



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

Commission Meeting 10/16/2020
Agenda Item #5

To: Commissioners
From: Erin Gordon, Candidate Registrar
Date: September 14, 2020
Re: Request by Brian Redmond for Waiver of Late-Filing Penalty for 42-Day Post-Primary Report

Brian Redmond is a traditionally financed candidate in the 2020 general election for the Maine House, District 148. This is Mr. Redmond's first time as a candidate, and he is serving as his own treasurer.

All candidates who participated in the 2020 primary election were required to file a 42-Day Post-Primary campaign finance report on August 25, 2020. Mr. Redmond was out of town with no internet access in the week prior to and of the filing deadline. He filed the report on September 1, 2020, seven days late. ETH 4-6. The preliminary penalty for the late report is \$84.00 (ETH 2-3), and the candidate is requesting a waiver of the penalty. ETH-1.

LEGAL REQUIREMENTS

Candidates participating in an election, either primary or general, must file a report by the 42nd day after the election covering through the 35th day after the election. 21-A M.R.S. § 1017(3-A)(D). ETH-9. When a candidate is late in filing a report, the amount of the penalty is set by a formula which takes into consideration a percentage of the total contributions or expenditures, whichever is greater, the number of prior violations within a two-year period, and the number of days the report is late. 21-A M.R.S. § 1020-A(4-A). ETH 10-11.

DISCUSSION

Mr. Redmond was required to file a report on August 25, 2020, which was 42 days after the July 14, 2020 primary election. Leading up to the August 25, 2020 deadline, the Commission's efilings website sent automatic email reminders of the 42-Day Post-Primary Report to all candidates who were scheduled to file the report. In addition, Candidate Registrar Erin Gordon sent an email on the afternoon of the deadline. ETH-7.

On Friday, August 28 (three days after the deadline), Mr. Redmond contacted Ms. Gordon to state that he had seen her reminder emails and the late-filing emails and that he would file the report that evening. Once he returned home, however, he discovered he did not remember his credentials for the efilings site; he was provided those credentials early August 31 and the report was not filed until September 1, 2020.

Based on the statutory formula for calculating late-filing penalties, the preliminary penalty amount is \$84.00, calculated as follows:

Report	Deadline	Financial Activity	Penalty Rate	Days Late	Preliminary Penalty
42-Day Post-Primary Report	08/25/2020	\$600	2%	7	\$84.00

In a letter dated September 11, 2020 (ETH-1), Mr. Redmond asks that the Commission waive the preliminary penalty, because he was on vacation without internet access during August 23-28. He writes that he intended to file the report before going on vacation but time got away from him.

Mr. Redmond also asks for leniency because he is a first-time candidate who is still learning the process of filing reports. On August 28, 2020, the Commission staff emailed legislative candidates (ETH-8) to provide them with an extension until Sept. 4 to file a statement of the sources of their personal income during 2019, which is a different kind of report that is required for legislative candidates. Mr. Redmond writes that he conflated this filing with the campaign finance report deadline and believed he had an additional week to file the campaign finance report that had been due on August 25. (ETH-1)

STAFF RECOMMENDATION

The Commission staff does not recommend reducing Mr. Redmond's penalty from \$84.00, because it is not disproportionately high. Mr. Redmond was aware of the August 25th deadline prior to when he left town on August 23. The report was already three days late as of Friday, August 28 when the Commission staff emailed legislative candidates to provide them with an additional week to file the Statement of Sources of Income. (ETH-8)

Commission staff were sending out updates about the personal financial disclosure requirement starting August 26 and throughout the following week. These emails referred specifically to the "2019 Statement of Sources of Income" and provided an overview of the filing requirement. The email communication Mr. Redmond received from Ms. Gordon was regarding the 42-Day Post-Primary Report and, when they spoke the afternoon of August 28, that was the only deadline they discussed.

