



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

To: Commissioners
From: Erin Gordon, Candidate Registrar
Date: October 23, 2024
Re: Request for Waiver of Late Filing Penalty by Candidate Richard Cyr

Richard Cyr is a first-time candidate running for Senate using the Maine Clean Election Act program. He was required to file the 42-Day Pre-General Report by 11:59 p.m. on September 24, 2024. The report was filed on September 25, one day late, by Mr. Cyr's treasurer, Michael Capeci. Mr. Capeci is an experienced treasurer who has assisted many candidates as well as serving as treasurer for the Maine College Republicans. The preliminary penalty for the late report is \$498.50 and Mr. Cyr is requesting a full waiver of the penalty.

LEGAL REQUIREMENTS

Candidates for legislature are required to file the 42-Day Pre-General Report no later than 11:59 p.m. on the 42nd day before the date on which an election is held and must be complete for the filing period as of the 49th day before that date. 21-A M.R.S. § 1017(3-A)(D). When a candidate files a late campaign finance report, the amount of the preliminary penalty is set by a statutory 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 candidate may request a waiver of the preliminary penalty due to mitigating circumstances under § 1020-A(2)&(6).

DISCUSSION

On September 24, Candidate Registrar Erin Gordon sent an email reminder to all candidates who had not yet filed the report, advising them that if they were receiving the email, the report still needed to be filed. Mr. Cyr received this email. He was also sent automatic reminder emails from the Commission's eFiling site two weeks, one week, and one day before the September 24 filing deadline.

Based on the statutory formula for calculating late-filing penalties, the preliminary penalty amount is \$498.50, calculated as follows:

Report	Deadline	Financial Activity	Penalty Rate	Days Late	Preliminary Penalty
42-Day Pre-General Report	09/24/2024	\$24,925	2%	1	\$498.50

In his waiver request, Mr. Cyr says that he had completed entering all transactions for the reporting period three days prior to the deadline. As an MCEA candidate, Mr. Cyr cannot file his own reports, so he told his treasurer the report was ready to be filed at that time. The letter goes on to say that Mr. Capeci had tried to file the report but was experiencing wi-fi troubles and did not realize the report had not gone through. Mr. Capeci logged in first thing the morning of September 25 and filed the report.

STAFF RECOMMENDATION

Timely campaign finance reports are an integral part of campaign finance transparency and disclosure. The Legislature deems timely filing to be of the utmost importance, as the statute requires late-filing penalties to increase by each day past the due date the report is filed. All campaigns are expected to pay attention to and meet all reporting deadlines, especially when multiple reminders are sent for each due date. Even when candidates have missed deadlines acting in good faith, the Commission has assessed penalties to reinforce the importance of filing campaign finance reports on time.

A chart of candidate penalties since 2018 is attached. In recent election years, the Commission generally has reduced late-filing penalties against candidates to a range of \$300 - \$350. The most recent examples, from the Commission's January 2023 meeting, are:

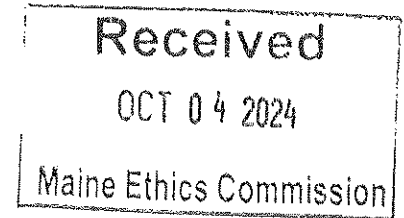
- from \$1,573.73 to \$350 – late 24-Hour Report by Ronald Russell
- from \$1,826.24 to \$350 – late 24-Hour Report by Reagan Paul
- from \$3,680.00 to \$350 – late 24-Hour Report by Neil MacLean, Jr.

Richard Cyr is running as a replacement candidate, making the 42-Day Pre-General Report only his second report of the cycle. Although Mr. Cyr is an inexperienced candidate, Mr. Capeci is not. Administrative records show that while Mr. Cyr did in fact log in three days ahead of the deadline to enter the information for the report, Mr. Capeci did not log into the eFiling site at all

until the report was already late. Commission staff recognizes that Mr. Cyr entered the information in the report prior to the deadline, but he should have verified that his treasurer filed the report by the evening of September 24th so that the information was available to the public on time. Taking all these factors into consideration, the Commission staff recommend reducing the penalty to \$300.

