



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

**Agenda**

**Meeting of March 9, 2004**

9:00 a.m., Commission Offices, 242 State Street, Augusta, Maine

**ROUTINE BUSINESS**

**1. Ratification of minutes of October 28, 2004 meeting**

**OLD BUSINESS**

**2. Request Regarding 2002 Report by People for a Strong Maine Economy**

The Commission received a request from Andre E. Cushing regarding information missing from a December 17, 2002 report by the People for a Strong Maine Economy political action committee. Missing from the report were the names of 108 election-day workers who received \$80 payments. The former PAC treasurer anticipates obtaining the missing payee names from the bank that had the PAC's account and submitting them to the Commission in advance of the March 9 meeting.

**NEW BUSINESS**

**3. Policy Issue: Last-Minute Expenditures**

The Commission staff wishes to report to the Commission members on the continuing problem of last-minute expenditures that result in late payments of matching funds to candidates. The staff requests guidance on whether three PACs and party committees should be considered for late filing penalties at a future meeting, and whether the Commission wishes to recommend any statutory or rule changes to encourage earlier reporting of independent expenditures during the 2006 elections.

**4. Proposed Changes to Commission Bill**

The Ethics Commission's bill making various changes to the Election Law has not been returned to the Commission by the Revisor's Office for red-lining. The Commission staff proposes making changes to the bill through the red-lining process.

**5. Proposed Changes to Expenditure Guidelines**

The staff proposes making changes to the official expenditure guidelines for Maine Clean Election Act candidates in the 2006 elections. The changes respond to candidates' expenditures in the 2004 elections, and seek to clarify certain categories of expenditures that may not be made with public funds.

**6. Over-the-Limit Contribution Received by Thomas White**

Thomas White was a candidate for Sheriff of Franklin County in the 2004 elections. He accepted contributions of \$300 (August 13) and \$500 (October 8) from the Wilton Town Republican Committee, which totaled a contribution of \$800 from the committee for the general election. Under 21-A M.R.S.A. §1015(2), Mr. White was allowed to accept only \$250 from the committee for the general election. *Staff recommendation: the Commission staff recommends that a civil penalty of \$100 be assessed against the candidate, and that a civil penalty of \$100 be assessed against the committee.*

**7. Over-the-Limit Contributions Given by Affiliated Companies to Rep. Joseph Bruno**

On July 21, 2004, Kevin Mattson and six real estate companies associated with him each donated \$250 to Joseph Bruno's campaign for State Senate. Under 21-A M.R.S.A. §1015-A, businesses that share the majority of members of their boards of directors or are owned by the same majority shareholder are treated as a single entity for purposes of the contribution limit. The Commission staff made the preliminary determination that four of the companies should be considered two contributors (each giving \$500) because of common ownership and directors. Mr. Mattson cooperated with the Commission staff by providing information regarding the contributors, and former Rep. Bruno cooperated by promptly returning the over-the-limit contributions. *Staff recommendation: the staff recommends a finding that Rep. Bruno, Zen Investment Holdings, and Harper's Development LLC violated the contribution limit of \$250 for the general election. No civil penalty may be assessed for this violation due to the date of the contributions.*

**8. Request for Waiver of Penalty for Late Annual Lobbyist Report/Jill Duson**

In the 2004 legislative session, Jill Duson was the registered lobbyist for Planned Parenthood for Northern New England. Like all lobbyists, Ms. Duson was required to file an annual report by December 30, 2004 summarizing all lobbying activities during the lobbying year ending November 30, 2004. In June 1, 2004, Christopher Quint replaced Ms. Duson as the Director of Public Affairs for the organization. He was unaware that Ms. Duson was required to but had not filed an annual report. He filed the report on January 3, 2005, four days late. The statutory penalty for the late filing is \$200. *Staff recommendation: because Ms. Duson was not previously late in filing a report and because of turnover in her position, the staff recommends a 50% reduction and the assessment of a \$100 penalty.*

**9. Request for Waiver of Penalty for Late Annual Lobbyist Report/Betsy Smith**

In 2004, Betsy Smith was the lobbyist for Equality Maine. She first became a registered lobbyist in March 2004. She was required to file an annual report by December 30, 2004. The report was filed on January 4, 2005, five days late. Ms. Smith states that because she was a new lobbyist, she was unaware of the requirement to file an annual report. The statutory penalty is \$200. *Staff recommendation: because Ms. Smith was not previously late in filing a report, the staff recommends a 50% reduction and the assessment of a \$100 penalty.*

### 10. Request for Waiver of Late Filing Penalty/John Weaver

John Weaver was the Green-Independent candidate for Senate District #5. Mr. Weaver filed all four required reports late on January 12, 2005 in response to letters stating that he was scheduled to be referred to the Attorney General. He had no activity during two of the reporting periods. The statutory penalties for the other two reporting periods are:

Deadline	Filed Date	# of Days Late	Activity for Period	Percentage	Penalty
June 2, 2004	Jan. 12, 2005	224	\$200	1%	\$448.00
Oct. 27, 2004	Jan. 12, 2005	77	\$157.50	5%	\$606.76
<b>Total</b>					<b>\$1,054.76</b>

*Staff recommendation: Mr. Weaver has not presented any mitigating circumstances to justify the late filing. Nevertheless, because his campaign had only \$325 in receipts for the entire year, it might be appropriate to penalize the October 27 report at a rate of less than 5% so that the total assessed penalty is proportionate to the size of his campaign.*

### 11. Request for Waiver of Late Filing Penalty/Mark Horton

Mark Horton was the Green-Independent candidate for House District #19. He filed all four reports late.

Deadline	Filed Date	# of Days Late	Activity for Period	Percentage	Penalty
June 2	July 1	29	\$456	1%	\$132.24
July 20	July 30	10	\$4,032	3%	\$1,209.60
October 27	October 28	1	\$644.06	5%	\$32.20
December 14	December 15	1	\$1,797.62	5%	\$89.88
<b>Total</b>					<b>\$1,463.92</b>

*Staff recommendation: Mr. Horton has not presented any mitigating circumstances to justify the late filing. Nevertheless, it might be appropriate to penalize the July 20 late report at a rate of 1% because the only financial activity included in the June 2 and July 20 reports was his receipt of public funds which was otherwise disclosed to the public on the Commission's Web site.*

### 12. Request for Waiver of Late Filing Penalty/Paul Madore

In the 2004 primary election, Paul Madore was a candidate for the Democratic nomination in Senate District #16. He did not win the primary. He was required to file a post-election report on July 20, 2004. The report was filed on July 23, 2004. The candidate states that he filed the report late because he was attempting to get advice from the Commission staff, and the candidate's wife has said that she attempted to file the report electronically before the July 20 deadline but had difficulties. The Commission's e-filing system cannot confirm this. The statutory penalty is \$116.34. *Staff recommendation: the Commission should reduce the penalty by 50% and assess a penalty of \$58.17, because the candidate was not late previously in 2004.*

**13. Referral to Attorney General/Kathleen Dougherty**

*Staff recommendation: the Commission staff recommends referring Kathleen Dougherty to the Attorney General for possible criminal prosecution for failing to file a campaign finance report within 30 days of a filing deadline. Ms. Dougherty was a replacement candidate for the State House of Representatives, District 100. She filed her pre-election report on time but did not file a 42-day post-election campaign finance report that was due on December 14, 2004. The Commission mailed her letters on December 17, December 23, December 27, December 29, and January 3. The December 17, December 29, and January 3 letters were sent by certified mail, and were returned to the Commission as "unclaimed." The December 23 and 27 letters were sent by regular mail and were not returned to the Commission, suggesting to the Commission staff that the candidate's address is correct. The Commission staff left voicemail messages requesting a return phone call. Pursuant to 21-A M.R.S.A. §1020-A(8), failing to file a report within 30 days of a filing deadline is a Class E crime.*

**14. Referral to Attorney General/Mathew Gagnon**

*Staff recommendation: the Commission staff recommends referring Matthew Gagnon to the Attorney General to collect a \$1,800 civil penalty. Matthew Gagnon was the Republican candidate for House District #14. He filed the 6-day pre-primary report on June 1 (one day early). He did not file campaign finance reports until January 10, 2005, and the reports were filed in response to letters stating that he would be referred to the Attorney General. The report shows that he had \$800 in receipts for the entire campaign. On January 18, 2005, the Commission staff sent him a letter informing him that the statutory penalty was \$1,800, and requested that he pay the penalty within 30 days or request a waiver. He did neither. On February 25, 2005, the Commission staff sent him a "final notice" that he would be referred to the Attorney General for collection of the penalty. Mr. Gagnon has not responded to either letter. Title 21-A M.R.S.A. §1020-A(10) states that thirty days after it issues a notice of penalty, the Commission shall report to the Attorney General the name of any person who has failed to pay the full amount of the penalty.*

**15. Late Filing Penalty/Kennebunkport Democratic Party Committee**

The Kennebunkport Democratic Town Committee was required to file a report on January 18, 2005. The report was filed 13 days late on January 31, 2005, in response to a telephone call from the Commission staff. The statutory penalty is \$384.54. In a letter dated February 2, the committee's treasurer, Richard Van Bergen requests a waiver of the penalty because: (1) the 2004 reporting form for town committees only lists filing deadlines through 2004 and doesn't mention the January 18, 2005 deadline; (2) with an amended report that he filed on December 7, Mr. Bergen included a letter inquiring whether further reports were required to be filed with the Commission for 2004. *Staff recommendation: it is the responsibility of all party committees to learn and comply with the filing deadlines, and under 21-A M.R.S.A. Section 1017-A, the state party committees are required to notify the town and county committees of those deadlines. The staff mailed a reminder notice regarding the January 18 deadline to the last-known treasurer of the committee (not Mr. Van Bergen) who was listed on the committee's July 15, 2004*

report. Because this report is the first late report since January 1, 2004, the staff recommends reducing the penalty by one-half and assessing a civil penalty of \$192.27.

