



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

Commission Meeting 02/28/2022
Agenda Item #4

To: Commissioners
From: Michael Dunn, Political Registrar
Martha Currier, Assistant Director
Date: November 15, 2021
Re: No on 3: Right to Food is Wrong for Maine PAC – Waiver Request

During the last 13 days before an election, registered PACs must file special expedited campaign finance reports (within 24 hours) of large transactions that would not otherwise be publicly disclosed until after the election. On October 25, 2021, No on 3: Right to Food is Wrong for Maine PAC (the “PAC”) made an expenditure of \$17,500, and the next day made an expenditure of \$10,000 and received a contribution of \$6,600. The PAC was required to file 24-Hour Reports for those transactions. All three reports were filed on October 28, 2021, and the Commission staff notified the PAC that the preliminary penalty totaled \$932. The PAC requested a waiver of the preliminary penalty on November 2, 2021.

LEGAL REQUIREMENTS

24-Hour Reports. During the 13 days before an election PACs are required to report any single contribution of \$5,000 or more received or single expenditure of \$1,000 within 24 hours of that transaction. 21-A M.R.S. § 1059(2)(E). If the PAC is late in filing the 24-hour report, the statutory amount of the preliminary penalty is determined by the amount of the transaction, the number of prior violations within a two-year period, and the number of days late. 21-A M.R.S. § 1062-A(3). The Commission may grant a full or partial waiver if it determines that the report was late due to mitigating circumstances defined in statute or is disproportionately high relative to certain factors. 21-A M.R.S. § 1062-A(2).

DISCUSSION AND STAFF RECOMMENDATION

On October 25, 2021 the PAC made an expenditure of \$17,500, and the next day they made an expenditure of \$10,000 and received a contribution of \$6,600. The expenditures were entered into the Commission’s e-filing system on October 26th and October 27th, which automatically generated the required 24-Hour Reports, but they were not filed by the PAC until October 28th.

Based on the statutory formula for calculating late-filing penalties, the preliminary penalty amount is \$932, as shown below:

Report Name	Activity Amount	Due Date	Days Late	Penalty Rate	Penalty
24-Hour Report (Screen Strategies Media)	\$17,500	10/26/2021	2	2%	\$600
24-Hour Report (Screen Strategies Media)	\$10,000	10/27/2021	1	2%	\$200
24-Hour Report (Contribution) (Maine Animal Coalition)	\$6,600	10/27/2021	1	2%	\$132

The PAC seeks a waiver because the treasurer believed that she had met her obligation regarding the 24-Hour Reporting requirements citing that the PAC’s officers are inexperienced with the Commission’s e-filing website. The treasurer acknowledged that she was aware of the 24-Hour Report and thought she had met her obligation when she entered the transactions into the system. The Commission staff’s review of the data in the e-filing system supports that the transactions were entered into the system within 24 hours.

When a transaction is entered during the 24-Hour reporting period that exceeds the monetary threshold (\$5,000 for contributions and \$1,000 for expenditures) the system generates a 24-Hour Report that appears on the View/File Reports page. Upon entering the transaction, a temporary pop-up (displaying for a few seconds) appears on the screen for the user indicating that the report has been generated and must be filed.

The expenditure has been successfully added. This expenditure needs to be filed on a 24 Hour Report of contributions and expenditures, which has been added to your schedule.

The PAC did not review the View/File Reports page and failed to file these reports timely.

The PAC requests a waiver of these penalties. The PAC states that it was formed by a grassroots organization with no prior campaign finance experience. The PAC officers were in regular contact with Commission staff throughout the campaign to help ensure that they remained

compliant. They deny any intent to deceive the public and indicate that these mistakes were good-faith errors.

The Commission staff agrees with the PAC's recitation of events; however, even good-faith errors may result in penalties. Violations of the 24-hour reporting requirements can be serious matters, as these reports play an important role in informing the electorate about how money is changing hands in the critical days just before an election. Here, the two expenditures went to political advertising and the contribution helped fund that activity.

The Commission has precedent for treating similar penalties as a single violation and making an appropriate reduction when a similar issue results in multiple penalties and mitigating circumstances are present.¹ Late 24-Hour Reports can deprive the public of useful information going into the election and Commission staff have, since 2018, recommended penalties in the range of \$750 or more for late 24-Hour Reports.² The Commission staff believes that this matter should be decided based on balancing the inexperience of the PAC's officers against the harm to the public. The Commission staff also believes that it is critically important to encourage participation in the political arena and give latitude when exceptions arise.

