



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

Commission Meeting 03/31/2021
Agenda Item #3

To: Commissioners
From: Michael J. Dunn, Esq., Political Committee Registrar
Date: 03/23/2021
Re: Energy PAC for Maine – Waiver Request

During the last 13 days before an election, candidates and the political committees regulated by the Commission are required to file expedited campaign finance reports (within 24 hours) of large transactions that would not otherwise be publicly disclosed until after the election. For example, if a political action committee makes a single expenditure of expenditure of \$1,000 or more in that 13-day period, the PAC must file a “24-Hour Report” of that expenditure through the Commission’s e-filing system. On October 22, 2020, Energy PAC For Maine (the “PAC”) made seven expenditures totaling \$8,500 as contributions to other registered PACs. ETH. 9. The PAC was required to file the 24-hour report by October 23, 2020 but did not do so until December 14, 2020. ETH. 9-10. On December 16, 2020¹, the Commission staff notified the PAC that the preliminary penalty was \$8,840. ETH. 5-7. The PAC requests a waiver of the preliminary penalty on March 15, 2021. ETH. 1-4.

LEGAL REQUIREMENTS

24-Hour Reports. PACs 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. § 1059(2)(E). If the PAC is late in filing the 24-hour report, the amount of the preliminary penalty is set by a formula which takes into consideration the amount of the transaction, the number of prior violations within a two-year

¹ Commission staff credits that the PAC did not receive this letter until March 1, 2021, when staff sent a follow-up. Staff noted that there were two other mailings generated on the same day that did not appear to reach the recipients.

period, and the number of days the report is late. 21-A M.R.S. § 1062-A(3). The Commission may grant a full or partial waiver if it determines that the report was late due to mitigating circumstances defined in statute or is disproportionately high relative to certain factors. 21-A M.R.S. § 1062-A(2).

Deadline to Request Waivers. A request for waiver must be made within 14 calendar days of receipt of the Commission’s notice. § 1062-A(5).

DISCUSSION AND STAFF RECOMMENDATION

On October 22, 2020, the PAC made seven expenditures of \$8,500 as contributions to other registered PACs. ETH. 8-9. The expenditures were entered into the Commission’s e-filing system on December 14, 2020, and a 24-Hour Report was generated and filed. ETH. 8-9. Based on the statutory formula for calculating late-filing penalties, the preliminary penalty amount is \$8,840, as shown in the below chart:

Report Name	Activity Amount	Due Date	Days Late	Penalty Rate	Penalty
24-Hour Expenditure Report	\$8,500	10/23/2020	52	2%	\$8,840

The PAC asks that the Commission waive the penalty because the PAC received incorrect advice from counsel that caused the late filing, and that the penalty is disproportionate to the harm suffered by the public from the late disclosure and that this is the PAC’s first late filing. ETH. 1-2. The Commission staff believes that the public suffered moderate harm due to this late filing. Violations of the 24-hour reporting requirements can be serious matters, as these reports play an important role in informing the electorate about how money is changing hands in the critical days just before an election. Here, the expenditures were made to various Leadership and

Caucus PACs², which were heavily involved in influencing the 2020 election, and the public would not have been made aware of the expenditures until the recipient committees filed their 42-Day Post-Election Reports. Commission staff accepts that the PAC received incorrect advice regarding the definition of expenditures. ETH 3-4. Commission staff also accepts that this was an accidental error and that there was no attempt to deceive the public.

Since mid-2018, the staff has been recommending PAC penalties in the range of \$750 or more.³ In weighing the facts here, Commission staff believes that a reduction of the penalty to \$750 seems appropriate. This late filing was caused by an honest error without an intent to deceive the public. Late 24-Hour Reports, however, can be serious violations and a \$750 penalty seems to appropriately balance those considerations.

Thank you for your attention in this matter.

² Fecteau for Leadership (\$1,000), House Democratic Campaign Committee (\$1,000), House Republican Fund (\$1,000), Maine Senate Republican Majority (\$2,500), One Maine (\$1,000), Senate Democratic Campaign Committee (\$1,000), and Still Fed Up With Taxes (\$1,000).

