



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

Commission Meeting: 12/18/2019
Agenda Item #2

To: Commissioners
From: Jonathan Wayne, Executive Director
Date: December 11, 2019
Re: Audits of 2018 Maine Clean Election Act Candidates for Governor

The Commission on Governmental Ethics and Election Practices audits the campaign finances of all candidates for Governor who participate in the Maine Clean Election Act (MCEA) program and a random selection of MCEA candidates for the Legislature. The Commission's contract auditors at Runyon Kersteen Ouellette have completed the audits of 2018 MCEA candidates, including the three candidates for Governor who participated in the MCEA program:

- Teresea (Terry) Hayes (2018 general election)
- Garrett Mason (2018 Republican primary election), and
- Elizabeth (Betsy) Sweet (2018 Democratic primary election).

This memo is to provide you with context for the attached audit reports.

2018 MCEA gubernatorial program. The gubernatorial part of the MCEA program was redesigned in the 2015 citizen initiative. To qualify for MCEA funding, candidates are required to collect 3,200 qualifying contributions of \$5 from registered Maine voters. After qualifying, candidates receive a basic payment for an election and may collect additional qualifying contributions to receive supplemental payments.

Garrett Mason and Betsy Sweet received approximately \$700,000 in MCEA funding for the primary election (approximately \$400,000 as an initial payment and two supplemental payments totaling \$300,000). The Commission staff estimates that they submitted 5,800 and 6,200 QCs, respectively, to qualify for the funding. Please see the chart on the next page for an overview of the three campaigns.

Terry Hayes received \$199,627 in MCEA funding for the primary election period and \$1,125,000 for general election (an initial payment of \$600,000 and three supplemental payments totaling \$525,000). The Commission staff estimates that the Hayes campaign submitted around 7,000 QCs to qualify for the funding.

The following table provides a financial overview of their campaigns:

	Terry Hayes (general election)	Garett Mason (primary election only)	Betsy Sweet (primary election only)
Registered with Commission	4/14/2017	9/28/2017	5/30/2017
Qualified for MCEA funds	4/3/2018	2/15/2018	4/7/2018
Seed money collected	\$92,131	\$36,759	\$99,331
MCEA funding received for primary election	\$199,627	\$700,000	\$698,383
MCEA funding received for general election	\$1,125,000	---	---
Total expenditures	\$1,413,414	\$736,759	\$797,620
Number of expenditures (reported)	947	302	223

The Commission’s staff is not aware that any of the campaigns engaged in noncompliance in qualifying for the public funds. All three campaigns spent their MCEA funds for traditional campaign expenditures. They kept the required documents (*e.g.*, invoices and proof of payment) for almost all expenditures over \$50 reviewed by the auditors. The campaign’s financial reporting mostly complied with the Election Law and the Commission’s procedures, except that the auditors found a number of errors which are described as exceptions in the reports (*e.g.*, expenditures omitted from campaign finance reports or overstated expenditures). As you review these exceptions, please keep in mind the context that these were very large campaigns, each making between 223 and 947 expenditures (see above chart).

Issue for Your Consideration – Proposed Repayment of \$8,067.20 by Betsy Sweet

Following the June 2018 primary election, the campaign of Betsy Sweet spent approximately \$11,000 in MCEA funds to make two reimbursements to the candidate on June 27 and July 19, 2018. The reimbursements were for the candidate's travel, rent paid to the candidate for a portion of her residence used as a campaign office, electric and internet service to her residence, cellular phone service, and campaign purchases made by the candidate. At the time that the campaign reported these reimbursements in July 2018, the campaign did not submit a record of the campaign trips for which the candidate had been reimbursed.

The campaign's deputy treasurer was State Rep. Charlotte Warren, who filed the financial reports for the campaign. The Commission staff informed Rep. Warren that the campaign could *not* spend MCEA funds to pay Betsy Sweet rent or to reimburse her for internet or electric service at her residence. Rep. Warren proposed that these portions of the July 19, 2018 payment could instead be used to reimburse the candidate for several months of campaign travel. The Commission staff expressed some concern that the campaign had not kept the kind of record of campaign travel required by our rules within two days of each campaign trip containing the necessary details (*e.g.*, date, number of miles traveled, destination and purpose). We informed Rep. Warren that we would defer judgment on this issue pending the post-election audit.

The Commission's auditors have reviewed the allowability of these two post-election reimbursements to the candidate. The auditors have found that \$8,067.20 is not allowed for two reasons. The first reason is that most of the cellular phone service for which Betsy Sweet was reimbursed \$1,950 was *not* used for campaign purposes. Of the five phone numbers for which she was reimbursed for a time period of 13 months, the candidate used one phone number exclusively for campaign purposes and she estimates that one other phone number was used for campaign purposes about 40% of the time. The other three phone numbers were not used for campaign purposes.

The other reason is that the Maine Clean Election Act states that “[a]ll goods and services received prior to certification” must be paid for with seed money. (21-A M.R.S. § 1125(2-A)(A)) Once a candidate receives MCEA funds, he or she may not use those funds, retroactively, to pay for goods and services received before certification:

All goods and services received prior to certification must be paid for with seed money contributions It is a violation of this chapter for a participating candidate to use fund revenues received after certification to pay for goods and services received prior to certification.

(21-A M.R.S. § 1125(2-A) (A)) This restriction is intended to prevent candidates from using MCEA funds to pay for expenses that helped them qualify for MCEA funding. The restriction is clearly described in the Commission’s guidebooks for MCEA candidates. (Please refer to this guidance on pages ETH-17 – ETH-18 in the attached materials.)

For this reason, the Commission and its staff have regularly determined that legislative candidates must repay MCEA funds that they received from their campaigns as reimbursements for their campaign travel before certification. Some examples are listed on ETH-19, including Sidney Pew whom you directed to repay MCEA funds on November 30, 2017.

For further explanation concerning this issue, I have attached a four-page memo addressed to the candidate. (ETH-12 – ETH-15) The Commission staff has met with the candidate and reviewed her response to the audit report (ETH-9). In that response, she explains that during the seed money period, the campaign prioritized expenses other than reimbursing her for her travel. She asks that the Commission waive the requirement for her to repay \$8,067.20. We suggest reading her audit response thoroughly (ETH-9) to ensure that the Commission reaches a fair result in this matter.

The Commission staff understands the candidate’s perspective, but based upon the auditors’ report we continue to recommend that Betsy Sweet repay \$8,067.20 because:

- The language in the Maine Clean Election Act quoted above on page 4 states categorically that a campaign may not use MCEA funds to pay for services received by the campaign before it qualified for public funding.
- Because of the language in the Act, the Commission has regularly asked legislative candidates to repay MCEA funds for this reason. (ETH-19) The Commission needs to strive for consistency.
- The Commission's written guidance is clear. (ETH-17 – ETH-18)
- In the period through early April 2018, the campaign could have used some portion of the \$99,131 in seed money to reimburse the candidate for her campaign travel. We understand that campaign funds were scarce during this period, but the opportunity was there.

We recommend that the Commission:

- find that the 2018 Sweet campaign for Governor used \$8,067.20 in MCEA funds to reimburse the candidate for travel costs and services received by the campaign prior to when she qualified for MCEA funding, in violation of 21-A M.R.S. § 1125(2-A)(A) and
- direct Betsy Sweet to repay \$8,067.20 to the Maine Clean Election Fund, pursuant to 21-A M.R.S. § 1127(1).

Thank you for your consideration of this agenda item.



