# Agenda Item #1

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

Minutes of the June 23, 2011, Meeting of the
Commission on Governmental Ethics and Election Practices
Held at the Commission Office, 45 Memorial Circle,
Augusta, Maine

Present: Walter F. McKee, Esq., Chair; André G. Duchette, Esq.; Hon. Edward M. Youngblood; Margaret E. Matheson, Esq., Michael T. Healy, Esq. Staff: Executive Director Jonathan Wayne; Phyllis Gardiner, Counsel.

At 9:00 a.m., Chair Walter McKee convened the meeting.

The Commission considered the following items:

**Agenda Item #1. Ratification of Minutes of the March 31 and April 26, 2011 Meetings**
Joseph Greenier, of Stockton Springs, had sent the Commission a letter proposing some changes to the minutes of the April 26 meeting. Mr. Youngblood moved to make the typographical changes suggested in Items 3, 5 and 10 of Mr. Greenier's letter and to accept the March 31 minutes as drafted.

Mr. Duchette clarified that the change Mr. Greenier's memo requested from FOAA to FOIA (Freedom of Information Act) in Item 3 was not necessary because the correct reference in Maine statute is the Freedom of Access Act (FOAA).

Mr. Youngblood amended his motion to make the changes to Items 5 and 10 only of the April 26 minutes. Ms. Matheson seconded.

Motion passed unanimously (5-0).

**Agenda Item #2. Request to Investigate Working People for Hope and Change PAC**

Colin Woodard filed a request that the Commission investigate the accuracy of the PAC's reporting of unitemized contributions received by the PAC in 2010. This request was withdrawn and required no further action by the Commission.

**Agenda Item #3. Request for Reconsideration by Joseph C. Palmieri**

At the Commission's April 26, 2011 meeting, the Commission assessed penalties totaling $1,350 against 2010 Senate candidate Joseph C. Palmieri for violations that came to light during an audit of his campaign. In addition, the Commission assessed $400 in penalties for filing two reports late. The candidate requests that the Commission reconsider the assessed penalties because they were excessive compared to the violations. Mr. Wayne explained that the Commission currently does not have a rule or policy regarding reconsideration of matters. He said that he believed that reconsideration was discretionary. He said some agencies do have a policy in place to set standards, but this Commission does not.

In response to a question from Mr. Healy, Ms. Gardiner confirmed that the Commission had the apparent authority to reconsider matters.

Mr. Joseph Palmieri said he requested reconsideration of the Commission's determination because he felt the penalties were high compared to other determinations by the Commission in the past. He said the claim that the overpayment of MCEA funds could have given him an unfair advantage was not true. He said that did not happen. The money was not used and was, in fact, returned to the Commission, albeit not in a timely manner. He disputed the comment made by a Commission member that Mr. Palmieri may never have returned the funds but for the audit. There was nothing to indicate that was the case. He said that money was left in an account untouched. If he were going to steal funds, he could have come up with a better way to do so. He said that comment was a direct, unwarranted and needless attack on his character and that was the primary reason he was back before the Commission today. He said the fines against him were excessive for a number of reasons, but he wanted to focus on the proportionality of the penalties. He said he was not sure any other candidates had been fined $1700 as he was. He said the person who was responsible for the Cutler Files website which was an attempt to assassinate the character of a gubernatorial candidate only received a penalty of $200. He said it was hard to believe that an effort to destroy a

person's integrity warrants less of a fine than poor paperwork. He also referred to the purchase of a laptop by Cynthia Dill for her campaign, saying that he assumes that computer has not been used for personal use.

Mr. Palmieri said he came before the Commission with no expectation that the penalty amounts would be changed, however he said he did not want the charges to go on the public record unchallenged. He said his opponent's campaign manager, who is also his neighbor, came to his house to commend him on the type of campaign he ran as well as the type of people he surrounded himself with. He said what was unfortunate was he believes he is the type of candidate this state needs and when these proceedings are over, he will walk away for good. He said also the political hacks that are out there got exactly what they wanted.

Mr. Healy said he did not recall the Commission making a finding that Mr. Palmieri had any intention of misappropriating $850.

Mr. Palmieri said there was no finding but something was said during the proceeding that bothered him regarding his character.

