

# 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: March 27, 2013  
Re: Objections of Michael Nadeau and James Majka to Subpoenas for Bank Records

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I have attached materials relating to objections filed by State Representative Michael ("Mike") Nadeau and his friend and campaign volunteer, James Majka, to the Commission's issuance of four subpoenas for financial records. The attachments include:

- two memoranda and a letter objecting to the subpoenas
- a letter by Phillip Soucy's counsel urging a final determination in this matter
- the four subpoenas at issue
- a response memo from the Commission staff, and
- relevant written materials.

Any further submissions received before your April 5 meeting will be forwarded to you by e-mail and regular mail, if feasible.

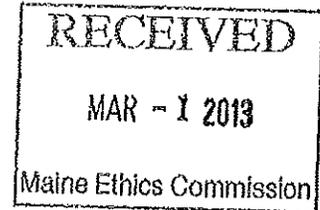
Thank you for your consideration of this agenda item.

Timothy C. Woodcock  
Direct Dial 207-992-4338  
twoodcock@eatonpeabody.com

Eaton  
ATTORNEYS  
AT LAW  
Peabody

80 Exchange Street, P.O. Box 1210  
Bangor, Maine 04402-1210  
Phone 207-947-0111 Fax 207-942-3040  
www.eatonpeabody.com

February 28, 2013



Walter McKee, Esq., Chair  
Commission on Governmental Ethics  
and Election Practices  
135 State House Station  
Augusta, ME 04333-0135

**Re: Norstate Federal Credit Union Subpoena For Mike's & Sons Bank Records**

Dear Mr. McKee:

Enclosed for filing please find A. Michael Nadeau's Objection to the Subpoena Duces Tecum issued by the Commission on Governmental and Election Practices to Norstate Federal Credit Union.

Thank you for your attention to this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Tim Woodcock". Below the signature, the name "Timothy C. Woodcock" is printed in a small, sans-serif font.

TCW/eab  
Enclosure

Cc: A. Michael Nadeau  
Jonathan Wayne, Director  
Paul Lavin, Assistant Director  
Roderick Rovzar, Norstate Federal Credit Union  
William P. Logan, Esq.  
Kate Knox, Esq.

STATE OF MAINE  
COMMISSION ON GOVERNMENTAL ETHICS AND ELECTION PRACTICES

In re: Campaign Spending in Maine	)	
House of Representatives	)	OBJECTION TO INVESTIGATIVE
District 1	)	SUBPOENA TO PRODUCE RECORDS
	)	TO NORSTATE FEDERAL CREDIT
	)	UNION

OBJECTION OF A. MICHAEL NADEAU TO SUBPOENA DUCES TECUM  
ISSUED BY THE COMMISSION ON GOVERNMENTAL AND ELECTION  
PRACTICES TO NORSTATE FEDERAL CREDIT UNION

NOW COMES A. Michael Nadeau by and through his attorney, Timothy C. Woodcock, for his own part and on behalf of Mike's & Sons, and files his objection to the Subpoena which was served by the Commission on Governmental Ethics and Election Practices on Norstate Federal Credit Union as follows:

By subpoena dated February 14, 2013, this Commission sought the compelled production of certain records held by Norstate Federal Credit Union ("Norstate"). In particular, the subpoena sought records held by Norstate for Account No. [REDACTED] for "Mike's & Sons" of Fort Kent, Maine. Norstate was ordered to produce the records on or before March 8, 2013 and to enter any objection to the subpoena by March 1, 2013.

Nadeau hereby objects to said subpoena on the grounds set forth below.

**I. BACKGROUND**

At issue is an investigation into a circular that was printed and distributed by Citizens for Effective Government. The ambit of the initial investigation was expanded to include a newspaper advertisement which appeared in the Fiddlehead Focus. Both the circular and the advertisement appeared shortly before the election. The circular prompted a complaint which in turn prompted an investigation by commission staff followed by a hearing on November 5, 2012.

This Commission held a hearing on short notice on November 5, 2012. L. Philip Soucy was the only live witness. Soucy testified that he was the Treasurer for Michael Nadeau's campaign for House District 1. He also acknowledged that he had participated in arranging for the circular and had signed the expenditure report for Citizens for Effective Government that was filed with this Commission.

At the close of the November 5 hearing, this Commission made initial findings and issued directives to Commission staff which were subsequently set forth in a Revised Notice of Hearing issued by Commission Staff and dated December 18, 2012.

## **II. NOTICE OF HEARING**

**Issues Identified.** The Revised Notice of Hearing listed five issues to be addressed at the hearing (then scheduled for December 19, 2012). Those issues were as follows:

(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 a 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;

(5) whether James Majka made an expenditure of \$420 for an advertisement in the Fiddlehead Focus newspaper independently of Michael Nadeau, his committee, and their agents.

**Relevant Statutes.** The notice of hearing did not specifically tie any of the five issues listed above to any particular statutory provision. Instead, it provided a list of "relevant statutes"

as follows—21-A MRSA §§1004-A(5), 1015(5), 1052(5)(4)& (5), 1053, 1059, 1125(6), and 1127(1).

**Hearings.** This Commission has held two hearings on this matter. The first hearing was held on November 5, 2012 where the sole live witness was L. Philip Soucy. Soucy testified that he worked on the circular with James Majka and Dana Saucier. He said that these three were the “Citizens for Effective Government”. He said that the money to pay for the circular was in cash and that he understood that the cash had come from Norman Nadeau, Kenneth Nadeau, and, Renaldo Thibeault. He said that he had taken possession of the cash, placed it in a “safety deposit box” in his home, and, paid for the advertisement with his own credit card; thus, creating a clear financial record of his payment for the circular.

He also testified that Michael Nadeau had selected him to serve as Michael Nadeau’s treasurer, that he had not held such a position before, that he wrote no checks for Michael Nadeau, authorized no payments for Michael Nadeau, and did not know if he had check-signing authority on the campaign account. He said that to his knowledge Michael Nadeau was running his campaign by himself.

Soucy said that he, himself, did not consult with Michael Nadeau in any way in working on, paying for or distributing the circular.

On January 17, 2013, this Commission held a second hearing. James Majka and Dana Saucier testified at that hearing. Both Majka and Saucier testified that, along with Soucy, they were “Citizens for Effective Government”. They said that they had conceived of and arranged for the publication and distribution of the circular; that, in undertaking these actions, they did not consult with Michael Nadeau or advise him in any way of their plans.

Majka testified further that he had arranged for the publication of the advertisement in the Fiddlehead Focus. He said that he, himself, had paid for the advertisement out of monies that he kept at his home. Julie Daigle and Dennis Michaud of Fiddlehead Focus also testified at the January 17 hearing. Neither Daigle nor Michaud testified that Michael Nadeau or Michael Nadeau’s “campaign” paid for the circular.

Michael Nadeau also testified at the January 17 hearing. He said that he did not know about either the circular or the newspaper advertisement before the former were distributed or the latter was published. He said that he had not authorized a campaign committee and that he had run his campaign by himself, based on his own ideas and his own strategy. He testified that he relied on others for physical tasks, such as putting out signs, but that was all.

He said that he had selected Soucy as his treasurer because of Soucy's long involvement with local Republican politics and in recognition of his years of service in that regard. He also said that he, himself, kept the campaign's financial records, that he arranged for the expenditures, that he wrote the checks and paid the bills, and, that he prepared the required finance reports to this Commission. He said that although Soucy countersigned two reports (Exhibits 30 and 31), he doubted that Soucy fully understood them because he had the impression that Soucy was generally limited in his ability to fully grasp such things.

At no point did any witness either directly or indirectly testify that either Michael Nadeau, himself, provided the monies for either the circular or the advertisement or that he arranged for those monies to be paid through his business, Mike's and Sons of Fort Kent, Maine.

### III. LEGAL STANDARD

The Law Court set the standards for review of an administrative subpoena in *Central Maine Power v. Public Utilities Commission*, 395 A.2d 414 (Me. 1978). The Law Court identified three criteria that are pertinent to such a review—a) the administrative agency is authorized by law to make the inquiry; b) the information sought is relevant to the authorized inquiry; and, c) the disclosure sought is reasonable. *Id.* at 426.

**Statutory Authorization.** The Commission was established pursuant to 1 MRSA §1001, *et seq.* The Commission was vested with the particular authority to “administer and investigate any violations of the requirements for campaign reports and campaign financing, including the provisions of the Maine Clean Election Act and the Maine Clean Election Fund” and “[t]o administer and ensure the effective implementation of the Maine Clean Election Act and the Maine Clean Election Fund.” 1 MRSA §1008(2), (5).

By its terms, the subpoena states that it was issued pursuant to 21-A MRSA §1003. That statute authorizes the Commission to “undertake audits and investigations” regarding, “the registration of a candidate, treasurer, party committee, political action committee or other political committee” as well as “contributions by or to and expenditures by a person, candidate, treasurer, party committee, political action committee, ballot question committee or other political committee.” 21-A MRSA §1003(1). Subsection 1003(1) invests the Commission with subpoena power subject to and in accordance with the foregoing purposes. *Id.*

The subpoena in question is directed to Norstate Federal Credit Union and seeks financial records of a business owned and operated by Michael Nadeau—that is, Mikes & Sons of Fort Kent. There appears to be no question that Mike’s and Sons is a business located in Fort Kent. Before the issuance of this subpoena, there was no suggestion nor competent evidence that Mike’s & Sons had any involvement with Michael Nadeau’s campaign.

Although the powers of the Commission clearly extend to a candidate, a treasurer, and various committees as well as contribution to or expenditures by such persons and entities, Section 1003(1) does authorize the Commission to investigate businesses formed for commercial purposes and operating as such. For these reasons, the subpoena as issued lies beyond the statutory authority of the Commission.

**Relevant to the Inquiry.** The next question is whether the information sought by the subpoena is “relevant to the authorized inquiry.” *Central Maine Power*, 395 A.2d at 426, 431. The Law Court noted several different formulations by the U.S. Supreme Court of the “reasonableness” standard. *Id.* at 431. The subpoena also fails to meet this criterion.

This Commission’s inquiry is as it was authorized by the Commission on November 5 and as set forth in the Revised Notice of Hearing. Although the Notice of Hearing refers to the receipt by “the Michael Nadeau campaign” in violation of the Maine Clean Election Act (Topic 1) and whether James Majka expended \$420 “independently of Michael Nadeau, his committee, or their agents”, it does not authorize an investigation of Michael Nadeau’s longstanding, private business.

The reason that this Commission has not authorized an investigation of Mike's & Sons is readily apparent—there is no evidence from any source that Mike's & Sons was in any way involved in the Michael Nadeau campaign. The evidence before the Commission is that the monies for the circular came from Norman Nadeau, Kenneth Nadeau and Renaldo Thibeault and the monies for the Fiddlehead Focus advertisement came from James Majka.

In order to justify this Commission rummaging through the highly private financial records of a longstanding business, this Commission must have **some** evidence on which to premise its legal process. Without that evidentiary basis, the subpoena fails the relevance inquiry, resembling, instead, a mere fishing expedition. *cf.*, *State v. Watson*, 726 A.2d 214, 216 (Me. 1999).

**Reasonableness.** The third criterion is whether the subpoena is “reasonable”. By this, the Law Court has explained, “the demand must not be disproportionately or unduly burdensome and it must not be unreasonably broad.” *Central Maine Power*, 395 A.2d at 432, citing, *Federal Trade Commission v. Texaco, Inc.* 555 F.2d 862 (D.C. Cir. 1977), cert. denied, 431 U.S. 974 (1977).

On this point, too, the subpoena fails. That follows not only because it has not met the first two *Central Maine Power* criteria, but because, given the Commission's mandate to investigate candidates, treasurers, political committees, and related and similar entities, it is unreasonable for the Commission to seek the financial records of a business. The financial records of any business will show its interactions with its customers, its capital expenditures, its payments to and loans from financial institutions; in short, the daily, monthly, and, yearly operations of the business.

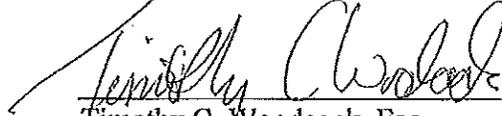
The customers who do business with Mike's & Sons would have no expectation that their transactions and their relationships with Mike's & Sons would be viewed by anyone other than an authorized representative Mike's & Sons or representative of Norstate Federal Credit Union. The disclosure of these records to this Commission, with its particular and limited mandate, would defeat those expectations and could create a chilling effect on any who do business with

Mike's & Sons. This is particularly so when, as has been stated above, the object of the subpoena lies outside the jurisdiction of this Commission and there is no evidentiary basis supporting it.

WHEREFORE, Michael Nadeau, on his own part and on behalf of Mike's & Sons, respectfully requests that this Commission withdraw the subpoena it has issued to Norstate Federal Credit Union for the records on Account No. [REDACTED]

Dated at Bangor, Maine this 28<sup>th</sup> day of February, 2013.

A. MICHAEL NADEAU



Timothy C. Woodcock, Esq.

EATON PEABODY

80 Exchange Street, P.O. Box 1210

Bangor, ME 04402-1210

(207) 947-0111

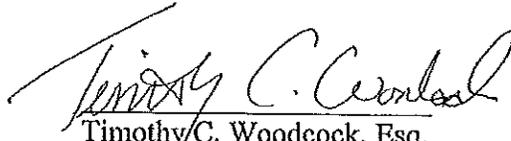
[twoodcock@eatonpeabody.com](mailto:twoodcock@eatonpeabody.com)

Attorneys for Defendants

CERTIFICATE OF SERVICE

I hereby certify that on this, the 28th day of February, 2013, I filed the above document with the Commission Chair, Walter McKee by Federal Express at:

Walter KcKee, Esq., Chair  
Commission on Governmental Ethics and Election Practices  
135 State House Station  
Augusta, ME 04333-0135

  
Timothy C. Woodcock, Esq.  
EATON PEABODY  
*Attorneys for Defendants*

Timothy C. Woodcock  
Direct Dial 207-992-4338  
twoodcock@eatonpeabody.com



80 Exchange Street, P.O. Box 1210  
Bangor, Maine 04402-1210  
Phone 207-947-0111 Fax 207-942-3040  
www.eatonpeabody.com

March 4, 2013

Walter McKee, Esq., Chair  
Commission on Governmental Ethics  
and Election Practices  
135 State House Station  
Augusta, ME 04333-0135

**Re: Norstate Federal Credit Union Subpoena For Mike's & Sons Bank Records**

Dear Mr. McKee:

This letter is to address the omission of the word "not" from the context of the A. Michael Nadeau's Objection to the Subpoena Duces Tecum issued by the Commission on Governmental and Election Practices to Norstate Federal Credit Union. On page 5, paragraph 3 the paragraph should read as follows:

"Although the powers of the Commission clearly extend to a candidate, a treasurer, and various committees as well as contribution to or expenditures by such persons and entities, Section 1003(1) does **not** authorize the Commission to investigate businesses formed for commercial purposes and operating as such. For these reasons, the subpoena as issued lies beyond the statutory authority of the Commission."

Please accept this letter as a formal correction to A. Michael Nadeau's Objection to the Subpoena Duces Tecum filed with your office on February 28, 2013.

Thank you for your attention to this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Timothy C. Woodcock".

Timothy C. Woodcock

TCW/eab  
Enclosure  
Cc: A. Michael Nadeau

{EP - 01333328 - v1 }

Augusta · Bangor · Brunswick · Ellsworth

Jonathan Wayne, Director  
Paul Lavin, Assistant Director  
Roderick Rovzar, Norstate Federal Credit Union  
William P. Logan, Esq.  
Kate Knox, Esq.

Timothy C. Woodcock  
Direct Dial 207-992-4338  
twoodcock@eatonpeabody.com



80 Exchange Street, P.O. Box 1210  
Bangor, Maine 04402-1210  
Phone 207-947-0111 Fax 207-942-3040  
www.eatonpeabody.com

March 15, 2013

**VIA FEDERAL EXPRESS**

Walter McKee, Chair  
Commission on Governmental Ethics and  
Election Practices  
135 State House Station  
Augusta, ME 04333-135

**Re: Acadia Federal Credit Union Subpoena For Promised Land Bank Records**

Enclosed for filing please find A. Michael Nadeau's Objection to the Subpoena Duces Tecum issued by the Commission on Governmental and Election Practices to Acadia Federal Credit Union.

Thank you for your attention to this matter.

Sincerely,

A handwritten signature in black ink that reads "Tim Woodcock". Below the signature, the name "Timothy C. Woodcock" is printed in a standard font.

Timothy C. Woodcock

TCW/eab  
Enclosure

Cc: Jonathan Wayne, Director (via US Mail and E-mail)  
Phyllis Gardiner, Assistant Attorney General (via US Mail and E-mail)  
William P. Logan, Esq. (via US Mail and E-mail)  
Kate Knox, Esq. (via US Mail and E-mail)  
Acadia Federal Credit Union (via US Mail)

STATE OF MAINE  
COMMISSION ON GOVERNMENTAL ETHICS AND ELECTION PRACTICES

In re: Campaign Spending in Maine     )  
House of Representatives            )  
District 1                                )  
  )  
  )  
  )

OBJECTION TO INVESTIGATIVE  
SUBPOENA TO PRODUCE RECORDS  
TO ACADIA FEDERAL CREDIT  
UNION

**OBJECTION OF A. MICHAEL NADEAU TO SUBPOENA DUCES TECUM  
ISSUED BY THE COMMISSION ON GOVERNMENTAL AND ELECTION  
PRACTICES TO ACADIA FEDERAL CREDIT UNION**

NOW COMES A. Michael Nadeau by and through his attorney, Timothy C. Woodcock, for his own part and on behalf of Promised Land, and files his objection to the Subpoena which was served by the Commission on Governmental Ethics and Election Practices on Acadia Federal Credit Union as follows:

By subpoena dated March 8, 2013, this Commission seeks to compel production of certain records held by Acadia Federal Credit Union ("Acadia"). In particular, the subpoena seeks records held by Acadia for Account No. [REDACTED] for "d/b/a Promised Land, Allen Michael Nadeau" of Fort Kent, Maine ("Promised Land"). Acadia has been ordered to produce the records on or before March 29, 2013 and to enter any objection to the subpoena by March 22, 2013.