December 6, 2019

Elizabeth Sweet
P.O. Box 487
Hallowell, ME 04347

Subject: 2018 Campaign Compliance Report

Dear Ms. Sweet:

Enclosed please find the final report concerning the review of your 2018 Gubernatorial campaign contributions and expenditures.

We anticipate presenting the report at the December 18, 2019 Commission meeting in Augusta. You will be invited to appear before the Commission to discuss the exceptions and findings. Jonathan Wayne, the Commission's Executive Director, will contact you beforehand to schedule your appearance to discuss the exceptions and findings.

Thank you for your cooperation during the review process.

A handwritten signature in cursive script that reads "Jennifer Connors".

Jennifer Connors, CPA
RUNYON KERSTEEN OUELLETTE

**MAINE COMMISSION ON GOVERNMENTAL ETHICS AND
ELECTION PRACTICES**

**Maine Clean Election Act Compliance Report
Candidate: Elizabeth Sweet**

December 6, 2019



INDEPENDENT ACCOUNTANT'S REPORT ON APPLYING AGREED-UPON PROCEDURES

Commissioners

Maine Commission on Governmental Ethics and Election Practices:

We have performed the procedures noted below for Gubernatorial candidate Elizabeth (Betsy) Sweet, which were agreed to by the Maine Commission on Governmental Ethics and Election Practices (Maine Ethics Commission), solely to assist the Commissioners and staff in ensuring that the selected candidates complied with the requirements of the Maine Clean Election Act (MCEA) for the 2018 election cycle. This agreed-upon procedures engagement was conducted in accordance with attestation standards established by the American Institute of Certified Public Accountants. The sufficiency of these procedures is solely the responsibility of those parties specified in this report. Consequently, we make no representation regarding the sufficiency of the procedures described below, either for the purpose for which this report has been requested or for any other purpose.

We reviewed the transactions for the 2018 campaign of Elizabeth Sweet for Governor for which MCEA funds were used. There were twenty-two exceptions reported and three findings, which are enumerated below. The candidate's responses to the exceptions are attached to this report.

Specific procedures and results are described below:

Procedure: Reviewed all campaign bank statements for the 2018 election cycle and ensured that the campaign finance reports submitted during the 2018 election cycle included all transactions and that all transactions were reported correctly (e.g., correct payment amount, obligation date).

Result: There were two hundred sixty eight transactions on the candidate's bank statements. We were not able to trace all of the transactions on the campaign bank statements due to the large number of withdrawals and subsequent deposits for qualifying contributions. We were unable to trace all of the transactions included on the campaign finance reports to the campaign bank statements, ensuring they agreed in amount and were included on the correct report and identified the following exceptions:

Exceptions: We noted several expenditures reported on the campaign finance reports that we were unable to trace to the campaign bank statements:

- The candidate reported a \$74 expenditure to the Post Office on the July Semi-annual report, dated May 30, 2017. This expenditure appears to be a duplicate expenditure on the campaign finance report.
- The candidate reported a \$55 expenditure to Equality Maine on the July Semi-annual report dated June 10, 2017. The expenditure appears to be a duplicate expenditure on the campaign finance report.
- The candidate reported a \$60 expenditure to John Robbie on the Seed Money report dated April 2, 2018.

- The candidate reported a \$2,500 expenditure to Baldacci Communications on the Seed Money report, dated April 2, 2018. This expenditure appears to be a duplicate expenditure on the campaign finance report as an expenditure of \$2,555.13 for the same purpose was also reported on the 42 Day Pre Primary Report.
- The candidate reported a \$2,500 expenditure to Alex Michaud on the Seed Money report, dated April 3, 2018.
- The candidate reported a \$452.30 expenditure to Walmart dated April 12, 2018 on the 42 Day Pre-Primary report. On further inquiry, it was determined the expenditure was duplicate reporting of three expenditures on the Seed Money report of \$20.30, \$294, and \$138 to Walmart and K-Mart that were reimbursed to a campaign worker.
- The candidate reported a \$1,150 expenditure to the Maine Democratic Party on the 11 Day Pre-Primary report. On further inquiry, we determined this was a duplicate expenditure that was also reported on the 42 Day Pre-Primary report.
- The candidate reported expenditures of \$25, \$27.20, \$65.73, and \$8.69 to the City of Bangor, USPS, and Staples on the 42 Day Post-Primary report, dated June 7 and June 8, 2018. On further inquiry, the campaign manager said that these amounts were included in two checks to campaign workers of \$1,620 and \$800. However, the checks to the campaign workers of \$1,620 and \$800 were reported in their entirety as salary amounts and then the expenditures for which the workers were reimbursed were reported in addition to the total check amounts. Therefore, expenditures were over reported by \$126.62.
- The candidate reported a \$218.03 expenditure to Quality Copy on the 42 Day Post-Primary report, dated June 8, 2018. On further inquiry, we determined that the expenditure of \$218.03 was duplicate reporting.

Exceptions: We noted several transactions that were included on the campaign bank statements, but were not included on the campaign finance reports:

- We identified a \$100 donation from John Cook dated June 30, 2017, which was listed on the Act Blue report of donations that should have been included in the seed money contributions but was not.
- We identified a \$421.29 reimbursement from Campaign Communications (d/b/a Stone Phones and Savvy Communications) that was deposited in the campaign bank account on May 16, 2018. However, the amount was not included on the campaign finance reports as either a reduction in expenditures or as an other receipt and should have been included on the 11 Day Pre-Primary report.
- We identified a \$785.50 expenditure to Savvy Communications (d/b/a Stone Phones and Savvy Communications) that was removed from the 11 Day Pre-Primary report, but the transaction cleared the campaign bank statement as a debit transaction on May 18, 2018 and was not subsequently reversed.
- There was a \$180 expenditure to MPA that cleared the campaign bank statement on June 7, 2019 and should have been included on the 42 Day Post-Primary.
- There was a \$2,500 expenditure to a campaign worker dated December 11, 2018 that should have been included on the 42 Day Post-Primary report.

Exceptions: We noted several expenditures and disbursements that based on the date of the transactions, were reported on the incorrect campaign finance report:

- We identified \$325 in donations that were reported as returned to contributors on the July Semi-Annual report (which includes transactions through June 30, 2017), but the amounts were not deposited until November and December of 2017 (which fall within the January Semi-Annual reporting period). In addition, the checks for the return of the donations were not written until January 2018 (which fall within the Seed Money reporting period).
- We identified \$23 in donations that were reported as returned to contributors and netted against contributions on the Seed Money report, which includes transactions from January 1 to April 6, 2018. However, the original contribution was deposited in November 2017 and was included in the contributions on the January Semi-annual report.
- The candidate reported a \$125 expenditure to a campaign worker on the Seed Money report dated January 3, 2018. The Seed Money report includes transactions from January 1 to April 6, 2018, but the copy of the check to the campaign worker was dated December 17, 2017 and therefore, should have been reported on the January Semi-Annual report, which includes transactions from July 1 to December 31, 2017.
- The candidate reported a \$16.21 expenditure to K-Mart, which was a reimbursement to a campaign worker on the 42 Day Pre-Primary report, dated April 12, 2018. The 42 Day Pre-Primary report includes transactions from April 7 to April 24, 2018. However, the copy of the check was dated March 31, 2018 and should have been included on the Seed Money report, which includes transactions from January 1 to April 6, 2018.

