Agenda Item #1

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

MEMORANDUM

To: Interested Parties

From: Jonathan Wayne, Executive Director

Date: January 29, 2007

Subject: Opportunity to Comment on Proposed Rule Amendments

Attachment: Maine APA Notice of Rule-making

The Ethics Commission is soliciting comments on proposed changes to the Commission's Rules. You may view the proposed changes on the Commission's website, www.maine.gov/ethics, or you may call us to obtain a printed copy by mail.

The Commission will hold a public hearing on Wednesday, February 14, at 9:00 a.m. at which you are invited to comment on the changes to the forms or the rules. Written and e-mailed comments are also welcome. The deadline for written and e-mailed comments is 5:00 p.m. on February 28. The Commission will make any changes at its March meeting (date to be determined).

The changes relating to the Maine Clean Election Act would be considered major substantive, and the Commission will submit any major substantive amendments to the Legislature for its consideration following the Commission's March meeting.

If you have any questions, please telephone me or Paul Lavin, Assistant Director, at 287-4179. Please send e-mail comments to Paul.Lavin@Maine.gov. Thank you for your consideration of the proposed amendments.

NOTICE OF RULE-MAKING

94-270 - Commission on Governmental Ethics and Election Practices RULE TITLE OR SUBJECT: Ch. 1, Procedures Ch. 3, Maine Clean Election Act and Related Provisions PROPOSED RULE NUMBER: 2007-P22, P23 CONCISE SUMMARY: The proposed rule amendments would: remove specific inconsistencies between the statutes and rules; remove the requirement that oral or insufficient written reports of violations be placed on the Commission's agenda; allow the staff to take testimony under oath pursuant to a subpoena issued by the Commission; clarify when a contribution is deemed to be received; specify a candidate's reporting requirements for expenditures made by consultants and for reimbursements for expenditures made with a credit card or personal funds; clarify the period of time during which the Commission is prohibited from discussing matters before it; confirm that qualifying contributions received more than five days prior to the filing of a Declaration of Intent are not valid; change the content of the receipt and acknowledgement form; clarify when proof of voter registration verification must be received by the Commission; establish the procedure by which a candidate would request certification; clarify the procedure for calculating matching funds; allow the Commission to require the return of Maine Clean Election Act funds for unsupported expenditures; establish a new procedure for vehicle travel reimbursement, including maintaining a travel log; and allow gubernatorial candidates to reserve certain amounts of Maine Clean Election Act funds to defray expenses associated with an audit by the Commission. A copy of the proposed rule amendments is available on the Ethics Commission's website - www.maine.gov/ethics or by calling (207) 287-4179. THIS RULE WILL NOT HAVE A FISCAL IMPACT ON MUNICIPALITIES STATUTORY AUTHORITY: 1 MRSA §1003; 21-A MRSA §1126 PUBLIC HEARING: Wednesday, February 14, 2007, 9:00 a.m., Ethics Commission Office, 242 State Street, Augusta, Maine 04333. DEADLINE FOR COMMENTS: 5:00 p.m. on Wednesday, February 28, 2007 AGENCY CONTACT PERSON: Jonathan Wayne, Executive Director, Commission on Governmental Ethics and Election Practices, 135 State House Station, Augusta, Maine TELEPHONE: (207) 287-4179

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

MEMORANDUM

To: Interested Persons

From: Paul Lavin, Assistant Director

Date: January 30, 2007

Re: Summary of Proposed Amendments to Ethics Commission Rules

The Commission is proposing changes to Chapters 1 (Procedures) and Chapter 3 (Maine Clean Election Act) of the Commission's Rules. The public hearing on the proposed rule changes will be held on Wednesday, February 14, 2007, at 9:00 a.m. at the Commission's office at 242 State Street, Augusta. Written and e-mailed comments are also welcome. The deadline for written and e-mailed comments is 5:00 p.m. on February 28, 2007.

This memo summarizes the proposed changes. Changes which are word and structure changes are listed at the end of each section of this memo.

I. CHANGES TO CHAPTER 1: PROCEDURES

All proposed changes to Chapter 1 are routine technical rules with the exception of a new provision (Section 7(7)) regarding voter guides and scorecards.

Section 3 – Meetings (page 4)

The proposed change in subsection 1 would require that the Commission meet once a month in any year in which primary and general elections are being held and eliminates the requirement that the Commission establish a meeting schedule at the beginning of the year.

Section 4 – Initiation of Proceedings (pages 7 – 10)

The changes to subsection 2(A) clarify that the Commission staff will review reports filed under chapter 13 and chapter 14 of Title 21-A. The proposed change eliminates the 15 day time period for remedying errors and omissions on campaign finance reports and gives the staff and the filer the flexibility to work out a reasonable time period, which may be longer or shorter than 15 days. The proposed change would also allow the staff to extend the time period. The list of examples of nonconformance with reporting requirements is eliminated. Paragraph 5 which is a detailed description of contributions is moved to Section 6 – Contributions and Other Receipts without change.

The provision that requires the Executive Director to submit a list of matters resolved administratively to the Commission at each meeting is eliminated. Added to the list of factors that the Director considers in recommending an action or a penalty to the Commission is whether a late filed report impacts an opposing candidate's eligibility for matching funds. The proposed change also eliminates the requirement that a copy of written requests for investigation be promptly sent to the Commission Chair. These requests as well as all related responses and materials are submitted to the full Commission in advance of every meeting. The requirement that the Director list all oral or insufficient reports of violations on the agenda is eliminated.

Section 5 – Fact Finding and Investigations (page 12)
The proposed change would allow the Commission staff to take testimony pursuant to a subpoena issued by the Commission.

Section 6 – Contributions and Other Receipts (pages 12 – 14)
A new subsection 1 is added to clarify that the date of a contribution is the date it is received by the candidate, candidate's committee, party committee, political action committee, or their agents.

A new subsection 7 is added to include the provisions moved from Section 4(2). There were no other changes to this subsection.

Section 7 – Expenditures (pages 14 – 16)
Subsection 1 is amended to clarify that when a consultant or other employee or agent of a candidate, candidate's committee or political action committee makes a payment for goods or services out of a retainer or fee, that payment must be reported by the candidate or committee as a separate expenditure on the candidate's or the political action committee's report. The proposed change clarifies that merely reporting the retainer or fee paid to the consultant is not sufficient.

Similarly, subsection 5 clarifies that when a candidate or agent pays for campaign-related goods or services with personal funds or a credit card, the payment to the vendor or payee must be reported, not just the reimbursement to the candidate or agent.

Subsection 7 is a new provision that creates a rebuttable presumption that an organization's voter guide or legislative scorecard is made to influence an election if more than 500 copies are sent within 60 days of a general election to individuals who are not members of the organization. Factors that will be considered in rebutting the presumption would be the content of the publication, its timing, and other purposes it serves. This is a major substantive rule.

Section 8 – Prohibited Communications (page 16)
This proposed change clarifies that Commission members may talk with the press or interested persons after it has made its final determination after the appeal period has expired or all administrative and judicial remedies have been exhausted.

Minor changes
Section 5 (page 12): "Likely to be of critical importance" is changed to "necessary."

Section 6(3) (formerly subsection 2) (page 13): Name and address are included in the items to be reported. "Traditionally" is replaced with "privately." In subsection 6 (formerly subsection 5), "debtor" is replaced with "customer."

Section 9(3), "privately" replaces "traditionally."

II. CHANGES TO CHAPTER 3 – MAINE CLEAN ELECTION ACT AND RELATED PROVISIONS

Section 2 – Procedures for Participation (pages 1 – 6)
The proposed changes to subsection 1 clarify that any qualifying contributions received more than 5 days before a candidate files a Declaration of Intent with the Commission will not count towards the required minimum. Under the proposed changes in subsection 2(G), the Declaration of Intent will also include an affirmation that the candidate has read and will comply with the guidelines on using public funds.

In subsection 4 (page 4), the Commission proposes changes to the content of the receipt and acknowledgement form that candidates use in collecting qualifying contributions and signatures. The contributor's phone number will be required. The form will contain a clear and conspicuous statement that the candidate is seeking public funding for his or her campaign. If anyone other than the candidate collects the contributions and signatures, that person's name, address, and telephone number will have to be on the form as well as signed affirmation that the contributions were collected by valid means. Candidates will no longer be required to sign each form, but will affirm that he or she complied with all qualifying contribution requirements on the new certification request form (see below).

The change in paragraph G (page 6) clearly states that proof of voter verification submitted after the end of a qualifying period will not be accepted by the Commission.

Paragraph H is eliminated (page 6). This provision allowed candidates to submit photocopies of receipt and acknowledgement forms to the Commission as long as the verified originals are submitted to the Commission within 10 days.

Section 3 (pages 7 – 8)
The changes to this section clarify, but do not alter the procedure to request certification with the exception of creating a form for the candidate to complete requesting certification.

Section 5 – Distribution of Funds to Certified Candidates (pages 9 – 15)
With one exception, the changes to subsection 3 (page 10) do not alter how matching funds are calculated. The changes specify the steps in the calculations under three scenarios:

- When all candidates in the race are certified candidates;
- When the matching fund calculation is the result of the nonparticipating candidate's financial activity, and
- When a race has certified and nonparticipating candidates but the latter's campaign totals are less than those of the certified candidate(s).

The proposed change to the matching fund calculation is that seed money and an unspent primary campaign balance will not count in calculating matching funds if only certified candidates are involved.

Subsections E through J have not been changed other than being placed after new subsection D.

Section 7 – Record Keeping and Reporting (pages 16 – 18)
The changes to subsection 1 would make it consistent with 2005 statutory changes which require a campaign treasurer to keep bank account records and vendor invoices. The Commission would have the ability to require the return of funds if a candidate or treasurer cannot produce supporting documentation for an expenditure or for the failure to keep records. The candidate would have an opportunity for a hearing prior to any determination requiring the return of funds.

The change to subsection 1(A) clarifies that MCEA funds can be commingled with unspent seed money and that matching funds can only be spent after the candidate receives authorization.

The Commission proposes eliminating the pro rata reimbursement for vehicle travel expenses based on actual expenses. The change would simplify travel reimbursement by requiring that all reimbursements use the standard mileage rate prescribed for employees of the State of Maine. The change also allows the Commission to disallow travel reimbursements that lack supporting documentation. Under the proposed change, candidates can choose to reimburse themselves and volunteers at a rate lower than the standard.

The Commission conducts audits of all MCEA gubernatorial candidates. The proposed change would allow primary and general election candidates to reserve $1000 and $2500, respectively, to defray the costs associated with an audit.

Minor changes
Sections 1 and 5(3)(J) (pages 1 and 14): "Traditionally" is replaced with "privately."

Section 2(3)(F) (page 3): This change is only a rewording of the paragraph.

Sections 4(1), 5(1)(A), and 5(3)(I)(pages 8, 9, and 14): "Bureau of Accounts and Control" is changed to "Office of the Controller."

The informational note on page 9 is deleted.

Section 5(4) (page 14): This change is only a rewording of the subsection.

94-270 COMMISSION ON GOVERNMENTAL ETHICS AND ELECTION PRACTICES

Chapter 1: PROCEDURES

SUMMARY: This Chapter describes the nature and operation of the Commission, and establishes procedures by which the Commission's actions will be governed.

SECTION 1. DEFINITIONS

In addition to the definitions provided in Title 21-A, chapters 1, 13, and 14, the following definitions shall apply to the rules of the Commission, unless the context otherwise requires:

1. Act. "Act" means the Maine Clean Election Act, Title 21-A, chapter 14.

2. Association. "Association" means a group of two or more persons, who are not all members of the same immediate family, acting in concert.

3. Campaign Deficit. "Campaign deficit" means debts, liabilities, and unmet financial obligations from all previous campaigns as reported to the Commission on campaign termination report forms required by Title 21-A, chapter 13, subchapter II [§ 1017(9)].

4. Campaign Surplus. "Campaign surplus" means money, equipment, property and other items of value remaining after retiring previous campaign deficit as reported to the Commission on campaign termination report forms required by Title 21-A, chapter 13, subchapter II [§ 1017(9)].

5. Candidate. "Candidate" has the same meaning as in Title 21-A, chapter 1, subchapter I [§ 1(5)], and includes individuals running for office as a write-in candidate.

   INFORMATIONAL NOTE: All contributions made after the day of the general election to a candidate who has liquidated all debts and liabilities associated with that election are deemed to be made in support of the candidate's candidacy for a subsequent election, pursuant to section. 4.2.A(5)(e) of this rule. A candidate who collects funds subsequent to an election for purposes other than retiring campaign debt is required to register with the Commission. Title 21- A, chapter 13, subchapter II [§ 1013-A].

6. Certified Candidate. "Certified candidate" has the same meaning as in the Act [§ 1122(1)].

7. Commission. "Commission" means the Commission on Governmental Ethics and Election Practices established by Title 5, section 12004-G, subsection 33, and 1 M.R.S.A. section 1001 et seq.

8. Contribution. "Contribution" has the same meaning as in Title 21-A, chapter 13, subchapter II [§ 1012(2)].

9. Election. "Election" means any primary, general or special election for Governor, State Senator or State Representative. The period of a primary election begins on the day a person becomes a candidate as defined in 21-A M.R.S.A. §1(5) and ends on the date of the primary election. The period of a general election begins on the day following the previous primary election and ends on the date of the general election. The period of a special election begins on the date of proclamation of the special election and ends on the date of the special election.

10. Expenditure. "Expenditure" has the same meaning as in Title 21-A, chapter 13, subchapter II [§ 1012(3)].

11. Fund. "Fund" means the Maine Clean Election Fund established by the Act [§ 1124].

12. In-Kind Contribution. "In-kind contribution" means any gift, subscription, loan, advance or deposit of anything of value other than money made for the purpose of influencing the nomination or election of any person to political office or for the initiation, support or defeat of a ballot question.

13. Member. A "member" of a membership organization includes all persons who currently satisfy the requirements for membership in the membership organization, have affirmatively accepted the membership organization's invitation to become a member, and either:

    A. pay membership dues at least annually, of a specific amount predetermined by the membership organization; or

    B. have some other significant financial attachment to the membership organization, such as significant investment or ownership stake in the organization; or

    C. have a significant organizational attachment to the membership organization that includes direct participatory rights in the governance of the organization, such as the right to vote on the organization's board, budget, or policies.

    Members of a local union are considered to be members of any national or international union of which the local union is a part, of any federation with

which the local, national, or international union is affiliated, and of any other unions which are members or affiliates of the federation. Other persons who have an enduring financial or organizational attachment to the membership organization are also members, including retired members or persons who pay reduced dues or other fees regularly to the membership organization.

14. Nonparticipating Candidate. "Nonparticipating candidate" has the same meaning as in the Act [§ 1122(5)].

15. Participating Candidate. "Participating candidate" has the same meaning as in the Act [§ 1122(6)].

16. Qualifying Contribution. "Qualifying Contribution" has the same meaning as in the Act [§ 1122(7)].

17. Qualifying Period. "Qualifying period" has the same meaning as in the Act, except that for special elections, vacancies, withdrawals, deaths, disqualifications or replacements of candidates, the qualifying period shall be the period designated in section 8 of this chapter [§ 1122(8)].

18. Seed Money Contribution. "Seed money contribution" has the same meaning as in the Act [§ 1122(9)].

19. Write-In Candidate. "Write-in candidate" means a person whose name does not appear on the ballot under the office designation to which a voter may wish to elect the candidate.

SECTION 2. ORGANIZATION

1. Commission. The Commission on Governmental Ethics and Election Practices is an independent agency of the State, consisting of five (5) members appointed by the Governor, subject to review by the joint standing committee of the Legislature having jurisdiction over legal affairs and confirmation by the Legislature in accordance with Title 1, section 1002, subsection 1. The Commission members will elect one member to serve as Chair. Except for the Chair, the members of the Commission have no individual authority.

2. Office.

   A. The Commission employs such staff as may be authorized by the Legislature. A Director supervises the staff and is responsible for all day-to-day operations. In the interim between Commission meetings, the Director reports to the Chair, who acts on behalf of the Commission on certain administrative matters. The Commission's offices are located in the Public Utilities Commission Building at 242 State Street in Augusta,

where any filing or written submission may be made between the hours of 8 a.m. and 5 p.m. on any day when state government offices are open, except that filings by facsimile or electronic means, where otherwise permitted by rule, may be transmitted at any time. The office has a mailing address of 135 State House Station, Augusta, Maine 04333.

B. All records of the Commission are maintained in these offices, where they are available for inspection or copying, except as particular records are made confidential by law. The cost of copying Commission documents is set by the Director of the Commission, subject to reasonable limitations and approval of the Commission.

C. During any period when the position of Director is vacant, the Chair of the Commission will appoint an acting Director.

SECTION 3. MEETINGS

1. Regular Meetings. The Commission ~~will~~shall meet at least once per month in any year in which primary and general elections are held~~four times during the course of any year in which a general election is held, and at least twice during every other year. A tentative schedule of meetings for each calendar year will be adopted at the first meeting in each year. A meeting will be held as early as possible after the appointment of (a) new commission member(s) in each even-numbered year to select a Chair~~.

2. Special Meetings. The Commission may meet at any time at the call of the Secretary of State, the President of the Senate, the Speaker of the House of Representatives, the Chairman of the Commission, or a majority of its members. Each member of the Commission must have at least 24 hours notice of the time, place and purpose of the meeting. If written notice is not feasible, telephone notice satisfies the foregoing requirement.

3. Agenda. The Director will prepare a written agenda for each meeting of the Commission. The agenda will contain items of business to be considered, staff findings and recommendations, and will include the date, time and location of the meeting. When possible, the agenda will be mailed to each Commission member at least 7 days before the meeting.

4. Notice. In addition to the public notice required by the public meetings law, 1 M.R.S.A. Section 406, notice of Commission meetings will be given to those directly involved or affected by matters pending before the Commission, as follows:

A. Legislative Ethics. When a properly filed request or referral is made for an advisory opinion on a question of legislative ethics, notice that the matter

has been placed on the agenda for a Commission meeting will be given by mail to the Legislator whose circumstances or conduct is at issue, or to the Presiding Officer of either House referring the inquiry. When a complaint alleging a violation of the laws on legislative ethics is filed, the Legislator will be informed promptly of the nature of the allegations and the existence of any investigation by the Commission. Notice that the matter has been placed on the agenda for a Commission hearing will be given by certified mail to both the Legislator and the complainant not less than 10 days before the date set for a hearing.

B. Campaign Reports and Finances Law; Lobbyist Disclosure Law. Notice of the Commission's consideration of any noncompliance with the requirements of the Campaign Reports and Finances Law or Lobbyist Disclosure Law will be provided to any person or organization alleged to have committed a violation and to any person who has officially requested a Commission investigation or determination.

C. Other Matters.

(1) With respect to any other matter presented to the Commission, notice will be given to the person or organization whose conduct is at issue, and to any complainant, except as provided in Section 3, subsection 1, paragraph B of these rules.

(2) The notice will include the date, time, and location of the Commission meeting. If mail notice of a meeting is not feasible, the staff will make best efforts to give oral notice to Commission members or to those entitled to notice under this provision.

5. Public Meetings. All meetings, hearings or sessions of the Commission will be open to the general public unless, by an affirmative vote of at least 3 members, the Commission requires the exclusion of the public, pursuant to 1 M.R.S.A. Section 1005 or 1 M.R.S.A. Section 1013(3).

6. Quorum. Every decision of the Commission must be made at a meeting at which at least 3 members of the Commission are present and voting. When it is impossible or impractical for a member of the Commission to travel to Augusta to attend a meeting in person, the member may participate in the meeting by telephone. That member will be considered present at the meeting and part of the quorum.

At least 2 members must be present in person for the conduct of a meeting or public hearing before the Commission. If fewer than 3 members are present in person for a hearing, however, objections to rulings of the presiding officer concerning the conduct of the hearing must be preserved until a meeting of the

Commission at which a quorum is present in person. The presiding officer at a meeting or public hearing must be present in person.

7. Minutes.

A. The Director will prepare minutes of each business meeting of the Commission. These minutes will be the official record of Commission meetings, and will accurately record all matters considered.

B. The minutes will record any executive session of the Commission and its subject matter, but will not report the proceedings of the executive session. Likewise, minutes will not be taken of any public hearing held by the Commission, since hearings are separately recorded.

SECTION 4. INITIATION OF PROCEEDINGS

1. Legislative Ethics. The Commission is authorized to investigate and make advisory recommendations to either House of the Maine Legislature concerning legislative conflicts of interest or any breach of the legislative ethics set forth in 1 M.R.S.A. Sections 1001 - 1023. The Commission's opinion may be sought by three methods, or the Commission may act on its own motion.

A. Legislator's Own Conduct.

(1) A Legislator seeking an advisory opinion with respect to his or her own circumstances or conduct should make a written request for an opinion, setting forth the pertinent facts with respect to the legislative matter at issue and the circumstances of the Legislator giving rise to the inquiry.

(2) The request will be officially filed only when received at the offices of the Commission. The Director will promptly send a copy of the request to the Chair, and the matter will be placed on the agenda for the next Commission meeting, or if necessary, at a special meeting.

(3) An oral request by a Legislator for an opinion with respect to his or her own circumstances will not be considered an official request for an advisory opinion, and a Legislator making such a request will be so notified, by letter, and encouraged to file a written request.

B. Complaints. Any written complaint will be included in the agenda of the next Commission meeting.

(1) Complaint by a Legislator. Copies of any sworn complaint filed by a Legislator will promptly be sent to the Legislator against whom the complaint has been lodged and to the Commission Chair, in each case identifying the Legislator making the complaint. A complaint invokes the Commission's authority only if made under oath and only if it addresses an alleged conflict of interest relating to circumstances arising during the term of the legislature then in office.

(2) Other Complaints.

(a) The Director will review each complaint to determine whether the matter relates to the Commission's statutory mandate. When a complaint is filed, the Director, in consultation with Commission Counsel, will review the matter to determine whether the complaint has sufficient merit to warrant recommending the calling of a meeting. When a meeting is called, the Commission will determine in executive session whether to hear the complaint. If the nature of the complaint clearly does not fall within the scope of the Commission's jurisdiction, the Director will so notify the complainant by letter within 14 days of receiving the complaint. In such cases, the respondent need not be notified. The Commission may reverse any administrative decision.

(b) An oral complaint by any person alleging a conflict of interest concerning any legislator does not constitute a complaint under 1 M.R.S.A. Section 1013(2)(B), and a person registering such a complaint will be so notified, by letter.

C. Referral by Presiding Officer. When a Legislator has requested an advisory opinion from the Presiding Officer of the House of which he/she is a member, and the Presiding Officer has referred the inquiry directly to the Commission, the Director will arrange a meeting of the Commission as soon as possible to consider the question.

2. Election Campaign Reporting.

A. Report Review. The Commission staff will review all ~~filings made~~ reports filed pursuant to 21-A M.R.S.A., ~~Sections 1001 – 1062~~chapters 13 and 14 to ~~ascertain any apparent violations of~~verify compliance with the ~~filing~~ reporting requirements set by statute or rule. ~~Reports and registrations will be checked for violations against a standardized checklist.~~ Notice of any

omission, error, or violation will be given by mail to the filer and a copy of the notice and any other communication made to or from the filer relating to the problem(s) will be placed in the filer's record. The Commission will establish a reasonable time period for the filer to ~~The notice will include a request that the filer~~ remedy any omission or error ~~within 15 days of the date of the notice~~. If the filer fails to respond within that time frame, the Commission staff may extend the time ~~contact the filer to establish a reasonable grace~~ period within which the filer must comply or place ~~. If the filer does not rectify the problem,~~ the matter ~~will be placed~~ on the agenda of the next Commission meeting, along with all documents relating to the case. Additionally, any apparent violations or occurrences of substantial nonconformance with the requirements of the law will be placed on the agenda of the next meeting. ~~, including, but not limited to, the following:~~

~~(1) Failure to properly sign a required report,~~

~~(2) Failure to file a required report or registration,~~

~~(3) Late filing of a required report or registration outside the grace period,~~

~~(4) Failure to disclose contributions received or expenditures made of more than $500 in the aggregate on reports due after the 12th day before an election, or~~

~~(5) Exceeding contribution limitations. For the purposes of the limitations imposed by 21-A M.R.S.A. Section 1015(1), 21-A M.R.S.A. Section 1015(2), 21-A M.R.S.A. Section 1015(3), and 21-A M.R.S.A. Section 1056, the following guidelines shall apply:~~

~~(a) All contributions made to a candidate through the day of the primary election for which the candidate seeks office are deemed to be made in the primary election.~~

~~(b) Notwithstanding division (c) below, if a candidate loses in the primary, all contributions made to that candidate for the purpose of liquidating debts and liabilities associated with the candidate's candidacy are deemed to be made in the primary election.~~

~~(c) All contributions made to a candidate from the day after the primary election through the date of the general election for which the candidate seeks office are deemed to be made in the general election.~~

~~(d) Notwithstanding division (e) below, all contributions made after the general election to a general election candidate for the purpose of reducing debts and liabilities associated with the candidate's candidacy are deemed to be made in the general election.~~

~~(e) All contributions made after the day of the general election to a candidate who has liquidated all debts and liabilities associated with that election are deemed to be made in support of the candidate's candidacy for a subsequent election.~~

~~(6) Divisions (a) through (e) above shall apply to any write-in candidate who has qualified under 21-A M.R.S.A. Section 723, or who has received contributions or made expenditures with the intent of qualifying as a candidate.~~

~~B. The Commission will determine whether a report substantially conforms to the requirements of the law. At each meeting, the Director will submit a summary of all cases resolved administratively. The Commission may reverse any administrative decision.~~

~~C~~B. Late Reports and Registrations. Where required by statute, notice of failure to file a required report will be timely sent by Commission staff. When a report or registration is filed late, the Director's recommendations will be based on the following considerations:

(1) Lateness of report or registration,

(2) Reason for lateness,

(3) Kind of report (more stringent application for pre-election reports),

(4) Amount of campaign funds not properly reported,

(5) Previous record of the filer, ~~and~~

(6) Good faith effort of the filer to remedy the matter~~.~~; and

(7) Whether the late filing had an effect on a certified candidate's eligibility for matching funds.

~~D~~C. Reports of noncompliance with the provisions of the campaign registration and reporting laws that may come to the attention of the Commission staff from any source other than review of the reports filed will be reported to the Commission Chair. Any person (as defined in 21-A M.R.S.A. Section 1001) may make an official request for a Commission investigation or determination by filing a written request at the Commission's office, setting forth such facts with sufficient details as are necessary to specify the alleged violation. Statements should be made upon personal knowledge. Statements which are not based upon personal knowledge must identify the source of the information which is the basis for the request, so that respondents and Commission staff may adequately respond to the request. A copy of any such written request will be promptly mailed to ~~the Commission Chair as well as to~~ the candidate or organization alleged to have violated the statutory requirements. An official request will be placed on the agenda of the next Commission meeting.

~~E~~D. An oral report of a violation, or a written request containing insufficient detail to specify the violation charged, does not constitute an official request for a Commission determination, and a person registering such a complaint will be so notified. ~~The Director will list any oral report of a violation, or insufficient written report, on the agenda of the Commission's next meeting, but no action will be taken except upon the Commission's initiative. The person alleged to have committed a violation will be notified of the Commission meeting.~~

~~F~~E. If the Director and Counsel are in agreement that the subject matter of a request for an investigation is clearly outside the jurisdiction of the Commission, the staff may forward the request to the appropriate authority or return it to the person who made the request, provided that the staff notifies the Commission members of the action at the next Commission meeting.

~~G~~F. The signature of a person authorized to sign a report or form constitutes certification by that person of the completeness and accuracy of the information reported. The use of a password in filing an electronic report constitutes certification of the completeness and accuracy of the report.

3. Lobbyist Disclosure Procedures.

A. Report Review. The Commission staff will monitor all filings made pursuant to 3 M.R.S.A. Section 311 et seq. for timeliness, legibility, and completeness. The staff will send the lobbyist a notice of any apparent reporting deficiency, including failure to use prescribed forms. The notice will include a request that the deficiency be corrected within 15 business

days of the notice. If remedy is not made, it will be noted on the agenda of the next Commission meeting. The Commission may reject reports that are incomplete or illegible.

B. Late Registrations and Reports. Notice will be given by mail to any lobbyist whose registration, monthly disclosure report, or annual report is delinquent. In the case of a late monthly report, the notice must be mailed within 7 business days following the filing deadline for the report. In the case of late annual reports and registrations, the notice must be mailed within 15 business days following the filing deadline. The notice must include a statement specifying the amount assessed. A penalty of $100 will be assessed the lobbyist for every month that a monthly disclosure report is late and a penalty of $200 will be assessed the lobbyist and employer for every month a registration or annual report is filed late. For purposes of 3 M.R.S.A. Section 319(1), the month will end on the 15th day of the month following the month in which a report was due. Any failure to submit a required report, registration, or penalty fee will be noted on the Commission agenda.

C. Suspensions. The Commission may suspend any person from lobbying who fails to file a required report or pay an assessed fee. A notice of the suspension must be mailed to the lobbyist by U.S. Certified Mail within three days following the suspension. Reinstatement will occur on the date the required report or payment is received in the Commission office. A notice of the reinstatement must be mailed to the lobbyist by U.S. Certified Mail or given directly to the lobbyist within three days following receipt of the required report or payment.

D. Request for Penalty Waiver. A lobbyist may request a waiver of any late penalty the lobbyist incurs. The request must be made in writing to the Commission and must state the reason for the delinquency. Any such request must be noted on the agenda of the next Commission meeting. Only the Commission may grant penalty waivers.

E. Request for Waiver of Nonsession Reporting Requirement. A lobbyist may request a waiver of the monthly nonsession reporting requirement set forth in 3 M.R.S.A. Section 317(4) if the lobbyist does not expect to be engaged in lobbying when the Legislature is not in session. The Director is authorized to provisionally grant such waivers pending approval by the Commission. Provisional waivers may be granted only where a request is properly filed, the statement properly completed, and where there is no apparent reason to doubt the statement is true. During the period in which the waiver is effective, reports will not be required. If lobbying is resumed during the period for which the waiver was granted, the lobbyist must file

a monthly disclosure report for the month or months lobbying was conducted.

F. Faxing Duly Executed Lobbyist Registration, Reports. Any registration or report required by 3 M.R.S.A. ch. 15 may be provisionally filed by transmission of a facsimile copy of the duly executed report to the Commission, provided that the original of the same report is received by the Commission within 5 calendar days thereafter.

SECTION 5. FACT FINDING AND INVESTIGATIONS

1. Before Commission Meeting. With respect to any inquiry, report or request for Commission action properly filed in accordance with the preceding section, the Director may conduct such preliminary fact finding as is deemed prudent and desirable. When the Director and Counsel find a basis for a preliminary investigation, they will recommend such steps to the Chair as necessary. Pursuant to reviewing reports or finding of fact, the Director, in consultation with Counsel, will prepare a summary of findings and recommendations for inclusion on the agenda. The Chair is authorized to issue subpoenas in the name of the Commission to compel the attendance of witnesses or the production of records, documents or other evidence when the Chair and the Commission's Counsel are in agreement that the testimony or evidence sought by the subpoena is ~~likely to be of critical importance~~necessary to disposition of the matter; and to issue any subpoena in the name of the Commission on behalf of any person having a statutory right to an agency subpoena. Any oral testimony compelled by a subpoena issued by this provision will be presented ~~initially and exclusively~~ to the Commission or its staff.

2. By the Commission. Once any matter is reached on the agenda of a Commission meeting, the Commission will control any further investigation or proceedings. No hearings will be held except by direction of the Commission. On a case-by-case basis, the Commission may authorize its Chair, Director, or any ad hoc committee of its members, to conduct further investigative proceedings on behalf of the Commission between Commission meetings. Any authorization so conferred will be fully reflected in the minutes of the Commission meeting.

SECTION 6. CONTRIBUTIONS AND OTHER RECEIPTS

1. The date of a contribution is the date it is received by a candidate, an agent of the candidate, a candidate's committee, a party committee and its agents, or a political action committee and its agents.

~~1~~2. A loan is a contribution at the time it is made unless the loan was made by a financial institution in the State of Maine in the ordinary course of business. Loans continue to be contributions until they are repaid. Loans are subject to the

candidate contribution limitations, except for loans made by the candidate, the candidate's spouse, or a financial institution in the State of Maine in the ordinary course of business.

~~2~~3. Candidates and political action committees must report the name, address, occupation and employer of each individual contributor who gives, in the aggregate, more than $50 for the reporting period. The reporting is required for private contributions raised by ~~traditionally~~privately financed candidates and for seed money contributions to candidates participating in the Maine Clean Election Act. Candidates and political action committees must make a reasonable effort to obtain the employment information of the contributor. If a candidate or political action committee is unable to obtain the information from the contributor in response to a request, the candidate or committee shall indicate "information requested" in the occupation and employer sections of the campaign finance report.

~~3~~4. Unless specifically exempted under Title 21-A M.R.S.A. Sections 1012 and 1052 or this section, the provision of any goods or services without charge or at a charge that is less than the usual and customary charge for such goods or services is an in-kind contribution. Examples of such goods and services include, but are not limited to: equipment, facilities, supplies, personnel, advertising, and campaign literature. If goods or services are provided at less than the usual and customary charge, the amount of the in-kind contribution is the difference between the usual and customary charge and the amount charged the candidate or political committee.

~~4~~5. An employer that has authorized an employee to provide services without charge to a candidate or political committee during the employee's paid work-time has made an in-kind contribution to the candidate or political committee. No contribution has been made if the employee is providing services as a volunteer outside of the employee's paid work-time.

~~5~~6. A commercial vendor that has extended credit to a candidate or political committee has not made a contribution if the credit is extended in the ordinary course of the vendor's business and the terms are substantially similar to extensions of credit made to nonpolitical ~~debtors~~customers that are of similar risk and size of obligation.

7. For the purposes of the limitations imposed by 21-A M.R.S.A. Section 1015(1), 21-A M.R.S.A. Section 1015(2), 21-A M.R.S.A. Section 1015(3), and 21-A M.R.S.A. Section 1056, the following guidelines shall apply:

A. All contributions made to a candidate through the day of the primary election for which the candidate seeks office are deemed to be made in the primary election.

B. Notwithstanding division (c) below, if a candidate loses in the primary, all contributions made to that candidate for the purpose of liquidating debts and liabilities associated with the candidate's candidacy are deemed to be made in the primary election.

C. All contributions made to a candidate from the day after the primary election through the date of the general election for which the candidate seeks office are deemed to be made in the general election.

D. Notwithstanding division (e) below, all contributions made after the general election to a general election candidate for the purpose of reducing debts and liabilities associated with the candidate's candidacy are deemed to be made in the general election.

E. All contributions made after the day of the general election to a candidate who has liquidated all debts and liabilities associated with that election are deemed to be made in support of the candidate's candidacy for a subsequent election.

F. Subparagraphs A through E above shall apply to any write-in candidate who has qualified under 21-A M.R.S.A. Section 723, or who has received contributions or made expenditures with the intent of qualifying as a candidate.

SECTION 7. EXPENDITURES

1. Expenditures By Consultants, Employees, and Other Agents of a Political Campaign. Each ~~E~~expenditures of campaign funds made ~~on behalf of a candidate, political committee, or political action committee~~ by any person, agency, firm, organization, etc. employed or retained for the purpose of organizing, directing, managing or assisting the candidate, the candidate's committee, or the political action committee ~~shall be deemed expenditures by the candidate or committee. Such expenditures~~ must be reported separately by the candidate or committee as if made or incurred by the candidate or committee directly. The report must include the name of the third party vendor or payee to whom the payment was made, the date of the payment, and the purpose and amount of the expenditure. It is not sufficient to report only the total retainer or fee paid to the person, agency, firm, organization, etc., if that retainer or fee was used to pay third party vendors or payees for campaign-related goods and services.

2. Expenditures By Political Action Committees. In addition to the requirements set forth in 21-A M.R.S.A. Section 1060(4), the reports must contain the purpose of each expenditure and the name of each payee and creditor.

3. Timing of Reporting Expenditures.

A. Placing an order with a vendor for a good or service; signing a contract for a good or service; the delivery of a good or the performance of a service by a vendor; or a promise or an agreement (including an implied one) that a payment will be made constitutes an expenditure, regardless whether any payment has been made for the good or service.

B. Expenditures must be reported at the earliest of the following events:

(1) The placement of an order for a good or service;
(2) The signing of a contract for a good or service;
(3) The delivery of a good or the performance of a service by a vendor;
(4) A promise or an agreement (including an implied one) that a payment will be made; or
(5) The making of a payment for a good or service.

C. At the time the duty to report an expenditure arises, the person submitting the report is required to determine the value of goods and services to be rendered (preferably through a written statement from the vendor) and to report that value as the amount of the expenditure. If the expenditure involves more than one candidate election, the report must include an allocation of the value to each of those candidate elections.

4. Advance Purchases of Goods and Services for the General Election.

A. Consulting services, or the design, printing or distribution of campaign literature or advertising, including the creation and broadcast of radio and television advertising, contracted or paid for prior to the primary election must be received prior to the primary election in order to be considered primary election expenditures.

B. If the Commission receives a complaint stating that a candidate or a committee purchased goods or services before a primary election for use in the general election, the Commission may request that the candidate or committee distinguish which of the goods and services were used in the primary election and which were used in the general election.

5. All campaign-related payments made with the personal funds or credit card of the ~~a~~ candidate or ~~by~~ an individuals authorized by the candidate ~~for the purpose of influencing the candidate's nomination or election~~ must be reported as expenditures in the reporting period during which the payment to the vendor or payee is made~~, including payments made with the personal funds or credit card of the candidate or authorized individual~~. The candidate must report the name of the vendor or payee to whom the payment was made, the date of the payment, and the

purpose and amount of the expenditure. When the expenditure is reported, the candidate should indicate the person ~~making~~who made the payment by entering "Paid by [name of candidate or supporter]" in the remarks section of the expenditure schedule. It is not sufficient to report only the name of the candidate or authorized individual to whom reimbursement was made and the total amount of the reimbursement.

6. Multiple expenditures for bank fees and for vehicle travel may be reported in an aggregate amount, provided that the candidate or committee identifies the time period of the expenditures in the remarks section of the report.

7. Printed voter guides and legislative scorecards

A. An organization's expenditures on printed voter guides, legislative scorecards, or similar publications will be presumed to be made to influence an election if more than 500 copies of the publication are distributed within 60 days of a general election to individuals who are not members of the organization.

B. If any matter is pending before the Commission regarding an organization that has incurred expenditures covered by paragraph 7(A), the organization may attempt to rebut the presumption with whatever evidence it believes is relevant, including:

1. the content of the publication;

2. the timing and mode of distribution; and

3. other purposes served by the publication, such as education or recruitment of new members.

References to the election, voting in the election, or to individuals as "candidates," will be considered as factors in favor of the presumption.

SECTION 8. PROHIBITED COMMUNICATIONS

Commission members shall not discuss any specific case under investigation, or any case which may reasonably be expected to be the subject of investigation, as long as the matter is pending before the Commission ~~and, where applicable, until anybody to whom the Commission renders an advisory opinion has concluded its action and any appeals therefrom have been exhausted~~. Members of the Commission may discuss its final determination regarding the matter with members of the press or other interested persons only after the appeal period has expired if no appeal is filed, or if an appeal is filed, only after the appellant has exhausted all administrative or judicial remedies.

SECTION 9. ACCELERATED REPORTING SCHEDULE

1. General. In addition to other reports required by law, any candidate for Governor, State Senator or State Representative who is not certified as a Maine Clean Election Act candidate under Title 21-A, section 1121 et seq., and who has a certified candidate as an opponent in an election must comply with the following reporting requirements on forms prescribed, prepared, and provided by the Commission.

   INFORMATIONAL NOTE: Title 21-A, section 1017 prescribes reporting requirements for candidates.

2. 101% Report. Any candidate subject to this section, who receives, spends or obligates more than 1% in excess of the primary or general election distribution amounts for a Maine Clean Election Act candidate opponent in the same race, must file with the Commission, within 48 hours of such receipt, expenditure, or obligation, a report detailing the candidate's total campaign contributions, receipts, expenditures and obligations to date. The Commission will notify all candidates who have an opposing certified candidate of the applicable distribution amounts and of the 101% Report requirement.

3. Any ~~traditionally~~privately funded candidate with a Maine Clean Election Act opponent shall file the following three reports detailing the candidate's total campaign contributions, obligations and expenditures to date, except that a candidate who has not received, spent, or obligated the amount sufficient to require a report under subsection 2 may file an affidavit, by the date the report is due, attesting that the candidate has not received, spent or obligated that amount:

   A. a report filed not later than 5:00 p.m. on the 42nd day before the date on which an election is held that is complete as of the 44th day before the date of that election;

   B. a report filed not later than 5:00 p.m. on the 21st day before the date on which an election is held that is complete as of the 23rd day before the date of that election; and

   C. a report filed not later than 5:00 p.m. on the 12th day before the date on which an election is held that is complete as of the 14th20th day before the date of that election.

4. 24-Hour Report. Any candidate who is required to file a 101% report must file an updated report with the Commission reporting single expenditures of $1,000 or more by candidates for Governor, $750 by candidates for State Senator, and $500 by candidates for State Representative made after the 14th day before any election

and more than 24 hours before 5:00 p.m. on the date of that election. The report must be submitted to the Commission within 24 hours of those expenditures.

5. Filing by Facsimile or Electronic Means. For purposes of this section, reports may be filed by facsimile or by other electronic means acceptable to the Commission, and such reports will be deemed filed when received by the Commission provided that the original of the same report is received by the Commission within 5 calendar days thereafter.

SECTION 10. REPORTS OF INDEPENDENT EXPENDITURES

1. General. Any person, party committee, political committee or political action committee that makes an independent expenditure aggregating in excess of $100 per candidate in an election must file a report with the Commission according to this section.

2. Definitions. For purposes of this section, the following phrases are defined as follows:

A. "Clearly identified," with respect to a candidate, has the same meaning as in Title 21-A, chapter 13, subchapter II.

B. "Expressly advocate" means any communication that uses phrases such as "vote for the Governor," "reelect your Representative," "support the Democratic nominee," "cast your ballot for the Republican challenger for Senate District 1," "Jones for House of Representatives," "Jean Smith in 2002," "vote Pro-Life" or "vote Pro-Choice" accompanied by a listing of clearly identified candidates described as Pro-Life or Pro-Choice, "vote against Old Woody," "defeat" accompanied by a picture of one or more candidate(s), "reject the incumbent," or communications of campaign slogan(s) or individual word(s), which in context can have no other reasonable meaning than to urge the election or defeat of one or more clearly identified candidate(s), such as posters, bumper stickers, advertisements, etc. which say "Pick Berry," "Harris in 2000," "Murphy/Stevens" or "Canavan!".

C. "Independent expenditure" has the same meaning as in Title 21-A, section 1019-B. 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 and is not an independent expenditure.

3. Reporting Schedules. Independent expenditures must be reported to the Commission in accordance with the following provisions:

A. Independent expenditures aggregating in excess of $100 per candidate per election but not in excess of $250 made by any person, party committee, political committee or political action committee must be reported to the Commission in accordance with the following reporting schedule, except that expenditures made in the last 11 days before an election must be reported within 24 hours of the expenditure.

(1) Quarterly Reports.

(a) A report must be filed on January 15th and be complete as of January 5th;
(b) A report must be filed on April 10th and be complete as of March 31st;
(c) A report must be filed on July 15th and be complete as of July 5th; and
(d) A report must be filed on October 10th and be complete as of September 30th.

(2) Pre-Election Report. A report must be filed on the 12th day before the election is held and be complete as of that day.

If the total of independent expenditures made to support or oppose a candidate exceed $100, each subsequent amount spent to support or oppose the candidate must be reported as an independent expenditure. As long as the total amount spent with respect to the candidate does not exceed $250, all reports must be filed according to the deadlines in this paragraph. If the total amount spent per candidate exceeds $250, the reports must be filed in accordance with paragraph B.

[NOTE: FOR EXAMPLE, IF A COMMITTEE MAKES THREE $80 EXPENDITURES IN SUPPORT OF A CANDIDATE ON SEPTEMBER 20, THE 15TH DAY BEFORE THE ELECTION AND THE 8TH DAY BEFORE THE ELECTION, THOSE THREE EXPENDITURES MUST BE REPORTED ON OCTOBER 10th, AND THE 12TH AND 7TH DAYS BEFORE THE ELECTION, RESPECTIVELY.]

B. Independent expenditures aggregating in excess of $250 per candidate per election made by any person, party committee, political committee or political action committee must be reported to the Commission within 24 hours of those expenditures. If any additional expenditures, regardless of amount, increase the total spent per candidate above the threshold of $250, each additional expenditure must be reported within 24 hours.

[NOTE: FOR EXAMPLE, IF A COMMITTEE HAS REPORTED INDEPENDENT EXPENDITURES TOTALING $300 IN SUPPORT OF

A CANDIDATE, AND THE COMMITTEE MAKES AN ADDITIONAL $50 INDEPENDENT EXPENDITURE IN SUPPORT OF THE CANDIDATE, THE ADDITIONAL $50 EXPENDITURE MUST BE REPORTED WITHIN 24 HOURS.]

C. Reports must contain information as required by Title 21-A, chapter 13, subchapter II (§§ 1016-1017-A), and must clearly identify the candidate and indicate whether the expenditure was made in support of or in opposition to the candidate. Reports filed after the eighth day before an election must include the following information:

1. the date on which the person making the expenditure placed the order with the vendor for the goods or services;

2. the approximate date when the vendor began providing design or any other services in connection with the expenditure;

3. the date on which the person making the expenditure first learned of the total amount of the expenditure; and

4. a statement why the expenditure could not be reported by the eighth day before the election.

D. A separate 24-Hour Report is not required for expenditures reported in an independent expenditure report.

4. Multi-Candidate Expenditures. When a person or organization is required to report an independent expenditure for a communication that supports multiple candidates, the cost should be allocated among the candidates in rough proportion to the benefit received by each candidate.

A. The allocation should be in rough proportion to the number of voters who will receive the communication and who are in electoral districts of candidates named or depicted in the communication. If the approximate number of voters in each district who will receive the communication cannot be determined, the cost may be divided evenly among the districts in which voters are likely to receive the communication.

[NOTE: FOR EXAMPLE, IF CAMPAIGN LITERATURE NAMING SENATE CANDIDATE X AND HOUSE CANDIDATES Y AND Z ARE MAILED TO 10,000 VOTERS IN X'S DISTRICT AND 4,000 OF THOSE VOTERS RESIDE IN Y'S DISTRICT AND 6,000 OF THOSE VOTERS LIVE IN Z'S DISTRICT, THE ALLOCATION OF THE EXPENDITURE SHOULD BE REPORTED AS: 50% FOR X, 20% FOR Y, and 30% FOR Z.]

B. If multiple county or legislative candidates are named or depicted in a communication, but voters in some of the candidates' electoral districts will not receive the communication, those candidates should not be included in the allocation.

[NOTE: FOR EXAMPLE, IF AN EXPENDITURE ON A LEGISLATIVE SCORECARD THAT NAMES 150 LEGISLATORS IS DISTRIBUTED TO VOTERS WITHIN A TOWN IN WHICH ONLY ONE LEGISLATOR IS SEEKING RE-ELECTION, 100% OF THE COST SHOULD BE ALLOCATED TO THAT LEGISLATOR'S RACE.]

C. If a candidate who has received matching funds because of a multi-candidate communication believes that he or she deserves additional matching funds because the communication disproportionately concerns his or her race, the Commission may grant additional matching funds in proportion to the relative treatment of the candidates in the communication.

5. Rebuttable Presumption. Under Title 21-A M.R.S.A. §1019-B(1)(B), an expenditure made to design, produce or disseminate a communication that names or depicts a clearly identified candidate in a race involving a Maine Clean Election Act candidate and that is disseminated during the 21 days before an election will be presumed to be an independent expenditure, unless the person making the expenditure submits a written statement to the Commission within 48 hours of the expenditure stating that the cost was not incurred with the intent to influence the nomination, election or defeat of a candidate.

A. The following types of communications may be covered by the presumption if the specific communication satisfies the requirements of Title 21-A M.R.S.A. §1019-B(1)(B):

(1) Printed advertisements in newspapers and other media;
(2) Television and radio advertisements;
(3) Printed literature;
(4) Recorded telephone messages;
(5) Scripted telephone messages by live callers; and
(6) Electronic communications.

This list is not exhaustive, and other types of communications may be covered by the presumption.

B. The following types of communications and activities are not covered by the presumption, and will not be presumed to be independent expenditures under Title 21-A M.R.S.A. Section 1019-B(1)(B):

(1) news stories and editorials, unless the facilities distributing the communication are owned or controlled by the candidate or a political committee;

(2) activity or communication designed to encourage individuals to register to vote or to vote if that activity or communication does not name or depict a clearly identified candidate;

(3) any communication from a membership organization to its members or from a corporation to its stockholders if the organization or corporation is not organized primarily for the purpose of influencing the nomination or election of any person for state or county office;

(4) the use of offices, telephones, computers, or similar equipment when that use does not result in additional cost to the provider; and

(5) other communications and activities that are excluded from the legal definition of "expenditure" in the Election Law.

C. If an expenditure is covered by the presumption and is greater, in the aggregate, than $100 per candidate per election, the person making the expenditure must file an independent expenditure report or a signed written statement that the expenditure was not made with the intent to influence the nomination, election or defeat of a candidate. The filing of independent expenditure reports should be made in accordance with the filing schedule in subsections 3(A) and 3(B) of this rule. Independent expenditures aggregating $100 or less per candidate per election do not require the filing of an independent expenditure report or a rebuttal statement.

D. If a committee or association distributes copies of printed literature to its affiliates or members, and the affiliates or members distribute the literature directly to voters, the 21-day period applies to the date on which the communication is disseminated directly to voters, rather than the date on which the committee or association distributes the literature to its affiliates or members.

E. For the purposes of determining whether a communication is covered by the presumption, the date of dissemination is the date of the postmark, hand-delivery, or broadcast of the communication.

F. An organization that has been supplied printed communications covered by the presumption and that distributes them to voters must report both its own distribution costs and the value of the materials it has distributed, unless the organization supplying the communications has already reported the costs of the materials to the Commission. If the actual costs of the communications cannot be determined, the organization distributing the communication to voters must report the estimated fair market value.

G. If a person wishes to distribute a specific communication that appears to be covered by the presumption and the person believes that the communication is not intended to influence the nomination, election or defeat of a candidate, the person may submit the rebuttal statement to the Commission in advance of disseminating the communication for an early determination. The request must include the complete communication and be specific as to when and to whom the communication will be disseminated.

SECTION 11. REPORTS OF BALLOT QUESTION CAMPAIGN ACTIVITY BY PERSONS AND ORGANIZATIONS OTHER THAN POLITICAL ACTION COMMITTEES

When a person or organization is required under 21-A M.R.S.A. Section 1056-B to file reports because of contributions or expenditures of more than $1,500 made in support of or in opposition to a ballot question, the reports must be filed according to the following schedule:

1. Quarterly Reports. Reports must be filed on the following deadlines until the date of the election on which the question is on the ballot:

   A. A report must be filed on January 15th and be complete as of January 5th;

   B. A report must be filed on April 10th and be complete as of March 31st;

   C. A report must be filed on July 15th and be complete as of July 5th; and

   D. A report must be filed on October 10th and be complete as of September 30th.

2. Pre- and Post-Election Reports. The person or organization must file the following reports:

   A. A report must be filed on the 6th day before the election is held and be complete as of the 12th day before the election.

   B. A report must be filed on the 42nd day after the election is held and be complete as of the 35th day after the election.

3. 24-Hour Reports. Any contribution or expenditure in excess of $500 made after the 12th day before the election and more than 24 hours before the election must be reported within 24 hours of that contribution or expenditure or by noon of the first business day after the contribution or expenditure, whichever is later.

SECTION 12. CAMPAIGN CONTRIBUTIONS DURING LEGISLATIVE SESSION

1. Seed Money Contributions. Legislators and other individuals covered by Title 1 M.R.S.A. Section 1015(3)(B) may not intentionally solicit or accept a seed money contribution from a lobbyist or lobbyist associate during any period of time in which the Legislature is convened until final adjournment.

2. Acceptance of Contributions Through Political Action Committees. During a legislative session, political action committees that are closely associated with a Legislator, such as committees organized to elect a candidate or Legislator to a leadership position or committees organized to elect the candidates of a legislative caucus, may not intentionally solicit or accept a contribution from a lobbyist, lobbyist associate, or employer. During the legislative session, these political action committees may accept contributions from individuals and organizations that are not lobbyists, lobbyist associates, and their employers. Lobbyists, lobbyist associates, and employers may not contribute to political action committees closely associated with a Legislator during a legislative session, unless their contributions are segregated in a fund that is not used to influence the election or defeat of any incumbent Legislators.

3. Making a Contribution Through a Political Action Committee. During a legislative session, an organization that employs a lobbyist may not make a contribution through a political action committee with which the organization is affiliated or direct that the affiliated political action committee make a contribution to a Legislator.

STATUTORY AUTHORITY:

1 M.R.S.A. § 1003(1); 21-A M.R.S.A. § 1126.

EFFECTIVE DATE: April 29, 1987

AMENDED: December 28, 1991
December 14, 1994

REPEALED AND REPLACED: November 1, 1998; also converted to MS Word 2.0 format.

AMENDED: January 14, 2004 (date of adoption of routine technical amendments)
April 8, 2005 (date of adoption of routine technical amendments)
April 8, 2005 (date of provisional adoption of major substantive amendments)
July 13, 2005 (date of final adoption of major substantive amendments)

94-270 COMMISSION ON GOVERNMENTAL ETHICS AND ELECTION PRACTICES

Chapter 2: HEARING PROCEDURES

NO PROPOSED RULE CHANGES FOR CHAPTER 2.

94-270 COMMISSION ON GOVERNMENTAL ETHICS AND ELECTION PRACTICES

Chapter 3: MAINE CLEAN ELECTION ACT AND RELATED PROVISIONS

SECTION 1. APPLICABILITY

This chapter applies to candidates running for Governor, State Senator and State Representative who choose the alternative campaign financing option established by the Maine Clean Election Act for elections to be held beginning in the year 2000. Candidates participating in the Maine Clean Election Act must comply with these rules and all other applicable election and campaign laws and regulations. Some sections in this chapter also apply to and impose obligations on ~~traditionally~~privately financed candidates and political committees that raise contributions and make expenditures in races involving Maine Clean Election Act candidates.

SECTION 2. PROCEDURES FOR PARTICIPATION

1. Declaration of Intent. A participating candidate must file a Declaration of Intent ~~before~~ within five days of collecting qualifying contributions. The Commission will provide a form for this purpose.

2. Content. The Declaration of Intent must include the following information:

   A. an affirmation that the candidate is seeking certification as a Maine Clean Election Act candidate;

   B. an affirmation that the candidate understands that ~~has not collected~~ any qualifying contributions collected more than five days before ~~signing~~ filing the Declaration of Intent will not be counted toward the eligibility requirement;

   C. an affirmation that the candidate has not accepted any contributions, except for seed money contributions, after becoming a candidate;

   D. an affirmation that the candidate has disposed of any campaign surplus before becoming a candidate for the new election, as required by paragraph 3.C [Campaign Surplus] of this section;

   E. an affirmation that if the candidate has any campaign deficit, that the candidate will not accept contributions to repay that deficit as a participating candidate or certified candidate, except that the candidate may forgive any campaign loans to himself or herself made during any previous campaigns;

F. an affirmation that the candidate will continue to comply with applicable seed money restrictions and other requirements of the Act including, but not limited to, procedures for collecting qualifying contributions;

G. ~~information identifying the candidate's treasurer, political committee, campaign finance account, social security number, and/or federal tax identification number;~~ an affirmation that the candidate has read and will comply with the Commission's guidelines on permissible expenditures; and

H. authorization by the candidate for the Commission, its agents or representatives to conduct financial audits of the candidate's campaign financial records and account(s).

3. Seed Money Restrictions.

A. General. After becoming a candidate and before certification, a participating candidate may collect and spend only seed money contributions. The restrictions on seed money contributions apply to both cash and in-kind contributions.

B. Total Amount.

(1) A participating candidate must limit the candidate's total seed money contributions to the following amounts:

(a) fifty thousand dollars for a gubernatorial candidate;

(b) one thousand five hundred dollars for a candidate for the State Senate; or

(c) five hundred dollars for a candidate for the State House of Representatives.

(2) Notwithstanding any other provision of this chapter, a candidate may carry forward to a new candidacy of that candidate campaign equipment or property, subject to the reporting requirements of Title 21-A, chapter 13 [Campaign Reports and Finances].

(3) The Commission periodically will review these limitations and, through rulemaking, revise these amounts to ensure effective implementation of the Act.

C. Campaign surplus. A candidate who has carried forward campaign surplus according to Title 21-A, chapter 13, subchapter II [§ 1017(8) and §1017(9)], and who intends to become a participating candidate, must

dispose of campaign surplus in accordance with the requirements of Title 21-A, chapter 13, subchapter II [§ 1017(8)]; provided, however, that a candidate may carry forward only those portions of campaign surplus that comply with the provisions of this Act regarding seed money contributions [§ 1122(9) and 1125(2)]. Any campaign surplus (excluding campaign equipment or property) carried forward under this provision will be counted toward that candidate's total seed money limit.

INFORMATIONAL NOTE: The Commission will provide educational materials to all former candidates who have a campaign surplus describing the requirement that individuals must dispose of campaign surplus to remain eligible for participation as a Maine Clean Election Act candidate.

D. Return of Contributions Not in Compliance with Seed Money Restrictions. A participating candidate who receives a contribution exceeding the seed money per donor restriction or the total amount restriction must immediately return the contribution and may not cash, deposit, or otherwise use the contribution.

E. Case-by-Case Exception. A participating candidate who has accepted contributions or made expenditures that do not comply with seed money restrictions may petition the Commission to remain eligible for certification as a Maine Clean Election Act candidate. The Commission may approve the petition and restore a candidate's eligibility for certification if the candidate successfully establishes all of the following criteria:

(1) the failure to comply was the result of an unintentional error;

(2) the candidate immediately returned all contributions that did not comply with seed money restrictions or paid for goods or services contributed that did not comply with seed money restrictions;

(3) the candidate petitioned the Commission promptly upon becoming aware of the unintentional error; and

(4) the failure to comply did not involve expenditures by the participating candidate significantly in excess of seed money total amount restrictions or otherwise constitute systematic or significant infractions of seed money restrictions.

F. After becoming a candidate and prior to certification, ~~A~~accepting a loan from any source including a financial institution ~~prior to certification, or~~and spending money received in the form of a loan, ~~is a~~are violations of the seed money restrictions of the Act.

G. Other. A seed money contributor may also make a qualifying contribution to the same participating candidate provided that the contributor otherwise meets the requirements for making a qualifying contribution.

4. Qualifying Contributions.

A. General. A participating candidate may collect qualifying contributions only during the relevant qualifying period. Qualifying contributions collected more than five days before ~~and only after~~ filing a Declaration of Intent with the Commission will not be counted toward the eligibility requirement. Qualifying contributions must be acknowledged and reported on ~~using~~ forms provided by the Commission. ~~The forms will include an affirmation by the contributor that the contributor received nothing of value in exchange for the signature and contribution.~~

The forms must include:

(1) the name, residential address, telephone number, and signature of the contributor;

(2) an affirmation by the contributor that the contribution was made with his or her personal funds, in support of the candidate and that the contributor did not receive anything of value in exchange for his or her signature and contribution;

(3) a clear and conspicuous statement that the candidate is collecting signatures and qualifying contributions in order to obtain public funding to finance the candidate's campaign;

(4) the signature of the municipal registrar or his or her designee verifying the voter registration of the contributors listed on the form; and

(5) the signature of any person, other than the candidate, who circulated the forms and collected signatures and contributions, whether the services were provided for compensation or on a volunteer basis, affirming that he or she collected the qualifying contributions, that the contributor signed the form in the circulator's presence, that to the best of the circulator's knowledge and belief each signature is the signature of the person whose name it purports to be and that the contribution came from the personal funds of the contributor, that the circulator did not give anything of value to the contributor in exchange for the contribution and signature, and that the circulator did not represent the purpose of collecting the contributions and signatures to be for any purpose other than obtaining public funds to finance the candidate's

campaign; the form must also include the residential and mailing addresses and telephone number of the circulator.

B. Required Number of Qualifying Contributions. A participating candidate must obtain the number of qualifying contributions during the qualifying period as required by the Act [§ 1122(7); § 1122(8); § 1125(3)].

C. Exchanges For Qualifying Contributions Prohibited.

(1) A participating candidate or an agent of that candidate may not give or offer to give a payment, gift, or anything of value in exchange for a qualifying contribution.

(2) This provision does not prohibit a participating candidate or that candidate's agent from collecting qualifying contributions at events where food or beverages are served, or where campaign promotional materials are distributed, provided that the food, beverage, and campaign materials are offered to all persons attending the event regardless of whether or not particular persons make a qualifying contribution to the participating candidate.

(3) This provision does not prohibit a candidate from using seed money to pay the fee for a money order provided the qualifying contributor pays the $5 amount reflected on the money order as permitted by 21-A M.R.S.A. §1125(3).

D. Checks Drawn on Business Accounts. Qualifying contributions must be made with the personal funds of the contributor. The Commission will not count a check drawn from an account with a business name toward the eligibility requirements, unless the name of the contributor is included in the name of the account or the candidate submits a written statement from the contributor indicating that he or she uses the business account for personal expenses.

E. Family Members. Family members, domestic partners, and live-in caregivers who reside in a single household may make qualifying contributions in the form of a single check or money order of more than $5 provided that:

(1) all contributors sign the receipt and acknowledgement form;
(2) all contributors are registered to vote at the address of the household; and
(3) all contributions are made with the personal funds of the contributors.

F. Verification of Registered Voters.

(1) Before submitting qualifying contributions to the Commission, a participating candidate must establish that contributors who made qualifying contributions to that candidate are registered voters.

(2) A participating candidate must obtain written verification from the Registrar of the number of persons providing qualifying contributions who are registered voters within the electoral division for the office the candidate is seeking.

(3) Upon request of a participating candidate, and within 10 business days after the date of the request, the Registrar must verify the names of contributors of qualifying contributions who are registered voters within the electoral division for the office the candidate is seeking.

G. Timing of Verification. For purposes of this chapter, the Commission will deem verification of registered voters by the Registrar at any time during the qualifying period to be an accurate verification of voter registration even if the registration status of a particular voter may have changed at the time the Commission determines certification of the participating candidate. Proof of voter verification submitted after the qualifying period will not be accepted by the Commission and those qualifying contributions will not be counted toward the number required for certification.

~~H. Submission of Verified Qualifying Contributions. A participating candidate may submit a completed request for certification to the Commission at any time during the qualifying period. The request will be deemed complete and the candidate will be certified only if:~~

~~(1) the request is accompanied by the original signed qualifying contributions forms that have been verified by the Registrar(s) of the electoral division for the office the candidate is seeking; or~~

~~(2) the candidate submits to the Commission during the qualifying period a statement that such signature forms have been submitted to the Registrar(s) for verification on a specific date and the verified signature forms will be received by the Commission within 10 business days thereafter, and submits to the Commission during the qualifying period photocopies of the signature forms.~~

SECTION 3. CERTIFICATION OF PARTICIPATING CANDIDATES

1. Request for Certification. A participating candidate may submit a completed request for certification to the Commission at any time during the qualifying period but not later than 5:00 p.m. on the last day of the relevant qualifying period. The request will be deemed complete and considered for certification only when the candidate has submitted to the Commission:

A. ~~After final submission of qualifying contributions, but not later than 5:00 p.m. on the last day of the relevant qualifying period, a participating candidate may request certification as a Maine Clean Election Act candidate.~~ the original signed receipt and acknowledgement forms that have been verified by the Registrar(s) of the electoral division for the office the candidate is seeking;

B. ~~All participating candidates must submit~~ the qualifying contributions ~~in alphabetical order to the Commission along with qualifying contribution~~ attached to the corresponding receipt and acknowledgement forms and ~~an alphabetical~~ list of all contributors and their town or city of residence, sorted alphabetically by the contributor's last name; ~~of qualifying contributions when applying for certification as a Maine Clean Election Act candidate. Candidates who do not submit the required number of original qualifying contributions within the qualifying period will not be certified.~~

C. ~~The Commission will review candidate applications for certification in the order in which they are received, except that it will give priority to those candidates who are in a contested primary election.~~ a seed money report of contributions, expenditures and obligations made or incurred after becoming a candidate, including a report of any unspent seed money; and

D. a signed request for certification on a form provided by the Commission which contains an affirmation by the candidate that he or she has complied with all seed money and qualifying contribution requirements, has established a separate federally-insured bank account for campaign purposes and, if applicable, that any person who circulated receipt and acknowledgement forms and collected qualifying contributions acted with the candidate's knowledge and consent, and any other information relevant to the certification process.

2. ~~Reporting. Together with the request for certification, a participating candidate must report all seed money contributions received, any other contributions received, and expenditures and obligations made after becoming a candidate.~~ Order of Review. The Commission will review candidate requests for certification in the order in which they are received, except that it will give priority to those candidates who are in a contested primary election.

3. Unspent Seed Money. ~~Together with the request for certification, a participating candidate must report any unspent seed money.~~ In order to distribute funds expeditiously, the Commission will deduct from the initial distribution from the Fund to a certified candidate an amount equal to the amount of unspent seed money reported by that candidate.

4. Certification. The Commission will certify a candidate as a Maine Clean Election Act candidate upon the participating candidate's satisfaction of the requirements of the Act [§ 1125] and this chapter.

5. Appeals. Any appeals challenging a certification decision by the Commission must be in accordance with the Act [§ 1125(14)].

SECTION 4. FUND ADMINISTRATION

1. Coordination with State Agencies. The Commission will coordinate with the ~~Bureau of Accounts and Control~~Office of the Controller and other relevant State agencies to ensure the use of timely and accurate information regarding the status of the Fund.

2. Publication of Fund Revenue Estimates. By September 1st preceding each election year, the Commission will publish an estimate of revenue in the Fund available for distribution to certified candidates during the upcoming year's election. The Commission will update the estimate of available revenue in the Fund after April 15th of an election year and again within 30 days after the primary election in an election year.

3. Computation of Disbursement Amounts. By July 1, 1999, and at least every 4 years after that date, the Commission will determine the amount of revenue to be distributed to certified candidates based on the type of election and office in accordance with the Act [§ 1125(8)].

4. Distributions Not to Exceed Amount in Fund. If the Commission determines that the revenues in the Fund are insufficient to meet distributions under this chapter, the Commission will permit certified candidates to accept and spend contributions in accordance with the Act [§ 1125(13)]. The Commission will notify participating and certified candidates in writing of any projected shortfall in the Fund and will specify timelines and procedures for compliance with this chapter in the event of any such shortfall.

SECTION 5. DISTRIBUTION OF FUNDS TO CERTIFIED CANDIDATES

1. Fund Distribution.

A. Establishment of Account. Upon the certification of a participating candidate, the Commission will establish an account with the ~~Bureau of Accounts and Control~~Office of the Controller, or such other State agency as appropriate, for that certified candidate. The account will contain sufficient information to enable the distribution of revenues from the Fund to certified candidates by the most expeditious means practicable that ensures accountability and safeguards the integrity of the Fund.

B. Manner of Distribution of Fund. The Commission will authorize distribution of revenues from the Fund to certified candidates by the most expeditious means practicable that ensures accountability and safeguards the integrity of the Fund. Such means may include, but are not limited to:

(1) checks payable to the certified candidate or the certified candidate's political committee; or

(2) electronic fund transfers to the certified candidate's or the certified candidate's political committee's campaign finance account.

2. Timing of Fund Distributions.

A. Distribution of Applicable Amounts. The Commission will authorize the initial distribution of applicable amounts from the Fund to certified candidates in accordance with the time schedule specified in the Act [§ 1125(7)] and this Chapter ~~[sec. 3.4]~~.

~~INFORMATIONAL NOTE: An initial distribution from the Fund will not be made to a candidate until the Commission has certified that candidate in accordance with the provisions of the Act and this chapter. The initial distribution may be delayed if a candidate submits a list of qualifying contributors to the Registrar for verification during the last 10 business days of the qualifying period.~~

B. Matching Fund Allocations. At any time after certification, revenues from the Fund may be distributed to certified candidates in accordance with subsection 3, below.

C. Advances.

(1) To facilitate administration of the Matching Fund Provision of this chapter, and to encourage participation in the Act, the Commission may authorize the advance distribution of revenues from the Fund

to certified candidates. In determining whether to authorize such advances and the amounts of any such advances, the Commission will consider the amount of revenue in the Fund, the number of certified candidates, the number of nonparticipating candidates, and information contained in campaign finance and independent expenditure reports.

(2) A certified candidate may only draw upon, spend or otherwise use, such advance Fund distributions after receiving written notification from the Commission authorizing a ~~M~~matching ~~F~~fund allocation in a specified amount. Written notification by the Commission may be by letter, facsimile or electronic means.

3. Matching Fund Provision.

A. General. The Commission will authorize immediately an allocation of matching funds to certified candidates in accordance with the Act when the Commission determines that the eligibility for receipt of matching funds has been triggered [§ 1125(9)].

~~B. Computation and Distribution. The Commission will determine a certified candidate's allocation of matching funds, if any, in the following manner:~~

~~(1) The Commission first will add --~~

~~(a) the sum of an opposing candidate's expenditures and obligations, or funds raised and borrowed, whichever is greater, including surplus or unspent funds carried forward from a previous primary, general, or special election to the current election; and~~

~~(b) the sum of the independent expenditures made expressly advocating the defeat of the certified candidate or the election of the same opposing candidate.~~

~~(2) The Commission then will subtract --~~

~~(a) the sum of the independent expenditures made expressly advocating the defeat of the same opposing candidate; and~~

~~(b) the sum of the independent expenditures made expressly advocating the election of the certified candidate; and~~

~~(c) the sum of any matching funds already provided to the certified candidate; and~~

~~(d) the sum of any seed money raised in computing matching fund eligibility for a primary, general, or special election, as applicable; or any surplus or unspent funds carried forward from a previous primary election to the subsequent general election in computing matching fund eligibility for a general election.~~

~~(3) If the final computed amount is greater than the applicable distribution amount for the certified candidate, then the Commission will immediately authorize the distribution of a Matching Fund allocation to the certified candidate equal to that excess.~~

~~(4) The Commission will make computations promptly upon the filing of campaign finance reports and independent expenditure reports.~~

~~(5) To prevent the abuse of the Matching Fund Provision, the Commission will not base any calculation on independent expenditures that, although containing words of express advocacy, also contain other words or phrases that have no other reasonable meaning than to contradict the express advocacy. For example, expenses related to a communication saying, "Vote for John Doe – he's incompetent and inexperienced," will not be considered a communication in support of John Doe in the calculation of matching funds.~~

B. Matching Fund Computation Involving Only Certified Candidates. If all candidates in a race are certified candidates:

(1) For each certified candidate, the Commission will

(a) add to the initial distribution amount for that election:

(i) the sum of any matching funds previously provided for that election, and

(ii) the sum of independent expenditures made in support of each certified candidate; and

(b) subtract the sum of independent expenditures made in opposition to each certified candidate.

(2) The Commission will compare the final computed amounts and will immediately authorize a matching fund allocation equal to the difference to the certified candidate with the lesser amount.

(3) In computations involving only certified candidates, the Commission will not use seed money raised or unspent funds remaining after a primary election in computing the amount of matching funds.

C. Matching Fund Computation Based on Nonparticipating Candidates' Receipts or Expenditures. In races in which there is at least one certified and one nonparticipating candidate, and the matching fund computation is triggered by the financial activity of nonparticipating candidate, including any independent expenditures in support of the nonparticipating candidate:

(1) The Commission will first determine the applicable amount for the nonparticipating candidate

(a) by adding:

(i) the sum of the nonparticipating candidate's expenditures, obligations and in-kind contributions, or the sum of the nonparticipating candidate's cash and in-kind contributions and loans, including surplus or unspent funds carried forward from a previous election to the current election, whichever is greater, and

(ii) the sum of independent expenditures made in support of the same nonparticipating candidate; and

(b) by subtracting the sum of independent expenditures made in opposition to the same nonparticipating.

