



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
Emma Burke, Candidate Registrar
Date: October 18 2016
Re: Request for Waiver of Late-Filing Penalty and Late Reporting Exemption
Revocation Penalty by Gary McGrane

Candidates for county office may request an exemption from the duty of appointing a treasurer and filing campaign finance reports, if they make a sworn statement to the Commission that they will not accept contributions or make expenditures associated with their candidacy. (21-A M.R.S.A. § 1017(7-A)(A)) The Commission has created a section of the registration form (Box 6) for county candidates to request the exemption. If an exempt candidate later decides to engage in financial activity, the candidate may revoke this exemption by appointing a treasurer and filing an amended registration form with the Commission, at which time they may begin receiving contributions and making expenditures to promote their election. (21-A M.R.S.A. § 1017(7-A)(C))

Gary McGrane is a candidate for County Commissioner in Franklin County, an office he has held for almost 28 years. When he registered as a candidate on March 21, 2016, he completed the reporting exemption section of the registration form. Mr. McGrane became financially active *before* revoking his reporting exemption with the Commission. He states that he tried to send an electronic message to the Commission to revoke the exception, but we did not receive it.

This matter involves two related violations:

- The staff recommends finding that he violated the exemption statute by failing to revoke the exemption on time. The statute authorizes a civil penalty for this

violation, but is ambiguous about the procedures to be used in assessing the penalty. You may wish to consider a discretionary penalty for this violation.

- The candidate failed to file the 42-Day Post-Primary Report (due in July) on time. Mr. McGrane requests a waiver of the \$200.64 late-filing penalty.

LEGAL REQUIREMENTS

Candidates seeking election to a county office may, at the time of registration, notify the Commission that the candidate and the candidate's agents will not accept contributions, make expenditures, or incur obligations associated with the candidate's campaign. A candidate who provides this notice to the Commission is not required to appoint a treasurer and is not subject to filing requirements. (21-A M.R.S.A. § 1017(7-A)(A)) The exemption may be revoked; the candidate must appoint a treasurer prior to revocation, and the candidate may not accept contributions, make expenditures, or incur obligations before the appointment of a treasurer and the filing of a revocation notice.

Candidates are required to file a report on the forty-second day after the date on which an election is held. (21-A M.R.S.A. § 1017(3-A)(D)) A report is considered timely filed only if it is submitted by the deadline and substantially conforms to the disclosure requirements of the Election Law. (21-A M.R.S.A. § 1020-A(2))

If the candidate is late in filing a report or the revocation of a reporting exemption, the amount of the penalty is set by a formula which takes into consideration a percentage of the total contributions or expenditures, whichever is greater, the number of prior violations within a two-year period, and the number of days late. (21-A M.R.S.A. § 1020-A(4-A))

DISCUSSION

Mr. McGrane registered as a candidate for Franklin County's District 1 Commissioner seat on March 21, 2016. At that time he registered with the reporting exemption section completed. During the summer of 2016 (probably at some point in July), Mr. McGrane called and spoke to Candidate Registrar Emma Burke about what he would need to do if he became financially active. Ms. Burke explained to Mr. McGrane that he would need

to send a written notice to the Commission revoking his reporting exemption. Ms. Burke did not hear from the McGrane campaign again until September 20, 2016.

On September 20, 2016, Trevor Doiron, identifying himself as Mr. McGrane's treasurer, emailed the Commission asking for a username and password so he could access the e-filing system and file Mr. McGrane's 42-Day Pre-General Report. Ms. Burke contacted Mr. Doiron via telephone and explained that Mr. McGrane still had the reporting exemption in place and therefore was not allowed to be financially active until that was revoked. Ms. Burke inquired if Mr. McGrane had been financially active; Mr. Doiron confirmed that he had been. Ms. Burke then contacted Mr. McGrane and asked for the details of the financial activity that had already taken place and explained how to revoke the exemption.

Mr. McGrane explained that he had become financially active on July 16, 2016 and had sent Ms. Burke an email on August 10, 2016 revoking his exemption, but that he had never received a response. Ms. Burke stated she had never received his email. Mr. McGrane then explained that he had actually sent the message containing his revocation as a text (SMS) message to Ms. Burke's office phone number. Ms. Burke told Mr. McGrane that her office phone could not receive text messages, as it is a landline. On September 21, 2016, Ms. Burke received an email from Mr. McGrane revoking his reporting exemption on September 21, 2016 (attached), sixty-eight days late. (Ms. Burke accepted the email communication in lieu of an amended registration form.)

