

# Agenda

## Item #3



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: January 18, 2010

Re: Request for Waiver of Late Filing Penalty/Scarborough Republican Town  
Committee

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### **Duty of Local Party Committees to File Campaign Finance Reports**

Town and county committees of the political parties are required to file campaign finance reports with the Commission under 21-A M.R.S.A. § 1017-A(4-B) (attached), unless the committee's receipts and expenditures during the calendar year totaled less than \$1,500. Most local party committees do not reach the \$1,500 threshold, and therefore are not required to file the reports. In 2008, the Commission received campaign finance reports from about 50 local party committees.

Under the reporting statute, the state party committee has the responsibility to notify the local party committees of their financial reporting obligations to the Commission. (Paragraph 4-B(6)) Nevertheless, because of turnover in committee treasurers, many of them are confused about the requirement to file reports if their receipts or expenditures exceed \$1,500 in a calendar year. So, the Commission attempts to notify local party committees about the filing deadlines in two ways:

- Each election year, the state party committees send the Commission lists of the officers of all of their local party committees on record. After receiving those lists, we send a reminder of the deadlines to all of the local committees in case they will exceed the \$1,500 threshold in the coming year.
- For those local party committees that we know have met the \$1,500 threshold for the year, our office policy is to send a written reminder to those committees before each filing deadline for that year.

The Commission is not explicitly required to send these reminders but we send them as a courtesy to encourage prompt filing. I am gratified that relatively few local party committees have requested waivers of late-filing penalties. So, I hope that means we have been generally effective in reminding the committees about the need to file the reports.

## **Late Filing by Scarborough Republican Town Committee**

During 2008, the Scarborough Republican Town Committee raised \$1,887 in revenue and spent \$2,514 on communications to voters supporting Republican candidates in Scarborough. Because its receipts and expenditures exceeded the threshold of \$1,500, it was required to file campaign finance reports showing its 2008 financial activity. The committee's first campaign finance report was filed on time on October 24, 2008. The cover page for the 10/24/08 report is attached. It was completed by the committee treasurer, Artemas Pickard.

The committee was also required to file a year-end report on January 15, 2009 that would disclose financial activity from October 22 – December 31, 2008. Unfortunately, the committee did not file the report on time. Instead, the committee filed the report roughly three months late on April 22, 2009.

## **Committee's Request for Waiver**

On April 28, 2009, PAC/Party/Lobbyist Registrar Jeremy Brown sent a letter to Mr. Pickard notifying him that the committee should pay a preliminary late filing penalty of \$500 or request a waiver of the penalty. We did not receive a response. We made similar requests on July 21, 2009 and October 29, 2009. Just before your last meeting, I called Mr. Pickard personally, and he stated to me that his committee would like to request a waiver. We pressed him by telephone to submit a letter requesting a waiver in order to get this matter resolved. Mr. Pickard submitted a letter on January 5, 2010.

Through Mr. Pickard's letter, the committee requests a waiver of the late filing penalty of \$500. He notes that the committee has filed reports on time generally. As to why the Mr. Pickard didn't file the January 15, 2009 report on time, the reason appears to be that he did not receive a reminder from the Commission to which he had become accustomed. He does state that he received "excellent help" in 2008 from an Ethics Committee employee (Jeremy Brown). He states that "I wasn't contacted for the final report of 2008 by my friendly Ethics Commission adviser, so I mistakenly believed that my 2008 reports were done."

Jeremy Brown left the Commission's employment in July 2009 to move out of state for law school. Our current PAC/Party/Lobbyist Registrar is unable to verify whether Jeremy sent a written letter or postcard as a reminder for the January 19, 2009 deadline. It is possible that he did not send a written reminder for that deadline.

## **Recommended Penalty**

Generally, in considering requests for waivers of late-filing penalties submitted by lobbyists, candidates, PACs, and party committees, the Commissioners have taken the position that it is the filer's responsibility to remember when the reports are due. One fact that you may find relevant is that the cover sheet for the campaign finance report contains the filing schedule for local party committees. So, when Mr. Pickard signed the

cover sheet for the October 24, 2008 report, he could easily have noticed that another report was required for January 15, 2009. (The cover sheet for the October 24, 2008 report is attached for your reference.) Also, the filing schedule for local party committees can be found on the Commission's website.