Nadeau hereby objects to the Commission's subpoena on the grounds set forth below.<sup>1</sup> In addition to presenting Nadeau's objections to the Commission's subpoena to Acadia for the Promised Land records, this Objection supplements the objection Nadeau previously filed to the Commission's subpoena to NorState Federal Credit Union both the facts and as to the law.

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<sup>1</sup> As it noted further below, in between Nadeau's submission of his Objection to the subpoena to Mike's and Sons and the submission of this Objection, the Commission provided the parties with a transcript of the January 2013 hearing.

## **I. BACKGROUND**

### **A. PRELIMINARY HEARING**

At issue is an investigation into a circular that was printed and distributed by Citizens for Effective Government. The ambit of the initial investigation was expanded to include a newspaper advertisement which appeared in the Fiddlehead Focus. Both the circular and the advertisement appeared shortly before the election. The circular prompted a complaint which in turn prompted an investigation by commission staff followed by a hearing on November 5, 2012.

This Commission held a hearing on short notice on November 5, 2012. L. Philip Soucy was the only live witness. Soucy testified that he was the Treasurer for Michael Nadeau's campaign for House District 1.

At the close of the November 5 hearing, this Commission made initial findings and issued directives to Commission staff which were subsequently set forth in a Revised Notice of Hearing issued by Commission Staff and dated December 18, 2012.

### **B. NOTICE OF HEARING**

**Issues Identified.** The Revised Notice of Hearing listed five issues to be addressed at the hearing (then scheduled for December 19, 2012). Those issues were as follows:

(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 a 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;

(5) whether James Majka made an expenditure of \$420 for an advertisement in the Fiddlehead Focus newspaper independently of Michael Nadeau, his committee,<sup>2</sup> and their agents.<sup>3</sup>

**Relevant Statutes.** The notice of hearing did not specifically tie any of the five issues listed above to any particular statutory provision. Instead, it provided a list of “relevant statutes” as follows:

21-A MRSA §§1004-A(5) (Material False Statement);

21-A MRSA §1015(5) (prohibited cooperation in campaign expenditures);

21-A MRSA §1052(5)(a)(4) (definition of “expenditure”);

21-A MRSA §1052(a)(5) (inclusive and exclusive elements of “political action committee”);

21-A MRSA §1053 (registration requirements for political action committees);

21-A MRSA § 1059 (reporting requirements for committees required to register under 21-A MRSA §§1053, 1053-B or 1056-B);

21-A MRSA §1125(6) (restrictions on contributions and expenditures for certified candidates); and,

21-A MRSA §1127(1) (civil fines for Clean Election violations).

## II. EVIDENCE ON SOURCES OF MONIES FOR CIRCULAR AND

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<sup>2</sup> It is assumed that the reference to “his committee” refers to an “authorized committee” as that term appears in 21-A MRSA §§1013-A(1)(B), 1125(6). See Notice of Hearing, Relevant Statutes, citation to 21-A MRSA §1125(6) and citation therein to 21-A MRSA §1013-A(1). It is noted that the term “authorized committee” also appears in Rules and Procedures of the Commission, Section 6, Rule 9(B)(1) but no rules are listed in the Commission’s Notice of Hearing.

<sup>3</sup> It is assumed that the reference to “agents” as used in the notice is derived from and identical to the term “agent” as used in 21-A MRSA §1125(6). See, Notice of Hearing, “Relevant Statutes”, citation to 21-A MRSA §1125(6). The legal concept of “agent” has been explained by the Law Court. See, e.g., *Page v. Boone’s Transport, Ltd.*, 710 A.2d 256, 1998 ME 105

## ADVERTISEMENT

**Hearings.** This Commission has held two hearings on this matter: November 5, 2012 and January 17, 2013.

**November 5, 2012 Hearing:** The first hearing was held on November 5, 2012 where the sole live witness was L. Philip Soucy.<sup>4</sup> Soucy testified that he worked on the circular with James Majka and Dana Saucier. He said that these three were the “Citizens for Effective Government”. He said that the money to pay for the circular was in cash and that he understood that the cash had come from Norman Nadeau, Kenneth Nadeau, and, Renaldo Thibeault. He said that he had taken possession of the cash, placed it in a “safety deposit box” in his home, and, paid for the advertisement with his own credit card; thus, creating a clear financial record of his payment for the circular.

He also testified that Michael Nadeau had selected him to serve as Michael Nadeau’s treasurer; that he had never before held such a position; that he had written no checks drawn on the bank account of the Michael Nadeau campaign; that he had authorized no payments for the Michael Nadeau campaign; and, that he did not know if he had check-signing authority for the campaign account. He said Michael Nadeau ran his campaign by himself.

Soucy said that he did not discuss the circular with Nadeau before it was actually distributed. *November 5, 2012 Hearing* (audio only).

**January 17, 2013 Hearing.** On January 17, 2013, this Commission held a second hearing. James Majka and Dana Saucier testified at that hearing. Majka said that he had “mapped out” the circular with Dana Saucier. *Transcript, Hearing, January 17, 2013.* at 57. (“hereinafter “Tr.”) Majka said that he had designed the circular. *Id.* at 58 (“Tr.”). Majka testified that he had “no idea” who provided the money for the circular nor did he participate in or overhear any conversations about who provided the money for the circular. *Id.* at 59.

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<sup>4</sup> The Commission arranged for a transcription of the January 17, 2013 hearing and provided that transcript to the parties. Recently, A. Michael Nadeau, through counsel, formally requested that the Commission order a transcript of the November 5, 2012 hearing. On March 11, 2013, A. Michael Nadeau, through counsel, asked the Commission to order a transcript of the November 5, 2012 hearing as well.

Saucier testified that he and Majka had come up with an idea for the circular and had made arrangements to issue it. *Id.* at 80-83. He said that Phil Soucy was involved "to a certain extent". *Id.* at 79. Saucier said that he had come up with the name, "Citizens for Effective Government". *Id.* at 91.

When asked about the source of the money for the circular, he said that he had "no idea where the money came from, nor do I know now, after the fact." *Id.* at 87. When questioned further on the source of the money for the advertisement, Saucer repeated this testimony. *Id.* at 91-92. Later, when asked why when he filled out the formal report he had listed Soucy as treasurer of Citizens for Effective Government, he answered, "[b]ecause he had the money." *Id.* at 102.

With regard to the advertisement in the Fiddlehead Focus, Majka testified that he placed and paid for the advertisement. *Id.* at 44-45. He said that he had paid for the advertisement out of monies that he kept at his home. *Id.* 44, 54-56.

Dennis Michaud of Fiddlehead Focus also testified at the January 17 hearing. Michaud confirmed that Majka had paid for the advertisement and that he had paid for it in cash. *Id.*, 21, 27.

Nadeau also testified at the January 17 hearing. He said that he did not know about the circular before it was distributed. *Id.* at 131-132. In fact, when he first saw it, he assumed that it had been issued by "Respect Maine". *Id.* at 134. He also testified that he did not know about the Fiddlehead Focus advertisement before appeared in print. *Id.* at 145-146.

Nadeau also testified that he had run his campaign by himself, based on his own ideas and his own strategy. *Id.* at 130-131. He did not put together a committee to promote his candidacy. *Id.* at 158.

He said that he had selected Soucy as his treasurer because of Soucy's long involvement with local Republican politics and in recognition of his years of service in that regard. *Id.* at 118. He said that he, himself, kept the campaign's financial records, that he arranged for the expenditures, that he wrote the checks and paid the bills, and, that he prepared the required

finance reports to this Commission. *Id.* at 118-122. He said that although Soucy countersigned two campaign finance reports (Exhibits 30 and 31), he doubted that Soucy fully understood them; he had the impression that Soucy was generally limited in his ability to fully grasp such things. *Id.* at 121-122.

Nadeau said that two or three weeks before the January 17 hearing, he had spoken with his brother, Norman Nadeau, who told him that he had given money to Kenneth Nadeau, their brother, which was to be given to the Republican Party (Kenneth Nadeau died in November of 2012). *Id.* at 137.

At no point has anyone testified that the monies for the circular or the advertisement came from any account over which Michael Nadeau has control; none of the exhibits suggests otherwise. *November 5, 2012 Hearing* (audio only), *January 17, 2013 Hearing*, Exhibits 1-33.

### III. STANDARDS FOR REVIEW OF AGENCY SUBPOENAS

The Law Court set the standards for review of an administrative subpoena in *Central Maine Power v. Public Utilities Commission*, 395 A.2d 414 (Me. 1978). The Law Court identified three criteria that are pertinent to such a review—a) the administrative agency is authorized by law to make the inquiry; b) the information sought is relevant to the authorized inquiry; and, c) the disclosure sought it reasonable. *Id.* at 426.

**Statutory Authorization.** The Commission was established pursuant to 1 MRSA §1001, *et seq.* The Commission was vested with the particular authority to “administer and investigate any violations of the requirements for campaign reports and campaign financing, including the provisions of the Maine Clean Election Act and the Maine Clean Election Fund” and “[t]o administer and ensure the effective implementation of the Maine Clean Election Act and the Maine Clean Election Fund.” 1 MRSA §1008(2), (5).

By its terms, the subpoena states that it was issued pursuant to 21-A MRSA §1003. That statute authorizes the Commission to “undertake audits and investigations” regarding, “the registration of a candidate, treasurer, party committee, political action committee or other

political committee” as well as “contributions by or to and expenditures by a person, candidate, treasurer, party committee, political action committee, ballot question committee or other political committee.” 21-A MRS §1003(1). Subsection 1003(1) invests the Commission with subpoena power subject to and in accordance with the foregoing purposes. *Id.*

The subpoena in question is directed to Acadia Federal Credit Union and seeks financial records of Promised Land.

The Legislature has invested this Commission with authority over clearly candidates, their treasurers, as well as to various committees; that authority extends to contributions to and expenditures by such persons and entities. The Legislature has not, however, authorized the Commission to investigate entities such as this farm.

This does not mean that this Commission would, under all circumstances, lack the authority to seek the records in question. In this instance, however, there is no evidence that the Promised Land account was in any way involved in the Nadeau campaign. In fact, the evidence is to the contrary. Under these circumstances, this Commission lacks the authority under its statutory mandate to seek these records under its subpoena power.

For these reasons, the subpoena as issued lies beyond the statutory authority of the Commission.

**Relevant to the Inquiry.** The next question is whether the information sought by the subpoena is “relevant to the authorized inquiry.” *Central Maine Power*, 395 A.2d at 426, 431. The Law Court noted several different formulations by the U.S. Supreme Court of the “reasonableness” standard. *Id.* at 431. The subpoena also fails to meet this criterion.

This Commission authorized this inquiry at the conclusion of its November 5 hearing. As noted above, the ambit of that inquiry was later set forth in this Commission’s Revised Notice of Hearing. Of the five topics listed, the following relate to the source of the monies for the circular or the Fiddlehead Focus advertisement: a) whether the Michael Nadeau campaign received a contribution from Citizens for Effective Government in the form of a coordinated expenditure (Topic 1); b) whether a penalty should be imposed on the candidate or the treasurer

for having received a contribution (Topic 2); and, c) whether Majka's purchase of the Fiddlehead Focus advertisement was independent of "Michael Nadeau, his committee<sup>5</sup>, and their agents."<sup>6</sup> (Topic 5).

In conjunction with the "relevant statutes" listed above, these topics define the contours of this Commission's inquiry. Unless and until the Commission changes or enlarges these topics and the statutes at issue, the parties and interested persons are entitled to rely upon them and this Commission must work within them. The parties' reliance and the Commission's limitations arise from fundamental notice requirements imposed by the Due Process Clause of the U.S. and State Constitutions. See, e.g., 5 MRSA §9052; see also, *Livonia v. Town of Rome*, 707 A.2d 85 (Me.1998), cf., *Kovak v. Licensing Bd. City of Waterville*, 157 Me. 411, 173 A.2d 554 (1961).

Although the three topics just cited would warrant an inquiry into the source of the monies that were used for the advertisement and the circular, they do not warrant the exercise of subpoena power without at least some evidence that these accounts were somehow involved in matters now under review. The lack of such evidence explains the long delay between the close of the hearing on January 17 and the issuance of this subpoena on March 7—a period of seven weeks—is further evidence of the subpoena's attenuated character.<sup>7</sup>

The long delay is understandable because no evidence was adduced at or before that hearing that suggested Promised Land (or Mike's and Sons for that matter) were in any involved in funding either of the political initiatives in question. By contrast, had documentary or oral evidence indicated that an account controlled by Michael Nadeau had been involved in either the circular or the advertisement, it appears certain that this Commission would have issued a subpoena immediately after the January hearing. This is particularly likely give this

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<sup>5</sup> See n. 2, supra .

<sup>6</sup> See, n. 3, supra.

<sup>7</sup> Nearly four weeks separated the close of the January 17 hearing and this Commission's issuance of the subpoena to Mike's and Sons on February 14, 2013.

Commission's interest in proceeding towards a resolution of this matter as expeditiously as possible.

The long delay in issuing these subpoenas, therefore, also serves as objective evidence Commission's attempt to obtain these records lacks sufficient foundation.

In order to justify this Commission rummaging through the highly private financial records of a longstanding business, this Commission must have **some** evidence on which to premise its legal process. Without that evidentiary basis, the subpoena fails the relevance inquiry, resembling, instead, a mere fishing expedition. *cf.*, *State v. Watson*, 726 A.2d 214, 216 (Me. 1999).

**Reasonableness.** The third criterion is whether the subpoena is "reasonable". By this, the Law Court has explained, "the demand must not be disproportionately or unduly burdensome and it must not be unreasonably broad." *Central Maine Power*, 395 A.2d at 432, citing, *Federal Trade Commission v. Texaco, Inc.* 555 F.2d 862 (D.C. Cir. 1977), *cert. denied*, 431 U.S. 974 (1977).

On this point, too, the subpoena fails. First, for the reasons set forth above, it does not meet the first two *Central Maine Power* criteria. Second, given the Commission's mandate to investigate candidates, treasurers, political committees, and related and similar entities, in the absence of some evidentiary predicate, it is unreasonable for the Commission to seek the financial records of Promised Land. These financial records, as with those of Mike's and Sons, will show its interactions with its businesses, private persons, and, will reveal personal information about Michael Nadeau, himself. For the reasons set forth above and under these circumstances, it is not reasonable for the Commission to attempt to compel the production of these financial records.

#### IV. SUMMARY

The Commission is engaged in an inquiry as set forth in its Notice of Hearing. It conducted a preliminary hearing on November 5, 2012 and a follow up hearing on January 17,

2013. Neither the testimony received at these hearings nor the exhibits entered into evidence suggest that the bank account for Promised Land or the bank account of Mike's and Sons contains any entries relating to the expenditures made in connection with the circular supporting Nadeau's candidacy or the Fiddlehead Focus advertisement.

The subpoenas issued by the Commission to Acadia and NorState are, therefore, beyond this Commission's authority, are not relevant to the Commission's inquiry as set forth in its Notice of Hearing, and, are not reasonable.

WHEREFORE, Michael Nadeau, on his own part and on behalf of Promised Land, respectfully requests that this Commission withdraw the subpoena it has issued to Acadia Federal Credit Union for the records on Account No. [REDACTED]

Dated at Bangor, Maine this 15<sup>th</sup> day of March, 2013.

A. MICHAEL NADEAU



Timothy C. Woodcock, Esq.

EATON PEABODY

80 Exchange Street, P.O. Box 1210

Bangor, ME 04402-1210

(207) 947-0111

[twoodcock@eatonpeabody.com](mailto:twoodcock@eatonpeabody.com)

Attorneys for Defendants

**CERTIFICATE OF SERVICE**

I hereby certify that on this, the 15th day of March, 2013, I filed the above document  
with the Commission Chair, Walter McKee by Federal Express at:

Walter McKee, Esq., Chair  
Commission on Governmental Ethics and Election Practices  
135 State House Station  
Augusta, ME 04333-0135

  
Timothy C. Woodcock, Esq.  
EATON PEABODY  
*Attorneys for Defendants*

James Majka

331 Violette Settlement Rd  
Fort Kent ME 04743  
207.231.0280

Sent by E-Mail March 1, 2013

Dear Mr. Wayne:

I am writing to object to the subpoenas that the Election Commission has served on Acadia Federal Credit Union for an account in my name—James Majka—and on the Bank of Maine for an account in the name of 21<sup>st</sup> Century Media. Both subpoenas ask for Acadia and the Bank of Maine's records from October 1, 2012 to November 15, 2012. You sent me copies of those subpoenas by e-mail so I am responding by e-mail.

The subpoenas state that the Election Commission issued them in connection with its investigation of campaign spending in the House of Representatives District 1 election.

I have received a copy of the objection that was filed on behalf of A. Michael Nadeau and Mikes & Sons. I agree with all the points that were raised in that objection and I adopt that objection as my own in opposition to the subpoenas to Acadia and the Bank of Maine.

As you know, I testified before the Election Commission on January 17, 2013 by videoconference. I testified that I had paid for the Fiddlehead Focus advertisement out of money that I kept at home. I did not provide the money for the flyer that Citizens for Effective Government printed and distributed in support of Mike Nadeau. I don't know of any evidence from anyone that suggests that I provided the money for the CEG flyer. I don't know of any evidence that I paid for the Fiddlehead Focus advertisement with money that came through either the Acadia account or the Bank of Maine account.