Due to the dates of Mr. McGrane's financial activity – two contributions on July 16, 2016 totaling \$176.00 – he would have been required to file the 42-Day Post-Primary Report. Mr. Doiron filed this report on September 21, 2016, 57 days late.

Based on the statutory formula for calculating late-filing penalties, the potential penalties total \$440.00, calculated as follows:

Report	Date	Financial Activity	Penalty Rate	Days Late	Potential Penalties
Reporting Exemption Revocation	07/16/2016	\$176.00	2%	68	\$239.36 (discretionary)
42-Day Post-Primary Report	07/26/2016	\$176.00	2%	57	\$200.64 (potential penalty, requested to be waived)

Through a letter dated October 5, 2016 (attached), Mr. McGrane requested that the Commission waive the preliminary penalties and findings of violation. Mr. McGrane, according to his request for a waiver, simply misunderstood the timing of when the revocation was required to be filed, the need for a post-primary report to be filed (due to financial inactivity for the primary election), and also thought he had sent the revocation as of August 10, 2016. Mr. McGrane also explains in his request that he did not expect to be financially active for this election, otherwise he would not have registered as exempt.

STAFF RECOMMENDATION

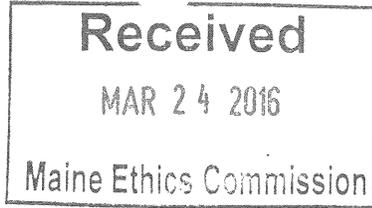
The Commission staff views the violation of failing to revoke a reporting exemption as potentially serious, because the sworn statement of no financial activity on file with the Commission can be misleading to other candidates in the race.

However, there are several mitigating circumstances in this situation. Mr. McGrane has been a candidate for this office many times and has no previous violations. He did telephone the Commission intending to revoke his exemption (probably in July) and apparently did attempt to send the revocation on August 10th. (Mr. McGrane has forwarded a message he says he sent on August 10th, but no message with an August 10th date stamp has been submitted). Mr. Doiron also contacted the Commission to request his log-in information to file the 42-Day Pre-General Report – a report which had not yet been placed on Mr. McGrane’s filing schedule, so the campaign was acting on their own accord, and not on reminders from the Commission. The financial activity was also a

minimal amount of contributions, with most of the contributions being from Mr. McGrane himself, and no expenditures had yet taken place.

The Commission staff views both preliminary penalties as disproportionate to the harm to the public from the late filing and revocation. We recommend reducing each penalty to \$75, for a total of \$150.

Thank you for your consideration of this memo.



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

2016 CANDIDATE REGISTRATION

Notice: Changes to registration information must be filed within 10 days in writing or by e-mail to the Commission.

Is this an amendment? Yes No

1. CANDIDATE INFORMATION			
Are you running as a (check one): <input type="checkbox"/> Maine Clean Election Act candidate <input checked="" type="checkbox"/> traditionally financed candidate			
Title <input type="checkbox"/> Ms. <input type="checkbox"/> Mrs. <input type="checkbox"/> Mr. <input type="checkbox"/> Dr. <input checked="" type="checkbox"/> Honorable	Party affiliation Democrat		Office sought & District # County Commissioner
Name: First Gary	MI or Middle Name T.	Last McGrane	County (for candidates for county office) Franklin
Mailing address 310 East Dixfield Road			Phone 645-3382
City Jay	Zip code 04239		Alternate Phone 659-2890
E-mail (required) garymcgrane7@gmail.com			Fax 827-4400

2. TREASURER INFORMATION			
Name: First N/A	MI or Middle Name	Last	Phone
Mailing address			Fax
City	Zip code	E-mail (required)	

DESIGNATION OF TREASURER: A candidate for office must appoint a treasurer no later than 10 days after becoming a candidate, and before accepting contributions, making expenditures or incurring obligations. No later than 10 days after appointing a treasurer, the candidate must register with the Commission the name and address of the candidate and treasurer. The treasurer is responsible for maintaining campaign records and for filing reports. A MCEA candidate may serve as treasure for no more than 14 days following the date of registration. (21-A MRSA §§ 1013-A and 1125(12-A))