#### **16. Late Filing Penalty/Penobscot County Democratic Committee**

The Penobscot County Democratic Committee was 83 days late in filing a 6-day pre-general election report due October 27, 2004. It was filed on January 18, 2005. The statutory penalty is capped at a maximum of \$500 (otherwise the penalty would be \$3,390.55). Through a February 8, 2005 letter by its treasurer Kurt A. Keef, the committee requests a waiver of the penalty. Mr. Keef admits that he failed to understand that during an election year a report was due 6 days before the general election, in addition to the two reports that are due every six months. *Staff recommendation: the Commission staff recommends the maximum penalty of \$500 for the following reasons. The October 27 report is important because it is the last regular report due before the general election. The October 27 deadline was clearly posted on the cover page of the July report which the Committee filed. Because the statutory formula would result in a penalty of \$3,390.55, a one-half reduction for first-time lateness (\$1,695.28) would nevertheless result in a penalty that exceeds the \$500 maximum.*

#### **17. Late Filing Penalty/Brunswick Democratic Town Committee**

The Brunswick Town Democratic Committee was late in filing 24-hour reports due October 28, 2004 and November 2, 2004. The statutory penalty is capped at a maximum of \$500 (otherwise the penalty would be \$780). The committee's treasurer, Lars Rydell, requests a waiver of the penalty because he went into the hospital on October 25, 2004 for hip replacement surgery and apparently did not leave clear instructions with other members of the committee about the obligation to file 24-hour reports. *Staff recommendation: the Commission staff recommends reducing the penalty by 50% to \$390 because the party committee had no previous late filings during 2004.*

#### **18. Late Independent Expenditure and 24-Hour Reports/Lincoln County Democratic Committee**

The Lincoln County Democratic Committee made independent expenditures dated October 14 -21 totaling \$7,104.86, and filed them in a report on October 27. The Election Law and Commission Rules require that independent expenditures greater than \$250 per candidate be filed within 24 hours. Because the report was filed late, candidates received matching funds late.

In addition, county party committees are required to file a 24-Hour Report within 24 hours of making an expenditure of \$1,000 or more. The Lincoln County Democratic Committee reported an October 25 expenditure of \$1,000 to the Waldoboro Post Office for postage one day late on October 27. It reported an October 26 expenditure of \$3,750 to Clear Channel Radio one day late on October 28. Treasurer Joan D. Kierstead has submitted a written request that the penalties be waived. *Staff recommendation: for the late filing of the independent expenditure report, the Commission should assess the routine statutory penalty of \$426.29. Because matching funds were delayed, the Commission should assess an additional penalty of \$500 under the Maine Clean Election Act for violating the Commission Rules regarding reporting independent expenditures.*

*For the late filing of the 24-Hour Reports, the Commission should assess the statutory penalties totaling \$47.50 (\$10.00 + \$37.50).*

**19. Late 6-Day Pre-Election Campaign Finance Report/Franklin County Democratic Committee**

The Franklin County Democratic Party Committee was required to file a 6-day pre-election report on October 27, 2004, because it had expenditures in excess of \$1,500 for the calendar year. The Committee filed a report on January 18, 2005, and included activity that should have been included in the October 27 report. The statutory penalty for failing to file an October 27 report is capped at \$500 (otherwise the penalty would be \$2,760.58). The Committee treasurer, Karen Schuler, requested a waiver of the penalty in a letter dated February 3, 2005 because the committee apparently never collected or spent more than \$1,500 in a calendar year and never was required to file a report before. Also, the committee did not receive a notice that a report was due. *Staff recommendation: the Commission staff recommends assessing the maximum penalty of \$500. It is the responsibility of all party committees to learn and comply with the filing requirements, and the Election Law requires the state party committees to notify the local party committees of the filing deadlines. Even reducing the \$2,760.58 penalty by 50% due to the committee's inexperience and lack of previous violations, the penalty exceeds the \$500 maximum.*

**Other**

Miscellaneous as needed.

**EXECUTIVE SESSION**

If necessary.

**ADJOURNMENT**