



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

Commission Meeting 7/23/2015
Agenda Item #3

To: Commissioners

From: Benjamin Dyer, Political Committee and Lobbyist Registrar

Date: July 10, 2015

Re: Request for Waiver of Late-Filing Penalty by Maine Truck PAC

All political action committees are required to file campaign finance reports by the deadlines set in statute. Beyond simply filing the report by the deadline, a timely-filed campaign finance report must substantially conform to the disclosure requirements of Maine Election Law. This includes accurately reporting contributions and expenditures received during the reporting period. The Maine Truck PAC (the PAC) filed its 2014 11-Day Pre-Primary, 42-Day Post-Primary, and 2014 October Quarterly reports by the deadlines, but these reports were missing a substantial amount of the contributions received during those reporting periods.

LEGAL REQUIREMENTS

PACs are required to file campaign finance reports according to a schedule set by statute. (21-A M.R.S.A. §1059(2)) The 2014 11-Day Pre-Primary was due on May 30, 2014, the 42-Day Post-Primary on July 22, 2014, and the 2014 October Quarterly on October 6, 2014. A campaign finance report is not timely filed unless it substantially conforms to the disclosure requirements of Chapter 13, Subchapter 4. (21-A M.R.S.A. §1062-A(2)) If a PAC is late in filing a campaign finance report, the amount of the preliminary 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)) PACs may request a full or partial waiver of the penalty. Maximum penalties for PACs are \$10,000. (21-A M.R.S.A. §1062-A(4))

DISCUSSION

On June 2, 2015 the PAC contacted Ethics Commission staff and asked to meet with staff regarding unreported contributions received in 2014. The next day, the PAC treasurer, Brian Parke, met with Commission staff. He said that as the PAC was reviewing its bank statements and checkbook balance, he noticed that the bank statements showed a balance of nearly \$16,000 more than the PAC's checkbook register and campaign finance reports. Further review revealed that the PAC received 34 contributions totaling \$15,520 related to an annual golf tournament fundraiser that it deposited into its bank account but did not record on either its checkbook register or campaign finance reports.¹ During the reporting periods involved, the PAC reported all its expenditures and did not run a negative balance, indicating that it had sufficient funds on hand to pay for the expenditures made without the unreported contributions.

Based on the statutory formula for calculating late-filed report penalties, the preliminary penalty amounts equal the statutory maximums, calculated as follows:

¹ The PAC also had an unreported contribution of \$650 that should have gone on the 2015 April Quarterly Report, but Commission staff believes this report was substantially complete when filed.

Filing	Due Date	Financial Activity	Penalty Rate	Days Late	Statutory Maximum Preliminary Penalty
2014 11-Day Pre-Primary Quarterly Report	5/30/2014	\$26,250	1%	369	\$10,000.00
42-Day Post-Primary Report	7/22/2014	\$10,810	3%	316	\$10,000.00
October Quarterly Report	10/6/2014	\$2,610	5%	240	\$10,000.00

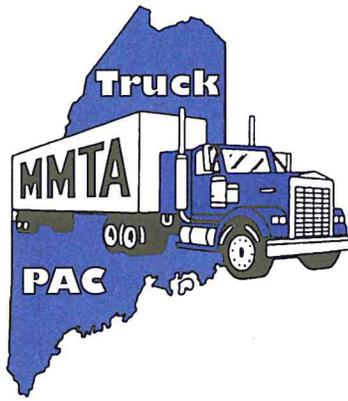
In its request for a waiver, the PAC accepts full responsibility for the filing errors, but asks that the Commission significantly reduce the penalty because the preliminary penalty is disproportionate to the harm suffered by the public. The PAC notes that because it did not record the contributions it received in its checkbook, the PAC did not spend that money to influence the 2014 elections, and thus did not deprive the public of information about the source of the funds it used during the 2014 election season.

STAFF RECOMMENDATION

The timely filing of accurate campaign finance reports is the bedrock of Maine’s campaign finance disclosure system. Violations of these reporting requirements can be serious because the public is denied information it needs to determine who is financing campaign activity in Maine and the connections among entities that money creates. In this case, nearly \$16,000 in contributions were not reported as required by statute. Additionally, this PAC is a sophisticated, long-time actor in the Maine political process, and should have had the controls in place to prevent these kinds of oversights from occurring.

