



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

Commission Meeting 10/29/2021
Agenda Item #2

To: Commission
From: Michael Dunn, Esq.
Date: September 27, 2021
Re: Protect Maine Elections Waiver Request

Within seven days of registering as a political action committee (“PAC”), the PAC is required to file an Initial Campaign Finance Report that discloses all activity from the start of the year through the date of registration. 21-A M.R.S. § 1059. To file a campaign finance report on the e-filing system, the PAC officers must enter the transactions into the system and then file the report. The information entered by the officers does not become accessible to the public until the committee officer files the report. This allows committee officers to enter transactions as they occur without being concerned about early disclosure.

Protect Maine Elections PAC (the “PAC”), registered on September 9, 2021. The PAC’s Initial Campaign Finance Report was due on September 16, 2021. ETH. 5. The PAC entered all of its transactions prior to the deadline but did not file the report until 6:44 AM on September 17th. ETH. 1, 5. The PAC’s Initial Campaign Finance Report disclosed \$50,200 in contributions. The Commission staff assessed a preliminary penalty of \$1,004, based on the statutory calculation. ETH. 2-4.

On September 23, 2021, the PAC made a timely request for waiver. ETH. 1. The PAC indicates that it had entered all of the transactions prior to the deadline and that technology issues with the Commission’s website prevented the PAC from filing the report. ETH. 1. Specifically, the PAC indicates that Rep. Kyle Bailey, an authorized agent for the PAC, was traveling on the due date and his iPad could not file the report. ETH. 1.

LEGAL REQUIREMENTS

Reporting Requirements. PACs are required to file campaign finance reports according to a schedule set in statute. 21-A M.R.S. § 1059(2). A PAC’s first report is due within

seven days of registration and covers the time period from January 1st through the date of registration. Id.

Late-filing procedures. If a PAC is late in filing a campaign finance report, the amount of the preliminary penalty is set by a formula which takes the total contributions or expenditures for the report period (whichever is greater), multiplies that by the number of days the report was late, and then takes a percentage (2% for a first violation) of that value as the preliminary penalty. 21-A M.R.S. § 1062-A(3).

Waiver Request. The Commission may waive the penalty in whole or in part if the penalty “is disproportionate to the level of experience of the person filing the report or the harm suffered by the public from the late disclosure.” 21-A M.R.S. § 1062-A(2). The Commission may also waive the penalty if it determines the failure to file a timely report was due to mitigating circumstances: (1) a valid emergency of the committee treasurer 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; (2) an error by the commission staff; or (3) 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. Id.

ANALYSIS AND STAFF RECOMMENDATION

The PAC requested a waiver because (1) all contributions and expenditures were entered into the system prior to the deadline and (2) as a result of technology issues, the PAC was unable to file the report timely. ETH. 1. The Commission staff recommends the Commission reject both contentions by the PAC. However, the Commission staff does recommend a partial reduction due to the Commission’s precedent.

The Commission staff recommends rejecting the PAC’s contention that a waiver should be granted because the transactions were entered into the system prior to the deadline. Under 21-A M.R.S. § 1062-A, a report is not timely filed unless it is electronically submitted and substantially conforms to the disclosure requirements in chapter 13 of the

Election Law by 11:59 PM on the date that it is due. The Commission's e-filing system does not make the information public until the PAC files (electronically submits) the report. Whether the information was entered into the system goes to the second prong of the statute that the report (which is automatically assembled by the e-filing system based on the information input by the PAC), is substantially conforming to the disclosure requirements but not to the first prong, which is that the report must be submitted. For these reasons, the Commission staff recommends that the Commission reject this argument.

The PAC's second argument is that technology issues with the Commission's website prevented the PAC from timely filing the report. ETH. 1. The Commission staff tested this concern using a personal iPad with Safari. The Commission staff was able to file a test report without issue. This does not rule out the possibility that the PAC encountered some type of technological issue, but it does not appear to be caused by the Commission's website. Additionally, Rep. Bailey could have contacted one of the other officers on the PAC and have them file the report when he encountered difficulty. For these reasons, the Commission staff recommends that the Commission reject this argument by the PAC.

