



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

**Agenda - AMENDED**

**August 29, 2018, at 9:00 a.m.**

Commission Office, 45 Memorial Circle, 2<sup>nd</sup> Floor, Augusta, Maine

**1. Ratification of Minutes of June 27, 2018 Meeting**

**2. Request for Waiver of Late-Filing Penalty – Maine Health Care Association PAC**

On May 31, 2018, the Maine Health Care Association PAC made three \$1,000 contributions to other PACs. It was required to report these expenditures in a 24-Hour Report by June 1, 2018, but did not do so until July 17, 2018. It requests a waiver of the \$2,760 preliminary penalty. *Staff recommendation: the staff recommends a partial waiver, reducing the penalty to \$500.*

**3. Request for Waiver of Late-Filing Penalty – Fecteau for Leadership PAC**

On June 4, 2018, the Fecteau for Leadership PAC made a \$5,000 contribution to another PAC. It was required to report this expenditure in a 24-Hour Report by June 5, 2018, but did not do so until June 9, 2018. It requests a waiver of the \$400 preliminary penalty. *Staff recommendation: the staff recommends not waiving the preliminary penalty.*

**4. Request for Waiver of Late-Filing Penalty – Caitlin Hills**

Caitlin Hills was a Maine Clean Election Act candidate for House District 97. She was required to file a 24-Hour Report on June 9, 2018. She filed the report on July 15, 2018, 36 days late. The preliminary penalty is \$829.08. She requests a waiver due to unawareness of the 24-hour reporting requirements. *Staff recommendation: the staff recommends reducing the penalty to \$300.*

**5. Request for Waiver of Late-Filing Penalty – Ian Schwartz**

Ian Schwartz was a Maine Clean Election Act candidate in the Democratic primary election for Senate District 7. He was required to file a 24-Hour Report by June 9, 2018. He filed the report on June 28, 2018, 19 days late. The preliminary penalty is \$384.37. He requests a waiver of the penalty because of his inexperience. *Staff recommendation: the staff recommends not waiving the preliminary penalty.*

**6. Request for Waiver of Late-Filing Penalty – Danny Costain**

Danny Costain was a traditionally financed candidate for House District 100. He was required to file a 24-Hour Report on June 6, 2018. He filed the report on July 24, 2018, 48 days late. The preliminary penalty is \$2,991.36. He requests a waiver due to unawareness of the 24-hour reporting requirements and not receiving reference documents at the time of his registration. *Staff recommendation: the staff recommends reducing the penalty to \$300.*

### **7. Request for Waiver of Late-Filing Penalty – Jeffrey Slocum**

Jeffrey Slocum was a traditionally financed candidate for House District 51 in 2016. He was required to file the 2018 July Semiannual Report by July 16, 2018. He filed the report 7 days late. The preliminary penalty is \$112. He requests a waiver of the penalty because his campaign is now defunct and his contact information was not updated, so he did not receive filing reminders. *Staff recommendation: the staff recommends not reducing the penalty.*

### **8. Settlement of Litigation and Civil Penalties – York County Casino Initiative**

In December 2017, the Commission assessed penalties totaling \$500,000 for campaign finance violations against Lisa Scott, two limited liability companies owned by her, a ballot question committee that she formed, and the committee's treasurer, Cheryl Timberlake. In January 2018, Cheryl Timberlake and Lisa Scott filed actions in Maine Superior Court challenging the Commission's determination. The Commission will consider a proposed settlement agreement resolving the litigation and penalties.

### **Other Business**

### **EXECUTIVE SESSION**

If necessary

### **ADJOURNMENT**



Minutes of the August 29, 2018 Meeting of the  
Commission on Governmental Ethics and Election Practices  
45 Memorial Circle, Augusta, Maine

Present: William A. Lee III, Esq., Chair; Hon. Richard A. Nass; Meri N. Lowry, Esq.; Bradford A. Pattershall, Esq.

Staff: Jonathan Wayne, Executive Director; Phyllis Gardiner, Counsel

Mr. Lee convened the meeting at 9:02 a.m.

**1. Ratification of Minutes of June 27, 2018 Meeting**

Mr. Pattershall made a motion to accept the minutes as written. Mr. Nass seconded. The motion passed (4-0).

**2. Request for Waiver of Late-Filing Penalty – Maine Health Care Association PAC**

Mr. Lee noted the staff-recommended penalties are significantly higher than they have been in the past and said it would be helpful if Mr. Wayne could explain the reason for the higher recommendations. Mr. Wayne said that a 2015 citizen initiative made a number of changes to campaign finance law. Among those changes was an increase to the daily accrual rate for penalties for late-filed reports. As a result, there was a perception among the Commissioners that the recommended penalties should be higher to give effect to what the voters approved. In April 2018, the Commissioners discussed increasing recommended penalty amounts and indicated that the recommended penalties should be roughly double what they had been in previous years. Mr. Wayne said the size and sophistication of PACs can vary greatly and it may not be possible to have a single baseline recommended penalty amount appropriate for all PACs. However, the staff is considering setting \$750 as the low end of the recommended penalty for late-filed reports by PACs.

Mr. Wayne said the Maine Health Care Association (MHCA) PAC made three \$1,000 contributions to three other PACs on May 31<sup>st</sup>. It was required to report these expenditures in a 24-Hour Report by June 1<sup>st</sup>, but did not do so until July 17<sup>th</sup>, 46 days late. The preliminary penalty is \$2,760. In making the recommended penalty of \$500, the staff was influenced by the fact that the contributions were made to three other PACs and did not have anything to do with

the primary election and did not result in a high degree of public harm. It was just a matter of poor timing that the contributions were made within the 13 days before an election. The staff recommended a partial waiver, reducing the penalty to \$500. The PAC requested a full waiver due to the minimal harm to the public resulting from the late-filing and the inadvertent timing of the donations.

Richard A. Erb, President and CEO of the MHCA, appeared before the Commission and stated it was an oversight on his part that he did not inform the PAC treasurer about the contributions. Mr. Erb said in the past 17 years the PAC had filed reports on time and assured the Commission this oversight would not happen again.

Ms. Lowry commented the contributions were not associated with the primary election or made for the purpose of influencing the election and that distinguishes this case from other instances of late-filed 24-Hour Reports.

Mr. Erb stated the contributions were to support the members of the parties which support the issues of importance to the PAC during the upcoming legislative session. Mr. Erb said he believed the contributions were made in connection with certain fundraising events that regularly happen at that time of year.

Mr. Lee said the Commission has tried to act with consistency when it imposes penalties in order to give regulated entities some indication of the potential penalties they may be facing. The standard penalty for PACs tended to be \$500 for late-filing violations, \$200 for candidates, and a lesser amount for county committees. With the change to the penalty calculation brought about by the citizen initiative, it seemed that a doubling of the recommended penalties was in order. Mr. Lee said he thought the standard penalty for PAC should be closer to \$1,000, while recognizing that there may be mitigating or aggravating circumstances that would warrant a lower or higher penalty.

Mr. Nass commented that there was a lack of comment or feedback from the public for the Commission to gauge what the public thinks about the Commission's penalties. Mr. Pattershall agreed and said he was comfortable with the staff recommendation in this case.

Ms. Lowry suggested that the Commission may want to give some guidance to the staff regarding a default penalty amount since Mr. Lee has proposed \$1,000 and Mr. Wayne said he

was thinking of \$750 as the low end of the penalty range for PACs. Ms. Lowry said she was comfortable with the staff recommendation in this case.

Mr. Lee made a motion to reduce the statutorily calculated penalty from \$2,760 to \$500 as proposed by the Commission staff, on the basis of the mitigating factors that have been expressed. Ms. Lowry seconded. The motion passed (4-0).

### **3. Request for Waiver of Late-Filing Penalty – Fecteau for Leadership PAC**

Mr. Wayne said the Fecteau for Leadership PAC, established by Representative Ryan Fecteau, made a \$5,000 contribution to another PAC on June 4<sup>th</sup>. It was required to report this expenditure on June 5<sup>th</sup> in a 24-Hour Report but did not do so until June 9<sup>th</sup>. In his waiver request, Rep. Fecteau stated he had thought a report may be required but since there was no 24-Hour Report listed on his filing schedule in the e-filing system, he thought that a report was not required after all. The preliminary penalty is \$400 and the staff did not recommend a waiver of the penalty.

Rep. Ryan Fecteau of Biddeford appeared before the Commission. He said the contribution was not related to the primary election. He made the contribution on June 4<sup>th</sup> merely as a matter of convenience while he was at a fundraiser with someone connected with the recipient PAC.

Mr. Lee said that when the preliminary penalty is below the standard recommended penalty, it is unusual for the Commission to reduce the preliminary penalty in the absence of extraordinary mitigating circumstances.

Mr. Lee made a motion to impose the statutorily calculated penalty of \$400. Ms. Lowry seconded. The motion passed (4-0).

### **4. Request for Waiver of Late-Filing Penalty – Caitlin Hills**

Mr. Wayne said that Catlin Hills was a Maine Clean Election Act candidate for House District 97. She was in a contested primary election which she lost. She paid \$1,151.71 to a vendor for campaign signs and a mailing and was required to file a 24-Hour Report on June 9<sup>th</sup>. She filed the report on July 5<sup>th</sup>, 26 days late. The preliminary penalty is \$829.08. Ms. Hills requested a waiver due to her unawareness of the 24-hour reporting requirements. The staff recommended reducing the penalty to \$300.

Ms. Hills appeared before the Commission as did her campaign treasurer, Charlie Grey. She explained that she had actually wrote and sent the check to the vendor on May 21<sup>st</sup>, before the 24-hour reporting period started.

Mr. Grey said he was unaware he should have been using the date of the check for the date of the expenditure. In his prior bookkeeping experience, he would use the date the check cleared the bank when he entered the transaction into QuickBooks and reconciled his bank statements. So, when he was entering expenditures into the Commission's e-filing system for the post-primary report, he used June 9<sup>th</sup> as the date of the \$1,151.71 expenditure, which triggered the 24-Hour Report.

Mr. Wayne said the guidance to candidates is that whenever a payment to a vendor is made, that information should be relayed to the campaign treasurer or the person completing the campaign finance reports. Treasurers should not have to wait until they get a bank statement to learn about payments out of the campaign bank account. The information is needed in a timely fashion to fill out the campaign finance reports accurately. In this case, the payment fell within the reporting period for the report that was due on June 1<sup>st</sup>, 11 days before the primary election.

Mr. Lee asked Mr. Wayne whether this reporting error actually resulted in a violation involving the 11-Day Pre-Primary Report. Mr. Wayne said the staff would withdraw the late-filing violation for the 24-Hour Report and review whether the 11-Day Pre-Primary Report was substantially non-conforming and therefore late.

Mr. Lee made a motion to find no violation and to request that the Commission staff investigate further into whether there was a June 1<sup>st</sup> filing violation and report back as needed. Mr. Nass seconded. The motion passed (4-0).

#### **5. Request for Waiver of Late-Filing Penalty – Ian Schwartz**

Mr. Wayne said Ian Schwartz was a Maine Clean Election Act candidate in a contested primary for the Democratic nomination in Senate District 7. Mr. Schwartz did not win the primary. He made an expenditure of \$1,011.88 on June 8<sup>th</sup> and was required to file a 24-Hour Report by June 9<sup>th</sup>. He filed the report on June 28<sup>th</sup>, 19 days late. The preliminary penalty is \$384.37. Mr. Wayne said Mr. Schwartz or his treasurer was aware of the 24-hour reporting requirement because the campaign had filed a 24-Hour Report for another expenditure earlier in June. Mr. Schwartz requested a waiver of the penalty because of his inexperience. The Commission staff recommended not waiving the penalty.

Mr. Schwartz appeared before the Commission. He apologized for the late-filing. He said while he was an inexperienced first-time candidate, he was aware of the 24-hour reporting requirement.

He said he was not present at the meeting to make excuses but to show to the Commission he takes this matter seriously.

Mr. Lee asked Mr. Wayne whether the recommended penalty in this case should be \$300. That amount would be consistent the previous case and next case which also involved first-time candidates. Mr. Wayne said he did not think there would be any harm in doing so. The staff did not recommend a reduction from the preliminary penalty in this case because, unlike the other cases, Mr. Schwartz was aware of the 24-hour reporting requirement. However, he said all three candidates were otherwise diligent in fulfilling their reporting responsibilities and he did not see any problems with the reduction.

Mr. Pattershall said he supported a reduction to \$300. Mr. Lee said that a \$300 penalty was consistent with the other cases.

Mr. Lee made a motion to reduce the statutorily calculated penalty of \$384.37 to \$300. Mr. Pattershall seconded.

Ms. Lowry said the Commission is moving towards a more standardized and consistent penalty structure. She suggested that it may be helpful if there was a statement explaining the rationale for making a reduction in this case.

Mr. Lee said this case involved a first-time candidate who had no other violations. He thought the standard for this kind of violation would be in the \$300 range unless there are aggravating circumstances that warranted a higher penalty. In this case, there are no aggravating factors. In addition, the \$300 penalty is in effect a doubling of the standard penalty in use before the 2015 citizen initiative.

The motion passed (4-0).

## **6. Request for Waiver of Late-Filing Penalty – Danny Costain**

Mr. Wayne said Danny Costain was a traditionally financed candidate in a contested primary for the Republican nomination in House District 100. On June 5<sup>th</sup>, he loaned his campaign \$3,116.26 and made an expenditure of \$2,796.89 for campaign signs and literature. He was required to file a 24-Hour Report on June 6<sup>th</sup> reporting this financial activity. He filed the report on July 24<sup>th</sup>, 48 days late. The preliminary penalty is \$2,991.36, which the staff considers disproportionately high. Mr. Wayne outlined for the Commission the various methods used to provide notice and guidance to candidates about the 24-hour reporting requirement. The staff recommended

reducing the penalty to \$300 in light of the fact that Mr. Costain was a first-time candidate and was unaware of the reporting requirement.

Joshua Tardy, Esq., appeared before the Commission on behalf of Mr. Costain. He said that Mr. Costain appreciates the staff recommendation and agrees with it. In response to a question from Ms. Lowry, Mr. Tardy said he was the treasurer of the campaign in name only. He provided advice to the candidate but did not file reports.

Mr. Nass moved that the Commission adopt the staff recommendation and reduce the penalty to \$300. Mr. Lee seconded. The motion passed (4-0).

### **7. Request for Waiver of Late-Filing Penalty – Jeffrey Slocum**

Mr. Wayne said Jeffrey Slocum was a traditionally financed candidate in the 2016 Republican primary election for House District 51. He won the primary election but withdrew shortly thereafter. Because his campaign had over \$100 in surplus cash after the primary election, Mr. Slocum was required to file semiannual reports until he disposed of his campaign balance. He was required to file the 2018 July Semiannual Report by July 16<sup>th</sup>, but he filed the report 7 days late. This report would have been his final report because he had disposed of his remaining campaign funds by making a contribution to a candidate running in 2018. The preliminary penalty is \$112. He requested a waiver of the penalty because his campaign is now defunct and his contact information was not updated, so he did not receive filing reminders. The staff recommended not reducing the penalty.

Mr. Nass moved that the Commission adopt the staff recommendation and assess a penalty of \$112. Mr. Lee seconded. The motion passed (4-0).

### **8. Settlement of Litigation and Civil Penalties – York County Casino Initiative**

Mr. Lee said this item had been placed on a revised agenda published the day before the meeting.

Phyllis Gardiner said the Commission made its decision in this matter in December 2017 and that decision was appealed to the Superior Court. Normally, she would defend the Commission's decision through the appeal process, and if successful, the decision would become final. Then, the Commission staff would attempt to collect the penalty. If that attempt was not successful, the Commission could refer the matter to the Office of the Attorney General, which would file a new civil action to collect the penalty.



Ms. Gardiner said the settlement proposal would resolve the appeal pending in Superior Court and the issue of collecting the penalty. The appellees – Cheryl Timberlake, Lisa Scott, and Ms. Scott’s LLCs and ballot question committees – would dismiss their appeal voluntarily which would leave the Commission’s decision as the final word on the matter. Ms. Scott and Ms. Timberlake would also pay an agreed-upon amount (\$100,000) as a penalty, which would obviate the need to file a collection action.

Ms. Gardiner said the settlement would be highly efficient and save resources in terms of the litigation involved in defending the decision and filing a collection action in the Superior Court. One of the more significant reasons for recommending the acceptance of the settlement proposal is the reality of trying to collect the penalty from Ms. Scott and her LLCs. Ms. Scott lives outside of the country and does not have assets in Maine and, to Ms. Gardiner’s knowledge, is unlikely to have assets in the country. Trying to collect a judgment against Ms. Scott and her LLCs is unlikely to be successful. The only person liable for a penalty who is in the country and has assets here is Cheryl Timberlake, whom the Commission found jointly and severally liable for a penalty of \$130,000. That amount would be the maximum the Commission could collect against her. In light of these circumstances, it seemed reasonable not to expend a lot of State’s resources in time and effort trying to collect something that was likely uncollectible. The payment of \$100,000 is a significant amount and the Commission’s decision is a significant deterrent. The settlement is a practical acknowledgement of the reality of the difficulty of collecting a penalty under these circumstances.

In response to a question from Mr. Nass, Ms. Gardiner said the penalty payment would be made to the State Treasurer and be deposited into the General Fund.

Mr. Lee asked why this matter was coming to the Commission now and not at the next meeting so that there would be more notice to the Commission and to the public. Ms. Gardiner explained that, at the outset of settlement negotiations, it was anticipated that this matter would be on this meeting’s agenda. However, she had not received the final sign-off from all the parties before the agenda was finalized and the meeting packet sent to the Commissioners. It was not until two days before the meeting that she was able to review the final agreement to determine whether it was acceptable and something she could recommend to the Commission. She said she would not have added it to the agenda this late but for the fact that the consideration of a settlement agreement is not a matter which the Commission would usually open for public comment. Ms.

Gardiner said that if the Commission wanted to take more time to consider the proposal and make a decision at the next meeting, she could request an extension of the briefing deadlines for the appeal in Superior Court.

Mr. Lee clarified for the record that the Commission has held several executive sessions over the past several months at which counsel briefed the Commission on settlement negotiations. This is not the first time the Commission has considered a possible settlement in this matter.

Mr. Nass mentioned that the settlement proposal has been covered quite extensively in the media.

Mr. Pattershall said he thought the settlement agreement was well-drafted. He also pointed out that, in addition to the difficulty in collecting the penalty, there is the risk that the Superior Court will not uphold the Commission's decision.

Mr. Lee agreed with Mr. Pattershall that a successful collection effort was doubtful and there is an unsettled matter of statutory interpretation of the penalty statute before the Superior Court. Even if the Commission ultimately prevailed on the statutory interpretation issue, the chance of collecting the full penalty is practically nil.

The Commissioners thanked Ms. Gardiner for her work in negotiating a successful settlement in this case.

Mr. Pattershall moved that the Commission accept the settlement of this matter for \$100,000 as proposed in the settlement agreement. Mr. Nass seconded. The motion passed (4-0).

Ms. Lowry made a motion to adjourn. Mr. Lee seconded. The motion passed (4-0).

The meeting adjourned at 10:38 a.m.