The Commission staff recommend that these penalties be treated as a single violation with a total fine of \$750 based on balancing the considerations above and Commission precedent. We have attached a summary of the Commission's decisions on waiver requests by political committees since 2018.

Thank you for your attention in this matter.

¹ Mainers for Local Power (March 2020), Lobbyist Jonathan Courtney (October 2020), Dirigo Partners (October 2021)

² Fecteau for Leadership (\$1,000), House Democratic Campaign Committee (\$1,000), House Republican Fund (\$1,000), Maine Senate Republican Majority (\$2,500), One Maine (\$1,000), Senate Democratic Campaign Committee (\$1,000), Still Fed Up with Taxes (\$1,000), and Energy PAC for Maine (\$750).

State of Maine
Commission on Governmental Ethics and Elections Practice Station
135 State House Station
Augusta, Maine 04333-0135

Dear Members of the Maine Ethic Commission,

I write in response to your letter of October 28, 2021 regarding late filings of 24-hour contribution and expenditure reports related to the No on 3: Right to Food is Wrong for Maine Committee of which I am Treasurer. For the reasons below, I respectfully request that the Commission waive the penalties levied for the inadvertent late filing of the required reports. I believe that there are several mitigating factors that would warrant such a waiver in whole, or at a minimum, in large part.

I am not a professional lobbyist or attorney, nor have I engaged in a PAC or any other Committee associated with political activity or a ballot question in the past. I agreed to be Treasurer of the No on 3 Committee because of my deep dedication to humane animal care and welfare in Maine and my sincere belief that a yes vote on Question No. 3 would have detrimental impacts on animal safety, enabling cruel methods of production under the guise of a “right to food.” The No on 3 PAC was created by grassroots, community-based advocates like myself who are likewise committed to both animal welfare issues, while also attempting to diligently adhere to the ballot question PAC requirements of the state.

Throughout this hurried Committee formulation process, where we just recently created the PAC in an effort to ensure that Question No. 3 does not pass, I have endeavored to provide the Commission with all information required by law. I have regularly reached out to very helpful Commission staff to try and make sure that I was in full compliance and have, to the best of my ability, provided the information within the time frame allowed under the law.

With regard to the specific financial transactions that are the subject of the fines, I was very careful to make sure to file the required reports on the Ethics Commission website within the 24-hour period provided under the law. I logged into the website and recorded the donations and expenditures within the allotted period, but apparently did not complete the process as the website requires additional steps and the amounts were not officially “reported” even though I entered them into the site. I also did not receive any email notification for that additional step as I had with earlier reports.

As I was going through the entry process, I thought about calling the Ethics Commission to confirm that I was, in fact, reporting the financial transactions properly, but given it was a Saturday I knew that staff was unavailable. With the subsequent guidance of Commission staff, I quickly corrected the filing errors as soon as possible in order to ensure that no undue harm to the public would arise from my inadvertent mistake.

I have a tremendous amount of respect for the Ethic Commission’s work, the political process and the need for transparency and proper reporting of all campaign activity. Throughout this process, I have tried to operate in good faith and maintain a heightened level of transparency and

openness with Commission staff. My misstep in reporting was not rooted in any effort to conceal financial transactions or bad faith intentions, but simply because of a lack of technical experience and knowledge on my end, for which I take full responsibility. But I also believe that there was no harm to the public and believe that, on balance, a waiver of penalties is warranted.

Thank you for your consideration of my request.

Sincerely,
Gina E. Garey, MS CABAC
Treasurer
No on 3 PAC



October 28, 2021

Ms. Gina Garey
No on 3: Right to Food is Wrong for Maine Committee
129 Whitney Ave.
Portland, ME 04102

Re: No on 3: Right to Food is Wrong for Maine Committee Late Filing of 24-Hour
Contribution and Expenditure Reports

Dear Ms. Garey:

The Commission staff has made a finding that the No on 3: Right to Food is Wrong for Maine Committee (the PAC) was late in filing three 24-Hour Report. Under the Commission's statutes, the late filing of a report triggers an enforcement process. (21-A M.R.S.A. § 1062-A). Based on the amount of financial activity in the report, the number of calendar days the report was late, and the PAC's history of violations, the Commission staff has determined that a total penalty of **\$932** is owed. (Please see attached penalty matrix for the calculation.)