Mr. Healy said someone may make a comment during a proceeding but does not mean it is an actual finding by the Commission. He said the record should be clear that the Commission never made a finding of any inference or any accusation that Mr. Palmieri used the $850 of the state's money for his own use.

Mr. Palmieri said he understood that.

Mr. Healy said he felt the comment regarding an attack on Mr. Palmieri's character is misplaced.

Mr. Palmieri said when the comment was made he did feel attacked, whether the official finding shows it or not.

Mr. Healy said the Commission never concluded any intent that Mr. Palmieri used the funds for himself.

Mr. Duchette said Mr. Palmieri used the word "appeal" and asked why he did not pursue the avenue of appealing the Commission's decision with the Maine Superior Court instead of coming before the Commission again.

Mr. Palmieri said that would take time and money but he has a job and is running a business. He said his job and business have suffered already due to this issue. He said the time and money could be put to better use and he decided to come to the people who made the decision. He said he will probably not pursue that avenue and will respect whatever the Commission decides today.

Mr. Healy asked Mr. Palmieri whether he believed the Commission made any legal error in their decision last month.

Mr. Palmieri said he is not a lawyer and could not take the position that there was an error without being sure that there was. He said he was more concerned with the penalty proportion compared to others handed down. He said in the past cases, candidates have used the money for their own personal use which he did not.

Mr. McKee said the Commission spent considerable time reviewing the materials and discussing the issues at the April meeting. He said the information given today by Mr. Palmieri could have been provided to the Commission at the April meeting. He said the proportionality argument also could have been brought up at the April meeting.

Mr. McKee said procedurally the Commission first needed to determine if it will reconsider and then whether it will change the April decision.

Mr. McKee moved to allow the reconsideration of the decision in the Palmieri matter. Ms. Matheson seconded.

Motion passed unanimously (5-0).

Mr. McKee moved to deny the request to change the decision of April 26, 2011. Mr. Youngblood seconded.

Mr. Duchette stated that there were no new facts brought forward today that would warrant a change in the decision. He said the proportionality issue is difficult because each case is different and may fall under different statutory limitations. He said in the Cutler Files matter, the Commission was bound by the statute limits of $200 even though some Commissioners wanted to go higher.

Mr. McKee agreed and said proportionality is tricky and depends upon the facts of each matter which fall under different statutes and provisions. He said when someone knows they will be facing some penalty assessment, it would be prudent to do some research before the proceedings in order to make an effective argument as to the amounts being imposed at that time.

Mr. Healy said he would not support changing the decision because no new information was provided today and there was no evidence of legal error in that decision.

Motion passed unanimously (5-0).

**Agenda Item #4. Request for Waiver of Late-Filing Penalty by Maine Taxpayers Taking Charge PAC**
The Maine Taxpayers Taking Charge PAC filed its 2011 April quarterly campaign finance report 14 days late. Since the PAC changed mailing and e-mail addresses without updating the information with Commission staff, it did not receive the reminder notices. In addition, the accountant for the PAC put the wrong date for the filing deadline in her calendar. Due to the amount of financial activity that was reported in the April quarterly (over $95,000) and the number of days late (14), the preliminary penalty for the late filing is the $10,000 maximum penalty. The PAC requests a waiver because the preliminary penalty is disproportionate to the level of harm suffered by the public.

Daniel Walker, Esq., representing the PAC, said this matter occurred due to a series of errors from the wrong addresses being on file with the Commission to the mistake in marking the deadline on the accountant's calendar. He said it was the PAC's mistake not to update all the addresses with the Commission. He said the intention was to shut down the PAC in March and the accountant had been in

touch with the Commission on how to do so. The PAC's plan was to file its final report and to terminate; however, the date for the report deadline was marked incorrectly in the calendar. He said the PAC took the responsibility for not updating the Commission with the new addresses. However, the proportion of the penalty to the harm suffered by the public was the issue. He said the PAC supported the staff recommendation.

Mr. McKee asked what information was not available to the public as a result of the late report. Mr. Walker explained that the only new expenses of the PAC were two bank charges totaling $30. He said the major expenditures in the reporting period were payments for obligations that had already been reported in the previous report and the public had access to that information.