Respectfully submitted,  
/s/ Jonathan Wayne  
Jonathan Wayne, Executive Director



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

Commission Meeting:  
8/29/2018 Agenda Item # 2

To: Commissioners

From: Jonathan Wayne, Executive Director  
Benjamin Dyer, Political Committee and Lobbyist Registrar

Date: August 14, 2018

Re: Request for Waiver of Late-Filing Penalty by the Maine Health Care Association  
PAC

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In the thirteen days before an election, all political action committees, ballot question committees and political parties must file a report within 24 hours of receiving any single contribution of \$5,000 or more or making any expenditure of \$1,000 or more.<sup>1</sup> On May 31, 2018, the Maine Health Care Association PAC (the PAC) made three \$1,000 contributions to other PACs. It was required to report these expenditures in a 24-Hour Report by June 1, 2018, but did not do so until July 17, 2018.

### LEGAL REQUIREMENTS

PACs are required to report any single contribution of \$5,000 or more received or single expenditure of \$1,000 or more made during the 13 days before an election within 24 hours of that transaction. (21-A M.R.S.A. § 1059(2)(E)) If the PAC is late in filing the 24-Hour Report, the amount of the penalty is set by a formula which takes into consideration the amount of the transaction, the number of prior violations within a two-year period, and the number of days the report is late. (21-A M.R.S.A. § 1062-A(3))

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<sup>1</sup> Candidates have a similar 24-hour reporting requirement, except with a lower reporting threshold (\$1,000) for contributions.

## **DISCUSSION**

On May 31, 2018 the PAC made \$1,000 expenditures in the form of contributions to the House Democratic Campaign Committee PAC, the Senate Democratic Campaign Committee PAC, and the Senate President's Fund PAC. These expenditures were not entered into the Commission's e-filing system until July 17, 2018, when the PAC was preparing its 42-Day Post-General campaign finance report, which triggered the system to remind the PAC of the late 24-Hour Report. The PAC immediately filed the report and contacted Commission staff.

Based on the statutory formula for calculating late-filing penalties, the preliminary penalty amount totals \$2,760, calculated as follows:

<b>Transactions</b>	<b>Date Due</b>	<b>Financial Activity</b>	<b>Penalty Rate</b>	<b>Days Late</b>	<b>Preliminary Penalty</b>
24-Hr Report	06/01/2018	\$3,000.00	2%	46	\$2,760.00

The PAC asks that the Commission waive the penalty due to the unintentional nature of the oversight and the lack of harm to the public from the failure to file the 24-Hour Report. The PAC offers that the failure to file was simply the result of an oversight, and in support notes its years of compliance with campaign finance reporting requirements without a penalty. Further, the PAC argues that the harm to the public from the late filing was limited as the expenditures at issue were at the very edge of the reporting requirement.

## **STAFF RECOMMENDATION**

Violations of the 24-hour reporting requirements can be serious matters, as these reports play a valuable role in informing the electorate about how money is changing hands in the critical days just before an election. Nevertheless, for reasons outlined below, the particular lapse by this PAC in not filing a 24-Hour Report in June 2018 appears to be less serious.

At your April 25, 2018 meeting, the Commission gave direction to the staff that penalty recommendations for the 2018 election year should be higher than in previous years, in order to implement the 2015 citizen initiative. For your information, in 2016, the staff generally recommended penalties of \$500 for good-faith mistakes by PACs leading to late campaign finance reports, absent aggravating factors such as a highly influential PAC or the late reporting of very large amounts. In 2014, the staff generally recommended penalties in the range of \$250 - \$500 for such violations.

For 2018, we intend to generally keep penalties against PACs at \$750 or higher, except when convincing mitigating factors are present. In this case, we suggest that such mitigating factors *are* present which argue for a reduced penalty of \$500 (*i.e.*, a discount below the normal range for PAC penalties in 2018). The primary mitigating factor is that the PAC likely did not make these contributions for the purpose of influencing the June 12, 2018 primary election. These contributions just happened to fall within the 24-Hour reporting period. The public would have been served equally well if the PAC first reported these contributions in its regularly scheduled campaign finance report on July 24, 2018.

Also, this is a PAC that is organized by a non-profit trade association of nursing homes and assisted living facilities, and is not among the more active PACs in influencing elections. Our records indicate that in 2012, 2014, 2016 election years, the PAC consistently made around \$12,000 or \$13,000 in reportable expenditures.

As mentioned earlier, to implement your April 25, 2018 direction, the staff intends that that \$750 will be the new “low end” of 2018 PAC penalty recommendations. Our intention, however, is to reserve the right to recommend a final penalty below \$750 when convincing mitigating factors are present, and this case represents one of those situations, from our point of view. Therefore, we recommend a penalty of \$500, which represents a reduction below the intended range of PAC penalties for the 2018 elections. If, however, this reasoning does not sit well with you, and you would prefer to give greater weight to consistency among 2018 PAC penalties, as a back-up recommendation we would suggest assessing a penalty of \$750.

2016 examples (for your reference)

- *Prosperity for Maine’s Future PAC.* On October 28, 2016, the Prosperity for Maine’s Future PAC (the PAC) made a \$5,000 expenditure in the form of a contribution to a leadership PAC of an outgoing State Representative. The Prosperity for Maine’s Future PAC should have disclosed the expenditure in a 24-Hour Report due the next day, but apparently believed that the PAC receiving the contribution would take care of the necessary financial reporting. The report was filed on December 17, 2016, when the PAC was preparing its post-election

report. The PAC requested a waiver of the \$4,900 preliminary penalty.

Commission penalty: \$500

- *Leadership for Maine's Future PAC.* On October 26, 2016, the Leadership for Maine's Future PAC made a \$3,000 expenditure in the form of a contribution to the Maine State Republican Party. The PAC should have disclosed the \$3,000 expenditure in a 24-Hour Report due October 27, 2016. Due to a communication breakdown, the report was not filed until December 20, 2016, when the PAC was preparing its post-election report. The PAC requested a waiver of the \$3,240 preliminary penalty. Commission penalty: \$500
- *Senate Chairman's PAC.* On November 4, 2016, the Senate Chairman's PAC received two contributions that it was required to disclose in 24-Hour Reports. Due to a clerical error, the PAC treasurer reported one contribution, but neglected to file a 24-Hour Report of the other contribution in the amount of \$7,600. The PAC requested a waiver of the \$6,480 preliminary penalty. Commission penalty: \$500.
- *Empowering Maine Leadership PAC.* On November 2, 2016, the Empowering Maine Leadership PAC made four \$1,000 contributions to other PACs and a federal candidate committee. It was required to disclose these expenditures in a 24-Hour Report by November 3, 2016, but did not file the reports until December 19, 2016. The preliminary penalty was \$3,680. Commission penalty: \$500.

- *UBC Bad for ME PAC and the Friends of Maine Sportsmen BQC.* During October 27 - November 3, 2016, the committees engaged in a series of related transactions which should have been reported in a total of six 24-Hour Reports. The PAC and BQC did not file the 24-Hour Reports until December 19, 2016, because the treasurer for the committees was unaware of the requirement. The preliminary penalties total \$7,508.70 for the PAC and \$14,407.05 for the BQC. Commission penalties: \$500 for each organization.

#### 2016 examples (for your reference)

- *Maine Society of Anesthesiologists PAC.* On May 30, 2014, the Maine Society of Anesthesiologists PAC made contributions of \$1,000 to two other PACs. Because these payments were made within the last 13 days before the primary election, the Anesthesiologists PAC was required to disclose the two payments in a 24-Hour Report. The PAC filed the 24-Hour Report 46 days late on July 22, 2014. The PAC requested a waiver of the \$1,040 preliminary penalty because it is disproportionately high relative to the harm to the public. Commission penalty: \$250.
- *Mainers for Fair Bear Hunting BQC.* On October 30, 2014, the Mainers for Fair Bear Hunting BQC received a \$50,000 contribution from the Humane Society of the United States. A 24-Hour Report was due for this contribution on October 31, 2014. The BQC attempted to file the report by entering the data for the report on October 31, but the report was not filed that day. The BQC filed the report the next morning (November 1) after receiving an electronic notice that a report was



overdue. The preliminary penalty for the late report is \$1,500. The BQC requests a waiver, contending that it followed all of the steps to properly file the 24-Hour Report electronically, but the Commission's e-filing system failed to recognize the report as filed. Commission penalty: \$500.

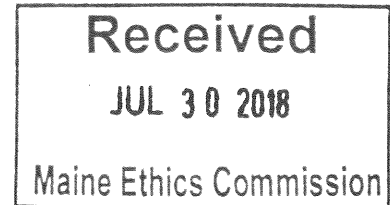
- *Maine Economic Growth Coalition.* The Maine Economic Growth Coalition PAC (the PAC) made four expenditures supporting Question 2 between October 28, 2014 and November 4, 2014 which required 24-Hour Reports, but did not report these transactions until after the election. The PAC indicates it was inexperienced using a media buyer and did not know how or when to report expenditures made by the buyer on behalf of the PAC. The preliminary penalties total \$1,819.84. Commission penalty: \$500.
- *Anne PAC.* On October 23, 2014, the Anne PAC (the PAC) made a \$3,500 expenditure in the form of a contribution to the Senate Democratic Campaign Committee PAC. It was required to disclose this contribution in a 24-Hour Report by October 24, 2014, but did not do so until December 15, 2014. The preliminary penalty is \$1,820. The PAC requested a waiver of the preliminary penalty based on the disproportionality of the penalty to the experience of the PAC's treasurer and the harm caused to the public by the late disclosure. Commission penalty: \$250.
- *Environment Maine PAC.* On October 31, 2014, the Environment Maine PAC (the PAC) received a contribution of \$10,000. It was required to disclose this

contribution in a 24-hour report by November 1, 2014, but did not do so until December 11, 2014. The preliminary penalty is \$4,000. The PAC requested a waiver of the preliminary penalty, arguing that the PAC made a bona fide effort to file the report on time and that the preliminary penalty is disproportionate to both the experience of the PAC and its treasurer and to the harm suffered by the public from the late disclosure. Commission penalty: \$500.

Thank you for your consideration of this memo.



Maine Health Care Association



July 30, 2018

Mr. Benjamin P. Dyer  
Political Committee and Lobbyist Registrar  
Maine Commission on Governmental Ethics and Election Practices  
135 State House Station  
Augusta, ME 04333-0135

Dear Mr. Dyer:

We are in receipt of your letter of July 19, 2018 outlining the \$2,760 penalty to the Maine Health Association PAC for the late filing of a 24-hour Report. This was an oversight on my part, which was corrected as soon as we became aware of it. Unfortunately, 46 days had passed before we realized our error.

The MHCA PAC rarely makes contributions of \$1,000 or more, and for that reason, hasn't been required to file a 24-hour report since 2010.

A review of past records will show that the MHCA PAC has consistently been in full compliance with Maine election and campaign finance laws.

The three contributions in question were \$1,000 each and went to PAC funds, not individual candidates.

In light of the MHCA PAC's record of compliance, the amount of these contributions, and the prompt correction when we became aware of our mistake, I am requesting that the Commission on Governmental Ethics and Election Practices waive the penalty, as we believe the amount is disproportionate to the harm done by late disclosure.

Please accept our apologies for being in noncompliance. We will appreciate any consideration from the Commission.

Yours truly,

Richard A. Erb  
President and Chief Executive Officer



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](http://www.maine.gov/ethics)  
Phone: 207-287-4179  
Fax: 207-287-6775

## 24-HOUR REPORT OF CONTRIBUTIONS AND EXPENDITURES

### 2018 CAMPAIGN YEAR

COMMITTEE		TREASURER
MAINE HEALTH CARE ASSOCIATION 317 State Street Augusta, ME, 04330 PHONE:(207) 623-1146 EMAIL: RERB@MEHCA.ORG		Erb A Richard 317 State Street Augusta, ME, 04330 PHONE: EMAIL: mrichard@kw.com
REPORT	DUE DATE	REPORTING PERIOD
24 Hour Report of Contributions and Expenditures	06/01/2018	05/31/2018-05/31/2018

### FINANCIAL ACTIVITY SUMMARY

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

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

REPORT FILED BY: THERESA GAGNE  
REPORT FILED ON: 07/17/2018  
LAST MODIFIED: 07/17/2018  
COMMITTEE ID: 296

## 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
5/31/2018	HOUSE DEMOCRATIC CAMPAIGN COMMITTEE P.O. Box 2021 Augusta, ME, 04338	contribution	CON	\$1,000.00
5/31/2018	SENATE DEMOCRATIC CAMPAIGN COMMITTEE P.O. BOX 2207 AUGUSTA, ME, 04338	contribution	CON	\$1,000.00
5/31/2018	SENATE REPUBLICAN PRESIDENTS FUND PO BOX 1 AUGUSTA, ME, 04332	contribution	CON	\$1,000.00
<b>TOTAL EXPENDITURES TO SUPPORT OR OPPOSE:</b>				<b>\$3,000.00</b>



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

July 19, 2018

Theresa Gagne, Authorized Agent  
Maine Health Care Assn. PAC  
317 State St  
Augusta, ME 04330

Re: Late Filing of 24-Hour Report

Dear Ms. Gagne,

The Commission staff has made a preliminary determination that the Maine Health Care Assn. PAC (the PAC) was late in filing the 24-Hour Report required for expenditures made on May 31, 2018. The report was due by 11:59 p.m. on June 1, 2018, but was not filed until July 17, 2018. Under the Commission's statutes, the late filing of a report triggers an enforcement process. (21-A M.R.S.A. § 1062-A(3)) 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 penalty of \$2,760.00 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) 287-6221 or send me an email at [benjamin.p.dyer@maine.gov](mailto:benjamin.p.dyer@maine.gov) if you have questions.

Sincerely,

A handwritten signature in cursive script that reads "Benjamin P. Dyer".

Benjamin P. Dyer  
Political Committee and Lobbyist Registrar

Enclosure: payment receipt & penalty matrix

OFFICE LOCATED AT: 45 MEMORIAL CIRCLE, AUGUSTA, MAINE  
WEBSITE: [WWW.MAINE.GOV/ETHICS](http://WWW.MAINE.GOV/ETHICS)

PHONE: (207) 287-4179

FAX: (207) 287-6775

## Payment Receipt

Mail payment to:

The Maine Ethics Commission  
135 State House Station  
Augusta, ME 04333

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

Theresa Gagne, Authorized Agent  
Maine Health Care Assn. PAC  
317 State St  
Augusta, ME 04330

<b>Violation:</b>	Late 24-hour Report
<b>Amount Due:</b>	<b>\$2,760.00</b>

---

**Committee Name:** Maine Health Care Association PAC  
**Prior Violations:** N/A

Report Name	Activity Amount	Due Date	Days Late	Penalty Prescribed	Penalty
24-Hour Report	\$3,000.00	07/19/2018	46	2%	\$2,760.00

**Total:** **\$2,760.00**

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.



**Maine Revised Statutes**  
**Title 21-A: ELECTIONS**  
**Chapter 13: CAMPAIGN REPORTS AND FINANCES**

**§1059. REPORT; FILING REQUIREMENTS**

Committees required to register under section 1052-A, 1053-B or 1056-B shall file an initial campaign finance report at the time of registration and thereafter shall file reports in compliance with this section. All reports must be filed by 11:59 p.m. on the day of the filing deadline, except that reports submitted to a municipal clerk must be filed by the close of business on the day of the filing deadline. [2013, c. 334, §27 (AMD).]

**1. Contents; quarterly reports and election year reports.**

[ 2007, c. 443, Pt. A, §35 (RP) .]

**2. Reporting schedule.** Committees shall file reports according to the following schedule.

**A.** All committees shall file quarterly reports:

- (1) On January 15th, and the report must be complete as of December 31st;
- (2) On April 10th, and the report must be complete as of March 31st;
- (3) On July 15th, and the report must be complete as of June 30th; and
- (4) On October 5th, and the report must be complete as of September 30th. [2011, c. 691, Pt. A, §19 (RPR).]

**B.** General and primary election reports must be filed:

- (1) On the 11th day before the date on which the election is held and must be complete as of the 14th day before that date; and
- (2) On the 42nd day after the date on which the election is held and must be complete as of the 35th day after that date. [2007, c. 443, Pt. A, §35 (AMD).]

**C.** Preelection and post-election reports for special elections or ballot measure campaigns must be filed:

- (1) On the 11th day before the date on which the election is held and must be complete as of the 14th day before that date; and
- (2) On the 42nd day after the date on which the election is held and must be complete as of the 35th day after that date. [2011, c. 389, §45 (AMD).]

**D.** A committee that files an election report under paragraph B or C is not required to file a quarterly report when the deadline for that quarterly report falls within 10 days of the filing deadline established in paragraph B or C. [1991, c. 839, §29 (RPR).]



**E.** A 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. [2013, c. 334, §28 (AMD).]

[ 2013, c. 334, §28 (AMD) .]

### **3. Report of expenditures made after the 11th day and more than 48 hours before any election.**

[ 1989, c. 504, §§28, 31 (RP) .]

### **4. Special election reports.**

[ 1989, c. 504, §§28, 31 (RP) .]

**5. Electronic filing.** Committees 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.

[ 2007, c. 443, Pt. A, §35 (AMD) .]

#### **SECTION HISTORY**

1985, c. 161, §6 (NEW). 1989, c. 7, §06 (AMD). 1989, c. 504, §§28,31 (RPR). 1989, c. 833, §§16-20 (AMD). 1991, c. 839, §29 (AMD). 2003, c. 628, §B5 (AMD). 2005, c. 301, §§25,26 (AMD). 2007, c. 443, Pt. A, §35 (AMD). 2007, c. 571, §9 (AMD). 2009, c. 190, Pt. A, §§23, 24 (AMD). 2009, c. 366, §9 (AMD). 2009, c. 366, §12 (AFF). 2009, c. 652, Pt. A, §22 (AMD). 2011, c. 367, §2 (AMD). 2011, c. 389, §§43-45 (AMD). 2011, c. 389, §62 (AFF). 2011, c. 691, Pt. A, §19 (AMD). 2013, c. 334, §§27, 28 (AMD).

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**Maine Revised Statutes**  
**Title 21-A: ELECTIONS**

**Chapter 13: CAMPAIGN REPORTS AND FINANCES**

**§1062-A. FAILURE TO FILE ON TIME**

**1. Registration.** A political action committee required to register under section 1052-A or 1053-B or a ballot question committee required to register under section 1056-B that fails to do so or that fails to provide the information required by the commission for registration may be assessed a fine of no more than \$2,500. In assessing a fine, the commission shall consider, among other things, whether the violation was intentional, the amount of campaign and financial activity that occurred before the committee registered, whether the committee intended to conceal its campaign or financial activity and the level of experience of the committee's volunteers and staff.

[ 2013, c. 334, §30 (AMD) .]


**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; [1999, c. 729, §9 (AMD).]

B. An error by the commission staff; or [1999, c. 729, §9 (AMD).]

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. [2007, c. 443, Pt. A, §38 (AMD) .]

[ 2009, c. 190, Pt. A, §29 (AMD) .]

 **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%; [2015, c. 1, §9 (AMD).]

B. For the 2nd violation, 4%; and [2015, c. 1, §9 (AMD).]

C. For the 3rd and subsequent violations, 6%. [2015, c. 1, §9 (AMD).]

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.

[ 2015, c. 1, §9 (AMD) .]

**4. Maximum penalties.** The maximum penalty under this subchapter is \$10,000 for reports required under section 1056-B or section 1059, except that if the financial activity reported late exceeds \$50,000, the maximum penalty is 100% of the amount reported late.

[ 2015, c. 1, §10 (AMD) .]