2A. DEPUTY TREASURER INFORMATION (optional)			
Name: First N/A	MI or Middle Name	Last	Phone
Mailing address			Fax
City	Zip code	E-mail (required)	

DESIGNATION OF DEPUTY TREASURER (optional): The candidate may appoint a deputy treasurer and notify the Commission no later than 10 days after the appointment. The deputy, when acting in the absence of the treasurer, has the same powers and responsibilities as the treasurer. A MCEA candidate may serve as deputy treasure for no more than 14 days following the date of registration. (21-A MRSA §§ 1013-A and 1125(12-A)) (21-A MRSA § 1013-A (1)(A)(1))

3. AUTHORIZED AGENT INFORMATION (optional)		
Name N/A	Phone	Email (required)
Name	Phone	Email (required)

DESIGNATION OF AUTHORIZED AGENT (optional): Please use this section to designate individuals, other than the treasurer and deputy treasurer, authorized to file reports on your behalf.

4. POLITICAL COMMITTEE INFORMATION (optional)		
Name		Phone
Address of campaign headquarters		City Zip code

DESIGNATION OF POLITICAL COMMITTEE (optional): The candidate may form a political or campaign committee. Within 10 days of forming the committee and before accepting contributions, making expenditures or incurring obligations, the candidate must:

- appoint a treasurer (the candidate may have only one treasurer who is listed in Section 2) and
- register the committee and its officers, if any are appointed, with the Commission. (21-A MRSA § 1013-A (1) (B))

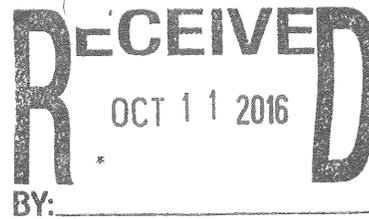
Committee Officers (use additional pages, if necessary):

Name N/A	Title	Phone	
Mailing address	City	Zip code	E-mail

Name	Title	Phone	
Mailing address	City	Zip code	E-mail

5. CERTIFICATION	
I, <u>Gary T. McGrane</u> , certify that the information in this registration is true, accurate and complete. <small>(Print Candidate's Full Name)</small>	
Signature of Candidate <u>Gary T. McGrane</u>	Date <u>March 21, 2016</u>

6. REPORTING EXEMPTION REQUEST	
Only county and municipal candidates and legislative candidates in an uncontested primary election may request an exemption.	
A candidate may request an exemption from the obligation to appoint a treasurer and file campaign finance reports if the candidate does not accept any cash or in-kind contributions or make any expenditures for his or her campaign. You cannot request a reporting exemption if you use your or your spouse's/domestic partner's personal funds to pay for your campaign expenses. To request an exemption, complete the statement below and sections 1 & 5, have the form notarized, and submit it to the Commission.	
STATEMENT OF ELIGIBILITY FOR A REPORTING EXEMPTION: I, the undersigned, swear or affirm that I will not accept contributions, make expenditures or incur obligations associated with my candidacy.	
Signature of candidate <u>Gary T. McGrane</u>	Date <u>March 22, 2016</u>
Subscribed and sworn (affirmed) to before me this <u>22</u> day of <u>March</u> , 20 <u>16</u>	
Signature of Notary/Attorney-at-law <small>(Seal is optional)</small> <u>[Signature]</u>	My commission expires <u>01-22-2022</u> <small>(Date)</small>
REVOCATION NOTICE: The foregoing statement may be revoked. Prior to revocation, the candidate must appoint a treasurer. A revocation notice must be in the form of an amended registration which must be filed with the Commission no later than 10 days after the date the treasurer is appointed. The notice must be filed before contributions are accepted or expenditures made. A late revocation notice is subject to the same penalties applicable to late campaign finance reports.	