However, there are several mitigating factors in this case. First, as the PAC noted, the unreported contributions were unnecessary to finance the PAC's 2014 expenditures, all of which were accurately and timely reported. The unreported contributors are frequent contributors to the PAC; the additional unreported information about the contributors would not have changed the quality of the information the public had about the PAC's contributors. Finally, the PAC has changed its contribution receipt and recording procedures to prevent this sort of oversight from happening again. The last penalty the PAC received for late reporting was in 2007. Given the PAC's acceptance of responsibility, minimal harm to the public from the late report, and prior history of compliance, Commission staff believes a significant reduction in the penalty is appropriate. In a similar situation involving late reports due to unreported contributions and expenditures that were overlooked in preparing finance reports, the Commission, at its July 2014 meeting, assessed the Alford Business, Community, and Democracy PAC a total penalty of \$1,500 for two late reports. Considering the present case involves three reports but only unreported contributions, the Commission staff recommends that the Commission find that, because the reports were substantially out of compliance with reporting requirements, the PAC failed to timely file three campaign finance reports and impose a fine of \$500 for each late report, for a total penalty of \$1,500.

Thank you for your consideration of this memo.



Maine Truck PAC

P.O. Box 857

Augusta, Maine 04332-0857

—
(207) 623-4128

June 4, 2015

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

RE: Request for Waiver on Three Late Filing Penalties

Dear Mr. Dyer:

Thank you for your three separate preliminary determinations relative to late reports that were filed (amended) on June 3, 2015. I have appreciated your willingness to meet with me to discuss my mistakes, how it happened, how it has been rectified to not occur in the future, and for your guidance as to how to properly file the late contributions. Please accept this letter as a written request to waive the penalties for all three violations.

Your letters ask that, as part of my request for penalty waivers, I include a full explanation of the reasons I filed the reports late and I wish I had a better explanation than careless inattention. I am embarrassed that I did not report the contributions when they were received and I take full responsibility for the mistake. I have been filling out PAC reports for over ten years with precision, so inexperience or lack of knowledge of the rules is not the reason for the omissions.

The Maine Truck PAC supports business-friendly candidates and gains its funding through two main fundraising campaigns. We have a mailing that goes out to Maine Motor Transport Association membership in January of each election year asking for financial support in the context of the upcoming November elections and the potential impacts on the trucking industry. We also host a golf tournament every June at Natanis in Vassalboro and we sell foursomes (\$500), hole sponsorships (\$150), major sponsorships (\$500), mulligans (\$10/player) and tickets for those who do not want to play golf but would like to attend the reception after the tournament (\$15).

The mistakes that generated the three penalties were due to my failure to report 34 separate contributions that totaled \$15,520 with the first non-reported contribution being received on 4/1/14 and the last one on 9/15/14. These contributions were attributable to our golf tournament held on June 18, 2014 and, once again, were omitted due to oversight on my part and my part alone. My process for reporting had been to have our CFO collect the deposits made

between filing deadlines and I would ask him for these deposits when I sat down to file the required reports. As you can see by our history, we have always met the filing deadlines, and I did report expenditures appropriately in each of the three reports. However, in this instance I failed to take the additional step to ask our CFO for the deposits. While there was no nefarious intention, there was clearly inattention on my part.

I realized these errors when we were going through the budget process for the MMTA – we were having an internal conversation about how we went to paperless bank statements for all of our accounts with TD Bank, which made me realize I had not balanced the PAC checkbook (we use paper checks with a checkbook register where we manually enter the information) in a while. It didn't strike me as being a problem at that time because I knew the 2014 golf tournament was the last fundraiser and I was confident those deposits had been reflected in both the checkbook and the PAC Reports – because our PAC Reports tied out to what we reflected in the checkbook each and every time. When I received the most recent bank statement from our CFO on June 2nd, you can imagine my panic when I saw that the balance on the bank statement was \$16,000 more than what our checkbook showed.

After running a spreadsheet (see attached) on each of the 34 contributions that had been erroneously not reported or reflected in our checkbook, I contacted the Ethics Commission on June 2nd and subsequently met with you on June 3rd. I left you a copy of the spreadsheet (updated version attached) and we then discussed what I needed to do to properly report these missing contributions and you gave me some background on the Ethics Commission process going forward.

Also on June 3rd, I returned to the office and notified our staffer who does the deposits, our CFO and subsequently our Vice President (who is the only other one who has access to the Truck PAC's checkbook) that there would be a new process for handing PAC deposits. In the future, I will receive the contributions once they are deposited into the bank account. I will then input these deposits into the PAC reporting site and reflect them on the checkbook register before giving them to our CFO to file. The fact that the new PAC reporting site allows users to put in contributions and expenditures at any time is a very positive feature in this regard.

