



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

To: Commissioners
From: Emma Burke, Political Committee & Lobbyist Registrar
Date: November 15, 2023
Re: Waiver Request by Genuine Parts Company for Penalty Due to Late Submitted Major Contributor Report

Genuine Parts Company (Genuine) was required to submit a Major Contributor Report to the Commission by October 5, 2023 due to a contribution exceeding \$100,000 in September 2023, but filed it one day late on October 6th. The preliminary penalty for the late report is \$50,000. Genuine requests a waiver of the penalty.

LEGAL REQUIREMENTS

When a person, other than an individual, makes contributions aggregating in excess of \$100,000 to a ballot question committee (BQC) for the purpose of initiating or influencing a people's veto referendum campaign or a direct initiative campaign, they are considered a Major Contributor. 21-A M.R.S. § 1060-A(1)(B). The recipient BQC shall provide written notice to the Major Contributor and the Commission within five days of receiving more than \$100,000 on a form prescribed by the Commission. 21-A M.R.S. § 1060-A(2). After the Major Contributor receives the written notice from the recipient BQC, it shall file a report (21-A M.R.S. § 1060-A(2)) on or before the next regularly scheduled BQC filing deadline under 21-A M.R.S. § 1059(2).

If a major contributor fails to file a timely report required under this section or files a report not substantially conforming to the disclosure requirements, the Commission may assess a penalty against it. The preliminary penalty is 10% of the total contributions required to be reported, up to a maximum of \$50,000. 21-A M.R.S. § 1060-A(5).

DISCUSSION

On September 1, 2023, Genuine donated \$500,000 to the Maine Automotive Right to Repair Committee (MARTR), in support of Question 4 on Maine's November 2023 ballot. This required MARTR to send a Notice to Major Contributor to Genuine within five days, or September 6th, and

for Genuine to file a Major Contributor Report by the October Quarterly Report deadline on October 5th. MARTR's Notice to Genuine was sent late, on September 27th, and Genuine filed the Major Contributor Report, via email with the treasurer of MARTR, on October 6th, one day late. The preliminary penalty assigned to Genuine is \$50,000, 10% of its \$500,000 contribution to MARTR.

Genuine requests an elimination or at least a major reduction of the penalty of \$50,000, explaining its legal team was unaware of the donation to MARTR, and the individual responsible for making the contribution, former company president Kevin Herron, retired soon after doing so. This created a communication gap, whereby the treasurer of MARTR's emails were going to an unmonitored inbox. The first anyone at Genuine's legal department knew of the Major Contributor Report, which was filed by Executive VP and CMO Jamie Walton, was when the Commission's penalty letter was received. Genuine argues there was no attempt to avoid reporting, but simple unawareness of the issue compounded by the retirement of Mr. Herron, and no public harm occurred as the report was only one day late. It also notes Genuine has never given political donations before and had no understanding or expectations of any reporting or disclosure requirements.

STAFF RECOMMENDATION

Major Contributor Reports are not commonly filed with the Commission, as high-fundraising BQCs are not a yearly occurrence, and companies and other types of contributors may be caught unawares if they have not previously participated in the political sphere. Maine law, for the past five years, has required large donors to identify themselves and their sources of funding if they wish to influence Maine ballot question elections. The information reported in Major Contributor Reports is distinctive as it requires identification of the Major Contributor's sources of funds, whereas registered committee's campaign finance reports only report the name and address of the Major Contributor itself.

The Commission staff understand the events taking place that led Genuine to its late Major Contributor Report and corresponding \$50,000 penalty and are assured it had no intention of shielding its contribution or financial activity in Maine. However, claiming ignorance of the law does not excuse the responsibility of reporting under Maine law.

For Major Contributor penalties for late submitted Major Contributor Reports, the Commission shall consider:

- (1) The failure of the recipient committee to provide notice of the reporting requirement to the major contributor;
- (2) The number of days the report is late;
- (3) The amount of the contributions required to be reported; and
- (4) Other relevant factors. (21-A M.R.S. § 1060-A(6)(B))

The Commission receives relatively few penalty waiver requests for late Major Contributor Reports or Notices, with the most recent being in 2021. For those penalties, which ranged from \$10,000 - \$50,000, all were reduced to \$2,000 - \$2,500. At that time, Major Contributor reporting had only been in effect for two years, and suggesting penalties reflective of the recent, significant addition in filing responsibilities was fair. However, Major Contributor reporting has now been required for five years, and should be standard practice for BQCs. The Commission staff recommend increasing the baseline penalty to \$5,000 for late Major Contributor Notices and Reports with some adjustments upward or downward to reflect the amount of financial activity at stake, the degree of diligence of the late filer, and other factors. Penalties are intended to serve as deterrent for future violations, and when previous penalties have not had that effect, it signifies a penalty increase may be due.