In response to questions from Mr. Healy, Mr. Walker said the treasurer was Robert Lally and Steve Barber was the principal officer. He said this was a professionally managed PAC with a campaign manager and the PAC raised and spent approximately $4-5 million.

Mr. Healy stated that the PAC did not get the notices because the PAC closed up shop and left town before it had properly terminated the PAC.

Mr. Duchette said this was a fairly sophisticated group with substantial money who knew the rules. He said groups who come to Maine to put on campaigns need to respect the campaign finance laws of Maine. He said it is difficult to be sympathetic toward a sophisticated knowledgeable campaign group even though little harm was done to the public.

Mr. Walker said the level of the penalty should be low due to the harm to the public.

Mr. Healy said the report was 14 days late which is significant and asked what other penalties have been assessed for PACs who file late.

Mr. McKee said most of those late filers are around election time which would create higher levels of the penalty and would be difficult to compare.

Mr. McKee moved to accept the staff recommendation. Mr. Youngblood seconded.

Ms. Matheson said there is a statutory (§ 1053) requirement for PACs to amend the registration form in the case of an address change.

Mr. Duchette said he could support the staff recommendation with regard to the findings and the justifications for a waiver. However, he thought the penalty should be higher and suggested it be raised to $500 given the size and experience of this campaign.

Mr. Healy said very little harm was suffered by the public due to the late filing but he could support a higher penalty. Harm to the public is not the sole criteria upon which to base a penalty but it is an important consideration. He said he could support a penalty that was more than $200 but not the maximum of $10,000.

Mr. McKee agreed that the level of harm to the public should not drive the debate but it was very significant to him that the information was already available to the public. He could support a higher penalty to take into account the experience and sophistication of the group involved.

Mr. McKee amended his motion and moved that the Commission assess a penalty in the amount of $500. Mr. Youngblood seconded.

Motion passed unanimously (5-0).

**Agenda Item #5.** Hon. **Joseph A. Wagner/Recommended Findings of Violation**

Former State Representative Joseph A. Wagner ran as a 2010 Maine Clean Election Act candidate. His campaign was selected for an audit. The Commission's auditor will report on the audit findings, which include a small number of technical violations. Mr. Wayne explained that, after previous elections in which he was a candidate, Rep. Wagner used personal funds to repay the state for the Clean Election Act funds he used for his campaign. In June 2010, he deposited $2,250 of his own funds into his campaign account which contained his MCEA funds. He explained that Mr. Wagner did not overspend and had only spent one-half the amount he was authorized to spend. He returned the unspent MCEA funds after the

election. Mr. Wayne said this was considered a technical violation but he does not recommend any financial penalties for the violations. Mr. Wayne said Mr. Wagner is also requesting guidance on how to finance his campaign for 2012 in the same manner without being in violation. He said the staff and the Commission's counsel do not think that there is any provision in the Act that would prohibit Rep. Wagner from making a voluntary donation to the Maine Clean Election Fund.

Joseph Wagner explained that in 2006, 2008, and 2010, he reimbursed the state for the amount of Clean Election money that he used to run his campaigns. He said he participated in the program because he does not have the personal funds up front to run a campaign and the MCEA program provides that start-up money. He said the funds he received from the state create more than enough for him to run his campaign. He said he prefers to be a Clean Election candidate because it prevents outside influence money and creates a level playing field between opponents as well as provides a test of candidates' stewardship of public funds. He also explained with regard to the reporting issue, there was an input error in one of his reports but it was fixed as soon as it was noticed.

Mr. Healy asked if Mr. Wagner reimbursed the Fund the full amount and Mr. Wagner confirmed that he did. Mr. Wagner said in this election and past elections, he has set aside certain income he received for part-time work such as scoring essays for the Educational Testing Service or, in this election, teaching an online government course.

Mr. Healy said Mr. Wagner essentially used the Clean Election fund as a bank to fund his campaign and asked why he just did not pay for his own campaign as a privately funded candidate.

Mr. Wagner explained that he likes having the label of Clean Election Act candidate and he supports the principles of what the Act stands for. In 2008, his opponent was also an MCEA candidate and they competed on a fairly level playing field.

Mr. McKee said he could understand Mr. Wagner's reasoning for using the MCEA program due to his cash flow and the timing of when he would get the extra income from working.

