



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

To: Commissioners
From: Lorrie Brann, Candidate Registrar
Date: December 1, 2022
Re: Request by Robert McCarthy for Waiver of Late-Filing Penalty for 24-Hour Report

Robert McCarthy was a traditionally financed, first time candidate in the 2022 general election for House District 93. Candidates who make any single transaction of \$1,000 or more in the last 13 days before an election must disclose it within one day by filing a “24-Hour Report.” On October 31, Mr. McCarthy paid ADS Marketing \$1,100.31 for a mailing, which he was required to report by November 1. Mr. McCarthy logged into eFiling and entered the expenditure and filed the report 14 days late on November 15. The preliminary penalty for the late report is \$308.09 and the candidate seeks a waiver of the penalty.

LEGAL REQUIREMENTS

Candidates must file 24-Hour Reports with the Commission during the 13 days prior to an election if they receive a contribution or loan or make an expenditure or incur a debt of \$1,000 or more. 21-A M.R.S. § 1017(3-A)(C). If the candidate is late filing a 24-Hour Report, the Commission staff calculates a preliminary penalty that is determined by a 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 Commission may waive the preliminary penalty in whole or in part under 21-A M.R.S. § 1020-A(2).

DISCUSSION

On October 25, the day before the start of the 13-day period for filing 24-Hour Reports, Candidate Registrar Lorrie Brann sent an email titled “Guidance on 24-Hour Reporting Period and Reporting Debts & Obligations” to all candidates in the general election advising them of aforementioned reporting requirements. The email opened with guidelines for what types of

transactions would trigger reporting and instructions on how to file it. The email (attached for your reference) also contained information about what would constitute a debt reportable on the 11-Day Pre-General Report, due October 28.

According to his waiver request, Mr. McCarthy was not aware he had to file 24-Hour Report until he entered expenditures for the 42-Day Post-General Report.

Based on the statutory formula for calculating late-filing penalties, the preliminary penalty amount is \$308.09, is calculated as follows:

Report	Deadline	Financial Activity	Penalty Rate	Days Late	Preliminary Penalty
24-Hour Report	11/01/22	\$1,100.31	2%	14	\$308.09

In his November 8 request for waiver, Mr. McCarthy asks the Commission to waive his preliminary penalty, due to his inexperience, lack of campaign support and the outcome of the election.

STAFF RECOMMENDATION

Mr. McCarthy says he was not aware of the requirement to file 24-Hour Reports. However, the guidance in the October 25 email and the language on the reminder card for the 11-Day Pre-General Report should have made him aware of this report.

Commission staff believes that the language in the October 25 email sent by Lorrie Brann clearly stated that any expenditure or unpaid debt of \$1,000 or more needed to be reported within 24 hours:

PLEASE READ THIS EMAIL THOROUGHLY!

As a reminder, the 24-Hour Reporting Period begins Wednesday, October 26 and ends on Monday, November 7. During the 24-Hour Reporting Period, any transactions in the following list must be reported within 24 hours on the Commission's eFiling website:

- Any single contribution of \$1,000 or more
- Any single loan of \$1,000 or more
- Any single expenditure of \$1,000 or more
- Any single unpaid debt or unpaid order of \$1,000 or more

The Commission staff do their utmost to provide candidates with clearly worded guidance and reminders to help them avoid common campaign finance reporting pitfalls, such as late-filed

reports. The October 25 email was meant to serve as a reminder of information already available to candidates in the 2022 Candidate Guidebook, the 2022 filing schedule, and Quick Guide regarding 24-Hour reporting. The relevant pages of the 2022 Candidate Guidebook and 2022 filing schedule are also attached. Both contain clear direction under the heading of “When to file” that the report must be filed within 24 hours.