Richard Cyr for State Senate
537 Billings RD.
Hermon, Maine

04401



Erin Gordon
Candidate registrar
135 State House Station
Augusta, ME 04333-0135

Dear Ms. Gordon:

I am writing to you to request a complete waiver of the \$498.50 penalty. I had finished my report and told my treasurer that it was complete 3 days prior to the deadline. He said he would submit it. On the 25th I received your E-mail that the report had not been received and let the treasurer know and he immediately resent the message. He indicated that he had not checked to make sure it went through and said there had been a Wi-Fi failure/poor signal. Being this is the first time I have run for state office. I plead ignorance and will make sure I follow through and make sure that following reports are submitted on time.

With due respect,

A handwritten signature in black ink, appearing to read "Richard Cyr". The signature is fluid and cursive, with the first name "Richard" and last name "Cyr" clearly distinguishable.

Richard Cyr

Phone (207) 735-3746



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

September 25, 2024

Richard Cyr
537 Billings Road
Hermon, Maine 04401

Re: Notice of Violation and Penalty for Late-Filed 42-Day Pre-General Report

Dear Mr. Cyr:

You were required to file the 42-Day Pre-General Report on September 24, 2024 by 11:59 p.m. (21-A M.R.S. § 1017 (3-A)(D)), but the report was not filed until September 25, 2024. Under the Commission's statutes, the late filing of a report triggers an enforcement process (21-A M.R.S. § 1020-A(4-A)). The Commission staff has made a preliminary finding of violation and determined the preliminary penalty for filing the report late is **\$498.50**. Please see the next page for the penalty calculation.

You may request the Commission waive the penalty in whole or in part or find 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 there was no violation if it determines 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. (21-A M.R.S. § 1020-A(2)) 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 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

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 \$25 is automatically waived.

How Your Penalty Was Calculated

Filer: Richard Cyr			
Late-Filed Report: 42-Day Pre-General Report			
Contributions	\$24,925.00	Penalty Base Amount	\$24,925.00
Expenditures	\$1,890.76	Percentage	2%
Due Date	09/24/2024	Daily Accrual Rate	\$498.50
Date Filed	09/25/2024	Days Late	1
Previous Violations	0	Your Total Penalty	\$498.50

Payment Statement and Payment Options

From: Richard Cyr

Penalty Amount: \$498.50 *Not payable with MCEA funds.*

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

2024 CAMPAIGN FINANCE REPORT

FOR MCEA CANDIDATES

COMMITTEE		TREASURER
Mr. Richard Real Cyr 537 Billings Road Hermon, ME 04401 PHONE: (207) 848-2466 EMAIL: cyr2523@hotmail.com		Mr. Michael Douglas Capeci 4 William street Bangor, ME 04401 PHONE: EMAIL: capecim@husson.edu
REPORT	DUE DATE	REPORTING PERIOD
42-Day Pre-General Report	09/24/2024	08/27/2024 - 09/17/2024

FINANCIAL ACTIVITY SUMMARY

CASH ACTIVITY		
	TOTAL FOR PERIOD	TOTAL FOR CAMPAIGN
1. CASH BALANCE FROM LAST REPORT	\$334.69	
2. SEED MONEY CONTRIBUTIONS	\$0.00	\$1,225.00
3. MAINE CLEAN ELECTION ACT PAYMENTS & AUTHORIZATIONS	\$24,925.00	\$24,925.00
4. SALE OF CAMPAIGN PROPERTY (SCHEDULE E, PART 2)	\$0.00	\$0.00
5. OTHER CASH RECEIPTS (INTEREST, ETC.,)	\$0.00	\$0.00
6. MINUS EXPENDITURES (SCHEDULE B)	\$1,890.76	\$2,781.07
7. CASH BALANCE AT CLOSE OF PERIOD	\$23,368.93	
OTHER ACTIVITY		
8. IN-KIND SEED MONEY CONTRIBUTIONS	\$0.00	\$0.00
9. TOTAL UNPAID DEBTS AT CLOSE OF PERIOD (SCHEDULE D)	\$0.00	

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

REPORT FILED BY: Michael Douglas Capeci
REPORT FILED ON: 9/25/2024 6:15:41 AM
LAST MODIFIED:
COMMITTEE ID: 496500

SCHEDULE A CASH CONTRIBUTIONS

- For contributors who gave more than \$50, the names, address, occupation, and employer must be reported. If "information requested" is listed instead of occupation and employer, the candidate is waiting to receive that information.
- Cash contributions of \$50 or less can be added together and reported as a lump sum.
- Contributor Types