Despite rejecting the PAC's arguments, the Commission staff still recommends reducing the penalty from \$1,004 to \$750. This reduction is consistent with the Commission's precedent for good faith errors on the part of the PAC. Since 2018, the Commission staff has recommended that a minimum penalty for late PAC reports be \$750. The Commission staff finds no evidence the PAC attempted to conceal its activity or act in bad faith regarding its disclosure obligations. For these reasons, the Commission staff recommends the Commission grant a partial waiver and reduce the penalty to \$750.

Thank you for your attention in this matter.

September 23, 2021

Maine Ethics Commission
135 State House Station
Augusta, Maine 04333

Dear Members of the Maine Ethics Commission,

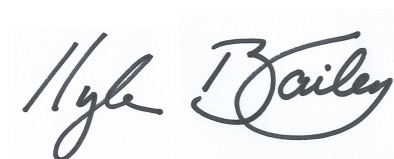
Protect Maine Elections received a penalty letter via email on September 17, 2021. I request that the Commission waive this penalty on the basis that (a) all contributions and expenditures were uploaded to the system prior to the deadline, and (b) technology issues with the Commission's website prevented me from hitting the "file" button for a timely filing.

All contributions and expenditures that are shown on the most recent disclosure report were input into the Commission's system prior to the deadline (log-in information for the backend was not received until the morning of September 16, 2021). However, when I went online to file the report on the September 16, 2021 due date, I was unable to do so.

I was traveling on the due date with only my iPad with Safari (and spotty Internet access). Apparently, issues using tablets and/or certain browsers exist with the Commission's website. I contacted the staff at the Commission to make them aware of my attempt, and subsequently filed the report around 6:45am on the next day from my home computer using a Chrome browser.

I apologize for my unintentional tardiness in filing this report and request that the Commission waive the applied penalty for the reasons listed above. I have a solid track record of filing timely, thorough and accurate reports to the Maine Ethics Commission over many years. I will be sure that all future reports are filed well before the deadline to avoid any last minute issues that may arise due to technology or other issues.

Sincerely,

A handwritten signature in black ink that reads "Kyle Bailey". The signature is written in a cursive, flowing style.

Kyle Bailey, Campaign Manager
Protect Maine Elections



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

September 17, 2021

Ms. Kaitlin LaCasse
Protect Maine Elections
PO Box 182
Raymond, ME 04071

Re: Protect Maine Elections Late Filing of Initial Financial Report

Dear Ms. LaCasse:

The Commission staff has made a finding that the Protect Maine Elections (the PAC) was late in filing its Initial Financial Report. The report was due by 11:59 p.m. on 09/16/2021, but was not filed until 09/17/2021. Under the Commission's statutes, the late filing of a report triggers an enforcement process. (21-A M.R.S.A. § 1062-A). Based on the amount of financial activity in the report, the number of calendar days the report was late, and the PAC's history of violations, the Commission staff has determined that a penalty of \$1,004.00 is owed. (Please see attached penalty matrix for the calculation.)

The PAC may make a written request that the Commission waive the violation or penalty in whole or in part. Any request for a waiver 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 PAC filed late. Upon receiving your request, the Commission staff will schedule your appeal for an upcoming Commission meeting.

The Commission may waive the penalty 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 the PAC made a bona fide effort to file the report on time. Also, the Commission may waive the penalty if it is disproportionate to the level of experience of the person filing the report or the harm suffered by the public from the late disclosure.

Please call me at (207) 287-4709 or send me an email at michael.dunn@maine.gov if you have questions.

Sincerely,

Michael J. Dunn

Michael J. Dunn, Esq.
Political Committee and Lobbyist Registrar

PAYMENT RECEIPT
(Please enclose with payment.)

Mail payment to:

Maine Ethics Commission
135 State House Station
Augusta, ME 04333

Make checks payable to: "Treasurer, State of Maine."