During 2018-2022, the Commission has waived late-filing penalties against candidates downward to a range of \$300 - \$400, for example:

- from \$2,991.36 to \$300 – late 24-Hour Report by Danny Costain (8/29/2018)
- from \$3,744.00 to \$400 – late 24-Hour Report by Cathleen Nichols (3/16/2019)
- from \$529.50 to \$350 – late 42-Day Post-Primary Report by Mark Lawrence (10/16/2020)
- from \$423.54 to \$300 – late 24-Hour Report by Stephen Hanrahan (11/30/22)
- from \$368.12 to \$300 – late 11-day Pre-General Report by Danielle Fienberg (11/30/2022)

The Commission has generally declined to waive preliminary penalties that were already below \$300:

- \$235.03 – late 42-Day Post-General Report by James LeBrecque (3/6/2019)
- \$84.00 – late 42-Day Post-Primary Report by Brian Redmond (10/16/2020)
- \$132.00 – late 42-Day Post-Primary Report by Mark Andre (10/16/2020)
- \$109.54 – late 11-Day Pre-General Report by Scott Gaiason (1/27/2021)

If the Commission wishes to prioritize consistency with previous penalty waiver outcomes, the staff recommends reducing the preliminary penalty by \$8.09 to \$300. If the Commission is inclined to be more lenient after hearing Mr. McCarthy’s comments on December 21st, there are some factors present that would justify a lower penalty. A reduction of \$8.09 may be insufficient to address Mr. McCarthy’s lack of experience (he ran for County Commissioner previously but only spent \$384). Even though our guidance email and written materials alerted candidates about the 24-Hour reporting requirement, it is the kind of report that may come as a surprise for a first-time House candidate. Mr. McCarthy spent \$5,639 for his House campaign, which puts him in the bottom quarter of House candidates by spending, although it would not qualify as a very small campaign. Thank you.



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

November 16, 2022

Robert McCarthy
34 Rejane Avenue
Lewiston, ME 04240

Re: Notice of Violation and Penalty for Late-Filed 24-Hour Report

Dear Mr. McCarthy:

You were required to file a 24-Hour Report on November 1, 2022 by 11:59 p.m. (21-A M.R.S. § 1017 (3-A)(C)), but the report was not filed until November 15, 2022. 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 **\$308.09**. 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) 287-4727 or lorrie.j.brann@maine.gov if you have any questions.

Sincerely,

Lorrie J. Brann
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 \$10 is automatically waived.

How Your Penalty Was Calculated

Filer: Robert McCarthy			
Late-Filed Report: 24-Hour Report			
Contributions	0	Penalty Base Amount	\$1,100.31
Expenditures	\$1,100.31	Percentage	2%
Due Date	11/01/2022	Daily Accrual Rate	\$22.01
Date Filed	11/15/2022	Days Late	14
Previous Violations	0	Your Total Penalty	\$308.09

Payment Statement and Payment Options

From: Robert McCarthy

Penalty Amount: \$308.09

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.

Dear Commission on Government Ethics,

I was unaware of having to file this report until I started to fill out my final campaign report and the late report popped up. This is my first campaign for state office and it has been a challenge. I have been doing everything myself as I have no campaign staff and it has been quite a rollercoaster ride. Considering the small scale of my campaign and the fact that I got slaughtered at the polls, this fine is just more salt in the wounds.

Considering my inexperience, the size of my campaign and the fact that the late report had no influence on the outcome of the election, I believe the fine serves no purpose. Thank you for considering my appeal and I looked forward to hearing back from you.

