



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

Commission Meeting 4/29/2015  
Agenda Item #5

To: Commissioners

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

Date: April 9, 2015

Re: Request for Waiver of Late-Filing Penalty by Washington County Democratic Committee

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During an election year, local party committees must file up to three campaign finance reports if, during that calendar year, they have received contributions or made expenditures totaling \$1,500 or more. (In this memo, the term “local party committee” refers to party committees organized at the municipal or county level.) Many county party committees do not reach the \$1,500 threshold and are exempt from the duty to file campaign finance reports. The Washington County Republican Committee (WCRC) surpassed that threshold in September of 2014 and previously filed the 11-Day Pre-General report.

### **LEGAL REQUIREMENTS**

As part of the election year filing schedule, local party committees must file a January semiannual report with the Commission on January 15<sup>th</sup>, covering the time period from the end of the 11-Day Pre-General Report (this past year, October 22, 2014) through December 31. (21-A M.R.S.A. §1017-A(4-B)(A))

If a local party is late in filing the required semiannual report, the amount of the penalty is set by a formula which takes into consideration the amounts unreported, 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. §1017-A(5)), (21-A M.R.S.A. §1020-A(4))

## **DISCUSSION**

The late report (attached) contained unitemized contributions totaling \$64 and two expenditures totaling \$432. Based on the statutory formula for calculating late-filed report penalties, the preliminary penalty amount is \$203.04, calculated as follows:

<b>Late Report</b>	<b>Date Filed</b>	<b>Financial Activity</b>	<b>Penalty Rate</b>	<b>Days Late</b>	<b>Preliminary Penalty</b>
2015 January Semiannual	3/2/2015	\$432	1%	47	\$203.04

The WCRC requests a waiver because of the unexpected resignation of the committee's previous treasurer prior to the filing deadline, due to difficult personal issues. The previous treasurer had, in fact, entered the three transactions in the Commission's e filing system, but had not filed the report. (A complicating factor is discussed below.)

According to the WCRC, the committee did not meet for two months due to weather conditions in Washington County, and did not immediately appoint a replacement treasurer. In February 2015, the new treasurer, Bruce Nelson, contacted the Commission staff, introduced himself, and said that he believed the WCRC needed to file a January report. He obtained the paper forms and submitted the report in written form on March 2,

2014. As the Commission staff was preparing to enter the report into the efilings system, it noticed that the previous treasurer had entered the three transactions.

The Commission staff does not know the full reasons that the previous treasurer had not filed the January 15 report prior to his resignation. One contributing factor may have been that the Commission staff had not taken an administrative step of assigning the January 15 report to the committee. Thus, although the treasurer had entered the three transactions, they did not appear in any report that the system presented to the treasurer as available to be filed. This step was not taken because most local party committees file reports using paper forms, rather than the Commission's efilings website. The local party committees that file reports electronically tend to be in contact with the Commission staff prior to the filing deadline, which serves as a reminder to the Commission staff to assign the upcoming report to the party committee. In this instance, the previous treasurer did not contact Commission staff to request that the report be assigned. The Commission staff has adjusted its procedures for local party committees for 2015 and 2016 to avoid this recurring.

The WCRC requests that the Commission waive the penalty because it is disproportionate to the experience of the treasurer. The WCRC notes that both its previous chairman and treasurer resigned at approximately the same time. Major winter storms in Washington County resulted in significant delays in the WCRC meeting to select new officers, which delayed its filings.

## **STAFF RECOMMENDATION**

While it is the local party committee's responsibility to ensure that the necessary reports are filed when they are due, the Commission staff is persuaded that a full waiver of the penalty would be appropriate under the circumstances:

- the unexpected turnover in both the Chair and Treasurer positions at the WCRC around the time the report was due,
- the entry of the transactions by the previous treasurer, demonstrating some dedication to filing the report,
- the unavailability of the report in the efilings system for the previous treasurer to file (a significant factor),
- the report included only three transactions, and the committee was not required to disclose them prior to the election (unitemized contributions totaling \$64, and two expenditures totaling \$432). The Commission staff suspects that the two payments to newspapers were for slate card advertisements that are exempt from independent expenditure reporting requirements.

We are recommending that the report be considered late, because the committee did not file the report on time.