Gary McGrane
310 East Dixfield Road
Jay, Maine 04239
207-645-3382
Gmcgrane7@gmail.com

October 5, 2016

Ms. Emma Burke
Candidate Registrar
State of Maine Commission on Governmental Ethics and Election Practices
135 State House Station
Augusta, Maine 04333-0135

Dear Ms. Emma Burke:

This is to inform you that you are correct in your evaluation of my original exempt status request regarding my not wanting to raise contributions for my re-election bid as County Commissioner. On July 16, 2016 I decided to change my status by establishing a checking account and appointing a treasurer. I did this because I had determined that I would have an opponent in the general election. I should have revoked my status before incurring any financial activity, and for that mistake I am truly sorry. It was not my intent to violate the campaign ethics of the State of Maine. I did not immediately file a post primary election report because I was of the belief that because I did not have a primary I would not have to file. I had no intention of raising or expending funds prior, during or after the primary election. I have now discovered that I should have first asked for my revocation status be suspended and then start raising funds for the general election after July 26, 2016. As you can see by my report it is not my intent to create an ethical breach of non-conformity. Therefore, I respectfully request that the late reporting penalty of \$200.64 be waived.

Regarding the potential penalty of up to \$239.36 for failure to revoke exemption on time "before raising any contributions" I admit I got that backwards. In a telephone conversation with you I asked after the fact what the correct procedure was. You explained that I would need to do two things; appoint a treasurer and file for an amended registration asking that my exempt status be amended to allow me to raise and expend funds. I should have requested an exemption/revocation form but did not. I felt I had tentatively complied by sending the name, address, and contact information of my treasurer. And on July 16, 2016 I established a checking account for my general election campaign, and I notified my treasurer that his signature would be needed before he would be allowed to sign checks. I believe my treasurer Mr. Trevor Doiron was granted signature authority on or about July 20, 2016. The establishment of the checking account was the result of a \$20 and \$25 donation and a contribution of my personal funds to meet and exceed the banks opening required balance. It was not my intention to circumvent the donations/contribution or making expenditures outside of Title 21-A M.R.S.A section 1017 (7-A) (A). During a filing attempt by my treasurer I was advised by your office that my revocation had not been received. I immediately tried to determine what went wrong. To correct this error I made a copy of the phone call notification regarding status. I immediately re-sent a copy of the original phone message by e-mail to emma.burke@maine.gov. This message was confirmed. I then informed

Ms. Emma Burke

October 5, 2016

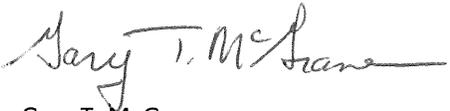
Page 2

my treasure that our first report to the Commission on Governmental Ethics and Election Practices was due no later than September 27, 2016. On September 21, 2016 I made a personal request of my treasurer to establish contact with your office to get login information and a password. I believe that was also the day our first report was filed. As part of this letter is a visual image of the message that I had mistakenly sent to your office phone.

Because of the misunderstanding I respectfully request that this penalty be waived or substantially reduced to better reflect the intent rather than the actual facts of the matter.

In closing, I wish to thank you and your staff in reviewing my request and thank you for the opportunity to explain the mitigating circumstances regarding this request.

Respectfully submitted,

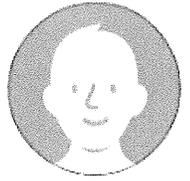
A handwritten signature in cursive script that reads "Gary T. McGrane". The signature is written in black ink and is positioned above the printed name.

Gary T. McGrane

Cc: Trevor Doiron, Treasurer

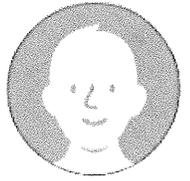
Wed, 09/21/2016

Trying to send my August 10th.
Response.



MMS 10:00 AM

I found the email message sent to
your office phone on Wed,
08/10/2016 at 4:17PM.



