



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

To: Commission
From: Jonathan Wayne, Executive Director
Date: October 20, 2022
Re: Preliminary Staff Comments - American Leadership Committee-Maine PAC

The Commission received the attached complaint from Ms. Mary Small concerning mailings opposing legislative candidates financed by the American Leadership Committee-Maine PAC. It appears that the PAC was established by (or has another close relationship with) the Democratic Legislative Campaign Committee (DLCC), which is a national organization that promotes Democratic candidates for state office. This is suggested by the PAC's registration statement and the PAC's October quarterly campaign finance report, which disclosed a September 20, 2022 contribution of \$56,400 from the DLCC.

Top three funder disclosure. Ms. Small states that the mailings do not identify the top three funders of the American Leadership Committee-Maine PAC, which is required for most independent expenditure communications. The sample mailing she provided (opposing House candidate Linda Baker) contains the message: "No top donors." The cost of the Baker mailing was included in an independent expenditure report filed by the PAC on October 14, 2022 (attached), which included the costs of mailings to oppose a total of ten legislative candidates.

Because the Commission is required to consider the complaint on an expedited basis, we requested a written response from the PAC yesterday and have scheduled the matter for your October 26 meeting. We will do our best to provide additional staff comments or analysis in time for your consideration on October 26.

Date of expenditure, and timeliness of independent expenditure report. The staff has raised an additional compliance question (not in the complaint) relating to the timeliness of the

independent expenditure report. In the report, the PAC entered an “expenditure date” of Wednesday, October 12, 2022. The payee was Moxie Media in Seattle, Washington and the expenditure contained a notation of “debt owed.” The Commission staff learned that the PAC’s mailings were received by some Maine voters on Friday, October 14, 2022, which raised a question of whether the date of October 12 accurately describes the date on which the PAC entered into an agreement to pay for the mailings or actually paid for them. Because this issue is not in Ms. Small’s complaint, the Commission is not required by the Commission’s rules to address it at your October 26 issue. In yesterday’s letter requesting a response from the PAC, the staff asked for more information on this issue.

Thank you for your consideration of this agenda item.

From: Mary Small <votemyway@yahoo.com>
Sent: Tuesday, October 18, 2022 4:15 PM
To: Wayne, Jonathan <Jonathan.Wayne@maine.gov>
Subject: Complaint

Mr. Jonathan Wayne
Executive Director
Maine Ethics Commission
135 State House Station
Augusta, Maine 04333

October 17, 2022

Dear Mr. Wayne,

I am writing to file a complaint against American Leadership Committee Maine. The disclaimer on their false mailer against Linda Baker (attached) said no top donors however a quick search on Maine Campaign Finance shows their top and apparently only donor is the Democratic Legislative Campaign Committee in the amount of \$56,400.

This mailer was clearly sent out by the Democratic Legislative Campaign Committee the apparent sole contributor to the American Leadership Committee. The mailer is demonstrably false so it is no surprise they tried to cover their tracks.

The Democratic Legislative Campaign Committee is a national organization and the top donor to the House Democratic Campaign Committee. They then gave money to another national organization, the American Leadership Committee-Maine, that claims to not have any donors despite having already spent more than \$167,000 on Maine House races. This doesn't pass the straight face test.

I understand that politics involve spin but this mailer contained outright lies about the candidate. There is nothing a candidate can do about false accusations but at least the law allows people to identify who made the false claim and vote accordingly. However this shell game used by the two entities thumbs its nose at the law.

I hope the Commission acts swiftly on this so that the people of Topsham know who was responsible for the payment of this egregious mailer.

Sincerely,

Mary



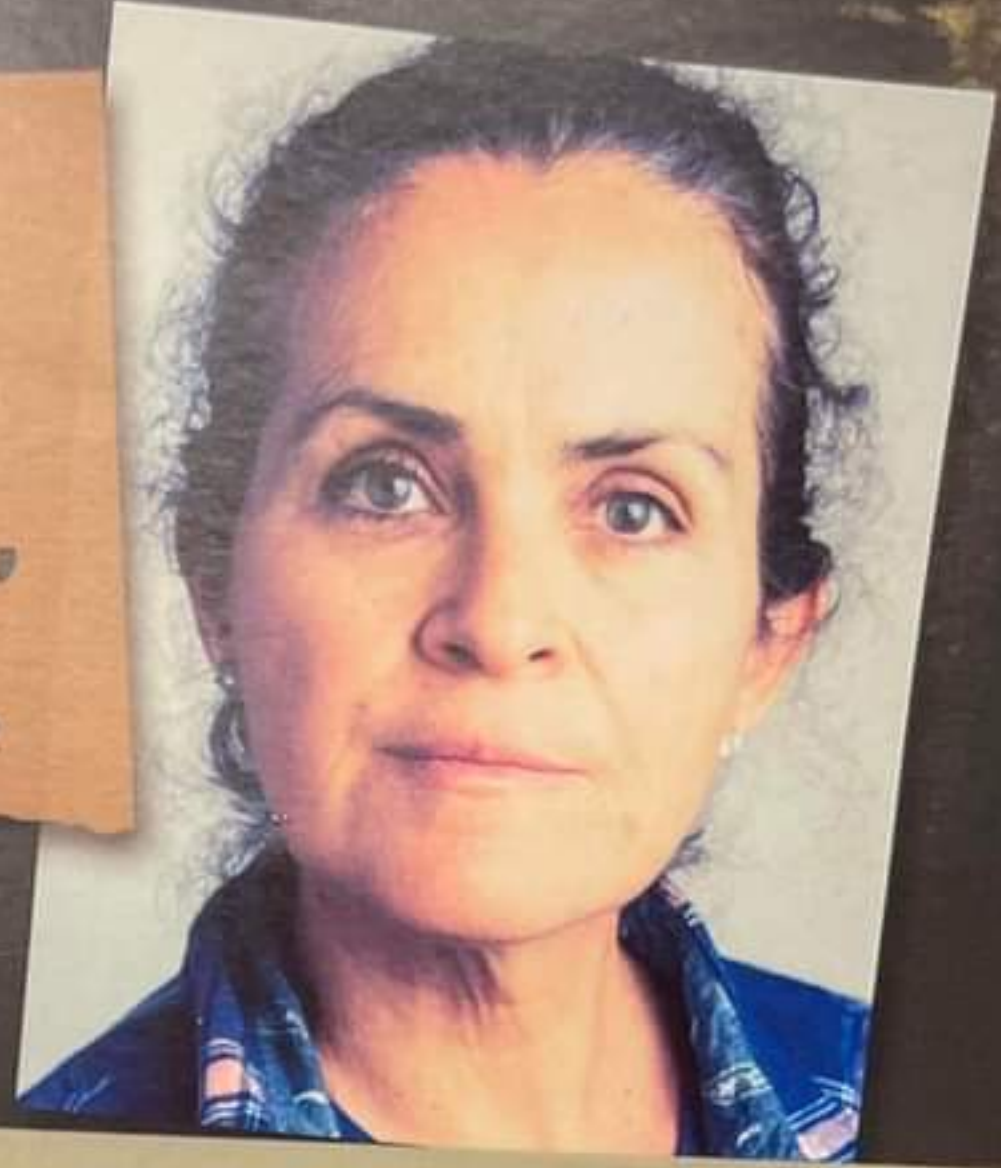
Mary Small

980 Washington St
Bath, Maine 04630

votemyway@yahoo.com
207-607-0536

**“Abortion rights in
Maine could be at risk
if Republicans reclaim
the state government”**

npr 5/16/22



**“MAINE REPUBLICAN
PARTY ADOPTS PLATFORM
AGAINST ABORTION”**

WABI/5 4/30/22

**“LePage has long
history of opposing
abortion rights”**

BEACON 6/29/22



**MAINE REPUBLICANS
WOULD TAKE AWAY
OUR RIGHTS**

WE CAN'T TRUST

REPUBLICAN LINDA BAKER



Now more than ever, we need a Representative who will defend our rights. But **Linda Baker** is backed by dangerous extremists who want to limit access to abortion, even here in Maine and could become the deciding vote to ban abortion in our state.¹

No matter how we feel about abortion personally, politicians should not be able to control people's private medical decisions.

