



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

Commission Meeting 01/27/2021
Agenda Item #1

To: Commission
From: Erin Gordon, Candidate Registrar
Date: January 15, 2021
Re: Request by Senator Troy Jackson for Waiver of Late-Filing Penalty for 24-Hour Report

Senator Troy Jackson was a Maine Clean Election Act candidate in the November 3, 2020 general election for the Maine Senate, District 1. Senator Jackson is an experienced candidate who has served in both the Maine House of Representatives and the Senate. His deputy treasurer, Karen Tracy, was responsible for filing all regular campaign finance reports in the 2018 and 2020 elections.

Candidates who make an expenditure of \$1,000 or more in the last thirteen days before an election are required to report the expenditure in a 24-Hour Report. On October 26, 2020, Sen. Jackson paid \$1,250 to the Bangor Publishing Company for newspaper advertising. He was required to report that expenditure no later than the end of the day October 27, 2020. Sen. Jackson entered the transaction in the Commission's eFiling system, but his deputy treasurer did not complete the process of filing the 24-Hour Report until October 29, 2020, two days late. ETH. 6-7. The preliminary penalty for the late report is \$50 and the candidate is requesting a waiver of the penalty.

LEGAL REQUIREMENTS

Candidates are required to file 24-Hour Reports with the Commission during the 13 days prior to an election if they receive a contribution or make an expenditure of \$1,000 or more. 21-A M.R.S. § 1017(3-A)(C). If the candidate is late in filing a 24-Hour Report, the Commission staff calculates a preliminary penalty that is determined by a formula which takes into consideration a percentage of the total contributions or expenditures,

whichever is greater, the number of prior violations within a two-year period, and the number of days the report is late. 21-A M.R.S. § 1020-A(4-A). The Commission staff notifies the candidate of the preliminary penalty and requests that the candidate pay the penalty or request a waiver. Candidates may request a waiver for reasons set out in statute:

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;
- B. An error by the commission staff;
- C. Failure to receive notice of the filing deadline; or
- 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.

21-A M.R.S. § 1020-A(4-A).

Maine Clean Election Act candidates are required to appoint another person to serve as treasurer. The statute states that:

The treasurer shall file all campaign finance reports required by section 1017, this chapter and commission rules, unless the treasurer delegates the filing of reports to the deputy treasurer designated on the candidate's registration. A candidate may enter financial transactions in an electronic reporting system or on paper forms of the commission, but the report must be filed by the treasurer or deputy treasurer.

21-A M.R.S. § 1125(12-D). The Commission's electronic filing system is designed to reflect these legal requirements. Once logged into the eFiling system, a Maine Clean

Election Act candidate may enter expenditures, but may not file campaign finance reports. The treasurer or deputy treasurer must file each report.

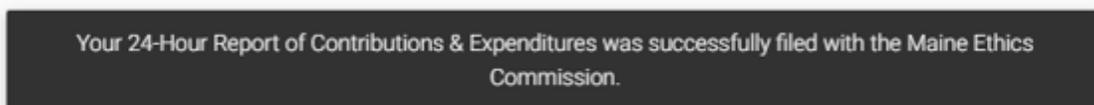
DISCUSSION

Completing a campaign finance report in the Commission’s eFiling system is a two-step process:

1. The person filing the report enters contributions and expenditures in the eFiling system and saves the transactions. Based on the transaction dates, the contributions and expenditures are assigned to the appropriate campaign finance report(s).
2. When the filer is ready for the information to become public, the filer navigates to the Filing Report page and clicks on the red “File Report” button.

The system is designed this way so that filers can enter data when it is convenient, without the financial activity immediately becoming available to the public. A page containing screenshots of two of the relevant screens is attached. ETH. 10. This two-step process is a common design for all campaign finance reports in the Commission’s eFiling system, including 24-Hour Reports.

After the report is filed, a temporary message pops up at the bottom of the screen confirming that the report has been filed:



Also, the eFiling system generates an automated email confirming the successful filing.