Exception: The candidate reported a \$34,544.67 expenditure to Daylight Communications on the 42 Day Post-Primary report, dated May 31, 2018. The 42 Day Post-Primary report includes transactions from May 30 to July 17, 2018. However, the invoice from Daylight Communications was dated May 29, 2018 and therefore; the transactions should have been reported as an unpaid debt on the 11 Day Pre-Primary report, which includes transactions from April 25 to May 29, 2018.

Exception: The candidate reported an expenditure of \$11,049 to Daylight Communications, dated April 27, 2018 as mail design and mail. However, according to the invoice, the services provided were for yard signs and bumper stickers.

Procedure: Reviewed all selected disbursements and ensured there was proof of payment.

Result: We obtained copies of cancelled checks for those payments made by check; the rest of the disbursements, which were made by debit card, were substantiated through review of bank statements. Therefore, there was proof of payment for all selected disbursements, except as follows:

Exception: The candidate was reimbursed \$5,492.06 with a check that cleared the campaign bank statement on June 28, 2018 for sixteen expenditures and mileage. Of the expenditures included in the reimbursement, we only verified proof of payment for nine of the transactions.

Exception: The candidate was reimbursed \$5,651.06 with a check that cleared the campaign bank statement on July 19, 2018 for cell phone charges and mileage. As the candidate did not provide any copies of cancelled checks or other records for proof of payment for the phone charges that were eligible for reimbursement, we were unable to verify that the cell phone bills were paid by the candidate.

Procedure: Judgmentally selected disbursements from those reported in the campaign finance reports, which in the aggregate represented at least fifty percent of the candidate's disbursements. Reviewed the selected disbursement transactions and ensured that they were substantiated by supporting, third party documentation and were for allowable expenditures under the MCEA. In addition, ensured that mileage logs supported selected reimbursements for mileage and that the total mileage and dollar amount on the mileage logs recalculated based on the individual trips and the applicable reimbursement rate.

Result: Of the twenty-two disbursements selected for testing, all were supported by third party documentation, except as follows. Of the expenditures selected for testing, two were reimbursements for mileage and both were supported by travel logs. In addition, all selected transactions appeared to be for allowable expenditures under the Maine Clean Election Act, except as follows.

Finding: On June 27, 2018, the campaign issued a reimbursement to the candidate of \$5,492.06 for sixteen expenditures for various purposes, and mileage. Of the sixteen expenditures for which the candidate was reimbursed, seven were incurred prior to April 7, 2018 and totaled \$1,043.73. In addition, the candidate incurred mileage costs between April 7, 2018 (the date of certification as a clean election candidate) and July 19, 2018 (the date of reimbursement) of \$2,582.36 (5,869 miles x \$.44 reimbursement rate). According to M.R.S.A. Title 21-A, candidates may not use MCEA funds to pay for goods or services, including mileage, received prior to qualifying for MCEA funding (certification). Therefore, the candidate was over reimbursed by \$2,579.93.

Finding: On July 19, 2019, the campaign issued a reimbursement to the candidate of \$5,651.06 for \$3,701.06 in mileage reimbursements and phone charges of \$1,950. The candidate incurred mileage costs between April 7, 2018 (the date of certification as a clean election candidate) and July 19, 2018 (the date of reimbursement) of \$2,582.36 (5,869 miles x \$.44 reimbursement rate). However, the candidate was reimbursed for all eligible mileage in the reimbursement dated June 27, 2018. In addition, the cell phone charges for which the candidate was reimbursed were for thirteen months beginning in May 2017 and ending in June 2018. However, most of the monthly charges were incurred before the candidate was certified as a clean election candidate. According to M.R.S.A. Title 21-A, candidates may not use MCEA funds to pay for goods or services received prior to qualifying for MCEA funding (certification). In addition, based on the actual monthly charges divided by the number of phone lines used by the candidate, the candidate was only eligible to be reimbursed for \$163.79 in cell phone charges. Therefore, the candidate was over reimbursed \$5,487.21.

Procedure: Reviewed purchases reported on the campaign finance reports to identify any equipment purchased with MCEA funds and ensure that the equipment was sold at fair market value and that sales proceeds were returned to the Maine Ethics Commission in a timely manner.

Result: No purchases of equipment were reported on the campaign finance reports.

Procedure: Reviewed all of the campaign bank statements from the 2018 election cycle and identified all deposits that were not for MCEA funds. Ensured that the amounts were reported as seed money contributions. Reviewed supporting documentation and ensured that seed money contributions were from individuals and did not exceed the threshold of \$100 per donor. In addition, ensured that no additional contributions were received after the candidate's certification.

Result: We were able to trace the seed money contributions from the campaign finance reports to supporting records and verify that seed money contributions were within the allowable threshold and were from individuals, except as follows. However, we were unable to verify that all deposits in the campaign bank account were properly reported as seed money contributions due to the large number of deposits related to qualifying contributions, many of which were deposited after the seed money period.

Finding: During our review of seed money contributions, we noted two checks of \$100 each from the same household from the husband and wife each. In addition, we also noted the husband listed on a report from Act Blue, the company that provides online contribution services for an additional \$100 contribution. We also verified through review of the returned contributions that this individual was not included in the amounts returned to donors. Therefore, the contributions from the husband totaled \$200 and exceeded the threshold of allowable contributions from individuals.

Procedure: Reviewed supporting documentation to determine that the balance of MCEA funds not spent were returned to the Maine Ethics Commission and were returned promptly (within forty-two days of the election).

Result: The candidate spent all of the clean election funds and therefore, there was no requirement to repay unspent funds. However, the candidate was reimbursed for costs that were not eligible to be reimbursed under the MCEA and therefore, must repay the \$8,067.20 in total ineligible funds.

Commissioners
Maine Ethics Commission
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We were not engaged to, and did not conduct an audit, the objective of which would be the expression of an opinion, on the specific elements, accounts, or items. Accordingly, we do not express such an opinion. Had we performed additional procedures, other matters might have come to our attention that would have been reported to you.

This report is intended solely for the information and use of the Commissioners and staff of the Maine Ethics Commission and is not intended to be and should not be used by anyone other than these specified parties.

A handwritten signature in black ink, reading "Remya Hudson Ouellette". The signature is written in a cursive style with a large initial 'R'.

December 6, 2019
South Portland, Maine

December 8, 2019

To: Ethics Commission Members and Staff
From: Sweet for Governor. – Elizabeth Sweet
RE: Campaign expenditures from MECA period

We are very grateful that the gubernatorial audit is complete. As one of the authors of the Clean Elections Act in 1996, it was a privilege and honor to run using this system. I believe it strengthens our democracy and the ability of ordinary citizens with ordinary means to run.

We are asking that the Commission waive the “repayment” of \$8,067.20 as determined by the auditor. This repayment is for mileage and cell phone reimbursement paid to me, the candidate, at the end of the campaign.

As you are aware, a candidate must raise and spend seed money during the seed money portion of the campaign until they qualify. For me that period was from May 2017 to April of 2018. Which meant we were running a campaign on very limited funds in which I relied on many volunteers and “retail politics. I was everywhere I could be meeting as many Mainers as I could. All of which required a lot of miles travelled.

As the candidate I worked very hard, with my campaign manager and treasurer and assistant treasurer, to prioritize expenditures. Even though I was incurring both a lot of expenses and was losing a tremendous amount of personal income by running (\$17,000 forgone out of a \$48,000/year income), I prioritized the necessary expenses and very limited staff payments over my own financial needs.

I did not even submit my mileage or expenses (erroneously) during that time as it would have added extreme pressure to the overworked and underpaid staff and volunteers. It was not until the end of the campaign when I realized we would have the necessary funds to reimburse me that I submitted my mileage and a small portion of my other expenses to the campaign.