1 = Individual

2 = Candidate/ Spouse/ Domestic Partner

3 = Commercial Source

4 = Nonprofit Organization

5 = Political Action Committee

6 = Political Party Committee

7 = Ballot Question Committee

8 = Other Candidate/ Candidate Committee

9 = Candidate / Candidate Committee

10 = General Treasury Transfer

11 = Transfer from Previous Campaign

12 = Contributors giving \$50 or less

13 = Contributors giving \$100 or less

14 = Contributors giving \$200 or less

15 = MCEA Payment

16 = Financial Institution

DATE RECEIVED	CONTRIBUTOR	EMPLOYER AND OCCUPATION	TYPE	AMOUNT
8/29/2024	MCEA Payment		15	\$24,925.00
TOTAL CASH CONTRIBUTIONS				\$24,925.00

SCHEDULE B EXPENDITURES

EXPENDITURE TYPES					
APP	Apparel (t-shirts, hats, embroidery, etc.)	CON	Contribution to party committee, non-profit, other candidate, etc.		
EQP	Equipment of \$50 or more (computer, tablet, phone, furniture, etc.)	EVT	Campaign and fundraising events (venue or booth rental, entertainment, supplies, etc.)		
FOD	Food for campaign events or volunteers, catering	HRD	Hardware and small tools (hammer, nails, lumber, paint, etc.)		
LIT	Printed campaign materials (palmcards, signs, stickers, flyers, etc.)	MHS	Mail house and direct mail (design, printing, mailing, and postage all included)		
NEW	Newspaper and print media ads only	OFF	Office supplies, rent, utilities, internet service, phone minutes and data		
ONL	Social media and online advertising only	OTH	Other and fees (bank, contribution, and money order fees, etc.)		
PER	Personnel and campaign staff, consulting, and independent contractor costs	PHO	Phones (phone banking, robocalls and texts)		
POL	Polling and survey research	POS	Postage for U.S. Mail and mail box fees		
PRO	Professional services (graphic design, legal services, web design, etc.)	RAD	Radio ads, production costs		
TKT	Entrance cost to event (bean suppers, fairs, party events, etc.)	TRV	Travel (fuel, mileage, lodging, etc.)		
TVN	TV/cable ads, production, and media buyer costs only	WEB	Website and internet costs (website domain and registration, etc.)		
DATE OF EXPENDITURE	PAYEE	REMARK		TYPE	AMOUNT
8/28/2024	Bangor Letter Shop 99 WASHINGTON ST. BANGOR, ME, 04401	Deposit toward future services		LIT	\$334.69
9/11/2024	Bangor Letter Shop 99 WASHINGTON ST. BANGOR, ME, 04401	campaign sighns		LIT	\$1,556.07
TOTAL EXPENDITURES FOR CANDIDATE:					\$1,890.76

From: [Gordon, Erin](#)
Bcc: [rebeblake@gmail.com](#); [dtremble01@gmail.com](#); [caringhandsinyourhome@hotmail.com](#); [commissionertorbett@gmail.com](#); [kelley11512@gmail.com](#); [timparkerandson@hotmail.com](#); [julietteprobate@gmail.com](#); [KGFREEMAN79@GMAIL.COM](#); [donald.j.ardell@gmail.com](#); [tracyquinhouse@gmail.com](#); [nicole.j.collins24@gmail.com](#); [russell.white@grifols.com](#); [james.mark.worth@gmail.com](#); [sgray5@roadrunner.com](#); [hollyreaton@gmail.com](#); [ronrussell713@gmail.com](#); [danielh2121@gmail.com](#); [patjude2268@gmail.com](#); [lapointefor21@gmail.com](#); [ambureen@gmail.com](#); [CaptDan007@gmail.com](#); [kijiperry@aol.com](#); [thomas.casey@maine.edu](#); [laurieosherfororono@gmail.com](#); [jwhitegunsmithing@gmail.com](#); [kwfredette@gmail.com](#); [abjimgrif@hotmail.com](#); [kimberlyhaggan@gmail.com](#); [jamiehopkins2024@outlook.com](#); [ahmatlack@gmail.com](#); [rthombs66@gmail.com](#); [abden1971@gmail.com](#); [waynefarrin@gmail.com](#); [hbstover112@gmail.com](#); [DWG1671@gmail.com](#); [scott.williams068@gmail.com](#); [trockhasenfus@gmail.com](#); [donnapiccininni@gmail.com](#); [fmdebrito@gmail.com](#); [entaoed@gmail.com](#); [shelleyrudnicki@gmail.com](#); [mtowndvm1995@gmail.com](#); [troymedemocrats@gmail.com](#); [cecilgray@rocketmail.com](#); [jack.ducharme58@gmail.com](#); [cynthiasoma914@gmail.com](#); [tiffany@bond4.me](#); [edfdchief@hotmail.com](#); [sheilalyman2020@gmail.com](#); [esbrownell@gmail.com](#); [shhutch01@gmail.com](#); [mike@tippingforsenate.com](#); [cyr2523@hotmail.com](#); [dhaggan@gmail.com](#); [craighickman@rocketmail.com](#); [sbmcd17@gmail.com](#); [dickbradstreet@gmail.com](#); [raegan.larochelle@gmail.com](#); [mrwhite04901@gmail.com](#); [jtimberlake_us@yahoo.com](#); [watsont822@gmail.com](#)
Subject: DUE TODAY: 42-Day Pre-General Report
Date: Tuesday, September 24, 2024 1:02:00 PM

