

Agenda

Item #2



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

Date: August 17, 2010

Re: Request for Waiver of Late-Filing Penalty by Mark L. Chizmar

Mark L. Chizmar is a first-time candidate for State Representative, District 71, in Lewiston. He was required to file a campaign finance report by 11:59 p.m. on Tuesday, July 20, which was 42 days after the primary election. When the Commission staff did not receive the report on July 20, we followed our routine procedures of contacting the candidate and requesting that he or she file the report as soon as possible to minimize the late-filing penalty.

Kevin Johnson called Mark Chizmar on Wednesday, July 21 (the day after the deadline) and spoke to him about the need to file the report. I have attached a copy of Kevin's handwritten notes of his July 21 phone calls to candidates. Kevin will be at the August 26 meeting to answer any questions that you have about his July 21 conversation with Mr. Chizmar. Although not required by statute or rule, the Commission staff telephones candidates who have not filed campaign finance reports because we find it is the most effective way to persuade them to file the reports right away. After not receiving the report within a few days, Kevin mailed the candidate a "non-filer letter" on Monday, July 26.

Mr. Chizmar filed the report ten days late on July 30 after receiving a telephone call from me. I do not normally call late filers, but in this instance I called the candidate because Kevin warned me that the late-filing penalty was growing quite large. Once the report was filed, it disclosed only one financial transaction: the candidate's June 9, 2010 receipt of the initial general election payment of \$4,144 in Maine Clean Election Act funds.

The preliminary penalty for the late filing is determined by a formula in the statute (21-A M.R.S.A. § 1020-A(4-A)). Under that formula, the preliminary penalty for the late filing is \$1,243.20. The formula takes into consideration the amount of financial activity reported late (\$4,144), the number of days late (10), and a percentage (3%).

The percentage is 3% because Mr. Chizmar was late in filing another campaign finance report earlier this year. He was three days late in filing his pre-primary report due May 28, 2010. On June 11, 2010, he paid a penalty of \$15.36 for filing the pre-primary report late. So, the candidate was on notice in June 2010 that there could be a financial

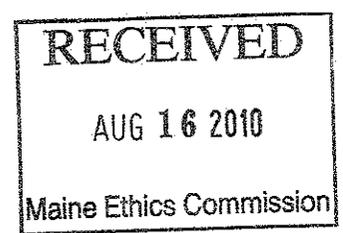
consequence for filing a campaign finance report late, but he may not have realized that the late-filing penalties can get quite high under the formula in the statute.

Mr. Chizmar requests a waiver of the \$1,243.20 penalty because of a miscommunication between him and his treasurer, the lack of experience within his campaign, and because the amount of the penalty is disproportionately high and burdensome. I have attached 21-A M.R.S.A. § 1020-A(2), which lists the mitigating circumstances for which the Commission may waive a late-filing penalty in whole or in part.

The Commission staff recommends granting a partial waiver of the penalty. We believe that the preliminary penalty of \$1,243.20 is disproportionate to the harm suffered by the public from the late disclosure and the level of experience of the campaign. Mr. Chizmar is a first-time candidate and may not have understood the importance of filing the campaign finance reports on time. Also, the only financial activity in the report was his receipt of \$4,144 in Maine Clean Election Act funds for the general election. The fact that he is a Maine Clean Election Act candidate was already publicly disclosed on the Commission website.

The Commission staff recommends assessing a penalty of \$200, which is a more reasonable amount that underscores the importance of filing campaign finance reports on time.

Mark L. Chizmar
7 St. Jerome Street
Lewiston, ME 04240



August 13, 2010

By Email

By Regular Mail and E-Mail Only

State of Maine
Commission on Governmental Ethics
And Election Practices
135 State House Station
Augusta, ME 04333-0135
Attn: Kevin Johnson, Candidate Registrar

Re: Late 42-Day Post-Primary Campaign Finance Report

Dear Mr. Johnson:

In response to your letter dated August 2, please accept this as my request for a waiver of the preliminary penalty for a late filing.