Sincerely

Robert A. McCarthy



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

2022 CAMPAIGN YEAR

COMMITTEE		TREASURER	
Mr. Robert McCarthy 34 Rejane Ave Lewiston, ME 04240 PHONE:(207) 577-7738 EMAIL: ramccarthy57@yahoo.com		Ms. Brie Bell 23 Googin St Lewiston, ME 04240 PHONE:(207) 577-7670 EMAIL: bellbrie04@gmail.com	
REPORT	DUE DATE	REPORTING PERIOD	
24-Hour Report of Contributions and Expenditures	11/01/2022	10/31/2022-10/31/2022	

FINANCIAL ACTIVITY SUMMARY

CONTRIBUTIONS AND EXPENDITURES	
1. TOTAL CONTRIBUTIONS / LOANS	\$0.00
2. TOTAL EXPENDITURES	\$1,100.31
3. TOTAL DEBTS	\$0.00

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

REPORT FILED BY: Robert McCarthy
REPORT FILED ON: 11/15/2022 7:49:13 AM
LAST MODIFIED:
COMMITTEE ID: 425694

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
10/31/2022	ADS Marketing 14 Winthrop Ct Unit 2 Augusta, ME, 04330	Mailer	MHS	\$1,100.31
TOTAL EXPENDITURES FOR CANDIDATE:				\$1,100.31



2022 FILING SCHEDULE

For Maine Clean Election Act Legislative Candidates

PRIMARY ELECTION: JUNE 14, 2022

GENERAL ELECTION: NOVEMBER 8, 2022

TYPE OF REPORT	FILING DEADLINE (BY 11:59 P.M.)	REPORT PERIOD
Seed Money Report*	April 20, 2022	Date of first seed money contribution – date of certification request <u>For candidates who filed a Semiannual Report*:</u> January 1, 2022 – date of certification request
11-Day Pre-Primary	June 3, 2022	End of Seed Money Report — May 31, 2022
42-Day Post-Primary	July 26, 2022	June 1 — July 19, 2022
42-Day Pre-General	September 27, 2022	July 20 — September 20, 2022
11-Day Pre-General	October 28, 2022	September 21 — October 25, 2022
42-Day Post-General	December 20, 2022	October 26 — December 13, 2022

* PLEASE NOTE: Candidates collecting more than \$500 in seed money contributions in 2021 must file a 2022 January Semiannual campaign finance report by 11:59 p.m. on January 18, 2022 showing all seed money contributions and expenditures through December 31, 2021.

24-HOUR REPORTS FOR UNCONTESTED CANDIDATES

24-HOUR REPORTING PERIODS (13 DAYS BEFORE THE ELECTION)	WHAT TO REPORT	WHEN TO FILE
Primary: June 1 – June 13, 2022 General: October 26 – November 7, 2022	Any single expenditure of \$1,000 or more. Orders placed with or obligations made to vendors for goods or services are considered expenditures at the time the obligations are made.	<u>Within 24 hours</u> , including weekends and holidays, of making the expenditure, incurring the obligation, or placing the order.

HOW TO FILE REPORTS

Using the Commission's Website. Candidates who receive or expect to receive at least \$1,500 for their campaigns must file reports electronically on the Commission's website. Candidates or treasurers must enter the required information and the treasurer must click "File Report" by 11:59 p.m. on the filing deadline. Candidates who lack access to the technology or the technological ability to file reports on the internet may request a waiver by April 15, 2022. The Commission will grant all reasonable requests.

Commission staff will be available until 5:00 p.m. on filing deadlines to offer assistance to candidates and campaign staff.



2022 FILING SCHEDULE FOR LEGISLATIVE AND COUNTY CANDIDATES

TYPE OF REPORT	DEADLINE	REPORT PERIOD
2022 January Semiannual <i>If > \$500 raised or spent in 2021</i>	January 18, 2022	Beginning of campaign - December 31, 2021
11-Day Pre-Primary <i>All candidates</i>	June 3, 2022	Beginning of campaign *- May 31, 2022 <i>*If 2022 January Semiannual filed: January 1 - May 31, 2022</i>
42-Day Post-Primary <i>All candidates</i>	July 26, 2022	June 1 - July 19, 2022
42-Day Pre-General <i>Candidates participating in the general election</i>	September 27, 2022	July 20 - September 20, 2022
11-Day Pre-General <i>Candidates participating in the general election</i>	October 28, 2022	September 21 - October 25, 2022
42-Day Post-General <i>Candidates participating in the general election</i>	December 20, 2022	October 26 - December 13, 2022
2023 January Semiannual <i>Candidates unsuccessful in the primary and have > \$100 in cash or unpaid loans/debts</i>	January 17, 2023	July 20 - December 31, 2022
2023 July Semiannual <i>Candidates with > \$100 in cash or unpaid loans/debts</i>	July 17, 2023	December 14, 2022 - June 30, 2023 <i>If 2023 January Semiannual filed: January 1—June 30, 2023</i>

