



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

Commission Meeting 09/29/2021
Agenda Item #3

To: Commission
From: Michael Dunn, Esq., Lobbyist Registrar
Date: September 17, 2021
Re: Request for Waiver of Late-Filing Penalties by Anya Fetcher, Lobbyist

Once registered, lobbyists are required to file monthly reports of their lobbying activities, using the Commission's electronic filing system. A lobbyist must file a monthly report for each client on the 15th day of the month that discloses their lobbying activities during the preceding month. Ms. Anya Fetcher, the lobbyist for Environment Maine, was required to file a monthly lobbyist report for her client on June 15, 2021, covering the month of May. ETH. 5-6. Ms. Fetcher encountered technical issues and her internet service went down while completing the form. Her lobbyist report was filed six minutes late at 12:05 AM on June 16, 2021. ETH. 1.

On June 16, 2021, Commission staff assessed a preliminary penalty of \$50. ETH. 4. On July 15, 2021, Commission staff sent a follow-up email reminding Ms. Fetcher of the penalty. ETH. 3. On August 30, 2021, the Commission staff sent a final reminder. ETH. 2. Ms. Fetcher contacted Commission staff, indicating that she thought she had responded to the Commission staff's earlier correspondence and asked for a waiver of the penalty.¹

LEGAL REQUIREMENTS

All registered lobbyists are required to file monthly reports for each calendar month they are registered. Reports are due 11:59 p.m. on the 15th day of the following month (*i.e.*, the June lobbying report is due July 15th). 3 M.R.S. § 317. For late reports filed less than 24 hours past the deadline, the preliminary penalty is \$50. 3 M.R.S. § 319(1). ETH. 10.

¹ The Commission has previously given the Commission staff discretion in presenting waiver requests that are filed after the deadline to request waivers. The mitigating factors in this case are significant and the harm to the public appears to be minimal. The Commission staff is hoping for feedback from the Commission regarding whether such factors warrant mitigation of the penalty.

The Commission may waive the penalty in whole or in part based on several statutory factors, including if the Commission finds that a lobbyist made was delayed in filing due to unexplained interruptions in Internet service. 3 M.R.S. § 319(1). ETH. 10.

DISCUSSION AND STAFF RECOMMENDATIONS

The Commission may waive a penalty if the Commission determines that the penalty is disproportionate to the level of experience of the lobbyist or the harm suffered by the public, or for other circumstances determined by the Commission to warrant the waiver, including unexplained delays in internet service. 3 M.R.S. § 319(1). Historically, the Commission has not granted full waivers for late lobbying reports, unless the filer had a medical or family emergency. See, Courtney Waiver Request (10/16/2020)(Two Late reports because he erroneously believed he submitted a non-session waiver. The Commission reduced the \$100 penalty to \$50 because of the common mistake resulting in two violations); Donoghue Waiver Request (5/27/2020)(The Commission reduced the \$100 penalty to \$50 because she made a bona fide effort to file the report timely). However, the Commission has not considered whether an unexplained delay in internet service warrants a full waiver for lobbyists.²

The Commission generally does not reduced penalties for lobbyists below \$50. The Commission staff notes that Ms. Fetcher has less than one years' experience as a lobbyist, the public suffered minimal harm because the report was filed six minutes late and no lobbying was conducted by Ms. Fetcher in that month. The Commission staff recommends that the Commission gather more information regarding the delay in internet service from Ms. Fetcher. The Commission's e-filing website shows that she logged on at 11:59:53 PM on June 15, 2021. Commission staff is unsure how the e-filing system's timestamp would respond to the user losing internet while connected. For purposes of

² The Commission has considered analogous cases for late candidate and committee reports. See, Volk Waiver Request (2016) (Treasurer encountered unexplained delay in internet, but the Commission imposed a \$150 penalty because the candidate was traditionally financed and could have filed the report herself); Short Waiver Request (2016) (Commission imposed the \$98.10 penalty); and Revive Home Town Maine PAC (2020) (A storm caused a power outage that affected the PAC's computer. The Commission reduced the penalty from \$510 to \$250).

this discussion, Commission staff is assuming that Ms. Fetcher regained internet around 11:59 PM and that this time stamp represents her reconnecting to the e-filing system.³

Absent clear direction from the Commission, the Commission staff is reluctant to recommend a reduction of the \$50 penalty. The Commission staff agrees that mitigating circumstances exist in this case; however, that alone may not be enough to warrant a reduction. Accordingly, the Commission staff recommends that the Commission deny the waiver request and impose the \$50 penalty for the late filing of the May Lobbying Report, due on June 15, 2021.

