



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

To: Commissioners
From: Erin Gordon, Candidate Registrar
Date: August 17, 2016
Re: Request for Waiver of Late-Filing Penalty by Bil Weidner

Bil Weidner is running for election to the Maine House of Representatives (District 52) as a Maine Clean Election Act (MCEA) candidate. He had no opponent in the June 14, 2016 primary election. On July 26, 2016, all candidates for state office were required to file the 42-Day Post-Primary campaign finance report. Mr. Weidner's report was filed two days late, on July 28, 2016.

LEGAL REQUIREMENTS

Candidates are required to file reports with the Commission no later than 11:59 p.m. on the 42nd day after the date on which an election is held, and reports must be complete as of the 35th day before that date. (21-A M.R.S.A. § 1017(3-A)(D)) If the candidate is late in filing a regularly scheduled campaign finance 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

Mr. Weidner had an uncontested primary election, and his MCEA payment for the general election was issued on June 13, 2016. His 42-Day Post-Primary report was required to include his receipt of a \$5,000 MCEA payment for the general election and one expenditure of \$317 to Staples for signs and a parade banner.

The regularly scheduled filing deadlines for candidates are well publicized by the Commission. The deadlines are listed:

- in a “2016 Filing Schedule” that the Commission distributed to candidates in a Getting Started packet of forms, and is posted on the Forms and Guides page of the Commission’s website, www.maine.gov/ethics (attached)
- in a larger format Candidate Guidebook that is available to all candidates and treasurers upon their request, and is posted as a PDF on the Commission’s website (the relevant page is attached)
- as part of a “Quick Guide” folder that the Commission mailed to every registered candidate (the relevant sheet is attached)

In addition, in the two weeks leading up to each filing deadline, the Commission’s e-filing system sends all candidates and treasurers periodic, automated emails reminding them of the deadline.

If a registered candidate does not file a scheduled report by the deadline, the Commission’s e-filing system sends the candidate and campaign treasurer an email on the following morning notifying them that an expected report appears to be late. Also, if time permits, the Candidate Registrars send candidates more personalized emails to advise them that reports are overdue. In the two days after the July 26 deadline, Candidate Registrar Erin Gordon sent two such emails to Mr. Weidner.

After receiving the first email from Erin Gordon on July 27, 2016, Mr. Weidner called Ms. Gordon and expressed surprise that he was required to file this report. Ms. Gordon asked him to confirm his email address and he affirmed that he had received the reminder emails but ignored them, thinking they were meant only for traditionally financed candidates. Ms. Gordon advised him that he was indeed required to file and that he could contact her again by the end of the day if he needed her assistance in filing.

On July 28, 2016, after receiving a second late-filing notice from Ms. Gordon, Mr. Weidner called and requested assistance, as he could not contact his treasurer. Ms. Gordon verified the single transaction entered by Mr. Weidner and filed the report.

The late-filing penalty is calculated as follows:

Report	Due Date	Financial Activity	Penalty Rate	Days Late	Preliminary Penalty
42-Day Post-Primary	07/26/2016	\$5,000.00	2%	2	\$200.00

In his request for a waiver, Mr. Weidner reiterates his confusion regarding the reminder emails. He also states that his treasurer was sick during the month of July and was not checking his email.

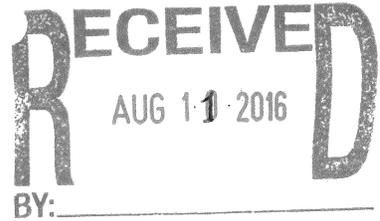
RECOMMENDATION

The Commission staff recommends reducing the penalty to \$100, due to the inexperience of Mr. Weidner as a first-time candidate and the limited harm to the public from the late disclosure of his receipt of \$5,000 in MCEA funds and one expenditure of \$317 to Staples four months before the election. Based on the candidate's written waiver request, it appears that illness of the campaign treasurer may have been a contributing factor, but without further detail it is unclear whether this could qualify as an "emergency" mitigating circumstance under Section 1020-A(2)(A). The preliminary penalty would have been only \$100 if the campaign had filed the report one day late on July 27, 2016 after the candidate's initial telephone contact from Ms. Gordon.

Thank you for your consideration of this memo.

8/6/2016

From the Desk of:
Bil Weidner
8 Washington St.
Bath, ME, 04530



Commission On Governmental Ethics
135 State St.
Augusta, ME 04333-0135

Dear Commission,

It has come to my attention that I was two (2) days late on submitting my 42-Day Post-Primary Report. I apologize for being late, and I do respectfully request a waiver of the penalty owed (\$200.00) based on the following explanation:

1. This is my first time as a Clean Elections Candidate and as a Candidate for any office.
2. I misread the warning emails sent to me thinking they were for candidates running "Traditional" campaigns. I do not know why I did this except I did not see a reference to Clean Elections Candidates in the emails and I simply scanned them too fast.
3. My Treasurer (Ed Palm) fell ill during the month of July and I did not realize he was not actively checking his emails.
4. I called my treasurer to see if he had taken action, but due to his continued illness his voicemail was full. This is why I contacted Erin Gordon immediately after receiving her email in order to file the report.