Nevertheless, you may feel that if the staff cannot be certain that we sent a written reminder to Mr. Pickard, that uncertainty alone is grounds for reducing the penalty. When candidates and party committees request waivers of the late filing penalties, two of the mitigating factors listed in statute are "[f]ailure to receive notice of the filing deadline" and "[a]n error by the commission staff." (21-A M.R.S.A. § 1020-A(2))

With regard to the committee's ability to pay the penalty, Mr. Pickard states that in 2008, the committee "had spent nearly everything we had on newspaper advertising to try to elect our local Republican Candidates." The last report received by the Commission (the report due January 15, 2009) states that the report had a balance of \$618.18 (shown on the final page of the report). It is possible that the committee spent most of this balance in 2009.

The penalty is assessed against the party committee, not its treasurer. Nevertheless, Mr. Pickard notes that he personally does not have \$500.

The staff recommends granting a partial waiver of the \$500 penalty, and assessing a penalty against the committee of \$125 to \$250. The reason that we do not recommend granting a full waiver is that we believe it was the committee's responsibility to ascertain and meet the filing deadlines.

Thank you for your consideration of this memo.

**Artemas M. Pickard**  
15 Abigail Way. Scarborough, ME 04074-8246  
Ph: 396-5683 Fax: 396-5684  
E-mail: apick@maine.rr.com

RECEIVED  
JAN - 6 2010  
MAINE ETHICS COMMISSION

January 5, 2010

Commission on Governmental Ethics & Election Practices  
135 State House Station  
Augusta, ME 04333-0135

Gentlemen,

To the best of my knowledge, all reports submitted by me to the Maine Commission on Government Ethics and Election Practices since 2002 have been done accurately and, save one, submitted on time. During 2008 and since 2002, I have served as the Treasurer for the Scarborough GOP Committee and also, in 2008, as a candidate for election to the Maine Legislature. In 2008, I was fortunate to have excellent help from an Ethics Commission employee whose name escapes me, reminding me both when and how to submit the required reports, both for my candidacy and the town GOP committee. In 2009, as we all knew in advance, the town committee would neither raise nor spend enough funds to trigger a required report. In addition, I wasn't contacted for the final report of 2008 by my friendly Ethics Commission adviser, so I mistakenly believed that my 2008 reports were done.

In April, I was contacted by Mr. Phil Roy, the Treasurer of the Maine State Republican Party who informed me that I was on your "bad guy" list for failing to submit the year-end Scarborough report to the Ethics Commission. He was right, of course. After saying "oops", I immediately produced the missing report and submitted it within a day or two. At that time I understood there would a penalty for late submission but had no concept of the size.

When informed that the size was \$500.00, I was shocked. The Scarborough GOP Committee didn't have that much money. We had spent nearly everything we had on newspaper advertising to try to elect our local Republican Candidates. I, personally, did not and do not have \$500.00 that is not already committed to survival in these difficult times. I am retired on a fixed income since late 2001 and have faced, as many have, significantly increased cost of living without adjustment of my pension and now no COLA from Social Security. To pay the fine I would have to borrow the funds at a high interest rate, if I could even find a lender.

My mistake, in no way reflected any attempt to hide information or to mislead the Commission or the public regarding the amount of funds spent in the 2008 general election on behalf of the GOP candidates who were on the Scarborough ballot. Only one bill of \$616.18, for last minute advertising, remained unreported.

In view of the current financial status of both the Scarborough GOP Town Committee and me, I sincerely hope that the Commission can waive the penalty. And, I can assure you that as long as I remain Treasurer, we'll never be late or miss a report in the future.

Sincerely,



Artemas M. Pickard  
Treasurer, Scarborough Republican Town Committee

ART PICKARD  
**RECEIVED**



OCT 24 2008

MAINE ETHICS COMMISSION

COMMISSION ON GOVERNMENTAL ETHICS AND ELECTION PRACTICES  
Mail: 135 State House Station, Augusta, Maine 04333  
Office: 242 State Street, Augusta, Maine  
Website: www.maine.gov/ethics  
Phone: 207-287-4179  
Fax: 207-287-6776

**2008 CAMPAIGN FINANCE REPORT  
MUNICIPAL, DISTRICT AND COUNTY PARTY COMMITTEES**

*CP*

**COMMITTEE IDENTIFICATION** Check if address is different than previously reported.

Name SCARBOROUGH REPUBLICAN TOWN COMMITTEE  
(full name of committee)  
Mailing address 18 TALL PINES ROAD  
(official headquarters of committee)  
City, zip code SCARBOROUGH, ME 04074 Telephone (207) 883-9025