The message reads as follows : I
Gary McGrane, a candidate for
Franklin County Commissioner,
District I request that I revoke my
exempt filing status with the
Commission on Governmental
Ethics and Election Practices
because I anticipate raising and
expending funds for a re-election
campaign prior to the general
election. I have appointed a
treasurer. Trevor Doiron 5 Eastern
Avenue , Jay, Maine 04239
578-8376 cell phone
897-4456 home phone
Trevoradoiron@gmail.com

The message reads as follows : I Gary McGrane, a candidate for Franklin County Commissioner, District I request that I revoke my exempt filing status with the Commission on Governmental Ethics and Election Practices because I anticipate raising and expending funds for a re-election campaign prior to the general election. I have appointed a treasurer. Trevor Doiron 5 Eastern Avenue , Jay, Maine 04239

578-8376 cell phone

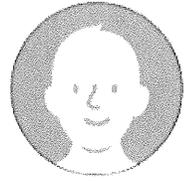
897-4456 home phone

Trevoradoiron@gmail.com

Respectfully submitted, Gary
McGrane

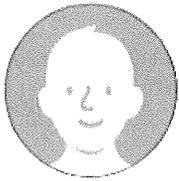
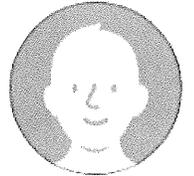
Hi

MMS 11:37 AM



Screenshot

MMS 2:49 PM



<Subject: RE:>

Hi Gary,

Unfortunately, nothing was attached to the email. You should probably try sending me an actual email, from an email app - right now you are sending a text to my email.

Emma J. Burke

Candidate Registrar



<Subject: RE:>

Hello Gary,

This is the correct email for you to use, but I do not see your original message you tried to send on August 10th.

Emma J. Burke

Candidate Registrar

Maine Ethics Commission

(207) 287-4727 | www.maine.gov/ethics

135 State House Station, Augusta,
ME 04333-0135

45 Memorial Circle, Augusta, ME



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

2016 CAMPAIGN FINANCE REPORT

FOR PRIVATELY FINANCED CANDIDATES

COMMITTEE		TREASURER	
HON. GARY T MCGRANE 310 EAST DIXFIELD ROAD JAY, ME 04239 PHONE: (207) 645-3382 EMAIL: GMCGRANE7@GMAIL.COM		Trevor Doiron 5 Eastern Avenue Jay, ME 04239 PHONE: (207) 578-8376 EMAIL: trevoradoiron@gmail.com	
REPORT	DUE DATE	REPORTING PERIOD	
42-DAY POST-PRIMARY REPORT	07/26/2016	06/01/2016 - 07/19/2016	

FINANCIAL ACTIVITY SUMMARY

RECEIPTS	TOTAL FOR THIS PERIOD	TOTAL FOR CAMPAIGN
1. CASH CONTRIBUTIONS FOR THE PRIMARY ELECTION (SCHEDULE A)	\$0.00	\$0.00
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>	\$176.00	\$176.00
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	\$176.00	\$176.00
EXPENDITURES		
5. EXPENDITURES (SCHEDULE B)	\$0.00	\$0.00
6. LOAN REPAYMENTS (SCHEDULE C)	\$0.00	\$0.00
7. TOTAL PAYMENTS	\$0.00	\$0.00
CASH SUMMARY		
8. CASH BALANCE AT BEGINNING OF PERIOD	\$0.00	
9. PLUS TOTAL RECEIPTS THIS PERIOD (LINE 4)	\$176.00	
10. MINUS TOTAL PAYMENTS THIS PERIOD (LINE 8)	\$0.00	
11. CASH BALANCE AT END OF PERIOD	\$176.00	
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, TREVOR DOIRON, CERTIFY THAT THE INFORMATION CONTAINED IN THIS REPORT IS TRUE, ACCURATE, AND COMPLETE TO THE BEST OF MY KNOWLEDGE.

REPORT FILED BY: TREVOR DOIRON
REPORT FILED ON: 09/21/2016
LAST MODIFIED: 09/21/2016
PRINTED: 10/11/2016
COMMITTEE ID: 9418

**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

2 = Candidate/ Spouse/ Domestic Partner

3 = Commercial Source

4 = Nonprofit Organization

5 = Political Action Committee

6 = Political Party Committee

7 = Ballot Question Committee

8 = Other Candidate/ Candidate Committee

9 = Candidate / Candidate Committee

10 = General Treasury Transfer

11 = Transfer from Previous Campaign

12 = Contributors giving \$50 or less

13 = Contributors giving \$100 or less

14 = Contributors giving \$200 or less

15 = MCEA Payment

16 = Financial Institution

DATE RECEIVED	CONTRIBUTOR	OCCUPATION AND EMPLOYER	TYPE	ELECTION	AMOUNT
7/16/2016	CONTRIBUTORS GIVING \$50 OR LESS		12	General	\$45.00
7/16/2016	GARY MCGRANE 310 EAST DIXFIELD ROAD JAY, ME 04239		2	General	\$131.00
TOTAL CASH CONTRIBUTIONS FOR PRIMARY					\$0.00
TOTAL CASH CONTRIBUTIONS FOR GENERAL					\$176.00

