



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

Commission Meeting 12/18/2020
Agenda Item #4

To: Commission
From: Michael Dunn, Political Committee Registrar
Date: December 9, 2020
Re: Working Families PAC – Staff Initiated Request for Investigation

Working Families PAC (“the PAC”) registered with the Commission on 05/22/2013. Former State Rep. Diane Russell has been the principal officer for the PAC since registration. Until recently, Ms. Eiranne Hart was the listed treasurer for the PAC.

As part of the Commission’s ongoing compliance efforts, the Commission staff emailed Ms. Hart the committee’s balance as reported on the 42-Day Post-Primary report on 08/27/2020 with instructions to contact staff if the balance did not match the bank account balance. On 09/03/2020, Ms. Hart contacted staff and indicated that she believed that the \$13,715.71 reported balance was inaccurate. Ms. Hart stated that she did not have access to the bank’s records but had never seen the account balance that high. Ms. Hart then submitted a resignation to staff on 09/03/2020. ETH – 6.

On 09/03/2020, staff emailed Diane Russell notice of the resignation and instructed her to select a new treasurer and update the registration. ETH – 7. The PAC was required to file the October Quarterly Report on 10/05/2020 but failed to do so. ETH – 8. On 10/06/2020, Commission staff emailed Ms. Russell a notification that the report had not been filed. On 10/09/2020, staff called Ms. Russell but the voicemail box was full and could not accept additional messages. On 10/15/2020¹, staff mailed a notice of the late filing. ETH – 1. The PAC was also required to file the 11-Day Pre-General Report on 10/23/2020, which was not filed. ETH – 8. The e-filing system emailed a notice of late filing on 10/24/2020. On 10/28/2020, Commission staff followed up with an additional email and mailed a letter. ETH – 2. On 11/18/2020, Dir. Wayne emailed Ms. Russell. On 11/24/2020, Commission staff mailed and emailed Ms. Russell notification that this matter would be heard by the Commission on 12/18/2020; Dir. Wayne also called Ms.

¹ Due to the registration not providing Ms. Russell’s address, the mailings, except for the 11/24/2020 mailing, are not believed to have been received by Ms. Russell.

Russell but the voicemail box was still full. ETH – 3-5. To date, no response has been received by staff and the reports remain unfiled.

LEGAL REQUIREMENTS

Investigations by the Commission. The commission may undertake audits and investigations to determine whether a person has violated this chapter, chapter 14 or the rules of the commission. 21-A M.R.S. 1003; ETH – 9.

Registration. A political action committee must have a treasurer and a principal officer. 21-A M.R.S. § 1052-A(2); ETH – 10. The same individual may not serve in both positions. Id. A political action committee shall amend the registration within 10 days of a change in the information that the political action committee is required to disclose on its registration. Id. at (1). An individual who resigns as a treasurer of a political action committee shall submit a written resignation statement to the Commission that is effective as of the date received by the Commission. Id. at (5). The Commission may assess a fine of no more than \$2,500 for failure to provide required information in a registration. 21-A M.R.S. § 1062-A(1); ETH – 13.

Reporting requirements. PACs are required to file campaign finance reports according to a schedule set in statute. 21-A M.R.S. § 1059(2); ETH – 11. According to this schedule, all PACs were required to file the October Quarterly report by 10/05/2020, and the 11-Day Pre-General Report by 10/23/2020. 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); ETH – 13.

Failure to File. The Commission may assess a civil penalty for failure to file a report within 30 days of the filing deadline under § 1059. 21-A M.R.S. § 1062-A(8),(8-A); ETH – 14. The maximum penalty for failure to file a report is \$10,000 or the amount of the financial activity not reported, whichever is greater. Id.

DISCUSSION AND STAFF RECOMMENDATION

I. Incorrect Committee Mailing Address and Failure to Update the Registration.

Pursuant to 21-A M.R.S. § 1052-A(2), a political action committee must have a treasurer and principal officer, who cannot be the same person. ETH – 9-10. A committee shall amend the registration within 10 days of a change in the information that committees are required to disclose. 21-A M.R.S. § 1052-A(1)(B). A committee shall file an updated registration form by March 1st of each year in which a general election is held. Id. at (C). Failure to provide accurate information in a registration can result in a fine of no more than \$2,500. 21-A M.R.S. § 1062-A(1). In assessing a fine the Commission shall consider whether the violation was intentional, the amount of campaign and financial activity that occurred before the registration, whether committee intended to conceal its campaign activity, and the level of experience of the committee’s volunteers and staff. Id.