**TREASURER IDENTIFICATION** Check if treasurer or address is different than previously reported.

Name of treasurer ARTEMAS M. PICKARD  
Mailing address 15 ABIGAIL WAY  
City, zip code SCARBOROUGH, ME 04074 Telephone (207) 396-5683  
E-mail address apick@maine-rc.com

**MUNICIPAL, COUNTY, AND DISTRICT COMMITTEE FILING PERIODS (Check applicable period below):**

- | Report Type  | Due Date         | Reporting Period                    |
|--|------------------|-------------------------------------|
| <input type="checkbox"/> 11-Day Pre-Primary  | May 30, 2008     | January 1, 2008 – May 27, 2008      |
| <input type="checkbox"/> July Semiannual   | July 15, 2008    | May 28, 2008 – June 30, 2008        |
| <input checked="" type="checkbox"/> 11-Day Pre-General   | October 24, 2008 | July 1, 2008 – October 21, 2008     |
| <input type="checkbox"/> January Semiannual  | January 15, 2009 | October 22, 2008– December 31, 2008 |
| <input type="checkbox"/> Check this box if this report is an amendment to a previously filed report. |                  |                                     |

★

I CERTIFY THAT I HAVE EXAMINED THIS REPORT AND TO THE BEST OF MY KNOWLEDGE IT IS TRUE, CORRECT AND COMPLETE.

Artemas M. Pickard  
Treasurer's Signature

October 24, 2008  
Date

**REPORTING EXEMPTION:** Any party committee receiving and expending less than \$1,500 in one calendar year is exempt from the reporting requirements for that year.

2008 Election

RECEIVED

APR 22 2009

MAINE ETHICS COMMISSION

COMMISSION ON GOVERNMENTAL ETHICS AND ELECTION PRACTICES  
Mail: 135 State House Station, Augusta, Maine 04333  
Office: 242 State Street, Augusta, Maine

Website: www.maine.gov/ethics  
Phone: 207-287-4179  
Fax: 207-287-6775



**2008 CAMPAIGN FINANCE REPORT  
MUNICIPAL, DISTRICT AND COUNTY PARTY COMMITTEES**

**COMMITTEE IDENTIFICATION** Check if address is different than previously reported.

Name SCARBOROUGH REPUBLICAN TOWN COMMITTEE  
(full name of committee)  
Mailing address 18 TALL PINES ROAD  
(official headquarters of committee)  
City, zip code SCARBOROUGH, ME 04074 Telephone 883-9025

**TREASURER IDENTIFICATION** Check if treasurer or address is different than previously reported.

Name of treasurer ARTEMAS M. PICKARD  
Mailing address 15 ABIGAIL WAY  
City, zip code SCARBOROUGH, ME 04074 Telephone 396-5683  
E-mail address a.pick@maine.me.com

**MUNICIPAL, COUNTY, AND DISTRICT COMMITTEE FILING PERIODS (Check applicable period below):**

Report Type	Due Date	Reporting Period
<input type="checkbox"/> 11-Day Pre-Primary	May 30, 2008	January 1, 2008 – May 27, 2008
<input type="checkbox"/> July Semiannual	July 15, 2008	May 28, 2008 – June 30, 2008
<input type="checkbox"/> 11-Day Pre-General	October 24, 2008	July 1, 2008 – October 21, 2008
<input checked="" type="checkbox"/> January Semiannual	January 15, 2009	October 22, 2008– December 31, 2008
<input type="checkbox"/> Check this box if this report is an amendment to a previously filed report.		

I CERTIFY THAT I HAVE EXAMINED THIS REPORT AND TO THE BEST OF MY KNOWLEDGE IT IS TRUE, CORRECT AND COMPLETE.

*Artemas M. Pickard*

Treasurer's Signature

April 22, 2009  
Date

**REPORTING EXEMPTION:** Any party committee receiving and expending less than \$1,500 in one calendar year is exempt from the reporting requirements for that year.

SCARBOROUGH GOP COMM.  
Name of Party Committee

Page 1 of 1  
(Schedule A only)

**SCHEDULE A**

**CASH CONTRIBUTIONS RECEIVED**

List the names and mailing addresses of contributors who have given more than \$200 during this reporting period. For all aggregate contributions of \$200 or less, enter the combined total in line 3. Do not include loans or in-kind contributions here.

