

Agenda

Item #3



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
Benjamin Dyer, Political Committee and Lobbyist Registrar

Date: December 15, 2014

Re: Request for Waiver of Late-Filing Penalty by Mainers for Fair Bear Hunting BQC

In the thirteen days before an election, all political action committees, ballot question committees and political parties must file a report within 24 hours of receiving any single contribution of \$5,000 or more or making any expenditure of \$1,000 or more.¹ On October 30, 2014 the Mainers for Fair Bear Hunting BQC (the BQC) received a \$50,000 contribution from the Humane Society of the United States. A 24-Hour Report was due for this contribution on October 31, 2014, but was not filed until November 1, 2014.

LEGAL REQUIREMENTS

BQCs are required to report any single contribution of \$5,000 or more received or single expenditure of \$1,000 or more made during the 13 days before an election within 24 hours of that transaction. (21-A M.R.S.A. § 1059(2)(E)) If the PAC is late in filing the 24-hour Report, the amount of the penalty is set by a formula which takes into consideration the amount of the transaction, the number of prior violations within a two-year period, and the number of days the report is late. (21-A M.R.S.A. § 1062-A(3))

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

DISCUSSION AND STAFF RECOMMENDATION

The BQC received a \$50,000 contribution from the Humane Society of the United States on October 30, 2014. The BQC writes that upon learning of this, Stephanie Harris, its campaign manager, used the username and password of its treasurer, Katie Hansberry, to enter information about the transaction. The BQC says it believes she followed the proper steps to file the 24-Hour Report, as it had done in several previous and subsequent filings. However, the report at issue was not actually filed in the Commission's campaign finance reporting system, and the system sent an automated email to Ms. Hansberry on November 1, 2014 that a report was late. The BQC successfully filed the report that same day.

Based on the statutory formula for calculating late-filed report penalties, the preliminary penalty amount is \$1,500, calculated as follows:

Transaction	Transaction Date	Financial Activity	Penalty Rate	Days Late	Preliminary Penalty
Contribution from Humane Society of the United States	10/30/2014	\$50,000.00	3% ²	1	\$1,500.00

The BQC asks that the Commission waive the finding of a violation or, alternatively, the preliminary penalty, because it made a bona fide effort to file the report on time. The BQC primarily argues that it followed all the steps to file a report on-time, but the Commission's campaign finance system failed to record the filing. In furtherance of this

² This is a second late-filing violation for the BQC. It was a day late filing its 11-Day Pre-Primary report due on May 30, 2014 and paid the preliminary penalty of \$38.07. In that situation, prior to filing, the BQC last accessed the campaign finance reporting system on May 27, 2014, and did not access it again until May 31, 2014, the day it filed its 11-Day Pre-Primary report.

argument, the BQC points to the fact that it successfully filed three previous 24-hour reports to the report at issue.

While this is true, the Commission staff believes that this argument cuts both ways as it demonstrates that the BQC knows how to successfully file reports and knows how the successful filing of a report looks in the campaign finance reporting system. While we are sure that the BQC is earnest in its belief that it followed all the steps to file the report, it is equally plausible that, during the final weekend before the election, the campaign manager simply missed the final step of clicking “File” on the report summary page. The entire staff has conferred on the circumstances described by the BQC and we are unaware of any error in the system that prevents a report from being filed, once the “file button” has been clicked.

After a BQC successfully files a campaign finance report, the filing is confirmed in two ways. First, the person filing the report immediately sees a “confirmation” screen that states “Your filing has been successfully submitted.” Second, the filer receives a confirmation email. (A sample screen and confirmation email are attached for your reference.) The BQC had received these confirmations several times this year because – as of the attempted filing on October 31, 2014 – it had filed 11 regularly scheduled campaign finance reports and three 24-Hour Reports. The BQC’s waiver request does not discuss why, after failing to receive these confirmations on October 31, the BQC did not complete the filing process.

The BQC argues that a waiver is merited under the following category of mitigating circumstances

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.

(21-A M.R.S.A. § 1062-A(2)(C)) The examples of bona fide efforts in the statute refer to situations in which the PAC or BQC made a sincere effort to file the report, *but was prevented by factors outside the control of the PAC or BQC*. The staff believes this situation is somewhat distinct. This is a sophisticated BQC that had the resources and experience to devote to meeting reporting requirements. It could have recognized that the report had not been filed and completed the process. We are concerned that granting a full waiver on the basis of “we tried” would not encourage prompt disclosure to the public during 24-hour reporting periods.