(2) The Commission then will determine the applicable amount for the certified candidate

(a) by adding:

(i) the amount of the initial distribution for that election;

(ii) the sum of independent expenditures made in support of the certified candidate;

(iii) the sum of matching fund allocations already provided to the certified candidate; and

(iv) the amount of:

a) any seed money raised by an enrolled certified candidate in a primary or special election; or

b) any unspent funds carried forward from the primary election to the subsequent general election by an enrolled certified candidate in a general election; or

c) any seed money raised and, if applicable, any other distribution received prior to the general election distribution by an unenrolled certified candidate in a general or special election; and

(b) by subtracting the sum of independent expenditures made in opposition to the same certified candidate.

(3) The Commission will compare the final computed amounts and, if the amount for the certified candidate is less than the amount for the nonparticipating candidate, will immediately authorize a matching fund allocation equal to the difference to the certified candidate.

D. Matching Fund Computation Not Involving a Nonparticipating Candidate. In races in which there are two or more certified candidates and at least one nonparticipating candidate,

(1) if the matching fund computation is triggered by an independent expenditure in support of or opposition to a certified candidate, and

(2) the campaign totals, including independent expenditures, of any nonparticipating candidate in the race are equal to or less than the campaigns totals, including independent expenditures, of at least one certified candidate in the race; then

(3) the matching fund computation must be completed according to the procedure in paragraph B of this subsection.

E. The Commission will make computations promptly upon the filing of campaign finance reports and independent expenditure reports.

F. To prevent the abuse of the Matching Fund Provision, the Commission will not base any calculation on independent expenditures that, although containing words of express advocacy, also contain other words or phrases that have no other reasonable meaning than to contradict the

express advocacy. For example, expenses related to a communication saying, "Vote for John Doe -- he's incompetent and inexperienced," will not be considered a communication in support of John Doe in the calculation of matching funds.

~~C~~G. Matching Fund Cap. Matching funds are limited to 2 times the amount originally distributed to a certified candidate from the Fund for that election. Certified candidates are not entitled to cumulative matching funds for multiple opponents.

~~D~~H. Other. Any distribution based on reports and accurate calculations at the time of distribution is final, notwithstanding information contained in subsequent reports.

~~E~~I. Coordination with Other State Agencies. The Commission will coordinate with the ~~Bureau of Accounts and Control~~Office of the Controller and other relevant State agencies to implement a mechanism for the distribution of Fund revenues to certified candidates that is expeditious, ensures public accountability, and safeguards the integrity of the Fund.

~~F~~J. Disbursements With No Campaign Value. If a ~~traditionally~~privately financed candidate has received monetary contributions which are disbursed in ways that do not in any way influence the nomination or election of the candidate, those receipts will not be considered by the Commission in calculating matching funds for his or her opponent. Such disbursements may include repaying a loan received by the candidate, refunding a contribution to a contributor, or transferring funds to a party or political committee for purposes that do not relate to the candidate's race.

4. Advance Purchases of Goods and Services for the General Election.

A. If, prior to the primary election, a candidate purchases or receives in-kind contributions ~~a preponderance~~ of consulting services, or the design, printing, or distribution of campaign literature and advertising, including radio and television advertising, ~~purchased prior to the primary election by an opponent of a certified Maine Clean Election Act candidate prior to the primary are used~~ but uses or will use a preponderance of those services exclusively for the general election, then the portion used or to be used for the general election must be counted as a general election receipt or expenditure in calculating the amount of matching funds for ~~the~~ any certified ~~Maine Clean Election Act~~ candidate in the same race.

B. If a certified candidate in a general election believes that an opponent, or person or committee making an independent expenditure, has failed to disclose an advance purchase for the general election, the certified candidate shall submit a written request for an investigation to the

Commission no later than August 30 of the election year, or within 30 days of the opponent's filing of the 42-day post-primary report, whichever is later. The request must identify the pre-primary election expenditure that is believed to be for the general election and must state a specific basis for believing that the goods and services purchased were not used for the primary election.

C. The Commission will request a response from the opposing candidate or other respondent, and will make a determination whether the expenditure should be counted toward the certified candidate's eligibility for matching funds.

SECTION 6. LIMITATIONS ON CAMPAIGN EXPENSES.

A certified candidate must:

1. limit the candidate's campaign expenditures and obligations to the applicable Clean Election Act Fund distribution amounts plus any authorized ~~M~~matching ~~F~~fund allocations;

2. not accept any contributions unless specifically authorized in writing to do so by the Commission in accordance with the Act [§ 1125(2) and § 1125(13)];

3. use revenues distributed from the Fund only for campaign-related purposes as outlined in guidelines published by the Commission, and not for personal or any other use;

4. not use revenues distributed from the Fund to purchase goods to sell for profit;

5. not spend more than the following amounts of Fund revenues on post-election parties, thank you notes, or advertising to thank supporters or voters:

   A. $250 for a candidate for the State House of Representatives;

   B. $750 for a candidate for the State Senate; and

   C. $2,500 by a gubernatorial candidate.

   The candidate may also use his or her personal funds for these purposes; and

6. not use revenues distributed from the Fund for the payment of fines, forfeitures, or civil penalties, or for the defense of any enforcement action of the Commission.

SECTION 7. RECORD KEEPING AND REPORTING

1. Record Keeping by Participating and Certified Candidates. Participating and certified candidates and their treasurers must comply with applicable record keeping requirements set forth in Title 21-A, chapter 13, subchapter II [§1016], and chapter 14 [§1125(12-A)]. Failure to keep or produce the records required under Title 21-A and these rules is a violation of the Act for which the Commission may impose a penalty. The Commission may also require the return of funds for expenditures lacking supporting documentation if a candidate or treasurer is found in violation of the record keeping requirements. The candidate or the treasurer shall have an opportunity to be heard prior to any Commission decision imposing a penalty or requiring the return of funds under this section. In addition to these specific actions, the Commission may also take any other action authorized under Title 21-A.

   A. Fiduciary Responsibility for Funds. All funds provided to a certified candidate or to a candidate's authorized political committee must be segregated from, and may not be commingled with, any other funds, other than unspent seed money. Matching fund advance revenues for which no spending authorization has been issued must be deposited in a federally insured account~~financial institution until the candidate receives~~ and may not be used until the candidate receives authorization to spend those funds.

   B. Meal Expenses. A candidate or treasurer must obtain and keep a record for each meal expenditure of more than $50. The record must include itemized bills for the meals, the names of all participants in the meals, the relationship of each participant to the campaign, and the specific, campaign-related purpose of each meal.

   C. Vehicle Travel Expenses. A candidate or treasurer must obtain and keep a record of vehicle travel expenses for which reimbursements are made from campaign funds. Reimbursement ~~may~~ must be based on the standard mileage rate prescribed for employees of the State of Maine for the year in which the election occurs. ~~using either the standard mileage rate or actual expenses. The candidate must use one method exclusively during an election campaign.~~ For each trip for which reimbursement is made, a record must be maintained showing the dates of travel, the number of miles traveled, the origination, destination and purpose of the travel, and the total amount claimed for reimbursement. A candidate may be reimbursed for vehicle travel expenses at a rate less than the standard mileage rate. A candidate may also reimburse a volunteer for vehicle travel expenses at a rate less than the standard mileage rate as long as the difference does not exceed $100 per volunteer per election. The Commission may disallow

any vehicle travel reimbursements for which the candidate or the treasurer cannot produce an accurate record.

~~(1) Standard Mileage Rate. The standard mileage rate is a set rate per mile that a candidate may use to compute reimbursable vehicle travel expenses. Reimbursement should be calculated using the standard mileage rate currently prescribed for employees of the State of Maine. For each trip for which reimbursement is made, a record should be maintained showing the dates of travel, the number of miles traveled, the origination, destination and purpose of the travel, and the total amount claimed for reimbursement.~~

~~(2) Actual Expenses. Actual expenses include the pro rata, campaign related share of vehicle depreciation or lease payments, maintenance and repairs, gasoline (including gasoline taxes), oil, insurance, and vehicle registration fees, etc. For reimbursement using this method, the candidate must maintain detailed records reflecting use of the vehicle for campaign related purposes. The records must include the dates the vehicle was used for campaign related purposes, the total mileage the vehicle was used for campaign related purposes, the total mileage the vehicle was used for all purposes during the period for which reimbursement is made, and the percentage of total vehicle usage that the vehicle was used for campaign related purposes.~~

2. Reporting by Participating and Certified Candidates.

A. General. Participating and certified candidates must comply with applicable reporting requirements set forth in Title 21-A, chapter 13, subchapter II [§ 1017].

B. Return of Matching Fund Advances and Unspent Fund Revenues. Matching ~~F~~fund advance revenues that have not been authorized for spending and unspent Fund revenues shall be returned to the Fund as follows:

(1) Unauthorized Matching Funds. Candidates must return all ~~M~~matching ~~F~~fund advance revenues for which no spending authorization was issued prior to an election to the Commission by check or money order payable to the Fund within 2 weeks following the date of the election.

(2) Unspent Fund Revenues for Unsuccessful Primary Election Candidates. Upon the filing of the 42-day post-primary election

report for a primary election in which a certified candidate was defeated, that candidate must return all unspent Fund revenues to the Commission by check or money order payable to the Fund, except that a gubernatorial candidate may be allowed to reserve up to $1,000 in order to defray expenses associated with an audit by the Commission.

(3) Unspent Fund Revenues for All General and Special Election Candidates. Upon the filing of the 42-day post-election report for a general or special election, all candidates must return all unspent Fund revenues to the Commission by check or money order payable to the Fund, except that a gubernatorial candidate may be allowed to reserve up to $2,500 in order to defray expenses associated with an audit by the Commission.

C. Liquidation of Property and Equipment. Property and equipment that is not exclusive to use in a campaign (e.g., computers and associated equipment, etc.) that has been purchased with Maine Clean Election Act funds loses its campaign-related purpose following the election. Such property and equipment must be liquidated at its fair market value and the proceeds thereof reimbursed to the Maine Clean Election Fund as unspent fund revenues in accordance with the schedule in paragraph B above.

(1) The liquidation of campaign property and equipment may be done by sale to another person or purchase by the candidate.

(2) Liquidation must be at the fair market value of the property or equipment at the time of disposition. Fair market value is determined by what is fair, economic, just, equitable, and reasonable under normal market conditions based upon the value of items of similar description, age, and condition as determined by acceptable evidence of value.

SECTION 8. RECOUNTS, VACANCIES, WRITE-IN CANDIDATES, SPECIAL ELECTIONS

1. Recounts. After a primary election, if there is a recount governed by Title 21-A, chapter 9, subchapter III, article III [§ 737-A], and either the leading candidate or the 2nd-place candidate is a certified candidate, the following provisions will apply:

A. If the margin between the leading candidate and the 2nd-place candidate is less than 1% of the total number of votes cast in that race and a recount is presumed necessary, the certified candidate immediately must halt the expenditure of revenues disbursed to the candidate from the Fund upon receiving notice of the recount until the recount is complete.

B. If the recount results in a changed winner, the certified candidate who originally received the disbursement must return any unspent distributions from the Fund to the Commission, payable to the Fund. If the new winner is a certified candidate, the Commission will distribute the applicable disbursement amount to the candidate.

C. If the margin between the leading candidate and 2nd-place candidate is 1% or greater of the total number of votes cast in that race and the 2nd-place candidate requests a recount, the leading candidate, if a certified candidate, is not required to freeze expenditures of the disbursement.

D. If the recount results in a changed winner, the certified candidate must return any unspent distributions from the Fund to the Commission, payable to the Fund. If the new winner is a certified candidate, the Commission will distribute the applicable disbursement amount to the candidate.

2. Death, Withdrawal, or Disqualification of a Candidate During Campaign.

A. Death, Withdrawal, or Disqualification Before Primary Election. If a candidate dies, withdraws, or is disqualified before the primary election, the Commission will establish a qualifying period during which any replacement candidate may become a participating candidate, collect qualifying contributions, and apply to become a certified candidate.

B. Death, Withdrawal, or Disqualification After the Primary Election and before 5:00 p.m. on the 2nd Monday in July Preceding the General Election. If a candidate dies, withdraws, or is disqualified before 5:00 p.m. on the 2nd Monday in July preceding the general election, any replacement candidate will have a qualifying period from the time of the candidate's nomination until 30 days after the 4th Monday in July as a participating candidate to collect qualifying contributions and request certification.

C. Death, Withdrawal, or Disqualification after 5:00 p.m. on the 2nd Monday in July Preceding the General Election. If a candidate dies, withdraws, or is disqualified after 5:00 p.m. on the 2nd Monday in July preceding the general election, the Commission will establish a qualifying period during which any replacement candidate may become a participating candidate, collect qualifying contributions, and apply to become a certified candidate.

D. Replacement Candidates Who Are Participating Candidates. Any replacement candidate choosing to become a participating candidate must otherwise comply with the requirements of this chapter and the Act including, but not limited to, seed money limits and qualifying

contribution requirements. The Commission will notify any replacement candidates of the opportunity to participate in the Act and the procedures for compliance with this chapter during a special election.

3. Write-In Candidates.

A. Write-in candidates are subject to the registration requirements of Title 21-A M.R.S.A. Section 1013-A and the campaign finance reporting requirements of Section 1017, as soon as they qualify as a nominee pursuant to 21-A M.R.S.A. Section 723, file a declaration of write-on candidacy with the Secretary of State pursuant to 21-A M.R.S.A. Section 722-A, or receive contributions or make expenditures with the intent of qualifying as a candidate in the primary or general election, whichever first occurs.

B. Write-in candidates may not participate in the Maine Clean Election Act, except as provided in paragraph C.

C. A write-in candidate in a primary election who becomes a party's nominee may participate in the Maine Clean Election Act for the general election. The Commission will establish a qualifying period during which the candidate may become a participating candidate, collect qualifying contributions, and apply to become a certified candidate.

D. A candidate who is participating in the Maine Clean Election Act and who has no opponent listed on the ballot will be presumed to be in an uncontested election even if there are one or more individuals running as write-in candidates. The participating candidate may rebut this presumption by presenting evidence to the Commission that the write-in opponent(s) received or spent substantial campaign funds. Based upon the evidence presented, the Commission may make a determination that it is a "contested election" and make a distribution of public funds to the participating candidate on that basis.

4. Special Election When One or More Candidates Desire to Become Certified Candidates. If a vacancy occurs in the office of Governor, Senator, or Representative because an incumbent dies, resigns, becomes disqualified, or changes residence to another electoral division, and a special election will be held to fill the vacant office, the following provisions apply:

A. The Commission, in consultation with the Secretary of State, will establish a qualifying period during which any candidate in a special election may decide to become a participating candidate, collect qualifying contributions, and apply to become a certified candidate; and

B. Any candidate in a special election must otherwise comply with the requirements of this chapter and the Act including, but not limited to, seed money limits and qualifying contribution requirements. The Commission will notify any candidates of the opportunity to participate in the Act and the procedures for compliance with this chapter during a special election.

5. Return of Unspent Fund Revenues. Any time a certified candidate withdraws, is disqualified, or dies before an election, the candidate or the candidate's agent must return to the Commission all unspent amounts distributed to the candidate by check or money order payable to the fund, within 2 weeks of the termination of the candidacy.

STATUTORY AUTHORITY:
1 M.R.S.A. § 1003(1); 21-A M.R.S.A. § 1126.

EFFECTIVE DATE:
November 1, 1998

NON-SUBSTANTIVE CHANGES:
December 3, 1998 - minor spelling and formatting.

2002 MAJOR SUBSTANTIVE RULE-MAKING

AMENDMENTS PROVISIONALLY ADOPTED:
February 13, 2002

COMMISSION ADOPTION OF FINAL RULE:
May 1, 2002

EFFECTIVE DATE:
July 31, 2002

2005 MAJOR SUBSTANTIVE RULE-MAKING

DATE OF PROVISIONAL ADOPTION OF AMENDMENTS:
April 8, 2005

COMMISSION ADOPTION OF FINAL AMENDMENTS:
July 13, 2005

Lavin, Paul

From: Lacey Sloan [sloanlaceym@hotmail.com]
Sent: Wednesday, January 31, 2007 8:16 PM
To: Lavin, Paul
Subject: NCEA changes

Dear Mr. Lavin:

I have read the proposed changes to the Maine Clean Elections law, and I support all of the changes except those proposed to subsection 7 concerning "an organization's voter guide or legislative scorecard is made to influence an election if more than 500 copies are sent within 60 days of a general election to individuals who are not members of the organization." Since most voter guides have information on more than one candidate, it seems that these would be no different than slate ads, which do not count against candidates included in the ad. I assume that the purpose of this section is to count the guide as a cost to the candidate's campaign.

I particularly support the changes to sections 6 and 7 that require expenditures made by a candidate's committee, etc., be reported, and that they reported based on the actual expenses, not just listed as "reimbursement" or "fees to consultant."

Thank you for your efforts to keep MCEA working for us all.

Lacey Sloan
155 Stone Hill Rd.
Limerick, ME 04048

Search for grocery stores. Find gratitude. Turn a simple search into something more.
http://click4thecause.live.com/search/charity/default.aspx?source=hmemtagline_gratitude&FORM=WLMTAG

Lavin, Paul

From: Nancy Oden [cleanearth@tds.net]
Sent: Thursday, February 01, 2007 10:26 AM
To: Lavin, Paul
Subject: solution

I was a state senatorial candidate last year, and have concluded that the only way to keep money out of the elections is to:

1. Require all candidates to qualify for the ballot equally (do not make independents get twice as many signatures, for example), and do not make this too difficult. The 4,000-signature requirement now in place for governor and US senate are quite sufficient to quell any but serious people.

2. Once a candidate has qualified by getting the required number of signatures verified, then that candidate and all other candidates for that office should receive the same amount of money and not be allowed to spend a penny more than their allotment.

3. Regular financial reports - more frequent than now - should be carefully monitored to ensure candidates are not spending more than their allotment.

4. No other spending should be allowed for any campaign other than the candidates' allotments.

5. Extant political parties should not be allowed loopholes to help their candidates, eg, printing campaign materials, etc.

If a truly level playing field is wanted (and it apparently is not by those already in power), then the Ethics Commission would propose legislation to make it a truly level playing field - everyone qualifies in the same way, everyone gets the same amount of money, no other monies allowed.

- Nancy Oden, Jonesboro, Maine

Agenda Item #2

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

To: Commission Members

From: Jonathan Wayne

Date: February 7, 2006

Re: Grose and Wasserott Complaints

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 Dan Billings has responded on behalf of the Wasserott campaign.

Allegations against Wasserott Campaign

Newspaper Articles

The Commission staff easily understands why the Grose campaign might regard the Coastal Journal's publication of eight commentaries written by Susan Wasserott as an in-kind contribution to her campaign. Apparently, there was a generous amount of space devoted to explaining Ms. Wasserott's views on public policy issues, along with her picture. Newspaper space costs money. This donation of this space certainly could fall within the definition of contribution: something of value provided to Ms. Wasserott for the purpose of influencing her election. (21-A M.R.S.A. §1012(A)(1))

The Election Law contains, however, a generous exception to the definition of the term "expenditure" that applies to broadcasting stations and newspapers that are not controlled by a political party, political committee, or candidate:

> The term "expenditure" ...
>
> B. [d]oes not include:
>
> (1) Any news story, commentary or editorial distributed through the facilities of any broadcasting station, newspaper, magazine or other periodical publication, unless the facilities are owned or controlled by any political party, political committee or candidate;

21-A M.R.S.A. §1012(3)(B)(1) This exception seems intended to provide media with a wide degree of latitude to publish news stories or editorials dealing with elections or candidates without being accused of making an expenditure to benefit a candidate.

This is the first complaint raising this issue before the Commission since my employment began. Presumably, this is because most news outlets make an effort to be balanced. The exception for newspapers and broadcasters does seem quite broad, and could allow the owner of a politically-minded newspaper or broadcast station to unfairly tilt an election in a significant way. In applying the law, I do not want to ignore the potential unfairness to candidates such as Rep. Grose. Nevertheless, it is the job of the Commission to apply the law as it is written. Because of the language in the current law, I am reluctant to recommend the view that Ms. Wasserott received a contribution.

Rep. Grose or others may wish to propose to the Legislature that this exception in the Election Law be revisited because of its potential to disadvantage candidates.

Campaign Website

The Grose campaign complained that the Wasserott campaign received a very slick, professional-looking website for little compensation. The Wasserott campaign responded that the website was designed by Mark Stephenson of Stephenson Design Group, and that the donated services fall within the volunteerism exception to the term "contribution":

> The term "contribution"
>
> B. [d]oes not include:
>
> (1) The value of services provided without compensation by individuals who volunteer a portion or all of their time on behalf of a candidate or political committee;

21-A M.R.S.A. §1012(2)(B)(1)

The campaign later compensated Mr. Stephenson $250 for his services. The Commission staff regularly advises candidates that because of the volunteerism exception their supporters can donate specialized skills to a campaign (design, database, legal) without making a contribution. As long as Mr. Stephenson was donating his own labor only – and not the labor of his employees – I recommend the view that his services did not amount to a contribution to the Wasserott campaign.

Three Wooden Signs Contributed by Richard Tetrev

The Grose campaign alleges that Susan Wasserott received three large wooden signs that appear to be painted-over signs from the district's previous Republican nominee, Richard Tetrev. It has been the experience of the Commission staff that when individuals give wood to candidates to use for signs, some individuals are aware that they could be making a contribution that has value, and other donors do not think of it.

To set a clearer standard, the Legislature adopted the following exception from the definition of contribution which was proposed by the Commission:

> (8-A) Wood or other materials used for political signs that are found or contributed if not originally obtained by the candidate or contributor for campaign purposes ...

21-A M.R.S.A. §1012(2)(B)(8-A) Mr. Billings argues that the wood donated by Mr. Tetrev was not a contribution because Mr. Tetrev did "not originally obtain[] [the wood] for campaign purposes."

The Commission staff originally drafted this language, and our intention was that it would cover spare wood lying around a candidate or supporter's property that was obtained for some non-political purpose. We did not mean the exception to cover wood contributed by a previous candidate for political signs.

Nevertheless, what the agency staff had in mind when the law was drafted may not be particularly relevant. If the wood was, indeed, not obtained by Mr. Tetrev for campaign purposes, you may conclude that the donated wood was not a contribution.

If you determine that the wood is not covered by the exception, the staff recommends that you find the Wasserott campaign in violation of accepting a nominal contribution and assess no monetary penalty.

Allegations against the Grose Campaign

Attorney Daniel I. Billings submitted a complaint alleging that the Suscom (now Comcast) cable television network in Brundwick showed advertising paid for by the Grose campaign that incorrectly stated that it was paid for by the Sagadahoc County Democratic Committee.

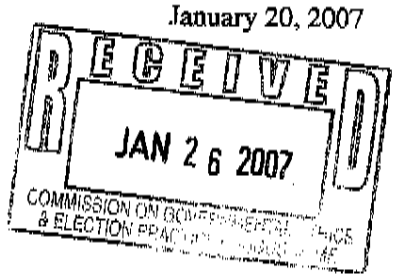
Jennifer Geiger of Briggs Advertising has submitted a letter explaining that the inaccurate "paid for" information was inadvertent and that it was quickly corrected.

Both the Grose campaign (as the party financing the ad) and the television station were under a statutory obligation to verify that the ad contained correct disclosure of what organization paid for the ad. In order to encourage accurate disclosure generally, the staff recommends that the Commission find the Grose campaign and Briggs Advertising in

violation of 21-A M.R.S.A. §1014(1) and (3), respectively, for including the wrong information in the advertisement. Because of the inadvertent nature of the violation and the prompt correction, the staff recommends against the assessment of any penalty.

Jonathan Wayne
Executive Director
Commission on Governmental Ethics
And Election Practices
135 State House Station
Augusta, Maine 04333-0135

January 20, 2007



Dear Sir,
I am writing in response to your letter of January 18, 2007 regarding the complaint filed against Briggs Advertising and the Carol Grose campaign by Daniel Billings.

Briggs Advertising operated as the outsourced advertising sales office for the Brunswick cable television system for 19 years through December of 2006. We also have an in-house video production facility and offer production of TV spots as one of our services. With these services we provided access to affordable television advertising to local political candidates (regardless of party affiliation) for a number of election cycles.

For the 2002 Maine election, Briggs Advertising produced a :30 TV spot for Carol Grose's campaign. That ad was paid for by the Sagadahoc Democratic Committee.

For her 2004 re-election campaign, Carol Grose hired Briggs Advertising to produce a new spot, which consisted of a repetition of the beginning and ending footage from the 2002 spot, replacing only a section of the ad in which Representative Grose spoke on-camera. This spot was paid for by the Grose for Representative campaign. In production of this spot, the disclosure information was updated on the end page.

In 2006, I explored ideas with Representative Grose for creation of a new campaign commercial, and in this process we reviewed her previous ads. The most recent ad from 2004 was out-of-date, as it referred to what she had done in her "first term" in the Legislature. The original ad, however, was fairly generic, and we determined the spot could be updated without re-shooting, with a simple change of the election date in the voiceover for a retagging fee of $65. Carol said she would prefer this option to producing a new spot for $450 and "spending the taxpayers money".

In retagging the 2002 spot, we overlooked the fact that four years earlier the original ad had been paid for by the Sagadahoc Democratic Committee, and that the disclosure information, which had been revised for the 2004 ad, was different on the 2002 ad. It was an oversight made in the crunch of a very busy time; with only 2 salespeople and 2 cameramen/editors, in the two short weeks before the election we held creative meetings, wrote scripts, shot and edited ads, and wrote contracts for air time for more than 15 candidates, both Democrats and Republicans.

We do our best to be accurate, although we rely on our clients to give final approval to the content of their commercials. The spot aired for only a couple of days before we were contacted about our mistake, which we corrected immediately. I trust that no one was harmed by this error.

Sincerely,

Jennifer Geiger
Account Executive
Briggs Advertising

Wayne, Jonathan

From: Dib9@aol.com
Sent: Wednesday, November 29, 2006 1:42 PM
To: Wayne, Jonathan
Cc: Lavin, Paul
Subject: Re: Sag Dems/Grose TV Ad

Jonathan:

Please consider this e-mail my formal complaint concerning TV ads for Carol Grose which ran on Comcast before the election. I believe the law was violated because the ads contained a disclosure stating that they were paid for by the Sagadahoc County Democratic Committee, when Ethics Commission staff has determined that the ads were actually paid for by the Grose campaign.

While I understand that disclosure violations are common, and the mistake here unintentional and was corrected when it was brought to attention, I believe the violation is worthy of consideration by the Commission because it made it appear that there were much more serious violations of the Clean Elections Act. If the ad had actually been paid for by the Sagadahoc County Democratic Committee that would have been an unreported independent expenditure which would have denied Ms. Grose's opponent matching funds. Due to what appeared to be a serious violation, both Assistant Director Lavin and I spent time looking into this matter. As it turned out, the violation was only a disclosure violation but the violation illustrates why the disclosure requirements are important. Ultimately, I believe the campaign had a responsibility to review the final ad before it aired to ensure that the proper disclosure is made and should be held accountable for not doing so.

Thank you.

Dan Billings

MARDEN, DUBORD, BERNIER & STEVENS

ATTORNEYS AT LAW

WILLIAM P. DUBORD
ALTON C. STEVENS
J. WILLIAM DRUARY, JR.
ROBERT M. MARDEN
DAVID E. BERNIER
DANIEL I. BILLINGS
DANIEL W. MARRA

44 ELM STREET
P.O. BOX 708
WATERVILLE, ME 04903-0708

(207) 873-0186
FAX (207) 873-2245
E-MAIL: mdbs@gwi.net
http://www.mainelawfirm.com

ALBERT L. BERNIER
(RETIRED)
F. HAROLD DUBORD
(1894-1964)
RICHARD J. DUBORD
(1931-1970)
HAROLD C. MARDEN
(1900-1994)
ROBERT A. MARDEN
(RETIRED)

RECEIVED
NOV 30 2006
COMMISSION ON GOVERNMENTAL ETHICS & ELECTION PRACTICES AUGUSTA, ME

November 29, 2006

Paul Lavin, Assistant Director
State of Maine Commission on Governmental Ethics & Election Practices
135 State House Station
Augusta, Maine 04333-0135

RE: Grose Complaint

Dear Paul:

I am writing on behalf of Susan Wasserott in response to your letter of November 17th. Your letter raises three specific issues which are addressed below:

1. The website for the Wasserott campaign was initially designed by Mark Stephenson of Stephenson Design Group as a volunteer for the campaign. The value of services provided without compensation by individuals who volunteer a portion or all of their time on behalf of a candidate or political committee are not contributions to a campaign as defined by 21-A M.R.S.A. §1012(2). The $70.67 expenditure reported on the 6-day Pre-General Election Report was to cover the domain registration and hosting of the site. The 42-day Post General Election Report for the Wasserott campaign will show a payment of $250.00 to the Stephenson Design Group for web design. Susan Wasserott talked with Sandy Thompson of the Ethics Commission staff on November 8th and was told that it would be proper to pay Mark Stephenson to partially compensate him for services that had been provided to the campaign on a volunteer basis.

2. The articles published in the Coastal Journal are not campaign expenditures under Maine law. 21-M.R.S.A. §1012(3)(B)(1) (The definition of expenditure does not include "[a]ny news story, commentary or editorial distributed through the facilities of any broadcasting station, newspaper, magazine or other periodical publication, unless the facilities are owned or controlled by any political party, political committee or candidate"). The Coastal Journal is a newspaper owned by Blethen Maine Newspapers, Inc. and is not controlled by any political party, political committee or candidate. Its policies regarding what articles it chooses to publish are not within the

jurisdiction of the Commission. It should be noted that the paper also published articles by Rep. Grose before the election.

3. The signs in question were produced with wood provided by Rick Tetrev and paint that Susan and her husband had left over from a family project. The wood and the paint are not contributions to the campaign under the provisions of 21-A M.R.S.A. §1012(2)(B)(8-B) (The term contribution does not include "[w]ood or other materials used for political signs that are found or contributed if not originally obtained by the candidate or contributor for campaign purposes"). The wooden signs were produced by volunteer labor on contributed wood and paint that was not originally obtained for campaign purposes. The Pre-General Election Report filed by the Wasserott campaign includes an expenditure for the cost of the letters that were purchased for the production of the signs.

As illustrated above, the issues raised by the Grose complaint are specifically addressed by provisions of Maine law. The complaint fails to allege any facts which constitute a violation of Maine law or Commission rules. No action by the Commission is warranted.

Very truly yours,

Daniel I. Billings
e-mail: dbillings@gwi.net

Lavin, Paul

From: thebus [thebus@gwi.net]
Sent: Monday, November 06, 2006 9:54 AM
To: Lavin, Paul
Subject: Wasserott Ethic Complaint

Dear Ethics Commission:

I write you to report apparent non-compliance with provisions of campaign reporting laws by Susan Wasserott, the Republican candidate for House of Representatives District 65. Ms. Wasserott appears to have received valuable in-kind contributions which she has failed to report as required by law. In particular, she appears to have received free advertising space in The Coastal Journal on numerous occasions, she appears to have received below-cost website design services, and she appears to have received valuable wooden campaign signs from someone associated with Richard Tetrev, a Republican candidate in the past. None of these contributions appear on her financial disclosure reports.

Copies of the Coastal Journal are located on her website www.wasserottrep65.com. The advertisements are in the form of "advertorials" headed by a large color picture of candidate Wasserott and including not only a statement that she is a candidate for House of Representatives District 65, and a description of the towns in District 65, but Ms. Wasserott's campaign website address, www.wasserottrep65.com. This elaborate campaign website, which is incorporated by reference in Ms. Wasserott's free advertorial, explicitly asks people to vote for Ms. Wasserott. Indeed, the name of the website alone, following the description of her candidacy, appears to be an explicit appeal for votes. None of Ms. Wasserott's advertorial advertisements in The Coastal Journal include the required disclosures of candidate approval or funding.

I complained to the editor of The Coastal Journal, Fred Kahrl, about these free advertisements for Ms. Wasserott's candidacy. He reluctantly offered to publish two articles by me, to partially counterbalance the eight advertorials he published for for Ms. Wasserott. By way of background on the partisanship involved, you may want to know that Mr. Kahrl was the unsuccessful Republican candidate I defeated when I was first elected to the House of Representatives in 2002, and he recently declared his personal support of Ms. Wasserott and opposition to me in his " West of Woolwich" column in the Coastal Journal on Nov. 2 2006, www.COASTALjOURNAL.com Mr. Kahrl was a MCEC and should be aware that providing free space to one canidate without offering the same to their opponent is at the very least unethical.

I have not included printouts from Ms. Wasserott's campaign website at www.wasserottrep65.com, as the site is readily accessible to you through the internet, but I can print out copies if you request. It is a very slick, professional-looking website with many photos and at least 18 different interlinked web pages. Ms. Wasserott's finance reports list only one website-related expense - $70.67 paid to Stephenson Design Group. This appears to be far less than the market-value cost of designing and implementing such an elaborate website.

Ms. Wasserott's campaign has erected three large wooden signs that appear to be painted-

over signs from Richard Tetrev's campaign. I believe they were the property of Richard Tetrev and they constitute an in-kind contribution to Ms. Wasserott's campaign that does not appear in Ms. Wasserott's financial reports.

I feel that these items taken together indicate a pattern of circumvention of the MCEA regulations, and I hope you will investigate them. Please let me know if you need any more information from me in this connection.

Sincerely,

Karl D. Grose
Treasurer, People to Elect Carol Grose.

Title 21-A, §1014, Publication or distribution of political statements

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PLEASE NOTE: The Revisor's Office CANNOT perform research for or provide legal advice or interpretation of Maine law to the public. If you need legal assistance, please contact a qualified attorney.

§1014. Publication or distribution of political statements

1. Authorized by candidate. Whenever a person makes an expenditure to finance a communication expressly advocating the election or defeat of a clearly identified candidate through broadcasting stations, newspapers, magazines, outdoor advertising facilities, publicly accessible sites on the Internet, direct mails or other similar types of general public political advertising or through flyers, handbills, bumper stickers and other nonperiodical publications, the communication, if authorized by a candidate, a candidate's authorized political committee or their agents, must clearly and conspicuously state that the communication has been so authorized and must clearly state the name and address of the person who made or financed the expenditure for the communication. The following forms of political communication do not require the name and address of the person who made or authorized the expenditure for the communication because the name or address would be so small as to be illegible or infeasible: ashtrays, badges and badge holders, balloons, campaign buttons, clothing, coasters, combs, emery boards, envelopes, erasers, glasses, key rings, letter openers, matchbooks, nail files, noisemakers, paper and plastic cups, pencils, pens, plastic tableware, 12-inch or shorter rulers, swizzle sticks, tickets to fund-raisers and similar items determined by the commission to be too small and unnecessary for the disclosures required by this section.
[2005, c. 301, §10 (amd).]

2. Not authorized by candidate. If the communication described in subsection 1 is not authorized by a candidate, a candidate's authorized political committee or their agents, the communication must clearly and conspicuously state that the communication is not authorized by any candidate and state the name and address of the person who made or financed the expenditure for the communication. If the communication is in written form, the communication must contain at the bottom of the communication in print that is no smaller in size than 10-point bold print, Times New Roman font, the words "NOT PAID FOR OR AUTHORIZED BY ANY CANDIDATE."
[2003, c. 510, Pt. F, §1 (amd); c. 599, §15 (aff).]

2-A. Communication. If a communication that names or depicts a clearly identified candidate is disseminated during the 21 days before an election through the media described in subsection 1, the communication must state the name and address of the person who made or financed the communication and a statement that the communication was or was not authorized by the candidate.
[2005, c. 301, §11 (new).]

3. Broadcasting prohibited without disclosure. No person operating a broadcasting station within this State may broadcast any communication, as described in subsections 1 and 2, without an oral or written visual announcement of the name of the person who made or financed the expenditure for the communication.
[1985, c. 161, §6 (new).]

3-A. In-kind contributions of printed materials. A candidate, political committee or political action committee shall report on the campaign finance report as a contribution to the candidate, political committee or political action committee any contributions of in-kind printed materials to be used in the support of a candidate or in the support or defeat of a cause to be voted upon at referendum. Any in-kind contributions of printed materials used or distributed by a candidate, political committee or political action committee must include the name or title of that candidate, political committee or political action committee as the authorizing agent for the printing and distribution of the in-kind contribution.

The use or distribution of in-kind printed materials contributed to a candidate, political committee or political action committee must be reported as an expenditure on the campaign finance report of that candidate, political committee or political action committee.
[1991, c. 839, §9 (new).]

Title 21-A, §1014, Publication or distribution of political statements

3-B. Newspapers. A newspaper may not publish a communication described in subsection 1 or 2 without including the disclosure required by this section. For purposes of this subsection, "newspaper" includes any printed material intended for general circulation or to be read by the general public. When necessary, a newspaper may seek the advice of the commission regarding whether or not the communication requires the disclosure.
[2005, c. 308, §1 (new).]

4. Enforcement. An expenditure, communication or broadcast made within 10 days before the election to which it relates that results in a violation of this section may result in a civil fine of no more than $200. An expenditure, communication or broadcast made more than 10 days before the election that results in a violation of this section may result in a civil fine of no more than $100 if the violation is not corrected within 10 days after the candidate or other person who committed the violation receives notification of the violation from the commission. If the commission determines that a person violated this section with the intent to misrepresent the name or address of the person who made or financed the communication or whether the communication was or was not authorized by the candidate, the commission may impose a fine of no more than $5,000 against the person responsible for the communication. Enforcement and collection procedures must be in accordance with section 1020-A.
[2005, c. 542, §1 (amd).]

5. Automated telephone calls. Automated telephone calls that name a clearly identified candidate must clearly state the name of the person who made or financed the expenditure for the communication, except for automated telephone calls paid for by the candidate that use the candidate's voice in the telephone call.
[2005, c. 301, §12 (new).]

PL 1985, Ch. 161, §6 (NEW).
PL 1987, Ch. 188, §17 (AMD).
PL 1989, Ch. 504, §5,6,31 (AMD).
PL 1991, Ch. 466, §37 (AMD).
PL 1991, Ch. 839, §8-10 (AMD).
PL 1995, Ch. 483, §6 (AMD).
PL 2003, Ch. 302, §1 (AMD).
PL 2003, Ch. 510, §F1 (AMD).
PL 2003, Ch. 510, §F2 (AFF).
PL 2003, Ch. 599, §15 (AFF).
PL 2005, Ch. 301, §10-12 (AMD).
PL 2005, Ch. 308, §1 (AMD).
PL 2005, Ch. 542, §1 (AMD).

Title 21-A, §1012, Definitions

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§1012. Definitions

As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings. [1985, c. 161, §6 (new).]

1. Clearly identified. "Clearly identified," with respect to a candidate, means that:

A. The name of the candidate appears; [1985, c. 161, §6 (new).]

B. A photograph or drawing of the candidate appears; or [1985, c. 161, §6 (new).]

C. The identity of the candidate is apparent by unambiguous reference. [1985, c. 161, §6 (new).]
[1985, c. 161, §6 (new).]

2. Contribution. The term "contribution:"

A. Includes:

(1) A gift, subscription, loan, advance or deposit of money or anything of value made for the purpose of influencing the nomination or election of any person to state, county or municipal office or for the purpose of liquidating any campaign deficit of a candidate, except that a loan of money to a candidate by a financial institution in this State made in accordance with applicable banking laws and regulations and in the ordinary course of business is not included;

(2) A contract, promise or agreement, express or implied, whether or not legally enforceable, to make a contribution for such purposes;

(3) Funds received by a candidate or a political committee that are transferred to the candidate or committee from another political committee or other source; and

(4) The payment, by any person other than a candidate or a political committee, of compensation for the personal services of other persons that are provided to the candidate or political committee without charge for any such purpose; and
[1995, c. 483, §3 (amd).]

B. Does not include:

(1) The value of services provided without compensation by individuals who volunteer a portion or all of their time on behalf of a candidate or political committee;

(2) The use of real or personal property and the cost of invitations, food and beverages, voluntarily provided by an individual to a candidate in rendering voluntary personal services for candidate-related activities, if the cumulative value of these activities by the individual on behalf of any candidate does not exceed $100 with respect to any election;

(3) The sale of any food or beverage by a vendor for use in a candidate's campaign at a charge less than the normal comparable charge, if the charge to the candidate is at least equal to the cost of the food or beverages to the vendor and if the cumulative value of the food or beverages does not exceed $100 with respect to any election;

(4) Any unreimbursed travel expenses incurred and paid for by an individual who volunteers personal services to a candidate, if the cumulative amount of these expenses does not exceed $100 with respect to any election;

Title 21-A, §1012, Definitions

(4-A) Any unreimbursed travel expenses incurred and paid for by the candidate or the candidate's spouse;

(5) The payment by a party's state, district, county or municipal committee of the costs of preparation, display or mailing or other distribution of a party candidate listing;

(6) Documents, in printed or electronic form, including party platforms, single copies of issue papers, information pertaining to the requirements of this Title, lists of registered voters and voter identification information, created or maintained by a political party for the general purpose of party building and provided to a candidate who is a member of that party;

(7) Compensation paid by a political party to an employee of that party for the following purposes:

(a) Providing advice to any one candidate for a period of no more than 20 hours in any election;

(b) Recruiting and overseeing volunteers for campaign activities involving 3 or more candidates; or

(c) Coordinating campaign events involving 3 or more candidates;

(8) Campaign training sessions provided to 3 or more candidates;

(8-A) Costs paid for by a party committee in connection with a campaign event at which 3 or more candidates are present;

(8-B) Wood or other materials used for political signs that are found or contributed if not originally obtained by the candidate or contributor for campaign purposes;

(8-C) The use or distribution of any communication, as described in section 1014, obtained by the candidate for a previous election and fully paid for during that election;

(9) The use of offices, telephones, computers and similar equipment when that use does not result in additional cost to the provider; or

(10) Activity or communication designed to encourage individuals to register to vote or to vote if that activity or communication does not mention a clearly identified candidate.

[2005, c. 301, §7 (amd).]
[2005, c. 301, §7 (amd).]

3. Expenditure. The term "expenditure:"

A. Includes:

(1) A purchase, payment, distribution, loan, advance, deposit or gift of money or anything of value made for the purpose of influencing the nomination or election of any person to political office, except that a loan of money to a candidate by a financial institution in this State made in accordance with applicable banking laws and regulations and in the ordinary course of business is not included;

(2) A contract, promise or agreement, expressed or implied, whether or not legally enforceable, to make any expenditure;

(3) The transfer of funds by a candidate or a political committee to another candidate or political committee; and

(4) A payment or promise of payment to a person contracted with for the purpose of supporting or opposing any candidate, campaign, political committee, political action committee, political party, referendum or initiated petition or circulating an initiated petition; and

[2005, c. 575, §2 (amd).]

B. Does not include:

(1) Any news story, commentary or editorial distributed through the facilities of any broadcasting station, newspaper, magazine or other periodical publication, unless the facilities are owned or controlled by any political party, political committee or candidate;

(1-A) Any communication distributed through a public access television station if the communication complies with the laws and rules governing the station and all candidates in the race have an equal opportunity to promote their candidacies through the station;

(2) Activity or communication designed to encourage individuals to register to vote or to vote if that activity or communication does not mention a clearly identified candidate;

Title 21-A, §1012, Definitions

(3) Any communication by any membership organization or corporation to its members or stockholders, if that membership organization or corporation is not organized primarily for the purpose of influencing the nomination or election of any person to state or county office;

(4) The use of real or personal property and the cost of invitations, food and beverages, voluntarily provided by an individual to a candidate in rendering voluntary personal services for candidate-related activities, if the cumulative value of these activities does not exceed $100 with respect to any election;

(5) Any unreimbursed travel expenses incurred and paid for by an individual who volunteers personal services to a candidate, if the cumulative amount of these expenses does not exceed $100 with respect to any election;

(5-A) Any unreimbursed travel expenses incurred and paid for by the candidate or the candidate's spouse;

(6) Any communication by any person that is not made for the purpose of influencing the nomination for election, or election, of any person to state or county office;

(7) The payment by a party's state, district, county or municipal committee of the costs of preparation, display or mailing or other distribution of a party candidate listing;

(8) The use or distribution of any communication, as described in section 1014, obtained by the candidate for a previous election and fully paid for during that election campaign;

(9) Documents, in printed or electronic form, including party platforms, single copies of issue papers, information pertaining to the requirements of this Title, lists of registered voters and voter identification information, created or maintained by a political party for the general purpose of party building and provided to a candidate who is a member of that party;

(10) Compensation paid by a political party to an employee of that party for the following purposes:

(a) Providing advice to any one candidate for a period of no more than 20 hours in any election;

(b) Recruiting and overseeing volunteers for campaign activities involving 3 or more candidates; or

(c) Coordinating campaign events involving 3 or more candidates;

(10-A) Costs paid for by a party committee in connection with a campaign event at which 3 or more candidates are present;

(11) Campaign training sessions provided to 3 or more candidates;

(11-A) Wood or other materials used for political signs that are found or contributed if not originally obtained by the candidate or contributor for campaign purposes; or

(12) The use of offices, telephones, computers and similar equipment when that use does not result in additional cost to the provider.

[2005, c. 301, §8 (amd).]
[2005, c. 575, §2 (amd).]

4. Exploratory committee.
[1991, c. 839, §3 (rp); §34 (aff).]

5. **Party candidate listing.** "Party candidate listing" means any communication that meets the following criteria.

A. The communication lists the names of at least 3 candidates for election to public office. [2005, c. 301, §9 (new).]

B. The communication is distributed through public advertising such as broadcast stations, cable television, newspapers and similar media, and through direct mail, telephone, electronic mail, publicly accessible sites on the Internet or personal delivery. [2005, c. 301, §9 (new).]

C. The treatment of all candidates in the communication is substantially similar. [2005, c. 301, §9 (new).]

D. The content of the communication is limited to:

(1) The identification of each candidate, with which pictures may be used;

(2) The offices sought;

(3) The offices currently held by the candidates;

Title 21-A, §1012, Definitions

(4) The party affiliation of the candidates and a brief statement about the party or the candidates' positions, philosophy, goals, accomplishments or biographies;

(5) Encouragement to vote for the candidates identified; and

(6) Information about voting, such as voting hours and locations.

If the communication contains language outside the categories of this paragraph, it does not qualify as a party candidate listing.

[2005, c. 301, §9 (new).]

[2005, c. 301, §9 (new).]

PL 1985, Ch. 161, §6 (NEW).
PL 1987, Ch. 160, §1 (AMD).
PL 1991, Ch. 839, §3 (AMD).
PL 1991, Ch. 839, §34 (AFF).
PL 1995, Ch. 483, §3 (AMD).
PL 1999, Ch. 432, §1,2 (AMD).
PL 2003, Ch. 615, §1 (AMD).
PL 2005, Ch. 301, §7-9 (AMD).
PL 2005, Ch. 575, §2 (AMD).

Agenda Item #3

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

To: Commission Members

From: Jonathan Wayne, Executive Director

Date: February 8, 2007

Re: Independent Expenditure Reports #48, #71, and #84

On October 31, 2006, attorney Daniel I. Billings submitted an e-mail complaint against the Maine Democratic Party questioning whether it filed independent expenditure reports #48 and #71 on time. He later added report #84 to the complaint telephonically.[1]

Mr. Billings argues that the Maine Democratic Party did not file reports #48, #71, and #84 within 24 hours of the making of the expenditures as required by 21-A M.R.S.A. §1019-B(3)(A) and Chapter 1, Section 10(3)(B) of the Commission Rules. These issues were first discussed during a November 2, 2006 Commission meeting conducted by telephone. In that meeting, the Democratic Party was represented by attorney Michael K. Mahoney. Daniel W. Walker has replaced Mr. Mahoney as the party's counsel.

What Actions Trigger the 24-Hour Reporting Requirement

In the 2004 elections, some candidates complained that independent expenditure reports were filed late in order to delay the payment of matching funds to opposing candidates. Following the election, the Commission adopted Chapter 1, Section 7(3) of its rules to clarify what events constitute making an expenditure:

(1) The placement of an order for a good or service;
(2) The signing of a contract for a good or service;
(3) The delivery of a good or the performance of a service by a vendor;
(4) A promise or an agreement (including an implied one) that a payment will be made; or
(5) The making of a payment for a good or service.

The rule specifies that "[e]xpenditures must be reported at the <u>earliest</u> of these events."

Paragraph 3(C) of the rule imposes an affirmative duty on the spender to determine costs promptly: "[a]t the time the duty to report an expenditure arises, the person submitting the report is required to determine the value of goods and services to be rendered

[1] Mr. Billings initially believed that report #83 was late as well, but has withdrawn that part of his complaint.

(preferably through a written statement from the vendor) and to report that value as the amount of the expenditure."

Reports #48 and #71

In his complaint, Mr. Billings observes that on October 26, 2006 the Senate Democratic Campaign Committee made a $30,000 contribution to the Maine Democratic Party which is close to the $28,997 total spent in independent expenditure reports #48 (filed on October 28) and #71 (filed on October 31). He argues: "This gives the appearance that the contribution was made with specific expenditures in mind. If the expenditures were planned on 10/26, they should have been reported on 10/26."

Mr. Mahoney discussed the two reports at the November 2 telephone meeting and has filed a November 13, 2006 response. He states that as early as October 25 or 26 the Democratic Party requested that its vendor, Ourso Beychok, design mailings that could be used in a number of races:

> The Party had, during the final weeks of the campaign, several mail pieces "in the can" that it would or would not print and disseminate depending on how individual races were shaping up.

My handwritten notes of the November 2 meeting indicate that Mr. Mahoney said that the Democratic Party had literature designed in about 9 Senate races, although my notes may not be accurate. He states that on October 27, the Democratic Party decided to mail literature to Districts 1, 15, 19, and on October 30 the Democratic Party made the another decision to send more mailings to Districts 1, 21, and 32. On those dates, the Democratic Party made commitments to Ourso Beychok to have the mailings printed, and the reports were filed one day later, on October 28 and October 31.

With respect to the design costs that were incurred on October 25 and 26, the Democratic Party argues that it was not obligated to report these costs until it knew that the literature would be mailed. If an organization is merely considering sending literature in support of a candidate but has not decided to send the literature, the party contends that it would be unfair to award matching funds to the candidate's opponent.

I wish to defer making a staff recommendation on reports #48 and #71 until the December 12 meeting. I do wish to state my agreement with one policy argument made by the Maine Democratic Party: if literature is designed but not ultimately mailed to voters, it is hard to see why the candidate's opponent should receive matching funds based on the design costs alone. That would seem to give the opponent an unfair advantage.

Also, I find it plausible that there are circumstances in which organizations such as PACs and party committees contemplate sending mailings in multiple districts and make last-minute decisions about where to spend scarce resources. The Commission may wish to be cautious in accepting these explanations at face value. I would counsel against

presuming them to be false, however, simply because they appear to be self-interested. These explanations involve making credibility determinations on a case-by-case basis.

Report #84

This report involved the payment of $7,568 to the U.S. Post Office for postage. The Democratic Party states that it first received the amount of these costs during the late evening of October 31 when Ourso Beychok e-mailed the Democratic Party's bookkeeper. The report was filed on November 1.

On one hand, the factual circumstances could lead you to conclude that these postage expenditures were reported late because on October 27 and 30 the Democratic Party was under an obligation under Paragraph 3(C) to obtain the postage costs from Ourso Beychok and to include these amounts in reports #48 and #71. You may wish to inquire at the December 12 meeting whether this reporting would have been practical and was in fact required under the Commission's rule.

On the other hand, please note that the expenditure in report #84 was a payment from the party directly to the U.S. Post Office, not Ourso Beychok. If you accept the Democratic Party's account of events, even though it knew on October 27 and October 30 into which districts it would send mailings, it had not taken any specific actions with respect to the Post Office which are listed in Chapter 1, Section 7(3) (it had not placed any order with the Post Office, signed a contract with the Post Office to buy postage, etc.). Regardless of the purpose of the rule, you may feel constrained by the rule's language to conclude that October 31st was the date of the expenditure in report #84.

With respect to report #84 as well, I would like to hear any additional factual information and arguments of the parties' attorneys before making a recommendation.

Report #83

Mr. Billings has withdrawn his complaint with respect to report #83. Nevertheless, I have attached the November 30 letter by the Senate Democratic Campaign Committee's counsel, Newell Augur, because you may find his legal analysis helpful in applying the Commission's expenditure rule.

Wayne, Jonathan

From: Dib9@aol.com
Sent: Tuesday, October 31, 2006 7:09 PM
To: Wayne, Jonathan
Cc: Lavin, Paul; Demeritt, Martha; roy@strategicadvocacy.com; andrew@mainesenategop.com
Subject: Complaint against Maine Democratic Party & Senate Democratic Campaign Comm.

Jonathan:

This e-mail is a complaint against the Maine Democratic Party and the Senate Democratic Campaign Committee that I am filing on behalf of the Maine Senate Republican Victory Fund. It appears that the Maine Democratic Party has not made timely reporting of their independent expenditures for Senate candidates.

On 10/26, the Senate Democratic Campaign Committee contributed $30,000 to Victory 2006, whose address is the same as the Maine Democratic Party. There is no PAC registered as "Victory 2006" so I believe that the contribution was to the Maine Democratic Party.

On 10/28, the Maine Democratic Party filed an Independent Expenditure report in three Senate districts. The total cost was $10,834. This report is Independent Expenditure #48 on the Ethics Commission website.

On 10/31, the Maine Democratic Party filed an Independent Expenditure report in three Senate districts. The total cost was $18,163. This report is Independent Expenditure #71 on the Ethics Commission website.

These expenditures add up to $28,997. An amount very close to the contribution made by the Senate Democratic Campaign Committee on 10/26. This gives the appearance that the contribution was made with specific expenditures in mind. If the expenditures were planned on 10/26, they should have been reported on 10/26.

Even more damning is the reason given for late reporting on the 10/31 -- "late design with corrections not approved until 30th." This indicates that the expenditure was in the works before 10/30. It should have been reported when the designer was told to work on the design, not when the final approval was given.

Some of these expenditures involve candidates who are Clean Elections candidates. The Democrats' actions have had the effect of delaying the release of matching funds, which makes it more difficult for the affected candidates to spend the money effectively. It appears that this was a deliberate scheme to delay release of matching funds.

We are also concerned because the latest filing by the Senate Democratic Campaign Committee shows a balance of $56,000. It is hard to believe that they do not have plans for this money with less than a week to go before the election. We anticipate more late independent expenditures -- expenditures that are likely already in the works.

In contrast, the Maine Republican Party filed independent expenditure reports yesterday for all expenditures planned in Senate races. We believe we are required to report any expenditures that are planned and in the works. Any additional expenditures will be the result of new money just raised this week.

I would appreciate your timely attention to this matter.

Dan Billings

PretiFlaherty

MICHAEL K. MAHONEY
mmahoney@preti.com

November 13, 2006

VIA ELECTRONIC MAIL & U.S. MAIL

Jonathan Wayne, Director
Maine Ethics Commission
135 State House Station
Augusta, Maine 04333-0135

RE: Maine Democratic Party's Response to Maine Senate Republican Victory Fund's Complaint Regarding Independent Expenditure Reports 48, 71 and 84

Dear Director Wayne:

Please accept on behalf of my client, the Maine Democratic Party, the following response to a complaint filed by the Maine Senate Republican Victory Fund (hereinafter the "Senate Republicans"). As you recall, this complaint was the subject of a telephonic conference of the Commission on November 2, 2006. At that time, the Commission deferred making any final determination on this complaint until its meeting on November 20, 2006. The purpose of this written submission is to provide the Commission with more information in advance of that meeting.

The complaint filed by the Senate Republicans alleged that the Party was late in filing 24-hour independent expenditure reports for mail pieces it financed in connection with several Maine Senate races. The reports at issue are Independent Expenditure Reports No. 48, No. 71 and No. 84 (hereinafter "Report #48", "Report #71" and "Report #84"). Specifically, the complaint appears to allege that these reports should have been filed earlier because, under Maine law, the Party allegedly made the expenditures contained within those reports more than 24 hours before the date of the reports.

Reports #48 & 71

Contrary to the Senate Republicans claims, Reports #48 and #71 were timely filed. Report #48 was filed on October 28 and Report #71 was filed on October 31. As outlined below, no commitment by the Party to pay its outside mail vendor, Ourso Beychok & Johnson, was made more than 24 hours before the filing of each report.

Report #48: Filed on October 28, 2006, this report included the design and production costs charged by Ourso Beychok for mail pieces supporting three different Democratic Senate candidates: Peter Bowman, Edward Degrosseilliers and Arthur Mayo. As discussed during the November 2nd conference call with the Commissioners, the Party made no commitment or

obligation to fund these mail pieces until October 27, 2006. Indeed, the Party had not even made the internal decision to direct its limited resources to these three races until that date. Attached as Exhibit A hereto are copies of invoices, each dated October 27th, that were sent electronically by Ourso Beychok to the Party for these three mail pieces. The Party has worked with Ourso Beychok during multiple election cycles, and it is Ourso's regular practice to prepare and forward invoices to the Party within hours, if not minutes, of receiving an order verbally from the Party. Hence, an October 27th invoice date is evidence that the Party committed itself to these expenditures on the same date, and not earlier.

Report #71. Filed by the Party on October 31, 2006, this report included the design and production costs for three additional mail pieces in support of three Democratic Senate candidates: Joseph Perry, Brian Rines and Peter Bowman. As discussed during the November 2nd conference call with the Commissioners, the Party made no commitment or obligation to fund these mail pieces until the Party's internal meeting on October 30, 2006. At that meeting, final decisions were made as to where the Party could most effectively direct its resources in the final days of the campaign. Prior to that date, it had given Ourso Beychok no definitive indication that it would be financing pieces in these districts. Attached as Exhibit B hereto are copies of invoices, each dated October 30th, that were sent electronically by Ourso Beychok to the Party for these three mail pieces. As stated above, Ourso's regular practice to prepare and forward invoices to the Party within hours, if not minutes, of receiving an order verbally from the Party. Hence, an October 30th invoice date for these three mail pieces is evidence that the Party committed itself to these expenditures on the same date, and not earlier.

Design Costs. An issue relating to these Reports that was discussed during the November 2nd conference call were the design expenses associated with the three mail pieces described in Report #71. Indeed, Report #71 indicates that design work began as early as October 25th. However, when the Party authorized Ourso Beychok to begin working on various designs, it did so without making any indication – one way or the other – that those designs would ultimately be printed and disseminated into Senate districts. The Party had, during the final weeks of the campaign, several mail pieces "in the can" that it would or would not print and disseminate depending on how individual races were shaping up.

It cannot be said that, standing alone, the design costs in this case constitute reportable "expenditures" under Maine law. Pursuant to 21-A M.R.S.A. § 1012(3), a payment or a promise to make a payment constitutes an "expenditure" only when it is "made for the purpose of influencing the nomination or election of any person to political office." In the present case, because no decision had yet been made to disseminate the mail pieces to the electorate, no funds were expended "for the purpose of influencing" the Senate elections. Rather, the designs were merely an internal exercise that, at that point in time, could not possibly influence the nomination or election of a person to political office. Those costs only became "expenditures" at the moment that a decision was made to disseminate them publicly.

Interpreting the law any other way would produce an unfair, and arguably absurd, result. Specifically, if design costs are deemed to be separately reportable even in cases where the designs may not be disseminated publicly, it is very likely that an MCEA candidate would

receive matching funds in connection with the design of a mail piece supporting his opponent that is never actually produced and thus, that could not influence the election.

Should the Commission, however, determine that design costs are separately reportable expenditures, Ourso Beychok charges a $500.00 design fee to the Party per design. If a design is never actually disseminated, Ourso charges the Party that fee.

Report #84

Filed on November 1, 2006, Report #84 documents the postage costs associated with the six mail pieces whose design and production costs were reported on Reports #48 and #71. The Senate Republicans' complaint alleges that this report was untimely.

The Party's investigation has uncovered that, following the Party's orders on October 27th and 30th, the mail pieces were printed by Keystone Press in Manchester, New Hampshire and then, on October 31, 2006, forwarded to a mailhouse-vendor named Mailings Unlimited in Portland, Maine, where they were weighed and mailed. Copies of Mailings Unlimited's shipping manifest documenting its receipt of the pieces on October 31st is attached hereto as Exhibit C. Attached as Exhibit D is an email from Ourso Beychok at 10:06 P.M. on October 31st indicating that Mailings Unlimited had just provided Ourso with the postage amount owed a few minutes earlier.

The Party's investigation further revealed that, prior to the actual delivery of the mail pieces themselves, Ourso Beychok had no communication about these particular pieces with Mailings Unlimited. It was not until these pieces physically arrived at Mailings Unlimited on October 31st that that entity learned of the pieces' existence and later that evening invoiced Ourso for the postage costs associated with them.

Given that Ourso, on the Party's behalf, did not obligate funds for postage until – at the earliest – October 31st when the pieces first arrived in Portland, the Party's November 1, 2006 reporting date was timely filed under the 24-hour statutory standard.

Conclusion

The Party representatives familiar with this situation are looking forward to discussing these issues with you at the November 20, 2006 hearing. Should you have any questions in the meantime, please do not hesitate to contact me.

Sincerely,

Michael K. Mahoney

Enclosures

EXHIBIT
A

OURSO BEYCHOK JOHNSON
Political Communications & Direct Mail

INVOICE

TO: Maine Democratic Party
FR: Ourso Beychok Johnson, Inc.
DT: October 27, 2006
RE: direct mail

6,351 self mailers Degrossilliers #5, 8 ½ x 11	$2,900.00
Total Due	$2,900.00

Please send check to:

Ourso Beychok Johnson, Inc.
352 Napoleon Street
Baton Rouge, La. 70802

OURSO BEYCHOK JOHNSON
Political Communications & Direct Mail

INVOICE

TO: Maine Democratic Party
FR: Ourso Beychok Johnson, Inc.
DT: October 27, 2006
RE: direct mail

8,194 self mailers Bowman #5, 8 ½ x 11	$4,179.00
Total Due	$4,179.00

Please send check to: Ourso Beychok Johnson, Inc.
352 Napoleon Street
Baton Rouge, La. 70802

OURSO BEYCHOK JOHNSON
Political Communications & Direct Mail

INVOICE

TO: Maine Democratic Party
FR: Ourso Beychok Johnson, Inc.
DT: October 27, 2006
RE: direct mail

8,944 self mailers Mayo #5, 6 x 11	$3,755.00
Total Due	$3,755.00

Please send check to: Ourso Beychok Johnson, Inc.
352 Napoleon Street
Baton Rouge, La. 70802

EXHIBIT
B

OURSO BEYCHOK JOHNSON
Political Communications & Direct Mail

INVOICE

TO: Maine Democratic Party
FR: Ourso Beychok Johnson, Inc.
DT: October 30, 2006
RE: direct mail

13,675 self mailers Rines #5, 8 ½ x 11	$6,154.00
Total Due	$6,154.00

Please send check to:

Ourso Beychok Johnson, Inc.
352 Napoleon Street
Baton Rouge, La. 70802

OURSO BEYCHOK JOHNSON
Political Communications & Direct Mail

INVOICE

TO: Maine Democratic Party
FR: Ourso Beychok Johnson, Inc.
DT: October 30, 2006
RE: direct mail

12,761 self mailers Perry #5, 8 1/2 x11	$5,742.00
Total Due	$5,742.00

Please send check to: Ourso Beychok Johnson, Inc.
352 Napoleon Street
Baton Rouge, La. 70802

OURSO BEYCHOK JOHNSON
Political Communications & Direct Mail

INVOICE

TO: Maine Democratic Party
FR: Ourso Beychok Johnson, Inc.
DT: October 30, 2006
RE: direct mail

11,968 self mailers Bowman #1 (re-print), 8.5 x 11	$5,146.00
Total Due	$5,146.00

Please send check to:

Ourso Beychok Johnson, Inc.
352 Napoleon Street
Baton Rouge, La. 70802

EXHIBIT C

#22664
#22659
#22707
#22663
#22696
#22706
#22686

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DELIVERY RECEIPT

Ship To: OURSO Bayclok Johnson Date: 10/31/06
c/o PORTLAND MAIL HOUSE
PORTLAND MAINE

QUANTITY ORDERED	QUANTITY PACKED	ITEM	
9,100	9,300	MAYO #5 ✓	3 BOXES
12,100	12,300	BOWMAN #1 ✓	9 BOXES
8,200	8,500	BOWMAN #5 ✓	6 BOXES
8,300	8,300	HOBBINS #2 ✓	4 BOXES
12,000	12	PERRY #5 ✓	9 BOXES
11,000		RINE #5 ✓	9 BOXES
7,000	7,000	MRED #5 ✓	5 BOXES
~~8,000~~	~~8,500~~	NUTTING #1 ✓	5 BOXES

RETURNED TO CUSTOMER

___ DISK(S) ___ PHOTO(S)

___ OTHER _____

Received by _____

EXHIBIT D

Subject: postage
From: "Trey Ourso" <treyourso@bellsouth.net>
Date: Tue, 31 Oct 2006 21:06:22 -0600
To: <books@mainedems.org>
CC: <gregolsonme@yahoo.com>, "Brian Hawkins" <senate@mainedems.org>, "Michael Beychok" <mbeychok1@cox.net>

We need $7,568.78 deposited in the non-profit meter in Portland tomorrow (Wednesday). I'm really sorry about the late notice but we just received this amount from the mailhouse a few minutes ago.

I have already spoken to Brian about this and he is aware of the time sensitivity and is prepared to work out the logistics.

Thanks,

Trey

Title 21-A, §1019-B, Reports of independent expenditures

The State of Maine claims a copyright in its codified statutes. If you intend to republish this material, we do require that you include the following disclaimer in your publication:

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§1019-B. Reports of independent expenditures

1. Independent expenditures; definition. For the purposes of this section, an "independent expenditure": [2003, c. 448, §3 (new).]

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

[2003, c. 448, §3 (new).]

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

[2003, c. 448, §3 (new).]

2. Rebutting presumption. A person presumed under this section to have made an independent expenditure may rebut the presumption by filing a signed written statement with the commission within 48 hours of making the expenditure stating that the cost was not incurred with the intent to influence the nomination, election or defeat of a candidate, supported by any additional evidence the person chooses to submit. The commission may gather any additional evidence it deems relevant and material and must determine by a preponderance of the evidence whether the cost was incurred with intent to influence the nomination, election or defeat of a candidate. [2003, c. 448, §3 (new).]

3. Report required; content; rules. A person, party committee, political committee or political action committee that makes independent expenditures aggregating in excess of $100 during any one candidate's election shall file a report with the commission. In the case of a municipal election, a copy of the same information must be filed with the municipal clerk. [2003, c. 448, §3 (new).]

A. A report required by this subsection must be filed with the commission according to a reporting schedule that the commission shall establish by rule that takes into consideration existing campaign finance reporting requirements and matching fund provisions under chapter 14. Rules adopted pursuant to this paragraph are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

[2003, c. 448, §3 (new).]

B. A report required by this subsection must contain an itemized account of each contribution or expenditure aggregating in excess of $100 in any one candidate's election, the date and purpose of each contribution or expenditure and the name of each payee or creditor. The report must state whether the contribution or expenditure is in support of or in opposition to the candidate and must include, under penalty of perjury, as provided in Title 17-A, section 451, a statement under oath or affirmation whether the contribution or expenditure is made in cooperation, consultation or concert with, or at the request or suggestion of, the candidate or an authorized committee or agent of the candidate.

[2003, c. 448, §3 (new).]

C. A report required by this subsection must be on a form prescribed and prepared by the commission. A person filing this report may use additional pages if necessary, but the pages must be the same size as the pages of the form.

[2003, c. 448, §3 (new).]

PL 2003, Ch. 448, §3 (NEW).

SECTION 7. EXPENDITURES

1. Expenditures By Consultants, Employees, and Other Agents of a Political Campaign. Expenditures made on behalf of a candidate, political committee, or political action committee by any person, agency, firm, organization, etc. employed or retained for the purpose of organizing, directing, managing or assisting the candidate, the candidate's committee, or the political action committee shall be deemed expenditures by the candidate or committee. Such expenditures must be reported by the candidate or committee as if made or incurred by the candidate or committee directly.

2. Expenditures By Political Action Committees. In addition to the requirements set forth in 21-A M.R.S.A. Section 1060(4), the reports must contain the purpose of each expenditure and the name of each payee and creditor.

3. Timing of Reporting Expenditures.

   A. Placing an order with a vendor for a good or service; signing a contract for a good or service; the delivery of a good or the performance of a service by a vendor; or a promise or an agreement (including an implied one) that a payment will be made constitutes an expenditure, regardless whether any payment has been made for the good or service.

   B. Expenditures must be reported at the earliest of the following events:

      (1) The placement of an order for a good or service;

      (2) The signing of a contract for a good or service;

      (3) The delivery of a good or the performance of a service by a vendor;

      (4) A promise or an agreement (including an implied one) that a payment will be made; or

      (5) The making of a payment for a good or service.

   C. At the time the duty to report an expenditure arises, the person submitting the report is required to determine the value of goods and services to be rendered (preferably through a written statement from the vendor) and to report that value as the amount of the expenditure. If the expenditure involves more than one candidate election, the report must include an allocation of the value to each of those candidate elections.

4. Advance Purchases of Goods and Services for the General Election.

   A. Consulting services, or the design, printing or distribution of campaign literature or advertising, including the creation and broadcast of radio and television advertising, contracted or paid for prior to the primary election must be received prior to the primary election in order to be considered primary election expenditures.

3. Any traditionally funded candidate with a Maine Clean Election Act opponent shall file the following three reports detailing the candidate's total campaign contributions, obligations and expenditures to date, except that a candidate who has not received, spent, or obligated the amount sufficient to require a report under subsection 2 may file an affidavit, by the date the report is due, attesting that the candidate has not received, spent or obligated that amount:

   A. a report filed not later than 5 p.m. on the 42nd day before the date on which an election is held that is complete as of the 44th day before the date of that election;

   B. a report filed not later than 5 p.m. on the 21st day before the date on which an election is held that is complete as of the 23rd day before the date of that election; and

   C. a report filed not later than 5 p.m. on the 12th day before the date on which an election is held that is complete as of the 14th day before the date of that election.

4. 24-Hour Report. Any candidate who is required to file a 101% report must file an updated report with the Commission reporting single expenditures of $1,000 or more by candidates for Governor, $750 by candidates for State Senator, and $500 by candidates for State Representative made after the 14th day before any election and more than 24 hours before 5 p.m. on the date of that election. The report must be submitted to the Commission within 24 hours of those expenditures.

5. Filing by Facsimile or Electronic Means. For purposes of this section, reports may be filed by facsimile or by other electronic means acceptable to the Commission, and such reports will be deemed filed when received by the Commission provided that the original of the same report is received by the Commission within 5 calendar days thereafter.

SECTION 10. REPORTS OF INDEPENDENT EXPENDITURES

1. General. Any person, party committee, political committee or political action committee that makes an independent expenditure aggregating in excess of $100 per candidate in an election must file a report with the Commission according to this section.

2. Definitions. For purposes of this section, the following phrases are defined as follows:

   A. "Clearly identified," with respect to a candidate, has the same meaning as in Title 21-A, chapter 13, subchapter II.

   B. "Expressly advocate" means any communication that uses phrases such as "vote for the Governor," "reelect your Representative," "support the Democratic nominee," "cast your ballot for the Republican challenger for Senate District 1," "Jones for House of Representatives," "Jean Smith in 2002," "vote Pro-Life" or "vote Pro-Choice" accompanied by a listing of clearly identified candidates described as Pro-Life or Pro-Choice, "vote against Old Woody," "defeat"

accompanied by a picture of one or more candidate(s), "reject the incumbent," or communications of campaign slogan(s) or individual word(s), which in context can have no other reasonable meaning than to urge the election or defeat of one or more clearly identified candidate(s), such as posters, bumper stickers, advertisements, etc. which say "Pick Berry," "Harris in 2000," "Murphy/Stevens" or "Canavan!".