The mitigating circumstance is as follows: There was a miscommunication between myself and my treasurer, Daniel Brooks. It was my understanding that Mr. Brooks would be filing my report prior to his leaving for vacation, however, that report was never filed nor did Mr. Brooks ever advise me that it was not filed. It wasn't until approximately July 30, when I received a phone call from a member of the Ethics Commission, that I was made aware of the failure to file. The member did indicate there would be a penalty, however, no exact amount was given. Subsequently, several days later I received the above-referenced letter indicating the amount of the penalty totaled \$1,243.20.

I also believe there are additional mitigating circumstances as follows: (1) the penalty assessed is 30%, an amount which I believe is grossly disproportionate to my campaign receipts and expenditures of \$4,144.00; (2) both myself and my treasurer are "political novices" and have no experience running a campaign, nor do I have the backing of any campaign staffer to assist me in running my campaign; and (3) I sustained an injury in September, 2009, and was unable to work for approximately eight months. Any penalty that I am obligated to pay from my personal accounts will cause my family great financial burden. Therefore, if the Commission rules against me and I am obligated to pay this penalty, I have no choice but to withdraw from the race for House District 71.

In addition, I would like to advise the Commission that I have taken steps to ensure all future finance reports are filed on time and I will not find myself in this position again.

I appreciate any consideration which the Ethics Commission may extend in my favor.

Sincerely,

Mark L. Chizmar



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

July 26, 2010

By Certified and Regular Mail

Mr. Mark Lane Chizmar
7 St. Jerome Street
Lewiston, ME 04240

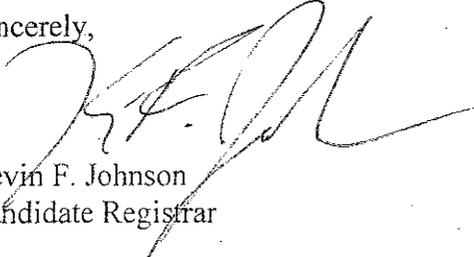
Re: Delinquent Campaign Finance Report – Due July 20, 2010

Dear Mr. Chizmar:

Our records show that you have not filed your 42-Day Post-Primary campaign finance report. Maine Election 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, on the number of calendar days a report is filed late, and on the candidate's filing record. If you raised or spent money during the filing period, you could be subject to civil penalties, which are accruing on a daily basis. Once you have filed your report, our office will calculate the penalty and notify you of the amount of the penalty.

Therefore, we urge you to file your report as soon as possible.

Sincerely,



Kevin F. Johnson
Candidate Registrar

cc: Treasurer (regular mail)



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

August 2, 2010

BY CERTIFIED MAIL AND REGULAR MAIL

Mr. Mark Chizmar
7 St. Jerome Street
Lewiston, ME 04240

Re: Late 42-Day Post-Primary Campaign Finance Report Due 7/20/2010

Dear Mr. Chizmar:

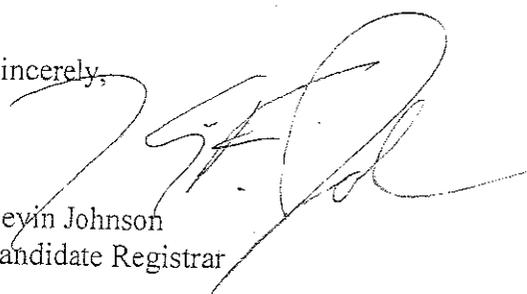
Preliminary penalty amount. You filed a 42-Day Post-Primary campaign finance report on 7/30/2010. Under the Election Law, the Commission must calculate a preliminary penalty for the late filing, based on the amount of financial activity during the report period, the number of days the report was filed late, and the candidate's filing record. The preliminary penalty for the late filing of your report is \$1,243.20. (Please refer to the enclosed penalty matrix for the calculation.) If you agree to pay the penalty, please use the enclosed billing statement within 14 days of receiving this letter. Please do not use Maine Clean Election Act funds to pay the penalty.