On 01/24/2020, Commission staff emailed all committee officers instructing them to review their registrations and update the information as appropriate. Ms. Russell responded to staff’s email regarding updating some information and staff directed her in making that change. Ms. Russell filed an amendment on 04/13/2020. The amendment updated the committee’s address to one in Saco, Maine. The treasurer, Ms. Hart, had an address listed in Raymond, Maine, and Ms. Russell left her address blank.

For the mailings on 10/15/2020 and 10/28/2020, Commission staff sent the letters to the Saco address, as it was the only address on file after the staff removed Ms. Hart from the registration. Staff later determined that the Saco address was Ms. Hart’s current address and the Raymond address was an old address for Ms. Hart. Ms. Russell had removed her address from the registration on June 16, 2014. Ms. Hart provided Ms. Russell’s address as of December 2019, and staff mailed the 11/24/2020 correspondence to that address.

Ms. Russell had failed to update the PAC’s registration in two meaningful instances. The first instance is that she failed to update her address as part of the biannual registration (and for the past 3 re-registrations) process to include her mailing address. This resulted in important mailings failing to reach her. The second instance is that she has failed to select a new treasurer in the three months since she was notified by Commission staff of her obligation to do so.

The Commission staff has historically been flexible with Committee's regarding their registrations, and staff would recommend maintaining that flexibility² as a general rule. Staff in this instance, however, believes the long-standing violation and failure to correctly update the registration with the assistance of staff and failure to maintain accurate contact information rises to the level of a potential violation.

Staff recommends that the Commission defer finding a violation until after the completion of the staff's investigation. Staff will continue to attempt to reach Ms. Russell for comment and gather information to present a complete picture to the Commission.

II. The PAC's failure to file the October Quarterly and 11-Day Pre-General Reports.

All PACs were required to file the October Quarterly report by 10/05/2020, and the 11-Day Pre-General Report by 10/23/2020. 21-A M.R.S. § 1059(2); ETH – 11. These report periods cover from 08/19/2020 through 09/30/2020 and from 10/01/2020 through 10/20/2020. Id. The preliminary penalty for a late report is based on a statutory calculation that takes into consideration the amount of financial activity, number of days late, and a set percentage of the activity; however, if a report is not filed after 30 days of its due date, the Commission may impose a penalty of up to \$10,000 or the amount of activity, whichever is greater. 21-A M.R.S. §§ 1062-A(3), (8), (8-A); ETH – 13-14.

Here, neither that October Quarterly or the 11-Day Pre-General Reports have been filed and are more than 30 days late. ETH – 8. If the reports were filed, the PAC's penalties under § 1062-A(3) would be calculated at 6% because the PAC had filed the April Quarterly and 11-Day Pre-Primary Reports late.³

The Commission could find a penalty at this point under § 1062-A(8-A); however, the Commission staff recommends that the Commission defer finding a penalty until after the completion of the staff's investigation. Currently, Ms. Russell has not responded to these inquiries and requests for comment. Commission staff does not know the financial

² For example, an organization's committee may have an officer resign and the organization needs to elect a new officer. This process generally takes more than 10 days as required by statute, but in those instances the organizations are in regular contact with staff.

³ These late filings did not generate a collectable penalty because the preliminary penalty was under \$10.

activity of the PAC, nor is staff aware of Ms. Russell's current circumstances. For these reasons, staff recommends that the Commission defer imposing a penalty until a more complete picture can be provided.

III. Staff's request for investigation.

The commission may undertake audits and investigations to determine whether a person has violated this chapter, chapter 14 or the rules of the commission. 21-A M.R.S. 1003(1); ETH – 9. Importantly, the “sufficient grounds for believing that a violation may have occurred” standard is not required when the Commission undertakes an audit and investigation on its own initiative.

