Agenda Item #5

Demeritt, Martha

From: Richard Rottkov [rrottkov@yahoo.com]
Sent: Friday, December 01, 2006 4:51 PM
To: Demeritt, Martha
Cc: Alan Mills; John Jamieson
Subject: Request for Appeal from South Portland Democratic City Committee

Martha,

As a follow up to our recent phone conversation, I'm hereby requesting that the South Portland Democratic City Committee be given another opportunity to appeal the $500 fine. Based upon what we discussed, here is more specific information explaining why my committee feels the penalty should be overturned:

Background:

--We did not file a July, 2006 report because we did not raise more than a few hundred dollars between Jan. 1-July 15 2006.

-- It was only after you informed us, following the Commission's review of our banking account statements, requested after receiving our Oct. 27 report, that money collected and deposited in February 2006 from our October 2005 High School Scholarship fundraiser could be viewed as money "raised" during 2006. We had no idea that we were required to report this, even if we knew we had surpassed the $1,500 limit prior to July.

Reasons for Feb. 2006 Deposit for Oct. 2005 Money

-- Our committee, led by then Chair John Jamieson, used a Pay Pal credit card payment system (used on site at a local reception room) at our Oct. 25 fundraiser for the South Portland High School Scholarship fund. John learned weeks later that transactions/payments were not processed.

-- Upon learning the auction payments were not processed, John began contacting those who purchased auction items by credit card at the event (through Pay Pal). Starting in November 2005 and continuing into January 2006 John collected checks for the various auction purchases. John informs me he encountered difficulty obtaining some "make good" checks, delaying the process of collecting money from the October auction. Upon collecting these checks, some were given to Treasurer Alan Mills for deposit in February.

Other Mitigating Reasons for Consideration

I succeeded John as chair of the SoPo Dems committee at our Feb. 26 caucus. There was never any communication between John and I or between Alan and I that these checks from our Oct. 2005 had been deposited in 2006. I'm also told by John and Alan that they did not communicate and were not aware that such deposits would be required for reporting 2006 money.

In closing, please be aware that we will be able to document the direct link between the Feb. 2006 deposits and the checks collected from the Oct. 2005 auction should we be given the opportunity to appeal the Commission's determination. Please advise me if any additional explanation or documentation might be needed for hearing our appeal.

Thank you.

Richard Rottkov
Chair
South Portland Democratic City Committee

Demeritt, Martha

From: Richard Rottkov [rrottkov@yahoo.com]
Sent: Friday, November 17, 2006 6:16 PM
To: Demeritt, Martha
Cc: Alan Mills
Subject: South Portland Democratic City Committee

Dear Martha,

As a follow up to our phone conversation this afternoon, I'm providing here an explanation for why the South Portland Democratic City Committee did not file the July Semi Annual Report and instead only filed our report for Oct. 27, the deadline for reporting spending of $1,500 for the period July 1-Oct. 22. I am hopeful the Ethics commissioners and staff will consider the reasons cited below, and other information our Treasurer Alan Mill can provide at our hearing on Monday, for why we did not file a July report, and you will decide not to levy the $500 penalty. If further details are needed during the hearing, I can be reached by phone at either: 799-5686 or 899-8686 (cell).

We did not file a July report because we did not know we had "raised" or generated monies even close to the $1,500 required for reporting revenues for the Jan.
1-June 30 period. We did not know this until Wednesday night, in fact, when we learned the Commission had determined we were still in violation for not reporting.

The only monies we thought were raised were from donations accrued through committee member donations during our monthly meetings and our monthly documentary documentary movie series. We assumed this total would be no more than $500-600 dollars. It was only after your determination that we became aware that a February deposit for $1,050 was made and later learned that this deposit was from revenue we had "recollected" from an October, 2005 auction fundraiser organized primarily for our high school scholarship fund. The reason why this money was deposited in February was because the credit card system we used in October, 2005 did not process payments made at the auction. John Jamieson, our city committee chair at the time, had to "recollect" auction payments, this time personal checks for deposit into our bank account. Unknowingly, the checks deposited in February, were for auction checks just collected, revenue we assumed and considered 2005 revenue, but is being viewed as Jan. 1-June 30, 2006 revenue.

As mentioned on the phone this afternoon, John Jamieson has today been trying to track each personal check deposited and document that these payments were indeed for October, 2005 auction items. If the Commission would like us to provide documentation for the source and original dates for these payments, we anticipate we will be able to provide such documentation.