³ This was in response to a statutory change that doubled the initial penalty calculation. Examples of the Commission's decisions on penalty waiver requests are attached on ETH. 11-13.

March 15, 2021

Via USPS and Electronic Mail

Jonathan Wayne, Executive Director
Maine Commission on Governmental Ethics and Election Practices
135 State House Station
Augusta, Maine 04333-0135
Jonathan.Wayne@maine.gov

RE: Late Filing of 24-Hour Report—Energy PAC for Maine

Dear Mr. Wayne:

Please accept this letter as a written request for a waiver of the preliminary penalty amount indicated in the December 16, 2020 correspondence from Mr. Dunn. The reasons supporting this request are as follows:

1. The Energy PAC for Maine’s late filing was inadvertent after a bonafide effort to file the report properly.

The Energy PAC for Maine’s late filing of its 24-hour report was inadvertent and stemmed from reliance upon incorrect advice from outside counsel. During this reporting period the staff member charged with reporting to the Commission was Hannah Estes, Business Manager for the Maine Energy Marketers Association (MEMA). In particular, when Ms. Estes queried outside counsel for advice on how to properly file the 11-Day Pre-General Report, a member of the staff from that firm incorrectly advised Ms. Estes that: *“All of the checks to PACs and candidates would be considered contributions, not expenditures. Since all of the contributions were below \$5,000, you do not need to file a 24-hour report.”*¹ (See Exhibit A).

Upon receiving this advice, Ms. Estes filed the 11-Day Pre-General Election Report. Clearly, given the effort made by Ms. Estes to consult outside counsel as well as Attorney Dunn, she intended to fully comply with the reporting requirements for the PAC. The reason the expenditures were not included in the required 24-Hour Reports was due to misinterpretation on the part of outside counsel and not due to any intent to delay the reporting of the PAC expenditures. In retrospect, this interpretation was obviously in error as we (MEMA) now understand that 21-A §1052 (4) (A) (3) defines “expenditure” to include “The transfer of funds by a political action committee to another candidate or political committee.”

¹ NHD email dated October 23, 2020 1:49 PM

2. The public was not harmed by the late filing of the 24-Hour Reports.

There was no intent to deceive the Commission or the public by filing a late 24-Hour report. The PAC disclosed the \$8,500 in expenditures it made to candidates and PACs in the usual course, within its regularly scheduled report that was filed within 42 days of the election. All but one of these expenditure amounts were at the \$1,000.00 level, just at the threshold triggering the 24-hour reporting requirement.

3. The preliminary penalty is disproportionate to any conceivable harm to the public.

The seven checks cut by the Energy PAC, within the first two days of the 13-day period prior to the election, totaled \$8,500.00 which is less than the \$8,840.00 penalty being recommended by the Commission staff.

As President and CEO of the Maine Energy Marketers Association/MTEC “Energy PAC for Maine” and its associated administrative responsibilities (i.e., the late/incorrect filing of the 24-Hour report) fall to me. However, considering the foregoing facts, I very respectfully ask that that the Commission waive the preliminary penalty assessed by Commission Staff. Should the Staff or Commission require any further information or comment, please do not hesitate to contact me at your convenience. Thank you for the Commission’s time and its attention to this request.

Sincerely,



Charles E. Summers, Jr.
President/CEO

Attachments: Exhibit A.

CC: Michael Dunn, Esq.
Michael.Dunn@maine.gov

Hannah Estes

From: Daniel P. Riley <driley@nhdlaw.com>
Sent: Friday, October 23, 2020 1:58 PM
To: Eliza L.A. Woodcock; Hannah Estes
Subject: RE: 11-Day Pre-General Report Reminder

Hannah:

Eliza serves as treasurer for some PACs and campaigns so she is very familiar with these requirements. File the report today as she has directed and don't hesitate to contact us with any further questions.

Dan

From: Eliza L.A. Woodcock <ewoodcock@nhdlaw.com>
Sent: Friday, October 23, 2020 1:49 PM
To: Hannah Estes <hestes@maineenergymarketers.com>; Daniel P. Riley <driley@nhdlaw.com>
Subject: RE: 11-Day Pre-General Report Reminder

Hi Hannah,

You still need to file a report today (11-Day Pre-General Election Report) but the checks that were cut 10/21 will not be on this report. They should be reported on the next one (42-Day Post-General Election Report), which is due on December 15th.