First, I join in the Mike Nadeau objection based on the commission's authority. There is no evidence that any of the money used for either the flyer or the advertisement came from the Acadia or Bank of Maine account. For the same reason, the records in these accounts cannot be relevant to the Commission's investigation of this matter. In addition, I would point out that although my name is on the Acadia account, it is really the account of my wife, Linda Majka. I do not use

that account. I do not deposit or withdraw money from that account. It is her account, not mine.

Finally, it is not reasonable for the Commission to try to get the records from the Acadia and Bank of Maine accounts. As far as the Acadia account goes, the Commission is seeking personal financial information on my wife. That is not reasonable. It is not fair. It is also not reasonable or fair for the people and businesses whose financial records may be in that account. In addition, like Mike Nadeau and Mikes & Sons, the

Election Commission

March 1, 2013

Page -2-

records the Commission is trying to get from the Bank of Maine are for my business and this means that the Commission would be getting financial information of my customers as well as my own private information. If my customers knew that their transactions with me were being reviewed by a government agency, it could cause them to cease doing business with me.

Thank you for considering these objections.

Sincerely,

A handwritten signature in black ink, appearing to read 'James Masjka', with a large circular flourish at the beginning and a long horizontal stroke extending to the right.

James Masjka  
CC: Acadia Federal Credit Union  
Bank of Maine



**IRWIN  
&  
TARDY  
MORRIS**

*William P. Logan*  
*wlogan@itmlaw.com*

*159 Main Street*  
*P.O. Box 476*  
*Newport, Maine 04953*

*207.368.2828 T*  
*207.368.2822 F*

March 4, 2013

Walter F. McKee, Chair  
Maine Ethics Commission  
135 State House Station  
Augusta, ME 04333-0135

Re: *Citizens for Effective Government*

Dear Chairman McKee:

Please accept this letter as a formal request that the Commission schedule this matter for final resolution at the Commission's March 2013 meeting.

At the conclusion of the January 17, 2013 hearing, the Commission decided to provide the staff with a reasonable amount of time to decide if it wished to call additional witnesses. It was anticipated that the staff would perform this prior to the February 2013 meeting - which was later cancelled. I respectfully submit that the staff has had more than ample time in the intervening six weeks to decide if it wished to call additional witnesses.

I request the Commission schedule this matter for its March 2013 meeting and to promptly inform counsel whether additional evidence will be produced or whether the matter will simply be for argument.

I appreciate your prompt attention to this matter and look forward to your response.

Sincerely,

A handwritten signature in black ink, appearing to read "William P. Logan". The signature is fluid and cursive, with a long horizontal line extending to the right.

William P. Logan, Esq.

cc: Jonathan Wayne  
Tim Woodcock, Esq.  
Kate Knox, Esq.

**STATE OF MAINE**  
**COMMISSION ON GOVERNMENTAL ETHICS AND ELECTION PRACTICES**

In Re: Campaign Spending in        )  
Maine House of Representatives,    )  
District 1                            )

**INVESTIGATIVE SUBPOENA TO  
PRODUCE RECORDS**

To: Bank of Maine  
P.O. Box 190  
Gardiner, ME 04345

**YOU ARE HEREBY ORDERED**, in the name of the State of Maine Commission on Governmental Ethics and Election Practices, pursuant to 21-A M.R.S.A. § 1003, to produce the following designated materials on or before March 8, 2013, at the offices of the Commission on Governmental Ethics and Election Practices for the State of Maine, located on the second floor of the building at 45 Memorial Circle, Augusta, Maine, by delivering in hand or sending the materials by first class U.S. mail to Jonathan Wayne, Executive Director, Commission on Governmental Ethics and Election Practices, 135 State House Station, Augusta, Maine 04333:

1. Copies of all account statements, cancelled checks, deposit slips, checks deposited into the account, documents reflecting or relating to wire transfers into or out of the account, signature cards, debit or credit memos and all and any other documents or records regarding an account in the name of 21<sup>st</sup> Century Media, for the period from October 1, 2012 to November 15, 2012.

This subpoena is issued on behalf of the Commission on Governmental Ethics and Election Practices, in conjunction with a Commission investigation to determine whether Citizens for Effective Government or others violated Maine's campaign finance laws by operating as an unregistered political action committee or by making an illegal contribution to Michael Nadeau, pursuant to 21-A M.R.S.A. § 1003. The Commission's attorney is Phyllis Gardiner, Assistant Attorney General, Office of the Attorney General, 6 State House Station, Augusta, Maine 04333-0006. She may be contacted at (207) 626-8830. If you object to production of any of the records designated above, you must serve notice of that objection in writing upon the Commission or its attorney on or before March 1, 2013.

**WARNING: Failure to comply with this subpoena shall be punishable as for contempt of court, pursuant to 21-A M.R.S.A. § 1003(1), 5 M.R.S.A. § 9060(1)(D) and Rule 66(c) of the Maine Rules of Civil Procedure.**

Dated: 2/14/13

  
\_\_\_\_\_  
WALTER F. MCKEE, Esq., Chair  
Commission on Governmental Ethics  
and Election Practices

**STATE OF MAINE**  
**COMMISSION ON GOVERNMENTAL ETHICS AND ELECTION PRACTICES**

**In Re: Campaign Spending in     )     INVESTIGATIVE SUBPOENA TO**  
**Maine House of Representatives, )     PRODUCE RECORDS**  
**District 1                             )**

To: Acadia Federal Credit Union  
9 East Main Street  
Fort Kent, ME 04743

**YOU ARE HEREBY ORDERED**, in the name of the State of Maine Commission on Governmental Ethics and Election Practices, pursuant to 21-A M.R.S.A. § 1003, to produce the following designated materials on or before March 8, 2013, at the offices of the Commission on Governmental Ethics and Election Practices for the State of Maine, located on the second floor of the building at 45 Memorial Circle, Augusta, Maine, by delivering in hand or sending the materials by first class U.S. mail to Jonathan Wayne, Executive Director, Commission on Governmental Ethics and Election Practices, 135 State House Station, Augusta, Maine 04333:

1. Copies of all account statements, cancelled checks, deposit slips, checks deposited into the account, documents reflecting or relating to wire transfers into or out of the account, signature cards, debit or credit memos and all and any other documents or records regarding an account in the name of James Majka, 331 Violette Settlement Road, Fort Kent, for the period from October 1, 2012 to November 15, 2012.

This subpoena is issued on behalf of the Commission on Governmental Ethics and Election Practices, in conjunction with a Commission investigation to determine whether Citizens for Effective Government or others violated Maine's campaign finance laws by operating as an unregistered political action committee or by making an illegal contribution to Michael Nadeau, pursuant to 21-A M.R.S.A. § 1003. The Commission's attorney is Phyllis Gardiner, Assistant Attorney General, Office of the Attorney General, 6 State House Station, Augusta, Maine 04333-0006. She may be contacted at (207) 626-8830. If you object to production of any of the records designated above, you must serve notice of that objection in writing upon the Commission or its attorney on or before March 1, 2013.

**WARNING: Failure to comply with this subpoena shall be punishable as for contempt of court, pursuant to 21-A M.R.S.A. § 1003(1), 5 M.R.S.A. § 9060(1)(D) and Rule 66(c) of the Maine Rules of Civil Procedure.**

Dated: 2/14/12



\_\_\_\_\_  
WALTER F. MCKEE, Esq., Chair  
Commission on Governmental Ethics  
and Election Practices

**STATE OF MAINE**  
**COMMISSION ON GOVERNMENTAL ETHICS AND ELECTION PRACTICES**

In Re: Campaign Spending in        )  
Maine House of Representatives,    )  
District 1                            )

**INVESTIGATIVE SUBPOENA TO  
PRODUCE RECORDS**

To: NorState Federal Credit Union  
78 Fox Street  
Madawaska, ME 04756

**YOU ARE HEREBY ORDERED**, in the name of the State of Maine Commission on Governmental Ethics and Election Practices, pursuant to 21-A M.R.S.A. § 1003, to produce the following designated materials on or before March 8, 2013, at the offices of the Commission on Governmental Ethics and Election Practices for the State of Maine, located on the second floor of the building at 45 Memorial Circle, Augusta, Maine, by delivering in hand or sending the materials by first class U.S. mail to Jonathan Wayne, Executive Director, Commission on Governmental Ethics and Election Practices, 135 State House Station, Augusta, Maine 04333:

1. Copies of all account statements, cancelled checks, deposit slips, checks deposited into the account, documents reflecting or relating to wire transfers into or out of the account, signature cards, debit or credit memos and all and any other documents or records regarding Account No. [REDACTED] in the name of Mike's & Sons, 545 Caribou Road, Fort Kent, for the period from October 1, 2012 to November 15, 2012.

This subpoena is issued on behalf of the Commission on Governmental Ethics and Election Practices, in conjunction with a Commission investigation to determine whether Citizens for Effective Government or others violated Maine's campaign finance laws by operating as an unregistered political action committee or by making an illegal contribution to Michael Nadeau, pursuant to 21-A M.R.S.A. § 1003. The Commission's attorney is Phyllis Gardiner, Assistant Attorney General, Office of the Attorney General, 6 State House Station, Augusta, Maine 04333-0006. She may be contacted at (207) 626-8830. If you object to production of any of the records designated above, you must serve notice of that objection in writing upon the Commission or its attorney on or before March 1, 2013.

**WARNING: Failure to comply with this subpoena shall be punishable as for contempt of court, pursuant to 21-A M.R.S.A. § 1003(1), 5 M.R.S.A. § 9060(1)(D) and Rule 66(e) of the Maine Rules of Civil Procedure.**

Dated: 2/14/13



WALTER F. MCKEE, Esq., Chair  
Commission on Governmental Ethics  
and Election Practices

**STATE OF MAINE**  
**COMMISSION ON GOVERNMENTAL ETHICS AND ELECTION PRACTICES**

In Re: Campaign Spending in        )  
Maine House of Representatives,    )  
District 1                            )

**INVESTIGATIVE SUBPOENA TO  
PRODUCE RECORDS**

To: Acadia Federal Credit Union  
9 East Main Street  
Fort Kent, ME 04743

**YOU ARE HEREBY ORDERED**, in the name of the State of Maine Commission on Governmental Ethics and Election Practices, pursuant to 21-A M.R.S.A. § 1003, to produce the following designated materials on or before March 29, 2013, at the offices of the Commission on Governmental Ethics and Election Practices for the State of Maine, located on the second floor of the building at 45 Memorial Circle, Augusta, Maine, by delivering in hand or sending the materials by first class U.S. mail to Jonathan Wayne, Executive Director, Commission on Governmental Ethics and Election Practices, 135 State House Station, Augusta, Maine 04333:

1. Copies of all account statements, checks, withdrawals, deposit items, documents reflecting or relating to wire transfers into or out of the account, signature cards, debit or credit memos and all and any other documents or records regarding Account No. [REDACTED] in the name of D/B/A PROMISED LAND, ALLEN MIKE NADEAU, 545 Caribou Road, Fort Kent, for the period from October 1, 2012 to November 15, 2012.

This subpoena is issued on behalf of the Commission on Governmental Ethics and Election Practices, in conjunction with a Commission investigation to determine whether the Michael Nadeau campaign accepted an illegal contribution by cooperating with or suggesting expenditures by others to promote Mr. Nadeau's election and whether James Majka made an expenditure of \$420 for an advertisement in the Fiddlehead Focus newspaper independently of Michael Nadeau, his committee, and their agents, pursuant to 21-A M.R.S.A. § 1003. The Commission's attorney is Phyllis Gardiner, Assistant Attorney General, Office of the Attorney General, 6 State House Station, Augusta, Maine 04333-0006. She may be contacted at (207) 626-8830. If you object to production of any of the records designated above, you must serve notice of that objection in writing upon the Commission or its attorney on or before March 22, 2013.

**WARNING: Failure to comply with this subpoena shall be punishable as for contempt of court, pursuant to 21-A M.R.S.A. § 1003(1), 5 M.R.S.A. § 9060(1)(D) and Rule 66(c) of the Maine Rules of Civil Procedure.**

Dated: March 7, 2013



WALTER F. MCKEE, Esq., Chair  
Commission on Governmental Ethics  
and Election Practices



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  
Phyllis Gardiner, Assistant Attorney General  
Date: March 27, 2013  
Re: Objections of Michael Nadeau and James Majka to Subpoenas for Bank Records

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This memorandum responds to objections filed by State Representative Michael (“Mike”) Nadeau and his friend and campaign volunteer, James Majka, to the Commission’s issuance of four subpoenas for financial records. Rep. Nadeau’s attorney, Timothy C. Woodcock, Esq., has filed two memoranda, dated February 28 and March 15, 2013, setting forth those objections and requesting a withdrawal of the subpoenas. Mr. Majka has joined in those objections by a letter dated March 1, 2013.

**Summary of Staff Response.** In the 2012 general election, Mike Nadeau challenged the incumbent, John L. Martin, to represent District 1 in the Maine House of Representatives. The crux of the investigation is whether Rep. Nadeau received a contribution under 21-A M.R.S.A. § 1015(5) in violation of the Maine Clean Election Act because he, his agents, or a political committee of people acting with his authorization to promote his election, cooperated in spending funds (other than his campaign funds) to promote his election. As a Maine Clean Election Act candidate, Rep. Nadeau was not permitted to accept any contributions after he qualified for public funding. *See* 21-A M.R.S.A. § 1125(6). Any campaign expenditures suggested by Rep. Nadeau or his agents or political committee should have been made only with his own Maine Clean Election Act funds, and not with any other source of money.

The Commission should uphold the subpoenas, because the records requested in the subpoenas are highly relevant to reaching a thorough understanding of:

- the sources of roughly \$1,900 in cash that was spent for political purposes by supporters of Rep. Nadeau to influence the election for House District 1, and
- whether the candidate had any involvement in obtaining or spending this cash.

This investigation is important to maintaining public confidence in the Commission's willingness to perform its enforcement responsibilities under law.

In seeking these financial records of Rep. Nadeau and Mr. Majka, the Commission's only interest is in determining whether money flowed through these accounts for campaign activity. As required by statute, the Commission staff will keep confidential all personal or business activity that is unrelated to the District 1 campaign. The Maine Legislature has recognized that the Commission may need to obtain private information in order to complete an audit or investigation, and requires the Commission to keep confidential financial information not normally available to the public -- unless it is materially relevant to a finding of fact or determination of violation. 21-A M.R.S.A. § 1003(3-A).

To date, in its investigation, the Commission has not been provided with credible evidence as to the source of funds for the alleged "independent expenditures" at issue. Philip Soucy was the candidate's treasurer and a former investment advisor, who signed and filed the independent expenditure report for the mailing. Within a few days in early November 2012, Mr. Soucy was asked three times by the Commission what was the source of roughly \$1,500 in cash he deposited on Nov. 1 as reimbursement for a mailing to promote the candidate. That is a simple factual question that Mr. Soucy should have answered straightforwardly.

Instead, during Nov. 2-5, Mr. Soucy provided three inconsistent explanations to the Commission concerning the sources of the money. One possible (maybe even likely) reason for his changing story is concealment. His own actions have significantly reduced his reliability. There are legitimate reasons to be skeptical of Mr. Soucy's third and final story (that the candidate's two brothers and step-father each gave Mr. Soucy \$500 in cash). This unsworn testimony was offered by Mr. Soucy by telephone during your meeting on November 5, 2012, without crucial details and has been uncorroborated by any

documentary evidence. It is not consistent with testimony and responses provided by others to the Commission. In the opinion of the Commission staff, it sounded unconvincing and contrived when it was offered.

When Mr. Soucy was called upon to provide a more detailed explanation at the Commission's formal hearing on January 17, 2013, Mr. Soucy unexpectedly chose to exercise his 5th Amendment privilege not to testify. While this is his constitutional right, it does nothing to add to the Commission's confidence that Mr. Soucy provided truthful information by telephone on November 5, 2012.

The Commission should treat Mr. Majka's testimony skeptically, as well. Mr. Majka is the candidate's friend, who volunteered often for the campaign, sometimes on a daily basis. When Mr. Majka testified at the January 17 hearing concerning a newspaper advertisement that he purchased and whether the candidate cooperated with that advertisement, his testimony was unmistakably evasive and his demeanor was unconvincing. His explanation that he used hundred-dollar bills that he kept around the house to purchase the ad is also inconsistent with certain bank records, which were reviewed by the Commission staff before Mr. Majka filed his objections by e-mail.<sup>1</sup> He could not provide a convincing explanation for why he had received the text for the ad in the candidate's own handwriting. He suggested that the candidate may have given it to him to post as a message on the campaign website, but that explanation has not checked out. There is no such posting on the website.

In short, the "record" to date does not inspire confidence. Moving forward with this investigation, the Commission should seek reasonable documentary evidence that would either confirm or contradict the testimonial information received to date. In particular, the Commission should take reasonable steps to confirm or to rule out that

- the money originated with Rep. Nadeau or his business, or

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<sup>1</sup> The Commission received records from one of the banks on March 1, 2013, and did not receive Mr. Majka's objection by email until later that day after staff had already reviewed the records.

- the money came from some other sources (e.g., family members or other supporters) and flowed through the candidate's financial accounts, which could indicate that the candidate cooperated in spending by others to promote him.

Indeed, the Commission's investigation would be inadequate if it failed to request these records, and relied instead on the partial and undocumented explanations received to date.

#### **Four Subpoenas at Issue**

In accordance with Chapter 1, Section 5(1) of the Commission's Rules, the Commission issued four subpoenas to financial institutions seeking records relating to Rep. Mike Nadeau and his friend and campaign volunteer, James Majka. The subpoenas cover the six week period of October 1 – November 15, 2012, in order to focus on certain campaign purchases made within that period as well as any other campaign-related spending that was previously unknown.

