000,
the maximum penalty is one-fifth of the amount reported late.



STATE OF MAINE
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135 STATE HOUSE STATION
AUGUSTA, MAINE
04333-0135

July 16, 2015

Hyman Gulak, Treasurer
Campaign for Maine PAC
88 Laurel Cove Rd
Harpswell, ME 04079

Re: Late Filing of 42-Day Post-General Report

Dear Mr. Gulak:

The Commission staff has made a preliminary determination that the Campaign for Maine PAC (the PAC) was late in filing its 2014 42-Day Post-General campaign finance report. The Commission staff considers the report late as a result of substantial non-conformity with disclosure requirements. Under the Commission's statutes, the late filing of a report triggers an enforcement process. (21-A M.R.S.A. § 1062-A(3)). Based on the amount of financial activity in the report, the number of calendar days the report was late, and the PAC's history of violations, the commission staff has determined that the statutory maximum penalty of \$40,367.38 is owed. (Please see attached penalty matrix for the calculation).

The PAC may make a written request that the Commission waive the violation or penalty 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 PAC 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 PAC 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 benjamin.p.dyer@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

Payment Receipt

Mail payment to:

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

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

Hyman Gulak, Treasurer
Campaign for Maine PAC
88 Laurel Cove Rd
Harpwell, ME 04079

Violation: Late 2014 42-Day Post-General Report
Amount Due: **\$40,367.38**

Committee Name: Campaign for Maine PAC

Report Title: 2014 42-Day Post-General

Due Date: December 16, 2014

Previous Violation(s): IE Report 10/30/2014

Filed Date: July 15, 2015

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, 1%

For the second violation, 3%

For the third and each subsequent violation, 5%

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

Penalty Example:		Your Penalty is calculated as follows:	
The treasurer files the PAC's report two (2) days late. The PAC has not had any previous late violations this biennium. The PAC reports a total of \$2,500 in contributions and \$1,500 in expenditures for the filing period. The penalty is			
\$2,500	Greater amount of the total contributions received or expenditures made during the filing period	Contributions / Expenditures:	<u>\$201,836.92</u>
		Percent Prescribed:	<u>X</u> 3%
X .01	Percent prescribed for first violation		<u>\$6,055.11</u>
\$25.00	One percent of total contributions	Number of days late:	<u>X</u> 212
X 2	Number of calendar days late		<u>\$40,367.84</u>
\$50.00	Total Penalty	Statutory Maximum Penalty:	<u>\$40,367.84</u>

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 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.

MAXIMUM PENALTIES

21-A M.R.S.A. Section 1062-A(4)

\$10,000 for Pre- and Post-Election Reports, Quarterly Reports and 24-Hour Reports, except that if the financial activity reported late exceeds \$50,000, the maximum penalty is one-fifth of the amount reported late.

21-A M.R.S.A. § 1062-A. FAILURE TO FILE ON TIME

1. Registration. A political action committee required to register under section 1052-A or 1053-B or a ballot question committee required to register under section 1056-B that fails to do so or that fails to provide the information required by the commission for registration may be assessed a fine of no more than \$2,500. In assessing a fine, the commission shall consider, among other things, whether the violation was intentional, the amount of campaign and financial activity that occurred before the committee registered, whether the committee intended to conceal its campaign or financial activity and the level of experience of the committee's volunteers and staff.

[2013, c. 334, §30 (AMD) .]



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 6, the commission shall determine whether a required report satisfies the requirements for timely filing. The commission may waive a penalty in whole or in part if it is disproportionate to the level of experience of the person filing the report or to 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 of the committee treasurer 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, §9 (AMD).]

B. An error by the commission staff; or [1999, c. 729, §9 (AMD).]

C. 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. [2007, c. 443, Pt. A, §38 (AMD).]

[2009, c. 190, Pt. A, §29 (AMD) .]

3. 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%; [1995, c. 483, §21 (NEW).]

B. For the 2nd violation, 3%; and [1995, c. 483, §21 (NEW).]

C. For the 3rd and subsequent violations, 5%. [1995, c. 483, §21 (NEW).]

Any penalty of less than \$10 is waived.

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).]