Ms. Hart was listed as the Treasurer for the PAC from 09/14/2015 through 09/03/2020. On 09/03/2020, Ms. Hart responded to staff's email⁴ regarding the PAC's reported account balance. Ms. Hart indicated that she did not have access to the bank records but that she had never seen the committee's balance be close to the \$13,715.71 reported balance⁵. Ms. Hart indicated that she wished to resign, and she submitted a resignation to staff on 09/03/2020, staff emailed Ms. Russell regarding. ETH – 6-7.

On 11/18/2020, Ms. Hart spoke with Dir. Wayne and staff. She indicated that she had not seen the bank statements for about two years. Ms. Hart said that she would login to Act Blue to get the contributions, and that Ms. Russell would message her the transactions on the account, and she would enter them into the Commission's system. At one point, however, she found a discrepancy between the account balance and the report balance sometime prior to 09/18/2018. On 09/18/2018, Ms. Hart requested copies of the bank statements to reconcile the account, but Ms. Russell never provided her those records. Then on 12/24/2019, Ms. Hart informed Ms. Russell that she was no longer comfortable filing the reports. Ms. Hart had not filed a report since that time; however, the Commission's system shows that Ms. Hart had signed in and filed reports in 2020. Ms. Russell's login information for this PAC is marked as inactive. It is believed that Ms. Russell was logging-in to the system using Ms. Hart's credentials to file reports.

⁴ The staff emails each committee their reported balance as part of an ongoing compliance review.

⁵ Ms. Hart indicated that she had only ever seen the balance in the range of a couple thousand dollars.

To ensure that committee funds are appropriately reported, all committee are required to have at least two people as officers who are jointly responsible for spending decisions and reporting financial activity correctly. 21-A M.R.S. § 1054-A. In this case, however, Ms. Russell has been the only officer for years with access to the account and when a discrepancy was discovered she failed to work to resolve it despite Ms. Hart's attempts to do so. Commission staff believes that it is possible that after review no additional violations may result from the investigation; however, these facts seem to give rise to a reasonable inference of violations that warrant a further review by the Commission.

The Commission staff is requesting an investigation to review the transactions on the account and to ensure that the previously filed reports are substantially conforming to the reported activity and to correct any discrepancies on the account. Commission staff would continue to attempt to reach Ms. Russell through the investigation. Staff would also plan on subpoenaing Five County FCU, where the PAC's bank account is located, for all 2020 bank statements for the PAC. If the account balance appears similar to the reported balance, then there is likely no need for further investigation. If, however, there is a discrepancy then further review may be warranted.

Thank you for your attention in this matter.



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AUGUSTA, MAINE 04333-0135

October 15, 2020

Diane Russell
4 Oak St.
Saco, ME 04072

Re: Working Families PAC Late Filing of 2020 October Quarterly Report

Dear Ms. Russell:

Our records show that the Working Families PAC (the PAC) has not filed its 2020 October Quarterly campaign finance report. The report was due by 11:59 p.m. on 10/05/2020. **Please file this report as soon as possible.**

State law (21-A M.R.S.A. § 1062-A) requires that a penalty be assessed for late reports based on the amount of financial activity conducted during the filing period, the number of calendar days a report is filed late, and the PAC's filing record. If the PAC raised or spent money during the filing period, it could be subject to civil penalties that are accruing on a daily basis. Once the PAC has filed its report, our office will calculate the penalty and will notify you of the amount of the penalty.

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



STATE OF MAINE
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AUGUSTA, MAINE 04333-0135

October 28, 2020

Diane Russell
4 Oak St.
Saco, ME 04072

Re: Working Families PAC Late Filing of the October Quarterly and 11-Day Pre-General Report

Dear Ms. Russell:

Our records show that the Working Families PAC (the PAC) has not filed its October Quarterly or 11-Day Pre-General campaign finance reports. The October Quarterly was due on 10/05/2020 and the 11-Day Pre-General was due on 10/23/2020. **Please file these reports as soon as possible.**

State law (21-A M.R.S.A. § 1062-A) requires that a penalty be assessed for late reports based on the amount of financial activity conducted during the filing period, the number of calendar days a report is filed late, and the PAC's filing record. If the PAC raised or spent money during the filing period, it could be subject to civil penalties that are accruing on a daily basis. Once the PAC has filed its report, our office will calculate the penalty and will notify you of the amount of the penalty.