Now I am faced, two years later, with reimbursing a very large sum of money that has long ago been spent as I tried to recover financially from the first campaign. There was no ill intent here, just an attempt at good fiscal management and putting my needs behind those of other staff and campaign expenses.

I strongly believe this is a piece of the Clean Elections program that needs to be revisited as it will discourage many other candidates, who do not have personal means, from using this program as it stands to run a statewide campaign. That, I believe, is a disservice to the intent of this program and, ultimately to democracy.

Thank you for your consideration.
Betsy Sweet



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

November 14, 2019

By Email and Regular Mail

Elizabeth Ann Sweet
P.O. Box 487
Hallowell, Maine 04347

Re: Notice of Commission Meeting; Opportunity to Respond

Dear Ms. Sweet:

Thank you for meeting with the Ethics Commission staff today concerning the post-election audit of your 2018 gubernatorial campaign financed through the Maine Clean Election Act (MCEA) program. This letter is to notify you of potential enforcement actions that may be taken at the Commission's December 18, 2019 meeting in connection with two findings in the auditor's report and to provide you with an opportunity to respond in writing. *As we discussed today, please respond to the draft audit report and to this letter before November 28, 2019.*

Late 24-Hour Report

During the last 13 days before an election, a candidate for Governor is required to report any single expenditure of \$1,000 or more within 24 hours of the expenditure. (21-A M.R.S. § 1017(2)(D)) The Commission's auditor found that you were required to file a 24-hour report for an expenditure of \$2,000.00 to Stones' Phones made on June 6, 2018, six days before the primary election.

As directed in 21-A M.R.S. § 1020-A(6), the Commission staff has prepared the attached letter notifying you that the preliminary penalty for the late report is \$5,000 and inviting you to request a waiver of the penalty, which would be considered by the Commissioners at their December 18 meeting. The Commission staff views the \$5,000 penalty as disproportionately high and would support a waiver. *Please request a waiver of the penalty prior to November 28, 2019.* The statutory reasons for a penalty waiver are listed in the letter.

Elizabeth Ann Sweet
Page
November 14, 2019

Disallowed Reimbursements to You

After the June 2018 primary election, the campaign reimbursed you for campaign travel and purchases, and expenses related to a campaign office. The Commission's auditor has determined that a portion these reimbursements, \$8,067.20, do not comply with the restrictions of the MCEA program and must be returned to the Maine Clean Election Fund. I have attached a memo providing a further explanation concerning this issue.

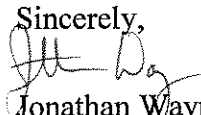
At the December 18, 2019 meeting, the Commission staff intends to recommend that the Commission direct you to repay \$8,067.20, if you have not returned this amount prior to the meeting. *By November 28, 2019, please submit a payment of \$8,067.20 to the Maine Clean Election Fund (or a payment plan). Or, if you believe that this amount is not owed to the Maine Clean Election Fund or this is not a fair outcome of the audit, please submit in writing any reasoning or argument you would like.*

Proposed Finding of Violations and Repayment

The Commission's December 18, 2019 meeting will take place at the Commission's office, 45 Memorial Circle in Augusta, beginning at 9:00 am. Please be aware that the Commissioners may find that:

- you violated 21-A M.R.S. § 1125(2-A)(A) by using MCEA funds to pay for goods and services prior to when you qualified for MCEA funding, and direct you to repay \$8,067.20 to the Commission pursuant to 21-A M.R.S. § 1127(1).
- you violated 21-A M.R.S. § 1017(2)(D) by not reporting the June 6, 2018 payment to Stone's Phones within 24 hours and determine an appropriate penalty pursuant to 21-A M.R.S. § 1020-A(6).

If you would like to submit any written comment or argument against these findings of violation, please submit them no later than November 28, 2019. Thank you

Sincerely,

Jonathan Wayne
Executive Director

cc: Hon. Charlotte Warren, Deputy Treasurer
Jennifer Conners, Runyon Kersteen Ouellette



To: Elizabeth Ann Sweet
From: Jonathan Wayne, Executive Director
Date: November 14, 2019
Re: Disallowed Reimbursements

This memo is intended to explain the legal basis for the auditor’s conclusion that portions of your campaign’s June 27 and July 19, 2018 reimbursements to you were not allowed.

Relevant Law and Guidelines

Paying for campaign costs prior to qualifying for MCEA funds. Prior to qualifying for for Maine Clean Election Act funding (“certification”), candidates may collect and spend seed money. The statute within the Maine Clean Election Act (“MCEA”) that governs seed money states that “[a]ll goods and services received prior to certification” must be paid for with seed money. (21-A M.R.S. § 1125(2-A)(A)) Once a candidate receives MCEA funds, he or she may not use those funds, retroactively, to pay for goods and services received before certification:

All goods and services received prior to certification must be paid for with seed money contributions It is a violation of this chapter for a participating candidate to use fund revenues received after certification to pay for goods and services received prior to certification.

(21-A M.R.S. § 1125(2-A) (A)) This restriction is intended to prevent candidates from using MCEA funds to pay for expenses that helped them qualify for MCEA funding. The restriction is clearly described in the Commission’s guidebooks for MCEA candidates. (A section from the Commission’s 2018 MCEA gubernatorial guidebook is attached.)

Use of candidate’s residence for campaign office. The MCEA states that “[a]ll revenues distributed to a certified candidate from the [Maine Clean Election] fund must be used for campaign-related purposes,” and that “[t]he commission shall publish guidelines outlining permissible campaign-related expenditures.” (21-A M.R.S. § 1125(6)) Under the Commission’s expenditure guidelines, a candidate may not pay MCEA funds for “[m]ortgage, rent, or utility payments for the candidate's personal residence, even if part of the residence is being used by the campaign.”

Reimbursement for travel. The campaign of a MCEA candidate may reimburse the candidate or volunteers for the use of their vehicle for campaign travel, provided that the person reimbursed created a record of their campaign trips containing specific types of information (destination, purpose, *etc.*) at the time of travel or within two days afterward. (Commission Rules, Chapter 3, § 8(1)(C))

Allowability of Campaign's Post-Election Reimbursements

June 27, 2018 reimbursement. On June 27, 2018 (roughly two weeks after the primary election), the campaign paid you a total of \$5,492.06 in unspent MCEA funds to reimburse you:

- \$1,373.50 for 16 campaign expenses you made during May 30, 2017 - June 8, 2018
- \$4,118.56 for vehicle travel.

July 19, 2018 reimbursement. On July 19, 2018, the campaign paid you a total of \$5,651.06 in unspent MCEA funds to reimburse you:

- \$1,600.00 for the use of an office in your residence in Hallowell that has a separate entrance and was accessed by volunteers and paid staff during the campaign (\$120 per month for 13 months)
- \$1,689.87 for internet service (\$129.99 per month for 13 months)
- \$411.19 for electric service (\$31.63 per month for 13 months)
- \$1,950.00 for cell service (\$150 per month for 13 months).

The Commission staff informed your deputy treasurer that, under the Commission's MCEA expenditure guidelines, the campaign could not use MCEA funds to pay you rent or reimburse you for internet or electric service at your residence. We advised that it was acceptable to use MCEA funds for cell phone service that was related to your campaign. The deputy treasurer proposed that the remaining part of the July 19, 2018 payment could be used to reimburse you for several months of campaign travel. We expressed some concern that you had not created the kind of record within two days of campaign travel containing specific details that is required by our rule, but we deferred judgment on this issue pending the post-election audit.

