

Agenda

Item #4



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: July 18, 2011
Re: Status Update on Lemire Campaign's Sale of Stamps

This memo updates you on a non-compliant situation that the Commission staff is trying to resolve on its own, without a finding of violation. No action is required by you for the July 28 meeting.

Ms. Ellen Lemire was a 2010 candidate funded by the Maine Clean Election Act. Her campaign used \$1,320 in Maine Clean Election Act funds to purchase 30 rolls of 44-cent stamps that the campaign did not use. The circumstances of the purchase, as described by the campaign, are included in my July 7, 2011 letter to the candidate.

The Commission staff views the postage stamps as property that could be converted to the candidate's personal use and that has value apart from Ms. Lemire's legislative campaign. As such, under Chapter 3, Section 7(2)(C) of the Commission Rules, we believe the campaign was required to sell the stamps after the November 2010 general election and to return the proceeds to the State of Maine.

After the election, Candidate Registrar Sandy Thompson began encouraging the campaign to sell the stamps. The staff has provided the candidate with an extended period of time because we understand the challenges of selling such a large number of rolls of stamps. Organizations preparing large mailings presumably have more convenient ways of buying a large amount of postage than purchasing rolls of stamps.

On three occasions, Ms. Lemire's campaign has returned \$484 (May 9, 2011), \$176 (June 14, 2011), and \$308 (July 11, 2011). At this point, the campaign needs to sell eight rolls of stamps worth \$352, and to return those proceeds to the Commission.

The Commission staff is raising this to your attention at a public meeting in order to bring this matter to a close. If the \$352 is not returned by early August, we intend to view this as a potential enforcement matter because the campaign did not comply with Chapter 3, Section 7(2)(C) by selling the property and returning the proceeds by December 14, 2011 (the final reporting deadline for 2010 MCEA campaigns).

Thank you.



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July 7, 2011

By E-Mail and Regular Mail

Ms. Ellen Lemire
696 Goodwin Road
Eliot, ME 03903

Dear Ms. Lemire:

This letter is to follow up on my March 31, 2011 letter concerning your 2010 campaign's purchase of 44-cent postage stamps with a face value of \$1,320. My understanding is that the purchase consisted of 30 rolls of one-hundred stamps with a denomination of 44 cents. Each roll has the face value of \$44.

You have described the circumstances of the campaign's purchase as follows. The campaign was advised that it should do a mailing and to buy postage stamps. In late October 2010, a campaign volunteer (your daughter-in-law) used Maine Clean Election Act funds to purchase the rolls of stamps at the U.S. Post Office. At the time of the purchase, a postal employee told the volunteer that the campaign could resell unused rolls of stamps back to the Post Office. The campaign ended up doing the mailing through a mailhouse, so the campaign did not use the stamps. When the campaign attempted to resell the stamps to the Post Office, it declined to purchase them.

The Commission staff has informed you that the Commission rules require candidates to sell property or equipment that can be converted to the candidate's personal use at the end of the campaign and to return the proceeds to the Commission. (Please see rule on page 3.) Candidates in the 2010 general election were required to sell such property by December 14, 2010, which was the deadline for candidates to file their final campaign finance report.

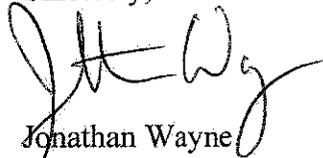
The Commission staff believes that the rule should be applied to cover the postage stamps purchased by your campaign, because the stamps represent property that could have value to you or others apart from your campaign and could be converted to your personal use. We have provided you with additional time to sell these stamps, because we appreciate that it is not easy to find purchasers for such a large quantity. To date, we have received two payments from the campaign totaling \$660. The campaign needs to sell the remaining \$660 in stamps and to return the proceeds to the Commission.