Kaitlin LaCasse
Protect Maine Elections
PO Box 182
Raymond, ME 04071

Violation: Late Initial Financial Report
Amount Due: \$1,004.00

Committee Name: Protect Maine Elections

Prior Violations:

Report Name	Activity Amount	Due Date	Days Late	Penalty Rate	Penalty
Initial Financial Report	\$50,200	09/16/2021	1	2%	\$1,004.00

The penalty for late filing of a required report is a percentage of the total contributions or expenditures for the filing period, whichever is greater, multiplied by the number of calendar days the report is filed late, as follows:

For the first violation, 2%

For the second violation, 4%

For the third and each subsequent violation, 6%

A penalty begins to accrue at 11:59 p.m. on the day the report is due.

A required report that is sent by certified or registered United States mail and postmarked at least 2 days before the deadline is not subject to penalty.

Violations accumulate on reports with filing deadlines in a 2-year period that begins on January 1st of each even-numbered year. Waiver of a penalty does not nullify the finding of a violation.

MAXIMUM PENALTIES

21-A M.R.S.A. Section 1062-A(4)

\$10,000 for Pre- and Post-Election Reports, Quarterly Reports and 24-Hour Reports, except that if the financial activity reported late exceeds \$50,000, the maximum penalty is 100% of the amount reported late.



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

2021 CAMPAIGN FINANCE REPORT

FOR POLITICAL ACTION COMMITTEES

COMMITTEE		TREASURER	
Protect Maine Elections PO Box 182 Raymond, ME 04071 PHONE:(207) 730-2779 EMAIL: info@protectmaineelections.com		Kaitlin LaCasse 47 Tenny Hill Road Raymond, ME 04071 PHONE: EMAIL: kaitlin.lacasse@gmail.com	
REPORT	DUE DATE	REPORTING PERIOD	
Initial Financial Report	09/16/2021	01/01/2021 - 09/09/2021	

FINANCIAL ACTIVITY SUMMARY

RECEIPTS	TOTAL FOR PERIOD	TOTAL FOR YEAR
1. CASH CONTRIBUTIONS (SCHEDULE A)	\$50,200.00	\$50,200.00
2. OTHER CASH RECEIPTS (INTEREST, ETC.)	\$0.00	\$0.00
3. LOANS (SCHEDULE C)	\$0.00	\$0.00
4. TOTAL RECEIPTS (LINE 1 + 2 + 3)	\$50,200.00	\$50,200.00
EXPENDITURES		
5. EXPENDITURES TO SUPPORT OR OPPOSE (SCHEDULE B)	\$317.00	\$317.00
6. OPERATING EXPENDITURES (SCHEDULE B-1)	\$0.00	\$0.00
7. LOAN REPAYMENTS (SCHEDULE C)	\$0.00	\$0.00
8. TOTAL PAYMENTS (LINE 5 + 6 + 7)	\$317.00	\$317.00
CASH SUMMARY		
9. CASH BALANCE AT BEGINNING OF PERIOD	\$0.00	
10. PLUS TOTAL RECEIPTS THIS PERIOD (LINE 4)	\$50,200.00	
11. MINUS TOTAL PAYMENTS THIS PERIOD (LINE 8)	\$317.00	
12. CASH BALANCE AT END OF PERIOD	\$49,883.00	
OTHER ACTIVITY		
13. IN-KIND CONTRIBUTIONS (SCHEDULE A-1)	\$0.00	\$0.00
14. TOTAL LOAN BALANCE AT END OF PERIOD (SCHEDULE C)	\$0.00	
15. TOTAL UNPAID DEBTS AT END OF PERIOD (SCHEDULE D)	\$0.00	