Paying for goods and services received before certification. As noted above on page 1, under the design of the MCEA program, all campaign goods and services received by a candidate before he or she qualifies for public campaign funds must be paid for with seed money, and not MCEA funds. (21-A M.R.S. § 1125(2-A)(A)) In practical terms, that

meant that your campaign was not allowed to use MCEA funds to pay for goods or services received *before* you qualified for MCEA funding on April 7, 2018. This precludes some of the reimbursements the campaign made to you on June 27 and July 19, 2019, including reimbursing you for your travel expenses that were incurred before April 7, 2018.

Cell phone service. To evaluate the reimbursement of \$1,950.00 to you for cell phone service, the auditor reviewed 13 monthly bills from U.S. Cellular addressed to your lobbying firm, Moose Ridge Associates, for five cell phone numbers. The auditor inquired how many of these five cell phone numbers were used for campaign purposes. You replied that one phone number (ending 3060) was used exclusively for campaign purposes, 40% of use of another phone number (ending 8336) was for campaign purposes, and the other three cell numbers were not used for the campaign.

Relying on your response, the auditor has determined that you may be reimbursed \$163.79 in MCEA funds for cell service that was related to your campaign during the period of April 7 - June 12, 2018. The remaining reimbursement of \$1,786.21 in MCEA funds to pay for cell service is not allowed, because:

- most of the U.S. Cellular phone lines were not used for purposes of your gubernatorial campaign,
- the cell service before April 7, 2018 that was campaign-related should have been paid for with seed money, not MCEA funds.

This disallowed amount of \$1,786.21 is listed in a summary table on the next page.

Reimbursement for purchases made by you. On June 27, 2018, the campaign reimbursed you \$1,373.50 for 16 campaign expenses you made during May 30, 2017 - June 8, 2018. Nine of those purchases were ineligible for this reimbursement because you made them before qualifying for MCEA funding on April 7, 2018. Accordingly, the Commission's auditor has determined that the campaign was not allowed to pay you \$1,043.73 in MCEA funds for these nine pre-certification purchases. Please be aware that this disallowed amount is \$58.50 less than the disallowed amount shown in the last paragraph on page 4 of the draft audit report, which was in error. The disallowed amount of \$1,043.73 is listed in a summary table on the next page.

Vehicle travel. Candidates may choose to reimburse themselves for costs associated with use of their personal vehicle (e.g., gas, insurance, wear and tear), but it is not required. MCEA candidates may use seed money to reimburse themselves for their campaign travel before they qualify for public campaign funds. After qualifying, they may use MCEA funds to reimburse themselves for travel, provided they keep a record of their campaign trips including specific details at the time of their travel or within two days afterward. In 2018, the reimbursement could not exceed 44 cents per mile.

To verify the allowability of the campaign’s reimbursement of MCEA funds to you for your campaign travel, the auditor examined a list of campaign trips you provided claiming 22,121 miles of campaign travel over 13 months. The auditor has determined that the campaign may reimburse you \$2,582.36 for 5,869 miles of travel you engaged in after April 7, 2018. The campaign may not use MCEA funds to reimburse you for campaign travel that occurred before you qualified for MCEA funds on April 7, 2018.

Summary of Reimbursements

June 27, 2018 payment of \$5,492.06

	Purpose of Reimbursement	Allowed	Disallowed	Reason Disallowed
\$1,373.50	Reimbursement for 16 purchases by candidate	\$329.77	\$1,043.73	MCEA funds cannot be used to reimburse candidate for nine purchases before 4/7/2018
\$4,118.56	Reimbursement for campaign use of vehicle	\$2,582.36	\$1,536.20	MCEA funds cannot be used to reimburse candidate for vehicle expenses before 4/7/2018

July 19, 2018 payment of \$5,651.06

\$1,950.00	Reimbursement for cell service	\$163.79	\$1,786.21	Some cell phone numbers were not used for campaign. Also, MCEA funds may not be used to reimburse candidate for campaign-related cell service before 4/7/2018
\$3,701.06	Reimbursement for campaign use of vehicle	\$0.00	\$3,701.06	MCEA funds cannot be used to reimburse candidate for vehicle expenses before 4/7/2018
Total		\$3,075.92	\$8,067.20	

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

2018 Candidate Guidebook

Running for Governor in Maine

Maine Clean Election Act Candidates





CONSIDERATIONS WHEN COLLECTING SEED MONEY

Occupation and Employer Information Required.

Candidates are required to request and report the occupation and employer of contributors who give more than \$50 in seed money. Under the Commission's Rules, a campaign must make a reasonable effort to obtain this information from contributors.

The Commission staff recommends that campaigns ask contributors for their information at the time seed money is solicited. If the candidate uses a form for contributions or an online fundraising service, the form or webpage should have a place for the contributor's employment and occupation information. If a contributor is unwilling to provide the information upon request, the treasurer should report "information requested" in the occupation and employer fields for that contributor in the campaign finance report.

Obtain and Keep Records of Contributions.

Treasurers and candidates are also required to keep a detailed and exact account of the full name and address of every person making a contribution of more than \$10, and the date and amount of the contribution.

Contributions from Minors. Candidates for Maine State and county offices may accept contributions from minors. If a campaign receives a seed money contribution from a minor and the campaign has doubts as to the source of the funds, the Commission staff recommends the campaign confirm and document that the minor, not the parents, gave the contribution. The Election Law prohibits contributions made to a candidate in the name of another. A penalty of up to

\$5,000 may be assessed on the contributor and the campaign for such a violation.

In documenting the source of funds, the campaign may want to confirm the decision to contribute was made knowingly and voluntarily by the minor, and the funds were not given to the minor for the purpose of making the contribution.

DEPOSITING & SPENDING SEED MONEY

Depositing Seed Money. All seed money contributions received by a campaign must be deposited in the campaign bank account. Seed money contributions received by check may not be cashed to create cash reserves for a campaign. If a campaign receives any seed money contributions in the form of cash, these contributions must also be deposited in the campaign bank account. Campaign funds received by an MCEA candidate cannot be commingled with any other funds.

By depositing all seed money contributions into the campaign bank account, and by paying vendors directly from the account, a campaign creates an audit trail that satisfies the documentation requirements of the MCEA and assures the Commission the campaign has complied with the seed money restrictions.

Spending Seed Money. Candidates should remember that prior to certification they may spend only seed money. They are prohibited from accepting and spending any other funds. It is a serious seed money violation for an MCEA campaign to receive goods or services which have not yet been paid for. Therefore, it is prohibited for a candidate or supporter to purchase items for the campaign for which the campaign does



not have the funds to immediately reimburse. Candidates are allowed to obligate funds that they do not have yet, such as placing an order with a vendor, provided the campaign does not receive any goods or services that have not fully been paid for.

Sometimes a candidate wishes to place an order with a vendor prior to MCEA certification, but the order costs more than the amount of seed money the candidate has raised. It is permissible for the candidate to place the order, partially pay the vendor with seed money, and have an outstanding obligation to the vendor, as long as the value of the goods or services that the candidate receives prior to MCEA certification does not exceed the amount of the actual payment to the vendor.

Purchases made with the candidate's personal funds for campaign goods and services that are not fully reimbursed by the campaign are in-kind contributions. A candidate may contribute up to \$100 in seed money, in the aggregate (cash contributions and in-kind contributions), to his or her campaign prior to certification.