Mr. Wagner said he embraces the principles of the MCEA program. He believes there should be a spending limit in elections, although he acknowledged the he and other candidates are free to self-impose a spending limit. He has received a great deal of personal benefit by going to people and asking for their $5 donation for his campaign. He explained that listening to people and having them put their faith in him means a lot.

Mr. McKee said that Mr. Wagner gets the benefit of the label as a Clean Election candidate. And he may be a Clean Election candidate on paper but in reality he probably is not because of the fact that he uses his own money to pay back the state for funding his campaign.

Mr. Youngblood said it was admirable that Mr. Wagner wants to make donations to the Clean Election program; however, commingling personal and campaign funds is not lawful under the Act and has to stop.

Mr. Youngblood noted that the June 13 materials for the Commission stated that the violations were minor and "unintentional." He said he did not see how this matter could be considered unintentional. He also said the June 3 recommendation did not use the word unintentional. He said the record should not say "unintentional."

Mr. Healy said the law clearly prohibits commingling of private and public funds whether it was intentional or not, and that is a serious violation and cannot be permitted. The Commission cannot let it go lightly. He said the disturbing part is that if an audit had not been done, this would not have been detected. He said these issues would not be known without an audit. He said Mr. Wagner should have been aware of the prohibition against commingling. It is a very serious violation. The Commission should make it clear that it will not permit commingling of private and public funds.

Mr. McKee said this case was the most odd, narrow example of commingling, but still needs to be reprimanded.

Mr. Healy also said he would not be in favor of the Commission giving any guidance or advisory opinions.

Mr. McKee moved to accept the findings of technical violations of §§ 1125(6) and 1125(7-A) and 1125(12) as stated in the audit report. Mr. Healy seconded.

Motion passed unanimously (5-0).

Mr. McKee moved to assess no financial penalties for these violations. Mr. Duchette seconded.

Mr. Healy suggested assessing a penalty for commingling but waive the penalty because Mr. Wagner has returned all the MCEA funds. He said this way there will be a record that a penalty was assessed for commingling and even though it was unintentional, that is not a defense.

Ms. Gardiner advised that suspension normally means that something could trigger the requirement that the penalty be paid. She suggested that the penalty could be assessed and deemed paid because Mr. Wagner has already paid back more than the amount of the penalty.

Mr. McKee said the courts frequently assess fines and suspend them and the matter is closed.

Mr. Wayne explained that in the past there have been a few cases where candidates commingled funds unintentionally and the Commission assessed penalties of $100.

Mr. McKee said this case was different since Mr. Wagner has paid the fund back.

Mr. McKee amended his motion and moved that the Commission assess a $100 penalty for commingling but suspend the penalty in full. Mr. Healy seconded.

Motion passed unanimously (5-0).

Mr. Healy moved that the Commission not provide any advisory guidance as requested by Mr. Wagner. Mr. Youngblood seconded.

Motion passed unanimously (5-0).

**Agenda Item #6. Audit of Michael E. Lawson/Recommended Findings of Violation, Repayment and Civil Penalties**

Michael E. Lawson was a candidate for the Maine House of Representatives in 2010. His 2010 campaign was selected for an audit. The audit disclosed that the campaign did not report all campaign expenditures, did not keep required expenditures records, and other violations. The Commission staff recommended findings of violation, civil penalties, and a finding that the candidate should repay some campaign funds. Mr. Wayne reported that Mr. Lawson called the Commission staff this morning and said he could not make the meeting today. He did not indicate that he wanted to have the meeting rescheduled. Mr. Wayne said Mr. Lawson indicated to him that he wanted the Commission to consider specific travel expenditures to be allowable. In addition, he said that Mr. Lawson wanted to explain his personal circumstances to the Commission.

Mr. Healy confirmed that Mr. Lawson has a copy of the memorandum outlining the findings and penalty amounts and asked whether he has objected to anything in the memo with the exception of two travel expenditures to Naples and to Augusta.

Mr. Wayne said that was correct but Mr. Lawson does not communicate well and may not realize that he was waiving his opportunity to comment by not attending the meeting today.

Mr. Duchette said he would assume for purposes of this proceeding that Mr. Lawson does not agree with any part of the memo outlining the issues and findings of his audit.