REPORTING PERIODS

Each campaign finance report covers a specific period of time. Campaigns must report all contributions received and expenditures made during the period, as well as all debts and obligations that remain unpaid at the end of a period.

If any transactions were not included in a report that has already been filed, the candidate or treasurer must amend the previously filed report. When completing or amending reports, candidates and their treasurers are encouraged to call the Commission staff with any questions.



REQUIRED REPORTS

Semiannual Reports for Candidates with Financial Activity in 2021. If a candidate raises or spends more than \$500 before December 31, 2021, the campaign must file a 2022 January Semiannual Report no later than January 18, 2022, covering all financial activity since registration.

Required Pre- and Post-Election Reports for All Candidates. Candidates are required to file campaign finance reports according to the schedule found in the table on this page. Each report covers a specific time period and must include all activity within that period.

24-Hour Reports. The 24-hour reporting requirement applies during the 13-day period prior to an election



**2022 PRIMARY ELECTION 24-HOUR REPORTING PERIOD
JUNE 1, 2022 – JUNE 13, 2022**

Sun	Mon	Tue	Wed	Thu	Fri	Sat
May 29	May 30	May 31	June 1 BEGINS	June 2	June 3	June 4
June 5	June 6	June 7	June 8	June 9	June 10	June 11
June 12	June 13 ENDS	June 14 Primary Election	15	16	17	18

**2022 GENERAL ELECTION 24-HOUR REPORTING PERIOD
OCTOBER 26, 2022 – NOVEMBER 7, 2022**

Sun	Mon	Tue	Wed	Thu	Fri	Sat
October 23	October 24	October 25	October 26 BEGINS	October 27	October 28	October 29
October 30	October 31	November 1	November 2	November 3	November 4	November 5
November 6	November 7	November 8 General Election	9	10	11	12

HOW TO FILE 24-HOUR REPORTS:

- File reports electronically; eFiling will create a 24-Hour Report to file after the transaction is added.

WHEN TO FILE 24-HOUR REPORTS:

- Within 24 hours of the contribution, expenditure, or debt or obligation.
- A report must be filed on a weekend or holiday if that is when it is due.
- Qualifying transactions taking place on the day before an election must be reported on election day.

(calendar above). A 24-Hour Report must be filed within 24 hours when a candidate:

- receives a single contribution or loan of \$1,000 or more; or
- makes a single expenditure or incurs an unpaid debt or obligation of \$1,000 or more.

If a candidate incurs a debt or obligation with a vendor during the 24-hour reporting period, they must report the debt or obligation within 24 hours, regardless of when the vendor is paid. The table to the right lists actions which constitute incurring a debt or obligation. Overhead costs, such as rent, taxes, utilities, and

some salary payments, are exempt from 24-hour reporting. A debt payment of \$1,000 or more must be reported in the 24-hour reporting period, unless the debt itself was reported in the report immediately

UNPAID DEBTS AND OBLIGATIONS WHICH ARE REPORTABLE IN 24-HOUR REPORTS
The placement of an order for goods and services
A promise or agreement (even an implied one) that payment will be made
The signing of a contract for a good or service
The delivery of a good or service even if payment has not been made

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11-DAY PRE-GENERAL REPORT **DUE FRIDAY, OCTOBER 28, 2022**

11-DAY PRE-GENERAL REPORT - DUE OCTOBER 28!