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

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

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

Sincerely,

Michael J. Dunn

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

PAYMENT RECEIPT
(Please enclose with payment.)

Mail payment to:

Maine Ethics Commission
135 State House Station
Augusta, ME 04333

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

Gina Garey, Treasurer
No on 3: Right to Food is Wrong for Maine Committee
129 Whitney Ave.
Portland, ME 04102

Violation: 24-Hour Report (Screen Strategies Media)
Amount Due: \$600

Violation: 24-Hour Report (Screen Strategies Media)
Amount Due: \$200

Violation: 24-Hour Report (Maine Animal Coalition)
Amount Due: \$132

Total \$932

Committee Name: No on 3: Right to Food is Wrong for Maine Committee

Prior Violations:

Report Name	Activity Amount	Due Date	Days Late	Penalty Rate	Penalty
24-Hour Report (Screen Strategies Media)	\$17,500	10/26/2021	2	2%	\$600
24-Hour Report (Screen Strategies Media)	\$10,000	10/27/2021	1	2%	\$200
24-Hour Report (Maine Animal Coalition)	\$6,600	10/27/2021	1	2%	\$132

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

For the first violation, 2%

For the second violation, 4%

For the third and each subsequent violation, 6%

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

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

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

MAXIMUM PENALTIES

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

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



Commission on Governmental Ethics and Election Practices
 Mail: 135 State House Station, Augusta, Maine 04333
Office: 45 Memorial Circle, Augusta, Maine
 Website: www.maine.gov/ethics
 Phone: 207-287-4179
 Fax: 207-287-6775

24-HOUR REPORT OF CONTRIBUTIONS AND EXPENDITURES

2021 CAMPAIGN YEAR

COMMITTEE		TREASURER
No on 3: Right to Food is Wrong for Maine Committee PO Box 6683 Portland, ME 04101 PHONE:(207) 773-2215 EMAIL: mac@maineanimalcoalition.org		Gina Garey 129 Whitney Ave. Portland, ME 04102 PHONE:(207) 671-0073 EMAIL: ginaevan@me.com
REPORT	DUE DATE	REPORTING PERIOD
24 Hour Report of Contributions and Expenditures	10/26/2021	10/25/2021-10/25/2021

FINANCIAL ACTIVITY SUMMARY

CONTRIBUTIONS AND EXPENDITURES	
1. TOTAL CONTRIBUTIONS / LOANS	\$6,600.00
2. TOTAL EXPENDITURES	\$0.00
3. TOTAL DEBTS	\$0.00

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

REPORT FILED BY: Michael Dunn on behalf of Gina Garey
 REPORT FILED ON: 10/28/2021 11:36:24 AM
 LAST MODIFIED: 10/28/2021 11:36:24 AM
 COMMITTEE ID: 409229

24-HOUR CONTRIBUTION INFORMATION

- | | |
|---|--|
| <p>1 = Individual</p> <p>2 = Candidate/ Spouse/ Domestic Partner</p> <p>3 = Commercial Source</p> <p>4 = Nonprofit Organization</p> <p>5 = Political Action Committee</p> <p>6 = Political Party Committee</p> <p>7 = Ballot Question Committee</p> <p>8 = Other Candidate/ Candidate Committee</p> | <p>9 = Candidate / Candidate Committee</p> <p>10 = General Treasury Transfer</p> <p>11 = Transfer from Previous Campaign</p> <p>12 = Contributors giving \$50 or less</p> <p>13 = Contributors giving \$100 or less</p> <p>14 = Contributors giving \$200 or less</p> <p>15 = MCEA Payment</p> <p>16 = Financial Institution</p> |
|---|--|

DATE RECEIVED	CONTRIBUTOR	OCCUPATION AND EMPLOYER	CONTRIBUTOR/ CONTRIBUTION TYPE	AMOUNT
10/25/2021	Maine Animal Coalition PO Box 6683 Portland, ME, 04101		4 Monetary (Itemized) contribution to be repaid	\$6,600.00
TOTAL CONTRIBUTIONS / LOANS				\$6,600.00



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 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

2021 CAMPAIGN YEAR

COMMITTEE		TREASURER
No on 3: Right to Food is Wrong for Maine Committee PO Box 6683 Portland, ME 04101 PHONE:(207) 773-2215 EMAIL: mac@maineanimalcoalition.org		Gina Garey 129 Whitney Ave. Portland, ME 04102 PHONE:(207) 671-0073 EMAIL: ginaevan@me.com
REPORT	DUE DATE	REPORTING PERIOD
24 Hour Report of Contributions and Expenditures	10/27/2021	10/26/2021-10/26/2021

