

# Agenda

## Item #4

**Request to Investigate Signs in Gorham  
School Board Election**



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

To: Commissioners  
From: Jonathan Wayne, Executive Director  
Date: November 17, 2014  
Re: Request to Investigate Signs

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Suzanne Phillips is completing her first term as a member of the Gorham Town Council. She was a candidate for the Gorham School Board in the November 4, 2014 election. In the last two weeks before the election, signs were posted around town stating:

No Phillips  
Arrested for OUI  
Convicted for OUI  
Paid for by keep our kids safe from drunk drivers  
No Phillips .11

In 2012, Ms. Phillips pled guilty to operating under the influence. At the incident, her blood level content was measured at .11. The signs included a partial picture of someone pictured from behind wearing handcuffs. (see attached photo of signs)

On Saturday, November 1, 2014, Ms. Phillips filed a request that the Commission investigate the compliance of the signs with the state's "disclaimer" requirements for campaign communications. Her request mentioned Matthew Robinson, another Town Councilor in Gorham, who had spoken against Ms. Phillips' continued service on the Council after her conviction. His anticipated response is discussed below.

## **Required Disclosures on Yard Signs**

Under Maine Election Law (21-A M.R.S.A. § 1014(2-A)), yard signs and other paid communications must include certain information:

Whenever a person makes an expenditure to finance a communication that names or depicts a clearly identified candidate and that is disseminated during the ... 35 days before a general election[,] 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.... The disclosure is not required if the communication was not made for the purpose of influencing the candidate's nomination for election or election.

The Commission may assess a "maximum civil penalty of \$200" for yard signs lacking the required information under 21-A M.R.S.A. § 1014(4):

**4. Enforcement.** A violation of this section may result in a civil penalty of no more than \$5,000, 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.

## **Financial Report for Signs**

After receiving a copy of Ms. Phillips' request by mail, Matthew Robinson promptly contacted the Commission office by telephone on November 7, 2014. Upon receiving advice from a Commission employee, he filed an independent expenditure report with the Gorham Town Clerk. The report contained one expenditure to Yard Sign Master on

October 1, 2014 for \$138.60. In the field for "Name of Person/Committee Making Expenditure (top of page 1 of report)," Mr. Robinson wrote "Matthew Robinson Keep Our Kids Safe."

The independent report was due on Oct. 24, 2014 and was filed with the Town Clerk 14 days late. The Commission staff mailed Mr. Robinson our standard late-filing correspondence. He paid the preliminary penalty of \$19.46 online and is not seeking a waiver. *Accordingly, the late filed financial report is not before you at the November 24, 2014 meeting.*

#### **Anticipated Response by Matthew Robinson**

Mr. Robinson and I had a preliminary conversation in which he acknowledged his involvement with the signs. Based on a conversation I subsequently had with an attorney who provided him some informal advice, my general understanding is that

- Mr. Robinson intends to attend your November 24 meeting to take responsibility for the signs. He will not be submitting a written response.
- At the meeting, he will explain that he acted with some likeminded friends and/or neighbors who had concerns about Ms. Phillip's participation on the School Board.
- Mr. Robinson will acknowledge that he should have attended to the disclosure requirements for signs.

Please understand that this is my preliminary understanding of his position based on a quick conversation with someone who had provided him with advice, and should not be taken as his response.

### **Staff Recommendation**

At this stage of the proceeding, three employees of the Commission staff (including me) have had brief conversations with Mr. Robinson. Mr. Phillips has acknowledged that he was involved with the signs and made the payment for the signs.

Based on the information available at this time, the Commission staff recommends no further investigation of this matter beyond your November 24, 2014 meeting. We recommend resolving it at the meeting.

After hearing from Mr. Robinson, we recommend determining that the signs violated 21-A M.R.S.A. § 1014(2-A). On their face, the signs do not contain the address of the person that financed the communication, and do not state whether the signs were authorized by any School Board candidate. We cannot offer any recommendation concerning whether the “paid for by keep our kids safe from drunk drivers” complies with 21-A M.R.S.A. § 1014(2-A) without knowing more information.