On October 20, 2020, the day before the start of the thirteen-day period for filing 24-Hour Reports, the Commission’s two Candidate Registrars sent an email to all candidates in the general election advising them of the 24-Hour reporting requirements for any single transaction of \$1,000 or more. ETH. 8-9. The email included specific directions on how to file the report:

“To file a 24-Hour Report, you must log on to the eFiling website and enter the transaction. Once the transaction has been entered, the system will create a 24-

Hour Report and place it in your “Immediate To Do” list on the Home page. You must then click the “File Report” link to submit the report; just entering the transaction does not fulfill the reporting requirement.”

ETH. 8. Senator Jackson was aware that he needed to file a 24-Hour Report for his \$1,250 expenditure for newspaper advertising. He contacted staff at the Maine Ethics Commission for guidance on how to file the report. Paul Lavin advised him over the phone that the Senator would first need to enter the expenditure into eFiling before the report would be generated. Senator Jackson logged into eFiling, entered the \$1,250 expenditure, and believed he was “all set.” He did not realize that his treasurer or deputy treasurer needed to take the additional step of filing the report.

On October 28, 2020 (one day after the deadline for the report), Senator Jackson reached out to his deputy treasurer, Karen Tracy, to confirm whether his 24-Hour Report had been filed. ETH. 3. Because it was after hours and Ms. Tracy believed he was referring to the 11-Day Pre-General Report that had been filed the week before, she did not file the 24-Hour Report until the following day, October 29, 2020, at which point the report was two days late.

Based on the statutory formula for calculating late-filing penalties, the preliminary penalty amount is \$50, calculated as follows:

Report	Deadline	Financial Activity	Penalty Rate	Days Late	Preliminary Penalty
24-Hour Report	10/27/2020	\$1,250	2%	2	\$50

ETH. 4-5. Through an email dated November 13, 2020, Senator Jackson asks that the Commission waive the preliminary penalty, because he was unaware that this report would need to be filed by a treasurer or deputy treasurer. ETH. 2-3. He cites additional confusion on the part of Ms. Tracy because of an error the previous week in which candidates who had successfully filed the 11-Day Pre-General Report on time were sent automated late-filing notices by the eFiling website.

STAFF RECOMMENDATION

The Commission staff appreciates that Sen. Jackson acted in good faith, fully intended to file a 24-Hour Report, and sought out advice from the Commission staff. Nevertheless, we also know it is important to the Commission members to reach consistent results in similar late-filing cases. In order to encourage candidates and others to successfully file reports, the Commission has a history of *not* granting full waivers of late-filing penalties – even in cases where a candidate or PAC treasurer has demonstrated a good-faith intention to file. Four similar examples from 2014-2016 are described on page ETH. 1. In order to be consistent with that track record, the Commission staff does not recommend reducing Senator Jackson’s penalty below \$50.

The preliminary penalty amount of \$50 is already below the usual outcomes in waiver requests by candidates. In April 2018, the Commission made the policy decision to double its final penalty determinations, in response to a 2015 citizen initiative which doubled the rate of late-filing penalties. Consequently, in 2018 and 2020, the Commission usually waived late-filing penalties against candidates downward to a range of \$300 - \$400, for example:

- from \$3,744 to \$400 – late 24-Hour Report by Cathleen Nichols
- from \$2,011.85 to \$400 – two late 24-Hour Reports by Mark Remick (combined penalty)
- from \$529 to \$350 – late 42-Day Post Primary Report by Mark Lawrence

In 2018-2020, the Commission *declined* to waive preliminary penalties that were already below \$300:

- \$40.37 – late 42-Day Pre-General Report by Jeffrey Pierce.
- \$84.00 – late 42-Day Post-Primary Report by Brian Redmond
- \$132.00 – late 42-Day Post-Primary Report by Mark Andre

A reduction in Sen. Jackson’s \$50 penalty would be inconsistent with this pattern of decisions.

