

Agenda

Item #2



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: December 12, 2012
Re: Information for the December 19, 2012 Hearing

This memo provides background information for the Commission's December 19, 2012 hearing on financial activities to support A. Michael Nadeau for the Maine House of Representatives in District 1. In the November 6, 2012 general election, Mr. Nadeau defeated the incumbent, John L. Martin.

Complaint and Initial Determination

Mailing, and Report of Independent Expenditure

Around Thursday, November 1, 2012, a mailing was sent to voters in House District #1 that promoted Mr. Nadeau and criticized Rep. Martin. A copy is attached. At least three individuals had some involvement in the mailing: James Majka ("MI'-kah"), Dana Saucier, and Philip Soucy. On Friday, November 2, the Commission received a report of an independent expenditure for the mailing. Mr. Soucy signed the report. The person making the expenditure was identified in the report as Citizens for Effective Government, L. Philip Soucy, Treasurer. The cost of the mailing was \$1,475.16, according to the report. The Commission assigned the report an index number of 205. (Mr. Soucy later told me in an interview that Dana Saucier helped him enter the information on the report, because Mr. Soucy has trouble with printing by hand.)

Within the report, Mr. Soucy signed a form affidavit stating that he made the expenditure "not in cooperation, consultation, or concert with, or at the request or suggestion of, any candidate, authorized committee or agent of a candidate" This was a problem

because Mr. Soucy *was the campaign treasurer for Michael Nadeau's campaign*. Although Mr. Soucy described himself to the Commission as a treasurer "in name only," he did sign campaign finance reports submitted by the campaign on paper, thus certifying that the reports were true, accurate, and complete (*see* attached registration form and report cover sheets). The Commission staff views Mr. Soucy as part of Mr. Nadeau's authorized political committee and an agent for the candidate and committee. So, it is difficult to see how the expenditure was not made in cooperation with the candidate's campaign committee or agents.

Political organizations and other associations that organize for the purpose of supporting candidates for state office are required to register and file financial reports as political action committees (PACs), if they receive contributions or make expenditures totaling more than \$1,500 in a calendar year for the purpose of influencing state candidate elections. (21-A M.R.S.A. § 1052(A)(4)) The report stated that Citizens for Effective Government spent \$1,475.16 on the mailing. Because this is less than the \$1,500 threshold, the expenditure for the mailing – in itself – apparently would not trigger the requirement to register and file reports as a PAC. Qualifying as a PAC entails disclosure of the sources of money used for campaign expenditures.

Filing of Complaint

At 6:59 p.m. on Friday, November 2, 2012, counsel for the Maine Democratic Party, Kate R. Knox, Esq., filed a request for investigation with the Ethics Commission by electronic mail. (attached) The Maine Democratic Party contended that Mr. Nadeau had received a contribution because his treasurer – an agent of the campaign – cooperated with the expenditure:

As Treasurer of Mr. Nadeau's campaign – he is clearly an "agent" of the campaign and as such, is prohibited from coordinating with any outside organization on expenditures (let alone an organization he controls). As a result, the \$1,475.16 expenditure made by [Citizens for Effective Government] to support Candidate Nadeau is an illegal contribution to the campaign.

(Knox letter, at 2) As a Maine Clean Election Act candidate, Mr. Nadeau is not permitted to accept campaign contributions.

Notice to Mr. Nadeau and Mr. Soucy of Complaint

Assistant Director Paul Lavin received the complaint the evening of Friday, November 2, 2012. In the next 90 minutes, he spoke separately with Michael Nadeau and Philip Soucy by telephone about the complaint. He transmitted a pdf of the complaint to both of them by electronic mail at 8:35 p.m. (*see* attached e-mail). Mr. Lavin used an e-mail address specified by Mr. Nadeau. Mr. Lavin's e-mail stated that "There is a high probability that the Commission will hear the [Maine Democratic Party's] request Monday afternoon."

On the morning of Saturday, November 3, 2012, the Commission Chair, Walter F. McKee, authorized the Commission to meet on the complaint and directed me to gather preliminary factual information over the weekend.

I called Mr. Soucy on Saturday, November 3 and he consented to answer my questions. A typed summary of his interview responses is attached, although I caution you that some of his responses on November 3 were contradicted by his comments at the November 5 meeting – particularly concerning the source of the funds for the mailing. (Those discrepancies are described below). At the conclusion of the phone call when we started discussing the logistics for the November 5 meeting, he mentioned that a lawyer would be involved at the hearing. At that point, I terminated the phone call.

Following my interview of Philip Soucy, I left a voicemail message for candidate Michael Nadeau on his cell phone number, inviting him to call me at the Commission Office on Sunday, November 4. I did not hear back from him on November 3 or 4. I spoke with Mr. Nadeau by phone on the morning of November 5 and attempted to notify him of the meeting, but the phone connection was poor.

November 5, 2012 Meeting and Determination

The Commission met at 3:00 p.m. on Monday, November 5, 2012 (the day before the election). Mr. Soucy provided information by telephone in response to questions from the Commission members and staff. At the meeting, the Commission considered presentations by William P. Logan, Esq., attorney for Mr. Soucy, and Ms. Knox, attorney for the Maine Democratic Party. Mr. Nadeau did not participate in the meeting.

One of the topics discussed at the meeting was the source of funds for the mailing. Philip Soucy said that his group received three contributions of \$500 in cash from Norman Nadeau, Kenneth Nadeau, and Ronaldo Thibeault.¹ When asked if the contributors were related to the candidate, he said that he did not know. He said that he put the cash in his safe. He paid for the mailing with a personal credit card. There was now only around \$25 left in the safe. This explanation offered by Mr. Soucy of the source of cash for the mailing directly contradicted the information he provided me by telephone on November 3, 2012, in which he said that the money came from small donors of less than \$100 and possibly personal funds of Dana Saucier and James Majka. In the November 3 interview, he denied that the money came from any other source. When asked about the discrepancy between his responses on November 3 and 5, he replied that on November 3 he had been interrogated without an attorney.

At the meeting, the Commissioners found unanimously that:

- (1) there was a coordinated expenditure under Title 21-A, section 1015(5) as a result of the involvement of treasurer L. Philip Soucy in the Mike Nadeau campaign and the Citizens for Effective Government, and
- (2) as a result of the coordinated expenditure, there was a campaign contribution to the Mike Nadeau campaign which is not allowed under the Maine Clean Election Act.

¹ Norman Nadeau is a brother of the candidate. Ronaldo Thibeault is the candidate's stepfather. Kenneth Nadeau was also a brother of the candidate, but he died on November 10, 2012.

In addition, the Commission directed its staff to commence an investigation regarding 1) the factual issues concerning the coordinated expenditure, 2) whether the Citizens for Effective Government should have registered as a political action committee, and 3) the issues raised by the sworn statement by L. Phillip Soucy that there was no coordination between the Mike Nadeau campaign and the Citizens for Effective Government regarding the expenditure for the communication.

On November 5, 2012, the Commission staff prepared a written determination (attached).

Newspaper Advertisement Purchased by James Majka

Following the determination, the Commission staff telephoned the local newspapers to verify that all spending to influence the District 1 race had been reported. The Fiddlehead Focus, a weekly newspaper based in Fort Kent, disclosed that James Majka had purchased a half-page advertisement for the October 31 edition of the newspaper (*see attached image of the ad*). The cost of the newspaper ad was \$420. Mr. Majka paid in cash (*see attached invoice*). The ad was in color, which added \$150 to the price.

The editor told me that when Mr. Majka ordered the ad, the newspaper staff was aware that Mr. Majka had been volunteering for Michael Nadeau. Accordingly, the newspaper initially presumed that the advertisement was being paid for *by the campaign*. Mr. Majka told the newspaper that he was paying for the ad personally. So, although the initial proof of the ad contained a disclaimer statement that the ad was paid for by the campaign, the newspaper changed the disclaimer statement to state "Paid for by Jim Majka." The ad does not contain the required statement whether the communication was authorized by the candidate (*see attached ad*). The newspaper addressed the invoice to "Mike Nadeau Campaign," and never changed it.

I interviewed James Majka on November 15. He explained that he volunteered for the campaign because Michael Nadeau is his friend. He described his volunteer activities for the campaign. In addition, he provided website services to the campaign for which he

was paid \$350 under the business name of 21st Century Media. I have attached a typed summary of his interview responses. Mr. Majka was reluctant to attend your December 19 hearing. The Commission Chair authorized the use of a subpoena to require his attendance at the hearing. He was served by a detective in the office of the Aroostook County Sheriff.

One compliance issue before the Commission is whether Mr. Majka's purchase of the ad for \$420 should be considered an expenditure by the association of individuals who have identified themselves as Citizens for Effective Government (James Majka, Dana Saucier, and Philip Soucy). When the cost of the mailing (\$1,475.16) is added to the cost of the newspaper ad (\$420), the total of \$1,895.16 exceeds the \$1,500 threshold amount for Citizens for Effective Government to be considered a PAC.