Goods and services received prior to MCEA certification, including mileage and travel reimbursements, must be paid for with seed money. Candidates may never use MCEA funds to pay for goods and services received prior to MCEA certification. This includes mileage reimbursements for the candidate, candidate's spouse/domestic partner, and campaign staff and volunteers. It is a serious violation to do so and could potentially result in the revocation of a candidate's certification. A candidate must raise a sufficient amount of seed money to cover

his or her campaign expenses prior to MCEA certification, and budget accordingly.

Purchasing Equipment with Seed Money. The requirement to resell campaign equipment purchased with MCEA funds (see Chapter 6) does not apply to equipment purchased with seed money. Therefore, campaigns may wish to consider purchasing campaign equipment (phones, printers, computers, tablets, cameras, etc.) with seed money.

Campaign property or equipment purchased with seed money — unlike equipment purchased with MCEA funds — does not have to be sold at fair market value at the end of the campaign.

Using Seed Money for Payments to Family or Household Members. The restrictions on using MCEA funds to compensate family or household members (see Chapter 6) do not apply to expenditures of seed money.

Candidates may use seed money to pay members of a candidate's family or household, but the campaign must report the family or other relationship (e.g., "brother" or "roommate") in the Explanation of Purpose section in the campaign finance report.

Reporting Seed Money Contributions and Expenditures. Contributions and expenditures of seed money must be reported to the Commission by filing a Seed Money Report. Most treasurers file a Seed Money Report when the candidates submit their Request for Certification forms along with their qualifying contributions. However, the Seed Money Report may be submitted after the certification

**Legislative Candidates who Repaid MCEA Funds
Used to Reimburse them for Pre-Certification Travel**

2018

- The audit report for House candidate Warren Richardson's campaign found that his campaign had improperly used \$256.64 in MCEA funds to reimburse him for campaign travel that took place during the seed money period. Mr. Richardson voluntarily returned this amount to the Maine Clean Election Fund in September 2019.

2016

- At your November 30, 2017 meeting, you directed House candidate Sidney Pew to repay \$244.64 to the Maine Clean Election Fund because his campaign used MCEA funds in that amount to reimburse him for travel before he qualified for MCEA funding.
- The audit report for House candidate Rock Alley's campaign determined that the campaign had used MCEA funds to reimburse him for campaign travel that occurred during the seed money period in the amount of \$116.65. The candidate returned these funds to the Commission in September of 2017.
- During the 2016 election year, the Commission staff requested that House candidate Richard Fitzgerald repay roughly \$300 in MCEA funds, because this represented a reimbursement of MCEA funds to the candidate for travel before certification. He repaid these funds.

2010

- The audit of 2010 candidate Rudolph St. Peter found that he violated three program requirements including spending \$74.80 in MCEA funds to reimburse the candidate for his travel on three days before he was certified. The Commission directed him to repay \$74.80 to the MCE Fund.

August 14, 2019

Garrett Mason
25 High St., Unit 214
Portland, ME 04101


Subject: 2018 Campaign Compliance Report

Dear Mr. Mason:

Enclosed please find the final report concerning the review of your 2018 Gubernatorial campaign contributions and expenditures.

We anticipate presenting the report at the September 25, 2019 Commission meeting in Augusta. You will be invited to appear before the Commission to discuss the exception. Jonathan Wayne, the Commission's Executive Director, will contact you beforehand to schedule your appearance to discuss the exception.

Thank you for your cooperation during the review process.

A handwritten signature in cursive script that reads "Jennifer Connors".

Jennifer Connors, CPA
RUNYON KERSTEEN OUELLETTE

**MAINE COMMISSION ON GOVERNMENTAL ETHICS AND
ELECTION PRACTICES**

**Maine Clean Election Act Compliance Report
Candidate: Garrett Mason**

July 24, 2019

**INDEPENDENT ACCOUNTANT’S REPORT ON
APPLYING AGREED-UPON PROCEDURES**

Commissioners

Maine Commission on Governmental Ethics and Election Practices:

We have performed the procedures noted below for Gubernatorial candidate Garrett Mason, which were agreed to by the Maine Commission on Governmental Ethics and Election Practices (Maine Ethics Commission), solely to assist the Commissioners and staff in ensuring that the selected candidates complied with the requirements of the Maine Clean Election Act (MCEA) for the 2018 election cycle. This agreed-upon procedures engagement was conducted in accordance with attestation standards established by the American Institute of Certified Public Accountants. The sufficiency of these procedures is solely the responsibility of those parties specified in this report. Consequently, we make no representation regarding the sufficiency of the procedures described below, either for the purpose for which this report has been requested or for any other purpose.

We reviewed the transactions for the 2018 campaign of Garrett Mason for Governor for which MCEA funds were used. There was one exception reported and no findings, which are enumerated below.

Specific procedures and results are described below:

Procedure: Reviewed all campaign bank statements for the 2018 election cycle and ensured that the campaign finance reports submitted during the 2018 election cycle included all transactions and that all transactions were reported correctly (e.g., correct payment amount, obligation date).

Result: There were three hundred twenty nine transactions on the candidate’s bank statements. We were not able to trace all of the transactions on the campaign bank statements due to the large number of withdrawals and subsequent deposits for qualifying contributions. We were able to trace all of the transactions included on the campaign finance reports to the campaign bank statement, ensuring they agreed in amount and were included on the correct report, except as follows:

Exception: The candidate reported an expenditure to Sandtrap Associates of \$8,000 dated May 15, 2018 on the 11 Day Pre-Primary Report. However, the contract with Sandtrap Associates was dated March 1, 2018. As the 11 Day Pre-Primary Report includes transactions from April 25, 2018 through May 29, 2018, the transaction should have been reported as a debt on the 42 Day Pre-Primary Report. The candidate’s response to this exception has been included with this report as an attachment.

Procedure: Reviewed all selected disbursements and ensured there was proof of payment.

Result: We obtained copies of cancelled checks for those payments made by check; the rest of the disbursements, which were made by debit card, were substantiated through review of bank statements. Therefore, there was proof of payment for all selected disbursements.

Procedure: Judgmentally selected disbursements from those reported in the campaign finance reports, which in the aggregate represented at least fifty percent of the candidate's disbursements. Reviewed the selected disbursement transactions and ensured that they were substantiated by supporting, third party documentation and were for allowable expenditures under the MCEA. In addition, ensured that mileage logs supported selected reimbursements for mileage and that the total mileage and dollar amount on the mileage logs recalculated based on the individual trips and the applicable reimbursement rate.

Result: Of the twenty disbursements selected for testing, all were supported by third party documentation. Of the expenditures selected for testing, two were reimbursements for mileage and both were supported by travel logs. In addition, all selected transactions appeared to be for allowable expenditures under the Maine Clean Election Act.

Procedure: Reviewed purchases reported on the campaign finance reports to identify any equipment purchased with MCEA funds and ensure that the equipment was sold at fair market value and that sales proceeds were returned to the Maine Ethics Commission in a timely manner.

Result: No purchases of equipment were reported on the campaign finance reports.

Procedure: Reviewed all of the campaign bank statements from the 2018 election cycle and identified all deposits that were not for MCEA funds. Ensured that the amounts were reported as seed money contributions. Reviewed supporting documentation and ensured that seed money contributions were from individuals and did not exceed the threshold of \$100 per donor. In addition, ensured that no additional contributions were received after the candidate's certification.