*Subpoena #1.* An account at Bank of Maine with the account name of JAMES H MAJKA/D/B/A/21ST CENTURY MEDIA

*Subpoena #2.* An account at Acadia Federal Credit Union for which James Majka and his wife are listed as joint owners

*Subpoena #3.* An account at NorState Federal Credit Union which is believed by the Commission staff to have the account name of Mike's & Sons/A. Michael Nadeau

*Subpoena #4.* An account at Acadia Federal Credit Union with the account name of D/B/A PROMISED LAND ALLEN MIKE NADEAU, which apparently relates to a farm property.

## **Commission's Subpoena Authority**

The Commission's authority to subpoena testimony and documents is set out in the Commission's investigations statute, 21-A M.R.S.A. § 1003:

**1. Investigations.** The commission may undertake audits and investigations to determine the facts concerning the registration of a candidate, treasurer, party committee, political action committee, ballot question committee or other political committee and contributions by or to and expenditures by a person, candidate, treasurer, party committee, political action committee, ballot question committee or other political committee. For this purpose, the commission may subpoena witnesses and records whether located within or without the State and take evidence under oath. A person or entity that fails to obey the lawful subpoena of the commission or to testify before it under oath must be punished by the Superior Court for contempt upon application by the Attorney General on behalf of the commission.

**2. Investigations requested.** A person may apply in writing to the commission requesting an investigation as described in subsection 1. The commission shall review the application and shall make the investigation if the reasons stated for the request show sufficient grounds for believing that a violation may have occurred.

### **2-A. Confidentiality. (REPEALED)**

**3. State Auditor.** The State Auditor shall assist the commission in making investigations and in other phases of the commission's duties under this chapter, as requested by the commission, and has all necessary powers to carry out these responsibilities.

**3-A. Confidential records.** Investigative working papers of the commission are confidential and may not be disclosed to any person except the members and staff of the commission, the subject of the audit or investigation, other entities as necessary for the conduct of an audit or investigation and law enforcement and other agencies for purposes of reporting, investigating or prosecuting a criminal or civil violation. For purposes of this subsection, "investigative working papers" means documents, records and other printed or electronic information in the following limited categories that are acquired, prepared or maintained by the commission during the conduct of an investigation or audit:

A. Financial information not normally available to the public;

B. Information belonging to a party committee, political action committee, ballot question committee, candidate or candidate's authorized committee, that if disclosed, would reveal sensitive political

or campaign information;

C. Information or records subject to a privilege against discovery or use as evidence; and

D. Intra-agency or interagency communications related to an audit or investigation.

The commission may disclose investigative working papers, except for the information or records subject to a privilege against discovery or use as evidence, in a final audit or investigation report or determination if the information or record is materially relevant to a finding of fact or violation.

**4. Attorney General.** Upon the request of the commission, the Attorney General shall aid in any investigation, provide advice, examine any witnesses before the commission or otherwise assist the commission in the performance of its duties. The commission shall refer any apparent violations of this chapter to the Attorney General for prosecution.

21-A M.R.S.A. § 1003 (underscoring added). Section 3-A requires the Commission to keep "investigative working papers" confidential, except that the Commission has the discretion to make documents public if they are materially relevant to a final audit or investigation report or legal determination. The definition of investigative working papers includes "financial information not normally available to the public," which would cover the financial records requested in the four subpoenas at issue.

#### **Legal Standard for Vacating or Modifying a Subpoena**

The Maine Administrative Procedure Act provides that any witness subpoenaed by an agency may petition the agency to vacate or modify the subpoena. 5 M.R.S.A. § 9060(1)(C). "After such investigation as the agency considers appropriate," the Commission may grant the petition in whole or in part upon finding that either:

- the testimony or the evidence whose production is required "does not relate with reasonable directness to any matter in question," or
- the subpoena "is unreasonable or oppressive or has not been issued a reasonable period in advance of the time when the evidence is requested."

The Maine APA does not expressly confer standing to challenge a subpoena on any person or entity other than the one to whom the subpoena has been issued. In this case, the subpoenas were issued to three separate financial institutions, none of which has filed an objection or request to modify or vacate the subpoena. Maine's banking laws require, however, that any subpoena for financial records first be served on the account holder, 9-B M.R.S. § 163, and it is common practice for banks to withhold production of records initially, if the account holder raises objections. In this case, the account holders assert interests that could be affected by the release of information sought by these subpoenas, and they are also the subjects of this investigation. Accordingly, it is appropriate for the Commission to consider their objections and to determine whether to modify, vacate or uphold the subpoenas as issued.<sup>2</sup>

Through counsel, Rep. Nadeau raises three grounds for his objections to subpoenas ##3 and 4, which are discussed in more detail below:

- *statutory authority* - the records are outside the scope of the Commission's authority because they relate to Rep. Nadeau's business and a farm property;
- *relevance* - the records are not relevant because there is no evidence present indicating that these accounts were used for political purposes;
- *reasonableness* - the requests are not reasonable because they intrude on the privacy of Rep. Nadeau's business, its customers, and Rep. Nadeau personally.<sup>3</sup>

Mr. Majka has joined in these objections with respect to subpoenas ##1 and 2 for his bank records. This memorandum will address all three grounds but focus first on relevance.

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<sup>2</sup> The Commission may wish to consider Mr. Majka's objections to subpoena #1 even though they may be moot at this point, given that the bank produced the records before the Commission received the objection.

<sup>3</sup> Rep. Nadeau's counsel bases his analysis on a Law Court decision, which did not apply the Maine APA, but held that an administrative agency's demand for information should be enforceable if:

- (1) the inquiry is one the demanding agency is authorized by law to make;
- (2) the information sought is relevant to the authorized inquiry; and
- (3) the disclosure sought is reasonable; i.e., the demand is not disproportionately burdensome or unreasonably broad.

*Central Maine Power v. Public Utilities Commission*, 395 A.2d 414, 426 (Me. 1978).

## RELEVANCE OF SUBPOENAED INFORMATION

### **Compliance Issues Involved in this Case**

Maine Clean Election Act (MCEA) candidates for the House (such as Rep. Nadeau and his opponent, John L. Martin) receive around \$4,400 in public campaign funds for their races. Under the restrictions of the program, they may spend only those public funds to promote their election. 21-A M.R.S.A. § 1125(6). They are forbidden from spending their own money or other people's money. *Id.*

Other people and groups -- operating independently of the candidate -- are free to spend as much money as they like to promote the candidate. If the candidate were to suggest or cooperate with other people's spending, however, that would constitute an in-kind contribution to the candidate. 21-A M.R.S.A. § 1015(5). Also, if the agents of the candidate, or the political committee of individuals whom the candidate has authorized to promote his election, cooperate with the expenditure, that is also a contribution to the candidate. MCEA candidates are forbidden from accepting any in-kind contributions. 21-A M.R.S.A. § 1125(6).

The central compliance question in this investigation is whether Rep. Nadeau has received a contribution under 21-A M.R.S.A. § 1015(5) because he, his agents (potentially Mr. Soucy or Mr. Majka), or a political committee of people promoting his election, cooperated in spending money other than his campaign funds to promote his election. Two purchases totaling roughly \$1,900 have been the focus of the investigation to date. This is a significant sum in the context of a race for the Maine House of Representatives.

### **Reliability of Testimony is in Question**

Through his attorney, Rep. Nadeau urges the Commission to rely on unsworn testimony given by Mr. Soucy by telephone at the Commission's meeting on November 5, 2012 and testimony from other witnesses at the Commission's January 17, 2013 hearing. As described below, there are valid reasons to question the reliability of the testimony

received by the Commission on the topic of the sources of money for the two campaign communications.

\$1,500 in Cash Used for Mailing. On November 1, 2012, Mr. Soucy used his credit card to pay a Fort Kent print shop for a mailing to support Mike Nadeau. That same day, he also deposited \$1,500 in cash in his credit union as reimbursement.

*Mr. Soucy's Changing Story*

In the following few days (Nov. 2-5), Philip Soucy provided three inconsistent explanations to the Commission concerning the sources of the \$1,500 he deposited on November 1:

- *Story #1.* On the evening of Friday, November 2, 2012, Assistant Director Paul Lavin telephoned Mr. Soucy to inform him that a complaint had been filed concerning the mailing. Mr. Lavin asked where the money came from. Mr. Soucy told Paul Lavin that Dana Saucier (a former paper industry executive) had provided the money. (*see attached e-mail*)
- *Story #2.* On the morning of Saturday, November 3, 2012, I called Mr. Soucy. I told him I was gathering preliminary information for the Commission's meeting. He agreed to talk to me with no apparent reluctance. I asked where he got the money for the mailing. Mr. Soucy responded that the money for the mailing came from small donors giving less than \$100. I asked him directly whether he was aware that money had come from any other donor, other than these small donors and possibly Dana Saucier and James Majka. He replied no. (*see attached summary of interview*)
- *Story #3.* At your meeting on Monday, November 5, 2012, Mr. Soucy responded to a handful of questions by the Commissioners and staff by telephone. He said that

Kenneth Nadeau, Norman Nadeau, and Ronaldo Thibeault<sup>4</sup> had each given him \$500 in cash that he put into his safe at home.<sup>5</sup> (11/5/2012 Tr., at 25-26)

It is troubling that it took Mr. Soucy three times to arrive at his final explanation for the source of the funds he deposited on November 1. If the money had actually come from the candidate's relatives, why did he not volunteer that when speaking to Paul Lavin the next day on November 2 or to me on November 3?

*Preliminary nature of November 5 answers.* Mr. Soucy's unsworn "testimony" was offered at a very preliminary stage, as part of the Commission's initial decision whether or not to undertake an investigation. It really consisted of answers made by telephone to a handful of questions from Commissioners and staff. Because an investigation had not yet begun, Mr. Soucy was not asked during this phone call to provide crucial details, such as:

- Was Rep. Nadeau involved in soliciting or receiving the \$1,500 in cash from his relatives? (Involvement by Rep. Nadeau in the solicitation or receipt of funds from his immediate family might imply that the candidate coordinated with others in the subsequent expenditure of the funds.)
- How did Kenneth and Norman Nadeau, who lived in Connecticut, each transmit \$500 in cash to Mr. Soucy in Maine? How did the candidate's 77-year-old stepfather, who may be on a fixed income, afford to provide \$500, and how was that cash transmitted from Florida to Mr. Soucy in Maine?

Mr. Soucy's testimony should be viewed as incomplete, at best.

*Subsequent refusal to testify.* The Commission staff organized a hearing on January 17, 2013, at which the staff hoped witnesses would provide complete and accurate explanations concerning financial activities to support Rep. Nadeau's election. Instead,

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<sup>4</sup> Norman Nadeau is a brother of the candidate, who lives in Connecticut. Kenneth Nadeau, also a brother who lived in Connecticut, died shortly after the 2012 general election. Ronaldo Thibeault is Rep. Nadeau's stepfather, and lives in Florida as well as having a home in Fort Kent.

<sup>5</sup> The Commission has received professional transcripts for the November 5, 2012 meeting and the January 17, 2013 hearing. In the memo below, citations to testimony are abbreviated "11/5/2012 Tr." and "1/17/2013 Tr."

Mr. Soucy unexpectedly exercised his 5<sup>th</sup> Amendment privilege not to testify. While this assertion of the privilege is his constitutional right, it does not assist the Commission in verifying that his November 5 story was accurate and it denied the Commission the opportunity to probe Mr. Soucy's statements further or to judge his credibility with regard to those statements. All other witnesses, including the candidate, claimed not to know anything about the source of the money used for the mailing.

*Lack of documentary evidence.* It is noteworthy that the respondents have not provided any bank documents to verify the source of \$1,500 in cash deposited by Mr. Soucy. In the Commission staff's experience, when people have donated significant sums for political purposes (particularly when donors are out of state), either the donors or the donees can produce some financial record (e.g., a check, wire transfer, withdrawal slip) establishing the source of the funds. In the interest of resolving this matter, why hasn't Rep. Nadeau or Mr. Soucy provided this Commission some record supporting Mr. Soucy's November 5 explanation? The lack of documentary support for Mr. Soucy's November 5 explanation further draws his testimony into question.

*Inconsistencies with responses by others.* Mr. Soucy's explanation – when examined closely – contains inconsistencies with testimony by others. On November 5, Mr. Soucy stated that *he* received *cash* from Mr. Soucy's three relatives, *after* the printer told Mr. Saucier and Mr. Majka that the mailing would cost \$1,500:

Q: Could you describe how you raised the money for the expenditure?

A: I was approached by three people who wanted to do something to help Mike .... And the people agreed to give us some money to buy this ad. Those were the only three people involved.

Q: So who were the, who were those three people?

A: The three people were R[onald] Thibeault, a resident of Fort Kent, Norman Nadeau, a snowbird, actually he lives in Connecticut but has a summer home in

Fort Kent, Kenneth Nadeau, Connecticut resident, has a summer home in Fort Kent.

...

Q: [H]ow was the cost determined?

...

A: All I know is I was told that we'd need, we'd need about \$1,500 to put, to put the printing by the printer, how much it would cost. He gave us an idea, told us what it would cost, and we proceeded and raised the money. Once we had enough we, had made the purchase.

Q: Did you receive the money from the three individuals?

A: Oh I, yes I did.

...

Q: did you receive cash from them or checks?

A: Cash.

11/05/2012 Tr., at 25-26.

Mr. Soucy's November 5 statements are inconsistent with the sworn testimony of Dana Saucier on January 17. Mr. Soucy told the Commission on November 5 that the people responsible for the mailing were James Majka, Dana Saucier, and himself. After the printer informed his group that the cost of the mailing would be would be \$1,500, they "proceeded and raised the money." 11/05/2012 Tr., at 26. Once enough money was raised, they made the purchase. *Id.*

This sequence of events is completely different than as described by Dana Saucier. Mr. Saucier described that he and James Majka came up with the idea of a mailer after reviewing the October 31 Fort Kent newspapers with Rep. Nadeau in the Nadeau campaign office. 1/17/2012 Tr., at 81. That day (a Wednesday), Mr. Saucier went home, conducted some research, and sent a draft of the mailer to Mr. Majka. On Thursday, November 1, they finalized the mailing and provided it to the printers. *Id.* at 83. Mr. Saucier had heard that Mr. Soucy had money available to do mailings or advertisements significantly before

the idea of the mailer arose. 1/17/2012 Tr., at 92. Once the mailing was underway, Mr. Saucier contacted Mr. Soucy, but Mr. Saucier was not sure if there was any money left. *Id.* at 97.

These are the sorts of key details that should be consistent among witnesses, if the testimony is to be believed. When basic facts are inconsistent, it is reasonable to infer that someone's account is not accurate. Indeed, if the idea of the mailing arose on October 31, and the mailing was put together in 24-36 hours as Mr. Saucier testified, from a practical standpoint it would have been extremely unlikely if not impossible for Mr. Soucy to have received cash from out-of-state sources such as Kenneth Nadeau, Norman Nadeau, and Ronaldo Thibeault in time for him to deposit that cash in his account on November 1, 2012. It is very difficult to square Mr. Soucy's November 5 statements to the Commission concerning the sources of money with Mr. Saucier's testimony on January 17, 2013.

#### \$420 Paid in Cash for a Newspaper Ad

In the last two weeks of the campaign, Mike Nadeau considered buying an ad to promote his political campaign in the October 31 edition of the Fiddlehead Focus newspaper, which serves Fort Kent. He talked to newspaper staff, and they expected that he might submit the ad by the mid-afternoon deadline on Monday, October 29, 2012. 1/17/2013 Tr., at 8-10.

Instead, on that day, the candidate's friend and campaign volunteer, Jim Majka, arrived at the newspaper office with three \$100 bills to purchase an ad. Mr. Majka gave the newspaper staff the handwritten text for the ad, which was written *in the candidate's handwriting*. The handwritten page also contained the notation "Fiddlehead ad By 3 oClock," also written in the candidate's hand. On his second visit to the paper's offices, he paid another \$120, for a total of \$420. 1/17/2013 Tr., at 16-22. (*see attached advertisement and handwritten text, which contain identical language*) These circumstances tend to suggest some involvement or cooperation by the candidate in the advertisement purchased by Mr. Majka.

At the January 17 hearing, Mr. Majka was asked about the newspaper advertisement and whether the candidate cooperated with the ad. On certain key points, Mr. Majka's testimony was evasive and his demeanor was unconvincing. For example, it took five questions to obtain a straight answer from Mr. Majka on the simple question of whether he had written the text for the advertisement that he gave the newspaper:

- Q: Whose handwriting is that on that page?"
- A: It could be mine; I don't know.
- Q: ... Are you telling this Commission that you can't—you're not sure whether this is your handwriting?
- A: I don't know where these notes came from; I'm not sure. I really don't know.
- Q: The question is is that—
- A: I don't remember how it—I don't remember how I went into the paper with the information for the ad.
- Q: ...[M]y question now is[,] looking at the text, especially the text at the bottom of that page, is that your handwriting?
- A: It could be notes from another meeting that we had--
- Q: Mr. Majka, the question's really simple; is that your handwriting or is that not your handwriting.
- A: It doesn't look like my handwriting.
- Q: Where did you get this paper, Mr. Majka?
- A: I wish I could tell you that. I really don't know.

1/17/2013 Tr., at 49-51.

Later in the hearing, Rep. Nadeau confirmed that the handwriting was his. 1/17/2013 Tr, at 146-48. The Commission pressed Mr. Majka and Rep. Nadeau concerning why the candidate had provided the handwritten text for the ad to Mr. Majka -- if not to suggest that he place an ad in the newspaper. Mr. Majka was noticeably indefinite. The best explanation offered was that Rep. Nadeau "could have" given it to Mr. Majka as a message for Mr. Majka to place on the campaign website.