Keep Linda Baker OUT of our State Legislature.

VOTE BY NOVEMBER 8

CHECK THE FACTS: Maine Republican Party Platform, accessed 9/20/22

Paid for by American Leadership Committee - Maine, 1225 I St NW Ste 1250, Washington, DC 20005. NOT PAID FOR OR AUTHORIZED BY ANY CANDIDATE. No loop donors.

PSNRT STD
US POSTAGE
PAID
STANDARD
MODERN
COMPANY

AUTO**5-DIGIT 04086



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

October 19, 2022

By Email and Regular Mail

Jonathan S. Berkon, Esq.
Elias Law Group
10 G Street NE, Suite 600
Washington, DC 20002

Dear Mr. Berkon,

The Maine Ethics Commission received the enclosed complaint alleging that independent expenditure (IE) mailings by the American Leadership Committee - Maine PAC did not contain a disclosure statement identifying the PAC's top three funders. A sample mailing for Maine House district 51 was provided with the complaint, which includes the disclosure of "No top donors." Additionally, Commission staff observes that the IE report may not correctly state the expenditure date for the mailings, suggesting that the report may have been filed late. This letter seeks a written response from the PAC on both issues by 12:00 noon on Monday, October 24 and that you or a colleague participate by Zoom in the Commission's meeting on October 26.

The IE report indicates that the PAC made an expenditure to Moxie Media in Seattle, Washington for the mailings on October 12, 2022 with a remark of "debt owed." The complainant has confirmed that the sample mailing was received by Maine voters on October 14, 2022. It is a legitimate question whether an obligation or payment to Moxie Media on October 12 could result in the printing and delivery of the mailings to Maine voters by October 14. The Commission seeks clarification from the PAC when it made a promise or agreement to pay for the mailers, and whether payment has been made.

Consideration by the Commission

Because the complaint was filed within the last 28 days before the November 8, 2022 general election, the Commission is required to consider it within two business days unless the complainant and the responding party agree to a later date. 21-A M.R.S. § 1002(1). With Ms. Small's consent, the Commission staff has scheduled this matter for the Commission's next regular meeting on October 26, 2022.

Relevant Laws and Rule

Top 3 Funders Statement. An independent expenditure mailing must conspicuously include the following statement: "The top 3 funders of (name of entity that made the IE) are (names of top 3 funders). 21-A M.R.S. § 1014(2-B). Under the Commission's Rules interpreting this requirement, if an organization has established a PAC as a separate, segregated fund or fully funds or controls a PAC, an independent expenditure communication by the PAC must contain the top three funders of the organization that

OFFICE LOCATED AT: 45 MEMORIAL CIRCLE, AUGUSTA, MAINE
WEBSITE: WWW.MAINE.GOV/ETHICS

PHONE: (207) 287-4179

FAX: (207) 287-6775

Jonathan S. Berkon, Esq.

Page 2

October 19, 2020

established, or funds or controls, the PAC. 94-270 C.M.R. ch. 1, §§ 7(12)(C)&(D). It appears that the PAC was established by the Democratic Legislative Campaign Committee, according to the PAC's registration.

Definition of Expenditure. The term "expenditure" includes "a purchase, payment, distribution, loan, advance, deposit or gift of money anything of value made for the purpose of initiating or influencing a campaign" and "a contract, promise, or agreement, expressed or implied, whether or not legally enforceable, to make any expenditure for the purposes set forth in this paragraph. 21-A M.R.S. §§ 1052 (4)(A)(1)&(2). In other words, an expenditure includes not just a payment of money, but also a promise or agreement to pay for good or services to influence a candidate's election. Further guidance on reporting unpaid debts or obligations are set out in the Commission's rules. 94-270 C.M.R. ch. 1 § 7(3).

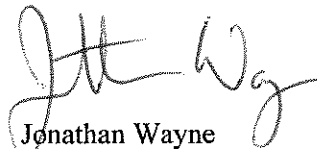
Request for Response

Please submit a written response no later than 12:00p.m. on Monday, October 24, 2022. You are welcome to include any information or legal argument you believe is relevant. The Commission staff recommends addressing the following specific points:

- If the PAC believes the "No top donor" statement complies with the top 3 funder requirement, please explain why. (The PAC has reported receiving a contribution from the Democratic Legislative Campaign Committee on September 20, 2022.)
- When did the PAC make a promise or agreement to Moxie Media to pay for the mailings? Please specify the action that constituted that commitment. In addition, if the PAC has paid Moxie Media for the mailings, please provide the payment date.

Thank you for your cooperation with this request. Please let me know if you have any questions.

Sincerely,



Jonathan Wayne
Executive Director

cc: Emily Hogin, Esq.
Mary Small



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

2022 INDEPENDENT EXPENDITURE REPORT

COMMITTEE		TREASURER
American Leadership Committee - Maine 1225 I St NW Ste 1250 Washington, DC 20005 PHONE: (202) 449-6740 EMAIL: compliance@dlcc.org		Meghan Lyons 1225 I St NW Ste 1250 Washington, DC 20005 PHONE:(202) 449-6740 EMAIL: lyons@dlcc.org
REPORT	DUE DATE	REPORTING PERIOD
2-Day Pre-General IE Report	10/14/2022	10/12/2022-10/12/2022

FINANCIAL ACTIVITY SUMMARY

EXPENDITURES	
Total independent expenditures greater than \$250 per candidate	\$18,146.44
Total independent expenditures of \$250 or less per candidate	\$0.00
Total independent expenditures for all candidates	\$18,146.44

AFFIDAVIT

STATE OF _____

COUNTY OF _____

Heather Kashner, being duly sworn, attests that each of the expenditures listed in the attached report was made independently of, and not in cooperation, consultation, or concert with, or at the request or suggestion of, the candidate(s) named in the report, the political committee of the candidate(s), or their agents.

 (Signature of Affiant)

Sworn to before me this _____ day of _____ 2022

 (Notary Public/Attorney at Law)

Making a false statement under oath is punishable by law.