For Genuine, the Commission staff suggest a penalty of \$5,000. Although Genuine received a late Notice from MARTR, and the report was only one day late, those mitigating factors should be considered against the fact Genuine's former president donated \$500,000 to a political committee resulting in a late report in the month before the election.



GENUINE PARTS COMPANY
LEGAL DEPARTMENT
2999 WILDWOOD PARKWAY
ATLANTA, GEORGIA 30339
678-934-5000

November 3, 2023

VIA EMAIL & USPS

Ms. Emma J. Burke
Political Committee & Lobbyist Registrar
Maine Ethics Commission
45 Memorial Circle, 2nd Floor
Augusta, ME 04330
emma.burke@maine.gov

Dear Ms. Burke:

Genuine Parts Company is in receipt of the notice of the fine of \$50,000 for an untimely major donor report. GPC wishes to appeal the fine and request a significant reduction or elimination of the fine.

By way of background, GPC is a very non-politically active company. I have worked for GPC in a legal role for 26 years and this is the first donation I have been made aware of. GPC does not normally make any political contributions or donations, so there was little to no knowledge regarding the need to file the report. This was a one-off donation. As a retailer of aftermarket automotive parts, the right to repair issue is central to GPC's business so an exception was made in making this donation.

1. Major Donor Report was 1 day late so no public harm. The donor report was only 1 day late so there is no harm to the public due to the late report. There was also no intent to harm, deceive or delay which may not be a factor, but it is certainly the case.
2. Donation was made without the knowledge or involvement of anyone in the Legal Department. As discussed above, the Legal Department was not aware of the donation.
3. Person making the donation is retired, and his email and phone were not monitored during the period where the report form was sent. The President of the company, Kevin Herron, retired during the period when the donation was made, and his email and incoming mail was not monitored closely or at all. We now realize that is a mistake but at the time, no one was aware that this was an important issue that needed attention.
4. Notice of need to file major donor report was not received by anyone in the Legal Department. The first notice of this issue by anyone in Legal was the letter with the fine. In addition to not being aware of the donation, the Legal Department was not brought in until the fine was received. There was no awareness of the matter until the fine was received and the team brought it to our attention.

In summary, GPC would be very grateful for an elimination of the fine or at least a major reduction. We are now aware of this issue and will be compliant in the future if we ever make a political donation again! Thank you for your consideration.

Sincerely,

Kathleen Eidbo

Kathleen F. Eidbo
Vice President-Legal and Senior Counsel
kathleen_eidbo@genpt.com

KE/np



STATE OF MAINE
COMMISSION ON GOVERNMENTAL ETHICS
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AUGUSTA, MAINE 04333-0135

October 11, 2023

Jamie Walton, Executive Vice President & CMO
Genuine Parts Company
2999 Wildwood Parkway
Atlanta, Georgia 30339

Re: Late Filing Major Contributor Report

Dear Mr. Walton:

The Commission staff has made a preliminary finding Genuine Parts Company Maine (“the Contributor”) was late in filing a Major Contributor Report for contributions made to Maine Automotive Right to Repair Committee, which was due by 11:59 p.m. on October 5, 2023, but was not filed until October 6. Under the Commission’s statutes, the late filing of a report triggers an enforcement process. 21-A M.R.S. § 1060-A. The preliminary penalty is 10% of the total contributions reported. Based on the contribution of \$500,000 on the Major Contributor Report, the Commission staff has calculated a preliminary penalty of \$50,000.

The Contributor may request the Commission waive the penalty in whole or in part. Any request for a waiver must be made within 14 calendar days of your receipt of this notice, be in writing and contain a full explanation of the reasons the Contributor filed late. Upon receipt, this matter will be scheduled for an upcoming Commission meeting. You or a designated representative may participate in the meeting either in person or via Zoom.

The Commission may waive the penalty if it determines that the report was late due to, among other things, (1) any lack of notice from the recipient committee to the Major Contributor of the reporting requirement, (2) the number of days the report was filed late, and (3) the amount of the contributions required to be reported.

Please contact me at (207) 287-4709 or emma.burke@maine.gov if you have questions.