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



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

November 24, 2020

Sent via Certified and Regular USPS and Email

Hon. Diane Russell
Working Families PAC
32 Grant St.
Portland, ME 04101

Re: Request to Investigate Working Families PAC

Dear Ms. Russell:

On December 18, 2020, the Maine Ethics Commission will be considering a request by the Commission staff to initiate an investigation into the Working Families PAC (the "PAC"). The staff requests that you respond in writing no later than **December 8, 2020**. The Commission staff strongly encourages you to participate in the discussion of this matter at the December 18, 2020 meeting although your participation is not required.

REQUIREMENT TO UPDATE REGISTRATION

Pursuant to 21-A M.R.S. § 1052-A(2), a political action committee must have a treasurer and principal officer, who cannot be the same person. A committee shall amend the registration within 10 days of a change in the information that committees are required to disclose. 21-A M.R.S. § 1052-A(1)(B). Failure to provide accurate information in a registration can result in a fine of no more than \$2,500. 21-A M.R.S. § 1062-A(1). In assessing a fine the Commission shall consider whether the violation was intentional, the amount of campaign and financial activity that occurred before the registration, whether committee intended to conceal its campaign activity, and the level of experience of the committee's volunteers and staff. Id.

On September 3, 2020, Ms. Eiranne Hart submitted a signed resignation as treasurer for the PAC to my office. On the same day, I forwarded that communication to you at dianerussell207@gmail.com. I did not receive a reply. Recently, I realized that the committee's sole listed address is Ms. Hart's and that previous mailings had not reached you as a result.

The Commission staff requests that you update the PAC's registration to reflect the PAC's and your current contact information, and that you select a new treasurer and update the PAC's registration with the new treasurer's contact information. The new treasurer will also be required to submit the acknowledgment of responsibilities form that can be found at maine.gov/ethics.

UNFILED CAMPAIGN FINANCE REPORTS

All political action committees were required to file the October Quarterly Report by October 5, 2020, and the 11-Day Pre-General Report by October 23, 2020. 21-A M.R.S. § 1059(2). If no report has been filed then the Commission may assess a civil penalty up to \$10,000, or the amount of financial activity not reported, whichever is greater. 21-A M.R.S. § 1062-A(8-A). If the report is filed late, then the penalty is calculated based on a percentage of the amount of the financial activity reported late multiplied by the number of days that the report was filed late. Because the PAC has already filed two reports late in 2020, the percentage for the two reports mentioned above is 6%. 21-A M.R.S. § 1062-A(3). The Commission may waive the penalty for a late-filed report 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, or if the failure to file the report timely was due to mitigating circumstances. 21-A M.R.S. § 1062-A(2). A mitigating circumstance means a valid emergency, an error by Commission staff, or other circumstances that warrant mitigation of the penalty. Id.

On October 6, 2020, the Commission staff sent you an email notifying you that the October Quarterly Report had not been filed and followed-up with a letter on October 15, 2020¹. On October 28, 2020, the Commission staff sent you an email notifying you that the 11-Day Pre-General Report had not been filed and sent another letter². On November 18, 2020, Jonathan Wayne, the Commission's Executive Director, sent you an email regarding the unfiled reports. To date, the Commission staff still has not received a response from you regarding these unfiled reports.

The Commission staff requests that you enter the appropriate transactions and file the PAC's October Quarterly Report and 11-Day Pre-General Report as soon as possible.

REQUEST FOR INVESTIGATION

Pursuant to 21-A M.R.S. § 1003(1), the Commission may undertake an investigation on its own initiative to determine whether a person has violated Maine's campaign finance laws. Political action committees must file complete and accurate reports of all contributions received and expenditures made by the committee. 21-A M.R.S. § 1054-A(1) & (2).

On August 27, 2020, the Commission staff, as part of an ongoing routine compliance review of all political action committees' reports, emailed all committee treasurers their committee's current cash balance as reported in their 42-Day Post-Primary Report, with instructions to contact the Commission staff if the balance did not match the balance in the committee's bank account. On September 3, 2020, Ms. Hart contacted the Commission staff and indicated that she did not believe the PAC's reported balance of \$13,715.71 was accurate. In the same phone call, she stated her intent to resign from the PAC and requested the staff's assistance to do so.

