



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  
Lorrie Brann, Commission Assistant  
Date: August 17, 2016  
Re: Request for Waiver of Late-Filing Penalty by Lee Ann Betz

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Lee Ann Betz is a Maine Clean Election Act (MCEA) candidate for the Maine House of Representatives, District 142. On July 26, 2016, all candidates for state office were required to file the 42-Day Post-Primary campaign finance report. The time period of the report was seven weeks from June 1 to July 19, 2016. During that period, Ms. Betz received a payment of \$5,000 of MCEA funds for the general election and made no expenditures.

The candidate did not file the report on the filing deadline of July 26. In response to a voicemail message from the Commission staff, the campaign filed the report one day late on July 27. The report was late due to the death of the candidate's mother-in-law. The preliminary penalty is \$200. Because of the gravity of the circumstances and the very small amount of financial activity at stake, the Commission staff recommends granting a full waiver of the penalty.

### **LEGAL REQUIREMENTS**

Candidates are required to file a report with the Commission by the 42<sup>nd</sup> day after an election. (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**

Ms. Betz is a first-time candidate for the Legislature. Because she had an uncontested primary election, her MCEA payment for the general election was issued on June 13, 2016. In keeping with the Commission’s usual procedures, when the Commission staff issued the payment on June 13, we entered the payment in the Commission’s e-filing system as a pending transaction. It was the campaign’s responsibility to enter any expenditures or debts, and to file the report.

As background, please be aware that MCEA candidates and their treasurers receive different usernames and passwords. By law, candidates in the MCEA program may not file their own campaign finance reports. The campaign treasurer or other authorized campaign agent must file the report.

For reasons discussed below, the campaign treasurer did not file the report on time. After receiving a voicemail message from the Commission staff, the campaign filed the report one day late. The preliminary penalty is \$100, calculated as follows:

<b>Report</b>	<b>Due Date</b>	<b>Financial Activity</b>	<b>Penalty Rate</b>	<b>Days Late</b>	<b>Preliminary Penalty</b>
42-Day Post-Primary	07/26/2016	\$5,000.00	2%	1	\$100.00

According to the candidate’s waiver request, the candidate’s spouse, Linda Balthazor, is the treasurer for the campaign. On July 10<sup>th</sup> (sixteen days before the filing deadline), the treasurer’s mother passed away in Phoenix, Arizona. Ms. Balthazor traveled to Phoenix for the funeral. The candidate drove to the mid-west to meet her spouse, and they traveled to Minnesota where the candidate officiated over a committal service for her mother-in-law on July 23<sup>rd</sup> (three days before the deadline). In her waiver request, the candidate also cites an emergency involving Ms. Balthazor’s son. Ms. Betz states that the July 26 report was on her mind, but she lost track of the filing deadline while dealing with these issues.

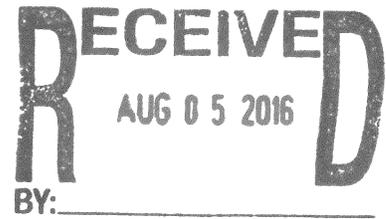
## **STAFF RECOMMENDATION**

The late-filed report is attached, for your reference. It contains one transaction: the candidate's receipt of \$5,000 in MCEA funding. The one-day delay of this information resulted in minimal harm to the public.

The candidate's waiver request focuses on the events in the last 2-3 weeks before the filing deadline, and the resulting impact on the candidate's attention. The request does not comment on the capacity of the treasurer to file the report on July 26. Nevertheless, the Commission staff recommends viewing the combined circumstances (the death of a parent and mother-in-law, performing the religious service in Minnesota three days before the deadline, and the associated car travel) as an emergency that warrants a waiver under 21-A M.R.S.A. § 1020-A(2)(A). We recommend a full waiver of the \$200 preliminary penalty.

Thank you for your consideration of this memo.

Paul Lavin  
Assistant Director  
State of Maine  
Commission on Governmental Ethics and Election Practices  
135 State House Station Augusta, Maine  
04333-0135  
August 3, 2016



Dear Mr. Lavin,

I am responding to your notice of violation and Penalty for Late-Filed 42-Day Post-Primary Report.

My request for your mercy is based on two premises:

The first: Linda Balthazor is my third treasurer for my campaign due to the peregrinations of my first two. This ride has been bumpy, to say the least.