Thank you for your consideration of this memo.



3/9/2015

Tim Thompson  
For the Washington County Republican Committee  
434 Cape Split Road, Addison, Maine 04606

Commission On Governmental Ethics  
135 State House Station, Augusta, Maine 04333-0135

**Dear Commissioners**

I am Tim Thompson, recently elected (February, 2015) Chairman of the Washington County Republican Committee. I was elected to fill a seat vacated by a Chairman who held the seat for a mere two months. During those two eventful months, our Treasurer also resigned, as a result of some very difficult and personal issues. This combination of events, together with the "Snowmageddon" event that we all shared and Washington took the brunt of, prevented our committee from even having meetings to elect replacements for these two positions.

With no Chairman and no Treasurer for those months and weather conditions that precluded meetings to nominate and elect replacements, our Committee was truly handicapped by those events.

As one of his very first actions in his new role on the Executive Committee of the WCRC, as Treasurer, Mr. Nelson undertook to file the required activity report. I believe that our Committee, under the extreme conditions that we have endured, has done our very best to comply with the spirit of 21-A MRSA 1020-A(4-A).

Based on the above representations of this small committee's traumatic events this Winter of Winters, I beg that you find in our favor and waive the penalty. I believe the loss of a Treasurer and Chairman in the same month, and as happens, during filing season is mitigation enough to justify the waiver.

We are, together, working to make our Washington County Republican Committee comply with all of the reporting requirements in the future.

Apologetically,

Tim Thompson  
Washington County Republican Committee Chairman



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

March 2, 2015

Mr. Bruce Nelson, Treasurer  
Washington County Republican Committee  
369 Little Falls Road  
Pembroke, ME 04666

Re: Late Filing of 2015 January Semiannual Report

Dear Mr. Nelson,

The Commission staff has made a preliminary determination that the Washington County Republican Committee (the Party) was late in filing its 2015 January Semiannual Report due January 15, 2015. The report was not filed until March 2, 2015. Under the Commission's statutes, the late filing of a report triggers an enforcement process. (21-A M.R.S.A. § 1020-A(4-A)). Based on the amount of financial activity in the reports, the number of calendar days the reports were late, and the Party's history of violations, the commission staff has determined that a penalty of \$203.04 is owed. (Please see attached penalty matrix for the calculation).

The Party may make a written request that the Commission waive the violations or penalties 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 Party 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 Party 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

Payment Receipt

Mail payment to:

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

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

Mr. Bruce Nelson, Treasurer  
Washington County Republican Committee  
369 Little Falls Road  
Pembroke, ME 04666

**Violation:** Late 2015 January Semiannual Report  
**Amount Due:** \$203.04

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**Party Name:** Washington County Republican Committee  
**Prior Violations:** N/A

Report Name	Activity Amount	Due Date	Days Late	Penalty Prescribed	Penalty
2015 January Semiannual	\$432.00	1/15/2015	47	1%	\$203.04

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, 1%  
For the second violation, 3%  
For the third and each subsequent violation, 5%

**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 1020-A(5-A)(D)  
\$500 for reports required under section 1017-A, subsection 4-B.

## **21-A MRS § 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; [1999, c. 729, §5 (AMD).]
- B. An error by the commission staff; [1999, c. 729, §5 (AMD).]
- C. Failure to receive notice of the filing deadline; or [1999, c. 729, §5 (AMD).]
- 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. [2009, c. 190, Pt. A, §13 (AMD).]

**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.**

[ 2001, c. 470, §7 (AMD); T. 21-A, §1020-A, sub-§4 (RP) .]

**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, 1%; [2001, c. 714, Pt. PP, §1 (NEW); 2001, c. 714, Pt. PP, §2 (AFF).]
- B. For the 2nd violation, 3%; and [2001, c. 714, Pt. PP, §1 (NEW); 2001, c. 714, Pt. PP, §2 (AFF).]
- C. For the 3rd and subsequent violations, 5%. [2001, c. 714, Pt. PP, §1 (NEW); 2001, c. 714, Pt. PP, §2 (AFF).]

Any penalty of less than \$10 is waived.

Violations accumulate on reports with filing deadlines in a 2-year period that begins on January 1st of each even-numbered year. Waiver of a penalty does not nullify the finding of a violation.