C. "Independent expenditure" has the same meaning as in Title 21-A, section 1019-B. 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 and is not an independent expenditure.

3. Reporting Schedules. Independent expenditures must be reported to the Commission in accordance with the following provisions:

A. Independent expenditures aggregating in excess of $100 per candidate per election but not in excess of $250 made by any person, party committee, political committee or political action committee must be reported to the Commission in accordance with the following reporting schedule, except that expenditures made in the last 11 days before an election must be reported within 24 hours of the expenditure.

(1) Quarterly Reports.

(a) A report must be filed on January 15th and be complete as of January 5th;

(b) A report must be filed on April 10th and be complete as of March 31st;

(c) A report must be filed on July 15th and be complete as of July 5th; and

(d) A report must be filed on October 10th and be complete as of September 30th.

(2) Pre-Election Report. A report must be filed on the 12th day before the election is held and be complete as of that day.

If the total of independent expenditures made to support or oppose a candidate exceed $100, each subsequent amount spent to support or oppose the candidate must be reported as an independent expenditure. As long as the total amount spent with respect to the candidate does not exceed $250, all reports must be filed according to the deadlines in this paragraph. If the total amount spent per candidate exceeds $250, the reports must be filed in accordance with paragraph B.

[NOTE: FOR EXAMPLE, IF A COMMITTEE MAKES THREE $80 EXPENDITURES IN SUPPORT OF A CANDIDATE ON SEPTEMBER 20, THE 15TH DAY BEFORE THE ELECTION AND THE 8TH DAY BEFORE THE ELECTION, THOSE THREE EXPENDITURES MUST BE REPORTED ON OCTOBER 10th, AND THE 12TH AND 7TH DAYS BEFORE THE ELECTION, RESPECTIVELY.]

B. Independent expenditures aggregating in excess of $250 per candidate per election made by any person, party committee, political committee or political action committee must be reported to the Commission within 24 hours of those expenditures. If any additional expenditures, regardless of amount, increase the total spent per candidate above the threshold of $250, each additional expenditure must be reported within 24 hours.

[NOTE: FOR EXAMPLE, IF A COMMITTEE HAS REPORTED INDEPENDENT EXPENDITURES TOTALING $300 IN SUPPORT OF A CANDIDATE, AND THE COMMITTEE MAKES AN ADDITIONAL $50 INDEPENDENT EXPENDITURE IN SUPPORT OF THE CANDIDATE, THE ADDITIONAL $50 EXPENDITURE MUST BE REPORTED WITHIN 24 HOURS.]

C. Reports must contain information as required by Title 21-A, chapter 13, subchapter II (§§ 1016-1017-A), and must clearly identify the candidate and indicate whether the expenditure was made in support of or in opposition to the candidate. Reports filed after the eighth day before an election must include the following information:

1. the date on which the person making the expenditure placed the order with the vendor for the goods or services;

2. the approximate date when the vendor began providing design or any other services in connection with the expenditure;

3. the date on which the person making the expenditure first learned of the total amount of the expenditure; and

4. a statement why the expenditure could not be reported by the eighth day before the election.

4. Multi-Candidate Expenditures. When a person or organization is required to report an independent expenditure for a communication that supports multiple candidates, the cost should be allocated among the candidates in rough proportion to the benefit received by each candidate.

A. The allocation should be in rough proportion to the number of voters who will receive the communication and who are in electoral districts of candidates named or depicted in the communication. If the approximate number of voters in each district who will receive the communication cannot be determined, the cost may be divided evenly among the districts in which voters are likely to receive the communication.

AUGUR & ASSOCIATES, P.A.
Law and Lobbying Firm
61 Winthrop Street
Augusta, Maine 04330
Electronic Mail: naugur@mainelobby.com

Telephone
(207) 622-2990

Fax
(207) 622-4417

Via Facsimile – 207-287-6775
and regular mail

November 30, 2006

Maine Ethics Commission
135 State House Station
Augusta, ME 04333

Re: Independent Expenditure #83

To the Members of the Maine Ethics Commission:

On behalf of the Senate Democratic Campaign Committee (SDCC), I appreciate the opportunity to provide you with additional information regarding the Complaint filed by Dan Billings on behalf of the Maine Senate Republican Victory Fund on October 31, 2006 (the "Complaint"). I understand that, upon further review, the Maine Senate Republicans have withdrawn this Complaint. I am, nonetheless, submitting this information in view of the Ethics Commission's discussion during its November 2, 2006 conference call and its November 5, 2006 written request for a response and production of documents.

Initial Concerns Raised in the Complaint

On or about the same time the Complaint was registered, the SDCC filed Independent Expenditure Report #83 ("IE #83") detailing a television advertisement (the "TV ad") in support of Brian Rines, Senate Candidate from District 21. The amount of IE #83 was $32,250: $30,000 to purchase media time and $2,250 to design the TV ad. The cost was paid for from funds contributed after the October 26th filing made by the SDCC.

As Mr. Billings noted during the conference call on November 2, 2006, IE #83 answered his specific concern that the SDCC did not "have plans for this money with less than a week to go before the election."

Proper Timing of the Report

During the conference call, there was additional discussion as to whether IE #83 was filed timely. Specifically, the Commission expressed interest as to whether the acceptance of the design of the TV ad and the resultant costs of that design merited a separate independent expenditure according to the provisions of 21-A M.R.S.A., Section 1019 and the applicable rules.

The SDCC would submit that regardless of how the Commission resolves this question, IE #83 was timely filed. Because the decision to use the design of the TV ad and the purchase of the media time for that TV ad both occurred on October 31, 2006, the SDCC's October 31st filing met the 24-hour reporting requirement.

Nonetheless, the Commission's underlying question is a valuable one as it concerns the future effective administration of the Maine Clean Election Act. In order to properly examine that question in this instance, a detailed analysis of the order of events is warranted.

Time Line

On the morning of Monday, October 30th, SDCC staff contacted Ourso Bechok Johnson (Ourso Bechok) by phone and asked them to prepare a draft TV ad. (SDCC staff had had previous discussions with Ourso Beychok over the weekend about the possibility of TV ad, but had yet to make an initial determination as to whether this would be financially feasible or politically desirable.) The request for the draft TV ad did not include any spoken message from the candidate, nor any specific video nor any additional voice over. Rather, it was a collection of pictures, already available on the candidate's website, combined with articles from a newspaper that had recently endorsed Dr. Rines.

Given the limited technical challenges involved, Ourso Beychok assembled a draft TV ad and submitted it to the SDCC for review in the afternoon of Monday, October 30th. SDCC staff reviewed the draft TV ad with Democratic Party leadership on the morning of October 31st. Following that conference, the SDCC decided to use the design for a TV ad and requested $30,000 worth of television time. That same afternoon, Ourso Beychok contacted Mundy Katowitz Media, Inc. on behalf of the SDCC to request a purchase of $30,000 worth of television time for the TV ad. Later in the afternoon, Ourso Beychok advised the SDCC that the television time had been obligated and that the total cost for the TV ad, including both the design and the advertising time, was $32,250. The SDCC then filed IE #83 detailing that amount.

Legal Analysis

Under Chapter 1, Section 10 (3)(B) of the Commission's rules, an Independent Expenditure Report should be filed when there is:

1. The placement of an order for a good or service;
2. The signing of a contract for a good or service;
3. The delivery of a good or the performance of a service;

4. A promise or agreement (including an implied one) that a payment will be made; or
5. The making of a payment for a good or service.

Because the decision to place an order of television time for the TV ad was not made until the afternoon of October 31, 2006, the SDCC was not obligated to file an independent expenditure report until the afternoon of November 1, 2006. In fact, the SDCC filed IE #83 before the close of business on October 31, 2006, immediately after the order of television time for the TV ad had been finalized. Even if an independent expenditure report were required when the design of the TV ad was accepted, the October 31st filing met that requirement.

Additional Legal Analysis of the Independent Expenditure Definition

The Commission expressed interest during the November 2nd conference call as to whether the request for the design of political material could have triggered the reporting requirements under Chapter 1, Section 7(3)(1) or (4), insofar as the request of a design constituted a placement for a good or service or an agreement that a payment would be made. In the alternative, the Commission expressed interest as to whether the delivery of a draft design for the TV ad could be considered the delivery of a good or service pursuant to Chapter 1, Section 7(3)(3).

The Commission should resist the temptation to parse out design fees from the larger production costs of a political advertisement. Such an interpretation would be wholly unworkable for all participants in the political process and could lead, ineluctably, to segregating many other costs that go into the construction of political discourse. Moreover, such an interpretation would be inconsistent with the current statute. The crux of an independent expenditure is not the design of a political advertisement. Rather, it is the communication of that advertisement.

21-A M.R.S.A., §1019-B (1) defines an independent expenditure as a "communication that expressly advocates" for or against a candidate. This definition was not satisfied until the afternoon of October 31st, when the SDCC actually ordered media time to disseminate the TV ad. The design of this TV ad cannot be an independent expenditure in its own right without the vehicle necessary to communicate it.

Even when a vendor is paid independently for design work, it is impossible to know whether that payment is made for purposes of influencing an election until after the design has been completed, the entity considering the expenditure has reviewed it and the media time has been ordered. A contrary interpretation would hamper the flexibility of political discourse since it would penalize an entity that looked into designing a political advertisement, but subsequently decided against communicating it. Further, any benefit that might be served by providing matching funds to opposing candidates and information to the public earlier than the current process requires would be marginal since the design costs of this TV ad (and generally of most political advertisements) represents less than 10% of the total cost. Moreover, this benefit would be outweighed by the increase, perhaps doubling, in the total number of independent expenditure reports filed.

Document Production

Per the Commission's request, I have included all documents currently in my client's possession regarding when the order for the TV ad was made and goods or services rendered. Specifically, there are five written communications by email between the SDCC and Ourso Beychok. To my knowledge, these emails also constitute all documents in Ourso Beychok's possession that are responsive to the Commission's request.

Conclusion

21-A M.R.S.A requires that an independent expenditure report be filed regarding a communication that advocates for or against a candidate, but not for the design of such a communication in advance of its actual dissemination. A contrary interpretation is inconsistent with the statute, and would be neither workable nor of any significant benefit to the public.

If you have any questions or would like any further information, please do not hesitate to contact me.

Respectfully submitted,

NEWELL A. AUGUR
NAA/kmj
Enclosures

From: Michael Beychok [michael@objmail.com]
Sent: Sunday, October 29, 2006 10:09 AM
To: 'Brian Hawkins'
Cc: 'Greg Olson'
Subject: RE: rines endoresement

Anyway to work this in to the TV spot.

Even if it is at the end with a super "Endorsed by the Kennebec Journal" although the language of the endorsement is the strongest.

"Brian Rines makes it happen"
"a truly outstanding candidate"
"an exceptional mix of experience, intellect, energy and ideas"
"Issue after issue Rines demonstrated both insight and ideas - a strong combination."

-----Original Message-----
From: Brian Hawkins [mailto:senate@mainedems.org]
Sent: Saturday, October 28, 2006 4:52 PM
To: Michael Beychok
Subject: rines endoresement

http://kennebecjournal.mainetoday.com/view/columns/3106071.shtml

Michael, in case you want it above is the link to the KJ's fantastic endorsement of Brian Rines. Some great language in there. Maybe good to use as a contrast in the McCormick piece.

--
Brian Hawkins
Assistant Caucus Director
(207) 622-6233 x111

From: Michael Beychok [michael@objmail.com]
Sent: Monday, October 30, 2006 11:52 AM
To: 'Greg Olson'; 'Brian Hawkins'
Subject: rines tv

I'm gonna need signoff on these scripts by 1pm today. We got to move these
along.

Who is paying for these ads; what is the legal description of the paid for
by line in terms of how big it has to be and how long it has to be on
screen.

I am assuming that Raghu's buyer is gonna buy the television.

If so, I need them to get in touch with me so I can tell my production house
where to send dubs and whether we can upload to save time.

Let's move on this.

Thanks.

From: Greg Olson [gregolsonme@yahoo.com]
Sent: Monday, October 30, 2006 12:08 PM
To: Michael Beychok; 'Brian Hawkins'
Subject: Re: rines tv

Senate Democratic Campaign Committee, 22 Smith St. Augusta, ME 04330.
Cyndie Banks Treasurer.

You think Raghu's guy is the best way to go?

Michael Beychok <michael@objmail.com> wrote:

> I'm gonna need signoff on these scripts by 1pm today. We got to move these along.
>
> Who is paying for these ads; what is the legal description of the paid for by line in terms of how big it has to be and how long it has to be on screen.
>
> I am assuming that Raghu's buyer is gonna buy the television.
>
> If so, I need them to get in touch with me so I can tell my production house where to send dubs and whether we can upload to save time.
>
> Let's move on this.
>
> Thanks.

Do You Yahoo!?
Tired of spam? Yahoo! Mail has the best spam protection around
http://mail.yahoo.com

From: Michael Beychok [michael@objmail.com]
Sent: Monday, October 30, 2006 12:10 PM
To: 'Greg Olson'
Subject: RE: rines tv

In terms of buying the time yes. I haven't done the research and I'm just not set up to do it.

I'll do it though if you want.

From: Greg Olson [mailto:gregolsonme@yahoo.com]
Sent: Monday, October 30, 2006 11:08 AM
To: Michael Beychok; 'Brian Hawkins'
Subject: Re: rines tv

Senate Democratic Campaign Committee, 22 Smith St. Augusta, ME 04330. Cyndie Banks Treasurer.

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Michael Beychok <michael@objmail.com> wrote:
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I am assuming that Raghu's buyer is gonna buy the television.

If so, I need them to get in touch with me so I can tell my production house where to send dubs and whether we can upload to save time.

Let's move on this.

Thanks.

Do You Yahoo!?
Tired of spam? Yahoo! Mail has the best spam protection around
http://mail.yahoo.com

From: Michael Beychok [michael@objmail.com]
Sent: Monday, October 30, 2006 12:20 PM
To: 'Greg Olson'; 'Brian Hawkins'
Subject: first cut at rines tv script

Rines TV.doc

Rines TV1/30

The independent Kennebec Journal put it best;

GRAPHIC: masthead of Kennebec Journal and tear off quote Brian Rines "makes things happen"

Brian Rines "makes things happen"

As Mayor of Gardiner for 16 years, Brian Rines lowered the tax rate by 22%; brought a new health clinic to Winthrop and created new jobs.

GRAPHIC: Lowered tax rate 22%
GRAPHIC: Created new jobs

Maybe that's why the Kennebec Journal endorsed Dr. Rines and said:

GRAPHIC: Masthead again with pic of Rines and "makes things happen"

Rines' success in Gardiner shows that he does not just talk, he makes things happen.

Dr. Brian Rines. The best choice.

GRAPHIC:LOGO and Vote for Dr. Brian Rines for Senate District 21.

Senate Democratic Campaign Committee, 22 Smith St. Augusta, ME 04330.
Cyndie Banks Treasurer.

From: mbeychok1@cox.net
Sent: Tuesday, October 31, 2006 5:52 PM
To: senate@mainedems.com; gregolsonme@yahoo.com
Subject: Fwd: SDCC

Buy Detail Report.rtf

> From: "Carole Mundy" <carole@munkato.com>
> To: "'Michael Beychok'" <mbeychok1@cox.net>
> Subject: SDCC
> Date: Tue, 31 Oct 2006 17:40:26 -0500
>
> This is similar to the approach we took with Midura...please advise.

SDCC Est 103 Week 1

10/31/2006

TV SCHEDULE

Client: Senate Democratic Caucus Committee (ME)
Product: SDCC NE
Market: Portland, ME
Flight Dates: 10/31/06-11/7/06

Estimate: 103
Description: SDCC ME Week 1
Survey: May06 DMA Custom
Buyer: Murray Katowitz Media, Inc.

Station	Affil	Day	DP	Time	Program	A 35+ RTG	Dur	# of SPOTS PER DAY 11/2	11/3	11/4	11/5	11/6	11/7	Total Spots	Gross Cost	CPP
WGSH-TV		M-F	EM	6:00a-7:00a	NEWS	6.2	30	1	1	0	0	1	0	3	$600.00	$129.03
		M-F	EM	7:00a-9:00a	TODAY SHOW	7.5	30	1	1	0	0	1	0	3	$900.00	$120.00
		M-F	DT	9:00a-10:00a	TODAY SHOW	7.5	30	1	1	0	0	1	1	4	$350.00	$46.67
		M-F	DT	10:11a-10:12a	RACHEL RAY	1.8	30	1	0	0	0	1	0	2	$90.00	$50.00
		M-F	DT	11:00a-12:00p	FAMILY FEUD	1.1	30	0	1	0	0	0	0	1	$50.00	$45.45
		M-F	DT	12:00p-12:30p	NEWSCENTER	4.3	30	0	0	1	0	0	0	1	$300.00	$69.77
		M-F	EF	4:00p-5:00p	JUDGE ALEX	1.9	30	0	0	0	0	1	0	1	$50.00	$26.32
		M-F	EN	5:00p-5:30p	NEWS	6.2	30	1	0	0	0	0	0	1	$615.00	$99.19
		M-F	EN	5:30p-6:00p	NEWS	7.4	30	0	1	0	0	0	0	1	$855.00	$115.54
		M-Su	EN	6:00p-7:00p	NEWS	14.5	30	0	0	0	0	1	0	1	$1,620.00	$111.72
		M-F	PA	7:30p-8:00p	INSIDE EDITION	2.2	30	0	1	0	0	0	0	1	$410.00	$186.36
		M-Su	LN	11:00p-11:35p	NEWS	4.6	30	1	0	0	0	1	0	2	$500.00	$108.70
		M-F	LF	11:35p-12:35a	TONIGHT SHOW	2.0	30	1	1	0	0	1	0	3	$130.00	$65.00
		Sa	WK	6:00a-7:00a	NEWS	5.0	30	0	0	1	0	0	0	1	$750.00	$150.00
		Sa	WK	12:00p-12:30p	NEWS	4.8	30	0	0	1	0	0	0	1	$236.00	$49.96
		Su	WK	7:00a-8:00a	NEWS	5.6	30	0	0	0	1	0	0	1	$550.00	$98.33
Station Total:						143.9								27	$13,595.00	
WGME-TV		M-F	EM	5:00a-6:00a	NEWS	1.2	30	1	1	0	0	1	0	3	$175.00	$145.83
		M-F	EM	6:00a-7:00a	NEWS	2.1	30	1	1	0	0	1	0	3	$300.00	$142.86
		M-F	EM	7:00a-9:00a	EARLY SHOW	2.0	30	1	1	0	0	1	0	3	$100.00	$50.00
		M-F	DT	9:00a-12:00p	GUIDING LIGHT/JUDGE BROWN/PRICE/RIGHT	1.2	30	1	0	0	0	0	0	1	$100.00	$83.33
		M-F	DT	12:00p-12:30p	NEWS	3.2	30	0	0	0	0	1	0	1	$250.00	$78.13
		M-F	DT	3:00p-4:00p	JUDGE JUDY	2.7	30	1	0	0	0	0	0	1	$150.00	$55.56
		M-F	EF	4:00p-5:00p	OPRAH	4.4	30	0	1	0	0	1	0	2	$450.00	$102.27
		M-F	EN	5:00p-5:30p	NEWS	4.1	30	1	0	0	0	0	0	1	$850.00	$158.54
		M-F	EN	5:30p-6:00p	NEWS	4.7	30	0	1	0	0	0	0	1	$700.00	$148.94
		M-F	EN	6:00p-7:00p	NEWS	6.5	30	0	0	0	0	1	0	1	$1,000.00	$153.85
		Su	EN	6:00p-6:30p	NEWS	4.9	30	0	0	0	1	0	0	1	$550.00	$102.04
		M-F	PA	7:00p-7:30p	ENT TONIGHT	3.9	30	1	0	0	0	0	0	1	$800.00	$205.13
		M-F	PA	7:30p-8:00p	INSIDER	3.4	30	0	1	0	0	0	0	1	$800.00	$235.29
		Sa	PA	7:00p-8:00p	NEWS	1.6	30	0	0	1	0	0	0	1	$300.00	$187.50
		M-Su	LN	11:00p-11:35p	NEWS	2.4	30	1	0	0	1	0	0	2	$350.00	$145.83
		M-F	LF	11:35p-12:35a	LETTERMAN	1.1	30	0	1	0	0	1	0	2	$150.00	$136.36
		Su	WK	9:00a-10:30a	SUNDAY MORN	2.8	30	0	0	0	1	0	0	1	$450.00	$173.08
Station Total:						70.5								26	$9,225.00	
WMTW-TV		M-F	EM	6:00a-7:00a	NEWS	1.5	30	1	1	0	0	1	1	4	$125.00	$83.33
		M-F	EM	7:00a-9:00a	GMA	1.5	30	1	1	0	0	1	0	3	$125.00	$83.33
		M-F	DT	9:00a-10:00a	REGIS	2.0	30	1	0	0	0	1	0	2	$125.00	$62.50
		M-F	DT	10:00a-11:00a	MARTHA	1.5	30	0	1	0	0	1	0	2	$110.00	$73.33
		M-F	DT	11:00a-12:00p	THE VIEW	1.5	30	1	0	0	0	0	0	1	$125.00	$83.33
		M-F	DT	12:00p-12:30p	NEWS	1.0	30	0	1	0	0	0	0	1	$70.00	$70.00
		M-F	DT	1:00p-4:00p	SOAPS	1.0	30	0	1	0	0	1	0	2	$150.00	$150.00

02/08/2007 16:46 2072876775 ETHICS COMMISSION PAGE 12/29
Nov. 30. 2006 5:12PM No. 1257 P. 13

SDCC Est 103 Week 1

10/31/2006

TV SCHEDULE

Client: Senate Democratic Caucus Committee (ME)
Product: SDCC ME
Market: Portland, ME
Flight Dates: 10/31/06-11/7/06

Estimate: 103
Description: SDCC ME Week 1
Survey: May06 DMA Custom
Buyer: Mundy Katowitz Media, Inc.

Station	Affil	Day	DP	Time	Program	A 35+ RTG	Our	# of SPOTS PER DAY 11/2	11/3	11/4	11/5	11/6	11/7	Total Spots	Gross Cost	CPP
		M-F	EF	4:00p-5:00p	ELLEN	2.0	30	1	0	0	0	0	0	1	$250.00	$125.00
		M-F	EN	5:00p-6:00p	DR PHIL	6.5	30	0	0	0	0	1	0	1	$860.00	$109.00
		M-F	EN	6:00p-7:00p	NEWS	5.5	30	0	1	0	0	0	0	1	$750.00	$136.36
		M-F	PA	7:00p-7:30p	WHEEL	7.0	30	0	0	0	0	1	0	1	$960.00	$135.71
		M-F	PA	7:30p-8:00p	JEOPARDY	9.0	30	0	1	0	0	0	0	1	$1,150.00	$137.50
		M-F	LN	11:30p-11:35p	NEWS	1.0	30	1	0	0	0	1	0	2	$120.00	$120.00
		M-F	LF	11:35p-12:05a	NIGHTLINE	0.5	30	0	1	0	0	0	0	1	$700.00	$175.00
		Th	PT	8:00p-9:00p	UGLY BETTY	4.0	30	1	0	0	0	0	0	24	$5,530.00	
Station Total:						*57.5*								2	$150.00	$26.32
WPFO-TV		M-F	PA	7:00p-8:00p	SEINFELD	5.7	30	1	0	0	0	1	0	2	$300.00	
Station Total:						*11.4*								1	$10.00	$33.33
WPME-TV		Sa	WK	2:00p-4:00p	MOVIE	0.3	30	0	0	1	0	0	0	1	$10.00	$33.33
		Sa	WK	4:00p-4:30p	MOVIE	0.3	30	0	0	1	0	0	0	2	$20.00	
Station Total:						*0.5*								2	$75.00	$75.00
WPXT-TV		M-F	EN	6:00p-6:30p	RAYMOND	1.0	30	0	1	0	0	1	0	1	$75.00	$75.00
		M-F	EN	6:30p-7:00p	KING OF QUEENS	1.0	30	1	0	0	0	0	0	1	$100.00	$100.00
		M-F	PA	7:00p-7:30p	SIMPSONS	1.0	30	0	0	0	0	1	0	4	$325.00	
Station Total:						*4.0*										
Spots Per Week:								24	23	6	4	28	2	85		
TRPs Per Week:								75.6	74.3	16.3	16.5	96.2	9.0	287.9		

SCHEDULE TOTALS:

TOTAL SPOTS:	85
TOTAL COST:	$30,005.00
TOTAL Adults 35+ TRPs:	287.9
TOTAL Adults 35+ CPP:	$104.22

IE 48

STATE OF MAINE
COMMISSION ON GOVERNMENTAL ETHICS AND ELECTION PRACTICES

FAX REC'D 4pm

Mail: 135 State House Station
Office: 242 State Street
Augusta, Maine 04333
Tel: (207) 287-4179 Fax: (207) 287-6775
www.maine.gov/ethics

RECEIVED
OCT 28 2006
COMMISSION ON GOVERNMENTAL ETHICS & ELECTION PRACTICES-AUGUSTA, ME

CAMPAIGN FINANCE REPORT
OF 2006 INDEPENDENT EXPENDITURES

Name of Person/Committee Making Expenditure(s) MAINE DEMOCRATIC PARTY

Mailing Address 16 WINTHROP STREET

City, Zip Code AUGUSTA 04330 Telephone 622-6233

INSTRUCTIONS

Complete the notarized affidavit and attached schedules. Please check the appropriate box for the report you are filing. Please see previous page for reporting requirements.

INDEPENDENT EXPENDITURES OF MORE THAN $250 PER CANDIDATE

Independent expenditures of more than $250 per candidate must be reported to the Commission within 24 hours of making the expenditure. Please be aware that under the Commission's Rules making an expenditure includes placing an order for a good or service or making a promise or agreement that a payment will be made.

☑ Report of Independent Expenditure over $250

INDEPENDENT EXPENDITURES OF MORE THAN $100 AND UP TO $250 PER CANDIDATE

[redacted] Election

Reporting Period	Filing Deadline
☐ Through June 1	June 1
☐ After June 1	Within 24 Hours

General Election

Reporting Period	Filing Deadline
☐ June 14 – July 5	July 15
☐ July 6 – Sept. 30	October 10
☐ October 1 – 26	October 26
☑ After October 26	Within 24 Hours

OTHER

☐ Amendment to Earlier Report Dated: _____

☐ Other(specify): _____

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

Signature of PAC or Party Treasurer, or Other Person Making Expenditure(s)

10/28/2006
Date

Form IE (Rev. 2/06)

STATE OF MAINE
COMMISSION ON GOVERNMENTAL ETHICS AND ELECTION PRACTICES

Mail: 135 State House Station
Office: 242 State Street
Augusta, Maine 04333
Tel: (207) 287-4179 Fax: (207) 287-6775
Web site: www.maine.gov/ethics

INDEPENDENT EXPENDITURES

AFFIDAVIT

STATE OF MAINE

COUNTY OF KENNEBEC

BENJAMIN DUDLEY being duly sworn, attests that he/she made each of the expenditures listed in the attached report independently, and not in cooperation, consultation, or concert with, or at the request or suggestion of, the candidates named in the report or the authorized committees or agents of the candidates.

Benj F. Dudley
(Signature of Affiant)

Sworn to before me, this 28th day of October 2006.

Timothy J. Foley N.P. Com Exp 7-10-09
(Notary Public/Attorney at Law)
Timothy J. Foley

Page ___ of ___
(Schedule B-1E-1 only)

Schedule B-1E-1

CANDIDATE(S) SUPPORTED/OPPOSED

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

[redacted]	[redacted]	Indicate whether expenditure was made in support of or in opposition to the candidate	Amount expended this reporting period for each candidate
SS #1	PETER BOWMAN	Support	$4,179.00
SS #15	EDWARD DESGROSSELLIERS	"	$2900.00
SS #19	ARTHUR MAYO	"	$3,755.00

Form 1E/B-1E-1 (Rev. 7/05)

Page ___ of ___
(Schedule B-IE-2 only)

Schedule B-IE-2

PAYMENTS AND OBLIGATIONS

- **Please indicate the date, payee, expenditure type, and amount of each expenditure.**
- **If you are reporting an agreement or obligation to make a future payment, please check (√) the box next to the purpose of the expenditure.**

[redacted]

Date	Payee name, address, city, state, zip code	Expenditure Type	√	Amount
10/27	OURJO BEYCHOK JOHNSON 352 Napoleon St. Baton Rouge, LA 70802	LIT		4,179
10/27	" "	LIT		2,900
10/27	" "	LIT		3,755

A. Expenditures for this page ⇒	10,834
B. Total for all other Schedule B-IE-2 pages (if any) ⇒	
C. Total independent expenditures for this reporting period (A+B) ⇒	$10,834.00

Form IE/B-IE-2 (Rev. 7/06)

I.E. # 71

STATE OF MAINE
COMMISSION ON GOVERNMENTAL ETHICS AND ELECTION PRACTICES

Mail: 135 State House Station
Office: 242 State Street
Augusta, Maine 04333
Tel: (207) 287-4179 Fax: (207) 287-6775
www.maine.gov/ethics

RECEIVED
OCT 31 2006
COMMISSION ON GOVERNMENTAL ETHICS & ELECTION PRACTICES-AUGUSTA, ME

CAMPAIGN FINANCE REPORT
OF 2006 INDEPENDENT EXPENDITURES

Name of Person/Committee Making Expenditure(s) MAINE DEMOCRATIC PARTY

Mailing Address 16 WINTHROP STREET

City, Zip Code AUGUSTA 04330 Telephone 622-6233

INSTRUCTIONS

Complete the notarized affidavit and attached schedules. Please check the appropriate box for the report you are filing. Please see previous page for reporting requirements.

INDEPENDENT EXPENDITURES OF MORE THAN $250 PER CANDIDATE

Independent expenditures of more than $250 per candidate must be reported to the Commission within 24 hours of making the expenditure. Please be aware that under the Commission's Rules making an expenditure includes placing an order for a good or service or making a promise or agreement that a payment will be made.

☐ Report of Independent Expenditure over $250

INDEPENDENT EXPENDITURES OF MORE THAN $100 AND UP TO $250 PER CANDIDATE

Primary Election		General Election	
Reporting Period	**Filing Deadline**	**Reporting Period**	**Filing Deadline**
☐ Through June 1	June 1	☐ June 14 – July 5	July 15
☐ After June 1	Within 24 Hours	☐ July 6 – Sept. 30	October 10
		☐ October 1 – 26	October 26
		☑ After October 26	Within 24 Hours

OTHER

☐ Amendment to Earlier Report Dated: _____

☐ Other(specify): _____

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

Brian F. Dudley
Signature of PAC or Party Treasurer, or Other Person Making Expenditure(s)

10/31/2006
Date

Form IE (Rev. 1/06)

STATE OF MAINE
COMMISSION ON GOVERNMENTAL ETHICS AND ELECTION PRACTICES

Mail: 135 State House Station
Office: 242 State Street
Augusta, Maine 04333
Tel: (207) 287-4179 Fax: (207) 287-6775
Web site: www.maine.gov/ethics

INDEPENDENT EXPENDITURES

AFFIDAVIT

STATE OF MAINE

COUNTY OF KENNEBEC

BENJAMIN DUDLEY, being duly sworn, attests that he/she made each of the expenditures listed in the attached report independently, and not in cooperation, consultation, or concert with, or at the request or suggestion of, the candidates named in the report or the authorized committees or agents of the candidates.

Benjamin J. Dudley
(Signature of Affiant)

Sworn to before me, this 31ST day of October 2006.

Timothy J. Feeley N.P. Com. Exp. 7-10-09
(Notary Public/Attorney at Law)
Timothy J. Feeley

Page ___ of ___
(Schedule B-IE-1 only)

Schedule B-IE-1

CANDIDATE(S) SUPPORTED/OPPOSED

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

Office sought by candidate (including district)	Candidate's Name	Indicate whether expenditure was made in support of or in opposition to the candidate	Amount expended this reporting period for each candidate
SS#32	JOSEPH PERRY	SUPPORT	1121.40
SS#32	"	"	5742.00
SS#21	BRIAN RINES	"	6154.00
SS#1	PETER BOWMAN	"	5146.00

Form IE/B-IE-1 (Rev. 7/06)

Page___ of ___
(Schedule B-IE-2 only)

Schedule B-IE-2

PAYMENTS AND OBLIGATIONS

- **Please indicate the date, payee, expenditure type, and amount of each expenditure.**
- **If you are reporting an agreement or obligation to make a future payment, please check (√) the box next to the purpose of the expenditure.**

Expenditure Types			
LIT	[redacted] graphics)	PRT	Print media ads
MRS	[redacted]	RAD	Radio ads, production costs
PHO	[redacted] phone calls	TVN	TV or cable ads, production costs
POL	[redacted] survey	WEB	Internet and e-mail
POS	[redacted]	OTH	Other (include description)

Date of expenditure	Payee, address, zip code	Expenditure Type	√	Amount
10/31	US POSTMASTER	POS		1121.40
10/30	OURSO, BEYCHOK JOHNSON 852 NAPOLEON ST BATON ROUGE, LA 70802	LIT		5742.50
10/30	" "	LIT		6154.00
10/30	" "	LIT		5146.00
	A. Expenditures for this page ⇒			18,163.40
	B. Total for all other Schedule B-IE-2 pages (if any) ⇒			
	C. Total independent expenditures for this reporting period (A+B) ⇒			18,163.40

Page ___ of ___
(Schedule B-IE-3 only)

SS#1

Schedule B-IE-3

EXPENDITURE DETAILS

- **For reports filed after June 5, 2006 for the primary election, or filed after October 30, 2006 for the general election, the following information must be provided.**

1. The date on which the person making the expenditure placed the order with the vendor for the goods or services	10/30
2. The approximate date when the vendor began providing design or any other services in connection with the expenditure	9/27
3. The date on which the person making the expenditure first learned of the total amount of the expenditure	10/30
4. A statement why the expenditure could not be reported by the eighth day before the election	made decision to re-print previous piece

Page___ of ___
(Schedule B-IE-3 only)

SS#21

Schedule B-IE-3

EXPENDITURE DETAILS

- **For reports filed after June 5, 2006 for the primary election, or filed after October 30, 2006 for the general election, the following information must be provided.**

1. The date on which the person making the expenditure placed the order with the vendor for the goods or services	10/30
2. The approximate date when the vendor began providing design or any other services in connection with the expenditure	10/29
3. The date on which the person making the expenditure first learned of the total amount of the expenditure	10/30
4. A statement why the expenditure could not be reported by the eighth day before the election	LATE Design. not Approved w/corrections until 30th

SS#32

Schedule B-IE-3

EXPENDITURE DETAILS

- **For reports filed after June 5, 2006 for the primary election, or filed after October 30, 2006 for the general election, the following information must be provided.**

1. The date on which the person making the expenditure placed the order with the vendor for the goods or services	10/30
2. The approximate date when the vendor began providing design or any other services in connection with the expenditure	10/25
3. The date on which the person making the expenditure first learned of the total amount of the expenditure	10/30
4. A statement why the expenditure could not be reported by the eighth day before the election	Changes not complete until 10/30

IE#84

STATE OF MAINE
COMMISSION ON GOVERNMENTAL ETHICS AND ELECTION PRACTICES

Mail: 135 State House Station
Office: 242 State Street
Augusta, Maine 04333
Tel: (207) 287-4179 Fax: (207) 287-6775
www.maine.gov/ethics

RECEIVED
NOV - 1 2006
COMMISSION ON GOVERNMENTAL ETHICS & ELECTION PRACTICES

CAMPAIGN FINANCE REPORT
OF 2006 INDEPENDENT EXPENDITURES

Name of Person/Committee Making Expenditure(s) Maine Democratic Party
Mailing Address 16 Winthrop St.
City, Zip Code Augusta 04330 Telephone _____

INSTRUCTIONS

Complete the notarized affidavit and attached schedules. Please check the appropriate box for the report you are filing. Please see previous page for reporting requirements.

INDEPENDENT EXPENDITURES OF MORE THAN $250 PER CANDIDATE

Independent expenditures of more than $250 per candidate must be reported to the Commission within 24 hours of making the expenditure. Please be aware that under the Commission's Rules making an expenditure includes placing an order for a good or service or making a promise or agreement that a payment will be made.

☒ Report of Independent Expenditure over $250

INDEPENDENT EXPENDITURES OF MORE THAN $100 AND UP TO $250 PER CANDIDATE

Primary Election			General Election		
	Reporting Period	**Filing Deadline**		**Reporting Period**	**Filing Deadline**
☐	Through June 1	June 1	☐	June 14 – July 5	July 15
☐	After June 1	Within 24 Hours	☐	July 6 – Sept. 30	October 10
			☐	October 1 – 26	October 26
			☒	After October 26	Within 24 Hours

OTHER

☐ Amendment to Earlier Report Dated: _____
☐ Other(specify): _____

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

Signature of PAC or Party Treasurer, or Other Person Making Expenditure(s) — Date: 11/1/2006

Form IE (Rev. 7/06)

STATE OF MAINE
COMMISSION ON GOVERNMENTAL ETHICS AND ELECTION PRACTICES

Mail: 135 State House Station
Office: 242 State Street
Augusta, Maine 04333
Tel: (207) 287-4179 Fax: (207) 287-6775
Web site: www.maine.gov/ethics

INDEPENDENT EXPENDITURES

AFFIDAVIT

STATE OF Maine

COUNTY OF Kennebec

Benjamin Dudley, being duly sworn, attests that he/she made each of the expenditures listed in the attached report independently, and not in cooperation, consultation, or concert with, or at the request or suggestion of, the candidates named in the report or the authorized committees or agents of the candidates.

Ben J. Dudley
(Signature of Affiant)

Sworn to before me, this 1st day of November 2006.

Deborah C. Friedman
(Notary Public/Attorney at Law)

Deborah C. Friedman Bar # 3353

Page____ of ____
(Schedule B-IE-2 only)

Schedule B-IE-2

PAYMENTS AND OBLIGATIONS

- **Please indicate the date, payee, expenditure type, and amount of each expenditure.**
- **If you are reporting an agreement or obligation to make a future payment, please check (√) the box next to the purpose of the expenditure.**

Expenditure Types			
LIT	Campaign literature (printing and graphics)	PRT	Print media ads
MHS	Mail house (all services purchased)	RAD	Radio ads, production costs
PHO	Phone banks, automated telephone calls	TVN	TV or cable ads, production costs
POL	Polling and research survey	WEB	Internet and e-mail
POS	Postage for U.S. Mail	OTH	Other (include description)

Date of expenditure	Payee, address, zip code	Expenditure Type	√	Amount
11/1	US Postmaster Portland 04101	POS		7568.78
	A. Expenditures for this page ⇨			7568.78
	B. Total for all other Schedule B-IE-2 pages (if any) ⇨			
	C. Total independent expenditures for this reporting period (A+B) ⇨			7568.78

Page____ of____
(Schedule B-IE-1 only)

Schedule B-IE-1

CANDIDATE(S) SUPPORTED/OPPOSED

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

Office sought by candidate (including district #)	Candidate's Name	Indicate whether expenditure was made in support of or in opposition to the candidate	Amount expended this reporting period for each candidate
1	Peter Bowman	Support	2752.97
15	Ed Desgrosseilliers	Support	721.33
19	Art Mayo	Support	1005.96
21	Brian Rines	Support	1391.43
~~32~~	~~Joe Perry~~	~~Support~~	~~1660.~~
32	Joe Perry	Support	1697.09

Page____ of ____
(Schedule B-1E-3 only)

Schedule B-1E-3

EXPENDITURE DETAILS

- **For reports filed after June 5, 2006 for the primary election, or filed after October 30, 2006 for the general election, the following information must be provided.**

1. The date on which the person making the expenditure placed the order with the vendor for the goods or services	11/1
2. The approximate date when the vendor began providing design or any other services in connection with the expenditure	11/1
3. The date on which the person making the expenditure first learned of the total amount of the expenditure	11/1
4. A statement why the expenditure could not be reported by the eighth day before the election	Postage amount became known on 11/6.

Agenda Item #4

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

To: Commission Members
From: Jonathan Wayne, Executive Director
Date: February 7, 2007
Re: Staff Response to February 5 Letter by Nancy Bessey's Counsel

---

The Commission received a letter dated February 5, 2007 from attorney Dan Billings relating to Nancy Bessey's late filing of her 101% Report. Under the Maine Clean Election Act (MCEA), a privately financed candidate who has a MCEA opponent is required to file a 101% Report when his receipts or expenditures for the general election exceeded $4,406 (101% of the amount paid to the MCEA opponent). That report is necessary to determine whether the MCEA opponent is due to receive any matching funds.

In a January 22 letter to Ms. Bessey, the Commission staff found that she had filed the report eight days late on October 31st. The staff was inclined to recommend a penalty of $4,581.18, which is 75% of the maximum penalty.

The Commission staff recognizes that the February 5 letter does raise legitimate points on behalf of the candidate which deserve your consideration. Nevertheless, we believe a significant penalty should be assessed against Ms. Bessey for the reasons listed in our January 22 letter.

Most importantly, based on the statutory reporting requirements that were clearly explained to Ms. Bessey in writing, Ms. Bessey's opponent, Timothy Carter, was delayed in receiving $2,156.30 in matching funds. While most of this amount was delayed by only 3-5 days, the delay was significant for Mr. Carter. That makes Ms. Bessey's late filing more than a technical violation. It was a violation with an impact in a tight election race.

The closeness of the race is relevant. Mr. Carter won by a margin of only 57 votes. Mr. Billings is correct that the delay in Mr. Carter's receipt of matching funds did not cost him the election, but that is an after-the-fact justification. At the time Ms. Bessey's lateness delayed the payment of matching funds to her opponent, the outcome of the election was still very much in doubt.

The staff recommends that you hear Ms. Bessey's testimony at the February 14th meeting and you make a judgment about what penalty amount is fair. Without the benefit of her testimony, we believe the penalty should be at least $1,527.04 (25% of the maximum penalty).

The Commission staff acknowledges the following points made by Ms. Bessey through her counsel:

- Mr. Billings states that if Ms. Bessey's expenditures alone triggered matching funds, she did not exceed the 101% amount ($4,406) until October 31. That is relevant, because the goods and services purchased by Ms. Bessey did not "put her ahead" of Mr. Carter's expenditures until the last two days before the election. Nevertheless, matching funds are not based solely on what an opponent spends, but also on what the opponent receives.

- Ms. Bessey's total expenditures for the campaign were $7,592. You may feel that the originally recommended penalty of $4,581.18 was disproportionate to her total amount of campaign activity.

- Ms. Bessey was a first-time candidate, although in the 2006 Republican primary election she was a privately financed candidate running against a MCEA candidate. So, she should have been aware of the filing requirements.

We would urge you not to take at face value the statement that Ms. Bessey believed that the duty to file the 101% Report was triggered only by her total expenditures (and not by the contributions and loans received by the campaign). We recommend that you hear the candidate's testimony directly before accepting that statement.

Ms. Bessey saw – or had an opportunity to see – a number of written explanations that the requirement to file the 101% Report was triggered either by her receipts or her expenditures, whichever was greater (see highlighted language below):

- The Commission mailed Ms. Bessey an August 18, 2006 letter explaining the 101% Report requirement. It stated: "If you **raise**, or spend and obligate, more than 1% in excess of …."

- Four copies of the 101% Report form were enclosed with the August 18 letter. (The same form can be used both for the 101% Report and the three required accelerated reports.) The instructions for the reporting form states: "Any privately financed candidate … who **receives**, or spends and obligates, more than 1% in excess of …."

- The reporting form itself clearly asks the candidate to report both "Total **Receipts** for the General Election" as well as total expenditures. Why would the form request the candidate's total receipts if the information was not relevant for the payment of matching funds?

- Ms. Bessey filed similar forms in connection with the 2006 Republican primary election because she ran against a MCEA candidate in the primary. That was an opportunity to understand the special reporting requirements for privately financed candidates with a MCEA opponent.

- On October 13th, Ms. Bessey signed an affidavit (regrettably false) stating "Nancy J. Bessey, being duly sworn, attests that his or her campaign has not **received**, and has not spent or obligated …"

- The 2006 Candidate Guidebook states on page 73 that "The report must be filed within 48 hours of the date on which their total **receipts** for the election – or the total of their expenditures and obligations for the election – exceeded the 101% Amount."

Candidate Registrar Sandy Thompson regularly advised privately financed candidates by telephone that the 101% Report was based on the candidate's receipts (including in-kind contributions) or expenditures (including in-kind contributions) whichever was greater. She presumes her advice to Ms. Bessey was similar, although she does not remember her specific advice to Ms. Bessey prior to November 2 when it was discovered that Ms. Bessey was late. Also, the Maine Republican Party staff was a possible resource for Ms. Bessey.

It is difficult for the Commission staff to make a judgment about what Ms. Bessey actually understood was her reporting requirement. Nevertheless, she had ample written notice that her opponent's matching funds were based both on her reported receipts and on her reported expenditures.

MARDEN, DUBORD, BERNIER & STEVENS

ATTORNEYS AT LAW

WILLIAM P. DUBORD
ALTON C. STEVENS
J. WILLIAM DRUARY, JR.
ROBERT M. MARDEN
DAVID E. BERNIER
DANIEL I. BILLINGS
DANIEL W. MARRA

44 ELM STREET
P.O. BOX 708
WATERVILLE, ME 04903-0708

(207) 873-0186
FAX (207) 873-2245
E-MAIL: mdbs@gwi.net
http://www.mainelawfirm.com

ALBERT L. BERNIER
(RETIRED)
F. HAROLD DUBORD
(1891-1964)
RICHARD J. DUBORD
(1921-1970)
HAROLD C. MARDEN
(1900-1994)
ROBERT A. MARDEN
(RETIRED)

February 5, 2007

Jonathan Wayne, Executive Director
State of Maine Commission on Governmental Ethics & Election Practices
135 State House Station
Augusta, Maine 04333-0135

RE: Nancy Bessey 101% Report

Dear Jonathan:

I am writing on behalf of Nancy Bessey in response to your letter of January 22, 2007 concerning the late filing of her 101% Report. I have reviewed your letter and the accompanying documents with Ms. Bessey and, though we find no errors in your understanding of the facts, we do believe that there are additional facts that should be considered by the Commission and the Commission staff before a determination of an appropriate penalty is made.

Additional Facts

It is important to note that the late filing of the 101% report was due to the receipts received by the campaign and not due to expenditures made by the campaign. This is significant because Ms. Bessey's campaign was primarily self-funded. Of the total receipts for the general election, over 75% were from loans, cash contributions, or in-kind contributions from Ms. Bessey. Due to her self-funding of the campaign, if Ms. Bessey had a better understanding of the reporting requirements and what triggered matching funds, she could have easily delayed her loans to her campaign and avoided any late filing. This is illustrated by a review of the campaign's receipts and expenditures.

On October 6, 2006, Ms. Bessey loaned $1500.00 to her campaign. She did this because she anticipated making expenditures later in the month and she did not want to spend money on her campaign before she had the money in her campaign account. She could have delayed making this transfer to her campaign account until she had to make payment for any campaign expenditures.

On October 11, 2006, Ms. Bessey's campaign received a $250.00 contribution and on October 21, 2006, the campaign received another $250.00 contribution. The second contribution on October 21, 2006 put the campaign's receipts over the 101% amount which triggered the filing of the 101% report. However, at that time, the campaign had spent less than the amount which trigged reporting due to expenditures. Ms. Bessey's failure to file the 101% report was because she was focused on the amount that her campaign had spent and did not understand that reporting was also triggered by receipts, including contributions and loans from the candidate.

It was not until October 31, 2006 that the campaign spent more than 101% of the MCEA general election amount for House candidates. When the campaign exceeded the 101% amount for expenditures, the 101% report was immediately faxed to the Commission. Ms. Bessey filed the report as soon as she received a quote on a mailing that she intended to have done later in the week. As soon as she realized that the cost of the mailing would cause her expenditures to exceed 101%, she filed the report. I think the fact that Ms. Bessey immediately filed the 101% report when she first believed reporting was triggered, and did not delay it 48 hours as allowed by the law, illustrates that Ms. Bessey was acting in good faith in attempting to report properly and was not acting in a way intended to delay matching funds as long as possible.

If Ms. Bessey had consulted with me before loaning money to her campaign, I would have advised her not to loan any money to her campaign until she needed the money to pay for campaign expenditures. If she dealt with her campaign finances in that manner, she could have legally made the same campaign expenditures at the same times as she did in her campaign, but the 101% report would not have been due until November 2, 2006 and no matching funds would have been triggered until that time. This is significant because it shows that if Ms. Bessey had been trying to manipulate the Clean Elections system to delay the triggering of matching funds, she could have done so legally. Her actions were the result of a first time candidate failing to fully understand the reporting requirements and the matching fund system.

It is also a significant fact that Ms. Bessey was in contact with Commission staff regularly during the campaign to seek assistance in meeting her reporting requirements. This is further evidence of her good faith efforts to comply with the law.

Waiver of Penalty

21-A M.R.S.A. § 1020-A(2) allows the Commission to "waive a penalty if the commission determines that the penalty is disproportionate to the size of the candidate's campaign, the level of experience of the candidate, treasurer or campaign staff or the harm suffered by the public from the late disclosure." In this case, all of the factors which justify waiver of a penalty apply.

The penalty of $4581.18 recommended by the Commission staff is disproportionate to the size of the candidate's campaign. The proposed penalty is equally to 58% of the campaign's total receipts for the general election and is greater than general election

authorization for Maine Clean Election candidates. Such a large penalty could also discourage people from running for the legislature in the future if an innocent error resulting in a reporting delay of only 8 days results in such a large fine.

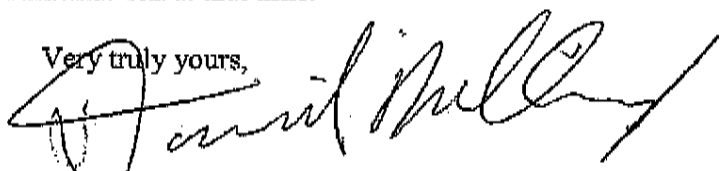
The penalty is also disproportionate based on Ms. Bessey's level of experience. She was a first time candidate who was unfamiliar with the reporting requirements. As illustrated by her regular contact with Commission staff, she made a good faith effort to comply with the law and the late report was simply due to her lack of experience and her misunderstanding of the reporting requirements.

The penalty is also disproportionate because no harm was suffered by the public from the late reporting. This is illustrated by the fact, as described above, that Ms. Bessey could have legally delayed reporting simply by delaying when she loaned money to her campaign. If she acted as someone experienced and knowledgeable about the matching funds provisions of the Maine Clean Elections Act would have advised, she could have made all the same campaign expenditures without being required to file the 101% report until November 2, 2006 – two days after the date when it was actually filed. Her violation is a technical one that could have been avoided without any substantive change to the manner in which her campaign was conducted.

Furthermore, there was no harm to the public because all the campaign's contributions were disclosed as required before the election. All of the matching funds triggered were distributed to Mr. Carter before the election and he spent all the available funds. Mr. Carter was also successful in winning the election. This is not a situation where the delay in authorization of matching funds theoretically changed the outcome of the election.

I thank you for taking this information into consideration. I will be in attendance with Ms. Bessey at the Commission's February 14th meeting and we will be glad to answer any questions or provide any additional information at that time.

Very truly yours,



Daniel I. Billings
e-mail: dbillings@gwi.net

C.C.: Nancy Bessey

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

January 22, 2007

Ms. Nancy J. Bessey
P.O. Box 169
Rangeley, ME 04970

Dear Ms. Bessey:

This is to follow up on Sandy Thompson's November 27, 2006 letter regarding the penalty for the late filing of your 101% Report. The Commission will consider this matter at its meeting on February 14th. Based on the information available to it now, the Commission staff is recommending a penalty of $4,581.18. **You are invited to respond to the recommended penalty by submitting a written response no later than Monday, February 5 and by appearing at the February 14th meeting.** In addition, if you believe that our understanding of the facts of the situation is mistaken, we urge you to contact us as soon as possible and we will consider whether to change our recommendation.

As was noted in the November 27 letter, because you were a privately financed candidate with a Maine Clean election Act opponent you were required under 21-A M.R.S.A. §1017(3-B)(A) to file a 101% Report within 48 hours of when your cash receipts for the general election exceeded $4,406 (101% of the general election distribution amount for House candidates). Based on the transactions included in your campaign finance reports, the Commission staff has concluded that your receipts exceeded the $4,406 amount on October 21, 2006 and that the report was due on October 23, 2006. Instead, the report was filed eight days later on October 31st.

The penalty for filing an accelerated report late is set forth in 21-A M.R.S.A. §1020-A(4-A) (last paragraph). Upon further review of that provision, the staff has determined that the maximum amount for the violation is $6,108.24, and not $5,052.24 as stated in our November 27 letter. We apologize for the wrong amount in our last correspondence. Please refer to the enclosed penalty matrix for more details on how the maximum penalty is computed.

After considering the factual circumstances of this matter, the staff of the Commission will recommend that the Commission assess a penalty of $4,581.18, which is 75% of the maximum amount. That recommendation takes the following points into consideration:

- If you had filed the 101% Report on October 23rd as required by the Election Law, the Commission would have been advised of the contributions and loans your campaign received for the general election. This would have allowed the Commission to pay matching funds to your opponent, Timothy Carter, in a timely way. Instead, the Commission did not know of your receipts for the general election until October 31st.

- The delay of the matching funds to your opponent was at a critical period before the election. If your report had been filed on time, Mr. Carter's first authorization of $558.60 in matching funds would have been on October 24, which was two weeks before the election. Instead, his first authorization occurred on November 1, which was six days before the election.

- In total, Mr. Carter was delayed in receiving $2,156.30 in matching funds because of your late 101% Report. This is a significant amount in a race for the Maine House of Representatives. The first authorization of $558.60 was delayed by 7 - 8 days. He was delayed in receiving two subsequent authorizations of matching funds by 3 - 5 days: a payment of $1,489.70 (based on an independent expenditure in support of you by the Maine Republican Party) and a payment of $108.00 (based on the House Democratic Campaign Committee's retraction of an independent expenditure on behalf of Mr. Carter).

- Our analysis of your campaign's cash flow shows that the following contributions and loans from you were used to pay for general election expenditures: (1) the $941.51 contribution on July 5, 2006; (2) your two loans totaling $1,800; and (3) your $2,000 loan on November 15, 2006, which was needed to pay for the $2,462.33 debt (later amended to $2,243.34) reported on October 31, 2006.

- The outcome of your election was quite close. Mr. Carter won by a margin of 57 votes.

- On October 27, 2006 you filed an affidavit stating that your campaign had not received $4,406 or more for the general election. That affidavit does not appear to be accurate.

Please feel free to telephone me at 287-4179 if you have any questions.

Sincerely,

Jonathan Wayne
Executive Director

cc: Daniel I. Billings, Esq.
Timothy Carter
Karen Olivieri, Treasurer

COMMISSION ON GOVERNMENTAL ETHICS AND ELECTION PRACTICES

PENALTY MATRIX FOR LATE 101% AMOUNT & ACCELERATED REPORT FILINGS

BASIS FOR PENALTIES 21-A M.R.S.A. SECTION 1020-A(4)

The penalty for late filing of an accelerated report is equivalent to but not more than 3 times the amount by which the contributions received or expenditures obligated or made, whichever is greater, exceed the applicable Maine Clean Election Fund payment per day of violation, multiplied by the number of calendar days the report is filed late.

MCEA PAYMENT	PRIMARY	GENERAL
House	$1,504	$4,362
Senate	$7,746	$20,082

A penalty begins to accrue at 5:00 p.m. on the day the report is due.

Example: The treasurer files the accelerated report two days late. The candidate reports a total of $2,500 in contributions and $1,500 in expenditures (made and obligated). The MCEA amount is $1,504. The difference between $2,500 contributions (greater than $1,500 in expenditures) and the MCEA payment amount is: $996

$2,500	Greater amount of the total contributions received or expenditures made during the filing period
– $1,504	Applicable MCEA Payment Amount
$996	Difference
X 3	No more than 3 times the per day
$2,988	Maximum amount per day
X 2	Number of calendar days late
$5,976	**Total maximum penalty**

Your penalty is calculated as follows: Bessey

Contributions/Expenditures: (Greater amount)	$ 4,616.51
Minus MCEA Amount:	$ 4,362.00
Difference:	$ 254.51
Multiplied by 3 =:	$ 763.53
Multiplied by number of days late:	$ 8
Total maximum penalty:	$ 6,108.24

Any penalty of less than $5 is waived.

Waiver of a penalty does not nullify the finding of a violation.

A required report that is sent by certified or registered United States mail and postmarked at least 2 days before the deadline is not subject to penalty.

Revised 12/22/06

Nancy Bessey Analysis of Receipts and Expenditures

Date: 1/18/2007

RECEIPTS (and In-Kind Contributions)		Total to Date	
Cash Balance on 6/13/2006		$0.00	
6/14 - 7/18	$941.51	$941.51	
8-Aug	$250.00	$1,191.51	
14-Aug	$300.00	$1,491.51	Loan by Candidate
1-Sep	$250.00	$1,741.51	
6-Sep	$150.00	$1,891.51	
7-Sep	$250.00	$2,141.51	
12-Sep	$250.00	$2,391.51	
12-Sep	$100.00	$2,491.51	
6-Oct	$125.00	$2,616.51	
6-Oct	$1,500.00	$4,116.51	Loan by Candidate
11-Oct	$250.00	$4,366.51	
21-Oct	$250.00	$4,616.51	Date 101% Amount Exceeded
31-Oct	$38.00	$4,654.51	In-kind
1-Nov	$99.00	$4,753.51	In-kind
5-Nov	$977.10	$5,730.61	24-Hour Report filed; reported as in-kind on 11-8.
8-Nov	$185.00	$5,915.61	In-kind
15-Nov	$2,000.00		Loan by Candidate
		$7,915.61	Total for General Election

EXPENDITURES (and In-Kind Contributions)		Total to date	
6/14 - 7/18	$0.00	$0.00	
21-Jul	$15.75	$15.75	
7-Aug	$35.78	$51.53	
7-Aug	$307.44	$358.97	
7-Aug	$241.08	$600.05	
8-Aug	$84.00	$684.05	
14-Aug	$223.13	$907.18	
12-Sep	$235.41	$1,142.59	
12-Sep	$527.63	$1,670.22	
10-Oct	$649.44	$2,319.66	
10-Oct	$1,178.38	$3,498.04	
17-Oct	$435.75	$3,933.79	
31-Oct	$38.00	$3,971.79	In-kind contribution
			101% Report filed with reported $2,462.33 (actual amt $2,244.33) as a debt; reported as expenditure on 11-16.
31-Oct	$2,244.33	$6,216.12	Exceeded 101% amount for expenditures
1-Nov	$99.00	$6,315.12	In-kind contribution
5-Nov	$977.10	$7,292.22	24-Hour Report filed; reported as in-kind contribution on 11-8.
8-Nov	$185.00	$7,477.22	In-kind contribution
9-Nov	$356.93		
		$7,834.15	Total for General Election

PAGE 11/27 ETHICS COMMISSION 2072876775 02/08/2007 16:54

18-Jan-07

Analysis of Bessey, Carter and Independepent Expenditures.

House District 91

Nancy Bessey

RECEIPTS		Total to date
Cash Balance on 6/13/2006	$0.00	$0.00
6/14 - 7/16	$941.51	$941.51
8-Aug	$250.00	$1,191.51
14-Aug	$300.00	$1,491.51
1-Sep	$250.00	$1,741.51
6-Sep	$150.00	$1,891.51
7-Sep	$250.00	$2,141.51
12-Sep	$250.00	$2,391.51
12-Sep	$100.00	$2,491.51
6-Oct	$125.00	$2,616.51
6-Oct	$1,500.00	$4,116.51
11-Oct	$250.00	$4,366.51

				Bessey IEs	Carter IEs	Matching funds authorized if **101% report filed on time**	Notes	**ACTUAL** matching funds authorized	Notes
21-Oct 101% Report Trigger Date	$250.00	$4,616.51	21-Oct		$371.00				
23-Oct 101% Report Due			23-Oct			-$353.29	No authorization Carter's balance $353.29 greater than Bessey's		
			24-Oct	$911.89		$558.60	1st Authorization for Carter	$0.00	
			26-Oct		$263.00				
			27-Oct		-$371.00	$108.00	IE Report on 10-21 amended to zero resulting in 2nd authorization for Carter.		
			28-Oct	$1,489.70		$1,489.70	3rd Authorization for Carter	$0.00	
			29-Oct		$1,311.00				
			31-Oct	$1,759.85		$448.85	4th Authorization for Carter. He would have received a total of $2,605.45 in matching funds from 10/24 - 10/31.	$0.00	Carter received no matching funds until Nov 1.
			1-Nov					$1,663.64	1st Authorization for Carter due to Bessey's 101% report filing. 101% report period ended no later than 10/29.
			2-Nov		$1,230.00	$1,014.33	5th Authorization due to $2,244.33* debt reported by Bessey.	$2,000.00	2nd Authorization to Carter due to Bessey's 6-Day Pre-General report filing. Report period ended 10/26.
			3-Nov		$272.37				
			4-Nov		$333.33				
			5-Nov						
						$3,619.48	Total	$3,663.64	Total

* Debt amount amended from $2,462.33 to $2,244.33

Nancy Bessey Cash Flow

House 91

Date: 01/18/2007

	Contributions or Expenditures-Noted with (-)	Campaign Balance To Date	Notes
Cash Balance on 6/13/2006	$0.00	$0.00	
3-Jul	$1,058.49	$1,058.49	
5-Jul	$941.51	$2,000.00	
10-Jul	-$1,058.49	$941.51	For calculations of 101% amount, only $941.51 was used because $1,058.49 was for the primary election.
21-Jul	-$15.75	$925.76	Starting on July 21, 2206, the $941.51 was used to pay expenses for the general election.
7-Aug	-$35.78	$889.98	
7-Aug	-$307.44	$582.54	
7-Aug	-$241.08	$341.46	
8-Aug	$250.00	$591.46	
8-Aug	-$84.00	$507.46	
14-Aug	$300.00	$807.46	Loan by candidate
14-Aug	-$223.13	$584.33	
1-Sep	$250.00	$834.33	
6-Sep	$150.00	$984.33	
7-Sep	$250.00	$1,234.33	
12-Sep	$250.00	$1,484.33	
12-Sep	$100.00	$1,584.33	
12-Sep	-$235.41	$1,348.92	
12-Sep	-$527.63	$821.29	
6-Oct	$125.00	$946.29	
6-Oct	$1,500.00	$2,446.29	Loan by candidate
10-Oct	-$649.44	$1,796.85	
10-Oct	-$1,178.38	$618.47	The cash balance on this date shows that $1,181.53 of the $1,800 loan amount was used to pay expenses.
11-Oct	$250.00	$868.47	
17-Oct	-$435.75	$432.72	
21-Oct	$250.00	$682.72	Date receipts exceeded 101% Amount of $4,406.
31-Oct	$38.00	$682.72	In-kind contribution by candidate.
31-Oct	-$2,462.33	$682.72	Debt reported in 101% Report. If paid, cash balance is -$1,779.61.
1-Nov	$99.00	$682.72	In-kind contribution by candidate.
5-Nov	$977.10	$682.72	In-kind contribution by candidate.
8-Nov	$185.00	$682.72	In-kind contribution by candidate.
9-Nov	-$356.93	$325.79	If debt on 10-31 paid, cash balance is -$2,136.54.
15-Nov	$2,000.00	$2,325.79	Loan by candidate
16-Nov	-$2,243.34		Debt reported in 101% Report paid.
		$82.45	Ending Balance

STATE OF MAINE
COMMISSION ON GOVERNMENTAL ETHICS AND ELECTION PRACTICES
Mail: 135 State House Station
Office: 242 State Street
Augusta, Maine 04333-0135
Tel: (207) 287-4179 FAX: (207) 287-6775

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NOV - 2 2006

GENERAL ELECTION 2006
ACCELERATED REPORT
FOR PRIVATELY FINANCED LEGISLATIVE CANDIDATES WITH MCEA OPPONENTS

FAX REC'D 10-31-06

PLEASE INDICATE TYPE OF REPORT			
☐ 42-DAY (Due 9/26)	☐ 21-DAY (Due 10/17)	☐ 12-DAY (Due 10/26)	☑ 101% (Due: See Reverse)

CANDIDATE INFORMATION	
Name of Candidate: NANCY J. BESSEY	Telephone Number: 864-9077
Mailing Address: PO BOX 169	Office Sought: STATE REP.
City, Zip Code: RANGELEY MAINE 04970	District: 91
Name of Opposing MCEA Candidate(s):	

TOTAL RECEIPTS FOR THE GENERAL ELECTION	
Cash balance on June 13, 2006:	941.51
Total cash contributions received after June 13, 2006:	1875.00
Total value of in-kind contributions received after June 13, 2006:	
Total loans received after June 13, 2006:	1800.00
Total bank interest received after June 13, 2006:	
TOTAL RECEIPTS:	4616.51

TOTAL EXPENDITURES FOR THE GENERAL ELECTION	
Total expenditures after June 13, 2006:	3933.79
Total value of in-kind contributions received after June 13, 2006:	
Total unpaid debts and obligations incurred after June 13, 2006:	2462.33
TOTAL EXPENDITURES:	6396.12

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

Nancy J. Bessey
Signature of Candidate

10/31/06
Date

Please see instructions on reverse side.

Rev. 04/06

STATE OF MAINE
COMMISSION ON GOVERNMENTAL ETHICS AND ELECTION PRACTICES
Mail: 135 State House Station
Office: 242 State Street
Augusta, Maine 04333
Tel: (207) 287-4179 Fax: (207) 287-6775

RECEIVED
OCT 27 2006
COMMISSION ON GOVERNMENTAL ETHICS & ELECTION PRACTICES
AUGUSTA, ME

PRIVATELY FINANCED CANDIDATE ACCELERATED REPORT
AFFIDAVIT FOR LEGISLATIVE CANDIDATES IN THE NOVEMBER 7, 2006 GENERAL ELECTION

FAX REC'D 10/26/06

STATE OF MAINE

COUNTY OF FRANKLIN

NANCY J. BESSEY, being duly sworn, attests that his or her campaign has not received, and has not spent or obligated:

Check the appropriate box for the office you are seeking.

☑ $4,406 or more for the general election (House candidates only).

☐ $20,083 or more for the general election (Senate candidates only).

Nancy J. Bessey
(Signature of Affiant)

Sworn to before me, this 25th day of October 2006.

Deann M. Trafton
(Notary Public/Attorney at Law)

DEANN M. TRAFTON
Notary Public, Maine
My Commission Expires January 6, 2013

Rev. 04/06

	Republican	Democrat
FARMINGTON	1,539	1,985
INDUSTRY	209	217
District 89 Total:	1,748	2,202

House District 90

	COLLINS, MAXINE B. Wilton Democrat	SAVIELLO, THOMAS B. Wilton Independent
AVON	39	150
FREEMAN TWP.	27	140
NEW VINEYARD	65	268
PERKINS TWP.	3	15
PHILLIPS	90	338
STRONG	99	457
TEMPLE	99	184
WILTON	542	1,388
District 90 Total:	964	2,940

House District 91

	BESSEY, NANCY J. Dallas Plt. Republican	CARTER, TIMOTHY A. Bethel Democrat
ALBANY TWP.	84	122
BETHEL	519	773
COPLIN PLT.	0	0
DALLAS PLT.	123	66
EUSTIS	182	115
GILEAD	31	46
HANOVER	62	84
KINGFIELD	275	214
LINCOLN PLT.	17	6
MAGALLOWAY PLT.	8	6
MILTON TWP.	16	37
NEWRY	63	111
RANGELEY	409	165
STONEHAM	40	86
UPTON	29	16
WOODSTOCK	258	326
District 91 Total:	2,116	2,173

House District 92

	PATRICK, JOHN L. Rumford	SMITH, PAULA P. Andover

Title 21-A, §1017, Reports by candidates

H. Reports with respect to a candidate who seeks nomination by petition for the office of Governor must be filed on the same dates that reports must be filed with respect to a candidate who seeks that nomination by primary election. [1991, c. 839, §14 (amd); §34 (aff).]

[2005, c. 301, §13 (amd).]

3. Other candidates.

[1989, c. 504, §§13, 31 (rp).]

3-A. Other candidates. A treasurer of a candidate for state or county office other than the office of Governor shall file reports with the commission and municipal candidates shall file reports with the municipal clerk as follows. Once the first required report has been filed, each subsequent report must cover the period from the completion date of the prior report filed.

A. In any calendar year in which an election for the candidate's particular office is not scheduled, when any candidate or candidate's political committee has received contributions in excess of $500 or made or authorized expenditures in excess of $500, reports must be filed no later than 5 p.m. on July 15th of that year and January 15th of the following calendar year. These reports must include all contributions made to and all expenditures made or authorized by or on behalf of the candidate or the treasurer of the candidate as of the end of the preceding month, except those covered by a previous report. [1991, c. 839, §15 (amd); §34 (aff).]

B. Reports must be filed no later than 5 p.m. on the 6th day before the date on which an election is held and must be complete as of the 12th day before that date. If a report was not filed under paragraph A, the report required under this paragraph must cover all contributions and expenditures through the completion date. [1991, c. 839, §15 (amd); §34 (aff).]

C. Contributions aggregating $1,000 or more from any one contributor or single expenditures of $1,000 or more, made after the 12th day before any election and more than 24 hours before 5 p.m. on the day of any election must be reported within 24 hours of those contributions or expenditures. [2005, c. 301, §14 (amd).]

D. Reports must be filed no later than 5 p.m. on the 42nd day after the date on which an election is held and must be complete for the filing period as of the 35th day after that date. [1991, c. 839, §15 (amd); §34 (aff).]

E. Unless further reports will be filed in relation to a later election in the same calendar year, the disposition of any surplus or deficit in excess of $50 shown in the reports described in paragraph D must be reported as provided by this paragraph. The treasurer of a candidate with a surplus or deficit in excess of $50 shall file reports semiannually with the commission within 15 days following the end of the 2nd and 4th quarters of the State's fiscal year, complete as of the last day of the quarter, until the surplus is disposed of or the deficit is liquidated. The first report under this paragraph is not required until the 15th day of the period beginning at least 90 days from the date of the election. The reports may either be filed in person with the commission on that date or postmarked on that date. The reports must set forth any contributions for the purpose of liquidating the deficit, in the same manner as contributions are set forth in other reports required in this section. [1991, c. 839, §15 (amd); §34 (aff).]

F. Reports with respect to a candidate who seeks nomination by petition must be filed on the same dates that reports must be filed by a candidate for the same office who seeks that nomination by primary election. [1991, c. 839, §15 (amd); §34 (aff).]

[2005, c. 301, §14 (amd).]

3-B. Accelerated reporting schedule. Additional reports are required from nonparticipating Maine Clean Election Act candidates pursuant to this subsection.

A. In addition to other reports required by law, any candidate for Governor, State Senate or State House of Representatives who is not certified as a Maine Clean Election Act candidate under chapter 14 and who receives, spends or obligates more than 1% in excess of the primary or general election distribution amounts for a Maine Clean Election Act candidate in the same race shall file by any means acceptable to the commission, within 48 hours of that event, a report with the commission detailing the candidate's total campaign contributions, obligations and expenditures to date. [2001, c. 470, §6 (new).]

