



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

To: Commission
From: Michael Dunn, Esq., Political Committee and Lobbyist Registrar
Date: May 20, 2020
Re: Request for Waiver of Late-Filing Penalty by Eliza Donoghue, Esq., Lobbyist

Once registered, lobbyists are required to file monthly reports of their lobbying activities. Monthly reports are due on the 15th day of the month for the preceding month. Ms. Eliza Donoghue, Esq., the lobbyist for the Maine Audubon, was required to file a monthly lobbyist report on February 18, 2020 (the day after Presidents' Day), covering the month of January. She attempted to file the report on February 11, 2020, but apparently did not complete the process. She did not file the report until February 24, 2020. Ms. Donoghue filed the long-form report disclosing \$386.20 in compensation for legislative lobbying and \$124.20 in expenditures made to or on behalf of officials. On February 26, 2020, Commission staff sent her a letter advising her of the \$100 preliminary penalty for the late filing of the report.

LEGAL REQUIREMENTS

All registered lobbyists are required to file monthly reports for each calendar month they are registered. Reports are due 11:59 p.m. on the 15th day of the following month (*i.e.*, the June lobbying report is due July 15th). 3 M.R.S.A. §317. For late reports filed more than 24 hours past the deadline, the preliminary penalty is \$100. 3 M.R.S.A. §319.

The Commission may waive the penalty in whole or in part if the Commission finds circumstances to warrant the waiver of the penalty based upon relevant evidence presented that a bona fide effort was made to file the report in accordance with this chapter, including, but not limited to, unexplained delays in Internet service. Id.

DISCUSSION AND STAFF RECOMMENDATIONS

Ms. Donoghue registered as a lobbyist on January 3, 2020 and was assigned a new user name for the 2020 lobbying year. The automated confirmation email that was sent to Ms.

Donoghue read: “[i]f you already have an active user name and password and would like to use one user name and password for both accounts, contact the Commission Staff.” On January 4, 2020, Ms. Donoghue logged into her 2020 account. On February 11, 2020, Ms. Donoghue logged on to the system using her credentials for the 2019 account, and she realized that she could not access the 2020 reports. She contacted the Commission staff that day and her 2020 account was merged with her 2019 user login credentials by staff. She then attempted to file the January report, but apparently did not complete the filing process. (The Commission staff can confirm that she logged in on the afternoon of February 11, 2020.)

On February 17, 2020, the system emailed an automated reminder to Ms. Donoghue’s email account. On February 18, 2020, Commission staff emailed Ms. Donoghue a second reminder. After returning from vacation on February 24, 2020, Ms. Donoghue filed the lobbying report.

Ms. Donoghue contends that there was an unexplained glitch in the Commission’s website due to the merging of the 2019 and 2020 account. Commission staff, however, does not believe that to be the case because these mergers occur regularly and without issue. Commission staff tested Ms. Donoghue’s ability to file a report by creating a test report and logging into the system as Ms. Donoghue. Staff was able to file the test report without difficulty.

Based on Ms. Donoghue’s conversation with the Commission staff and the record of her login on February 11th, the Commission staff believes that Ms. Donoghue attempted to file her lobbying report on February 11, 2020; however, staff cannot conclude that there was an error in the Commission’s lobbyist reporting website. The Commission staff recommends that the Commission find that Ms. Donoghue committed an unintentional violation resulting in the late filing of the January Lobbying Report and reduce the penalty from \$100 to \$50.

Thank you for your attention to this matter.

3 M.R.S. § 319

Current with the First Regular Session, the First Special Session, Chapters 533-678 of the Second Regular Session of the 129th Maine Legislature.

Maine Revised Statutes Annotated by LexisNexis® > Title 3. Legislature (Chs. 1 — 37) > Chapter 15. Lobbyist Disclosure Procedures (§§ 311 — 327)

§ 319. Penalty

1. Failure to file registration or report. Any person who fails to file a registration or report as required by this chapter may be assessed a fine of \$ 100 for every month the person fails to register or is delinquent in filing a report pursuant to section 317. If a registration or report is filed late, the commission shall send a notice of the finding of violation and preliminary penalty. The notice must provide the lobbyist with an opportunity to request a waiver of the preliminary penalty. If a lobbyist files a report required pursuant to section 317 within 24 hours after the deadline, the amount of the preliminary penalty is \$ 50. The commission may waive the fine or penalty in whole or in part if the commission determines the failure to register or report was due to mitigating circumstances or the fine or penalty is disproportionate to the level of experience of the lobbyist or the harm suffered by the public from the late registration or report. For purposes of this subsection, “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 fine or penalty in whole or in part;
- B. An error by the commission; or
- C. Circumstances determined by the commission to warrant the waiver of the fine or penalty in whole or in part, based upon relevant evidence presented that a bona fide effort was made to file the report in accordance with this chapter, including, but not limited to, unexplained delays in Internet service.

1-A. Notice of suspension. Any person who fails to file a report or pay a fee as required by this chapter may be suspended from further lobbying by written notice of the commission until such failure is corrected.

2. Repealed. Laws 1979, c. 632, § 3.

3. Exemption. Notwithstanding section 317, subsection 1, a registered lobbyist is exempt from the penalty imposed under this section if, while the Legislature is convened in special session, the lobbyist failed to file a report with the commission pursuant to section 317 if no lobbying has been performed during that special session.