In his waiver request, Senator Jackson refers to confusion caused by an erroneous email notification sent early in the morning of Saturday, October 24, 2020 by our eFiling system to hundreds of candidates and committees. The email “notified” the candidates

and committees that they had not filed the 11-Day Pre-General Report (due the previous day), even though almost all of them *had* filed the report on time. Candidate Registrar Emma Burke sent a corrective email to the affected candidates and treasurers at 10:14 am later that morning. ETH. 11.

It appears that when Sen. Jackson texted his deputy treasurer, Karen Tracy, on Oct. 28 (*see* ETH. 3), she attributed his concern over an unfiled report to the erroneous Oct. 24 email. As much as we regret this error by our eFiling system, the Commission staff does not believe that it justifies a full waiver, since the 24-Hour Report was already one day late on Oct. 28.

Senator Jackson is an experienced candidate who is aware of the requirement that campaign finance reports must be filed by a treasurer or deputy treasurer. Senator Jackson's campaign successfully filed two 24-Hour Reports in 2016, but Ms. Tracy did not start working with Senator Jackson until 2018.

Thank you for your consideration of this memo.

Examples of Waiver Requests - Transactions Entered and Saved, but Reports not Filed

2014 - House Candidate Richard Paul

- Treasurer entered and saved \$1,109.35 expenditure. Treasurer believed 24-Hour Report had been filed, but it was not.
- Preliminary penalty was \$11.09.
- On Dec. 22, 2014, the Commission declined to grant a waiver.

2014 – Mainers for Fair Bear Hunting BQC

- BQC received a \$50,000 contribution on 10/31/2014 from an affiliated national organization.
- Campaign manager entered transaction and believed she followed steps to file the 24-Hour Report, as she had done with several other 24-Hour Reports.
- Report was not filed, however.
- On Dec. 22, 2014, the Commission reduced penalty from \$1,500 to \$500, but did not grant a full waiver.

2016 – State Rep. Christine Powers

- Rep. Powers' treasurer entered one expenditure for the post-primary report due 7/26/2016.
- This was the first transaction of any kind the treasurer had entered in a campaign finance report. She mistakenly believed entering the transaction in the Commission's eFiling system resulted in a filed report.
- Preliminary penalty was \$100.
- On Aug. 31, 2016, the Commission reduced the penalty to \$50.

2016 – House Republican Majority Fund PAC

- PAC treasurer entered IE of \$6,000 in support of three House candidates but "did not hit" the file report button.
- Preliminary penalty was \$120.
- On Dec. 8, 2016, the Commission declined to grant a waiver.

Gordon, Erin

From: Troy Jackson <senatorjackson1@gmail.com>
Sent: Friday, November 13, 2020 5:25 PM
To: Gordon, Erin
Subject: Late report
Attachments: Screenshot_20201113-094412_Messages.jpg; Screenshot_20201113-094404_Messages.jpg; Screenshot_20201113-094355_Messages.jpg; Screenshot_20201113-094344_Messages.jpg

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.

Erin,

I received your letter notifying me of a violation for the 24 hour report. I understand that it did end up being filed late, but I feel strongly that I tried to file it on time. I would ask for a waiver because of a number of circumstances.

First off, I tried to file the report on time, but was unsure of how it was done since it was my first time. I looked through the site for a link to file. When I could not find a link, I called Paul Lavin and he advised me to file the expenditure like a normal expense and it would generate the 24 hour report.

I did that and thought that it was all set, but I was made aware that it needed to be treated as a normally filed report with an approved person to file the report. Unfortunately, that was not until after hours on the 28th when I had come back to my home from campaigning.

I am attaching screen shots where I asked my Deputy Treasurer to go on to the site and file the report that evening. Where it was after hours, I don't know exactly when she saw it, but she was of the belief that I was referring to the erroneous email that we had received over the weekend sent out by Ethics that we had an outstanding report due. That caused her to wait until normal business hours to ask Ethics about if my campaign was all set since she believed we had filed the originally scheduled report. She was assured that we had when she replied to me the next day. It was after that discussion that she understood that I need to file a report for the 24 hour expenditure.