B. A nonparticipating candidate with a Maine Clean Election Act opponent shall file the following additional reports detailing the candidate's total campaign contributions, obligations and expenditures to date, unless that candidate signs an affidavit by the date the report is due, attesting that the candidate has not received, spent or obligated an amount sufficient to require a report under paragraph A:

Title 21-A, §1017, Reports by candidates

(1) A report filed not later than 5 p.m. on the 42nd day before the date on which an election is held and complete as of the 44th day before that date;

(2) A report filed no later than 5 p.m. on the 21st day before the date on which an election is held and complete as of the 23rd day before that date; and

(3) A report filed no later than 5 p.m. on the 12th day before the date on which an election is held and complete as of the 14th day before that date.

[2001, c. 589, §1 (amd).]

C. A candidate who is required to file a report under paragraph A must file with the commission an updated report that reports single expenditures in the following amounts that are made after the 14th day before an election and more than 24 hours before 5:00 p.m. on the date of that election:

(1) For a candidate for Governor, a single expenditure of $1,000;

(2) For a candidate for the state Senate, a single expenditure of $750; and

(3) For a candidate for the state House of Representatives, a single expenditure of $500.

A report filed pursuant to this paragraph must be filed within 24 hours of the expenditure. [2003, c. 628, Pt. B, §3 (amd).]

The commission shall provide forms to facilitate compliance with this subsection. The commission shall notify a candidate within 48 hours if an amount reported on any report under paragraph B exceeds 1% in excess of the primary or general election distribution amounts for a Maine Clean Election Act candidate in the same race and no report has been received under paragraph A.
[2003, c. 628, Pt. B, §3 (amd).]

4. New candidate or nominee. A candidate for nomination or a nominee chosen to fill a vacancy under chapter 5, subchapter III is subject to section 1013-A, subsection 1, except that the candidate shall register the name of a treasurer or political committee and all other information required in section 1013-A, subsection 1, paragraphs A and B within 7 days after the candidate's appointment or at least 6 days before the election, whichever is earlier. The person required to file a report under section 1013-A, subsection 1 shall file a campaign report under this section 15 days after the candidate's appointment or 6 days before the election, whichever is earlier. The report must include all contributions received and expenditures made through the completion date. The report must be complete as of 4 days before the report is due. Subsequent reports must be filed on the schedule set forth in this section. The commission shall send notification of this requirement and registration and report forms to the candidate and the candidate's treasurer immediately upon notice of the candidate's and treasurer's appointments.
[1991, c. 839, §16 (amd).]

5. Content. A report required under this section must contain the itemized accounts of contributions received during that report filing period, including the date a contribution was received, and the name, address, occupation, principal place of business, if any, and the amount of the contribution of each person who has made a contribution or contributions aggregating in excess of $50. The report must contain the itemized expenditures made or authorized during the report filing period, the date and purpose of each expenditure and the name of each payee and creditor. Total contributions with respect to an election of less than $500 and total expenditures of less than $500 need not be itemized. The report must contain a statement of any loan to a candidate by a financial institution in connection with that candidate's candidacy that is made during the period covered by the report, whether or not the loan is defined as a contribution under section 1012, subsection 2, paragraph A. Until December 31, 1992, the candidate is responsible for the timely and accurate filing of each required report. Beginning January 1, 1993, the candidate and the treasurer are jointly responsible for the timely and accurate filing of each required report.
[1991, c. 839, §17 (amd).]

5-A. Valuation of contributions sold at auction. Any contribution received by a candidate that is later sold at auction shall be reported in the following manner.

A. If the contribution is sold at auction before the commencement of the appropriate reporting period specified in subsections 1 to 4, or during that period, the value of the contribution is deemed to be the amount of the purchase price paid at auction. [1987, c. 726, §2 (new).]

B. If the contribution is sold after the termination of the appropriate reporting period specified in subsections 1 to 4, the value of the contribution is the difference between the value of the contribution as originally reported by the treasurer and the amount of the

Title 21-A, §1020-A, Failure to file on time

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§1020-A. Failure to file on time

1. Registration. A candidate that fails to register the name of a candidate, treasurer or political committee with the commission within the time allowed by section 1013-A, subsection 1 may be assessed a forfeiture of $10. The commission shall determine whether a registration satisfies the requirements for timely filing under section 1013-A, subsection 1.
[1995, c. 483, §15 (new).]

2. Campaign finance reports. A campaign finance report is not timely filed unless a properly signed copy of the report, substantially conforming to the disclosure requirements of this subchapter, is received by the commission before 5 p.m. on the date it is due. Except as provided in subsection 7, the commission shall determine whether a report satisfies the requirements for timely filing. The commission may waive a penalty if the commission determines that the penalty is disproportionate to the size of the candidate's campaign, the level of experience of the candidate, treasurer or campaign staff or the harm suffered by the public from the late disclosure. The commission may waive the penalty in whole or in part if the commission determines the failure to file a timely report was due to mitigating circumstances. For purposes of this section, "mitigating circumstances" means:

A. A valid emergency determined by the commission, in the interest of the sound administration of justice, to warrant the waiver of the penalty in whole or in part; [1999, c. 729, §5 (amd).]

B. An error by the commission staff; [1999, c. 729, §5 (amd).]

C. Failure to receive notice of the filing deadline; or [1999, c. 729, §5 (amd).]

D. Other circumstances determined by the commission that warrant mitigation of the penalty, based upon relevant evidence presented that a bona fide effort was made to file the report in accordance with the statutory requirements, including, but not limited to, unexplained delays in postal service. [1999, c. 729, §5 (new).]
[2003, c. 628, Pt. A, §3 (amd).]

3. Municipal campaign finance reports. Municipal campaign finance reports must be filed, subject to all the provisions of this subchapter, with the municipal clerk on forms prescribed by the Commission on Governmental Ethics and Election Practices. The municipal clerk shall send any notice of lateness required by subsection 6 and shall notify the commission of any late reports subject to a penalty.
[1995, c. 625, Pt. B, §5 (amd).]

4. Basis for penalties.
[2001, c. 470, §7 (amd); T. 21-A, §1020-A, sub-§4 (rp).]

4-A. Basis for penalties. The penalty for late filing of a report required under this subchapter, except for accelerated campaign finance reports required pursuant to section 1017, subsection 3-B, is a percentage of the total contributions or expenditures for the filing period, whichever is greater, multiplied by the number of calendar days late, as follows:

A. For the first violation, 1%; [2001, c. 714, Pt. PP, §1 (new); §2 (aff).]

B. For the 2nd violation, 3%; and [2001, c. 714, Pt. PP, §1 (new); §2 (aff).]

Title 21-A, §1020-A, Failure to file on time

C. For the 3rd and subsequent violations, 5%. [2001, c. 714, Pt. PP, §1 (new); §2 (aff).]

Any penalty of less than $5 is waived.

Violations accumulate on reports with filing deadlines in a 2-year period that begins on January 1st of each even-numbered year. Waiver of a penalty does not nullify the finding of a violation.

A report required to be filed under this subchapter that is sent by certified or registered United States mail and postmarked at least 2 days before the deadline is not subject to penalty.

A registration or report may be provisionally filed by transmission of a facsimile copy of the duly executed report to the commission, as long as an original of the same report is received by the commission within 5 calendar days thereafter.

The penalty for late filing of an accelerated campaign finance report as required in section 1017, subsection 3-B may be up to but no more than 3 times the amount by which the contributions received or expenditures obligated or made by the candidate exceed the applicable Maine Clean Election Fund disbursement amount, per day of violation. The commission shall make a finding of fact establishing when the report was due prior to imposing a penalty under this subsection. A penalty for failure to file an accelerated campaign finance report must be made payable to the Maine Clean Election Fund. In assessing a penalty for failure to file an accelerated campaign finance report, the commission shall consider the existence of mitigating circumstances. For the purposes of this subsection, "mitigating circumstances" has the same meaning as in subsection 2.
[2001, c. 714, Pt. PP, §1 (new); §2 (aff).]

5. Maximum penalties.
[2001, c. 470, §8 (amd); T. 21-A, §1020-A, sub-§5 (rp).]

5-A. Maximum penalties. Penalties assessed under this subchapter may not exceed:

A. Five thousand dollars for reports required under section 1017, subsection 2, paragraph B, C, D, E or H; section 1017, subsection 3-A, paragraph B, C, D or F; section 1017, subsection 4; and section 1019-B, subsection 3; [2003, c. 448, §4 (amd).]

B. Five thousand dollars for state party committee reports required under section 1017-A, subsection 4-A, paragraphs A, B, C and E; [2003, c. 628, Pt. A, §4 (amd).]

C. One thousand dollars for reports required under section 1017, subsection 2, paragraphs A and F and section 1017, subsection 3-A, paragraphs A and E; [2003, c. 628, Pt. A, §4 (amd).]

D. Five hundred dollars for municipal, district and county committees for reports required under section 1017-A, subsection 4-B; or [2003, c. 628, Pt. A, §4 (amd).]

E. Three times the unreported amount for reports required under section 1017, subsection 3-B, if the unreported amount is less than $5,000 and the commission finds that the candidate in violation has established, by a preponderance of the evidence, that a bona fide effort was made to file an accurate and timely report. [2001, c. 714, Pt. PP, §1 (new); §2 (aff).]
[2003, c. 628, Pt. A, §4 (amd).]

6. Request for a commission determination. Within 3 days following the filing deadline, a notice must be forwarded to a candidate and treasurer whose registration or campaign finance report is not received by 5 p.m. on the deadline date, informing them of the basis for calculating penalties under subsection 4 and providing them with an opportunity to request a commission determination. The notice must be sent by certified United States mail. Any request for a determination must be made within 10 calendar days of receipt of the commission's notice. The 10-day period during which a determination may be requested begins on the day a recipient signs for the certified mail notice of the proposed penalty. If the certified letter is refused or left unclaimed at the post office, the 10-day period begins on the day the post office indicates it has given first notice of a certified letter. A candidate or treasurer requesting a determination may either appear in person or designate a representative to appear on the candidate's or treasurer's behalf or submit a notarized written explanation of the mitigating circumstances for consideration by the commission.
[RR 1995, c. 2, §38 (cor).]

7. Final notice of penalty. After a commission meeting, notice of the commission's final determination and the penalty, if any, imposed pursuant to this subchapter must be sent to the candidate and the treasurer.

If no determination is requested, the commission staff shall calculate the penalty as prescribed in subsection 4-A and shall mail final notice of the penalty to the candidate and treasurer. A detailed summary of all notices must be provided to the commission.
[RR 2003, c. 1, §14 (cor).]

Title 21-A, §1020-A, Failure to file on time

8. Failure to file report. The commission shall notify a candidate who has failed to file a report required by this subchapter, in writing, informing the candidate of the requirement to file a report. If a candidate fails to file a report after 3 written communications from the commission, the commission shall send up to 2 more written communications by certified mail informing the candidate of the requirement to file and that the matter may be referred to the Attorney General for criminal prosecution. A candidate who fails to file a report as required by this subchapter after the commission has sent the communications required by this subsection is guilty of a Class E crime.

[2003, c. 628, Pt. A, §5 (rpr).]

8-A. Penalties for failure to file report. The penalty for failure to file a report required under this subchapter may not exceed the maximum penalties as provided in subsection 5-A.

[2003, c. 628, Pt. A, §6 (new).]

9. List of late-filing candidates. The commission shall prepare a list of the names of candidates who are late in filing a report required under section 1017, subsection 2, paragraph C or D or section 1017, subsection 3-A, paragraph B or C within 30 days of the date of the election and shall make that list available for public inspection.

[1995, c. 483, §15 (new).]

10. Enforcement. The commission staff has the responsibility for collecting the full amount of any penalty and has all necessary powers to carry out this responsibility. Failure to pay the full amount of any penalty levied under this subchapter is a civil violation by the candidate, treasurer, political party or other person whose campaign finance activities are required by this subchapter to be reported. Thirty days after issuing the notice of penalty, the commission shall report to the Attorney General the name of any person who has failed to pay the full amount of any penalty. The Attorney General shall enforce the violation in a civil action to collect the full outstanding amount of the penalty. This action must be brought in the Superior Court for Kennebec County or the District Court, 7th District, Division of Southern Kennebec.

[1999, c. 426, §33 (amd).]

MRSA , §T.21A SEC.1020A/4,5 (AMD).
IB 1995, Ch. 1, §15 (AMD).
PL 1995, Ch. 483, §15 (NEW).
PL 1995, Ch. 625, §B5 (AMD).
RR 1995, Ch. 1, §10 (COR).
RR 1995, Ch. 2, §38 (COR).
PL 1999, Ch. 426, §32,33 (AMD).
PL 1999, Ch. 729, §5 (AMD).
PL 2001, Ch. 470, §11 (AFF).
PL 2001, Ch. 470, §7,8 (AMD).
PL 2001, Ch. 714, §PP1 (AMD).
PL 2001, Ch. 714, §PP2 (AFF).
PL 2003, Ch. 302, §4 (AMD).
PL 2003, Ch. 448, §4 (AMD).
PL 2003, Ch. 628, §A3-6 (AMD).
RR 2003, Ch. 1, §14 (COR).

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

November 27, 2006

Ms. Nancy J. Bessey
P.O. Box 169
Rangeley, ME 04970

BY CERTIFIED MAIL

Dear Ms. Bessey:

RE: Late 101% Campaign Finance Report Due 10/23/2006 By 5:00 p.m.

You filed a 101% campaign finance report on 10/31/2006. The Commission's analysis determined that your 101% Amount report was due no later than 5:00 p.m. on 10/23/2006. A penalty must be assessed for a late report based on the amount of financial activity greater than the 101% amount of $4,406, the number of calendar days a report is filed late, and the candidate's filing record. Based on the prescribed statutory formula, the maximum penalty amount is $5,052.24. Please refer to the enclosed penalty matrix for more details on how the maximum penalty is computed. If you agree with this preliminary determination of the amount of the penalty, you may use the enclosed billing statement to pay that penalty.

If you have a reason for filing late, you may request the Commission to make a final penalty determination. Any request for a Commission determination must be made within 10 calendar days of receipt of this notice, beginning on the day you sign its receipt. If this notice has been refused or left unclaimed at the post office, the 10-day period begins on the day the post office indicates it has given first notice of a certified letter. Upon receipt of your request for a Commission determination, we will schedule you to appear and will notify you of the date and time of the next Commission meeting. Tentatively, we have scheduled you to appear at the January 2007 Commission meeting. You or a person you designate may then appear personally before the Commission or you may send a written statement for the Commission's consideration. A statement must be notarized and contain a full explanation of the reason you filed late. Statements should be sent to the address shown on this letterhead. The Commission will notify you of the disposition of your case within 10 days after its determination.

NOTE: The Commission may waive penalties for late reports only in cases where tardiness is due to mitigating circumstances. The law defines "mitigating circumstances" as: 1) a valid emergency determined by the Commission, in the interest of the sound administration of justice, to warrant the waiver of the penalty in whole or in part; 2) an error by the Commission staff; 3) failure to receive notice of the filing deadline; or (4) other circumstances determined by the Commission that warrant mitigation of the penalty, based upon relevant evidence presented that a *bona fide* effort was made to file the report in accordance with the statutory requirements, including, but not limited to, unexplained delays in postal service.

Sincerely,

Sandy Thompson
Candidate Registrar

cc. Treasurer
Timothy Carter

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

Notice to Ms. Bessey that 101% Report requirement depended on her receipts (see next 5 pages)

August 18, 2006

Ms. Nancy J. Bessey
P.O. Box 169
Rangeley, ME 04970

Dear Ms. Bessey:

I am writing to explain your reporting requirements as a privately financed candidate who has a Maine Clean Election Act opponent in the general election. In addition to the reports that all candidates must file on the 6th day before and the 42nd day after the general election, you must also file three Accelerated Reports prior to the election. You may also have to file a fourth Accelerated Report called the 101% Report (see below). Four copies of the Accelerated Report form are included with this letter.

Reports Required 42, 21, and 12 Days Before the General Election

You are required to file a report on September 26th, October 17th, and October 26th. Those reports must state your total contributions, and total expenditures and obligations as of two days before the report deadline. If your campaign has not raised, or spent and obligated, the 101% amounts described in the paragraph below, you may instead file a notarized affidavit by each deadline. The affidavit form is included with this letter. All reports or affidavits must be filed on time so that the Commission can determine whether your opponent is due any matching funds based on your receipts and expenditures. Civil penalties will be assessed for filing these Accelerated Reports late.

101% Report

If you raise, or spend and obligate, more than 1% in excess of the your MCEA opponent's initial distribution for the primary election, you must file the enclosed report within 48 hours of having received, spent, or obligated the applicable amount:

- $4,406 for House candidates (101% of initial distribution amount of $4,362)
- $20,283 for Senate candidates (101% of initial distribution amount of $20,082).

If your campaign already has exceeded the 101% limit, you must submit your 101% Report within 48 hours of receiving this letter.

If you need additional copies of the form, you may copy it or download it from the Commission's website. If you have questions regarding these requirements or the reports, please contact me by telephone me at 287-7651 or by e-mail at Sandy.Thompson@maine.gov. Thank you.

Sincerely,

Sandy Thompson
Candidate Registrar
Enclosures

cc: Karen Olivieri (with enclosures)

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

Bessey, Nancy

To: All Legislative Privately Financed Candidates
From: Nat Brown, Gavin O'Brien and Sandy Thompson, Candidate Registrars
Date: September 21, 2006
Re: **Filing Deadline for the 42-Day Pre-General Accelerated Report**
Due Tuesday, September 26, 2006 by 5:00 p.m.

This is to remind you that your campaign is required to file **the 42-Day Accelerated Report no later than 5:00 p.m. on Tuesday, September 26, 2006.**

If you have **not** filed the 101% Amount Report, you may either:	If you have already filed the 101% Amount Report, you must:
Submit a completed and signed form or Submit a signed and notarized affidavit	Submit a completed and signed form

(The 101% Amount is $4,406 for House candidates and $20,283 for Senate candidates.)

The report or affidavit covers all financial activity from June 14, 2006 through September 24, 2006.

The Commission must receive either the signed report or a signed and notarized affidavit by 5:00 p.m. on the filing deadline. A copy of the report or affidavit that is properly signed and notarized may be faxed by the deadline, provided that the Commission receives the original report within 5 calendar days of receiving the fax.

In August, your campaign was sent instructions, copies of the accelerated report forms (it is a one page form) and affidavits. In addition, the *2006 Candidate's Guide*, pages 73 and 74, explain these reporting requirements and the 101% Amount. If you need additional copies of the form or affidavit, please call 207-287-4179. The report forms and *Candidate's Guide* can also be found on the Commission's website at: www.maine.gov/ethics.

Penalties for the late filing of accelerated reports increase quickly. The penalty formula for accelerated reports is different from the formula used for the standard 6-Day Pre and 42-Day Post-General reports. We will be contacting you via the phone or by e-mail to give you an opportunity to ask any questions. We want all candidates to file on time.

Please disregard this reminder, if you have already filed your 42-Day Accelerated report.
If you have any questions, please call (207)287-4179 and ask for a candidate registrar.

2006 Candidate's Guide

Running for Office in Maine

State of Maine

Commission on Governmental Ethics and Election Practices

and

Secretary of State Matthew Dunlap

Special Reporting Requirements for Privately Financed Candidates with Maine Clean Election Act Opponents

Privately financed candidates with a Maine Clean Election Act (MCEA) opponent are required to file special reports to verify whether the MCEA opponent is entitled to receive any matching funds. An explanation of how matching funds are calculated can be found on pages 38-41.

42-Day, 21-Day, and 12-Day Accelerated Reports

All privately financed candidates with a MCEA opponent are required to file three "accelerated" reports stating the candidate's total campaign contributions, expenditures, and obligations to date for the election. If the candidate's receipts, or expenditures plus obligations, have not exceeded the 101% Amount (discussed below), the candidate may instead file an affidavit by each deadline attesting that the candidate has not received, spent, or obligated the 101% Amount to date for the election. The accelerated report deadlines are:

Type of Report	*Filing Deadline*	*Reporting Period*
42-Day Pre-Primary	May 2, 2006	Through April 30, 2006
21-Day Pre-Primary	May 23, 2006	Through May 21, 2006
12-Day Pre-Primary	June 1, 2006	Through May 30, 2006
42-Day Pre-General	September 26, 2006	Through September 24, 2006
21-Day Pre-General	October 17, 2006	Through October 15, 2006
12-Day Pre-General	October 26, 2006	Through October 24, 2006

101% Report

Legislative and gubernatorial candidates must file a 101% Report if they:

- are not participating in the Maine Clean Election Act;
- have a MCEA opponent in an election; and
- receive, or spend and obligate, more than 1% over the amount of the MCEA opponent's initial distribution (the "101% Amount").

The report must be filed within 48 hours of the date on which their total receipts for the election – or the total of their expenditures and obligations for the election – exceeded the 101% Amount. The reporting form is the same as the form for the accelerated reports, and states the candidate's total receipts, total expenditures, and obligations, to date.

The table on the next page shows the 101% Amounts for the 2006 elections.

STATE OF MAINE
COMMISSION ON GOVERNMENTAL ETHICS AND ELECTION PRACTICES
Mail: 135 State House Station
Office: 242 State Street
Augusta, Maine 04333-0135
Tel: (207) 287-4179 FAX: (207) 287-6775

GENERAL ELECTION 2006
ACCELERATED REPORT
FOR PRIVATELY FINANCED LEGISLATIVE CANDIDATES WITH MCEA OPPONENTS

PLEASE INDICATE TYPE OF REPORT			
☐ 42-DAY (Due 9/26)	☐ 21-DAY (Due 10/17)	☐ 12-DAY (Due 10/26)	☐ 101% (Due: See Reverse)

CANDIDATE INFORMATION	
Name of Candidate	Telephone Number
Mailing Address	Office Sought
City, Zip Code	District
Name of Opposing MCEA Candidate(s)	

TOTAL RECEIPTS FOR THE GENERAL ELECTION	
Cash balance on June 13, 2006:	
Total cash contributions received after June 13, 2006:	
Total value of in-kind contributions received after June 13, 2006:	
Total loans received after June 13, 2006:	
Total bank interest received after June 13, 2006:	
TOTAL RECEIPTS:	

TOTAL EXPENDITURES FOR THE GENERAL ELECTION	
Total expenditures after June 13, 2006:	
Total value of in-kind contributions received after June 13, 2006:	
Total unpaid debts and obligations incurred after June 13, 2006:	
TOTAL EXPENDITURES:	

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

Signature of Candidate _____ Date _____

Please see instructions on reverse side.

INSTRUCTIONS FOR FILING ACCELERATED REPORTS BY PRIVATELY FINANCED CANDIDATES WITH MCEA OPPONENTS

42-DAY, 21-DAY, and 12-DAY REPORTS

All privately financed candidates with a Maine Clean Election Act opponent must file reports on the 42nd, 21st, and 12th days before the election stating:

- total campaign contributions, the value of all in-kind contributions, loans, and other receipts, and
- total campaign expenditures, the value in-kind contributions, and unpaid debts and obligations.

For the purpose of calculating matching funds for MCEA candidates, the value of in-kind contributions is considered as both a contribution and an expenditure. The totals must include all receipts, and expenditures and obligations from June 14, 2006 to two days before the report deadline. Please see the reporting schedule below for the deadlines and reporting periods.

OPTIONAL AFFIDAVITS

If you do not receive, or spend and obligate, the 101% amount, you may file the attached affidavit on the 42nd, 21st, and 12th days before the election instead of filing an accelerated report that discloses your total receipts and expenditures.

101% REPORT

Any privately financed candidate for ~~State Senate~~ or State House of Representatives who has a Maine Clean Election Act opponent(s), and who receives, or spends and obligates, more than 1% in excess of the general election distribution amount for a ~~Maine Clean~~ Election Act candidate in the same race shall file, within 48 hours of that event, a report detailing the candidate's total campaign contributions, obligations, and expenditures to date.

101% AMOUNTS FOR THE GENERAL ELECTION

- $4,406 for House candidates (101% of initial distribution amount of $4,362)
- $20,283 for Senate candidates (101% of initial distribution amount of $20,082)

REPORTING SCHEDULE

Type of Report	Report Deadline	Period Included
101% (see above)	Within 48 hours of exceeding the 101% amount for the general election	June 14, 2006 through the date of exceeding the 101% amount for the general election
42-DAY REPORT	5:00 p.m. on September 26, 2006	Through September 24, 2006
21-DAY REPORT	5:00 p.m. on October 17, 2006	Through October 15, 2006
12-DAY REPORT	5:00 p.m. on October 26, 2006	Through October 24, 2006

FACSIMILE TRANSMISSION

You may provisionally file the accelerated reports by faxing a copy of the signed report to the Commission by 5:00 p.m. on the deadline as long as the original of the same report is received by the Commission **within 5 calendar days** thereafter. The Commission's FAX number is **207-287-6775**.

IMPORTANT

The summary information contained in this report must be included on the appropriate schedule of the next required detailed report (*i.e.*, 6-day pre-election or 42-day post-election, as appropriate).

Agenda Item #5

Demeritt, Martha

From: Richard Rottkov [rrottkov@yahoo.com]
Sent: Friday, December 01, 2006 4:51 PM
To: Demeritt, Martha
Cc: Alan Mills; John Jamieson
Subject: Request for Appeal from South Portland Democratic City Committee

Martha,

As a follow up to our recent phone conversation, I'm hereby requesting that the South Portland Democratic City Committee be given another opportunity to appeal the $500 fine. Based upon what we discussed, here is more specific information explaining why my committee feels the penalty should be overturned:

Background:

--We did not file a July, 2006 report because we did not raise more than a few hundred dollars between Jan. 1-July 15 2006.

-- It was only after you informed us, following the Commission's review of our banking account statements, requested after receiving our Oct. 27 report, that money collected and deposited in February 2006 from our October 2005 High School Scholarship fundraiser could be viewed as money "raised" during 2006. We had no idea that we were required to report this, even if we knew we had surpassed the $1,500 limit prior to July.

Reasons for Feb. 2006 Deposit for Oct. 2005 Money

-- Our committee, led by then Chair John Jamieson, used a Pay Pal credit card payment system (used on site at a local reception room) at our Oct. 25 fundraiser for the South Portland High School Scholarship fund. John learned weeks later that transactions/payments were not processed.

-- Upon learning the auction payments were not processed, John began contacting those who purchased auction items by credit card at the event (through Pay Pal). Starting in November 2005 and continuing into January 2006 John collected checks for the various auction purchases. John informs me he encountered difficulty obtaining some "make good" checks, delaying the process of collecting money from the October auction. Upon collecting these checks, some were given to Treasurer Alan Mills for deposit in February.

Other Mitigating Reasons for Consideration

I succeeded John as chair of the SoPo Dems committee at our Feb. 26 caucus. There was never any communication between John and I or between Alan and I that these checks from our Oct. 2005 had been deposited in 2006. I'm also told by John and Alan that they did not communicate and were not aware that such deposits would be required for reporting 2006 money.

In closing, please be aware that we will be able to document the direct link between the Feb. 2006 deposits and the checks collected from the Oct. 2005 auction should we be given the opportunity to appeal the Commission's determination. Please advise me if any additional explanation or documentation might be needed for hearing our appeal.

Thank you.

Richard Rottkov
Chair
South Portland Democratic City Committee

Demeritt, Martha

From: Richard Rottkov [rrottkov@yahoo.com]
Sent: Friday, November 17, 2006 6:16 PM
To: Demeritt, Martha
Cc: Alan Mills
Subject: South Portland Democratic City Committee

Dear Martha,

As a follow up to our phone conversation this afternoon, I'm providing here an explanation for why the South Portland Democratic City Committee did not file the July Semi Annual Report and instead only filed our report for Oct. 27, the deadline for reporting spending of $1,500 for the period July 1-Oct. 22. I am hopeful the Ethics commissioners and staff will consider the reasons cited below, and other information our Treasurer Alan Mill can provide at our hearing on Monday, for why we did not file a July report, and you will decide not to levy the $500 penalty. If further details are needed during the hearing, I can be reached by phone at either: 799-5686 or 899-8686 (cell).

We did not file a July report because we did not know we had "raised" or generated monies even close to the $1,500 required for reporting revenues for the Jan.
1-June 30 period. We did not know this until Wednesday night, in fact, when we learned the Commission had determined we were still in violation for not reporting.

The only monies we thought were raised were from donations accrued through committee member donations during our monthly meetings and our monthly documentary documentary movie series. We assumed this total would be no more than $500-600 dollars. It was only after your determination that we became aware that a February deposit for $1,050 was made and later learned that this deposit was from revenue we had "recollected" from an October, 2005 auction fundraiser organized primarily for our high school scholarship fund. The reason why this money was deposited in February was because the credit card system we used in October, 2005 did not process payments made at the auction. John Jamieson, our city committee chair at the time, had to "recollect" auction payments, this time personal checks for deposit into our bank account. Unknowingly, the checks deposited in February, were for auction checks just collected, revenue we assumed and considered 2005 revenue, but is being viewed as Jan. 1-June 30, 2006 revenue.

As mentioned on the phone this afternoon, John Jamieson has today been trying to track each personal check deposited and document that these payments were indeed for October, 2005 auction items. If the Commission would like us to provide documentation for the source and original dates for these payments, we anticipate we will be able to provide such documentation.

As it was our understanding we had not raised or spent monies surpassing $1,500 prior to this July filing period, we assumed our only requirement was to file prior to Oct. 27, the deadline for reporting spending beyond the $1,500. Again, it was only after Alan Mills provided you documentation for our banking transactions for Jan. 1-June 30 and you informed us that we were in violation for not filing in July, that we learned we had surpassed the $1,500 "raised" total.

It is my belief that most municipal party committees are not knowledgeable of the details and required guidelines; I aver that many do not file until expenditures are made during the campaign season. I was aware that our spending report needed to be filed, but had no idea we were required to file reports outside of campaign periods. The South Portland Democratic City Committee did not attempt to circumvent election requirements and we did not file because of dereliction. Based upon what I've now learned as a first-year municipal chair, I will convey to the Maine Democratic Party that Clean Elections and Ethics requirement be the subject of workshops and training as we approach the 2008 elections, especially for those of us at the local, grassroots level.

Thank you for your willingess to consider our appeal and for allowing me to providing further explanation before making your final determination.

Sincerely,

RECEIVED
NOV - 7 2006
COMMISSION ON GOVERNMENTAL ETHICS & ELECTION PRACTICES-AUGUSTA, ME

November 6, 2006

State of Maine
Commission on Government Ethics and Election Practices
135 State House Station
Augusta, Maine 04333-0135

To whom it may concern:

The South Portland Democratic Committee requests a final determination by the Commission on Governmental Ethics and Election Practices. We request that the committee waive penalties for late reports for the following mitigating circumstance: failure to receive notice of the filing deadline.

Reports were filed as soon as we were notified.

Thank you for your time and consideration.

Sincerely,

Alan Mills
Treasurer
South Portland Democratic Committee
317 Preble Street #1
South Portland, Maine 04106

REBECCA GALLAGHER
Notary Public, Maine
My Commission Expires September 12, 2012

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

October 27, 2006

Alan Mills, Treasurer
South Portland Democratic Committee
317 Preble St., #1
South Portland, ME 04106

Dear Mr. Mills:

Our records show that your committee's July Semi Annual Report, due on 7/17/06 was filed on 10/27/06. State law [21-A M.R.S.A. §1020-A] requires that a penalty be assessed for late reports based on the amount of financial activity conducted during the filing period, the number of calendar days a report is filed late, and the party committee's filing record. Based on the prescribed statutory formula, the preliminary determination of the penalty for the late filing of your campaign finance report would be $500.00. Please refer to the enclosed penalty matrix for more details on how the penalty is computed. If you agree with this preliminary determination of the amount of the penalty, you may use the enclosed billing statement to pay that penalty.

If you have a reason for filing late, you may request a final determination by the Commission on Governmental Ethics and Election Practices. Any request for a Commission determination must be made within 10 calendar days of receipt of this certified U.S. mail notice, beginning on the day you sign for receipt of this notice of the proposed penalty. If this certified letter has been refused or left unclaimed at the post office, the 10-day period begins on the day the post office indicates it has given first notice of a certified letter.

Upon receipt of your request for a Commission determination, we will schedule you to appear at the next scheduled Commission meeting and notify you of the date and time of that meeting. You or a person you designate may then appear personally before the Commission; or, you may send a written statement for the Commission's consideration. If you elect to send a statement, it must be notarized and must contain a full explanation of the reason you filed late. Statements should be sent to the address shown on this letterhead. The Commission will notify you of the disposition of your case within 10 days after its determination.

The Commission may waive penalties for late reports only in cases where tardiness is due to mitigating circumstances. The law defines "mitigating circumstances" as: 1) a valid personal emergency of the committee treasurer, such as a personal illness or death in the immediate family; 2) an error by the Commission staff; 3) failure to receive notice of the filing deadline; or 4) other circumstances determined by the Commission that warrant mitigation of the penalty, based upon relevant evidence presented that a bona fide effort was made to file the report in accordance with the statutory requirements, including, but not limited to, unexplained delays in postal service.

Sincerely,

Martha Demeritt
Party Registrar

Encl: Penalty Matrix & Billing Statement

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

October 27, 2006

Alan Mills, Treasurer
South Portland Democratic Committee
317 Preble St., #1
South Portland, ME 04106

The Commission on Governmental Ethics and Election Practices has made a preliminary determination that a penalty of $500.00 applies for the late filing of your July Semiannual report. If you agree with this determination, please make your check or money order payable to **"Treasurer, State of Maine,"** and send it, along with the bottom half of this letter, to the **Commission on Governmental Ethics and Election Practices, 135 State House Station, Augusta, Maine 04333** within 30 days of the date noted above. Please see the instructions included in the attached letter if you would like to request a formal Commission determination of any penalty to be assessed in this case.

FAILURE TO PAY THE FULL AMOUNT OF THIS PENALTY IS A CIVIL VIOLATION. Pursuant to 21-A M.R.S.A. § 1020-A(10), the Commission is required to report to the Attorney General the name of any political committee that fails to pay the full amount of any penalty.

Please direct any questions you may have about this matter to the Commission at 287-6221.

Cut Along Dotted Line

To: Commission on Governmental Ethics and Election Practices
135 State House Station
Augusta, Maine 04333

For Office Use Only
Account: CGEEP
Fund: 014
Appr: 02

From: Alan Mills, Treasurer
South Portland Democratic Committee

Re: Penalty for late filing of a July Semi-Annual finance report ($500.00)

Amount Enclosed: $ _____

Check/M.O. No.: # _____

Please Make Check/M.O. Payable to Treasurer, State of Maine

SOUTH PORTLAND [illegible]
July Semi-annual

COMMISSION ON GOVERNMENTAL ETHICS AND ELECTION PRACTICES

CONTRIBUTION/EXPENDITURE PENALTY MATRIX
LATE PARTY COMMITTEE REPORTS
21-A M.R.S.A. Section 1020-A

A campaign finance report is timely filed when a properly signed copy of the report, substantially conforming to the disclosure requirements, is received by the Commission before 5 p.m. on the date it is due. A penalty begins to accrue after 5:00 p.m. on the day the report is due. Penalties are based on a percentage of the total contributions or expenditures for the filing period, whichever is greater, multiplied by the number of calendar days the report is filed late, as follows:

Due: 7/17/06
FILED: 10/27/06

For the first violation, 1%
~~For the second violation, 3%~~
For the third and each subsequent violation, 5%

Example: The treasurer files the committee's report two days late. The committee has not been charged with any previous violations. The treasurer reports a total of $2,500 in contributions and $1,500 in expenditures for the filing period. The penalty is calculated as follows:

$2,500	Greater amount of the total contributions received or expenditures made during the filing period
X .01	Percent prescribed for first violation
$25.00	One percent of total contributions
X 2	Number of calendar days late
$50.00	Total penalty accrued

PARTY COMMITTEE NAME

Your penalty is calculated as follows:

Contributions/Expenditures:	$ 1,975
Percent prescribed:	x 1%
	$ 19.75
Number of days late:	x 102
Total penalty accrued:	$ 2,014.50
Maximum penalty:	$ 500.00

Any penalty of less than $5 is waived.

Violations accumulate on reports with filing deadlines in a 2-year period that begins on January 1st of each even-numbered year. Waiver of a penalty does not nullify the finding of a violation.

A required report that is sent by certified or registered United States mail and postmarked at least 2 days before the deadline is not subject to penalty.

Maximum penalties:

State Party Committee: $5,000 for election year reports and 48-hour reports
$1,000 for non-election year semiannual reports

Municipal, District and County Committees: $500 for all reports

FAMILY 10/27

STATE OF MAINE
COMMISSION ON GOVERNMENTAL ETHICS AND ELECTION PRACTICES

Mail: 135 State House Station, Augusta, ME 04333
Office: 242 State Street, Augusta, Maine
Tel: (207) 287-4179 Fax: (207) 287-6775
Website: www.maine.gov/ethics
Electronic Filing: http://www.mainecampaignfinance.com

RECEIVED
NOV - 6 2006
COMMISSION ON GOVERNMENTAL ETHICS & ELECTION PRACTICES AUGUSTA, ME

MUNICIPAL, DISTRICT & COUNTY PARTY COMMITTEE REPORT – 2006

COMMITTEE IDENTIFICATION (Include full name of committee.)

Name South Portland Democratic Committee

Street address 14 Woodbury St
(official headquarters of committee)

City, zip code South Portland, Me 04106 Telephone 799-5680

Check if address is different than previously reported ☐

TREASURER IDENTIFICATION

Name of treasurer Alan Mills

Street address 317 Preble St #1

City, zip code South Portland, Me 04106 Telephone 799-1633

E-mail address 2emills26@verizon.net

Check if address is different than previously reported ☐

MUNICIPAL/COUNTY/DISTRICT COMMITTEE FILING PERIODS (Check applicable period below):

	Due Date	Reporting Period
____	January 17, 2006	July 1, 2005 – December 31, 2005
✓	July 15, 2006	January 1, 2006 – June 30, 2006
____	October 27, 2006	July 1, 2006 – October 22, 2006
____	January 16, 2007	October 23, 2006 – December 31, 2006

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

Alan Mills
Treasurer's Signature

10/27/06
Date

REPORTING EXEMPTION: Any party committee receiving and expending less than $1,500 in one calendar year is exempt from the reporting requirements for that year.

South Portland Democratic Committee
Name of Party

Page ____ of ____
(Schedule A only)

SCHEDULE A

CASH CONTRIBUTIONS RECEIVED

List the names and mailing addresses of contributors who have given more than $200 during this reporting period. For all aggregate contributions of $200 or less, enter the combined total in line 3. Do not include loans or in-kind contributions here.

Date received	Contributor's name, mailing address, zip code	Occupation & Employer	Amount

1. Total contributions this page only

2. Total from attached pages (Schedule A)

3. Aggregate contributions of $200 or less not itemized — $ 1975.15

4. Total contributions this reporting period (Add lines 1,2 &3) — $ 1975.15

South Kortland Democratic Committee
Name of Party

10/27/06
Date Submitted

SCHEDULE F

SUMMARY SECTION

RECEIPTS	THIS PERIOD ONLY
1. Contributions Received (Schedule A, Line 4)	$ 1975 15/XX
2. Other Receipts (interest income, etc.)	
3. Loans Received (Schedule D)	
4. TOTAL RECEIPTS THIS PERIOD (Lines 1 + 2 + 3)	$ 1975 15/XX

EXPENDITURES	THIS PERIOD ONLY
5. Contributions to or on behalf of others (Schedule B, Line 3)	
6. Operating Expenses (Schedule B-1, Line 3)	
7. Loan Repayments Made (Schedule D)	
8. TOTAL EXPENDITURES THIS PERIOD (Lines 5 + 6 + 7)	

IN-KIND SUMMARY	Fair Market Value Totals
Total In-Kind Contributions this period (Schedule C)	
Total In-Kind Expenditures this period (Schedule C)	

Title 21-A, §1017-A, Reports of contributions and expenditures by party committees

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§1017-A. Reports of contributions and expenditures by party committees

1. Contributions. A party committee shall report all contributions in cash or in kind from an individual contributor that in the aggregate in a campaign total more than $200. The party committee shall report the name, mailing address, occupation and place of business of each contributor. Contributions of $200 or less must be reported, and these contributions may be reported as a lump sum. [1993, c. 680, Pt. C, §2 (amd).]

2. Expenditures on behalf of candidates, others. A party committee shall report all expenditures in cash or in kind of the committee made on behalf of a candidate, political committee, political action committee or party committee registered under this chapter. The party committee shall report:

A. The name and address of each candidate and the identity and address of a campaign or committee; [1991, c. 839, §23 (new); §33 (aff).]

B. The office sought by a candidate and the district that the candidate seeks to represent; and [1991, c. 839, §23 (new); §33 (aff).]

C. The date and amount of each expenditure. [1993, c. 715, §1 (amd).]
[1993, c. 715, §1 (amd).]

3. Other expenditures. Operational expenses and other expenditures in cash or in kind of the party committee that are not made on behalf of a candidate, committee or campaign must be reported as a separate item. The party committee shall report:

A. The name and address of each recipient; [1993, c. 715, §2 (new).]

B. The reason for the expenditure; and [1993, c. 715, §2 (new).]

C. The date and amount of each expenditure. [1993, c. 715, §2 (new).]
[1993, c. 715, §2 (amd).]

4. Filing schedule.
[2003, c. 302, §2 (rp).]

4-A. Filing schedule. A state party committee shall file its reports according to the following schedule.

A. Quarterly reports must be filed:

(1) On January 15th and must be complete up to January 5th;

(2) On April 10th and must be complete up to March 31st;

(3) On July 15th and must be complete up to July 5th; and

(4) On October 10th and must be complete up to September 30th.

[2003, c. 302, §3 (new).]

Title 21-A, §1017-A, Reports of contributions and expenditures by party committees

B. General and primary election reports must be filed:

(1) On the 6th day before the date on which the election is held and must be complete up to the 12th day before that date; and

(2) On the 42nd day after the date on which the election is held and must be complete up to the 35th day after that date.

[2003, c. 302, §3 (new).]

C. Reports of spending to influence special elections, referenda, initiatives, bond issues or constitutional amendments must be filed:

(1) On the 6th day before the date on which the election is held and must be complete up to the 12th day before that date; and

(2) On the 42nd day after the date on which the election is held and must be complete up to the 35th day after that date.

[2003, c. 302, §3 (new).]

D. A state party committee that files an election report under paragraph B or C is not required to file a quarterly report under paragraph A when the deadline for that quarterly report falls within 10 days of the filing deadline established in paragraph B or C. [2003, c. 302, §3 (new).]

E. A state party committee shall report any expenditure of $500 or more, made after the 12th day before the election and more than 24 hours before 5:00 p.m. on the day of the election, within 24 hours of that expenditure. [2005, c. 301, §18 (amd).] [2005, c. 301, §18 (amd).]

4-B. Filing schedule for municipal, district and county party committees. Municipal, district and county party committees shall file reports according to the following schedule.

A. Reports filed during an election year must be filed with the commission on:

(1) July 15th and be complete as of June 30th;

(2) October 27th and be complete as of October 22nd; and

(3) January 15th and be complete as of December 31st.

[2003, c. 628, Pt. A, §2 (new).]

B. Reports filed during a nonelection year must be filed on:

(1) July 15th and be complete as of June 30th; and

(2) January 15th and be complete as of December 31st.

[2003, c. 628, Pt. A, §2 (new).]

C. Any contribution or expenditure of $1,000 or more made after the 12th day before any election and more than 24 hours before that election must be reported within 24 hours of that contribution or expenditure. [2005, c. 301, §19 (amd).] [2005, c. 301, §19 (amd).]

4-C. Electronic filing. Beginning January 1, 2006, state party committees shall file each report required by this section through an electronic filing system developed by the commission. The commission may make an exception to this electronic filing requirement if a party committee submits a written request that states that the party committee lacks access to the technology or the technological ability to file reports electronically. The request for an exception must be submitted by March 1st of the election year. The commission shall grant all reasonable requests for exceptions.

[2005, c. 301, §20 (new).]

5. Penalties. A party committee is subject to the penalties in section 1020-A, subsection 4-A.

[RR 2003, c. 1, §13 (cor).]

6. Notice; forms. A state party committee shall notify all county, district and municipal party committees of the same political party of the party committee reporting requirements. The party committees shall obtain the necessary forms from the commission to complete the filing requirements.

[1991, c. 839, §23 (new); §33 (aff).]

Title 21-A, §1017-A, Reports of contributions and expenditures by party committees

7. Exemption. Any party committee receiving and expending less than $1,500 in one calendar year is exempt from the reporting requirements of this section for that year.
[1991, c. 839, §23 (new); §33 (aff).]

8. Municipal elections. When a party committee makes contributions or expenditures on behalf of a candidate for municipal office subject to this subchapter, it shall file a copy of the reports required by this section with the clerk in that candidate's municipality.
[1995, c. 483, §10 (new).]

PL 1991, Ch. 839, §23 (NEW).
PL 1991, Ch. 839, §33 (AFF).
PL 1993, Ch. 228, §1 (AMD).
PL 1993, Ch. 680, §C2 (AMD).
PL 1993, Ch. 715, §1,2 (AMD).
PL 1995, Ch. 228, §1 (AMD).
PL 1995, Ch. 483, §9,10 (AMD).
RR 1995, Ch. 2, §37 (COR).
PL 2003, Ch. 302, §2,3 (AMD).
PL 2003, Ch. 628, §A2,B4 (AMD).
RR 2003, Ch. 1, §13 (COR).
PL 2005, Ch. 301, §18-20 (AMD).

Title 21-A, §1020-A, Failure to file on time

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§1020-A. Failure to file on time

1. Registration. A candidate that fails to register the name of a candidate, treasurer or political committee with the commission within the time allowed by section 1013-A, subsection 1 may be assessed a forfeiture of $10. The commission shall determine whether a registration satisfies the requirements for timely filing under section 1013-A, subsection 1.
[1995, c. 483, §15 (new).]

2. Campaign finance reports. A campaign finance report is not timely filed unless a properly signed copy of the report, substantially conforming to the disclosure requirements of this subchapter, is received by the commission before 5 p.m. on the date it is due. Except as provided in subsection 7, the commission shall determine whether a report satisfies the requirements for timely filing. The commission may waive a penalty if the commission determines that the penalty is disproportionate to the size of the candidate's campaign, the level of experience of the candidate, treasurer or campaign staff or the harm suffered by the public from the late disclosure. The commission may waive the penalty in whole or in part if the commission determines the failure to file a timely report was due to mitigating circumstances. For purposes of this section, "mitigating circumstances" means:

A. A valid emergency determined by the commission, in the interest of the sound administration of justice, to warrant the waiver of the penalty in whole or in part; [1999, c. 729, §5 (amd).]

B. An error by the commission staff; [1999, c. 729, §5 (amd).]

C. Failure to receive notice of the filing deadline; or [1999, c. 729, §5 (amd).]

D. Other circumstances determined by the commission that warrant mitigation of the penalty, based upon relevant evidence presented that a bona fide effort was made to file the report in accordance with the statutory requirements, including, but not limited to, unexplained delays in postal service. [1999, c. 729, §5 (new).]
[2003, c. 628, Pt. A, §3 (amd).]

3. Municipal campaign finance reports. Municipal campaign finance reports must be filed, subject to all the provisions of this subchapter, with the municipal clerk on forms prescribed by the Commission on Governmental Ethics and Election Practices. The municipal clerk shall send any notice of lateness required by subsection 6 and shall notify the commission of any late reports subject to a penalty.
[1995, c. 625, Pt. B, §5 (amd).]

4. Basis for penalties.
[2001, c. 470, §7 (amd); T. 21-A, §1020-A, sub-§4 (rp).]

4-A. Basis for penalties. The penalty for late filing of a report required under this subchapter, except for accelerated campaign finance reports required pursuant to section 1017, subsection 3-B, is a percentage of the total contributions or expenditures for the filing period, whichever is greater, multiplied by the number of calendar days late, as follows:

A. For the first violation, 1%; [2001, c. 714, Pt. PP, §1 (new); §2 (aff).]

B. For the 2nd violation, 3%; and [2001, c. 714, Pt. PP, §1 (new); §2 (aff).]

Agenda Item #6

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

Minutes of the October 31, 2006 Meeting of the Commission on Governmental Ethics and Election Practices Held in the Commission's Meeting Room, PUC Building, 242 State Street, Augusta, Maine

Present: Chair Jean Ginn Marvin; Hon. Michael P. Friedman; Hon. Andrew Ketterer; Hon. A. Mavourneen Thompson. Staff: Executive Director Jonathan Wayne; Phyllis Gardiner, Counsel.

At 9:00 A.M., Chair Ginn Marvin convened the meeting.

Ms. Ginn Marvin moved, Mr. Friedman seconded, and the Commission voted unanimously (4-0) to name Mr. Ketterer the new chair of the Commission effective immediately.

The Commission considered the following items:

Agenda Item #1 – Missing "Paid for" Disclosure in Automated Telephone Calls/John Eder

Mr. Wayne said that the complaint was filed by the House Democratic Campaign Committee on behalf of Jon Hinck. Mr. Wayne said that John Eder contacted the National Organization for Women in Maine and asked them to record an automated telephone call. Mr. Wayne said that Rep. Eder paid for the call. Mr. Wayne said that the statutes required the call to mention who paid for it. Mr. Wayne said that the staff recommended that Rep. Eder's campaign be found in violation the statute and assessed a penalty of $100.

Ms. Ginn Marvin moved, Mr. Friedman seconded, and the Commission voted unanimously (4-0) to adopt the staff recommendation and assess a $100 civil penalty.

Agenda Item #2 – Request for Matching Funds/Marge Medd

Mr. Wayne said that the Commission had authorized Marge Medd's opponent, Sen. David Hastings, to spend $1,786 in matching funds. Mr. Wayne said that the Commission determined at its last meeting that the newsletter that triggered the matching funds did not contain express advocacy for Ms. Medd. Mr. Wayne said that Sen. Hastings had obligated or spent the entire amount of matching funds. Mr. Wayne said that Ms. Medd requested a payment of matching funds to compensate for the authorization made to Sen. Hastings. Mr. Wayne said that the

amount of the independent expenditure was only about $200, but Sen. Hastings received a larger authorization due to the fact that Ms. Medd had about $1,600 remaining from the primary election. Mr. Wayne said that the staff agreed with Ms. Medd's position, but the amount authorized should be different from her original request due to the filing of additional independent expenditure reports in the race. Mr. Wayne said that $6,335 had been spent in support of Sen. Hastings. Adding the amount previously authorized to Sen. Hastings in error, Mr. Wayne said that Ms. Medd should be authorized to spend $6,544 in matching funds.

Mr. Ketterer asked if the Commission had the statutory authority to authorize matching funds in that case.

Ms. Gardiner said that while there was nothing explicitly in the statute that would apply to the situation, the Commission likely had inherent authority to authorize matching funds in order to bring both candidates in the race to the appropriate level of funding had the independent expenditure report been filed, and matching funds authorized, correctly.

Ms. Thompson asked what Ms. Medd would have been authorized in matching funds had the Commission not made its decision at the October 20 meetings. Mr. Wayne said that the Commission was required under its rules to pay $6,335 to Ms. Medd, but the Commission had the option to pay another $200 to bring her to an equal position with Sen. Hastings due to the amount authorized to him in error.

Dan Billings, appearing on behalf of Sen. Hastings, said that he did not have any objection to the staff recommendation. Mr. Billings said that the situation should be considered differently if it is determined that the independent expenditure was done in coordination with the candidates.

Mr. Friedman moved, Ms. Ginn Marvin seconded, and the Commission voted unanimously (4-0) to accept the staff recommendation to award $6,544.50 to Marge Medd's campaign.

Agenda Item #3 – Complaint by Rep. Ian Emery against Harold Prescott

Mr. Wayne said that Rep. Ian Emery filed a complaint by e-mail against his opponent, Harold Prescott. Mr. Wayne questioned whether the complaint contained anything the Commission could act on.

Dan Billings said that the use of different committee names was confusing and a violation of the statute. Mr. Billings said that the committee names used by Mr. Prescott differed from the one listed on his candidate registration form. Mr. Billings said that the use of these names could make it seem like some of the advertisements were paid for by some independent group rather than the candidate.

Mr. Wayne said that a finding of violation would be appropriate in regard to the use of committee names.

Mr. Friedman asked how the situation differed from the one discussed in Agenda Item #1. Mr. Wayne said that the voice recording was more likely to generate confusion.

Ms. Thompson asked if it would be appropriate to wait until the next meeting to assess a penalty. Mr. Wayne said that Harold Prescott was not aware that there would be a monetary penalty and may wish to have an opportunity to respond.

Mr. Friedman said that Mr. Billings was not arguing for a monetary penalty and it was not necessary to put off the matter until another meeting.

Ms. Thompson asked why Mr. Prescott was not present. Mr. Wayne said that the complaint was received on Friday and Mr. Prescott was busy campaigning. Mr. Wayne said that Mr. Prescott was aware of the staff recommendation that no penalty should be assessed. Mr. Wayne said that the staff and Mr. Prescott were not aware that the complaint was centered on the inaccurate "paid for" information.

Ms. Thompson moved that the matter be postponed until the next meeting. There was no second to the motion.

Mr. Friedman moved, and Ms. Ginn Marvin seconded, that the Commission find Mr. Prescott in violation but assess no penalty.

Mr. Ketterer said that "Citizens for Prescott," one of the committee names used by Mr. Prescott, sounded like a member organization rather than a campaign committee. Mr. Ketterer said that findings of violation did have an impact even if no penalties were assessed.

The Commission voted unanimously (4-0) to find Mr. Prescott in violation but assess no penalty.

Agenda Item #4 – Request for Waiver of Late Filing Penalty/Kennebec County Democratic Committee

Mr. Wayne said that the Kennebec County Democratic Committee was almost three months late in filing a report. Mr. Wayne said that the preliminary penalty was $500, the maximum amount. Mr. Wayne said that the committee treasurer, Linda McKee, requested a waiver of the penalty. Mr. Wayne said that the staff was convinced that Ms. McKee acted in good faith once she was aware of the requirement to file a report. Mr. Wayne said that a waiver may be appropriate considering the circumstances.

Mr. Friedman asked if the staff was recommending a waiver of the entire penalty. Mr. Wayne responded that the recommendation was for a partial waiver.

Ms. Thompson asked if the staff had previous experience with reports filed three or more months late. Mr. Wayne said that it was uncommon, but there were instances where the committee was not aware of the requirement and the staff did not know that the committee had met the requirement to file.

Ms. Ginn Marvin asked what notification the committee received regarding its requirement to file a report. Martha Demeritt said that the staff was not always aware of when a local party committee met the $1,500 filing threshold. Ms. Demeritt said that the state party committees had the statutory responsibility to inform local party committees of the filing requirements. Ms. Demeritt said that in 2006, the Commission staff sent mail to all local party committees regarding the filing requirements. Ms. Demeritt said that once a committee files its initial report, she then knows that it is required to file the subsequent reports for that year. Ms. Demeritt said that she also encourages the state party committees to contact their local committees.

Linda McKee said that she did not receive a reminder from the state party committee about filing. Ms. McKee said that the committee had not spent any money on candidate advocacy, but did have some operating expenses. Ms. McKee said that she was not aware of a penalty for late filing. Ms. McKee said that there should be greater efforts to inform local party committees of the filing requirements and the penalties for late filing.

Ms. Ginn Marvin asked Ms. McKee who should be responsible for educating the local party committees. Ms. McKee said that it should be the responsibility of the state parties and not the Commission.

Mr. Friedman said that Ms. McKee learned of the oversight in mid-August, but the report was not filed until October 10. Ms. McKee said that she had not filed the report earlier due to health reasons.

Mr. Friedman asked if Ms. McKee had anyone else helping her. Ms. McKee said that the committee had just named a new assistant treasurer, but she did not receive any help in filing the report. Ms. McKee said that the assistant treasurer was named about two weeks ago. Ms. McKee said that she was not aware that she would have to do fundraising when she accepted the role of treasurer. Ms. McKee said that she spent a considerable amount of time in June fundraising and preparing for the convention.

Mr. Wayne said that a 1/3 reduction of the penalty could be in order if the Commission wished to take Ms. McKee's health issues into account. Mr. Wayne said that the 1/3 reduction was based on the fact that the report was due in mid-July but Ms. McKee was not aware of the filing requirement until mid-August.

Ms. Thompson moved, and Mr. Friedman seconded, that the Commission assess a penalty of $100.

Ms. Thompson said that there were mitigating circumstances that warranted a reduction of the penalty.

Ms. Ginn Marvin said that the Commission should go by the rules and assess the standard penalty of $500. Ms. Ginn Marvin said that she was not convinced that there were mitigating circumstances that prevented the report from being filed. Ms. Ginn Marvin said that it was not a difficult or time-consuming form to fill out.

Mr. Friedman said that mitigating circumstances were outlined in the statute and that Ms. McKee's letter described such circumstances. Mr. Friedman said that a $300 penalty was more appropriate.

Mr. Ketterer said that many officers in local party committees were unaware of the $1,500 filing requirement. Mr. Ketterer said that he was more likely to support a $300 than a $100 penalty.

The Commission voted 1-3 to assess a penalty of $100. Ms. Thompson voted for the motion. Mr. Friedman, Mr. Ketterer, and Ms. Ginn Marvin voted against the motion.

Mr. Friedman moved, Ms. Thompson seconded, and the Commission voted 3-1 to find that there was a violation and reduce the $500 penalty to $300 due to mitigating circumstances. Mr. Friedman, Mr. Ketterer, and Ms. Thompson voted for the motion. Ms. Ginn Marvin voted against the motion.

Agenda Item #5 – Complaint/Democratic Governors Association and Baldacci Campaign

Mr. Wayne gave an overview of the law that was relevant to this complaint. He said that anyone could do volunteer work for a campaign, even if the volunteer possessed skills in campaign management or other relevant areas. Mr. Wayne said that the law excluded such volunteer work from being a contribution to the campaign. Mr. Wayne said that if someone were paying an individual to work on the campaign, it would be considered a contribution to the campaign. Mr. Wayne said that the complaint filed by the Merrill campaign arose due to an article written by Lance Tapley in the *Portland Phoenix*.

Ms. Thompson asked what the Commission's most difficult decision would be. Mr. Wayne said that the Commission should listen to each party and decide whether Ms. Eltman had a formal role in the Baldacci campaign and whether she was paid by the Democratic Governors Association for her work on the campaign. Mr. Wayne said that the Commission should also

consider whether there was coordination between the Baldacci campaign and either the Democratic Party or the Democratic Governors Association.

Ms. Thompson asked if the staff determined that there were factual errors in the *Portland Phoenix* article. Mr. Wayne said that the Commission should hear from Pat Eltman before making that determination. Mr. Wayne said that there were some inconsistencies, such as Pat Eltman telling the *Phoenix* that her DGA work consisted of consulting services for gubernatorial candidates. Mr. Wayne said that the Commission should investigate whether Ms. Eltman was providing services to the DGA or to the candidate. Mr. Wayne said that the DGA and the Public Affairs Group (PAG), which employs Ms. Eltman, stated that she was not paid for consulting services to the candidate.

Joe Mackey joined the meeting by telephone. Mr. Wayne explained that Mr. Mackey was a business partner of Ms. Eltman.

Jim Bowers introduced himself as the treasurer for the Merrill campaign. Mr. Bowers said that he agreed with Mr. Wayne's explanation and would reserve comments until later. Mr. Bowers said that the responses from the other parties supported the arguments made by the Merrill campaign.

Mr. Friedman asked if the entire complaint was based upon the *Phoenix* article. Mr. Bowers replied that the article triggered the complaint. Mr. Bowers said that he looked at the reports filed by the Democratic State Committee and the Baldacci campaign and was surprised that there were no media buys listed on the last Baldacci report.

Mr. Friedman asked why Mr. Bowers thought there were no media buys. Mr. Bowers responded that the Baldacci campaign was being aided by the Democratic Governors Association through the Democratic State Committee.

Mr. Friedman asked if Mr. Bowers' experience in Maine politics led him to believe that this coordination was taking place. Mr. Bowers said that a lot had changed since he resigned as state party committee treasurer four years ago. Mr. Bowers said that there were times when people at campaign committee meetings discussed what was happening off the record.

Ms. Thompson requested that Mr. Bowers discuss the details of his complaint.

Mr. Bowers said that Ms. Eltman was either providing services to gubernatorial campaigns or to the Democratic Governors Association. Mr. Bowers said that it seemed from the article that she was providing services to the campaigns. Mr. Bowers said that from discussions with the manager of the Baldacci campaign, it was clear that Ms. Eltman was providing services to the campaign. Mr. Bowers said that the Democratic Governors Association presented a different explanation. Mr. Bowers said that if this was the case, Ms. Eltman was making an in-kind

contribution to the campaign that should have been reported. Mr. Bowers said that there appeared to be coordination with the campaign that should be considered independent expenditures. Mr. Bowers said that this would be the case if someone working for the Democratic Governors Association was also advising campaigns. Mr. Bowers said that there were $50,000 contributions from the Democratic Governors Association to the Democratic State Committee that could only be seen as being intended for advertising and candidate advocacy.

Beryl Leach introduced herself as the campaign manager of the Merrill for Governor campaign. Ms. Leach said that she had not received any materials from the Maine Democratic Party. Mr. Wayne said that he had not requested a written response, but representatives from the party were present at the meeting.

Ms. Leach said that the Democratic Governors Association letter stated that the organization was paying Ms. Eltman to be its eyes and ears on the ground in Maine. Ms. Leach said that Ms. Eltman was providing the DGA with an independent analysis of the candidates, races, and local political climate. Ms. Leach said that this information was used to develop media messages. Ms. Leach said that Mr. Mackey's letter indicates that PAG provided paid services to the Baldacci campaign. Ms. Leach said that advice has value and that Ms. Eltman earns her living as a paid consultant. Ms. Leach said that even if Ms. Eltman just provided advice to the Baldacci campaign, it should be considered as an in-kind contribution.

Gerald Petrucelli, representing Ms. Eltman, said that Ms. Eltman was not paid to provide services to the Baldacci campaign, either by the campaign or by the Democratic Governors Association.

Jesse Connolly, campaign manager for the Baldacci campaign, said that he had known Ms. Eltman for 10 years. Mr. Connolly said that he had had both personal and professional conversations with Ms. Eltman. Mr. Connolly said that they had general discussions relating to her experiences with candidates and management of staff. Mr. Connolly said that they had never discussed expenditures made by the Baldacci campaign that would be considered coordination. Mr. Connolly said that they did not discuss television advertising. Mr. Connolly said that the Baldacci campaign had spent several hundred thousand dollars on advertising that was included on previous campaign finance reports. Mr. Connelly said that he and Ms. Eltman did not coordinate the Baldacci campaign's advertising with the Democratic Governors Association or the State Democratic Party.

Mr. Friedman asked about Mr. Connolly's quotation in the *Phoenix* article, which stated that Ms. Eltman was involved with fundraising for the Baldacci campaign. Mr. Connelly said that he previously spoke with the article's author, Lance Tapley, for a different article, at which point he mentioned Ms. Eltman as being one of Gov. Baldacci's closest advisers. Mr. Connelly said that Ms. Eltman had not helped the campaign raise any money. Mr. Connelly said that parts of his conversation with Mr. Tapley were taken out of context.

Mr. Friedman asked how many times in the last four months Ms. Eltman had been to Mr. Connolly's office. Mr. Connelly said it was probably five or six times. Mr. Friedman asked what the purpose of those visits was. Mr. Connolly said Ms. Eltman wanted to see how the campaign was doing and how Mr. Connolly was doing personally.

Mr. Friedman asked if Mr. Connolly discussed the Baldacci campaign with Ms. Eltman. Mr. Connolly replied that he had general discussions about the campaign and Baldacci's opponents.

Mr. Friedman asked if Mr. Connolly had asked Ms. Eltman for her advice. Mr. Connolly said that he asked her about her experience in past campaigns. Mr. Connolly said that they discussed the management of staff, keeping up morale, and managing the campaign of an incumbent governor.

Mr. Friedman asked if Ms. Eltman had met with Gov. Baldacci. Mr. Connolly replied that she had. Mr. Friedman asked if Mr. Connolly had been present at any of those meetings. Mr. Connolly replied that he had. Mr. Connolly said that he did not recall the content of the conversations at the meetings and did not recall any request for advice.

Ms. Thompson asked what the major weakness was in the Merrill campaign's arguments. Mr. Connolly said that there was no coordination of advertisements between the Democratic Governors Association, Ms. Eltman, and the Baldacci campaign.

Ms. Thompson asked how the law constrained Mr. Connolly's activities as campaign manager. Mr. Connolly said that given Gov. Baldacci was the only privately financed candidate in the race, the campaign paid close attention to contribution limits, matching funds, and the provisions of the Maine Clean Election Act in order to avoid financially disadvantaging the other candidates. Mr. Connolly said that staff members were careful not to discuss the campaign's plans for specific expenditures with Ms. Eltman.

Ms. Ginn Marvin asked Mr. Connolly about the information provided by the Merrill campaign, which stated that Ms. Eltman's job was to provide consulting services to gubernatorial candidates. Mr. Connolly said that his conversations with Ms. Eltman were conversations between a friend and mentor. Mr. Connolly said that Ms. Eltman's work for the campaign did not result from her being paid by the Democratic Governors Association and that she would have still done the same work even if she was not a paid consultant. Mr. Connolly said that the campaign had general conversations with Ms. Eltman but never discussed expenditures.

Ms. Ginn Marvin asked if the conversations with Ms. Eltman included any discussion of the points that the campaign wished to emphasize in advertisements. Mr. Connolly said that such discussions were done independently from the conversations with Ms. Eltman. Mr. Connolly said that Ms. Eltman did not serve to convey campaign strategies to the Democratic Governors Association.

Mr. Friedman asked if Ms. Eltman had done any fundraising for the Baldacci campaign. Mr. Connolly said that she had not. Mr. Friedman asked if Ms. Eltman had been present at any fundraising events. Mr. Connolly replied that she probably had been but did not actively fundraise.

Mr. Wayne said that the concern was not that Ms. Eltman discussed the Baldacci campaign's advertisements but whether she coordinated expenditures with the Maine Democratic Party. Mr. Connolly replied that she did not. Mr. Connolly said that he was not involved with the Maine Democratic Party's advertisements.

Mr. Wayne asked if any of the analysis done for the Democratic Governors Association was provided to the Baldacci campaign. Mr. Connolly said that, to his knowledge, it was not.

Jim Lamb introduced himself as counsel for the Democratic Governors Association. Mr. Lamb said that the DGA paid Ms. Eltman to provide services to the DGA. Mr. Lamb said that there were 36 gubernatorial races in the 2006 elections and that DGA was a national organization. Mr. Lamb said that the DGA did not have a field organization in the state. Mr. Lamb said that the DGA hired people to provide information on each state's gubernatorial race. Mr. Lamb said that the DGA used that information to determine where to make contributions. Mr. Lamb said that the DGA had not been in consultation with the Maine Democratic Party about the content of its ads or when the ads should run. Mr. Lamb said that he was not sure that the Maine Democratic Party used the DGA's contributions for television ads.

Mr. Friedman asked if the DGA paid PAG or Ms. Eltman directly. Mr. Lamb replied that the DGA paid PAG. Mr. Lamb said that the DGA had a written contract with PAG.

Mr. Friedman said that Mr. Lamb's letter stated that PAG was responsible for seven states, but Mr. Mackey's letter stated that PAG was responsible for eight states. Mr. Lamb said that he thought it was only seven states.

Mr. Friedman asked if PAG had to submit a schedule of its activities to the DGA. Mr. Lamb said he was not aware of any hourly billing information.

Mr. Friedman asked if Ms. Eltman spent more time working in Maine than the other six states. Mr. Lamb said no. Mr. Lamb said that Ms. Eltman established for herself how much time she spends on each state.

Mr. Friedman asked if Ms. Eltman had to demonstrate that she spent a certain amount of time in each state. Mr. Lamb said that he was unaware of anyone asking those types of questions. Mr. Lamb said that it would have been clear in Ms. Eltman's reports if she had not spent a sufficient amount of time in a particular state.

Mr. Friedman asked if there was any program used to ensure that people like Ms. Eltman did not coordinate with the campaign. Mr. Lamb said that Ms. Eltman was aware of the Maine campaign laws and assisted the DGA in understanding them. Mr. Lamb said that the DGA told its consultants not to participate in anything that would be considered coordination with the campaigns.

Mr. Friedman asked if there was a restriction in Ms. Eltman providing advice to the campaign. Mr. Lamb said no.

Mr. Friedman asked if the DGA encouraged its consultants to provide advice to the campaigns. Mr. Lamb said that the DGA would not pay Ms. Eltman to raise money for a campaign or engage in similar activities. Mr. Lamb said that Ms. Eltman was there to collect information about the campaign that the DGA would not otherwise have access to.

Ms. Thompson asked how the DGA complied with the reporting requirements and Clean Election laws of other states. Mr. Lamb said that some members of the DGA staff were sent to states specifically to work on campaigns, with their salaries being considered in-kind contributions to the campaigns. Mr. Lamb said that the DGA was aware of contribution limits in the states and refrains from exceeding those limits. Mr. Lamb said that the DGA did not consider Ms. Eltman to be one of its staff members paid to work on a campaign.

Ms. Ginn Marvin asked if Mr. Lamb considered it coordination if there was overlap between Ms. Eltman's communications with the DGA and with the Baldacci campaign. Mr. Lamb said no. Mr. Lamb said that it would be coordination if the Baldacci campaign gave information directly to the state party or vice versa. Mr. Lamb said that the information that Ms. Eltman provided to the DGA did not include the campaign's needs or wants relating to the timing of ads. Mr. Lamb said that Ms. Eltman did not receive information on the campaign's needs or wants and so there could have been no coordination. Mr. Lamb said that Jesse Connolly did not provide that information to Ms. Eltman and it was not likely that she would have obtained it from another source. Mr. Lamb said that the money provided by the DGA to the Maine Democratic Party was not earmarked for TV ads or other specific expenditures.

Mr. Lamb said that the complaint asserted that the DGA ran TV ads, but this was not correct. Mr. Lamb said that the DGA makes non-earmarked contributions to state political parties. Mr. Lamb said that the parties are not told what to spend the money on.

Ms. Ginn Marvin asked if the party coordinated with Ms. Eltman to run the ads. Mr. Lamb said that there was no information indicating that Ms. Eltman was telling the Maine Democratic Party how to spend its money.

Ms. Ginn Marvin asked why Mr. Tapley wrote the article. Mr. Lamb said that he had no idea.

Mike Mahoney said that he was appearing on behalf of the Maine Democratic Party. Mr. Mahoney said that there was no evidence of coordination between the Maine Democratic Party and the Baldacci campaign. Mr. Mahoney said that the Merrill complaint assumes that coordination must have happened and that the Commission must investigate it, without actually presenting any evidence. Mr. Mahoney said that that was an abuse of the Commission's role. Mr. Mahoney said that the state party did take the inquiry seriously and conducted an investigation. Mr. Mahoney said that Ms. Eltman had no input or opportunity to provide input on any Maine Democratic Party expenditures. Mr. Mahoney said that Ms. Eltman communicated no information to the Maine Democratic Party about the Baldacci campaign's activities or what the Baldacci campaign wanted the Maine Democratic Party to do.

Mr. Friedman asked if Mr. Mahoney conducted the investigation personally. Mr. Mahoney replied that he did. Mr. Mahoney said that he interviewed party leadership, including the party chairman and the director of the coordinated campaign. Mr. Mahoney said that those two individuals were solely responsible for the content and timing of expenditures by the party during the election cycle. Mr. Mahoney said that he did not interview Ms. Eltman and that she was not part of the Maine Democratic Party.

Mr. Friedman asked if Mr. Mahoney thought it would be important to get Ms. Eltman's view of her role in the Baldacci campaign. Mr. Mahoney said that under the law he and party leadership should not have knowledge of the activities of the Baldacci campaign.

Mr. Wayne asked whether the research conducted by Ms. Eltman had any influence on the party's advertising. Mr. Mahoney said that there had been no communications regarding content of advertising between the DGA and the Maine Democratic Party.