Hello candidates,

If you are receiving this email, you are **required to file** the 42-Day Pre-General Report, due today by 11:59 p.m. Reports are filed online at www.mainecampaignfinance.com

I am available to assist you with filing questions or username and password issues until 5 p.m. today. Remember, MCEA candidates cannot file their own reports and must have their treasurer log in to do so. Traditionally financed candidates may file their own reports.

If you have any questions, please do not hesitate to contact me today.

Best,

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

Event Log

Report Filed - 42-Day Pre-General Report

Capeci, Michael Douglas

09.25.2024 6:15:43 AM

User Login

User MCApeci09 logged in.

Capeci, Michael Douglas

09.25.2024 6:15:13 AM

User Login

User RCyr logged in.

Cyr, Richard Real

09.21.2024 12:45:59 PM

User Login

User RCyr logged in.

Cyr, Richard Real

09.21.2024 12:44:45 PM

User Login

User RCyr logged in.

Cyr, Richard Real

09.21.2024 12:41:37 PM

User Login

User RCyr logged in.

Cyr, Richard Real

09.21.2024 11:50:31 AM

Commission Penalty Decisions - Candidates

Candidate	Late Report/Other Violation	Preliminary Penalty	Final Penalty	Commission Meeting Date
Legislative and County candidates				
James Boyle	Late January Semiannual Report	\$1,000.00	\$500.00	03/28/18
Diane Russell	Substantially Non-Compliant January Semiannual		\$100.00	05/30/18
Diane Russell	Substantially Non-Compliant 42-Day Pre-Primary		\$200.00	05/30/18
Ian Schwartz	Late 24-Hour Report	\$384.37	\$300.00	08/29/18
Danny Costain	Late 24-Hour Report	\$2,991.36	\$300.00	08/29/18
Jeffrey Slocum	Late July Semiannual	\$112.00	\$112.00	08/29/18
Mark Lawrence	11-Day Pre-Primary (not compliant)	\$1,739.73	\$400.00	09/26/18
John Tuttle, Jr.	Late 42-Day Post Primary	\$432.00	\$250.00	09/26/18
Dana Dow	Late 24-Hour Report	\$115.93	\$115.93	11/28/18
Jan Collins	Late 24-Hour Report	\$2,565.38	\$300.00	12/19/18
Cynthia Soma-Hernandez	Commingling of funds		\$100.00	12/19/18
John Clark	MCEA Violation-Contributions after Certification		\$250.00	03/06/19
Cathleen Nichols	Late 24-Hour Report	\$3,744.00	\$400.00	03/06/19
James LaBrecque	Late 42-Day Post General	\$235.03	\$235.03	03/06/19
Mark Remick	Late 24-Hour Report (2)	\$2,011.85	\$400.00	03/06/19
Stephen Ball	Commingling of funds waived since he returned \$115 of MCEA funds		\$100.00	06/04/19
Philip Spiller (<i>Municipal</i>)	Late 24-Hour Report (3)	\$2,395.28	\$900.00	12/18/19
Edward Cohen	Failure to Register		\$100.00	05/27/20
Mark Lawrence	Late 42-Day Post Primary	\$529.50	\$350.00	10/16/20
Brian Redmond	Late 42-Day Post Primary	\$84.00	\$84.00	10/16/20
Mark Andre	Late 42-Day Post Primary	\$132.00	\$132.00	10/16/20
Jeffrey Pierce	Late 42-Day Pre-General	\$40.37	\$40.37	10/30/20
Steve Collins	No Disclaimer on Signs		\$200.00	12/18/20
Troy Jackson	Late 24-Hour Report	\$50.00	\$50.00	01/27/21
Scott Gaiason	Late 11-Day Pre-General Report	\$109.54	\$109.54	01/27/21
William Guerrette	No Disclaimer on Signs		\$0.00	03/08/21
Robyn Stanicki	Late July Semiannual Report	\$637.50	\$250.00	10/29/21
Howard Patten	Failure to Register		\$100.00	04/27/22
Timothy Keenan	Failure to Register		\$100.00	04/27/22
John V. Chambers	Late 42-Day Post Primary	\$34.90	\$34.90	09/28/22
Benjamin J. Meiklejohn	Late 42-Day Post Primary	\$18.03	\$18.03	09/28/22
Nancy Piche	Failure to File SOSOI		\$100.00	09/28/22
Timothy Keenan	Failure to File SOSOI		\$100.00	09/28/22
Daniel Merrill	Failure to File SOSOI		\$100.00	09/28/22
Susan Bernard	No Disclaimer on mailing		\$75.00	10/26/22
Danielle Fienberg	Late 11-Day Pre-General Report	\$368.12	\$300.00	11/30/22
Stephen Hanrahan	Late 24-Hour Report	\$423.54	\$300.00	11/30/22
David Thurston	Late 11-Day Pre-General Report	\$139.82	\$100.00	11/30/22