In the course of the November 15 interview, Mr. Majka explained that he volunteered for Michael Nadeau because Mr. Nadeau is a friend and Mr. Majka did not have money to make a contribution to the campaign. When I asked him later in the interview how he paid \$420 for the advertisement in the Fiddlehead Focus, he responded that he paid for the ad with personal funds. Given his previous statement that he could not afford to make a contribution, I expressed surprise that he would pay \$420 out of pocket. He insisted that he paid for the ad, and had not been reimbursed.

Mr. Majka has not filed an independent expenditure report for his newspaper ad. Based on the factual information available at this time, the staff cannot presently determine whether a report is required, because of the uncertainty that the ad should be considered independent of the Nadeau campaign committee and its agents.

Notice of Hearing

The Commission staff recommended, and the Commission Chair agreed, that the Commission's investigation should include sworn testimony at a hearing. The hearing was scheduled for the December 19 meeting to provide Mr. Nadeau time to engage an attorney, if needed. I have attached a notice of hearing.

Compliance Issues

The topics or issues to be addressed at the hearing will likely include:

- (1) whether the Michael Nadeau campaign should be found in violation of the Maine Clean Election Act for receiving a contribution in the form of a coordinated expenditure by the group known as Citizens for Effective Government;
- (2) whether a penalty should be imposed on the candidate or the treasurer for receiving a contribution;
- (3) whether Mr. Soucy made a material false statement in the affidavit filed with Independent Expenditure Report #205;
- (4) whether Citizens for Effective Government made expenditures in excess of \$1,500 for the purpose of influencing the nomination or election of any candidate, thereby triggering an obligation to register and to file a campaign finance report as a political action committee; and
- (5) whether the expenditure by James Majka for the newspaper ad should have been reported as an independent expenditure or whether it should be considered a contribution to Mr. Nadeau.

Legal Counsel

Attorneys have been engaged by two respondents

- Timothy C. Woodcock of Eaton Peabody, for Michael Nadeau
- William P. Logan of Irwin Tardy & Morris, for Philip Soucy

Expected Testimony

At the December 19, 2012 meeting, the staff expects that you will receive testimony from:

- Hon. A. Michael Nadeau,
- Phillip Soucy,
- James Majka, and
- Dana Saucier.

Relevant Law

I have attached copies of relevant statutes printed from the Commission's unofficial compilation of its statutes.

Thank you for your consideration of this memorandum.

This chart is intended to provide a preliminary view of the roles and relationships of the individuals involved. Some of the information provided by Philip Soucy and James Majka requires verification. The number after each item of information indicates its source.

The sources of the information are:

1. Documents on file with the Commission
2. Testimony of Philip Soucy at the November 5th special meeting
3. Staff interview of James Majka
4. Obituary for Kenneth Nadeau

	Nadeau Campaign	Citizens for Effective Government	Majka Ad
A. Michael Nadeau	Candidate (1)		
Philip Soucy	Treasurer (1)	Treasurer (1)	
James Majka	Paid consultant (1) Volunteer (3)	Principal (2) and (3) Designed ad (2) and (3) Delivered mailers to PO (3)	Paid for ad (cash) (3) Developed ad content (3)
Dana Saucier	Actual role unknown - may have provided some advice to candidate (2)	Principal (2) and (3) Designed ad (2) Arranged for printing (2)	
Ronaldo Thibeault		Contributor (\$500 cash) (2) Candidate's step-father (4)	
Norman Nadeau		Contributor (\$500 cash) (2) Candidate's brother (4)	
Kenneth Nadeau		Contributor (\$500 cash) (2) Candidate's brother (4)	

The People of Maine House District 1

Are Endorsing Candidate

Mike Nadeau

People - Not Politics | Results - Not Just Talk | Serving Mainers - Not Making It a Career.

6775
Facts are Stubborn Things...

John Martin Voted NO 66% of the time against support for Private Sector Jobs and Maine's Economy (source: MERI.org)

According to The People's Report Card of how our legislators voted with the people of Maine, John Martin voted only 15% of the time for the people. (source: mainepeoplebeforepolitics.com/reportcard/)

John Martin was fine with tax cuts for the wealthy when he could raise taxes on working Maine families to make up the difference, but now he opposes tax cuts for everyone that he voted for because he wants to be re-elected. This is not leadership, it is shameful political grandstanding

LD1333 - Maine's recent health insurance reform has resulted in the smallest increase in health insurance rates in recent memory. While there were some geographical challenges in the initial 2011 reform, lawmakers will return to the law in 2013, ensuring residents in Aroostook County will not be adversely impacted. John Martin and his allies do not want you to know this.

Clean Elections? If anyone should not be complaining about reforms that make our "clean elections" system constitutional after the US Supreme Court ruling, it is John Martin. After a group recently revealed that John Martin pumped \$8,500 of his "clean elections" taxpayer dollars into his own business, Bald Eagle. John Martin owes the people of District 1 an explanation; instead of looking for a shoulder to cry on. Haven't we had enough of this?

On November 6th, it's time to make a change.

Mike Nadeau fixes things for a living. He will take your voice to Augusta and begin fixing things on day one.

Vote the *PERSON*, not the *PARTY* - Mike will get the job done right.

mikenadeau.net

Make sure you have the facts when you enter the voting booth on Tuesday, Nov. 6th

PRST STD
EGRN55
U.S. POSTAGE
PAID
EDOM. RETPL

RECEIVED
NOV 2 2012
Maine Ethics Commission

*****ECRWSSHDDM*****
Postal Customer
Fort Kent, Maine 04743

Citizens for Effective Government
P.O. Box 135
Fort Kent, Maine 04743

NOT PAID FOR BY OR AUTHORIZED BY ANY CANDIDATE
CITIZENS FOR EFFECTIVE GOVERNMENT



RECEIVED
NOV 2 2012
Maine Ethics Commission

COM#

IE #205

2012 GENERAL ELECTION

INDEPENDENT EXPENDITURE REPORT -- 2012 GENERAL ELECTION

Name of Person/Committee Making Expenditure(s) L. Philip Soucy, Treasurer
CITIZENS FOR EFFECTIVE GOVERNMENT

Mailing Address 31 Pinkham Ave, P.O. Box 185

City, Zip Code Fort Kent, Me 04748 Telephone 207-854-3777

Please check the appropriate box for the report you are filing and complete the notarized affidavit and attached schedules. Reports must be filed on a weekend or holiday if that is when they are due by faxing the report to the Commission (287-6775). The Commission must receive the signed original report within 5 days after the fax was received.

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

INDEPENDENT EXPENDITURES OVER \$250 MADE FROM SEPTEMBER 7 THROUGH OCTOBER 23, 2012

Independent expenditures made from September 7 through October 23, 2012 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 23, 2012

Independent expenditures made after October 23, 2012 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 (SELECT ONE REPORT BELOW)

Report (select one)	Due Date	What Gets Reported
<input type="checkbox"/> 60-Day Pre-Election Report	September 7, 2012 by 5:00 p.m.	Expenditures totaling more than \$100 per candidate made on or before September 6, 2012
<input type="checkbox"/> 11-Day Pre-Election Report	October 26, 2012 by 5:00 p.m.	Expenditures totaling more than \$100 but not more than \$250 made from September 7 through October 23, 2012

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

L. Philip Soucy
Signature of PAC or Party Treasurer, or
Other Authorized Person Making Expenditure(s)

November 1, 2012
Date



COMMISSION ON GOVERNMENTAL ETHICS AND ELECTION PRACTICES
Mail: 195 State House Station, Augusta, Maine 04333
Office: 46 Memorial Circle, Augusta, Maine

Website: www.maine.gov/elhcs
Phone: 207-287-4179
Fax: 207-287-6776

INDEPENDENT EXPENDITURE REPORT - 2012 GENERAL ELECTION

AFFIDAVIT

STATE OF Maine

COUNTY OF Arroostook

I, L. Philip Soucy, 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.

L. Philip Soucy
Signature of Affiant

Sworn to before me, this 2nd day of November, 2012

Cindy Bouley
(Notary Public/Attorney at Law)

My commission expires: CHRY BOULEY
NOTARY PUBLIC, MAINE
MY COMMISSION EXPIRES AUGUST 2, 2012.



Independent Expenditure Report -- 2012 General Election

Page of
(Schedule B-IE-1 only)

Schedule B-IE-1
CANDIDATE(S) SUPPORTED/OPOSED

- Please list all candidates that were the subjects of Independent expenditures.
- If more than one candidate was the subject of the expenditure, allocate the expenditure among the candidates.