All of the checks to PACs and candidates would be considered contributions, not expenditures. Since all of the contributions were below \$5,000, you do not need to file a 24-hour report.

Hope this is helpful!

Best,
Eliza

From: Hannah Estes <hestes@maineenergymarketers.com>
Sent: Friday, October 23, 2020 1:40 PM
To: Daniel P. Riley <driley@nhdlaw.com>
Cc: Eliza L.A. Woodcock <ewoodcock@nhdlaw.com>
Subject: FW: 11-Day Pre-General Report Reminder

Hello Dan,

I cut the checks on 10/21, so don't need to file in this period. All the checks would be considered contributions and NOT expenditures, correct? Just want to be certain.

Thank you,
H



Hannah Estes

Business Manager
Maine Energy Marketers Association

hestes@maineenergymarketers.com

T: 207-729-5298

25 Greenwood Rd.

Brunswick, ME 04011-0249

MaineEnergyMarketers.com | mtec4me.com

From: Dunn, Michael <Michael.Dunn@maine.gov>
Sent: Friday, October 23, 2020 1:16 PM
To: Hannah Estes <hestes@maineenergymarketers.com>
Subject: RE: 11-Day Pre-General Report Reminder

Hi Hannah:

The report period ends on 10/20. However be aware of the 24-Hour reporting requirement (Single Contributions over \$5,000, or Single Expenditures over \$1,000).

Please let me know if you have further questions.

Thanks,

Michael J. Dunn, Esq.
Political Committee and Lobbyist Registrar
Maine Ethics Commission
135 State House Station
Augusta, Maine 04333
Phone: (207) 287-4179 Fax: (207) 287-6775

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From: Hannah Estes <hestes@maineenergymarketers.com>
Sent: Friday, October 23, 2020 1:09 PM
To: Dunn, Michael <Michael.Dunn@maine.gov>
Subject: RE: 11-Day Pre-General Report Reminder

EXTERNAL: This email originated from outside of the State of Maine Mail System. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hi Michael,

I will file right now. I have nothing for this period, but a lot of activity on 10/21 and 10/22. Will this be a red flag? Or is it fine to post all this activity in the Post General Election filing?

Best,
Hannah



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

December 16, 2020

Ms. Claudette Townsend
Energy PAC for Maine
82 Running Hill Road, Suite 400
S. Portland, ME 04106

Re: Energy PAC for Maine Late Filing of a 24-Hour Report

Dear Ms. Townsend:

The Commission staff has made a finding that the Energy PAC for Maine (the PAC) was late in filing 24-Hour Report campaign finance report. The report was due by 11:59 p.m. on 10/23/2020, but was not filed until 12/14/2020. Under the Commission's statutes, the late filing of a report triggers an enforcement process. (21-A M.R.S.A. § 1062-A). Based on the amount of financial activity in the report, the number of calendar days the report was late, and the PAC's history of violations, the Commission staff has determined that a penalty of \$8,840 is owed. (Please see attached penalty matrix for the calculation.)

The PAC may make a written request that the Commission waive the violation or penalty in whole or in part. Any request for a waiver must be made within 14 calendar days of your receipt of this notice. The request must be in writing and contain a full explanation of the reasons the PAC filed late. Upon receiving your request, the Commission staff will schedule your appeal for an upcoming Commission meeting.

The Commission may waive the penalty if it determines that the report was late due to mitigating circumstances, which are defined as (1) a valid emergency; (2) an error made by the Commission staff; or (3) relevant evidence that the PAC made a bona fide effort to file the report on time. Also, the Commission may waive the penalty if it is disproportionate to the level of experience of the person filing the report or the harm suffered by the public from the late disclosure.

Please call me at (207) 287-4709 or send me an email at michael.dunn@maine.gov if you have questions.

Sincerely,

Michael J. Dunn

Michael J. Dunn, Esq.
Political Committee and Lobbyist Registrar

PAYMENT RECEIPT
(Please enclose with payment.)