Mr. Wayne said when the audit is performed certain documentation must be provided by the candidate. In the 2010 audit process, the auditor requested that the candidate submit the travel log, if the candidate has used MCEA funds to pay for travel expenses. This is the first case in which the staff recommended that the candidate return the MCEA funds for undocumented travel expenditures.

Mr. Healy asked if the rule states when the log has to be prepared. Mr. Wayne said the rule does not specify that the log be completed on the same day as the travel.

Mr. Healy asked if Mr. Wayne questioned whether the travel to Naples or Augusta happened.

Mr. Wayne said he could not say for certain, but Mr. Lawson told him that he did make the trips.

Mr. Duchette said Mr. Lawson is debating that $137 should be allowable.

Mr. Wayne also explained that candidates are required to keep copies of any invoice over $50 as well as bank statements proving those expenditures. He said in the past, he has shied away from disallowing any purchase that does not have an invoice when overall the campaign had complied in every other area. He said in this case, however, there were so many discrepancies and violations he has required Mr. Lawson repay the fund for those expenses that he cannot backup with invoices. In addition, Mr. Wayne said Mr. Lawson made purchases at Cabela's Sporting Goods and made a withdrawal from the campaign account for the purchases claiming he used the campaign bank account by mistake.

Mr. Vincent Dinan, staff auditor, said this was one of the most difficult audits performed this election cycle and noted that it started in January and was just completed this month. He said this candidate had difficulty providing documentation of his expenditures and after receiving all bank statements it was necessary to catalog each activity, review any documentation that had been obtained, and determine whether each was allowable or not. He said expenditures that were not allowed because of lack of supporting documentation totaled $711.91. He said they were reported as campaign expenditures but no record of payment by the campaign and no vendor invoices were provided.

Mr. Healy asked if the expenditures were to third parties and Mr. Dinan said some were to the candidate and some to third parties.

Mr. McKee said there were two checks written to Cabela's. Mr. Dinan confirmed this and said after the audit was initiated in January, Mr. Lawson repaid the Fund the amount written to Cabela's.

Mr. Healy asked if Mr. Lawson had a treasurer and Mr. Dinan said Mr. Lawson's fiancée was his treasurer in name only.

Mr. Dinan said there were nine deficiencies found:

1) Candidate reported an equal amount of seed money contributions and disbursements so he received the maximum amount of Clean Election funds when he qualified. Actually, no disbursements or expenditures were made during the seed money period.

2) Use of MCEA funds to pay for qualifying period expenditures.

3) Ten expenditures totaling $1895.97 with no documentation. These were all recorded in the reports but no documentation for any of them. (After finding this, Mr. Dinan said he was prompted to look closely at every transaction.)

4) Expenditures from the campaign bank account that were not reported on filings including cash withdrawals.

5) Use of campaign funds for private purposes and cash withdrawals with no documentation.

6) Duplicate reporting of Spectrum Marketing expenses and no invoices.

7) Undocumented mileage reimbursements.

8) Misreporting expenditures which affected all campaign reports filed throughout the campaign.

9) Late filing of 11-Day Pre-General report. The report filed indicated a payment to Spectrum Marketing of $705 during the period, in fact a $2,500 payment was made during the report period.

Mr. Healy asked if Mr. Lawson made the recorded comments after he received the audit findings from Mr. Dinan and Mr. Dinan confirmed this. Mr. Healy stated that for the record, Mr. Lawson had reviewed the audit report and commented on the findings to Mr. Dinan.

Mr. McKee moved to accept the recommended findings in Mr. Wayne's June 8, 2011 letter. Mr. Healy seconded.

Mr. Youngblood addressed the reimbursement for mileage issue and said there were two instances where it would seem appropriate for the state to reimburse him for his travel which would total $65.76 for check copying and travel to the Commission office. Both of these expenses were due to requests made by the Commission so should probably be reimbursed.

Mr. McKee said those two issues were the result of negligent conduct by Mr. Lawson.

Mr. Duchette asked if the Act allows for reimbursement of audit documentation and Mr. Wayne confirmed that was true. Mr. Duchette said those two items should be considered allowable in that case. He suggested subtracting the $65.76 from the $711.91 reimbursement amount.

Mr. Dinan said Mr. Lawson had returned approximately $128, so the repayment amount is $583. He said the other adjustments would come from $583.