¹ As indicated above, this was sent to the address on record which was no longer accurate.

² Also sent to the incorrect address.

On November 18, 2020, the Commission staff spoke with Ms. Hart regarding her resignation. Ms. Hart indicated that she was not provided access to the PAC's bank account, but her records indicated that she had requested the bank statements from you to resolve a discrepancy on September 18, 2018. She indicated that she was never provided with those bank records. Ms. Hart said she informed you on December 24, 2019 that she was no longer comfortable filing the reports for the PAC. She also was unaware that you had continued to file those reports using her login credentials to access the Commission's campaign finance reporting system.

At the December 18, 2020 meeting, the Commission staff will request that the Commission initiate an investigation into whether the PAC is in compliance with its reporting obligations as required by law. The Commission staff will request the Commission's authorization to obtain the PAC's bank statements for May 2020 through October 2020 to be reviewed by the staff to determine the accuracy of the PAC's reports. Additional records may be requested and reviewed based on the staff's preliminary findings.

PREPARATION FOR DECEMBER 18, 2020 MEETING

The Commission staff would like to provide you the opportunity to respond in writing to the issues raised in this letter and to present to the Commission any arguments why the Commission should not initiate an investigation. You may submit a written response no later than **December 8, 2020**. You will also have the opportunity to participate at the December 18, 2020 meeting, which will be conducted via Zoom. The Commission staff also recommends that you take the following actions before the December 18, 2020 meeting:

1. Select a new treasurer, amend the PAC's registration to ensure that the information is accurate, and submit the new treasurer's acknowledgment of responsibilities form. Specifically, you must provide your current mailing address, phone number, and email address.
2. Enter all transactions for the October Quarterly Report and 11-Day Pre-General Report and file both reports.
3. Make any amendments to previously filed reports, if necessary, to ensure completeness and accuracy.

If you have any questions or concerns regarding these requests, you may contact me at Michael.Dunn@maine.gov or (207) 287-4709. Thank you for your attention in this matter.

Sincerely,



Michael J Dunn, Esq.
Political Committee Registrar

From: [Dunn, Michael](#)
To: ["DIANERUSSELL207@GMAIL.COM"](#)
Subject: WORKING FAMILIES PAC
Date: Thursday, September 3, 2020 3:38:56 PM

Hello Ms. Russell:

I received notice from Ms. Hart that she has resigned as treasurer of the above captioned committee. Please let me know who will be taking over for her as treasurer at your earliest opportunity. I was also inquiring into the account balance for this committee, it is reported as \$13,751.71. Is that the same balance as the checking account?

Please let me know at your earliest opportunity.

Sincerely,

Michael J. Dunn, Esq.
Political Committee and Lobbyist Registrar
Maine Ethics Commission
135 State House Station
Augusta, Maine 04333
Phone: (207) 287-4179 Fax: (207) 287-6775

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From: [Eiranne Hart](#)
To: [Dunn, Michael](#)
Subject: Working Families PAC
Date: Thursday, September 3, 2020 12:48:11 PM

EXTERNAL: This email originated from outside of the State of Maine Mail System. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hello Michael,

I would like to resign as treasurer of the above referenced PAC effective today, 9/3/2020.
Please let me know if you require anything else from me.

Warm Regards,

Eiranne Hart

View/File Reports

[+ADD REPORT](#)

[MANAGE ELECTION CYCLES](#)

UNFILED

FILED

2020 Regular Election PAC ▼

Report Name	Start of Period	End of Period	Due Date	Report Status	Unfiled Transactions
11-Day Pre-Primary Election Report	04/01/2020	06/30/2020	07/06/2020	Refile Required	There is 1 transaction
October Quarterly Report	08/19/2020	09/30/2020	10/05/2020	Past Due	
11-Day Pre-General Election Report	10/01/2020	10/20/2020	10/23/2020	Past Due	
42-Day Post-General Election Report	10/21/2020	12/08/2020	12/15/2020	Unfiled	
January Quarterly	12/09/2020	12/31/2020	01/15/2021	Unfiled	