REPORT FILED BY: Heather Kashner
 REPORT FILED ON: 10/14/2022 1:57:06 PM
 LAST MODIFIED:
 COMMITTEE ID: 454265
 REPORT NUMBER: 35111

**SCHEDULE B-IE-1
CANDIDATE(S) SUPPORTED/OPOSED**

Expenditure Date	Support / Oppose	Candidate Name	Office	District / County	Payee	Expenditure Amount
10/12/2022	OPPOSE	Jon Connor	Representative	96	Moxie Media	\$558.81
10/12/2022	OPPOSE	Jon Connor	Representative	96	Moxie Media	\$1,304.00
10/12/2022	OPPOSE	Mr. John Victor Chambers	Representative	9	Moxie Media	\$468.86
10/12/2022	OPPOSE	Mr. John Victor Chambers	Representative	9	Moxie Media	\$1,085.00
10/12/2022	OPPOSE	Mr. Mark Andrew Rouillard	Representative	149	Moxie Media	\$525.36
10/12/2022	OPPOSE	Mr. Mark Andrew Rouillard	Representative	149	Moxie Media	\$1,222.00
10/12/2022	OPPOSE	Mrs. Pamela Diane Buck	Representative	142	Moxie Media	\$506.83
10/12/2022	OPPOSE	Mrs. Pamela Diane Buck	Representative	142	Moxie Media	\$1,177.00
10/12/2022	OPPOSE	Ms. Linda L Baker	Representative	51	Moxie Media	\$621.19
10/12/2022	OPPOSE	Ms. Linda L Baker	Representative	51	Moxie Media	\$1,458.00
10/12/2022	OPPOSE	Ms. Tiffany Estabrook	Representative	75	Moxie Media	\$521.75
10/12/2022	OPPOSE	Ms. Tiffany Estabrook	Representative	75	Moxie Media	\$1,213.00
10/12/2022	OPPOSE	Mr. Charles J Bussell	Representative	54	Moxie Media	\$540.28
10/12/2022	OPPOSE	Mr. Charles J Bussell	Representative	54	Moxie Media	\$1,258.00
10/12/2022	OPPOSE	Mr. James E Orr	Representative	59	Moxie Media	\$527.62
10/12/2022	OPPOSE	Mr. James E Orr	Representative	59	Moxie Media	\$1,228.00
10/12/2022	OPPOSE	Mrs. AnnMarie Fredericks	Representative	143	Moxie Media	\$633.39

10/12/2022	OPPOSE	Mrs. AnnMarie Fredericks	Representative	143	Moxie Media	\$1,485.00
10/12/2022	OPPOSE	Mr. James William Sorcek	Representative	88	Moxie Media	\$544.35
10/12/2022	OPPOSE	Mr. James William Sorcek	Representative	88	Moxie Media	\$1,268.00
Total itemized independent expenditures greater than \$250 per candidate						\$18,146.44
Total unitemized independent expenditures of \$250 or less per candidate						\$0.00
Total independent expenditures for all candidates						\$18,146.44

**SCHEDULE B-IE-2
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	Expenditure type	Net Amount
10/12/2022	Moxie Media PO BOX 30084 SEATTLE, WA, 98113	Direct Mail postage	MHS	\$5,448.44
10/12/2022	Moxie Media PO BOX 30084 SEATTLE, WA, 98113	Direct Mail production (debt owed)	MHS	\$12,698.00
Total Expenditure				\$18,146.44



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

2022 REGISTRATION: POLITICAL ACTION COMMITTEE

COMMITTEE INFORMATION	
American Leadership Committee - Maine 1225 I St NW Ste 1250 Washington, DC 20005 PAC TYPE: Regular	Phone: (202) 449-6740 Fax: Email: compliance@dlcc.org Web:
TREASURER INFORMATION	
Meghan Lyons 1225 I St NW Ste 1250 Washington, DC 20005	Public: Fax: Email: lyons@dlcc.org
PRINCIPAL OFFICER INFORMATION	
Heather Kashner Principal Officer 1225 I St NW Ste 1250 Washington, DC 20005	Public: (202) 449-6740 Email: compliance@dlcc.org
DECISION MAKERS AND FUNDRAISERS	
LEGISLATORS AND CANDIDATES WITH A SIGNIFICANT ROLE IN THIS PAC	
FORM OF ORGANIZATION	
Non-Profit	Date of origin / incorporation 07/09/2018
FOUNDING ORGANIZATIONS	
American Leadership Committee 1225 I St NW Ste 1250 Washington, DC 20005	Public: (202) 449-6740
STATEMENT OF SUPPORT OR OPPOSITION	
SUPPORT	To support Democratic candidates for state legislature
CERTIFICATION	
I, Meghan Lyons, certify that the information in this registration is true, accurate, and complete.	
SIGNATURE	Date: October 03, 2022

Filed Date: 8/22/2022
Amended Date: 10/3/2022

PAC Registration



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

2022 CAMPAIGN FINANCE REPORT

FOR POLITICAL ACTION COMMITTEES

COMMITTEE		TREASURER	
American Leadership Committee - Maine 1225 I St NW Ste 1250 Washington, DC 20005 PHONE:(202) 449-6740 EMAIL: compliance@dlcc.org		Meghan Lyons 1225 I St NW Ste 1250 Washington, DC 20005 PHONE: EMAIL: lyons@dlcc.org	
REPORT	DUE DATE	REPORTING PERIOD	
Committee October Quarterly	10/05/2022	08/23/2022 - 09/30/2022	

FINANCIAL ACTIVITY SUMMARY

RECEIPTS	TOTAL FOR PERIOD	TOTAL FOR YEAR
1. CASH CONTRIBUTIONS (SCHEDULE A)	\$56,400.00	\$56,400.00
2. OTHER CASH RECEIPTS (INTEREST, ETC.)	\$0.00	\$0.00
3. LOANS (SCHEDULE C)	\$0.00	\$0.00
4. TOTAL RECEIPTS (LINE 1 + 2 + 3)	\$56,400.00	\$56,400.00
EXPENDITURES		
5. EXPENDITURES TO SUPPORT OR OPPOSE (SCHEDULE B)	\$0.00	\$0.00
6. OPERATING EXPENDITURES (SCHEDULE B-1)	\$56,400.00	\$56,400.00
7. LOAN REPAYMENTS (SCHEDULE C)	\$0.00	\$0.00
8. TOTAL PAYMENTS (LINE 5 + 6 + 7)	\$56,400.00	\$56,400.00
CASH SUMMARY		
9. CASH BALANCE AT BEGINNING OF PERIOD	\$0.00	
10. PLUS TOTAL RECEIPTS THIS PERIOD (LINE 4)	\$56,400.00	
11. MINUS TOTAL PAYMENTS THIS PERIOD (LINE 8)	\$56,400.00	
12. CASH BALANCE AT END OF PERIOD	\$0.00	
OTHER ACTIVITY		
13. IN-KIND CONTRIBUTIONS (SCHEDULE A-1)	\$0.00	\$0.00
14. TOTAL LOAN BALANCE AT END OF PERIOD (SCHEDULE C)	\$0.00	
15. TOTAL UNPAID DEBTS AT END OF PERIOD (SCHEDULE D)	\$0.00	