A report required to be filed under this subchapter that is sent by certified or registered United States mail and postmarked at least 2 days before the deadline is not subject to penalty.

A registration or report may be provisionally filed by transmission of a facsimile copy of the duly executed report to the commission, as long as the facsimile copy is filed by the applicable deadline and an original of the same report is received by the commission within 5 calendar days thereafter.

## **5. Maximum penalties.**

[ 2001, c. 470, §8 (AMD); T. 21-A, §1020-A, sub-§5 (RP) .]

**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; [2011, c. 389, §23 (AMD).]
- 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 1/5 of the amount reported late; [2011, c. 389, §24 (NEW).]
- B. Five thousand dollars for state party committee reports required under section 1017-A, subsection 4-A, paragraphs A, B, C and E, except that if the financial activity reported late exceeds \$50,000, the maximum penalty is 1/5 of the amount reported late; [2011, c. 389, §25 (AMD).]
- C. One thousand dollars for reports required under section 1017, subsection 2, paragraphs A and F and section 1017, subsection 3-A, paragraphs A and E; or [2011, c. 558, §4 (AMD).]
- D. Five hundred dollars for municipal, district and county committees for reports required under section 1017-A, subsection 4-B. [2011, c. 558, §4 (AMD).]
- E. [2011, c. 558, §5 (RP).]

[ 2011, c. 558, §§4, 5 (AMD) .]

**6. Request for a commission determination.** If the commission staff finds that a candidate or political committee has failed to file a report required under this subchapter, the commission staff shall mail a notice to the candidate or political committee within 3 business days following the filing deadline informing the candidate or political committee that a report was not received. If a candidate or a political committee files a report required under this subchapter late, a notice of preliminary penalty must be sent to the candidate or political committee whose registration or campaign finance report was not received by 11:59 p.m. on the deadline date, informing the candidate or political committee of the staff finding of violation and preliminary penalty calculated under subsection 4-A and providing the candidate or political committee with an opportunity to request a determination by the commission. Any request for a determination must be made within 14 calendar days of receipt of the commission's notice. A candidate or political committee requesting a determination may either appear in person or designate a representative to appear on the candidate's or political committee's behalf or submit a sworn statement explaining the mitigating circumstances for consideration by the commission. A final determination by the commission may be appealed to the Superior Court in accordance with Title 5, chapter 375, subchapter 7 and the Maine Rules of Civil Procedure, Rule 80C.

[ 2013, c. 334, §17 (AMD) .]

**7. Final notice of penalty.** If a determination has been requested by the candidate or political committee and made by the commission, notice of the commission's final determination and the penalty, if any, imposed pursuant to this subchapter must be sent to the candidate and the political 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 candidate and treasurer. A detailed summary of all notices must be provided to the commission.

[ 2009, c. 302, §6 (AMD) .]

**8. Failure to file report.** The commission shall notify a candidate who has failed to file a report required by this subchapter, in writing, informing the candidate of the requirement to file a report. The notice must be sent by certified mail. If a candidate fails to file a report after 2 notices have been sent by the commission, the commission shall send a final notice by certified mail informing the candidate of the requirement to file and that the matter may be referred to the Attorney General for criminal prosecution. A candidate who fails to file a report as required by this subchapter after the commission has sent the notices required by this subsection is guilty of a Class E crime.

[ 2007, c. 443, Pt. A, §25 (AMD) .]

**8-A. Penalties for failure to file report.** The penalty for failure to file a report required under this subchapter may not exceed the maximum penalties as provided in subsection 5-A.

[ 2003, c. 628, Pt. A, §6 (NEW) .]

**9. List of late-filing candidates.** The commission shall prepare a list of the names of candidates who are late in filing a report required under section 1017, subsection 2, paragraph C or D or section 1017, subsection 3-A, paragraph B or C within 30 days of the date of the election and shall make that list available for public inspection.

[ 1995, c. 483, §15 (NEW) .]