Thank you for your attention to this matter.

³ Commission staff is making this assumption because of the uncertainty regarding the system and is placing the situation in the best light for Ms. Fetcher.

September 7, 2021

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

Re: Request for waiver

Dear Members of the Maine Ethics Commission:

I would like to request a waiver on the \$50 penalty for the late filing of the May 2021 lobbyist disclosure report for Environment Maine. The report was due by 11:59pm on 6/15/21, and I filed it six minutes late at 12:05pm on 6/16/21. My internet service went down in the midst of my filling out the form, causing the delayed filing.

Considering that this is my first year as a registered lobbyist and that I submitted the report only six minutes past the deadline, I request that the penalty be waived.

Thank you for your consideration in this matter.

Sincerely,

A handwritten signature in black ink that reads "Anya Fetcher". The signature is written in a cursive, flowing style.

Anya Fetcher
Environment Maine State Director
afetcher@environmentmaine.org
651-334-8906



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

August 30, 2021

Ms. Anya Fetcher
819 Congress Street, Apt. 7
Portland, ME 04102

Re: Late-Filed May Lobbyist Report – Final Follow-up

Dear Ms. Fetcher:

The Commission staff assessed a preliminary penalty of \$50 for the late filing of the 2021 May Lobbyist Disclosure Report for your client Environment Maine. The Commission staff notified you of this by mailing on 06/16/2021. The Commission staff sent a follow-up on 07/15/2021. To date, this \$50 penalty has not been paid.

Please pay this penalty by 09/17/2021. You may mail a check, payable to “Treasurer, State of Maine,” for \$50 to the Ethics Commission at 135 State House Station, Augusta, Maine 04333. You may also pay with a Visa or MasterCard online at www.maine.gov/ethics by selecting the “penalty payment” option. Failure to do so may result in a referral to the Office of Attorney General for collections.

Please call me at (207) 287-4179 or send me an email at michael.dunn@maine.gov.

Sincerely,

Michael J. Dunn

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

Enclosure

If paying by check, please return this portion with your payment. Thank you.

From: Ms. Anya Fetcher for Environment Maine
Re: Penalty for late filing of May 2021 Lobbyist Disclosure Report (\$50.00).

Enclosed: \$ _____ Check/M.O. No.# _____

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

PHONE: (207) 287-4179

FAX: (207) 287-6775

ETH - 2

From: [Dunn, Michael](#)
To: ["afetcher@environmentmaine.org"](mailto:afetcher@environmentmaine.org)
Cc: [Brann, Lorrie J](#)
Subject: Lobbyist Report Reminder
Date: Thursday, July 15, 2021 9:43:49 AM

Hi Anya:

You have a lobbyist report due today and it looks like you have an outstanding \$50 penalty from the previous report. Please let me know if I can be of assistance.

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

June 16, 2021

Ms. Anya Fetcher
819 Congress Street, Apt. 7
Portland, ME 04102

Re: Late-Filed May Lobbyist Report

Dear Ms. Fetcher:

The Commission staff has made a preliminary determination that a penalty of \$50 applies for the late filing of the May 2021 lobbyist disclosure report for your client, Environment Maine. See, 3 MRSA § 319. The report was due on June 15, 2021 but was not filed until June 16, 2021.

If you disagree with the preliminary penalty, you may request a waiver by submitting a statement, in writing, to the Commission stating the reason the report was filed late and requesting that the preliminary penalty be waived. All requests for waiver will be included on the agenda for the next Commission meeting.

If you do not intend to seek a waiver of the preliminary penalty, please mail a check, payable to "Treasurer, State of Maine," for the above amount to the Ethics Commission at 135 State House Station, Augusta, Maine 04333. You may also pay with a Visa or MasterCard online at www.maine.gov/ethics by selecting the "penalty payment" option.

Please either pay the preliminary penalty or submit a request for waiver within 14 days of the date of this letter. Please call me at (207) 287-4179 or send me an email at michael.dunn@maine.gov.

Sincerely,

Michael J. Dunn

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

If paying by check, please return this portion with your payment. Thank you.