**5. Request for a commission determination.** If the commission staff finds that a political action committee has failed to file a report required under this subchapter, the commission staff shall mail a notice to the treasurer of the political action committee within 3 business days following the filing deadline informing the treasurer that a report was not received. If a political action committee files a report required under this subchapter late, a notice of preliminary penalty must be forwarded to the treasurer of the political action committee whose report is not received by 11:59 p.m. on the deadline date, informing the treasurer of the commission staff finding of violation and preliminary penalty calculated under subsection 3 and providing the treasurer with an opportunity to request a determination by the commission. A request for determination must be made within 14 calendar days of receipt of the commission's notice. A principal officer or treasurer requesting a determination may either appear in person or designate a representative to appear on the principal officer's or treasurer'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.

[ 2013, c. 334, §31 (AMD) .]

**6. Final notice of penalty.** After a commission meeting, notice of the final determination of the commission and the penalty, if any, imposed pursuant to this subchapter must be sent to the principal officer and the treasurer of the political action committee.

If a determination is not requested, the preliminary penalty calculated by the commission staff is final. The commission staff shall mail final notice of the penalty to the principal officer and to the treasurer of the political action committee. A detailed summary of all notices must be provided to the commission.

[ 2009, c. 302, §9 (AMD) .]

**7. List of late-filing committees.** The commission shall prepare a list of the names of political action committees that are late in filing a report required under section 1059, subsection 2, paragraph B, subparagraph (1) or section 1059, subsection 2, paragraph C or D within 30 days of the date of the election and shall make that list available for public inspection.

[ 2007, c. 443, Pt. A, §41 (AMD) .]

**8. Failure to file.** A person who fails to file a report as required by this subchapter within 30 days of the filing deadline is guilty of a Class E crime, except that, if a penalty pursuant to subsection 8-A is assessed and collected by the commission, the State may not prosecute a violation under this subsection.

[ 2003, c. 628, Pt. A, §8 (AMD) .]

**8-A. Penalties for failure to file report.** The commission may assess a civil penalty for failure to file a report required by this subchapter. The maximum penalty for failure to file a report required under section 1056-B or section 1059 is \$10,000 or the amount of financial activity not reported, whichever is greater.

[ 2015, c. 1, §11 (AMD) .]

**9. Enforcement.** A penalty assessed pursuant to this section that has not been paid in full within 30 days after issuance of a notice of the final determination may be enforced in accordance with section 1004-B.

[ 2009, c. 302, §10 (RPR) .]

#### SECTION HISTORY

1995, c. 483, §21 (NEW). 1999, c. 426, §34 (AMD). 1999, c. 729, §9 (AMD). 2003, c. 628, §§A7-9 (AMD). 2007, c. 443, Pt. A, §§38-41 (AMD). 2009, c. 190, Pt. A, §§28-31 (AMD). 2009, c. 302, §§8-10 (AMD). 2011, c. 389, §49 (AMD). 2013, c. 334, §§30, 31 (AMD). IB 2015, c. 1, §§9-11 (AMD).

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

Commission Meeting:  
8/29/2018 Agenda Item # 3

To: Commissioners

From: Jonathan Wayne, Executive Director  
Benjamin Dyer, Political Committee and Lobbyist Registrar

Date: August 16, 2018

Re: Request for Waiver of Late-Filing Penalty by the Fecteau for Leadership PAC

---

In the thirteen days before an election, all political action committees, ballot question committees and political parties must file a report within 24 hours of receiving any single contribution of \$5,000 or more or making any expenditure of \$1,000 or more.<sup>1</sup> On June 4, 2018, the Fecteau for Leadership PAC (the PAC) made a \$5,000 contribution to another PAC. It was required to report this expenditure in a 24-Hour Report by June 5, 2018, but did not do so until June 9, 2018.

## LEGAL REQUIREMENTS

PACs are required to report any single contribution of \$5,000 or more received or single expenditure of \$1,000 or more made during the 13 days before an election within 24 hours of that transaction. (21-A M.R.S.A. § 1059(2)(E)) If the PAC is late in filing the 24-Hour Report, the amount of the penalty is set by a formula which takes into consideration the amount of the transaction, the number of prior violations within a two-year period, and the number of days the report is late. (21-A M.R.S.A. § 1062-A(3))

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<sup>1</sup> Candidates have a similar 24-hour reporting requirement, except with a lower reporting threshold (\$1,000) for contributions.

## **DISCUSSION**

On June 4, 2018, the PAC, a leadership PAC for Representative Ryan Fecteau, made a \$5,000 expenditure in the form of a contribution to the House Democratic Campaign Committee PAC. This expenditure was not entered into the Commission's e-filing system until June 9, 2018, which triggered the system to remind the PAC of the late 24-Hour Report. The PAC immediately filed the report.

Based on the statutory formula for calculating late-filing penalties, the preliminary penalty amount totals \$400.00, calculated as follows:

<b>Transactions</b>	<b>Date Due</b>	<b>Financial Activity</b>	<b>Penalty Rate</b>	<b>Days Late</b>	<b>Preliminary Penalty</b>
24-Hr Report	06/05/2018	\$5,000.00	2%	4	\$400.00

The PAC asks that the Commission waive the penalty due to the unintentional nature of the oversight and the lack of harm to the public from the failure to file the 24-Hour Report. The PAC offers that the failure to file was simply the result of an oversight, that it did not realize the system would not create a 24-Hour Report for it to file without someone entering the information about the transaction into the e-filing system, and that the harm to the public from the late filing was limited as the expenditure at issue was not intended to influence the primary election.

## **STAFF RECOMMENDATION**

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. The Commission staff accepts that the PAC's failure to file the necessary 24-Hour report in this situation was merely the result of an

oversight, that the PAC had no intent to conceal its activity, and there was limited harm to the public. That said, to encourage candidates and committees to timely file complete campaign finance reports, the Commission does not always accept good intentions and a lack of injury to the public as warranting a full waiver. The Commission sometimes assesses moderate penalties even for unintentional violations.

At your April 25, 2018 meeting, the Commission gave direction to the staff that penalty recommendations for the 2018 election year should be higher than in previous years, in order to implement the 2015 citizen initiative. For your information, in 2016, the staff generally recommended penalties of \$500 for good-faith mistakes by PACs leading to late campaign finance reports, absent aggravating factors such as a highly influential PAC or the late reporting of very large amounts. In 2014, the staff generally recommended penalties in the range of \$250 - \$500 for such violations.

For 2018, we intend to generally recommend penalties against PACs at \$750 or higher, except when convincing mitigating factors are present. In this case, the Commission staff views the preliminary penalty of \$400 as adequately balancing the lack of harm to the public with the need to impress upon committees the importance of ensuring that reports have been filed correctly. If the penalty in this matter were disproportionately high, we would recommend a partial waiver based on the lack of harm to the public, but we do not think a waiver is necessary when a preliminary penalty against a PAC is \$400.



2016 examples (for your reference)

- *Prosperity for Maine's Future PAC.* On October 28, 2016, the Prosperity for Maine's Future PAC (the PAC) made a \$5,000 expenditure in the form of a contribution to a leadership PAC of an outgoing State Representative. The Prosperity for Maine's Future PAC should have disclosed the expenditure in a 24-Hour Report due the next day, but apparently believed that the PAC receiving the contribution would take care of the necessary financial reporting. The report was filed on December 17, 2016, when the PAC was preparing its post-election report. The PAC requested a waiver of the \$4,900 preliminary penalty.  
Commission penalty: \$500
- *Leadership for Maine's Future PAC.* On October 26, 2016, the Leadership for Maine's Future PAC made a \$3,000 expenditure in the form of a contribution to the Maine State Republican Party. The PAC should have disclosed the \$3,000 expenditure in a 24-Hour Report due October 27, 2016. Due to a communication breakdown, the report was not filed until December 20, 2016, when the PAC was preparing its post-election report. The PAC requested a waiver of the \$3,240 preliminary penalty. Commission penalty: \$500
- *Senate Chairman's PAC.* On November 4, 2016, the Senate Chairman's PAC received two contributions that it was required to disclose in 24-Hour Reports. Due to a clerical error, the PAC treasurer reported one contribution, but neglected to file a 24-Hour Report of the other contribution in the amount of \$7,600. The

PAC requested a waiver of the \$6,480 preliminary penalty. Commission penalty: \$500.

- *Empowering Maine Leadership PAC*. On November 2, 2016, the Empowering Maine Leadership PAC made four \$1,000 contributions to other PACs and a federal candidate committee. It was required to disclose these expenditures in a 24-Hour Report by November 3, 2016, but did not file the reports until December 19, 2016. The preliminary penalty was \$3,680. Commission penalty: \$500.
- *UBC Bad for ME PAC and the Friends of Maine Sportsmen BQC*. During October 27 - November 3, 2016, the committees engaged in a series of related transactions which should have been reported in a total of six 24-Hour Reports. The PAC and BQC did not file the 24-Hour Reports until December 19, 2016, because the treasurer for the committees was unaware of the requirement. The preliminary penalties total \$7,508.70 for the PAC and \$14,407.05 for the BQC. Commission penalties: \$500 for each organization.

2014 examples (for your reference)

- *Maine Society of Anesthesiologists PAC*. On May 30, 2014, the Maine Society of Anesthesiologists PAC made contributions of \$1,000 to two other PACs. Because these payments were made within the last 13 days before the primary election, the Anesthesiologists PAC was required to disclose the two payments in a 24-Hour Report. The PAC filed the 24-Hour Report 46 days late on July 22, 2014. The PAC requested a waiver of the \$1,040 preliminary penalty because it is

disproportionately high relative to the harm to the public. Commission penalty: \$250.

- *Mainers for Fair Bear Hunting BQC.* On October 30, 2014, the Mainers for Fair Bear Hunting BQC received a \$50,000 contribution from the Humane Society of the United States. A 24-Hour Report was due for this contribution on October 31, 2014. The BQC attempted to file the report by entering the data for the report on October 31, but the report was not filed that day. The BQC filed the report the next morning (November 1) after receiving an electronic notice that a report was overdue. The preliminary penalty for the late report is \$1,500. The BQC requests a waiver, contending that it followed all of the steps to properly file the 24-Hour Report electronically, but the Commission's e-filing system failed to recognize the report as filed. Commission penalty: \$500.
- *Maine Economic Growth Coalition.* The Maine Economic Growth Coalition PAC (the PAC) made four expenditures supporting Question 2 between October 28, 2014 and November 4, 2014 which required 24-Hour Reports, but did not report these transactions until after the election. The PAC indicates it was inexperienced using a media buyer and did not know how or when to report expenditures made by the buyer on behalf of the PAC. The preliminary penalties total \$1,819.84. Commission penalty: \$500.
- *Anne PAC.* On October 23, 2014, the Anne PAC (the PAC) made a \$3,500 expenditure in the form of a contribution to the Senate Democratic Campaign

Committee PAC. It was required to disclose this contribution in a 24-Hour Report by October 24, 2014, but did not do so until December 15, 2014. The preliminary penalty is \$1,820. The PAC requested a waiver of the preliminary penalty based on the disproportionality of the penalty to the experience of the PAC's treasurer and the harm caused to the public by the late disclosure.

Commission penalty: \$250.

- *Environment Maine PAC.* On October 31, 2014, the Environment Maine PAC (the PAC) received a contribution of \$10,000. It was required to disclose this contribution in a 24-hour report by November 1, 2014, but did not do so until December 11, 2014. The preliminary penalty is \$4,000. The PAC requested a waiver of the preliminary penalty, arguing that the PAC made a bona fide effort to file the report on time and that the preliminary penalty is disproportionate to both the experience of the PAC and its treasurer and to the harm suffered by the public from the late disclosure. Commission penalty: \$500.

Thank you for your consideration of this memo.

August 10, 2018

Benjamin P. Dyer  
Political Committee and Lobbyist Registrar  
135 State House Station  
Augusta, ME 04338

Dear Mr. Dyer:

I am writing to formally request a waiver of the penalties that the Fecteau for Leadership PAC incurred by filing a late 24-hour report. Despite being aware of 24-hour reports and seeking out information regarding the filing thresholds and dates during the 24-hour reporting period, I mistakenly decided that a 24-hour report was not warranted in my case. My error was in good faith and the expenditure in question had absolutely nothing to do with the June 12, 2018 primary. For these reasons, I respectfully request that the Ethics Commission waive the penalty assessed on the Fecteau for Leadership PAC.

In addition to requesting a penalty waiver, I am writing to apologize for the reporting error and offer an explanation.

After writing a \$5,000 check to the House Democratic Campaign Committee on June 4, I logged into the Ethics website on June 5 to see if a 24-hour report was warranted. I looked at the home page of the Fecteau for Leadership PAC where all the reports due and dates covered are listed. I did not see the 24-hour report listed and decided, because of that, that a report was not necessary. When I entered the expense into the system on June 9, I was surprised to see a 24-hour report file option automatically generated. I searched through my emails looking for guidance and found your email with guidance re: 24-hour reports that corrected information sent via postcard and realized my mistake.

Further, the \$5,000 contribution to the House Democratic Campaign Committee had absolutely nothing to do with the June 12, 2018 primary, which is reason and spirit for the existence of the 24-hour reports. Neither the Fecteau for Leadership PAC nor the House Democratic Campaign Committee PAC were active in the primaries. I know that 24-hour reports are still required, but I think that should be a mitigating factor in deciding to wave the penalty, as no harm was done to other campaigns.

In closing, I apologize for filing the 24-hour report late, but I did make a good-faith attempt at figuring out the requirement, and promise to be more diligent in the future as I gain a better understanding of PAC operations as opposed to campaign finances which I am more familiar with.

Thank you for your consideration.

With Kind Regard,

Ryan Fecteau

State Representative, House District 11



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](http://www.maine.gov/ethics)  
Phone: 207-287-4179  
Fax: 207-287-6775

## 24-HOUR REPORT OF CONTRIBUTIONS AND EXPENDITURES

### 2018 CAMPAIGN YEAR

COMMITTEE		TREASURER	
FECTEAU FOR LEADERSHIP 23 WESTERN AVE APT 101 BIDDEFORD, ME 04005 PHONE: (207) 289-4478 EMAIL: 57FECTEAU@CUA.EDU		Mr. Jared Lannes Bourget 263 South St. Biddeford, ME 04005 PHONE: (207) 229-4515 EMAIL: JAREDBOURGET@GMAIL.COM	
REPORT	DUE DATE	REPORTING PERIOD	
24 Hour Report of Major Contributions and Expenditures	06/05/2018	06/04/2018 - 06/04/2018	

### FINANCIAL ACTIVITY SUMMARY

CONTRIBUTIONS AND EXPENDITURES	
1. TOTAL CONTRIBUTIONS / LOANS	\$0.00
2. TOTAL EXPENDITURES	\$5,000.00
3. TOTAL DEBTS	\$0.00

I, MR. RYAN MICHAEL FECTEAU, CERTIFY THAT THE INFORMATION CONTAINED IN THIS REPORT IS TRUE, ACCURATE, AND COMPLETE TO THE BEST OF MY KNOWLEDGE.

REPORT FILED BY: MR. RYAN MICHAEL FECTEAU  
REPORT FILED ON: 06/09/2018  
LAST MODIFIED: 06/09/2018  
PRINTED: 07/01/2018  
COMMITTEE ID: 10136

## 24-HOUR EXPENDITURE AND PAYEE INFORMATION

EXPENDITURE TYPES				
CNS    Campaign consultants CON    Contribution to other candidate, party, committee EQP    Equipment (office machines, furniture, cell phones, etc.) FND    Fundraising events FOD    Food for campaign events, volunteers LIT    Print and graphics (flyers, signs, palmcards, t-shirts, etc.) MHS    Mail house (all services purchased) OFF    Office rent, utilities, phone and internet services, supplies OTH    Other PHO    Phone banks, automated telephone calls	POL    Polling and survey research POS    Postage for U.S. Mail and mail box fees PRO    Other professional services PRT    Print media ads only (newspapers, magazines, etc.) RAD    Radio ads, production costs SAL    Campaign workers' salaries and personnel costs TRV    Travel (fuel, mileage, lodging, etc.) TVN    TV or cable ads, production costs WEB    Website design, registration, hosting, maintenance, etc.			
DATE OF EXPENDITURE	PAYEE	REMARK	TYPE	AMOUNT
6/4/2018	HOUSE DEMOCRATIC CAMPAIGN COMMITTEE P.O. BOX 2021 AUGUSTA, ME 04338	CONTRIBUTION TO SUPPORT THE WORK OF THE HDCC IN THE 2018 ELECTION CYCLE	CON	\$5,000.00
<b>TOTAL EXPENDITURES FOR CANDIDATE:</b>				\$5,000.00





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

July 27, 2018

Representative Ryan Fecteau, Principal Officer  
Fecteau for Leadership PAC  
23 Western Ave Apt 101  
Biddeford, ME 04005

Re: Late Filing of 24-Hour Report

Dear Representative Fecteau,

The Commission staff has made a preliminary determination that the Fecteau for Leadership PAC (the PAC) was late in filing the 24-Hour Report required for an expenditure made on June 4, 2018. The report was due by 11:59 p.m. on June 5, 2018, but was not filed until June 9, 2018. Under the Commission's statutes, the late filing of a report triggers an enforcement process. (21-A M.R.S.A. § 1062-A(3)) 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 penalty of \$400.00 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) 287-6221 or send me an email at [benjamin.p.dyer@maine.gov](mailto:benjamin.p.dyer@maine.gov) if you have questions.

Sincerely,

A handwritten signature in cursive script that reads "Benjamin P. Dyer".

Benjamin P. Dyer  
Political Committee and Lobbyist Registrar

Enclosure: payment receipt & penalty matrix

OFFICE LOCATED AT: 45 MEMORIAL CIRCLE, AUGUSTA, MAINE  
WEBSITE: [WWW.MAINE.GOV/ETHICS](http://WWW.MAINE.GOV/ETHICS)

PHONE: (207) 287-4179

FAX: (207) 287-6775

## Payment Receipt

Mail payment to:

The Maine Ethics Commission  
135 State House Station  
Augusta, ME 04333

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

Representative Ryan Fecteau, Principal Officer  
Fecteau for Leadership PAC  
23 Western Ave Apt 101  
Biddeford, ME 04005

<b>Violation:</b>	Late 24-hour Report
<b>Amount Due:</b>	<b>\$400.00</b>

---

**Committee Name:** Fecteau for Leadership PAC  
**Prior Violations:** N/A

Report Name	Activity Amount	Due Date	Days Late	Penalty Prescribed	Penalty
24-Hour Report	\$5,000.00	06/05/2018	4	2%	\$400.00

**Total: \$400.00**

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.

**Maine Revised Statutes**  
**Title 21-A: ELECTIONS**  
**Chapter 13: CAMPAIGN REPORTS AND FINANCES**

**§1059. REPORT; FILING REQUIREMENTS**

Committees required to register under section 1052-A, 1053-B or 1056-B shall file an initial campaign finance report at the time of registration and thereafter shall file reports in compliance with this section. All reports must be filed by 11:59 p.m. on the day of the filing deadline, except that reports submitted to a municipal clerk must be filed by the close of business on the day of the filing deadline. [2013, c. 334, §27 (AMD).]

**1. Contents; quarterly reports and election year reports.**

[ 2007, c. 443, Pt. A, §35 (RP) .]

**2. Reporting schedule.** Committees shall file reports according to the following schedule.

**A.** All committees shall file quarterly reports:

- (1) On January 15th, and the report must be complete as of December 31st;
- (2) On April 10th, and the report must be complete as of March 31st;
- (3) On July 15th, and the report must be complete as of June 30th; and
- (4) On October 5th, and the report must be complete as of September 30th. [2011, c. 691, Pt. A, §19 (RPR).]