There are many moving parts with which a first-time candidate must familiarize themselves, including multiple filing requirements and deadlines. However, Commission staff invest considerable effort and time into reaching out and making themselves available to candidates to answer any questions and to keep the filing of campaign finance reports a predictable element of an otherwise unpredictable election cycle.

Generally, in 2018, the Commission waived late-filing penalties against candidates downward to a range of \$300 - \$400, for example:

- from \$2,565.38 to \$300 – late 24-Hour Report by Jan Collins
- from \$1,739.73 to \$400 – incomplete 11-day pre-primary by Mark Lawrence
- from \$384.00 to \$300 – late 24-Hour Report by Ian Schwartz

The Commission *declined* to waive preliminary penalties that were already below \$300:

- \$112.00 – late July Semiannual by Jeffrey Slocum
- \$115.93 – late 24-Hour Report by Dana Dow
- \$235.03 – late 24-Hour Reports by James LeBrecque.

Thank you for your consideration of this memo.

September 11, 2020

Dear Maine Ethics Commission,

I am writing this letter to request a waiver of the late penalty I received on September 2 regarding the 42-Day Post-Primary Report.

The reason I was late submitting my report is due to the fact that I was on vacation without internet access the week leading up to – and following – the due date (August 23-28). I intended to file the report before I went on vacation, but time got away from me. When I went to complete the report after returning from vacation, I realized I did not have the correct login information so I submitted a request that Saturday, August 29.

Admittedly, I also received an email for an extension of filing for statement of sources of income, which I thought had to do with the post-primary report, so I thought I had an extra week's time to complete the report. I realized afterward that they are two very different things. Needless to say, I was surprised to receive a penalty for my filing. If it's not obvious, this is my first time running for office so I'm still learning the process of filing reports. I will do my best to complete the reports in a timelier manner going forward.

Please contact me if you have any questions. I appreciate your understanding and thank you for your consideration.

Sincerely,

Brian Redmond
Maine House Candidate for District 148
207-598-0628

September 2, 2020

Brian Redmond
487 Forest Avenue
Fort Fairfield, Maine 04742

Re: Notice of Violation and Penalty for Late-Filed 42-Day Post-Primary Report

Dear Mr. Redmond:

You were required to file the 42-Day Post-Primary Report on August 25, 2020 by 11:59 p.m., but the report was not filed until September 1, 2020. Under the Commission's statutes (21-A M.R.S.A. § 1020-A(4-A)), the late filing of a report triggers an enforcement process. The Commission staff has made a preliminary finding of violation and determined that the preliminary penalty for filing the report late is \$84.00. Please see the next page for the penalty calculation.

You may request that the Commission waive the penalty in whole or in part or find that there was no violation. The request 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 report was filed late. Upon receiving your request, the Commission staff will schedule your request to be heard at an upcoming Commission meeting. You or your designee will have an opportunity to be heard at the meeting or you may submit a sworn statement to the Commission explaining the mitigating circumstances for its consideration.

The Commission may waive or reduce the penalty or find that there was no violation 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 a bona fide effort was made to file the report on time. The Commission may also consider whether 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 to the public caused by the late disclosure.

The staff requests that you pay the preliminary penalty within 14 days of the date of your receipt of this notice if you do not intend to request a waiver. Please use the payment statement on the next page when paying by mail. You may also make a payment online at www.maine.gov/ethics by clicking the "Penalty Payment" link. Please contact me at (207) 287-3651 or erin.gordon@maine.gov if you have any questions.

Sincerely,

Erin Gordon
Candidate Registrar

cc:

Penalty Calculation

The penalty for filing a campaign finance report late is based on a percentage of the total contributions or expenditures for the reporting period, whichever is greater, multiplied by the number of days late. The percentage is based on your history of past violations: 2% for the first violation, 4% for the second violation, and 6% for the third and each subsequent violation. Violations for late-filed reports accumulate in the two-year period beginning on January 1st of each even-numbered year. A penalty accrues daily beginning on the day following the filing due date. Any penalty of less than \$10 is automatically waived.