I don't remember the piece of paper, but obviously—I'm looking at the ad—I took a lot of notes when I would talk to Mike, basically for updates on his website, a lot of notes. There's a lot of things that he submitted to me. I may have taken notes from another meeting and used it to make the ad. It could have been something like that.

1/17/2013 Tr., at 51. At the hearing, the Commission asked Rep. Nadeau to produce any page of his campaign website that contained the message. 1/17/2013 Tr., at 166. To date, Rep. Nadeau has not provided any web page that would corroborate the explanation offered by Mr. Majka, and the staff has been unable to locate any evidence of it.

Given Mr. Majka's evasive or uncorroborated explanations, the Commission staff recommends not taking at face value Mr. Majka's explanation of the source of money he used for the Fiddlehead Focus ad. On October 29, 2012 (the same day that the newspaper sales staff expected Rep. Nadeau to deliver the text for a newspaper ad), Mr. Majka arrived at the office with three hundred-dollar bills. The next day he delivered an additional \$120 so that the ad would appear in color. The total cost of the ad was \$420. Mr. Majka testified that he paid \$300 to the Fiddlehead Focus with personal funds that he "had [] at home." He said that he "keep[s] money at home," "set aside for whatever." He denied being reimbursed. 1/17/2013 Tr., at 54-56.

This explanation is cast into doubt by the records of Mr. Majka's account at Bank of Maine, which the Commission staff analyzed prior to receiving Mr. Majka's objection. The bank records suggest that Mr. Majka did not have much disposable cash during October 2012. The average balance in the account during October was \$248.64. He made no ATM withdrawals of cash from the account during that month. On five occasions, he received small amounts of cash in the course of making deposits of checks or currency. During the month, he received modest compensation into his account. Most of the income he received was used to pay personal expenses, rather than converted to cash. The small average cash balance and limited receipt of cash tends to undercut his testimony that he had \$100 bills around his house that he used on 10/29/2012 for the Fiddlehead Focus ad.

Given the unreliability of testimony provided by Philip Soucy and James Majka, the Commission should seek to review financial records of both accounts of Michael Nadeau (Mike's & Sons and Promised Land) to determine:

- whether the \$1,500 in cash deposited by Philip Soucy on November 1 originated with Rep. Nadeau or his business, or flowed through those accounts from other sources;
- whether the \$420 in cash used by James Majka to purchase the newspaper ad originated with Rep. Nadeau or his business, or flowed through those accounts;
- whether the accounts were used for any other campaign-related purpose.

#### **Additional Information Received by the Commission**

The importance of examining the account records of Rep. Nadeau requested by the Commission in subpoenas #3 and #4 is reinforced by additional information received during the investigation. In Mr. Majka's bank records that the Commission received on March 1, 2013 from the Bank of Maine in response to subpoena #1, the Commission learned that Mr. Majka received two checks from Mike Nadeau dated October 11 and November 1, 2012, during the same period in which he was actively working on Nadeau's campaign. These payments were from the account named D/B/A PROMISED LAND ALLEN MIKE NADEAU that is the subject of subpoena #4 listed on page 4. The Commission's investigation should examine whether Rep. Nadeau made these payments to Mr. Majka for the purpose of compensating or reimbursing him for work he performed on Rep. Nadeau's campaign, which would have been illegal.

Moreover, these payments by Rep. Nadeau from a personal account to his friend and campaign volunteer, James Majka, demonstrate the importance of seeing the entire activity of this Promised Land account for the period of October 1 – November 15, 2012. The Commission staff will look for financial transactions that could have been related to the Fiddlehead Focus advertisement, the mailing by Mr. Soucy, and any other payments that could be campaign-related.

## STATUTORY AUTHORITY TO OBTAIN RECORDS

In his February 28, 2012 memorandum, Rep. Nadeau's attorney questions the statutory authority of the Commission to obtain financial records for an account at the Acadia Federal Credit Union (February 28 Memo, at 4-5). Counsel appears to presume that Rep. Nadeau uses the account primarily or only for purposes of conducting the business known as Mike's & Sons. As a preliminary point, this may not be accurate. As a regulator of campaign finance activity, the Commission staff routinely encounters sole proprietors who use their business accounts for non-business purposes. The Commission staff believes the formal name on the account may be Mike's & Sons/A. Michael Nadeau, which could imply Mike Nadeau's use of this account for non-business purposes. In any event, the business is a sole proprietorship, not a separate legal entity, and Rep. Nadeau has the ability to use that account for whatever purpose he chooses.

Rep. Nadeau's attorney argues that 21-A M.R.S.A. § 1003(1) "does not authorize the Commission to investigate businesses formed for commercial purposes and operating as such. For these reasons, the subpoena as issued lies beyond the statutory authority of the Commission." (February 28 Memo, at 5) He makes a similar argument with respect to the subpoena for the Promised Land account, which apparently relates to a farm property. (March 15 Memo, at 6-7).

The Commission is specifically authorized to investigate contributions to a candidate and expenditures by a candidate or other persons. (21-A M.R.S.A. § 1003(1)) If the candidate (or his agents or political committee authorized by him) cooperated in the spending of any funds other than the candidate's campaign funds, that constitutes a contribution to the candidate. 21-A M.R.S.A. § 1015(5). In that circumstance, it would make no difference whether those funds belonged to a business, an individual, or a political or non-political organization.

In recent years, the Commission has considered cases in which a candidate has accepted a contribution because business funds were used to promote the candidate. In one instance,

the Commission determined in March 2006 that gubernatorial candidate Peter Cianchette had received a contribution because Cianbro had paid staff to drive company trucks to erect campaign signs provided by the candidate's political committee.<sup>6</sup> In another, a House candidate left a card at the home of a voter offering a monetary discount at his antiquarian bookstore, which action the Commission found in October 2010 to constitute a contribution to the campaign.

As explained above, the source of the \$1,900 in cash used to promote Rep. Nadeau's campaign continues to be in question. Obtaining the records for these two accounts is a reasonable step to determine whether

- the money originated with Rep. Nadeau or his business, or
- the money came from some other sources (e.g., family members or other supporters) and flowed through the candidate's financial accounts, indicating the candidate's cooperation in spending by others to promote his election.

The fact that money in these accounts may relate to Rep. Nadeau's business or a farm associated with him in no way places these records beyond the reach of the Commission's subpoena power.

### **REASONABLENESS**

In his February 28, 2013 memorandum requesting a withdrawal of subpoena #3 for the account in the name of "Mike's & Sons/A. Michael Nadeau," Rep. Nadeau's attorney argues that the subpoena is not reasonable because the records will disclose private information about the business and its customers. (February 28 Memo, at 6-7). In the March 15, 2013 memo concerning the Promised Land account records, he states that the Promised Land account will reveal "personal information about Michael Nadeau himself." (March 15 Memo, at 9).

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<sup>6</sup> After a post-election complaint was filed, Mr. Cianchette forthrightly investigated the claims and admitted that company staff had been paid for this purpose. Because of his admission, the Commission did not need to employ its subpoena power.

The Commission staff's only interest in reviewing six weeks of account information is to determine whether there is any evidence of the use of these accounts for campaign activity. The Commission staff is required by statute to keep confidential any "financial information not normally available to the public". 21-A M.R.S.A. § 1003(3-A). The Commission staff takes that professional obligation seriously.

It is unknown whether the credit union documents will even contain customer names, or simply dates and amounts received from customers. Even if customer names appear in the records, the Commission staff has no interest in who purchased landscaping or lawn and garden equipment during a six-week period in the fall of 2012. The Commission staff will simply ignore these entries and move on to information that is relevant to the investigation. Mike's & Sons, and its customers, will suffer no adverse impact as the result of this inquiry, which is focused solely on how political activity has been financed. The same narrow focus applies to review of the Promised Land account.

### **Conclusion**

This investigation will not be complete unless the Commission reaches a thorough understanding of:

- the source of \$1,500 in currency that Philip Soucy deposited in his personal credit union account to reimburse himself for the mailing to promote Rep. Nadeau;
- the source of \$420 that James Majka paid to the Fiddlehead Focus newspaper; and
- whether Rep. Nadeau cooperated in obtaining or spending this cash.

The Commission should receive and review the records requested in these subpoenas (listed on page 4) to determine if this money originated from or flowed through Rep. Nadeau's accounts from other sources. For reasons detailed above, the staff believes it would be a mistake to rely on the testimonial explanations offered by Philip Soucy and James Majka concerning the sources of this cash used for political purposes without further investigation.

The need to review the financial records is underscored by the evidence obtained to date suggesting that Rep. Nadeau may have been willing to cooperate in spending by others to

promote him. Rep. Nadeau personally hand-wrote the text for a \$420 newspaper advertisement that his friend, James Majka, subsequently purchased. It is now known that Rep. Nadeau wrote two additional checks from the Promised Land bank account to Mr. Majka related to photography or printing, at a time when Mr. Majka was providing services to the campaign. The Commission should examine both of Rep. Nadeau's accounts for other evidence of possible off-the-books campaign spending.

The NorState Federal Credit Union and Acadia Credit Union have gathered the records responsive to their subpoenas and stand ready to deliver them to the Commission. The Commission staff will review them expeditiously. At that point, the Commission staff could make a recommendation to the Commission through its Chair as to what additional investigative steps are necessary before reaching a final determination in this matter.

All four subpoenas meet the tests of relevance and reasonableness set forth in the Maine APA, 5 M.R.S. § 9060(1)(C), as well as the additional criteria adopted by the Law Court in *Central Maine Power v. Public Utilities Commission*, 395 A.2d at 426. Accordingly, we respectfully recommend that the Commission deny the objections and uphold the subpoenas as issued.

Thank you for your consideration of this memo.

**From:** Lavin, Paul  
**Sent:** Friday, November 02, 2012 7:18 PM  
**To:** Wayne, Jonathan; Marett, Matthew  
**Subject:** Phil Soucy - HD 1 IE#205

I spoke with Mr. Soucy this evening to tell him that the MDP filed a complaint with the Commission regarding the independent expenditure. I e-mailed the complaint to him. I also told him that there was a high probability that the Commission may hear the complaint on Monday.

I suggested that he may want to contact Rep. Andre Cushing and Bill Logan for assistance. I told him that I would also contact Rep. Cushing just to keep in the loop regarding the complaint. When I talked with Rep. Cushing he said that he would contact Bill Logan.

Mr. Soucy said that the person who was most involved in the IE or at least was the person who put up the most money for the expenditure is Dana Soucier (824-5671).

I also left a message for Mike Nadeau on his cell phone and e-mailed him the complaint also.

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](mailto: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.<sup>1</sup>
- 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 filer 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 filer, 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.

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

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

PHONE: (207) 287-4179

FAX: (207) 287-6715

#### 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. He believed 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.

Excerpts of Testimony by L. Philip Soucy  
From Commission Meeting Held on  
November 5, 2012

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MR. MCKEE: Go right ahead please.

MR. WAYNE: Mr. Soucy, can you hear me okay?

MR. SOUCY: Yes sir.

MR. WAYNE: Could you describe how you raised the money for the expenditure?

MR. SOUCY: I was approached by three people who wanted to do something to help Mike, look at what he's doing, and the three of us, I wasn't alone and I was also in conjunction with the two other people. And the people agreed to give us some money to buy, to buy this ad. Those were the only three people involved.

MR. WAYNE: So who were the, who were those three people?

MR. SOUCY: The three people were Renaldo Thibeault, a resident, a resident of Fort Kent, Norman Nadeau, a snowbird, actually he lives in Connecticut but has a summer home in Fort Kent, Kenneth Nadeau, Connecticut resident, has a summer home in Fort Kent.

MR. WAYNE: And they provided all of the money for the expenditure? Those three individuals?

MR. SOUCY: Yes they did.

1  
2 MR. WAYNE: How did you decide how much the,  
3 of a mailing to do? I mean how was the cost  
4 determined?

5 MR. SOUCY: The cost?

6 MR. WAYNE: Yeah.

7 MR. SOUCY: Well, I'm not a, I guess I can't  
8 really because I didn't do the costing. All I  
9 know is I was told that we'd need, we'd need  
10 about \$1,500 to put, to put the printing by the  
11 printer, how much it would cost. He gave us an  
12 idea, told us what it would cost, and we  
13 proceeded and raised the money. Once we had  
14 enough we, had made the purchase.)

15 MR. WAYNE: Did you receive the money from  
16 the three individuals?

17 MR. SOUCY: Oh I, yes I did.)

18 MR. WAYNE: And what did you do with the  
19 money?

20 MR. SOUCY: I put it in the, in the safety  
21 deposit box and paid the printer with a credit  
22 card.

23 MR. WAYNE: Did you receive cash from them  
24 or checks?

25 MR. SOUCY: Cash.)

Excerpts of Testimony  
From Commission Adjudicatory Hearing  
January 17, 2013

1 section.

2 Q: I see.

3 A: And--yes.

4 Q: Was there an occasion when you met with Mike  
5 Nadeau to discuss some possible advertising for the  
6 October 31st special section?

7 A: Yes, that would have been the end of [phone cuts  
8 out], so, you know, Thursday or Friday before Wednesday,  
9 October 31st.

10 Q: Okay. I--unless there are any objections, I  
11 might try to--if there's an instance where we can't hear  
12 you, my--well, I might just clarify my understanding and  
13 make sure I heard that correctly. Did you say you met  
14 with Mr. Nadeau towards the end of the previous week  
15 before October 31st?

16 A: Yes.

17 Q: Okay. And where did that conversation take  
18 place?

19 A: At his place of business, Mike and Sons [phone  
20 cuts out].

21 Q: And did he say what kind of advertising he was  
22 interested in?

23 A: Yeah.

24 Q: What did he say?

25 A: What we discussed was two separate ads; one was

1 an ad for his business, so nothing to do with the  
2 campaign, and another was an ad for the campaign. Again,  
3 I clarify that that wasn't unusual. The special section  
4 was - - . We were getting businesses that simply wanted  
5 the kind of special exposure in that section, so nothing  
6 particularly political oriented.

7 Q: Just to make sure we heard you correctly, he was  
8 interested in one ad for his business and one ad for his  
9 political campaign; was that correct?

10 A: Yes, both for the special section.

11 Q: And did you discuss options for what were  
12 possible sizes for the ads?

13 A: Yes.

14 Q: And did he indicate whether he wanted his  
15 political ad to be black and white or in color?

16 A: What we discussed were possibilities, and we had  
17 discussed the possibility of color because we were able to  
18 offer him a special deal on color in that section.  
19 Nothing was definitive but we did discuss color.

20 Q: Great. And did you provide him anything in  
21 writing that had costs on it?

22 A: Yes. We have a pricing sheet and what we  
23 discussed and what he wrote down on the pricing sheet was  
24 the special offers that we were proposing for him. So,  
25 the pricing sheet is the usual prices and then he wrote

1 down the, you know, the special offers.

2 Q: Okay. So, that was the meeting towards the end  
3 of the week, the previous week, before the October 31st  
4 special section. Was there any follow-up conversations  
5 between you and Mr. Nadeau?

6 A: Yes.

7 Q: When?

8 A: I checked back with him because when we left the  
9 conversation where I had visited him at his business, he  
10 said that he would get back to me; nothing was definitive.  
11 So, I checked back with him on Saturday and he said let me  
12 get back to you on Monday morning.

13 Q: Did you talk with him Monday morning?

14 A: Yup, as the deadline--that 12:00 noon deadline--  
15 came closer, I gave him a call several times in the  
16 morning. He was out, presumably preparing for, you know,  
17 for the campaign. So, he was hard to get a hold of. I  
18 tried to get a hold of him a couple of times. Actually,  
19 I'd say I think it might have been even as much as [phone  
20 cuts out] and eventually did contact him.

21 Q: Okay. So, if this is the Monday, two days before  
22 the October 31st section, would this--I'm just doing the  
23 math in my head--do you think this would have been Monday,  
24 October 29th?

25 A: Yes.

1 going to be receiving some questions from the staff  
2 of the Ethics Commission and then, perhaps, the  
3 attorneys for the other people involved here.  
4 Jonathan, go right ahead.

5 D E N N I S M I C H A U D, after having  
6 been duly sworn, testified as follows:

7 DIRECT EXAMINATION

8 BY MR. JONATHAN WAYNE

9 Q: Thank you for participating, Mr. Michaud. Maybe  
10 so everyone can understand the logistics, could you just  
11 mention what your scheduling issue was and where you are  
12 right now?

13 A: Currently right now I'm in the parking lot in  
14 Presque Isle. I was on my way to a doctor's appointment  
15 scheduled for 11:00, so I wasn't able to be in the office  
16 at this time.

17 Q: Thanks a lot for taking the call. Where do you  
18 work, sir?

19 A: I work at Fiddlehead Focus.

20 Q: And what's your position at the newspaper?

21 A: I'm the lead sales executive for advertising.

22 Q: So, one of your jobs is selling advertising; is  
23 that right?

24 A: Correct.

25 Q: Did the newspaper have a special section on

1 October 31st?

2 A: Yes, it did, and it had to do with the political  
3 heads and all advertisement for political issues that were  
4 arising from November 6th election.

5 Q: Okay. And did Jim Majka purchase an ad in the  
6 paper for that October 31st section?

7 A: Correct. Yes, he did.

8 Q: And how did he contact the paper to make the  
9 purchase?

10 A: Well, actually, he came--he walked into the  
11 office and he had money in hand and he asked for an  
12 advertisement in the paper, so I got all the information  
13 out to show him what kind of sizes for advertising we had.  
14 He pretty much stated he wanted a half-page ad and so I  
15 told him what the price was for the half-page ad, and he  
16 handed me the money and then he handed me a sheet of  
17 paper, a lined paper that had information on it for the  
18 ad.

19 Q: Okay. Thank you. You've just anticipated about  
20 ten of my questions, so thank you very much. What did he  
21 say--what was the purchase, I mean, the purpose of the ad  
22 please?