We believe some financial penalty is appropriate to underscore the importance of the disclosure requirements in municipal races. The maximum penalty is \$200. My understanding is that Mr. Robinson intends to accept your determination on the penalty amount. Thank you for your consideration of this item.

## 21-A MRSA §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.

[ 2013, c. 494, §1 (AMD) .]

**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."

[ 2013, c. 362, §2 (AMD) .]

**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 21 days before a primary election or 35 days before 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.

[ 2013, c. 362, §3 (AMD) .]

**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.

[ 2011, c. 389, §11 (AMD) .]

**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.

[ 2009, c. 190, Pt. A, §3 (AMD) .]

**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.

[ 2007, c. 443, Pt. A, §9 (AMD) .]

✓ **4. Enforcement.** A violation of this section may result in a civil penalty of no more than \$5,000, 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.

[ 2011, c. 389, §12 (AMD) .]

**5. Telephone calls.** Prerecorded automated telephone calls and scripted live telephone communications that name a clearly identified candidate during the 21 days before a primary election or the 35 days before a general election must clearly state the name of the person who made or financed the expenditure for the communication, 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 calls made for the purposes of researching the views of voters are not required to include the disclosure.

[ 2007, c. 443, Pt. A, §9 (AMD) .]

**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; [2011, c. 389, §13 (NEW).]

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; [2013, c. 494, §2 (AMD).]

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; [2013, c. 494, §2 (AMD).]

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 [2013, c. 494, §3 (NEW).]

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. [2013, c. 494, §3 (NEW).]

[ 2013, c. 494, §§2, 3 (AMD) .]

#### SECTION HISTORY

1985, c. 161, §6 (NEW). 1987, c. 188, §17 (AMD). 1989, c. 504, §§5,6,31 (AMD). 1991, c. 466, §37 (AMD). 1991, c. 839, §§8-10 (AMD). 1995, c. 483, §6 (AMD). 2003, c. 302, §1 (AMD). 2003, c. 510, §F1 (AMD). 2003, c. 510, §F2 (AFF). 2003, c. 599, §15 (AFF). 2005, c. 301, §§10-12 (AMD). 2005, c. 308, §1 (AMD). 2005, c. 542, §1 (AMD). 2007, c. 443, Pt. A, §9 (AMD). 2009, c. 183, §1 (AMD). 2009, c. 190, Pt. A, §§2, 3 (AMD). 2009, c. 652, Pt. A, §20 (AMD). 2011, c. 360, §1 (AMD). 2011, c. 389, §§10-13 (AMD). 2013, c. 362, §§1-3 (AMD). 2013, c. 494, §§1-3 (AMD).

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PLEASE NOTE: The Revisor's Office cannot perform research for or provide legal advice or interpretation of Maine law to the public. If you need legal assistance, please contact a qualified attorney.

November 1, 2014  
Suzanne Phillips  
Gorham Town Councilor  
108 Harding Bridge Rd.  
Gorham, Maine 04038