The Commission staff will provide a status update to the Commissioners at their next meeting, which will be held in three weeks on July 28, 2011 at 9:00 a.m. The meeting will take place at the Commission's office at 45 Memorial Circle in Augusta. There will be a separate item on the agenda related to this matter. You are welcome to attend the meeting to explain the

circumstances to the Commissioners, but that is not required. At the meeting, I will recommend to the Commissioners that they consider this to be a potential enforcement matter that could involve a finding of violation against you and the assessment of a civil penalty. Any proposed civil penalty would be considered by the Commissioners at their August meeting. **If you would like to avoid this being placed on the agenda for any public meeting, please have the campaign return the remaining \$660 to the Commission no later than Monday, July 18, 2011.**

Thank you. If you have any questions, please call Sandy Thompson or me at 287-4179. Sandy will be out of the office during the weeks of July 11 and 18.

Sincerely,

A handwritten signature in black ink, appearing to read "Jonathan Wayne". The signature is fluid and cursive, with a large initial "J" and "W".

Jonathan Wayne
Executive Director

cp

cc: Sandy Thompson, Candidate Registrar

Ethics Commission Rules, Chapter 3, Section 7(2)(C)

- C. **Liquidation of Property and Equipment.** Property and equipment that is not exclusive to use in a campaign (e.g., computers and associated equipment, etc.) that has been purchased with Maine Clean Election Act funds loses its campaign-related purpose following the election. Such property and equipment purchased for \$50 or more must be liquidated at its fair market value and the proceeds thereof reimbursed to the Maine Clean Election Fund as unspent fund revenues in accordance with the schedule in paragraph B above. Candidates may not return unsold property or equipment to the Commission.
- (1) The liquidation of campaign property and equipment may be done by sale to another person or purchase by the candidate.
 - (2) Liquidation must be at the fair market value of the property or equipment at the time of disposition. Fair market value is determined by what is fair, economic, just, equitable, and reasonable under normal market conditions based upon the value of items of similar description, age, and condition as determined by acceptable evidence of value. A campaign's sale of property or equipment through an on-line commercial auction shall be considered by the Commission as a factor in favor of determining that the campaign has recovered the fair market value of the property or equipment.
 - (3) If the campaign sells the property or equipment to the candidate or a member of the candidate's immediate family or campaign staff, the campaign must receive at least 40% of the original purchase price.



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March 31, 2011

Ms. Ellen Lemire
696 Goodwin Road
Eliot, ME 03903

Dear Ms. Lemire:

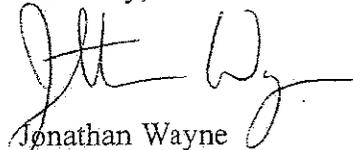
This letter is to follow up on the issue of your 2010 campaign's purchase of 44-cent postage stamps with a face value of \$1,320. Candidate Registrar Sandy Thompson discussed this issue with you in December 2010, and sent you a follow-up letter on February 3, 2011. She informed you that the Commission Rules require candidates to sell property that can be converted to the candidate's personal use at the end of the campaign and to return the proceeds to the Commission.

Sandy Thompson last spoke with you on February 23, 2011. At that time, you advised her that you believed the campaign had sold around \$400 in postage, and that you would be checking with your son about getting that amount returned to the Commission. We have not received the money or any update since then.

As a department of the State of Maine that administers the Maine Clean Election Act program, the Commission is required by its rules to recover \$1,320. While the Commission staff is personally sympathetic, we need to complete the process of recovering these funds.

This letter is to request that your campaign complete the process of selling the stamps and return \$1,320 to the Commission no later than Friday, May 6, 2011. Under the Commission's rule, the campaign may sell the stamps to any individual (including you) or any organization. The campaign is required to sell the stamps at fair market value, which we would take to be \$1,320. If the Commission does not receive \$1,320 by May 6, 2011, the Commission staff will bring the matter to the attention of the Commissioners at their public meeting in late May. The meeting has not been scheduled at this time. If you have any questions, please call Sandy Thompson at 287-7651.