23 A: The purpose of the ad was for an advertisement  
24 for Mike Nadeau for the special section for the election  
25 for November 6th.

1 Q: And we originally wanted to show you a number of  
2 exhibits and have you authenticate what they were, but  
3 because you are in the car today, we only asked you to  
4 bring one exhibit with you.

5 A: Okay.

6 Q: Were you able to bring that?

7 A: Yup. I brought all three of them.

8 Q: Oh, you did?

9 A: Yes.

10 Q: Well, in that case, I mean, if it's handy--

11 A: [Interposing] Sure.

12 Q: --could you pull out exhibit 21 please?

13 A: Yes.

14 Q: That was the first of the three pages.

15 A: Yes.

16 Q: Do you recognize that?

17 A: Yeah, the right bottom corner there, the half-  
18 page ad, is the ad I created for Mr. Majka.

19 Q: Okay. And did he have an idea on what the ad  
20 should say?

21 A: Yes. Actually he had it all prewritten, already  
22 on the sheet of line paper when he came into the office,  
23 so I just went off of that information that he had given  
24 me on that lined sheet of paper.

25 Q: Okay. I'm going to draw your attention to the

1 next exhibit, which is 22.

2 A: Okay.

3 Q: Is that the lined sheet of paper that Mr. Majka  
4 handed you?

5 A: Correct. Yes, it is.

6 Q: And this may be repetitive, but did you say he  
7 had it with him at the time he arrived?

8 A: Yes, he did.

9 Q: So, he didn't write it in front of you?

10 A: No, he didn't write it in front of me; everything  
11 was prewritten when he came in. The only thing that is  
12 not written on there that probably wasn't written on there  
13 when he came in was at the bottom right corner, I wrote  
14 his telephone number and his name at the bottom of the  
15 page there. So, that's my handwriting at the bottom  
16 there.

17 Q: Okay. Thank you. So, just drawing your  
18 attention to the bottom of that page, the handwriting that  
19 starts with the check box,--

20 A: [Interposing] Yes.

21 Q: --that was what he indicated was going to be the  
22 text for the ad?

23 A: Correct. Yes, it was.

24 Q: Okay. Thank you. Did you quote him a price for  
25 that ad?

1           A:    Yeah.  I had told him the original price was \$300  
2           but we were offering 10% off for our special section, so  
3           it was going to be \$270, but I never pre-quoted him so I  
4           stick with the first contact that I had with him for that  
5           day.

6           Q:    Did you say he walked in with \$300; was that the  
7           amount you mentioned?

8           A:    Correct.

9           Q:    So, he--

10          A:    [Interposing] Correct.  He already had \$300 in  
11          hand.

12          Q:    So, did you get the sense that he already knew  
13          the cost of--

14          A:    [Interposing] I--

15          Q:    --the ad?

16          A:    I did.  Actually I did have that sense, and  
17          that's why I asked when I looked at the sheet of paper  
18          closely, he had the name of Julie Daigle written in the  
19          center of it.  So, I had asked him if he had already spoke  
20          to her for the sales of this ad and he said he,  
21          personally, had not, but it didn't mean somebody else from  
22          the campaign had.  So, I said okay and that was pretty  
23          much it, but that's pretty much it.

24          Q:    Well, you know, one of the things we're trying to  
25          figure out here is whether or not this was connected to

1 the campaign. So, I want to ask you to be real cautious  
2 on this next question. Did he say--

3 A: [Interposing] Sure.

4 Q: Did he say--did he mention the campaign or did he  
5 say something in a more general way about Julie Daigle?

6 A: Nope. He didn't say anything any more specific  
7 about Julie Daigle. He said it didn't mean that somebody  
8 else had spoke with her, so I don't know if he meant the  
9 campaign or--I just assumed the campaign, because all day  
10 we had one after another after another of different  
11 campaign people or representatives coming in for  
12 advertising.

13 Q: Okay. So, you said he paid in cash; is that  
14 correct?

15 A: That is correct; three \$100 bills.

16 Q: Did he take those three \$100 bills out of some  
17 kind of container, like a wallet or a bank envelope or  
18 something?

19 A: No, I believe he had it in hand.

20 Q: Did you say he had it in his hand when--

21 A: [Interposing] Correct.

22 Q: --the--

23 A: [Interposing] Correct.

24 Q: You're referring to when you first saw him or  
25 when he walked in the office?

1           A: I didn't see it in his hand at first, but once I  
2 mentioned that it was \$300, I noticed that he had it in  
3 his hand. His hand could have been in his pocket earlier.  
4 I didn't see on the other side of the counter.

5           Q: Okay. Thank you. And did you give him--if the  
6 price with the discount was \$270 and he had \$300, did you  
7 give him any change?

8           A: I did not have any change that day because we  
9 hadn't had time to go to the bank yet that morning, so I  
10 wrote him a receipt showing that I owed him \$300. He told  
11 me not to worry about it, that he would be back anyway to  
12 proof the ad and then that's when I got his cell phone  
13 number so that way I could give him a call when the ad was  
14 ready to be proofed.

15          Q: And when you say proofed, that means he expected  
16 to see a proof of the ad, like an image of the ad; is that  
17 right?

18          A: Correct, correct.

19          Q: You know, I neglected to ask when this  
20 conversation took place in relation to the Wednesday,  
21 October 31st section.

22          A: I believe it happened on October 25. That would  
23 have been actually a Friday, and then our deadline for  
24 color was 3:00 p.m. Well, actually deadlines for ad, in  
25 fact, that week was 3:00 p.m. on Monday.

1           A:    That was in the office. Jim came in. I was on  
2           the phone so he spoke with a publisher a little while,  
3           while I got off the phone, and then I brought up the  
4           advertisement and I showed him the advertisement and he  
5           asked if it was going to look like that in the paper and I  
6           said minus the color, that it was going to be in  
7           grayscale, and he asked how much more for a color, that he  
8           liked the color advertisement, and I said it would be \$150  
9           more for the color added to the ad. He agreed to it and  
10          paid the \$150, minus the \$30 that I had owed him.

11          Q:    So, he gave you another \$120?

12          A:    Correct.

13          Q:    And how did he pay that to you?

14          A:    It was in cash, all 20s, I believe, out of his  
15          pocket.

16          Q:    Okay. Just drawing your attention back to  
17          exhibit 22, those handwritten notes, at the top it says  
18          Fiddlehead ad by 3:00. What did you make of that? I  
19          mean, did you notice that?

20          A:    I did notice that and that's why I brought up the  
21          question if he had spoken to Julie Daigle prior, because  
22          her name was on this sheet, and also because it said  
23          Fiddlehead ad by 3:00 and that was our deadline to have  
24          the ad in to us so that way we can create the ad. So, I  
25          pretty much assumed he had spoken to somebody but he said

1 website. Nothing was paid after that or for any other  
2 reason.

3 Q: So, just to be clear, other than the \$350 payment  
4 that you received from Mike's political campaign, you did  
5 not receive any payment of money for any work that you  
6 provided to the campaign; is that correct?

7 A: No, because it was volunteer after that.

8 Q: Thank you. If we could look at those exhibits, I  
9 wanted to ask you to take a look at exhibit 21 please.

10 A: Okay.

11 Q: Do you recognize that?

12 A: I sure do.

13 Q: What is that?

14 A: It's an ad that I placed in the Fiddlehead Focus.  
15 I believe it was the last issue before the election.

16 Q: Did you purchase the ad from the newspaper?

17 A: I did.

18 Q: And what was the reason for buying the ad?

19 A: Again, I wanted to win and--I wanted him to win  
20 and he was being out-advertised nearly ten to one, it  
21 seems, on the weeks prior and we were coming up to the end  
22 of it and I just wanted to do a little more for him so I  
23 paid for the ad and ran it.

24 Q: How did you communicate with the newspaper that  
25 you wanted to purchase the ad?

1 A: I went in person and told them that I was paying  
2 for this and it was done that day.

3 Q: Do you remember--

4 A: [Interposing] I don't remember the guy's name.

5 Q: You just anticipated my next question. Do you  
6 remember the guy that you talked to?

7 A: I don't remember his name.

8 Q: Thank you. I just wanted to draw your attention  
9 to the date on that page. It's towards the top.

10 A: Yeah.

11 Q: Do you remember the day of the week that you went  
12 into the office?

13 A: No. It was--the Wednesday, they come out on  
14 Wednesdays. I can't remember. It was either a Friday or  
15 Monday I paid for it to place the ad, but I don't remember  
16 the date, but it was the last issue before the campaign.  
17 It's a weekly paper and it comes out on Wednesday. The  
18 deadline for ads--because I have advertised before for  
19 different things--is a day or two before the issue is  
20 released.

21 Q: And did you have an idea of what the ad should  
22 say?

23 A: Yeah.

24 Q: And how did you communicate that to the  
25 newspaper?

1 at the tail end and I did, and he probably found out about  
2 it after. I cannot remember, honestly, exactly when we  
3 talked about the ad, but I wish I knew.

4 Q: Okay. That's fine. We understand that we're  
5 asking about events that happened in the middle of a  
6 campaign and they may have more significance now than you  
7 attached in the past to it, and so thank you very much.  
8 Do you remember whether Mike had any kind of a reaction to  
9 the advertisement?

10 A: No. He was glad to see it. He didn't really  
11 talk too much. There was so much things happening and it  
12 was at the tail end of the campaign, and we talked every  
13 day but with difficulties. I'm sure we talked about this  
14 ad and I'm sure he liked it; there's no question about  
15 that.

16 Q: Okay. I guess what we really need to know, sir,  
17 to the best that you can remember it, is did Mike Nadeau  
18 know that you were placing the ad in the campaign?

19 A: Again, as I said already, I don't know if I  
20 talked to him before, or I think I probably told him the  
21 day of or the day after, but I cannot say for sure; I just  
22 don't remember.

23 Q: Okay. I want to bring you back to exhibit number  
24 22, which is the lined piece of paper with the handwriting  
25 on it.

1 A: Yes.

2 Q: Could you confirm for us whether or not that this  
3 is the text of the ad that you gave to the newspaper?

4 A: It looks like it. I mean, I don't remember what  
5 I did with the ad. The ad, I went down to the guy that  
6 was doing the typesetting and I gave him some things to  
7 do, but I really don't remember how.

8 Q: Whose handwriting is that on that page?

9 A: It could be mine; I don't know.

10 Q: Mr. Majka, this is a formal hearing on an  
11 election law matter and it's very important that we get  
12 complete and accurate information. Are you telling this  
13 Commission that you can't--you're not sure whether that is  
14 your handwriting?

15 A: I don't know where these notes came from; I'm not  
16 sure. I really don't know.

17 Q: The question is is that--

18 A: [Interposing] I don't remember how it--I don't  
19 remember how I went into the paper with the information  
20 for the ad.

21 Q: I appreciate that answer. I appreciate that  
22 answer and that's valuable for us to know that there are  
23 some aspects of you submitting this ad that you don't  
24 remember, but my question now is looking at the text,  
25 especially the text at the bottom of that page, is that

1 your handwriting?

2 A: It could be notes from another meeting that we  
3 had--

4 COMMISSIONER MCKEE: [Interposing] Mr.  
5 Majka, the question's really simple; is that your  
6 handwriting or is it not your handwriting?

7 MR. MAJKA: It doesn't look like my  
8 handwriting.

9 Q: Where did you get this piece of paper, Mr. Majka?

10 A: I wish I could tell you that. I really don't  
11 know.

12 Q: Your testimony is you don't know where you got  
13 that piece of paper?

14 A: I don't remember the piece of paper, but  
15 obviously--I'm looking at the ad--I took a lot of notes  
16 when I would talk to Mike, basically for updates on his  
17 website, a lot of notes. There's a lot of things that he  
18 submitted to me. I may have taken notes from another  
19 meeting and used it to make an ad. It could have been  
20 something like that. I don't remember where these notes  
21 came from.

22 Q: Your testimony is that doesn't look like your  
23 handwriting, correct?

24 A: Right.

25 Q: Did Mike--

1 ad?

2 A: I can't tell you that; I don't know.

3 Q: You said that you paid--what was the money that  
4 you used to pay for the ad?

5 A: I paid for it myself.

6 Q: That was--was that with personal funds?

7 A: Yes, sir.

8 Q: Did anyone provide you the cash for the  
9 advertisement? I'm sorry?

10 A: I paid for the ad. I paid for the ad myself.

11 Q: I just want you to answer the question directly.  
12 Did anyone give you the cash that you used to pay for the-  
13 -yes or no?

14 A: No.

15 Q: Did anyone reimburse you, after the fact, the  
16 money that you used to buy the ad?

17 A: No.

18 Q: Did Mike Nadeau give you any assurances that you  
19 would be reimbursed for the ad?

20 A: No.

21 Q: Mr. Nadeau, I just want to remind you what I said  
22 earlier about the consequences for providing false  
23 testimony to this Commission. Are you saying to me that  
24 no one gave you any money for this ad?

25 MR. WOODCOCK: You addressed him as Mr.

1 Nadeau.

2 Q: I'm sorry. Mr. Majka, I apologize. Is your  
3 testimony that no one gave you any money for this ad?

4 A: No, it was my money.

5 Q: Where did you get the money for the ad?

6 A: It was my personal funds, sir.

7 Q: Did you take it out of the bank?

8 A: No, I paid in cash.

9 Q: Where did you get the cash?

10 A: Sir, it's my money; I had it.

11 Q: I'm asking for the mechanics. Did you have it  
12 around the house, did you get it from a bank? Please tell  
13 this Commission where you got the money.

14 A: At home. I had it at home. I used it to pay for  
15 the ad.

16 Q: Is this--does this money consist of income you  
17 received from your business?

18 A: I have--I keep money at home. Most people do. I  
19 had some set aside for whatever and I just used some of  
20 it.

21 Q: Do you remember the denominations that you used  
22 to pay for the ad?

23 A: I do not remember.

24 Q: We received testimony that you used three \$100  
25 bills to pay for the ad. Does that sound--

1 A: [Interposing] It sounds right, yeah.

2 Q: Did you--

3 A: [Interposing] I don't remember exactly, but if  
4 that's what was said, yeah.

5 Q: Do you customarily have \$100 bills around the  
6 house?

7 A: Sometimes, from time to time, yeah. I pay for  
8 things in cash sometimes. It's not uncommon.

9 Q: Mr. Majka, did you work as a bus driver at the  
10 early part of the school year?

11 A: I did.

12 Q: And did that employment end?

13 A: It did.

14 Q: About when did it end?

15 A: I think it was shortly before Thanksgiving. I'm  
16 not--I can't really remember. It was part-time.

17 Q: It was part-time. Did you discuss the Fiddlehead  
18 Focus ad with Phil Soucy at all?

19 A: No, I don't talk to Phil Soucy hardly at all.

20 Q: Did you discuss the ad in the Fiddlehead Focus  
21 with Dana Saucier?

22 A: Not until much later.

23 Q: Until after it was published? After it was  
24 published, you're saying that's when you talked to Mr.--

25 A: [Interposing] Well, I don't remember if we talked

1 about it at all. We probably did because we always looked  
2 at the ads that were running and, you know, commented on  
3 them, so yeah, we probably did.

4 Q: Okay. I'm going to change topics now. Please  
5 take a look at exhibit 25.

6 A: Okay.

7 Q: Can you tell the Commission what that is?

8 A: This is a circular that Dana and I mapped out and  
9 passed - - back and forth and this is what we came up with  
10 to use as a direct mailer or a flyer or whatever.

11 Q: So, could you give us a sense of the different  
12 individuals who were involved in the mailing?

13 A: Well, I don't know the specifics of the mailing  
14 or the mechanics of it. All I know is that I designed  
15 this. Dana and I came up with the ideas and the bullet  
16 points and the layout. We talked back and forth quite a  
17 few times over the course of a couple days and I came up  
18 with this and that's it.

19 Q: What was the reason for the mailing?

20 A: Because it was getting down to the end of the  
21 election and, you know, there were ads being done that  
22 were, at best, deceptive and, at worst, out-right not  
23 true, and we were trying to come up with something we  
24 could do to fight back just before the election and see if  
25 we could get our statements out, and this was a good idea

1 so we decided we'd create this.

2 Q: Other than Dana Saucier, was anyone else involved  
3 in the decision to send the mailing?

4 A: You're asking me stuff that I'm not sure of. I  
5 know that Mr. Saucier was involved in the actual mailing  
6 of it, however that worked. The only thing I did was  
7 design the flyer; that's it.

8 Q: Did you use a print shop for the mailing?

9 A: Yeah.

10 Q: What was that print shop?

11 A: As you know, the print shop was Paper Signs Ink.

12 Q: And--

13 A: [Interposing] But I think you already know that.

14 Q: Who communicated with the print shop?

15 A: I think we both did, from time to time.

16 Q: When you say we both, do you mean--

17 A: [Interposing] It was to see if the margins were  
18 correct, to see if it would print from a Photoshop file to  
19 a - - . It was just back and forth stuff like that; stuff  
20 you talk to a typesetter about anything like that.

21 Q: So, you communicated with the print shop,  
22 correct?

23 A: Yes.

24 Q: And did Dana Saucier?

25 A: I don't know.

1 Q: Okay.

2 A: I assume he did.

3 Q: How did the--was this mailing distributed to  
4 voters through the postal system?

5 A: Yeah.

6 Q: How did the mailers get to the post office?

7 A: When they were all settled, Steve Biggle  
8 [phonetic] brought them to Fort Kent. I brought them to  
9 the other post offices in the area.