The BQC also argues that the penalty is disproportionate to the harm suffered by the public from the late disclosure, noting that the report was filed the following morning, within 11 hours of when it was due. The Commission staff does give this argument some credit as it is a valid factor suggesting a reduction of the preliminary penalty is appropriate. While the violation occurred during the critical final weekend of the election, the filing was available to the public by the following mid-morning.

Considering the circumstances, the staff recommends that the Commission find that the BQC failed to timely-file the 24-hour report and impose a \$500 penalty for this second late filing. Thank you for your consideration of this memo.



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Welcome back: **BEN DYER** on behalf of **MAINERS FOR FAIR BEAR HUNTING**

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Dyer, Benjamin P

From: ethics@maine.gov
Sent: Friday, December 12, 2014 2:35 PM
To: BRAVEBOAT@COMCAST.NET
Subject: Confirmation of Electronic Campaign Finance Filing for JEFFREY W PELLETIER

The campaign finance report due 12/16/2014 was successfully filed with the Maine Ethics Commission on 12/12/2014.

Verrill Dana LLP

Attorneys at Law

JAMES I. COHEN
PARTNER
jcohen@verrilldana.com

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November 25, 2014

Filed via Email

Mr. Jonathan Wayne
Commission on Governmental Ethics
and Election Practices
135 State House Station
Augusta, ME 04333

Re: *Request for Waiver of Mainers for Fair Bear Hunting*

Dear Jonathan:

On behalf of Mainers for Fair Bear Hunting (“MFBH”), which is a Maine non-profit corporation registered as a ballot question committee with the Maine Commission on Governmental Ethics and Election Practices (the “Commission”), we are appealing a finding of a late-filed 24-Hour Report, or in the alternative, requesting a waiver of the violation or penalty related to such finding (“Request for Waiver”).

BACKGROUND

Mainers for Fair Bear Hunting registered as a BQC in the fall of 2013. After filing as a BQC, MFBH made a concerted effort to properly train all employees involved in filing campaign finance reports. As a result, MFBH has subsequently filed all required contribution and expenditure reports related to its activities. Additionally, during the last two weeks during the most recent general election, MFBH filed 24-Hour Reports of Major Contribution and Expenditures on eight (8) separate occasions, commencing October 23, 2014. According to information available through the Commission, the following 24-Hour Reports were filed by MFBH:

<u>Due Date</u>	<u>Filed Date/Time</u>
October 24, 2014	October 24, 2014, 11:59PM
October 25, 2014	October 25, 2014, 9:56PM
October 28, 2014	October 28, 2014, 8:36PM
October 29, 2014	October 29, 2014, 7:33PM
October 31, 2014	[see below]
November 1, 2014	November 1, 2014, 10:10PM
November 3, 2014	November 3, 2014, 3:17PM
November 4, 2014	November 3, 2014, 3:17PM

Request for Appeal/Waiver of Mainers for Fair Bear Hunting

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At issue in this Request for Waiver is the 24-Hour Report due on Friday, October 31, 2014 (the "October 31 Report"), which report MFBH believes was electronically filed on the due date. On information and belief, MFBH believes that this report was properly filed on the due date as had been the case with the seven (7) other 24-Hour Reports filed by MFBH; however, even though the system recognized that contribution and expenditure information had been entered into the system on the due date, the system did not recognize the information as "filed." This in turn triggered an automated email from the Commission's system at 1:45AM on Saturday, November 1, 2014, whereupon MFBH re-filed the report at 10:36AM that same morning. Because the Commission's system deemed the October 31 Report to be "late," a letter from the Commission was mailed to MFBH Treasurer Kathleen Hansberry notifying Ms. Hansberry of the apparent violation and the opportunity to request a waiver. This letter was dated November 5, 2014.