Date received	Contributor's name, mailing address, zip code	Occupation & employer	Amount
11/4/08	RAFFLE AT GENERAL ELECTION MULTIPLE PEOPLE	N/A	
1. Total contributions this page only			0.00
2. Total from attached pages (Schedule A)			0.00
3. Aggregate contributions of \$200 or less (not itemized)			67.00
4. Total contributions this reporting period (Add lines 1, 2 & 3)			67.00

SCARBOROUGH GOP Comm  
Name of Party Committee

Page 1 of 1  
(Schedule B only)

### SCHEDULE B CONTRIBUTIONS AND EXPENDITURES TO OR ON BEHALF OF CANDIDATES, PACS & PARTY COMMITTEES

List all contributions and expenditures made to or on behalf of each candidate, party committee, PAC, or other political committee. Do not include loan repayments or in-kind expenditures on this schedule. Expenditures made on communications in support of or in opposition to candidates must be listed on this schedule, not on Schedule B-1. For expenditures made on multi-candidate communications, the expenditure must be itemized by the amount spent per candidate, not as a single expenditure, and each candidate must be identified.

Expenditure Types Requiring <b>NO</b> Remark	Expenditure Types <b>REQUIRING</b> Remark
CON contribution to candidate, party or committee	CNS campaign consultants
EQP equipment (office machines, furniture, cell phones)	OTH other
FND fundraising events	PRO professional services
FOD food for campaign events, volunteers	
LIT printing and graphics (flyers, signs, palmcards, t-shirts, etc.)	
MHS mail house (all services purchased)	
OFF office rent, utilities, phone and internet services, supplies	
PHO phone banks, automated telephone calls	
POL polling and survey research	
POS Postage for U.S. Mail and mail box fees	
PRT print media ads only (newspapers, magazines, etc.)	
RAD radio ads, production costs	
SAL Campaign workers' salaries and personnel costs	
TRV travel (fuel, mileage, lodging, etc.)	
TVN TV or cable ads, production costs	
WEB Website design, registration, hosting, maintenance, etc.)	

**For every expenditure, list the appropriate code.**

If a remark is required, list additional information such as type of consulting (media, messaging, campaign, etc.) or professional service provided.

Date of payment	Payee name	Candidate, committee, or party supported		Office sought & district number	Amount contributed to or spent on behalf of each candidate, PAC or party committee
	Payee's complete mailing address	Code	Remarks		
10/31/08	SCARBOROUGH LEADER	REPUBLICAN TICKET		MR. HOUSE SENATE PRES	N/A
	180 MAIN ST., BIDDEFORD 04005	PRT	ALL CANDIDATES		TOTAL 616.18
1. Total contributions to candidates this page only					616.18
2. Total from attached Schedule B pages					
3. Total contributions this reporting period (Lines 1 + 2)					616.18

(Revised 03/08) (Duplicate as needed)

SCARBOROUGH GOP Comm  
Name of Party Committee

APRIL 22, 2009  
Date Submitted

**SCHEDULE F  
SUMMARY SECTION**

**RECEIPTS**

**THIS PERIOD ONLY**

- 1. Contributions received (Schedule A, Line 4)
- 2. Other receipts (interest income, etc.)
- 3. Loans received (Schedule D)
- 4. TOTAL RECEIPTS THIS PERIOD (Lines 1 + 2 + 3)

67.00
0.00
0.00
67.00

**EXPENDITURES**

**THIS PERIOD ONLY**

- 5. Contributions to or on behalf of others (Schedule B, Line 3)
- 6. Operating expenses (Schedule B-1, Line 3)
- 7. Loan repayments made (Schedule D)
- 8. TOTAL EXPENDITURES THIS PERIOD (Lines 5 + 6 + 7)

618.18
0.00
0.00
618.18

**IN-KIND SUMMARY**

**Fair Market Value Totals**

- Total in-kind contributions this period (Schedule C)
- Total in-kind expenditures this period (Schedule C)

N/A
N/A

next campaign must be disposed of as provided in subsection 8. Campaign reporting is as follows.