How Your Penalty Was Calculated

Filer: Brian Redmond			
Late-Filed Report: 42-Day Post-Primary Report			
Contributions	\$600.00	Penalty Base Amount	\$600.00
Expenditures	\$587.47	Percentage	2%
Due Date	August 25, 2020	Daily Accrual Rate	\$12
Date Filed	September 1, 2020	Days Late	7
Previous Violations	0	Your Total Penalty	\$84.00

Payment Statement and Payment Options

From: Brian Redmond

Penalty Amount: \$84.00

Amount Enclosed: _____

Check/M.O. #: _____

BY MAIL: Enclose this payment statement with your payment.

Please make check or money order payable to: Treasurer, State of Maine

Mail to: Maine Ethics Commission
135 State House Station
Augusta, Maine 04333-0135

ONLINE: Go to www.maine.gov/online/ethics/penalties.



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

2020 CAMPAIGN FINANCE REPORT FOR PRIVATELY FINANCED CANDIDATES

COMMITTEE		TREASURER	
Mr. Brian Joseph Redmond 487 Forrest Avenue Fort Fairfield, ME 04742 PHONE:(207) 598-0628 EMAIL: brianredmond1981@gmail.com		Mr. Brian Joseph Redmond 487 Forrest Avenue Fort Fairfield, ME 04742 PHONE:(207) 598-0628 EMAIL: brianredmond1981@gmail.com	
REPORT	DUE DATE	REPORTING PERIOD	
42-Day Post-Primary Report	08/25/2020	07/01/2020 - 08/18/2020	

FINANCIAL ACTIVITY SUMMARY

RECEIPTS	TOTAL FOR THIS PERIOD	TOTAL FOR CAMPAIGN
1. CASH CONTRIBUTIONS FOR THE PRIMARY ELECTION (SCHEDULE A)	\$0.00	\$0.00
1A. CASH CONTRIBUTIONS FOR THE GENERAL ELECTION(SCHEDULE A) <i>For party candidates, general election contributions will only appear on this line after the primary.</i>	\$600.00	\$600.00
1B. CASH CONTRIBUTIONS FOR THE GENERAL ELECTION RAISED PRIOR TO PRIMARY (Not shown on Schedule A of this report)	\$0.00	\$0.00
2. OTHER CASH RECEIPTS (INTEREST, ETC)	\$0.00	\$0.00
3. LOANS (SCHEDULE C)	\$0.00	\$0.00
4. TOTAL RECEIPTS	\$600.00	\$600.00
EXPENDITURES		
5. EXPENDITURES (SCHEDULE B)	\$587.47	\$587.47
6. LOAN REPAYMENTS (SCHEDULE C)	\$0.00	\$0.00
7. TOTAL PAYMENTS	\$587.47	\$587.47
CASH SUMMARY		
8. CASH BALANCE AT BEGINNING OF PERIOD	\$0.00	
9. PLUS TOTAL RECEIPTS THIS PERIOD (LINE 4)	\$600.00	
10. MINUS TOTAL PAYMENTS THIS PERIOD (LINE 7)	\$587.47	
11. CASH BALANCE AT END OF PERIOD	\$12.53	
OTHER ACTIVITY		
12. IN-KIND CONTRIBUTIONS (SCHEDULE A-1)	\$0.00	\$0.00
13. TOTAL LOAN BALANCE AT END OF PERIOD (SCHEDULE C)	\$0.00	
14. TOTAL UNPAID DEBTS AT END OF PERIOD (SCHEDULE D)	\$0.00	
FOR PARTY CANDIDATES ONLY: CASH CONTRIBUTIONS FOR THE GENERAL ELECTION RAISED PRIOR TO PRIMARY ELECTION (INCLUDED IN LINE 1A AFTER PRIMARY ELECTION)		