**B.** General and primary election reports must be filed:

- (1) On the 11th day before the date on which the election is held and must be complete as of the 14th day before that date; and
- (2) On the 42nd day after the date on which the election is held and must be complete as of the 35th day after that date. [2007, c. 443, Pt. A, §35 (AMD).]

**C.** Preelection and post-election reports for special elections or ballot measure campaigns must be filed:

- (1) On the 11th day before the date on which the election is held and must be complete as of the 14th day before that date; and
- (2) On the 42nd day after the date on which the election is held and must be complete as of the 35th day after that date. [2011, c. 389, §45 (AMD).]

**D.** A committee that files an election report under paragraph B or C is not required to file a quarterly report when the deadline for that quarterly report falls within 10 days of the filing deadline established in paragraph B or C. [1991, c. 839, §29 (RPR).]



**E.** A 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. [2013, c. 334, §28 (AMD).]

[ 2013, c. 334, §28 (AMD) .]

### **3. Report of expenditures made after the 11th day and more than 48 hours before any election.**

[ 1989, c. 504, §§28, 31 (RP) .]

### **4. Special election reports.**

[ 1989, c. 504, §§28, 31 (RP) .]

**5. Electronic filing.** Committees 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.

[ 2007, c. 443, Pt. A, §35 (AMD) .]

#### **SECTION HISTORY**

1985, c. 161, §6 (NEW). 1989, c. 7, §06 (AMD). 1989, c. 504, §§28,31 (RPR). 1989, c. 833, §§16-20 (AMD). 1991, c. 839, §29 (AMD). 2003, c. 628, §B5 (AMD). 2005, c. 301, §§25,26 (AMD). 2007, c. 443, Pt. A, §35 (AMD). 2007, c. 571, §9 (AMD). 2009, c. 190, Pt. A, §§23, 24 (AMD). 2009, c. 366, §9 (AMD). 2009, c. 366, §12 (AFF). 2009, c. 652, Pt. A, §22 (AMD). 2011, c. 367, §2 (AMD). 2011, c. 389, §§43-45 (AMD). 2011, c. 389, §62 (AFF). 2011, c. 691, Pt. A, §19 (AMD). 2013, c. 334, §§27, 28 (AMD).

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**Maine Revised Statutes**  
**Title 21-A: ELECTIONS**

**Chapter 13: CAMPAIGN REPORTS AND FINANCES**

**§1062-A. FAILURE TO FILE ON TIME**

**1. Registration.** A political action committee required to register under section 1052-A or 1053-B or a ballot question committee required to register under section 1056-B that fails to do so or that fails to provide the information required by the commission for registration may be assessed a fine of no more than \$2,500. In assessing a fine, the commission shall consider, among other things, whether the violation was intentional, the amount of campaign and financial activity that occurred before the committee registered, whether the committee intended to conceal its campaign or financial activity and the level of experience of the committee's volunteers and staff.

[ 2013, c. 334, §30 (AMD) .]


**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; [1999, c. 729, §9 (AMD).]

B. An error by the commission staff; or [1999, c. 729, §9 (AMD).]

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. [2007, c. 443, Pt. A, §38 (AMD) .]

[ 2009, c. 190, Pt. A, §29 (AMD) .]

 **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%; [2015, c. 1, §9 (AMD).]

B. For the 2nd violation, 4%; and [2015, c. 1, §9 (AMD).]

C. For the 3rd and subsequent violations, 6%. [2015, c. 1, §9 (AMD).]

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.

[ 2015, c. 1, §9 (AMD) .]

**4. Maximum penalties.** The maximum penalty under this subchapter is \$10,000 for reports required under section 1056-B or section 1059, except that if the financial activity reported late exceeds \$50,000, the maximum penalty is 100% of the amount reported late.

[ 2015, c. 1, §10 (AMD) .]

**5. Request for a commission determination.** If the commission staff finds that a political action committee has failed to file a report required under this subchapter, the commission staff shall mail a notice to the treasurer of the political action committee within 3 business days following the filing deadline informing the treasurer that a report was not received. If a political action committee files a report required under this subchapter late, a notice of preliminary penalty must be forwarded to the treasurer of the political action committee whose report is not received by 11:59 p.m. on the deadline date, informing the treasurer of the commission staff finding of violation and preliminary penalty calculated under subsection 3 and providing the treasurer with an opportunity to request a determination by the commission. A request for determination must be made within 14 calendar days of receipt of the commission's notice. A principal officer or treasurer requesting a determination may either appear in person or designate a representative to appear on the principal officer's or treasurer'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.

[ 2013, c. 334, §31 (AMD) .]

**6. Final notice of penalty.** After a commission meeting, notice of the final determination of the commission and the penalty, if any, imposed pursuant to this subchapter must be sent to the principal officer and the treasurer of the political action committee.

If a determination is not requested, the preliminary penalty calculated by the commission staff is final. The commission staff shall mail final notice of the penalty to the principal officer and to the treasurer of the political action committee. A detailed summary of all notices must be provided to the commission.

[ 2009, c. 302, §9 (AMD) .]

**7. List of late-filing committees.** The commission shall prepare a list of the names of political action committees that are late in filing a report required under section 1059, subsection 2, paragraph B, subparagraph (1) or section 1059, subsection 2, paragraph C or D within 30 days of the date of the election and shall make that list available for public inspection.

[ 2007, c. 443, Pt. A, §41 (AMD) .]

**8. Failure to file.** A person who fails to file a report as required by this subchapter within 30 days of the filing deadline is guilty of a Class E crime, except that, if a penalty pursuant to subsection 8-A is assessed and collected by the commission, the State may not prosecute a violation under this subsection.

[ 2003, c. 628, Pt. A, §8 (AMD) .]

**8-A. Penalties for failure to file report.** The commission may assess a civil penalty for failure to file a report required by this subchapter. The maximum penalty for failure to file a report required under section 1056-B or section 1059 is \$10,000 or the amount of financial activity not reported, whichever is greater.

[ 2015, c. 1, §11 (AMD) .]

**9. Enforcement.** A penalty assessed pursuant to this section that has not been paid in full within 30 days after issuance of a notice of the final determination may be enforced in accordance with section 1004-B.

[ 2009, c. 302, §10 (RPR) .]

#### SECTION HISTORY

1995, c. 483, §21 (NEW). 1999, c. 426, §34 (AMD). 1999, c. 729, §9 (AMD). 2003, c. 628, §§A7-9 (AMD). 2007, c. 443, Pt. A, §§38-41 (AMD). 2009, c. 190, Pt. A, §§28-31 (AMD). 2009, c. 302, §§8-10 (AMD). 2011, c. 389, §49 (AMD). 2013, c. 334, §§30, 31 (AMD). IB 2015, c. 1, §§9-11 (AMD).

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

Commission Meeting:  
8/29/2018 Agenda Item # 4

To: Commissioners  
From: Tim Goodhue, Candidate Registrar  
Date: August 14, 2018  
Re: Request for Waiver of Late-Filing Penalty by Caitlin Hills

---

Caitlin Hills was a Maine Clean Election Act candidate in the June 12, 2018 Democratic primary election for the Maine House of Representatives, District 97. Another candidate won the primary election and became the Democratic nominee. During the 13 days prior to an election, legislative candidates who receive a contribution or make an expenditure of \$1,000 or more are required to file a supplemental campaign finance report within twenty-four hours of receiving the contribution or making the expenditure.

On June 8, 2018, Ms. Hills paid \$1,151.71 to Mach3Media for campaign signs and a mailing. Accordingly, she was required to file a 24-Hour Report on June 9. She filed the report late on July 15, 2018, which made the report 36 days late. The preliminary penalty is \$829.08, and she requests a waiver.

### **LEGAL REQUIREMENTS**

Candidates are required to file 24-Hour Reports with the Commission during the 13 days prior to an election if they receive a contribution or make an expenditure of \$1,000 or more. (21-A M.R.S.A. § 1017(3-A)(C)) If the candidate is late in filing a 24-Hour Report, the amount of the penalty is set 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.A. § 1020-A(4-A))

## **DISCUSSION**

Ms. Hills paid \$1,151.71 to Mach3Media on June 8<sup>th</sup>, requiring a 24-Hour Report the next day. On July 15, Charlie Grey, the Hills campaign treasurer, was preparing the 42-Day Post-Primary Report for filing, and he entered an expenditure of \$1,151.71 to Mach3Media. The e-filing system produced a warning that the expenditure was required to be filed on a 24-Hour Report, and created such a report to be filed. Mr. Grey filed the 24-Hour Report thirty-six days late on July 15, 2018.

Mr. Grey contacted Candidate Registrar Tim Goodhue via phone. Mr. Goodhue explained the requirements and the Commission's penalty procedures. Based on the statutory formula for calculating late-filing penalties, the preliminary penalty is \$829.08.

<b>Report</b>	<b>Due Date</b>	<b>Financial Activity</b>	<b>Penalty Rate</b>	<b>Days Late</b>	<b>Preliminary Penalty</b>
24-Hour Report	06/09/2018	\$1,151.71	2%	36	\$829.08

According to Charlie Grey's letter requesting a waiver, he did not file a 24-Hour Report on June 9, 2018 for a few reasons. First, he was unaware that the candidate had made the June 8, 2018 payment. Secondly, due to inexperience, Mr. Grey was unaware of the 24-hour reporting requirement. He adds that the campaign had no intention of misleading the Commission.

## **STAFF COMMENTS**

Violations of the 24-hour reporting requirements can be serious matters. 24-Hour Reports play a valuable role in informing the electorate about how money is being spent to influence voters in the critical days just before an election. A penalty is appropriate to reinforce that filing pre-election reports is a legal requirement. The 24-Hour reporting requirement was the subject of a May 30, 2018 email (attached) that Mr. Goodhue sent to the candidates (and their treasurers) assigned to him and is discussed in the candidate filing schedules (attached).

At your April 25 meeting, the Commission gave direction to the staff that penalty recommendations for the 2018 election year should be higher than in previous years, in

order to implement the 2015 citizen initiative. In 2014-2017, the Commission generally assessed penalties of \$100 - \$200 for legislative and county candidates who did not file 24-Hour Reports on time for various reasons (not understanding the requirement, miscommunications, IT challenges):

<b>Candidate</b>	<b>Preliminary Penalty</b>	<b>Penalty Determined by Commission</b>	<b>Commission Decision Date</b>
Smith, Donald	\$563.87	\$200.00	12/22/14
Desena, William	\$1,817.79	\$200.00	01/23/15
Harvell, Lance	\$1,843.80	\$200.00	01/09/17
Edgecomb, Anthony	\$3,756.24	\$200.00	01/30/17
McClellan, Michael	\$2,528.74	\$200.00	01/30/17
Juskewitch, Steven	\$736.00	\$150.00	08/27/14
Gerrish, Karen	\$465.75	\$100.00	08/27/14
Lajoie, Dana	\$979.20	\$100.00	08/27/14
Hill, Owen	\$662.14	\$100.00	01/23/15
Martin, Stephen	\$165.23	\$100.00	04/27/16
Short, Theodor	\$64.00	\$64.00	01/09/17
Willette, Michael	\$632.15	\$50.00	08/27/14
Martin, Stephen	\$383.02	\$50.00	04/27/16
Katz, Roger	\$820.00	\$50.00	08/31/16
Drinkwater, Gary	\$677.12	\$50.00	08/31/16
Lewis, Bonnie	\$159.25	\$47.77	12/22/14
Stetkis, Joel	\$46.10	\$46.10	01/09/17
Paul, Richard	\$11.09	\$11.09	12/22/14

The penalties against Michael Willette, Roger Katz, and Gary Drinkwater were \$50, because they had no opponents in their primary elections.

Following your guidance, the Commission staff intends to recommend penalties in the range of \$300 - \$400 for the late filing of 24-Hour Reports for legislative and county candidates, unless you provide us with different guidance. Our intention is to stay within this range for most of the 24-Hour Report violations, but reserve the right to deviate if there are exceptional mitigating or aggravating factors.

In this case, the preliminary penalty of \$829.08 is disproportionately high. This is Ms. Hills' first campaign for state office in Maine. Her treasurer has demonstrated diligence in reporting the candidate's finances, but was unaware of the requirement. The Commission staff recommends a penalty of \$300.

Thank you for your consideration of this memo.

JUL 26 2018

July 22, 2018

Mr. Timothy Goodhue  
Candidate Registrar  
45 Memorial Circle  
Augusta, ME

Dear Mr. Goodhue,

I am writing to request a waiver of the penalty for a Late-Filed 24-Hour Report for the HillsforHouse campaign of Caitlin Hills. As treasurer for the Ms. Hill's campaign, I was responsible for making filings to the Commission and made all filings. Please let me outline the conditions for the late filing for your consideration of waiving the penalty.

After filing the 11-day report I understood a 42 day post-primary report was due by July 20, 2018. In order to make sure to capture all expenditures made during the campaign I waited until the June bank statement was mailed to me the second week in July. Consequently, I was unaware of an expenditure exceeding \$1000.00 until I examined the statement prior to making the 42 day post-primary report. I was also unaware that there was a requirement of filing a report for such an expenditure. The check for \$1151.71 cleared on June 8th and I dated the expense accordingly. Only after submitting the 42 day post-primary report did I discover that there was another filing required which I made at that time. My error in not making the filing for the \$1151.71 expense within 24 hours was due to inexperience with the filing process and not willful intent to mislead the commission.

I must state that, although the penalty calculation is clear, I find the amount of \$829.08 is disproportionate to Ms. Hills campaign and the amount of the filing violation. This is especially pertinent to me considering she was not successful in her primary contest and has no funds other than personal resources to pay the penalty.

I hope you will consider the above with favor and I will be happy to appear at a hearing on the matter and provide relevant documents.

Thank you for your time,

Sincerely,  
  
Charlie Grey, Treasurer

83B Cedar St., Belfast, ME 04915

charlie638grey@gmail.com



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

July 17, 2018

Caitlin Hills  
5 Glenview Dr  
Belfast, Maine 04915

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

Dear Ms. Hills:

You were required to file a 24-Hour Report Report on June 9, 2018 by 11:59 p.m., but the report was not filed until July 15, 2018. Under the Commission's statutes (21-A M.R.S.A. § 1020-A(4-A)), the late filing of a report triggers an enforcement process. The Commission staff has made a preliminary finding of violation and determined that the preliminary penalty for filing the report late is \$829.08. Please see the next page for the penalty calculation.

You may request that the Commission waive the penalty in whole or in part or find that 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 that there was no violation 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 a bona fide effort was made to file the report on time. 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 that 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](http://www.maine.gov/ethics) by clicking the "Penalty Payment" link. Please contact me at (207) 287-4709 or [timothy.a.goodhue@maine.gov](mailto:timothy.a.goodhue@maine.gov) if you have any questions.

Sincerely,

Timothy Goodhue  
Candidate Registrar

cc: Charlie Grey

## 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 1<sup>st</sup> 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

<b>Filer:</b> Caitlin Hills			
<b>Late-Filed Report:</b> 24-Hour Report			
<b>Contributions</b>	\$0	<b>Penalty Base Amount</b>	\$1151.71
<b>Expenditures</b>	\$1151.71	<b>Percentage</b>	2%
<b>Due Date</b>	June 9, 2018	<b>Daily Accrual Rate</b>	\$23.03
<b>Date Filed</b>	July 15, 2018	<b>Days Late</b>	36
<b>Previous Violations</b>	0	<b>Your Total Penalty</b>	\$829.08

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## Payment Statement and Payment Options

**From:** Caitlin Hills

**Penalty Amount:** \$829.08

**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](http://www.maine.gov/online/ethics/penalties).



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](http://www.maine.gov/ethics)  
Phone: 207-287-4179  
Fax: 207-287-6775

## 24-HOUR REPORT OF CONTRIBUTIONS AND EXPENDITURES

### 2018 CAMPAIGN YEAR

COMMITTEE		TREASURER
Ms. Caitlin L Hills 5 Glenview Lane Belfast, ME, 04915 PHONE:(202) 323-3987 EMAIL: hillsforhouse@gmail.com		Charlie Grey 83B Cedar Street Belfast, ME, 04915 PHONE:(207) 338-9506 EMAIL: charlie638grey@gmail.com
REPORT	DUE DATE	REPORTING PERIOD
24 Hour Report of Contributions and Expenditures	06/09/2018	06/08/2018-06/08/2018

### FINANCIAL ACTIVITY SUMMARY

CONTRIBUTIONS AND EXPENDITURES	
1. TOTAL CONTRIBUTIONS / LOANS	\$0.00
2. TOTAL EXPENDITURES	\$1,151.71
3. TOTAL DEBTS	\$0.00

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

REPORT FILED BY: Charlie Grey  
REPORT FILED ON: 07/15/2018  
LAST MODIFIED: 07/15/2018  
COMMITTEE ID: 5797



## 24-HOUR EXPENDITURE AND PAYEE INFORMATION

EXPENDITURE TYPES				
CNS	Campaign consultants	POL	Polling and survey research	
CON	Contribution to other candidate, party, committee	POS	Postage for U.S. Mail and mail box fees	
EQP	Equipment (office machines, furniture, cell phones, etc.)	PRO	Other professional services	
FND	Fundraising events	PRT	Print media ads only (newspapers, magazines, etc.)	
FOD	Food for campaign events, volunteers	RAD	Radio ads, production costs	
LIT	Print and graphics (flyers, signs, palmcards, t-shirts, etc.)	SAL	Campaign workers' salaries and personnel costs	
MHS	Mail house (all services purchased)	TRV	Travel (fuel, mileage, lodging, etc.)	
OFF	Office rent, utilities, phone and internet services, supplies	TVN	TV or cable ads, production costs	
OTH	Other	WEB	Website design, registration, hosting, maintenance, etc.	
PHO	Phone banks, automated telephone calls			
DATE OF EXPENDITURE	PAYEE	REMARK	TYPE	AMOUNT
6/8/2018	MACH3MEDIA 126 FRANCES ST PORTLAND, ME, 04102	Signs, mailing	LIT	\$1,151.71
TOTAL EXPENDITURES FOR CANDIDATE:				\$1,151.71

## Feliciano, Katie

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**From:** Goodhue, Timothy A  
**Sent:** Wednesday, May 30, 2018 1:34 PM  
**Subject:** 24-Hour Reporting Period Begins TODAY

Dear 2018 Primary Election Candidates and Treasurers:

This is a friendly reminder that the 24-hour reporting period starts today, May 30<sup>th</sup>, and ends June 11<sup>th</sup>, the day before the election. All candidates are subject to the 24-hour reporting period. A 24-Hour Report must be filed within twenty-four hours of the triggering transaction, regardless of holidays or weekends. Qualifying transactions that take place on June 11<sup>th</sup> must be filed on Primary Election Day (or same day).