Office sought by candidate (including district # or county)	Candidate's name	Indicate whether expenditure was made in support of or in opposition to the candidate	Amount expended this reporting period for each candidate
State Representative District #1	Alexi Michael Nadeau	Support of	\$1,475.16
Total expenditures for all candidates this reporting period. This amount should equal the total Independent expenditures listed on Schedule B-IE-2, Line C. ⇒			0

Independent Expenditure Report – 2012 General 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	Mall house (all services purchased)	RAD	Radio ads, production costs	
PHO	Phone banks, automated telephone calls	TVN	TV or cable ads, production costs	
POI	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
11/1/12	PAPER, SIGN, INK 128 U. MAIN, SUITE 101 FORT SMITH, AR. 04743	LIT POS		1,475.16
A. Expenditures for this page =>				0 1,475.16
B. Total for all other Schedule B-IE-2 pages (if any) =>				- 0 -
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. =>				0 1,475.16

Independent Expenditure Report - 2012 General Election

Page _____ of _____
(Schedule B-IE-3 only)Schedule B-IE-3
EXPENDITURE DETAILS

- If you file an independent expenditure report after October 29, 2012 for the General Election, you must provide the following information.

1. The date on which the person making the expenditure placed the order with the vendor for the goods or services	October 31, 2012
2. The approximate date when the vendor began providing design or any other services in connection with the expenditure	November 1, 2012
3. The date on which the person making the expenditure first learned of the total amount of the expenditure	November 1, 2012
4. A statement why the expenditure could not be reported by the eighth day before the election	Final effort before election day, Nov 6th, to reach voters throughout the district.



MAR 14 2012

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

NO DOI Called Card

2012 CANDIDATE REGISTRATION

Notice: Changes to registration information must be filed within 10 days in writing or by e-mail to the Commission.

Is this an amendment? Yes No

1 CANDIDATE INFORMATION			
Are you running as a (check one):		<input checked="" type="checkbox"/> Maine Clean Election Act candidate	<input type="checkbox"/> traditionally financed candidate
Title	Party affiliation		Office sought
<input type="checkbox"/> Ms. <input type="checkbox"/> Mrs. <input checked="" type="checkbox"/> Mr. <input type="checkbox"/> Dr. <input type="checkbox"/> Honorable	Republican		Representative
Name: First	MI or Middle Name	Last	District or County
Allen	Michael	Nadeau	District 1
Mailing address			Home Phone
545 Caribow Road			207 231-1201
City, zip code			Cell Phone
Fort Kent, Maine			207 231-1202
E-mail	Fax	Work Phone	
502 nadeau@gmail.com	207-834-2272	207 834-6310	

2 TREASURER INFORMATION			
Name: First	MI or Middle Name	Last	Phone (home)
L. Philip		Soucy	207-834-5011
Mailing address			Phone (work)
31 Pinkham Ave			
City, zip code	E-mail		Fax
Fort Kent, ME 04743	Louispsoucy@yahoo.com		

DESIGNATION OF TREASURER: A candidate for office must appoint a treasurer no later than 10 days after becoming a candidate, and before accepting contributions, making expenditures or incurring obligations. No later than 10 days after appointing a treasurer, the candidate must register with the Commission the name and address of the candidate and treasurer. The treasurer is responsible for maintaining campaign records and for filing reports. A MCEA candidate may serve as treasure for no more than 14 days following the date of registration. (21-A MRSA §§ 1013-A and 1125(12-A))

2A DEPUTY TREASURER INFORMATION			
Name: First	MI or Middle Name	Last	Phone (home)
Mailing address			Phone (work)
City, zip code			E-mail

DESIGNATION OF DEPUTY TREASURER (optional): The candidate may appoint a deputy treasurer and notify the Commission no later than 10 days after the appointment. The deputy, when acting in the absence of the treasurer, has the same powers and responsibilities as the treasurer. A MCEA candidate may serve as deputy treasure for no more than 14 days following the date of registration. (21-A MRSA §§ 1013-A and 1125(12-A)) (21-A MRSA § 1013-A (1)(A)(1))

3. AUTHORIZED AGENT INFORMATION		
Name	Phone	Email
Name	Phone	Email

DESIGNATION OF AUTHORIZED AGENT (optional): Please use this section to designate individuals, other than the treasurer and deputy treasurer, authorized to file reports on your behalf.

4. POLITICAL COMMITTEE INFORMATION	
Name	Phone
Address of campaign headquarters	City, zip code

DESIGNATION OF POLITICAL COMMITTEE (optional): The candidate may form a political or campaign committee. Within 10 days of forming the committee and before accepting contributions, making expenditures or incurring obligations, the candidate must:

- appoint a treasurer (the candidate may have only one treasurer who is listed in Section 2) and
- register the committee and its officers, if any are appointed, with the Commission. (21-A MRSA § 1013-A (1) (B))

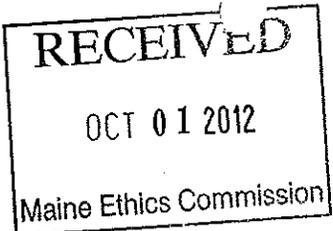
Committee Officers (use additional pages, if necessary):

Name	Title	Phone
Mailing address	City, zip code	E-mail

Name	Title	Phone
Mailing address	City, zip code	E-mail

5. CERTIFICATION	
I, <u>Allen Michael Nadeau</u> , certify that the information in this registration is true, (Print Candidate's Full Name) accurate and complete.	
Signature of Candidate <u>Allen Michael Nadeau</u>	Date <u>3-12-12</u>

6. FOR COUNTY CANDIDATES ONLY	
<p>REPORTING EXEMPTION REQUEST: A candidate for county office may request an exemption from the obligation to appoint a treasurer and file campaign finance reports if the candidate does not accept any cash or in-kind contributions or make any expenditures for his or her campaign. You cannot request a reporting exemption if you use your or your spouse's/domestic partner's personal funds to pay for your campaign expenses. To request an exemption, complete the statement below and sections 1 & 5, have the form notarized, and submit it to the Commission.</p> <p>STATEMENT OF ELIGIBILITY FOR A REPORTING EXEMPTION: I, the undersigned, swear or affirm that I will not accept contributions, make expenditures or incur obligations associated with my candidacy.</p>	
Signature of county candidate _____	Date _____
Subscribed and sworn (affirmed) to before me this _____ day of _____, 20____.	
Signature of Notary/Attorney-at-law _____ (Seal is optional)	My commission expires _____ (Date)
<p>REVOCAION NOTICE: The foregoing statement may be revoked. Prior to revocation, the candidate must appoint a treasurer. A revocation notice must be in the form of an amended registration which must be filed with the Commission no later than 10 days after the date the treasurer is appointed. The notice must be filed before contributions are accepted or expenditures made. A late revocation notice is subject to the same penalties applicable to late campaign finance reports.</p>	



**2012 CAMPAIGN FINANCE REPORT
 FOR MAINE CLEAN ELECTION ACT LEGISLATIVE CANDIDATES**

Please complete ALL entries.

NAME OF CANDIDATE	<i>Allen Mike Hadea</i>		<input checked="" type="checkbox"/> CHECK IF CHANGED FROM PREVIOUS REPORT ←
STREET	<i>545 Caribou Road</i>		
CITY AND ZIP CODE	<i>Fort Kent, ME 04743</i>	TELEPHONE NUMBER <i>207 231 1201</i>	
E-MAIL	<i>mikesanderson@yahoo.com</i>		
OFFICE SOUGHT	<i>State Rep</i>	DISTRICT NUMBER <i>1</i>	

NAME OF TREASURER	<i>L Phil Soucy</i>		<input type="checkbox"/> CHECK IF CHANGED FROM PREVIOUS REPORT
MAILING ADDRESS STREET	<i>31 Pinkham Ave</i>		
CITY AND ZIP CODE	<i>Fort Kent Me 04743</i>	TELEPHONE NUMBER <i>207 834 5011</i>	
E-MAIL			

Type of Report	Due Date	Dates of Report Period
<input type="checkbox"/> 11-Day Pre-Primary	June 1, 2012	End of Seed Money Report – May 29, 2012
<input type="checkbox"/> 42-Day Post-Primary	July 24, 2012	May 30 – July 17, 2012
<input checked="" type="checkbox"/> 42-Day Pre-General	September 25, 2012	July 18 – September 18, 2012
<input type="checkbox"/> 11-Day Pre-General	October 26, 2012	September 19 – October 23, 2012
<input type="checkbox"/> 42-Day Post-General	December 18, 2012	October 24 – December 11, 2012
<input type="checkbox"/> Amendment to: _____		
<input type="checkbox"/> Other (specify): _____		
<input type="checkbox"/> Check if campaign had no activity for the report period (no other pages are required).		

I CERTIFY THAT I HAVE EXAMINED THIS REPORT AND TO THE BEST OF MY KNOWLEDGE IT IS TRUE, CORRECT, AND COMPLETE.

<i>Louis P Soucy</i>	<i>9/26/12</i>	<i>Allen M Hadea</i>	<i>9-25-12</i>
Treasurer's Signature	Date	Candidate's Signature	Date

UNSWORN FALSIFICATION IS A CLASS D CRIME (17-A M.R.S.A. § 453).

2012 Election Year

COMMISSION ON GOVERNMENTAL ETHICS AND ELECTION PRACTICES
Mail: 135 State House Station, Augusta, Maine 04333
Office: 48 Memorial Circle, Augusta, Maine



APR 20 2012

Website: www.maine.gov/ethics
Phone: 207-287-4179
Fax: 207-287-6775

2012 SEED MONEY REPORT FOR MAINE CLEAN ELECTION ACT CANDIDATES

Please complete ALL entries.