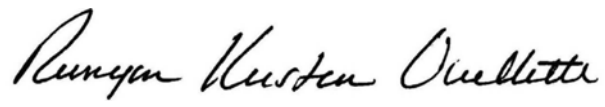
Result: We were able to trace the seed money contributions from the campaign finance reports to supporting records and verify that seed money contributions were within the allowable threshold and were from individuals. However, we were unable to verify that all deposits in the campaign bank account were properly reported as seed money contributions due to the large number of deposits related to qualifying contributions, many of which were deposited after the seed money period.

Procedure: Reviewed supporting documentation to determine that the balance of MCEA funds not spent were returned to the Maine Ethics Commission and were returned promptly (within forty-two days of the election).

Result: The candidate spent all of the clean election funds and therefore, there was no requirement to repay unspent funds.

We were not engaged to, and did not conduct an audit, the objective of which would be the expression of an opinion, on the specific elements, accounts, or items. Accordingly, we do not express such an opinion. Had we performed additional procedures, other matters might have come to our attention that would have been reported to you.

This report is intended solely for the information and use of the Commissioners and staff of the Maine Ethics Commission and is not intended to be and should not be used by anyone other than these specified parties.

A handwritten signature in black ink that reads "Remya Kristen Ouellette". The signature is written in a cursive style with a large initial 'R'.

July 24, 2019
South Portland, Maine

Jennifer,

Thank you very much for your long and hard work on this. Garrett shared the letter with me today, and we wanted to ensure that you had our comments as I believe it does clarify the two exceptions.

SandTrap- I believe this was just a misunderstanding between the campaign and our treasurer, and I agree with your assessment. I believe that the check wasn't written until May 15, 2018, and therefore, the treasurer reported based on when the check was written. That is an oversight on our part I do believe. I will note that we did provide copies of our contracts during the internal review by the commission after each reporting period and this was not caught, but I we do understand the oversight.

I hope this helps, and please provide us with a copy of your final report.

Thank you,

Keith



November 25, 2019

Ms. Teresea Hayes
P.O. Box 367
Buckfield, ME 04220

Subject: 2018 Campaign Compliance Report

Dear Ms. Hayes:

Enclosed please find the final report concerning the review of your 2018 Gubernatorial campaign contributions and expenditures.

We anticipate presenting the report at the December 18, 2019 Commission meeting in Augusta. You will be invited to appear before the Commission to discuss the exceptions. Jonathan Wayne, the Commission's Executive Director, will contact you beforehand to schedule your appearance to discuss the exception.

Thank you for your cooperation during the review process.

A handwritten signature in cursive script that reads "Jennifer Connors".

Jennifer Connors, CPA
RUNYON KERSTEEN OUELLETTE

**MAINE COMMISSION ON GOVERNMENTAL ETHICS AND
ELECTION PRACTICES**

**Maine Clean Election Act Compliance Report
Candidate: Teresea Hayes**

November 25, 2019



INDEPENDENT ACCOUNTANT'S REPORT ON APPLYING AGREED-UPON PROCEDURES

Commissioners

Maine Commission on Governmental Ethics and Election Practices:

We have performed the procedures noted below for gubernatorial candidate Teresea Hayes, which were agreed to by the Maine Commission on Governmental Ethics and Election Practices (Maine Ethics Commission), solely to assist the Commissioners and staff in ensuring that the selected candidates complied with the requirements of the Maine Clean Election Act (MCEA) for the 2018 election cycle. This agreed-upon procedures engagement was conducted in accordance with attestation standards established by the American Institute of Certified Public Accountants. The sufficiency of these procedures is solely the responsibility of those parties specified in this report. Consequently, we make no representation regarding the sufficiency of the procedures described below, either for the purpose for which this report has been requested or for any other purpose.

We reviewed the transactions for the 2018 campaign of Teresea Hayes for Governor for which MCEA funds were used. There were twenty-three exceptions reported and no findings, which are enumerated below. The candidate's responses to the exceptions are attached to this report.

Specific procedures and results are described below:

Procedure: Reviewed all campaign bank statements for the 2018 election cycle and ensured that the campaign finance reports submitted during the 2018 election cycle included all transactions and that all transactions were reported correctly (e.g., correct payment amount, obligation date).

Result: There were six hundred and ninety-nine transactions on the candidate's bank statements. We were not able to trace all of the transactions on the campaign bank statements due to the large number of withdrawals and subsequent deposits for qualifying contributions. We were able to trace all of the transactions included on the campaign finance reports to the campaign bank statement, ensuring they agreed in amount and were included on the correct report, except as follows:

Exceptions: We noted several instances in which expenditures were reported on the campaign finance reports that we could not trace to the campaign bank statements. See as follows:

- There were four transactions reported as reimbursed to Terry Hayes on the 2018 Semi-annual report for a total of \$37.50. The amounts included Casco Bay Condominium dated October 20, 2017 for parking for \$15; City of Portland dated October 20, 2017 for parking for \$2.50; 11 Temple MHR LLC dated October 27, 2017 for parking for \$10; Portland Public Market Garage dated November 8, 2017 for parking for \$10.
- The candidate reported an expenditure to USPS dated February 26, 2018 on the Seed Money Report for postage for \$76.47.

- The candidate reported two individual expenditures dated April 27, 2018 of \$75.17 and \$63.36 on the 11 Day Pre-Primary report that totaled \$138.53 for reimbursements to a campaign worker. In addition, the candidate reported an expenditure dated April 27, 2018 of \$138.53 as a reimbursement to the same campaign worker. However, we were only able to trace the check of \$138.53 to clearing the campaign bank statement and not the individual expenditures of \$75.17 and \$63.36. On further inquiry, it was determined that the disbursement of \$138.53 was reported twice, once as a single expenditure and then again as two separate expenditures.
- The candidate reported two separate expenditures to Walmart of \$440 each dated April 27, 2018 and May 2, 2018, respectively, on the 11 Day Pre-Primary report. However, we were only able to trace one disbursement from the campaign bank account for money orders that included fees of \$440. Per the campaign, the expenditure was most likely reported twice.

Exceptions: We noted several instances in which the expenditures reported on the campaign finance reports differed in amount from the actual expenditures on the campaign bank statements. See as follows:

- The candidate reported several expenditures to individuals for payroll dated March 1, 2018 on the Seed Money report for a total of \$4,684.95. However, there were two disbursements from the campaign bank statement for that payroll that totaled \$4,769.95, a difference of \$85. On further inquiry, the campaign verified the difference was a reporting error.
- The candidate reported eight expenditures that were reimbursements to a campaign worker for various dates and purposes on the Seed Money Report that totaled \$1,204.57. However, the check to the campaign worker dated March 31, 2018 was for \$1,304.36, a difference of \$99.79.
- The candidate reported several expenditures to individuals for payroll dated May 28, 2018 on the 11 Day Pre-Primary report for a total of \$9,486.18. However, there were two disbursements from the campaign bank statement for that payroll that totaled \$9,328.68, a difference of \$157.50.
- The candidate reported an expenditure to Peachtree Strategies dated July 1, 2018 of \$2,524 on the 42 Day Post-Primary report for database services. However, the check to Peachtree Strategies that cleared the campaign bank statement on August 16, 2018 was for \$2,805.88, a difference of \$281.88.
- The candidate reported an expenditure that was a reimbursement to a campaign worker for mileage of \$199.60 on the 42 Day Pre-General report, dated September 18, 2018. However, the check to the campaign worker that cleared the campaign bank statement on October 18, 2018 was for \$119.60, a difference of \$80.
- The candidate reported an expenditure of \$90 dated September 22, 2018 for money order fees on the 11 Day Pre-General report. On further inquiry, we determined that the \$90 was the total amount paid for money orders and the candidate should have only reported the money order fees of \$18.