SECTION 10. REPORTS OF INDEPENDENT EXPENDITURES

1. **General.** Any person, party committee, political committee or political action committee that makes an independent expenditure aggregating in excess of \$100 per candidate in an election must file a report with the Commission according to this section.
2. **Definitions.** For purposes of this section, the following phrases are defined as follows:
 - A. "Clearly identified," with respect to a candidate, has the same meaning as in Title 21-A, chapter 13, subchapter II.
 - B. "Expressly advocate" means any communication that
 - (1) uses phrases such as "vote for the Governor," "reelect your Representative," "support the Democratic nominee," "cast your ballot for the Republican challenger for Senate District 1," "Jones for House of Representatives," "Jean Smith in 2002," "vote Pro-Life" or "vote Pro-Choice" accompanied by a listing of clearly identified candidates described as Pro-Life or Pro-Choice, "vote against Old Woody," "defeat" accompanied by a picture of one or more candidate(s), "reject the incumbent," or communications of campaign slogan(s) or individual word(s), which in context can have no other reasonable meaning than to urge the election or defeat of one or more clearly identified candidate(s), such as posters, bumper stickers, advertisements, etc. which say "Pick Berry," "Harris in 2000," "Murphy/Stevens" or "Canavan!"; or
 - (2) is susceptible of no reasonable interpretation other than as an appeal to vote for or against a clearly identified candidate.
 - C. "Independent expenditure" has the same meaning as in Title 21-A §1019-B. Any expenditure made by any person in cooperation, consultation or concert with, or at the request or suggestion of, a candidate, a candidate's political committee or their agents is considered to be a contribution to that candidate and is not an independent expenditure.
3. **Reporting Schedules.** Independent expenditures must be reported to the Commission in accordance with the following provisions:
 - A. Independent expenditures aggregating in excess of \$100 per candidate per election made by any person, party committee, political committee or political action committee must be reported to the Commission in accordance with the following reporting schedule, unless required to be reported according to the schedule in paragraph B.
 - (1) **Quarterly Reports.** *[Repealed]*
 - (1-A) **60-Day Pre-Election Report.** A report must be filed by 11:59 p.m. on the 60th day before the election is held and be complete as of the 61st day before the election.

(1-B) **11-Day Pre-Election Report.** A report must be filed by 11:59 p.m. on the 11th day before the election is held and be complete as of the 14th day before the election.

If the total of independent expenditures made to support or oppose a candidate exceeds \$100, each subsequent amount spent to support or oppose the candidate must be reported as an independent expenditure according to the schedule in this paragraph or paragraph B.

B. Independent expenditures aggregating in excess of \$250 per candidate made during the sixty days before an election must be reported within two calendar days of those expenditures.

[NOTE: WHEN THE CUMULATIVE AMOUNT OF EXPENDITURES TO SUPPORT OR OPPOSE A CANDIDATE EXCEEDS \$250, AN INDEPENDENT EXPENDITURE REPORT MUST BE FILED WITH THE COMMISSION WITHIN TWO DAYS OF GOING OVER THE \$250 THRESHOLD.

FOR EXAMPLE, IF AN INDIVIDUAL, ORGANIZATION OR COMMITTEE MAKES THREE EXPENDITURES OF \$100 IN SUPPORT OF A CANDIDATE ON SEPTEMBER 8TH, SEPTEMBER 13TH, AND SEPTEMBER 29TH, FOR AN ELECTION ON NOVEMBER 6, 2012, AN INDEPENDENT EXPENDITURE REPORT MUST BE FILED BY OCTOBER 1ST. THE THIRD EXPENDITURE OF \$100 MADE THE CUMULATIVE TOTAL OF EXPENDITURES EXCEED \$250 AND THE TWO-DAY REPORTING REQUIREMENT WAS TRIGGERED ON SEPTEMBER 29TH. THE REPORT MUST INCLUDE ALL THREE EXPENDITURES.

AFTER SEPTEMBER 29TH, IF THAT INDIVIDUAL, ORGANIZATION OR COMMITTEE MAKES ADDITIONAL EXPENDITURES TO SUPPORT THAT CANDIDATE, THE REQUIREMENT TO FILE AN INDEPENDENT EXPENDITURE REPORT WITHIN TWO DAYS WILL APPLY ONLY IF THE CUMULATIVE TOTAL SPENT AFTER SEPTEMBER 29TH EXCEEDS \$250. FOR EXAMPLE, IF THE INDIVIDUAL, ORGANIZATION OR COMMITTEE MAKES TWO PAYMENTS OF \$200 TO PROMOTE THE CANDIDATE ON OCTOBER 8TH AND OCTOBER 13TH, ANOTHER INDEPENDENT EXPENDITURE REPORT MUST BE FILED BY OCTOBER 15TH DISCLOSING THOSE TWO EXPENDITURES.]

Independent expenditures aggregating in excess of \$100 per candidate made after the 14th day before an election must be reported within one calendar day of those expenditures.

For purposes of the filing deadlines in this paragraph, if the expenditure relates to a legislative or gubernatorial election and the filing deadline occurs on a weekend, holiday, or state government shutdown day, the report must be filed on the deadline. If the expenditure relates to a county or municipal election, the report may be filed on the next regular business day.