NAME OF CANDIDATE	Allen Michael Nadeau		<input type="checkbox"/> CHECK IF CHANGED FROM PREVIOUS REPORT
STREET	545 Caribou Rd		
CITY AND ZIP CODE	Fort Kent 04743	TELEPHONE NUMBER 207-231-1201	
E-MAIL	mikesandsons@yahoo.com		
OFFICE SOUGHT	House Rep	DISTRICT NUMBER 1	

NAME OF TREASURER	x LOUIS P SOUCY		<input type="checkbox"/> CHECK IF CHANGED FROM PREVIOUS REPORT
MAILING ADDRESS STREET	x 31 MAIN ST		
CITY AND ZIP CODE	x FORT KENT ME 04743	TELEPHONE NUMBER x 207 834-5011	
E-MAIL	x LOUISP SOUCY@YAHOO.COM		

OFFICE SOUGHT	DUE DATE	DATES OF REPORT PERIOD
House or Senate	April 20, 2012	Beginning of campaign* - April 20, 2012

* If a January Semiannual Report was filed, the report period for the Seed Money Report begins on January 1, 2012.

This is the first report for the candidate's 2012 campaign.

Amendment to: _____

Other (specify): _____

Check if campaign had no activity for the report period (no other pages are required).

I CERTIFY THAT I HAVE EXAMINED THIS REPORT AND TO THE BEST OF MY KNOWLEDGE IT IS TRUE, CORRECT, AND COMPLETE.

x Louis P Soucy 4/19/12 Allen Michael Nadeau 4-18-12
Treasurer's Signature Date Candidate's Signature Date

UNSWORN FALSIFICATION IS A CLASS D CRIME (17-A M.R.S.A. § 453).

BERNSTEIN SHUR

COUNSELORS AT LAW

207 774-1200 main
207 774-1127 facsimile
bernsteinshur.com

100 Middle Street
PO Box 9729
Portland, ME 04104-5029

Kate R. Knox
207 228-7229 direct
kknox@bernsteinshur.com

VIA EMAIL

November 2, 2012

Jonathan Wayne
Executive Director
Maine Commission on Governmental Ethics and Election Practices
135 State House Station
Augusta, Maine 04333

Re: REQUEST FOR INVESTIGATION

Dear Mr. Wayne:

Pursuant to Maine Commission on Governmental Ethics and Election Practices Rule 94-270 C.M.R. ch. 1, § 4(2)(C), the Maine Democratic Party (the "Party") hereby requests an investigation into the propriety of Independent Expenditures made by Citizens for Effective Government in House District 1. A review of publicly filed campaign finance reports and Independent Expenditure #205 provide sufficient grounds for believing that the organization has made, and Candidate has accepted, a prohibited campaign contribution. 21-A M.R.S.A. §1003(2).

FACTS

Citizens for Effective Government ("CEG") filed an Independent Expenditure report with the Ethics Commission on November 1, 2012. CEG is not a registered PAC and information about its organizational structure is not available.¹ The Independent Expenditure Report at issue ("IE #205") does list "L. Phillip Soucy, Treasurer." (See Attachment #1)

L. Phillip Soucy is also listed as the Treasurer for candidate Allen Nadeau running for House District #1. Candidate Nadeau is certified as a Maine Clean Election Candidate. (See Attachment #2)

On November 1, 2012, CEG designed and mailed literature in support of Candidate Nadeau. The Party contends that IE #205 which discloses that expenditure shows illegal and prohibited coordination between CEG and Candidate Nadeau's campaign. In sum, the fact that L. Phillip Soucy is the Treasurer of both CEG and Candidate Nadeau's campaign violates several provisions of election law, and has resulted in a prohibited contribution to Candidate Nadeau's campaign by CEG.

November 2, 2012
Page 2 of 2

Candidates who choose to be certified as Maine Clean Election Act candidates agree not to accept any contributions from any individual or organization. 21-A M.R.S.A. §1125(6). As a result, individuals or organizations are limited in their ability to make direct expenditures on behalf of MCEA candidates. They can, however, make "independent expenditures" ("IE's") to support or oppose candidates, *as long as those expenditures are made independently without any direct involvement with the candidate or the candidate's agents.*

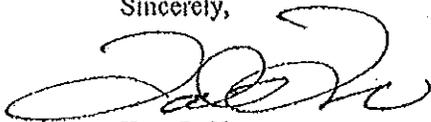
In order for expenditure to qualify as "independent" – an organization must make a communication which expressly advocates for an identified candidate without coordinating that expenditure with candidates or their agents who may benefit from the communication. "Coordination" is defined as an organization making an expenditure in cooperation, consultation or in concert with a candidate or a candidate's agent. Maine Commission on Governmental Ethics and Election Practices Rule 94-270 C.M.R.ch 1 §6(9). The Commission Rule on Coordination states that expenditure is presumed to be prohibited coordination when "the expenditure is made in cooperation, consultation or in concert with any person, who, during the twelve months preceding the expenditure, *has been the candidate's treasurer...*" (emphasis added).

In this instance, the Party contends that Mr. Soucy, by virtue of his role as Treasurer in both organizations, has clearly and blatantly coordinated IE #205 with Mr. Nadeau's campaign. As Treasurer of Mr. Nadeau's campaign – he is clearly an "agent" of the campaign and as such, is prohibited from coordinating with any outside organization on expenditures (let alone an organization he controls). As a result, the \$1,475.16 expenditure made by CEG to support Candidate Nadeau is an illegal contribution to the campaign.ⁱⁱ

The Party argues that these actions are serious and constitute a major violation of campaign finance law. Participating candidates agree to abide by strict contribution limits in exchange for public financing. They should not be allowed to circumvent the system by coordinating with outside groups or individuals who wish to supplement those funds with private expenditures.

Due to the serious nature of these allegations and the closeness of the election, the Party requests that the Commission hear this matter as soon as possible. When assessing the actions of both CEG and Treasurer Soucy, we urge consideration of both civil and criminal sanctions.

Sincerely,



Kate R. Knox

ⁱ The Party would also ask the Commission to inquire whether or not CEG should have registered as a PAC as required under 21-A M.R.S.A §1052(5).

ⁱⁱ Astonishingly, as part of IE #205, Mr. Soucy signed an affidavit swearing that he had not coordinated the expenditure with the candidate or any candidate's agent. Mr. Soucy appears to forget that he himself is an agent of the campaign.

Wayne, Jonathan

From: Lavin, Paul
Sent: Friday, November 02, 2012 8:35 PM
To: 'louispsoicy@yahoo.com'; 'wtpfordist1@yahoo.com'
Cc: Wayne, Jonathan; Marett, Matthew
Subject: Notice of the Maine Democratic Party's Request for Investigation
Attachments: Nadeau RFI (FINAL).pdf

Mr. Soucy and Mr. Nadeau,

Thank you both for taking the time to talk with me this evening.

I have attached a request for an investigation filed by the Maine Democratic Party (MDP) regarding an independent expenditure by the Citizens for Effective Government (CEG) on Friday, November 1, 2012 (IE #205). The expenditure was for a mailing in support of Mr. Nadeau's candidacy. The independent expenditure report was signed by Mr. Soucy as the authorized individual or treasurer for CEG. A copy of IE #205 is attached to the MDP's request.

For an expenditure for a campaign communication to be an independent expenditure under Maine Election Law, there can be no coordination between the person spending the money and the candidate the expenditure is intended to benefit. In its request, the Maine Democratic Party contends that the expenditure was not made independently from the candidate but was coordinated with the candidate's campaign by virtue of Mr. Soucy's dual roles in the CEG and as treasurer for the Nadeau campaign. The MDP contends that this coordination resulted in an impermissible in-kind contribution from CEG to the Nadeau campaign in violation of the Maine Clean Election Act.

There is a high probability that the Commission will hear the MDP's request on Monday afternoon. However, we do not have a specific time yet but will notify you immediately when we do. The Commission's usual practice is that all parties to a complaint or request for an investigation appear before the Commission but given that you are in northern Aroostook County and the election is this Tuesday, this would seem to be highly impracticable. We will also notify you about how the hearing will be conducted as soon as those procedures have been decided upon. If you have someone who will be assisting you in responding to the MDP's request, please let us know as soon as possible or have that person contact Jonathan Wayne, the Commission's Executive Director, by phone or e-mail.

Jonathan Wayne will be sending a more detailed letter by e-mail tomorrow. He will also be in the office tomorrow if you wish to speak with him. Matt Marett, the Commission's PAC/Party/Lobbyist Registrar will also be in the office tomorrow morning and he is familiar with this matter.

The office's main line is 287-4179.

Jonathan Wayne's direct line is 287-6219. His e-mail address is Jonathan.Wayne@Maine.gov.

Matt Marett's direct line is 287-6221. His e-mail address is Matthew.Marett@Maine.gov.

My contact information is below.

Thank you again.