DISCUSSION

Bona-fide efforts to timely file. MFBH is requesting a waiver of the violation or penalty related to the October 31 Report based on its belief that the report was timely filed even though the Commission's electronic system did not recognize the report was timely filed. The steps taken by MFBH to effect a timely filing are described more fully below:

1. On October 30, 2014, Stephanie Harris, Campaign Manager for MFBH, accessed the organization's bank account via an office computer and noticed a contribution of \$50,000 from The Humane Society of the United States (HSUS). Ms. Harris, as an agent of MFBH, was responsible for filing the organization's campaign finance reports, and she was further authorized to make such filings electronically using the password issued to MFBH Treasurer Katie Hansberry. Due to the date of the foregoing contribution in relation to the election, Ms. Harris understood that the contribution from HSUS needed to be reported with 24-hours of its receipt.
2. On October 31, 2014, Ms. Harris logged onto the Commission's electronic portal for the purpose of filing the required 24-Hour Report regarding the foregoing contribution. Ms. Harris entered all of the transaction information, and then she took the additional steps of submitting the report automatically generated by the Commission's system. She believes she followed each of the necessary steps for filing as had been undertaken with the seven (7) other 24-Hour Reports successfully filed with the Commission during the two weeks prior to the 2014 general election.
3. On November 1, 2014, at 1:45 AM, an email was generated from ethics@maine.gov to the Treasurer of MFBH, Katie Hansberry, entitled "Notice of Unfiled Report." Ms. Hansberry received the email and promptly forwarded it to Ms. Harris. Once Ms. Harris received the email, she accessed the Commission's electronic filing portal and again went through the steps to file the required report. This time, the report was successfully filed at 10:36 AM on November 1, 2014.

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November 25, 2014

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At this point, MFBH has no further information regarding why its efforts to timely file the October 31 Report were not recognized by the Commission's system. MFBH believes it followed all of the required steps to effect a timely filing, and once it learned that the filing was not deemed received, MFBH immediately took steps to re-file the report the next morning, which was a Saturday. Absent further information, MFBH can only assume that there must have been some type of electronic "glitch" that prevented MFBH's filing from being recognized on October 31, 2014.

The Commission's filing system. To assist the Commission in evaluating our Request for Waiver, we believe it is important to discuss the process by which campaign finance reports are electronically filed with the Commission. Based on our own experience and conversations with Commission staff, we understand that the process works roughly as follows:

1. A registered BQC logs onto the Commission's electronic filing portal.
2. Once logged on, the BQC can enter information about contributions and expenditures related to the BQC.
3. During the time period when 24-Hour Reports are required to be filed, the system automatically recognizes when contribution and expense information entered by a BQC triggers the need for a 24-Hour Report, and the system automatically creates a draft report.
4. To file the draft report, the BQC must leave the data entry portion of the site and go to a different page where the draft report is listed as a clickable link. The BQC must then click on the link, review and edit the information, and then hit a button to "file" the final report.
5. If a BQC has entered contribution and expenditure information triggering the need for a 24-Hour Report, but the system does not register that such a report was filed by midnight of the day it was due, the system automatically generates an email to the BQC treasurer entitled "Notice of Unfiled Report." This email is generated only if the BQC has already entered information about contributions and expenditures; if no information is entered, the system would not generate this email.

Request for waiver of penalty. As noted above, MFBH believes that all the necessary filing steps listed in Paragraphs 1-4 were properly followed regarding the October 31 Report – even though the Commission's system did not recognize that a final report was "filed." We believe, at minimum, that our efforts meet the test of a "bona fide effort to report on time," which is a proper basis for waiving the penalty for violating of the 24-Hour Report requirement. The applicable legal standard also recognizes legitimate explanations for late filing, including, but not limited "unexplained delays in postal service" or "interruptions in Internet service":

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.*

21-A M.R.S.A. § 1062-A(2)(A) (emphasis added).

Request for Appeal/Waiver of Mainers for Fair Bear Hunting
November 25, 2014
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The foregoing standard would readily encompass the situation here where, despite the best efforts of MFBH, the Commission's electronic filing system not acknowledge MFBH's actions to effect a timely filing of the October 31 Report.

Request for waiver of violation. We further believe that our efforts should also be deemed to be a *de facto* filing, and therefore not a "violation," given our efforts to properly file on time. As we described above, MFBH believes that it followed all of the required steps to effect a timely filing on the day the October 31 Report was due, and the fact that the Commission's system did not recognize our proper efforts should not be held against MFBH. We further believe that the Commission has the requisite statutory authority under to review the facts and determine whether a "constructive" filing was made in this instance:

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....*

21-A M.R.S.A. § 1062-A(2) (emphasis added).