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

REPORT FILED BY: Heather Kashner
REPORT FILED ON: 10/5/2022 2:33:11 PM
LAST MODIFIED:
COMMITTEE ID: 454265

**SCHEDULE A
CASH CONTRIBUTIONS**

- For contributors who gave more that \$50, the names, address, occupation, and employer must be reported. If "information requested" is listed instead of occupation and employer, the candidate is waiting to receive that information.
- Cash contributions of \$50 or less can be added together and reported as a lump sum.
- Contributor Types

- | | |
|--|--|
| 1 = Individual | 9 = Candidate / Candidate Committee |
| 2 = Candidate/ Spouse/ Domestic Partner | 10 = General Treasury Transfer |
| 3 = Commercial Source | 11 = Transfer from Previous Campaign |
| 4 = Nonprofit Organization | 12 = Contributors giving \$50 or less |
| 5 = Political Action Committee | 13 = Contributors giving \$100 or less |
| 6 = Political Party Committee | 14 = Contributors giving \$200 or less |
| 7 = Ballot Question Committee | 15 = MCEA Payment |
| 8 = Other Candidate/ Candidate Committee | 16 = Financial Institution |

DATE RECEIVED	CONTRIBUTOR	EMPLOYER AND OCCUPATION	TYPE	AMOUNT
9/20/2022	Democratic Legislative Campaign Committee 1225 I St NW Suite 1250 Washington, DC, 20005		5	\$56,400.00
TOTAL CASH CONTRIBUTIONS				\$56,400.00

**SCHEDULE B-1
OPERATING 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
9/20/2022	GBAO Strategies 1701 K St NW Ste 600 Washington, DC, 20006	Polling	POL	\$56,400.00
TOTAL OPERATING EXPENDITURES				\$56,400.00

[21-A M.R.S. § 1014](#)

§ 1014. Publication or distribution of political communications

1. Authorized by candidate. Whenever a person makes an expenditure to finance a communication expressly advocating the election or defeat of a clearly identified candidate through broadcasting stations, cable television systems, newspapers, magazines, campaign signs or other outdoor advertising facilities, publicly accessible sites on the Internet, direct mails or other similar types of general public political advertising or through flyers, handbills, bumper stickers and other nonperiodical publications, the communication, if authorized by a candidate, a candidate's authorized political committee or their agents, must clearly and conspicuously state that the communication has been so authorized and must clearly state the name and address of the person who made or financed the expenditure for the communication. A communication financed by a candidate or the candidate's committee is not required to state the address of the candidate or committee that financed the communication. If a communication that is financed by someone other than the candidate or the candidate's authorized committee is broadcast by radio, only the city and state of the address of the person who financed the communication must be stated.

2. Not authorized by candidate. If the communication described in subsection 1 is not authorized by a candidate, a candidate's authorized political committee or their agents, the communication must clearly and conspicuously state that the communication is not authorized by any candidate and state the name and address of the person who made or financed the expenditure for the communication, except that a communication broadcast by radio is only required to state the city and state of the address of the person that financed the communication. If the communication is in written form, the communication must contain at the bottom of the communication in print that is no smaller in size than 12-point bold print, Times New Roman font, the words "NOT PAID FOR OR AUTHORIZED BY ANY CANDIDATE."

2-A. Other communications. Whenever a person makes an expenditure to finance a communication that names or depicts a clearly identified candidate and that is disseminated during the 28 days, including election day, before a primary election, during the 35 days, including election day, before a special election or during the period of time from Labor Day to the election day for a general election through the media described in subsection 1, the communication must state the name and address of the person who made or financed the communication and a statement that the communication was or was not authorized by the candidate, except that a communication broadcast by radio is only required to state the city and state of the address of the person that financed the communication. The disclosure is not required if the communication was not made for the purpose of influencing the candidate's nomination for election or election.

2-B. Top 3 funders; independent expenditures. A communication that is funded by an entity making an independent expenditure as defined in section 1019-B, subsection 1 must conspicuously include the following statement:

"The top 3 funders of (name of entity that made the independent expenditure) are (names of top 3 funders)."

The information required by this subsection may appear simultaneously with any statement required by subsection 2 or 2-A. A communication that contains a visual aspect must include the statement in written text. A communication that does not contain a visual aspect must include an audible statement. This statement is required only for communications made through broadcast or cable television, broadcast radio, Internet audio and video programming, direct mail or newspaper or other periodical publications.



A cable television, broadcast television or Internet video communication must include both an audible and a written statement. For a cable television, broadcast television or Internet video communication 30 seconds or less in duration, the audible statement may be modified to include only the single top funder.

The top funders named in the required statement consist of the funders providing the highest dollar amount of funding to the entity making the independent expenditure since the day following the most recent general election day.

A. For purposes of this subsection, “funder” includes:

(1) Any entity that has made a contribution as defined in section 1052, subsection 3 to the entity making the independent expenditure since the day following the most recent general election day; and

(2) Any entity that has given a gift, subscription, loan, advance or deposit of money or anything of value, including a promise or agreement to provide money or anything of value whether or not legally enforceable, except for transactions in which a fair value is given in return, since the day following the most recent general election day.

B. If funders have given equal amounts, creating a tie in the ranking of the top 3 funders, the tie must be broken by naming the tying funders in chronological order of the receipt of funding until 3 funders are included in the statement. If the chronological order cannot be discerned, the entity making the independent expenditure may choose which of the tying funders to include in the statement. In no case may a communication be required to include the names of more than 3 funders.

C. The statement required under this subsection is not required to include the name of any funder who has provided less than \$1,000 to the entity making the independent expenditure since the day following the most recent general election day.

D. If only one or 2 funders must be included pursuant to this subsection, the communication must identify the number of funders as “top funder” or “top 2 funders” as appropriate. If there are no funders required to be included under this subsection, no statement is required.

E. When compiling the list of top funders, an entity making an independent expenditure may disregard any funds that the entity can show were used for purposes unrelated to the candidate mentioned in the communication on the basis that funds were either spent in the order received or were strictly segregated in other accounts.

F. In any communication consisting of an audio broadcast of 30 seconds or less or a print communication of 20 square inches or less, the requirements of this subsection are satisfied by including the name of the single highest funder only.

G. If the list of funders changes during the period in which a recurring communication is aired or published, the statement appearing in the communication must be updated at the time that any additional payments are made for that communication.

H. The commission may establish by routine technical rule, adopted in accordance with Title 5, chapter 375, subchapter 2-A, forms and procedures for ensuring compliance with this subsection. Rules adopted pursuant to this paragraph must ensure that the information required by this subsection is effectively conveyed for a sufficient duration and in a sufficient font size or screen size where applicable without undue burden on the ability of the entity to make the communication. The rules must also provide an exemption for types of communications for which the required statement would be impossible or impose an unusual hardship due to the unique format or medium of the communication.

3. Broadcasting prohibited without disclosure. No person operating a broadcasting station or cable television system within this State may broadcast any communication, as described in subsections 1 to 2-A, without an oral or written visual announcement of the disclosure required by this section.

3-A. In-kind contributions of printed materials. A candidate, political committee or political action committee shall report on the campaign finance report as a contribution to the candidate, political committee or political action committee any contributions of in-kind printed materials to be used in the support of a candidate or in the support or defeat of a ballot question. Any in-kind contributions of printed materials used or distributed by a candidate, political committee or political action committee must include the name or title of that candidate, political committee or political action committee as the authorizing agent for the printing and distribution of the in-kind contribution.

