

Agenda

Item #6



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

Date: April 15, 2011

Re: Request for Waiver of Late-Filing Penalty by Lobbyist James M. Cote

James M. Cote is the President and Chief Executive Officer of the Associated Builders and Contractors of Maine. He is a registered lobbyist for the organization.

He was required to file a monthly lobbyist report on March 15, 2011. In his April 5 letter requesting a waiver of the late-filing penalty, he explains that he "had the report completely filled out on March 15," but he "unintentionally missed the step to click 'File Final Report.'"

He filed the report two days late on March 17 after discovering that he had saved an unfiled version of the report on his desktop. The preliminary penalty is \$100. He requests a waiver of the late filing penalty.

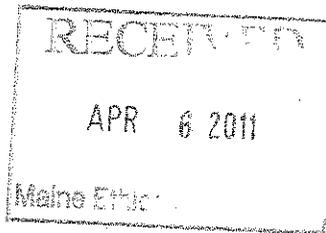
The Commission staff is sympathetic, but the Commissioners have tended not to grant waivers to lobbyists except in cases of unforeseen circumstances that prevented timely filing. Accordingly, the Commission staff recommends not granting a waiver and assessing the \$100 penalty.



Maine Chapter

Associated Builders and Contractors of Maine

James Cote, President and CEO
45 Melville Street, Suite #2
P. O. Box 169
Augusta, Maine 04332-0169
office: 207.623.4500
mobile: 207.860.6600
email: james@abcmaine.org



April 5, 2011

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

Dear Commission Members,

This letter is in regards to a penalty of \$100.00 that has been assessed to me for filing my monthly lobbyist disclosure report late for the month of February.

The report was due, as it is and as I have complied with as long as I've been registered as a lobbyist on the 15th of the month, in this case on March 15, 2011. I had the report completely filled out on March 15, however, I unintentionally missed the step to click "File Final Report". I left the office later that day, and returned on March 17, 2011 (two days later) to find the report still on my desktop. At that point I immediately filed the report, and contacted Cindy Sullivan at the Commission requesting a final penalty determination. Cindy directed me to write a letter explaining the mitigating circumstances addressed to you, the Commission.

Please consider this a request for a final penalty determination. I understand the importance of these reports and I hope that my record demonstrates there was nothing disregardful or willful about the fact that this report was filed two days late. I ask that you consider waiving the penalty for this report.

Please feel free to contact me if you have any questions.

Sincerely,

James M. Cote
President & CEO
Associated Builders and Contractors of Maine



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

March 16, 2011

BY CERTIFIED MAIL AND REGULAR MAIL

James Cote
Associated Builders and Contractors of Maine
45 Melville Street, Suite 2
Augusta, Maine 04332

Re: Associated Builders and Contractors of Maine

Dear Mr. Cote,

Our records show that your February monthly lobbyist disclosure report has not been filed to date. The monthly report, due on the 15th of every month – or the next business day if the 15th falls on a weekend or holiday, is required to be filed electronically by all lobbyists registered with the Commission by 11:59 p.m. The **February** report was due by 11:59 p.m. on March 15, 2011.

In addition, 3 M.R.S.A. §319(1) states that any person who fails to file a timely report may be assessed a penalty of \$100 for every month the person is delinquent in filing the report; thus, to date your penalty is **\$100**. If you agree with this preliminary determination, you may use the attached billing statement to pay that penalty within 30 days of the date of this notice.

However, if you have a valid reason for filing late, you may request a final penalty determination by the Commission. The Commission will notify you of the disposition of your case within 10 days after its determination.

To avoid further penalty, you should file the report as soon as possible. Pursuant to 3 M.R.S.A. § 319(1-A), any person who fails to file a report or pay a fee may be suspended from further lobbying by written notice of the Commission until such failure is corrected.

Please direct any questions you may have about this matter to me at (207) 287-6221.

Sincerely,

Cindy Sullivan
PAC, Party & Lobbyist Registrar

To: Commission on Governmental Ethics and Election Practices
135 State House Station
Augusta, Maine 04333

From: James Cote, Lobbyist for:
Associated Builders and Contractors of Maine

Re: Penalty for late filing of the **February 2011** monthly lobbyist disclosure report (\$100).

Amount Enclosed: \$ _____

Please Make Check or Money Order Payable to:
Treasurer, State of Maine

Check/M.O. No.: # _____

Or you can go to www.maine.gov/ethics > Penalty Payment and
pay on-line with a credit card

For Office Use Only Account: CGEEP Fund: 014 Appr: 01

3 MRS § 319. PENALTY

1. Failure to file registration or report. Any person who fails to file a registration or report as required by this chapter may be assessed a fine of \$100 for each person listed or who should have been listed on the lobbyist registration for every month the person fails to register or is delinquent in filing a report pursuant to section 317. The commission may waive the penalty in whole or in part if the commission determines the failure to register or report was due to mitigating circumstances.

1-A. Notice of suspension. Any person who fails to file a report or pay a fee as required by this chapter may be suspended from further lobbying by written notice of the commission until such failure is corrected.

2. [repealed]

3. Exemption. Notwithstanding section 317, subsection 1, a registered lobbyist is exempt from the penalty imposed under this section if, while the Legislature is convened in special session, the lobbyist failed to file a report with the commission pursuant to section 317 if no lobbying has been performed during that special session.