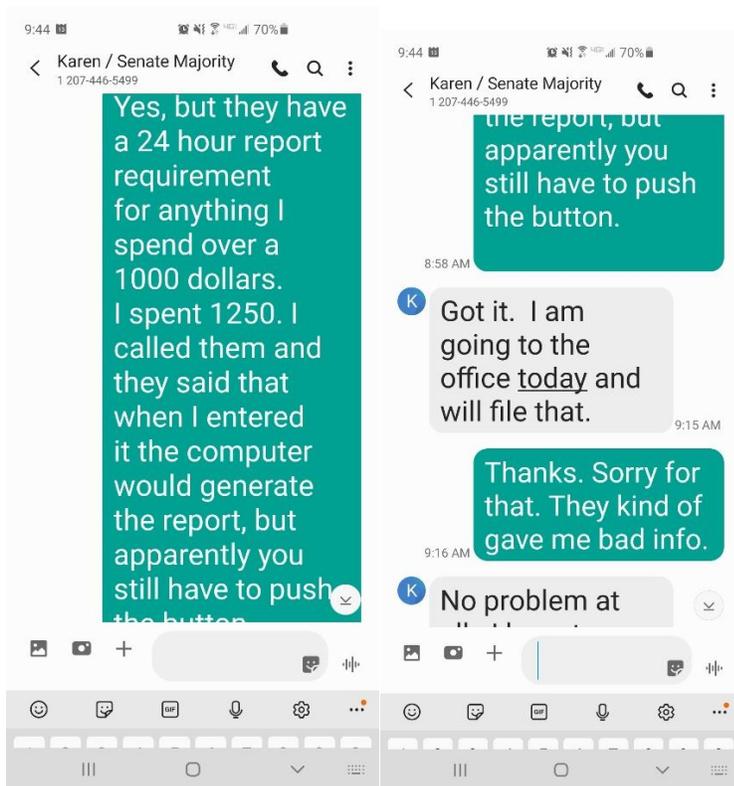
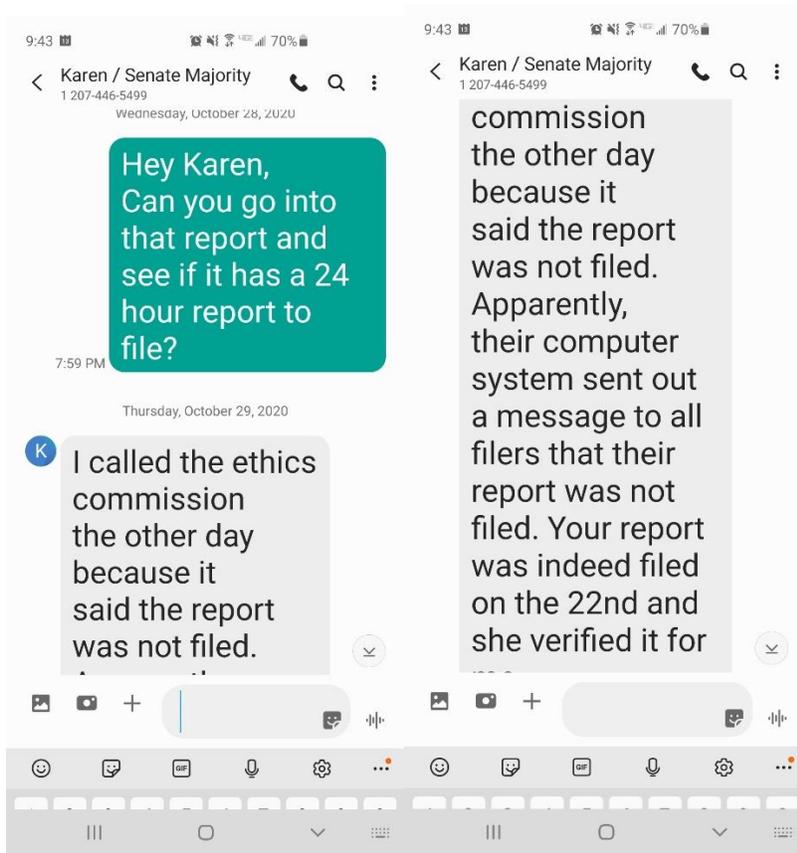
I just believe that there was a series of confusing circumstances.