3-B. Newspapers. A newspaper may not publish a communication described in subsections 1 to 2-A without including the disclosure required by this section. For purposes of this subsection, "newspaper" includes any printed material intended for general circulation or to be read by the general public, including a version of the newspaper displayed on a website owned or operated by the newspaper. When necessary, a newspaper may seek the advice of the commission regarding whether or not the communication requires the disclosure.

4. Enforcement. A violation of this section may result in a civil penalty of no more than 100% of the amount of the expenditure in violation, except that an expenditure for yard signs lacking the required information may result in a maximum civil penalty of \$200. In assessing a civil penalty, the commission shall consider, among other things, how widely the communication was disseminated, whether the violation was intentional, whether the violation occurred as the result of an error by a printer or other paid vendor and whether the communication conceals or misrepresents the identity of the person who financed it. If the person who financed the communication or who committed the violation corrects the violation within 10 days after receiving notification of the violation from the commission by adding the missing information to the communication, the commission may decide to assess no civil penalty.

5. Telephone calls. Prerecorded automated telephone calls and scripted live telephone communications that name a clearly identified candidate during the 28 days, including election day, before a primary election, during the 35 days, including election day, before a special election or during the period of time from Labor Day to the general election day for a general election must clearly state the name of the person who made or financed the expenditure for the communication and whether the communication was authorized by a candidate, except for prerecorded automated telephone calls paid for by the candidate that use the candidate's voice in the telephone call and that are made in support of that candidate. Telephone surveys that meet generally accepted standards for polling research and that are not conducted for the purpose of influencing the voting position of call recipients are not required to include the disclosure.

6. Exclusions. The requirements of this section do not apply to:

A. Handbills or other literature produced and distributed at a cost not exceeding \$100 and prepared by one or more individuals who are not required to register or file campaign finance reports with the commission and who are acting independently of and without authorization by a candidate, candidate's authorized campaign committee, party committee, political action committee or ballot question committee or an agent of a candidate, candidate's authorized campaign committee, party committee, political action committee or ballot question committee;

B. Campaign signs produced and distributed at a cost not exceeding \$100, paid for by one or more individuals who are not required to register or file campaign finance reports with the commission and who are acting independently of and without authorization by a candidate, candidate's authorized campaign committee, party committee, political action committee or ballot question committee or an agent of a candidate, candidate's authorized campaign committee, party committee, political action committee or ballot question committee;

C. Internet and e-mail activities costing less than \$100, as excluded by rule of the commission, paid for by one or more individuals who are not required to register or file campaign finance reports with the

commission and who are acting independently of and without authorization by a candidate, candidate's authorized campaign committee, party committee, political action committee or ballot question committee or an agent of a candidate, candidate's authorized campaign committee, party committee, political action committee or ballot question committee;

D. Communications in which the name or address of the person who made or authorized the expenditure for the communication would be so small as to be illegible or infeasible, including communications on items such as ashtrays, badges and badge holders, balloons, campaign buttons, clothing, coasters, combs, emery boards, envelopes, erasers, glasses, key rings, letter openers, matchbooks, nail files, noisemakers, paper and plastic cups, pencils, pens, plastic tableware, 12-inch or shorter rulers, swizzle sticks, tickets to fund-raisers and similar items determined by the commission to be too small and unnecessary for the disclosures required by this section and in electronic media advertisements where compliance with this section would be impractical due to size or character limitations; and

E. Campaign signs that are financed by the candidate or candidate's authorized committee and that clearly identify the name of the candidate and are lettered or printed individually by hand.

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§ 1019-B. Reports of independent expenditures

1. Independent expenditures; definition. For the purposes of this section, an “independent expenditure” means any expenditure made by a person, party committee or political action committee that is not made in cooperation, consultation or concert with, or at the request or suggestion of, a candidate, a candidate’s authorized political committee or an agent of either and that:

A. Is made to design, produce or disseminate any communication that expressly advocates the election or defeat of a clearly identified candidate; or

B. Unless the person, party committee or political action committee making the expenditure demonstrates under subsection 2 that the expenditure was not intended to influence the nomination, election or defeat of the candidate, is made to design, produce or disseminate a communication that names or depicts a clearly identified candidate and is disseminated during the 28 days, including election day, before a primary election; during the 35 days, including election day, before a special election; or from Labor Day to a general election day.

2. Commission determination. A person, party committee or political action committee may request a determination that an expenditure that otherwise meets the definition of an independent expenditure under subsection 1, paragraph B is not an independent expenditure by filing a signed written statement with the commission within 7 days of disseminating the communication stating that the cost was not incurred with the intent to influence the nomination, election or defeat of a candidate, supported by any additional evidence the person, party committee or political action committee chooses to submit. The commission may gather any additional evidence it determines relevant and material and shall determine by a preponderance of the evidence whether the cost was incurred with intent to influence the nomination, election or defeat of a candidate.

3. Report required; content; rules. Repealed

4. Report required; content; rules. A person, party committee or political action committee that makes any independent expenditure in excess of \$250 during any one candidate’s election shall file a report with the commission. In the case of a municipal election, the report must be filed with the municipal clerk.

A. A report required by this subsection must be filed with the commission according to a reporting schedule that the commission shall establish by rule that takes into consideration existing campaign finance reporting requirements. Rules adopted pursuant to this paragraph are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

B. A report required by this subsection must contain an itemized account of each expenditure in excess of \$250 in any one candidate’s election, the date and purpose of each expenditure and the name of each payee or creditor. The report must state whether the expenditure is in support of or in opposition to the candidate and must include, under penalty 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

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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. Repealed

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.

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§ 1052. Definitions

As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings.

- 1. Campaign.** “Campaign” means any course of activities to influence the nomination or election of a candidate or to initiate or influence any of the following ballot measures:
 - A. A people’s veto referendum under the Constitution of Maine, Article IV, Part Third, Section 17;
 - B. A direct initiative of legislation under the Constitution of Maine, Article IV, Part Third, Section 18;
 - C. An amendment to the Constitution of Maine under Article X, Section 4;
 - D. A referendum vote on a measure enacted by the Legislature and expressly conditioned upon ratification by a referendum vote under the Constitution of Maine, Article IV, Part Third, Section 19;
 - E. The ratification of the issue of bonds by the State or any agency thereof; and
 - F. Any county or municipal referendum.
- 2. Committee.** “Committee” means any political action committee or ballot question committee and includes any agent of a political action committee or ballot question committee.
- 2-A. Ballot question committee.** “Ballot question committee” means a person that receives contributions or makes expenditures aggregating in excess of \$5,000 for the purpose of initiating or influencing a campaign, other than a campaign for the nomination or election of a candidate. The term “ballot question committee” does not include a political action committee or an exempt donor.
- 3. Contribution.** “Contribution” includes:
 - A. A gift, subscription, loan, advance or deposit of money or anything of value made to or received by a committee for the purpose of initiating or influencing a campaign, including but not limited to:
 - (1) Funds that the contributor specified were given, in whole or in part, in connection with a campaign;
 - (2) Funds provided in response to a solicitation that would lead the contributor to believe that the funds would be used specifically, in whole or in part, for the purpose of initiating or influencing a campaign; and
 - (3) Funds that can reasonably be determined to have been provided by the contributor for the purpose of initiating or influencing a campaign when viewed in the context of the contribution and the recipient committee’s activities regarding a campaign;
 - A-1. Any funds deposited or transferred into the campaign account described in section 1054;
 - B. A contract, promise or agreement, expressed or implied, whether or not legally enforceable, to make a contribution to a committee;
 - C. Any funds received by a committee that are to be transferred to any candidate, committee, campaign or organization for the purpose of initiating or influencing a campaign; or
 - D. The payment, by any person or organization, of compensation for the personal services of other persons provided to a committee that is used by the committee to initiate or influence a campaign.