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

LOBBYIST DISCLOSURE REPORT FOR JANUARY 2020

LOBBYIST INFORMATION		
ELIZA DONOGHUE		Telephone: (207) 712-4359
20 GILSLAND FARM RD. FALMOUTH, ME 04105		EDONOGHUE@MAINEAUDUBON.ORG
		ID: 11645
CLIENT INFORMATION		
Maine Audubon		Telephone: (207) 781-6180
Principal Contact: Andrew Beahm		
20 Gilsland Farm Road		abeahm@maineaudubon.org
Falmouth, ME 04105		www.maineaudubon.org
LOBBYIST ASSOCIATES		
TOTAL COMPENSATION FOR LOBBYING		
\$386.20 Legislative Branch Officials	\$0.00 Executive Branch Officials	\$0.00 Constitutional Officials
TOTAL EXPENDITURES MADE FOR LOBBYING ACTIVITIES		
\$0.00 Legislative Branch Officials	\$0.00 Executive Branch Officials	\$0.00 Constitutional Officials
TOTAL EXPENDITURES MADE TO OR ON BEHALF OF OFFICIALS AND FAMILY MEMBERS		
\$124.20 Legislative Branch Officials	\$0.00 Executive Branch Officials	\$0.00 Constitutional Officials
EXPENDITURES OF \$25 OR MORE FOR OFFICIALS AND FAMILY MEMBERS		
LIST OF EVENTS AND ATTENDEES IF \$250 OR MORE WAS SPENT ON OFFICIALS		
LEGISLATIVE ACTIONS THAT WERE THE SUBJECT OF LOBBYING		
Bills	LD 911, LD 1750, LD 1832, LD 1888, LD 1942, LD 1973	
Issues		
LEGISLATIVE ACTIONS FOR WHICH COMPENSATION/EXPENDITURES EXCEEDED \$1,000		
Bills		
Issues		
ORIGINAL SOURCES OF CONTRIBUTIONS/PAYMENTS OF \$1,000 OR MORE TO CLIENT		
LEGISLATIVE ACTIONS THAT WERE THE SUBJECT OF INDIRECT LOBBYING (OVER \$15,000)		
CERTIFICATION		

I, ELIZA DONOGHUE, affirm that the information contained in this report is true and complete and that no information is knowingly withheld to the best of my knowledge.

Report Filed by: ELIZA DONOGHUE

Report Filed on: February 24, 2020

If this report is filed by an authorized agent of the Principal Lobbyist, the Principal Lobbyist and the agent are liable for any violations of the Lobbyist Disclosure Law (3 M.R.S.A Chapter 15) that may result from the filing of a false or inaccurate report

Unsworn falsification is a Class D crime (17-A M.R.S.A. § 453).



February 26, 2020

Eliza Donoghue
Maine Audubon
20 Gilsland Farm Road
Falmouth, ME 04105

Re: Late Filing – February 18, 2020 Lobbyist Report

Dear Ms. Donoghue:

The Commission staff has made a preliminary determination that a penalty of \$100 applies for the late filing of the February 18, 2020 lobbyist disclosure report for your client, Maine Audubon. See, 3 MRSA § 319. The report was due on February 18, 2020 but was not filed until February 24, 2020.

If you disagree with the preliminary penalty, you may request a waiver by submitting a statement, in writing, to the Commission stating the reason the report was filed late and requesting that the preliminary penalty be waived. All requests for waiver will be included on the agenda for the next Commission meeting.

If you do not intend to seek a waiver of the preliminary penalty, please mail a check, payable to “Treasurer, State of Maine,” for the above amount to the Ethics Commission at 135 State House Station, Augusta, Maine 04333. You may also pay with a Visa or MasterCard online at www.maine.gov/ethics by selecting the “penalty payment” option.

Please either pay the preliminary penalty or submit a request for waiver within 14 days of the date of this letter. 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

If paying by check, please return this portion with your payment. Thank you.

From: Maine Audubon
Re: Penalty for late filing of February 2020 Lobbyist Disclosure Report (\$100).

Enclosed: \$ _____ Check/M.O. No.# _____

Commission on Governmental Ethics &
Election Practices
135 State House Station
Augusta, ME 04333

February 26, 2020

To Whom It May Concern:

Thank you for the opportunity to submit this statement requesting the waiver of a \$100 penalty, preliminarily determined by the Commission staff on February 26, 2020, for filing a late lobbying report. For the reasons described below, the Commission received my January 2020 lobbying report late due to mitigating circumstances as described in 3 M.R.S.A. § 319(B). As such, I respectfully request that the Commission waive the penalty.

On February 13, 2020, I went to the Maine Ethics Commission Lobbyist Disclosure Site to file my January 2020 lobbying report and found that my new (2020) lobbying year was not on the site, despite the fact I had indeed registered for a new lobbying year. I immediately called the Commission and spoke to Ms. Lorrie Brann, who shared with me that when a lobbyist registers for a new lobbying year, the registration system creates a new account; I had not entered the site using that new account. Ms. Brann swiftly merged my 2020 account with my 2019 account so that I could access my 2020 account using the same user login credentials. Immediately after getting off the phone with Ms. Brann (the afternoon of February 13, 2020), I filed by January 2020 lobbying report.

After returning to work on February 24, 2020 after a week of vacation, I was surprised to find notice of a late lobbying report. After speaking with Mr. Michael Dunn, who confirmed that my report had indeed not been received by the Commission, I re-submitted my report. While I certainly am not a computer expert, I can only assume that there was a technical error—perhaps associated with merging the accounts—that prevented my report from being received by the Commission.

It is my hope that the Commission agrees that, consistent with 3 M.R.S.A. § 319(B), I made a “bona fide effort . . . to file the report in accordance with this chapter.” As such, I respectfully request that the Commission waive the penalty.

Thank you,



Eliza Donoghue, Esq.
Director of Advocacy & Staff Attorney