- A. Candidates with surplus campaign funds following an election shall file termination reports no later than July 15th of the year following the campaign of the previous year.
- B. Candidates with a campaign deficit following an election shall file termination reports no later than July 15th of the year following the campaign of the previous year.
- C. Candidates with a deficit who will not participate in the next election for the same office shall file semiannual reports until the deficit is liquidated.
- D. Candidates who collect funds subsequent to an election for purposes other than retiring campaign debt shall register with the commission pursuant to section 1013-A.

**10. Electronic filing.** The treasurer of a candidate or committee that has receipts or expects to have receipts of more than \$1,500 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 candidate or committee submits a written request that states that the candidate or committee lacks access to the technology or the technological ability to file reports electronically. The request for an exception must be submitted by April 15th of the election year, except that a candidate registered according to subsection 4 has 10 business days from the date of registration to submit a request to the commission. The commission shall grant all reasonable requests for exceptions.

#### **21A § 1017-A. Reports of contributions and expenditures by party committees**

**1. Contributions.** A party committee shall report all contributions in cash or in kind from a single contributor that in the aggregate total more than \$200. The party committee shall report the name, mailing address, occupation and place of business of each contributor. Contributions of \$200 or less must be reported, and these contributions may be reported as a lump sum.

**2. Expenditures to support or oppose candidates, others.** A party committee shall report all expenditures made to support or oppose a candidate, political committee, political action committee or party committee registered under this chapter. The party committee shall report:

- A. The name of each candidate, political committee, political action committee or party committee;
- B. The office sought by a candidate and the district that the candidate seeks to represent; and
- C. The date, amount and purpose of each expenditure.

**3. Other expenditures.** Operational expenses and other expenditures that are not made to support or oppose a candidate, committee, political action committee or party committee must be reported separately. The party committee shall report:

- A. The name and address of each payee;
- B. The purpose for the expenditure; and
- C. The date and amount of each expenditure.

**4. Filing schedule. (REPEALED)**

**4-A. Filing schedule.** A state party committee shall file its reports according to the following schedule.

- A. Quarterly reports must be filed by 11:59 p.m.:
  - (1) On January 15th and must be complete up to December 31st;
  - (2) On April 10th and must be complete up to March 31st;
  - (3) On July 15th and must be complete up to June 30th; and
  - (4) On October 10th and must be complete up to September 30th.
- B. General and primary election reports must be filed by 11:59 p.m.:
  - (1) On the 11th day before the date on which the election is held and must be complete up to 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 up to the 35th day after that date.
- C. Reports of spending to influence special elections, referenda, initiatives, bond issues or constitutional amendments must be filed by 11:59 p.m.:
  - (1) On the 11th day before the date on which the election is held and must be complete up to 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 up to the 35th day after that date.
- D. A state party committee that files an election report under paragraph B or C is not required to file a quarterly report under paragraph A when the deadline for that quarterly report falls within ten (10) days of the filing deadline established in paragraph B or C.
- E. A state party committee shall report any expenditure of \$500 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 expenditure.

**4-B. Filing schedule for municipal, district and county party committees.** Municipal, district and county party committees shall file reports according to the following schedule.

- A. Reports filed during an election year must be filed with the commission by 11:59 p.m. on:



- (1) July 15th and be complete as of June 30th;
- (2) The 11th day before the date on which the general election is held and must be complete up to the 14th day before that date; and
- (3) January 15th and be complete as of December 31st.

B. Reports filed during a nonelection year must be filed by 11:59 p.m. on:

- (1) July 15th and be complete as of June 30th; and
- (2) January 15th and be complete as of December 31st.

C. Any 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 the election must be reported within 24 hours of that expenditure.

**4-C. Electronic filing.** State party 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 party committee submits a written request that states that the party committee lacks access to the technology or the technological ability to file reports electronically. The request for an exception must be submitted by March 1st of the election year. The commission shall grant all reasonable requests for exceptions.

**5. Penalties.** A party committee is subject to the penalties in section 1020-A, subsection 4.

**6. Notice; forms.** A state party committee shall notify all county, district and municipal party committees of the same political party of the party committee reporting requirements. The party committees shall obtain the necessary forms from the commission to complete the filing requirements.

**7. Exemption.** Any party committee receiving and expending less than \$1,500 in one calendar year is exempt from the reporting requirements of this section for that year.

**8. Municipal elections.** When a party committee makes contributions or expenditures on behalf of a candidate for municipal office subject to this subchapter, it shall file a copy of the reports required by this section with the clerk in that candidate's municipality.