Sincerely,

Emma Burke

Emma Burke
Political Committee & Lobbyist Registrar

Maximum Penalties Notification

21-A M.R.S.A. Section 1060-A

\$50,000 for late Notices to Major Contributor Reports and Major Contributor Reports



Major Contributor Report 2023 Election

Regular Reporting Deadlines		
Name of Report:	Filing Deadline	If the Notice is received between:
April Quarterly Report	April 10, 2023	January 1 – March 31, 2023
July Quarterly Report	July 17, 2023	April 1 – June 30, 2023
42-Day Pre-Election Report	September 26, 2023	July 1 – September 19, 2023
11-Day Pre-Election Report	October 27, 2023	September 20 – October 24, 2023
January Quarterly Report	January 16, 2024	October 25 – December 31, 2023
Deadline - Last 13 Days before an Election		
Name of Report:	If the Notice is received between:	The Report is due on or before:
2-Day Election Report	During the last 13 days before an election	Within 2 business days of receiving notice.
NOTE: if the Notice is receiving during the last 13 days before a primary, general, or special election then the Report is due within 2 business days and not by the due date of a Regular Finance Report.		
Organization Information		
Organization Name GENUINE PARTS COMPANY		
Mailing Address 2999 Wildwood Pkwy	Phone: 404 547 0488	
City, State Zip Atlanta, GA, 30339	Email jamie_walton@genpt.com	
Responsible Officer Name and Position Jamie Walton - Executive Vice President & CMO		
Form of Organization and Purpose Corporation - Automotive Aftermarket Distribution		
Tax Status		
Does this Organization currently have a tax-exempt status with the Internal Revenue Service?		
Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>		
If Yes, under what section of the tax code does it claim an exemption?		
Please list all jurisdictions with which this Organization files campaign finance reports		
1.		
2.		
3.		
4.		

Recipient Information

Name of Recipient

MAINE AUTOMOTIVE RIGHT TO REPAIR COMMITTEE

Mailing Address of Recipient

45 BRAINTREE HILL PARK STE 202, BRAINTREE, MA 02184

Date of First Contribution to Recipient

09/01/2023

Total Amount Given to Recipient to Date

500,000

Itemized Contributions Given to Recipient Committee to Date
(If additional space is needed, continue on the "Schedule B-MC-1" Worksheet)

Date	Type of Contribution (e.g. cash or in-kind. If in-kind, describe goods or services given.)	Amount
09/01/2023	CASH DONATION	500,000

Organization Source of Funds

Please provide the names of the five largest sources of funds received by this organization during the period beginning six months prior to the first contribution this organization made to the recipient ballot question committee or political action committee. Do not include the names of sources of funds that are restricted to purposes unrelated to a direct initiative or people's veto referendum campaign.

1. DONATION CAME FROM OPERATING PROFIT. WE DO NOT SOLICIT CUSTOMERS
2. FOR DONATIONS TO THIS COMMITTEE.
- 3.
- 4.
- 5.

Certification of receipt of contributions to influence a Maine ballot question

Has this organization received contributions, in whole or in part, for the purpose of initiating or influencing a direct initiative or people's veto referendum campaign in Maine?

Yes (If so, complete and attach the "Contributions Received to Influence Maine Ballot Question" Worksheet)

No

I Certify that the information in this report is true, correct, and complete.



Signature of Responsible Officer of Organization

10/06/2023

Date

Organization Name: GENUINE PARTS COMPANY

§1060-A. Campaign for direct initiative or people's veto; reporting by major contributors

This section governs the reporting of contributions aggregating in excess of \$100,000 for the purpose of initiating or influencing a campaign for a people's veto referendum under the Constitution of Maine, Article IV, Part Third, Section 17 or a direct initiative of legislation under the Constitution of Maine, Article IV, Part Third, Section 18. [PL 2017, c. 418, §4 (NEW).]

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Contribution" has the same meaning as set out in section 1052, subsection 3 and also includes but is not limited to:

- (1) Funds or anything of value that the contributor specified were given in connection with a campaign for a people's veto referendum or direct initiative campaign;
- (2) Funds or anything of value provided in response to a solicitation that would lead the contributor to believe that the contribution would be used specifically for the purpose of initiating or influencing a people's veto referendum or direct initiative campaign; and
- (3) Funds or anything of value that can be reasonably determined to have been provided by the contributor for the purpose of initiating or influencing a people's veto referendum or direct initiative campaign when viewed in the context of the contribution and the recipient committee's activities during the campaign. [PL 2017, c. 418, §4 (NEW).]

B. "Major contributor" means a person, other than an individual or a committee, that makes one or more contributions aggregating in excess of \$100,000 to a ballot question committee or political action committee for the purpose of initiating or influencing any one people's veto referendum campaign or any one direct initiative campaign. [PL 2021, c. 530, §2 (AMD).]
[PL 2021, c. 530, §2 (AMD).]

2. Notice to major contributor. Within 5 days of receiving more than \$100,000 in the aggregate from a major contributor, the recipient committee shall provide written notice to the major contributor of the reporting requirement under this section and shall submit a copy of the notice to the commission. If the \$100,000 aggregate amount is exceeded as a result of a contribution received during the last 13 days before an election, the recipient committee shall, within 24 hours of receiving the contribution, provide written notice of the reporting requirement to the major contributor and submit a copy of the notice to the commission. The commission shall prepare a sample written notice for this purpose. [PL 2017, c. 418, §4 (NEW).]