Motion passed unanimously (5-0).

Mr. Duchette moved the Commission determine that $65.76 in costs associated with the audit are allowable expenditures and require repayment in the amount of $517.28 to the Maine Clean Election fund. Mr. McKee seconded.

Motion passed unanimously (5-0).

Mr. Duchette asked if the assessment could be more than $5,000. He said there were multiple violations in the case and most fall under § 1004(A), substantially misreporting contributions/expenditures. He said Findings 1, 3, 4 and 6 fall under this statute. He asked if each violation could be assessed $5,000 or if the maximum was limited to $5,000 for all four violations combined.

Mr. Wayne explained that it was possible to reach $20,000 for all violations. He said most violations are of the Maine Clean Election Act which limits $10,000 per violation and Findings 1, 2, 5, 7, 8, and 9 could fall under this section.

Mr. Duchette asked how the $700 penalty amount was determined.

Mr. Wayne said there have not been many serious violators in the past upon which to base an amount.

Mr. Duchette stated that Joseph Palmieri's penalty was much higher at $1,750 and he could not support a lower amount for Mr. Lawson.

Mr. Wayne said with the repayment and penalties combined, Mr. Lawson would have to come up with $1,200 in total. He viewed Mr. Lawson as someone who was in over his head running a campaign for public office. He was not told or advised as to the complexities of running for office and the recordkeeping requirements to do so. Mr. Wayne explained that his reports included estimates of expenditures as well as failure to report expenditures and keep documents. He said a few candidates in the past have obviously misspent their public funds for mortgage payments or made up purchases but Mr. Lawson is not that type of violator in his view. He said Mr. Lawson was inadequate to the task of being a Maine Clean Election Act candidate. He said having Mr. Lawson pay $1,200 for bad recordkeeping and reporting when he probably was not misusing state funds seemed fair.

Mr. Healy said his recordkeeping was so inadequate he could not possibly file an honest and complete report. He said Mr. Lawson reported expenditures that were not made.

Mr. Wayne said Mr. Lawson did not keep records of purchases. He said some were accurate but the amounts for some expenses were approximated in order to make the bottom line of his reports to be equal to the bottom line of his bank account.

Mr. Duchette stated that appeared to be "cooking the books." He said it was a credibility issue and Mr. Lawson did not show up to plead his case to the Commission.

Mr. Healy asked if checks were written to Home Depot for his expenditures.

Mr. Dinan said typically Mr. Lawson would pay out of pocket and then intended to reimburse himself from his campaign account, but there is no documentation to prove this.

Ms. Gardiner asked if Mr. Lawson had a debit card and Mr. Dinan said no. Ms. Gardiner said she believed the Commission staff had strongly encouraged candidates to use a debit card recently since it would create the most accurate paper trail for expenditures.

Mr. Dinan said more candidates are using debit cards and this is much more efficient way to audit the campaigns since everything shows up on the bank statements including the name of the vendor. He said Mr. Lawson used a credit union which also included his personal account and the statements included both his campaign account and personal account. He said every disbursement was looked at closely and there was no movement between the two accounts during his campaign.

Mr. Healy said in his view there was very little, if any, unjust enrichment. He said the most disturbing issue for him was the false reporting. Mr. Lawson was not here to make his case before the Commission but the problems were caused by total incompetence or just poor record keeping. He said he should have been at the meeting today to speak for himself. He asked if Mr. Lawson ever contacted Commission staff with questions and requests for help with his reporting.

Sandy Thompson, Candidate Registrar, said he did not call but she called him to let him know he needed to file his report. She said he had only a few questions, but no requests for detailed advice. He was not a candidate she had a lot of contact with compared to some who she spoke with on a regular basis during reporting periods.

Mr. Healy said Mr. Lawson did not have a proper treasurer either which would have been helpful.

Mr. Duchette said in comparison to Mr. Palmieri's case in which there were four findings, he was required to pay $1,350 in penalties in addition to the MCEA repayment. He thought the Commission should consider that in Mr. Lawson's case, there were nine findings of violation. He suggested the penalty amount for Mr. Lawson start at $1,350.