Title 21-A Maine Revised Statutes

§ 1003. Investigations by commission

1. Investigations. The commission may undertake audits and investigations to determine whether a person has violated this chapter, chapter 14 or the rules of the commission. For this purpose, the commission may subpoena witnesses and records whether located within or without the State and take evidence under oath. A person or entity that fails to obey the lawful subpoena of the commission or to testify before it under oath must be punished by the Superior Court for contempt upon application by the Attorney General on behalf of the commission. The Attorney General may apply on behalf of the commission to the Superior Court or to a court of another state to enforce compliance with a subpoena issued to a nonresident person. Service of any subpoena issued by the commission may be accomplished by:

- A.** Delivering a duly executed copy of the notice to the person to be served or to a partner or to any officer or agent authorized by appointment or by law to receive service of process on behalf of that person;
- B.** Delivering a duly executed copy of the notice to the principal place of business in this State of the person to be served; or
- C.** Mailing by registered or certified mail a duly executed copy of the notice, addressed to the person to be served, to the person's principal place of business.

...

§ 1052-A. Registration

A political action committee shall register with the commission and amend its registration as required by this section. A registration is not timely filed unless it contains all the information required in this section.

1. Deadlines to file and amend registrations. A political action committee shall register and file amendments with the commission according to the following schedule.

A. A political action committee as defined under section 1052, subsection 5, paragraph A, subparagraph (1) or (4) that receives contributions or makes expenditures in the aggregate in excess of \$1,500 and a political action committee as defined under section 1052, subsection 5, paragraph A, subparagraph (5) that receives contributions or makes expenditures in the aggregate in excess of \$5,000 for the purpose of influencing the nomination or election of any candidate to political office shall register with the commission within 7 days of exceeding the applicable amount.

B. A political action committee shall amend the registration within 10 days of a change in the information that political action committees are required to disclose under this section.

C. A political action committee shall file an updated registration form between January 1st and March 1st of each year in which a general election is held. The commission may waive

the updated registration requirement for a newly registered political action committee or other registered political action committee if the commission determines that the requirement would cause an administrative burden disproportionate to the public benefit of the updated information.

2. Disclosure of treasurer and officers. A political action committee must have a treasurer and a principal officer. The same individual may not serve in both positions. The political action committee's registration must contain the names and addresses of the following individuals:

- A. The treasurer of the political action committee;
- B. A principal officer of the political action committee;
- C. Any other individuals who are primarily responsible for making decisions for the political action committee;
- D. The individuals who are primarily responsible for raising contributions for the political action committee; and
- E. The names of any other candidates or Legislators who have a significant role in fund-raising or decision-making for the political action committee.

...

5. Resignation and removal. An individual who resigns as the treasurer, principal officer or primary decision maker of a political action committee shall submit a written resignation statement to the commission. An individual's resignation is not effective until the commission receives the written resignation statement from the individual. If an individual is involuntarily removed from the position of treasurer, principal officer or primary decision maker by the political action committee, the political action committee shall notify the commission in writing that the individual has been removed from the position. The commission may prescribe forms for these purposes.

§ 1054-A. Duties and liabilities of the treasurer, principal officer and primary decision maker of political action committees

1. Duties of the treasurer. The treasurer of the political action committee shall ensure that the political action committee files and amends the political action committee's registration, files complete and accurate financial reports with the commission and maintains the political action committee's records as required by this chapter and the commission's rules. The treasurer is responsible for the political action committee's performance of these duties regardless of whether the treasurer has delegated administrative tasks related to these duties to another individual.

2. Joint responsibilities of the treasurer and principal officer. The treasurer and the principal officer are jointly responsible for the political action committee's compliance with the requirements of this chapter and the commission's rules. The treasurer and principal officer are responsible for accepting and responding to notices and correspondence from the commission on behalf of the political action committee.

3. Participation in spending decisions. An individual who is the treasurer, principal officer or primary decision maker of the political action committee and who has signed the acknowledgment statement required by section 1052-A, subsection 4 is deemed to have participated in the spending decisions of the political action committee until the commission receives the individual's resignation statement or a notice of the individual's involuntary removal from the political action committee.