Mail payment to:

Maine Ethics Commission
135 State House Station
Augusta, ME 04333

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

Claudette Townsend, Treasurer
Energy PAC for Maine
82 Running Hill Road, Suite 400
S. Portland, ME 04106

Violation: Late a 24-Hour Report
Amount Due: \$8,840

Committee Name: Energy PAC for Maine

Prior Violations:

Report Name	Activity Amount	Due Date	Days Late	Penalty Rate	Penalty
24-Hour Expenditure Report	\$8,500	10/23/2020	52	2%	\$8,840

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, 2%

For the second violation, 4%

For the third and each subsequent violation, 6%

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

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.

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.

MAXIMUM PENALTIES

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

\$10,000 for Pre- and Post-Election Reports, Quarterly Reports and 24-Hour Reports, except that if the financial activity reported late exceeds \$50,000, the maximum penalty is 100% of the amount reported late.



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

2020 CAMPAIGN YEAR

COMMITTEE		TREASURER	
ENERGY PAC FOR MAINE P.O. Box 249 Brunswick, ME 04011 PHONE:(207) 729-5298 EMAIL: JPY@MAINEENERGYMARKETERS.COM		Claudette Townsend 82 Running Hill Road, Suite 400 S. Portland, ME 04106 PHONE:(207) 358-5800 EMAIL: claudette.townsend@deadriver.com	
REPORT	DUE DATE	REPORTING PERIOD	
24 Hour Report for Expenditures	10/23/2020	10/22/2020-10/22/2020	

FINANCIAL ACTIVITY SUMMARY

CONTRIBUTIONS AND EXPENDITURES	
1. TOTAL CONTRIBUTIONS / LOANS	\$0.00
2. TOTAL EXPENDITURES	\$8,500.00
3. TOTAL DEBTS	\$0.00

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

REPORT FILED BY: HANNAH ESTES
REPORT FILED ON: 12/14/2020 11:18:42 AM
LAST MODIFIED:
COMMITTEE ID: 262

24-HOUR EXPENDITURE AND PAYEE INFORMATION

EXPENDITURE TYPES				
<p>CNS Campaign consultants</p> <p>CON Contribution to other candidate, party, committee</p> <p>EQP Equipment (office machines, furniture, cell phones, etc.)</p> <p>FND Fundraising events</p> <p>FOD Food for campaign events, volunteers</p> <p>LIT Print and graphics (flyers, signs, palmcards, t-shirts, etc.)</p> <p>MHS Mail house (all services purchased)</p> <p>OFF Office rent, utilities, phone and internet services, supplies</p> <p>OTH Other</p> <p>PHO Phone banks, automated telephone calls</p>	<p>POL Polling and survey research</p> <p>POS Postage for U.S. Mail and mail box fees</p> <p>PRO Other professional services</p> <p>PRT Print media ads only (newspapers, magazines, etc.)</p> <p>RAD Radio ads, production costs</p> <p>SAL Campaign workers' salaries and personnel costs</p> <p>TRV Travel (fuel, mileage, lodging, etc.)</p> <p>TVN TV or cable ads, production costs</p> <p>WEB Website design, registration, hosting, maintenance, etc.</p>			
DATE OF EXPENDITURE	PAYEE	REMARK	TYPE	AMOUNT
10/22/2020	Fecteau for Leadership 11 Memorial Drive Biddeford, ME, 04005	Support a PAC	CON	\$1,000.00
10/22/2020	HOUSE DEMOCRATIC CAMPAIGN COMMITTEE P.O. Box 2021 Augusta, ME, 04338	Support a PAC	CON	\$1,000.00
10/22/2020	House Republican Fund P.O. Box 5629 Augusta, ME, 04332	Support a PAC	CON	\$1,000.00
10/22/2020	MAINE SENATE REPUBLICAN MAJORITY P.O. Box 1 Augusta, ME, 04332	Support a PAC	CON	\$2,500.00
10/22/2020	One Maine PO Box 164 Oxford, ME, 04270	Support a PAC	CON	\$1,000.00
10/22/2020	SENATE DEMOCRATIC CAMPAIGN COMMITTEE P.O. BOX 2207 AUGUSTA, ME, 04338	Support a PAC	CON	\$1,000.00
10/22/2020	STILL FED UP WITH TAXES 580 East Hebron Road Turner, ME, 04282	Support a PAC	CON	\$1,000.00
TOTAL EXPENDITURES TO SUPPORT OR OPPOSE:				\$8,500.00