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"Contribution" does not include a loan of money by a financial institution made in accordance with applicable banking laws and regulations and in the ordinary course of business.

3-A. Exempt donor. "Exempt donor" means a person that has not received contributions for the purpose of influencing a campaign in the prior 2 years and whose only payments of money to influence a campaign in the prior 2 years are:

- A.** Contributions of money to candidates, party committees, political action committees or ballot question committees registered with the commission or a municipality; or
- B.** Payments for goods or services with an aggregate value of no more than \$100,000 contributed to candidates, party committees, political action committees or ballot question committees registered with the commission or a municipality.

4. Expenditure. The term "expenditure":

A. Includes:

- (1)** A purchase, payment, distribution, loan, advance, deposit or gift of money or anything of value, made for the purpose of initiating or influencing a campaign;
 - (1-A)** Any purchase, payment, distribution, loan, advance, deposit or gift of money made from the campaign account described in section 1054;
 - (2)** A contract, promise or agreement, expressed or implied, whether or not legally enforceable, to make any expenditure for the purposes set forth in this paragraph; and
 - (3)** The transfer of funds by a political action committee to another candidate or political committee; and

B. Does not include:

- (1)** Any news story, commentary or editorial distributed through the facilities of any broadcasting station, cable television system, newspaper, magazine or other periodical publication, unless these facilities are owned or controlled by any political party, political committee, candidate or the spouse or domestic partner of a candidate;
- (2)** Activity designed to encourage individuals to register to vote or to vote, if that activity or communication does not mention a clearly identified candidate;
- (3)** Any communication by any membership organization or corporation to its members or stockholders, if that membership organization or corporation is not organized primarily for the purpose of influencing the nomination or election of any person to state or county office;
- (4)** The use of real or personal property and the cost of invitations, food and beverages, voluntarily provided by a political action committee in rendering voluntary personal services for candidate-related activities, if the cumulative value of these activities by the political action committee on behalf of any candidate does not exceed \$250 with respect to any election;
- (5)** Any unreimbursed travel expenses incurred and paid for by a political action committee that volunteers personal services to a candidate, if the cumulative amount of these expenses does not exceed \$100 with respect to any election;
- (6)** Any communication by a committee that is not made for the purpose of influencing the nomination or election of any person to state or county office; and
- (7)** Any payments to initiate a people's veto referendum or the direct initiative of legislation made prior to the submission of an application to the Department of the Secretary of State as provided in section 901.

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4-A. Influence. “Influence” means to promote, support, oppose or defeat.

4-B. Initiate. “Initiate” includes the collection of signatures and related activities to qualify a state or local initiative or referendum for the ballot.

4-C. (TEXT EFFECTIVE UNTIL 1/01/23) Leadership political action committee. “Leadership political action committee” means a political action committee, other than a caucus political action committee under section 1053-C, that was directly or indirectly established by a current member of the Legislature or that is directly or indirectly maintained or controlled by a current member of the Legislature.

4-C. (TEXT EFFECTIVE 1/01/23) Leadership political action committee. “Leadership political action committee” means a political action committee, other than a caucus political action committee under section 1053-C, that was directly or indirectly established by a current member of the Legislature or that is directly or indirectly maintained or controlled by a current member of the Legislature.

5. Political action committee. The term “political action committee”:

A. Includes:

- (1) Any separate or segregated fund established by any corporation, membership organization, cooperative or labor or other organization that receives contributions or makes expenditures aggregating more than \$2,500 in a calendar year for the purpose of influencing the nomination or election of a candidate to political office; and
- (5) Any person, including any corporation or association, other than an individual, that receives contributions or makes expenditures aggregating more than \$2,500 in a calendar year for the purpose of influencing the nomination or election of any candidate to political office; and

B. Does not include:

- (1) A candidate or a candidate’s treasurer under section 1013-A, subsection 1;
- (2) A candidate’s authorized political committee under section 1013-A, subsection 1, paragraph B;
- (3) A party committee under section 1013-A, subsection 3; or
- (4) An exempt donor.

6. (TEXT EFFECTIVE 1/01/23) Separate segregated fund committee. “Separate segregated fund committee” means a political action committee described in subsection 5, paragraph A, subparagraph (1).

Chapter 1: PROCEDURES

SUMMARY: This Chapter describes the nature and operation of the Commission, and establishes procedures by which the Commission's actions will be governed.

...

SECTION 7. EXPENDITURES

1. **Expenditures by Consultants, Employees, and Other Agents of a Political Campaign**
 - A. Each expenditure made on behalf of a candidate, political committee, or political action committee by any person, agency, firm, organization, etc., employed or retained for the purpose of organizing, directing, managing or assisting the candidate, the candidate's committee, or the political action committee must be reported separately by the candidate or committee as if made or incurred by the candidate or committee directly. The report must include the name of the third party vendor or payee to whom the expenditure was made, the date of the expenditure, and the purpose and amount of the expenditure. It is not sufficient to report only the total retainer or fee paid to the person, agency, firm, organization, etc., if that retainer or fee was used to pay third party vendors or payees for campaign-related goods and services.
 - B. If a candidate or committee has paid a media buyer, advertising consultant or similar contractor to purchase advertising time or for the production of television or radio advertising, the candidate or committee may disclose the advertising time and production costs in the aggregate, rather than itemizing each payment made by the contractor to a third party vendor or payee. *Maine Clean Election Act* candidates must obtain from their contractor(s) documentation of every payment of \$50 or more made on their behalf by a contractor or subcontractor related to television or radio advertising.
2. **Expenditures by Political Action Committees.** In addition to the requirements set forth in 21-A M.R.S.A. §1060(4), the reports must contain the purpose of each expenditure and the name of each payee and creditor.

3. **Reporting Debts and Unpaid Obligations**

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- A. The following events constitute expenditures, even if the payment for a good or service has not been made at the time of the event:
- (1) The placement of an order for a good or service;
 - (2) The signing of a contract for a good or service;
 - (3) The acceptance of the delivery of a good or the performance of a service by a vendor; or
 - (4) A promise or an agreement (including an implied one) that a payment will be made in exchange for a good or service.
- B. For reporting purposes, the expenditures listed in paragraph A are designated as debts or obligations prior to payment for the goods or services being made.
- C. If a person required to file a campaign finance report has a debt or obligation which remains unpaid at the end of the report period, the person shall report the date, amount, vendor, and purpose of the debt or obligation. If the exact amount is not known, the person filing the report shall report an estimate of the amount (preferably obtained in a written statement from the vendor).
- D. If a debt or obligation occurs in the same report period as a payment for that debt or obligation, the person filing the report will report only the payment, not the debt or obligation.
- E. A candidate or committee is not required to report a payment for a good or service in a 24-Hour Report, if the candidate or committee reported a debt for that good or service in the last regularly scheduled campaign finance report.