4. Financial liability. The commission may hold the treasurer and principal officer jointly and severally liable with the political action committee for any fines assessed against the political action committee for violations of this chapter and chapter 14. In addition, the commission may assess all or part of a fine against any other agent of the political action committee who is directly responsible for a violation, including individuals who have resigned or have been removed involuntarily from the political action committee. In deciding whether to assess a penalty against a treasurer, principal officer or any other individual, the commission may consider, among other things, whether the individual had actual knowledge of the action that constituted the violation or had authorized that action and whether the violation was intentional or caused by an error by a vendor or someone outside the control of the political action committee.

§ 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.

1. Deleted. Laws 2007, c. 443, § A-35.

2. Reporting schedule. A committee shall file reports according to the following schedule.

A. A committee shall file quarterly reports:

- (1) On January 15th, and the report must be complete as of December 31st;
- (2) On April 10th, and the report must be complete as of March 31st;
- (3) On July 15th, and the report must be complete as of June 30th; and
- (4) On October 5th, and the report must be complete as of September 30th.

B. During any year in which primary and general elections are held, a committee shall file primary and general election reports in addition to the reports required under paragraph A:

- (1) On the 11th day before the date on which the election is held, which must be complete as of the 14th day before that date; and
- (2) On the 42nd day after the date on which the election is held, which must be complete as of the 35th day after that date.

A committee shall file primary and general election reports even if the committee did not engage in financial activity to influence the primary or general election.

§ 1060. Content of reports

The reports must contain the following information and any additional information required by the commission to monitor the activities of political action committees:

- 1. Identification of candidates.** The names of and offices sought by all candidates whom the political action committee supports, intends to support or seeks to defeat;
- 2. Identification of committees; parties.** The names of all political committees or party committees supported in any way by the political action committee;
- 3. Identification of referendum or initiated petition.** The referenda or initiated petitions that the political action committee supports or opposes;
- 4. Itemized expenditures.** An itemization of each expenditure made to initiate or influence any campaign, including the date, payee and purpose of the expenditure; the name of each candidate, campaign, political committee, political action committee or party committee supported or opposed; and each referendum or initiated petition supported or opposed by the expenditure. If expenditures were made to a person described in section 1012, subsection 3, paragraph A, subparagraph (4), the report must contain the name of the person; the amount spent by that person on behalf of the candidate, campaign, political committee, political action committee, party committee, referendum or initiated petition, including, but not limited to, expenditures made during the signature gathering phase; the reason for the expenditure; and the date of the expenditure. The commission may specify the categories of expenditures that are to be reported to enable the commission to closely monitor the activities of political action committees;
- 5. Aggregate expenditures.** An aggregation of expenditures and cumulative aggregation of expenditures to a candidate, campaign, political committee, political action committee, party committee, referendum or initiated petition;
- 6. Identification of contributions.** Names, occupations, places of business and mailing addresses of contributors who have given more than \$50 to the political action committee in the reporting period and the amount and date of each contribution, except that an organization qualifying as a political action committee under section 1052, subsection 5, paragraph A, subparagraph (5) is required to report only those contributions made to the organization for the purpose of influencing a ballot question or the nomination or election of a candidate to political office and all transfers to or funds used to support the political action committee from the general treasury of the organization; and
- 7. Other expenditures.** Operational expenses and other expenditures that are not made on behalf of a candidate, committee or campaign, except that an organization qualifying as a political action committee under section 1052, subsection 5, paragraph A, subparagraph (5) is required to report only those expenditures made for the purpose of influencing a campaign.

§ 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.

...

7. List of late-filing committees. The commission shall prepare a list of the names of committees that are late in filing a report required under section 1059, subsection 2, paragraph B, subparagraph (1) or section 1059, subsection 2, paragraph C or D within 30 days of the date of the election and shall make that list available for public inspection.

8. Failure to file. A person who fails to file a report as required by this subchapter within 30 days of the filing deadline is guilty of a Class E crime, except that, if a penalty pursuant to subsection 8-A is assessed and collected by the commission, the State may not prosecute a violation under this subsection.

8-A. Penalties for failure to file report. The commission may assess a civil penalty for failure to file a report required by this subchapter. The maximum penalty for failure to file a report required under section 1056-B or section 1059 is \$ 10,000 or the amount of financial activity not reported, whichever is greater.

9. 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.