From: [Dunn, Michael](#)
To: claudette.townsend@deadriver.com
Subject: 24-Hour Report Period Reminder
Date: Monday, October 19, 2020 4:28:00 PM

Committee: ENERGY PAC FOR MAINE

Dear: Claudette:

I am emailing you to remind you that starting from **12:00 AM on October 21, 2020 until 5:00 PM on November 2, 2020**, all committees are required to report large contributions and expenditures within **24 hours** of that transaction. That means if a 24-Hour Report is due on the weekend, you have to file it then; you cannot wait until the next business day.

A large contribution means receiving a single contribution of \$5,000 or more. A large expenditure means any single expenditure that is \$1,000 or more. If the expenditure is for routine overhead expenditures (*e.g.*, Rent, Insurance Premiums, Taxes, or similar administrative expenditures), then the 24-Hour Report is **not** required.

If you have to file a 24-Hour Report, you will login to the Maine Campaign Finance website and enter the transaction as you normally would. The system will generate a 24-Hour Report for you to file under the View/File Reports tab.

If you make an Independent Expenditure from October 21, 2020 through November 3, 2020, the Independent Expenditure Report is due within 1 calendar day of the expenditure. Expenditures that are reported in an Independent Expenditure Report do **not** have to be reported in a 24-Hour Report. When reporting an Independent Expenditure, be sure to select Independent Expenditure as the transaction type.

I am available during normal business hours Monday through Friday for any questions that you may have.

Sincerely

Michael J. Dunn, Esq.
Political Committee and Lobbyist Registrar
Maine Ethics Commission
135 State House Station
Augusta, Maine 04333
Phone: (207) 287-4179 Fax: (207) 287-6775

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24-Hour Reports Waiver Request Cases

Selected cases from 2016-present

2020 Cases

- *Mainers for Health and Parental Rights*. On October 26, 2020, the PAC made an expenditure of \$1,000 as a contribution to the Maine Prosperity Alliance. The expenditure was entered into the Commission's e-filing system on December 15, 2020, and a late 24-Hour Report was generated. The Commission assessed an initial penalty of \$980. The PAC requested a waiver based on the inexperience of the officers and delay in receiving the penalty notice. The Commission reduced the penalty to \$750.
- *Maine Truck PAC*. On July 1, 2020, the Maine Truck PAC made an expenditure of \$2,686.68 for the purchase of golf balls to be used in a fundraiser occurring in September. This triggered a 24-Hour Report due to the primary election. The report was not filed until September. The Commission assessed an initial penalty of \$2,203.08 for the late filing. The Commission reduced the penalty to \$500 because the expenditure was not related to the election and only occurred in the 24-Hour Reporting window by chance. The Commission relied on its decision in Maine Health Care Association PAC in making this decision.

2018 Cases

- *New Mainers PAC*. On November 1, 2018, the New Mainers PAC received two contributions, totaling \$12,000. It was required to report these contributions in a 24-Hour Report by November 2, 2018, but did not do so until December 17, 2018. The Commission assessed an initial penalty of \$10,000 for the late filing. The Commission reduced the penalty to \$1,000 due to the PAC's inexperience and the filing of a 24-Hour Report by one of the contributors. Commission penalty: \$1,000
- *Maine Health Care Association PAC*. On May 31, 2018, the Maine Health Care Association PAC made three \$1,000 contributions to other Maine PACs. It was required to report these expenditures in a 24-Hour Report by June 1, 2018 because the PAC's expenditures fell within the 13 days before the June 12, 2018 primary election. The PAC did not disclose the expenditures until July 17, 2018. It requested a waiver of the \$2,760 preliminary penalty. The Commission reduced the penalty by 81% to \$500 (below the

new minimum of \$750) because the PAC's three expenditures were not made for the purpose of influencing the June 12, 2018 primary and fell within the 13-day pre-election period by accident, and the three expenditures were at the minimum \$1,000 and were fully reported within the 24-Hour reporting period by the PACs that received the contributions. Commission penalty: \$500