4. **Advance Purchases of Goods and Services for the General Election** *[Repealed]*

5. All campaign-related payments made with the personal funds or credit card of the candidate or an individual authorized by the candidate must be reported as expenditures in the reporting period during which the payment to the vendor or payee is made. The candidate must report the name of the vendor or payee to whom the payment was made, the date of the expenditure, and the purpose and amount of the expenditure. When the expenditure is reported, the candidate should indicate the person who made the payment by entering "Paid by [name of candidate or supporter]" in the remarks section of the expenditure schedule. It is not sufficient to report only the name of the candidate or authorized individual to whom reimbursement was made and the total amount of the reimbursement.
6. Multiple expenditures for bank fees and for vehicle travel may be reported in an aggregate amount, provided that the candidate or committee identifies the time period of the expenditures in the remarks section of the report.
7. When a political action committee or party committee makes an expenditure for a communication to voters for the purpose of influencing the election of a clearly identified

candidate, the amount spent to influence that candidate's election must be specified on the regularly filed campaign finance report of the committee, regardless whether the communication expressly advocates for the election or defeat of the candidate. If a single expenditure influences the election of more than one candidate, the political action committee or party committee shall itemize the amount spent per candidate.

8. Payments made or obligations incurred solely for the purpose of conducting activities to determine whether an individual should become a candidate are not expenditures if the individual does not become a candidate. Examples of such activities include, but are not limited to, conducting a poll, telephone calls, and travel. The individual shall keep records of all such payments and obligations. If the individual becomes a candidate, the payments made or obligations incurred are expenditures and are subject to the reporting requirements of 21-A M.R.S.A. §1017. Such expenditures must be disclosed in the first report filed by the candidate or the candidate's authorized campaign committee, regardless of the date when the funds were expended, in accordance with the Commission's procedures for reporting expenditures.

Payments made for activities indicating that an individual has decided to become a candidate for a particular office are expenditures. Examples of such activities include, but are not limited to: using general public political advertising to publicize his or her intention to campaign for office; hiring staff or consultants for campaign activities; raising funds in excess of what could reasonably be expected to be used for exploratory activities; making or authorizing statements that refer to him or her as a candidate; or taking action to qualify for the ballot.

9. **Exception to Disclaimer Requirements for Certain Handbills, Campaign Signs, and Internet or E-Mail Communications**

For purposes of applying the exclusions listed in Title 21-A, section 1014, subsection 6, paragraphs A through C, the following terms have the following meanings:

- A. "Cost" includes all payments or obligations incurred, and the value of all goods and services received, for the purpose of creating, designing, preparing or distributing the communications.
- B. "Internet or e-mail communication" means any communication transmitted over the Internet, including but not limited to: sending or forwarding electronic messages; social networking; providing a hyperlink or other direct access to another person's website; creating, maintaining or hosting a website or blog; placing material on another person's website; and any other form of communication distributed over the Internet.
- C. "Acting independently of and without authorization by a candidate, candidate's authorized campaign committee, party committee, political action committee or ballot question committee or an agent [thereof]" means acting without any suggestion, request, direct or indirect authorization or compensation or reimbursement from any such candidate, committee or agent.
10. **Press Exemption.** In order for the costs of preparing and disseminating a news story, commentary, or editorial to be exempt from the definitions of expenditure under the press exemption [§§ 1012(3)(B)(1) & 1052(4)(B)(1)], the following criteria must be met:

- A. the names of the persons or entities who own, control and operate the broadcasting station or publication are identified within the publication or otherwise made known to the public; and
- B. the broadcasting station or publication is not owned or controlled by any political party, political action committee or ballot question committee and is not owned or controlled by any candidate for state, county or municipal office whose candidacy, election campaign, or opponent is a subject of the news story, commentary or editorial, or by the authorized campaign committee of such a candidate, or by a member of such a candidate's immediate family.

In addition to the above criteria, to qualify as a periodical publication, including one in electronic form on the Internet, or a newspaper or magazine, a publication (i) must have been disseminating news stories, commentaries or editorials on a variety of topics to the general public on a periodic basis for at least the previous twelve months, or (ii) must have a record of disseminating news stories, commentaries or editorials on a variety of topics to the general public or other objective indicators that the publication will continue to be published on a periodic basis beyond the election cycle during which the press exemption is claimed.

For purposes of this section, broadcasting station includes a cable television system.

- 11. **Shared Expenditures by Candidates.** When two or more candidates have jointly purchased a communication to voters or another good or service, a candidate will not be considered to have received an in-kind contribution if the cost is allocated among the candidates in proportion to the benefit received by each candidate.
- 12. **Disclosure of top funders in paid communications.** If an entity makes an independent expenditure in excess of \$250 to influence a candidate's election, the communication is required to contain the entity's top three funders under Title 21-A, section 1014, subsection 2-B.
 - A. The disclosure included in a cable television or broadcast television communication must conform with those portions of federal regulations 47 CFR §73.1212(a)(2)(ii) and 47 CFR §76.1615(a) which regulate text size and duration of sponsorship information. Specifically
 - (1) the font size must be equal to or greater than four percent of the vertical picture height, and
 - (2) the text must appear for not less than four seconds.
 - B. For communications listed in Title 21-A, section 1014, subsection 2-B with a visual aspect other than television or video communications, the statement of funders must appear in a font size that is 12-point or larger.
 - C. If the communication is funded by a political action committee that is a separate or segregated fund as defined in Title 21-A, section 1052, subsection (5)(A)(1), but not a separate legal entity, the top three funders to be listed are the top three



funders of the legal entity (corporation, membership organization, cooperative or labor or other organization) that established the fund.



- D. If the communication is funded by a political action committee that is fully funded or controlled by another political action committee or legal entity, the top three funders to be listed are the top three funders of that entity that fully funds or controls the political action committee.
- E. For any other political action committee that does not fall within the parameters of paragraphs C or D, the top three funders are the contributors who have given the top three aggregate contributions, as defined in Title 21-A, section 1052(3), during the time period specified in Title 21-A, section 1014, subsection 2-B, paragraph A.

Communications for which including the statement required by Title 21-A, section 1014, subsection 2-B would be impossible or impose an unusual hardship due to their format or medium are exempt from the requirements of that section.