Sincerely,



Jonathan Wayne
Executive Director

cp

cc: Sandy Thompson, Candidate Registrar



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February 3, 2011

Ms. Ellen M. Lemire
696 Goodwin Road
Eliot, ME 03903

Dear Ms. Lemire:

RE: Sale of Property and Equipment Purchased with MCEA Funds

In December we discussed your responsibilities under Chapter 3 of Commission Rules (Section 7(2)(C)) which requires property purchased with Maine Clean Election Funds to be sold at the end of the campaign. The rule requires property and equipment to be liquidated at its fair market value and the proceeds returned to the MCEA Fund if the following conditions are met:

- the property and equipment has a use that is not exclusive to a campaign; and
- the property and equipment was originally purchased for \$50 or more.

Examples of property and equipment that the Commission staff has identified as meeting the requirement above includes office equipment (computers, printers, cell phones), cameras, power tools, and stamps. These items have a use outside of the campaign. Items that are exempt from the requirement include yard signs, palmcards, campaign buttons, campaign letterhead, and envelopes because these items have a use only to the campaign.

As a result of our discussions in December 2010, my understanding was that you would be selling the stamps over the next couple of months and as the stamps were sold, you would be submitting the sale proceeds to the Commission. Since I have not spoken to you over the past six weeks and to my knowledge the Commission has not received any proceeds, I was hoping you could provide me an update of your plans, how many stamps you have sold, and when you will be submitting the proceeds to the Commission. The Commission realizes that it will take some time to sell the stamps given the quantity involved (\$1,320.00 in \$0.44 first class stamps).

I have attached a copy of the section of the rule that provides guidance on the sale of the property. Please contact me with your plans and if you have any questions. You can call me at 207-287-7651 or email me at Sandy.Thompson@maine.gov. Thank you.

Sincerely,

Sandy Thompson
Candidate Registrar

cc: Treasurer

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

PHONE: (207) 287-4179

FAX: (207) 287-6775

**SCHEDULE B
 EXPENDITURES**

EXPENDITURE TYPES	
CNS Campaign consultants	POL Polling and survey research
CON Contribution to other candidate, party, committee	POS Postage for U.S. Mail and mail box fees
EQP Equipment (office machines, furniture, cell phones, etc.)	PRO Other professional services
FND Fundraising events	PRT Print media ads only (newspapers, magazines, etc.)
FOD Food for campaign events, volunteers	RAD Radio ads, production costs
LIT Print and graphics (flyers, signs, palmcards, t-shirts, etc.)	SAL Campaign workers' salaries and personnel costs
MHS Mail house (all services purchased)	TRV Travel (fuel, mileage, lodging, etc.)
OFF Office rent, utilities, phone and internet services, supplies	TVN TV or cable ads, production costs
OTH Other	WEB Website design, registration, hosting, maintenance, etc.
PHO Phone banks, automated telephone calls	

Only these expenditure types require a remark: CNS, EQP, FND, OTH, PRO, SAL, TRV.

DATE OF EXPENDITURE	PAYEE	REMARK	TYPE	AMOUNT
10/20/2010	UNITED STATES POSTAL		POS	\$36.40
10/24/2010	UNITED STATES POSTAL		POS	\$1,320.00
12/07/2010	UNITED STATES POSTAL	Proceeds from sale of unused stamps purchased on 10/24/2010	POS	-\$484.00
12/07/2010	UNITED STATES POSTAL	Proceeds from sale of unused stamps; amount returned to Commission	POS	-\$176.00
10/28/2010	SPECTRUM MARKETING	Mailing	MHS	\$1,000.00
10/29/2010	SPECTRUM MARKETING	Mailer	MHS	\$704.56
11/08/2010	CONFLUENT IMPACT		PHO	\$94.85
11/08/2010	NOAH LEMIRE	Reimbursement for Food purchased	FOD	\$25.36
10/23/2010	STAPLES	supplies	OFF	\$86.57