FINANCIAL ACTIVITY SUMMARY

CONTRIBUTIONS AND EXPENDITURES	
1. TOTAL CONTRIBUTIONS / LOANS	\$0.00
2. TOTAL EXPENDITURES	\$10,000.00
3. TOTAL DEBTS	\$0.00

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

REPORT FILED BY: Michael Dunn on behalf of Gina Garey
 REPORT FILED ON: 10/28/2021 11:05:49 AM
 LAST MODIFIED:
 COMMITTEE ID: 409229

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
10/26/2021	Screen Strategies Media 11150 Fairfax Blvd., Suite 505 Fairfax, VA, 22030	Oppose Right to Food PAYMENT OF \$10,000.00 TO OPPOSE: RESOLUTION, Proposing an Amendment to the Constitution of Maine To Establish a Right to Food	RAD	\$10,000.00
TOTAL EXPENDITURES TO SUPPORT OR OPPOSE:				\$10,000.00



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 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

2021 CAMPAIGN YEAR

COMMITTEE		TREASURER
No on 3: Right to Food is Wrong for Maine Committee PO Box 6683 Portland, ME 04101 PHONE:(207) 773-2215 EMAIL: mac@maineanimalcoalition.org		Gina Garey 129 Whitney Ave. Portland, ME 04102 PHONE:(207) 671-0073 EMAIL: ginaevan@me.com
REPORT	DUE DATE	REPORTING PERIOD
24 Hour Report of Contributions and Expenditures	10/26/2021	10/25/2021-10/25/2021

FINANCIAL ACTIVITY SUMMARY

CONTRIBUTIONS AND EXPENDITURES	
1. TOTAL CONTRIBUTIONS / LOANS	\$0.00
2. TOTAL EXPENDITURES	\$17,500.00
3. TOTAL DEBTS	\$0.00

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

REPORT FILED BY: Michael Dunn on behalf of Gina Garey
 REPORT FILED ON: 10/27/2021 12:00:00 AM
 LAST MODIFIED:
 COMMITTEE ID: 409229

24-HOUR CONTRIBUTION INFORMATION

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	OCCUPATION AND EMPLOYER	CONTRIBUTOR/ CONTRIBUTION TYPE	AMOUNT
10/25/2021	Maine Animal Coalition PO Box 6683 Portland, ME, 04101		4 Loan Received Loan	\$6,600.00
TOTAL CONTRIBUTIONS / LOANS				\$6,600.00

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
10/25/2021	Screen Strategies Media 11150 Fairfax Blvd., Suite 505 Fairfax, VA, 22030	Oppose Right To Food Constitutional Amendment in Maine PAYMENT OF \$17,500.00 TO OPPOSE: RESOLUTION, Proposing an Amendment to the Constitution of Maine To Establish a Right to Food	RAD	\$17,500.00
TOTAL EXPENDITURES TO SUPPORT OR OPPOSE:				\$17,500.00

(2018 - present)				
Committee Name	Type of Report	Preliminary Penalty	Final Penalty	Commission Meeting Date
Waiver Requests				
Maine United Auto Workers PAC	Late January Quarterly	\$400.00	\$400.00	04/25/18
Maine Health Care Assoc. PAC	Late 24-Hour Report	\$2,760.00	\$500.00	08/29/18
Fecteau Leadership PAC	Late 24-Hour Report	\$400.00	\$400.00	08/29/18
New Mainers PAC	Late 24-Hour Report	\$10,000.00	\$1,000.00	03/06/19
Unite Portland PAC (<i>Municipal</i>)	Late IE Report	\$5,000.00	\$1,250.00	12/18/19
	Late IE Report	\$2,052.16	\$750.00	12/18/19
Women's Leadership Fund PAC	Late IE Report	\$100.00	\$50.00	08/11/20
Maine Truck PAC	Late 24-Hour Report	\$2,686.68	\$50.00	10/16/20
Revive Hometown Maine PAC	Late October Quarterly	\$510.00	\$250.00	10/30/20
Mainers for Health and Parental Rights	Late 24-Hour Report	\$980.00	\$750.00	01/27/21
Kittery Democratic Committee	Late 11-Day Pre-General Report	\$500.00	\$100.00	02/24/21
Madison Republican Committee of Maine	Late 11-Day Pre-General Report	\$500.00	\$100.00	02/24/21
York Town Republican Committee	Late 11-Day Pre-General Report	\$500.00	\$100.00	02/24/21
Energy PAC for Maine	Late 24-Hour Report	\$8,840.00	\$750.00	03/31/21
Protect Maine Elections	Late Initial Report	\$1,004.00	\$750.00	10/29/21