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

REPORT FILED BY: Kyle Bailey
 REPORT FILED ON: 9/17/2021 6:44:34 AM
 LAST MODIFIED:
 COMMITTEE ID: 405898

**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	EMPLOYER AND OCCUPATION	TYPE	AMOUNT
9/9/2021	Jeff Clements 11 Ocean St Peaks Island, ME, 04108	American Promise President & CEO	1	\$10,000.00
9/9/2021	John Palmer 9 Jordan Lane Raymond, ME, 04071	Hanover Partners Government/Civil	1	\$12,500.00
9/9/2021	Kyle Bailey 114 Johnson Road Gorham, ME, 04038	State of Maine State Representative	1	\$100.00
9/9/2021	Mary Palmer 9 Jordan Lane Raymond, ME, 04071	NA Not Currently Employed	1	\$12,500.00
9/9/2021	Nancy Heselton 11 Ocean Street Peaks Island, ME, 04108	Whaleback Partners Financial/Investment	1	\$15,000.00
9/9/2021	Richard A Bennett 75 BENNETT LANE OXFORD, ME, 04270	Self-employed General Business	1	\$100.00
TOTAL CASH CONTRIBUTIONS				\$50,200.00

**SCHEDULE B
EXPENDITURES TO SUPPORT OR OPPOSE**

EXPENDITURE TYPES					
APP	Apparel (t-shirts, hats, embroidery, etc.)	CON	Contribution to party committee, non-profit, other candidate, etc.		
EQP	Equipment of \$50 or more (computer, tablet, phone, furniture, etc.)	EVT	Campaign and fundraising events (venue or booth rental, entertainment, supplies, etc.)		
FOD	Food for campaign events or volunteers, catering	HRD	Hardware and small tools (hammer, nails, lumber, paint, etc.)		
LIT	Printed campaign materials (palmcards, signs, stickers, flyers, etc.)	MHS	Mail house and direct mail (design, printing, mailing, and postage all included)		
NEW	Newspaper and print media ads only	OFF	Office supplies, rent, utilities, internet service, phone minutes and data		
ONL	Social media and online advertising only	OTH	Other and fees (bank, contribution, and money order fees, etc.)		
PER	Personnel and campaign staff, consulting, and independent contractor costs	PHO	Phones (phone banking, robocalls and texts)		
POL	Polling and survey research	POS	Postage for U.S. Mail and mail box fees		
PRO	Professional services (graphic design, legal services, web design, etc.)	RAD	Radio ads, production costs		
TKT	Entrance cost to event (bean suppers, fairs, party events, etc.)	TRV	Travel (fuel, mileage, lodging, etc.)		
TVN	TV/cable ads, production, and media buyer costs only	WEB	Website and internet costs (website domain and registration, etc.)		
DATE OF EXPENDITURE	PAYEE	REMARK		TYPE	AMOUNT
9/9/2021	Kaitlin LaCasse 47 TENNY HILL ROAD RAYMOND, ME, 04071	Compliance services PAYMENT OF \$250.00 TO SUPPORT: In support of "An Act to Prohibit Foreign Influence in Maine Elections..."		PRO	\$250.00
9/9/2021	USPS 1235 ROOSEVELT TRAIL RAYMOND, ME, 04071	Reimbursement to Kaitlin LaCasse for opening a PO Box PAYMENT OF \$67.00 TO SUPPORT: In support of "An Act to Prohibit Foreign Influence in Maine Elections..."		POS	\$67.00
TOTAL EXPENDITURES TO SUPPORT OR OPPOSE:					\$317.00

Title 21-A Maine Revised Statutes

§ 1059. Report; filing requirements

A committee required to register under section 1052-A, 1053-B or 1056-B shall file an initial campaign finance report within 7 days of registration and thereafter shall file reports in compliance with this section. All reports must be filed by 11:59 p.m. on the day of the filing deadline, except that reports submitted to a municipal clerk must be filed by the close of business on the day of the filing deadline.

...

§ 1062-A. Failure to file on time

1. Registration. A political action committee required to register under section 1052-A, 1053-A or 1053-B or a ballot question committee required to register under section 1053-A or 1056-B that fails to do so or that fails to provide the information required by the commission for registration may be assessed a fine of no more than \$2,500. In assessing a fine, the commission shall consider, among other things, whether the violation was intentional, the amount of campaign and financial activity that occurred before the committee registered, whether the committee intended to conceal its campaign or financial activity and the level of experience of the committee's volunteers and staff.