Requesting a waiver. You may ask the members of the Ethics Commission to waive the preliminary penalty due to mitigating circumstances (defined below). To request a waiver, please send a letter within 14 days of receiving this notice that contains a full explanation of the reasons you filed late. If you request a waiver, the Commission staff will notify you of the date and time of the public meeting at which the Commissioners will consider your request. You or a person you designate may appear at the meeting. The Commission staff will notify you of the Commissioners' decision shortly afterward.

Mitigating circumstances. The Election Law defines mitigating circumstances as: (1) a valid emergency, (2) an error by the Commission staff, (3) failure to receive notice of the filing deadline, or (4) relevant evidence presented that a *bona fide* effort was made to file the report in accordance with the statutory requirements. Also, the Commission may waive a preliminary 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.

Please call me at 287-4179 if you have any questions.

Sincerely,


Kevin Johnson
Candidate Registrar

cc: Daniel Brooks (by regular mail)

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

PHONE: (207) 287-4179

FAX: (207) 287-6775

August 2, 2010

Mr. Mark Chizmar
7 St. Jerome Street
Lewiston, ME 04240

The Commission staff has calculated a preliminary penalty amount for the late filing of your 42-Day Post-Primary campaign finance report. Please pay the penalty or request a waiver within 14 days of receiving this notice. If the Commission does not receive a payment or waiver request, the Commission will send you a final notice requesting payment within 30 days.

To pay the penalty, submit a check or money order to the address below, along with the bottom half of this letter. Or, please pay online using a credit or debit card at the web address listed below. If you would like to request a waiver of the preliminary penalty, please see the instructions included in the attached letter.

Failure to pay the full amount of an assessed penalty is a civil violation. The Commission is required to report to the Attorney General the name of any person who fails to pay a late-filing penalty. If you have questions, please call Kevin Johnson at 287-4179.

Cut Along Dotted Line

For Office Use Only:
Account: MCGEEP
Fund: 014 Approp: 02

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

From: Mr. Mark Chizmar

RE: Penalty for late filing of 42-Day Post-Primary Campaign Finance Report

Penalty ID: 1700

Amount Enclosed: \$ _____

Check/M.O. No.: # _____

Please Make Check or Money Order Payable to Treasurer, State of Maine
Or Pay Online at <http://www.maine.gov/online/ethics/penalties>

COMMISSION ON GOVERNMENTAL ETHICS AND ELECTION PRACTICES

PENALTY MATRIX FOR LATE CANDIDATE REPORT FILINGS

BASIS FOR PENALTIES

21-A M.R.S.A. Section 1020-A(4-A)

The penalty for late filing of a required report is a percentage of the total contributions or expenditures for the filing period, whichever is greater, multiplied by the number of calendar days the report is filed late, as follows:

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

Example: The treasurer files the candidate's report two (2) days late. The candidate has not had any previous late violations this biennium. The candidate 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
<u>X .01</u>	Percent prescribed for first violation
\$25.00	One percent of total contributions
<u>X 2</u>	Number of calendar days late
\$50.00	Total penalty

Mark Chizmar

Your penalty is calculated as follows:

Receipts/Expenditures:	\$ 4,144.00
Percent prescribed:	3%
	\$ 124.32
Number of days late:	X 10
Total penalty accrued:	\$ 1,243.20

A penalty begins to accrue on the day following the due date of the report.

Any penalty of less than \$10 is waived.

Violations accumulate on reports with filing deadlines in a 2-year period that begins on January 1st of each even-numbered year. Waiver of a penalty does not nullify the finding of a violation.

A required report that is sent by certified or registered United States mail and postmarked at least 2 days before the deadline is not subject to penalty.

MAXIMUM PENALTIES

21-A M.R.S.A. Section 1020-A(5-A)

- \$5,000 for reports required to be filed 42 days before an election, 11 days before an election, 42 days after an election, and for 24-hour reports;
- \$1,000 for semiannual reports.