As it was our understanding we had not raised or spent monies surpassing $1,500 prior to this July filing period, we assumed our only requirement was to file prior to Oct. 27, the deadline for reporting spending beyond the $1,500. Again, it was only after Alan Mills provided you documentation for our banking transactions for Jan. 1-June 30 and you informed us that we were in violation for not filing in July, that we learned we had surpassed the $1,500 "raised" total.

It is my belief that most municipal party committees are not knowledgeable of the details and required guidelines; I aver that many do not file until expenditures are made during the campaign season. I was aware that our spending report needed to be filed, but had no idea we were required to file reports outside of campaign periods. The South Portland Democratic City Committee did not attempt to circumvent election requirements and we did not file because of dereliction. Based upon what I've now learned as a first-year municipal chair, I will convey to the Maine Democratic Party that Clean Elections and Ethics requirement be the subject of workshops and training as we approach the 2008 elections, especially for those of us at the local, grassroots level.

Thank you for your willingess to consider our appeal and for allowing me to providing further explanation before making your final determination.

Sincerely,

RECEIVED
NOV - 7 2006
COMMISSION ON GOVERNMENT ETHICS & ELECTION PRACTICES-AUGUSTA, ME

November 6, 2006

State of Maine
Commission on Government Ethics and Election Practices
135 State House Station
Augusta, Maine 04333-0135

To whom it may concern:

The South Portland Democratic Committee requests a final determination by the Commission on Governmental Ethics and Election Practices. We request that the committee waive penalties for late reports for the following mitigating circumstance: failure to receive notice of the filing deadline.

Reports were filed as soon as we were notified.

Thank you for your time and consideration.

Sincerely,

Alan Mills
Treasurer
South Portland Democratic Committee
317 Preble Street #1
South Portland, Maine 04106

REBECCA GALLAGHER
Notary Public, Maine
My Commission Expires September 12, 2012

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

October 27, 2006

Alan Mills, Treasurer
South Portland Democratic Committee
317 Preble St., #1
South Portland, ME 04106

Dear Mr. Mills:

Our records show that your committee's July Semi Annual Report, due on 7/17/06 was filed on 10/27/06. State law [21-A M.R.S.A. §1020-A] requires that a penalty be assessed for late reports based on the amount of financial activity conducted during the filing period, the number of calendar days a report is filed late, and the party committee's filing record. Based on the prescribed statutory formula, the preliminary determination of the penalty for the late filing of your campaign finance report would be $500.00. Please refer to the enclosed penalty matrix for more details on how the penalty is computed. If you agree with this preliminary determination of the amount of the penalty, you may use the enclosed billing statement to pay that penalty.

If you have a reason for filing late, you may request a final determination by the Commission on Governmental Ethics and Election Practices. Any request for a Commission determination must be made within 10 calendar days of receipt of this certified U.S. mail notice, beginning on the day you sign for receipt of this notice of the proposed penalty. If this certified letter has been refused or left unclaimed at the post office, the 10-day period begins on the day the post office indicates it has given first notice of a certified letter.

Upon receipt of your request for a Commission determination, we will schedule you to appear at the next scheduled Commission meeting and notify you of the date and time of that meeting. You or a person you designate may then appear personally before the Commission; or, you may send a written statement for the Commission's consideration. If you elect to send a statement, it must be notarized and must contain a full explanation of the reason you filed late. Statements should be sent to the address shown on this letterhead. The Commission will notify you of the disposition of your case within 10 days after its determination.

The Commission may waive penalties for late reports only in cases where tardiness is due to mitigating circumstances. The law defines "mitigating circumstances" as: 1) a valid personal emergency of the committee treasurer, such as a personal illness or death in the immediate family; 2) an error by the Commission staff; 3) failure to receive notice of the filing deadline; or 4) 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.

Sincerely,

Martha Demeritt
Party Registrar

Encl: Penalty Matrix & Billing Statement

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

October 27, 2006

Alan Mills, Treasurer
South Portland Democratic Committee
317 Preble St., #1
South Portland, ME 04106

The Commission on Governmental Ethics and Election Practices has made a preliminary determination that a penalty of $500.00 applies for the late filing of your July Semiannual report. If you agree with this determination, please make your check or money order payable to **"Treasurer, State of Maine,"** and send it, along with the bottom half of this letter, to the **Commission on Governmental Ethics and Election Practices, 135 State House Station, Augusta, Maine 04333** within 30 days of the date noted above. Please see the instructions included in the attached letter if you would like to request a formal Commission determination of any penalty to be assessed in this case.