The second: Linda's mother (my mother-in-law) passed away July 10<sup>th</sup>. When we received the call several days before, we focused on obtaining an affordable flight for Linda to Phoenix. This necessitated an unexpected trip to Logan Airport. Meanwhile Linda's special needs son, who lives in Gardner had an emergency which necessitated bringing him back to Lincoln.

After Linda's mother passed, her funeral was held in Phoenix, and then her body was shipped to St. James, MN. where the extended family lives. I was asked to do the committal at the grave site on July 23. I drove out to Cincinnati to pick Linda up at the airport and we drove on to St. James by way of Kansas, and, of course, back again.

My confession is that it was on my mind, but I lost track of the date. I apologize and request forgiveness of the penalty. Thank you for your consideration. If you want confirmations I can scan the funeral and committal cards.

Hope, Love, Peace and Joy,  
The Rev. Lee Ann Betz  
Candidate for House seat # 142  
*Lee Ann Betz*



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

## 2016 CAMPAIGN FINANCE REPORT

### FOR MCEA CANDIDATES

COMMITTEE		TREASURER	
Lee Ann Betz 198 Taylor Street Lincoln, ME 04457 PHONE: (207) 433-7637 EMAIL: <a href="mailto:labetz@gmail.com">labetz@gmail.com</a>		Linda Balthazor 198 Taylor Street Lincoln, ME 04457 PHONE: (207) 290-1316 EMAIL: <a href="mailto:lbalthazor@gmail.com">lbalthazor@gmail.com</a>	
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	\$358.28	
2. SEED MONEY CONTRIBUTIONS	\$0.00	\$50.00
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)	\$0.00	\$191.72
7. CASH BALANCE AT CLOSE OF PERIOD	\$5,358.28	
OTHER ACTIVITY		
8. IN-KIND SEED MONEY CONTRIBUTIONS	\$0.00	\$0.00
9. TOTAL UNPAID DEBTS AT CLOSE OF PERIOD (SCHEDULE D)	\$0.00	

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

REPORT FILED BY: LINDA BALTHAZOR  
REPORT FILED ON: 07/27/2016  
LAST MODIFIED: 07/27/2016  
PRINTED: 08/09/2016  
COMMITTEE ID: 9450

**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
<b>TOTAL CASH CONTRIBUTIONS</b>				<b>\$5,000.00</b>

July 28, 2016

Lee Ann Betz  
198 Taylor Street  
Lincoln, Maine 04457

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

Dear Ms. Betz:

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 07/27/2016. 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 \$100.00. 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](http://www.maine.gov/ethics) by clicking the "Penalty Payment" link. Please contact me at (207) 287-4179 or [paul.lavin@maine.gov](mailto:paul.lavin@maine.gov) if you have any questions.

Sincerely,

Paul Lavin  
Assistant Director

cc: Linda Balthazor

## PENALTY CALCULATION

The penalty for filing a campaign finance report late is based on a percentage of the total contributions or expenditures for the reporting period, whichever is greater, multiplied by the number of days late. The percentage is based on your history of past violations: 2% for the first violation, 4% for the second violation, and 6% for the third and each subsequent violation. Violations for late-filed reports accumulate in the two-year period beginning on January 1<sup>st</sup> of each even-numbered year. A penalty accrues daily beginning on the day following the filing due date. Any penalty of less than \$10 is automatically waived.

### HOW YOUR PENALTY WAS CALCULATED

Filer: Lee Ann Betz			
Late-Filed Report: 42-Day Post-Primary			
Contributions	\$5,000.00	Penalty Base Amount	\$5,000.00
Expenditures	\$0.00	Percentage	2%
Due Date	07/26/2016	Daily Accrual Rate	\$100.00
Date Filed	07/27/2016	Days Late	1
Previous Violations	0	Your Total Penalty	\$100.00

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### PAYMENT STATEMENT AND PAYMENT OPTIONS

**From:** Lee Ann Betz

**Penalty Amount:** \$ 100.00

**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](http://www.maine.gov/online/ethics/penalties). Please include the penalty ID so that your payment will be properly accounted for.

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

**§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.

[ 1995, c. 483, §15 (NEW) .]

**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) .]

[ 2009, c. 190, Pt. A, §13 (AMD) .]