



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

To: Commissioners
From: Jonathan Wayne, Executive Director
Date: August 5, 2020
Re: Request by Stan Gerzofsky for Waiver of Late-Filing Penalty

Stan Gerzofsky was a candidate in the July 14, 2020 Democratic primary election for State Senate, District #24. He was required to file a campaign finance report on Monday, July 6, 2020. His treasurer filed the report two days late on Wednesday, July 8. Two days later (Friday, July 10), the Commission received a complaint alleging that the report under-reported his advertising expenses. Later that day, the candidate provided the missing information to Candidate Registrar Emma Burke, who filed an amended report on behalf of the candidate. The Commission met on Monday, July 13 to consider the complaint. You determined that Mr. Gerzofsky's pre-primary report was four days late. After the meeting, Ms. Burke notified the candidate by letter that the preliminary penalty for the late filing was \$390.50. He is requesting a waiver of the preliminary penalty.

LEGAL REQUIREMENTS

Legislative candidates are required to file a campaign finance report no later than 11:59 p.m. on the 11th day before the date on which an election is held, and the report must be complete as of the 14th day before that date. 21-A M.R.S. § 1017(3-A)(B). A required report must contain the itemized expenditures made or authorized during the report filing period, the date and purpose of each expenditure and the name of each payee.

21-A M.R.S. § 1017(5). A campaign finance report is considered timely filed if it substantially conforms to the disclosure requirements in Maine's campaign finance law.

21-A M.R.S. § 1020-A(2).

July 10, 2020

By Email

Ms. Emma Burke,
Candidate Registrar
Maine Commission on Governmental Ethics & Election Practices
135 State House Station
Augusta, ME 04333

RE: Complaint Against Stan Gerzofsky, Candidate for Senator, District 24

Dear Ms. Burke,

We, the undersigned, are concerned voters of Senate District 24. Please consider this letter describing gross violations of Maine campaign finance laws as a formal complaint we request be immediately referred to the Commissioners so that they can authorize a full investigation into the campaign finances of Stan Gerzofsky.

Stan Gerzofsky registered as a candidate for Senate District 24 on January 9, 2020. Mr. Gerzofsky is a traditional, privately financed candidate. His campaign's first finance report, the 11-Day Pre-Primary Report, was due Monday, July 6, 2020. The campaign's Treasurer, Sara Randall, filed this report electronically on Wednesday, July 8, 2020 at 8:30 PM. We contend that this report does not substantially conform to the disclosure requirements.

We are very concerned that the campaign's expenditures are grossly underreported in the 11-Day Pre-Primary report.

There are five payments disclosed to The Town Cryer in March and April totaling \$2,315.63. The Cryer is a local, monthly publication in Brunswick. Using the Cryer's ad rates (attached) we have determined that the campaign has taken out at least \$4,995.02 worth of political advertisements that would have all had to be placed by June 15. **This means the campaign has failed to report at least \$2,679.39 worth of expenditures or debt—this would more than double the total expenditures reported by the campaign.**

Below is a breakdown of the published ads Mr. Gerzofsky's campaign has placed:

- **March: \$742.50**
 - \$675 full color, half page ad
 - Free 375 words of written content
 - \$67.50 full color 3 column inches (photo)

- **April: \$1130.63**
 - \$1040.63 full color, full page ad
 - \$90.00 full color 4 column inches (photo)
 - Additional 13 column inches of text

- **May: \$1,040.63**
 - \$1,040.63 full color, full page ad
 - Additional 14.5 column inches of text

- **June: \$1,040.63**
 - \$1040.63 full color, full page ad
 - Free 750 words of written content

- **July: \$1,040.63**
 - \$1040.63 full color, full page ad
 - Free 750 Words of written content

Attached are copies of the ads which are available on the Cryer's online archives as well as photographs from the April, May, June, and July issues.

We urge the Commission to authorize a full investigation into these discrepancies pursuant to its authority under 21-A MRSA § 1003. Either the campaign has failed to report expenditures or the Cryer has made an overlimit in-kind contribution to the campaign. An investigation will bring this to light and also determine if any other violations have occurred.

Additionally, we request the Commission exercise its authority under 21-A MRSA § 1004-C and find any penalty warrants an enhancement due to the aggravating circumstances. This statute states "when assessing a penalty or monetary sanction, the commission...may triple the authorized penalty or monetary sanction for a violation occurring less than 14 days prior to an election day." Today, we are just four days away from election day, and Mr. Gerzofsky is depriving the public of a complete campaign finance report which is typically due 11 days prior to the election. Any penalty assessed by the Commission should therefore be tripled under § 1004-C.

Campaign finance disclosure exists for a reason. We, as voters, deserve full, complete, and accurate disclosure from all individuals running for office. After reviewing the initial filings of Mr. Gerzofsky, it is clear that his campaign is continuing to violate state ethics rules and state statutes.

We are now less than 4 days from election day—absentee ballots are out and early voting is almost done. Mr. Gerzofsky has flagrantly ignored multiple Maine statutes and Maine Ethics Commission rules. This matter must be referred to the Maine Ethics Commission for immediate investigation and enforcement. Residents of Senate District 24--and all Maine voters--deserve transparency around elections and elected officials.