Exceptions: We noted several expenditures from the campaign bank account that were not included on the campaign finance reports. See as follows:

- On the August 2018 campaign bank statement, we noted two debit card transactions of \$16.87 and \$25 that were not included on the campaign finance reports. As the expenditures were within the reporting period of the 42 Day Pre-General report, the expenditures should have been included on that report.
- On September 19, 2018, we noted a debit card transaction of \$128.34 to Panera Bread that was not included on the campaign finance report. As the expenditure was within the reporting period of the 42 Day Pre-General report, the expenditure should have been included on that report.
- On February 6, 2019, the campaign paid two campaign workers in two separate disbursements of \$516.44 and \$1,500, respectively. Although the disbursements were related to the campaign, the amounts were not reported on the campaign finance reports.

Exceptions: We noted several instances in which expenditures were reported as payments to individuals but the transactions were actually reimbursements and should have been reported by the vendors' names. See as follows:

- The candidate reported a reimbursement to herself for a total of \$167.76 on the Seed Money report for event food and beverage dated February 9, 2018.
- The candidate reported eight reimbursements to Kaitlin Lacasse for a total of \$2,168.08 on the Seed Money report for various purposes and dated March 31, 2018.
- The candidate reported five reimbursements to herself for a total of \$474.08 on the Seed Money report for various purposes dated March 31, 2018.

Exceptions: We noted several instances in which unpaid obligations for services were not reported as outstanding debts on the campaign finance reports:

- The candidate reported an expenditure of \$25,000 on the 42 Day Pre-Primary report to IVC Media for advertising, dated April 20, 2018. However, the invoice from IVC Media reported an unpaid remaining balance of \$15,000. The transaction should have been reported as an unpaid debt on the 42 Day Pre-Primary Report.
- The candidate reported an expenditure of \$6,750 on the 42 Day Pre-General report to Augur & Associates for legal services, dated August 2, 2018. However, the invoice from Augur & Associates was dated May 30, 2018 and included legal services for May and June 2018. As the 42 Day Pre-General report includes transactions from July 18 to September 18, 2018, the transaction should have been reported as an unpaid debt on the 42 Day Post-Primary report, which includes transactions from May 30 to July 17, 2018.
- The candidate reported an expenditure of \$2,075 to Black Fly Media on the 42 Day Pre-General report for video production, dated August 2, 2018. However, the check to Black Fly Media was dated July 15, 2018. As the 42 Day Pre-General report includes transactions from July 18 to September 18, 2018, the expenditure should have been reported on the 42 Day Post-Primary report, which includes transactions from May 30 to July 17, 2018.

- The candidate reported an expenditure of \$8,500 to Black Fly Media on the 11 Day Pre-General report for production costs, dated October 4, 2018. However, the invoice from Black Fly Media was dated August 29, 2018. As the 11 Day Pre-General report includes transactions from September 19 to October 23, 2018, the expenditure should have been reported as an unpaid debt on the 42 Day Pre-General report, which includes transactions from July 18 to September 18, 2018.
- The candidate reported an expenditure of \$1,500 to Pole Star on the 11 Day Pre-General report for data services, dated October 8, 2018. However, the invoice from Pole Star was dated August 31, 2018. As the 11 Day Pre-General report includes transactions from September 19 to October 23, 2018, the expenditure should have been reported as an unpaid debt on the 42 Day Pre-General report, which includes transactions from July 18 to September 18, 2018.

Procedure: Reviewed all selected disbursements and ensured there was proof of payment.

Result: We obtained copies of cancelled checks for those payments made by check; the rest of the disbursements, which were made by debit card, were substantiated through review of bank statements. Therefore, there was proof of payment for all selected disbursements, except as follows:

Exception: The candidate reported an expenditure to Nation Builder of \$2,524 for database services, dated October 1, 2018 and which was included in a reimbursement to a campaign worker. As the candidate was unable to provide a copy of the cancelled check, we were unable to verify the amount was actually paid to the vendor. However, we were able to verify the vendor's name as the candidate provided a hand-written check stub.

Procedure: Judgmentally selected disbursements from those reported in the campaign finance reports, which in the aggregate represented at least fifty percent of the candidate's disbursements. Reviewed the selected disbursement transactions and ensured that they were substantiated by supporting, third party documentation and were for allowable expenditures under the MCEA. In addition, ensured that mileage logs supported selected reimbursements for mileage and that the total mileage and dollar amount on the mileage logs recalculated based on the individual trips and the applicable reimbursement rate.

Result: Of the forty-two disbursements selected for testing, all were supported by third party documentation, except as follows. Of the expenditures selected for testing, three were reimbursements for mileage and all were supported by travel logs. In addition, all selected transactions appeared to be for allowable expenditures under the Maine Clean Election Act.

Exception: The candidate reported an expenditure to L2 for texting services, dated October 30, 2018. We were able to verify proof of payment to the vendor. However, the candidate was unable to provide the original vendor invoice and therefore, we were unable to verify the nature of the services.

Procedure: Reviewed purchases reported on the campaign finance reports to identify any equipment purchased with MCEA funds and ensure that the equipment was sold at fair market value and that sales proceeds were returned to the Maine Ethics Commission in a timely manner.

Result: We identified the purchase of two used desks reported by the candidate for \$50 each. However, the desks were not subject to the requirements to sell equipment at fair market value.

Procedure: Reviewed all of the campaign bank statements from the 2018 election cycle and identified all deposits that were not for MCEA funds. Ensured that the amounts were reported as seed money contributions. Reviewed supporting documentation and ensured that seed money contributions were from individuals and did not exceed the threshold of \$100 per donor. In addition, ensured that no additional contributions were received after the candidate's certification.

Result: We were able to trace the seed money contributions from the campaign finance reports to supporting records and verify that seed money contributions were within the allowable threshold and were from individuals. In addition, we were unable to verify that all deposits in the campaign bank account were properly reported as seed money contributions due to the large number of deposits related to qualifying contributions, many of which were deposited after the seed money period.

Procedure: Reviewed supporting documentation to determine that the balance of MCEA funds not spent were returned to the Maine Ethics Commission and were returned promptly (within forty-two days of the election).

Result: The candidate spent all of the clean election funds and therefore, there was no requirement to repay unspent funds.

We were not engaged to, and did not conduct an audit, the objective of which would be the expression of an opinion, on the specific elements, accounts, or items. Accordingly, we do not express such an opinion. Had we performed additional procedures, other matters might have come to our attention that would have been reported to you.

This report is intended solely for the information and use of the Commissioners and staff of the Maine Ethics Commission and is not intended to be and should not be used by anyone other than these specified parties.



November 25, 2019
South Portland, Maine

MEMO

From: Kaitlin LaCasse on behalf of the Hayes for Maine Campaign
To: Jennifer Connors, CPA, Runyun Kersteen Ouellette
CC: Jonathan Wayne, Paul Lavine, Emma Burke, Maine Ethics Commission

Date: November 19, 2019

RE: Response to draft audit

After reviewing the draft audit prepared by Jennifer Connors on behalf of Runyun Kertseen Ouelette, the Hayes for Maine Campaign generally agrees with the exceptions listed. During the campaign, we were in close communication and worked diligently with the Maine Ethics Commission to ensure that all items were reported accurately, but understand and accept that some minor and unintentional errors were made during the course of the campaign.

On behalf of the Hayes for Maine campaign, our sincere thanks to the staff of the Maine Ethics Commission for their work, in particular to Emma Burke, who was assigned to work with our campaign and represents her agency very well.