To summarize, please accept the following as reasons we request a waiver for the late filing penalties:

- We self-reported the non-compliance and would encourage consideration of our request so as not to discourage self-reporting in the future;
- We have implemented new processes to ensure this oversight does not happen in the future;
- The expenses for the same periods were properly reported in a timely manner;
- There was no intent to deceive the Ethics Commission or the public. We did not reflect these contributions in our checkbook, which is the balance that we used to determine our spending plan during 2014. In other words, we did not spend or commit this money after it should have been reported because I did not reflect it in our checkbook either. The result is that the public interest was not harmed, despite my acknowledgment that I am responsible for the substantial non-conformity with disclosure requirements.
- The preliminary determination of fines is greatly disproportionate to the mistakes made and the impacts of those mistakes.

- We have a stellar track record when it comes to compliance and I have a long history of utilizing Ethics Commission resources whenever I have a question to ensure proper compliance.

Again, I appreciate your time and assistance to help me make this right. I am embarrassed that it happened and assure you that we will continue to strive for 100% compliance now and in the future.

Sincerely,



Brian Parke
Maine Truck PAC Treasurer
bparke@mmta.com

Date	Contributor	Amount
4/1/2014	CB Kenworth	\$540.00
4/8/2014	HO Bouchard	\$40.00
4/8/2014	Perry Transport	\$300.00
4/21/2014	Maine Commercial Tire	\$375.00
4/29/2014	Lumbra Hardwoods	\$250.00
5/9/2014	Tax Abilities	\$150.00
5/14/2014	Portland North Truck Center	\$150.00
5/27/2014	Zimba Company	\$540.00
5/30/2014	CN Brown	\$650.00
5/30/2015	Atlantic Great Dane	\$150.00
6/2/2014	Bangor Volvo Truck & Trailer	\$650.00
6/4/2014	Acadia Benefits	\$500.00
6/12/2014	Daigle & Houghton	\$150.00
6/12/2014	AE Robinson Oil Company	\$650.00
6/16/2014	Carrier Transcold	\$500.00
6/16/2014	PDQ Door Company	\$540.00
6/16/2014	Mr. Boston Brands	\$690.00
6/16/2014	Ryder Transportation	\$540.00
6/16/2014	Diesel Direct	\$500.00
6/18/2015	O'Connor Motor Company	\$150.00
6/20/2014	Kris-Way Truck Leasing	\$500.00
6/23/2014	Volvo Trucks North America	\$650.00
6/23/2014	Maine Commercial Tire	\$690.00
6/26/2014	Cianbro Corporation	\$150.00
6/26/2014	J&S Oil Company	\$500.00
6/26/2014	Sargent Trucking	\$525.00
6/30/2014	Timberland Trucking	\$540.00
6/30/2014	Portland Air Freight	\$500.00
7/9/2014	Cobble Hill Trailer Sales	\$690.00
7/11/2014	Ryder Transportation	\$150.00
7/21/2014	Timberland Trucking	\$150.00
8/4/2014	Hannaford Trucking Co.	\$1,230.00
8/11/2014	Freightliner of Maine	\$690.00
9/15/2014	CB Kenworth	\$540.00
		\$15,520.00



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

June 3, 2015

Brian Parke, Treasurer
Maine Truck PAC
PO Box 857
Augusta, ME 04332-0857

Re: Late Filing of 2014 11-Day Pre-Primary Report

Dear Mr. Parke:

The Commission staff has made a preliminary determination that the Maine Truck PAC (the PAC) was late in filing its 2014 11-Day Pre-Primary Report. The Commission staff considers the report late as a result of substantial non-conformity with disclosure requirements. 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 the statutory maximum penalty of \$10,000.00 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) 287-4179 or send me an email at 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

Payment Receipt

Mail payment to:

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

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

Brian Parke, Treasurer
Maine Truck PAC
PO Box 857
Augusta, ME 04332-0857

Violation: Late/Non-Conforming 2014 11-Day Pre-Primary Report
Amount Due: **\$10,000.00**

Committee Name: Maine Truck PAC

Report Title: 11-Day Pre-Primary Report

Due Date: May 30, 2014

Previous Violation(s): N/A

Filed Date: June 6, 2015

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.

Penalty Example:		Your Penalty is calculated as follows:	
The treasurer files the PAC's report two (2) days late. The PAC has not had any previous late violations this biennium. The PAC reports a total of \$2,500 in contributions and \$1,500 in expenditures for the filing period. The penalty is			
\$2,500	Greater amount of the total contributions received or expenditures made during the filing period	Contributions / Expenditures:	<u>\$26,250.00</u>
		X	
		Percent Prescribed:	<u>1%</u>
X .01	Percent prescribed for first violation		<u>\$262.50</u>
		X	
\$25.00	One percent of total contributions	Number of days late:	<u>369</u>
X 2	Number of calendar days late		
		Statutory maximum penalty:	<u>\$10,000.00</u>
\$50.00	Total Penalty		

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 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.

