



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

Agenda

Meeting of March 9, 2007

9:00 a.m., Commission Offices, 242 State Street, Augusta, Maine

PUBLIC HEARING

1. Public Hearing on Proposed Rule Changes

On January 19, the Commission members accepted proposed changes to the Commission rules for the purpose of receiving public comment. Invitations to comment were sent to all regular filers of disclosure reports, legislative leadership and staff, and others. Three written comments have been received to date. Written comments are welcome until March 19. If the rule-making remains on schedule, the changes would be adopted at the April 5 meeting.

OLD BUSINESS

2. Complaints/Carol Grose and Susan Wasserott Campaigns

Carol Grose and Susan Wasserott ran against each other for the Maine House of Representatives in District 65. The Grose campaign filed a letter by e-mail alleging that the Wasserott campaign received unreported contributions that violated the Maine Clean Election Act: free advertising in a local newspaper, uncompensated website services, and wood from a former candidate that was used for signs. Attorney Daniel I. Billings submitted a complaint alleging that a television network aired advertising paid for by the Grose campaign that incorrectly stated that it was paid for by the Sagadahoc County Democratic Committee. *Staff recommendation: the staff recommends that the Commission find the Grose campaign and/or the agent for the television network in violation (no penalty assessed) for not including accurate information about the financing for the ads. Depending on the facts of the wood and services donated to the Wasserott campaign, they seem to be covered by exceptions to what is a contribution under the Election Law.*

3. Complaint/Late Filing of Independent Expenditure Reports

The Maine Senate Republican Victory Fund filed a complaint that three independent expenditure reports were not filed by the Maine Democratic Party within 24 hours of making the expenditures as required by statute and Commission rule.

4. Assessment of Civil Penalty for Late Filing/Nancy Bessey

Nancy Bessey was a candidate for re-election to the Maine House of Representatives in 2006. Because she was a privately financed candidate with a Maine Clean Election Act (MCEA) opponent, she was required to file a 101% Report within 48 hours of when her

cash receipts for the general election exceeded \$4,406. The 101% Report allows the Commission to determine whether a MCEA opponent is due to receive any matching funds. The Commission staff has concluded that Ms. Bessey's 101% Report was filed eight days late on October 31st, and that the late filing delayed the payment of matching funds to her opponent, Timothy Carter, in a very close race. The maximum penalty for the late filing is \$6,108.24. Ms. Bessey has responded that she attempted in good faith to file the required reports on time, but that she was a first-time candidate who misunderstood the filing requirements. *Staff recommendation: the staff believes that there are some mitigating circumstances present and that the maximum penalty would be excessive. Nevertheless, because the late filing delayed the payment of matching funds to Mr. Carter, the staff recommends that the Commission assess a penalty for the late filing of at least \$1,527.04 (25% of the maximum).*

5. Request for Reconsideration of Late Filing Penalty/South Portland Democratic City Committee

At the November 20, 2006 meeting of the Commission, it assessed a \$500 penalty against the South Portland Democratic City Committee for the late filing of a campaign finance report due July 15, 2006. The committee requests an opportunity for reconsideration so that the chair of the committee can explain the filing. The committee states that its fundraising for the period of January 1 - June 30, 2006 was well below the \$1,500 threshold. In addition, because the committee had a problem with its credit card system at an auction in October 2005, it had to re-collect \$1,050 in payments for high school scholarships in early 2006. The chair states that he did not realize that this collection of 2005 income would count toward the \$1,500 threshold for the July 15, 2006 report. *Staff recommendation: the staff recommends that the Commission re-hear the committee's explanation directly from the committee chair.*

NEW BUSINESS

6. Ratification of Minutes of the October 31, 2006 Meeting

7. Request for Waiver of Late Filing Penalty/Newell Augur

Newell Augur is the registered lobbyist for Bangor Hydro Electric Company and the Maine Beverage Association. He registered as a lobbyist for both clients in December 2006. He was one day late filing the two monthly reports due January 16, 2007, and the total statutory penalty amount for the two late reports is \$200. The longstanding staff policy, based on 3 M.R.S.A. §317(1), is that once a lobbyist registers with the Commission the monthly reporting obligation begins on the 15th day of the next calendar month. Mr. Augur requests a waiver of the penalty. He did not file the reports because he had not exceeded the 8-hours-per-calendar-month threshold to become a lobbyist for these clients until January 2007, so he believed his first reports were due on February 15, 2007. *Staff recommendation: the staff is not opposed to a waiver under the circumstances, but recommends continuing the policy that monthly reporting begins in the calendar month directly after the lobbyist registration is filed.*