Emma Burke,

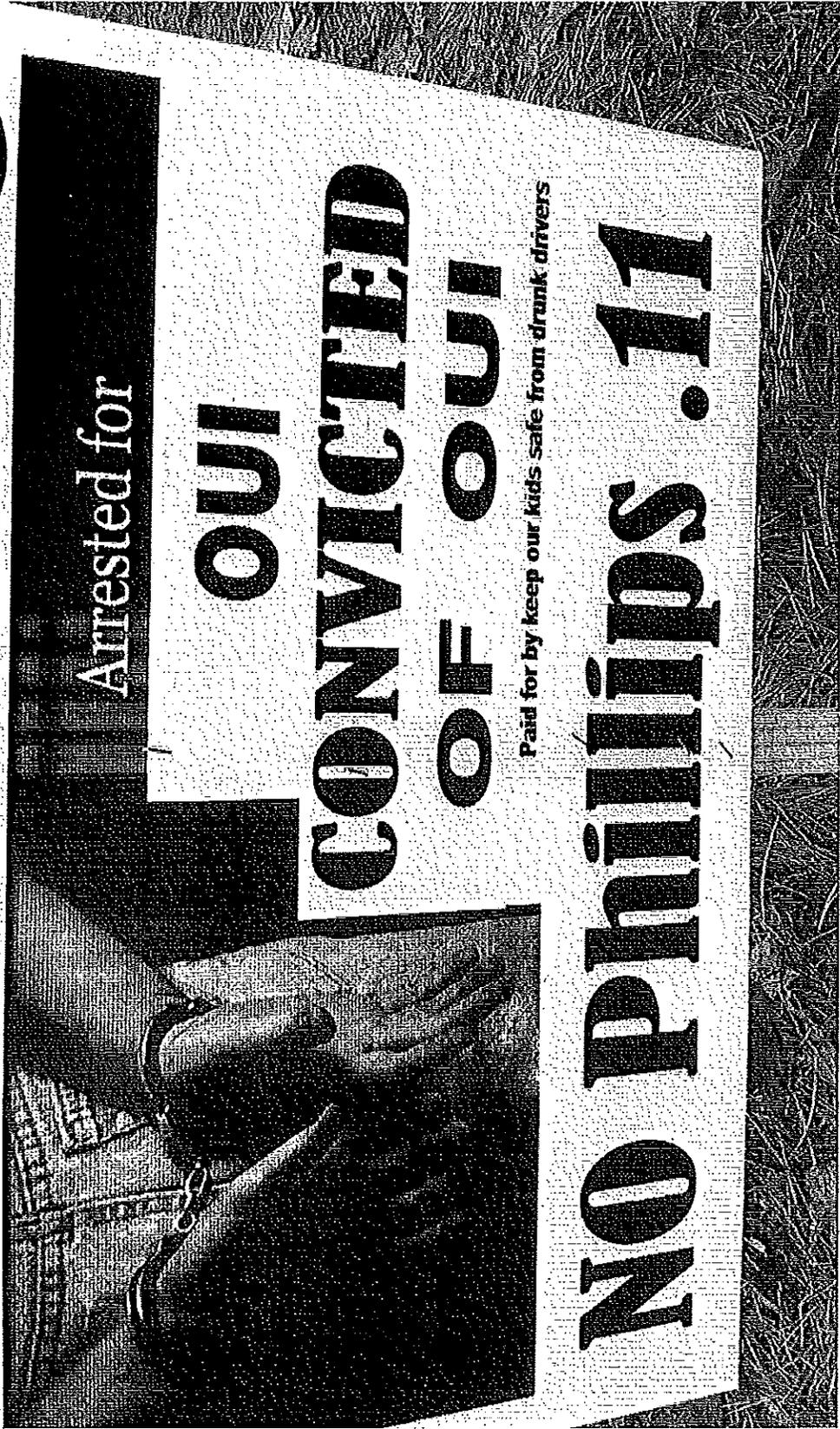
This letter is to formally file a complaint with The MAine Ethics Commission regarding political yard signs posted in the Town of Gorham. The signs are improperly marked per Maine election laws in Title 21-A. The signs encourage a No vote for myself, as I am currently running for a school committee position. The signs do not list all the information regarding the PAC. I would hope the signs could be removed but understand it is close to election day. I would like to continue the complaint against the person/people responsible. I have witnesses who say they have seen another Town Councilor Matthew Robinson putting up the signs. Otherwise I do not know who is financing the signs. Please contact me with any questions.

Sincerely yours,

A handwritten signature in cursive script, appearing to read "Suzanne Phillips". The signature is written in dark ink and is positioned above the printed name.