The primary reason I am hoping you will allow for a one-time waiver is due to the statement in my violation letter that allows for the consideration of "whether the penalty is disproportionate to the level of experience of the person filing the report or harm to the public caused by the late disclosure. I am hoping that you will consider the fact that:

1. Both myself and my Treasurer have no prior experience as was described.
2. The status change from my last report to this report was minimal as I only spent a few hundred dollars (\$317.96) on signs for a parade.
3. It is very likely that there was absolutely no harm done to the public caused by a two-day late disclosure which only differed in identifying a minimal expenditure.

I again reiterate my sincere apologies and accept full responsibility for all reports I need to submit. One final desperate plea comes from the fact that my own personal finances are currently in extreme stress as I admit to living paycheck to paycheck in support of myself and in partial support of two children. This will not happen again!

Best Regards

A handwritten signature in black ink, appearing to be "Bil Weidner", written over a horizontal line.

Bil Weidner
Candidate For House District 52



Commission on Governmental Ethics and Election Practices
Mail: 135 State House Station, Augusta, Maine 04333
Office: 45 Memorial Circle, Augusta, Maine
Website: www.maine.gov/ethics
Phone: 207-287-4179
Fax: 207-287-6775

2016 CAMPAIGN FINANCE REPORT

FOR MCEA CANDIDATES

COMMITTEE		TREASURER	
BIL WEIDNER 8 WASHINGTON STREET BATH, ME 04530 PHONE: (207) 944-1913 EMAIL: BILWEIDNER@HOTMAIL.COM		Edward Palm 1 Seekins Drive Bath, ME 04530 PHONE: (207) 844-0455 EMAIL: ed923us@yahoo.com	
REPORT	DUE DATE	REPORTING PERIOD	
42-DAY POST-PRIMARY REPORT	07/26/2016	06/01/2016 - 07/19/2016	

FINANCIAL ACTIVITY SUMMARY

CASH ACTIVITY		
	TOTAL FOR THIS PERIOD	TOTAL FOR CAMPAIGN
1. CASH BALANCE FROM LAST REPORT	\$500.00	
2. SEED MONEY CONTRIBUTIONS	\$0.00	\$82.57
3. MAINE CLEAN ELECTION ACT PAYMENTS & AUTHORIZATIONS	\$5,000.00	\$5,500.00
4. SALE OF CAMPAIGN PROPERTY (SCHEDULE E, PART 2)	\$0.00	\$0.00
5. OTHER CASH RECEIPTS (INTEREST, ETC.,)	\$0.00	\$0.00
6. MINUS EXPENDITURES (SCHEDULE B)	\$317.96	\$400.53
7. CASH BALANCE AT CLOSE OF PERIOD	\$5,182.04	
OTHER ACTIVITY		
8. IN-KIND SEED MONEY CONTRIBUTIONS	\$0.00	\$18.00
9. TOTAL UNPAID DEBTS AT CLOSE OF PERIOD (SCHEDULE D)	\$0.00	

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

REPORT FILED BY: ERIN GORDON
REPORT FILED ON: 07/28/2016
LAST MODIFIED: 07/28/2016
PRINTED: 08/16/2016
COMMITTEE ID: 9263

**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
6/13/2016	MCEA Payment		15	\$5,000.00
TOTAL CASH CONTRIBUTIONS				\$5,000.00

**SCHEDULE B
EXPENDITURES**

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
7/5/2016	STAPLES ROUTE 24 BATH ROAD BRUNSWICK, ME 04011	SIGNS AND BANNERS FOR PARADE.	LIT	\$317.96
TOTAL EXPENDITURES FOR CANDIDATE:				\$317.96

July 28, 2016

Bil Weidner
8 Washington Street
Bath, ME 04530

Re: Notice of Violation and Penalty for Late-Filed 42-Day Post-Primary Report

Dear Mr. Weidner:

You were required to file the 42-Day Post-Primary Report on 07/26/2016 by 11:59 p.m., but the report was not filed until 07/28/2016. 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 \$200.00. 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 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 by clicking the "Penalty Payment" link. Please contact me at (207) 287-3651 or erin.gordon@maine.gov if you have any questions.