MAXIMUM PENALTIES

21-A M.R.S.A. Section 1062-A(3)

\$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 one-fifth of the amount reported late.



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135 STATE HOUSE STATION
AUGUSTA, MAINE
04333-0135

June 3, 2015

Brian Parke, Treasurer
Maine Truck PAC
PO Box 857
Augusta, ME 04332-0857

Re: Late Filing of 2014 42-Day Post-Primary Report

Dear Mr. Parke:

The Commission staff has made a preliminary determination that the Maine Truck PAC (the PAC) was late in filing its 2014 42-Day Post-Primary Report. The Commission staff considers the report late as a result of substantial non-conformity with disclosure requirements. 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 the statutory maximum penalty of \$10,000.00 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) 287-4179 or send me an email at 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

Payment Receipt

Mail payment to:

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

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

Brian Parke, Treasurer
Maine Truck PAC
PO Box 857
Augusta, ME 04332-0857

Violation: Late/Non-Conforming 2014 42-Day Post-Primary Report
Amount Due: \$10,000.00

Committee Name: Maine Truck PAC

Report Title: 42-Day Post-Primary Report

Due Date: July 22, 2014

Previous Violation(s): 6/1/2014

Filed Date: June 6, 2015

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.

Penalty Example:		Your Penalty is calculated as follows:	
The treasurer files the PAC's report two (2) days late. The PAC has not had any previous late violations this biennium. The PAC reports a total of \$2,500 in contributions and \$1,500 in expenditures for the filing period. The penalty is			
\$2,500	Greater amount of the total contributions received or expenditures made during the filing period	Contributions / Expenditures:	<u>\$10,810.00</u>
		X	
		Percent Prescribed:	<u>3%</u>
			<u>\$324.30</u>
X .01	Percent prescribed for first violation		X
\$25.00	One percent of total contributions	Number of days late:	<u>316</u>
X 2	Number of calendar days late	Statutory maximum penalty:	<u>\$10,000.00</u>
\$50.00	Total Penalty		

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 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.

MAXIMUM PENALTIES

21-A M.R.S.A. Section 1062-A(3)

\$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 one-fifth of the amount reported late.



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AND ELECTION PRACTICES
135 STATE HOUSE STATION
AUGUSTA, MAINE
04333-0135

June 3, 2015

Brian Parke, Treasurer
Maine Truck PAC
PO Box 857
Augusta, ME 04332-0857

Re: Late Filing of 2014 October Quarterly Report

Dear Mr. Parke:

The Commission staff has made a preliminary determination that the Maine Truck PAC (the PAC) was late in filing its 2014 October Quarterly Report. The Commission staff considers the report late as a result of substantial non-conformity with disclosure requirements. 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 the statutory maximum penalty of \$10,000.00 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.

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Benjamin P. Dyer
Political Committee and Lobbyist Registrar

Payment Receipt

Mail payment to:

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

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

Brian Parke, Treasurer
Maine Truck PAC
PO Box 857
Augusta, ME 04332-0857

Violation: Late/Non-Conforming 2014 October Quarterly Report
Amount Due: **\$10,000.00**

Committee Name: Maine Truck PAC

Report Title: October Quarterly Report

Due Date: October 6, 2014

Previous Violation(s): 6/1/2014; 7/23/2014

Filed Date: June 6, 2015

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.

Penalty Example:		Your Penalty is calculated as follows:	
The treasurer files the PAC's report two (2) days late. The PAC has not had any previous late violations this biennium. The PAC reports a total of \$2,500 in contributions and \$1,500 in expenditures for the filing period. The penalty is			
\$2,500	Greater amount of the total contributions received or expenditures made during the filing period	Contributions / Expenditures:	<u>\$2610.00</u>
X .01	Percent prescribed for first violation	Percent Prescribed:	<u>5%</u>
\$25.00	One percent of total contributions		<u>\$130.50</u>
X 2	Number of calendar days late	Number of days late:	<u>240</u>
\$50.00	Total Penalty	Statutory maximum penalty:	<u>\$10,000.00</u>

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 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.

MAXIMUM PENALTIES

21-A M.R.S.A. Section 1062-A(3)

\$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 one-fifth of the amount reported late.

21-A M.R.S.A. § 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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21-A M.R.S.A. § 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, 1%; [1995, c. 483, §21 (NEW).]

B. For the 2nd violation, 3%; and [1995, c. 483, §21 (NEW).]

C. For the 3rd and subsequent violations, 5%. [1995, c. 483, §21 (NEW).]

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.

[2007, c. 443, Pt. A, §39 (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 1/5 of the amount reported late.

[2011, c. 389, §49 (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.

[2009, c. 190, Pt. A, §31 (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) .]