- 24-Hour Reports must be filed when:
  - A single contribution of \$1,000 or more is received (including loans)
  - A single expenditure of \$1,000 or more is made (including debts)
    - A debt occurs when an order for goods or services is placed, not when the campaign pays the vendor or receives an invoice or receipt.
- 24-Hour Reports may be filed by:
  - Entering the transaction into E-Filing, and then filing the newly created 24-Hour Report
    - Make sure you complete the filing process, and see a screen that confirms you filed a report
  - Faxing the Commission a paper 24-Hour Report – (207) 287-6775
  - Emailing the Commission a scan of a paper 24-Hour Report
- Not sure about how to file, or if you need to file a 24-Hour Report? Please do not hesitate to contact me:
  - (207) 287-4709
  - [Timothy.a.Goodhue@maine.gov](mailto:Timothy.a.Goodhue@maine.gov)

Tim Goodhue ☯  
Candidate Registrar  
☎ 207-287-4709  
📠 207-287-6775





## 2018 FILING SCHEDULE

### For Maine Clean Election Act Legislative Candidates

**PRIMARY ELECTION: JUNE 12, 2018**

**GENERAL ELECTION: NOVEMBER 6, 2018**

TYPE OF REPORT	FILING DEADLINE (BY 11:59 P.M.)	REPORT PERIOD
Seed Money Report*	April 20, 2018	Date of first seed money contribution – date of certification request <u>For candidates who filed a Semiannual Report*:</u> January 1, 2018 – date of certification request

11-Day Pre-Primary	June 1, 2018	End of Seed Money Report — May 29, 2018
42-Day Post-Primary	July 24, 2018	May 30 — July 17, 2018

42-Day Pre-General	September 25, 2018	July 18 — September 18, 2018
11-Day Pre-General	October 26, 2018	September 19 — October 23, 2018
42-Day Post-General	December 18, 2018	October 24 — December 11, 2018

\*PLEASE NOTE: Candidates collecting more than \$500 in seed money contributions in 2017 must file a 2018 January Semiannual campaign finance report by 11:59 p.m. on January 16, 2018 showing all seed money contributions and expenditures through December 31, 2017.

### 24-HOUR REPORTS

24-HOUR REPORTING PERIODS (13 DAYS BEFORE THE ELECTION)	WHAT TO REPORT	WHEN TO FILE
Primary: May 30 – June 11, 2018  General: October 24 – November 5, 2018	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 17, 2018. The Commission will grant all reasonable requests.

*Using Paper Forms.* For candidates who are not required to file electronically, each original campaign finance report signed by the candidate and treasurer must be properly filed with the Commission by the filing deadline, except in two circumstances. A properly signed report may be faxed to the Commission office at (207) 287-6775 by 11:59 p.m. on the deadline, provided that the Commission receives the original report within 5 calendar days. A report mailed to the Commission by certified or registered mail and postmarked at least 2 days before the filing deadline will not be considered late, even if it is received after the deadline.

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

**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:

- (1) Any news story, commentary or editorial distributed through the facilities of any broadcasting station, cable television system, newspaper, magazine or other periodical publication, unless the facilities are owned or controlled by any political party, political committee, candidate, or spouse or domestic partner of a candidate;
- (1-A) Any communication distributed through a public access television channel on a cable television system if the communication complies with the laws and rules governing the channel and all candidates in the race have an equal opportunity to promote their candidacies through the channel;
- (2) Activity or communication designed to encourage individuals to register to vote or to vote if that activity or communication does not mention a clearly identified candidate;
- (3) Any communication by any membership organization or corporation to its members or stockholders, if that membership organization or corporation is not organized primarily for the purpose of influencing the nomination or election of any person to state or county office;
- (4) The use of real or personal property and the cost of invitations, food and beverages, voluntarily provided by an individual to a candidate in rendering voluntary personal services for candidate-related activities, if the cumulative value of these activities does not exceed \$250 with respect to any election;
- (5) Any unreimbursed travel expenses incurred by an individual in the course of providing voluntary personal services to a candidate and paid for by that individual, if the cumulative amount of these expenses does not exceed \$350 with respect to any election;
- (5-A) Any unreimbursed campaign-related travel expenses incurred and paid for by the candidate or the candidate's spouse or domestic partner;
- (6) Any communication by any person that is not made for the purpose of influencing the nomination for election, or election, of any person to state, county or municipal office;

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.

C. 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.

D. Reports must be filed no later than 11:59 p.m. on the 42nd day after the date on which an election is held and must be complete for the filing period as of the 35th day after that date.

D-1. Reports must be filed no later than 11:59 p.m. on the 42nd day before the date on which a general election is held and must be complete as of the 49th day before that date, except that this report is not required for candidates for municipal office.

E. Unless further reports will be filed in relation to a later election in the same calendar year, the disposition of any surplus or deficit in excess of \$100 shown in the reports described in paragraph D must be reported as provided by this paragraph. The treasurer of a candidate with a surplus or deficit in excess of \$100 shall file reports semiannually with the commission within 15 days following the end of the 2nd and 4th quarters of the State's fiscal year, complete as of the last day of the quarter, until the surplus is disposed of or the deficit is liquidated. The first report under this paragraph is not required until the 15th day of the period beginning at least 90 days from the date of the election. The reports will be considered timely if filed electronically or in person with the commission on that date or postmarked on that date. The reports must set forth any contributions for the purpose of liquidating the deficit, in the same manner as contributions are set forth in other reports required in this section.

F. Reports with respect to a candidate who seeks nomination by petition must be filed on the same dates that reports must be filed by a candidate for the same office who seeks that nomination by primary election.

### **3-B. Accelerated reporting schedule. (REPEALED)**

**4. New candidate or nominee.** A candidate for nomination or a nominee chosen to fill a vacancy under Chapter 5, subchapter 3 is subject to section 1013-A, subsection 1, except that the candidate shall register the name of a treasurer or political committee and all other information required in section 1013-A, subsection 1, paragraphs A and B within 7 days after the candidate's appointment or at least 6 days before the election, whichever is earlier. The commission shall send notification of this registration requirement and report forms and schedules to the candidate

- 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. Basis for penalties. (REPEALED)**

**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 two-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. Maximum penalties. (REPEALED)**

**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 financial activity reported late exceeds \$50,000, the maximum penalty is 100% of the amount reported late;

A-1. Five thousand dollars for reports required under section 1019 B, subsection 4, except that if the financial activity reported late exceeds \$50,000, the maximum penalty is 100% of the amount reported late;



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

Commission Meeting:  
8/29/2018 Agenda Item # 5

To: Commissioners  
From: Erin Gordon, Candidate Registrar  
Date: August 25, 2018  
Re: Request by Ian Schwartz for Waiver of Late-Filing Penalty for 24-Hour Report

---

Ian Schwartz was a candidate in the Democratic primary election for Maine Senate, District 7. He was a first-time candidate and did not win his party's nomination. On June 8, 2018, Mr. Schwartz made an expenditure of \$1,011.88 during the 24-hour reporting period prior to the primary election. Accordingly, he was required to file a 24-Hour Report on June 9, 2018. He filed the report late on June 28, 2018 (nineteen days late), when he was entering transactions for his post-election report. The preliminary penalty for the late report is \$384.37 and the candidate is requesting a waiver of the penalty.

### **LEGAL REQUIREMENTS**

Candidates are required to file 24-Hour Reports with the Commission during the 13 days prior to an election if they receive a contribution or make an expenditure of \$1,000 or more. (21-A M.R.S.A. § 1017(3-A)(C)) If the candidate is late in filing a 24-Hour Report, the amount of the penalty is set 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.A. § 1020-A(4-A))

### **REQUEST FOR WAIVER**

On June 8, 2018, Ian Schwartz made an expenditure of \$1,011.99 to Print Bangor for a postcard mailing. The expenditure was not reported until June 28, when Mr. Schwartz was preparing his 42-Day Post-Primary Report (in advance of the deadline).

The late filing triggered the penalty process and Commission staff sent a letter notifying Mr. Schwartz of the preliminary penalty. Based on the statutory formula for calculating late-filing penalties, the preliminary penalty is \$384.37:

<b>Report</b>	<b>Due Date</b>	<b>Financial Activity</b>	<b>Penalty Rate</b>	<b>Days Late</b>	<b>Preliminary Penalty</b>
24-Hour Report	06/09/2018	\$1,011.88	2%	19	\$384.37

Mr. Schwartz requests a reduction of the penalty in a letter dated July 23. He cites his inexperience as a candidate and busy campaign schedule as mitigating factors and states that he was operating in good faith, having successfully filed a previous 24-Hour Report.

#### **STAFF RECOMMENDATION**

24-Hour Reports play a valuable role in informing the electorate concerning how money is being received and spent to influence voters in the critical days just before an election. This reporting period was doubly necessary for Mr. Schwartz, as he was in a contested primary election race and spending MCEA funds.

Mr. Schwartz (or his treasurer) was aware of the 24-Hour Reporting period. On June 1<sup>st</sup>, he had filed a 24-Hour Report for a May 31 expenditure for newspaper advertising. Although he is a first-time candidate, he demonstrated that he understood the requirement and the e-filing system.

The Commission staff makes every effort to inform candidates of the filing requirements, including 24-Hour Reports. I have attached a May 30 email that I sent to candidates and their treasurers (including Mr. Schwartz) reminding them of the 24-Hour reporting requirement. The 24-Hour Reporting requirement was also mentioned in the 11-Day reminder newsletter (attached) emailed to all candidates on May 25, 2018. Staff members are available by phone or email to explain any requirement or assist in filing.

At your April 25 meeting, the Commission gave direction to the staff that penalty recommendations for the 2018 election year should be higher than in previous years, in order to implement the 2015 citizen initiative. In 2014-2017, the Commission generally



assessed penalties of \$100 - \$200 for legislative and county candidates who did not file 24-Hour Reports on time for various reasons (not understanding the requirement, miscommunications, IT challenges):

<b>Candidate</b>	<b>Preliminary Penalty</b>	<b>Penalty Determined by Commission</b>	<b>Commission Decision Date</b>
Smith, Donald	\$563.87	\$200.00	12/22/14
Desena, William	\$1,817.79	\$200.00	01/23/15
Harvell, Lance	\$1,843.80	\$200.00	01/09/17
Edgecomb, Anthony	\$3,756.24	\$200.00	01/30/17
McClellan, Michael	\$2,528.74	\$200.00	01/30/17
Juskewitch, Steven	\$736.00	\$150.00	08/27/14
Gerrish, Karen	\$465.75	\$100.00	08/27/14
Lajoie, Dana	\$979.20	\$100.00	08/27/14
Hill, Owen	\$662.14	\$100.00	01/23/15
Martin, Stephen	\$165.23	\$100.00	04/27/16
Short, Theodor	\$64.00	\$64.00	01/09/17
Willette, Michael	\$632.15	\$50.00	08/27/14
Martin, Stephen	\$383.02	\$50.00	04/27/16
Katz, Roger	\$820.00	\$50.00	08/31/16
Drinkwater, Gary	\$677.12	\$50.00	08/31/16
Lewis, Bonnie	\$159.25	\$47.77	12/22/14
Stetkis, Joel	\$46.10	\$46.10	01/09/17
Paul, Richard	\$11.09	\$11.09	12/22/14

The penalties against Michael Willette, Roger Katz, and Gary Drinkwater were \$50, because they had no opponents in their primary elections.

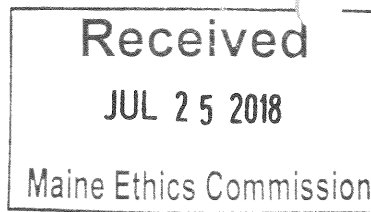
Following your guidance, the Commission staff intends to recommend penalties in the range of \$300 - \$400 for the late filing of 24-Hour Reports for legislative and county candidates, unless you provide us with different guidance. Our intention is to stay within this range for most of the 24-Hour Report violations, but reserve the right to deviate if there are exceptional mitigating or aggravating factors.

In this case, the Commission staff recommends *not* reducing the preliminary penalty of \$384.37, because it falls within our new recommendation range of \$300 - \$400.

Although Mr. Schwartz is a first-time candidate, he apparently was aware that he had to file 24-hour reports of expenditures of \$1,000 or more.

Thank you for your consideration of this memo.

July 23<sup>rd</sup>, 2018



Dear Erin,

Three days ago I received notice that I would be fined \$384.37 for failing to file a 24-Hour Report on time (which would have been June 9<sup>th</sup>, 2018) with the Maine Ethics Commission. I would like to apologize for this. I wound up filing this report almost seven weeks later, long after my election was over, on July 28<sup>th</sup>, 2018.

I initially failed to file the report on time because the election was due to take place in three days (on June 12<sup>th</sup>) and I was basically out of the house driving around Hancock County and knocking on doors whenever I had a moment to spare, sometimes for more than twelve hours a day.

I would like to request a waiver or a fee reduction due to my inexperience, as this was my first election, and I also believe that I filed other 24-Hour Reports on time.

I greatly appreciate your understanding and intend to promptly and fully comply with whatever decision the Maine Ethics Commission chooses to make on this matter.

Thank you for your time,

Ian Schwartz



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](http://www.maine.gov/ethics)  
Phone: 207-287-4179  
Fax: 207-287-6775

## 24-HOUR REPORT OF CONTRIBUTIONS AND EXPENDITURES

### 2018 CAMPAIGN YEAR

COMMITTEE		TREASURER	
IAN SCHWARTZ 14 WILDWOOD ROAD SEAL HARBOR, ME 04675 PHONE: (207) 664-9096 EMAIL: SUBLUNARI@GMAIL.COM		Ann Schwartz 7 Upper Dunbar Road Seal Harbor, ME 04675 PHONE: (207) 669-5581 EMAIL: atschwartz@roadrunner.com	
REPORT	DUE DATE	REPORTING PERIOD	
24 Hour Report of Major Contributions and Expenditures	06/09/2018	06/08/2018 - 06/08/2018	

### FINANCIAL ACTIVITY SUMMARY

CONTRIBUTIONS AND EXPENDITURES	
1. TOTAL CONTRIBUTIONS / LOANS	\$0.00
2. TOTAL EXPENDITURES	\$1,011.88
3. TOTAL DEBTS	\$0.00

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

REPORT FILED BY: Ian Schwartz  
REPORT FILED ON: 06/28/2018  
LAST MODIFIED: 06/28/2018  
PRINTED: 07/01/2018  
COMMITTEE ID: 10923

## 24-HOUR EXPENDITURE AND PAYEE INFORMATION

EXPENDITURE TYPES				
CNS Campaign consultants CON Contribution to other candidate, party, committee EQP Equipment (office machines, furniture, cell phones, etc.) FND Fundraising events FOD Food for campaign events, volunteers LIT Print and graphics (flyers, signs, palmcards, t-shirts, etc.) MHS Mail house (all services purchased) OFF Office rent, utilities, phone and internet services, supplies OTH Other PHO Phone banks, automated telephone calls	POL Polling and survey research POS Postage for U.S. Mail and mail box fees PRO Other professional services PRT Print media ads only (newspapers, magazines, etc.) RAD Radio ads, production costs SAL Campaign workers' salaries and personnel costs TRV Travel (fuel, mileage, lodging, etc.) TVN TV or cable ads, production costs WEB Website design, registration, hosting, maintenance, etc.			
DATE OF EXPENDITURE	PAYEE	REMARK	TYPE	AMOUNT
6/8/2018	PRINT BANGOR 80 CENTRAL ST BANGOR, ME 04401	PRINTING AND MAILING POSTCARDS TO VOTERS.	POS	\$1,011.88
<b>TOTAL EXPENDITURES FOR CANDIDATE:</b>				<b>\$1,011.88</b>



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

July 3, 2018

Ian Schwartz  
14 Wildwood Road  
Seal Harbor, Maine 04675

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

Dear Mr. Schwartz:

You were required to file a 24-Hour Report Report on June 9, 2018 by 11:59 p.m., but the report was not filed until July 28, 2018. Under the Commission's statutes (21-A M.R.S.A. § 1020-A(4-A)), the late filing of a report triggers an enforcement process. The Commission staff has made a preliminary finding of violation and determined that the preliminary penalty for filing the report late is \$384.37. Please see the next page for the penalty calculation.

You may request that the Commission waive the penalty in whole or in part or find that 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 that there was no violation 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 a bona fide effort was made to file the report on time. 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 that 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](http://www.maine.gov/ethics) by clicking the "Penalty Payment" link. Please contact me at (207) 287-3651 or [erin.gordon@maine.gov](mailto:erin.gordon@maine.gov) if you have any questions.

Sincerely,



Erin Gordon  
Candidate Registrar

cc:

## 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 1<sup>st</sup> 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

<b>Filer:</b> Ian Schwartz			
<b>Late-Filed Report:</b> 24-Hour Report			
<b>Contributions</b>	\$0	<b>Penalty Base Amount</b>	\$1,011.88
<b>Expenditures</b>	\$1,011.88	<b>Percentage</b>	2%
<b>Due Date</b>	June 9, 2018	<b>Daily Accrual Rate</b>	\$20.23
<b>Date Filed</b>	June 28, 2018	<b>Days Late</b>	19
<b>Previous Violations</b>	0	<b>Your Total Penalty</b>	\$384.37

---

### Payment Statement and Payment Options

**From:** Ian Schwartz

**Penalty Amount:** \$384.37

**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](http://www.maine.gov/online/ethics/penalties).

**Subject:** 24-Hour Reporting Period Begins TODAY

**Date:** Wednesday, May 30, 2018 2:04:00 PM

---

Dear 2018 Primary Election Candidates and Treasurers:

This is a friendly reminder that the 24-hour reporting period starts today, May 30<sup>th</sup>, and ends June 11<sup>th</sup>, the day before the election. All candidates are subject to the 24-hour reporting period. A 24-Hour Report must be filed within twenty-four hours of the triggering transaction, regardless of holidays or weekends. Qualifying transactions that take place on June 11<sup>th</sup> must be filed on Primary Election Day (or same day).

- 24-Hour Reports must be filed when:
  - A single contribution of \$1,000 or more is received (including loans)
  - A single expenditure of \$1,000 or more is made (including debts)
    - A debt occurs when an order for goods or services is placed, not when the campaign pays the vendor or receives an invoice or receipt.
- 24-Hour Reports may be filed by:
  - Entering the transaction into E-Filing, and then filing the newly created 24-Hour Report
    - Make sure you complete the filing process, and see a screen that confirms you filed a report
  - Faxing the Commission a paper 24-Hour Report – (207) 287-6775
  - Emailing the Commission a scan of a paper 24-Hour Report
- Not sure about how to file, or if you need to file a 24-Hour Report? Please do not hesitate to contact me:
  - (207) 287-3651
  - [Erin.Gordon@maine.gov](mailto:Erin.Gordon@maine.gov)

*Erin Gordon*

*Candidate Registrar*

Maine Ethics Commission

(207) 287-3651 | [www.maine.gov/ethics](http://www.maine.gov/ethics)

135 State House Station, Augusta, ME 04333-0135

45 Memorial Circle, Augusta, ME





Commission on Governmental Ethics and Election Practices  
 Located at 45 Memorial Circle, Augusta, Maine 04330  
[www.maine.gov/ethics](http://www.maine.gov/ethics)

May 25, 2018

## 2018 PRIMARY ELECTION FILING REMINDER FOR MCEA CANDIDATES

### Campaign Finance Reports Due

REPORT	DEADLINE	REPORT PERIOD
11-Day Pre-Primary Report	Friday, June 1, 2018 by 11:59 p.m.	End of Seed Money Report through May 29, 2018
→ 24-Hour Report	Within 24 hours of making a single expenditure of \$1,000 or more. See pages 44-45 of the	May 30 through June 11, 2018

All MCEA candidates are required to file campaign finance reports electronically using the Commission's e-filing system except candidates who submitted an e-filing waiver and are filing on paper forms.\*

#### To log into the E-Filing system:

- Go to the Commission's e-filing website: [www.maineecampaignfinance.com](http://www.maineecampaignfinance.com).
- Click the blue "Filer Login" button.
- Enter your user name and password. If you have any problems logging in, please contact the Commission as soon as possible before the filing deadline.
- Candidates and treasurers may enter transactions into the system.