Suzanne Phillips

**NO PHILLIPS**



Arrested for

**OUI  
CONVICTED  
OF OUI**

Paid for by keep our kids safe from drunk drivers

**NO PHILLIPS .11**

[M THE 21st](#) [6102451601](#) [x](#) [\(1\) Ben Hartwell](#) [x](#) [https://www.facebook.com/ben.hartwell.556?ref=ts](#)

[Ben Hartwell](#) [Timeline](#) [Recent](#)


 was sitting on the couch watching [6.24 Reso](#) [C7](#)

**RECENT ACTIVITY**


 Ben is going to 4th Annual Sunset Farm Fall Harvest Barn Party.


 Ben is now friends with [Emily Frizzell-Day](#) and 4 other people.


 Ben likes [Vote Yes On Question 2](#)

[More Recent Activity](#)

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**Recent**


 Ben Hartwell [Matt Robinson?](#) Mustache? "heavy" set? [16 hrs · Like](#)


 Ben Hartwell Was this the person you saw? [16 hrs · Like](#)




 Emily Frizzell-Day Yes, it was Matt Robinson. 100%. [16 hrs · Like](#)

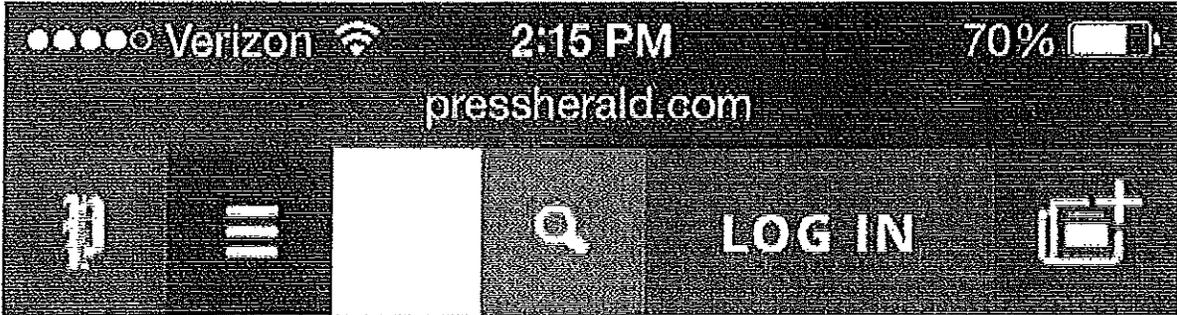

 Emily Frizzell-Day I watched him nail up the signs at the rotary at the top of the hill at the start of the bypass before USM on Route 25. [16 hrs · Like](#)


 Emily Frizzell-Day Sad. [16 hrs · Like](#)

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 Cape Chiropractic  
 CapeChiro.com  
 Cities now 2, see our mission to improve the lives and livelihood of every patient we see.  
 Tishina, Curt Swanson, Peter

[1 · Chat \(30\)](#)



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## 1 Comments

 [Login to Facebook to Post a Comment](#)



**Matthew Robinson**

I hope voters support this charter change, Moral turpitude should be decided by its a community and not by 7 councilors. Please support Forrest, Dennis and Sara for school committee, There is no place for someone convicted of OUI on our school Committee

Yesterday at 8:15am





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

November 5, 2014

Hon. Matt Robinson  
24 Sanborn Street  
Gorham, ME 04038

Dear Mr. Robinson,

I am writing you on behalf of the Maine Ethics Commission. Our office administers and enforces the campaign finance law for the State of Maine.

The Commission received the attached letter and other materials from Suzanne Phillips complaining about signs opposing her election to the Gorham School Committee. You are mentioned in the letter and materials.

I am conducting a preliminary investigation into expenditures for the signs and stakes, and seek to determine who made the payments, to whom, and the amounts. That information will determine whether certain disclosure requirements apply to the signs.

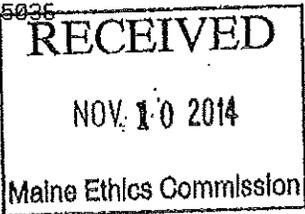
Could you please telephone me at your earliest convenience? I probably will be out of the office on Friday, November 7.

Thank you.

Sincerely,

A handwritten signature in cursive script that reads 'Jonathan Wayne'.