10 Q: Other than Dana Saucier, did anyone else work  
11 with you on the ideas or the language in the mailing?

12 A: The language of the mailing, no.

13 Q: Okay. Who provided the money for the mailing?

14 A: I have no idea.

15 Q: Do you know who, in your group, received the  
16 money for the mailing?

17 A: I can't tell you that, sir. I don't know how the  
18 mechanics work. All I did was design this.

19 Q: Did you hear any discussions about who had  
20 provided the money for the mailing?

21 A: No.

22 Q: At any stage in the mailing, did Mike Nadeau know  
23 that you were going to be doing the mailing?

24 A: No, not to my knowledge.

25 Q: So, you never discussed the mailing with Mike

1 each of the households by Saturday prior to the election  
2 date.

3 Q: And when you say we were hoping, who were you  
4 referring to specifically?

5 A: Mr. Majka and I, and to a certain extent, Phil  
6 Soucy.

7 Q: When did the idea for this mailing come about?

8 A: Actually, as Jim Majka shared with you earlier,  
9 the last publication of our weekly newspapers is on  
10 Wednesday. Upon reading the freshest edition of  
11 Fiddlehead Focus and the Saint John Valley Times,  
12 departing from having looked at that together, we elected  
13 to construct something that would be able to go out before  
14 election day, the following Tuesday.

15 Q: Which edition of the Fiddlehead Focus are you  
16 referring to; the October 31st publication?

17 A: I don't have the exact date but it was the  
18 Wednesday prior to November 6th, whatever date that is. I  
19 don't have a calendar before me, ma'am.

20 Q: Okay. If you would just turn briefly, please, to  
21 exhibit 21.

22 A: Okay.

23 Q: Up in the upper left corner, this is an exhibit  
24 that has an ad that Mr. Majka testified about, and in the  
25 upper left corner, it says Fiddlehead Focus, October 31,

1 2012, page 16; do you see that?

2 A: Right, I see that.

3 Q: Do you recognize this as being an edition of the  
4 paper that would have come out on that day?

5 A: I'm assuming it is a photocopy of that edition of  
6 that page.

7 Q: So, are you--back to exhibit 25 then and how this  
8 mailing developed, you're saying that you and Mr. Majka  
9 had a conversation after that October 31st edition of the  
10 Fiddlehead Focus was published, about creating a mailer?

11 A: If October 31st is the last Wednesday before the  
12 November 6th election, then that would be the last edition  
13 that we were referring to, and having read through that  
14 and taking into account all the ads that were placed, that  
15 was when we talked about doing something that resulted in  
16 this mailer.

17 Q: Do you recall where you were when you had that  
18 discussion--initial discussion with Mr. Majka?

19 A: Actually we were on--we were--we had come out of  
20 the headquarters--the Mike Nadeau Campaign headquarters--  
21 and we were standing, leaning on our trucks, talking about  
22 what could we do.

23 Q: And did you have any discussion with Mr. Nadeau  
24 about that edition of the Fiddlehead Focus and what you  
25 saw in that edition?

1           A: We had gone through the paper together in his  
2 headquarters, just prior to this discussion outside, just  
3 looking at what had been posted by all candidates in both  
4 papers on that particular date.

5           Q: And what did you discuss with Mr. Nadeau and--

6           A: [Interposing] We discussed--the discussion  
7 centered around the various ads put out by the various  
8 campaigns that were being run during this particular  
9 election period.

10          Q: And do you recall any particular observations or  
11 reactions Mr. Nadeau expressed about those ads?

12          A: Nothing specific that I can relate. You know, we  
13 took exception to certain verbiage but I don't recall  
14 anything specific that I could point out to you because  
15 without the paper in front of me to look at the other ads  
16 or all of the ads that were posted, I'm at a loss to be  
17 able to answer your question specifically, ma'am.

18          Q: Okay. Did the idea of creating a mailing to  
19 respond, in any way, to these ads come up in your  
20 discussions with Mr. Nadeau in his office that day?

21          A: Not once.

22          Q: So, you're saying it wasn't until you were  
23 outside the office, leaning on your truck, so to speak,  
24 that you and Mr. Majka started to discuss putting together  
25 a mailing?

1 A: That's correct, ma'am.

2 Q: What role did you have in putting together the  
3 mailing?

4 A: Actually I did some of the research to find some  
5 of the key points. If you look at the exhibit 25, you  
6 will see that some of the individual points, the reference  
7 sources, I was the one that pulled together the sources  
8 and actually came up with structuring some of the verbiage  
9 that you see here.

10 Q: And so you wrote some of the text on this  
11 exhibit, on this page?

12 A: Yes, ma'am.

13 Q: And who else was involved in developing text for  
14 the ad?

15 A: Well, actually what happened is that I wrote the  
16 first draft, sent it to Jim Majka. He polished it up a  
17 little bit, shortened it a little bit, and sent it back to  
18 me. We exchanged various drafts a couple times before we  
19 ended up with the final draft, as you see.

20 Q: And do you recall over what time period you  
21 developed this and exchanged the drafts of the ad? I'm  
22 sorry. Not the ad, the mailer.

23 A: Yeah, pretty much--it was pretty much about a day  
24 and an evening, because I recall, on that Wednesday,  
25 leaving the office and talking about this and my comment

1 to Jim was I'm going home to do some homework and put  
2 something together, and I left and went up to my home, and  
3 that Wednesday afternoon put the first draft of this  
4 together, and we exchanged this back and forth Wednesday  
5 afternoon, Wednesday evening, and I would say early  
6 Thursday morning until we finally came to the final copy  
7 you see before you.

8 Q: Did anyone else, besides you and Mr. Majka, see  
9 this mailer as it was being developed--or I should say see  
10 this mailer before it was submitted to the print shop?

11 A: No, ma'am.

12 Q: And do you recall what--you used a print shop to  
13 actually produce this once you had a final draft, correct?

14 A: No, ma'am. I just put the verbiage together in  
15 Microsoft Word and then submitted it to Jim, and then as  
16 Jim Majka has just prior testified, he put the graphic  
17 arts together, if you will, or the graphics together to  
18 make it look the way it looks today. My role was  
19 exclusively to come up with the verbiage.

20 Q: Okay. Do you know who made the arrangements with  
21 the print shop?

22 A: I believe at the conclusion, when we'd agree that  
23 we had a final copy, text-wise, that we were satisfied  
24 with, and that Jim had orchestrated or put together the  
25 graphics as you see, I believe he submitted that to a

1 Q: [Interposing] Okay.

2 A: --stamped at the top of it, paid on the 1st of  
3 November, 2012.

4 Q: Okay. But you don't know how it was paid, is  
5 that correct?

6 A: I have no knowledge of how or when it had been  
7 paid. All I know is that it had been paid.

8 Q: Okay. So, you went with Mr. Soucy--you filled  
9 out the report, the form that's exhibit 28, and you went,  
10 you said, with Mr. Soucy to the town office and you were  
11 there when he signed the affidavit?

12 A: I was.

13 Q: The invoice that you just referred to says bill  
14 to Citizens for Effective Government, L. Phillip Soucy--

15 A: [Interposing] That's correct.

16 Q: --at the top, correct? Who came up with the name  
17 Citizens for Effective Government?

18 A: I did.

19 Q: And who did you consider was involved in Citizens  
20 for Effective Government, or who were the Citizens for  
21 Effective Government?

22 A: Myself, Jim Majka, and Phil Soucy.

23 Q: Okay. When did Phil Soucy first become involved  
24 at all in this mailer?

25 A: I actually called him at his home and

1 unfortunately did not speak with him. I left him a  
2 message and indicated that the following morning, which  
3 would have been Thursday morning, I needed to have him  
4 meet me at the printer's office to fill out or sign the  
5 exhibit 28, and when I got there, he showed up about ten  
6 minutes after I arrived that morning. I'm saying  
7 approximately 9:00 that morning, the following morning,  
8 which would have been Thursday of that week.

9 Q: Okay. And I take it you called him because you  
10 knew he was the treasurer--no, I'm sorry. Why did you  
11 call Mr. Soucy to ask him to accompany you?

12 A: I think you just answered it; because he was the  
13 treasurer.

14 Q: And treasurer of what?

15 A: Well, I knew him to be the treasurer of the  
16 campaign, but he was also the individual who said that he  
17 had money to be able to do these kinds of mailers or these  
18 kinds of other advertisements that we might want to do  
19 that with. Again, I had no knowledge of where that money  
20 was or from whom it came from.

21 Q: Do you recall when he told you or when you  
22 became--when he told you that he had some money available  
23 to do this sort of mailer?

24 A: No, ma'am. This was--this had to have been some  
25 significant time earlier. I don't recall, and no, I can't

1 COMMISSIONER HEALY: That's us.

2 MR. WAYNE: That's us.

3 COMMISSIONER MCKEE: We lost the connection.

4 [Background Conversations]

5 MS. GARDINER: I'm going to try to--yeah,  
6 see these little yellow buttons?

7 MR. WAYNE: Yeah.

8 MS. GARDINER: They have to turn green.

9 MR. WAYNE: Oh.

10 [Tape cuts out]

11 Q: ...inside the office with Jim Majka, how did you  
12 envision that you were going to pay for the mailing?

13 A: Well, at the time, if you recall, I recalled that  
14 Mr. Soucy said that there was money for doing these kinds  
15 of things, and I'm not sure I knew if there was still  
16 money, but I was going on the premise that there was  
17 something left, and I didn't know where it came from or  
18 what, and that wasn't really what I was concerned with.  
19 All I was concerned with was putting together the message.

20 Q: And could you explain, what was the reason for  
21 your call to Charlie Webster?

22 A: Someone had told me that if you wanted to do this  
23 kind of thing, that you had to fill out some paperwork for  
24 the Ethics Committee or Commission, and I didn't know what  
25 that was and I didn't know what the particulars were, and

1 individual.

2 Q: So, had the three of you sort of had any kind of  
3 a meeting beforehand or did you have a conference to  
4 discuss that this was going to be the group?

5 A: No, ma'am, we did not. I came up with it and put  
6 it on the document and then actually showed it to Phil  
7 Soucy when he looked at these documents the following  
8 morning, and Jim Majka saw it during the course of that  
9 day when he looked at the finished printer--I'm sorry--the  
10 finished mailer that had been printed.

11 Q: Okay. Thank you.

12 COMMISSIONER MCKEE: Any other questions  
13 from any of the Commissioners? Any follow-up  
14 questions from any of the attorneys, staff? Go  
15 ahead.

16 REDIRECT EXAMINATION

17 BY MR. JONATHAN WAYNE

18 Q: Mr. Saucier, we were just wondering; when you  
19 completed the first page of that report that was filed  
20 with our office, exhibit 28, at the top it says L. Philip  
21 Soucy, treasurer. Why did--do you recall why you named  
22 Mr. Soucy as the treasurer of the organization?

23 A: Because he had the money.

24 Q: Good answer.

25 [Laughter]

1 filled that out as well and signed it?

2 A: Yes.

3 Q: On March 12, 2012? How did Mr. Soucy come to be  
4 your treasurer?

5 A: Well, I was told I needed, and absolutely had to  
6 have a treasurer listed, which I would have preferred not  
7 to, but and I've know Mr. Soucy as being active as far as  
8 the Republican party for thirty or so years. And it was  
9 to me, it was, I put his name down more as an honorary  
10 position than anything else, because I was told I had to  
11 have one.

12 Q: And who told you that you had to have one?

13 A: I believe it was in one of the discussions with  
14 probably Charlie Webster and a candidate that had run  
15 prior that I had talked to.

16 Q: And did you happen to review the state laws and  
17 regulations pertaining to candidate treasurers or the  
18 obligation of a candidate's treasurers? Did you review  
19 any of that yourself?

20 A: No, I did not.

21 Q: Did anyone tell you that as a Maine election  
22 candidate you couldn't serve as your own treasurer?

23 A: No, I was told the opposite, actually, quite a  
24 few times.

25 Q: And.

1 A: People would, they all chose to do their own  
2 paperwork and that came from quite a few candidates.

3 Q: And when you say do their own paperwork, do you  
4 mean by that filling out their own campaign finance  
5 reports?

6 A: Yes.

7 Q: When you selected Mr. Soucy to be your treasurer,  
8 did you discuss with him what his duties would be as  
9 treasurer?

10 A: No.

11 Q: Can you tell me what you discussed when you asked  
12 him to be your treasurer?

13 A: The only thing that I asked him is if he minded  
14 signing on as my treasurer, but that I would be doing all  
15 of the paperwork. That's how it happened.

16 Q: And when you said all the paperwork, what did you  
17 mean?

18 A: The campaign finance reports, because I felt that  
19 that was the only thing that he responsible for was  
20 filling in those reports. As far as checking writing and  
21 paperwork or paying the bills, I never intended anybody  
22 else to do that for me.

23 Q: How about maintaining receipts, invoices, records  
24 of any payments by the campaign?

25 A: No, I did that.

1 Q: And you established the campaign's bank account?

2 A: Yes.

3 Q: Did anyone besides yourself have check writing  
4 authority on that account?

5 A: I believe my daughter-in-law, Alicia did towards  
6 the end of the campaign, because I was doing a lot of  
7 running around and there were a couple of bills that I  
8 needed to pay, but I couldn't get back in. Truthfully, I  
9 do not know if Phil was on as an authorized signer. I  
10 can't remember that. I mean, it would be easy enough to  
11 check.

12 Q: Do you know whether anyone besides yourself, in  
13 fact, wrote checks or drew funds out of the campaign  
14 account?

15 A: I think my daughter-in-law Alicia did pay one or  
16 two bills. I think that's in the check register.

17 Q: And so you filled out all of the campaign finance  
18 reports that were filed by your campaign?

19 A: Yes.

20 Q: Is that correct. Did Mr. Soucy have any  
21 involvement in preparing or reviewing those campaign  
22 finance reports?

23 A: He never saw one of them. He signed after I  
24 finished the reports and I was ready to sign them. I had  
25 the assistance of Tyler Backus from the Ethics commission

1 to help me fill in the paperwork, and then Mr. Soucy would  
2 come in and sign them.

3 Q: And where would he come in to sign them?

4 A: At my store.

5 Q: So, if you look for example, at the, turn to  
6 Exhibit 30, please. Do you recognize that as one of the  
7 campaign finance reports that you filed?

8 A: Yes.

9 Q: Okay. And there's a check box on the lower half  
10 of the page says 42 day pre-general report.

11 A: Right.

12 Q: And it's about a three page document, or at least  
13 this exhibit contains three pages. Is that your  
14 handwriting on all of those pages?

15 A: Yes.

16 Q: And your signature at the bottom of page one?

17 A: Yes, it is.

18 Q: And is that Mr. Soucy's signature at the bottom  
19 left on page one?

20 A: Yes, it is.

21 Q: So, at the time were you present when he signed  
22 that?

23 A: Yes.

24 Q: Okay. And at the time he signed that, was this  
25 entire report filled out?

1 A: Yes.

2 Q: In written form. Did you go over it with him  
3 when he came in to sign it?

4 A: Never.

5 Q: Okay. So, from your understanding or  
6 perspective, how would he make the statement above his  
7 signature that's printed on the form? I certify that I've  
8 examined this report and to the best of my knowledge it's  
9 true and correct, and complete?

10 A: I could speculate that he put his confidence in  
11 me, because I don't believe he was able to do his  
12 paperwork in his capacity. I don't think he would be able  
13 to handle this.

14 Q: And why do you say that?

15 A: I've known him for a long time. And I've seen a  
16 great deal of deterioration in the last two years. There  
17 are times when we've almost had to pick him off the floor  
18 and I'm really surprised that he's here today, because  
19 he's not a well man. He's had severe dizzy issues and I  
20 don't know why he came here alone today.

21 Q: Did that give you any concern in terms of name  
22 him as the treasurer of your campaign, knowing this?

23 A: Like I said earlier, it was more an honorary  
24 position, because I was told that I had to have one. And  
25 because I had no intentions, as I've done in the past,

1 Q: I think it's Exhibit 30 lists him as being  
2 campaign aide, on page 2 of Exhibit 30, is that accurate?

3 A: He was in town for two, two and a half days and  
4 that's what he went door to door.

5 Q: Okay.

6 A: So, that's the extent of it.

7 Q: How often did you meet with or have contact with  
8 Jim Majka during the campaign?

9 A: I would see Jim sometimes every day, sometimes  
10 two or three days. And sometimes I wouldn't see him for a  
11 week, depends on what was going on. He'd call me every  
12 once in a while, is there something I can do for you and  
13 he would make his bus run and after he made his bus run,  
14 he'd stop in and see me before he went home, but at times  
15 when I could go two, three days without seeing him,  
16 because I wasn't always at the store. And so, I would  
17 miss him, hit and miss. I don't know how much you want to  
18 label that, but it was more than seeing Dana and Phil.

19 Q: Did anyone else participate in decision making  
20 about the campaign, decisions on what the campaign might  
21 do, or what expenditures you might make with your election  
22 funds besides yourself?

23 A: No.

24 Q: Was there anybody that you consulted with as you  
25 were contemplating what you might do in the campaign?

1           A: Not really. It was a fly off the hip you can  
2 call it. I would, I made phone calls to all the  
3 neighbors. I made phone calls to all of the TV channels  
4 that are in the valley, to all the radio stations. And I  
5 had them give me some quotes, and I would sit at night,  
6 and I would look at that for, I don't have enough,  
7 anywhere near enough money to put something together that  
8 I felt had too many different medias available. And one  
9 section of the county is pretty staunch on the St. John  
10 Valley Times in the Fort Kent area. That paper was going  
11 downhill and Fiddlehead Focus was going up. So.

12           Q: I'm sorry, just in the interest of time.

13           A: Oh, I'm sorry.

14           Q: My simple question was just, did you consult with  
15 anybody about decisions? I assume you may gather  
16 information from media outlets?

17           A: Yes.

18           Q: But that's.

19           A: No.

20           Q: Different, okay.

21           A: I made my own decisions.

22           Q: Did Dana Saucier ever speak to you about the idea  
23 of just sending out a mailing in support of your  
24 candidacy?