Consideration of purpose of 24-Hour Reports. Finally, MFBH believes the purpose of the 24-Hour Report was plainly served here. Even though the October 31 Report may have been technically received at 10:36 AM on Saturday, rather than before midnight on Friday, any delay occurred over a single weekend night, and thus the violation is unlikely to have impacted other parties in any material way.

CONCLUSION

For the reasons noted above, Mainers for Fair Bear Hunting respectively request a waiver of the violation or, in the alternative, a waiver of the penalty associated with finding that the October 31 Report was filed less than 11 hours late. Additionally, we wanted to express our appreciation to Commission staff for assisting us with this waiver process. If the Commission or its staff need have questions or need additional information, we would be pleased to provide it.

Sincerely,



James I. Cohen

cc: Benjamin P. Dyer, Political Committee and Lobbyist Registrar
Kathleen Hansberry, Treasurer, Mainers for Fair Bear Hunting

JIC/mhw



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

24-HOUR REPORT OF CONTRIBUTIONS AND EXPENDITURES

2014 CAMPAIGN YEAR

COMMITTEE		TREASURER
MAINERS FOR FAIR BEAR HUNTING P.O. BOX 15367 PORTLAND, ME 04112 PHONE: (207) 747-4079 EMAIL: KHANSBERRY@HUMANESOCIETY.ORG		Katie Hansberry P.O. Box 10136 Portland, ME 04104 PHONE: (207) 999-2323 EMAIL: katie@fairbearhunt.org
REPORT	DUE DATE	REPORTING PERIOD
24 Hour Report of Major Contributions and Expenditures	10/31/2014	10/30/2014 - 10/30/2014

FINANCIAL ACTIVITY SUMMARY

CONTRIBUTIONS AND EXPENDITURES	
1. TOTAL CONTRIBUTIONS / LOANS	\$50,000.00
2. TOTAL EXPENDITURES	\$49,020.48
3. TOTAL DEBTS	\$0.00

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

REPORT FILED BY: KATHLEEN HANSBERRY
REPORT FILED ON: 11/01/2014
LAST MODIFIED: 11/01/2014
PRINTED: 12/15/2014
COMMITTEE ID: 6515

24-HOUR CONTRIBUTOR INFO

- | | |
|--|--|
| 1 = Individual | 9 = Candidate / Candidate Committee |
| 2 = Candidate/ Spouse/ Domestic Partner | 10 = General Treasury Transfer |
| 3 = Commercial Source | 11 = Transfer from Previous Campaign |
| 4 = Nonprofit Organization | 12 = Contributors giving \$50 or less |
| 5 = Political Action Committee | 13 = Contributors giving \$100 or less |
| 6 = Political Party Committee | 14 = Contributors giving \$200 or less |
| 7 = Ballot Question Committee | 15 = MCEA Payment |
| 8 = Other Candidate/ Candidate Committee | 16 = Financial Institution |

DATE RECEIVED	CONTRIBUTOR	OCCUPATION AND EMPLOYER	CONTRIBUTOR/ CONTRIBUTION TYPE	AMOUNT
10/30/2014	HUMANE SOCIETY OF THE UNITED STATES 700 PROFESSIONAL DRIVE GAITHERSBURG, MD 20879		4 Monetary (Itemized)	\$50,000.00
TOTAL CONTRIBUTIONS / LOANS				\$50,000.00