#### To enter expenditures, unpaid debts :

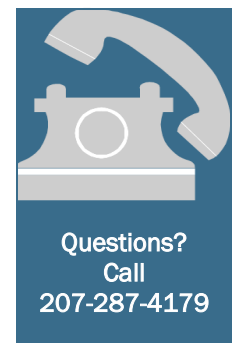
- Place the cursor on the "Financial" tab; a drop down box will appear.
- In the drop down box, click on transaction type (expenditure or debt).
- Click the red "Add an Expenditure" (or "Add a Debt") button to begin entering required information for each transaction.
- When finished entering a transaction, click the red "Save" button to save it.

#### To preview and file your report:

- To preview or file a report, click on "Filings" tab, then click "View/File" to the right of the name of the report in the "Reports Due" grid.
- To view the report before filing it, click the red "Preview" button.
- To file the report, click the red "File" button.
- ONLY TREASURERS ARE ALLOWED TO FILE THE COMPLETED FINANCIAL REPORT; MCEA CANDIDATES CANNOT FILE THE REPORT.

#### Inside this issue:

Campaign Record-keeping	2
Filing Checklist: Error Free Reporting!	2
MCEA General Election Payments	2
Avoid the No. 1 Reporting Error - Reimbursements	3
Follow MCEA Expenditure	3



\* For candidates filing on paper, the Commission's fax machine operates 24 hours a day. However, staff will be available only until 5:00 p.m. on 6/1/2018 to confirm receipt of a faxed report and to offer assistance and answer questions about filing reports.

## MCEA Payments for the General Election

### Initial General Election Payment:

Within a week after the primary election, MCEA general election payments will be made to all candidates who won the primary election.

If you have MCEA funds left over after the primary, you can carry those funds over into the general election. The amount of your general election payment will not be reduced if you have a cash balance after the primary. All candidates will receive the full amount of the general election payment:

- \$5,075 – House
- \$20,275 – Senate

## How to File a 24-Hour Report

Any expenditure of \$1,000 or more made from May 30 through June 11 must be reported within 24 hours. Once the expenditure has been reported in E-Filing, the system will automatically add a 24-Hour Report to your reporting schedule.

Go to the “Filings” tab to preview and file the 24-Hour Report.

**Note:** Be aware of this requirement! Do not wait to report an expenditure until you send the check; enter your expenditures as soon as the funds are obligated to avoid any late-filing penalties!

## Keeping Records of Campaign Expenditures

**Required Records.** MCEA treasurers are required to keep certain records: bank account statements, invoices, and payment documentation (copy of a check, credit card statement, etc.) for every expenditure of \$50 or more. See pages 28-42 of the Guidebook.

**Required Records for Mileage Reimbursements.** On page 41 of the Guidebook, you will find an explanation of the required documentation for mileage reimbursements including: a travel log that is completed *contemporaneously* when the travel occurs (not at the end of the report period or campaign) and that reports the date, number of miles traveled, the destination, and *detailed description* of the campaign purpose. See the sample log in the Guidebook’s Appendix (pages A4 & A5).

**Payments of \$500 or more for Salary or Consulting Services.** For payments of \$500 or more to campaign staff or for consulting services, you must keep a contemporaneous document (e.g., invoice, contract, timesheet, or other record) specifying in detail the services provided, the amount paid, and the basis for the compensation. See pages 41-42 of the Guidebook.

## Filing Checklist

### WHEN FILING YOUR REPORT REMEMBER:

- ☐ When making reimbursements to supporters and volunteers, obtain the vendor invoice and copy of payment documentation (e.g., copy of check written by supporter or copy of credit card statement) *before* making the reimbursement. This is required documentation.
- ☐ Purchases made by supporters and volunteers during the 11-Day Pre-Primary Report period should be reimbursed by the end of the report period (on or by May 29, 2018), if possible. See next page for instructions on reporting reimbursements.
- ☐ Obtain the original travel log *before* making a mileage reimbursement and keep it with your other campaign records. The log is the documentation that the travel was campaign-related.
- ☐ Review the entire report for completeness and accuracy. You can see the e-filing instructions on the first page on how to preview the report. As a MCEA candidate, your report must disclose every dollar of public funds spent on your campaign.
- ☐ The MCEA payment for the primary election has been entered automatically into the 11-Day Pre-Primary Report. You only need to enter expenditures and debts.
- ☐ **Treasurers** — Click the “File Report” button before the deadline — 6/1/2018 by 11:59 p.m. After filing your report, go to your Filing History to check that the status of the report is “Filed.”

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.

→ C. 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.

D. Reports must be filed no later than 11:59 p.m. on the 42nd day after the date on which an election is held and must be complete for the filing period as of the 35th day after that date.

D-1. Reports must be filed no later than 11:59 p.m. on the 42nd day before the date on which a general election is held and must be complete as of the 49th day before that date, except that this report is not required for candidates for municipal office.

E. Unless further reports will be filed in relation to a later election in the same calendar year, the disposition of any surplus or deficit in excess of \$100 shown in the reports described in paragraph D must be reported as provided by this paragraph. The treasurer of a candidate with a surplus or deficit in excess of \$100 shall file reports semiannually with the commission within 15 days following the end of the 2nd and 4th quarters of the State's fiscal year, complete as of the last day of the quarter, until the surplus is disposed of or the deficit is liquidated. The first report under this paragraph is not required until the 15th day of the period beginning at least 90 days from the date of the election. The reports will be considered timely if filed electronically or in person with the commission on that date or postmarked on that date. The reports must set forth any contributions for the purpose of liquidating the deficit, in the same manner as contributions are set forth in other reports required in this section.

F. Reports with respect to a candidate who seeks nomination by petition must be filed on the same dates that reports must be filed by a candidate for the same office who seeks that nomination by primary election.

### **3-B. Accelerated reporting schedule. (REPEALED)**

**4. New candidate or nominee.** A candidate for nomination or a nominee chosen to fill a vacancy under Chapter 5, subchapter 3 is subject to section 1013-A, subsection 1, except that the candidate shall register the name of a treasurer or political committee and all other information required in section 1013-A, subsection 1, paragraphs A and B within 7 days after the candidate's appointment or at least 6 days before the election, whichever is earlier. The commission shall send notification of this registration requirement and report forms and schedules to the candidate

of perjury, as provided in Title 17 A, section 451, a statement under oath or affirmation whether the expenditure is made in cooperation, consultation or concert with, or at the request or suggestion of, the candidate or an authorized committee or agent of the candidate.

C. A report required by this subsection must be on a form prescribed and prepared by the commission. A person filing this report may use additional pages if necessary, but the pages must be the same size as the pages of the form. The commission may adopt procedures requiring the electronic filing of an independent expenditure report, as long as the commission receives the statement made under oath or affirmation set out in paragraph B by the filing deadline and the commission adopts an exception for persons who lack access to the required technology or the technological ability to file reports electronically. The commission may adopt procedures allowing for the signed statement to be provisionally filed by facsimile or electronic mail, as long as the report is not considered complete without the filing of the original signed statement.

**5. Exclusions.** An independent expenditure does not include:

- A. An expenditure made by a person in cooperation, consultation or concert with, or at the request or suggestion of, a candidate, a candidate's political committee or their agents;
- B. A telephone survey that meets generally accepted standards for polling research and that is not conducted for the purpose of changing the voting position of the call recipients or discouraging them from voting;
- C. A telephone call naming a clearly identified candidate that identifies an individual's position on a candidate, ballot question or political party for the purpose of encouraging the individual to vote, as long as the call contains no advocacy for or against any candidate; and
- D. A voter guide that consists primarily of candidates' responses to surveys and questionnaires and that contains no advocacy for or against any candidate.

## **21-A § 1020. Failure to file on time (REPEALED)**

### **21-A § 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 \$10. 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. Basis for penalties. (REPEALED)**

**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 two-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. Maximum penalties. (REPEALED)**

**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 financial activity reported late exceeds \$50,000, the maximum penalty is 100% of the amount reported late;

A-1. Five thousand dollars for reports required under section 1019 B, subsection 4, except that if the financial activity reported late exceeds \$50,000, the maximum penalty is 100% of the amount reported late;



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

Commission Meeting:  
8/29/2018 Agenda Item # 6

To: Commissioners  
From: Tim Goodhue, Candidate Registrar  
Date: August 7, 2018  
Re: Request for Waiver of Late-Filing Penalty by Danny Costain

---

Danny Costain was a traditionally financed candidate for the Maine House of Representatives in the June 12, 2018 Republican primary election in House District 100. Mr. Costain won the primary election and is his party's nominee in the general election. During the 13 days prior to an election, legislative candidates who receive a single contribution or make a single expenditure of \$1,000 or more are required to file a supplemental campaign finance report within 24 hours of receiving the contribution or making the expenditure.

On June 5, 2018, Mr. Costain lent \$3,116.26 to his campaign during the 24-hour reporting period prior to the primary election. (Loans are within the definition of "contribution" in 21-A M.R.S.A. § 1012(2)(A).) That day, he also made an expenditure of \$2,796.89. Accordingly, he was required to file a 24-Hour Report on June 6, 2018 to disclose both transactions. He filed the report late on July 24, 2018, when entering data for his 42-day post-primary election report. The 24-Hour Report was 48 days late. The preliminary penalty is \$2,991.36, and Mr. Costain is requesting a waiver.

### **LEGAL REQUIREMENTS**

Candidates are required to file 24-Hour Reports with the Commission during the 13 days prior to an election if they receive a contribution or make an expenditure of \$1,000 or more. (21-A M.R.S.A. § 1017(3-A)(C)) If the candidate is late in filing a 24-Hour Report, the amount of the penalty is set 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.A. § 1020-A(4-A))

## **DISCUSSION**

On July 24, 2018, when the Costain campaign was preparing the 42-Day Post-Primary Report for filing, it entered a contribution in the form of a loan from Mr. Costain to the campaign. This transaction took place on June 5, 2018, and was in the amount of \$3,116.26. In addition, the campaign entered an expenditure of \$2,796.89 to Spectrum Marketing that took place on June 5, 2018. When the campaign entered the transactions on July 24, 2018, the e-filing system produced a warning they were required to be filed on a 24-Hour Report, and created such a report to be filed. The campaign filed the 24-Hour Report 48 days late on July 24, 2018.

Based on the statutory formula for calculating late-filing penalties, the preliminary penalty is \$2,991.36 (based on the amount of contributions in the report).

<b>Report</b>	<b>Due Date</b>	<b>Financial Activity</b>	<b>Penalty Rate</b>	<b>Days Late</b>	<b>Preliminary Penalty</b>
24-Hour Report	06/06/2018	\$3,116.26	2%	48	\$2,991.36

## **STAFF COMMENTS**

Violations of the 24-hour reporting requirements can be serious matters. 24-Hour Reports play a valuable role in informing the electorate about how money is being spent to influence voters in the critical days just before an election.

The 24-hour reporting requirement is discussed in a number of locations on the Commission's website and publications. The requirement is set out in the filing schedules for 2018 candidates (the relevant schedule is attached), which were posted on the Commission's website in June 2017. The requirement is also mentioned in a page of the 2018 Candidate Quick Guides. These are folders of concise, laminated fliers explaining some of the basic financial requirements for candidates, which our office received from commercial printers in December 2017 (the relevant page is attached).

The requirement is also discussed in the larger Candidate Guidebook, which is available on request.

On May 30, 2018, Tim Goodhue sent an email (attached) reminding all candidates assigned to him (and their treasurers) of the 24-hour reporting requirement. The email was addressed to Mr. Costain, among many others.

According to the Mr. Costain, the violation for not filing a 24-Hour Report on June 6, 2018 should be waived for several reasons. His main argument is he was unaware of the 24-hour reporting requirement.

Mr. Costain states that he was not handed information concerning the 24-hour reporting requirement when he registered in our office during the second week of January 2018. At that time, the Commission did not have an administrative assistant and Mr. Costain likely would have been assisted by one of our two Candidate Registrars. We generally provided the Candidate Quick Guides to all visiting candidates during this period, but we have no way of confirming whether or not he received one. Even if Mr. Costain did not receive the Quick Guide, it was his responsibility to learn the campaign finance reporting requirements (including the 24-Hour reporting requirement) by contacting our office or consulting the Commission website.

## **RECOMMENDATION**

As discussed in agenda items #4 (Caitlin Hills) and #5 (Ian Schwartz), the Commission staff intends to recommend penalties in the range of \$300 - \$400 for late 24-Hour Reports filed by legislative and county candidates. The Commission staff recommends reducing the penalty against Mr. Costain to \$300, because he was a first-time candidate who was not aware of the filing requirement.

Thank you for your consideration of this memo.



Note: Mr. Costain's August 2, 2018 email was addressed to timothy.goodhue@maine.gov. On August 7, 2018 he resent it to timothy.a.goodhue@maine.gov

**Feliciano, Katie**

---

**From:** Dan's Gmail <dancostain@gmail.com>  
**Sent:** Tuesday, August 7, 2018 2:44 PM  
**To:** Goodhue, Timothy A  
**Subject:** Fwd: Commission Waive penalty

His my waiver request again. As you can see the date that I originally emailed it to you.

What day did you tell me the commission was going to meet so I can advise my attorney.

Dan Costain  
Cell 207-852-1932

Begin forwarded message:

**From:** Danny Costain <[dancostain@gmail.com](mailto:dancostain@gmail.com)>  
**Date:** August 2, 2018 at 12:09:20 EDT  
**To:** "[timothy.goodhue@maine.gov](mailto:timothy.goodhue@maine.gov)" <[timothy.goodhue@maine.gov](mailto:timothy.goodhue@maine.gov)>  
**Subject:** Commission Waive penalty

Mr. Good hue

I would request a hearing in front of the Ethic Commission in reference to the 24 hour late filing. When We spoke on the phone I told you that I am a new candidate and wasn't aware that I had to file this report within 24 hours. Now that I am aware of this it will not happen again. When I filed my paperwork with the ethics commission As a candidate I wasn't handed any paperwork with the rules from your staff.

I would request that the Commission waive the penalty in this case.

Thank you for your time concerning this matter.

Danny Costain  
292 Ridge Rd  
Plymouth, ME 04969  
207.852.1932

Please let me know you received this request.

--

**Have a Wonderful Day!**

**Dan Costain**  
Ferry Ridge Farms

**Cell 207-852-1932**



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

July 25, 2018

Danny Costain  
292 Ridge Road  
Plymouth, Maine 04969

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

Dear Mr. Costain:

You were required to file a 24-Hour Report Report on June 6, 2018 by 11:59 p.m., but the report was not filed until July 24, 2018. Under the Commission's statutes (21-A M.R.S.A. § 1020-A(4-A)), the late filing of a report triggers an enforcement process. The Commission staff has made a preliminary finding of violation and determined that the preliminary penalty for filing the report late is \$2991.36. Please see the next page for the penalty calculation.

You may request that the Commission waive the penalty in whole or in part or find that 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 that there was no violation 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 a bona fide effort was made to file the report on time. 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 that 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](http://www.maine.gov/ethics) by clicking the "Penalty Payment" link. Please contact me at (207) 287-4709 or [timothy.a.goodhue@maine.gov](mailto:timothy.a.goodhue@maine.gov) if you have any questions.

Sincerely,



Timothy Goodhue  
Candidate Registrar

cc:

## 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 1<sup>st</sup> 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: Danny Costain				
Late-Filed Report: 24-Hour Report				
Contributions	\$3,116.26		Penalty Base Amount	\$3,116.26
Expenditures	\$2,796.89		Percentage	2%
Due Date	June 6, 2018		Daily Accrual Rate	\$62.32
Date Filed	July 24, 2018		Days Late	48
Previous Violations	0		Your Total Penalty	\$2,991.36

---

## Payment Statement and Payment Options

**From:** Danny Costain

**Penalty Amount:** \$2,991.36

**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](http://www.maine.gov/online/ethics/penalties).



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](http://www.maine.gov/ethics)  
Phone: 207-287-4179  
Fax: 207-287-6775

## 24-HOUR REPORT OF CONTRIBUTIONS AND EXPENDITURES

### 2018 CAMPAIGN YEAR

COMMITTEE		TREASURER
Danny Edward Costain 292 Ridge Road Plymouth, ME, 04969 PHONE:(207) 852-1932 EMAIL: dancostain@gmail.com		Joshua Tardy 159 Main St. PO Box 476 Newport, ME, 04953 PHONE:(207) 341-5858 EMAIL: jtardy@itmlaw.com
REPORT	DUE DATE	REPORTING PERIOD
24 Hour Report of Contributions and Expenditures	06/06/2018	06/05/2018-06/05/2018

### FINANCIAL ACTIVITY SUMMARY

CONTRIBUTIONS AND EXPENDITURES	
1. TOTAL CONTRIBUTIONS / LOANS	\$3,116.26
2. TOTAL EXPENDITURES	\$2,796.89
3. TOTAL DEBTS	\$0.00

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

REPORT FILED BY: Danny Edward Costain  
REPORT FILED ON: 07/24/2018  
LAST MODIFIED: 07/24/2018  
COMMITTEE ID: 5845

## 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
6/5/2018	Danny E Costain 292 Ridge Road Plymouth, ME, 04969	Real Estate Professional self	1 Loan Received signs, pamphlets, vehicle signs	\$3,116.26
<b>TOTAL CONTRIBUTIONS / LOANS</b>				<b>\$3,116.26</b>

## 24-HOUR EXPENDITURE AND PAYEE INFORMATION

EXPENDITURE TYPES				
CNS	Campaign consultants	POL	Polling and survey research	
CON	Contribution to other candidate, party, committee	POS	Postage for U.S. Mail and mail box fees	
EQP	Equipment (office machines, furniture, cell phones, etc.)	PRO	Other professional services	
FND	Fundraising events	PRT	Print media ads only (newspapers, magazines, etc.)	
FOD	Food for campaign events, volunteers	RAD	Radio ads, production costs	
LIT	Print and graphics (flyers, signs, palmcards, t-shirts, etc.)	SAL	Campaign workers' salaries and personnel costs	
MHS	Mail house (all services purchased)	TRV	Travel (fuel, mileage, lodging, etc.)	
OFF	Office rent, utilities, phone and internet services, supplies	TVN	TV or cable ads, production costs	
OTH	Other	WEB	Website design, registration, hosting, maintenance, etc.	
PHO	Phone banks, automated telephone calls			
DATE OF EXPENDITURE	PAYEE	REMARK	TYPE	AMOUNT
6/5/2018	Spectrum 95 EDDY RD SUITE 101 MANCHESTER, NH, 03102	Pay for signs and Pamphlets and veh signs	CNS	\$2,796.89
TOTAL EXPENDITURES FOR CANDIDATE:				\$2,796.89

## Feliciano, Katie

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**From:** Goodhue, Timothy A  
**Sent:** Wednesday, May 30, 2018 1:34 PM  
**Subject:** 24-Hour Reporting Period Begins TODAY

Dear 2018 Primary Election Candidates and Treasurers:

This is a friendly reminder that the 24-hour reporting period starts today, May 30<sup>th</sup>, and ends June 11<sup>th</sup>, the day before the election. All candidates are subject to the 24-hour reporting period. A 24-Hour Report must be filed within twenty-four hours of the triggering transaction, regardless of holidays or weekends. Qualifying transactions that take place on June 11<sup>th</sup> must be filed on Primary Election Day (or same day).