42-DAY POST-RENEWAL REPORT (07/20/10)

Dummy Query

7/21/2010

MISSING

Report Title	Filed Date	First Name	Last Name	Registrar	Office/Soug	Status	Financial Status
	✓ LATE FILER	Donna	Dion	Kevin Johnson	Governor	Active	PRIVATELY FINANCED
	✓ LATE FILER	Beverly	Cooper-Pete	Kevin Johnson	Governor	Active	PRIVATELY FINANCED
	✓ Non-FILER	Stephen	Singleton	Kevin Johnson	Senate	Active	PRIVATELY FINANCED
			Fellows	Kevin Johnson	Represent	Withdrawn	PRIVATELY FINANCED
	✓ LATE FILER	John	Whitcomb	Kevin Johnson	Governor	Active	PRIVATELY FINANCED
	✓ LATE FILER	Evert	Fowie	Kevin Johnson	District Att	Active	PRIVATELY FINANCED
	✓ LATE FILER	Jason	Gayne	Kevin Johnson	Represent	Active	PRIVATELY FINANCED
		Michael	Wells	Kevin Johnson	Represent	Withdrawn	DOI
	✓ LATE FILER	Lawrence	Sirois	Kevin Johnson	Represent	Active	MCEA
✓ LATE FILER	✓ Non-FILER	David	Bracy	Kevin Johnson	Represent	Withdrawn	PRIVATELY FINANCED
	✓ LATE FILER	Daniel	Albert	Kevin Johnson	Governor	Active	PRIVATELY FINANCED
	✓ LATE FILER	Mark	Chizmar	Kevin Johnson	Represent	Active	MCEA
	✓ LATE FILER	Peter	Pfeiffer	Kevin Johnson	Represent	Withdrawn	PRIVATELY FINANCED
	✓ LATE FILER	Mark	McNulty	Kevin Johnson	Represent	Active	PRIVATELY FINANCED
	✓ LATE FILER	Marcus	Welch	Kevin Johnson	Represent	Active	PRIVATELY FINANCED
	✓ LATE FILER	Lawrence	Pye	Kevin Johnson	Represent	Active	MCEA



21-A MRSA §1020-A. FAILURE TO FILE ON TIME

(CONTAINS TEXT WITH VARYING EFFECTIVE DATES)

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. (TEXT EFFECTIVE UNTIL 8/1/11) 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) .]

3. (TEXT EFFECTIVE 8/1/11) Municipal campaign finance reports. Municipal campaign finance reports must be filed, subject to all the provisions of this subchapter, with the municipal clerk in a town or city that has chosen to be governed by this subchapter 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.

[2009, c. 366, §6 (AMD); 2009, c. 366, §12 (AFF) .]

4. Basis for penalties.

[2001, c. 470, §7 (AMD); T. 21-A, §1020-A, sub-§§4, 5 (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); 2001, c. 714, Pt. PP, §2 (AFF).]

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

C. For the 3rd and subsequent violations, 5%. [2001, c. 714, Pt. PP, §1 (NEW); 2001, c. 714, Pt. PP, §2 (AFF).]

Any penalty of less than \$10 is waived.

Violations accumulate on reports with filing deadlines in a 2-year period that begins on January 1st of each even-numbered year. Waiver of a penalty does not nullify the finding of a violation.

A report required to be filed under this subchapter that is sent by certified or registered United States mail and postmarked at least 2 days before the deadline is not subject to penalty.

A registration or report may be provisionally filed by transmission of a facsimile copy of the duly executed report to the commission, as long as the facsimile copy is filed by the applicable deadline and an original of the same report is received by the commission within 5 calendar days thereafter.