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SECTION 10. REPORTS OF INDEPENDENT EXPENDITURES

1. **General.** Any person, party committee, political committee or political action committee that makes any independent expenditure in excess of \$250 per candidate in an election must file a report with the Commission according to this section.
2. **Definitions.** For purposes of this section, the following phrases are defined as follows:
 - A. "Clearly identified," with respect to a candidate, has the same meaning as in Title 21-A, chapter 13, subchapter II.
 - B. "Expressly advocate" means any communication that
 - (1) uses phrases such as "vote for the Governor," "reelect your Representative," "support the Democratic nominee," "cast your ballot for the Republican challenger for Senate District 1," "Jones for House of Representatives," "Jean Smith in 2002," "vote Pro-Life" or "vote Pro-Choice" accompanied by a listing of clearly identified candidates described as Pro-Life or Pro-Choice, "vote against Old Woody," "defeat" accompanied by a picture of one or more candidate(s), "reject the incumbent," or communications of campaign slogan(s) or individual word(s), which in context can have no other reasonable meaning than to urge the election or defeat of one or more clearly identified candidate(s), such as posters, bumper stickers, advertisements, etc. which say "Pick Berry," "Harris in 2000," "Murphy/Stevens" or "Canavan!"; or
 - (2) is susceptible of no reasonable interpretation other than as an appeal to vote for or against a clearly identified candidate.
 - C. "Independent expenditure" has the same meaning as in Title 21-A §1019-B. Any expenditure made by any person in cooperation, consultation or concert with, or

at the request or suggestion of, a candidate, a candidate's political committee or their agents is considered to be a contribution to that candidate and is not an independent expenditure.

3. **Reporting Schedules.** Independent expenditures in excess of \$250 per candidate per election made by any person, party committee, political committee or political action committee must be reported to the Commission in accordance with the following schedule:
 - A. *[Repealed]*
 - B. *[Repealed]*
 - (1) **60-Day Pre-Election Report.** A report must be filed by 11:59 p.m. on the 60th day before the election is held and be complete as of the 61st day before the election.
 - (2) **Two-Day Report.** From the 60th day through the 14th day before an election, a report must be filed within two calendar days of the expenditure.
 - (3) **One-Day Report.** After the 14th day before an election, a report must be filed within one calendar day of the expenditure.

For purposes of the filing deadlines in this paragraph, if the expenditure relates to a legislative or gubernatorial election and the filing deadline occurs on a weekend, holiday, or state government shutdown day, the report must be filed on the deadline. If the expenditure relates to a county or municipal election, the report may be filed on the next regular business day.
 - C. Reports must contain information as required by Title 21-A, chapter 13, subchapter II (§§ 1016-1017-A), and must clearly identify the candidate and indicate whether the expenditure was made in support of or in opposition to the candidate.
 - D. A separate 24-Hour Report is not required for expenditures reported in an independent expenditure report.
 - E. An independent expenditure report may be provisionally filed by facsimile or by electronic mail to an address designated by the Commission, as long as the facsimile or electronic copy is filed by the applicable deadline and an original of the same report is received by the Commission within five calendar days thereafter.
4. **Multi-Candidate Expenditures.** When a person or organization is required to report an independent expenditure for a communication that supports multiple candidates, the cost should be allocated among the candidates in rough proportion to the benefit received by each candidate.
 - A. The allocation should be in rough proportion to the number of voters who will receive the communication and who are in electoral districts of candidates named or depicted in the communication. If the approximate number of voters in each district who will receive the communication cannot be determined, the cost may

be divided evenly among the districts in which voters are likely to receive the communication.

[NOTE: FOR EXAMPLE, IF CAMPAIGN LITERATURE NAMING SENATE CANDIDATE X AND HOUSE CANDIDATES Y AND Z ARE MAILED TO 10,000 VOTERS IN X'S DISTRICT AND 4,000 OF THOSE VOTERS RESIDE IN Y'S DISTRICT AND 6,000 OF THOSE VOTERS LIVE IN Z'S DISTRICT, THE ALLOCATION OF THE EXPENDITURE SHOULD BE REPORTED AS: 50% FOR X, 20% FOR Y, and 30% FOR Z.]

- B. If multiple county or legislative candidates are named or depicted in a communication, but voters in some of the candidates' electoral districts will not receive the communication, those candidates should not be included in the allocation.

[NOTE: FOR EXAMPLE, IF AN EXPENDITURE ON A LEGISLATIVE SCORECARD THAT NAMES 150 LEGISLATORS IS DISTRIBUTED TO VOTERS WITHIN A TOWN IN WHICH ONLY ONE LEGISLATOR IS SEEKING RE-ELECTION, 100% OF THE COST SHOULD BE ALLOCATED TO THAT LEGISLATOR'S RACE.]

5. **Rebuttable Presumption.** Under Title 21-A M.R.S.A. §1019-B(1)(B), an expenditure made to design, produce or disseminate a communication that names or depicts a clearly identified candidate and that is disseminated during the 28 days before a primary election, the 35 days before a special election or from Labor Day to the general election will be presumed to be an independent expenditure, unless the person making the expenditure submits a written statement to the Commission within 48 hours of the expenditure stating that the cost was not incurred with the intent to influence the nomination, election or defeat of a candidate.

- A. The following types of communications may be covered by the presumption if the specific communication satisfies the requirements of Title 21-A M.R.S.A. §1019-B(1)(B):

- (1) Printed advertisements in newspapers and other media;
- (2) Television and radio advertisements;
- (3) Printed literature;
- (4) Recorded telephone messages;
- (5) Scripted telephone messages by live callers; and
- (6) Electronic communications.

This list is not exhaustive, and other types of communications may be covered by the presumption.

- B. The following types of communications and activities are not covered by the presumption, and will not be presumed to be independent expenditures under Title 21-A M.R.S.A. §1019-B(1)(B):
- (1) news stories and editorials, unless the facilities distributing the communication are owned or controlled by the candidate, the candidate's immediate family, or a political committee;
 - (2) activity or communication designed to encourage individuals to register to vote or to vote if that activity or communication does not name or depict a clearly identified candidate;
 - (3) any communication from a membership organization to its members or from a corporation to its stockholders if the organization or corporation is not organized primarily for the purpose of influencing the nomination or election of any person for state or county office;
 - (4) the use of offices, telephones, computers, or similar equipment when that use does not result in additional cost to the provider; and
 - (5) other communications and activities that are excluded from the legal definition of "expenditure" in the Election Law.
- C. If an expenditure is covered by the presumption and is greater than \$250 per candidate per election, the person making the expenditure must file an independent expenditure report or a signed written statement that the expenditure was not made with the intent to influence the nomination, election or defeat of a candidate. The filing of independent expenditure reports should be made in accordance with the filing schedule in subsections 3(A) and 3(B) of this rule. Any independent expenditure of \$250 or less per candidate per election does not require the filing of an independent expenditure report or a rebuttal statement.
- D. If a committee or association distributes copies of printed literature to its affiliates or members, and the affiliates or members distribute the literature directly to voters, the applicable presumption period applies to the date on which the communication is disseminated directly to voters, rather than the date on which the committee or association distributes the literature to its affiliates or members.
- E. For the purposes of determining whether a communication is covered by the presumption, the date of dissemination is the date of the postmark, hand-delivery, or broadcast of the communication.
- F. An organization that has been supplied printed communications covered by the presumption and that distributes them to voters must report both its own distribution costs and the value of the materials it has distributed, unless the organization supplying the communications has already reported the costs of the materials to the Commission. If the actual costs of the communications cannot be determined, the organization distributing the communication to voters must report the estimated fair market value.

- G. If a person wishes to distribute a specific communication that appears to be covered by the presumption and the person believes that the communication is not intended to influence the nomination, election or defeat of a candidate, the person may submit the rebuttal statement to the Commission in advance of disseminating the communication for an early determination. The request must include the complete communication and be specific as to when and to whom the communication will be disseminated.

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