- 24-Hour Reports must be filed when:
  - A single contribution of \$1,000 or more is received (including loans)
  - A single expenditure of \$1,000 or more is made (including debts)
    - A debt occurs when an order for goods or services is placed, not when the campaign pays the vendor or receives an invoice or receipt.
- 24-Hour Reports may be filed by:
  - Entering the transaction into E-Filing, and then filing the newly created 24-Hour Report
    - Make sure you complete the filing process, and see a screen that confirms you filed a report
  - Faxing the Commission a paper 24-Hour Report – (207) 287-6775
  - Emailing the Commission a scan of a paper 24-Hour Report
- Not sure about how to file, or if you need to file a 24-Hour Report? Please do not hesitate to contact me:
  - (207) 287-4709
  - [Timothy.a.Goodhue@maine.gov](mailto:Timothy.a.Goodhue@maine.gov)

Tim Goodhue ☯  
Candidate Registrar  
☎ 207-287-4709  
📠 207-287-6775





Mail: 135 State House Station, Augusta, Maine 04333  
 Office: 45 Memorial Circle, Augusta, Maine  
 Website: [www.maine.gov/ethics](http://www.maine.gov/ethics)  
 Phone: 207-287-4179  
 Fax: 207-287-6775

## 2018 FILING SCHEDULE

### For Traditionally Financed Legislative and County Candidates

PRIMARY ELECTION: JUNE 12, 2018

GENERAL ELECTION: NOVEMBER 6, 2018

TYPE OF REPORT	FILING DEADLINE (BY 11:59 P.M.)	REPORT PERIOD
2018 January Semiannual	January 16, 2018	If filing first report: Beginning of campaign – Dec 31, 2017 <b>or</b> If filed 2017 July Semiannual: July 1, 2017 – Dec 31, 2017
* Candidates raising or spending more than \$500 in 2017 must file campaign finance report showing all contributions received and all expenditures made during the applicable reporting periods. Please see information on back to determine your semiannual filing requirement.		
11-Day Pre-Primary	June 1, 2018	If semiannual report(s) filed, report period is: January 1, 2018 – May 29, 2018 If semiannual report(s) NOT filed, report period is: Beginning of campaign – May 29, 2018
42-Day Post-Primary	July 24, 2018	May 30 – July 17, 2018
42-Day Pre-General	September 25, 2018	July 18 – September 18, 2018
11-Day Pre-General	October 26, 2018	September 19 – October 23, 2018
42-Day Post-General	December 18, 2018	October 24 – December 11, 2018

### 24-HOUR REPORTS

24-HOUR REPORTING PERIODS (13 DAYS BEFORE THE ELECTION)	WHEN TO FILE THE REPORT
Primary: May 30 – June 11, 2018 General: October 24 – November 5, 2018	<u>Within 24 hours</u> , including weekends and holidays, of receiving the contribution, making the expenditure, incurring the obligation, or placing the order.
WHAT TO REPORT:	
<b>Expenditures:</b> 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. Please refer to the Commission's Rules, Chapter 1, Section 7(3) for more information concerning events which constitute making an expenditure and the timing and reporting of these expenditures.	<b>Contributions:</b> Any single contribution aggregating \$1,000 or more. This includes contributions from the candidate, candidate spouse/domestic partner and a single loan of \$1,000 or more. County candidates please note: For the purposes of filing a 24-Hour Report, a contribution for the <u>general</u> election received in the 13-day period <i>before the primary election</i> is not reported in a 24-Hour Report. For example: On June 3, 2018, you receive a \$1,550 contribution - \$775 for the primary and \$775 for the general. The \$775 primary contribution is less than \$1,000 threshold.

Please see filing instructions on back.



**2016 PRE-ELECTION SEMIANNUAL REPORTS  
FOR LEGISLATIVE AND COUNTY CANDIDATES IN THE 2016 ELECTIONS**

*What events determine when pre-election semiannual reports are required?* The campaign's fundraising and spending. If the campaign has raised or spent more than \$500 in 2017, a semiannual report is required.

*What determines if both the 2017 July and 2018 January reports are required?* The date on which the campaign raises or spends more than the threshold amount (\$500). If more than \$500 has been raised or spent on or before June 30, 2017, both reports are required. If the campaign's fundraising and spending goes over the threshold amount after July 1 and before December 31, 2017, only the 2018 January report is required.

*If a campaign does not go over the threshold amount in calendar year 2017, what is the first report filed for the 2018 elections?* The 11-Day Pre-Primary Report is the first report filed by the campaign and covers the period from the beginning of the campaign through May 29, 2018.

**FILING PROCEDURES**

*Electronically Filed Campaign Finance Reports.* 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 click "File Report" by 11:59 p.m. on the filing deadline. The deadline for filing a 24-Hour Report is no later than 24 hours after receiving the contribution or making the expenditure (as described on the previous page).

Candidates who lack access to the technology or the technological ability to file reports on the internet may request a waiver by April 17, 2018. The Commission will grant all reasonable requests.

*Filing Campaign Finance Reports on Paper.* For candidates who are not required to file electronically, each original campaign finance report signed by the candidate or treasurer must be properly filed with the Commission by the filing deadline, except in two circumstances:

- a properly signed report may be faxed to the Commission office at (207) 287-6775 by 11:59 p.m. on the deadline or within 24 hours for 24-Hour Reports, provided that the Commission receives the original report within 5 calendar days; or
- for regularly scheduled reports (semiannual, pre- and post-election reports), a report mailed to the Commission by certified or registered mail and postmarked at least 2 days before the filing deadline will not be considered late, even if it is received after the deadline.

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



# 2018 GENERAL INFORMATION - TRADITIONALLY FINANCED CANDIDATES

## Introduction

Dear Candidate:

Thank you for registering as a legislative candidate in Maine's 2016 elections. This Quick Guide introduces you to the key elements of running as a traditionally financed candidate. You will find more detailed information in the 2018 Guidebook for Traditionally Financed Candidates. Neither this Quick Guide nor the Candidate Guidebook, however, is a substitute for the Commission's statutes and rules. Please do not hesitate to email or call your Candidate Registrar if you have any questions. We are here to help in any way that we can.

- Ethics Commission Staff

## Filing Financial Reports

Candidates must file financial reports according to the schedule below. If reports are late, the Commission assesses late-filing penalties automatically, and penalties increase every day. Therefore, it is critical that candidates file the report by 11:59 p.m. on each deadline. Please get an early start. The Commission staff is available to help until 5:00 p.m. on each filing deadline.

## Filing Schedule

Report	Due Date	Period Begin Date	Period End Date
2018 January Semiannual	<b>January 16, 2018</b>	Date of Registration	December 31, 2017
11-Day Pre-Primary Report	<b>June 1, 2018</b>	January 1, 2018	May 29, 2018
42-Day Post-Primary Report	<b>July 24, 2018</b>	May 30, 2018	July 17, 2018
42-Day Pre-General Report	<b>September 25, 2018</b>	July 18, 2018	September 18, 2018
11-Day Pre-General Report	<b>October 26, 2018</b>	September 19, 2018	October 23, 2018
42-Day Post-General Report	<b>December 18, 2018</b>	October 24, 2018	December 11, 2018

### 24-Hour Reporting Periods\*


May 30 - June 11, 2018 (before the Primary Election)

October 24 - November 5, 2018 (before the General Election)

\* In the thirteen days prior to an election, campaigns are responsible for filing 24-Hour Reports if they **accept a single contribution of \$1,000 or more, or make a single expenditure of \$1,000 or more.** Within one day of the contribution or expenditure that triggers a 24-Hour Report, campaigns must log in to the E-Filing website, add the transaction, and then file the automatically created 24-Hour Report.

**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:

- (1) Any news story, commentary or editorial distributed through the facilities of any broadcasting station, cable television system, newspaper, magazine or other periodical publication, unless the facilities are owned or controlled by any political party, political committee, candidate, or spouse or domestic partner of a candidate;
- (1-A) Any communication distributed through a public access television channel on a cable television system if the communication complies with the laws and rules governing the channel and all candidates in the race have an equal opportunity to promote their candidacies through the channel;
- (2) Activity or communication designed to encourage individuals to register to vote or to vote if that activity or communication does not mention a clearly identified candidate;
- (3) Any communication by any membership organization or corporation to its members or stockholders, if that membership organization or corporation is not organized primarily for the purpose of influencing the nomination or election of any person to state or county office;
- (4) The use of real or personal property and the cost of invitations, food and beverages, voluntarily provided by an individual to a candidate in rendering voluntary personal services for candidate-related activities, if the cumulative value of these activities does not exceed \$250 with respect to any election;
- (5) Any unreimbursed travel expenses incurred by an individual in the course of providing voluntary personal services to a candidate and paid for by that individual, if the cumulative amount of these expenses does not exceed \$350 with respect to any election;
- (5-A) Any unreimbursed campaign-related travel expenses incurred and paid for by the candidate or the candidate's spouse or domestic partner;
- (6) Any communication by any person that is not made for the purpose of influencing the nomination for election, or election, of any person to state, county or municipal office;

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.

C. 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.

D. Reports must be filed no later than 11:59 p.m. on the 42nd day after the date on which an election is held and must be complete for the filing period as of the 35th day after that date.

D-1. Reports must be filed no later than 11:59 p.m. on the 42nd day before the date on which a general election is held and must be complete as of the 49th day before that date, except that this report is not required for candidates for municipal office.

E. Unless further reports will be filed in relation to a later election in the same calendar year, the disposition of any surplus or deficit in excess of \$100 shown in the reports described in paragraph D must be reported as provided by this paragraph. The treasurer of a candidate with a surplus or deficit in excess of \$100 shall file reports semiannually with the commission within 15 days following the end of the 2nd and 4th quarters of the State's fiscal year, complete as of the last day of the quarter, until the surplus is disposed of or the deficit is liquidated. The first report under this paragraph is not required until the 15th day of the period beginning at least 90 days from the date of the election. The reports will be considered timely if filed electronically or in person with the commission on that date or postmarked on that date. The reports must set forth any contributions for the purpose of liquidating the deficit, in the same manner as contributions are set forth in other reports required in this section.

F. Reports with respect to a candidate who seeks nomination by petition must be filed on the same dates that reports must be filed by a candidate for the same office who seeks that nomination by primary election.

### **3-B. Accelerated reporting schedule. (REPEALED)**

**4. New candidate or nominee.** A candidate for nomination or a nominee chosen to fill a vacancy under Chapter 5, subchapter 3 is subject to section 1013-A, subsection 1, except that the candidate shall register the name of a treasurer or political committee and all other information required in section 1013-A, subsection 1, paragraphs A and B within 7 days after the candidate's appointment or at least 6 days before the election, whichever is earlier. The commission shall send notification of this registration requirement and report forms and schedules to the candidate

- 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. Basis for penalties. (REPEALED)**

**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 two-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. Maximum penalties. (REPEALED)**

**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 financial activity reported late exceeds \$50,000, the maximum penalty is 100% of the amount reported late;

A-1. Five thousand dollars for reports required under section 1019 B, subsection 4, except that if the financial activity reported late exceeds \$50,000, the maximum penalty is 100% of the amount reported late;



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

Commission Meeting: 8/29/2018  
Agenda Item # 7

To: Commissioners  
From: Emma Burke, Candidate Registrar  
Date: August 9, 2018  
Re: Request by Jeffrey Slocum for Waiver of Late-Filing Penalty for 2018 July  
Semiannual Report

---

Jeffrey Slocum was a traditionally financed candidate in the June 2016 Republican primary election for the Maine House of Representatives, District 51. His 2016 campaign reported receiving \$400 in contributions during March – April 2016, including \$100 from himself. Mr. Slocum withdrew shortly after the primary in July of 2016, and was not replaced.

Because Mr. Slocum had more than \$100 in surplus cash remaining after the June 2016 primary election, he was required to file semiannual reports (every six months) disclosing the status of that surplus cash. Through January 2018, he filed three semiannual campaign finance reports disclosing that he had *not* spent the \$400. On June 23, 2018, he donated the \$400 to Guy Lebida, who is the Republican nominee for House District 55.

Due to the surplus campaign funds, Mr. Slocum was required to file the 2018 July Semiannual Report by July 16, 2018. He did not file the report until July 23, 2018, making the report seven days late. The preliminary penalty for the late report is \$112.00 and the candidate is requesting a waiver of the penalty.

### LEGAL REQUIREMENTS

Candidates from previous elections with a surplus or deficit in excess of \$100 are required to file reports semiannually. The reports shall be filed with the Commission within 15 days following the end of the 2<sup>nd</sup> and 4<sup>th</sup> quarters of the State's fiscal year (July

15<sup>th</sup> and January 15<sup>th</sup>), complete as of the last day of the quarter, until the surplus is disposed of or the deficit is liquidated. (21-A M.R.S.A. § 1017(3-A)(E)) When a candidate is late in filing a report, the amount of the penalty is set 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.A. § 1020-A(4-A))

Separately, candidates are required to inform the Commission of any changes in the information that is required for registration within 10 days of the date of the change. (21-A M.R.S.A. § 1013-A(5)) This information includes the candidate's name and address. (21-A M.R.S.A. § 1013-A(1)(A))

## **DISCUSSION**

Prior to the July 16, 2018 deadline, the Commission's efilings website sent automatic email reminders of the 2018 July Semiannual Report to all candidates who were scheduled to file the report. Candidate Registrar Emma Burke also directly emailed all of her candidates to remind them of the report, and that the efilings site had been updated to a new version (the email reminder is attached). She did not receive any notification after sending the reminder email to Mr. Slocum that it was no longer a valid email address. Ms. Burke also called and left a voicemail for Mr. Slocum on the afternoon of the deadline, reminding him to file. On July 20<sup>th</sup>, she mailed Mr. Slocum a letter notifying him he had not filed a required report, and that it was now late (attached).

On July 23<sup>rd</sup>, Mr. Slocum called Ms. Burke noting that he had become aware he was supposed to file a report a few days previous, and would like to know how to complete it. Ms. Burke inquired as to whether there was financial activity on the report, and Mr. Slocum stated that he had disposed of his surplus funds by donating them to another candidate. Ms. Burke entered the expenditure for the donation to the other candidate, and then filed the report for Mr. Slocum. Ms. Burke explained to Mr. Slocum that there would be a penalty for the filing of the late report, as, unlike his other three semiannual reports filed previously, this report contained financial activity.

Based on the statutory formula for calculating late-filing penalties, the preliminary penalty amount is \$112.00, calculated as follows:

<b>Report</b>	<b>Deadline</b>	<b>Financial Activity</b>	<b>Penalty Rate</b>	<b>Days Late</b>	<b>Preliminary Penalty</b>
2018 July Semiannual Report	07/16/2018	\$400	4%	7	\$112.00

Through an email dated July 24, 2018 (attached), Mr. Slocum asks that the Commission waive the preliminary penalty. According to Mr. Slocum, since his withdrawal after the 2016 primary election, he has moved homes, and also no longer uses his email set up for the campaign – which is the only email the Commission had on file for him. He notes he has “not been fully conscious of the need to pay attention to the funds from [his] short race.” This inhibited Mr. Slocum from receiving all of the communications sent to him by the Commission reminding him of filing deadlines, and thereby inhibited his ability to file semiannual reports on time. Indeed, of the four semiannual reports Mr. Slocum has been required to file, the last three have been filed late.

Mr. Slocum also states in his waiver request he “assumed that when [he] wrote a check out to Guy Labida's race fund, it would be recorded and nullify [his] need to report it.” To be equitable to Mr. Slocum, this was his first and only expenditure he was required to report to the Commission. However, there is no guidance of the Commission’s that could lead to the understanding that any financial activity is automatically recorded – only data that is directly entered and filed by candidates and committee is reported.

#### **STAFF RECOMMENDATION**

Maine campaign finance law regulates how candidates may use surplus campaign funds after an election. They may only spend the funds for certain purposes. The candidate must dispose of the funds within four years. (21-A M.R.S.A. § 1017(8)) In order for concerned partisans and members of the public to review candidates’ use of these funds, candidates are required to file semiannual campaign finance reports. Even if the public’s scrutiny on *pre*-election reports is greater, the Commission does receive phone calls from the members of the public with questions concerning candidates’ use of post-election funds.



Mr. Slocum has provided an understandable explanation of what led to him to file the 2018 July Semiannual Report late. He did not participate in the general election for the campaign he ran, and it has been two years since he has had an active campaign. However, the requirements on candidates with surplus funds are clear, and Mr. Slocum has had to file three other semiannual reports prior to this deadline, and did not update his contact information with the Commission even after filing the two previous semiannual reports late. Under the circumstances, the preliminary penalty of \$112.00 is not disproportionately high.

Thank you for your consideration of this memo.

## Burke, Emma

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**From:** Jeffrey Slocum <drjeff123@gmail.com>  
**Sent:** Tuesday, July 24, 2018 15:53  
**To:** Burke, Emma  
**Subject:** Re: Penalty Letter

Emma, I am writing in response to the letter you sent me via e-mail to [drjeff123@gmail.com](mailto:drjeff123@gmail.com) regarding being late in my reporting for the ethic commission. I am asking that the penalty be waived for the following reasons:

- 1) I have not been actively running for over a year and due to that I have not been fully conscious of the need to pay attention to the funds from my short race (where I withdrew prior to the election).
- 2) I have moved and therefore did not get the letter regarding the need to file. My current address is 135 Webster Avenue Bangor Maine 04401. I realize that it is my responsibility to have alerted you to my address change, but the reason I didn't harken's back to item 1).
- 3) I believe electronic notifications may have been sent to a now defunct e-mail that was being used during my short run for the house so I did not get e-notification either. Again, it is my responsibility, back to 1) on this one as well.
- 4) Lastly, I assumed that when I wrote a check out to Guy Labida's race fund, it would be recorded and nullify my need to report it.

Please accept my humble apology for making your job harder and please consider dropping the penalties for my absent/late quarterly report.

Sincerely,

Dr. Jeffrey Slocum

On Tue, Jul 24, 2018 at 3:11 PM, Burke, Emma <[Emma.Burke@maine.gov](mailto:Emma.Burke@maine.gov)> wrote:

As requested.

Emma J. Burke

*Candidate Registrar*

*Maine Ethics Commission*

*(207) 287-4727*

July 23, 2018

Jeffrey Slocum  
244 Mountain Road  
Harpwell, Maine 04079

**Re: Notice of Violation and Penalty for Late-Filed 2018 July Semiannual Report**

Dear Mr. Slocum:

You were required to file the 2018 July Semiannual Report Report on July 16, 2018 by 11:59 p.m., but the report was not filed until July 23, 2018. Under the Commission's statutes (21-A M.R.S.A. § 1020-A(4-A)), the late filing of a report triggers an enforcement process. The Commission staff has made a preliminary finding of violation and determined that the preliminary penalty for filing the report late is \$112.00. Please see the next page for the penalty calculation.

You may request that the Commission waive the penalty in whole or in part or find that 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 that there was no violation 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 a bona fide effort was made to file the report on time. 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 that 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](http://www.maine.gov/ethics) by clicking the "Penalty Payment" link. Please contact me at (207) 287-4727 or [emma.burke@maine.gov](mailto:emma.burke@maine.gov) if you have any questions.