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

REPORT FILED BY: Brian Joseph Redmond
 REPORT FILED ON: 9/1/2020 11:52:33 AM
 LAST MODIFIED:
 COMMITTEE ID: 354236

**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

2 = Candidate/ Spouse/ Domestic Partner

3 = Commercial Source

4 = Nonprofit Organization

5 = Political Action Committee

6 = Political Party Committee

7 = Ballot Question Committee

8 = Other Candidate/ Candidate Committee

9 = Candidate / Candidate Committee

10 = General Treasury Transfer

11 = Transfer from Previous Campaign

12 = Contributors giving \$50 or less

13 = Contributors giving \$100 or less

14 = Contributors giving \$200 or less

15 = MCEA Payment

16 = Financial Institution

DATE RECEIVED	CONTRIBUTOR	EMPLOYER AND OCCUPATION	TYPE	ELECTION	AMOUNT
7/16/2020	Brian Joseph Redmond 487 Forest Avenue Fort Fairfield, ME, 04742	Crown Farms Agriculture	2	General	\$300.00
7/23/2020	Brian Joseph Redmond 487 Forest Avenue Fort Fairfield, ME, 04742	Crown Farms Agriculture	2	General	\$300.00
TOTAL CASH CONTRIBUTIONS FOR PRIMARY					\$0.00
TOTAL CASH CONTRIBUTIONS FOR GENERAL					\$600.00

**SCHEDULE B
EXPENDITURES**

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
7/27/2020	Brian Joseph Redmond 487 Forest Avenue Fort Fairfield, ME, 04742	100 Yard Signs	LIT	\$587.47
TOTAL EXPENDITURES FOR CANDIDATE:				\$587.47

Gordon, Erin

From: Gordon, Erin
Sent: Tuesday, August 25, 2020 12:19 PM
Cc: Burke, Emma
Subject: REMINDER: 42-Day Post-Primary Report DUE TODAY

Good afternoon Candidates,

You are receiving this email because you are required to file the 42-Day Post-Primary Report and you have not yet done so. The report is due today, **August 25, 2020 by 11:59 p.m.**

I will be available by phone or email until 5 p.m. today to answer any questions about filing or to assist in troubleshooting. If you are not planning to file your report until later this evening, please be sure to check your username and password to www.mainecampaignfinance.com before 5 p.m. so that I can help with any log-in problems. If you believe you are receiving this email in error, let me know.

Thank you,

Erin Gordon

Candidate Registrar

Maine Ethics Commission

(207) 287-3651 | www.maine.gov/ethics

135 State House Station, Augusta, ME 04333-0135

45 Memorial Circle, Augusta, ME

Wayne, Jonathan

From: Commission, Ethics
Sent: Friday, August 28, 2020 3:03 PM
Cc: Wayne, Jonathan; Lavin, Paul; Burke, Emma; Gordon, Erin
Subject: Extension of Filing Deadline for 2019 Statement of Sources of Income

Dear Legislative Candidate:

The deadline for filing your 2019 Statement of Sources of Income has been extended to **Friday, September 4th**.

There were a number of candidates who did not receive the email with their user name and password link that we sent last week. As a result, the Commission is extending the deadline to give everyone more time to file their Statement. If you have not received the email containing your user name and password to file your Statement, please check your spam or junk email folder. If it is not there, please email ethics@maine.gov. If you need any assistance at all in filing the statement, just call our office at 287-4179 or email ethics@Maine.gov.

Thank you.

Jonathan Wayne
Executive Director
Maine Commission on Governmental Ethics and Election Practices
135 SHS
Augusta, ME 04333
287-4179

year. These reports must include all contributions made to and all expenditures made or authorized by or on behalf of the candidate or the treasurer of the candidate as of the end of the preceding month, except those covered by a previous report.

B. Reports must be filed no later than 11:59 p.m. on the 11th day before the date on which an election is held and must be complete as of the 14th day before that date. If a report was not filed under paragraph A, the report required under this paragraph must cover all contributions and expenditures through the 14th day before the election.