3. Required reports. A major contributor shall file a report containing the information required in subsection 4 on or before the next regularly scheduled filing deadline under section 1059, subsection 2 occurring after the major contributor receives notice of the reporting requirement. If a major contributor has received a notice from a recipient committee or the commission during the last 13 days before an election as required under subsection 2, the major contributor shall file a report within 2 business days of receiving notice from the recipient committee or commission. The commission shall prescribe and prepare forms for these reports and may require major contributors to file reports electronically. [PL 2017, c. 418, §4 (NEW).]

4. Content. In the reports required under subsection 3, a major contributor shall provide:

- A. The name of and relevant contact information for the major contributor and the name of a responsible officer of the major contributor; [PL 2017, c. 418, §4 (NEW).]
- B. The form of organization and purpose of the major contributor; [PL 2017, c. 418, §4 (NEW).]

C. The amount and date of each contribution from the major contributor to the recipient committee; [PL 2017, c. 418, §4 (NEW).]

D. A certification that the major contributor has not received contributions, in whole or in part, for the purpose of initiating or influencing a people's veto referendum or direct initiative campaign in this State or, if the major contributor has received such contributions, the dates, sources and amounts of any such contributions; [PL 2017, c. 418, §4 (NEW).]

E. The names of the 5 largest sources of funds received by the major contributor during the period beginning 6 months prior to the first contribution made to the recipient committee and ending on the date of the filing of the report. This paragraph does not apply to funds received by the major contributor:

(1) That are restricted to purposes that are unrelated to a people's veto referendum or direct initiative campaign in the State;

(2) In the ordinary course of the major contributor's regular trade or business or as investment income; or

(3) If the source of the funds provided no more than \$5,000 to the major contributor during the relevant period of time; and [PL 2021, c. 530, §3 (RPR).]

F. A statement indicating whether the major contributor is exempt from taxation under the United States Internal Revenue Code of 1986 and a list of any governmental jurisdictions within the United States in which the major contributor has filed campaign finance reports during the previous 12 months. [PL 2017, c. 418, §4 (NEW).]

The commission may require by rule additional information to be reported consistent with this subsection to facilitate disclosure to citizens of this State of financial activity conducted for the purpose of influencing elections in this State.

[PL 2021, c. 530, §3 (AMD).]

5. Noncompliance. The commission may assess a civil penalty against a person that does not comply with the requirements of this section. The preliminary penalty is 10% of the total contributions required to be reported or \$50,000, whichever is less, for:

A. A recipient committee that fails to provide timely notice to a major contributor under subsection 2; [PL 2021, c. 530, §4 (NEW).]

B. A recipient committee that fails to provide a copy of the notice to the commission under subsection 2. If the commission assesses a penalty under paragraph A, the commission may not also assess a penalty under this paragraph; and [PL 2021, c. 530, §4 (NEW).]

C. A major contributor that fails to file a timely report required under this section or that files a report that does not substantially conform to the disclosure requirements of this section or rules adopted under this section. [PL 2021, c. 530, §4 (NEW).]

[PL 2021, c. 530, §4 (RPR).]

6. Waiver request; final penalty. Not later than the 14th calendar day after the date the person receives notice of the preliminary penalty from the commission under subsection 5, the person may request a waiver of the penalty in full or in part. In considering a request for a waiver under this subsection, the commission shall consider:

A. For violations under subsection 5, paragraphs A and B:

(1) Whether, as a result of the late notice, the due date for a report required by this subchapter is later than if a timely notice had been received;

(2) Whether the recipient committee made a bona fide effort to provide notice to the major contributors;

- (3) The amount of the contributions required to be reported; and
- (4) Other relevant factors; and [PL 2021, c. 530, §5 (NEW).]

B. For violations under subsection 5, paragraph C:

- (1) The failure of the recipient committee to provide notice of the reporting requirement to the major contributor;
- (2) The number of days the report is late;
- (3) The amount of the contributions required to be reported; and
- (4) Other relevant factors. [PL 2021, c. 530, §5 (NEW).]

A person requesting a determination on a waiver may either appear in person or designate a representative to appear on the person's behalf or may submit a sworn statement explaining the mitigating circumstances for consideration by the commission. After a commission meeting, the commission shall mail notice of the final determination of the commission and the penalty, if any, imposed pursuant to this subsection to the person against whom the commission is assessing the penalty. If the person against whom the commission is assessing the penalty does not request a waiver, the preliminary penalty calculated by the commission is final. The commission shall mail final notice of the penalty to the person against whom the commission is assessing the penalty. A final determination by the commission on a waiver 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. [PL 2021, c. 530, §5 (NEW).]

SECTION HISTORY

PL 2017, c. 418, §4 (NEW). PL 2021, c. 530, §§2-5 (AMD).

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