Paul Lavin
Assistant Director
Maine Ethics Commission
Office: 45 Memorial Circle
Mailing address: 135 State House Station

Augusta, Maine 04333-0135
207-287-3024
Paul.Lavin@maine.gov



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

To: File
From: Jonathan Wayne, Executive Director
Date: November 4, 2012
Re: Summary of Interview of Phillip Soucy

I called Phillip Soucy yesterday. I explained that the Commission was meeting Monday afternoon and the Chair had wanted me to gather some information. He said he heard I might call and that he would answer my questions. He told me the following:

Political Activities of Phillip Soucy and Citizens for Effective Government

- The Citizens for Effective Government are three individuals: Phil Soucy, Dana Saucier, and Jim Mika.¹
- It is not a formal group. They started raising money for political purposes, which he later clarified meant influencing the House election in District 1.
- All of the money that they had raised was spent for one flier that was reported to our office.
- When asked where the money came from, Mr. Soucy replied individuals giving small amounts under \$100. He said that Dana Saucier and Jim Mika may have put some of their own money into the flier, but he had not. Other than small donors, and possibly Mr. Saucier and Mr. Mika, he was not aware of money coming from any other source. I asked about the Maine Republican Party or PACs based in Augusta, and he said no.
- Mr. Soucy said that he was active in a local group of Republicans that meet sometimes. Mr. Saucier and Mr. Mika are not as active. I thought that he initially said that the group did not have a name, but he later said that he was the Chair of the Fort Kent Republican Party Committee. [I am not sure if the later statement was meant as a correction to his earlier statement, or whether he was talking about two different groups.]
- He said that he had invited Mike Nadeau to come to some Republican meetings but that the candidate had not come. The candidate did not take other recommendations that Mr. Soucy had offered. He said Mike Nadeau was one of most independent candidates he had ever seen.

¹ Mr. Soucy said that he did not have the exact spelling of Jim Mika's name. He pronounced it "MY-kah".

No Involvement by Mike Nadeau in the Filer

- When asked whether Mike Nadeau knew about the filer, he replied "As far as I know, he didn't know, but I can't verify that because I am not Mike." He said "We operated independently of him [Mike Nadeau]."
- He said that he was "definite" that Mike Nadeau would not have requested or suggested the filer. He repeated that "he is so darned independent."

Phil Soucy's Role in the Nadeau Campaign

- Mr. Soucy said that he offered to help Mike Nadeau, and the candidate invited him to be the treasurer of the campaign. He agreed, and he signed the registration form.
- Mr. Soucy said that it was understood that Mike Nadeau would be filing the campaign finance reports himself. When Mr. Soucy received forms or notices from the Ethics Commission, he would pass them on to Mike Nadeau to keep him on track.
- When asked what else he did to assist the candidate, he said that he passed out lawn signs, which meant he went to houses and asked the owners if they would put up a sign for Mike Nadeau. He said he did this a handful of times, but "not a lot."
- When asked if he had done anything else, he said that he invited the candidate to come to Republican meetings. Mike Nadeau did not come to them.
- He said he had seen Dana Saucier and Jim Mika passing out signs for Mike Nadeau, but he was not sure if they did anything else for the campaign.
- When asked who were the primary people helping Mike Nadeau with his campaign, he said that he did not know. He said that he had wondered that himself, because he could see a lot of people helping him out.

Other Information

- When asked whether he knew who had written the language in the filer, he said that it was not him. I believe he implied that Dana Saucier would know. He said that he has trouble printing. So, Dana Saucier printed most of the information on the independent expenditure report, and he signed it.

After I finished my questions, we began to discuss the logistics of the Commission meeting. He suggested that I work with an attorney, Bill Logan. I said that I wished he had brought that up Mr. Logan earlier. Mr. Soucy said that he did not mind talking to me. I agreed to contact Mr. Logan concerning the meeting.



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

November 5, 2012

By E-Mail and Regular Mail

Allen Michael Nadeau
545 Caribou Road
Fort Kent, ME 04743

L. Philip Soucy
31 Pinkham Avenue
Fort Kent, ME 04743

DETERMINATION

Dear Sirs:

The Maine Commission on Governmental Ethics and Election Practices held a special meeting today to consider a request for investigation filed by the Maine Democratic Party on November 2, 2012. The Commission was required to meet within two business days of receiving the request, pursuant to 21-A M.R.S.A. § 1002(1).

The Maine Democratic Party requested an investigation into the costs of a mailing made around November 1, 2012 in support of Mike Nadeau, a candidate for the Maine House of Representatives, District #1. The expenditure was disclosed in Independent Expenditure Report #205 filed with the Commission on November 2, 2012. In the report, the name of the person making the expenditure was listed as Citizens for Effective Government, L. Philip Soucy, Treasurer.

Mr. Soucy also served as the treasurer of the campaign committee authorized by Mr. Nadeau to promote his election to the Maine House of Representatives. In its request, the Maine Democratic Party contends that the expenditure was an illegal contribution to Mr. Nadeau's campaign, because Mr. Soucy cooperated in the expenditure and was an agent of the campaign.

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

PHONE: (207) 287-4179

FAX: (207) 287-6775

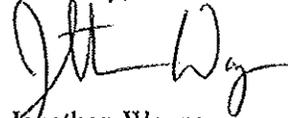
At the meeting, the Commission considered a presentation by William P. Logan, Esq., attorney for Mr. Soucy. Mr. Soucy provided information in response to questions from the Commission members and staff. The Commission also considered a presentation by Kate R. Knox, counsel for the Maine Democratic Party. In spite of receiving actual notice of the meeting by telephone and electronic communications, Mr. Nadeau chose not to participate in the meeting.

The Commissioners found unanimously that:

- (1) there was a coordinated expenditure under Title 21-A, section 1015(5) as a result of the involvement of treasurer L. Phillip Soucy in the Mike Nadeau campaign and the Citizens for Effective Government, and
- (2) as a result of the coordinated expenditure, there was a campaign contribution to the Mike Nadeau campaign which is not allowed under the Maine Clean Election Act.

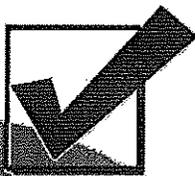
In addition, the Commission directed its staff to commence an investigation regarding 1) the factual issues concerning the coordinated expenditure, 2) whether the Citizens for Effective Government should have registered as a political action committee, and 3) the issues raised by the sworn statement by L. Phillip Soucy that there was no coordination between the Mike Nadeau campaign and the Citizens for Effective Government regarding the expenditure for the communication.

Sincerely,



Jonathan Wayne
Executive Director

cc: Kate R. Knox, Esq.
William P. Logan, Esq.
Hon. John L. Martin



Nadeau, Allen Michael

www.mikenadeau.net

100% for the People

**Strengthen Guide Services, Hunting,
Fishing, Social Security, Trucking,
Logging, Hospitals, Universities,
Farms, Churches, Self-Employed,
Veterans, Elderly, Disabled, Small &
Large Businesses**

FOR THE PEOPLE

WE CAN DO THIS!



November 6, Thank You

PAID FOR BY JIM MAJKA

Invoice

Fiddlehead Focus
 267 East Main Street
 Fort Kent, ME 04743

207-316-2243

www.fiddleheadfocus.com

Cell #

207-834-9118

andrewb@fiddleheadfocus.com

Date	Invoice #
11/2/2012	2053

Bill To
Mike Nadeau Campaign Mike's & Sons 545 Caribou Road Fort Kent, ME 04743-1526

PAID
10-30-2012

Terms	Due Date
Net 30	12/2/2012

Item	Description	Rate	Quantity	Amount
Advertisement	1/2-page ad in the 10/31/2012 edition (includes 10% October Special discount)	270.00	1	270.00
Advertisement	Color service	150.00	1	150.00

Thank you for your business!	Payments/Credits	\$-420.00
	Total	\$420.00
	Balance Due	\$0.00



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

To: File
From: Jonathan Wayne
Date : November 16, 2012
Re: Summary of Interview with James Majka

Assistant Director Paul Lavin and I interviewed James Majka (JM) yesterday by phone. Below is a summary of what he told us.

Flier

Three people (Jim Majka, Dana Saucier, and Phil Soucy) were involved in the flier. JM does not know anything about the financing for the flier. He does not know "where the money came from" for the flier.

JM worked with Dana Saucier on the flier. JM designed it using photoshop software. The ideas for the flier came from Dana Saucier and JM. They used research from publicly available sources such as articles and groups that had published information about John Martin. They wanted to hit on ideas that would appeal to Republicans and others. They did not talk to Philip Soucy about who was going to pay for it.

JM knows Philip Soucy from around town but only "cordially." He does not know how Philip Soucy got involved in the flier.

The idea of sending a flier occurred to Dana Saucier and JM while they were talking. JM found going door-to-door and making calls were not cost effective and JM finds those contacts annoying. JM thought "If we do a flier, we could get into every household." The idea was to get the last campaign message out.

The candidate, Mike Nadeau, did not know that they were going to do the flier.