FAILURE TO PAY THE FULL AMOUNT OF THIS PENALTY IS A CIVIL VIOLATION. Pursuant to 21-A M.R.S.A. § 1020-A(10), the Commission is required to report to the Attorney General the name of any political committee that fails to pay the full amount of any penalty.

Please direct any questions you may have about this matter to the Commission at 287-6221.

Cut Along Dotted Line

For Office Use Only
Account: CGEEP
Fund: 014
Appr: 02

To: Commission on Governmental Ethics and Election Practices
135 State House Station
Augusta, Maine 04333

From: Alan Mills, Treasurer
South Portland Democratic Committee

Re: Penalty for late filing of a July Semi-Annual finance report ($500.00)

Amount Enclosed: $ _____

Check/M.O. No.: # _____

Please Make Check/M.O. Payable to Treasurer, State of Maine

OFFICE LOCATED AT: 242 STATE STREET, AUGUSTA, MAINE
WEBSITE: WWW.MAINE.GOV/ETHICS

PHONE: (207) 287-4179 FAX: (207) 287-6775

SOUTH PORTLAND REPUBLICAN
July Semi-annual

COMMISSION ON GOVERNMENTAL ETHICS AND ELECTION PRACTICES

CONTRIBUTION/EXPENDITURE PENALTY MATRIX
LATE PARTY COMMITTEE REPORTS
21-A M.R.S.A. Section 1020-A

A campaign finance report is timely filed when a properly signed copy of the report, substantially conforming to the disclosure requirements, is received by the Commission before 5 p.m. on the date it is due. A penalty begins to accrue after 5:00 p.m. on the day the report is due. Penalties are based on 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:

DUE: 7/17/06
FILED: 10/27/06

For the first violation, 1%
~~For the second violation, 3%~~
For the third and each subsequent violation, 5%

Example: The treasurer files the committee's report two days late. The committee has not been charged with any previous violations. The treasurer reports a total of $2,500 in contributions and $1,500 in expenditures for the filing period. The penalty is calculated as follows:

$2,500	Greater amount of the total contributions received or expenditures made during the filing period
X .01	Percent prescribed for first violation
$25.00	One percent of total contributions
X 2	Number of calendar days late
$50.00	Total penalty accrued

PARTY COMMITTEE NAME

Your penalty is calculated as follows:

Contributions/Expenditures:	$ 1,975
Percent prescribed:	x 1%
	$ 19.75
Number of days late:	x 102
Total penalty accrued:	$ 2,014.50
Maximum penalty:	$ 500.00

Any penalty of less than $5 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:

State Party Committee:* $5,000 for election year reports and 48-hour reports
$1,000 for non-election year semiannual reports

Municipal, District and County Committees: $500 for all reports

Rev. 8/01

FAXED 10/27

STATE OF MAINE
COMMISSION ON GOVERNMENTAL ETHICS AND ELECTION PRACTICES
Mail: 135 State House Station, Augusta, ME 04333
Office: 242 State Street, Augusta, Maine
Tel: (207) 287-4179 Fax: (207) 287-6775
Website: www.maine.gov/ethics
Electronic Filing: http://www.mainecampaignfinance.com

RECEIVED NOV - 6 2006 COMMISSION ON GOVERNMENTAL ETHICS & ELECTION PRACTICES AUGUSTA, ME

MUNICIPAL, DISTRICT & COUNTY PARTY COMMITTEE REPORT 2006

COMMITTEE IDENTIFICATION (Include full name of committee.)

Name South Portland Democratic Committee

Street address 14 Woodbury St
(official headquarters of committee)

City, zip code South Portland, Me 04106 Telephone 799-5686

Check if address is different than previously reported ☐

TREASURER IDENTIFICATION

Name of treasurer Alan Mills

Street address 317 Preble St #1

City, zip code South Portland, Me 04106 Telephone 799-1633

E-mail address zemills26@verizon.net

Check if address is different than previously reported ☐

MUNICIPAL/COUNTY/DISTRICT COMMITTEE FILING PERIODS (Check applicable period below):

Due Date	Reporting Period
_____ January 17, 2006	July 1, 2005 – December 31, 2005
✓ July 15, 2006	January 1, 2006 – June 30, 2006
_____ October 27, 2006	July 1, 2006 – October 22, 2006
_____ January 16, 2007	October 23, 2006 – December 31, 2006

I CERTIFY THAT I HAVE EXAMINED THIS REPORT AND TO THE BEST OF MY KNOWLEDGE IT IS TRUE, CORRECT AND COMPLETE.

