

Agenda

Item #5



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

To: Commissioners

From: Jonathan Wayne, Executive Director  
Beth Hudson, Candidate Registrar

Date: August 15, 2014

Re: Request for Waiver of Late-Filing Penalty by Dana P. Lajoie

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Dana Lajoie is the Chief of Police of South Berwick who is a first-time candidate for Sheriff of York County. He lost the June 10, 2014 primary election to another candidate. In the thirteen days before an election all candidates must file a report within 24 hours of receiving any single contribution of \$1,000 or more or making any expenditure or incurring an unpaid obligation of \$1,000 or more. Chief Lajoie made an expenditure of \$2,040 on June 4, 2014 for a mailing, but did not report the expenditure within 24 hours.

#### **LEGAL REQUIREMENTS**

Candidates are required to report any single contribution of \$1,000 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. § 1017(3)(C)) If the candidate 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. § 1020-A(4-A))

## DISCUSSION

On June 4, 2014, Chief Lajoie's campaign made an expenditure to Ourso Beychok, Inc. in the amount of \$2,040 for a mailer. The 24-Hour Report was automatically added to Chief Lajoie's filing schedule when the expenditure was entered in the 42-Day Post-Primary Report that was also filed on July 22, 2014. When Candidate Registrar Beth Hudson received notice that Lajoie had filed a late 24-Hour Report she called Chief Lajoie to confirm that a payment had actually been made on June 4<sup>th</sup> and discussed the automatic penalty process for a late filed 24-Hour Report. During this conversation Chief Lajoie said he ordered the mailing on May 27, 2014 and paid the invoice on June 4, 2014. He was not aware of the 24-Hour reporting process, and noted, "I guess I picked the wrong day to pay the invoice." Commission staff worked with Chief Lajoie to amend the campaign's 11-Day Pre-Primary Report to add the mailing to Schedule D Unpaid Debts and Obligations, and to amend the 42-Day Post-Primary Report to show the obligation paid on June 4, 2014.

Based on the statutory formula for calculating late-filed report penalties, the preliminary penalty amount total was calculated as follows:

Penalty Base Amount	\$2,040.00
Percentage	1%
Daily Accrual Rate	\$20.40
Days Late	48
Your Total Penalty	\$979.20

Chief Lajoie asks that the Commission waive the preliminary penalty. He argues that he is a first-time candidate, and his treasurer is a first-time treasurer and neither are familiar with the intricacies of the Election Law. Chief Lajoie and his treasurer believed the deadlines for reporting campaign financial reports were May 28<sup>th</sup> for the 11-Day Pre Primary and July 22<sup>nd</sup> for the 42-Day Post Primary. Chief Lajoie also argues he and his treasurer were unaware of any other financial reporting obligations, and it was this lack of understanding of Election Law that led to the late filed report.

#### **STAFF RECOMMENDATION**

Violations of the 24-hour reporting requirements can be serious matters. 24-hour reports play an important role in informing the electorate about how money is changing hands in the critical days just before an election. In this situation, the campaign failed to report one expenditure made for a common campaign expense. Nevertheless, the preliminary penalty of \$797.20 is disproportionately large compared to the harm to the public and Chief Lajoie is a first-time candidate. Weighing the factors, the staff recommends reducing the penalty to \$100.

Thank you for your consideration of this memo.

AUG 7 REC'D

August 7, 2014

State of Maine  
Commission of Governmental Ethics and Elections Practices  
135 State House Station  
Augusta, Maine 04333-0135

Dear Director Wayne,

I received a letter dated July 25, 2014 which is attached. I am asking the Commission to rescind its fine of September 19, 2014 and waive the penalty. I base this request on the following reasons:

1. As a first time ever candidate I selected a first time Treasurer
2. Although not a valid excuse I failed to meet the proper times as outlined within the rules
3. Myself and my Daughter believed our deadline reporting dates were Pre-Primary – May 28, 2014 and Post-Primary – July 22, 2014

Again, I apologize for our inexperience and truly believe this to be an oversight. I could have paid by Debit card on the day of the order of May 27, 2014, however, the Vendor agreed to wait for a check from the Account, sent by the Treasurer, thus the reason for the check being written on June 4, 2014.