Jonathan Wayne  
Executive Director



For municipal clerk's contact information

**INDEPENDENT EXPENDITURE REPORT - NOVEMBER 4, 2014 MUNICIPAL ELECTION**

Name of Person/Committee Making Expenditure(s) Matthew Robinson keep our kids safe  
 Mailing Address 24 SANBORN ST  
 City, Zip Code Gorham, ME 04038 Telephone 207-839-7101

Please check the appropriate box for the report you are filing and complete the notarized affidavit and attached schedules. Reports must be filed on Saturday or Sunday. If that is when they are due, please contact the municipal clerk's office for the procedure for filing by fax or e-mail. The municipal clerk must receive the signed original report within 5 days after the preliminary report was filed.

Check here if this report is an amendment to a previously filed report? Date of original report: \_\_\_\_\_

**INDEPENDENT EXPENDITURES OVER \$250 MADE FROM SEPTEMBER 5 THROUGH OCTOBER 21, 2014**

Independent expenditures made from September 5 through October 21, 2014 that total more than \$250 per candidate must be reported within 2 calendar days of making the expenditure.  
 Report of Independent Expenditure over \$250 per Candidate

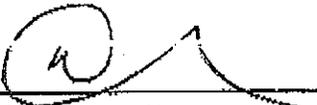
**INDEPENDENT EXPENDITURES OVER \$100 MADE AFTER OCTOBER 21, 2014**

Independent expenditures made after October 21, 2014 that total more than \$100 per candidate must be reported within one calendar day of making the expenditure.  
 Report of Independent Expenditure over \$100 per Candidate

**OTHER INDEPENDENT EXPENDITURES**

Report (select one)	<input checked="" type="checkbox"/> 60-Day Pre-Election Report	<input type="checkbox"/> 11-Day Pre-Election Report
Due Date	September 5, 2014 by 5:00 p.m.	October 24, 2014 by 5:00 p.m.
What Gets Reported	Expenditures aggregating over \$100 per candidate made on or before September 4	Expenditures aggregating over \$100 per candidate but not over \$250 from September 5 through October 21

I CERTIFY THAT THE INFORMATION IN THIS REPORT IS TRUE, CORRECT AND COMPLETE.

  
 Signature of PAC or Party Treasurer, or Other Authorized Person Making Expenditure(s)

11/7/14  
 Date

INDEPENDENT EXPENDITURE REPORT - 2014 MUNICIPAL ELECTION

AFFIDAVIT

STATE OF Maine

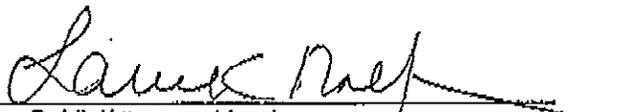
COUNTY OF Cumberland

I, Matthew Robinson, being duly sworn, attest that I made each of the expenditures listed in the attached report independently, and not in cooperation, consultation, or concert with, or at the request or suggestion of, any candidate, authorized committee or agent of a candidate in a race affected by any expenditure listed in this report.



Signature of Affiant

Sworn to before me, this 7<sup>th</sup> day of November 2014



(Notary Public/Attorney at Law)

My commission expires: \_\_\_\_\_  
**Laurie K. Nordfors**  
**Notary Public**  
**State of Maine**  
My Commission Expires 12-23-2016



Independent Expenditure Report - 2014 Municipal Election

Page      of       
(Schedule B-IE-2 only)

Schedule B-IE-2

PAYMENTS AND OBLIGATIONS

- Please indicate the date, payee, expenditure type, and amount of each expenditure.
- If you are reporting an agreement or obligation to make a future payment, please check (✓) the box next to the expenditure type.