Mr. Petrucelli said that Ms. Eltman furnished to the DGA information on seven different states, one of which was Maine. Mr. Petrucelli said that Ms. Eltman had many other clients when she was not working for the DGA. Mr. Petrucelli said that Ms. Eltman was not a staffer of the DGA. Mr. Petrucelli said that Ms. Eltman had the right as a citizen to participate in political campaigns. Mr. Petrucelli said that the DGA did not pay Ms. Eltman to work on the Baldacci campaign. Mr. Petrucelli said that there was no restriction on Ms. Eltman providing volunteer services to campaigns.

Ms. Ginn Marvin said that it was important for the Commission to consider any questions brought to its attention. Mr. Petrucelli responded that the statute provided a framework for the questions that were legally available to the Commission. Mr. Petrucelli said that many of the issues raised by the complaint were related to policy changes rather than violations of the existing statutes.

Mr. Friedman asked Ms. Eltman if Mr. Connolly or Gov. Baldacci specifically asked her about particular strategies that should be done by the campaign. Ms. Eltman said no, that she was asked about staffing, her past experiences, and similar subjects.

Mr. Friedman asked if Ms. Eltman committed more time to Maine than the other states. Ms. Eltman said no, that she had seven other states and also other clients she had to serve.

Mr. Friedman asked how Ms. Eltman communicated with the DGA. Ms. Eltman said she participated in conference calls and submitted a weekly media report.

Mr. Friedman asked if her reports were provided to the campaign before they were sent to the DGA. Ms. Eltman said no.

Ms. Eltman said that she worked for Public Affairs Group. Ms. Eltman said that the DGA had a contract with PAG. Ms. Eltman said that Democratic governors ran the DGA.

Ms. Ginn Marvin asked Ms. Eltman how she reacted to the statement that she was in a position to know what the Baldacci campaign wanted to emphasize in the Democratic Party ads. Ms. Eltman said that she knew Gov. Baldacci since 1982 and that she was a friend of his family. Ms. Eltman said that the alleged coordination did not take place.

Ms. Eltman said that she did not do any fundraising for Gov. Baldacci's reelection effort. Ms. Eltman said that she was never paid for any work done for the Baldacci campaign.

Ms. Ginn Marvin asked Mr. Mackey about the statements he made in the *Phoenix* article. Mr. Mackey said that Ms. Eltman was known as a friend of Gov. Baldacci and provided him with advice. Mr. Mackey said that it was not what the DGA and PAG paid Ms. Eltman to do.

Mr. Wayne said that it was appropriate for the Commission to consider the complaint. Mr. Wayne said that there were statements made that Ms. Eltman was providing consulting services to gubernatorial candidates. Mr. Wayne said that from the testimony presented, it seemed that no contribution was made to the Baldacci campaign. Mr. Wayne said that he did not see evidence of coordinated expenditures. Mr. Wayne said that he did not see strong evidence that Ms. Eltman received compensation for her volunteer work on the Baldacci campaign. Mr. Wayne said that PAG did receive $140,000 from the DGA, but that money did not provide any benefit to the Baldacci campaign.

Ms. Thompson moved, and Ms. Ginn Marvin seconded, that the Commission find no violation by the Democratic Governors Association and the Baldacci campaign.

Ms. Thompson said that Ms. Eltman had exercised her rights to free speech and to volunteer for the campaign. Ms. Thompson said that the Commission had been presented with no evidence that there was a violation of the law by any party.

Mr. Friedman said that the Commission was required to act on complaints quickly. Mr. Friedman said that the Maine Clean Election Act had public support and its purposes were well-known: to provide a level playing field, to encourage people to seek public funding. Mr. Friedman said it was also the right of PACs and other groups to engage in political activity. Mr. Friedman said that the Merrill campaign had the right to file a complaint. Mr. Friedman said that the Merrill complaint initially presented an argument that the Commission had the jurisdiction to consider. Mr. Friedman said that the burden was then on the DGA and the Baldacci campaign to persuade the Commission members that there was no violation. Mr. Friedman said that the evidence that was presented could be relied upon. Mr. Friedman said that the Commission needed more than supposition in order to interfere in political expression. Mr. Friedman said that there was no violation evident.

Mr. Ketterer said that Ms. Eltman had the right to volunteer for the Baldacci campaign as she had done in the past. Mr. Ketterer said that contracts similar to the one between the DGA and PAG generally did not include hourly billing that would demonstrate how much time Ms. Eltman spent in Maine that was paid for by the DGA. Mr. Ketterer said that the evidence supports Ms. Eltman's claim that she volunteered her time on the Baldacci campaign and was not compensated for it. Mr. Ketterer said that it was important for the issues raised by the Merrill campaign to be heard during a campaign cycle.

The Commission voted unanimously (4-0) to find no violation by the Democratic Governors Association and the Baldacci campaign.

Agenda Item #6 – Request for Waiver of Late Filing Penalty/Maine College Republicans PAC

Mr. Wayne said that the Maine College Republicans PAC was formed in August. Mr. Wayne said that the PAC's first report was due on October 12. Mr. Wayne said that the PAC attempted to file late on that day and had technical difficulties, so the report was filed two days late. Mr. Wayne said that the staff recommended not granting a waiver of the $721 penalty. Mr. Wayne said that the PAC contacted the staff on the day of the deadline to get its username and password. Mr. Wayne said that the PAC tried to upload the data from its own Excel file, which could be difficult.

Mr. Friedman asked if the technical difficulties were the PAC's or the Commission staff's. Mr. Wayne said that the system required PACs to use a specific Excel template in order to upload data.

Dan Riley introduced himself as counsel for the Maine Republican Party. Nathaniel Walton introduced himself as state chairman of the College Republicans.

Mr. Riley said that Mr. Walton was overconfident in his ability to use the electronic filing system. Mr. Riley said that Mr. Walton had all of the data assembled at 3 p.m. on the day of the filing deadline and only encountered a problem when he attempted to input that data into the system. Mr. Riley said that the statutory formula was disproportionate in that case.

Mr. Friedman asked what problems Mr. Walton experienced. Mr. Walton said that his Web browser was not compatible with the electronic filing system and that he had not used the proper template to upload the PAC's data. Mr. Walton said that he was able to file the subsequent report without any problems.

Ms. Ginn Marvin asked Mr. Wayne if other people experienced problems filing reports. Mr. Wayne said that the majority of filers enter the data into the system themselves, but they also had the option of using the new upload feature rather than retyping data. Mr. Wayne said that he did not know how the staff could make the upload easier to use.

Ms. Ginn Marvin asked Mr. Walton if the spreadsheet he submitted was the extent of his report. Mr. Walton replied that it was not, and that he submitted it so that the Commission could see the format he used to enter information for the October report. Mr. Walton said that when he filed the PAC registration on August 1, the PAC registrar requested a list of donations received by the PAC up to that point. Mr. Walton submitted the list in that format and thought it would be an acceptable format for uploading into the finance report.

Mr. Friedman asked if the technical difficulties could be considered mitigating circumstances. Mr. Wayne said that it appeared that Mr. Walton made a good-faith effort to file on time. Mr. Wayne said that the staff had sent Mr. Walton a username, password, and written instructions on how to use the electronic filing system as soon as he registered the PAC in August. Mr. Wayne said that the staff offered training sessions and advice to filers.

Mr. Friedman said that it did not appear that any of the difficulties met the definition of a mitigating circumstance.

Mr. Walton said that there was a period of time in August and September when he was not receiving the mailings sent by the Commission due to a wrong address. Mr. Walton said that he listed a Bates College address, but the mail was not delivered because it was not addressed to him personally.

Mr. Riley said that the rules did allow for some discretion in deviating from the statutory penalty. Mr. Riley said that Mr. Walton had compiled the data on his computer and thought it would be simple to move it over onto the Commission's electronic filing system.

Mr. Friedman asked what penalty Mr. Riley thought would be fair. Mr. Riley said that the lesson had been learned and that a financial penalty was not necessary. Mr. Riley said that Mr. Walton did not make the same mistake when the filed the subsequent report.

Mr. Friedman asked if the penalty would be against Mr. Walton personally. Mr. Wayne responded that the penalty would be assessed against the PAC.

Ms. Ginn Marvin said that there was a bona fide effort to file the report and this was demonstrated by the fact that Mr. Walton came to the Commission offices on two separate occasions to get help in filing.

Ms. Thompson moved, and Ms. Ginn Marvin seconded, that the Commission waive the penalty against the Maine College Republicans PAC.

Ms. Thompson said that Mr. Walton had collected the necessary information to file the report and expected to be able to file on time. Ms. Thompson said that a finding of no penalty does not reflect on the staff in any way.

The Commission voted unanimously (4-0) to waive the penalty against the Maine College Republicans PAC.

Mr. Ketterer said that it was difficult to get people interested in politics and that it was good for groups like Mr. Walton's to encourage people to be politically active.

Agenda Item #7 – Request for Investigation/Maine State College Republican Organization PAC

This item was withdrawn from the agenda.

Agenda Item #8 – Request for Investigation/Maine College Democrats

Mr. Wayne recommended postponing this item, as the Maine College Democrats did not receive the e-mail notification.

Ms. Ginn Marvin moved, Mr. Friedman seconded, and the Commission voted unanimously (4-0) to table Item #8 until the next meeting.

Agenda Item #9 – Meeting Dates

The Commission decided to meet on November 20 and December 12, with the option to skip the November 20 meeting if there were few items to be considered.

Agenda Item #10 – Request for Investigation/Maine Heritage Policy Center

Ms. Ginn Marvin recused herself and was not present for this agenda item.

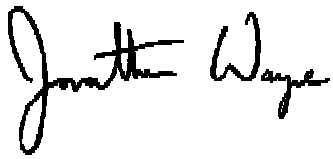
Carl Lindemann argued that the Maine Heritage Policy Center should be required to register as a political action committee and disclose financial activity related to the Taxpayer Bill of Rights ballot initiative. The complainants requested that the Commission conduct a full investigation into the contributions received by the Maine Heritage Policy Center to determine whether any were solicited or received for the purposes of influencing the ballot initiative.

William Becker and his counsel, Daniel Billings, responded that the Maine Heritage Policy Center did not receive contributions that were used to advocate for the passing of the Taxpayer Bill of Rights and did not exist solely to support the initiative. They stated that the Maine Heritage Policy Center should not be required to file a §1056(b) form (21-A M.R.S.A. §1056-B) or register as a political action committee as the organization did not engage in activities expressly advocating for the Taxpayer Bill of Rights.

Ms. Thompson made a motion to accept the staff recommendation to ask that counsel and staff be given additional opportunity to research the issue, receive input from organizations that could be affected by a Commission ruling interpreting §1056(b), and to propose formal interpretation through rulemaking or other means. Mr. Friedman seconded the motion. The motion was approved unanimously by a vote of three in favor and none opposed. Mr. Ketterer, Mr. Friedman, and Ms. Thompson voted in favor of the motion.

[A transcript of this item has been made available to the Commission members for their review. The transcript is available to the public on the Commission's website or upon request.]

Respectfully submitted,



Jonathan Wayne
Executive Director

Agenda Item #7

AUGUR & ASSOCIATES, P.A.
Law and Lobbying Firm
77 Water Street
Hallowell, Maine 04347
Electronic Mail: naugur@mainelobby.com

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JAN 25 2007
COMMISSION ON GOVERNMENTAL ETHICS & ELECTION PRACTICES-AUGUSTA, ME

Office Phone
(207) 622-2990

Cell Phone
(207) 446-34307

January 24, 2007

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

Dear Mr. Wayne:

I am writing to you regarding a recent $200 penalty that was assessed against me for failing to timely file two lobbyist reports.

I have been a lobbyist for the Maine Beverage Association, Bangor Hydro Electric Company and Emera Inc since July 2006. I moved offices and hired a new and administrative assistant in December 2006. Although I had not done nor did I anticipate doing more than eight hours of lobbying for any of those clients in December 2006, I filed my lobbyist registration for Maine Beverage and Bangor Hydro in early December in the interest of minimizing any risk of forgetting to do so once the legislative session began in January. I also intended to file my registration for Emera about the same time, but because their registration check was delayed and was made out to me, I was not able to formally file it until after December 15 when I came to your office to endorse the check.

As I now understand, my filing of a registration before December 15 for Maine Beverage and Bangor Hydro triggered an obligation that I file a lobbyist report by January 16 (January 15 being Martin Luther King Day) for both of those clients for lobbying in the month of December. By contrast, because my Emera registration was filed after December 15, I am not required to file a lobbyist report for Emera until February 15 for lobbying or payment in the month of January.

I received three notifications from Martha Demeritt of your office indicating that required lobbyist reports were due by January 16. The first was sent on January 2. Admittedly, I disregarded this warning because I mistakenly thought that my first report on all three clients was not due until February 15. I was out of the office on January 16, and unfortunately did not receive the final two reminders that your office sent until after the deadline had passed. I filed both of the require reports on January 17.

I am requesting a waiver of the $200 penalty in this instance solely on the grounds that there was a misunderstanding, entirely on my part, regarding the different reporting obligations that arose from the different dates of the three registration statements I filed in December. Regardless of the Commission's ultimate decision, I do not anticipate filing any further reports in an untimely manner.

I appreciate your consideration of this request and your staff's assistance in helping me fully understand my filing requirements. If you have any further questions of me please not hesitate to call.

Respectfully submitted,

Newell Augur

Cc: Martha Demeritt

Title 3, §312-A, Definitions

B. A payment of compensation to a lobbyist by a person employing, retaining or contracting for the services of the lobbyist separately or jointly with other persons; [1993, c. 446, Pt. A, §4 (new).]

C. A payment for or in connection with soliciting or urging other persons to enter into direct communication with a public official. [1993, c. 446, Pt. A, §4 (new).]

[1993, c. 691, §4 (amd).]

7-A. Immediate family. "Immediate family" means a person's spouse and dependent children.
[1993, c. 446, Pt. A, §10 (new); §20 (aff).]

8. Legislative action. "Legislative action" means the drafting, introduction, consideration, modification, enactment or defeat of any bill, resolution, amendment, report, nomination or other matter by the Legislature, by either the House of Representatives or the Senate, any committee or an official in the Legislative Branch acting in his official capacity, or action of the Governor in approving or vetoing any legislative document presented to the Governor for his approval.
[1983, c. 160, §1 (new).]

9. Lobbying. "Lobbying" means to communicate directly with any official in the Legislature for the purpose of influencing any legislative action or with the Governor for the purpose of influencing the approval or veto of a legislative action when reimbursement for expenditures or compensation is made for those activities. It includes the time spent to prepare and submit to the Governor, a Legislator or a legislative committee oral and written proposals for, or testimony or analyses concerning, a legislative action.
[1993, c. 446, Pt. A, §5 (amd).]

10. Lobbyist. "Lobbyist" means any person who is specifically employed by another person for the purpose of and who engages in lobbying in excess of 8 hours in any calendar month, or any individual who, as a regular employee of another person, expends an amount of time in excess of 8 hours in any calendar month in lobbying. "Lobbyist" does not include a lobbyist associate.
[1993, c. 691, §5 (rpr).]

10-A. Lobbyist associate. "Lobbyist associate" means an individual who:

A. Is a partner, associate or employee of a lobbyist or is a coemployee of a regular employee of another person if that regular employee is registered as a lobbyist; [1993, c. 691, §6 (new).]

B. Lobbies on behalf of the employer named on the lobbyist registration; and [1993, c. 691, §6 (new).]

C. Expends more than 8 hours in any calendar month lobbying on behalf of an employer of the lobbyist. [1993, c. 691, §6 (new).]

[1993, c. 691, §6 (rpr).]

10-B. Media outlet. "Media outlet" means a radio or television station, a cable television system, newspapers, magazines and other published written materials.
[1993, c. 446, Pt. A, §7 (new).]

11. Official in the Legislative Branch. "Official in the Legislative Branch" means a member, member-elect, candidate for or officer of the Legislature or an employee of the Legislature.
[1983, c. 160, §1 (new).]

11-A. Original source. "Original source" means any person who contributes $500 or more in any year directly or indirectly to any employer of a lobbyist, except that contributions of membership dues to nonprofit corporations formed under Title 13-B, any equivalent state law or by legislative enactment are not considered contributions by an original source.
[1993, c. 691, §7 (rpr).]

12. Person. "Person" means an individual, corporation, proprietorship, joint stock company, business trust, syndicate, association, professional association, labor union, firm, partnership, club or other organization, whether profit or nonprofit, or any municipality or quasi-municipality or group of persons acting in concert, but does not include this State or any other agency of this State.
[1993, c. 691, §8 (amd).]

13. Political Action Committee. "Political Action Committee" includes:

Title 3, §317, Reports

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All copyrights and other rights to statutory text are reserved by the State of Maine. The text included in this publication reflects changes made through the Second Regular Session of the 122nd Legislature, and is current through December 31, 2006, but is subject to change without notice. It is a version that has not been officially certified by the Secretary of State. Refer to the Maine Revised Statutes Annotated and supplements for certified text.

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PLEASE NOTE: The Revisor's Office CANNOT perform research for or provide legal advice or interpretation of Maine law to the public. If you need legal assistance, please contact a qualified attorney.

§317. Reports

Reports required by this section must be on forms prescribed or approved by the commission. The forms must provide for a sworn statement that the persons signing the report acknowledge the truth and completeness of all the information contained therein. [1993, c. 691, §18 (rpr).]

1. Monthly session reports. During the period in which the Legislature is in session, every registered lobbyist shall file with the commission, no later than 15 calendar days subsequent to the conclusion of the preceding month, a report concerning the lobbyist's activities for the previous month regarding each employer.

Every lobbyist shall report that lobbyist's lobbying activities for each month that the Legislature is in session, even if no lobbying has been performed or compensation or reimbursement for expenses received for the month. In the case of a lobbyist representing multiple employers, if no lobbying or services in support of lobbying were performed, one report listing each employer on whose behalf no lobbying was conducted may be submitted. The monthly report must contain the following information:

A. The month to which the report pertains; [1979, c. 632, §2 (rpr).]

B. The name and address of the lobbyist and employer; [1979, c. 632, §2 (rpr).]

C. The names of the individuals who lobbied during the month; [1979, c. 632, §2 (rpr).]

D. The specific dollar amount of compensation received for the preparation of documents and research for the primary purpose of influencing legislative action and for lobbying;

In the case of a regular employee, the specific dollar amount must be computed by multiplying the number of hours devoted to the preparation of documents and research for the primary purpose of influencing legislative action and to lobbying by the employee's regular rate of pay based on a 40-hour week; [1993, c. 446, Pt. A, §14 (amd); §20 (aff).]

E. The specific dollar amount of expenditures made during the month that is the subject of the report with regard to the preparation of documents and research for the primary purpose of influencing legislative action and to lobbying for which the lobbyist has been or expects to be reimbursed; [1993, c. 446, Pt. A, §14 (amd); §20 (aff).]

F. The total amount of money expended directly to or on behalf of one or more officials of the legislative branch, including members of the official's immediate family, and the amount, if any, for which the lobbyist has been or expects to be reimbursed; [1993, c. 446, Pt. A, §14 (amd); §20 (aff).]

G. The name of an official in the legislative branch or a member of that official's immediate family on whose behalf an expenditure or expenditures totaling $25 or more were made in any one calendar month and the date, amount and purpose of the expenditure or expenditures. [1993, c. 691, §19 (rpr).]

G-1. The date, a description of the event, a list of all officials of the legislative branch or administrative agency or members of an official's immediate family and the total amount of expenditures for the event, if the total amount of the expenditures for officials and family members total $250 or more; [1993, c. 446, Pt. A, §14 (new); §20 (aff).]

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

COPY

To: Newell Augur, Lobbyist for:
Bangor Hydro Electric Company
Maine Beverage Association

From: Martha Demeritt, Lobbyist Registrar

Date: January 18, 2007

Each registered lobbyist is required to file monthly reports with the Commission on Governmental Ethics and Election Practices no later than 15 calendar days following the month that is the subject of the report. Reports are due **by 5:00 p.m.** Any person who fails to file a timely report may be assessed a penalty of $100 for every month the report is late. You filed your December Lobbyist Monthly Disclosure reports for the above captioned clients on 1/16/07. The accrued penalty is $200.

If you agree with this preliminary penalty determination, you may use the attached billing statement to pay that amount within 30 days of the date of this notice. Please mail your remittance to the Commission on Governmental Ethics and Election Practices, 135 State House Station, Augusta, Maine 04333.

However, if you have a valid reason for filing late, you may request the Commission to make a final penalty determination. Address your request for penalty mitigation or waiver to the Commission Director, Jonathan Wayne. The Commission will notify you of the disposition of your case within 10 days after its determination.

Any person who fails to file a report or pay a fee may be suspended from further lobbying by written notice of the Commission until such failure is corrected.

Please direct any questions you may have about this matter to the Commission at (207) 287-6221.

Cut Along Dotted Line

To: Commission on Governmental Ethics
and Election Practices
135 State House Station
Augusta, Maine 04333

From: Newell Augur, Lobbyist for:
Bangor Hydro Electric Company
Maine Beverage Association

Re: Penalty for late filing of the December Lobbyist Disclosure Reports

Amount Enclosed: $_____

Check/M.O. No.: #_____

Please make Check or Money Order Payable to Treasurer, State of Maine

STATE USE ONLY
Ck # 303752
Amt $ 200

STATE OF MAINE

COMMISSION ON GOVERNMENTAL ETHICS & ELECTION PRACTICES
Mail: 135 State House Station, Augusta, Maine 04333
Office: 242 State Street, Augusta, Maine
Phone: (207) 287-6221 Fax: (207) 287-6775
Website: www.maine.gov/ethics
Electronic Filing: http://mainecampaignfinance.com/public/home.asp

RECEIVED
DEC 15 2006
COMMISSION ON GOVERNMENTAL ETHICS & ELECTION PRACTICES-AUGUSTA, ME

2006-2007 LOBBYIST/EMPLOYER JOINT REGISTRATION

The lobbyist/employer joint registration form and registration fee are due in the Commission office no later than 15 business days after the point at which the lobbyist has lobbied more than 8 hours in a calendar month. The registration fee is $200 for lobbyists and $100 for lobbyist associates. Please make checks payable to Treasurer, State of Maine. A penalty of $200 may be assessed for every month the registration if filed late (3 M.R.S.A. § 319).

1.

Lobbyist Name	
Newell A. Augur	
Business Address	**Telephone**
77 Water Street	(207) 622-2990
City, State, Zip Code	**E-mail**
Hallowell, ME 04347	naugur@mainelobby.com
Alternate E-mail Address to Receive Monthly Filing Reminders	**Fax**
-	

2.

Employer Name	Principal Contact Name	
Bangor Hydro Electric Company	Kathleen Billings	
Business Address	**E-mail**	
P.O. Box 932	kbillings@bhe.com	
City, State, Zip Code	**Telephone**	**Fax**
Bangor, ME 04402-0932	(207) 941-6636	(207) 990-6963

3. Please list the names of lobbyist associates.

4A. Indicate the date when lobbying commenced, or is expected to commence.

4B. Indicate the date when lobbying first exceeded 8 hours in any calendar month.

January 2007	

5. Specify the amount of compensation that the lobbyist will receive for the lobbyist's services or, if an exact amount is unascertainable, the basis upon which the lobbyist will charge for those services.

Portion of retainer

6. Indicate the primary nature of the business of the person employing the lobbyist by checking ONE category below.

[ ] Accounting
[ ] Agriculture
[ ] Alcoholic Beverages
[ ] Banking/Finance
[ ] Biotechnology
[ ] Business
[ ] Commerce
[ ] Construction
[ ] Education
[ ] Energy
[ ] Environment
[ ] Firearms
[ ] Food processing/sales
[ ] Food Service
[ ] Forest Products
[ ] Government
[ ] Health Care
[ ] Human Services
[ ] Industry/Manufacturing
[ ] Information Technology
[ ] Insurance
[ ] Labor Union
[ ] Legal
[ ] Media
[ ] Mental Health
[ ] Motor Vehicle
[ ] Natural Resources
[ ] Public Interest
[ ] Real Estate
[ ] Recreation/Entertainment
[ ] Religious
[ ] Retail Sales
[ ] Telecommunications
[ ] Tobacco
[ ] Tourism
[ ] Transportation
[X] Utilities
[ ] Wagering/gaming
[ ] Waste Management
[ ] Women's/ Reproductive Issues
[ ] Workers' Compensation

[ ] Other_____

We, the undersigned, hereby swear or affirm that the information contained in this registration is true and complete, and that no information is knowingly withheld.

Signature of Lobbyist Newell A. Augur — Date 12/11/06

Signature of Employer Kathleen Billings — Date 5 Dec 06

Sworn falsification is a Class D crime (17-A MRSA Section 453).

STATE USE ONLY
Ck # 1066
Amt $ 200

STATE OF MAINE

COMMISSION ON GOVERNMENTAL ETHICS & ELECTION PRACTICES
Mail: 135 State House Station, Augusta, Maine 04333
Office: 242 State Street, Augusta, Maine
Phone: (207) 287-6221 Fax: (207) 287-6775
Website: www.maine.gov/ethics
Electronic Filing: http://mainecampaignfinance.com/public/home.asp

RECEIVED
DEC 6 2006
COMMISSION ON GOVERNMENTAL ETHICS & ELECTION PRACTICES AUGUSTA, ME

2006-2007 LOBBYIST/EMPLOYER JOINT REGISTRATION

The lobbyist/employer joint registration form and registration fee are due in the Commission office no later than 15 business days after the point at which the lobbyist has lobbied more than 8 hours in a calendar month. The registration fee is $200 for lobbyists and $100 for lobbyist associates. Please make checks payable to Treasurer, State of Maine. A penalty of $200 may be assessed for every month the registration if filed late (3 M.R.S.A. § 319).

1.

Lobbyist Name	
Newell A. Augur	
Business Address 77 Water Street	**Telephone** (207) 622-2990
City, State, Zip Code Hallowell, ME 04347	**E-mail** naugur@mainelobby.com
Alternate E-mail Address to Receive Monthly Filing Reminders	**Fax**

2.

Employer Name	Principal Contact Name	
Maine Beverage Association	Oakley Jones	
Business Address 316 Western Avenue	**E-mail** ojones@ccnne.com	
City, State, Zip Code South Portland, ME 04101	**Telephone** (207) 773-5505	**Fax** (207)773-2462

3. **Please list the names of lobbyist associates.**

4A. **Indicate the date when lobbying commenced, or is expected to commence.**

4B. **Indicate the date when lobbying first exceeded 8 hours in any calendar month.**

January 2007	

5. **Specify the amount of compensation that the lobbyist will receive for the lobbyist's services or, if an exact amount is unascertainable, the basis upon which the lobbyist will charge for those services.**

Portion of retainer

6. Indicate the primary nature of the business of the person employing the lobbyist by checking ONE category below.

[ ] Accounting
[ ] Agriculture
[ ] Alcoholic Beverages
[ ] Banking/Finance
[ ] Biotechnology
[X] Business
[ ] Commerce
[ ] Construction
[ ] Education
[ ] Energy
[ ] Environment
[ ] Firearms
[ ] Food processing/sales
[ ] Food Service
[ ] Forest Products
[ ] Government
[ ] Health Care
[ ] Human Services
[ ] Industry/Manufacturing
[ ] Information Technology
[ ] Insurance
[ ] Labor Union
[ ] Legal
[ ] Media
[ ] Mental Health
[ ] Motor Vehicle
[ ] Natural Resources
[ ] Public Interest
[ ] Real Estate
[ ] Recreation/Entertainment
[ ] Religious
[ ] Retail Sales
[ ] Telecommunications
[ ] Tobacco
[ ] Tourism
[ ] Transportation
[ ] Utilities
[ ] Wagering/gaming
[ ] Waste Management
[ ] Women's/ Reproductive Issues
[ ] Workers' Compensation

[ ] Other_____

We, the undersigned, hereby swear or affirm that the information contained in this registration is true and complete, and that no information is knowingly withheld.

Signature of Lobbyist Newell A. Augur — Date 11/28/06

Signature of Employer Oakley Jones — Date 12/1/06

Sworn falsification is a Class D crime (17-A MRSA Section 453).

Demeritt, Martha

Subject: 07 Lobbyist Registration & E-filing Info

Attachments: 2006 ELECTRONIC INSTRUCTIONS for Lobbyists.doc

I have processed your 2007 lobbyist registration forms. Your user code, password and instructions for filing are included within this e-mail. If you have multiple employers, you can access all of your reports with the one assigned user code and password listed below. If you register additional employers, they will also be linked to this user code.

USER CODE:
PASSWORD:
Login Page: **https://secure.mainecampaignfinance.com/MaineLogin.asp**

2006 ELECTRONIC INSTRUCTIONS f...

Monthly lobbyist reports are due on the 15th of the month following the month that is the subject of the report. If the 15th falls on a weekend or holiday the report is due on the next business day. Your first report will be due on January 16th by 5:00 p.m. If you perform no work, or receive no compensation file the *Short Form*. When you lobby or receive compensation during the month, file the *Long Form*. I will e-mail you filing reminders a couple of weeks before the deadline, however, it is your responsibility to remember the due dates for the reports. All reports must be filed electronically by 5:00 p.m; failure to do so results in a $100 fine per late report.

If you have any questions regarding how to file reports, please do not hesitate to call or e-mail me.

Best wishes for the 123rd session,
Martha

Martha Demeritt
Lobbyist, PAC & Party Registrar
Maine Ethics Commission
135 S.H.S.
Augusta, ME 04333
(207) 287-6221
www.maine.gov/ethics

Demeritt, Martha

Subject: FW: December Lobbyist Report Due 1/16/07 by 5:00 p.m.

Importance: High

andrew_friedell@medco.com; Brian Grip (brian.p.grip@bankofamerica.com); Brian Mahany (bmahany@doylenelson.com); carmenrobillard@mainetomorrow.com; Carolyn Manson (carolyn@mainetourism.com); Celeste Viger (cviger@sweetser.org); cfabbricatore@nea.org; Charles Micoleau (cjm@curthax.com); Chris Hall (cjhall@mainechamber.org); Chris Pinkham (keneborusk@mecb.com); Chris Pinkham (pinkhamc@mecb.com); Craig Nelson (cnelson@doylenelson.com); Dale Hannington (daleh@mmta.com); Dan Bernier (djb@lawweeks.com); Daniel Allegretti (daniel.allegretti@constellation.com); Daniel.B.Breton@verizon.com; David Brenerman (jawyman@unumprovident.com); dbrenerman@unumprovident.com; dcarr@perkinsthompson.com; Don Meagher (don.meagher@casella.com); Edward Miller; Gary Wood (txb@portlandmaine.gov); gary@portlandmaine.gov; Geoff Gallo (geoff.gallo@amylin.com); Geoff Herman (gherman@memun.org); Geoff Herman (lveilleux@memun.org); Gerard Levesque (gerard.levesque@astrazeneca.com); jed@stonesthrowconsulting.com; Jennifer Anderson (Jennifer@environmentmaine.org); Jennifer Anderson (jpuser@hotmail.com); Jennifer Burns (jburns@maineaudubon.org); Jeremy Payne (jeremy@mainerealtors.com); 'jfrecker@doylenelson.com'; jharrison@perkinsthompson.com; jmelrose@mainetomorrow.com; Joe Cleary (joseph.cleary.b@bayer.com); Joe Ditre (jditre@mainecahc.org); Joe Ditri (Asst Valarie) (vclark@mainecahc.org); John Shoos (jesch@unitedwaygp.org); John Williams (jwilliams@pulpandpaper.org); Jon Doyle (2) (jdoyle@doylenelson.com); Joseph Pietroski (joep@mainebankers.com); Joseph Pietroski (tbentley@mainebankers.com); judyplummer@comcast.net; K. John Shoos (jshoos@unitedwaygp.org); Kathleen Brogan (kbrogan@fpam.org); Kathryn Simmons (kate.simmons@adelphia.net); Katie Fullam Harris (katie.harris@anthem.com); Katrina Iserman (isermank@wyeth.com); kcasey@maineforest.org; Leo Delicata (ldelicata@mainelse.org); Leo Delicata (pdugal@mainelse.org); Linda Gifford (lgifford@cmetitle.com); Marc Mutty (mmutty@portlanddiocese.net); Mary Mayhew (Candace) (cgoggin@themha.org); Mary Mayhew (mmayhew@themha.org); mcgaughj@citigroup.com; Megan Hannan (megan.hannan@cancer.org); Mike Heath (email@cclmaine.org); Mike Heath (mike@cclmaine.org); Newell Auger (naugur@mainelobby.com); Pat Aho (agodin@pierceatwood.com); Patricia W. Aho; Patrick Strauch; qhentzel@mainecul.org; Richard Durost (ddurost@mpa.cc); Rob Meyers (snowjob@mesnow.com); Robert Tardy; Scott Stetson; Scott Stetson; Seth Johnson (commpubmainc@yahoo.com); Seth Johnson (sethcjohnson@hoffjohn.com); Steve Crouse (scrouse@nea.org); Steve Janson (e-filer) (tgraham@nmgovlaw.com); Steve Leavitt (mainenurse@verizon.net); Steve Leavitt (mpelletier@calnurses.org); steve.janson@pfizer.com; Susan Tully Abdo (tullyabdosc@aetna.com); Suzanne Goucher (suzanne@mab.org); Tim Vernon (tim.vernon@mmgins.com); Tom Bessette (tom.bessette@constellation.com); Tom Howard (rita.stoddard@domtar.com); Tom Howard (thomas.howard@domtar.com); Ward, Mark

From: Demeritt, Martha
Sent: Tuesday, January 02, 2007 1:08 PM
Subject: December Lobbyist Report Due 1/16/07 by 5:00 p.m.
Importance: High

Lobbyist,

As a registered lobbyist for the 2006-2007 year, you are required to electronically file a report for the month of December with the Commission no later than Tuesday, January 16, 2007 by 5:00 p.m. You can file either the Short Form or Long Form. If you received no compensation for lobbying and performed no lobbying, please file the Short Form. If you lobbied or received compensation for lobbying, please file the Long Form.

If you have any questions about the electronic filing system, or how to interpret the laws regulating lobbying in Maine please contact me.

Happy New Year!

Martha

Demeritt, Martha

Importance: High

From: Demeritt, Martha
Sent: Tuesday, January 16, 2007 9:45 AM
To: Patricia W. Aho; Pat Aho (agodin@pierceatwood.com); Jennifer Anderson (Jennifer@environmentmaine.org); Jennifer Anderson (jpuser@hotmail.com); Newell Auger (naugur@mainelobby.com); Steve Crouse (scrouse@nea.org); cfabbricatore@nea.org; Richard Grotton (becky@mainerestaurant.com); Richard Grotton (dick@mainerestaurant.com); qhentzel@mainecul.org; Geoff Herman (gherman@memun.org); Geoff Herman (lveilleux@memun.org); Don Meagher (don.meagher@casella.com); Rob Meyers (snowjob@mesnow.com); James Mitchell (jfmco@gwi.net); jed@stonesthrowconsulting.com; Kathryn Simmons (kate.simmons@adelphia.net); Zack Matthews (zmatthews@afscmecouncil93.org); Ron Lanton (rlanton@hdsmith.com); ronlanton3@yahoo.com
Subject: Lobbyist Report Due by 5:00 p.m. TODAY
Importance: High

Lobbyists,

You are receiving this message because my records indicate that you have not filed your lobbyist reports for the month of December, due today by 5:00 p.m. Please file your report electronically before that time to avoid the automatic $100 penalty.

If you believe I am in error, please let me know.

Thank you.

Martha Demeritt
Lobbyist, PAC & Party Registrar
Maine Ethics Commission
135 S.H.S.
Augusta, ME 04333
(207) 287-6221
www.maine.gov/ethics

STATE OF MAINE
COMMISSION ON GOVERNMENTAL ETHICS & ELECTION PRACTICES
Mail: 135 State House Station, Augusta, Maine 04333
Office: 242 State Street, Augusta, Maine
Phone: (207) 287-6221 Fax: (207) 287-6775
Website: http://www.maine.gov/ethics
Electronic Filing: http://mainecampaignfinance.com/public/home.asp

LOBBYIST DISCLOSURE MONTHLY REPORT – LONG FORM

Lobbyist disclosure monthly reports are due by 5 p.m. on the 15th day of the month following the month which is the subject of the report. If the 15th day falls on a weekend or a holiday, the report is due the following business day. A penalty of $100 may be assessed for every month the report is filed late. (Additional sheets may be attached as needed.)

1. This report covers lobbying activity conducted during the month of DECEMBER , 2006 (year)

2.

Lobbyist name	
AUGUR, NEWELL A.	
Business address 77 WATER ST.	Telephone (207)622-2990
	E-mail naugur@mainelobby.com
City, state, zip code HALLOWELL ME 04347	Fax (207)000-0000

3.

Employer name	Principal lobbyist contact name
BANGOR HYDRO ELECTRIC COMPANY	KATHLEEN BILLINGS
Business address P.O. BOX 932	Telephone (207)941-6636
	E-mail kbillings@bhe.com
City, state, zip code BANGOR ME 04402	Fax (207)990-6963

4. Enter the names of lobbyist associates who acted for the lobbyist in representing the employer during the month which is the subject of this report.

5. Specify the dollar amount of compensation received for lobbying, the preparation of documents, and research for the primary purpose of influencing legislative action during the month which is the subject of this report. In the case of a regular employee, the specific dollar amount must be computed by multiplying the number of hours devoted to lobbying and the preparation of documents and research for the primary purpose of influencing legislative action by the employee's regular rate of pay based on a 40-hour week. DO NOT INCLUDE AMOUNTS LISTED IN ITEMS #6, #7A, #7B, 8 AND #9.

4,000.00

6. Specify the dollar amount of expenditures made during the month which is the subject of this report with regard to the preparation of documents and research for the primary purpose of influencing legislative action and to lobbying for which the lobbyist has been or expects to be reimbursed.

0.00

7A. Specify the total amount of money expended directly to or on behalf of one or more officials of the legislative branch, including members of the official's immediate family. $ 0.00

7B. If a dollar amount was entered in section 7A, specify the amount for which the lobbyist has been or expects to be reimbursed.

$ 0.00

8. Enter the name of any official in the legislative branch or member of that official's immediate family on whose behalf an expenditure of expenditures totaling $25 or more were made during the month covered by this report and the date, amount and purpose of the expenditure or expenditures.

Name	Date	Amount	Purpose

9. Enter the date and a description of the event, and list all officials of the legislative branch or administrative agency or members of an official's immediate family and the total amount of expenditures for the event, if the total amount of the expenditures for officials and family members total $250 or more.

Date	Description	Official/Family member	Amount

10. List each legislative action by Legislative Document number or, if unknown, by Senate Paper or House Paper number or, if unknown, by topic or nomination in connection with which the lobbyist is engaged in lobbying.

11. Specifically identify each legislative action, Legislative Document, Senate Paper, House Paper or nomination for which the lobbyist was compensated or expects to be compensated, or expended in excess of $1,000 for lobbying activities related to those actions, and state the amounts compensated or expended for each.

12. If the lobbyist is required to make a specific list of items in the preceding section of this form, list all original sources of any money received from that employer. "ORIGINAL SOURCE" means any person who contributes $500 or more in any year directly or indirectly to any employer of a lobbyist, except that contributions of membership dues to nonprofit corporations formed under Title 13-B, any equivalent state law, or by legislative enactment are not considered contributions by an original source. If the employer or person who contributes to an employer is a corporation formed under Titles 13 or 13-A, nonprofit corporation formed under Title 13-B, or limited partnership under Title 31, list the corporation, nonprofit organization or limited partnership, not the individual members or contributors as the original source.

I, the undersigned, hereby swear or affirm that the information contained in this report is true and complete, and that no information is knowingly withheld.

SIGNATURE ON FILE
Signature of lobbyist or designee

1/17/2007
Date

Sworn falsification is a Class D crime(17-A M.R.S.A. Section 453).

THE COMMISSION MAY REJECT REPORTS THAT ARE INCOMPLETE.

NOTE: Violations of 17-A M.R.S.A. Chapter 25, are criminal offenses. Those provisions should be carefully reviewed before making expenditures on behalf of officials in the legislative branch.

STATE OF MAINE
COMMISSION ON GOVERNMENTAL ETHICS & ELECTION PRACTICES
Mail: 135 State House Station, Augusta, Maine 04333
Office: 242 State Street, Augusta, Maine
Phone: (207) 287-6221 Fax: (207) 287-6775
Website: http://www.maine.gov/ethics
Electronic Filing: http://mainecampaignfinance.com/public/home.asp

LOBBYIST DISCLOSURE MONTHLY REPORT – LONG FORM

Lobbyist disclosure monthly reports are due by 5 p.m. on the 15th day of the month following the month which is the subject of the report. If the 15th day falls on a weekend or a holiday, the report is due the following business day. A penalty of $100 may be assessed for every month the report is filed late. (Additional sheets may be attached as needed.)

1. This report covers lobbying activity conducted during the month of DECEMBER , 2006 (year)

2.

Lobbyist name	
AUGUR, NEWELL A.	
Business address 77 WATER ST.	Telephone (207)622-2990
	E-mail naugur@mainelobby.com
City, state, zip code HALLOWELL ME 04347	Fax (207) 000-0000

3.

Employer name	Principal lobbyist contact name
MAINE BEVERAGE ASSOCIATION	OAKLEY JONES
Business address 316 WESTERN AVE.	Telephone (207)773-5505
	E-mail ojones@ccnne.com
City, state, zip code SOUTH PORTLAND ME 04106	Fax (207)773-2462

4. Enter the names of lobbyist associates who acted for the lobbyist in representing the employer during the month which is the subject of this report.

5. Specify the dollar amount of compensation received for lobbying, the preparation of documents, and research for the primary purpose of influencing legislative action during the month which is the subject of this report. In the case of a regular employee, the specific dollar amount must be computed by multiplying the number of hours devoted to lobbying and the preparation of documents and research for the primary purpose of influencing legislative action by the employee's regular rate of pay based on a 40-hour week. DO NOT INCLUDE AMOUNTS LISTED IN ITEMS #6, #7A, #7B, 8 AND #9.

3,000.00

6. Specify the dollar amount of expenditures made during the month which is the subject of this report with regard to the preparation of documents and research for the primary purpose of influencing legislative action and to lobbying for which the lobbyist has been or expects to be reimbursed.

0.00

7A. Specify the total amount of money expended directly to or on behalf of one or more officials of the legislative branch, including members of the official's immediate family. $ 0.00

7B. If a dollar amount was entered in section 7A, specify the amount for which the lobbyist has been or expects to be reimbursed.

$ 0.00

*8. Enter the name of any official in the legislative branch or member of that official's immediate family on whose behalf an expenditure of expenditures totaling $25 or more were made during the month covered by this report and the date, amount and purpose of the expenditure or expenditures.

Name	Date	Amount	Purpose

9. Enter the date and a description of the event, and list all officials of the legislative branch or administrative agency or members of an official's immediate family and the total amount of expenditures for the event, if the total amount of the expenditures for officials and family members total $250 or more.

Date	Description	Official/family member	Amount

10. List each legislative action by Legislative Document number or, if unknown, by Senate Paper or House Paper number or, if unknown, by topic or nomination in connection with which the lobbyist is engaged in lobbying.

11. Specifically identify each legislative action, Legislative Document, Senate Paper, House Paper or nomination for which the lobbyist was compensated or expects to be compensated, or expended in excess of $1,000 for lobbying activities related to those actions, and state the amounts compensated or expended for each.

12. If the lobbyist is required to make a specific list of items in the preceding section of this form, list all original sources of any money received from that employer. "ORIGINAL SOURCE" means any person who contributes $500 or more in any year directly or indirectly to any employer of a lobbyist, except that contributions of membership dues to nonprofit corporations formed under Title 13-B, any equivalent state law, or by legislative enactment are not considered contributions by an original source. If the employer or person who contributes to an employer is a corporation formed under Titles 13 or 13-A, nonprofit corporation formed under Title 13-B, or limited partnership under Title 31, list the corporation, nonprofit organization or limited partnership, not the individual members or contributors as the original source.

I, the undersigned, hereby swear or affirm that the information contained in this report is true and complete, and that no information is knowingly withheld.

SIGNATURE ON FILE — 1/17/2007

Signature of lobbyist or designee — Date

Sworn falsification is a Class D crime(17-A M.R.S.A. Section 453).

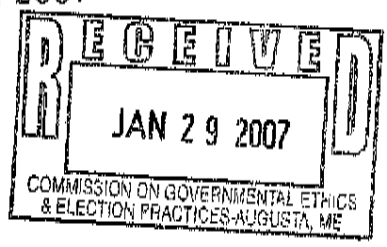
THE COMMISSION MAY REJECT REPORTS THAT ARE INCOMPLETE.

NOTE: Violations of 17-A M.R.S.A. Chapter 25, are criminal offenses. Those provisions should be carefully reviewed before making expenditures on behalf of officials in the legislative branch.

Agenda Item #8

Evergreen Mountain Enterprises, LLC
P.O. Box 100
Rumford , Maine 04276
(207) 357-7384
EvergreenMountain@gmail.com

January 26, 2007



Martha Demeritt
State of Maine
Commission of Governmental Ethics
135 State House Station
Augusta, ME 04333

RE: Finance Report Final Penalty Determination Request

Dear Martha,

I am in receipt of your notice. As I informed you, our treasurer Joy Bordeau has been sick starting a couple days before the Report was due up to the present time. This has been a shock to me. From the moment Joy started volunteering to help on our project she has had an unbelievable work ethic. She literally worked 14 hour days every day, calling volunteers, some who we have paid, to collect signatures for our citizen's initiative. She was very reliable and I could just ask her to do something and would consider it done. This is why when Joy told me the day before that she had to turn in a PAC report the next day I didn't question it. She said that on the due day she just had a doctor's appointment in the morning and would have it done after that. She added that there wasn't really much activity for the period so it should take her at most an hour. I spoke to her on her cell phone when she was getting the blood-work done that day. She said that things were taking a bit longer than anticipated but it would be no problem.

I called back to check on her during the afternoon and got no answer, which is extremely rare- she is always right by her phone. I proceeded to call and email her several times throughout the afternoon and that night. I hoped for the best, as I know Joy would never let me down. I figured she filed it because she has never told me something and not done it. The next day I got an email stating that the report had not been filed. I intensified looking for Joy, I couldn't reach her either though. I became worried and called the hospitals and finally went over to her house. The hospitals said she wasn't there. Thus I could not get the financial records and receipts to do the report myself. I emailed you Martha to inform you of the situation as I knew it.

The next morning I got another notice from you that the report was still not filed. I again went to Joy's house. This time she was home. She explained that she had been in the hospital but now was out. She had been up for three straight days with a sleeping medical condition, along with some personal problems with her ex-husband, and her daughter was sick. We finally got together and finished the report, which took only 20 minutes after she successfully logged in.

Hopefully you agree that these are mitigating circumstances and agree to waive this penalty of $18.24. Thank you for your consideration.

Sincerely,

Seth Carey

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

January 23, 2007

Seth Carey, Treasurer
MaineCasinoNow.com
P.O. Box 100
Rumford, ME 04276

Dear Mr. Carey:

You filed the January Quarterly campaign finance report on 1/18/07 that was due on 1/16/07. A penalty must be assessed for late reports based on the amount of financial activity conducted during the filing period, the number of calendar days a report is filed late, and the PAC's filing record. Based on the prescribed statutory formula, the preliminary determination of the penalty for the late filing of your report is $18.24. Please refer to the enclosed penalty matrix for more details on how the penalty is computed.

If you have a reason for filing late, you may request the Commission to make a final penalty determination. Any request for a Commission determination must be made within 10 calendar days of receipt of this notice, beginning on the day you sign for receipt. If this notice has been refused or left unclaimed at the post office, the 10-day period begins on the day the post office indicates it has given first notice of a certified letter. Upon receipt of your request for a Commission determination, we will schedule you to appear and will notify you of the date and time of the next Commission meeting. You or a person you designate may then appear personally before the Commission or you may send a written statement for the Commission's consideration. A statement must be notarized and contain a full explanation of the reason you filed late. Statements should be sent to the address shown on this letterhead. The Commission will notify you of the disposition of your case within 10 days after its determination.

Please note that the Commission may waive the penalty in whole or in part if it determines the failure to file a timely report was due to mitigating circumstances. "Mitigating circumstances' means 1) a valid emergency of the committee treasurer determined by the Commission, in the interest of the sound administration of justice, to warrant the waiver of the penalty in whole or in part; 2) an error by the Commission staff; or 3) other circumstances determined by the Commission that warrant mitigation of the penalty, based upon relevant evidence presented that a bona fide effort made to file the report in accordance with the statutory requirements, including, but not limited to, unexplained delays in postal service.

Sincerely,

Martha Demeritt
PAC Registrar

Enc.: PAC Penalty Matrix & Billing Statement

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

January 23, 2007

Seth Carey, Treasurer
MaineCasinoNow.com
P.O. Box 100
Rumford, ME 04276

The Commission staff has made a preliminary determination, based upon the application of the statutory formula that a penalty of $18.24 applies for the late filing of your January Quarterly report. If you agree with this preliminary determination, please make your check or money order in that amount payable to "**Treasurer, State of Maine**," and send it, along with the bottom half of this letter, to the **Commission on Governmental Ethics and Election Practices, 135 State House Station, Augusta, Maine 04333**, within 30 days of the date noted above. Please see the instructions included in the attached letter if you would like the Commission to make a final determination of any penalty to be assessed in this case.

Failure to pay the full amount of an assessed penalty is a civil violation. The Commission is required to report to the Attorney General the name of any person who fails to pay the full amount of any penalty.

Please direct any questions you may have about this matter to the Commission at 287-4179.

Cut Along Dotted Line

To: Commission on Governmental Ethics and Election Practices
135 State House Station
Augusta, Maine 04333

From: Seth Carey, Treasurer
MaineCasinoNow.com

RE: Penalty for late filing of January Quarterly Report ($18.24)

For Office Use Only
Account: CGEEP
Fund: 010
Appr: 01

Amount Enclosed: $ _____

Check/M.O. No.: # _____

PLEASE MAKE CHECK PAYABLE TO TREASURER, STATE OF MAINE.

January Quarterly

COMMISSION ON GOVERNMENTAL ETHICS AND ELECTION PRACTICES

PENALTY MATRIX FOR LATE POLITICAL ACTION COMMITTEE REPORT FILINGS

BASIS FOR PENALTIES
21-A M.R.S.A. Section 1062-A

The penalty for filing a required report late is a percentage of the total contributions or expenditures for the filing period, whichever is greater, multiplied by the number of calendar days the report is filed late, as follows:

For the first violation, 1%
For the second violation, 3%
For the third and each subsequent violation, 5%

Example: The treasurer files the PACs report two (2) calendar days late. The PAC has not had any previous late filings in the past 2 years. The PAC reports a total of $2,500 in contributions and $1,500 in expenditures for the filing period. The penalty is calculated as follows:

$2,500	Greater of the amount of total contributions received or expenditures made during the filing period.
X .01	Percent prescribed for first violation
$25.00	One percent of total contributions
x 2	Number of calendar days late
$50.00	Total penalty Commission may assess

Your penalty is calculated as follows:

Contributions/Expenditures	$ 912.62
Percent prescribed:	X 1%
	$ 9.12
Number of days late:	X 2
Total penalty accrued:	$ 15.24

A penalty begins to accrue at 5:00 p.m. on the day the report is due.

Any penalty of less than $5 is waived.

Violations accumulate on reports with filing deadlines in a 2-year period that begins on January 1st of each even-numbered year. Waiver of a penalty does not nullify the finding of a violation.

Title 21-A M.R.S.A. Section 1004-A(1) states the Commission may assess a penalty of no more than $100 when a person files a late campaign finance report containing no contributions or expenditures.

MAXIMUM PENALTIES
21-A M.R.S.A. Section 1062-A (4)

$10,000 for 6-day pre-election reports, 42-day post-election reports, and 24-Hour reports;
$5,000 for quarterly reports.

Revised 1/06

MAINE

Welcome to the Campaign Finance Electronic Filing System Site

Menu | Home | Help | Logout | Change Password | Admin Page

1/22/2007

Home Page for MaineCasinoNow.com

CAMPAIGN YEAR 2006 Refresh

REPORT TYPE	REPORTING PERIOD			DUE DATE	DATE FILED	STATUS	LAST MODIFIED	
PAC Registration	1/1/2006	to	12/31/2006		10/16/2006 3:10:50 PM	Filed	12/21/2006 12:15:45 PM	Print
April Quarterly	1/6/2006	to	3/31/2006	4/10/2006				
6-Day Pre-Primary	4/1/2006	to	6/1/2006	6/7/2006		In-Progress		Print
42-Day Post-Primary	6/2/2006	to	7/18/2006	7/25/2006		In-Progress		Print
October Quarterly	7/19/2006	to	9/30/2006	10/10/2006				
6-Day Pre-General	10/1/2006	to	10/26/2006	11/1/2006	11/1/2006 4:40:57 PM	Filed	12/20/2006 11:01:49 AM	Print
42-Day Post-General	10/27/2006	to	12/12/2006	12/19/2006	12/19/2006 3:22:29 PM	Filed	12/19/2006 3:22:29 PM	Print
January Quarterly	12/13/2006	to	1/5/2007	1/16/2007	1/18/2007 4:31:47 PM	Filed	1/18/2007 4:31:47 PM	Print
PAC Termination	1/1/2006	to	12/31/2006					

Candidate PACS - 24-Hr Report of Late Contributions and Expenditures	N/A	MULTIPLE
Ballot PACS - 24-Hr Report of Late Contributions and Expenditures	N/A	MULTIPLE

Please click on the following buttons to Download schedule informations in excel format.

Download Contribution A | Download Expenditure B | Download Expenditure B1 | Download In-kind

Demeritt, Martha

From: Demeritt, Martha
Sent: Thursday, January 18, 2007 11:23 AM
To: 'Seth Carey'
Subject: RE: LATE REPORT: PAC January Quarterly
Attachments: af9c8e11.pdf

When your PAC registered with us, you listed yourself as the PAC treasurer, which is why all correspondence from this office is addressed to you, the PAC treasurer. Please see the first page of the registration form which is attached. If you'd like to change this, please send something in writing to the Commission.

Thank you,
Martha

From: Seth Carey [mailto:evergreenmountain@gmail.com]
Sent: Thursday, January 18, 2007 11:05 AM
To: Demeritt, Martha
Subject: Re: LATE REPORT: PAC January Quarterly

Martha,

Joy is the treasurer, not me.

Seth

On 1/18/07, **Demeritt, Martha** <Martha.Demeritt@maine.gov> wrote:

> While I understand you have your assistant file the reports, as the treasurer of the PAC it is your responsibility to file the report. I'd encourage you to make contact with Joy and file the report as soon as possible. As of this morning it has not been filed.

> **From:** Seth Carey [mailto:evergreenmountain@gmail.com]
> **Sent:** Thursday, January 18, 2007 12:22 AM
> **To:** Demeritt, Martha
> **Subject:** Re: LATE REPORT: PAC January Quarterly
>
> Dear Martha,
>
> Has Joy sent the report in yet? She promise me it would be in on time and that she had to go to the hospital for some testing. I have called her and her family many times but have not heard from anyone. I called the hospital but she is not there. She could be at another hospital, I do not know. I have a record of the few checks I wrote during this period but Joy has any receipts. She must be sick, she is very responsible. I can't get the receipts as they are at her place. They are only for gas I believe, but not positive. WHat should I do?

Thank you,

Seth Carey

On 1/16/07, **Demeritt, Martha** <Martha.Demeritt@maine.gov > wrote:

> PAC Treasurer,
>
> As of 5:00 p.m. today you did not file your PAC's January Quarterly campaign finance report.
>
> Since penalties accrue daily, I strongly encourage you to file your report as soon as possible.
>
> Thank you,
> Martha
>
> Martha Demeritt
> Lobbyist, PAC & Party Registrar
> Maine Ethics Commission
> 135 S.H.S.
> Augusta, ME 04333
> (207) 287-6221
> www.maine.gov/ethics

--
Evergreen Mountain Resort

--
Evergreen Mountain Resort

Demeritt, Martha

Subject: Treasurer

-----Original Message-----
From: Seth Carey [mailto:sethcarey@hotmail.com]
Sent: Tuesday, January 23, 2007 5:48 PM
To: Demeritt, Martha
Subject: Treasurer

Dear Martha,

As stated, please list Joy Bordeau as our treasurer for MaineCasinoNow.com

Thank you,

Seth

CONFIDENTIALITY NOTICE: This e-mail message, including any attachments, is deemed confidential in nature and is for the sole use of the intended recipient(s). It may contain information that is privileged or confidential. Any unauthorized review, use, disclosure or distribution without the express or implied consent is prohibited. If you are not the intended recipient, you must not distribute this message. If you are not the intended recipient, please delete it and contact the sender by reply e-mail. Thank you.

sethcarey@hotmail.com

PAC REPORT DUE TODAY by 5:00 p.m.

Demeritt, Martha

Subject: PAC REPORT DUE TODAY by 5:00 p.m.

From: Demeritt, Martha [mailto:Martha.Demeritt@maine.gov]
Sent: Tuesday, January 16, 2007 9:52 AM
To: Kathleen Newman; matt@actblue.com; randy.lowe@umit.maine.edu; rongreen@profirefighter.com; Lisa Kubiak; landmk01@maine.rr.com; mtla@mtla.org; andrec@adelphia.net; stavrosmendros@yahoo.com; lbenoit@bssn.com; anneshee@aol.com; mgray@nea.org; daveb@psouth.net; hannah@waterdividendtrust.com; gfoster@securespeed.net; rjbarstow@yahoo.com; jnutting@verrilldana.com; gregolsonme@yahoo.com; jamie@meoil.com; rebecca@meoil.com; n4smiths@ctel.net; jnutting@verrilldana.com; gertraude.heineken@yahoo.com; heather quinn; mmayhew@themha.org; Joe Bruno; justin@indyvoter.org; ann.woloson@verizon.net; mfpbren@aol.com; john.leavitt@adelphia.net; meaflcio@aol.com; pinkhamc@mecb.com; cindybutts@aol.com; bonnie@mainerealtors.com; tomeara@pierceatwoodconsulting.com; faith.benedetti@mainegeneral.org; info@mainecommonsense.org; dthomson@bowdoin.edu; Anya Trundy; megrc@gwi.net; jhanson@maine.edu; djackson@mainedo.org; mseaseiu@mseaseiu.org; carolpal@verizon.net; evergreenmountain@gmail.com; scsmedia@aol.com; jnutting@verrilldana.com; naswmaine@naswmaine.org; matfive@verizon.net; richardnass@metrocast.net; madkins@nrahq.org; rsmith@nrahq.org; ben2klucia@yahoo.com; jconn10471@aol.com; mrtaxcut@juno.com; pulka4u@yahoo.com; members@samcef.org; dan@d4security.com; christie@mainegop.com; mgarvey@comcast.net; mike@cusecurity.com; daveb@psouth.net; Joe Bruno; John Robinson; steve@leklaw.com
Subject: PAC REPORT DUE TODAY by 5:00 p.m.
Importance: High

PAC Treasurers,

You are receiving this message because my records indicate that you have not filed your January Quarterly campaign finance report which is due today by 5:00 p.m.

Please file your report electronically before that time to avoid any penalties.

If you believe I am in error, please let me know.

Thank you.

Martha Demeritt
Lobbyist, PAC & Party Registrar
Maine Ethics Commission
135 S.H.S.
Augusta, ME 04333
(207) 287-6221
www.maine.gov/ethics

STATE OF MAINE
COMMISSION ON GOVERNMENTAL ETHICS AND ELECTION PRACTICES

135 State House Station, Augusta, Maine 04333-0135
Tel: (207) 287-4179 Fax: (207) 287-6775 www.maine.gov/ethics
Electronic Filing: www.mainecampaignfinance.com

POLITICAL ACTION COMMITTEE CAMPAIGN FINANCE REPORT 2006

Political Action Committee Name	*Acronym*
MAINECASINONOW.COM	
Street Address (official headquaters of PAC)	
P.O. BOX 100	
City, State, Zip Code	*Telephone Number*
RUMFORD, ME, 04276	(207)357-7384
Treasurer Name	
CAREY, SETH	
Mailing Address	*City, State, Zip Code*
P.O. BOX 100	RUMFORD, ME, 04276
Telephone Number	
(207)357-7384	
E-mail Address	
evergreenmountain@gmail.com	

If any contact information has changed since the previous report, check here ( )

Type of Report:	**Due Date:**	**Reporting Period:**
JANUARY QUARTERLY	1/16/2007	12/13/2006 - 1/5/2007

( ) Other (specify) :

( ) Amendment to :

( ) No Change Report : If your committee received *no* contributions and made *no* expenditures during this period,provide the current cash balance : $ _____ , and sign below.

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

SIGNATURE ON FILE	1/18/2007
TREASURER'S SIGNATURE	DATE

☐ This is an update.

STATE OF MAINE
Commission on Governmental Ethics and Election Practices
135 State House Station
Augusta, Maine 04333
Tel: (207) 287-6221 Fax: (207) 287-6775
Website: www.maine.gov/ethics

Martha
RECEIVED
OCT 12 2006
COMMISSION ON GOVERNMENTAL ETHICS & ELECTION PRACTICES AUGUSTA, ME

REGISTRATION POLITICAL ACTION COMMITTEES

A political action committee must register with the Commission within 7 days of accepting contributions, incurring obligations or making expenditures in the aggregate in excess of $1,500 in any single calendar year to initiate, support, defeat or influence in any way a campaign, referendum, initiated petition, candidate, political committee or another political action committee (21-A M.R.S.A. §1053).

Within 10 days of a change in PAC information an amended registration form must be submitted to the Commission. The committee must file an updated registration every election year between January 1st and March 1st.

I. COMMITTEE INFORMATION

Name of committee: www.MaineCasinoNow.com Acronym: _____
Mailing address: P.O. Box 100 Telephone #: 357-7384
City, State, Zip Code: Rumford, ME 04276 Fax #: _____
Website: www.MaineCasinoNow.com / www.EvergreenMountainResort.com

II. IDENTIFICATION OF TREASURER AND PRINCIPAL OFFICERS OF COMMITTEE

A. Committee Treasurer: Seth Carey
Mailing address: POB 100 Telephone #: same
City, State, Zip Code: Rumford, ME 04276 E-Mail: EvergreenMountain@gmail.com

B. Principal Officers:

Name: Seth Carey Title: President
Mailing address: POB 100
City, State, Zip code: Rumford, ME 04276 Telephone #: same

Name: N/A Title: _____
Mailing address: _____
City, State, Zip Code: _____ Telephone #: _____

C. Identify any candidates, Legislators or other individuals who are the primary fundraisers and decision makers for the committee.

N/A.

III. MAILING ADDRESS (Filing notices and correspondence will be mailed to this address.)

Evergreen Mtn. Enterprises, LLC
POB 100
Rumford, ME 04276

Title 21-A, §1062-A, Failure to file on time

The State of Maine claims a copyright in its codified statutes. If you intend to republish this material, we do require that you include the following disclaimer in your publication:

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The Office of the Revisor of Statutes also requests that you send us one copy of any statutory publication you may produce. Our goal is not to restrict publishing activity, but to keep track of who is publishing what, to identify any needless duplication and to preserve the State's copyright rights.

PLEASE NOTE: The Revisor's Office CANNOT perform research for or provide legal advice or interpretation of Maine law to the public. If you need legal assistance, please contact a qualified attorney.

§1062-A. Failure to file on time

1. Registration. A political action committee required to register under section 1053 that fails to do so in accordance with section 1053 or that fails to provide the information required by the commission for registration may be assessed a forfeiture of $250. [1995, c. 483, §21 (new).]

2. Campaign finance reports. A campaign finance report is not timely filed unless a properly signed copy of the report, substantially conforming to the disclosure requirements of this subchapter, is received by the commission before 5 p.m. on the date it is due. Except as provided in subsection 6, the commission shall determine whether a required report satisfies the requirements for timely filing. The commission may waive a penalty if it is disproportionate to the level of experience of the person filing the report or to the harm suffered by the public from the late disclosure. The commission may waive the penalty in whole or in part if the commission determines the failure to file a timely report was due to mitigating circumstances. For purposes of this section, "mitigating circumstances" means:

A. A valid emergency of the committee treasurer determined by the commission, in the interest of the sound administration of justice, to warrant the waiver of the penalty in whole or in part; [1999, c. 729, §9 (amd).]

B. An error by the commission staff; or [1999, c. 729, §9 (amd).]

C. Other circumstances determined by the commission that warrant mitigation of the penalty, based upon relevant evidence presented that a bona fide effort was made to file the report in accordance with the statutory requirements, including, but not limited to, unexplained delays in postal service. [1999, c. 729, §9 (new).]

[2003, c. 628, Pt. A, §7 (amd).]

3. Basis for penalties. The penalty for late filing of a report required under this subchapter is a percentage of the total contributions or expenditures for the filing period, whichever is greater, multiplied by the number of calendar days late, as follows:

A. For the first violation, 1%; [1995, c. 483, §21 (new).]

B. For the 2nd violation, 3%; and [1995, c. 483, §21 (new).]

C. For the 3rd and subsequent violations, 5%. [1995, c. 483, §21 (new).]

Any penalty of less than $5 is waived.

Violations accumulate on reports with filing deadlines in a 2-year period that begins on January 1st of each even-numbered calendar year. Waiver of a penalty does not nullify the finding of a violation.

A report required to be filed under this subchapter that is sent by certified or registered United States mail and postmarked at least 2 days before the deadline is not subject to penalty.

A required report may be provisionally filed by transmission of a facsimile copy of the duly executed report to the commission, as long as an original of the same report is received by the commission within 5 calendar days thereafter. [1995, c. 483, §21 (new).]

4. Maximum penalties. The maximum penalties under this subchapter are $10,000 for reports required under section 1059, subsection 2, paragraphs B, C and E and $5,000 for reports required under section 1059, subsection 2, paragraph A.

Agenda Item #9

Hancock County Democratic Committee
PO Box 1414
Ellsworth, ME 04605

RECEIVED
FEB - 6 2007
COMMISSION ON GOVERNMENTAL ETHICS & ELECTION PRACTICES-AUGUSTA, ME

February 4, 2007

Ms. Martha Demeritt
Party Registrar
Commission on Governmental Ethics & Election Practices
135 State House Station
Augusta, ME 04333-0135

Dear Ms. Demeritt,

I would like to file a request for a final determination by the Commission on Governmental Ethics and Election Practices concerning the $176.67 penalty assessed because our January Semiannual report was filed 2 hours late.

As I explained on the telephone, I live in a very rural area (Corea) and have only Internet dial-up service with a frequently noisy and sometimes-defective telephone line. The service was very sporadic that day and I was not able to file the report until 7:18 PM. I understand that I was late and that I should have perhaps started earlier, but I feel that the penalty assessed ($176.67) was a little steep for a 2-hour delay. I would like to request that the fine be waived or else reduced to a more reasonable amount.

Please accept my appreciation for taking this request under consideration.

Sincerely,

Sally Crowley

Sally A. Crowley
Treasurer, HCDC

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

January 18, 2007

Sally Crowley, Treasurer
Hancock County Democratic Committee
P.O. Box 1414
Ellsworth, ME 04605

Dear Ms. Crowley:

Our records show that your committee's January Semiannual report, due on 1/16/07 by 5:00 p.m. was filed on 1/16/07 at 7:18:22 p.m.. State law [21-A M.R.S.A. §1020-A] requires that a penalty be assessed for late reports based on the amount of financial activity conducted during the filing period, the number of calendar days a report is filed late, and the party committee's filing record. Based on the prescribed statutory formula, the preliminary determination of the penalty for the late filing of your campaign finance report would be $176.67. Please refer to the enclosed penalty matrix for more details on how the penalty is computed. If you agree with this preliminary determination of the amount of the penalty, you may use the enclosed billing statement to pay that penalty.

If you have a reason for filing late, you may request a final determination by the Commission on Governmental Ethics and Election Practices. Any request for a Commission determination must be made within 10 calendar days of receipt of this certified U.S. mail notice, beginning on the day you sign for receipt of this notice of the proposed penalty. If this certified letter has been refused or left unclaimed at the post office, the 10-day period begins on the day the post office indicates it has given first notice of a certified letter.

Upon receipt of your request for a Commission determination, we will schedule you to appear at the next scheduled Commission meeting and notify you of the date and time of that meeting. You or a person you designate may then appear personally before the Commission; or, you may send a written statement for the Commission's consideration. If you elect to send a statement, it must be notarized and must contain a full explanation of the reason you filed late. Statements should be sent to the address shown on this letterhead. The Commission will notify you of the disposition of your case within 10 days after its determination.

The Commission may waive penalties for late reports only in cases where tardiness is due to mitigating circumstances. The law defines "mitigating circumstances" as: 1) a valid personal emergency of the committee treasurer, such as a personal illness or death in the immediate family; 2) an error by the Commission staff; 3) failure to receive notice of the filing deadline; or 4) other circumstances determined by the Commission that warrant mitigation of the penalty, based upon relevant evidence presented that a bona fide effort was made to file the report in accordance with the statutory requirements, including, but not limited to, unexplained delays in postal service.

Sincerely,

Martha Demeritt
Party Registrar

Encl: Penalty Matrix & Billing Statement

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

January 18, 2007

Sally Crowley, Treasurer
Hancock County Democratic Committee
P.O. Box 1414
Ellsworth, ME 04605

The Commission on Governmental Ethics and Election Practices has made a preliminary determination that a penalty of $176.67 applies for the late filing of your January Semiannual report. If you agree with this determination, please make your check or money order payable to **"Treasurer, State of Maine,"** and send it, along with the bottom half of this letter, to the **Commission on Governmental Ethics and Election Practices, 135 State House Station, Augusta, Maine 04333** within 30 days of the date noted above. Please see the instructions included in the attached letter if you would like to request a formal Commission determination of any penalty to be assessed in this case.

FAILURE TO PAY THE FULL AMOUNT OF THIS PENALTY IS A CIVIL VIOLATION. Pursuant to 21-A M.R.S.A. § 1020-A(10), the Commission is required to report to the Attorney General the name of any political committee that fails to pay the full amount of any penalty.

Please direct any questions you may have about this matter to the Commission at 287-6221.

Cut Along Dotted Line

To: Commission on Governmental Ethics and Election Practices
135 State House Station
Augusta, Maine 04333

For Office Use Only
Account: CGEEP
Fund: 014
Appr: 02

From: Sally Crowley, Treasurer
Hancock County Democratic Committee

Re: Penalty for late filing of a January Semiannual campaign finance report ($176.67)

Amount Enclosed: $ _____

Check/M.O. No.: # _____

Please Make Check/M.O. Payable to Treasurer, State of Maine

MAINE

Welcome to the Campaign Finance Electronic Filing System Site

Menu | Home | Help | Logout | Change Password | Admin Page

1/17/2007

Home Page for Hancock County Democratic Committee

CAMPAIGN YEAR 2006 Refresh

REPORT TYPE	REPORTING PERIOD			DUE DATE	DATE FILED	STATUS	LAST MODIFIED	
LOCAL -- July Semiannual	1/1/2006	to	6/30/2006	7/17/2006	7/14/2006	Filed	7/14/2006	Print
LOCAL -- Pre-Election	7/1/2006	to	10/22/2006	10/27/2006	10/27/2006 11:10:24 AM	Filed	10/27/2006 11:10:24 AM	Print
LOCAL -- January Semiannual	10/23/2006	to	12/31/2006	1/16/2007	1/16/2007 7:18:22 PM	Filed	1/16/2007 7:18:22 PM	Print
State -- April Quarterly	1/6/2006	to	3/31/2006	4/10/2006				
State -- 6-Day Pre-Primary	4/1/2006	to	6/1/2006	6/7/2006				
State -- 42-Day Post-Primary	6/2/2006	to	7/18/2006	7/25/2006				
State -- October Quarterly	7/19/2006	to	9/30/2006	10/10/2006				
State -- 6-Day Pre-General	10/1/2006	to	10/26/2006	11/1/2006				
State -- 42-Day Post-General	10/27/2006	to	12/12/2006	12/19/2006				
State -- January Quarterly	12/13/2006	to	1/5/2007	1/16/2007				

24-Hr Reports of Late Contributions or Expenditures	N/A	MULTIPLE

Please click on the following buttons to Download schedule informations in excel format.