(2020 - present)				
Committee Name	Type of Late Report/Other Violation	Preliminary Penalty	Final Penalty	Commission Meeting Date
Waiver Requests				
Mainers for Local Power PAC	Late Major Contributor (2)	\$53,431.15	\$2,500.00	03/10/20
Maine Street Solutions - Protect Schools BQC	Late Major Contributor	\$25,000.00	\$2,000.00	05/27/20
Clean Energy Matters PAC	Late Major Contributor Notice	\$50,000.00	\$2,500.00	03/31/21
We the People PAC	Late Major Contributor Notice	\$11,500.00	\$2,500.00	05/26/21
Mainers for Local Power PAC	Late Major Contributor Notice	\$13,786.32	\$2,500.00	08/23/21
(2018 - present)				
Committee Name	Type of Late Report/Other Violation	Preliminary Penalty	Final Penalty	Commission Meeting Date
Other Violations				
Sara Gideon Leadership PAC	Contributions Made in Name of Another		\$500.00	10/30/19
Working Families PAC	Failure to file 2020 October Quarterly; 11-Day Pre-General, 42-Day Post-General, and 2021 January Quarterly and April Quarterly campaign finance reports		\$3,750.00	05/26/21
Mainers for Fair Laws BQC	Missing Disclaimers in television ads		\$2,500.00	09/29/21
Working Families PAC	Over the limit contribution to Diane Russell senate campaign		\$285.00	09/29/21

Title 21-A Maine Revised Statutes

§ 1059. Report; filing requirements

...

E. If a committee is required to file a report 11 days before an election pursuant to paragraph B or C, the committee shall report any single contribution of \$5,000 or more received or single expenditure of \$1,000 or more made after the 14th day before the election and more than 24 hours before 5:00 p.m. on the day of the election within 24 hours of that contribution or expenditure. The treasurer is not required to include in this report expenditures for overhead expenses or compensation paid to an employee or other member of the campaign staff who has received payments at regular intervals that have been disclosed in previously filed campaign finance reports. As used in this paragraph, “overhead expenses” includes, but is not limited to, rent, utility payments, taxes, insurance premiums or similar administrative expenses.

3. Repealed. Laws 1989, c. 504, § 28

4. Repealed. Laws 1989, c. 504, § 28

5. Electronic filing. A committee shall file each report required by this section through an electronic filing system developed by the commission. The commission may make an exception to this electronic filing requirement if a committee submits a written request that states that the committee lacks access to the technology or the technological ability to file reports electronically. The request for an exception must be submitted within 30 days of the registration of the committee. The commission shall grant all reasonable requests for exceptions.

§ 1062-A. Failure to file on time

...

2. Campaign finance reports. A campaign finance report is not timely filed unless a properly signed or electronically submitted copy of the report, substantially conforming to the disclosure requirements of this subchapter, is received by the commission by 11:59 p.m. on the date it is due. Except as provided in subsection 6, the commission shall determine whether a required report satisfies the requirements for timely filing. The commission may waive a penalty in whole or in part if it is disproportionate to the level of experience of the person filing the report or to the harm suffered by the public from the late disclosure. The commission may waive the penalty in whole or in part if the commission determines the failure to file a timely report was due to mitigating circumstances. For purposes of this section, “mitigating circumstances” means:

- A.** A valid emergency of the committee treasurer determined by the commission, in the interest of the sound administration of justice, to warrant the waiver of the penalty in whole or in part;
- B.** An error by the commission staff; or
- C.** Other circumstances determined by the commission that warrant mitigation of the penalty, based upon relevant evidence presented that a bona fide effort was made to file the report in accordance with the statutory requirements, including, but not limited to, unexplained delays in postal service or interruptions in Internet service.

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

- A.** For the first violation, 2%;
- B.** For the 2nd violation, 4%; and
- C.** For the 3rd and subsequent violations, 6%.

Any penalty of less than \$ 10 is waived.

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

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

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

...