- *Fecteau for Leadership PAC*. On June 4, 2018, the Fecteau for Leadership PAC made a \$5,000 contribution to another PAC. It was required to report this expenditure in a 24-Hour Report by June 5, 2018, but did not do so until June 9, 2018. It requested a waiver of the \$400 preliminary penalty. Commission penalty: \$400

2016 Cases

- *Prosperity for Maine's Future PAC*. On October 28, 2016, the Prosperity for Maine's Future PAC (the PAC) made a \$5,000 expenditure in the form of a contribution to a leadership PAC of an outgoing State Representative. The Prosperity for Maine's Future PAC should have disclosed the expenditure in a 24-Hour Report due the next day, but apparently believed that the PAC receiving the contribution would take care of the necessary financial reporting. The report was filed on December 17, 2016, when the PAC was preparing its post-election report. The PAC requested a waiver of the \$4,900 preliminary penalty. Commission penalty: \$500
- *Leadership for Maine's Future PAC*. On October 26, 2016, the Leadership for Maine's Future PAC made a \$3,000 expenditure in the form of a contribution to the Maine State Republican Party. The PAC should have disclosed the \$3,000 expenditure in a 24-Hour Report due October 27, 2016. Due to a communication breakdown, the report was not filed until December 20, 2016, when the PAC was preparing its post-election report. The PAC requested a waiver of the \$3,240 preliminary penalty. Commission penalty: \$500
- *Senate Chairman's PAC*. On November 4, 2016, the Senate Chairman's PAC received two contributions that it was required to disclose in 24-Hour Reports. Due to a clerical error, the PAC treasurer reported one contribution, but neglected to file a 24-Hour Report of the other contribution in the amount of \$7,600. The PAC requested a waiver of the \$6,480 preliminary penalty. Commission penalty: \$500.
- *Empowering Maine Leadership PAC*. On November 2, 2016, the Empowering Maine Leadership PAC made four \$1,000 contributions to other PACs and a federal candidate

committee. It was required to disclose these expenditures in a 24-Hour Report by November 3, 2016, but did not file the reports until December 19, 2016. The preliminary penalty was \$3,680. Commission penalty: \$500.

- *UBC Bad for ME PAC and the Friends of Maine Sportsmen BQC.* During October 27 - November 3, 2016, the committees engaged in a series of related transactions which should have been reported in a total of six 24-Hour Reports. The PAC and BQC did not file the 24-Hour Reports until December 19, 2016, because the treasurer for the committees was unaware of the requirement. The preliminary penalties total \$7,508.70 for the PAC and \$14,407.05 for the BQC. Commission penalties: \$500 for each organization.

Title 21-A Maine Revised Statutes

Current with the Second Regular Session and Chapter 2 of the Revisor's Report for the 129th Maine Legislature.

§ 1059. Report; filing requirements

...

B. During any year in which primary and general elections are held, a committee shall file primary and general election reports in addition to the reports required under paragraph A:

- (1) On the 11th day before the date on which the election is held, which 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, which must be complete as of the 35th day after that date.

A committee shall file primary and general election reports even if the committee did not engage in financial activity to influence the primary or general election.

...

E. If a committee is required to file a report 11 days before an election pursuant to paragraph B or C, the 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.

...

§ 1062-A. Failure to file on time

...

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;
- B.** An error by the commission staff; or

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.

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, 2%;

B. For the 2nd violation, 4%; and

C. For the 3rd and subsequent violations, 6%.

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.

4. Maximum penalties. The maximum penalty under this subchapter is \$10,000 for reports required under section 1053-A, 1056-B or 1059, except that if the dollar amount of the financial activity that was not timely filed or did not substantially conform to the reporting requirements of this subchapter exceeds \$50,000, the maximum penalty is 100% of the dollar amount of that financial activity.

5. Request for a commission determination. If the commission staff finds that a committee has failed to file a report required under this subchapter, the commission staff shall mail a notice to the treasurer of the committee within 3 business days following the filing deadline informing the treasurer that a report was not received. If a committee files a report required under this subchapter late, a notice of preliminary penalty must be forwarded to the treasurer of the 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.

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 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 committee. A detailed summary of all notices must be provided to the commission.

...