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 6, the commission shall determine whether a required report satisfies the requirements for timely filing. The commission may waive a penalty in whole or in part if it is disproportionate to the level of experience of the person filing the report or to 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 of the committee treasurer 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; or
- C.** 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. 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 2-year period that begins on January 1st of each even-numbered calendar 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 required report may be provisionally filed by transmission of a facsimile copy of the duly executed report to the commission, as long as an original of the same report is received by the commission within 5 calendar days thereafter.

4. Maximum penalties. The maximum penalty under this subchapter is \$10,000 for reports required under section 1053-A, 1056-B or 1059, except that if the dollar amount of the financial activity that was not timely filed or did not substantially conform to the reporting requirements of this subchapter exceeds \$50,000, the maximum penalty is 100% of the dollar amount of that financial activity.

...

**Decisions on Late-Filing Penalty Waiver Requests - Committees
(2018 - present)**

Committee Name	Type of Report	Preliminary Penalty	Final Penalty	Commission Meeting Date
Waiver Requests				
Maine United Auto Workers PAC	Late January Quarterly	\$400.00	\$400.00	04/25/18
Maine Health Care Assoc. PAC	Late 24-Hour Report	\$2,760.00	\$500.00	08/29/18
Fecteau Leadership PAC	Late 24-Hour Report	\$400.00	\$400.00	08/29/18
New Mainers PAC	Late 24-Hour Report	\$10,000.00	\$1,000.00	03/06/19
Unite Portland PAC (<i>Municipal</i>)	Late IE Report	\$5,000.00	\$1,250.00	12/18/19
	Late IE Report	\$2,052.16	\$750.00	12/18/19
Women's Leadership Fund PAC	Late IE Report	\$100.00	\$50.00	08/11/20
Maine Truck PAC	Late 24-Hour Report	\$2,686.68	\$50.00	10/16/20
Revive Hometown Maine PAC	Late October Quarterly	\$510.00	\$250.00	10/30/20
Mainers for Health and Parental Rights	Late 24-Hour Report	\$980.00	\$750.00	01/27/21
Kittery Democratic Committee	Late 11-Day Pre-General Report	\$500.00	\$100.00	02/24/21
Madison Republican Committee of Maine	Late 11-Day Pre-General Report	\$500.00	\$100.00	02/24/21
York Town Republican Committee	Late 11-Day Pre-General Report	\$500.00	\$100.00	02/24/21
Energy PAC for Maine	Late 24-Hour Report	\$8,840.00	\$750.00	03/31/21

Late Major Contributor Decisions - Committees (2020 - present)				
Committee Name	Type of Late Report/Other Violation	Preliminary Penalty	Final Penalty	Commission Meeting Date
Waiver Requests				
Mainers for Local Power PAC	Late Major Contributor (2)	\$53,431.15	\$2,500.00	03/10/20
Maine Street Solutions - Protect Schools BQC	Late Major Contributor	\$25,000.00	\$2,000.00	05/27/20
Clean Energy Matters PAC	Late Major Contributor Notice	\$50,000.00	\$2,500.00	03/31/21
We the People PAC	Late Major Contributor Notice	\$11,500.00	\$2,500.00	05/26/21
Mainers for Local Power PAC	Late Major Contributor Notice	\$13,786.32	\$2,500.00	08/23/21
Other Enforcement Decisions - Committees (2018 - present)				
Committee Name	Type of Late Report/Other Violation	Preliminary Penalty	Final Penalty	Commission Meeting Date
Other Violations				
Sara Gideon Leadership PAC	Contributions Made in Name of Another		\$500.00	10/30/19
Working Families PAC	Failure to file 2020 October Quarterly; 11-Day Pre-General, 42-Day Post-General, and 2021 January Quarterly and April Quarterly campaign finance reports		\$3,750.00	05/26/21
Mainers for Fair Laws BQC	Missing Disclaimers in television ads		\$2,500.00	09/29/21
Working Families PAC	Over the limit contribution to Diane Russell senate campaign		\$285.00	09/29/21