## 21A § 1017-B. Records

Any party committee that makes expenditures that aggregate in excess of \$50 to any one or more candidates, committees or campaigns in this State shall keep records as provided in this section. Records required to be kept under this section must be retained by the party committee until ten (10) days after the next election following the election to which the records pertain.

**1. Details of records.** The treasurer of a party committee shall record a detailed account of:

- A. All expenditures made to or on behalf of a candidate, campaign or committee;

whether the contribution or 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.

## **21A § 1020. Failure to file on time (REPEALED)**

### **21A § 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, except for accelerated campaign finance reports required pursuant to section 1017, subsection 3-B, 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%;
- B. For the 2nd violation, 3%; and
- C. For the 3rd and subsequent violations, 5%.

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 two (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 five calendar days thereafter.

The penalty for late filing of an accelerated campaign finance report as required in section 1017, subsection 3-B may be up to but no more than 3 times the amount by which the contributions received or expenditures obligated or made by the candidate, whichever is greater, exceed the applicable Maine Clean Election Fund disbursement amount, per day of violation. The commission shall make a finding of fact establishing when the report was due prior to imposing a penalty under this subsection. A penalty for failure to file an accelerated campaign finance report must be made payable to the Maine Clean Election Fund. In assessing a penalty for failure to file an accelerated campaign finance report, the commission shall consider the existence of mitigating circumstances. For the purposes of this subsection, "mitigating circumstances" has the same meaning as in subsection 2.

#### **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; section 1017, subsection 4; and section 1019-B, subsection 3;
- B. Five thousand dollars for state party committee reports required under section 1017-A, subsection 4-A, paragraphs A, B, C and E;
- C. One thousand dollars for reports required under section 1017, subsection 2, paragraphs A and F and section 1017, subsection 3-A, paragraphs A and E;
- D. Five hundred dollars for municipal, district and county committees for reports required under section 1017-A, subsection 4-B; or

E. Three times the unreported amount for reports required under section 1017, subsection 3-B, if the unreported amount is less than \$5,000 and the commission finds that the candidate in violation has established, by a preponderance of the evidence, that a bona fide effort was made to file an accurate and timely report.

**6. Request for a commission determination.** If the commission staff finds that a candidate or political committee has failed to file a report required under this subchapter, the commission staff shall mail a notice by certified mail to the candidate or political committee within three business days following the filing deadline informing the candidate or political committee that a report was not received. If a candidate or a political committee files a report required under this subchapter late, a notice of preliminary penalty must be sent to the candidate or political committee whose registration or campaign finance report was not received by 11:59 p.m. on the deadline date, informing the candidate or political committee of the staff finding of violation and preliminary penalty calculated under subsection 4-A and providing the candidate or political committee with an opportunity to request a determination by the commission. The notice must be sent by certified mail. Any request for a determination must be made within 14 calendar days of receipt of the commission's notice. The 14-day period during which a determination may be requested begins on the day a recipient signs for the certified mail notice of the proposed penalty. If the certified letter is refused or left unclaimed at the post office, the 14-day period begins on the day the post office indicates it has given first notice of a certified letter. A candidate or political committee requesting a determination may either appear in person or designate a representative to appear on the candidate's or political committee'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.

**7. Final notice of penalty.** If a determination has been requested by the candidate or political committee and made by the commission, notice of the commission's final determination and the penalty, if any, imposed pursuant to this subchapter must be sent to the candidate and the political 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 candidate and treasurer. A detailed summary of all notices must be provided to the commission.

**8. Failure to file report.** The commission shall notify a candidate who has failed to file a report required by this subchapter, in writing, informing the candidate of the requirement to file a report. The notice must be sent by certified mail. If a candidate fails to file a report after 2 notices have been sent by the commission, the commission shall send a final notice by certified mail informing the candidate of the requirement to file and that the matter may be referred to the Attorney General for criminal prosecution. A candidate who fails to file a report as required by this subchapter after the commission has sent the notices required by this subsection is guilty of a Class E crime.

**8-A. Penalties for failure to file report.** The penalty for failure to file a report required under this subchapter may not exceed the maximum penalties as provided in subsection 5-A.

**9. List of late-filing candidates.** The commission shall prepare a list of the names of candidates who are late in filing a report required under section 1017, subsection 2, paragraph C or D or section 1017, subsection 3-A, paragraph B or C within 30 days of the date of the election and shall make that list available for public inspection.

**10. 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.