1. The previous weekends erroneous email from Ethics saying that we needed to file a report that we already had filed.
2. My conversation with Paul that I understood to file it like a normal expenditure, which I did, but not understanding that someone else would need to push the button to file a completely separate report.
3. My DeputyTreasurer believing that we didn't need to file a report because we had and the previous erroneous email adding to that confusion. All of this during a time of evening that made it hard to communicate other by electronic means.

I am willing to answer any questions that may be confusing from this email. I am attaching the screenplays of the exchanges. Look forward to speaking with you in this matter.

Sincerely,

Troy Jackson
Allagash, Maine 04774
207-436-0763





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

October 30, 2020

Sen. Troy Jackson
167 Allagash Road
Allagash, Maine 04774

Re: Notice of Violation and Penalty for Late-Filed 24-Hour Report Report

Dear Sen. Jackson:

You were required to file a 24-Hour Report Report on October 27, 2020 by 11:59 p.m., but the report was not filed until October 29, 2020. Under the Commission's statutes (21-A M.R.S.A. § 1020-A(4-A)), the late filing of a report triggers an enforcement process. The Commission staff has made a preliminary finding of violation and determined that the preliminary penalty for filing the report late is \$50.00. Please see the next page for the penalty calculation.

You may request that the Commission waive the penalty in whole or in part or find that there was no violation. The request 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 report was filed late. Upon receiving your request, the Commission staff will schedule your request to be heard at an upcoming Commission meeting. You or your designee will have an opportunity to be heard at the meeting or you may submit a sworn statement to the Commission explaining the mitigating circumstances for its consideration.

The Commission may waive or reduce the penalty or find that there was no violation if it determines that the report was late due to mitigating circumstances, which are defined as (1) a valid emergency; (2) an error made by the Commission staff; or (3) relevant evidence that a bona fide effort was made to file the report on time. The Commission may also consider whether the penalty is disproportionate to the size of the candidate's campaign, the level of experience of the candidate, treasurer or campaign staff, or the harm to the public caused by the late disclosure.

The staff requests that you pay the preliminary penalty within 14 days of the date of your receipt of this notice if you do not intend to request a waiver. Please use the payment statement on the next page when paying by mail. You may also make a payment online at www.maine.gov/ethics by clicking the "Penalty Payment" link. Please contact me at (207) 287-3651 or erin.gordon@maine.gov if you have any questions.

Sincerely,

Erin Gordon
Candidate Registrar

cc:

Penalty Calculation

The penalty for filing a campaign finance report late is based on a percentage of the total contributions or expenditures for the reporting period, whichever is greater, multiplied by the number of days late. The percentage is based on your history of past violations: 2% for the first violation, 4% for the second violation, and 6% for the third and each subsequent violation. Violations for late-filed reports accumulate in the two-year period beginning on January 1st of each even-numbered year. A penalty accrues daily beginning on the day following the filing due date. Any penalty of less than \$10 is automatically waived.

How Your Penalty Was Calculated

Filer: Troy Jackson			
Late-Filed Report: 24-Hour Report			
Contributions	\$0.00		Penalty Base Amount
Expenditures	\$1,250.00		Percentage
Due Date	October 27, 2020		Daily Accrual Rate
Date Filed	October 29, 2020		Days Late
Previous Violations	0		Your Total Penalty
			\$1,250.00
			2%
			\$25.00
			2
			\$50.00

Payment Statement and Payment Options

From: Troy Jackson

Penalty Amount: \$50.00

Amount Enclosed: _____

Check/M.O. #: _____

BY MAIL: Enclose this payment statement with your payment.

Please make check or money order payable to: Treasurer, State of Maine

Mail to: Maine Ethics Commission
135 State House Station
Augusta, Maine 04333-0135

ONLINE: Go to www.maine.gov/online/ethics/penalties.