The penalty for late filing of an accelerated campaign finance report as required in section 1017, subsection 3-B may be up to but no more than 3 times the amount by which the contributions received or expenditures obligated or made by the candidate exceed the applicable Maine Clean Election Fund disbursement amount, per day of violation. The commission shall make a finding of fact establishing when the report was due prior to imposing a penalty under this subsection. A penalty for failure to file an accelerated campaign finance report must be made payable to the Maine Clean Election Fund. In assessing a penalty for failure to file an accelerated campaign finance report, the commission shall consider the existence of mitigating circumstances. For the purposes of this subsection, "mitigating circumstances" has the same meaning as in subsection 2.

[2007, c. 443, Pt. A, §22 (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; section 1017, subsection 4; and section 1019-B, subsection 3; [2009, c. 190, Pt. A, §14 (AMD).]

B. Five thousand dollars for state party committee reports required under section 1017-A, subsection 4-A, paragraphs A, B, C and E; [2003, c. 628, Pt. A, §4 (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; [2003, c. 628, Pt. A, §4 (AMD).]

D. Five hundred dollars for municipal, district and county committees for reports required under section 1017-A, subsection 4-B; or [2003, c. 628, Pt. A, §4 (AMD).]

E. Three times the unreported amount for reports required under section 1017, subsection 3-B, if the unreported amount is less than \$5,000 and the commission finds that the candidate in violation has established, by a preponderance of the evidence, that a bona fide effort was made to file an accurate and timely report. [2001, c. 714, Pt. PP, §1 (NEW); 2001, c. 714, Pt. PP, §2 (AFF).]

[2009, c. 190, Pt. A, §14 (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 by certified mail 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. The notice must be sent by certified mail. Any request for a determination must be made within 14 calendar days of receipt of the commission's notice. The 14-day period during which a determination may be requested begins on the day a recipient signs for the certified mail notice of the proposed penalty. If the certified letter is refused or left unclaimed at the post office, the 14-day period begins on the day the post office indicates it has given first notice of a certified letter. 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.

[2009, c. 302, §5 (RPR) .]

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

1995, c. 483, §15 (NEW). IB 1995, c. 1, §15 (AMD). 1995, c. 625, §B5 (AMD). RR 1995, c. 1, §10 (COR). RR 1995, c. 2, §38 (COR). 1999, c. 426, §§32,33 (AMD). 1999, c. 729, §5 (AMD). 2001, c. 470, §§7,8 (AMD). 2001, c. 714, §PP1 (AMD). 2001, c. 470, §11 (AFF). 2001, c. 714, §PP2 (AFF). 2003, c. 302, §4 (AMD). 2003, c. 448, §4 (AMD). 2003, c. 628, §§A3-6 (AMD). RR 2003, c. 1, §14 (COR). 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). MRSA T. 21-A, §1020-A, sub-§4 (AMD). MRSA T. 21-A, §1020-A, sub-§5 (AMD).

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

June 7, 2010

Earlier
late-filing
violation

BY CERTIFIED MAIL AND REGULAR MAIL

Mr. Mark Chizmar
7 St. Jerome Street
Lewiston, ME 04240

Re: Late 11-Day Pre-Primary Campaign Finance Report Due 5/28/2010

Dear Mr. Chizmar:

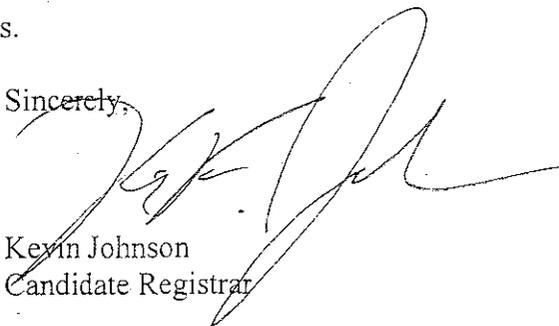
Preliminary penalty amount. You filed a 11-Day Pre-Primary campaign finance report on 5/31/2010. Under the Election Law, the Commission must calculate a preliminary penalty for the late filing, based on the amount of financial activity during the report period, the number of days the report was filed late, and the candidate's filing record. The preliminary penalty for the late filing of your report is \$15.36. (Please refer to the enclosed penalty matrix for the calculation.) If you agree to pay the penalty, please use the enclosed billing statement within 14 days of receiving this letter. Please do not use Maine Clean Election Act funds to pay the penalty.