JM sent it to Mr. Daigle at the print shop who cleaned it up.

It was mailed using a process called something like EE Direct. JM brought the printed fliers to the town post offices around the district.

JM said "To tell the truth, I didn't think about whether or not it was part of the campaign" or whether the flier was separate from the campaign. He has never been involved in a campaign before.

Probably, Philip Soucy came up with the name, Citizens for Effective Government.

Work for Campaign

JM said that he volunteered for Mike Nadeau because he "is a friend of mine." He did not have enough money to make a contribution to the campaign.

In August, JM worked on the campaign website. Mike Nadeau paid him \$350 for the work. JM is self-employed as a photographer and videographer. He has created websites, but that is not a big part of his current employment.

He later did work for the campaign as a volunteer. He distributed fliers, knocked on doors, and distributed lawn signs. Whenever Mike Nadeau needed an update to the website, he would do it. This happened every few days. It would take him 15-30 minutes. He updated the website on his laptop.

JM has videotaped some campaign events, and posted them to You Tube.

His volunteer work was "steady all the way through."

He did not perform any design services for the campaign's printed materials.

Advertisement in Fiddlehead Focus

JM paid for an ad in the Fiddlehead Focus supporting Mike Nadeau. He wanted to help Mike Nadeau. He wanted to push back against all the Democratic ads.

JM paid for the ad with his personal funds. No one gave him the money for the ad. No one reimbursed him for the ad. JM said that the ad cost \$300 or \$350. *[Note: the actual cost was \$420.]*

He paid cash. The Fiddlehead Focus had to be paid upfront. The paper did not send him a bill.

JM did the ad on his own. Mike Nadeau did not know about the ad. He was pleased but surprised by the ad.

JM gave the Fiddlehead Focus some text on a piece of paper. JM did not do the design.

JM did not see a proof of the ad. He did not make any changes to the ad. He does not remember who he dealt with at the paper.

Good Intentions

Nothing untoward was intended by JM or Dana Saucier. Everything was innocent. It was unnerving for JM to read his name in the paper. He said "I'm the most straight-up, honest guy you could meet."

JM would like to avoid coming to Augusta on December 19 if it is at all possible.

Contact Info

His e-mail address is JimMajka@fortkentvideo.com.



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

To: William P. Logan, Esq., attorney for Philip Soucy
Representative-Elect A. Michael Nadeau
James H. Majka
Dana Saucier
Katherine R. Knox, Esq., attorney for the Maine Democratic Party
Hon. John L. Martin

From: Jonathan Wayne, Executive Director

Cc: Walter F. McKee, Commission Chair
Assistant Attorney General Phyllis Gardiner, Commission Counsel

Date: November 15, 2012

NOTICE OF HEARING

Hearing Scheduled for December 19, 2012

The Maine Commission on Governmental Ethics and Election Practices has scheduled a hearing to investigate matters raised in a complaint by the Maine Democratic Party concerning spending by L. Philip Soucy and others under the name of Citizens for Effective Government to promote Michael Nadeau, candidate for Maine House of Representatives, District #1. The hearing will be held on Wednesday, December 19, 2012 at 9:00 a.m. at the Commission's office at 45 Memorial Circle, 2nd Floor, in Augusta, Maine. The hearing is being held pursuant to 21-A M.R.S. § 1003.

At a meeting on November 5, 2012, after hearing from Mr. Soucy, his counsel, counsel for the Maine Democratic Party, and Commission staff, the Commission made initial findings that:

- (1) a coordinated expenditure (i.e., one made "in cooperation, consultation or concert with, or at the request or suggestion of, a candidate, a candidate's

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

PHONE: (207) 287-4179

FAX: (207) 287-6775

political committee or their agents”) occurred under Title 21-A, section 1015(5) as a result of the involvement of treasurer L. Philip Soucy in the Mike Nadeau campaign and Citizens for Effective Government, and

- (2) the coordinated expenditure, constituted a campaign contribution to the Mike Nadeau campaign which is not allowed under the Maine Clean Election Act.

The Commission then directed its staff to continue an investigation into the factual issues concerning: 1) the expenditure by Citizens for Effective Government, 2) whether Citizens for Effective Government should have registered as a political action committee, and 3) the sworn statement by L. Philip Soucy that there was no coordination between the Nadeau campaign and Citizens for Effective Government regarding the expenditure for the communication.

The December 19, 2012 hearing will be conducted in accordance with Chapter 2 of the Commission’s rules (see copy enclosed) and the Maine Administrative Procedure Act, 5 M.R.S. §§ 8001 et seq.

Issues to be addressed at the Hearing

The topics or issues to be addressed at the hearing will likely include:

- (1) whether the Michael Nadeau campaign should be found in violation of the Maine Clean Election Act for receiving a contribution in the form of a coordinated expenditure by the group known as Citizens for Effective Government
- (2) whether a penalty should be imposed on the candidate or the treasurer for receiving a contribution
- (3) whether Mr. Soucy made a material false statement in the affidavit filed with Independent Expenditure Report #205
- (4) whether Citizens for Effective Government made expenditures in excess of \$1,500 for the purpose of influencing the nomination or election of any candidate, thereby triggering an obligation to register and to file a campaign finance report as a political action committee.

Opportunity for Legal Argument

In addition to presenting evidence, there may be an opportunity for you to present legal argument at the December 19th meeting concerning whether any person committed a violation of law. The Commission may reach a final determination at the December 19th meeting, following the hearing, but it is also possible that the Commission will close the hearing and decide the matters at issue at a subsequent meeting. You will receive notice and have an opportunity to attend any such meeting.

Relevant Statutes

The following statutory provisions are relevant to the proceeding:

- 21-A M.R.S. § 1004-A(5)
- 21-A M.R.S. § 1015(5)
- 21-A M.R.S. §§ 1052(5)(4) & (5)
- 21-A M.R.S. § 1053
- 21-A M.R.S. § 1059
- 21-A M.R.S. § 1125(6)
- 21-A M.R.S. § 1127(1)

Applications to Intervene as a Party

Any person who wishes to intervene as a party to this proceeding should submit a letter to the Commission addressed to Walter F. McKee, Chair, at the above address no later than November 30, 2012.

Questions

If you have any questions concerning this notice, please call me at (207) 287-4179 or e-mail me at Jonathan.Wayne@maine.gov.

21-A § 1004-A. Penalties

The commission may assess the following penalties in addition to the other monetary sanctions authorized in this chapter.

1. Late campaign finance report. A person that files a late campaign finance report containing no contributions or expenditures may be assessed a penalty of no more than \$100.

2. Contribution in excess of limitations. A person that accepts or makes a contribution that exceeds the limitations set out in section 1015, subsections 1 and 2 may be assessed a penalty of no more than the amount by which the contribution exceeded the limitation.

3. Contribution in name of another person. A person that makes a contribution in the name of another person, or that knowingly accepts a contribution made by one person in the name of another person, may be assessed a penalty not to exceed \$5,000.

4. Substantial misreporting. A person that files a campaign finance report that substantially misreports contributions, expenditures or other campaign activity may be assessed a penalty not to exceed \$5,000.

✓ **5. Material false statements.** A person that makes a material false statement or that makes a statement that includes a material misrepresentation in a document that is required to be submitted to the commission, or that is submitted in response to a request by the commission, may be assessed a penalty not to exceed \$5,000.

When the commission has reason to believe that a violation has occurred, the commission shall provide written notice to the candidate, party committee, political action committee, committee treasurer or other respondent and shall afford them an opportunity to appear before the commission before assessing any penalty. In determining any penalty under subsections 3, 4 and 5, the commission shall consider, among other things, the level of intent to mislead, the penalty necessary to deter similar misconduct in the future and the harm suffered by the public from the incorrect disclosure. A final determination by the commission may be appealed to the Superior Court in accordance with Title 5, chapter 375, subchapter 7 and the Maine Rules of Civil Procedure Rule 80C.

Penalties assessed pursuant to this section that have not been paid in full within 30 days after issuance of a notice of the final determination may be enforced in accordance with section 1004-B.

21-A § 1004-B. Enforcement of penalties assessed by the commission

The commission staff shall collect the full amount of any penalty and the return of Maine Clean Election Act funds required by the commission to be returned for a violation of the statutes or rules administered by the commission and has all necessary powers to carry out these duties. Failure to pay the full amount of any penalty assessed by the commission or return of Maine Clean Election Act funds is a civil violation by the candidate, treasurer, party committee, political action committee or other person. Thirty days after issuing the notice of

21A § 1015. Limitations on contributions and expenditures

1. Individuals. An individual may not make contributions to a candidate in support of the candidacy of one person aggregating more than \$1,500 in any election for a gubernatorial candidate, more than \$350 for a legislative candidate, more than \$350 for a candidate for municipal office and beginning January 1, 2012 more than \$750 for a candidate for municipal office or more than \$750 in any election for any other candidate. This limitation does not apply to contributions in support of a candidate by that candidate or that candidate's spouse or domestic partner. Beginning December 1, 2010, contribution limits in accordance with this subsection are adjusted every two years based on the Consumer Price Index as reported by the United States Department of Labor, Bureau of Labor Statistics and rounded to the nearest amount divisible by \$25. The commission shall post the current contribution limit and the amount of the next adjustment and the date that it will become effective on its publicly accessible website and include this information with any publication to be used as a guide for candidates.