Sincerely,

Erin Gordon
Candidate Registrar

cc: Edward Palm

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 1st 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: Bil Weidner			
Late-Filed Report: 42-Day Post-Primary			
Contributions	\$5,000.00	Penalty Base Amount	\$5,000.00
Expenditures	\$317.96	Percentage	2%
Due Date	07/26/2016	Daily Accrual Rate	\$100.00
Date Filed	07/28/2016	Days Late	2
Previous Violations	0	Your Total Penalty	\$200.00

PAYMENT STATEMENT AND PAYMENT OPTIONS

From: Bil Weidner

Penalty Amount: \$ 200.00

Penalty ID: N/A

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



2016 FILING SCHEDULE

For Maine Clean Election Act Legislative Candidates

PRIMARY ELECTION: JUNE 14, 2016

GENERAL ELECTION: NOVEMBER 8, 2016

TYPE OF REPORT	FILING DEADLINE (BY 11:59 P.M.)	REPORT PERIOD
Seed Money Report*	April 20, 2016	Date of first seed money contribution – date of certification request For Senate candidates who filed a <u>Semiannual Report</u> *: January 1, 2016 – date of certification request
11-Day Pre-Primary	June 3, 2016	End of Seed Money Report — May 31, 2016
42-Day Post-Primary	July 26, 2016	June 1 — July 19, 2016
42-Day Pre-General	September 27, 2016	July 20 — September 20, 2016
11-Day Pre-General	October 28, 2016	September 21 — October 25, 2016
42-Day Post-General	December 20, 2016	October 26 — December 13, 2016

*PLEASE NOTE: Senate candidates collecting more than \$500 in seed money contributions in 2015 must file a 2016 January Semiannual campaign finance report by 11:59 p.m. on January 15, 2016 showing all seed money contributions and expenditures through December 31, 2015.

24-HOUR REPORTS

24-HOUR REPORTING PERIODS (13 DAYS BEFORE THE ELECTION)	WHAT TO REPORT	WHEN TO FILE
Primary: June 1 – June 13, 2016 General: October 26 – November 7, 2016	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 15, 2016. 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.



2016 REPORTS FOR MCEA CANDIDATES

TYPE OF REPORT	DEADLINE	REPORT PERIOD
Seed Money	April 20, 2016	Beginning of campaign - April 20, 2016 (or earlier when Request for Certification is made)
11-Day Pre-Primary	June 3, 2016	End date of Seed Money Report - May 31, 2016
42-Day Post-Primary	July 26, 2016	June 1 - July 19, 2016
42-Day Pre-General	September 27, 2016	July 20 - September 20, 2016
11-Day Pre-General	October 28, 2016	September 21 - October 25, 2016
42-Day Post-General	December 20, 2016	October 26 - December 13, 2016

24-Hour Reports. The 24-hour reporting requirement applies to the 13-day period prior to an election (see calendar on the next page). If an MCEA candidate makes a single expenditure of \$1,000 or more within the 13 days before an election, the candidate must file a 24-Hour Report.

This 13-day period includes two weekends. If a deadline for a 24-Hour Report falls on a weekend or holiday, the candidate must file the report on that day.

Overhead costs, such as rent, taxes, utilities and some salary payments are not required to be reported in a 24-Hour Report. It is important to remember that the term “expenditure” includes making an obligation to a vendor for goods or services ordered but not paid for. If an obligation with a vendor is incurred during the 24-hour reporting period, the candidate must report the obligation within 24 hours — regardless of when the vendor is paid. See the table on the next page for a list of actions which constitute making an obligation.

Any expenditures or obligations entered into the E-Filing system in order to file a 24-Hour Report are

automatically entered into the next scheduled campaign finance report.

Candidates Who Are Defeated in a Primary Election. MCEA candidates who are defeated in a primary election must file the primary election reports, but are not required to file the three general election reports.

Replacement Candidates. A candidate who fills a vacancy caused by the withdrawal or death of another candidate is required to file campaign finance reports. The replacement candidate may choose to run as an MCEA candidate or as a traditionally financed candidate. A replacement candidate should notify the Commission as soon as possible of his or her intent to run as an MCEA candidate. The Commission staff will provide guidance about qualifying for public financing as a replacement candidate.

REPORTING INTEREST EARNED ON BANK ACCOUNTS

MCEA candidates are permitted to earn interest on campaign funds in bank accounts and to spend that interest for campaign purposes. At the end of each reporting period, campaigns should calculate the total



2016 GENERAL INFORMATION - MAINE CLEAN ELECTION ACT 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 Maine Clean Election Act candidate. You will find more detailed information in the 2016 Guidebook for Maine Clean Election Act 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

Maine Clean Election Act 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
Seed Money Report*	April 20, 2016	Date of Registration	Date of Certification
11-Day Pre-Primary Report	June 3, 2016	End of Seed Money Report	May 31, 2016
42-Day Post-Primary Report	July 26, 2016	June 1, 2016	July 19, 2016
42-Day Pre-General Report	September 27, 2016	July 20, 2016	September 20, 2016
11-Day Pre-General Report	October 28, 2016	September 21, 2016	October 25, 2016
42-Day Post-General Report	December 20, 2016	October 26, 2016	December 13, 2016
24-Hour Reporting Periods**			
June 1 - June 13, 2016 (before the Primary Election)			
October 26 - November 7, 2016 (before the General Election)			

* Candidates who collect **more than \$500 in seed money before January 1, 2016** must file a *January Semiannual Report* by **January 15, 2016**. Their Seed Money Report would then have a Period Begin Date of **January 1, 2016**.

** 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.

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;