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
Hon. Troy D Jackson 167 Allagash Road Allagash, ME 04774 PHONE:(207) 436-0763 EMAIL: senatorjackson1@gmail.com		Colleen McBreairy 526 Dickey Road Allagash, ME 04774 PHONE:(207) 398-3567 EMAIL: colleenmcbreairy@mail.com
REPORT	DUE DATE	REPORTING PERIOD
24-Hour Report of Contributions & Expenditures	10/27/2020	10/26/2020-10/26/2020

FINANCIAL ACTIVITY SUMMARY

CONTRIBUTIONS AND EXPENDITURES	
1. TOTAL CONTRIBUTIONS / LOANS	\$0.00
2. TOTAL EXPENDITURES	\$1,250.00
3. TOTAL DEBTS	\$0.00

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

REPORT FILED BY: Karen Tracy
 REPORT FILED ON: 10/29/2020 1:37:08 PM
 LAST MODIFIED:
 COMMITTEE ID: 360738

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
10/26/2020	Bangor Publishing Company 1 MERCHANT PLAZA BANGOR, ME, 04401	Newspaper ad	NEW	\$1,250.00
TOTAL EXPENDITURES FOR CANDIDATE:				\$1,250.00

Gordon, Erin

From: Gordon, Erin
Sent: Tuesday, October 20, 2020 3:30 PM
Subject: CRITICAL REMINDER - 24-HOUR REPORTING PERIOD AND REPORTING DEBTS

PLEASE READ THIS EMAIL THOROUGHLY:

As a reminder, the 24-Hour Reporting Period begins **tomorrow, Wednesday, October 21st, and ends on Monday, November 2nd**. During the 24-Hour Reporting Period, any transactions in the following list **must be reported within twenty-four hours after the transaction occurs** on the Commission's eFiling website:

- Any single contribution of \$1,000 or more
- Any single loan of \$1,000 or more
- Any single expenditure of \$1,000 or more
- Any single unpaid debt or unpaid order of \$1,000 or more
 - o This is regardless of whether you have an invoice or have made a payment on a purchase – if you agree to or place an order with a vendor that is, or may be, \$1,000 or more, you are required to report it as a debt on a 24-Hour Report during the 24-Hour Reporting Period

To file a 24-Hour Report, you must log on to the eFiling website and enter the transaction. Once the transaction has been entered, the system will create a 24-Hour Report and place it in your "Immediate To Do" list on the Home page. You must then click the "File Report" link to submit the report; just entering the transaction does not fulfill the reporting requirement.

This email also serves as a reminder about the importance of reporting debts and unpaid obligations. The Commission staff are concerned about the limited number of debts that have been reported so far this year. **Debts must be reported when a reporting period ends, and you have placed an order during that reporting period that you have not fully paid for yet.** Even if you do not have an invoice with the exact cost, you are responsible for at least having an estimate of how much your order(s) will cost; you will report the estimate as the debt.

- For instance, candidate Robin Brown agrees to a third direct mail purchase with their direct mail vendor on October 15th. Robin needs to file their 11-Day Pre-General Report on October 23rd, but doesn't have an invoice yet. However, they know that their last two direct mail pieces have cost around \$1,500, so Robin reports a debt of \$1,500 with a date of October 15th on their 11-Day Pre-General Report.

TO SUM UP, EVERY ORDER PLACED OR AGREED TO

- **ON OR BEFORE OCTOBER 20TH MUST BE INCLUDED ON THE 11-DAY PRE-GENERAL REPORT**
- **BETWEEN OCTOBER 21ST AND NOVEMBER 2ND OF \$1,000 OR MORE MUST BE REPORTED IN A 24-HOUR REPORT**

If you have questions or concerns about this email, please call or email me.