We are now four days away from Election Day. Mr. Gerzofsky has flagrantly ignored multiple Maine statutes and Maine Ethics Commission rules by first ignoring the campaign finance deadline and then filing a substantially incomplete report. It would set an unfortunate and dangerous precedent if these violations go unaddressed until after the Election. We respectfully ask that you use all investigative and enforcement tools at your disposal to resolve this matter swiftly.

Thank you for your attention to this matter.

Sincerely,

Percival Stoddard

Percival Stoddard
Brunswick, ME

Julie Terray

Julie Terray
Brunswick, ME

Andrew Hamilton

Andrew Hamilton
Brunswick, ME

Lorraine Washburn

Lorraine Washburn
Brunswick, ME

cc: Jonathan Wayne
Paul Lavin

enc

Friday, July 10, 2020

To: Jonathan Wayne – Executive Director, Commission on Governmental Ethics

From: Charles Crosby Publisher, DBA The Cryer, 135 Maine Street, #253 Brunswick, ME 04011

RE: Per your request about advertising placed by Stan Gerzofsky in The Cryer

Accounting for Advertising
March 2020 – July 2020 Cryer

Ads placed by Stan Gerzofsky


March 2020 - Half Page Color on Page 9	\$ 675.00
April 2020 - Full Page Color on Page 7	\$1,040.63
May 2020 - Full Page Color on Page 5	\$1,040.63
June 2020 - Full Page Color on Page 5	\$1,040.63
July 2020 - Full Page Color on Page 5	\$1,040.63
Total PAID:	\$4,837.52

Paid in Full

21-A M.R.S. § 1002

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

§ 1002. Meetings of commission



1. Meeting schedule. The commission shall meet in Augusta for the purposes of this chapter at least once per month in any year in which primary and general elections are held. In the 28 days preceding an election, the commission shall meet in Augusta within 2 business days of the filing of any complaint with the commission, unless the complainant and respondent agree otherwise. Regardless of whether the complainant or respondent agree, the commission may defer until after the election considering complaints determined by the chair to involve allegations of minor violations of this chapter or chapter 14, such as disclaimer statements omitted from campaign signs or transactions of less than \$ 100 omitted from campaign finance reports.


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21-A M.R.S. § 1003

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

§ 1003. Investigations by commission

1. Investigations. The commission may undertake audits and investigations to determine whether a person has violated this chapter, chapter 14 or the rules of the commission. ...



2. Investigations requested. A person may apply in writing to the commission requesting an investigation as described in subsection 1. The commission shall review the application and shall make the investigation if the reasons stated for the request show sufficient grounds for believing that a violation may have occurred.

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21-A M.R.S. § 1004-C

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

§ 1004-C. Enhanced penalties for violations with aggravating circumstances

Notwithstanding any maximum penalty otherwise set forth in this chapter, when assessing a penalty or monetary sanction, the commission may double the authorized penalty or monetary sanction for a violation occurring less than 28 days prior to an election day and may triple the authorized penalty or monetary sanction for a violation occurring less than 14 days prior to an election day.

21-A M.R.S. § 1012


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


§ 1012. Definitions

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3. Expenditure. The term “expenditure:”

A. Includes:

 (1) A purchase, payment, distribution, loan, advance, deposit or gift of money or anything of value made for the purpose of influencing the nomination or election of any person to state, county or municipal office, except that a loan of money to a candidate by a financial institution in this State made in accordance with applicable banking laws and regulations and in the ordinary course of business is not included;

 (2) A contract, promise or agreement, expressed or implied, whether or not legally enforceable, to make any expenditure;

(3) The transfer of funds by a candidate or a political committee to another candidate or political committee; and

(4) A payment or promise of payment to a person contracted with for the purpose of influencing any campaign as defined in section 1052, subsection 1; and

B. Does not include:

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21-A M.R.S. § 1017

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

§ 1017. Reports by candidates

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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.

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5. Content. A report required under this section must contain the itemized accounts of contributions received during that report filing period, including the date a contribution was received, and the name, address, occupation, principal place of business, if any, and the amount of the contribution of each person who has made a contribution or contributions aggregating in excess of \$50. The report must contain the itemized expenditures made or authorized during the report filing period, the date and purpose of each expenditure and the name and address of each payee and creditor and any refund that a payee has made to the candidate or an agent of the candidate. If the payee is a member of the candidate's household or immediate family, the candidate shall disclose the candidate's relationship to the payee in a manner prescribed by the commission. The report must contain a statement of any loan to a candidate by a financial institution in connection with that candidate's candidacy that is made during the period covered by the report, whether or not the loan is defined as a contribution under section 1012, subsection 2, paragraph A. The candidate and the treasurer are jointly and severally responsible for the timely and accurate filing of each required report.


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21-A M.R.S. § 1020-A

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

§ 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. Repealed. Pursuant to its terms, eff. Aug. 1, 2002.

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 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.

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. Repealed. Pursuant to its terms, eff. Aug. 1, 2002.

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. Repealed. Laws 2011, c. 558, § 5.



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.

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