From: Ms. Anya Fetcher for Environment Maine
Re: Penalty for late filing of May 2021 Lobbyist Disclosure Report (\$50.00).
Enclosed: \$ _____ Check/M.O. No.# _____

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

PHONE: (207) 287-4179

FAX: ~~(207)~~ **ETH-4** 287-6775



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

LOBBYIST DISCLOSURE REPORT FOR MAY 2021

LOBBYIST INFORMATION		
Anya Fetcher		Telephone: (651) 334-8906
819 Congress St, Apt 7 Portland, ME 04102		afetcher@environmentmaine.org
		ID: 12165
CLIENT INFORMATION		
Environment Maine		Telephone: (651) 334-8906
Principal Contact: Anya Fetcher		
110 Marginal Way #960 Portland, ME 04101		afetcher@environmentmaine.org environmentmaine.org
LOBBYIST ASSOCIATES		
TOTAL COMPENSATION FOR LOBBYING		
\$0.00 Legislative Branch Officials	\$0.00 Executive Branch Officials	\$0.00 Constitutional Officials
TOTAL EXPENDITURES MADE FOR LOBBYING ACTIVITIES		
\$0.00 Legislative Branch Officials	\$0.00 Executive Branch Officials	\$0.00 Constitutional Officials
TOTAL EXPENDITURES MADE TO OR ON BEHALF OF OFFICIALS AND FAMILY MEMBERS		
\$0.00 Legislative Branch Officials	\$0.00 Executive Branch Officials	\$0.00 Constitutional Officials
EXPENDITURES OF \$25 OR MORE FOR OFFICIALS AND FAMILY MEMBERS		
LIST OF EVENTS AND ATTENDEES IF \$250 OR MORE WAS SPENT ON OFFICIALS		
LEGISLATIVE ACTIONS THAT WERE THE SUBJECT OF LOBBYING		
Bills	LD 101, LD 125, LD 155, LD 336, LD 437, LD 940, LD 1023, LD 1471, LD 1541, LD 1708	
Issues		
LEGISLATIVE ACTIONS FOR WHICH COMPENSATION/EXPENDITURES EXCEEDED \$1,000		
Bills		
Issues		
ORIGINAL SOURCES OF CONTRIBUTIONS/PAYMENTS OF \$1,000 OR MORE TO CLIENT		
LEGISLATIVE ACTIONS THAT WERE THE SUBJECT OF GRASSROOTS LOBBYING (OVER \$2,000)		
CERTIFICATION		

I, Anya Fetcher, affirm that the information contained in this report is true and complete and that no information is knowingly withheld to the best of my knowledge.

Report Filed by: Anya Fetcher
Report Filed on: June 16, 2021

If this report is filed by an authorized agent of the Principal Lobbyist, the Principal Lobbyist and the agent are liable for any violations of the Lobbyist Disclosure Law (3 M.R.S.A Chapter 15) that may result from the filing of a false or inaccurate report

Unsworn falsification is a Class D crime (17-A M.R.S.A. § 453).

Title 3 M.R.S.

Current with the Second Regular Session of the 129th Maine Legislature.

§ 317. Reports

Reports required by this section must be on forms prescribed or approved by the commission. The forms must provide for a sworn statement that the persons signing the report acknowledge the truth and completeness of all the information contained therein.

1. Monthly session reports. During the period in which the Legislature is in session, every registered lobbyist shall file with the commission, no later than 11:59 p.m. on the 15th calendar day of each month, a report concerning the lobbyist's activities for the previous month regarding each employer.

Every lobbyist shall report that lobbyist's lobbying activities for each month that the Legislature is in session, even if no lobbying has been performed or compensation or reimbursement for expenses received for the month. In the case of a lobbyist representing multiple employers, if no lobbying or services in support of lobbying were performed, one report listing each employer on whose behalf no lobbying was conducted may be submitted. The monthly report must contain the following information:

- A. The month to which the report pertains;
- B. The name and address of the lobbyist and employer;
- C. The names of the individuals who lobbied during the month;
- D.

The specific dollar amount of compensation received for lobbying activities, as defined in section 312-A, subsection 9, during the month. The amount of compensation received for lobbying officials in the legislative branch, officials in the executive branch and constitutional officers must be reported separately.

In the case of a regular employee, the specific dollar amount must be computed by multiplying the number of hours devoted to the preparation of documents and research for the primary purpose of influencing legislative action and to lobbying by the employee's regular rate of pay based on a 40-hour week;

E. The specific dollar amount of expenditures made or incurred by the lobbyist during the month that is the subject of the report for purposes of lobbying as defined in section 312-A, subsection 9 for which the lobbyist has been or expects to be reimbursed. The amount of expenditures for lobbying officials in the legislative branch, officials in the executive branch and constitutional officers must be reported separately;