Erin Gordon

Candidate Registrar

Maine Ethics Commission

(207) 287-3651 | www.maine.gov/ethics

135 State House Station, Augusta, ME 04333-0135

45 Memorial Circle, Augusta, ME

Illustration of Two Steps for Filing Campaign Finance Reports

Step 1 – Filer enters and saves transactions

The screenshot shows the 'New Expenditure' form in the Maine Ethics Commission Campaign Finance Reporting system. The form is titled 'New Expenditure' and has a close button (X) in the top right corner. The form fields are as follows:

- Payee Type:** Business
- Payee:** Bangor Publishing Company
- Purpose:** NEW - Newspaper and print media ads only
- Expenditure Amount:** 1,250.00
- Expenditure Date:** 11/26/2020
- Explanation of Purpose:** Newspaper Ad

The form also includes a 'SAVE' button at the bottom right. The background shows a sidebar with navigation options like Home, View/File Reports, Contributions, Expenditures, Debts, Contributor/Payee, Import Manager, Administration, Public Site, and Logout. The top navigation bar includes a search bar and a '+ NEW TRANSACTION' button. The bottom of the page shows the user's name, 'JONATHAN WAYNE for Hon. Troy D. Jackson', and a table with 1 row and 1 column, showing '12/120'.

Step 2 – Filing page (after entering transactions, filers must navigate to this page to click “File Report” button)

The screenshot shows the '24-Hour Report of Contributions & Expenditures' filing page in the Maine Ethics Commission Campaign Finance Reporting system. The page is titled '24-Hour Report of Contributions & Expenditures: 10/26/2020 - 10/26/2020' and has a 'PREVIEW' button and a 'FILE REPORT' button in the top right corner. The page also includes a 'PREVIEW' button and a 'FILE REPORT' button. The page content is as follows:

- Cash Summary:**
- Receipts:** \$0.00
- Expenditures:** -\$1,250.00
- Other Activity:**
- Total Unpaid Debts at End of Period:** \$0.00

The page also includes a 'PREVIEW' button and a 'FILE REPORT' button. The background shows a sidebar with navigation options like Home, View/File Reports, Contributions, Expenditures, Debts, Contributor/Payee, Import Manager, Administration, Public Site, and Logout. The top navigation bar includes a search bar and a '+ NEW TRANSACTION' button. The bottom of the page shows the user's name, 'JONATHAN WAYNE for Hon. Troy D. Jackson', and a table with 1 row and 1 column, showing '1-10 of 50'.

Gordon, Erin

From: Burke, Emma
Sent: Saturday, October 24, 2020 10:14 AM
To: Gordon, Erin
Cc: Wayne, Jonathan; Lavin, Paul; Brann, Lorrie J
Subject: Erroneous Noticed of Unfiled & Late Reports

Dear candidates and treasurers,

It has come to our attention that our web developer sent out erroneous emails to *all* candidates and treasurers this morning that their 11-Day Pre-General Reports had not been filed. If you are receiving this email, I can confirm to you that your **report was filed!** I am SO sorry about this much stress and anxiety being injected into the final days your campaigns. Again, if you are receiving this email, **your report has been filed and you can ignore the email about your report not being filed yet.**

Emma J. Burke
Candidate Registrar
Maine Ethics Commission
(207) 287-4727

Stay safe. Stay home. Thank your essential workers.

year. These reports must include all contributions made to and all expenditures made or authorized by or on behalf of the candidate or the treasurer of the candidate as of the end of the preceding month, except those covered by a previous report.

B. Reports must be filed no later than 11:59 p.m. on the 11th day before the date on which an election is held and must be complete as of the 14th day before that date. If a report was not filed under paragraph A, the report required under this paragraph must cover all contributions and expenditures through the 14th day before the election.

→ C. Any single contribution of \$1,000 or more received or any single expenditure of \$1,000 or more made after the 14th day before any election and more than 24 hours before 11:59 p.m. on the day of any election must be reported within 24 hours of that contribution or expenditure. The candidate or 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.

D. Reports must be filed no later than 11:59 p.m. on the 42nd day after the date on which an election is held and must be complete for the filing period as of the 35th day after that date.

D-1. Reports must be filed no later than 11:59 p.m. on the 42nd day before the date on which a general election is held and must be complete as of the 49th day before that date, except that this report is not required for candidates for municipal office.