- * All candidates receiving this reminder must file their 11-Day Pre-General Report no later than 11:59 p.m. on Friday, October 28, 2022
- * If you are receiving this reminder, you are required to file this report
- * We encourage you to visit www.maine.gov/ethics/candidates/filing-campaign-finance-reports to read our filing tips for this report
- * Reporting period ends: **October 25, 2022**
- * To file your report, go to www.mainecampaignfinance.com and sign in

◇ Every order placed or agreed to by October 25, must be included in the 11-Day Pre-General Report.

◆ The 24-Hour reporting period is October 26—November 7. Any single contribution or expenditure of \$1,000 or more must be reported in a 24-Hour Report.

If you need assistance please contact your Candidate Registrar

Lorrie Brann: lorrie.j.brann@maine.gov | (207) 287-4727
House 77-151, Senate 18-35
Androscoggin, Cumberland, Franklin, Kennebec,
Lincoln, Oxford, Sagadahoc, and York counties

Erin Gordon: erin.gordon@maine.gov | (207) 287-3651
House 1-76, Senate 1-17
Aroostook, Hancock, Knox, Penobscot, Piscataquis,
Somerset, Waldo, and Washington counties

Gordon, Erin

From: Brann, Lorrie J
Sent: Tuesday, October 25, 2022 1:41 PM
Cc: Gordon, Erin
Subject: Guidance on 24-Hour Reporting Period and Reporting Debts & Obligations

PLEASE READ THIS EMAIL THOROUGHLY!

As a reminder, the 24-Hour Reporting Period begins **Wednesday, October 26 and ends on Monday, November 7**. During the 24-Hour Reporting Period, any transactions in the following list must be reported within 24 hours on the Commission's eFiling website:

- Any single contribution of \$1,000 or more
- Any single loan of \$1,000 or more
- Any single expenditure of \$1,000 or more
- Any single unpaid debt or unpaid order of \$1,000 or more
 - This is regardless of whether you have an invoice or have made a payment on a purchase. If you agree to or place an order with a vendor that is, or may be, \$1,000 or more, you are required to report it as a debt on a 24-Hour Report during the 24-Hour Reporting Period

To file a 24-Hour Report, you must log on to the eFiling website and enter the transaction. The system will make a special 24-Hour Report for you to file. The report must then be completely filed - just entering the transaction will not meet the filing requirements.

This email also serves as a reminder about the importance of reporting debts and unpaid obligations. **Debts must be reported when a reporting period ends, and you have placed an order during that reporting period that you have not fully paid for yet.** Regardless of whether you have received an invoice or bill; you are responsible for at least having an estimate of how much your order(s) will cost; reporting an estimated amount in a debt is allowed.

For instance, candidate Bridget Jones agrees to a third direct mail purchase with the direct mail vendor on October 14th. Bridget needs to file the 11-Day Pre-General Report on October 28th but doesn't have an invoice yet. However, the last two direct mail pieces cost around \$1,500 each, so Bridget reports a debt of \$1,500 with a date of October 14 in the 11-Day Pre-General Report.

EVERY ORDER PLACED OR AGREED TO BY OCTOBER 25TH MUST BE INCLUDED ON THE 11-DAY PRE-GENERAL REPORT.

If you have questions or concerns about this email, please call or email us.

Lorrie Brann: lorrie.j.brann@maine.gov
(207) 287-4727

Erin Gordon: erin.gordon@maine.gov
(207) 287-3651

House 77-151, Senate 18-35

House 1-76, Senate 1-17

Androscoggin, Cumberland, Franklin,
Kennebec, Lincoln, Oxford, Sagadahoc, and
York counties

Aroostook, Hancock, Knox, Penobscot,
Piscataquis, Somerset, Waldo, and
Washington counties

Title 21-A M.R.S.
Chapter 13: Campaign Finance Reports and Finances

...

§ 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.

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.

§ 1020-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 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.

...

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.