25           A: No.

1 Q: Did Jim Majka ever speak to you about the idea of  
2 putting out a mailing in support of your candidacy?

3 A: No.

4 Q: Do you recall having a discussion at your office  
5 on the Wednesday before the election when Fiddlehead Focus  
6 printed its weekly paper? Do you remember having a  
7 discussion with Mr. Saucier and Mr. Majka about the  
8 content of that Fiddlehead Focus edition and putting ads  
9 in it?

10 A: Yes, I do.

11 Q: And what do you remember about that discussion?

12 A: Well, I remember that what was going around in  
13 the discussion was that I had been hung out to dry, and  
14 that.

15 Q: What do you mean by that?

16 A: Well, from the advertisements that had been put  
17 out in opposition to me being on the ticket and so, the  
18 advertisements are political ads that were I believe  
19 extensive. I don't remember them today, but and that  
20 there was no more, they asked me if I was going to do an  
21 interview and respond, and I said no. At this point I  
22 can't. I don't have any funds to respond number one. And  
23 number two, my last response was probably going to be on  
24 my Facebook page, or on my campaign. And it's going to be  
25 with a short personal video clip. So, that was the extent

1 of all of the other ones that I had there, which was a big  
2 pile. As far as going and try to find out who's it was  
3 that same day, no, I didn't do that. I anticipated that  
4 it was from the same place that had been sending  
5 something.

6 Q: And what place was that?

7 A: The Respect Maine.

8 Q: The Respect Maine political action committee?

9 A: Yes. I thought that's what was it, because  
10 that's where most of the other ones had come from.

11 Q: That were supportive of your campaign?

12 A: Yes.

13 Q: So, after you had tossed it on the pile, when did  
14 you become aware of who had actually put out this mailing?

15 A: Now that would be, I'm trying to remember what  
16 date. I found out there was some information on the flyer  
17 from a phone call one night from the Bangor Daily News  
18 asking me some questions about a flyer. And I don't know  
19 what you're referring to and he's there's a flyer that  
20 came in on your behalf and there's a case that's being  
21 filed against you. And so, he was the first phone call  
22 that I got pertaining to the flyer or illegal something to  
23 do with a flyer or an advertisement on my behalf. So,  
24 later, I believe it was the same night I got a phone call  
25 from Mr. Paul Lavin.

1 concerned with, I know what I know today without getting,  
2 I didn't want confused testimony with what I know now and  
3 versus what I knew at the time. So, I chose to when this  
4 was done then I'm going to go fact finding.

5 Q: So, have you asked either, I know that one of  
6 your brothers is now deceased. Did you ask, ever have a  
7 conversation with either of them asking if they  
8 contributed funds for this flyer?

9 A: After the fact, if you're asking me when did I  
10 know or when did I suspect that they had given some money.

11 Q: No, actually what I asked is, did you ever have a  
12 conversation with either one of them about whether they  
13 gave, contributed money to the cost of this mailing at any  
14 point in time?

15 A: Probably in the last two or three weeks. I  
16 talked to my brother Norman.

17 Q: Okay. And what did he tell you with respect to  
18 the question?

19 A: He told me that he had given some money to my  
20 brother Ken and that it was something that they were going  
21 to contribute towards the Republican party. And at that  
22 point he didn't make any specific, like it was for this or  
23 for anything else. Something that they wanted to do to  
24 motivate or encourage the Republican party as a whole.

25 Q: And not anything related to your particular race?

1 saw out in the paper, and that there were no other ads in  
2 the paper. And as part of the discussion I said, well,  
3 Jim, there were others that were putting ads, because see  
4 the ad that we're focused on today is this one here, but  
5 there were dozens of others put in by other people at the  
6 same time. And so, I was surprised.

7 Q: Did you recognize the wording of the ad?

8 A: Well, it all has to do with the things that I  
9 stand for and the things that I've been running about for  
10 all the way through the campaign.

11 Q: If you turn to Exhibit 22, please? Do you  
12 recognize this document?

13 A: It's one of my scratch pads.

14 Q: Okay. And the writing at the top Fiddlehead ad  
15 by 3:00, is that your handwriting?

16 A: Yes.

17 Q: And is that referring to the deadline for getting  
18 the ad into the newspaper?

19 A: Yes. Those are notes that I wrote down.

20 Q: Okay. And the name Julie Daigle in the middle of  
21 the page, is that, did you write that on this page?

22 A: No.

23 Q: Do you know who's writing that is?

24 A: No, I don't.

25 Q: How about the writing, the text to the right of

1 where Julie Daigle's name appears? And it's text that's  
2 scratched out with a squiggly line, is that your  
3 handwriting?

4 A: Yes, it is.

5 Q: And the writing below that?

6 A: Yes, it is.

7 Q: Is yours as well. Okay. If you look at the  
8 handwriting that's not scratched out, the handwriting in  
9 the lower half of the page which you say is yours and  
10 compare that wording to the ad that appears in Exhibit 21.  
11 Is that language almost identical?

12 A: Pretty close, yes, if not.

13 Q: Okay. When did you write this text on Exhibit  
14 22, handwritten?

15 A: I was writing pages like this all the way through  
16 the campaign and this particular piece was for the website  
17 that when Jim would update my website. So, that's where  
18 this paper comes from. I would write, I had a legal pad  
19 going all the time. I gave Jim ads on notes like this  
20 every day that he came over to put into my website,  
21 mikenadeau.net. So, that's where this paper comes from.

22 Q: And when did you, so you, your testimony is that  
23 you gave this piece of paper to Mr. Majka?

24 A: Well, I gave it to him, yes, to put in the, on  
25 the web, because I had decided not to go with the paper.

1 Q: And when did you give it to him to put on the  
2 web?

3 A: I can only speculate, because I don't know  
4 exactly. I mean, I gave him so many papers that I can't  
5 tell you exactly when I gave him this paper.

6 Q: Did you write this text originally thinking you  
7 would run it as an ad?

8 A: Yes, I did, but I had not decided to put it in  
9 the paper, because I knew I didn't have the finances for  
10 it.

11 Q: Do you believe that you wrote this language  
12 initially as text for an ad at or about the time you had  
13 the conversation with Julie Daigle about possibly running  
14 an ad in the October 31<sup>st</sup> special edition?

15 A: It has to be in about that time, because that's  
16 when the other ad came up.

17 Q: And.

18 A: And I believe I have the same ad corresponding on  
19 the web. I'm not sure exactly the date, but it was in  
20 there relative close to the same time.

21 Q: So, you're saying that this same text appeared  
22 in, on the website?

23 A: I believe it did. I'm not 100% sure, because at  
24 times I did not have time to - - but that's what I had  
25 created this for.

1 your knowledge was he involved in other campaigns?

2 A: Yes.

3 Q: And what do you know about that?

4 A: Well, he did the same thing for them as he did  
5 for me. Driving people to go door to door, and putting  
6 out signs.

7 Q: And was he generally involved in promoting  
8 Republican candidates to your knowledge?

9 A: All the time.

10 Q: Did you actually, to your understanding, did you  
11 put together a committee to promote your candidacy?

12 A: No committee.

13 MR. WOODCOCK: That's all I have.

14 COMMISSIONER MCKEE: Commissioners?

15 Questions form the Commissioners?

16 CROSS EXAMINATION

17 BY MR. MICHAEL HEALY

18 Q: Mr. Nadeau, are you aware that Mr. Saucier  
19 testified by telephone in front of this commission on  
20 November 5<sup>th</sup>, 2012?

21 A: Yes.

22 Q: Have you read the minutes of this Commission's  
23 minutes of that meeting?

24 A: No.

25 Q: So, have you ever been provided a report of what

1 testimony from other witnesses at your February  
2 meeting. I know some of you want to move forward and  
3 not wait, but.

4 COMMISSIONER MCKEE: No, I think we also.

5 MR. WAYNE: We think there's more evidence  
6 out there.

7 COMMISSIONER MCKEE: Trust your judgment  
8 about what the appropriate way is to proceed in light  
9 of what you've heard today. And I think we're fine  
10 doing that.

11 MR. WAYNE: We have one request we'd like  
12 to make of Mr. Nadeau. Can I go ahead and do that?

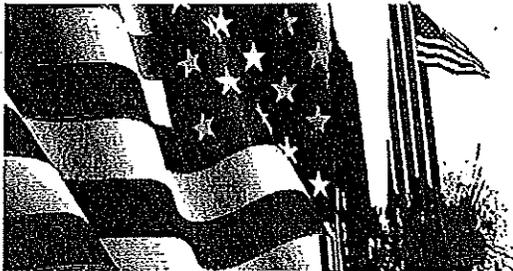
13 COMMISSIONER MCKEE: Sure.

14 MR. WAYNE: We wondered if you could  
15 determine whether or not the language that was on  
16 Exhibit 22 has been posted to your website. And if  
17 so could you - - so what we're asking is, could you  
18 determine whether or not the language in Exhibit 22  
19 has been posted to the website or it was posted.

20 MS. GARDINER: Prior to the election.

21 MR. WAYNE: Was posted to the website prior  
22 to the election or the Facebook page. And if so,  
23 could you please provide us with a copy of that page.  
24 If you give it to us in a paper format, we might  
25 investigate whether there was any way we can get it

# Voting, continued



>Voting from page 13

Smith was "Noted for her political courage, integrity and independence." As a Republican, she spoke out openly against McCarthyism in the 1950s.

In 1964, she became a presidential nomination candidate at the Republican National Convention in San Francisco.

The Maine Almanac said Independents provide the swing vote in most Maine elections and helped elect two Independent governors: James B. Longley of Lewiston in 1974, and Angus S. King, Jr. of Brunswick in 1994.

According to a Capitol News Service article placed in the Bangor Daily News on Septem-

ber 7, 2008, the number of independent, or unenrolled, voters in Maine was larger in the last election year (2008) than either the Democratic or Republican numbers. Independents numbered 379,024; Democrats numbered 319,690; Republicans numbered 273,686; and Green-Independents numbered 29,160.

Whether Democrat, Republican, or one of the many Independents that drive election results in Maine, David Foster Wallace, an American novelist and 2012 Pulitzer Prize finalist, has some advice for voters: "In reality, there is no such thing as not voting; you either vote by voting, or you vote by staying home and tacitly doubling the value of some Diehard's vote."

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Cell #  
 207-834-9118  
 andrew@fiddleheadfocus.com

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Item	Description	Rate	Quantity	Amount
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Advertisement	Color service	150.00	1	150.00

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

## 21-A M.R.S. § 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 2 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.

[ 2011, c. 382, §1 (AMD) .]

**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 2 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.

[ 2011, c. 382, §2 (AMD) .]

**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.

[ 2007, c. 443, Pt. A, §12 (AMD) .]

**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.

[ 2011, c. 389, §14 (AMD) .]



**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.

[ 1989, c. 504, §§7, 31 (AMD) .]

**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.

[ 1991, c. 839, §11 (AMD); 1991, c. 839, §34 (AFF) .]

**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.

[ 1995, c. 384, §2 (NEW) .]

**8. Political expenditure limitation amounts.** Total expenditures in any election for legislative office by a candidate who voluntarily agrees to limit campaign expenditures as provided in subsection 7 are as follows:

A. For State Senator, \$25,000; and [2007, c. 443, Pt. A, §14 (AMD) .]

B. For State Representative, \$5,000. [2007, c. 443, Pt. A, §14 (AMD) .]

C. [2007, c. 443, Pt. A, §14 (RP) .]

Expenditure limits are per election and may not be carried forward from one election to another. For calculation and reporting purposes, the reporting periods established in section 1017 apply.

[ 2007, c. 443, Pt. A, §14 (AMD) .]

**9. Publication of list.** The commission shall publish a list of the candidates for State Representative and State Senator who have agreed to voluntarily limit total expenditures for their campaigns as provided in section 1013-A, subsection 1, paragraph C.

For the purposes of subsections 7 and 8 and this subsection, "total expenditures" means the sum of all expenditures made to influence a single election that are made by a candidate or made on the candidate's behalf by the candidate's political committee or committees, the candidate's party or the candidate's immediate family.

[ 1995, c. 384, §2 (NEW) .]

#### SECTION HISTORY

1985, c. 161, §6 (NEW). 1989, c. 504, §§7, 31 (AMD). 1991, c. 839, §11 (AMD). 1991, c. 839, §34 (AFF). IB 1995, c. 1, §11 (AMD). 1995, c. 384, §2 (AMD). 1999, c. 729, §§2, 3 (AMD). 2007, c. 443, Pt. A, §§10-14 (AMD). 2009, c. 286, §§2, 3 (AMD). 2011, c. 382, §§1, 2 (AMD). 2011, c. 389, §14 (AMD).

## 21-A M.R.S. § 1125. TERMS OF PARTICIPATION

**1. Declaration of intent.** A participating candidate must file a declaration of intent to seek certification as a Maine Clean Election Act candidate and to comply with the requirements of this chapter. The declaration of intent must be filed with the commission prior to or during the qualifying period, except as provided in subsection 11, according to forms and procedures developed by the commission. Qualifying contributions collected more than 5 business days before the declaration of intent has been filed will not be counted toward the eligibility requirement in subsection 3.

[ 2011, c. 389, §51 (AMD) . ]

**2. Contribution limits for participating candidates.** Subsequent to becoming a candidate as defined by section 1, subsection 5 and prior to certification, a participating candidate may not accept contributions, except for seed money contributions. A participating candidate must limit the candidate's total seed money contributions to the following amounts:

- A. Two hundred thousand dollars for a gubernatorial candidate; [2009, c. 363, §2 (AMD) . ]
- B. One thousand five hundred dollars for a candidate for the State Senate; or [1995, c. 1, §17 (NEW) . ]
- C. Five hundred dollars for a candidate for the State House of Representatives. [1995, c. 1, §17 (NEW) . ]

The commission may, by rule, revise these amounts to ensure the effective implementation of this chapter.

[ 2009, c. 363, §2 (AMD) . ]

**2-A. Seed money restrictions.** To be eligible for certification, a participating candidate may collect and spend only seed money contributions subsequent to becoming a candidate and prior to certification. A participating candidate may not solicit, accept or collect seed money contributions after certification as a Maine Clean Election Act candidate.

A. All goods and services received prior to certification must be paid for with seed money contributions, except for goods and services that are excluded from the definition of contribution in section 1012, subsection 2, paragraph B. It is a violation of this chapter for a participating candidate to use fund revenues received after certification to pay for goods and services received prior to certification. [2007, c. 443, Pt. B, §6 (NEW) . ]

B. Prior to certification, a participating candidate may obligate an amount greater than the seed money collected, but may only receive that portion of goods and services that has been paid for or will be paid for with seed money. A participating candidate who has accepted contributions or made expenditures that do not comply with the seed money restrictions under this chapter may petition the commission to remain eligible for certification as a Maine Clean Election Act candidate in accordance with rules of the commission, if the failure to comply was unintentional and does not constitute a significant infraction of these restrictions. [2007, c. 443, Pt. B, §6 (NEW) . ]

C. Upon requesting certification, a participating candidate shall file a report of all seed money contributions and expenditures. If the candidate is certified, any unspent seed money will be deducted from the amount distributed to the candidate as provided in subsection 8-A. (2009, c. 302, §11 (AMD) ; 2009, c. 302, §24 (AFF) . ]

[ 2009, c. 302, §11 (AMD) ; 2009, c. 302, §24 (AFF) . ]

**2-B. Seed money required for gubernatorial candidates; documentation.** For seed money contributions that a candidate for Governor collects to satisfy the requirement in subsection 5, paragraph C-1, the candidate shall obtain the contributor's name, residence address, mailing address, telephone number if provided by the contributor and other information required for reporting under section 1017, subsection 5. For

C. Submitted any fraudulent qualifying contributions or qualifying contributions that were not made by the named contributor; [2007, c. 443, Pt. B, §6 (NEW).]

D. Misrepresented to a contributor the purpose of the qualifying contribution or obtaining the contributor's signature on the receipt and acknowledgement form; [2007, c. 443, Pt. B, §6 (NEW).]

E. Failed to fully comply with the seed money restrictions; [2007, c. 443, Pt. B, §6 (NEW).]

F. Knowingly accepted any contributions, including any in-kind contributions, or used funds other than fund revenues distributed under this chapter to make campaign-related expenditures without the permission of the commission; [2007, c. 443, Pt. B, §6 (NEW).]

G. Knowingly made a false statement or material misrepresentation in any report or other document required to be filed under this chapter or chapter 13; [2009, c. 363, §6 (AMD).]

H. Otherwise substantially violated the provisions of this chapter or chapter 13; or [2009, c. 363, §6 (AMD).]

I. As a gubernatorial candidate, failed to properly report seed money contributions as required by this section. [2009, c. 363, §6 (NEW).]

The determination to revoke the certification of a candidate must be made by a vote of the members of the commission after an opportunity for a hearing. A candidate whose certification is revoked shall return all unspent funds to the commission within 3 days of the commission's decision and may be required to return all funds distributed to the candidate. In addition to the requirement to return funds, the candidate may be subject to a civil penalty under section 1127. The candidate may appeal the commission's decision to revoke certification in the same manner provided in subsection 14, paragraph C.

[ 2009, c. 363, §6 (AMD) .]

**5-B. Restrictions on serving as treasurer.** A participating or certified candidate may not serve as a treasurer or deputy treasurer for that candidate's campaign, except that the candidate may serve as treasurer or deputy treasurer for up to 14 days after declaring an intention to qualify for campaign financing under this chapter until the candidate identifies another person to serve as treasurer.

[ 2011, c. 389, §53 (AMD) .]



**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.

[ 2011, c. 389, §54 (AMD) .]

**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.

[ 2009, c. 302, §12 (AMD); 2009, c. 302, §24 (AFF) .]

**6-B. Expenditures as payment to household members.**

[ 2009, c. 302, §13 (RP) .]