Ms. Matheson said she is disturbed by the finding of seed money violations with this candidate as well as several other candidates. In this case, there is no recommended penalty for the seed money violation and

there should be a penalty. Misreporting seed money expenditures can result in the wrong amount of public funds being given to a candidate. Candidates need to be very clear about the distinction between seed money and the Clean Election funds and which can be used to pay for certain expenses. She said the late filing needs to be addressed with a penalty also.

Mr. Duchette said Mr. Lawson has not contested most of the findings and therefore he is admitting to the violations and suggested a $2,500 in the aggregate.

Mr. Duchette moved that the Commission assess a penalty in the aggregate amount of $2,500. Mr. McKee seconded.

Mr. McKee said it would be necessary to break out a penalty amount for the separate findings.

Mr. Healy said in light of the cost to the State of Maine for doing the audit and the time put in to discuss the matter he felt that amount was very reasonable. He said he could go higher than $2,500.

Mr. McKee agreed and said $2,500 was very reasonable considering the cost to the state to make the findings and determine what went on with this campaign.

In response to a comment by Mr. Duchette, Mr. Wayne said he could come up with a penalty database with more detailed information with regard to the amount and considerations for each penalty.

Mr. McKee said that would be very helpful to prevent going too low or too high with a penalty.

Mr. Healy said he felt one of the reasons why the penalty should be high was so the next election cycle it would serve as a warning that the accurate and complete recordkeeping for Clean Election Act candidates is very critical and if not done accurately, a stiff penalty, like this one, could happen at the end of a candidate's campaign. He said the amount needs to be high enough so that people will notice and take steps to ensure that they comply with the record-keeping and reporting requirements. He said the message needs to be clear that the Commission will not tolerate sloppy recordkeeping.

Mr. Wayne suggested that the breakdown of the individual penalty amount be a $100 penalty for an inaccurate seed money report resulting in an overpayment, a $100 penalty for using MCEA funds to pay for pre-certification services, a $1,200 penalty for the failure to accurately report expenditures of MCEA funds, a $1,000 penalty for the failure to keep expenditure documents required by law, and a $100 penalty for spending MCEA funds for purposes not related to the campaign.
Mr. McKee said that it seemed like a reasonable division of the penalty and emphasized the importance of accurate reporting and record-keeping.

Mr. Duchette agreed to amend his motion to include the breakdown of the individual penalty amounts as suggested by Mr. Wayne.

Motion passed unanimously (5-0).

Mr. Wayne said Mr. Lawson may inquire as to whether he could come before the Commission at another time in the future for reconsideration and requested the Commission's advice as to how he should respond to Mr. Lawson.

Mr. McKee said Mr. Lawson chose not to show up for the first hearing and did not ask for a postponement, so reconsideration is highly unlikely.

Mr. Healy said the Commission was advised today that it does have the authority to reconsider. If he does ask for reconsideration, a yes or no answer is required.

Ms. Gardiner said the determination letter Mr. Wayne sends to Mr. Lawson will include the notice of appeal rights and if he decides to appeal, a decision can be made at that point.

**Agenda Item #7. Audits of Maine Clean Election Act Campaigns**

In addition to Michael Lawson and Joseph Wagner, the Commission's auditor has completed 15 audits of other 2010 Maine Clean Election Act candidates. No exceptions (violations) were found in those audits.

**Agenda Item #8. Adoption of Amendments to the Commission Rules**

At the April 26, 2011 meeting, the Commission held a public hearing to receive comments on proposed changes to the Commission's Rules. The Commission received oral comments from one advocacy organization, and the Commission staff has made changes to its recommended rule amendments in response to those comments.

Mr. Healy had a few questions regarding the language in Chapter 1, Section 6, paragraph 9 and Section 10, paragraph 2B.2.

Mr. Wayne and Ms. Gardiner explained that the language for these sections came out of Maine statute with regard to Section 6 and the U.S. Supreme Court's Wisconsin Right to Life decision with regard to Section 10.

Mr. McKee moved that the Commission adopt the rule amendments with one technical change in Section 6(9) of the proposed rules. Ms. Matheson seconded.

Motion passed unanimously (5-0).

Mr. McKee moved to adjourn and Mr. Healy seconded the motion, which passed unanimously.

Meeting adjourned at 11:25 a.m.

Respectfully submitted,

Jonathan Wayne, Executive Director