24-HOUR EXPENDITURE AND PAYEE INFORMATION

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
10/30/2014	JOE TRIPPI & ASSOCIATES 606A N TALBOT STREET SUITE 303 ST. MICHAELS, MD 21663	DESIGN PAYMENT OF \$1,500.00 TO SUPPORT: DO YOU WANT TO BAN THE USE OF BAIT, DOGS OR TRAPS IN BEAR HUNTING EXCEPT TO PROTECT PROPERTY, PUBLIC SAFETY, OR FOR RESEARCH?	PRT	\$1,500.00
10/30/2014	JOURNAL TRIBUNE 457 ALFRED ST BIDDEFORD, ME 04005	PRINT AD PAYMENT OF \$2,926.88 TO SUPPORT: DO YOU WANT TO BAN THE USE OF BAIT, DOGS OR TRAPS IN BEAR HUNTING EXCEPT TO PROTECT PROPERTY, PUBLIC SAFETY, OR FOR RESEARCH?	LIT	\$2,926.88
10/30/2014	LAKE RESEARCH GROUP 1726 M STREET NW SUITE 1100 WASHINGTON DC, DC 20036	SURVEY PAYMENT OF \$28,810.00 TO SUPPORT: DO YOU WANT TO BAN THE USE OF BAIT, DOGS OR TRAPS IN BEAR HUNTING EXCEPT TO PROTECT PROPERTY, PUBLIC SAFETY, OR FOR RESEARCH?	POL	\$28,810.00
10/30/2014	PORTLAND PRESS HERALD ONE CITY CENTER PORTLAND, ME 04101	PRINT AD PAYMENT OF \$11,019.96 TO SUPPORT: DO YOU WANT TO BAN THE USE OF BAIT, DOGS OR TRAPS IN BEAR HUNTING EXCEPT TO PROTECT PROPERTY, PUBLIC SAFETY, OR FOR RESEARCH?	PRT	\$11,019.96
10/30/2014	SUN JOURNAL 104 PARK ST LEWISTON, ME 04243	PRINT AD PAYMENT OF \$4,763.64 TO SUPPORT: DO YOU WANT TO BAN THE USE OF BAIT, DOGS OR TRAPS IN BEAR HUNTING EXCEPT TO PROTECT PROPERTY, PUBLIC SAFETY, OR FOR RESEARCH?	PRT	\$4,763.64
TOTAL EXPENDITURES FOR CANDIDATE:				\$49,020.48



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

November 5, 2014

Kathleen Hansberry, Treasurer
Mainers for Fair Bear Hunting BQC
PO Box 10136
Portland, ME 04104

Re: Late Filing of 24-Hour Report

Dear Ms. Hansberry,

The Commission staff has made a preliminary determination that the Mainers for Fair Bear Hunting BQC (the BQC) was late in filing the 24-Hour Report required for the \$50,000 contribution the BQC reported receiving from the Humane Society of the United States and the \$49,020.48 expenditures the BQC reported making on October 30, 2014. The report was due by 11:59 p.m. on October 31, 2014, but was not filed until November 1, 2014. 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 BQC's history of violations, the commission staff has determined that a penalty of \$1,500.00 is owed. (Please see attached penalty matrix for the calculation).

The BQC 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 BQC 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 BQC 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) 287-6221 or send me an email at benjamin.p.dyer@maine.gov if you have questions.

Sincerely,

Benjamin P. Dyer
Political Committee and Lobbyist Registrar

Enclosure: payment receipt & penalty matrix

OFFICE LOCATED AT: 45 MEMORIAL CIRCLE, AUGUSTA, MAINE
WEBSITE: WWW.MAINE.GOV/ETHICS

PHONE: (207) 287-4179

FAX: (207) 287-6775

Payment Receipt

Mail payment to:

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

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

Kathleen Hansberry, Treasurer
Mainers for Fair Bear Hunting BQC
PO Box 10136
Portland, ME 04104

Violation: Late 24-hour Report
Amount Due: \$1,500.00

21-A M.R.S.A. § 1059. REPORT; FILING REQUIREMENTS

Committees required to register under section 1052-A, 1053-B or 1056-B shall file an initial campaign finance report at the time of registration and thereafter shall file reports in compliance with this section. All reports must be filed by 11:59 p.m. on the day of the filing deadline, except that reports submitted to a municipal clerk must be filed by the close of business on the day of the filing deadline. [2013, c. 334, §27 (AMD) .]

1. Contents; quarterly reports and election year reports.

[2007, c. 443, Pt. A, §35 (RP) .]

2. Reporting schedule. Committees shall file reports according to the following schedule.

A. All committees shall file quarterly reports:

- (1) On January 15th, and the report must be complete as of December 31st;
- (2) On April 10th, and the report must be complete as of March 31st;
- (3) On July 15th, and the report must be complete as of June 30th; and
- (4) On October 5th, and the report must be complete as of September 30th. [2011, c. 691, Pt. A, §19 (RPR) .]

B. General and primary election reports must be filed:

- (1) On the 11th day before the date on which the election is held and must be complete as of the 14th day before that date; and
- (2) On the 42nd day after the date on which the election is held and must be complete as of the 35th day after that date. [2007, c. 443, Pt. A, §35 (AMD) .]