September 27, 2016

Gary McGrane
310 East Dixfield Road
Jay, Maine 04239

NOTICE OF TWO PENALTIES

Dear Mr. McGrane:

This letter is to explain two potential penalties to be assessed against you concerning financial activity in your campaign for re-election as County Commissioner. When you registered as a candidate, you claimed an exemption from campaign finance reporting by submitting a sworn statement that you would not receive contributions or make expenditures in support of your re-election. You later decided to engage in financial activity and began receiving contributions on July 16, 2016, but did not revoke the exemption by filing an amended registration form with the Commission. You have explained that you attempted to send a message to my office phone.

Late-reporting penalty of \$200.64 (due unless you request a waiver). Because of your financial activity in July, you were required to file the 42-Day Post-Primary Report by 07/26/2016, but the report was not filed until 09/21/2016. 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 \$200.64 (see calculation on following pages).

You may request that the Commission waive or reduce the penalties or find that there were no violations. Please submit the request within 14 calendar days of receiving this notice. The request must be in writing and must fully explain why you filed the report late. Upon receiving your request, the Commission staff will schedule your request for the October 26, 2016 meeting of the Commission. At the meeting, you will have an opportunity to explain 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 me at (207) 287-4727 or emma.burke@maine.gov if you have any questions.

Potential penalty of up to \$239.36 for failure to revoke exemption on time (scheduled for October 26, 2016 meeting of Commission).

Candidates who have claimed the reporting exemption may revoke the exemption by:

- appointing a treasurer, and
- filing an amended registration form with the Commission

before raising any contributions or making expenditures. (21-A M.R.S.A. § 1017(7-A)(A)), You began collecting contributions on July 16, 2016, but did not file an amended registration with the Commission disclosing the appointment of a treasurer. You have advised that you called our office and sent a message to my office phone, which our office never received

At the October 26, 2016 meeting of the Commission, the Commission staff intends to recommend that the Commissioners find that you violated 21-A M.R.S.A. § 1017(7-A)(A) by not filing an amended registration to revoke your exemption. Please be aware that the Commissioners may assess a penalty of up to \$239.36 for the violation.

The Commission staff recommends responding to the proposed finding of violation by submitting a visual image of the message that you state that you sent to my office phone. If you would like to respond in writing to the proposed finding of violation and penalty, please submit it to my attention by Wednesday, October 12, 2016. You may also respond to the potential penalty by attending the October 26, 2016 meeting in person, which is scheduled to begin at 9:00 a.m. at the Commission Office, 45 Memorial Circle in Augusta.

If you have any questions, please contact me at 287-4179 or Emma.Burke@maine.gov.

Sincerely,



Emma Burke
Candidate Registrar

cc: Trevor Doiron

Burke, Emma

From: 2074917342@mms.uscc.net
Sent: Wednesday, September 21, 2016 10:45
To: Burke, Emma
Attachments: ATT00001.txt

I found the email message sent to your office phone on Wed, 08/10/2016 at 4:17PM.

The message reads as follows : I Gary McGrane, a candidate for Franklin County Commissioner, District I request that I revoke my exempt filing status with the Commission on Governmental Ethics and Election Practices because I anticipate raising and expending funds for a re-election campaign prior to the general election. I have appointed a treasurer. Trevor Doiron 5 Eastern Avenue , Jay, Maine 04239
578-8376 cell phone
897-4456 home phone
Trevoradoiron@gmail.com

Respectfully submitted, Gary McGrane

PS please confirm that you have received this message.

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

§1017. REPORTS BY CANDIDATES

7. Reporting exemption.

[1991, c. 839, §34 (AFF); 1991, c. 839, §20 (RP) .]

7-A. Reporting exemption. A candidate seeking election to a county or municipal office or a legislative candidate seeking the nomination of a party in an uncontested primary election is exempt from reporting as provided by this subsection.