Alan Mills
Treasurer's Signature

10/27/06
Date

REPORTING EXEMPTION: Any party committee receiving and expending less than $1,500 in one calendar year is exempt from the reporting requirements for that year.

South Portland Democratic Committee
Name of Party

Page _____ of _____
(Schedule A only)

SCHEDULE A

CASH CONTRIBUTIONS RECEIVED

List the names and mailing addresses of contributors who have given more than $200 during this reporting period. For all aggregate contributions of $200 or less, enter the combined total in line 3. Do not include loans or in-kind contributions here.

Date received	Contributor's name, mailing address, zip code	Occupation & Employer	Amount

1. Total contributions this page only _____
2. Total from attached pages (Schedule A) _____
3. Aggregate contributions of $200 or less not itemized $1975.15
4. Total contributions this reporting period (Add lines 1,2 &3) $1975.15

South Kortland Democratic Committee
Name of Party

10/27/06
Date Submitted

SCHEDULE F

SUMMARY SECTION

RECEIPTS	THIS PERIOD ONLY
1. Contributions Received (Schedule A, Line 4)	$ 1975 15/xx
2. Other Receipts (interest income, etc.)	
3. Loans Received (Schedule D)	
4. TOTAL RECEIPTS THIS PERIOD (Lines 1 + 2 + 3)	$ 1975 15/xx

EXPENDITURES	THIS PERIOD ONLY
5. Contributions to or on behalf of others (Schedule B, Line 3)	
6. Operating Expenses (Schedule B-1, Line 3)	
7. Loan Repayments Made (Schedule D)	
8. TOTAL EXPENDITURES THIS PERIOD (Lines 5 + 6 + 7)	

IN-KIND SUMMARY	Fair Market Value Totals
Total In-Kind Contributions this period (Schedule C)	
Total In-Kind Expenditures this period (Schedule C)	

Title 21-A, §1017-A, Reports of contributions and expenditures by party committees

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§1017-A. Reports of contributions and expenditures by party committees

1. Contributions. A party committee shall report all contributions in cash or in kind from an individual contributor that in the aggregate in a campaign total more than $200. The party committee shall report the name, mailing address, occupation and place of business of each contributor. Contributions of $200 or less must be reported, and these contributions may be reported as a lump sum. [1993, c. 680, Pt. C, §2 (amd).]

2. Expenditures on behalf of candidates, others. A party committee shall report all expenditures in cash or in kind of the committee made on behalf of a candidate, political committee, political action committee or party committee registered under this chapter. The party committee shall report:

A. The name and address of each candidate and the identity and address of a campaign or committee; [1991, c. 839, §23 (new); §33 (aff).]

B. The office sought by a candidate and the district that the candidate seeks to represent; and [1991, c. 839, §23 (new); §33 (aff).]

C. The date and amount of each expenditure. [1993, c. 715, §1 (amd).]
[1993, c. 715, §1 (amd).]

3. Other expenditures. Operational expenses and other expenditures in cash or in kind of the party committee that are not made on behalf of a candidate, committee or campaign must be reported as a separate item. The party committee shall report:

A. The name and address of each recipient; [1993, c. 715, §2 (new).]

B. The reason for the expenditure; and [1993, c. 715, §2 (new).]

C. The date and amount of each expenditure. [1993, c. 715, §2 (new).]
[1993, c. 715, §2 (amd).]

4. Filing schedule.
[2003, c. 302, §2 (rp).]

4-A. Filing schedule. A state party committee shall file its reports according to the following schedule.

A. Quarterly reports must be filed:

(1) On January 15th and must be complete up to January 5th;

(2) On April 10th and must be complete up to March 31st;

(3) On July 15th and must be complete up to July 5th; and

(4) On October 10th and must be complete up to September 30th.

[2003, c. 302, §3 (new).]