2. Committees; corporations; associations. A political committee, political action committee, other committee, firm, partnership, corporation, association or organization may not make contributions to a candidate in support of the candidacy of one person aggregating more than \$1,500 in any election for a gubernatorial candidate, more than \$350 for a legislative candidate, more than \$350 for a candidate for municipal office and beginning January 1, 2012 more than \$750 for a candidate for municipal office or more than \$750 in any election for any other candidate. Beginning December 1, 2010, contribution limits in accordance with this subsection are adjusted every two years based on the Consumer Price Index as reported by the United States Department of Labor, Bureau of Labor Statistics and rounded to the nearest amount divisible by \$25. The commission shall post the current contribution limit and the amount of the next adjustment and the date that it will become effective on its publicly accessible website and include this information with any publication to be used as a guide for candidates.

3. Aggregate contributions. No individual may make contributions to candidates aggregating more than \$25,000 in any calendar year. This limitation does not apply to contributions in support of a candidate by that candidate or that candidate's spouse or domestic partner.

4. Political committees; intermediaries. For the purpose of the limitations imposed by this section, contributions made to any political committee authorized by a candidate to accept contributions on the candidate's behalf are considered to be contributions made to that candidate. If the campaign activities of a political action committee within a calendar year primarily promote or support the nomination or election of a single candidate, contributions to the committee that were solicited by the candidate are considered to be contributions made to the candidate for purposes of the limitations in this section. For purposes of this subsection, solicitation of contributions includes but is not limited to the candidate's appearing at a fundraising event organized by or on behalf of the political action committee or suggesting that a donor make a contribution to that committee.

For the purposes of the limitations imposed by this section, all contributions made by a person, either directly or indirectly, on behalf of a particular candidate that are in any way

earmarked or otherwise directed through an intermediary or conduit to the candidate are considered to be contributions from that person to the candidate. The intermediary or conduit shall report the original source and the intended recipient of the contribution to the commission and to the intended recipient.

✓ **5. Other contributions and expenditures.** 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.

The financing by any person of the dissemination, distribution or republication, in whole or in part, of any broadcast or any written or other campaign materials prepared by the candidate, the candidate's political committee or committees or their authorized agents is considered to be a contribution to that candidate.

6. Prohibited expenditures. A candidate, a treasurer, a political committee, a party or party committee, a person required to file a report under this subchapter or their authorized agents may not make any expenditures for liquor to be distributed to or consumed by voters while the polls are open on election day.

7. Voluntary limitations on political expenditures. A candidate may voluntarily agree to limit the total expenditures made on behalf of that candidate's campaign as specified in section 1013-A, subsection 1, paragraph C and subsections 8 and 9.

21A §1019-B. Reports of independent expenditures

1. Independent expenditures; definition. For the purposes of this section, an "independent expenditure":

✓ A. Is any expenditure made by a person, party committee, political committee or political action committee, other than by contribution to a candidate or a candidate's authorized political committee, for any communication that expressly advocates the election or defeat of a clearly identified candidate; and

B. Is presumed in races involving a candidate who is certified as a Maine Clean Election Act candidate under section 1125, subsection 5 to be any expenditure made to design, produce or disseminate a communication that names or depicts a clearly identified candidate and is disseminated during the 21 days, including election day, before a primary election; the 35 days, including election day, before a general election; or during a special election until and on election day.

2. Rebutting presumption. A person presumed under this section to have made an independent expenditure may rebut the presumption by filing a signed written statement with the commission within 48 hours of making the expenditure 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 chooses to submit. The commission may gather any additional evidence it deems relevant and material and must 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, political committee or political action committee that makes independent expenditures aggregating in excess of \$100 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 aggregating in excess of \$100 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.

5. Exclusions. An independent expenditure does not include:

A. An expenditure made by a person in cooperation, consultation or concert with, or at the request or suggestion of, a candidate, a candidate's political committee or their agents;

SUBCHAPTER IV
REPORTS BY POLITICAL ACTION COMMITTEES

21A § 1051. Application

This subchapter applies to the activities of political action committees organized in and outside this State that accept contributions, incur obligations or make expenditures for the election of state, county or municipal officers, or for the support or defeat of any campaign, as defined in this subchapter.

21A § 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, as defined in this subchapter, and includes any agent of a political action committee.

3. Contribution. "Contribution" includes:

- A. A gift, subscription, loan, advance or deposit of money or anything of value made to a political action committee, except that a loan of money by a financial institution made in accordance with applicable banking laws and regulations and in the ordinary course of business is not included;
- B. A contract, promise or agreement, expressed or implied whether or not legally enforceable, to make a contribution to a political action committee;
- C. Any funds received by a political action committee that are to be transferred to any candidate, committee, campaign or organization for the purpose of initiating or influencing a campaign; or

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 whose purpose is to initiate or influence a campaign;

(2) **(REPEALED)**

(3) **(REPEALED)**

✓ (4) Any organization, including any corporation or association, that has as its major purpose initiating or influencing a campaign and that receives contributions or makes expenditures aggregating more than \$1,500 in a calendar year for that purpose; and

✓ (5) Any organization that does not have as its major purpose influencing candidate elections but that receives contributions or makes expenditures aggregating more than \$5,000 in a calendar year for the purpose of influencing the nomination or election of any candidate to political office.

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 2;

(3) A party committee under section 1013-A, subsection 3; or

(4) An organization whose only payments of money in the prior 2 years for the purpose of influencing a campaign in this State are contributions to candidates, party committees, political action committees or ballot question committees registered with the commission or a municipality and that has not raised and accepted any contributions during the calendar year for the purpose of influencing a campaign in this State.

21A § 1053. Registration

✓ Every political action committee, as defined under section 1052, subsection 5, paragraph A, subparagraph (1) or (4) that makes expenditures in the aggregate in excess of \$1,500 and every political action committee, as defined under section 1052, subsection 5, paragraph A, subparagraph (5), that makes expenditures in the aggregate in excess of \$5,000 must register with the commission within 7 days of exceeding the applicable amount on forms prescribed by the commission. These forms must include the following information and any additional information reasonably required by the commission to monitor the activities of political action committees in this State under this subchapter:

1. Identification of committee. The names and mailing addresses of the committee, its treasurer, its principal officers, the names of any candidates and Legislators who have a significant role in fund raising or decision-making for the committee and all individuals who are the primary fund-raisers and decision makers for the committee;

21A § 1059. Report; filing requirements

✓ Committees required to register under section 1053, 1053-B or 1056-B shall file an initial campaign finance report at the time of registration and thereafter shall file reports in compliance with this section. All reports must be filed by 11:59 p.m. on the day of the filing deadline, except that reports submitted to a municipal clerk must be filed by the close of business on the day of the filing deadline.

1. Contents; quarterly reports and election year reports. (REPEALED)

2. Reporting schedule. Committees shall file reports according to the following schedule.

A. All committees shall file quarterly reports:

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

B. General and primary election reports must be filed:

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

C. Pre-election and post-election reports for special elections or ballot measure campaigns must be filed:

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

D. A committee that files an election report under paragraph B or C is not required to file a quarterly report when the deadline for that quarterly report falls within 10 days of the filing deadline established in paragraph B or C.

E. A committee shall report any expenditure of \$500 or more made after the 14th day before the election and more than 24 hours before 5:00 p.m. on the day of the election within 24 hours of that expenditure.

3. Report of expenditures made after the 11th day and more than 48 hours before any election. (REPEALED)

4. Special election reports. (REPEALED)

5. Electronic filing. Committees shall file each report required by this section through an electronic filing system developed by the commission. The commission may make an exception to this electronic filing requirement if a committee submits a written request that states that the committee lacks access to the technology or the technological ability to file reports electronically. The request for an exception must be submitted

21A § 1125. Terms of participation

...

✓ **6. Restrictions on contributions and expenditures for certified candidates.** After certification, a candidate must limit the candidate's campaign expenditures and obligations, including outstanding obligations, to the revenues distributed to the candidate from the fund and may not accept any contributions unless specifically authorized by the commission. Candidates may also accept and spend interest earned on fund revenues in campaign bank accounts. All revenues distributed to a certified candidate from the fund must be used for campaign-related purposes. The candidate, the treasurer, the candidate's committee authorized pursuant to section 1013-A, subsection 1 or any agent of the candidate and committee may not use these revenues for any but campaign-related purposes. The commission shall publish guidelines outlining permissible campaign-related expenditures.

6-A. Assisting a person to become an opponent. A candidate or a person who later becomes a candidate and who is seeking certification under subsection 5, or an agent of that candidate, may not assist another person in qualifying as a candidate for the same office if such a candidacy would result in the distribution of revenues under subsections 7 and 8-A for certified candidates in a contested election.