E. Unless further reports will be filed in relation to a later election in the same calendar year, the disposition of any surplus or deficit in excess of \$100 shown in the reports described in paragraph D must be reported as provided by this paragraph. The treasurer of a candidate with a surplus or deficit in excess of \$100 shall file reports semiannually with the commission within 15 days following the end of the 2nd and 4th quarters of the State's fiscal year, complete as of the last day of the quarter, until the surplus is disposed of or the deficit is liquidated. The first report under this paragraph is not required until the 15th day of the period beginning at least 90 days from the date of the election. The reports will be considered timely if filed electronically or in person with the commission on that date or postmarked on that date. The reports must set forth any contributions for the purpose of liquidating the deficit, in the same manner as contributions are set forth in other reports required in this section.

F. Reports with respect to a candidate who seeks nomination by petition must be filed on the same dates that reports must be filed by a candidate for the same office who seeks that nomination by primary election.

3-B. Accelerated reporting schedule. (REPEALED)

4. New candidate or nominee. A candidate for nomination or a nominee chosen to fill a vacancy under Chapter 5, subchapter 3 is subject to section 1013-A, subsection 1, except that the candidate shall register the name of a treasurer or political committee and all other information required in section 1013-A, subsection 1, paragraphs A and B within 7 days after the candidate's appointment or at least 6 days before the election, whichever is earlier. The commission shall send notification of this registration requirement and report forms and schedules to the candidate

of perjury, as provided in Title 17 A, section 451, a statement under oath or affirmation whether the expenditure is made in cooperation, consultation or concert with, or at the request or suggestion of, the candidate or an authorized committee or agent of the candidate.

C. A report required by this subsection must be on a form prescribed and prepared by the commission. A person filing this report may use additional pages if necessary, but the pages must be the same size as the pages of the form. The commission may adopt procedures requiring the electronic filing of an independent expenditure report, as long as the commission receives the statement made under oath or affirmation set out in paragraph B by the filing deadline and the commission adopts an exception for persons who lack access to the required technology or the technological ability to file reports electronically. The commission may adopt procedures allowing for the signed statement to be provisionally filed by facsimile or electronic mail, as long as the report is not considered complete without the filing of the original signed statement.

5. Exclusions. An independent expenditure does not include:

- A. An expenditure made by a person in cooperation, consultation or concert with, or at the request or suggestion of, a candidate, a candidate's political committee or their agents;
- B. A telephone survey that meets generally accepted standards for polling research and that is not conducted for the purpose of changing the voting position of the call recipients or discouraging them from voting;
- C. A telephone call naming a clearly identified candidate that identifies an individual's position on a candidate, ballot question or political party for the purpose of encouraging the individual to vote, as long as the call contains no advocacy for or against any candidate; and
- D. A voter guide that consists primarily of candidates' responses to surveys and questionnaires and that contains no advocacy for or against any candidate.

21-A § 1020. Failure to file on time (REPEALED)

21-A § 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.

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;

- B. An error by the commission staff;
- C. Failure to receive notice of the filing deadline; or
- 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.

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.

4. Basis for penalties. (REPEALED)

4-A. Basis for penalties. The penalty for late filing of a report required under this subchapter is a percentage of the total contributions or expenditures for the filing period, whichever is greater, multiplied by the number of calendar days late, as follows:

- A. For the first violation, 2%;
- 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 two-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.

5. Maximum penalties. (REPEALED)

5-A. Maximum penalties. Penalties assessed under this subchapter may not exceed:

A. Five thousand dollars for reports required under section 1017, subsection 2, paragraph B, C, D, E or H; section 1017, subsection 3-A, paragraph B, C, D, D-1 or F; and section 1017, subsection 4, except that if the financial activity reported late exceeds \$50,000, the maximum penalty is 100% of the amount reported late;

A-1. Five thousand dollars for reports required under section 1019 B, subsection 4, except that if the financial activity reported late exceeds \$50,000, the maximum penalty is 100% of the amount reported late;