A. A candidate seeking election to a county or municipal office may, at the time the candidate registers under section 1013-A, notify the commission that the candidate and the candidate's agents, if any, will not personally accept contributions, make expenditures or incur obligations associated with that candidate's candidacy. The notification must be sworn and notarized. A candidate who provides this notice to the commission is not required to appoint a treasurer and is not subject to the filing requirements of this subchapter if the statement is true. [2009, c. 138, §1 (AMD).]

A-1. A legislative candidate seeking the nomination of a party in an uncontested primary election may, at the time the candidate registers under section 1013-A, notify the commission that the candidate and the candidate's agents, if any, will not personally accept contributions, make expenditures or incur obligations associated with that candidate's candidacy through the 35th day after the primary election. The notification must be sworn and notarized. A candidate who provides this notice to the commission is not required to appoint a treasurer or to file the campaign finance reports under subsection 3-A, paragraphs B and D with respect to the primary election. [2015, c. 350, §5 (NEW).]

B. The notice provided to the commission under paragraph A or A-1 may be revoked. Prior to revocation, the candidate must appoint a treasurer. The candidate may not accept contributions, make expenditures or incur obligations before the appointment of a treasurer and the filing of a revocation notice are accomplished. A revocation notice must be in the form of an amended registration, which must be filed with the commission no later than 10 days after the appointment of a treasurer. The candidate and the candidate's treasurer, as of the date the revocation notice is filed with the commission, may accept contributions, make expenditures and incur obligations associated with the candidate's candidacy. Any candidate who fails to file a timely revocation notice is subject to the penalties prescribed in section 1020-A, subsection 4-A, up to a maximum of \$5,000. Lateness is calculated from the day a contribution is received, an expenditure is made or an obligation is incurred, whichever is earliest. [2015, c. 350, §5 (AMD).]

[2015, c. 350, §5 (AMD) .]

Maine Revised Statutes
Title 21-A: ELECTIONS

Chapter 13: CAMPAIGN REPORTS AND FINANCES

§1020-A. FAILURE TO FILE ON TIME

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

[1995, c. 483, §15 (NEW) .]

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

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

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

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

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

[2009, c. 190, Pt. A, §13 (AMD) .]

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

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

4. Basis for penalties.

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

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, 2%; [2015, c. 1, §7 (AMD).]
- B. For the 2nd violation, 4%; and [2015, c. 1, §7 (AMD).]
- C. For the 3rd and subsequent violations, 6%. [2015, c. 1, §7 (AMD).]

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.

[2015, c. 1, §7 (AMD) .]

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, except that if the financial activity reported late exceeds \$50,000, the maximum penalty is 100% of the amount reported late; [2015, c. 1, §8 (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 100% of the amount reported late; [2015, c. 1, §8 (AMD).]

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 100% of the amount reported late; [2015, c. 1, §8 (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).]

[2015, c. 1, §8 (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) .]

SECTION HISTORY

IB 1995, c. 1, §15 (AMD). RR 1995, c. 1, §10 (COR). RR 1995, c. 2, §38 (COR). 1995, c. 483, §15 (NEW). 1995, c. 625, §B5 (AMD). 1999, c. 426, §§32,33 (AMD). 1999, c. 729, §5 (AMD). 2001, c. 470, §§7,8 (AMD). 2001, c. 470, §11 (AFF). 2001, c. 714, §PP1 (AMD). 2001, c. 714, §PP2 (AFF). RR 2003, c. 1, §14 (COR). 2003, c. 302, §4 (AMD). 2003, c. 448, §4 (AMD). 2003, c. 628, §§A3-6 (AMD). 2007, c. 443, Pt. A, §§21-25 (AMD). 2009, c. 190, Pt. A, §§13, 14 (AMD). 2009, c. 302, §§5-7 (AMD). 2009, c. 366, §6 (AMD). 2009, c. 366, §12 (AFF). 2011, c. 389, §§22-25 (AMD). 2011, c. 389, §62 (AFF). 2011, c. 558, §§3-5 (AMD). 2013, c. 334, §17 (AMD). IB 2015, c. 1, §§7, 8 (AMD).