E-1. When expenditures for the purposes of indirect lobbying exceed \$ 15,000 during the month that is the subject of the report, the specific dollar amount of expenditures for indirect lobbying made or incurred during the month by a lobbyist, lobbyist associate or employer, with separate totals for expenditure categories as determined by the commission, the legislative

actions that are the subject of the indirect lobbying and a general description of the intended recipients;

F. The total amount of expenditures by the lobbyist or the employer directly to or on behalf of one or more covered officials, including members of the official's immediate family;

G. For any expenditure of money or anything of value made by the lobbyist or employer on behalf of a covered official or a member of the official's immediate family with a total retail value of \$ 25 or more, the name of the official or family member, the person making the expenditure and the date, amount and purpose of the expenditure;

G-1. The date and a description of an event, a list of all officials in the legislative branch or executive branch or members of an official's immediate family in attendance and the total amount of expenditures for the event, if the total amount of the expenditures for officials and family members is \$ 250 or more;

H. A list of each legislative action by Legislative Document number, specific issue, nomination or other matter in connection with which the lobbyist is engaged in lobbying;

I. A list specifically identifying each legislative action for which the lobbyist was compensated or expects to be compensated, or expended in excess of \$ 1,000 for lobbying activities related to those actions and a statement of the amounts compensated or expended for each; and

J. A list of all of the employer's original sources and a statement of the dollar amounts contributed or paid by the original sources to the employer. If the original source is a corporation formed under Title 13 or 13-C or former Title 13-A, nonprofit corporation formed under Title 13-B or limited partnership under Title 31, the corporation, nonprofit organization or limited partnership, not the individual members or contributors, must be listed as the original source.

2. Repealed. Laws 2011, c. 179, § 5.

2-A. Electronic filing. Beginning January 1, 2006, a lobbyist shall file monthly session reports under subsection 1 through an electronic filing system developed by the commission. The commission may make an exception to this electronic filing requirement if a lobbyist submits a written request that states that the lobbyist lacks access to the technology or the technological ability to file reports electronically. The request for an exception must be submitted at least 10 days prior to the deadline for the first report that the lobbyist is required to file for the lobbying year. The commission shall grant all reasonable requests for exceptions.

3. Facsimile copies. The commission may, by rules adopted pursuant to the Maine Administrative Procedure Act, Title 5, chapter 375, establish procedures and fees by which facsimile copies of duly executed reports required by this section may be received and filed with the commission.

4. Monthly nonsession reports. When the Legislature is not in regular session, every registered lobbyist must either file:

A. With the lobbyist's last monthly report for that regular session a statement that the lobbyist will not engage in lobbying activities when the Legislature is not in session. The lobbyist is required to file a monthly report for lobbying activity conducted during a special session; or

B. If the lobbyist is engaged in lobbying in any of those months, a monthly report in the manner prescribed in subsection 1 even if compensation or reimbursement for expenses has not been received for the month.

If the lobbyist did not expect to be engaged in lobbying when the Legislature was not in session, the commission may waive the requirement for the months between the end of the session and the renewal of lobbying.

Title 3 M.R.S.

Current with the Second Regular Session of the 129th Maine Legislature.

§ 319. Penalty

1. Failure to file registration or report. Any person who fails to file a registration or report as required by this chapter may be assessed a fine of \$ 100 for every month the person fails to register or is delinquent in filing a report pursuant to section 317. If a registration or report is filed late, the commission shall send a notice of the finding of violation and preliminary penalty. The notice must provide the lobbyist with an opportunity to request a waiver of the preliminary penalty. If a lobbyist files a report required pursuant to section 317 within 24 hours after the deadline, the amount of the preliminary penalty is \$ 50. The commission may waive the fine or penalty in whole or in part if the commission determines the failure to register or report was due to mitigating circumstances or the fine or penalty is disproportionate to the level of experience of the lobbyist or the harm suffered by the public from the late registration or report. For purposes of this subsection, “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 fine or penalty in whole or in part;
- B. An error by the commission; or
- C. Circumstances determined by the commission to warrant the waiver of the fine or penalty in whole or in part, based upon relevant evidence presented that a bona fide effort was made to file the report in accordance with this chapter, including, but not limited to, unexplained delays in Internet service.

1-A. Notice of suspension. Any person who fails to file a report or pay a fee as required by this chapter may be suspended from further lobbying by written notice of the commission until such failure is corrected.

2. Repealed. Laws 1979, c. 632, § 3.

3. Exemption. Notwithstanding section 317, subsection 1, a registered lobbyist is exempt from the penalty imposed under this section if, while the Legislature is convened in special session, the lobbyist failed to file a report with the commission pursuant to section 317 if no lobbying has been performed during that special session.