Requesting a waiver. You may ask the members of the Ethics Commission to waive the preliminary penalty due to mitigating circumstances (defined below). To request a waiver, please send a letter within 14 days of receiving this notice that contains a full explanation of the reasons you filed late. If you request a waiver, the Commission staff will notify you of the date and time of the public meeting at which the Commissioners will consider your request. You or a person you designate may appear at the meeting. The Commission staff will notify you of the Commissioners' decision shortly afterward.

Mitigating circumstances. The Election Law defines mitigating circumstances as: (1) a valid emergency, (2) an error by the Commission staff, (3) failure to receive notice of the filing deadline, or (4) relevant evidence presented that a *bona fide* effort was made to file the report in accordance with the statutory requirements. Also, the Commission may waive a preliminary 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.

Please call me at 287-4179 if you have any questions.

Sincerely,


Kevin Johnson
Candidate Registrar

cc: Daniel Brooks (by regular mail)

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

PHONE: (207) 287-4179

FAX: (207) 287-6775

COMMISSION ON GOVERNMENTAL ETHICS AND ELECTION PRACTICES

PENALTY MATRIX FOR LATE CANDIDATE REPORT FILINGS

BASIS FOR PENALTIES

21-A M.R.S.A. Section 1020-A(4-A)

The penalty for late filing of a required report is a percentage of the total contributions or expenditures for the filing period, whichever is greater, multiplied by the number of calendar days the report is filed late, as follows:

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

Example: The treasurer files the candidate's report two (2) days late. The candidate has not had any previous late violations this biennium. The candidate 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
<u>X .01</u>	Percent prescribed for first violation
\$25.00	One percent of total contributions
<u>X 2</u>	Number of calendar days late
\$50.00	Total penalty

Mark Chizmar

Your penalty is calculated as follows:

Receipts/Expenditures:	\$ <u>512.00</u>
Percent prescribed:	<u>1%</u>
	\$ <u>5.12</u>
Number of days late:	X <u>3</u>
Total penalty accrued:	\$ <u>15.36</u>

A penalty begins to accrue on the day following the due date of the report.

Any penalty of less than \$10 is waived.

Violations accumulate on reports with filing deadlines in a 2-year period that begins on January 1st of each even-numbered year. Waiver of a penalty does not nullify the finding of a violation.

A required report that is sent by certified or registered United States mail and postmarked at least 2 days before the deadline is not subject to penalty.

MAXIMUM PENALTIES

21-A M.R.S.A. Section 1020-A(5-A)

- \$5,000 for reports required to be filed 42 days before an election,
- 11 days before an election, 42 days after an election, and for 24-hour reports;
- \$1,000 for semiannual reports.

For Office Use Only:
Account: MCGEEP
Fund: 014 Approp: 02

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

RECEIVED
JUN 12 2010
Maine Ethics Commission

From: Mr. Mark Chizmar

RE: Penalty for late filing of 11-Day Pre-Primary Campaign Finance Report

Penalty ID: 1628

UNITED STATES POSTAL SERVICE®		POSTAL MONEY ORDER		
Serial Number	Year, Month, Day	Post Office	U.S. Dollars and Cents	
18074301096	2010-06-10	042400	\$15.36	
Amount		FIFTEEN DOLLARS & 36c *****		
Pay to	COMMISSION ON GOVERNMENTAL ETHICS AND ELECTION PRACTICES			Clerk 0011
Address	135 STATE HOUSE STATION		From	MARK L. CHIZMAR
	AUGUSTA ME. 04333		Address	7 ST. JEROME ST.
Memo	LEWISTON ME 04240			
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⑈00000800⑈		18074301096⑈		