6-B. (REPEALED)

6-C. Expenditures to the candidate or family or household members. Expenditures to the candidate or immediate family member or household member of the candidate are governed by this subsection.

A. The candidate may not use fund revenues to compensate the candidate or a sole proprietorship of the candidate for campaign-related services.

B. A candidate may not make expenditures using fund revenues to pay a member of the candidate's immediate family or household, a business entity in which the candidate or a member of the candidate's immediate family or household holds a significant proprietary or financial interest or a nonprofit entity in which the candidate or a member of the candidate's immediate family or household is a director, officer, executive director or chief financial officer, unless the expenditure is made:

- (1) For a legitimate campaign-related purpose;
- (2) To an individual or business that provides the goods or services being purchased in the normal course of the individual's occupation or the business; and
- (3) In an amount that is reasonable taking into consideration current market value and other factors the commission may choose to consider.

For the purpose of this paragraph, "business entity" means a corporation, limited liability company, limited partnership, limited liability partnership and general partnership.

If a candidate uses fund revenues for an expenditure covered by this paragraph, the candidate shall submit evidence demonstrating that the expenditure complies with the requirements of this paragraph if requested by the commission.

21A § 1127. Violations

✓ **1. Civil fine.** In addition to any other penalties that may be applicable, a person who violates any provision of this chapter or rules of the commission adopted pursuant to section 1126 is subject to a fine not to exceed \$10,000 per violation payable to the fund. In addition to any fine, for good cause shown, a candidate, treasurer, consultant or other agent of the candidate or the political committee authorized by the candidate pursuant to section 1013-A, subsection 1, found in violation of this chapter or rules of the commission may be required to return to the fund all amounts distributed to the candidate from the fund or any funds not used for campaign-related purposes. If the commission makes a determination that a violation of this chapter or rules of the commission has occurred, the commission shall assess a fine or transmit the finding to the Attorney General for prosecution. A final determination by the commission may be appealed to Superior Court in accordance with Title 5, chapter 375, subchapter 7 and the Maine Rules of Civil Procedure, Rule 80C. Fines assessed or orders for return of funds issued by the commission pursuant to this subsection that are not paid in full within 30 days after issuance of a notice of the final determination may be enforced in accordance with section 1004-B. Fines paid under this section must be deposited in the fund. In determining whether or not a candidate is in violation of the expenditure limits of this chapter, the commission may consider as a mitigating factor any circumstances out of the candidate's control.

2. Class E crime. A person who willfully or knowingly violates this chapter or rules of the commission or who willfully or knowingly makes a false statement in any report required by this chapter commits a Class E crime and, if certified as a Maine Clean Election Act candidate, must return to the fund all amounts distributed to the candidate.

21A § 1128. Study report

By March 15, 2011, and every 4 years after that date, the commission shall prepare for the joint standing committee of the Legislature having jurisdiction over legal affairs a report documenting, evaluating and making recommendations relating to the administration, implementation and enforcement of the Maine Clean Election Act and Maine Clean Election Fund.

Commission Rules, Chapter 1, Section 6

committee. The Commission may take into consideration any evidence it believes is relevant, including evidence that the creditor did not intend to make a contribution to the candidate or committee or that the candidate or committee is unable to pay the debt.

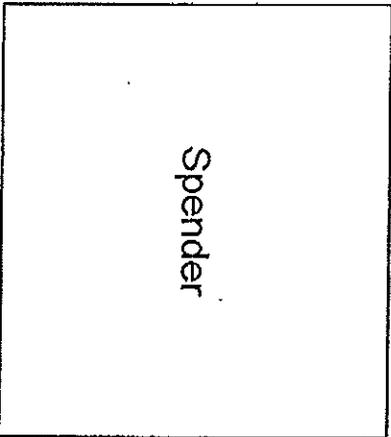
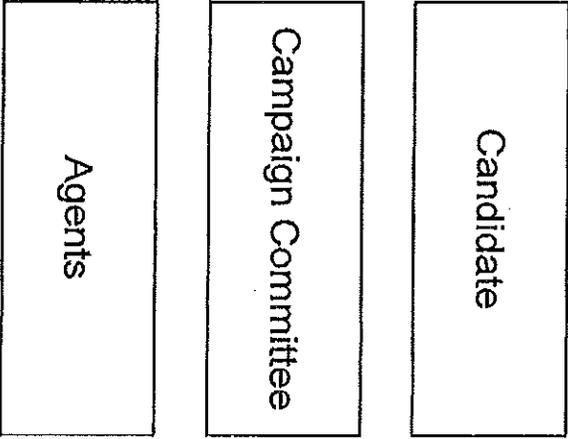
7. For the purposes of the limitations imposed by 21-A M.R.S.A. §1015(1), 21-A M.R.S.A. §1015(2), 21-A M.R.S.A. §1015(3), and 21-A M.R.S.A. §1056, the following guidelines shall apply:
 - A. For all contributions received through the day of the primary election by candidates enrolled in a political party, the candidate shall designate on the applicable campaign finance report whether the candidate received the contribution for the primary or the general election. If a candidate receives a contribution before the primary election and designates it for the general election, the candidate must deposit the contribution in an account that is separate from all funds received for the primary election and may not use the contribution in any way to promote the candidate's nomination in the primary election.
 - B. Notwithstanding division (c) below, if a candidate loses in the primary, all contributions made to that candidate for the purpose of liquidating debts and liabilities associated with the candidate's candidacy are deemed to be made in the primary election.
 - C. All contributions made to a general election candidate from the day after the primary election through the date of the general election are deemed to be made for the general election.
 - D. Notwithstanding division (e) below, all contributions made after the general election to a general election candidate for the purpose of reducing debts and liabilities associated with the candidate's candidacy are deemed to be made in the general election.
 - E. All contributions made after the day of the general election to a candidate who has liquidated all debts and liabilities associated with that election are deemed to be made in support of the candidate's candidacy for a subsequent election.
 - F. Subparagraphs A through E above shall apply to any write-in candidate who has qualified under 21-A M.R.S.A. §723, or who has received contributions or made expenditures with the intent of qualifying as a candidate.
8. If a political committee that is required to file reports with the Commission sells an item to raise funds, the entire amount received is a contribution to the committee. If the political committee provides meals or entertainment at a fundraising event, the entire amount paid by the donor is a contribution to the committee. [FOR EXAMPLE: IF A SUPPORTER PAYS A CANDIDATE COMMITTEE \$20 FOR A T-SHIRT THAT COST THE CAMPAIGN \$5, THE SUPPORTER HAS MADE A \$20 CONTRIBUTION. IF A SUPPORTER PAYS \$100 FOR A TICKET TO A FUNDRAISING DINNER, THE SUPPORTER HAS MADE A \$100 CONTRIBUTION EVEN IF THE COMMITTEE PROVIDES A MEAL WORTH \$30.]
9.  If an expenditure is made to promote or support the nomination or election of a candidate, or to oppose or defeat the candidate's opponent(s), and the expenditure is made in cooperation, consultation or concert with, or at the request or suggestion of, the candidate, the expenditure is considered to be a contribution from the spender to the

candidate. As used within this subsection, the term "candidate" includes a committee authorized by the candidate to promote or support his or her election, and all agents of the candidate or the authorized committee.

- A. In cooperation, consultation or in concert with includes, but is not limited to:
1. Discussion between the candidate and the creator, producer or distributor of a communication, or the person paying for that communication, regarding the content, timing, location, mode, intended audience, volume of distribution or frequency of placement of that communication, and
 2. Participation by the candidate in making any decision regarding the content, timing, location, mode, intended audience, volume of distribution, or frequency of placement of the communication.
- B. An expenditure is presumed to be made in cooperation, consultation or concert with, or at the request or suggestion of a candidate, when
1.  the expenditure is made in cooperation, consultation or in concert with any person who, during the twelve months preceding the expenditure, has been the candidate's treasurer or an officer of the candidate's authorized committee, has had a paid or unpaid position managing the candidate's campaign, or has received any campaign-related compensation or reimbursement from the candidate;
 2. when the candidate has directly shared the candidate's campaign plans, activities, or needs with the spender for the purpose of facilitating a payment by the spender on a communication to voters to promote or support the candidate; or
 3. the communication replicates, reproduces, republishes or disseminates, in whole or in substantial part, a communication designed, produced, paid for or distributed by the candidate.

The candidate or spender may rebut the presumption by submitting sufficient contrary evidence.

- C. If a candidate requests that a party committee, political action committee, or other potential spender not make any expenditure to promote or support the candidate, or oppose or defeat the candidate's opponent(s), the request does not constitute cooperation or coordination.
- D. An expenditure will not be presumed to have been made in cooperation, consultation or concert with, or at the request or suggestion of a candidate, solely because:
1. the spender has obtained a photograph, biography, position paper, press release, logo, or similar material about the candidate from a publicly available source;
 2. the person making the expenditure has previously provided advice to the candidate on suggested communication strategies, budgets, issues of public policy, or other campaign plans or activities;



No
Consultation
Cooperation
Suggestion
*concerning the
expenditure*