Download Contribution A | Download Expenditure B | Download Expenditure B1 | Download In-kind

January Semiannual

COMMISSION ON GOVERNMENTAL ETHICS AND ELECTION PRACTICES

CONTRIBUTION/EXPENDITURE PENALTY MATRIX
LATE PARTY COMMITTEE REPORTS

21-A M.R.S.A. Section 1020-A

A campaign finance report is timely filed when a properly signed copy of the report, substantially conforming to the disclosure requirements, is received by the Commission before 5 p.m. on the date it is due. A penalty begins to accrue after 5:00 p.m. on the day the report is due. Penalties are based on a percentage of the total contributions or expenditures for the filing period, whichever is greater, multiplied by the number of calendar days the report is filed late, as follows:

For the first violation, 1%
For the second violation, 3%
For the third and each subsequent violation, 5%

Example:	The party committee treasurer files the report two calendar days late. The committee has not had any previous late filings in the past 2 years. The committee reports a total of $2,500 in contributions and $1,500 in expenditures for the filing period. The penalty is calculated as follows:
$2,500	Greater of the amount of total contributions received or expenditures made during the filing period
X .01	Percent prescribed for first violation
$25.00	One percent of total contributions
x 2	Number of calendar days late
$50.00	Total penalty Commission may assess

PARTY COMMITTEE
Your penalty is calculated as follows:

Contributions/Expenditures	$ 17,667.87
Percent prescribed:	X 1%
	$ 176.67
Number of days late:	X 1
Total penalty accrued:	$ 176.67
Maximum penalty:	$ 176.67

A penalty begins to accrue at 5:00 p.m. on the day the report is due.

Any penalty of less than $5 is waived.

Violations accumulate on reports with filing deadlines in a 2-year period that begins on January 1st of each even-numbered year. Waiver of a penalty does not nullify the finding of a violation.

A required report that is sent by certified or registered United States mail and postmarked at least 2 days before the deadline is not subject to penalty.

Maximum penalties:

State Party Committee:	$5,000
Municipal, District, & County Committees	$500

Title 21-A, §1020-A, Failure to file on time

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PLEASE NOTE: The Revisor's Office CANNOT perform research for or provide legal advice or interpretation of Maine law to the public. If you need legal assistance, please contact a qualified attorney.

§1020-A. Failure to file on time

1. Registration. A candidate that fails to register the name of a candidate, treasurer or political committee with the commission within the time allowed by section 1013-A, subsection 1 may be assessed a forfeiture of $10. The commission shall determine whether a registration satisfies the requirements for timely filing under section 1013-A, subsection 1.
[1995, c. 483, §15 (new).]

2. Campaign finance reports. A campaign finance report is not timely filed unless a properly signed copy of the report, substantially conforming to the disclosure requirements of this subchapter, is received by the commission before 5 p.m. on the date it is due. Except as provided in subsection 7, the commission shall determine whether a report satisfies the requirements for timely filing. The commission may waive a penalty if the commission determines that the penalty is disproportionate to the size of the candidate's campaign, the level of experience of the candidate, treasurer or campaign staff or the harm suffered by the public from the late disclosure. The commission may waive the penalty in whole or in part if the commission determines the failure to file a timely report was due to mitigating circumstances. For purposes of this section, "mitigating circumstances" means:

A. A valid emergency determined by the commission, in the interest of the sound administration of justice, to warrant the waiver of the penalty in whole or in part; [1999, c. 729, §5 (amd).]

B. An error by the commission staff; [1999, c. 729, §5 (amd).]

C. Failure to receive notice of the filing deadline; or [1999, c. 729, §5 (amd).]

D. Other circumstances determined by the commission that warrant mitigation of the penalty, based upon relevant evidence presented that a bona fide effort was made to file the report in accordance with the statutory requirements, including, but not limited to, unexplained delays in postal service. [1999, c. 729, §5 (new).]
[2003, c. 628, Pt. A, §3 (amd).]

3. Municipal campaign finance reports. Municipal campaign finance reports must be filed, subject to all the provisions of this subchapter, with the municipal clerk on forms prescribed by the Commission on Governmental Ethics and Election Practices. The municipal clerk shall send any notice of lateness required by subsection 6 and shall notify the commission of any late reports subject to a penalty.
[1995, c. 625, Pt. B, §5 (amd).]

4. Basis for penalties.
[2001, c. 470, §7 (amd); T. 21-A, §1020-A, sub-§4 (rp).]

4-A. Basis for penalties. The penalty for late filing of a report required under this subchapter, except for accelerated campaign finance reports required pursuant to section 1017, subsection 3-B, is a percentage of the total contributions or expenditures for the filing period, whichever is greater, multiplied by the number of calendar days late, as follows:

A. For the first violation, 1%; [2001, c. 714, Pt. PP, §1 (new); §2 (aff).]

B. For the 2nd violation, 3%; and [2001, c. 714, Pt. PP, §1 (new); §2 (aff).]

Agenda Item #10

31 Jan. 2007

TO:
STATE of MAINE
COMMISSION ON GOVT. ETHICS
and ELECTION PRACTICES

RECEIVED
FEB - 2 2007
COMMISSION ON GOVERNMENTAL ETHICS
& ELECTION PRACTICES-AUGUSTA, ME

I am writing on behalf of Carol A. Potesky, Treasurer of Maine Taxpayers Action Network (MTAN)

I request the Commission to waive the penalty Levied ($50.00) because of Late filing. Due to the following MITIGATING circumstances.

Carol is incarcerated at the Womens Center in Mallison Falls Road, Windham, ME 04062.

I have tried to send or forward pertinent letters to Carol for her necessary action or signature, but due to the reluctance or slowness of the facility to pass letters to her in a timely manner - we have delays in correspondence, as much as 10 TO 15 DAYS. - consequently ending in a late report.

I have discussed this with Ms Martha Demeritt - who will provide me with Login & Password INFO - so future reports can be Electronically filed

I thank you for consideration in this matter - it would be greatly appreciated.

Yours Truly
Jacob J Potesky
POA - Carol A Potesky

Jacob J Potesky
PO Box 454
Topsham, ME 04086

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

January 23, 2007

Carol Palesky, Treasurer
Maine Taxpayer Action Network
P.O. Box 454
Topsham, ME 04086

Dear Ms. Palesky:

You filed the January Quarterly campaign finance report on 1/22/07 that was due on 1/16/07. A penalty must be assessed for late reports based on the amount of financial activity conducted during the filing period, the number of calendar days a report is filed late, and the PAC's filing record. Based on the prescribed statutory formula, the preliminary determination of the penalty for the late filing of your report is $50. Please refer to the enclosed penalty matrix for more details on how the penalty is computed.

If you have a reason for filing late, you may request the Commission to make a final penalty determination. Any request for a Commission determination must be made within 10 calendar days of receipt of this notice, beginning on the day you sign for receipt. If this notice has been refused or left unclaimed at the post office, the 10-day period begins on the day the post office indicates it has given first notice of a certified letter. Upon receipt of your request for a Commission determination, we will schedule you to appear and will notify you of the date and time of the next Commission meeting. You or a person you designate may then appear personally before the Commission or you may send a written statement for the Commission's consideration. A statement must be notarized and contain a full explanation of the reason you filed late. Statements should be sent to the address shown on this letterhead. The Commission will notify you of the disposition of your case within 10 days after its determination.

Please note that the Commission may waive the penalty in whole or in part if it determines the failure to file a timely report was due to mitigating circumstances. "Mitigating circumstances' means 1) a valid emergency of the committee treasurer determined by the Commission, in the interest of the sound administration of justice, to warrant the waiver of the penalty in whole or in part; 2) an error by the Commission staff; or 3) other circumstances determined by the Commission that warrant mitigation of the penalty, based upon relevant evidence presented that a bona fide effort made to file the report in accordance with the statutory requirements, including, but not limited to, unexplained delays in postal service.

Sincerely,

Martha Demeritt
PAC Registrar

Enc.: PAC Penalty Matrix & Billing Statement

Maine Taxpayers Action Network
January Quarterly

COMMISSION ON GOVERNMENTAL ETHICS AND ELECTION PRACTICES

PENALTY MATRIX FOR LATE POLITICAL ACTION COMMITTEE REPORT FILINGS

BASIS FOR PENALTIES
21-A M.R.S.A. Section 1062-A

The penalty for filing a required report late is a percentage of the total contributions or expenditures for the filing period, whichever is greater, multiplied by the number of calendar days the report is filed late, as follows:

For the first violation, 1%
For the second violation, 3%
For the third and each subsequent violation, 5%

Example: The treasurer files the PACs report two (2) calendar days late. The PAC has not had any previous late filings in the past 2 years. The PAC reports a total of $2,500 in contributions and $1,500 in expenditures for the filing period. The penalty is calculated as follows:

$2,500	Greater of the amount of total contributions received or expenditures made during the filing period.
X .01	Percent prescribed for first violation
$25.00	One percent of total contributions
x 2	Number of calendar days late
$50.00	Total penalty Commission may assess

Your penalty is calculated as follows:

Contributions/Expenditures	$
Percent prescribed:	X
	$
Number of days late:	X
Total penalty accrued:	$ 50.00

ZERO ACTIVITY (X)

A penalty begins to accrue at 5:00 p.m. on the day the report is due.

Any penalty of less than $5 is waived.

Violations accumulate on reports with filing deadlines in a 2-year period that begins on January 1st of each even-numbered year. Waiver of a penalty does not nullify the finding of a violation.

(X) Title 21-A M.R.S.A. Section 1004-A(1) states the Commission may assess a penalty of no more than $100 when a person files a late campaign finance report containing no contributions or expenditures.

MAXIMUM PENALTIES
21-A M.R.S.A. Section 1062-A (4)

$10,000 for 6-day pre-election reports, 42-day post-election reports, and 24-Hour reports;
$5,000 for quarterly reports.

Revised 1/06

Title 21-A, §1062-A, Failure to file on time

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§1062-A. Failure to file on time

1. Registration. A political action committee required to register under section 1053 that fails to do so in accordance with section 1053 or that fails to provide the information required by the commission for registration may be assessed a forfeiture of $250. [1995, c. 483, §21 (new).]

2. Campaign finance reports. A campaign finance report is not timely filed unless a properly signed copy of the report, substantially conforming to the disclosure requirements of this subchapter, is received by the commission before 5 p.m. on the date it is due. Except as provided in subsection 6, the commission shall determine whether a required report satisfies the requirements for timely filing. The commission may waive a penalty if it is disproportionate to the level of experience of the person filing the report or to the harm suffered by the public from the late disclosure. The commission may waive the penalty in whole or in part if the commission determines the failure to file a timely report was due to mitigating circumstances. For purposes of this section, "mitigating circumstances" means:

A. A valid emergency of the committee treasurer determined by the commission, in the interest of the sound administration of justice, to warrant the waiver of the penalty in whole or in part; [1999, c. 729, §9 (amd).]

B. An error by the commission staff; or [1999, c. 729, §9 (amd).]

C. Other circumstances determined by the commission that warrant mitigation of the penalty, based upon relevant evidence presented that a bona fide effort was made to file the report in accordance with the statutory requirements, including, but not limited to, unexplained delays in postal service. [1999, c. 729, §9 (new).]

[2003, c. 628, Pt. A, §7 (amd).]

3. Basis for penalties. The penalty for late filing of a report required under this subchapter is a percentage of the total contributions or expenditures for the filing period, whichever is greater, multiplied by the number of calendar days late, as follows:

A. For the first violation, 1%; [1995, c. 483, §21 (new).]

B. For the 2nd violation, 3%; and [1995, c. 483, §21 (new).]

C. For the 3rd and subsequent violations, 5%. [1995, c. 483, §21 (new).]

Any penalty of less than $5 is waived.

Violations accumulate on reports with filing deadlines in a 2-year period that begins on January 1st of each even-numbered calendar year. Waiver of a penalty does not nullify the finding of a violation.

A report required to be filed under this subchapter that is sent by certified or registered United States mail and postmarked at least 2 days before the deadline is not subject to penalty.

A required report may be provisionally filed by transmission of a facsimile copy of the duly executed report to the commission, as long as an original of the same report is received by the commission within 5 calendar days thereafter. [1995, c. 483, §21 (new).]

4. Maximum penalties. The maximum penalties under this subchapter are $10,000 for reports required under section 1059, subsection 2, paragraphs B, C and E and $5,000 for reports required under section 1059, subsection 2, paragraph A.

Agenda Item #11

RECEIVED
JAN 17 2007
COMMISSION ON GOVERNMENTAL ETHICS
& ELECTION PRACTICES-AUGUSTA, ME

1.15.07

Clean Elections Commission
Augusta, ME

Dear Commission:

I do not agree with the preliminary determination of the Commission staff. I am requesting a formal determination by the Commission.

I mailed my 42-Day Post-General campaign finance report in Freeport ME on Monday AM December 18 with the expectation that the United States Postal Service would be able to deliver it in Augusta on December 19. The post office failed. I apologize for having such high expectations for the post offices ability to deliver the mail in a timely manner.

I was a replacement candidate. I lived around the campaign for three months. After the election I needed to spend time on my personal affairs. It wasn't til December 16 that I was able to get back to my campaign. I completed the paperwork on Saturday December 17 but there was no mail pick up until Monday. I was in Freeport on Sunday and mailed the report on Monday. If I knew that the postal service would not be able to deliver the report on time I would of kept it until I reached Augusta and delivered it by hand..

I hope the commission will take into consideration the public service I provided the voters in my district by coming forward as a replacement candidate at the final hour.

Your humble and obedient servant

David F. Kirkpatrick, Candidate
State Representative, District 12

Title 21-A, §1020-A, Failure to file on time

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§1020-A. Failure to file on time

1. Registration. A candidate that fails to register the name of a candidate, treasurer or political committee with the commission within the time allowed by section 1013-A, subsection 1 may be assessed a forfeiture of $10. The commission shall determine whether a registration satisfies the requirements for timely filing under section 1013-A, subsection 1.
[1995, c. 483, §15 (new).]

2. Campaign finance reports. A campaign finance report is not timely filed unless a properly signed copy of the report, substantially conforming to the disclosure requirements of this subchapter, is received by the commission before 5 p.m. on the date it is due. Except as provided in subsection 7, the commission shall determine whether a report satisfies the requirements for timely filing. The commission may waive a penalty if the commission determines that the penalty is disproportionate to the size of the candidate's campaign, the level of experience of the candidate, treasurer or campaign staff or the harm suffered by the public from the late disclosure. The commission may waive the penalty in whole or in part if the commission determines the failure to file a timely report was due to mitigating circumstances. For purposes of this section, "mitigating circumstances" means:

A. A valid emergency determined by the commission, in the interest of the sound administration of justice, to warrant the waiver of the penalty in whole or in part; [1999, c. 729, §5 (amd).]

B. An error by the commission staff; [1999, c. 729, §5 (amd).]

C. Failure to receive notice of the filing deadline; or [1999, c. 729, §5 (amd).]

D. Other circumstances determined by the commission that warrant mitigation of the penalty, based upon relevant evidence presented that a bona fide effort was made to file the report in accordance with the statutory requirements, including, but not limited to, unexplained delays in postal service. [1999, c. 729, §5 (new).]
[2003, c. 628, Pt. A, §3 (amd).]

3. Municipal campaign finance reports. Municipal campaign finance reports must be filed, subject to all the provisions of this subchapter, with the municipal clerk on forms prescribed by the Commission on Governmental Ethics and Election Practices. The municipal clerk shall send any notice of lateness required by subsection 6 and shall notify the commission of any late reports subject to a penalty.
[1995, c. 625, Pt. B, §5 (amd).]

4. Basis for penalties.
[2001, c. 470, §7 (amd); T. 21-A, §1020-A, sub-§4 (rp).]

4-A. Basis for penalties. The penalty for late filing of a report required under this subchapter, except for accelerated campaign finance reports required pursuant to section 1017, subsection 3-B, is a percentage of the total contributions or expenditures for the filing period, whichever is greater, multiplied by the number of calendar days late, as follows:

A. For the first violation, 1%; [2001, c. 714, Pt. PP, §1 (new); §2 (aff).]

B. For the 2nd violation, 3%; and [2001, c. 714, Pt. PP, §1 (new); §2 (aff).]

Title 21-A, §1020-A, Failure to file on time

C. For the 3rd and subsequent violations, 5%. [2001, c. 714, Pt. PP, §1 (new); §2 (aff).]

Any penalty of less than $5 is waived.

Violations accumulate on reports with filing deadlines in a 2-year period that begins on January 1st of each even-numbered year. Waiver of a penalty does not nullify the finding of a violation.

A report required to be filed under this subchapter that is sent by certified or registered United States mail and postmarked at least 2 days before the deadline is not subject to penalty.

A registration or report may be provisionally filed by transmission of a facsimile copy of the duly executed report to the commission, as long as an original of the same report is received by the commission within 5 calendar days thereafter.

The penalty for late filing of an accelerated campaign finance report as required in section 1017, subsection 3-B may be up to but no more than 3 times the amount by which the contributions received or expenditures obligated or made by the candidate exceed the applicable Maine Clean Election Fund disbursement amount, per day of violation. The commission shall make a finding of fact establishing when the report was due prior to imposing a penalty under this subsection. A penalty for failure to file an accelerated campaign finance report must be made payable to the Maine Clean Election Fund. In assessing a penalty for failure to file an accelerated campaign finance report, the commission shall consider the existence of mitigating circumstances. For the purposes of this subsection, "mitigating circumstances" has the same meaning as in subsection 2.
[2001, c. 714, Pt. PP, §1 (new); §2 (aff).]

5. Maximum penalties.
[2001, c. 470, §8 (amd); T. 21-A, §1020-A, sub-§§ (rp).]

5-A. Maximum penalties. Penalties assessed under this subchapter may not exceed:

A. Five thousand dollars for reports required under section 1017, subsection 2, paragraph B, C, D, E or H; section 1017, subsection 3-A, paragraph B, C, D or F; section 1017, subsection 4; and section 1019-B, subsection 3; [2003, c. 448, §4 (amd).]

B. Five thousand dollars for state party committee reports required under section 1017-A, subsection 4-A, paragraphs A, B, C and E; [2003, c. 628, Pt. A, §4 (amd).]

C. One thousand dollars for reports required under section 1017, subsection 2, paragraphs A and F and section 1017, subsection 3-A, paragraphs A and E; [2003, c. 628, Pt. A, §4 (amd).]

D. Five hundred dollars for municipal, district and county committees for reports required under section 1017-A, subsection 4-B; or [2003, c. 628, Pt. A, §4 (amd).]

E. Three times the unreported amount for reports required under section 1017, subsection 3-B, if the unreported amount is less than $5,000 and the commission finds that the candidate in violation has established, by a preponderance of the evidence, that a bona fide effort was made to file an accurate and timely report. [2001, c. 714, Pt. PP, §1 (new); §2 (aff).]
[2003, c. 628, Pt. A, §4 (amd).]

6. Request for a commission determination. Within 3 days following the filing deadline, a notice must be forwarded to a candidate and treasurer whose registration or campaign finance report is not received by 5 p.m. on the deadline date, informing them of the basis for calculating penalties under subsection 4 and providing them with an opportunity to request a commission determination. The notice must be sent by certified United States mail. Any request for a determination must be made within 10 calendar days of receipt of the commission's notice. The 10-day period during which a determination may be requested begins on the day a recipient signs for the certified mail notice of the proposed penalty. If the certified letter is refused or left unclaimed at the post office, the 10-day period begins on the day the post office indicates it has given first notice of a certified letter. A candidate or treasurer requesting a determination may either appear in person or designate a representative to appear on the candidate's or treasurer's behalf or submit a notarized written explanation of the mitigating circumstances for consideration by the commission.
[RR 1995, c. 2, §38 (cor).]

7. Final notice of penalty. After a commission meeting, notice of the commission's final determination and the penalty, if any, imposed pursuant to this subchapter must be sent to the candidate and the treasurer.

If no determination is requested, the commission staff shall calculate the penalty as prescribed in subsection 4-A and shall mail final notice of the penalty to the candidate and treasurer. A detailed summary of all notices must be provided to the commission.
[RR 2003, c. 1, §14 (cor).]

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

January 4, 2007

Mr. David F. Kirkpatrick
319 Enfield Rd.
Lincoln, ME 04457

BY CERTIFIED MAIL

Dear Mr. Kirkpatrick:

RE: Late 42-Day Post-General Campaign Finance Report Due 12/19/2006.

You filed a 42-Day Post-General campaign finance report on 12/20/2006. A penalty must be assessed for late reports based on the amount of financial activity conducted during the filing period, the number of calendar days a report is filed late, and the candidate's filing record. Based on the prescribed statutory formula, the preliminary determination of the penalty for the late filing of your report would be $14.79. Please refer to the enclosed penalty matrix for more details on how the penalty is computed. If you agree with this preliminary determination of the amount of the penalty, you may use the enclosed billing statement to pay that penalty.

If you have a reason for filing late, you may request the Commission to make a final penalty determination. Any request for a Commission determination must be made within 10 calendar days of receipt of this notice, beginning on the day you sign its receipt. If this notice has been refused or left unclaimed at the post office, the 10-day period begins on the day the post office indicates it has given first notice of a certified letter. Upon receipt of your request for a Commission determination, we will schedule you to appear and will notify you of the date and time of the next Commission meeting. You or a person you designate may then appear personally before the Commission or you may send a written statement for the Commission's consideration. A statement must be notarized and contain a full explanation of the reason you filed late. Statements should be sent to the address shown on this letterhead. The Commission will notify you of the disposition of your case within 10 days after its determination.

NOTE: The Commission may waive penalties for late reports only in cases where tardiness is due to mitigating circumstances. The law defines "mitigating circumstances" as: 1) a valid emergency determined by the Commission, in the interest of the sound administration of justice, to warrant the waiver of the penalty in whole or in part; 2) an error by the Commission staff; 3) failure to receive notice of the filing deadline; or (4) other circumstances determined by the Commission that warrant mitigation of the penalty, based upon relevant evidence presented that a *bona fide* effort was made to file the report in accordance with the statutory requirements, including, but not limited to, unexplained delays in postal service.

The Maine Clean Election Act requires all revenues distributed to certified candidates from the fund to be used for campaign-related purposes. Commission guidelines regarding permissible campaign-related expenditures do not include the payment of a penalty as a permissible expenditure.

Sincerely,

Gavin O'Brien

Gavin O'Brien
Candidate Registrar

cc: Treasurer

COMMISSION ON GOVERNMENTAL ETHICS AND ELECTION PRACTICES

PENALTY MATRIX FOR LATE CANDIDATE REPORT FILINGS

BASIS FOR PENALTIES
21-A M.R.S.A. Section 1020-A(4)

The penalty for late filing of a required report is a percentage of the total contributions or expenditures for the filing period, whichever is greater, multiplied by the number of calendar days the report is filed late, as follows:

For the first violation, 1%
For the second violation, 3%
For the third and each subsequent violation, 5%

A penalty begins to accrue at 5:00 p.m. on the day the report is due.

Example: The treasurer files the candidate's report two (2) days late. The candidate has not had any previous late violations this biennium. The candidate reports a total of $2,500 in contributions and $1,500 in expenditures for the filing period. The penalty is calculated as follows:

$2,500	Greater amount of the total contributions received or expenditures made during the filing period
X .01	Percent prescribed for first violation
$25.00	One percent of total contributions
X 2	Number of calendar days late
$50.00	Total penalty

Your penalty is calculated as follows:

Contributions/Expenditures:	$	$1,478.51
Percent prescribed:		0.01
	$	$14.79
Number of days late:	X	1
Total penalty accrued:	$	$14.79

Any penalty of less than $5 is waived.

Violations accumulate on reports with filing deadlines in a 2-year period that begins on January 1st of each even-numbered year. Waiver of a penalty does not nullify the finding of a violation.

A required report that is sent by certified or registered United States mail and postmarked at least 2 days before the deadline is not subject to penalty.

MAXIMUM PENALTIES
21-A M.R.S.A. Section 1020-A(5)

$5,000 for reports required to be filed 42 days before an election (gubernatorial candidate only), 6 days before an election, 42 days after an election, and for 48-hour reports;
$1,000 for semiannual reports.

Revised 6/03

DEC 2 0 2006

For Commission use only
data entry
proofread
follow-up

STATE OF MAINE
COMMISSION ON GOVERNMENTAL ETHICS AND ELECTION PRACTICES
Mail: 135 State House Station, Augusta, Maine 04333-0135
Office: 242 State Street, Augusta, Maine
Tel: (207) 287-4179 Fax: (207) 287-6775
Website: www.maine.gov/ethics
Electronic Filing: www.mainecampaignfinance.com

CK # 9807 06 83137

2006 CAMPAIGN FINANCE REPORT
MAINE CLEAN ELECTION ACT CANDIDATES FOR THE LEGISLATURE

(Please Complete ALL Entries)

Name of CANDIDATE DAVID F. KIRKPATRICK
Mailing address 319 ENFIELD RD
City, zip code LINCOLN, 04457
Telephone number 794 6981 Fax _____ E-mail dfk98@msn.com
Office Sought STATE REPRESENTATIVE District Number 12

CHECK IF CHANGED SINCE PREVIOUS REPORT ☐

Name of TREASURER JOAN R. KIRKPATRICK
Mailing address 319 ENFIELD RD
City, zip code LINCOLN 04457
Telephone number 794 6981 Fax _____ E-mail jrkrn@verizon.net

CHECK IF CHANGED SINCE PREVIOUS REPORT ☐

Type of Report	Due Date	Dates of Reporting Period
☐ 6-Day Pre-Primary	June 7, 2006	Last report (if any) - June 1, 2006
☐ 42-Day Post-Primary	July 25, 2006	June 2, 2006 - July 18, 2006
☐ 6-Day Pre-General	November 1, 2006	July 19, 2006 - October 26, 2006
☒ 42-Day Post-General	December 19, 2006	October 27, 2006 - December 12, 2006

☐ Amendment to: _____

☐ Other (specify): _____

☐ Check if campaign had no activity for the reporting period (no other pages are required)

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

Joan R Kirkpatrick — Treasurer's Signature — 12.17.06 Date

Candidate's Signature — 12.17.06 Date

(Revised 11/05) (Duplicate as needed)

Agenda Item #12

RECEIVED
JAN 3 1 2007
COMMISSION ON GOVERNMENTAL ETHICS & ELECTION PRACTICES-AUGUSTA, ME

Richard R. Dort

5727 Estabrooke Hall Rm. 434

Orono, ME 04469

To whom it may concern,

I am writing this letter to ask for a late fee waiver on my 42-Day Post-General Campaign Finance Report that was due on 12/19/2006 First, let me say that I do not believe that I am without fault or responsibility. It has taken me this long to write this letter because I believed that the proper way to accept my responsibility was to simply accept the late fee. However, I have been encouraged, due to my circumstances, to write this letter explaining my lateness in filing the last report.

I am a full time Music Education student at the University of Maine in Orono, and last semester I was enrolled 9 classes that accounted for 15 credit hours, 2 of which included large ensembles, plus one additional ensemble. I also moved onto campus when school started so I was running my campaign by myself. Once the election was over things started getting busy at school. I had 5 performances, and then in the last 2 weeks of school there was one major paper and one major project due each week. Then my last final exam was on the 22nd of December 2006. The holidays came, and I finally filed on the 3rd of January 2007. I was very busy and distracted and filing simply fell to the back of mind until everything was over with. There are financial issues in that I really cannot afford the late fee. I do not work while at school but I receive the G.I. Bill. However, I was told sometimes people are allowed to make payments.

I await your decision and I thank you for you time,

Sincerely,

Richard R. Dort

Title 21-A, §1020-A, Failure to file on time

The State of Maine claims a copyright in its codified statutes. If you intend to republish this material, we do require that you include the following disclaimer in your publication:

All copyrights and other rights to statutory text are reserved by the State of Maine. The text included in this publication reflects changes made through the Second Regular Session of the 122nd Legislature, and is current through December 31, 2006, but is subject to change without notice. It is a version that has not been officially certified by the Secretary of State. Refer to the Maine Revised Statutes Annotated and supplements for certified text.

The Office of the Revisor of Statutes also requests that you send us one copy of any statutory publication you may produce. Our goal is not to restrict publishing activity, but to keep track of who is publishing what, to identify any needless duplication and to preserve the State's copyright rights.

PLEASE NOTE: The Revisor's Office CANNOT perform research for or provide legal advice or interpretation of Maine law to the public. If you need legal assistance, please contact a qualified attorney.

§1020-A. Failure to file on time

1. Registration. A candidate that fails to register the name of a candidate, treasurer or political committee with the commission within the time allowed by section 1013-A, subsection 1 may be assessed a forfeiture of $10. The commission shall determine whether a registration satisfies the requirements for timely filing under section 1013-A, subsection 1.
[1995, c. 483, §15 (new).]

2. Campaign finance reports. A campaign finance report is not timely filed unless a properly signed copy of the report, substantially conforming to the disclosure requirements of this subchapter, is received by the commission before 5 p.m. on the date it is due. Except as provided in subsection 7, the commission shall determine whether a report satisfies the requirements for timely filing. The commission may waive a penalty if the commission determines that the penalty is disproportionate to the size of the candidate's campaign, the level of experience of the candidate, treasurer or campaign staff or the harm suffered by the public from the late disclosure. The commission may waive the penalty in whole or in part if the commission determines the failure to file a timely report was due to mitigating circumstances. For purposes of this section, "mitigating circumstances" means:

A. A valid emergency determined by the commission, in the interest of the sound administration of justice, to warrant the waiver of the penalty in whole or in part; [1999, c. 729, §5 (amd).]

B. An error by the commission staff; [1999, c. 729, §5 (amd).]

C. Failure to receive notice of the filing deadline; or [1999, c. 729, §5 (amd).]

D. Other circumstances determined by the commission that warrant mitigation of the penalty, based upon relevant evidence presented that a bona fide effort was made to file the report in accordance with the statutory requirements, including, but not limited to, unexplained delays in postal service. [1999, c. 729, §5 (new).]
[2003, c. 628, Pt. A, §3 (amd).]

3. Municipal campaign finance reports. Municipal campaign finance reports must be filed, subject to all the provisions of this subchapter, with the municipal clerk on forms prescribed by the Commission on Governmental Ethics and Election Practices. The municipal clerk shall send any notice of lateness required by subsection 6 and shall notify the commission of any late reports subject to a penalty.
[1995, c. 625, Pt. B, §5 (amd).]

4. Basis for penalties.
[2001, c. 470, §7 (amd); T. 21-A, §1020-A, sub-§4 (rp).]

4-A. Basis for penalties. The penalty for late filing of a report required under this subchapter, except for accelerated campaign finance reports required pursuant to section 1017, subsection 3-B, is a percentage of the total contributions or expenditures for the filing period, whichever is greater, multiplied by the number of calendar days late, as follows:

A. For the first violation, 1%; [2001, c. 714, Pt. PP, §1 (new); §2 (aff).]

B. For the 2nd violation, 3%; and [2001, c. 714, Pt. PP, §1 (new); §2 (aff).]

F. Disbursements With No Campaign Value. If a traditionally financed candidate has received monetary contributions which are disbursed in ways that do not in any way influence the nomination or election of the candidate, those receipts will not be considered by the Commission in calculating matching funds for his or her opponent. Such disbursements may include repaying a loan received by the candidate, refunding a contribution to a contributor, or transferring funds to a party or political committee for purposes that do not relate to the candidate's race.

4. Advance Purchases of Goods and Services for the General Election.

A. If a preponderance of consulting services, or the design, printing, or distribution of campaign literature and advertising, including radio and television advertising, purchased prior to the primary election by an opponent of a certified Maine Clean Election Act candidate are used for the general election, then the portion to be used for the general election must be counted as a general election receipt in calculating the amount of matching funds for the certified Maine Clean Election Act candidate.

B. If a certified candidate in a general election believes that an opponent, or person or committee making an independent expenditure, has failed to disclose an advance purchase for the general election, the certified candidate shall submit a written request for an investigation to the Commission no later than August 30 of the election year, or within 30 days of the opponent's filing of the 42-day post-primary report, whichever is later. The request must identify the pre-primary election expenditure that is believed to be for the general election and must state a specific basis for believing that the goods and services purchased were not used for the primary election.

C. The Commission will request a response from the opposing candidate or other respondent, and will make a determination whether the expenditure should be counted toward the certified candidate's eligibility for matching funds.

SECTION 6. LIMITATIONS ON CAMPAIGN EXPENSES.

A certified candidate must:

1. limit the candidate's campaign expenditures and obligations to the applicable Clean Election Act Fund distribution amounts plus any authorized Matching Fund allocations;

2. not accept any contributions unless specifically authorized in writing to do so by the Commission in accordance with the Act [§ 1125(2) and § 1125(13)];

3. use revenues distributed from the Fund only for campaign-related purposes as outlined in guidelines published by the Commission, and not for personal or any other use;

4. not use revenues distributed from the Fund to purchase goods to sell for profit;

5. not spend more than the following amounts of Fund revenues on post-election parties, thank you notes, or advertising to thank supporters or voters:

A. $250 for a candidate for the State House of Representatives;

B. $750 for a candidate for the State Senate; and

C. $2,500 by a gubernatorial candidate.

The candidate may also use his or her personal funds for these purposes; and

6. not use revenues distributed from the Fund for the payment of fines, forfeitures, or civil penalties, or for the defense of any enforcement action of the Commission.

SECTION 7. RECORD KEEPING AND REPORTING

1. Record Keeping by Participating and Certified Candidates. Participating and certified candidates must comply with applicable record keeping requirements set forth in Title 21-A, chapter 13, subchapter II [§1016].

A. Fiduciary Responsibility for Funds. All funds provided to a certified candidate or to a candidate's authorized political committee must be segregated from, and may not be commingled with, any other funds. Matching fund advance revenues for which no spending authorization has been issued must be deposited in a federally insured financial institution until the candidate receives authorization to spend those funds.

B. Meal Expenses. A candidate or treasurer must obtain and keep a record for each meal expenditure of more than $50. The record must include itemized bills for the meals, the names of all participants in the meals, the relationship of each participant to the campaign, and the specific, campaign-related purpose of each meal.

C. Vehicle Travel Expenses. A candidate or treasurer must obtain and keep a record of vehicle travel expenses for which reimbursements are made from campaign funds. Reimbursement may be based using either the standard mileage rate or actual expenses. The candidate must use one method exclusively during an election campaign.

(1) Standard Mileage Rate. The standard mileage rate is a set rate per mile that a candidate may use to compute reimbursable vehicle travel expenses. Reimbursement should be calculated using the standard mileage rate currently prescribed for employees of the State of Maine. For each trip for which reimbursement is made, a record should be maintained showing the dates of travel, the number of miles traveled, the origination, destination and purpose of the travel, and the total amount claimed for reimbursement.

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

January 4, 2007

Mr. Richard Dort
5727 Estabrooke Hall #434
Orono, ME 04469

BY CERTIFIED MAIL

Dear Mr. Dort:

RE: Late 42-Day Post-General Campaign Finance Report Due 12/19/2006.

You filed a 42-Day Post-General campaign finance report on 1/3/2007. A penalty must be assessed for late reports based on the amount of financial activity conducted during the filing period, the number of calendar days a report is filed late, and the candidate's filing record. Based on the prescribed statutory formula, the preliminary determination of the penalty for the late filing of your report would be $1,908.32. Please refer to the enclosed penalty matrix for more details on how the penalty is computed. If you agree with this preliminary determination of the amount of the penalty, you may use the enclosed billing statement to pay that penalty.

If you have a reason for filing late, you may request the Commission to make a final penalty determination. Any request for a Commission determination must be made within 10 calendar days of receipt of this notice, beginning on the day you sign its receipt. If this notice has been refused or left unclaimed at the post office, the 10-day period begins on the day the post office indicates it has given first notice of a certified letter. Upon receipt of your request for a Commission determination, we will schedule you to appear and will notify you of the date and time of the next Commission meeting. You or a person you designate may then appear personally before the Commission or you may send a written statement for the Commission's consideration. A statement must be notarized and contain a full explanation of the reason you filed late. Statements should be sent to the address shown on this letterhead. The Commission will notify you of the disposition of your case within 10 days after its determination.

NOTE: The Commission may waive penalties for late reports only in cases where tardiness is due to mitigating circumstances. The law defines "mitigating circumstances" as: 1) a valid emergency determined by the Commission, in the interest of the sound administration of justice, to warrant the waiver of the penalty in whole or in part; 2) an error by the Commission staff; 3) failure to receive notice of the filing deadline; or (4) other circumstances determined by the Commission that warrant mitigation of the penalty, based upon relevant evidence presented that a *bona fide* effort was made to file the report in accordance with the statutory requirements, including, but not limited to, unexplained delays in postal service.

The Maine Clean Election Act requires all revenues distributed to certified candidates from the fund to be used for campaign-related purposes. Commission guidelines regarding permissible campaign-related expenditures do not include the payment of a penalty as a permissible expenditure.

Sincerely,

Gavin O'Brien

Gavin O'Brien
Candidate Registrar

January 4, 2007

Mr. Richard Dort
5727 Estabrooke Hall #434
Orono, ME 04469

The Commission staff has made a preliminary determination, based upon application of the statutory formula, that a penalty of $1,908.32 applies for the late filing of your 42-Day Post-General campaign finance report. If you agree with this determination, please make your check or money order in that amount payable to "Treasurer, State of Maine," and send it, along with the bottom half of this letter, to the Commission on Governmental Ethics and Election Practices, 135 State House Station, Augusta, Maine 04333, within 30 days of the date noted above. Please see the instructions included in the attached letter if you would like the Commission to make a formal determination of any penalty to be assessed in this case.

Failure to pay the full amount of an assessed penalty is a civil violation. The Commission is required to report to the Attorney General the name of any person who fails to pay the full amount of any penalty. Please direct any questions you may have about this matter to Gavin O'Brien at 287-4709.

Cut Along Dotted Line

For Office Use Only:
Account: CGEEP
Fund: 014 Approp: 02

To Commission on Governmental Ethics and Election Practices
135 State House Station
Augusta, Maine 04333

From: Mr. Richard Dort

RE: Penalty for late filing of 42-Day Post-General Campaign Finance Report

Amount Enclosed: $ _____

Check/M.O. No.: # _____

Please Make Check or Money Order Payable to Treasurer, State of Maine

COMMISSION ON GOVERNMENTAL ETHICS AND ELECTION PRACTICES

PENALTY MATRIX FOR LATE CANDIDATE REPORT FILINGS

BASIS FOR PENALTIES
21-A M.R.S.A. Section 1020-A(4)

The penalty for late filing of a required report is a percentage of the total contributions or expenditures for the filing period, whichever is greater, multiplied by the number of calendar days the report is filed late, as follows:

For the first violation, 1%
For the second violation, 3%
For the third and each subsequent violation, 5%

A penalty begins to accrue at 5:00 p.m. on the day the report is due.

Example: The treasurer files the candidate's report two (2) days late. The candidate has not had any previous late violations this biennium. The candidate reports a total of $2,500 in contributions and $1,500 in expenditures for the filing period. The penalty is calculated as follows:

$2,500	Greater amount of the total contributions received or expenditures made during the filing period
X .01	Percent prescribed for first violation
$25.00	One percent of total contributions
X 2	Number of calendar days late
$50.00	Total penalty

Your penalty is calculated as follows:

Contributions/Expenditures:	$ $2,544.43
Percent prescribed:	0.05
	$ $127.22
Number of days late:	X 15
Total penalty accrued:	$ $1,908.32

Any penalty of less than $5 is waived.

Violations accumulate on reports with filing deadlines in a 2-year period that begins on January 1st of each even-numbered year. Waiver of a penalty does not nullify the finding of a violation.

A required report that is sent by certified or registered United States mail and postmarked at least 2 days before the deadline is not subject to penalty.

MAXIMUM PENALTIES
21-A M.R.S.A. Section 1020-A(5)

$5,000 for reports required to be filed 42 days before an election (gubernatorial candidate only), 6 days before an election, 42 days after an election, and for 48-hour reports;
$1,000 for semiannual reports.

Revised 6/03

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

To: Jonathan Wayne

From: Nathaniel Brown

Re: Penalty Chart for Richard Dort

Date: March 1, 2007

	Due Date	**Date Filed**	**Final Penalty**
42-Day Post-Primary	7/25/2006	7/30/2006 (5 days late)	$218.10 (paid 8/17/06)
6-Day Pre-General	11/1/2006	11/2/2006 (1 day late)	$185.39 (paid 1/5/07)
42-Day Post-General	12/19/2006	1/3/2007 (15 days late)	$1908.32 (waiver requested)

MAINE

Welcome to the Campaign Finance Electronic Filing System Site

3/1/2007

Home Page for Richard Dort

CAMPAIGN YEAR 2006

REPORT TYPE	REPORTING PERIOD			DUE DATE	DATE FILED	STATUS	LAST MODIFIED	
Candidate Registration					10/6/2006	Filed		Print
Seed Money Report	11/3/2004	to	4/18/2006	4/18/2006	4/18/2006	Filed	4/18/2006	Print
6-Day Pre-Primary - MCEA Candidates	4/19/2006	to	6/1/2006	6/7/2006	6/7/2006	Filed	5/22/2006	Print
42-Day Post-Primary	6/2/2006	to	7/18/2006	7/25/2006	7/30/2006 1:40:33 PM	In-Progress (A)		Print
6-Day Pre-General	7/19/2006	to	10/26/2006	11/1/2006	11/2/2006 2:14:57 PM	Filed	1/2/2007 9:11:31 PM	Print
42-Day Post-General	10/27/2006	to	12/12/2006	12/19/2006	1/2/2007 8:46:26 PM	Filed	1/2/2007 8:46:26 PM	Print
24-Hr Report of Late Contributions and Expenditures				N/A	MULTIPLE			

Please click on the following buttons to Download schedule informations in excel format.

Download Contribution A | Download Contribution A1 | Download Expenditure B

Agenda Item #13

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

To: Commission Members and Counsel

From: Jonathan Wayne, Executive Director

Date: March 1, 2007

Re: Complaint against Democracy Maine

In 2006, Democracy Maine filed two financial reports under 21-A M.R.S.A. §1056-B stating that the organization had received contributions, and made expenditures totaling $58,689.14, to oppose the Taxpayers Bill of Rights (TABOR) citizen initiative. Political consultant Roy Lenardson has filed a request that the Commission consider whether the organization should have, instead, registered and filed financial reports as a political action committee (PAC).

The Commission staff is preparing its meeting materials in an abbreviated manner because tomorrow's snow storm could interrupt state government and timely operations of the U.S. Post Office. Rather than a full memo with recommendations, we offer these preliminary thoughts.

Good Faith of Democracy Maine in Filing §1056-B Reports

Jonathan Crasnick is the Executive Director of Democracy Maine. As he explains in his February 6 response on behalf of Democracy Maine, he indeed consulted with PAC/Party/Lobbyist Registrar Martha Demeritt about how to report financial activity in

opposition to TABOR. Martha advised him that the organization should disclose its financial activities through §1056-B reports. We believe Mr. Crasnick was operating in good faith. Even if you determine that Democracy Maine was in error by not filing as a PAC, the staff preliminarily recommends that no civil penalty should be assessed because the organization's director sought out advice from the Commission staff in advance.

Democracy Maine does not appear to be a PAC

We recommend that the question of whether Democracy Maine is a PAC be analyzed under Paragraphs (3) and (4) of 21-A M.R.S.A. §1052(A)(5)(A). Both of these paragraphs require that – to qualify as a PAC – an organization must have as its "major purpose" advocating the passage or defeat of a ballot question.

> **5. Political action committee.** The term "political action committee:"
>
> A. Includes:
>
> (1) Any separate or segregated fund established by any corporation, membership organization, cooperative or labor organization whose purpose is to influence the outcome of an election, including a candidate or question;
>
> (2) Any person who serves as a funding and transfer mechanism and spends money to initiate, advance, promote, defeat or influence in any way a candidate, campaign, political party, referendum or initiated petition in this State;
>
> (3) Any organization, including any corporation or association, that has as its major purpose advocating the passage or defeat of a ballot question and that makes expenditures other than by contribution to a political action committee, for the purpose of the initiation, promotion or defeat of any question; and
>
> (4) Any organization, including any corporation or association, that has as its major purpose advocating the passage or defeat of a ballot question and that solicits funds from members or nonmembers and spends more than $1,500 in a calendar year to initiate, advance, promote, defeat or influence in any way a candidate, campaign, political party, referendum or initiated petition, including the collection of signatures for a direct initiative, in this State; and

Based on the information provided to date, the Commission staff is inclined to conclude that Democracy Maine does not have as its major purpose advocating the defeat of TABOR. Although press releases and statements to the media alone may not provide a full picture of an organization's activities, the materials provided do not appear to suggest that opposing TABOR was Democracy Maine's major purpose. Also relevant is the timing of the founding of the organization in May 2005. While opposing TABOR may have been a significant project for Mr. Crasnick in 2006, the Commission staff is not ready to conclude that opposing TABOR was the major purpose of the organization.

Completeness of §1056-B Reporting

The staff wishes to raise for your consideration another issue: whether Democracy Maine's §1056-B reporting of contributions is complete. In its two §1056-B reports, the organization reported total expenditures of $58,689.14, but its contributions totaled only $1,705.00. Mr. Crasnick responds that the balance "came from Democracy Maine's funds for general activities."

In the recent attention over the sufficiency of §1056-B reporting, some have raised the general concern that if a §1056-B filer claims that it used its general funds to support or oppose a ballot question, there remains a possibility that the filer could be shielding the original source of those funds who provided them for the purpose of influencing an election. Indeed, this concern one of the central contentions of the complainant against the Maine Heritage Policy Center.

In the case of Democracy Maine, its website explains that it was founded by real estate developer and businessman Robert C.S. Monks. Democracy Maine's office is located at Mr. Monk's office on the fourth floor of City Center in Portland. Mr. Monks remains a one of its three board members. During the Commission's consideration of the complaint against the Maine Heritage Policy Center, I was asked informally by the press why the Commission was not considering why Mr. Monks was not included as a contributor on Democracy Maine's §1056-B reports, since – it was presumed – that Mr. Monks was the sole funder of the organization. In 2004, Mr. Monks was the sole contributor to a PAC, the Citizenship Fund, and he provided $29,000 to the organization, which was largely spent in six highly contested State Senate races.[1]

In order to perform the Commission's statutory duty to verify that §1056-B reporting is complete, you may conclude that the question is worth pursuing even though it was not included in Mr. Lenardson's complaint and was first raised with me informally by the press based on inferences about Democracy Maine's funders. Since Mr. Monks was part of the organization's board of directors which officially voted in early September 2006 to oppose TABOR, it may be worth asking whether he provided funds to the organization *knowing* that they would be used to oppose TABOR. If that did occur, he should be listed as a contributor in Democracy Maine's §1056-B reports. Please be mindful, however, that Democracy Maine like any nonprofit organization is not generally required to disclose its funders and may be reluctant to disclose this information.

[1] The PAC reported its first contribution from Mr. Monks on November 1, 2004, which in retrospect seems improbable because that was one day before the November 2 general election.

DEMOCRACY MAINE

Maine Voices Against Extremism

OUR FOUNDERS

ROBERT C. S. MONKS,

Bob Monks is a prominent real estate developer and financier, highly regarded for his success in attracting global capital for a wide range of business ventures. His real estate interests include Monks O'Neil Development, Eagle Point Enterprises, The Signal Group, Dirigo Management, Northland Enterprises, Workforce Housing, The Sprague Corporation, and AM&P Partners. Bob Monks also serves as Chairman of the Board of Institutional Shareholder Services (ISS), the leading proxy services company in the world with 420 employees. International investment partners at ISS include real estate titans Warburg Partners and Hermes.

Bob Monks was previously a principal shareholder and Director of Maine-based Atlantic Bank, N.A. and a Director of Maine Employers Mutual, Maine's largest workers' compensation insurance company; and is currently a Director of Navigator Publishing, a publishing company for the boating industry; and a Director and Investor in Wide Multimedia, a London based Internet financial training company. He attended Duke University and earned his BA degree from the University of Southern Maine. He also attended George Mason University's School of Conflict Resolution.

Anthony Buxton,

Anthony W. Buxton is an attorney at Preti Flaherty Beliveau Pachious and Haley and serves as chair of the firm's Energy and Utilities Practice Group.

Tony counsels businesses on how to anticipate and benefit from change in the regulation and sale of energy. He has demonstrated an ability to find creative and unconventional solutions to his clients' problems.

Tony is general counsel to the Industrial Energy Consumer Group, representing Maine's largest consumers of electricity. He is a former member of the Maine Energy Resources Advisory Board. He has presented papers at regional and national conferences on alternative energy development and is the author of Federal and State Legal and Institutional Obstacles to the Development of Small Scale Hydroelectric Projects.

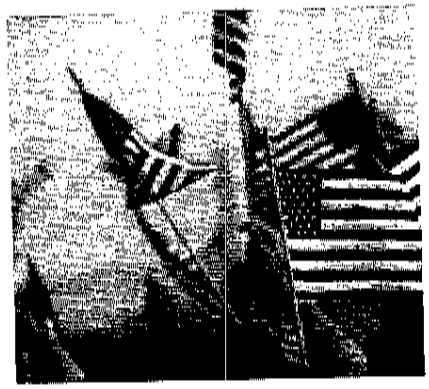
Following his work at the Institute, he was selected to serve as law clerk to the Honorable Hugh H. Bownes of the U.S. Court of Appeals for the First Circuit in Boston. Tony joined Preti Flaherty after completing his clerkship in 1980. He has been listed in Woodward/White's The Best Lawyers in America since 1982.

Jacqueline Potter,

Jackie Potter is a political activist and community leader.

She was campaign manager for US Congressman Tom Allen's successful primary and general election victories in 1996. She then served as his Chief of Staff overseeing his Washington and District offices for his first four terms.

She has been a teacher and school administrator in Several Maine communities,



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IN THE NEWS

Weekend Detention Could End Senate's Squabbling on Iraq

The New York Times, February 16, 2007 **Read More...**

LURC stymies western Maine wind power project

Bangor Daily News, January 25, 2007 **Read More...**

and served for nine years on the Portland School Committee, including terms as chairperson and finance chair. She served as the first director of the Commission for Women, and helped to move the Children's Museum of Maine to downtown Portland as Director of Education.

In 2005, Maine's Dirigo Alliance honored Jackie for "Her dedication to her community and the many local and state efforts to improve the lives of children, women and working families."

Maine Heritage spent $31,000 to back TABOR initiative

Kennebec Journal, January 23, 2007 **Read More...**

Collins, Snowe oppose troop plan

Portland Press Herald, January 23, 2007 **Read More...**

As power shifts, Rep. Allen relishes chance for change

Portland Press Herald, January 5, 2007 **Read More...**

Heritage Policy Center ordered to file form

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Portland think tank under scrutiny

Portland Press Herald, December 12, 2006 **Read More...**

Maine could be hurt by law on power lines

Portland Press Herald, December 11, 2006 **Read More...**

DEMOCRACY MAINE: ONE CITY CENTER, 4TH FLOOR, PORTLAND, ME 04101
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Dennis Bailey is the President of **Savvy Inc,** a Portland media and public relations firm. Dennis has served as Democracy Maine's media stratagist since the group's formation in 2005. He works closely with Democracy Maine's board and staff to develop and implement the group's various media campaigns.

Dennis served as press secretary for US Rep. Tom Andrews for three years before leaving to serve as press secretary for independent gubernatorial candidate Angus King. King went on to defeat the two major party candidates in a stunning upset, becoming the only independent governor at that time in the US. Bailey was press secretary for Governor King for more than six years, until 2000. More recently, Bailey served as a senior media and policy advisor to the successful Baldacci for Governor Campaign in 2002, and has since helped draft several of Governor Baldacci's major addresses and policy speeches.

Savvy Inc was started in 2000. Savvy advises corporate, government, non-profit and political campaign clients on media relations and communications strategy. In 2003 he gained widespread prominence for his central role in the campaign that defeated a statewide referendum to establish a gambling casino in Maine. After the vote, the Maine Sunday Telegram called Bailey "a winner": "He ran a good, common-sense campaign. He was smart not to overexpose himself. He is now one of the most visible figures in the state." Al Diamon of the Portland Phoenix called Bailey "the state's best political operative."

Maine Heritage spent $31,000 to back TABOR initiative

Kennebec Journal, January 23, 2007 **Read More...**

Collins, Snowe oppose troop plan

Portland Press Herald, January 23, 2007 **Read More...**

As power shifts, Rep. Allen relishes chance for change

Portland Press Herald, January 5, 2007 **Read More...**

Heritage Policy Center ordered to file form

Kennebec Journal, December 21, 2006 **Read More...**

Portland think tank under scrutiny

Portland Press Herald, December 12, 2006 **Read More...**

Maine could be hurt by law on power lines

Portland Press Herald, December 11, 2006 **Read More...**

BOARD OF DIRECTORS

Anthony W. Buxton

Robert CS Monks

Jacqueline Potter

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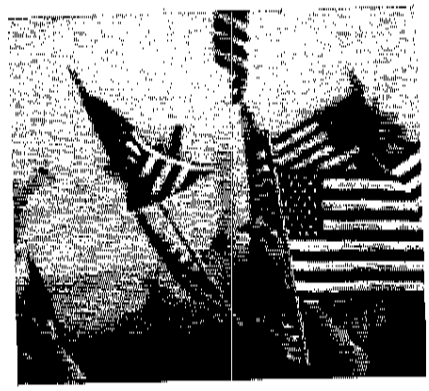
DEMOCRACY MAINE

Maine Voices Against Extremism



Democracy Maine

One City Center 4th Floor
Portland, ME 04101

Have a question or comment?

Email us at: **info@democracymaine.org**

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IN THE NEWS

Weekend Detention Could End Senate's Squabbling on Iraq

The New York Times, February 16, 2007

LURC stymies western Maine wind power project

Bangor Daily News, January 25, 2007

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

January 16, 2007

Jonathan Crasnick
Democracy Maine
One City Center
Portland, ME 04101

Dear Mr. Crasnick:

This is to notify you that Roy Lenardson has filed a request that the Ethics Commission consider whether Democracy Maine should have registered as a political action committee (PAC) with the Commission last year and filed regular PAC reports. I have attached his request, the definition of political action committee under 21-A M.R.S.A. §1052(5), the reporting requirements under §1056-B, and an advisory memo from the Commission staff regarding §1056-B reporting.

Requested Response

I am scheduling this matter for the Commission's meeting in March, because the agenda for the February meeting is already quite long. The date for the March meeting has not been finalized. **Kindly submit a written response to the request no later than Wednesday, February 7th.**

In your response, please describe Democracy Maine's overall mission and activities relating to the Taxpayer Bill of Rights (TABOR) initiative. I recognize that some activities are reflected in Schedule B of your §1056-B report, but I think it would be helpful if you could provide the Commission with a description.

With regard to the funders of your organization's TABOR activities, under 21-A M.R.S.A. §1056-B Democracy Maine is required by the Election Law to report "contributions ... for the purpose of initiating, promoting, defeating, or influencing in any way a ballot question ...." Please describe the sources of funding for the organization's TABOR activities, in particular what funds were used to make the reported expenditures that were not shown on Schedule A of your §1056-B reports.

For your consideration, I have attached a December 27, 2006 memo from the Commission staff offering advice on what to include in a §1056-B report. (This advice has not been approved by the Commission members.) On the issue of reporting contributions, we have advised disclosing:

- funds which the contributor specified were given in connection with a ballot question (*i.e.*, for the purpose of promoting or opposing a ballot question);
- funds provided in response to a solicitation which would lead the contributor to believe that the funds would be used specifically for the purpose of promoting or opposing a ballot question; and
- funds which can reasonably be determined to have been provided by the contributor for the purpose of promoting or opposing a ballot question when viewed in the context of the contribution and the recipient's activities regarding a ballot question.

If you have any questions, please telephone me at 287-4179. Thank you.

Sincerely,

Jonathan Wayne
Executive Director

cc: Roy Lenardson

From: Roy Lenardson [mailto:roy@strategicadvocacy.com]
Sent: Monday, January 08, 2007 7:52 AM
To: Wayne, Jonathan; Lavin, Paul
Subject: Complaint

Dear Jonathan:

I would like to formally request that the staff review whether or not Democracy Maine incorrectly filed as a 1056-B when their activities are more accurately reflected as a Political Action Committee. In addition to the Democracy Maine inquiry, I am concerned that the AARP, while certainly a large organization with many responsibilities beyond anti-Tabor activities, fails to meet the 1056-B test. I am not familiar with an organization spending 300,000 dollars in a single campaign, and deciding it is not a PAC.

It makes sense to me that a quick review of all the 1056-B filers is in order. I am specifically requesting the AARP review, although there may be others that should also be included.

I am attaching several documents which I believe represent a "major" portion of the activities of the Democracy Maine during the referendum campaign. Including:

1. Email solicitations (I have included 3) asking for money for the defeat of TABOR
2. A press release announcing that "Democracy Maine Begins Campaign to Expose TABOR as a Fraud"
3. A copy of one of the Newspaper Ads (Full page) that ran in papers throughout Maine urging a NO vote on Question 1
4. A copy of one of the mailings that was sent from Democracy Maine urging the defeat of TABOR
5. A screen shot of their campaign website www.stophurricanetabor.com, which also links to their other website, www.democracymaine.com and includes a link for a radio Ad.
6. A copy of their 1056-B report which shows just over $1000 dollars in contributions and more than $42,000 in expenditures July 24th through October 23, a 3 month period. I do not have the latest copy.

Finally, I would like to state that I am adamantly opposed to the requirement created in the context of the 1056-B reports that an organization file where and when they have spoken on an issue. This new requirement that groups register their speaking activities with the government is dangerous.

However, I believe the Maine Heritage Policy Center, which is now required to register with the government, is being unfairly singled out. The following organizations did not file a 1056-B report yet expended resources and spoke in opposition to TABOR:

1. The City of Portland
2. The Kathadin Institute
3. The University of Maine System
4. The Catholic Church
5. The Maine State Chamber

This is by no means a complete list, but before I file an additional complaint, could you please provide me with guidance on the standards being used that will trigger the reporting requirement? Information on how many speeches have to be given or the number of meetings held, the number of mentions in the paper, radio and TV. If there are specific content issues that one would need to consider, that be helpful to know as well. My goal here is to understand exactly when the 1056-B report would be triggered.

I look forward to working with you in this issue.

Roy Lenardson
Strategic Advocacy, LLC
605 US Route One, Suite 5
Scarborough, Maine 04074
207.329.0992 (c)

----- Forwarded Message
From: Democracy Maine <info@democracymaine.org>
Reply-To: <info@democracymaine.org>
Date: Tue, 29 Aug 2006 16:32:45 -0400
Subject: Maine Sunday Telegram on TABOR

Dear Fellow Citizens,

This past weekend the Maine Sunday Telegram published an editorial that criticized the spending cap legislation known as TABOR for "*giving a motivated minority the power to wrap up their government in a fiscal straightjacket.*"

The editorial went on to say:

"A more effective critique addresses the manner in which TABOR clamps down on spending. It's a policy bludgeon that leaves government less able to respond to opportunities and unexpected fiscal burdens. And TABOR's biggest effect is more likely to be felt on local rather than state programs."

Click here to read the full Maine Sunday Telegram Editorial.
<http://pressherald.mainetoday.com/viewpoints/editorials/060827tabor.shtml>

TABOR is a one-size fits all formula that takes away local control.

Visit http://www.notabor.org/ to learn how TABOR will affect Maine's families and economy.

Make an online contribution <http://www.democracymaine.org/Default.aspx?tabid=57> and help Democracy Maine spread the word against TABOR.

Democracy Maine
One City Center, 4th Floor
Portland, ME 04101

<https://www.myngp.com/ngpweb/app/tools/broadcast/broadcastforward.aspx?value1=2999912&value2=1319&value3=8031>
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<http://www.ngpsoftware.com>

----- End of Forwarded Message

----- Forwarded Message
From: Democracy Maine <info@democracymaine.org>
Reply-To: <info@democracymaine.org>
Date: Thu, 28 Sep 2006 16:14:30 -0400
Subject: TABOR: Not From Maine - PBS Special

Dear Fellow Citizens,

While supporters of TABOR claim that it is a "homegrown" Maine initiative, in reality, TABOR is political extremism from outside of Maine. TABOR is part of a national conservative movement supported by and secretly funded by far right extremists like Grover Norquist and Howard Rich.

This week, a PBS episode of NOW, investigates how organizations associated with New York billionaire Howard Rich and Americans for Tax Reform Director Grover Norquist are secretly providing major funding for TABOR-like ballot initiatives all across the United States. NOW also investigates the questionable tactics that have been used to get these initiatives on the ballot.

This special report strongly counters TABOR proponents' arguments that TABOR is a homegrown solution for Maine. Please view this investigation online at:

http://www.pbs.org/now/shows/238/index.html <http://www.pbs.org/now/shows/238/index.html>

Learn why TABOR is a national strategy being pushed in Maine by far right extremists who are not concerned with the interests of Maine citizens.

TABOR is a fraud and another incompetent solution from the far right.

Click here <http://www.democracymaine.org/Default.aspx?tabid=57> to make an online contribution of $25 <http://www.democracymaine.org/Default.aspx?tabid=57> and help Democracy Maine <http://www.democracymaine.org/Default.aspx?tabid=85> spread the truth about TABOR.

Thank you,

Jon Crasnick

Democracy Maine

Democracy Maine
One City Center, 4th Floor
Portland, ME 04101

<https://www.myngp.com/ngpweb/app/tools/broadcast/broadcastforward.aspx?value1=3461492&value2=1319&value3=8031>
To unsubscribe from this mailing list, click here
<http://images.myngp.com/unsubscribe.html?mailid=NGPClientData6~~3461492>
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<http://www.ngpsoftware.com>

----- End of Forwarded Message

From: "Democracy Maine" <info@democracymaine.org>
Reply-To: info@democracymaine.org
To: [redacted]@hotmail.com
Subject: TABOR Forecast: A FRAUD on Maine
Date: Tue, 03 Oct 2006 14:35:07 -0400

<http://www.democracymaine.org/Portals/0/Skins/Blue_H-Menu_NB/people.jpg>

<http://www.democracymaine.org/Portals/0/images/DemMaine_logo_(cmyk)(contribution).jpg>

Dear Fellow Citizens,

Last week we learned the truth; TABOR is from out of state and harmful to Maine.

This week, Democracy Maine began its campaign against TABOR by running ads in Maine's major newspapers that expose TABOR for what it truly is - A FRAUD. TABOR will not do what it's supporters say it will. In-fact, TABOR will make tax cuts virtually impossible by allowing a small,one-third minority of lawmakers to prevent necessary reforms. Click on the image below to see Democracy Maine's ad against TABOR.

<http://www.democracymaine.org/Portals/0/docs/DemMaine_TABOR(PPH).pdf>

visit http://www.stophurricanetabor.com/ to learn why TABOR is a fraud and dangerous for Maine

Democracy Maine needs your help to keep this ad in Maine newspapers. Help Democracy Maine <http://www.democracymaine.org/> defeat TABOR by donating $100 <http://www.democracymaine.org/Default.aspx?tabid=57> , $50 <http://www.democracymaine.org/Default.aspx?tabid=57> , or $25 <http://www.democracymaine.org/Default.aspx?tabid=57> . Click here to make a secure Online Contribution <http://www.democracymaine.org/Default.aspx?tabid=57> .

Thank you,

Jon Crasnick

Democracy Maine

Democracy Maine
One City Center
Portland, ME 04101
<http://images.myngp.com/NGPClientData6---/img3534444.gif>

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DEMOCRACY MAINE

Maine Voices Against Extremism

One City Center, 4th Floor
Portland, ME 04101
(207) 831-9840
www.democracymaine.org

Sept. 28, 2006
FOR IMMEDIATE RELEASE

DEMOCRACY MAINE BEGINS CAMPAIGN TO EXPOSE TABOR AS A FRAUD

PORTLAND – Democracy Maine today announced its campaign in opposition to Question One, otherwise known as TABOR, which the group says is a fraud on the voters of Maine.

The group intends to reach voters through newspaper and radio ads, direct mail and other media to tell the facts about TABOR.

"TABOR is a fraud," said Jon Crasnick, executive director of Democracy Maine, the year-old organization that was founded to confront partisan extremism that is preventing real problems from being solved. "It will not restrain spending by the Legislature in any way, it will hurt local control, not strengthen it, and it will make real tax reform almost impossible. This is exactly the opposite of what the proponents of TABOR are telling the voters. That's why it's a fraud."

Democracy Maine's campaign began this week with on-line banner ads warning voters about "Hurricane Tabor."

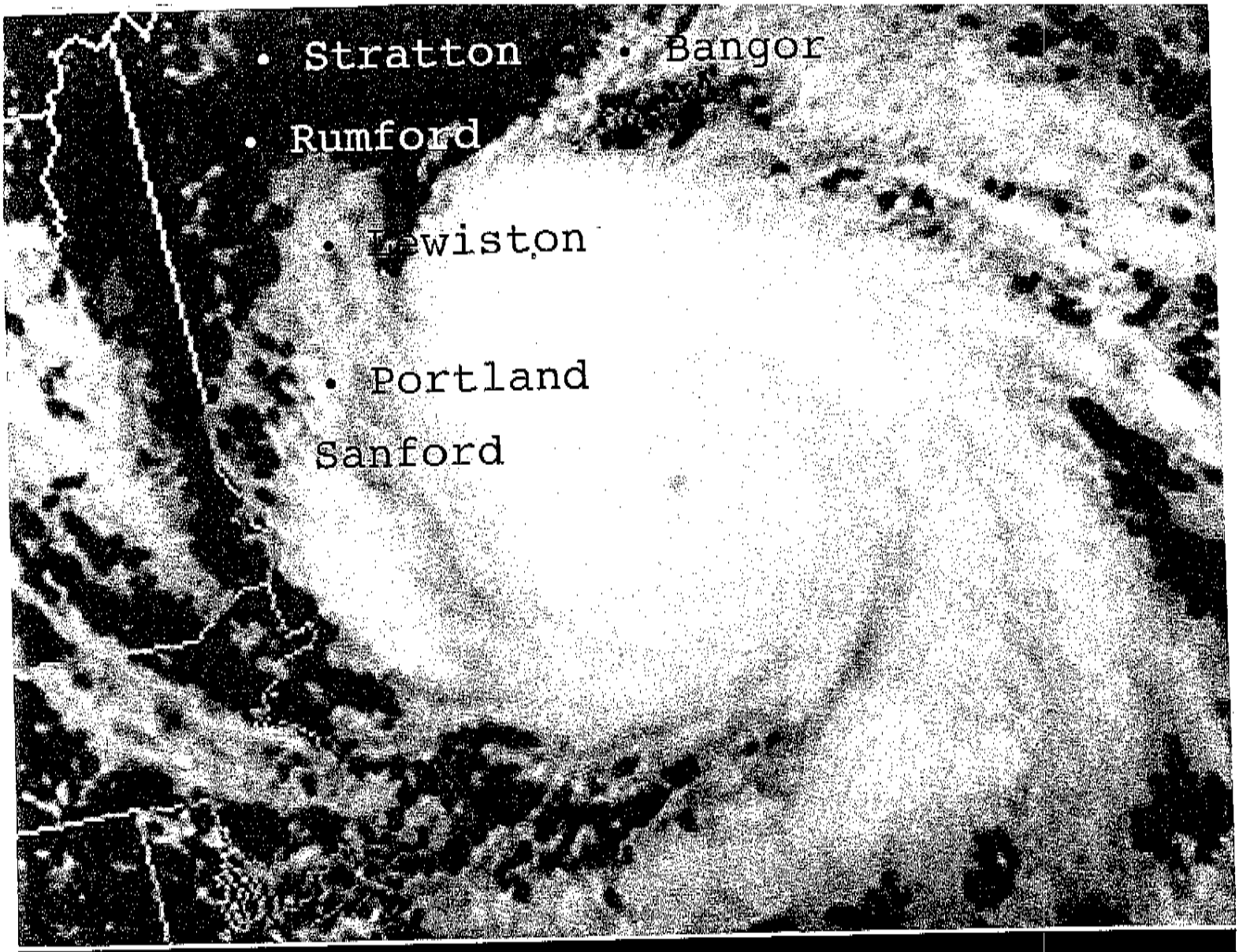
"TABOR is not a local, home-grown solution to Maine's unique problems, even though the proponents claim it is" Crasnick said. "This is being brought into Maine by the same incompetent national and far-right special interests that returned us to sky-high deficits, developed a flawed and dangerous foreign policy, and led the tragic response to hurricane Katrina.

"We need to improve government and make it more efficient, not wipe it out," Crasnick added.

The group has a website, www.stophurricanetabor.com that details the initiative and contains a complete "fraud forecast." The site also has a link to a recent PBS report about the national far-right groups that are behind TABOR initiatives across the country.

For more information about Democracy Maine, go to www.democracymaine.com

Contact: Jon Crasnick, 776-0521.



HURRICANE TABOR
WIPES OUT REAL TAX REFORM

A major storm is bearing down on Maine voters, and the radar shows it will wipe out any chance for real tax reform in Maine. It's called TABOR — Question 1 on the Nov. 7 ballot.

FORECAST: TABOR IS A FRAUD — IT WILL NOT CUT YOUR TAXES

TABOR *will make tax cuts virtually impossible by changing the law so that it takes just a one-third minority to block tax reform.*

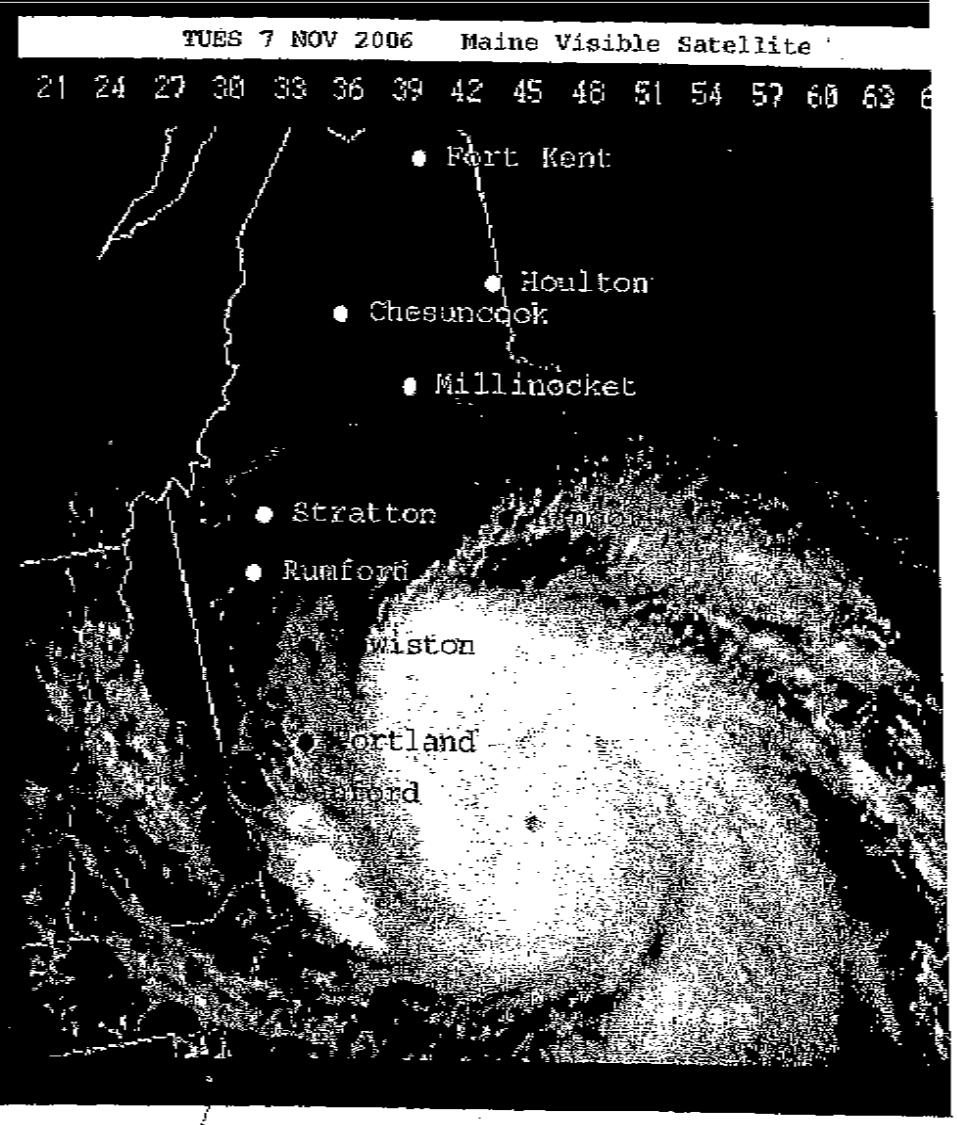
TABOR *takes control away from local taxpayers.*

FROM :
FAX NO. :
Nov. 28 2005 02:41PM P1
PAGE 19/23
ETHICS COMMISSION
03/01/2007 17:55 2072876775

HURRICANE TABOR WIPES OUT REAL TAX REFORM

VOTE NO ON QUESTION 1

www.StopHurricaneTABOR.com



03/01/2007 17:55 2072876775 FAX NO. .. Nov. 28 2006 02:42PM P2 PAGE 20/23 ETHICS COMMISSION FROM :

DON'T BE TRICKED BY TABOR
VOTE NO ON QUESTION 1

A major storm is bearing down on Maine voters, and the radar shows it will wipe out any chance for real tax reform in Maine. It's called TABOR — Question 1 on the Nov. 7 ballot.