8. Request for Waiver of Late Filing Penalty/MaineCasinoNow.com

The MaineCasinoNow.com PAC was required to file a campaign finance report on January 16, 2007. It was filed two days late on January 18th. The preliminary penalty amount is \$18.24. The treasurer of the PAC at the time of the filing, Seth Carey, requests a waiver because the volunteer who filed the reports had medical and personal problems on the deadline. *Staff recommendation: the staff recommends assessing the statutory penalty amount of \$18.24.*

9. Request for Waiver of Late Filing Penalty/Hancock County Democratic Committee

Because it raised more than \$1,500 in 2006, the Hancock County Democratic Committee was required to file a campaign finance report on January 16, 2007. The report was filed at 7:18 p.m., which the Commission staff treats as one day late. The committee treasurer requests a waiver of the penalty because she had difficulty filing due to the dial-up internet connection in her rural area and because \$176.67 is disproportionate to being late by two hours. *Staff recommendation: the staff recommends assessing the statutory penalty of \$176.67.*

10. Request for Waiver of Late Filing Penalty/Maine Taxpayer Action Network PAC

The Maine Taxpayer Action Network PAC was required to file a campaign finance report on January 16, 2007. The husband of the PAC treasurer, Carol Palesky, requests a waiver because his wife is incarcerated. The Commission is authorized to assess penalties of up to \$50 for PAC reports which include no financial activity. *Staff recommendation: the staff recommends assessing a penalty of \$50.00.*

11. Request for Waiver of Late Filing Penalty/David F. Kirkpatrick

David Kirkpatrick was a candidate for the Maine House of Representatives in the 2006 elections. He mailed his final campaign finance report on Monday, December 18, expecting that the Commission would receive the report on the filing deadline of December 19. Instead, the Commission received it one day late on December 20. The statutory penalty amount is \$14.79. The Commission's longstanding policy is that reports' timeliness is based on when they are received. There is a provision in the Election Law under which filers sending reports by certified mail two days before the deadline will be considered on time, but Mr. Kirkpatrick does not qualify for that exception because he mailed it one day before the deadline by regular mail. *Staff recommendation: the staff recommends assessing the statutory penalty of \$14.79.*

12. Request for Waiver of Late Filing Penalty/Richard Dort

Richard Dort was a candidate for the Maine House of Representatives in the 2006 elections. He was late three times in filing campaign finance reports. He filed the post-election report 15 days late on January 3, 2007. Based on the statutory formula, the preliminary penalty amount is \$1,908.32. At the suggestion of the Commission staff, he requested a waiver of the penalty. In preparing this matter for your consideration, the Commission staff determined that the Commission inadvertently accepted two earlier penalty payments which Mr. Dort made with Maine Clean Election Act funds. The Commission will have to ask him to repay these penalties with other funds, because using

MCEA funds to pay penalties is not permitted under the Commission's rules. *Staff recommendation: the staff recommends reducing the penalty because the preliminary amount of \$1,908.32 is disproportionate to the level of harm to the public from the late disclosure and the level of experience of the candidate.*

13. PAC Reporting Requirement/Democracy Maine

Roy Lenardson filed an inquiry with the Commission requesting consideration whether the activities of Democracy Maine in opposition to the TABOR ballot question required the organization to form a PAC.

14. Financial Reporting by American Association of Retired Persons

Roy Lenardson filed an inquiry with the Commission requesting consideration whether the activities of the American Association of Retired Persons (AARP) in Maine in opposition to the TABOR ballot question required the organization to form a PAC. AARP-Maine filed a §1056-B report stating that it spent \$295,558 in advertising. *Staff recommendation: the staff recommends that the Commission determine that the AARP was not required to form a political action committee because its major purpose was not advocating the defeat of TABOR.*

15. Section 1056-B Reporting Requirement/The Katahdin Institute

Roy Lenardson has filed an inquiry regarding whether the Katahdin Institute was required to file a financial report under 21-A M.R.S.A. §1056-B because it received contributions or made expenditures in excess of \$1,500 for the purpose of opposing the TABOR citizen initiative.

16. Recommended Statutory Changes for the Definition of Political Action Committee, and §1056-B Reporting

The Commission staff wishes to amend its earlier recommendation for statutory changes regarding the definition of political action committee and §1056-B reporting. The Commission's proposed legislation has not yet been printed.

17. Presentation of Audit Reports

The Commission's auditor will present audit reports to the Commission.

18. Request for Further Advice by Rep. Thomas B. Saviello

Representative Thomas B. Saviello received advice from the Commission at its February 27 meeting regarding whether he could participate in legislation concerning the Regional Greenhouse Gas Initiative. He has additional questions about applying that advice, including how it relates to his activities on other legislation that could affect his employer such as L.D. 437 relating to oil spill reporting.

OTHER BUSINESS

EXECUTIVE SESSION

If necessary.

ADJOURNMENT