Sincerely,



Emma Burke  
Candidate Registrar

cc: n/a

## 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 1<sup>st</sup> 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

<b>Filer:</b> Jeffrey Slocum			
<b>Late-Filed Report:</b> 2018 July Semiannual Report			
<b>Contributions</b>	\$0	<b>Penalty Base Amount</b>	\$400
<b>Expenditures</b>	\$400	<b>Percentage</b>	4%
<b>Due Date</b>	July 16, 2018	<b>Daily Accrual Rate</b>	\$16
<b>Date Filed</b>	July 23, 2018	<b>Days Late</b>	7
<b>Previous Violations</b>	1	<b>Your Total Penalty</b>	\$112.00

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## Payment Statement and Payment Options

**From:** Jeffrey Slocum

**Penalty Amount:** \$112.00

**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](http://www.maine.gov/online/ethics/penalties).



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](http://www.maine.gov/ethics)  
Phone: 207-287-4179  
Fax: 207-287-6775

## 2018 CAMPAIGN FINANCE REPORT

### FOR PRIVATELY FINANCED CANDIDATES

COMMITTEE		TREASURER
JEFFREY S SLOCUM 244 MOUNTAIN ROAD HARPSWELL, ME, 04079 PHONE:(207) 833-6362 EMAIL: JEFFSLOCUMHOUSEREP51@GMAIL.COM		JOSEPH M GRADY 90 NEILS PT ROAD HARPSWELL, ME, 04079 PHONE:(207) 373-0399 EMAIL: JGRADYTCF@GMAIL.COM
REPORT	DUE DATE	REPORTING PERIOD
2018 JULY SEMIANNUAL REPORT	07/16/2018	01/01/2018 - 06/30/2018

#### FINANCIAL ACTIVITY SUMMARY

RECEIPTS	TOTAL FOR THIS PERIOD	TOTAL FOR CAMPAIGN
1. CASH CONTRIBUTIONS FOR THE PRIMARY ELECTION (SCHEDULE A)	\$0.00	\$400.00
1A. CASH CONTRIBUTIONS FOR THE GENERAL ELECTION(SCHEDULE A) <i>For party candidates, general election contributions will only appear on this line after the primary.</i>	\$0.00	\$0.00
1B. CASH CONTRIBUTIONS FOR THE GENERAL ELECTION RAISED PRIOR TO PRIMARY (Not shown on Schedule A of this report)		\$0.00
2. OTHER CASH RECEIPTS (INTEREST, ETC)	\$0.00	\$0.00
3. LOANS (SCHEDULE C)	\$0.00	\$0.00
4. TOTAL RECEIPTS	\$0.00	\$400.00
EXPENDITURES		
5. EXPENDITURES (SCHEDULE B)	\$400.00	\$400.00
6. LOAN REPAYMENTS (SCHEDULE C)	\$0.00	\$0.00
7. TOTAL PAYMENTS	\$400.00	\$400.00
CASH SUMMARY		
8. CASH BALANCE AT BEGINNING OF PERIOD	\$400.00	
9. PLUS TOTAL RECEIPTS THIS PERIOD (LINE 4)	\$0.00	
10. MINUS TOTAL PAYMENTS THIS PERIOD (LINE 7)	\$400.00	
11. CASH BALANCE AT END OF PERIOD	\$0.00	
OTHER ACTIVITY		
12. IN-KIND CONTRIBUTIONS (SCHEDULE A-1)	\$0.00	\$0.00
13. TOTAL LOAN BALANCE AT END OF PERIOD (SCHEDULE C)	\$0.00	
14. TOTAL UNPAID DEBTS AT END OF PERIOD (SCHEDULE D)	\$0.00	
FOR PARTY CANDIDATES ONLY: CASH CONTRIBUTIONS FOR THE GENERAL ELECTION RAISED PRIOR TO PRIMARY ELECTION (INCLUDED IN LINE 1A AFTER PRIMARY ELECTION)		

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

REPORT FILED BY: EMMA BURKE on behalf of JOSEPH M. GRADY  
REPORT FILED ON: 07/23/2018  
LAST MODIFIED:  
COMMITTEE ID: 5298

**SCHEDULE B  
EXPENDITURES**

EXPENDITURE TYPES				
CNS	Campaign consultants	CON	Contribution to other candidate, party, committee	
EQP	Equipment (office machines, furniture, cell phones, etc.)	FND	Fundraising events	
FOD	Food for campaign events, volunteers	LIT	Printing and graphics (flyers, signs, palmcards, t-shirts, etc.)	
MHS	Mail house (all services purchased)	OFF	Office supplies, phone and internet services, rent and utilities	
OTH	Other (bank fees, entrance fees, small tools, wood, etc.)	PHO	Phone banks, automated telephone calls	
POL	Polling and survey research	POS	Postage for U.S. Mail and mail box fees	
PRO	Other professional services	PRT	Print media ads only (newspapers, magazines, etc.)	
RAD	Radio ads, production costs	SAL	Campaign workers' salaries and personnel costs	
TRV	Travel (fuel, mileage, lodging, etc.)	TVN	TV or cable ads, production costs	
WEB	Online advertising, website design, maintenance, hosting, etc.			
DATE OF EXPENDITURE	PAYEE	REMARK	TYPE	AMOUNT
6/23/2018	Guy Lebida 54 Bowdoin Pines Dr Bowdoin, ME, 04287	Donation to another candidate	CON	\$400.00
<b>TOTAL EXPENDITURES FOR CANDIDATE:</b>				<b>\$400.00</b>

July 20, 2018

Jeffrey Slocum  
244 Mountain Road  
Harpwell, Maine 04079

**Re: Delinquent Campaign Finance Report – Due July 16, 2018**

Dear Mr. Slocum:

Our records show that you have not filed your 2018 July Semiannual Report. You are required to file this report due to a remaining cash balance of \$400 from your 2016 candidacy. State law [21-A M.R.S.A. § 1020-A] requires that a penalty be assessed for late reports based on the amount of financial activity conducted during the filing period, on the number of calendar days a report is filed late, and on the candidate's filing record. If you raised or spent money during the filing period, you could be subject to civil penalties, which are accruing on a daily basis. Once you have filed your report, our office will calculate the penalty and will notify you of the amount of the penalty.

**Therefore, we urge you to file your report as soon as possible.**

Sincerely,

A handwritten signature in black ink, appearing to read "Emma Burke", with a long horizontal flourish extending to the right.

Emma Burke  
Candidate Registrar

**Burke, Emma**

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**From:** Burke, Emma  
**Sent:** Monday, July 16, 2018 11:41  
**To:** Burke, Emma  
**Subject:** 2018 July Semiannual Report Due Today!

Hello,

This is just a reminder that you are required to file a 2018 July Semiannual Report prior to midnight today on the activity of a past campaign. We do have a new efilingsite, so if you have any issues filing, please call or email me right away. Go to [www.maine-campaign-finance.com](http://www.maine-campaign-finance.com) and click on Register/Sign In to get started. If you have not had any activity in the last six months, please let me know and I can file the report for you.

Sincerely,

Emma J. Burke  
*Candidate Registrar*  
*Maine Ethics Commission*  
(207) 287-4727



not filed under paragraph A, the report required under this paragraph must cover all contributions and expenditures through the 49th day before the election.

C. 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.

D. Any single contribution of \$1,000 or more received or any single expenditure of \$1,000 or more made after the 14th day before the election and more than 24 hours before 11:59 p.m. on the day of the 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.

E. Reports must be filed no later than 11:59 p.m. on the 42nd day after the date on which an election is held and must be complete for the filing period as of the 35th day after that date.

F. Unless further reports will be filed in relation to a later election in the same calendar year, the disposition of any surplus or deficit in excess of \$100 shown in the reports described in paragraph E must be reported as provided in this paragraph. The treasurer of a candidate or political committee with a surplus or deficit in excess of \$100 shall file reports semiannually with the commission within 15 days following the end of the 2nd and 4th quarters of the State's fiscal year, complete as of the last day of the quarter, until the surplus is disposed of or the deficit is liquidated. The first report under this paragraph is not required until the 15th day of the period beginning at least 90 days from the date of the election. The reports will be considered timely if filed electronically or in person with the commission on that date or postmarked on that date. The reports must set forth any contributions for the purpose of liquidating the deficit, in the same manner as contributions are set forth in other reports required in this section.

G. Unless otherwise specified in this subsection, reports must be complete back to the end date of the previous report filing period. The reports described in paragraph E, if filed with respect to a primary election, are considered previous reports in relation to reports concerning a general election.

H. Reports with respect to a candidate who seeks nomination by petition for the office of Governor must be filed on the same dates that reports must be filed with respect to a candidate who seeks that nomination by primary election.

### **3. Other candidates. (REPEALED)**

→ **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.

C. 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.

D. Reports must be filed no later than 11:59 p.m. on the 42nd day after the date on which an election is held and must be complete for the filing period as of the 35th day after that date.

D-1. Reports must be filed no later than 11:59 p.m. on the 42nd day before the date on which a general election is held and must be complete as of the 49th day before that date, except that this report is not required for candidates for municipal office.

→ E. Unless further reports will be filed in relation to a later election in the same calendar year, the disposition of any surplus or deficit in excess of \$100 shown in the reports described in paragraph D must be reported as provided by this paragraph. The treasurer of a candidate with a surplus or deficit in excess of \$100 shall file reports semiannually with the commission within 15 days following the end of the 2nd and 4th quarters of the State's fiscal year, complete as of the last day of the quarter, until the surplus is disposed of or the deficit is liquidated. The first report under this paragraph is not required until the 15th day of the period beginning at least 90 days from the date of the election. The reports will be considered timely if filed electronically or in person with the commission on that date or postmarked on that date. The reports must set forth any contributions for the purpose of liquidating the deficit, in the same manner as contributions are set forth in other reports required in this section.

F. Reports with respect to a candidate who seeks nomination by petition must be filed on the same dates that reports must be filed by a candidate for the same office who seeks that nomination by primary election.

### **3-B. Accelerated reporting schedule. (REPEALED)**

**4. New candidate or nominee.** A candidate for nomination or a nominee chosen to fill a vacancy under Chapter 5, subchapter 3 is subject to section 1013-A, subsection 1, except that the candidate shall register the name of a treasurer or political committee and all other information required in section 1013-A, subsection 1, paragraphs A and B within 7 days after the candidate's appointment or at least 6 days before the election, whichever is earlier. The commission shall send notification of this registration requirement and report forms and schedules to the candidate

- 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. Basis for penalties. (REPEALED)**

**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 two-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. Maximum penalties. (REPEALED)**

**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 financial activity reported late exceeds \$50,000, the maximum penalty is 100% of the amount reported late;

A-1. Five thousand dollars for reports required under section 1019 B, subsection 4, except that if the financial activity reported late exceeds \$50,000, the maximum penalty is 100% of the amount reported late;

D. The content of the communication is limited to:

- (1) The identification of each candidate, with which pictures may be used;
- (2) The offices sought;
- (3) The offices currently held by the candidates;
- (4) The party affiliation of the candidates and a brief statement, including campaign slogans, about the party's or the candidates' positions, philosophy, goals, accomplishments or biographies;
- (5) Encouragement to vote for the candidates identified;
- (6) Information about voting, such as voting hours and locations; and
- (7) Campaign or party logos.

If the communication contains language outside the categories of this paragraph, it does not qualify as a party candidate listing.

#### **21-A § 1013. Treasurer; political committees (REPEALED)**

##### **21-A § 1013-A. Registration**

**1. Candidates, their treasurers and political committees.** A candidate shall register the candidate's name and the name of a treasurer with the commission at least once in each legislative biennium, as provided in this section. A candidate may have only one treasurer, who must be appointed pursuant to paragraph A or B. For purposes of this section, "legislative biennium" means the term of office a person is elected to serve in the Legislature.

A. No later than 10 days after becoming a candidate and before accepting contributions, making expenditures or incurring obligations, a candidate for state or county office or a candidate for municipal office who has not filed a written notice in accordance with section 1011, subsection 4, paragraph A shall appoint a treasurer. The candidate may serve as treasurer, except that a participating candidate, as defined in section 1122, subsection 6, or a candidate certified in accordance with section 1125 may not serve as treasurer, except that the candidate may serve as treasurer or deputy treasurer for up to 14 days after declaring an intention to qualify for campaign financing under chapter 14 until the candidate identifies another person to serve as treasurer. The candidate may have only one treasurer, who is responsible for the filing of campaign finance reports under this chapter. A candidate shall register the candidate's name and address and the name and address of the treasurer appointed under this section no later than 10 days after the appointment of the treasurer. A candidate may accept contributions personally or make or authorize expenditures personally, as long as the candidate reports all contributions and expenditures to the treasurer. The treasurer shall make a consolidated report of all income and expenditures and provide this report to the commission.

- (1) A candidate may appoint a deputy treasurer to act in the absence of the treasurer. The deputy treasurer, when acting in the absence of the treasurer, has the same powers and responsibilities as the treasurer. A candidate certified in accordance with section 1125 may not serve as deputy treasurer. When a treasurer dies or resigns, the deputy

in which a general election is scheduled, the state committee of a party shall submit a consolidated report, including the information required under this subsection, for the district, county and municipal committees of that party.

**4. Reporting by registered treasurers.** Any contribution accepted and any expenditure made or authorized by or on behalf of a candidate registered under this section or qualified under sections 335 and 336 or sections 354 and 355 must be recorded and reported as provided in sections 1016 and 1017.

→ **5. Changes in registration information.** Every change in information required by this section to be reported to the commission shall be reported within 10 days of the date of the change.

#### **21-A § 1013-B. Removal of treasurer; filling vacancy of treasurer; substantiation of records of treasurer; notification to commission**

A candidate may remove any treasurer that the candidate has appointed. In case of a vacancy in the position of treasurer of a candidate or treasurer of a political committee before the obligations of the treasurer have been performed, the candidate shall serve as treasurer from the date of the vacancy until the candidate appoints a successor and reports the name and address of the successor to the commission. The candidate shall file a written statement of resignation of a treasurer of a candidate or a treasurer of a political committee and until that statement has been filed, the resignation is not effective. An individual who vacates the position of treasurer by reason of removal or resignation shall certify in writing the accuracy of the treasurer's records to the succeeding treasurer. A succeeding treasurer may not be held responsible for the accuracy of the predecessor's records.

#### **21-A § 1014. Publication or distribution of political statements**

**1. Authorized by candidate.** Whenever a person makes an expenditure to finance a communication expressly advocating the election or defeat of a clearly identified candidate through broadcasting stations, cable television systems, newspapers, magazines, campaign signs or other outdoor advertising facilities, publicly accessible sites on the Internet, direct mails or other similar types of general public political advertising or through flyers, handbills, bumper stickers and other nonperiodical publications, the communication, if authorized by a candidate, a candidate's authorized political committee or their agents, must clearly and conspicuously state that the communication has been so authorized and must clearly state the name and address of the person who made or financed the expenditure for the communication. A communication financed by a candidate or the candidate's committee is not required to state the address of the candidate or committee that financed the communication. If a communication that is financed by someone other than the candidate or the candidate's authorized committee is broadcast by radio, only the city and state of the address of the person who financed the communication must be stated.

**2. Not authorized by candidate.** If the communication described in subsection 1 is not authorized by a candidate, a candidate's authorized political committee or their agents, the communication must clearly and conspicuously state that the communication is not authorized by any candidate and state the name and address of the person who made or financed the expenditure for the communication, except that a communication broadcast by radio is only required to state the city and state of the address of the person that financed the communication.

**7-A. Reporting exemption.** A candidate seeking election to a county or municipal office or a legislative candidate seeking the nomination of a party in an uncontested primary election is exempt from reporting as provided by this subsection.

A. A candidate seeking election to a county or municipal office may, at the time the candidate registers under section 1013-A, notify the commission that the candidate and the candidate's agents, if any, will not personally accept contributions, make expenditures or incur obligations associated with that candidate's candidacy. The notification must be sworn and notarized. A candidate who provides this notice to the commission is not required to appoint a treasurer and is not subject to the filing requirements of this subchapter if the statement is true.

A-1. A legislative candidate seeking the nomination of a party in an uncontested primary election may, at the time the candidate registers under section 1013-A, notify the commission that the candidate and the candidate's agents, if any, will not personally accept contributions, make expenditures or incur obligations associated with that candidate's candidacy through the 35th day after the primary election. The notification must be sworn and notarized. A candidate who provides this notice to the commission is not required to appoint a treasurer or to file the campaign finance reports under subsection 3-A, paragraphs B and D with respect to the primary election.

B. The notice provided to the commission under paragraph A or A-1 may be revoked. Prior to revocation, the candidate must appoint a treasurer. The candidate may not accept contributions, make expenditures or incur obligations before the appointment of a treasurer and the filing of a revocation notice are accomplished. A revocation notice must be in the form of an amended registration, which must be filed with the commission no later than 10 days after the appointment of a treasurer. The candidate and the candidate's treasurer, as of the date the revocation notice is filed with the commission, may accept contributions, make expenditures and incur obligations associated with the candidate's candidacy. Any candidate who fails to file a timely revocation notice is subject to the penalties prescribed in section 1020-A, subsection 4-A, up to a maximum of \$5,000. Lateness is calculated from the day a contribution is received, an expenditure is made or an obligation is incurred, whichever is earliest.

→ **8. Disposition of surplus.** A treasurer of a candidate registered under section 1013-A or qualified under sections 335 and 336 or sections 354 and 355 must dispose of a surplus exceeding \$100 within 4 years of the election for which the contributions were received by:

A. Returning contributions to the candidate's or candidate's authorized political committee's contributors, as long as no contributor receives more than the amount contributed;

B. A gift to a qualified political party within the State, including any county or municipal subdivision of such a party;

C. An unrestricted gift to the State. A candidate for municipal office may dispose of a surplus by making a restricted or unrestricted gift to the municipality;

D. Carrying forward the surplus balance to a political committee established to promote the same candidate for a subsequent election;

D-1. Carrying forward the surplus balance for use by the candidate for a subsequent election;



E. Transferring the surplus balance to one or more other candidates registered under section 1013-A or qualified under sections 335 and 336 or sections 354 and 355, or to political committees established to promote the election of those candidates, provided that the amount transferred does not exceed the contribution limits established by section 1015;

F. Repaying any loans or retiring any other debts incurred to defray campaign expenses of the candidate;

G. Paying for any expense incurred in the proper performance of the office to which the candidate is elected, as long as each expenditure is itemized on expenditure reports; and

H. A gift to a charitable or educational organization that is not prohibited, for tax reasons, from receiving such a gift.

The choice must be made by the candidate for whose benefit the contributions were made.

**9. Campaign termination report forms.** The commission shall provide each candidate required to report campaign contributions and expenditures with a campaign termination report form. A candidate shall file the campaign termination report with the commission as required in this subsection. The campaign termination report must be complete as of June 30th of the year following the campaign of the previous year. This form must show any deficits or surpluses to be carried over to the next campaign. Funds not carried forward to the next campaign must be disposed of as provided in subsection 8. Campaign reporting is as follows.

A. Candidates with surplus campaign funds following an election shall file termination reports no later than July 15th of the year following the campaign of the previous year.

B. Candidates with a campaign deficit following an election shall file termination reports no later than July 15th of the year following the campaign of the previous year.

C. Candidates with a deficit who will not participate in the next election for the same office shall file semiannual reports until the deficit is liquidated.

D. Candidates who collect funds subsequent to an election for purposes other than retiring campaign debt shall register with the commission pursuant to section 1013-A.

**10. Electronic filing.** The treasurer of a candidate or committee that has receipts or expects to have receipts of more than \$1,500 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 candidate or committee submits a written request that states that the candidate or committee lacks access to the technology or the technological ability to file reports electronically. The request for an exception must be submitted by April 15th of the election year, except that a candidate registered according to subsection 4 has 10 business days from the date of registration to submit a request to the commission. The commission shall grant all reasonable requests for exceptions.

## **21-A § 1017-A. Reports of contributions and expenditures by party committees**

**1. Contributions.** A party committee shall report all contributions in cash or in kind from a single contributor that in the aggregate total more than \$200. The party committee shall report the name, mailing address, occupation and place of business of each contributor. Contributions of \$200 or less must be reported, and these contributions may be reported as a lump sum.