C. Preelection and post-election reports for special elections or ballot measure campaigns must be filed:

- (1) On the 11th day before the date on which the election is held and must be complete as of the 14th day before that date; and
- (2) On the 42nd day after the date on which the election is held and must be complete as of the 35th day after that date. [2011, c. 389, §45 (AMD) .]

D. A committee that files an election report under paragraph B or C is not required to file a quarterly report when the deadline for that quarterly report falls within 10 days of the filing deadline established in paragraph B or C. [1991, c. 839, §29 (RPR) .]

✓ E. A committee shall report any single contribution of \$5,000 or more received or single expenditure of \$1,000 or more made after the 14th day before the election and more than 24 hours before 5:00 p.m. on the day of the election within 24 hours of that contribution or expenditure. The treasurer is not required to include in this report expenditures for overhead expenses or compensation paid to an employee or other member of the campaign staff who has received payments at regular intervals that have been disclosed in previously filed campaign finance reports. As used in this paragraph, "overhead expenses" includes, but is not limited to, rent, utility payments, taxes, insurance premiums or similar administrative expenses. [2013, c. 334, §28 (AMD) .]

[2013, c. 334, §28 (AMD) .]

3. Report of expenditures made after the 11th day and more than 48 hours before any election.

[1989, c. 504, §§28, 31 (RP) .]

4. Special election reports.

[1989, c. 504, §§28, 31 (RP) .]

5. Electronic filing. Committees shall file each report required by this section through an electronic filing system developed by the commission. The commission may make an exception to this electronic filing requirement if a committee submits a written request that states that the committee lacks access to the technology or the technological ability to file reports electronically. The request for an exception must be submitted within 30 days of the registration of the committee. The commission shall grant all reasonable requests for exceptions.

[2007, c. 443, Pt. A, §35 (AMD) .]

SECTION HISTORY

1985, c. 161, §6 (NEW). 1989, c. 7, §06 (AMD). 1989, c. 504, §§28,31 (RPR). 1989, c. 833, §§16-20 (AMD). 1991, c. 839, §29 (AMD). 2003, c. 628, §B5 (AMD). 2005, c. 301, §§25,26 (AMD). 2007, c. 443, Pt. A, §35 (AMD). 2007, c. 571, §9 (AMD). 2009, c. 190, Pt. A, §§23, 24 (AMD). 2009, c. 366, §9 (AMD). 2009, c. 366, §12 (AFF). 2009, c. 652, Pt. A, §22 (AMD). 2011, c. 367, §2 (AMD). 2011, c. 389, §§43-45 (AMD). 2011, c. 389, §62 (AFF). 2011, c. 691, Pt. A, §19 (AMD). 2013, c. 334, §§27, 28 (AMD).

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PLEASE NOTE: The Revisor's Office cannot perform research for or provide legal advice or interpretation of Maine law to the public. If you need legal assistance, please contact a qualified attorney.

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.

Violations accumulate on reports with filing deadlines in a 2-year period that begins on January 1st of each even-numbered calendar 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 required report may be provisionally filed by transmission of a facsimile copy of the duly executed report to the commission, as long as an original of the same report is received by the commission within 5 calendar days thereafter.

[2007, c. 443, Pt. A, §39 (AMD) .]

4. Maximum penalties. The maximum penalty under this subchapter is \$10,000 for reports required under section 1056-B or section 1059, 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, §49 (AMD) .]

5. Request for a commission determination. If the commission staff finds that a political action committee has failed to file a report required under this subchapter, the commission staff shall mail a notice to the treasurer of the political action committee within 3 business days following the filing deadline informing the treasurer that a report was not received. If a political action committee files a report required under this subchapter late, a notice of preliminary penalty must be forwarded to the treasurer of the political action committee whose report is not received by 11:59 p.m. on the deadline date, informing the treasurer of the commission staff finding of violation and preliminary penalty calculated under subsection 3 and providing the treasurer with an opportunity to request a determination by the commission. A request for determination must be made within 14 calendar days of receipt of the commission's notice. A principal officer or treasurer requesting a determination may either appear in person or designate a representative to appear on the principal officer's or treasurer'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, §31 (AMD) .]

6. Final notice of penalty. After a commission meeting, notice of the final determination of the commission and the penalty, if any, imposed pursuant to this subchapter must be sent to the principal officer and the treasurer of the political action 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 principal officer and to the treasurer of the political action committee. A detailed summary of all notices must be provided to the commission.