C. Any single contribution of \$1,000 or more received or any single 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 any election must be reported within 24 hours of that contribution or expenditure. The candidate or treasurer is not required to include in this report expenditures for overhead expenses or compensation paid to an employee or other member of the campaign staff who has received payments at regular intervals that have been disclosed in previously filed campaign finance reports. As used in this paragraph, "overhead expenses" includes, but is not limited to, rent, utility payments, taxes, insurance premiums or similar administrative expenses.

→ D. Reports must be filed no later than 11:59 p.m. on the 42nd day after the date on which an election is held and must be complete for the filing period as of the 35th day after that date.

D-1. Reports must be filed no later than 11:59 p.m. on the 42nd day before the date on which a general election is held and must be complete as of the 49th day before that date, except that this report is not required for candidates for municipal office.

E. Unless further reports will be filed in relation to a later election in the same calendar year, the disposition of any surplus or deficit in excess of \$100 shown in the reports described in paragraph D must be reported as provided by this paragraph. The treasurer of a candidate with a surplus or deficit in excess of \$100 shall file reports semiannually with the commission within 15 days following the end of the 2nd and 4th quarters of the State's fiscal year, complete as of the last day of the quarter, until the surplus is disposed of or the deficit is liquidated. The first report under this paragraph is not required until the 15th day of the period beginning at least 90 days from the date of the election. The reports will be considered timely if filed electronically or in person with the commission on that date or postmarked on that date. The reports must set forth any contributions for the purpose of liquidating the deficit, in the same manner as contributions are set forth in other reports required in this section.

F. Reports with respect to a candidate who seeks nomination by petition must be filed on the same dates that reports must be filed by a candidate for the same office who seeks that nomination by primary election.

3-B. Accelerated reporting schedule. (REPEALED)

4. New candidate or nominee. A candidate for nomination or a nominee chosen to fill a vacancy under Chapter 5, subchapter 3 is subject to section 1013-A, subsection 1, except that the candidate shall register the name of a treasurer or political committee and all other information required in section 1013-A, subsection 1, paragraphs A and B within 7 days after the candidate's appointment or at least 6 days before the election, whichever is earlier. The commission shall send notification of this registration requirement and report forms and schedules to the candidate

of perjury, as provided in Title 17 A, section 451, a statement under oath or affirmation whether the 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. The commission may adopt procedures requiring the electronic filing of an independent expenditure report, as long as the commission receives the statement made under oath or affirmation set out in paragraph B by the filing deadline and the commission adopts an exception for persons who lack access to the required technology or the technological ability to file reports electronically. The commission may adopt procedures allowing for the signed statement to be provisionally filed by facsimile or electronic mail, as long as the report is not considered complete without the filing of the original signed statement.

5. Exclusions. An independent expenditure does not include:

- A. An expenditure made by a person in cooperation, consultation or concert with, or at the request or suggestion of, a candidate, a candidate's political committee or their agents;
- B. A telephone survey that meets generally accepted standards for polling research and that is not conducted for the purpose of changing the voting position of the call recipients or discouraging them from voting;
- C. A telephone call naming a clearly identified candidate that identifies an individual's position on a candidate, ballot question or political party for the purpose of encouraging the individual to vote, as long as the call contains no advocacy for or against any candidate; and
- D. A voter guide that consists primarily of candidates' responses to surveys and questionnaires and that contains no advocacy for or against any candidate.

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

21-A § 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 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 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 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 5 calendar days thereafter.

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; and section 1017, subsection 4, except that if the financial activity reported late exceeds \$50,000, the maximum penalty is 100% of the amount reported late;

A-1. Five thousand dollars for reports required under section 1019 B, subsection 4, except that if the financial activity reported late exceeds \$50,000, the maximum penalty is 100% of the amount reported late;