I look forward to your professional review with this very important matter.

Sincerely,



Dana P. Lajoie



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

2014 CAMPAIGN YEAR

COMMITTEE		TREASURER	
DANA PAUL LAJOIE P.O. BOX 472 BERWICK, ME 03901 PHONE: (603) 767-5058 EMAIL: SBPD1@HOTMAIL.COM		Jennifer Lynn Lajoie P.O. Box 472 Berwick, ME 03901 PHONE: (603) 531-9010 EMAIL: harleygirl3983@yahoo.com	
REPORT	DUE DATE	REPORTING PERIOD	
24 Hour Report of Major Contributions and Expenditures	06/04/2014	06/03/2014 - 06/03/2014	

### FINANCIAL ACTIVITY SUMMARY

CONTRIBUTIONS AND EXPENDITURES	
1. TOTAL CONTRIBUTIONS / LOANS	\$0.00
2. TOTAL EXPENDITURES	\$2,040.00
3. TOTAL DEBTS	\$0.00

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

REPORT FILED BY: DANA PAUL LAJOIE  
REPORT FILED ON: 07/22/2014  
LAST MODIFIED: 07/22/2014  
PRINTED: 08/15/2014  
COMMITTEE ID: 6580

**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
6/3/2014	OURSO BEYCHOK 352 NAPOLEON STREET BATON ROUGE, LA 70802	PRINTING/POSTAGE/DESIGN AND DELIVERY TO POST OFFICE	POS	\$2,040.00
<b>TOTAL EXPENDITURES FOR CANDIDATE:</b>				<b>\$2,040.00</b>



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

July 25, 2014

Dana P. Lajoie  
PO Box 472  
Berwick, Maine 03901

Re: Notice of Violation and Penalty for Late-Filed 24-Hour Report of Contributions or Expenditures, Due June 4, 2014

Dear Mr. Lajoie:

You were required to file a 24-Hour Report of Contributions or Expenditures on June 4, 2014 by 11:59 p.m., but the report was not filed until July 22, 2014. Under the Commission's statutes 21-A M.R.S.A. § 1017(3-A)(C), 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 \$979.20.

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 level of experience of the person filing the report 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 the Commission staff at (207) 287-4179 or [ethics@maine.gov](mailto:ethics@maine.gov) if you have any questions.

Sincerely,

A handwritten signature in cursive script that reads "Beth Hudson".

Candidate Registrar

cc: Jennifer Lynn Lajoie

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

## 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: 1% for the first violation, 2% for the second violation, and 3% 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: Dana P. Lajole			
Late-Filed Report: 24-Hour Report for Contributions or Expenditures			
Contributions		Penalty Base Amount	\$2,040.00
Expenditures	\$2,040.00	Percentage	1%
Due Date	June 4, 2014	Daily Accrual Rate	\$20.40
Date Filed	July 22, 2014	Days Late	48
Previous Violations	0	Your Total Penalty	\$979.20

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### PAYMENT STATEMENT AND PAYMENT OPTIONS

From: Dana P. Lajole

Penalty Amount: \$979.20

Penalty ID: 6580-24 Hour

Amount Enclosed: \_\_\_\_\_

Check/M.O. #: \_\_\_\_\_

**BY MAIL:** Enclose this payment statement with your payment so that it will be properly accounted for.

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). Please include the penalty ID so that your payment will be properly accounted for.

## 21-A M.R.S.A. § 1017. REPORTS BY CANDIDATES

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**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. [2007, c. 443, Pt. A, §16 (AMD).]

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. [2007, c. 443, Pt. A, §16 (AMD).]

✓ 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 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. [2013, c. 334, §11 (AMD).]

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. [2007, c. 443, Pt. A, §16 (AMD).]

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. [2009, c. 190, Pt. A, §5 (AMD).]

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. [2007, c. 443, Pt. A, §16 (AMD).]

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. [1991, c. 839, §15 (AMD); 1991, c. 839, §34 (AFF).]

[ 2013, c. 334, §11 (AMD) .]

## 21-A MRSA § 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