Expenditure Types			
LIT	Printing and graphics (flyers, signs, palmcards, etc.)	PRT	Print media ads only (newspapers, magazines)
MHS	Mail house (all services purchased)	RAD	Radio ads, production costs
PHO	Phone bank, automated telephone calls	TVN	TV or cable ads, production costs
POK	Polling and research survey	WEB	Website design, registration, hosting, maintenance, etc.
POS	Postage for U.S. Mail and mail box fees	OTH	Other (include description)

Date of expenditure	Payee, address, zip code	Expenditure type	✓	Amount
10-1-2014	Yard sign Master	LIT		138. <sup>60</sup>
	Sticks for signs used sawoff wood			0
A. Expenditures for this page =>				138. <sup>65</sup>
B. Total for all other Schedule B-IE-2 pages (if any) =>				
C. Total independent expenditures for this reporting period (A+B). This amount should equal the total amount for all candidates listed on Schedule B-IE-1. =>				138. <sup>65</sup>



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

November 10, 2014

Hon. Matthew Robinson  
24 Sanborn Street  
Gorham, ME 04038

Dear Mr. Robinson,

This letter is to describe the procedures that our office will use in considering the complaint by Suzanne Phillips concerning the lawn signs. I am scheduling the complaint for the next meeting of the Commission on Monday, November 24 at 9:00 a.m. at the Commission's office at 45 Memorial Circle in Augusta.

#### **Required Disclosures on Yard Signs**

Under Maine Election Law (21-A M.R.S.A. § 1014(3)), yard signs and other paid communications must include certain information:

Whenever a person makes an expenditure to finance a communication that names or depicts a clearly identified candidate and that is disseminated during the ... 35 days before a general election[,] 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.... The disclosure is not required if the communication was not made for the purpose of influencing the candidate's nomination for election or election.

At the meeting, I expect the Commissioners to discuss whether the signs contained

- the name and address of the person who financed the communication, and
- a statement that the communication was – or was not – authorized by any school board candidate.

The Commission may assess a maximum civil penalty of \$200 for yard signs lacking the required information. (21-A M.R.S.A. § 1015(4))

#### **Your Opportunity to Respond to the Complaint**

If you would like to respond to the complaint and the potential penalty, please submit a written response as soon as you can. I will forward it to the Commissioners upon receiving it. You are also welcome to attend the meeting on November 24, 2014 to respond in person to the potential finding of violation and penalty. If you need additional time to respond in writing, the matter could be postponed until the Commission's meeting in December.

OFFICE LOCATED AT: 45 MEMORIAL CIRCLE, AUGUSTA, MAINE  
WEBSITE: [WWW.MAINE.GOV/ETHICS](http://WWW.MAINE.GOV/ETHICS)

PHONE: (207) 287-4179

FAX: (207) 287-6775

Mr. Matthew Robinson  
Page 2  
November 10, 2014

In speaking to Suzanne Phillips and other members of the Gorham public concerning the signs, the Commission may receive some suggestions at the November 24 meeting that you were primarily responsible for the signs and that the statement "paid for by keep our kids safe from drunk drivers" was intended to conceal your responsibility for the signs. If you wish to respond to that issue in particular, please feel free to describe the group of people responsible for the signs and specify any activities that were conducted by anyone *other than yourself* (for example, did anyone other than you decide on the content of the signs, order or pay for the signs, or post or remove the signs).

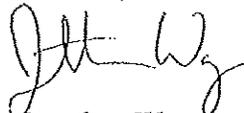
#### **Opportunity to Request a Waiver of Late Filing Penalty**

On November 7, 2014, you filed an independent expenditure report with the Gorham Town Clerk indicating that the signs cost \$138. The report appears to have been filed 14 days late. The Commission staff has calculated the preliminary penalty for the late filing to be \$19.46. I have attached our routine penalty correspondence, which discusses how you may request a waiver of the \$19.46 penalty.

If you would like to request a waiver, please submit the request in writing, along with your response to the complaint. I will schedule the waiver request and Ms. Phillips' complaint for the same meeting.

Please call me at 287-4179 if you have any questions about this matter.

Sincerely,



Jonathan Wayne  
Executive Director

cc: Jennifer Elliott, Gorham Town Clerk  
Hon. Suzanne Phillips