Title 21-A, §1017-A, Reports of contributions and expenditures by party committees

B. General and primary election reports must be filed:

(1) On the 6th day before the date on which the election is held and must be complete up to the 12th day before that date; and

(2) On the 42nd day after the date on which the election is held and must be complete up to the 35th day after that date.

[2003, c. 302, §3 (new).]

C. Reports of spending to influence special elections, referenda, initiatives, bond issues or constitutional amendments must be filed:

(1) On the 6th day before the date on which the election is held and must be complete up to the 12th day before that date; and

(2) On the 42nd day after the date on which the election is held and must be complete up to the 35th day after that date.

[2003, c. 302, §3 (new).]

D. A state party committee that files an election report under paragraph B or C is not required to file a quarterly report under paragraph A when the deadline for that quarterly report falls within 10 days of the filing deadline established in paragraph B or C.
[2003, c. 302, §3 (new).]

E. A state party committee shall report any expenditure of $500 or more, made after the 12th 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 expenditure. [2005, c. 301, §18 (amd).]
[2005, c. 301, §18 (amd).]

4-B. Filing schedule for municipal, district and county party committees. Municipal, district and county party committees shall file reports according to the following schedule.

A. Reports filed during an election year must be filed with the commission on:

(1) July 15th and be complete as of June 30th;

(2) October 27th and be complete as of October 22nd; and

(3) January 15th and be complete as of December 31st.

[2003, c. 628, Pt. A, §2 (new).]

B. Reports filed during a nonelection year must be filed on:

(1) July 15th and be complete as of June 30th; and

(2) January 15th and be complete as of December 31st.

[2003, c. 628, Pt. A, §2 (new).]

C. Any contribution or expenditure of $1,000 or more made after the 12th day before any election and more than 24 hours before that election must be reported within 24 hours of that contribution or expenditure. [2005, c. 301, §19 (amd).]
[2005, c. 301, §19 (amd).]

4-C. Electronic filing. Beginning January 1, 2006, state party 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 party committee submits a written request that states that the party committee lacks access to the technology or the technological ability to file reports electronically. The request for an exception must be submitted by March 1st of the election year. The commission shall grant all reasonable requests for exceptions.
[2005, c. 301, §20 (new).]

5. Penalties. A party committee is subject to the penalties in section 1020-A, subsection 4-A.
[RR 2003, c. 1, §13 (cor).]

6. Notice; forms. A state party committee shall notify all county, district and municipal party committees of the same political party of the party committee reporting requirements. The party committees shall obtain the necessary forms from the commission to complete the filing requirements.
[1991, c. 839, §23 (new); §33 (aff).]

Title 21-A, §1017-A, Reports of contributions and expenditures by party committees

7. Exemption. Any party committee receiving and expending less than $1,500 in one calendar year is exempt from the reporting requirements of this section for that year.
[1991, c. 839, §23 (new); §33 (aff).]

8. Municipal elections. When a party committee makes contributions or expenditures on behalf of a candidate for municipal office subject to this subchapter, it shall file a copy of the reports required by this section with the clerk in that candidate's municipality.
[1995, c. 483, §10 (new).]

PL 1991, Ch. 839, §23 (NEW).
PL 1991, Ch. 839, §33 (AFF).
PL 1993, Ch. 228, §1 (AMD).
PL 1993, Ch. 680, §C2 (AMD).
PL 1993, Ch. 715, §1,2 (AMD).
PL 1995, Ch. 228, §1 (AMD).
PL 1995, Ch. 483, §9,10 (AMD).
RR 1995, Ch. 2, §37 (COR).
PL 2003, Ch. 302, §2,3 (AMD).
PL 2003, Ch. 628, §A2,B4 (AMD).
RR 2003, Ch. 1, §13 (COR).
PL 2005, Ch. 301, §18-20 (AMD).

Title 21-A, §1020-A, Failure to file on time

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§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 copy of the report, substantially conforming to the disclosure requirements of this subchapter, is received by the commission before 5 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 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. [1999, c. 729, §5 (new).]
[2003, c. 628, Pt. A, §3 (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.
[1995, c. 625, Pt. B, §5 (amd).]

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, except for accelerated campaign finance reports required pursuant to section 1017, subsection 3-B, 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); §2 (aff).]

B. For the 2nd violation, 3%; and [2001, c. 714, Pt. PP, §1 (new); §2 (aff).]