FORECAST: TABOR IS A FRAUD — IT WILL NOT CUT YOUR TAXES

TABOR *will make tax cuts virtually impossible by changing the law so that it takes just a one-third minority to block tax reform.*

TABOR *takes control away from local taxpayers.*

TABOR *gives Augusta total control — lawmakers can change it or even ignore it.*

TABOR *is sponsored by the same incompetent national and far-right special interests that returned us to sky-high deficits, developed a flawed and dangerous foreign policy, and led the tragic response to Hurricane Katrina.*

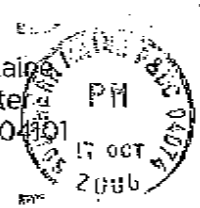
"[TABOR] is a policy bludgeon that leaves governments less able to respond to opportunities and unexpected fiscal burdens."

— Maine Sunday Telegram, 8/27/06

GET THE FACTS NOW!

www.StopHurricaneTABOR.com

Paid for by
Democracy Maine
One City Center
Portland, ME 04101



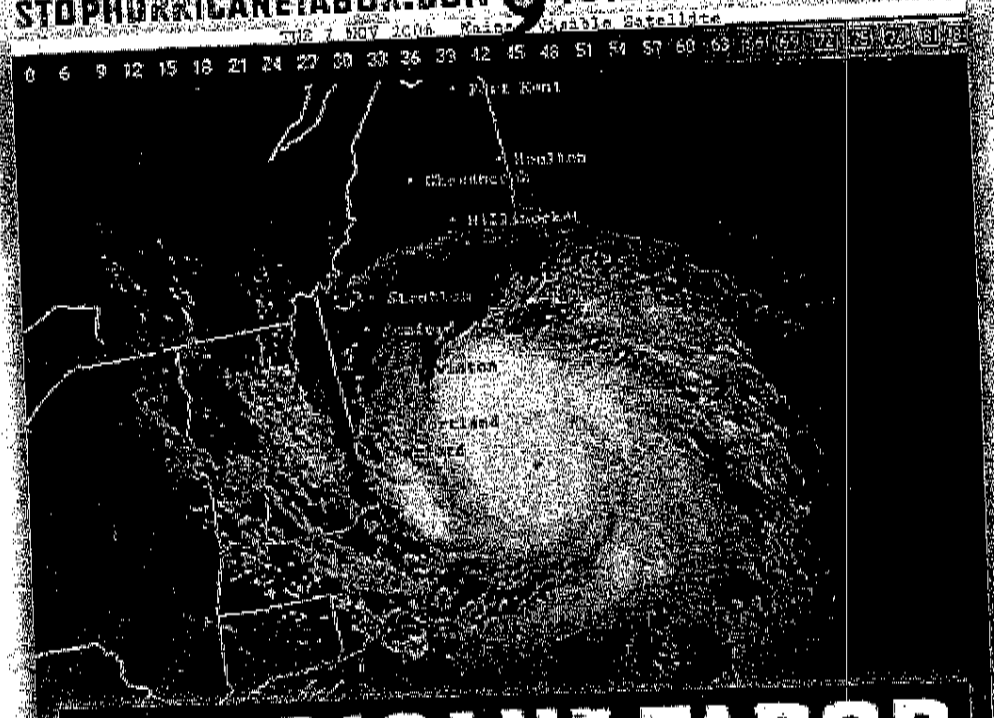
STOPHURRICANETABOR.COM VOTE NO ON QUESTION 1

complete FRAUD forecast

contribute to stop TABOR

HEAR THE NEW RADIO SPOT!

CONTACT HOME



HURRICANE TABOR WIPES OUT REAL TAX REFORM

DON'T BE TRICKED BY TABOR VOTE NO ON QUESTION 1

A major storm is bearing down on Maine voters. The forecast shows that TABOR — Question 1 on the Nov. 7 ballot — is a catastrophic fraud that will wipe out any chance for real tax reform in Maine.

TABOR is a fraud — it will not cut your taxes.

TABOR will make tax cuts virtually impossible by changing the law so that it takes just a one-third minority to block tax reform.

TABOR takes control away from local taxpayers.

TABOR gives Augusta total control — lawmakers can change it or even ignore it.

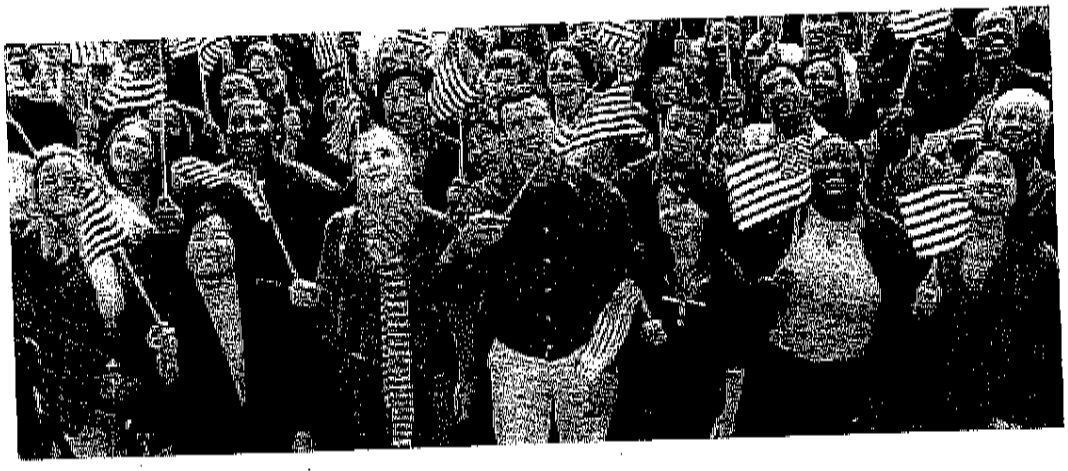
TABOR is sponsored by the same incompetent national and far-right special interests that returned us to sky-high deficits, developed a flawed and dangerous foreign policy, and led the tragic response to Hurricane Katrina.

"[TABOR] is a policy bludgeon that leaves governments less able to respond to opportunities and unexpected fiscal burdens." — *Maine Sunday Telegram, 8/27/06*

stophurricanetabor.com/index.html as retrieved on Dec 8, 2006 07:40:38 GMT.
Paid for by **Democracy Maine**, One City Center, Portland, ME 04101

NOTE: The link to contribute takes you here: http://www.democracymaine.org/Default.aspx?tabid=57

From: *"Democracy Maine" <info@democracymaine.org>*
Reply-To: *info@democracymaine.org*
To: *@hotmail.com*
Subject: *New Ad: Help Knock TABOR off course*
Date: *Thu, 26 Oct 2006 20:30:44 -0400*



DEMOCRACY MAINE

Maine Voices Against Extremism

Dear Maine Citizens,

As November 7th approaches, support for TABOR is declining quickly as voters learn the truth. The truth is that TABOR is A FRAUD. It is being pushed by incompetent special interests and will not do what its supporters say it will. It will not control state spending, it will rob communities of local control, and it will wipe out any chances of lower taxes in Maine.

Democracy Maine has produced a new Radio ad to help spread the truth about TABOR. Click here to listen to our new ad and then forward this message to your friends and family.

We need your help to get our ad onto the radio. Help Democracy Maine knock TABOR off course by donating $100, $50, or $25. Click here to make a Secure Online Contribution. Any amount you can give will make a difference.

Visit www.stophurricanetabor.com or www.democracymaine.org to learn why TABOR is a fraud and dangerous for Maine!

Thank you,

Jon Crasnick

Democracy Maine

Democracy Maine
One City Center
Portland, ME 04101

send this to a friend

To unsubscribe from this mailing list, click here
POWERED BY NGP SOFTWARE, INC.

Title 21-A, §1052, Definitions

4. Expenditure. The term "expenditure:"

A. Includes:

(1) A purchase, payment, distribution, loan, advance, deposit or gift of money or anything of value, made for the purpose of influencing the nomination or election of any person to political office; or for the initiation, support or defeat of a campaign, referendum or initiative, including the collection of signatures for a direct initiative, in this State;

(2) A contract, promise or agreement, expressed or implied, whether or not legally enforceable, to make any expenditure for the purposes set forth in this paragraph; and

(3) The transfer of funds by a political action committee to another candidate or political committee; and

[2005, c. 575, §4 (amd).]

B. Does not include:

(1) Any news story, commentary or editorial distributed through the facilities of any broadcasting station, newspaper, magazine or other periodical publication, unless these facilities are owned or controlled by any political party, political committee or candidate;

(2) Activity designed to encourage individuals to register to vote or to vote, if that activity or communication does not mention a clearly identified candidate;

(3) Any communication by any membership organization or corporation to its members or stockholders, if that membership organization or corporation is not organized primarily for the purpose of influencing the nomination or election of any person to state or county office;

(4) The use of real or personal property and the cost of invitations, food and beverages, voluntarily provided by a political action committee in rendering voluntary personal services for candidate-related activities, if the cumulative value of these activities by the political action committee on behalf of any candidate does not exceed $100 with respect to any election;

(5) Any unreimbursed travel expenses incurred and paid for by a political action committee that volunteers personal services to a candidate, if the cumulative amount of these expenses does not exceed $100 with respect to any election; and

(6) Any communication by any political action committee member that is not made for the purpose of influencing the nomination for election, or election, of any person to state or county office.

[2005, c. 301, §22 (amd).]
[2005, c. 575, §4 (amd).]

5. Political action committee. The term "political action committee:"

A. Includes:

(1) Any separate or segregated fund established by any corporation, membership organization, cooperative or labor organization whose purpose is to influence the outcome of an election, including a candidate or question;

(2) Any person who serves as a funding and transfer mechanism and spends money to initiate, advance, promote, defeat or influence in any way a candidate, campaign, political party, referendum or initiated petition in this State;

(3) Any organization, including any corporation or association, that has as its major purpose advocating the passage or defeat of a ballot question and that makes expenditures other than by contribution to a political action committee, for the purpose of the initiation, promotion or defeat of any question; and

(4) Any organization, including any corporation or association, that has as its major purpose advocating the passage or defeat of a ballot question and that solicits funds from members or nonmembers and spends more than $1,500 in a calendar year to initiate, advance, promote, defeat or influence in any way a candidate, campaign, political party, referendum or initiated petition, including the collection of signatures for a direct initiative, in this State; and

[2005, c. 575, §5 (amd).]

B. Does not include:

(1) A candidate or a candidate's treasurer under section 1013-A, subsection 1;

(2) A candidate's authorized political committee under section 1013-A, subsection 1, paragraph B; or

Title 21-A, §1052, Definitions

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

[RR 2005, c. 2, §14 (cor).]

[RR 2005, c. 2, §14 (cor).]

PL 1985, Ch. 161, §6 (NEW).
PL 1985, Ch. 614, §23 (AMD).
PL 1989, Ch. 504, §21-23,31 (AMD).
PL 1989, Ch. 833, §13,21 (AMD).
PL 1991, Ch. 839, §27 (AMD).
PL 1991, Ch. 839, §33 (AFF).
PL 1995, Ch. 483, §17 (AMD).
PL 1997, Ch. 683, §A12 (AMD).
PL 1999, Ch. 729, §6 (AMD).
PL 2005, Ch. 301, §22 (AMD).
PL 2005, Ch. 575, §3-5 (AMD).

Title 21-A, §1056-B, Reports of contributions and expenditures by persons

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§1056-B. Reports of contributions and expenditures by persons

Any person not defined as a political committee who solicits and receives contributions or makes expenditures, other than by contribution to a political action committee, aggregating in excess of $1,500 for the purpose of initiating, promoting, defeating or influencing in any way a ballot question must file a report with the commission. In the case of a municipal election, a copy of the same information must be filed with the clerk of that municipality. [1999, c. 729, §8 (new).]

1. Filing requirements. A report required by this section must be filed with the commission according to a reporting schedule that the commission shall establish that takes into consideration existing campaign finance reporting schedule requirements in section 1059. [1999, c. 729, §8 (new).]

2. Content. A report must contain an itemized account of each contribution received and expenditure made aggregating in excess of $100 in any election; the date of each contribution; the date and purpose of each expenditure; and the name of each contributor, payee or creditor. Total contributions or expenditures of less than $500 in any election need not be itemized. The report must state whether the purpose for receiving contributions and making expenditures is in support of or in opposition to the ballot question. [1999, c. 729, §8 (new).]

3. Forms. A report required by this section must be on a form prescribed and prepared by the commission. A person filing this report may use additional pages if necessary, but the pages must be the same size as the pages of the form. [1999, c. 729, §8 (new).]

PL 1999, Ch. 729, §8 (NEW).

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

To: Interested Persons
From: Jonathan Wayne, Executive Director
Date: December 27, 2006
Re: Advice from Commission Staff on §1056-B Reporting

In response to a request, the Ethics Commission staff is offering the advice below regarding which financial activities are covered by 21-A M.R.S.A. §1056-B. This advice is offered provisionally until more permanent guidance can be determined through formal rulemaking or, possibly, a statutory amendment to §1056-B. If you believe you may need to file an amended §1056-B report as a result of this advice, please feel free to telephone Martha Demeritt at 287-4179. Please keep in mind that the advice has been drafted by the Commission staff, and has not been specifically approved by the Commission members.

Contributions Covered by §1056-B

Section 1056-B covers "contributions ... made for the purpose of initiating, promoting, defeating, or influencing in any way a ballot question ...." We propose that this would include the following:

- funds which the contributor specified were given in connection with a ballot question (*i.e.*, for the purpose of promoting or opposing a ballot question);
- funds provided in response to a solicitation which would lead the contributor to believe that the funds would be used specifically for the purpose of promoting or opposing a ballot question; and
- funds which can reasonably be determined to have been provided by the contributor for the purpose of promoting or opposing a ballot question when viewed in the context of the contribution and the recipient's activities regarding a ballot question.

Funds provided in response to a solicitation which would lead the contributor to believe that the funds would be for an organization's general activities would not be covered by Section 1056-B.

Expenditures Covered by §1056-B

Section 1056-B covers "expenditures made for the purpose of initiating, promoting, defeating, or influencing in any way a ballot question ...." We propose that this would include the following:

- expenditures for communications to voters for the purpose of promoting or opposing a ballot question, including advertising on television, radio, and print media; literature that is mailed or distributed by hand to voters; automated telephone calls and scripted calls from live callers; signs, bumper stickers, and other forms of outdoor advertising;
- staff time promoting or opposing the ballot question at public or press events;
- staff time canvassing (conducting door-to-door visits to) voters;
- travel expenses paid to employees in connection with appearances at public or press events;
- staff time preparing presentations, testimony or press releases to promote or oppose the ballot question;
- research or technical analysis including the writing of reports, where the sponsoring organization knows or reasonably should know that the research will be used to promote or oppose the ballot question; and
- expenditures to distribute research or technical analysis of a ballot question for the purpose of encouraging voters to vote yes, or no, on the question.

This list is not intended to be exhaustive and is similar to the types of expenditures reported by political action committees to promote or defeat a ballot question.

Expenditures Not Covered by §1056-B

We propose that expenditures made merely to educate voters or others in a neutral way about a ballot question are not covered by §1056-B:

- Hosting a meeting at which advocates or members of the public are invited to present their views on the ballot question, provided that the sponsors of the event make reasonable efforts to ensure that the forum is balanced.

  In 2006, for example, this would include the many community organizations (rotary clubs, public libraries, church groups) that hosted TABOR-related debates.

- News stories, commentary, or editorials concerning a ballot question distributed through the facilities of a broadcasting station, newspaper, magazine, or other periodical publication, unless the facilities are owned or controlled by persons otherwise engaged in other advocacy activities to promote or oppose the ballot question.

- Research or analysis of a ballot question which is not conducted for the purpose of initiating, promoting, or defeating the ballot question.

  This could include research that is conducted in a neutral fashion and is intended to be communicated to opinion leaders, in academic settings, or to the public at large. When statewide ballot questions are pending, it is not unusual for individuals with specialized skills (*e.g.*, academics, attorneys, educational institutions, pollsters) to be hired to undertake research or analysis concerning the ballot question. If these activities are neutral and not made for the purpose of promoting or defeating the question, they would not be covered by §1056-B.

DEMOCRACY MAINE
Maine Voices Against Extremism

One City Center, 4th Floor
Portland ME 04101
(207) 831-9840
www.democracymaine.com

RECEIVED
FEB - 7 2007
COMMISSION ON GOVERNMENTAL ETHICS
& ELECTION PRACTICES-AUGUSTA, ME

February 6, 2007

Jonathan Wayne, Executive Director
Maine Commission on Governmental Ethics and Election Practices
135 State House Station
Augusta, ME 04333-0135

RE: Requested response to complaint by Roy Lenardson

Dear Mr. Wayne,

I am responding to your letter dated January 16th, 2007, in which you requested a response to the complaint against Democracy Maine by Roy Lenardson.

Response to requested information

Democracy Maine, originally created under the name *Democracy Now*, was formed in May of 2005 with the mission to expose political extremism in Maine – whether partisan or ideological – and advocate against its eroding of Maine's political processes. Democracy Maine often sees both republicans and democrats, and conservatives and liberals caught in a war of rhetoric and meaningless talking points and unable to work towards solutions to the challenges facing Maine.

In April 2006, consistent with this message, Democracy Maine first became involved with the Taxpayer Bill of Rights (TABOR) by filing an *amicus brief* with the Maine Supreme Court in support of a lower court's decision upholding the statutory deadline for submitting petition signatures for the TABOR referendum. *See exhibit A.*

The brief cited numerous cases around the country to support Democracy Maine's argument that Maine Secretary of State Matthew Dunlap did not have the discretion to accept the petition signatures after the deadline established in statute. Democracy Maine believed that while there was no foul play involved with the decision, allowing state

officials to accept referendum signatures after the deadline would erode confidence in the electoral process and set a dangerous precedent.

Democracy Maine did not take a position for or against TABOR. At that time, Democracy Maine's message was simply that the citizen's initiative process is very important to democracy. It has clear rules that govern its implementation, and strict compliance with those rules is necessary to protect the integrity of the process.

In May 2006, Maine's Supreme Court ruled that the late TABOR signatures could be accepted and that TABOR would appear on November's ballot. It was not until July of 2006 however, that Democracy Maine began to investigate the origins and potential impacts of TABOR. During the summer months of 2006, Democracy Maine's staff and board of directors debated what the organization's position on TABOR would be. As is clearly stated in Democracy Maine's 6-Day pre-general §1056-B report, Democracy Maine worked with media and political consultants to develop possible messages. Democracy Maine also commissioned a poll to learn what support existed for TABOR. In September of 2006, Democracy Maine's board of directors officially voted to oppose TABOR.

It was then – September 6, 2006 - when I called the Maine Ethics Commission and spoke with Martha Demeritt. I asked Martha what disclosure was required from a 501(c)(4) nonprofit organization that wished to directly advocate for the defeat of a referendum question. Martha explained that under current Maine law, since Democracy Maine was formed for a purpose other than defeating TABOR, Democracy Maine was not required to register and report as a Political Action Committee (PAC). Instead Martha explained, Democracy Maine would be required to file Maine form 1056-B (the "§ 1056-B report"), otherwise known as the "*Persons other than a PAC*" report. 1056-B reports are required from organizations that do not qualify as PACs but that raise and/or spend over $1500 for the specific purpose of influencing the outcome of an election or referendum. 21-A M.R.S.A. § 1056-B.

Having spoken to Martha, Democracy Maine announced and began its campaign to expose the deceptions or deficiencies of TABOR and advocate for its defeat. Democracy Maine's activities relating to the Taxpayer Bill of Rights are reflected in the complaint packet submitted by Mr. Lenardson. Democracy Maine announced its campaign through press releases and email correspondence sent to Democracy Maine's email subscribers. *See attached exhibit B.* Democracy Maine also ran advertisements opposing TABOR in the Portland Press Herald and Bangor Daily News, created direct mail pieces, and launched a website called www.stophuricanetabor.com . *See attached exhibits C & D.* All of Democracy Maine's activities against TABOR were meant to show that TABOR was an attack on democracy in Maine. We argued that TABOR would take control away from local governments and individuals; would eliminate majority rule by giving power to small minorities on any governing body; and was not a solution created in or for Maine

but rather part of a national movement started and funded by national figures such as Grover Norquist and Howard Rich.

Democracy Maine's § 1056-B reports also illustrate that during its campaign against TABOR, Democracy Maine attempted to raise money to help fund its activities. Via emails and conventional mailings, Democracy Maine solicited contributions for its work to defeat TABOR. From these solicitations, between September 28 and November 13, Democracy Maine raised a total of $1705.00. Eight of the contributions to Democracy Maine were $100 or more and were itemized in Democracy Maine's two § 1056-B reports. *See exhibits E & F.*

Your request pointed out that Democracy Maine is required in its 1056-B to report, "contributions...for the purpose of initiating, promoting, defeating, or influencing in any way a ballot question..." As I have stated above and in Democracy Maine's 1056-B's: Democracy Maine raised, through solicitations specifically for our TABOR activities, a total $1705.00.

As is stated in our 1056-B reports, Democracy Maine spent a total of $58,698.14 to defeat the TABOR initiative. Since Democracy Maine was only able to raise $1705.00, the majority of funds that paid for the anti TABOR activities came from Democracy Maine's funds for general activities. And although Maine's § 1056-B reporting requires organizations other than PACs to disclose how much money they spend to influence an election, they are not required to account for the source of the money used to pay for the reported expenses, if the source is general contributions for the organization's general activities. As we recently saw for example, the Maine Heritage Policy Center disclosed spending $30,962.19 in support of TABOR but reported raising only $975.00.

Response to Mr. Lenardson's Complaint

On December 21st, Mr. Lenardson testified before the Ethics Commission that he did not believe the Maine Heritage Policy Center (MHPC) acted as a PAC in 2006 or during the TABOR campaign. Mr. Lenardson was a previous employee of the MHPC and continues to have close ties to that organization. As the Commission is aware, Democracy Maine had joined a complaint against MHPC, which was taking the position that it did not even have § 1056-B reporting obligations. Regardless of whether the present complaint against Democracy Maine is a retaliatory response to Democracy Maine's recent complaint against MHPC, Mr. Lenardson's assertion that Democracy Maine is a PAC seems inconsistent with his recent argument and testimony that MHPC is not a PAC.

It would also be inconsistent for this Commission to decide that Democracy Maine acted as a PAC in 2006 or during the TABOR campaign based on its recent decisions that both the Maine Heritage Policy Center and the Maine Economic Research Institute were not PACs in 2006.

Democracy Maine Response
February 6, 2007

Democracy Maine was created in 2005, well before the TABOR signatures were even submitted to the Secretary of State. Democracy Maine's mission is to expose and combat partisan and/or ideological extremism, and TABOR's origins and restrictions on government made it a perfect issue underneath the umbrella of that overarching mission.

As the attached press releases and newspaper articles will demonstrate, Democracy Maine was involved in several other issues in 2006 including the promoting of wind power projects as viable solutions to global warming, and lobbying Maine's two US Senators to vote against naming Samuel Alito to the US Supreme Court. *See exhibits G & H.*

Democracy Maine has gone out of its way to learn about and follow Maine's current campaign finance laws. Based on Maine's current laws and recent decisions by the Ethics Commission, I do not believe Democracy Maine is or has acted like a Political Action Committee as Mr. Lenardson has suggested. However, it has become clear in recent months that there is great confusion in this State over what is required from groups other than PACs and what should be required from groups other than PACs. Democracy Maine has recently voiced its desire for increased transparency in the sources of funding for political activities and feels strongly that when any organization spends any amount of money to try to influence the outcome of an election, Maine people need and have a right to know exactly where that money comes from.

I look forward to speaking before you and the Commission at your March meeting and answering any questions that you may have.

Very Sincerely,

Jonathan A. Crasnick

Executive Director
Democracy Maine

Exhibit A

STATE OF MAINE
SUPREME JUDICIAL COURT
SITTING AS THE LAW COURT

Law Docket No. Ken-06-223

KATHLEEN C. McGEE

Petitioner-Appellee

v.

MATTHEW DUNLAP, MAINE SECRETARY OF STATE

Respondent-Appellant

v.

MARY ADAMS

Intervenor-Appellant

ON APPEAL FROM THE KENNEBEC COUNTY SUPERIOR COURT

BRIEF OF AMICUS CURIAE DEMOCRACY MAINE, INC.

Richard L. O'Meara, Bar No. 3510
Christopher B. Branson, Bar No. 7270
MURRAY, PLUMB & MURRAY
75 Pearl Street
P.O. Box 9785
Portland, Maine 04101
(207) 773-5651
Attorneys for Amicus Curiae
Democracy Maine, Inc.

TABLE OF CONTENTS

TABLE OF AUTHORITIES ii

STATEMENT OF FACTS 1

PROCEDURAL HISTORY 2

ISSUES PRESENTED 3

ARGUMENT 4

I. Voter Initiatives and Referenda Are a Valued and Potent Exercise in Direct Democracy and It Is Paramount to Safeguard Their Integrity, For Its Own Sake, and to Promote Public Confidence in Our Democratic Government.....

II. Courts Throughout the United States Have Rejected Untimely Petitions for Initiatives and Referenda.....

III. The One-Year Deadline of 21-A M.R.S.A. § 903-A(1) Complies with the First Amendment Because it is a Reasonable and Nondiscriminatory Restriction that Serves a Legitimate State Interest, Namely Preventing Fraud.....

IV. Where the Legislature Has Drawn a Bright Line Rule to Prevent Fraud in Voter Initiatives, the Integrity of the Process Requires Scrupulous Application of the Rule.....

V. The Secretary of State's Interpretation of 21-A M.R.S.A. § 903-A(1) to allow substantial compliance and his suspension of the deadline therein constitute unauthorized Rulemaking under Maine's Administrative Procedure Act and should be vacated.

CONCLUSION .....

CERTIFICATE OF SERVICE.....

TABLE OF AUTHORITIES

Cases

Statutes

Regulations

Court Rules

Respondent-Appellant Secretary of State Matthew Dunlap and Intervenor-Appellant Mary Adams appeal from the entry by the Superior Court (Kennebec County, *Marden, J.*) of a decision and order in favor of Petitioner-Appellee Kathleen C. McGee.

STATEMENT OF FACTS

The facts are not in dispute. On October 21, 2004, the Maine Secretary of State approved the application of Mary Adams and others to initiate proceedings to place a referendum question, in the form of a direct initiative, before Maine voters under 21-A M.R.S.A. § 901. On the same date, the Secretary of State issued a referendum petition entitled "An Act to Create the Taxpayers' Bill of Rights" ("TABOR") and with the Question worded as follows: "Do you want to limit increases in state and local government spending to the rate of inflation plus population growth and to require voter approval for all tax and fee increases."

In order to have the referendum placed on the 2006 ballot, the proponents of the initiative had to obtain the requisite number of valid signatures and timely file the petitions with the Secretary of State in compliance with the statutory deadline of Friday, October 21, 2005, pursuant to 21-A M.R.S.A. § 903-A(1).

The proponents timely filed with the Secretary of State on Friday, October 21, 2005 petitions containing an insufficient number of valid signatures. The proponents then filed additional petitions on the following Monday, October 24, 2005. Together, the Friday and Monday

petitions contained enough signatures to get the initiative on the ballot, if the Monday petitions were allowed.

On February 21, 2006, the Secretary of State issued a decision accepting the Monday petitions and validating the TABOR petitions as having enough signatures to place the initiative on the ballot.

PROCEDURAL HISTORY

On or about February 25, 2006, Petitioner Kathleen C. McGee timely filed a Rule 80C Petition for Review of Final Agency Action in the Maine Superior Court, seeking a declaratory judgment that the untimely petitions are invalid and asking the Court to reverse the Secretary of State's decision. On March 2, 2006, the Superior Court granted the motion of Intervenor Mary Adams to intervene. The parties agreed at a telephonic Court conference on March 9, 2006 that an evidentiary hearing was unnecessary.

On April 3, 2006, the Superior Court, *Marden, J.*, entered a Decision and Order reversing the Secretary of State's decision of February 21, 2006, titled "Determination of the Validity of a Petition for Initiated Legislation Entitled: An Act To Create the Taxpayer Bill of Rights." The Court further held that the Secretary of State had no authority to accept petitions presented subsequent to October 21, 2005, one year from their date of issuance. This appeal followed.

ISSUES PRESENTED

1. Should the Law Court affirm the Decision and Order of the Superior Court reversing the Secretary of State's decision of February 21, 2006, titled "Determination of the Validity of a Petition for Initiated Legislation Entitled: An Act To Create the Taxpayer Bill of Rights"?

2. Did the Secretary of State have authority to accept petitions presented subsequent to October 21, 2005, one year from their date of issuance?

3. Does the one-year deadline of 21-A M.R.S.A. § 903-A(1) comport with the First Amendment as a reasonable and nondiscriminatory restriction that serves a legitimate state interest, namely preventing fraud?

4. Did the Secretary of State's action interpreting 21-A M.R.S.A. § 903-A so as to permit him, as a matter of policy, to exercise discretion to extend the mandatory statutory deadline on the purported basis of substantial compliance, constitute rulemaking within the meaning of Maine's Administrative Procedure Act, 5 M.R.S.A. § 8001 *et seq.*?

ARGUMENT

I. VOTER INITIATIVES AND REFERENDA ARE A VALUED AND POTENT EXERCISE IN DIRECT DEMOCRACY AND IT IS PARAMOUNT TO SAFEGUARD THEIR INTEGRITY, FOR ITS OWN SAKE, AND TO PROMOTE PUBLIC CONFIDENCE IN OUR DEMOCRATIC GOVERNMENT.

We call ourselves a democracy. The integrity of our electoral process in Maine and the United States as a whole – historically taken for granted and of late bitterly disputed to the highest levels of the judiciary – is the bedrock of the legitimacy to which our democratic system aspires.

These principles hold as true for ballot initiatives as for other types of elections. The U.S. Supreme Court has held, "[a]s the Tenth Circuit recognized in upholding [an] age restriction, [a] *six month limit on circulation*, and [an] affidavit requirement, *States allowing ballot initiatives have considerable leeway to protect the integrity and reliability of the initiative process*, as they have with respect to election processes generally." *Buckley v. American Constitutional Law Foundation, Inc.*, 525 U.S. 182, 191(1999) (emphasis added). The Court went on to state, "there must be a substantial regulation of elections if they are to be fair and honest and if some sort of order, rather than chaos, is to accompany the democratic processes." *Id.* at 187 (quoting *Storer v. Brown*, 415 U.S. 724, 730, 94 S. Ct. 1274 (1974)).

State courts have echoed these themes. After reciting legislative requirements governing petition signers, circulators, proponents of local referenda, and elected officials, the California Court of Appeal stated: "These requirements serve to safeguard the integrity of the electoral process, and to provide elections officials with orderly and clear procedures for determining whether a measure is qualified for the local ballot." *Mapstead v. Anchundo*, 73 Cal.Rptr.2d 602, 607 (Cal. App. 1998).

Viewed through the lens of policy, our elections must be trustworthy for two reasons: First, honest elections are good and necessary in themselves. Second, we want to promote confidence in our government, in the eyes of our own citizenry and in the eyes of rest of the world. Public confidence, in turn, promotes greater participation, the lifeblood of democracy.

If faith in our democratic institutions is our civic religion, we take it as an article of that faith that sound elections yield the right results, the will of the people expressed and captured in choosing our elected officials and, in the case of referenda and initiatives, directly creating law and policy.

The need for public confidence in the electoral process is not a matter of cosmetics. Its indispensability can perhaps best be illustrated by the familiar consequences of the *loss* of public confidence in the system: dismal voter turnout, potential resultant disproportionate

electoral influence of extremist groups who vote in greater numbers, disrespect for public officials, apathy, cynicism, resignation, lack of participation, and dropping out of active citizenship.

Maine and many other states have long-established constitutional and statutory procedures for referenda and initiatives. Placing the levers of legislative power squarely in the hands of the voters, this form of direct democracy has unquestionably had a major impact across the nation – California's Proposition 13 is but one prominent example.

With the power of the ballot initiative inevitably comes the potential for abuse and the consequent need to establish – and enforce – a regulatory regime to stand vigil over the lawful exercise of that valued franchise.

In this appeal our concern is not with the substance of electoral measures – presumably various successful ballot initiatives have had the same mixed track record of salutary and devastating consequences as have various enactments of the people's elected representatives. Our concern today is with process. If the established initiative process is scrupulously observed, the substance will be left to the voters.

This appeal arises in the context of these *macro* issues. Amicus Democracy Maine respectfully submits that this appeal should be decided with these principles borne in mind – not as high-minded platitudes – but as practical issues in protecting the soundness and legitimacy of the day-to-day, nuts-and-bolts operation, from one election

to the next, of a working democracy, of which Sir Winston Churchill famously said, "It has been said that democracy is the worst form of government except all the others that have been tried."

II. COURTS THROUGHOUT THE UNITED STATES HAVE REJECTED UNTIMELY PETITIONS FOR INITIATIVES AND REFERENDA.

It is hornbook law that "[a]fter signatures have been obtained, an initiative or referendum *must be timely filed* with the designated public officer." *Am.Jur.2d*, Initiative and Referendum, § 31. In the view of Amicus Democracy Maine, the number, geographic breadth and vitality of the court decisions enforcing that principal make a compelling case for affirming the decision of the Superior Court.

In *Infinger v. Stuckey*, 234 S.E.2d 214 (S.C. 1977) (deadline for a referendum is mandatory and judicial extension is jurisdictionally prohibited), the Supreme Court of South Carolina faced a similar set of facts: some petitions were timely submitted, but lacked sufficient valid signatures, while additional petitions containing the needed number of valid signatures were submitted after the deadline. Refusing to place the referendum on the ballot, the Court held: "When, as here, the statute is plain and unambiguous, it becomes the duty of the court to apply it literally because the legislative design is unmistakable." *Id.* at 216.

Similarly, the Supreme Court of Arizona has held that the untimely filing of petitions supporting an initiative (seeking to eliminate what had become known as the "bed, board and booze tax"), pursuant to a

deadline of four months before the general election, resulted in the initiative being "null and void for inclusion on any ballot." *City of Flagstaff v. Mangum*, 793 P.2d 548, 550, 552, 558 (Ariz. 1990).

Likewise, the Court of Appeals of Arizona vacated the trial court's order and prohibited a referendum from appearing on the ballot where its supporting petitions were untimely filed, even though the petitions were filed by the date the Director of Elections had (erroneously) given to the proponents. *Robson Ranch Mountains, LLC v. Pinal County*, 51 P.3d 342 (Ariz. App. 2002). The court made a number of pertinent observations about the regulation of initiatives:

> [T]he trial court's rulings undermine the well-established principle in Arizona that referendum proponents must "comply strictly with applicable constitutional and statutory provisions" because "the referendum is an extraordinary power" . . . . *See also Lawrence v. Jones*, 199 Ariz. 446, ¶¶ 7-8, 18 P.3d 1245, ¶¶ 7-8 (App. 2001) (although "constitutional right to referendum is to be broadly construed," referendum petition must strictly comply with all applicable statutory requirements); . . . .
>
> In addition, the trial court's rulings unnecessarily inject both confusion and lack of uniformity in this area of the law. *See Pioneer Trust Co.*, 168 Ariz. at 66, 811 P.2d at 27 (noting importance of establishing, when possible, a "bright-line rule easily ascertainable by all interested parties" for referendum petitions); *cf. Simpson*, 193 Ariz. 391, ¶ 12, 972 P.2d 1027, ¶ 12 (noting importance of avoiding "litigation-generating ambiguities" in referendum process when possible). Far from "remov[ing] uncertainty," as the trial court noted, its rulings actually produce just the opposite effect. As

> Anam correctly points out, "the prospect of material disputes as to 'who said what' and 'who gave what to whom' leads to ridiculous results in referenda challenges . . . ."

Id. at 351 (citations omitted).

The Supreme Court of Utah rejected the appeal of proponents of a referendum, where the proponents failed to file their petitions in a timely manner. *Bigler v. Vernon*, 858 P.2d 1390 (Utah 1993). The court admonished that "plaintiffs could have produced, circulated and filed their own referendum petitions within the relevant period of time." *Id.* at 1393. The court further stated: "We have emphasized previously the importance of strict compliance with the time limits contained in this provision, noting that the failure to meet the . . . deadline is fatal to a referendum petition." *Id.* at 1392.

In *Portland General Electric Co. v. City of Portland*, 41 P.3d 1126 (Or. App. 2002), the appellate court made short work of this issue: in a two-page opinion, the appellate court summarily vacated the judgment of the trial court and held that the untimely filing of an initiative petition rendered it "void." *Id. at 1127.* The court noted that the proponents "cite no authority" for their assertion that the City Auditor "has the discretion to accept late signature submittals." *Id.*

"To safeguard the neutral application of the procedural requirements – an application unfocused on the content of the initiative or the election official's personal view – the election official's authority is

ministerial." *Glendale Tenants Ass'n v. City of Glendale*, 2005 WL 419409, 4 (Cal. App. 2005) (unpublished decision). In *Glendale*, the California appellate court affirmed the trial court's judgment granting a petition for writ of mandate prohibiting the initiative from being placed on the ballot where the petition "was filed after the applicable deadline had elapsed." *Id. at *1.* The court stated: "It is not disputed that the failure to comply with a time requirement constitutes a substantial defect. (See *Steele v. Bartlett,* 18 Cal.2d 573, 574 (1941) [candidate who filed election papers one day late must be omitted from the ballot].)" *Id.* at *4. Although unpublished, this opinion is of particular interest because, assuming *arguendo* that the Law Court were to adopt the "substantial compliance" test urged by appellants, untimely filing was deemed to be a substantial defect; the California court, moreover, relied on a decision where papers were filed, as here, one day late.

Additional decisions from throughout the nation have reached the same conclusion: the untimely filing of petitions mean the initiative does not get on the ballot this time. *See, e.g., Let the People Vote v. Board of County Commissioners of Flathead County*, 120 P.3d 385 (Mont. 2005) (Supreme Court of Montana refused to allow initiative onto ballot where signature petitions were out of time); *Direct Sellers Ass'n v. McBrayer*, 503 P.2d 951 (Ariz. 1973) (Supreme Court of Arizona reversed court of appeals and barred referendum from ballot where proponents had relied on unlawful effort to amend petitions after expiration of deadline); *see*

also, Let's Help Florida v. Smathers, 360 So.2d 496 (Fla. 1st Dist. Ct. of App. 1978) (Secretary of State lacked discretion to *shorten* the time for filing initiative petitions notwithstanding the unexpected filing of thousands of petitions resulting in an administrative bottleneck).

The one case we have located in which the court permitted a referendum petition to be filed a day late is readily distinguishable. The proponents of the petition had physically attempted a timely filing of the petition numerous times, but encountered the extraordinary obstacle that the office where they were to file the petition was "*closed to the public*" prior to the deadline! *Truman v. Village of Clay Center*, 825 N.E.2d. 1182, 1188 (Ohio App. 2005). No such extenuating circumstances chargeable to the Secretary of State are present here.

III. THE ONE-YEAR DEADLINE OF 21-A M.R.S.A. § 903-A(1) COMPLIES WITH THE FIRST AMENDMENT BECAUSE IT IS A REASONABLE AND NONDISCRIMINATORY RESTRICTION THAT SERVES A LEGITIMATE STATE INTEREST, NAMELY PREVENTING FRAUD.

In her Memorandum of Law in the Superior Court, Intervenor Adams argued briefly that Petitioner McGee's "interpretation of Section 903-A(1)" runs afoul of the First Amendment to the U.S. Constitution. Her argument ignores established jurisprudence permitting time limits on electoral processes to prevent fraud.

At the outset, Intervenor Adams is incorrect that the time limit is subject to strict scrutiny. Here, the time limit is reasonable and non-discriminatory. As a result, it passes muster under the First Amendment

provided it advances an important state interest. As the Superior Court held and the Secretary of State admits, the primary statutory purpose of the time limit was "to reduce fraudulent signatures in the initiative circulation process, and to ensure that no signatures were more than one year old." *Decision and Order of the Superior Court*, pp. 9 and 21.

Prevention of fraud is a legitimate and valid state goal. *Rosario v. Rockefeller*, 410 U.S. 752, 791 (1973) ("It is clear that preservation of the integrity of the electoral process is a legitimate and valid state goal."); *Marston v. Lewis*, 410 U.S. 679, 680 (1973) ("States have valid and sufficient interests in providing for some period of time – prior to an election – in order to prepare adequate voter records and protect . . . electoral processes from possible frauds.")

In affirming the District Court's ruling after a bench trial upholding a six-month limitation on circulation of petitions, the Tenth Circuit observed that an orderly process requires time lines. *American Constitutional Law Foundation, Inc. v. Meyer*, 120 F.3d 1092, 1099 (10th Cir. 1997), *aff'd on other grounds*, 525 U.S. 182 (1999). The court found six months a "reasonable window," a sensible, "nondiscriminatory ballot access regulation." *Id.; see also* the Supreme Court's characterization of Tenth Circuit's ruling on appeal, *Id.*, 525 U.S. at 191, n. 10. The Tenth Circuit's ruling upholding the six-month time limit for petitions is particularly notable because the court simultaneously struck down other requirements for ballot initiatives that it found invalid as unnecessary

and improper restrictions on political expression. *Id.* at 191; 120 F.3d at 1100-05.[1]

Hence, contrary to Intervenor Adams' argument, there is no First Amendment infirmity in the requirement of a deadline, on its face or as applied.

IV. WHERE THE LEGISLATURE HAS DRAWN A BRIGHT LINE RULE TO PREVENT FRAUD IN VOTER INITIATIVES, THE INTEGRITY OF THE PROCESS REQUIRES SCRUPULOUS APPLICATION OF THE RULE.

The one-year deadline of 21-A M.R.S.A. § 903-A is just the sort of reasonable, clear deadline that, when enforced, provides clear guidance to proponents navigating their way through the initiative process. The ruling demanded by appellants, in contrast, would create bad law, confusion and doubt as to what standards govern the extraordinary exercise of the referendum power.

There appears to be no dispute that the Legislature enacted 21-A M.R.S.A. § 903-A to prevent fraud in ballot initiatives and to ensure automatic enforcement of the requirement that signatures be no more than one year old, without the need for the Secretary of State to exercise discretion in the matter.

---

[1] Many other time-limitations on electoral processes have survived First Amendment attack. *See, e.g., Burdick v. Takushi*, 504 U.S. 428, 437 (1992) (a candidate's or a voter's interest in deciding late rather than early whether to participate in an election is not a weighty interest); *Storer v. Brown*, 415 U.S. 724, 736 (1974) (little weight given to the interest the candidate and his supporters may have in making a late rather than an early decision to seek independent ballot status); *Acorn v. Bysiewicz*, No. 3:04CV1624(MRK), p. 40 (D. Conn. December 20, 2005) (Connecticut's 7-day advance voter-registration deadline "imposes only reasonable, non-discriminatory restrictions.").

Moreover, as thoroughly demonstrated in the Decision and Order of the Superior Court, section 903-A is consistent with the Maine Constitution because, as the Legislature contemplated, proponents of ballot initiatives can readily comply with both the statutory and Constitutional deadlines, as the proponents would have done in this case, if they had simply timely filed the signatures by the Friday deadline.[2] On this point, in addition to the authorities previously cited by the parties and the court, the Supreme Court of Washington case of *State ex rel. Kiehl v. Howell,* 138 P. 286 (Wash. 1914) is on *all fours*. There, as here, the proponents filed petitions for a ballot initiative outside the statutory timetable, but within a deadline in the state constitution. There, as here, the proponents argued that the constitutional scheme was self-executing and should override the statutory timetable. The Washington Secretary of State refused to place the initiative on the ballot and the proponents sought a writ of mandamus by direct application under the original jurisdiction of the Supreme Court of Washington. The Court denied the writ and held:

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[2] To the extent the proponents' failure to timely file the Monday petitions was mere carelessness, the situation is comparable to that where a citizen's failure timely to register to vote is no basis to invalidate reasonable registration deadlines: "[T]he State is justified imposing a reasonable registration cutoff prior to any primary or general election, beyond which a citizen's failure to register may be presumed a negligent or willful act forfeiting his right to vote in a particular election." *Rosario*, 410 U.S. at 760 (Powell, J. dissenting) (emphasis added)(cited in the majority opinion at 760).

> The Legislature is expressly authorized to enact laws to facilitate the initiative and referendum. It seems clear to us that a limitation upon the time within which, prior to the election, a proposed measure may be filed and the procuring of signatures of voters to the petitions commenced is a proper subject of legislation, looking to orderly procedure and fairness to the electors. While the constitutional amendment is declared to be self-executing, it is apparent that its execution would be almost, if not wholly, impracticable without legislation of some such nature as this.

Id. at 287. While this decision may be approaching its one-hundredth anniversary, the factual and legal posture of the case is remarkably similar to the one at bar. Amicus Democracy Maine suggests the result should be the same as well.

The Superior Court's decision conclusively demonstrates that the words "must be completed within one year of the date of issuance" are mandatory under the statutory scheme; therefore, we will not belabor the point here.

The Legislature appears to have carried forward to the present day, in the statute at issue now, Maine's historic detailed and precise regulation of the initiative process that the Law Court observed in *Allen v. Quinn*, 459 A.2d 1098, 1103 (Me. 1983), when the Court stated:

> [T]he people in retaking to themselves part of the legislative power have laid out in unusual detail the procedure by which they will legislate by direct vote . . . .That detail even extends, for example, to prescribing five o'clock p.m. as the hour of the filing deadline for initiative petitions . . . . In the midst of this specificity, . . . a court

must be chary of reading another time limitation into section 18(1) by implication.

Likewise, the Legislature has enacted detailed – and mandatory – statutory procedures for ballot initiatives consistent with the Maine Constitution. The Court should be equally chary to tinker with the bright line one-year deadline at issue here, by opening the door to non-transparent, uncertain exercise of unauthorized discretion by the Secretary of State to infer "substantial compliance." By drawing the line here and now, and applying the clear statutory rule, the Court may well avoid many future court challenges to ballot initiatives.

V. THE SECRETARY OF STATE'S INTERPRETATION OF 21-A M.R.S.A. § 903-A(1) TO ALLOW SUBSTANTIAL COMPLIANCE AND HIS SUSPENSION OF THE DEADLINE THEREIN CONSTITUTE UNAUTHORIZED RULEMAKING UNDER MAINE'S ADMINISTRATIVE PROCEDURE ACT AND SHOULD BE VACATED.

The Secretary of State opens his brief to the Superior Court by stating that "[t]his appeal marks the first time that the Secretary of State's *interpretation and application of the statutory deadline* for filing citizen initiative petitions, in 21-A M.R.S.A. § 903-A, has been challenged in Maine." *Brief of Respondent Secretary of State in Superior Court.*

With that sentence, the Secretary of State makes clear that he undertook to "interpret" section 903-A. No doubt the Secretary of State would say that he intends to apply his "interpretation" allowing substantial compliance generally, as a policy and standard, and that it is not for this set of initiative proponents alone. For him to contend

otherwise would be fatally arbitrary and capricious. If the same situation arose again, he would presumably apply this standard and interpretation again, consistently in the future.

However, the Secretary of State's *interpretation* fails to comport with Maine's Administrative Procedure Act 5 M.R.S.A. § 8001 *et seq.* As a result, his interpretation should be vacated and the initiative should remain off the ballot.

The Act defines an agency "rule" broadly as follows:

> A. "Rule" means the whole or any part of every regulation, standard, code, statement of policy, or other agency statement of general applicability, including the amendment, suspension or repeal of any prior rule, that is or is intended to be judicially enforceable and implements, interprets or makes specific the law administered by the agency, or describes the procedures or practices of the agency.

5 M.R.S.A. § 8002(9).

The Secretary of State's effective extension of the petition deadline is intended to be judicially enforceable (indeed he is asking the Law Court to enforce it), describes the procedures the agency will follow, and determines the State policy for disposition late-filed initiative petitions. Such an adjustment to the petition deadline should have taken place, if at all, only after satisfying the notice and public hearing requirements of the Administrative Procedure Act, 5 M.R.S.A. § 8052.

An analogous situation was addressed in an Opinion of the Attorney General in which the Attorney General held that the Maine Housing Authority was required to follow the rulemaking procedures of

the Administrative Procedure Act *to establish a deadline* for submission of proposals to the Maine Housing Authority. *Op. Atty. Gen.*, June 27, 1980. The Attorney General concluded that portions of Housing Authority Consent Resolution which contained criteria that specified circumstances under which Housing Authority would not allocate housing assistance subsidies, and which were judicially enforceable, constituted "rules" under provisions of this section. Provisions of Housing Authority housing unit reservation policies which established *deadline for submission of proposals* to Housing Authority in response to public notice, and which established standards for approval or disapproval of applications, constituted "rules," within meaning of this section.

Here, as in the case of the Maine Housing Authority, an agency of State government purports to establish deadlines, as a matter of policy and standards for members of the public to make submissions to the agency, which will then approve or disapprove the submissions based on the standards.

Other examples underscore the point. *See, e.g., Fulkerson v. Commissioner, Maine Dept. of Human Services,* 628 A.2d 661 (Me. 1993) (Department of Human Services co-payment provisions constitute "rules" subject to Administrative Procedure Act); *New England Whitewater Center, Inc. v. Department of Inland Fisheries and Wildlife,* 550 A.2d 56 (Me. 1988) (Department of Inland Fisheries and Wildlife's changes in

process for allocating minimum daily number of passengers to whitewater rafting outfitters constituted rule making, and thus allocations were invalid for failure of Department to comply with rule making provisions of Administrative Procedure Act). The Secretary's failure to provide the process required by the Administrative Procedure Act requires that his extension of the deadline be declared null and void, just as the Department of Inland Fisheries and Wildlife's action was declared in *New England Whitewater Center, Inc, supra.*

The Secretary's extension of the statutory deadline was an activity affecting the citizens of the state. Affected citizens should have been apprised of the activities and provided the opportunity to participate.

In Maine, case law and Attorney General opinions generally support the courts' authority to vacate decisions of improper administrative proceedings. For example, the Attorney General specifically asserted the power to vacate departmental actions that violate the Freedom of Access Law in a letter to the Speaker of the House of Representatives offering the Offices' advisory opinion regarding whether a letter from the Chairman of the Commission on Governmental Ethics and Election Practices constituted a valid advisory opinion. *Op. Att'y .Gen.* 84-85. Title 1, Section 409(2) states:

> If any body or agency approves any ordinances, orders, rules, resolutions, regulations, contracts, appointments or other official action in an executive session, this action shall be illegal and the officials responsible shall be subject to the penalties hereinafter provided. Upon learning of

> any such action, any person may appeal to any Superior Court in the State. If a court, after a trial de novo, determines this action was taken illegally in executive session, it shall enter an order providing for the action to be null and void....

1 M.R.S.A. § 409(2). After determining that the Commission violated the Freedom of Access Law by polling members by telephone, the Attorney General concluded that, pursuant to 1 M.R.S.A. § 409(2), the Commission's action was "invalid, and therefore, the Commission had not yet issued a valid advisory opinion" *Id.* at 3.

In *Soucy v. Northland Frozen Foods*, potato farmers moved to vacate a Department of Agriculture decision relating to their business contract because the Department had exceeded its statutory authority. *Soucy v. Northland Frozen Foods*, ARO AP-01-005 at 4 (Me. Super. Ct. 2004). The court held that the Department did, in fact, exceed its authority in the contract dispute, and thus chose to vacate the Department's determination *Soucy*, ARO AP-01-005 at 7.

Additionally, the Court in *Jurlanski v. Portland Yacht Club* held that, when an agency failed to act properly on all zoning matters before it, or to make sufficient and clear findings of fact, the proper course for the courts was to remand to the agency for findings that permit meaningful judicial review. *Jurlanski v. Portland Yacht Club*, 782 A.2d 783, 787 (Me. 2001). Likewise, in *Cumberland Farms Northern, Inc. v. Maine Milk Commission*, the Court vacated the State Milk Commission's

recommended minimum prices to be paid to producers, dealers and retailers for sale of fluid milk when the Commission failed to properly adopt rules within its rule-making authority to set those prices because of deficiencies in the process, including poor accounting practices. *Cumberland Farms Northern, Inc. v. Maine Milk Commission*, 428 A.2d 869 (Me. 1981).

In *Mutton Hill Estates, Inc. v. Town of Oakland* the Court noted that while a remand order to the agency for further review was the usual remedy chosen by superior courts when errors were found in administrative decision-making, the court also had additional authority to affirm, reverse, or modify the decision under review. *Mutton Hill Estates, Inc. v. Town of Oakland*, 468 A.2d 989, 992 (Me. 1983). Separately, *Mutton Hill* further noted that

> It is essential to a party's right to procedural due process that he be given notice of and an opportunity to be heard at proceedings in which his property rights are at stake...Without notice to Mutton Hill, or a right for it to be heard, to invite admittedly biased opponents of the application to participate in the factfinding compilation is to determine conclusively, by an ex parte proceeding, Mutton Hill's property rights in violation of this constitutional guarantee.

Id.

Finally, In *Houlton Water Co. v. Maine Public Utilities Commission*, Maine Superior Court, Civil Action CV-92-63 (Lipez, J.) (Decision and Order of July 20, 1992 and Order of July 30, 1992), the Court declared

null and void a decision of the Public Utilities Commission to adopt a rule where the Commission failed to give public notice of a meeting to adopt the rule. Discussing Maine's Administrative Procedure Act, Justice Lipez held that an adjudicatory proceeding under 5 M.R.S.A Section 8002(1), a rule under 5 M.R.S.A. Section 8002(9) and an advisory ruling under 5 M.R.S.A. Section 9001(1) are all subject to the requirements of the Administrative Procedure Act. Within the ambit of those three types of actions are included "deciding the rights or duties of specific parties to a case, establishing standards or procedures intended to be binding on persons or parties . . . , or issuing a ruling that is intended to guide the behavior of specific persons that are subject to statutes or rules . . . ." *Decision and Order of July 20, 1992*, at p. 9. Although the case involved a different state agency, Justice Lipez's ruling strongly supports the conclusion that the Secretary of State's action here is subject to the Administrative Procedure Act.

The Secretary of State's unauthorized and *ultra vires ad hoc* end-run around the Administrative Procedure Act is an alternative ground for affirmance of the Superior Court's decision in this case and is also an independent basis for this Court to invalidate the untimely Monday petitions.

CONCLUSION

For all of the foregoing reasons, the Superior Court's judgment should be affirmed.

Dated at Portland, Maine: April 14, 2006.

Respectfully submitted,

Richard L. O'Meara, Bar No. 3510
Christopher B. Branson, Bar No. 7270
Counsel for Democracy Maine, Inc.

MURRAY, PLUMB & MURRAY
75 Pearl Street, P.O. Box 9785
Portland, Maine 04104-5085
(207) 773-5651

CERTIFICATE OF SERVICE

I hereby certify that two copies of the foregoing Brief of Amicus Curiae were sent this day by first-class mail, postage prepaid to:

Gerald F. Petrucelli, Esq.
PETRUCELLI & MARTIN
P.O. Box 9733
Portland, ME 04104

Phyllis Gardiner, Esq.
Assistant Attorney General
6 State House Station
Augusta, ME 04330-0006

Michael A. Duddy, Esq.
KELLEY, REMMEL & ZIMMERMAN
53 Exchange Street
P.O. Box 597
Portland, ME 04112

Dated: April 14, 2006

Christopher B. Branson, Bar No. 7270
Attorney for Amicus Curiae
Democracy Maine, Inc.

Exhibit B

DEMOCRACY MAINE

Maine Voices Against Extremism

One City Center, 4th Floor
Portland, ME 04101
(207) 831-9840
www.democracymaine.org

Sept. 28, 2006
FOR IMMEDIATE RELEASE

DEMOCRACY MAINE BEGINS CAMPAIGN TO EXPOSE TABOR AS A FRAUD

PORTLAND – Democracy Maine today announced its campaign in opposition to Question One, otherwise known as TABOR, which the group says is a fraud on the voters of Maine.

The group intends to reach voters through newspaper and radio ads, direct mail and other media to tell the facts about TABOR.

"TABOR is a fraud," said Jon Crasnick, executive director of Democracy Maine, the year-old organization that was founded to confront partisan extremism that is preventing real problems from being solved. "It will not restrain spending by the Legislature in any way, it will hurt local control, not strengthen it, and it will make real tax reform almost impossible. This is exactly the opposite of what the proponents of TABOR are telling the voters. That's why it's a fraud."

Democracy Maine's campaign began this week with on-line banner ads warning voters about "Hurricane Tabor."

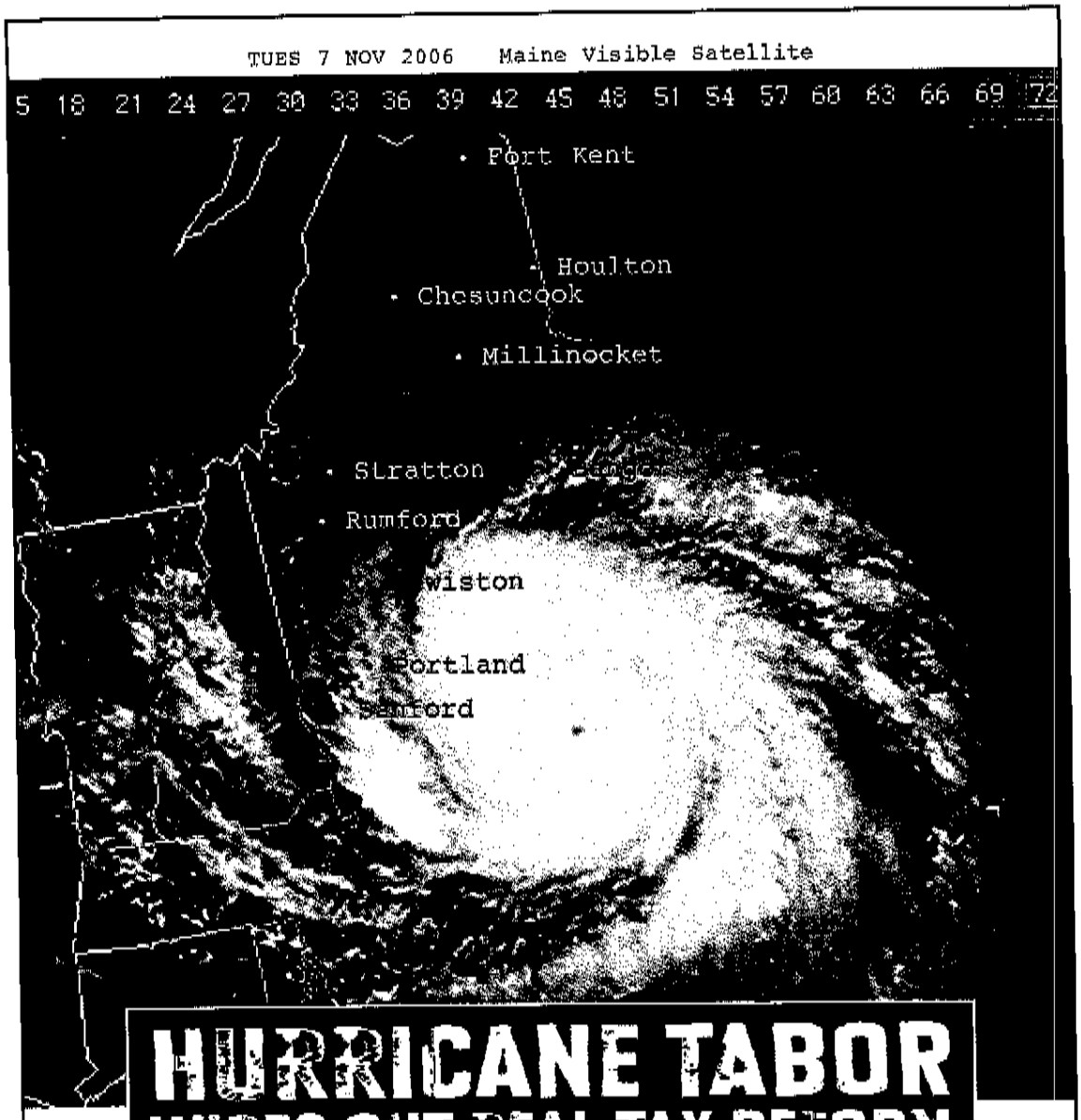
"TABOR is not a local, home-grown solution to Maine's unique problems, even though the proponents claim it is" Crasnick said. "This is being brought into Maine by the same incompetent national and far-right special interests that returned us to sky-high deficits, developed a flawed and dangerous foreign policy, and led the tragic response to hurricane Katrina.

"We need to improve government and make it more efficient, not wipe it out," Crasnick added.

The group has a website, www.stophurricanetabor.com that details the initiative and contains a complete "fraud forecast." The site also has a link to a recent PBS report about the national far-right groups that are behind TABOR initiatives across the country.

PAID POLITICAL ADVERTISEMENT

Exhibit C



HURRICANE TABOR
WIPES OUT REAL TAX REFORM

A major storm is bearing down on Maine voters, and the radar shows it will wipe out any chance for real tax reform in Maine. It's called TABOR — Question 1 on the Nov. 7 ballot.

FORECAST: TABOR IS A FRAUD — IT WILL NOT CUT YOUR TAXES

TABOR *will make tax cuts virtually impossible by changing the law so that it takes just a one-third minority to block tax reform.*

TABOR *takes control away from local taxpayers.*

TABOR *gives Augusta total control — lawmakers can change it or even ignore it.*

TABOR *is sponsored by the same incompetent national and far-right special interests that returned us to sky-high deficits, developed a flawed and dangerous foreign policy, and led the tragic response to Hurricane Katrina.*

"[TABOR] is a policy bludgeon that leaves governments less able to respond to opportunities and unexpected fiscal burdens." *— Quote from Maine Sunday Telegram editorial, 8/27/06*

DON'T BE TRICKED BY TABOR
VOTE NO ON QUESTION 1

www.StopHurricaneTABOR.com

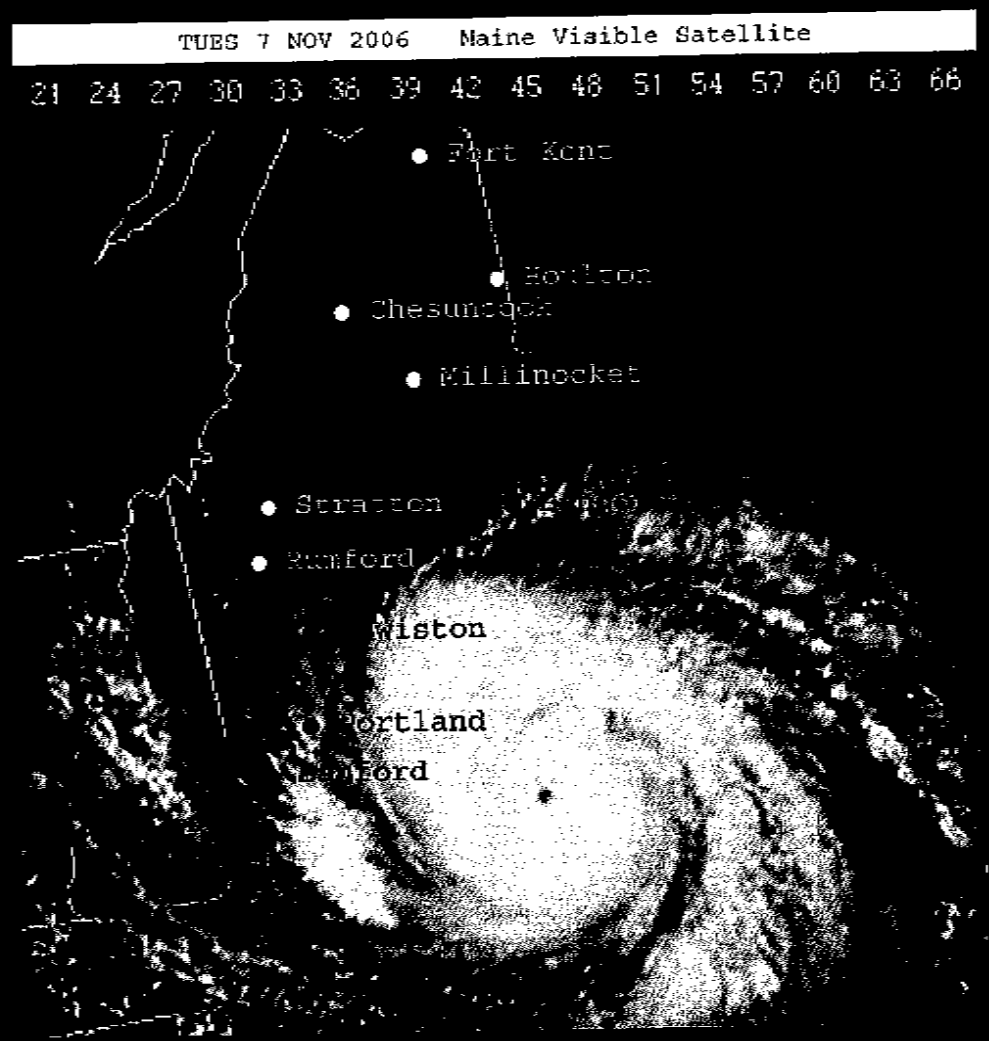
Paid for by Democracy Maine, One City Center, Portland, ME 04101

Exhibit D

HURRICANE

WIPES OUT
REAL TAX REFORM

www.StopHurricaneTABOR.com



DON'T BE TRICKED BY TABOR VOTE NO ON QUESTION 1

A major storm is bearing down on Maine voters, and the radar shows it will wipe out any chance for real tax reform in Maine. It's called TABOR — Question 1 on the Nov. 7 ballot.

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"[TABOR] is a policy bludgeon that leaves governments less able to respond to opportunities and unexpected fiscal burdens."

— Maine Sunday Telegram, 8/27/06

www.StopHurricaneTABOR.com

Paid for by
Democracy Maine
One City Center
Portland, ME 04101

03/01/2007 18:05 2072876775 ETHICS COMMISSION PAGE 41/49

Exhibit E

STATE OF MAINE
COMMISSION ON GOVERNMENTAL ETHICS AND ELECTION PRACTICES
Mail: 135 State House Station, Augusta, Maine 04333-0135
Tel: (207)287-6221 FAX: (207)287-6775 Website: /www.maine.gov/ethics

REPORTS OF CONTRIBUTIONS AND EXPENDITURES BY PERSONS OTHER THAN POLITICAL ACTION COMMITTEES (21-A M.R.S.A. § 1056-B)

Any person who solicits and receives contributions or makes expenditures, other than by contribution to a political action committee, aggregating in excess of $1,500 for the purpose of initiating, promoting, defeating or influencing in any way a ballot question must file a report with the Commission.

NAME OF PERSON: Democracy Maine
(Person means an individual, committee, firm, partnership, corporation, association, group or organization.)

Mailing address: One City Center, 4th Floor
City, zip code: Portland, ME 04101

Telephone number 207-831-9840 **Fax** 207-871-7189 **E-mail** **info@democracymaine.org**

NAME OF TREASURER: Jonathan A. Crasnick
(or other officer or employee authorized to file this report, if person reporting is other than an individual)

Mailing address: One City Center, 4th Floor
City, zip code: Portland, ME 04101

Telephone number 207-776-0521 **Fax** 207-781-7189 **E-mail** jcrasnick@democracymaine.org

The purpose for receiving contributions and making expenditures is (check one):
to SUPPORT ____ or OPPOSE X ballot question number (if known) 1 or the ballot question regarding TABOR

TYPE OF REPORT AND FILING PERIOD (check one)

Type of report:	Due date:	Filing period:
( ) 6-day pre-primary	June 7, 2006	January 1, 2006 to June 1, 2006
( ) 42-day post-primary	July 25, 2006	June 2, 2006 to July 18, 2006
(x) 6-day pre-general	November 1, 2006	July 19, 2006 to October 26, 2006
( ) 42-day post-general	December 19, 2006	October 27, 2006 to December 12, 2006

( ) Other (specify): _____

( ) Amendment to: _____

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

_____ _____
Person's/Authorized Official's signature **Date**

DEMOCRACY MAINE

Name of PERSON

SCHEDULE A
CASH CONTRIBUTIONS

Include cash contributions only. Itemize contributions aggregating in excess of $100 in this election from the same source. Do not include in-kind contributions or loans on this schedule.

DATE RECEIVED	Contributor's name, mailing address, zip code (Contributions in excess of $100)	Amount
9-28-06	David Anderson, 202 West Rd, Waterboro, ME 04087	$100.00
9-29-06	Colton Babcock, 291 River Rd, Newcastle, ME 04553	$100.00
9-29-06	Colin Baker, 17 Poland Rd, Freeport, ME 04032	$100.00
9-30-06	Maryane Burns, 28 Elm St, Topsham, ME 04086	$50.00
10-1-06	Nancy Anderson, 47 Sturdivant Rd, Cumberland, ME 04110	$250.00
10-2-06	Maryane Burns, 28 Elm St, Topsham, ME 04086	$50.00
10-6-06	Ann Schonberger, 40 Garland St., Bangor, ME 04401	$150.00

1. Total cash contributions this page only	$800.00
Complete lines 2-4 on last page of Schedule A only: **2. Total from attached Schedule A pages**	$0.00
3. Aggregate of cash contributions of $100 or less not itemized	$275.00
4. Total cash contributions this reporting period (Add lines 1, 2 & 3)	$1075.00

Democracy Maine
Name of PERSON

SCHEDULE B
EXPENDITURES

Enter expenditures made aggregating in excess of $100 in this election. Do not include in-kind expenditures on this schedule.

Date of Expenditure	Name of Payee or Creditor and Purpose of Expenditure		Amount
7-24-06	Savvy, Inc.	Media Consulting	$1000.00
8-18-06	The Potholm Group	Polling/Message Development	$8000.00
8-23-06	Savvy, Inc.	Media Consulting	$1000.00
9-8-06	The Potholm Group	Polling/Message Development	$8000.00
9-15-06	Hattaway Communications	Message Development	$1750.00
9-25-06	Savvy, Inc.	Media Consulting	$1000.00
9-27-06	Bangor Daily News	Political Advertising	$9586.98
9-27-06	Portland Press Herald	Political Advertising	$12285.00

1. **Total expenditures this page only**	$42621.98
Complete lines 2-4 on last page of Schedule B only:	
2. **Total from attached Schedule B pages**	
3. **Aggregate of cash expenditures of $100 or less not itemized**	
4. **Total cash expenditures this reporting period (Add lines 1, 2 & 3)**	

Democracy Maine
Name of PERSON

SCHEDULE B
EXPENDITURES

Enter expenditures made aggregating in excess of $100 in this election. Do not include in-kind expenditures on this schedule.