Scott Gaisaon	Substantially Non-Compliant 11-Day Pre-General Report	\$135.43	\$135.43	11/30/22
Matthea Daughtry	Late 11-Day Pre-General Report	\$658.21	\$150.00	12/21/22
Robert McCarthy	Late 24-Hour Report	\$308.09	\$300.00	12/21/22
Ronald Russell	Late 24-Hour Report	\$1,573.52	\$350.00	01/30/23
Reagan Paul	Late 24-Hour Report	\$1,945.30	\$350.00	01/30/23
Neil MacLean, Jr.	Late 24-Hour Report	\$3,680.00	\$350.00	01/30/23
Sharri MacDonald	Substantially Non-Compliant Pre-General Report	\$962.47	\$150.00	01/30/23
Sharri MacDonald	Substantially Non-Compliant Pre-General Report	\$293.40	\$50.00	01/30/23
Frank Roma	MCEA Overspending		\$200.00	01/30/23
Joseph Galletta	Late registration	\$100.00	\$100.00	05/29/24
John DeVeau	2 Late Semiannual Reports		\$200.00	09/25/24
Candidates for Governor				
Mark Eves	Late 24-Hour Report (2)	\$1,378.70	\$500.00	09/26/18
Paul R. LePage	Late 42-Day Pre-Primary	\$9,091.83	\$3,000.00	06/22/22
Ethan Alcorn	Late 42-Day Pre-Primary	\$200.00	\$200.00	06/22/22

21-A M.R.S. § 1017. Reports by candidates

...

3-A. Other candidates. A treasurer of a candidate for state or county office other than the office of Governor shall file reports with the commission and municipal candidates shall file reports with the municipal clerk as follows. Once the first required report has been filed, each subsequent report must cover the period from the end date of the prior report filed.

A. In any calendar year in which an election for the candidate's particular office is not scheduled, when any candidate or candidate's political committee has received contributions in excess of \$500 or made or authorized expenditures in excess of \$500, reports must be filed no later than 11:59 p.m. on July 15th of that year and January 15th of the following calendar 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. If the candidate has an opponent who is on the ballot or who is a declared write-in candidate, 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 an 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, unless required by the municipality. Certified candidates and participating candidates, as defined under section 1122, subsections 1 and 6, respectively, are not required to file a report on the 42nd day before a primary election pursuant to this section.

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.

21-A M.R.S. § 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 \$100. 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. [MRSA T. 21-A §1020-A, sub-§4 (RP).]

4-A. Basis for penalties. The penalty for late filing of a report required under this subchapter 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 \$25 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.

5. Maximum penalties. [MRSA 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; and section 1017, subsection 4, 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;

A-1. Five thousand dollars for reports required under section 1019-B, subsection 4, 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;

B. Five thousand dollars for state party committee reports required under section 1017-A, subsection 4-A, paragraphs A, B, C and E, 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;

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; or

D. Five hundred dollars for municipal, district and county committees for reports required under section 1017-A, subsection 4-B.

E. [PL 2011, c. 558, §5 (RP).]

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 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. Any request for a determination must be made within 14 calendar days of receipt of the commission's notice. 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.

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.

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.

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.

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.

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.