**10. 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, §7 (RPR) .]



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

## 2014 CAMPAIGN FINANCE REPORT

### FOR PARTY COMMITTEES

COMMITTEE		TREASURER	
WASHINGTON COUNTY REPUBLICAN COMMITTEE 369 LITTLE FALLS RD PEMBROKE, ME 04666 PHONE: (207) 726-4202 EMAIL: NELSOB@MYFAIRPOINT.NET		BRUCE NELSON 369 LITTLE FALLS RD PEMBROKE, ME 04666 PHONE: (207) 726-4202 EMAIL: NELSOB@MYFAIRPOINT.NET	
REPORT	DUE DATE	REPORTING PERIOD	
JANUARY SEMIANNUAL	01/15/2015	10/22/2014 - 12/31/2014	

#### FINANCIAL ACTIVITY SUMMARY

RECEIPTS	TOTAL FOR PERIOD	TOTAL FOR YEAR
1. CASH CONTRIBUTIONS (SCHEDULE A)	\$64.00	\$1,542.50
2. OTHER CASH RECEIPTS (INTEREST, ETC.)	\$0.00	\$0.00
3. LOANS (SCHEDULE C)	\$0.00	\$0.00
4. TOTAL RECEIPTS (LINE 1 + 2 + 3)	\$64.00	\$1,542.50
EXPENDITURES		
5. EXPENDITURES TO SUPPORT OR OPPOSE (SCHEDULE B)	\$0.00	\$0.00
6. OPERATING EXPENDITURES (SCHEDULE B-1)	\$432.00	\$2,039.87
7. LOAN REPAYMENTS (SCHEDULE C)	\$0.00	\$0.00
8. TOTAL PAYMENTS (LINE 5 + 6 + 7)	\$432.00	\$2,039.87
OTHER ACTIVITY		
9. IN-KIND CONTRIBUTIONS (SCHEDULE A-1)	\$0.00	\$0.00
10. TOTAL LOAN BALANCE AT END OF PERIOD (SCHEDULE C)	\$0.00	
11. TOTAL UNPAID DEBTS AT END OF PERIOD (SCHEDULE D)	\$0.00	

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

REPORT FILED BY: BEN DYER  
REPORT FILED ON: 03/02/2015  
LAST MODIFIED: 03/02/2015  
PRINTED: 04/16/2015  
COMMITTEE ID: 5334

**SCHEDULE A  
CASH CONTRIBUTIONS**

- For contributors who gave more than \$50, the names, address, occupation, and employer must be reported. If "information requested" is listed instead of occupation and employer, the candidate is waiting to receive that information.
- Cash contributions of \$50 or less can be added together and reported as a lump sum.
- Contributor Types

- |  |  |
|--|--|
| 1 = Individual                           | 9 = Candidate / Candidate Committee    |
| 2 = Candidate/ Spouse/ Domestic Partner  | 10 = General Treasury Transfer         |
| 3 = Commercial Source                    | 11 = Transfer from Previous Campaign   |
| 4 = Nonprofit Organization               | 12 = Contributors giving \$50 or less  |
| 5 = Political Action Committee           | 13 = Contributors giving \$100 or less |
| 6 = Political Party Committee            | 14 = Contributors giving \$200 or less |
| 7 = Ballot Question Committee            | 15 = MCEA Payment                      |
| 8 = Other Candidate/ Candidate Committee | 16 = Financial Institution             |

DATE RECEIVED	CONTRIBUTOR	OCCUPATION AND EMPLOYER	TYPE	AMOUNT
12/15/2014	CONTRIBUTORS GIVING \$200 OR LESS		14	\$64.00
<b>TOTAL CASH CONTRIBUTIONS</b>				<b>\$64.00</b>

**SCHEDULE B-1  
OPERATING EXPENDITURES**

<b>EXPENDITURES TYPES</b>				
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			
<b>DATE OF EXPENDITURE</b>	<b>PAYEE</b>	<b>REMARK</b>	<b>TYPE</b>	<b>AMOUNT</b>
10/25/2014	DOWNEAST COASTAL PRESS 2413 CUTLER ROAD CUTLER, ME 04626	PRINT AD TO PROMOTE REPUBLICANS DURING THE 2014 GENERAL ELECTION.	PRT	\$236.00
11/6/2014	THE QUODDY TIDES 123 WATER STREET EASTPORT, ME 04631	PRINT AD TO PROMOTE THE REPUBLICAN PARTY FOR THE GENERAL ELECTION.	PRT	\$196.00
<b>TOTAL OPERATING EXPENDITURES</b>				<b>\$432.00</b>