Date of Expenditure	Name of Payee or Creditor and Purpose of Expenditure		Amount
10-4-06	US Postal Service	Postage for Mailing(s)	$156.00
10-10-06	US Postal Service	Postage for Mailing(s)	$390.00
10-12-06	The Forecaster	Political Advertising	$1050.00
10-13-06	US Postal Service	Postage for Mailing(s)	$390.00
10-13-06	Maine Municipal Association	Materials for Mailing(s)	$229.80
10-23-06	US Postal Service	Postage for Mailing(s)	$507.00
10-23-2006	Savvy, Inc.	Media Consulting	$1000.00

1. Total expenditures this page only	$3722.80
Complete lines 2-4 on last page of Schedule B only: 2. Total from attached Schedule B pages	$42621.98
3. Aggregate of cash expenditures of $100 or less not itemized	$180.52
5. Total cash expenditures this reporting period (Add lines 1, 2 & 3)	$46525.30

Democracy Maine
Name of PERSON

SCHEDULE C

IN-KIND CONTRIBUTIONS/EXPENDITURES

With respect to all items and services received and expended, enter the date received/expended, a description of the item or service, and the fair market value. Enter contributor/payee or creditor only. If the fair market value of donated item or service is more than $100.

Date of Contribution or Expenditure	Name of Contributor/Payee or Creditor	Description of goods, services, discounts or facilities received/expended	Fair market value

1. Total in-kind contributions/expenditures this page only	**$0.00**
Compete lines 2-3 on last page of Schedule C: **2. Total from attached Schedule C pages**	**$0.00**
3. Total in-kind contributions received and expended this reporting period (Add lines 1 & 2)	**$0.00**

Exhibit F

STATE OF MAINE
COMMISSION ON GOVERNMENTAL ETHICS AND ELECTION PRACTICES
Mail: 135 State House Station, Augusta, Maine 04333-0135
Tel: (207)287-6221 FAX: (207)287-6775 Website: /www.maine.gov/ethics

REPORTS OF CONTRIBUTIONS AND EXPENDITURES BY PERSONS OTHER THAN POLITICAL ACTION COMMITTEES (21-A M.R.S.A. § 1056-B)

Any person who solicits and receives contributions or makes expenditures, other than by contribution to a political action committee, aggregating in excess of $1,500 for the purpose of initiating, promoting, defeating or influencing in any way a ballot question must file a report with the Commission.

NAME OF PERSON Democracy Maine
(Person means an individual, committee, firm, partnership, corporation, association, group or organization.)

Mailing address: One City Center, 4th Floor
City, zip code: Portland, ME 04101

Telephone number: 2078319840 **Fax** 2078717189 **E-mail** info@democracymaine.org

NAME OF TREASURER: Jonathan A. Crasnick
(or other officer or employee authorized to file this report, if person reporting is other than an individual)

Mailing address: One City Center, 4th Floor
City, zip code: Portland, ME 04101

Telephone number: 2077760521 **Fax** 2078717189 **E-mail** jcrasnick@democracymaine.org

The purpose for receiving contributions and making expenditures is (check one):
to SUPPORT ___ or OPPOSE __X__ ballot question number (if known) __1__ or the ballot question regarding TABOR

TYPE OF REPORT AND FILING PERIOD (check one)

Type of report:	Due date:	Filing period:
( ) 6-day pre-primary	June 7, 2006	January 1, 2006 to June 1, 2006
( ) 42-day post-primary	July 25, 2006	June 2, 2006 to July 18, 2006
( ) 6-day pre-general	November 1, 2006	July 19, 2006 to October 26, 2006
(x) 42-day post-general	December 19, 2006	October 27, 2006 to December 12, 2006

( ) Other (specify): _____

( ) Amendment to: _____

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

Jonathan A Crasnick December 19, 2006
Person's/Authorized Official's signature **Date**

Democracy Maine

Name of PERSON

SCHEDULE A
CASH CONTRIBUTIONS

Include cash contributions only. Itemize contributions aggregating in excess of $100 in this election from the same source. Do not include in-kind contributions or loans on this schedule.

DATE RECEIVED	Contributor's name, mailing address, zip code (Contributions in excess of $100)	Amount
11/13/2006	Maxine Sclar, 509 Chandlers Wharf, Portland, ME 04101	$100.00
11/13/2006	Julian Fischer, PO Box 38, Port Clyde, ME 04855	$250.00

1. Total cash contributions this page only	$350.00
Complete lines 2-4 on last page of Schedule A only: **2. Total from attached Schedule A pages**	$0.00
3. Aggregate of cash contributions of $100 or less not itemized	$280.00
4. Total cash contributions this reporting period (Add lines 1, 2 & 3)	$630.00

Democracy Maine
Name of PERSON

SCHEDULE B
EXPENDITURES

Enter expenditures made aggregating in excess of $100 in this election. Do not include in-kind expenditures on this schedule.

Date of Expenditure	Name of Payee or Creditor and Purpose of Expenditure		Amount
10/27/2006	MaineToday.com	Online Anti TABOR advertisements	$500.00
11/28/2006	Daylight Communications	Graphic Designs for Anti TABOR advertisements and website	$11,163.84
12/06/06	MaineToday.com	Online Anti TABOR advertisements	$500.00

1. **Total cash expenditures this page only**	$12,163.84
Complete lines 2-4 on last page of Schedule B only: 2. **Total from attached Schedule B pages**	$0.00
3. **Aggregate of cash contributions of $100 or less not itemized**	$0.00
4. **Total cash contributions this reporting period (Add lines 1, 2 & 3)**	$12,163.84

STATE OF MAINE
COMMISSION ON GOVERNMENTAL ETHICS AND ELECTION PRACTICES
Mail: 135 State House Station, Augusta, Maine 04333-0135
Tel: (207)287-6221 FAX: (207)287-6775 Website: /www.maine.gov/ethics

RECEIVED
OCT 31 2006
COMMISSION ON GOVERNMENTAL ETHICS & ELECTION PRACTICES AUGUSTA, ME

REPORTS OF CONTRIBUTIONS AND EXPENDITURES BY PERSONS OTHER THAN POLITICAL ACTION COMMITTEES (21-A M.R.S.A. §1056-B)

Any person who solicits and receives contributions or makes expenditures, other than by contribution to a political action committee, aggregating in excess of $1,500 for the purpose of initiating, promoting, defeating or influencing in any way a ballot question must file a report with the Commission.

NAME OF PERSON: Democracy Maine
(Person means an individual, committee, firm, partnership, corporation, association, group or organization.)

Mailing address: One City Center, 4th Floor
City, zip code: Portland, ME 04101

Telephone number 207-831-9840 **Fax** 207-871-7189 **E-mail** info@democracymaine.org

NAME OF TREASURER: Jonathan A. Crasnick
(or other officer or employee authorized to file this report, if person reporting is other than an individual)

Mailing address: One City Center, 4th Floor
City, zip code: Portland, ME 04101

Telephone number 207-776-0521 **Fax** 207-781-7189 **E-mail** jcrasnick@democracymaine.org

The purpose for receiving contributions and making expenditures is (check one):
to SUPPORT ___ or OPPOSE X ballot question number (if known) 1 or the ballot question regarding TABOR

TYPE OF REPORT AND FILING PERIOD (check one)

Type of report:	Due date:	Filing period:
( ) 6-day pre-primary	June 7, 2006	January 1, 2006 to June 1, 2006
( ) 42-day post-primary	July 25, 2006	June 2, 2006 to July 18, 2006
(x) 6-day pre-general	November 1, 2006	July 19, 2006 to October 26, 2006
( ) 42-day post-general	December 19, 2006	October 27, 2006 to December 12, 2006

( ) Other (specify): _____

( ) Amendment to: _____

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

Jonathan A. Crasnick
Person's/Authorized Official's signature

10-30-06
Date

DEMOCRACY MAINE

Name of PERSON

SCHEDULE A
CASH CONTRIBUTIONS

Include cash contributions only. Itemize contributions aggregating in excess of $100 in this election from the same source. Do not include in-kind contributions or loans on this schedule.

DATE RECEIVED	Contributor's name, mailing address, zip code (Contributions in excess of $100)	Amount
9-28-06	David Anderson, 202 West Rd, Waterboro, ME 04087	$100.00
9-29-06	Colton Babcock, 291 River Rd, Newcastle, ME 04553	$100.00
9-29-06	Colin Baker, 17 Poland Rd, Freeport, ME 04032	$100.00
9-30-06	Maryane Burns, 28 Elm St, Topsham, ME 04086	$50.00
10-1-06	Nancy Anderson, 47 Sturdivant Rd, Cumberland, ME 04110	$250.00
10-2-06	Maryane Burns, 28 Elm St, Topsham, ME 04086	$50.00
10-6-06	Ann Schonberger, 40 Garland St., Bangor, ME 04401	$150.00

1. Total cash contributions this page only	$800.00
Complete lines 2-4 on last page of Schedule A only: 2. Total from attached Schedule A pages	$0.00
3. Aggregate of cash contributions of $100 or less not itemized	$275.00
4. Total cash contributions this reporting period (Add lines 1, 2 & 3)	$1075.00

Democracy Maine
Name of PERSON

SCHEDULE B
EXPENDITURES

Enter expenditures made aggregating in excess of $100 in this election. Do not include in-kind expenditures on this schedule.

Date of Expenditure	Name of Payee or Creditor and Purpose of Expenditure		Amount
7-24-06	Savvy, Inc.	Media Consulting	$1000.00
8-18-06	The Potholm Group	Polling/Message Development	$8000.00
8-23-06	Savvy, Inc.	Media Consulting	$1000.00
9-8-06	The Potholm Group	Polling/Message Development	$8000.00
9-15-06	Hattaway Communications	Message Development	$1750.00
9-25-06	Savvy, Inc.	Media Consulting	$1000.00
9-27-06	Bangor Daily News	Political Advertising	$9586.98
9-27-06	Portland Press Herald	Political Advertising	$12285.00

1. Total expenditures this page only	$42621.98
Complete lines 2-4 on last page of Schedule B only:	
2. Total from attached Schedule B pages	
3. Aggregate of cash expenditures of $100 or less not itemized	
4. Total cash expenditures this reporting period (Add lines 1, 2 & 3)	

Democracy Maine
Name of PERSON

SCHEDULE B
EXPENDITURES

Enter expenditures made aggregating in excess of $100 in this election. Do not include in-kind expenditures on this schedule.

Date of Expenditure	Name of Payee or Creditor and Purpose of Expenditure		Amount
10-4-06	US Postal Service	Postage for Mailing(s)	$156.00
10-10-06	US Postal Service	Postage for Mailing(s)	$390.00
10-12-06	The Forecaster	Political Advertising	$1050.00
10-13-06	US Postal Service	Postage for Mailing(s)	$390.00
10-13-06	Maine Municipal Association	Materials for Mailing(s)	$229.80
10-23-06	US Postal Service	Postage for Mailing(s)	$507.00
10-23-2006	Savvy, Inc.	Media Consulting	$1000.00

1. Total expenditures this page only	$3722.80
Complete lines 2-4 on last page of Schedule B only:	
2. Total from attached Schedule B pages	$42621.98
3. Aggregate of cash expenditures of $100 or less not itemized	$180.52
4. Total cash expenditures this reporting period (Add lines 1, 2 & 3)	$46525.30

Democracy Maine
Name of PERSON

SCHEDULE C

IN-KIND CONTRIBUTIONS/EXPENDITURES

With respect to all items and services received and expended, enter the date received/expended, a description of the item or service, and the fair market value. Enter contributor/payee or creditor only. If the fair market value of donated item or service is more than $100.

Date of Contribution or Expenditure	Name of Contributor/Payee or Creditor	Description of goods, services, discounts or facilities received/expended	Fair market value

1. Total in-kind contributions/expenditures this page only	$0.00
Compete lines 2-3 on last page of Schedule C. 2. Total from attached Schedule C pages	$0.00
3. Total in-kind contributions received and expended this reporting period (Add lines 1 & 2)	$0.00

STATE OF MAINE
COMMISSION ON GOVERNMENTAL ETHICS AND ELECTION PRACTICES
Mail: 135 State House Station, Augusta, Maine 04333-0135
Tel: (207)287-6221 FAX: (207)287-6775 Website: /www.maine.gov/ethics

RECEIVED
DEC 19 2006
COMMISSION ON GOVERNMENTAL ETHICS & ELECTION PRACTICES AUGUSTA, ME

REPORTS OF CONTRIBUTIONS AND EXPENDITURES BY PERSONS OTHER THAN POLITICAL ACTION COMMITTEES
(21-A M.R.S.A. §1056-B)

Any person who solicits and receives contributions or makes expenditures, other than by contribution to a political action committee, aggregating in excess of $1,500 for the purpose of initiating, promoting, defeating or influencing in any way a ballot question must file a report with the Commission.

NAME OF PERSON Democracy Maine
(Person means an individual, committee, firm, partnership, corporation, association, group or organization.)

Mailing address: One City Center, 4th Floor
City, zip code: Portland, ME 04101

Telephone number: 2078319840 **Fax** 2078717189 **E-mail** info@democracymaine.org

NAME OF TREASURER: Jonathan A. Crasnick
(or other officer or employee authorized to file this report, if person reporting is other than an individual)

Mailing address: One City Center, 4th Floor
City, zip code: Portland, ME 04101

Telephone number: 2077760521 **Fax** 2078717189 **E-mail** jcrasnick@democracymaine.org

The purpose for receiving contributions and making expenditures is (check one):
to SUPPORT ____ or OPPOSE __X__ ballot question number (if known) __1__ or the ballot question regarding TABOR

TYPE OF REPORT AND FILING PERIOD (check one)

Type of report:	Due date:	Filing period:
( ) 6-day pre-primary	June 7, 2006	January 1, 2006 to June 1, 2006
( ) 42-day post-primary	July 25, 2006	June 2, 2006 to July 18, 2006
( ) 6-day pre-general	November 1, 2006	July 19, 2006 to October 26, 2006
(x) 42-day post-general	December 19, 2006	October 27, 2006 to December 12, 2006

( ) Other (specify): _____

( ) Amendment to: _____

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

Jonathan A Crasnick
Person's/Authorized Official's signature

December 19, 2006
Date

Democracy Maine

Name of PERSON

SCHEDULE A
CASH CONTRIBUTIONS

Include cash contributions only. Itemize contributions aggregating in excess of $100 in this election from the same source. Do not include in-kind contributions or loans on this schedule.

DATE RECEIVED	Contributor's name, mailing address, zip code (Contributions in excess of $100)	Amount
11/13/2006	Maxine Sclar, 509 Chandlers Wharf, Portland, ME 04101	$100.00
11/13/2006	Julian Fischer, PO Box 38, Port Clyde, ME 04855	$250.00

1. Total cash contributions this page only	$350.00
Complete lines 2-4 on last page of Schedule A only: 2. Total from attached Schedule A pages	$0.00
3. Aggregate of cash contributions of $100 or less not itemized	$280.00
4. Total cash contributions this reporting period (Add lines 1, 2 & 3)	$630.00

Democracy Maine
Name of PERSON

SCHEDULE B
EXPENDITURES

Enter expenditures made aggregating in excess of $100 in this election. Do not include in-kind expenditures on this schedule.

Date of Expenditure	Name of Payee or Creditor and Purpose of Expenditure	Amount
10/27/2006	MaineToday.com — Online Anti TABOR advertisements	$500.00
11/28/2006	Daylight Communications — Graphic Designs for Anti TABOR advertisements and website	$11,163.84
12/06/06	MaineToday.com — Online Anti TABOR advertisements	$500.00

1. Total cash expenditures this page only	$12,163.84
Complete lines 2-4 on last page of Schedule B only:	
2. Total from attached Schedule B pages	$0.00
3. Aggregate of cash contributions of $100 or less not itemized	$0.00
4. Total cash contributions this reporting period (Add lines 1, 2 & 3)	$12,163.84

Democracy Maine
Name of PERSON

SCHEDULE C

IN-KIND CONTRIBUTIONS/EXPENDITURES

With respect to all items and services received and expended, enter the date received/expended, a description of the item or service, and the fair market value. Enter contributor/payee or creditor only. If the fair market value of donated item or service is more than $100.

Date of Contribution or Expenditure	Name of Contributor/Payee or Creditor	Description of goods, services, discounts or facilities received/expended	Fair market value

1. Total in-kind contributions/expenditures this page only	**$0.00**
Compete lines 2-3 on last page of Schedule C: **2. Total from attached Schedule C pages**	**$0.00**
3. Total in-kind contributions received and expended this reporting period (Add lines 1 & 2)	**$0.00**

Exhibit G

DEMOCRACY MAINE

Maine Voices Against Extremism

One City Center, 4th Floor
Portland, ME 04101
(207) 831-9840
www.democracymaine.org

JAN. 27, 2006
FOR IMMEDIATE RELEASE

PORTLAND – Members of Democracy Maine expressed disappointment Friday with the decision by Senator Susan Collins to vote to confirm Samuel Alito to the US Supreme Court. At the same time, they urged Sen. Olympia Snowe to oppose the nomination.

"It's disappointing, but it's another example of Senator Collins not being as moderate as she claims to be," said Jonathan Crasnick, director of Democracy Maine. "It's an example of Senator Collins not being moderate at all. She has voted against her own values and her own stated beliefs and once again, has enabled President Bush to push his conservative agenda.

"We are urging Senator Snowe to show her independence from the Bush Administration and the conservative extremists by voting no on Alito," Crasnick continued. "She has said that her priority is to protect a woman's right to choose. If that is true, a no vote is the only vote she can make in good conscience."

Formed by Portland businessman Robert CS Monks, attorney Anthony Buxton and political activist Jacqueline Potter, Democracy Maine provides an alternative voice against the growing influence of the far right.

Contact: Jon Crasnick,

Paid for by Democracy Maine, Inc. – Printed In House

DEMOCRACY MAINE

Maine Voices Against Extremism

One City Center, 4th Floor
Portland, ME 04101
(207) 831-9840
www.democracymaine.org

FEB 2, 2006
FOR IMMEDIATE RELEASE

PORTLAND – Members of Democracy Maine again expressed concerns about Senators Snowe's and Collins' votes to confirm Samuel Alito to the US Supreme Court and their failure to filibuster the vote.

"As members of the Gang of 14 it was their responsibility to filibuster under extraordinary situations," said Jonathan Crasnick, Director of Democracy Maine. "What constitutes an extraordinary situation has never been outlined by Senator Snowe or Senator Collins. Judge Alito's memo from 1985 shows that he does not believe that a woman's right to choose is protected by the constitution. He has prejudged the most controversial issue that will come before the court. If that is not an extraordinary issue, what is?"

Robert CS Monks, a Portland Businessman and co-founder of Democracy Maine expressed concern over Senator Collins' off handed dismissal of groups critical of her vote.

"While Senator Snowe seemed to have a genuine struggle over this complex issue, it is troubling that Senator Collins has dismissed any criticism of her vote, and tried to denigrate the legitimate concerns of Maine citizens.

Formed by Portland businessman Robert CS Monks, attorney Anthony Buxton and political activist Jacqueline Potter, Democracy Maine provides an alternative voice against the growing influence of the far right.

Contact: Jon Crasnick,

DEMOCRACY MAINE

Maine Voices Against Extremism

One City Center, 4th Floor
Portland, ME 04101
(207) 831-9840
www.democracymaine.org

April 17, 2006
FOR IMMEDIATE RELEASE

DEMOCRACY MAINE FILES BRIEF SUPPORTING TABOR DECISION

PORTLAND – Democracy Maine has filed a "friend of the court" brief with the Maine Supreme Court in support of a lower court decision upholding the statutory deadline for submitting petition signatures for the taxpayer bill of rights referendum.

The detailed brief, filed by Friday's deadline, cites numerous court cases around the country to support its argument that Secretary of State Matthew Dunlap did not have the discretion to accept petition signatures after the deadline established in statute. Democracy Maine believes that while there is no foul play involved in the current situation, leaving it up to the discretion of state officials on whether to accept referendum signatures after the deadline erodes confidence in the electoral process and sets a bad precedent.

"The citizen's initiative process is very important to democracy," said Jon Crasnick, executive director of Democracy Maine. "It has clear legislative and constitutional rules regarding its implementation. Strict compliance with those rules is necessary to protect the integrity of the process. Otherwise, the system becomes arbitrary and capricious, leading to confusion and uneven application of the law."

Crasnick said the Superior Court decision cited numerous examples where strict enforcement of rules is required. "If I show up at City Hall with my absentee ballot 10 minutes after the deadline, I don't get to vote, and they're not going to listen to any excuses. There was a deadline for filing our court brief on Friday. I doubt the justices would have allowed us to make our argument if we submitted it three days later.

"On the other hand, if the court allows petition signatures to be submitted a day late, what happens next time on a different referendum when signatures are submitted two days late, or five days late? If we say it's OK to ignore the deadline in this case, where do we draw the line next time?"

In its court brief, Democracy Maine argues, "With the power of the ballot initiative inevitably comes the potential for abuse and the consequent need to establish – and enforce – a regulatory regime to stand vigil over the lawful exercise of that valued franchise. In this appeal our concern is not with the substance of electoral measures. Our concern today is with process. If the established initiative process is scrupulously observed, the substance will be left to the voters."

The brief cites a California case concerning requirements for referendum signatures and petitions in which the court held, "These requirements serve to safeguard the integrity of the electoral process, and to provide elections officials with orderly and clear procedures for determining whether a measure is qualified for the local ballot."

In a similar case in South Carolina, where some petition signatures were submitted by the deadline but others were not, the state Supreme Court refused to place the referendum measure on the ballot saying, "When, as here, the statute is plain and unambiguous, it becomes the duty of the court to apply it literally because the legislative design is unmistakable."

The year-old Democracy Maine was founded by Maine citizens who wished to expose and combat the effect on America of the growing levels of partisan extremism that exist in American Government today. For more information see www.democracymaine.org.

For more information or a copy of the group's brief, contact Jon Cranick,

DEMOCRACY MAINE

Maine Voices Against Extremism

June 19, 2006
FOR IMMEDIATE RELEASE

DEMOCRACY MAINE CALLS ON ENVIRO GROUPS TO SUPPORT WIND POWER

PORTLAND – Democracy Maine today called on the state's major environmental groups to reconsider their opposition to a proposed wind power project for western Maine.

Robert CS Monks, co-founder of Democracy Maine, said that while environmental groups have for many years encouraged the development of Maine-based renewable energy sources, several of those same groups are now opposing the Redington Wind Farm project proposed near Sugarloaf, one of the largest renewable energy projects ever proposed for Maine.

"As a society, we have to begin reducing our dependence on foreign energy sources," Monks said. "We have to take measures to address global climate change, perhaps the most significant issue of our time. This wind power project is a small step in that direction, but an important one that we must be willing to take. And the state's major environmental groups should be showing leadership on this issue, not fighting it."

Democracy Maine was founded more than a year ago to confront extremism that is preventing real problems from being solved, and Monks said the knee-jerk opposition to the wind power project from environmental groups is another example.

"Why aren't the large environmental groups willing to stand up and support a major renewable energy project, exactly the kind of project they've been talking about for 20 years," he asked. "Environmental groups can no longer be in opposition to viable clean and renewable energy projects. They have to be proactive and assume a leadership role. There are no easy answers, but

we're all going to need to compromise in order to address the challenges of global warming and our dependence on fossil fuels."

More than a dozen environmental and conservation groups have been granted intervener status in opposition to the project for the upcoming hearings before the Land Use Regulation Commission. Developers of the Redington Wind Farm have proposed the construction of 30 wind turbines along Redington Pond Range and Black Nubble Mountain, a few miles from the Sugarloaf ski resort.

"Environmental groups have long preached the dangers of our fossil-fuel based economy," Monks added. "Here's a project that will provide clean, renewable electrical power for 40,000 Maine homes, reduce pollution by 800,000 pounds per day, and help cut the emissions that cause global warming. Why aren't environmental groups cheering?"

Monks said he understands some of the objections to the project, such as the impacts on wildlife and views in the area. "But they pale in comparison to the devastating effects from our continued reliance on fossil fuels for our energy," he said.

DEMOCRACY MAINE

Maine Voices Against Extremism

One City Center, 4th Floor
Portland, ME 04101
(207) 831-9840
www.democracymaine.org

JUNE 26, 2006
FOR IMMEDIATE RELEASE

MAINE OFFICIALS, OPINION LEADERS GET FREE TICKETS TO "AN INCONVENIENT TRUTH"

PORTLAND – Democracy Maine has sent complimentary tickets to dozens of state officials and opinion leaders for the opening night in Portland of "An Inconvenient Truth," Al Gore's documentary about the effects of global climate change.

Formal invitations were sent last week to the governor, state legislative leaders, members of the legislature's Utilities Committee, the Public Utilities Commission and the Land Use Regulations Commission. In addition, media commentators and local radio talk show hosts were also invited to attend the movie, which opens at 7 p.m. Wednesday, June 28th at The Movies on Exchange Street.

Democracy Maine purchased about 70 tickets to the movie and mailed invitations instructing people to pick them up at the box office Wednesday night.

"We believe that it's important for people to see this movie, particularly those in charge of energy policy here in Maine," said Jon Crasnick, executive director of Democracy Maine. "If anyone thinks there is still a debate over human-induced global climate change, they'll think differently after seeing this movie. We hope they'll come away with a renewed urgency to address this critical issue."

Gore's movie presents the latest scientific facts about global warming with captivating images and graphics. The movie is playing to packed houses and has received wide critical acclaim. Roger Ebert of the Chicago Sun Times

said, "In 39 years, I have never written these words in a movie review, but here they are: You owe it to yourself to see this film. If you do not, and you have grandchildren, you should explain to them why you decided not to."

Crasnick said he hopes the movie will encourage state leaders to do more to develop alternative energy sources and reduce dependence on foreign oil and gas. It should also help expose the massive disinformation campaign by the energy industries to raise doubts about global warming and reframe it as a "debate" despite overwhelming scientific evidence to the contrary.

"It'll be interesting to see who takes us up on the offer," he said. "The movie deals with the most critical issue of our time, and none of us can afford any longer to look the other way."

The year-old Democracy Maine was founded by Maine citizens who wished to expose and combat the effect on America of the growing levels of partisan extremism that exist in American Government today. For more information see www.democracymaine.org.

For more information, contact Jon Crasnick, 776-0521.

DEMOCRACY MAINE

Maine Voices Against Extremism

One City Center, 4th Floor
Portland, ME 04101
(207) 831-9840
www.democracymaine.org

July 30, 2006
FOR RELEASE AFTER 6 P.M.

DEMOCRACY MAINE URGES LURC TO SUPPORT REDINGTON WIND FARM

SUGARLOAF, USA – The executive director of Democracy Maine tonight urged the Maine Land Use Regulation Commission to approve the Redington Wind Farm project as a way to address local climate change and reduce our dependency on fossil fuels.

Appearing before the commission on the hottest day of the year, Jon Crasnick of Democracy Maine called global warming our greatest threat, and said the proposed wind farm will help address that threat by reducing the emissions that cause global warming.

"This project will thus help reduce emissions of global warming-producing CO2 which causes heat waves, droughts for farmers, smog and asthma, rising sea levels and coastal flooding, reduced maple syrup production, and risk the viability of our ski industry at Sugarloaf, Saddleback and Sunday River," Crasnick said. "It will help diversify the energy supply mix to Maine, as both Maine and New England are overly-dependent upon the fossil fuels, especially natural gas, which is subject to severe price spikes and instability."

Crasnick took particular aim at a proposal to reduce the 30-turbines to 18 and build them only on Black Nubble mountain.

"The "Black Nubble only" option is a red herring and advocating it will only kill the project," he said. "Democracy Maine was founded by individuals possessing a wide range of knowledge and experience with political, business, and energy issues. Our own internal analysis has helped us

conclude that the 'Black Nubble only' approach is an unreasonable option that does not take into account the economics surrounding a wind power project. It will not work."

Crasnick said LURC "should accept the lesser of two competing harms" and approve the Redington Wind Farm project.

"Uniquely, we are in a position to provide leadership and support for a project that will significantly reduce those elements that cause global warming," he said. "As human beings and environmentalists, and as caretakers of this planet we need to do everything we can to prevent global warming. We should provide leadership, not deterrence for a viable wind project."

The year-old Democracy Maine was founded by Maine citizens who wished to expose and combat the effect on America of the growing levels of partisan extremism that exist in American Government today. "We have come to view environmental issues as a battle of extremes and see this proposed project as a compromise and a viable new option," he said.

For more information see www.democracymaine.org.

DEMOCRACY MAINE

Maine Voices Against Extremism

One City Center, 4th Floor
Portland, ME 04101
(207) 831-9840
www.democracymaine.org

SEPT. 6, 2006
FOR IMMEDIATE RELEASE

GINGRICH APPEARANCE SHOWS ADVANCE OF FAR-RIGHT INTO MAINE

PORTLAND – The appearance today in Portland of former Congressman Newt Gingrich is further evidence of the advance and influence of the conservative far right in Maine, said Jon Crasnick, executive director of Democracy Maine.

Gingrich is speaking today at a fundraiser for the Maine Heritage Policy Center, the conservative think-tank and author of the upcoming TABOR referendum on November's ballot.

"Gingrich is one of the chief architects of policies that have shifted the tax burden away from the rich and onto the backs of working men and women," Crasnick said. "His "Contract on America" has only served to increase the gap between the rich and poor, and returned us to sky-high deficits. His advice on economic and tax policies is as good as his advice on the sanctity of marriage."

Crasnick said Gingrich's appearance in Maine is more evidence of the advance and influence of the far right in Maine. The Maine Heritage Policy Center has a tradition of bringing conservative national figures to speak at its annual functions. Former speakers have included Americans for Limited Government Director Grover Norquist, and former Bush White House Chief of Staff Andrew Card.

"Newt Gingrich does not share the values of Maine's citizens," said Crasnick. "Maine has a tradition of sending moderate, compassionate leaders to Washington, people who are thoughtful and fair. It's ironic to see the Maine Heritage Policy Center paying Newt Gingrich to come to Maine at a time when we need real solutions for real people, not hypocrisy from discredited right-wing politicians."

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Sept. 28, 2006
FOR IMMEDIATE RELEASE

DEMOCRACY MAINE BEGINS CAMPAIGN TO EXPOSE TABOR AS A FRAUD

PORTLAND – Democracy Maine today announced its campaign in opposition to Question One, otherwise known as TABOR, which the group says is a fraud on the voters of Maine.

The group intends to reach voters through newspaper and radio ads, direct mail and other media to tell the facts about TABOR.

"TABOR is a fraud," said Jon Crasnick, executive director of Democracy Maine, the year-old organization that was founded to confront partisan extremism that is preventing real problems from being solved. "It will not restrain spending by the Legislature in any way, it will hurt local control, not strengthen it, and it will make real tax reform almost impossible. This is exactly the opposite of what the proponents of TABOR are telling the voters. That's why it's a fraud."

Democracy Maine's campaign began this week with on-line banner ads warning voters about "Hurricane Tabor."

"TABOR is not a local, home-grown solution to Maine's unique problems, even though the proponents claim it is" Crasnick said. "This is being brought into Maine by the same incompetent national and far-right special interests that returned us to sky-high deficits, developed a flawed and dangerous foreign policy, and led the tragic response to hurricane Katrina.

"We need to improve government and make it more efficient, not wipe it out," Crasnick added.

The group has a website, www.stophurricanetabor.com that details the initiative and contains a complete "fraud forecast." The site also has a link to a recent PBS report about the national far-right groups that are behind TABOR initiatives across the country.

DEMOCRACY MAINE

Maine Voices Against Extremism

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(207) 831-9840
www.democracymaine.org

November 1, 2006
FOR IMMEDIATE RELEASE

DISCLOSURE LINKS PRO TABOR FUNDS TO OUT OF STATE CONSERVATIVE GROUP

PORTLAND – Campaign finance reports filed today confirms that the pro-TABOR campaign is being funded largely by Americans for Limited Government, a national conservative group headed by New York millionaire Howard Rich, who is known for funding TABOR-like initiatives in states across the country.

Forms filed today with the Secretary of State's Office shows Rich's group contributed $112,000 in cash and in-kind contributions.

"We're not surprised," said Democracy Maine's Executive Director Jonathan Crasnick. "We've known all along that TABOR is part of a national conservative strategy that has been brought to Maine and is secretly financed by conservative special interests."

A recent PBS special reported on the national far-right groups that are behind TABOR initiatives across the country. Democracy Maine's campaign against TABOR has included newspaper ads, direct mail, radio interviews and emails, all of which have tried to inform Maine voters on TABOR's connections to out-of-state conservative groups.

"We've been confident all along that TABOR's connections to the far-right would become known," said Crasnick. "We just thought it would be sooner than a week before the election. Despite the claims by the proponents, TABOR was not created in Maine.

"What's worse," Crasnick continued, "Is that TABOR proponents have tried to hide their far-right connections while at the same time criticizing TABOR opponents for accepting out of state money. Apparently, they're not concerned about hypocrisy.

"It was important to TABOR supporters that Maine voters not know where these funds came from. But now voters know that TABOR is not from Maine and it's not for Maine."

Democracy Maine has a website, www.stophurricanetabor.com that details the initiative and contains a complete "fraud forecast." The site also has a link to a recent PBS report about the national far-right groups that are behind TABOR.

MEMIC
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Wednesday, February 1, 2006

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Snowe, Collins consent on Alito

By BART JANSEN, Washington D.C. Correspondent

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WASHINGTON — Sen. Olympia Snowe joined Sen. Susan Collins on Tuesday in supporting Judge Samuel Alito's confirmation to the Supreme Court, in votes that critics said betrayed their reputation as moderates and supporters of abortion rights. The Maine Republicans joined the 58-42 majority to confirm Alito in a largely party-line vote. Only one Republican - Sen. Lincoln Chafee of Rhode Island - opposed Alito, while four Democrats supported him.

The confirmation touched off harsh criticism of Snowe and Collins because of opinions that Alito wrote during 15 years on the 3rd U.S. Circuit Court of Appeals. Critics said the opinions hurt privacy rights, civil rights and environmental protections.

But Snowe argued that she couldn't predict how Alito would rule in future cases. She explained that she decided he would approach each case with an open mind after a month studying Alito's decisions, his testimony before the Judiciary Committee and the Senate's role in confirmation votes.

"It's a tough one," Snowe said. "Do I have concerns? Yes. But I try to be fair in my application, knowing what I know today. It's hard, there's no question."

Basically, each senator said that although she didn't agree with Alito on every decision, he was rated "highly qualified" by the

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American Bar Association and fellow judges said he approached each case fairly and reasonably.

"This vote reflects my careful consideration of the nominee," Collins said. "I was particularly influenced by the fact that there was a broad consensus among judges who had served with Judge Alito, whether they were liberals or conservatives, whether they were appointed by Democratic presidents or Republican presidents, that he was able to put aside any personal views or biases and carefully apply the law and Constitution to the facts of a case. That's what I'm looking for in a Supreme Court justice."

Criticism of the senators came from a variety of Maine advocacy groups, including a coalition of 40 groups encompassing Planned Parenthood, the National Organization for Women, the AFL-CIO and the Sierra Club, among others.

"By voting to confirm Judge Alito, Senator Snowe is jeopardizing the fundamental rights and freedoms of Maine people," said Sarah Standiford, executive director of the Maine Women's Lobby. "The people of Maine look to Senator Snowe to uphold their values and beliefs, particularly when the future of our clean air and clean water, workplace protections and privacy rights are at stake."

Another group, Democracy Maine, which was formed by businessman Robert C.S. Monks, attorney Anthony Buxton and political activist Jacqueline Potter, said the vote revealed that Snowe and Collins aren't as moderate as they portray themselves back home.

"They get all this praise for being moderate, but time after time for judicial confirmations and other issues, they follow the Bush administration's agenda," said Jonathan Crasnick, the group's director.

Collins noted that she has opposed two of Bush's judicial nominees, that she was a member of the bipartisan group of 14 senators who set a threshold for filibustering nominees of "extraordinary circumstances" that Alito didn't cross, and that she routinely produces bipartisan legislation.

CQ Weekly, a nonpartisan magazine that covers Congress, routinely finds that the three Republicans most likely to break ranks with their colleagues are Chafee, Snowe and Collins, in that order. When majorities of each party voted on opposite sides of a bill in 2005, Snowe sided with Republicans 56 percent of the time and Collins 59 percent of the time.

"Even a cursory review of my voting record demonstrates that I stand tall for what I believe in, that I reflect the views of the majority of Mainers and that I vote in a very moderate way," Collins said. "There are some left-wing groups who would love to try to portray me as what I am not, but any fair review of my record would demonstrate that that is not accurate."

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Alito succeeds Justice Sandra Day O'Connor, who was pivotal in decisions on campaign-finance law, the death penalty, affirmative action and abortion.

Much of the criticism of Snowe and Collins focused on the conflict between their support for abortion rights and Alito's statement on a 1985 job application that "the Constitution does not protect a right to an abortion."

Alito told senators at his confirmation hearing that he has great respect for Roe v. Wade as precedent, but he refused to commit to upholding it.

"I would approach the question with an open mind and I would listen to the arguments that were made," Alito said.

Snowe said she was reluctant to predict how he would vote on future cases because he had come down on both sides in appeals cases. She noted that many conservatives voted to confirm Justice Ruth Bader Ginsburg, considered one of the court's more liberal members, because of her qualifications.

"It was a very complicated question," Snowe said. "We can surmise, we can speculate, but at the end of the day we do not truly know."

Crasnick argued that Snowe, who faces re-election this year, should be held accountable. He said the controversy surrounding Alito getting a seat on the country's highest court justified "extraordinary circumstances" for a filibuster.

"I think she's going to have to answer to it," Crasnick said. "There will be a lot of chances where he could affect women's privacy, and that's something Senator Snowe will have to answer to."

But Snowe said she heard from Mainers - including Democrats - who concluded that Alito seemed fair-minded.

"I gave it my very best approach," Snowe said. "I know people aren't always going to agree with me. But hopefully they will respect how I arrived at my judgment. It was with considerable thought and review."

Bart Jansen can be contacted at 202-488-1119 or at:

bjansen@pressherald.com

Reader Comments

Will Sen. Olympia Snowe's vote on the Alito confirmation affect your vote in her bid for re-election?

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Feb 3, 2006 6:34 AM
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Group files brief in support of rejecting petitions

Associated Press

April 17, 2006

PORTLAND, Maine –A nonprofit political group has filed a friend-of-the-court brief with the Maine supreme court in support of a lower court decision to reject petitions filed with the secretary of state's office calling for a referendum on a government spending cap.

Democracy Maine cited court cases around the country to support its argument that Secretary of State Matthew Dunlap did not have the discretion to accept petition signatures for a so-called taxpayer bill of rights, or TABOR, after the statutory deadline.

The citizen's initiative process to get referendum questions on the ballot has clear rules, said Jon Crasnick, executive director of Democracy Maine. The group's filing concerns itself with the process, not with the substance of the initiative, he said.

"Strict compliance with those rules is necessary to protect the integrity of the process," Crasnick said. "Otherwise, the system become arbitrary and capricious, leading to confusion and uneven application of the law."

TABOR supporters turned in petitions calling for a referendum with 54,127 signatures to the secretary of state on Oct. 21, 2005.

Another 4,024 signatures were submitted the next business day, Oct. 24. The failure to deliver all the petitions by the earlier date was attributed to an oversight.

Critics said Dunlap erred by allowing the additional signatures to be submitted. Without those signatures, the petitioners failed to meet the threshold of at least 50,519 signatures.

A legal challenge was filed against Dunlap's decision, and Justice Donald Marden this month reversed the decision. If Marden's ruling stands, it will block a statewide vote on the initiative.

A notice of appeal was filed in the Maine Supreme Judicial Court the next day on behalf of Mary Adams, who championed the petition effort. The TABOR initiative would limit annual spending increases for state and local governments and schools to the rate of inflation plus increases in population.

Arguments are scheduled to be heard before the supreme court on April 25. ■

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Maine's #1 Volume Ford, Lincoln, Mercury Dealer

Tuesday, April 18, 2006

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Referendum rules must be followed, group says

Associated Press

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To top of page

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Tuesday, April 25, 2006

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MAINE VOICES: *Jonathan Crasnick*

Also on this page:
About the Author

Lower court's TABOR ruling right for democracy

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Imagine showing up 15 minutes after the polls close on Election Day and arguing with the clerk that you should be allowed to vote anyway.

Maybe you got stuck in traffic, or your watch stopped or you overslept. Whatever, your intent was to cast your vote and you should be allowed to do so. At least, that's your argument.

About the Author

Jonathan Crasnick is the executive director of Democracy Maine, a nonprofit group which has filed a "friend of the court" brief opposing the secretary of state's decision on the TABOR petitions.

To top of story

Of course, no town or city clerk would buy it. The polls close at 8 p.m. Anyone showing up after that time is not eligible to vote.

This is not some arbitrary rule. This is just one of many rules and deadlines we have to ensure an orderly democracy, one free of corruption and uneven application.

Now we have the proponents of the Taxpayer's Bill of Rights offering similar "the dog ate my homework" excuses as to why their proposal should be allowed on November's ballot.

They submitted petition signatures to the Maine Secretary of State's Office on Friday, Oct. 21, 2005, just making the one-year statutory deadline for submission of valid signatures.

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But - oops - they left behind a box of signatures that wasn't turned in until the following Monday morning, after the deadline had passed. Without the late box, the TABOR group didn't have enough signatures to qualify for the ballot.

But Secretary of State Matt Dunlap accepted the late signatures anyway, arguing that the TABOR folks meant to turn them in, so what's the harm?

It was courteous of the secretary of state to put the interests of those who signed the TABOR petitions ahead of strict application of the law. But it was wrong. Here's why.

• It's a bad precedent. If the signatures in this case are allowed to be submitted two days after the deadline, where will the line be drawn next time? Three days? Ten days? A month?

The citizen-initiated referendum process is an important right that is enjoyed by only a handful of states. Confidence in the process must be maintained, and one way to do that is to impose an established set of rules that everyone - even the TABOR folks - must follow.

• It's arbitrary. Dunlap says he opposes TABOR, but allowed the signatures to be submitted after the deadline anyway. But Dunlap will not be the secretary of state forever. Suppose some future secretary of state who is personally opposed to a certain referendum question disallows signatures that are submitted late, but allows them for something he or she agrees with.

The strict one-year deadline is imposed to ensure that the process is even-handed. Everyone gets treated equally. The law simply doesn't give Dunlap or any future secretary of state discretion in this matter, and we should be thankful that it doesn't.

Courts have always rejected late petitions. In similar cases across the country, courts have almost always thrown out petition signatures that were filed after the deadline, and for good reason.

This requirement that the deadline must be strictly enforced in order to preserve the integrity, honesty and confidence in the referendum process is repeated in court case after court case involving late filing of petitions.

In fact, the only case we could find where the courts agreed to accept petitions after the filing deadline involved truly extenuating circumstances: The petitioners repeatedly tried to file their signatures on time, but the clerk's office that was supposed to accept the petitions was inexplicably closed.

No such circumstance exists here. The TABOR petitioners knew the statutory deadline, submitted their petitions in accordance with the deadline - and came up short.

To suggest that the late signatures were valid so there's no harm

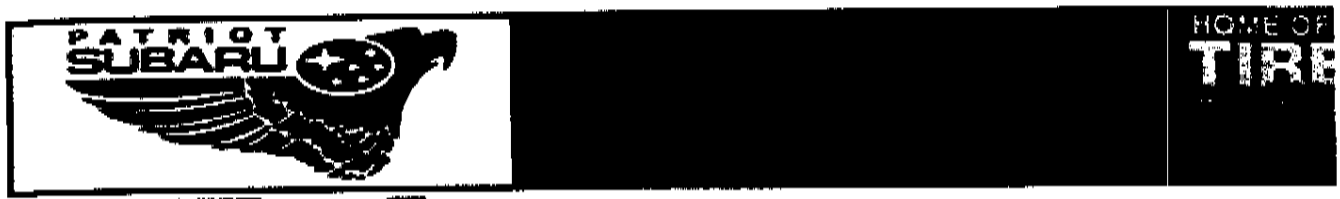
in counting them is like telling a police officer who has stopped you for drunk driving that, well, since no one was run over, there's no reason to make an arrest.

There's a larger issue at stake. To ensure trust and confidence in our democratic system and the citizen-initiative process, the rules must be strictly enforced.

Dunlap was wrong to give the TABOR petitioners a special exemption, and the Maine Supreme Judicial Court should tell him so when it finally rules on this issue.

- *Special to the Press Herald*

To top of page



Tuesday, June 20, 2006

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Group urges opponents of $150 million wind farm to reconsider position

Associated Press

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A nonprofit political group on Monday called on environmental groups to reconsider their opposition to a $150 million wind farm proposed for western Maine.

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Democracy Maine was co-founded last year by Robert C.S. Monks, a real estate developer, to confront what the group calls political extremism. Monks criticized the "knee-jerk opposition" to a proposal by Maine Mountain Power to build 30 wind turbines on top of Black Nubble and Redington Pond Range mountains near Sugarloaf USA ski resort.

The turbines would generate enough power for about 40,000 households annually, resulting in the removal of tons of pollutants a day from traditional power plants, according to project backers.

Maine's Land Use Regulation Commission has granted intervenor status to 13 organizations, including Maine Audubon, the Appalachian Trail Conservancy and the Maine Appalachian Mountain Club.

The groups say the 90-megawatt farm threatens rare species of plants and animals, and its 260-foot towers would diminish the

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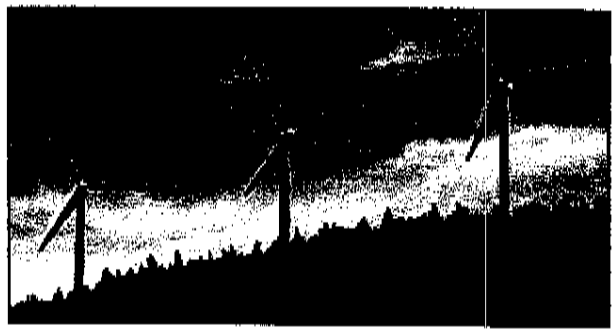
Sun Journal

Tilting at foes of wind power

By **Bonnie Washuk**, *Staff Writer*
Thursday, July 13,2006



Russ Dillingham/Sun Journal

Three of the 11 towers rise above the treeline at the wind farm in Searsburg, Vt.

BUY PHOTO

LEWISTON - Few Maine environmental groups are supporting a proposed wind farm near Sugarloaf Mountain - and that is prompting criticism from others worried about global warming.

"It's frustrating," said Robert Monks, co-founder of Democracy Maine, a group created to combat partisan extremism. "It's fiddling while Rome's burning."

Critics say environmentalists are too worried about birds, vegetation and spoiled views, and not worried enough about the planet.

Traditionally, Maine environmentalists have focused locally, but the dynamics of environmental problems have changed, Monks said.

"We just can't look parochially," he said. "We have to avoid 'not in my back yard' issues. Wind power is one step, a sober, thoughtful, sustainable energy that can begin to replace fossil fuel."

Most environmentalists say they favor wind power, but not at the Redington Township site, which is near the Appalachian Trail and the Sugarloaf/USA ski resort, said Beth Nagusky, director of the governor's Office of Energy Independence.

"It is perhaps a failure to look at the big picture," said Nagusky, a former Natural Resources Council of Maine staffer. There are environmental concerns about the Redington Township windmills, but there is no energy solution that doesn't have some drawbacks, she said.

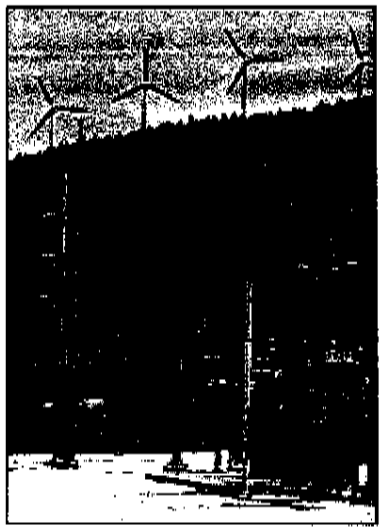
"We're not going to keep the lights on with conservation," Nagusky said.

Public hearings on the $150 million project, which would produce enough fossil-free electricity to power 40,000 households, are scheduled for Aug. 2-4 at Sugarloaf/USA.

The project is proposed by Maine Mountain Power, owned by Endless Energy Corp. and Edison Mission Group of Irvine, Calif.

'Cherished landscape'

For weeks Maine's best-known environmental group, the Natural Resources Council of Maine, has urged Mainers to see Al Gore's movie about the looming horrors of global warming.



Russ Dillingham/Sun Journal

The electricity generated from the turbines is collected in the facility in the foreground before being sent out to the power grid at the Searsburg Windfarm in Vermont.

BUY PHOTO

But NRCM, which plans to announce its position at the public hearing in August, seems poised to oppose the Redington wind farm.

The group has two priorities: developing renewable energy and strongly protecting Maine's wild places. "Those two strongly clash," in the Redington project, said spokesman Peter Didisheim.

"We're not opposed to wind power," he said. The NRCM has endorsed other wind farms, including one being built in Mars Hill in Aroostook County.

But allowing huge turbines on Redington Township mountains would harm what he called a "cherished landscape."

Except for Katahdin, no other place in Maine has mountains so rugged that provide such a wilderness hiking experience, Didisheim said. A flock of windmills would take away from that.

"The windmills would be 420 feet tall. That's the size of a 747 stood upright," Didisheim said. Some of the turbines would be about 1 mile from the Appalachian Trail.

Considering the location, environmental opposition is no surprise, Didisheim said. "I'd be hard-pressed to identify a location that would be more controversial than where this Maine Mountain Power proposes to locate."

Maine Audubon agrees.

On its Web page, Maine Audubon said it recognizes the need for wind power, but the project would put "at excessive risk a number of ecological, recreational and scenic resources."

The turbines would fragment and diminish one of the largest road-free areas in the state. The mountain area has 17 rare species of plants and animals, including the Bicknell's thrush. The area also has "rare, sub-alpine forest" that needs protection, Maine Audubon said.

Birds, views 'pale' to planet

One environmental group, the Conservation Law Foundation, favors the project.

CLF officially has a neutral position, but favors the 30 turbines because it's a solution to global warming pollution, said Director Robert Gardiner. The foundation isn't officially in favor until steps have been taken to reduce biological impacts, he said. In practical terms, "we are going to appear in favor."

Like other groups, CLF is concerned about harm to the high-elevation habitat. Regardless of how the turbines are built, there'd be negative impacts, Gardiner said.

But it would be a shame for the hearings to focus only on the plight of birds, "considering that other areas are being torn up for coal mining," Gardiner said.

"You have to take a very big-picture look," he said. "Global warming is rapidly being recognized as the major problem facing the world." Maine faces flooding along the coast and big changes in habitat.

"A lot of environmentalists are hoping backyard windmills can solve our problems," he said. That won't be enough, Gardiner said.

Protecting birds, mountain views and vegetation "pale" compared to global warming problems, he said.

"It's time for environmentalists and everybody to embrace renewable energy projects that do make sense."

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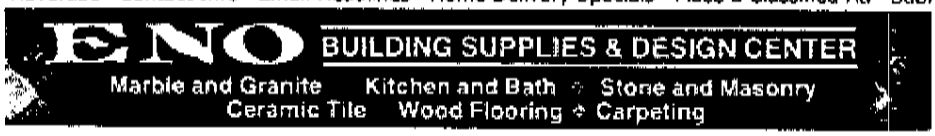

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Gingrich: Rethink positions on Iran

Complete Maine News Index

SOUTH PORTLAND, Maine (AP) -- Former House Speaker Newt Gingrich says it's time for the United States to get tough with Iran's Islamic theocracy.

Speaking before a conservative public policy group Wednesday, Gingrich said Americans should take threats by Iranian leaders seriously before they acquire nuclear weapons.

"We have real enemies and they would like to kill us," Gingrich, the Georgia Republican who engineered a GOP congressional takeover in 1994, said at the Maine Heritage Center Policy Center's annual luncheon.

Gingrich told reporters it's time for Americans to "profoundly rethink" their position on Iran and be prepared to take all necessary steps to safeguard the United States.

Gingrich said the United States is paying for former President Bill Clinton's foreign policies which he said gave Americans "eight years of appeasing the world and provided an opportunity for Osama bin Laden to bomb two U.S. embassies and the USS Cole."

"You don't appease your enemies -- you defeat them," Gingrich said. "We have to take this seriously because the next time we won't just lose a building or an airplane -- we will potentially lose a city."

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Iran faces the prospect of sanctions after rejecting United Nations demands for a uranium enrichment shutdown.

Iran's president, Mahmoud Ahmadinejad, has said that the solution to the Middle East crisis is to destroy Israel. He has sought to debate President Bush, but the White House dismissed the suggestion, calling it a "diversion" from international concerns over Iran's nuclear program.

The executive director leader of Democracy Maine, a group founded last year to combat what it sees as extremism in politics, said Gingrich's appearance underscores the increasing influence of the conservative far right in Maine.

"Newt Gingrich does not share the values of Maine's citizens," said the group's Jonathan Crasnick.

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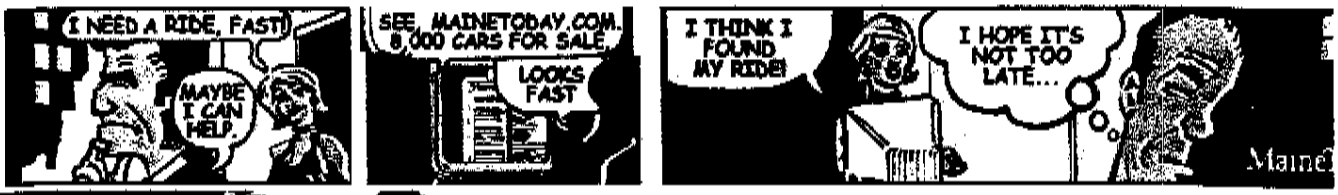

Thursday, September 7, 2006

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Gingrich criticizes Dirigo Health plan

Also on this page:
Reader Comments

By JUSTIN ELLIS, Staff Writer

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SOUTH PORTLAND - Former Georgia Republican congressman Newt Gingrich on Wednesday likened the state's Dirigo Health program to a car with three flat tires, saying if it isn't fixed, the program, like the car, can't go forward.

Speaking at a fundraiser attended by more than 200 people at the Sable Oaks Marriott, Gingrich said the state is pumping taxpayer money into a failed program and needs to find a replacement.

"Look at its cost, look how many people it's covering, look at the fact that you have actually had a larger increase in the uninsured than most states," Gingrich said.

The former speaker of the U.S. House of Representatives was in Maine

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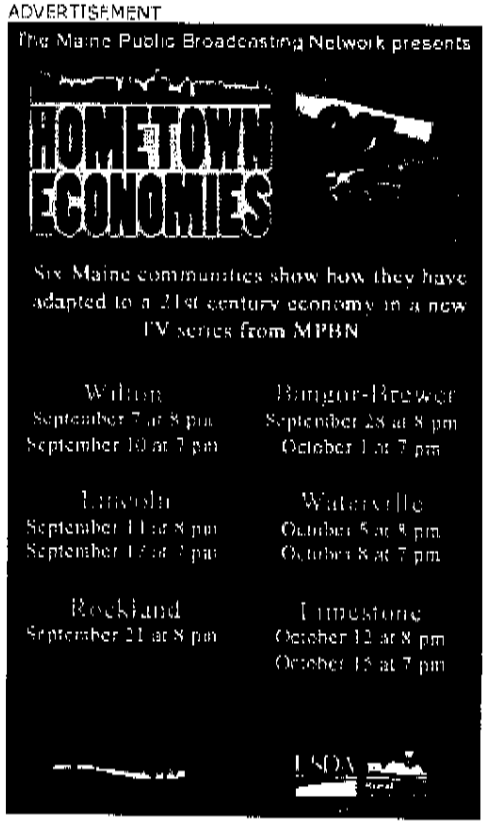

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to speak at the Maine Heritage Policy Center's Freedom and Opportunity Luncheon.

Gingrich's criticism of Democratic Gov. John Baldacci's Dirigo Health program drew applause from the crowd. Conservatives have regularly criticized the program, designed to provide health insurance to the state's 130,000 uninsured and cut Maine's health care costs.

Gingrich, whose name often appears among potential Republican presidential candidates, spoke on topics ranging from health care reform and economic policy to an insider's view on party politics.

Gingrich said he is in favor of the Taxpayer Bill of Rights, a measure on Maine's Nov. 7 ballot that would limit spending at the local and state levels by tying increases to specific growth rates like inflation and population change.

"I think it is such a good idea that I hope we can actually get a parallel bill introduced in Washington next year, to create an American Taxpayer Bill of Rights, to put a straitjacket on the federal government's (economic) growth," Gingrich said.

Republican gubernatorial candidate Chandler Woodcock and Mary Adams, the Garland activist who spearheaded the referendum drive for TABOR, attended the speech.

Under TABOR, spending and fee hikes over the set limit would require a two-thirds approval from a governing body, such as a city council. The increases would then need the approval of a majority of voters. The proposal's language was originally drafted by the Maine Heritage Policy Center.

Gingrich served in Congress 20 years and was one of the creators of the so-called "Contract with America," which helped Republicans gain a majority in the U.S. House in 1994.

Jon Crasnick, executive director of Democracy Maine, said in a prepared statement that Gingrich does not share Maine's values. The nonprofit group opposes TABOR. "Maine has a tradition of sending moderate, compassionate leaders to Washington, people who are thoughtful and fair," it said.

Hilary Schneider, policy director for the advocacy group Consumers for Affordable Health Care, characterized Gingrich's remarks as "misleading and misusing data just for political purposes."

People at the event Wednesday said Gingrich offered a refreshing perspective.

Michael Solomon said he supports Gingrich's idea of a free-market approach to health care. "If someone else is paying the bill, people tend to be cavalier and irresponsible," Solomon said.

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► NEWS: ELECTION 2006

Gingrich calls for hard line with Iran

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By A.J. Higgins

Thursday, September 07, 2006 - Bangor Daily News Back

SOUTH PORTLAND - While Iranian officials continued Wednesday to dodge discussions about their nuclear ambitions, former U.S. House Speaker Newt Gingrich insisted now is the time to take a hard line against the Islamic theocracy.

"We have real enemies and they would like to kill us," said the Georgia Republican during his visit to Maine. "They say that every day. Iranian President Mahmoud Ahmadinejad says that he can imagine a world where Israel and the United States no longer exist. Well, we better take that pretty darn seriously before they get nuclear weapons. And I think all of us underestimate how hard this is going to be."

Earlier Wednesday, the Associated Press reported Iran had postponed a tentative meeting with a top European Union official - a step that seemed to dim prospects the country will make concessions to limit its nuclear program. Iran insists its nuclear program is for peaceful energy uses only but the United States and some Europeans believe the regime seeks nuclear weapons.

Gingrich was in Maine on Wednesday as the featured speaker for The Maine Heritage Policy Center's annual Freedom and Opportunity Luncheon. The Center is a conservative think tank that has been a moving force behind this fall's ballot question to establish spending caps through the approval of a Taxpayer Bill of Rights. The organization's fundraiser attracted more than 300 members and guests, including state GOP luminaries like former Maine gubernatorial candidate Peter Cianchette, current gubernatorial candidate Chandler Woodcock, state Senate GOP floor leader Paul Davis and former House GOP leader Joe Bruno.

During a meeting with reporters, Gingrich said it was time for all Americans to "profoundly rethink" their position on Iran and be prepared to take all necessary steps to safeguard the United States.

"If the country is asked to choose between doing what it takes to protect the

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country from Iran, North Korea and terrorism or the left wing of the Democratic party's policy of weakness, withdrawal and appeasement, everything I'm seeing indicates the country would vote 2-1 in favor of strength," Gingrich said.

Gingrich said the United States is still paying for President Bill Clinton's foreign policies which he said gave Americans "eight years of appeasing the world" and provided the opportunity for Osama bin Laden to bomb two U.S. embassies and the USS Cole.

"You don't appease your enemies - you defeat them," he said. "We have to take this seriously because the next time we won't just lose a building or an airplane - we will potentially lose a city."

While Republicans cheered Gingrich at the Sable Oaks in South Portland, Democrats deplored the former speaker's visit to the state. Jon Crasnick, executive director of Democracy Maine, said in a prepared statement that Gingrich's reception was "further evidence of the advance and influence of the conservative far right in Maine."

"Gingrich is one of the chief architects of policies that have shifted the tax burden away from the rich and onto the backs of working men and women," Crasnick said. "His 'contract with America' has only served to increase the gap between the rich and poor and returned us to sky-high deficits."

Crasnick said Gingrich did not share the values of Maine's citizens, adding it was "ironic" to see the Maine Heritage Policy Center paying Newt Gingrich to come to Maine "at a time when we need real solutions for real people, not hypocrisy from discredited right-wing politicians."

Reader Comments

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Gingrich is a hypocrical nut. It's about time someone took a hard line on him!

A.J. Higgins

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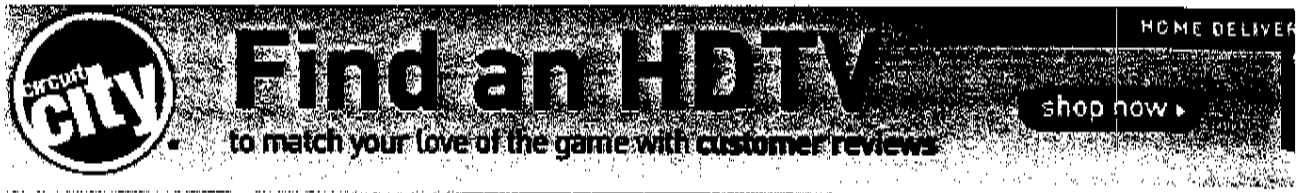

Gingrich Urges U.S.: Get Tough with Iran

Thursday, September 07, 2006

SOUTH PORTLAND, Maine — Former House Speaker Newt Gingrich says it's time for the United States to get tough with Iran's Islamic theocracy.

Speaking before a conservative public policy group Wednesday, Gingrich said Americans should take Iranian leaders'threats seriously, before they acquire nuclear weapons.

"We have real enemies and they would like to kill us,"said Gingrich, the Georgia Republican who engineered a GOP congressional takeover in 1994.

Gingrich, attending the Maine Heritage Center Policy Center's annual luncheon, said it's time for Americans to"profoundly rethink"their position on Iran and be prepared to take all necessary steps to safeguard the United States.

He said the United States is paying for former President Clinton's foreign policies, which he said gave Americans"eight years of appeasing the world and provided an opportunity for Osama bin Laden to bomb two U.S. embassies and the USS Cole."

"You don't appease your enemies _ you defeat them,"Gingrich said."We have to take this seriously because the next time we won't just lose a building or an airplane _ we will potentially lose a city."

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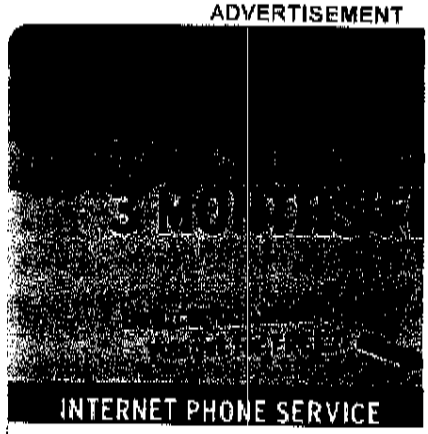

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Iran faces the prospect of sanctions after rejecting United Nations demands to suspend its uranium enrichment. The country insists it has a right to enrich to generate nuclear power, but suspicions are growing it wants to develop nuclear warheads.

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The executive director of Democracy Maine, a group founded last year to combat what it sees as extremism in politics, said Gingrich's appearance underscores the increasing influence of the conservative far right in Maine.

"Newt Gingrich does not share the values ofMaine's citizens,"said the group's Jonathan Crasnick.

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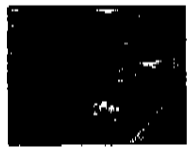

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advantage of nation
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TABOR Hangover

Written by Victoria Wallack

Thursday, November 09, 2006

Nonprofits' Role on Ballot Questions May be Examined

AUGUSTA — The state Ethics Commission appears ready to open Pandora's Box on when nonprofits should be required to file disclosure forms on how much staff time or money they spend to influence the vote on ballot questions.

The issue was raised in a complaint against the conservative Maine Heritage Policy Center and its support of the Taxpayer Bill of Rights, also known as TABOR.

The TABOR initiative was defeated by voters in Tuesday's elections.

"The Imprint of Place: Maine Printmaking 1800-2005," by David P. Becker 2006; Center for Maine Contemporary Art with Down East Books. Hardcover; 136 pages; $35

While the commission discussed the issue at its meeting in Augusta last week, it stopped short of ruling on whether the policy center should have to report the staff time it has devoted to TABOR.

"It's a huge issue with enormous public policy implications," said Commissioner Andrew Ketterer. "Other groups appear to be similarly situated."

The commission voted unanimously to look at what effect stricter reporting requirements could have on other nonprofits that take a stand on referendums. Commissioner Jean Ginn Marvin removed herself from the debate, saying she sat on the Maine Heritage Policy Center board of directors.

The complaint against the Maine Heritage Policy Center was brought by Carl Lindemann, currently of Texas, who used to live in Maine and was a liberal guest commentator on WGAN radio.

Lindemann argued that while the policy center and its staff —including Director Bill Becker — have participated in multiple debates on TABOR and commented to the press, the organization has not filed any disclosure forms indicating the value of its staff time, or where it gets its money.

"This is a major player in a very serious political issue and the funding is opaque," he said.

TABOR, Question 1 on the Nov. 7 ballot, would have capped spending at all levels of government and required a two-thirds vote of the Legislature or local governing body and a majority vote on the ballot to override those caps or raise any taxes or fees, even ones for budgets that fall within the spending limit.

While Lindemann tried to argue that the policy center should be considered a political action committee, the Ethics Commission staff and the commission itself said it didn't meet the criteria.

They agreed the policy center exists for reasons other than to support TABOR, and has not raised money to advocate its passage.

It was less clear, however, whether the center should have to file less burdensome disclosures.

Under a rule passed by the Legislature in 2000, persons or organizations other than political action committees that spend in excess of $1,500 "for the purpose of initiating, promoting, defeating or influencing in any way a ballot question" are supposed to file so-called 1056-B forms.

Attorney Dan Billings, speaking on behalf of the policy center, argued a lot of organizations would get caught in that net if the statute were broadly interpreted.

"Lots of organizations, particularly government organizations, are very active in the Taxpayers Bill of Rights," Billings said.

He referred to a newsletter he got at home from MSAD 75 in Topsham, which called for defeating the referendum.

"I don't know what they spent for this," he said, holding up the newsletter, but "with a well compensated superintendent ... it wouldn't take very much to get over the $1,500" when considering the value of staff time.

Billings had argued previously that even the Catholic Church could be required to file since it, too, had studied the issue and come out against TABOR.

Other nonprofits have filed the 1056-B forms, including the Maine Center for Economic Policy, the Maine Women's Lobby and Democracy Maine. But many more have not, Billings argued, including school districts, municipalities and chambers of commerce.

Jon Crasnick of Democracy Maine said the policy center should be required to file, as his organization has done, because it has been so visible in the TABOR campaign.

"They have advocated," he said. "They've participated in debates on TABOR as many as three times a day."

"Even if they haven't raised any money, their activities should be reported as in-kind contributions to the pro-TABOR PAC," Crasnick said.

The Ethics Commission will meet before the end of the year to discuss how the law should be interpreted and enforced.

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Ethics panel receives TABOR complaint documents

KENNEBEC JOURNAL Morning Sentinel

Tuesday, November 28, 2006

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Reader Comments (below)

Blethen Maine Newspapers

Back in October, Carl Lindemann filed a complaint with the state ethics commission, targeting the Maine Heritage Center, the think tank that drafted the Taxpayer Bill of Rights proposal.

Lindemann, a self-described citizen watchdog, said the center was campaigning for TABOR but wasn't disclosing its finances to the state.

Commissioners took no action on his initial complaint, and Lindemann said he was advised to come back with some solid evidence in hand.

That is what he did Monday, submitting an 11-page report to the commission, including documents that Lindemann says prove that the policy center broke election law and deceived ethics commissioners.

An attorney for the center responded swiftly, saying staffers there broke no laws.

He also criticized TABOR opponents for engaging in dirty politics after the November election.

The proposed TABOR law would have set limits on government spending. Voters on Nov. 7 defeated the referendum, 54 to 46 percent.

The case initiated by Lindemann returns on Dec. 12 for further review by the state Commission on Governmental Ethics and Election Practices.

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All of today's: **News** | **Sports**
from the Morning Sentinel

"I think we have more than enough evidence to warrant an investigation," said Jon Crasnick, director of a nonprofit group called Democracy Now, and an ally of Lindemann.

Crasnick and Dennis Bailey, leader of the political action committee opposing TABOR, released the new documents obtained by Lindemann.

Jonathan Wayne, executive director of the commission, also released the report after his own review on Monday.

Lindemann's report included four attached documents: A $125 personal check made out as a donation to the Maine Heritage Policy Center, specifying support of TABOR; a handwritten note from the donor voicing support of TABOR; a form letter from the center, thanking the donor for the check; and a handwritten thank you note signed by Maine Heritage Policy Center president Bill Becker. The name of the donor was David Briney, listing a Denver, Colo., home address.

Messages left at a Denver telephone matching that name were not returned by Monday night.

Lindemann said the documents show the center was directly lobbying for TABOR and accepting donations earmarked specifically for its passage -- allegations that leaders of the center have denied.

At the Oct. 31 meeting of the ethics commission, attorney Dan Billings, representing the center, said staffers had not solicited or received any contributions to influence the outcome of the TABOR vote. That was one reason why the center should remain exempt from financial disclosure laws, Billings said. He also said the center is exempt because it is a public policy institute concerned with education, not campaigning.

On Monday, Billings said Lindemann's report was a political set-up, designed to smear the reputation of the Maine Heritage Policy Center. "They are playing dirty politics," Billings said. He noted that the donation check and letter were dated Nov. 1, the day after his statements at the ethics commission meeting. "The timing of this is not a coincidence."

Billings said the staff at the heritage center did not have time to screen every donation coming in. In hindsight, Billings would have changed the wording of the form letter sent out by the center. But he stood by his basic assertions: No one at the center violated any laws, and they did not directly advocate passage of TABOR.

Generally, groups whose purpose is to influence elections are defined as political action committees. They are required to file reports of contributions and expenditures. Other groups that have broader missions, but still spend more than $1,500 to influence a campaign, are required to file less detailed reports.

Ethics commissioners will determine whether the Maine Heritage Policy Center falls into either of those categories.

Lindemann, a former radio commentator in Portland, said he worked with an attorney to make sure the documents were obtained legally. He asked ethics commissioners to use their power of subpoena to review the center's records and interview witnesses under oath.

Wayne said the commission has never taken those steps, but it is one option available. Those options range from no action to a full investigation of the policy center's receipts and expenses related to TABOR. Wayne said he will consult on the matter with assistant attorney general Phyllis Gardiner, who advises the commission.

Citizen accuses TABOR group of breaking state election law

By TREVOR MAXWELL, Staff Writer
Portland Press Herald Maine Sunday Telegram

E-mail this page
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Tuesday, November 28, 2006

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An attorney for the center responded swiftly, saying staffers there broke no laws. He blasted TABOR opponents for engaging in dirty politics after the election.

The TABOR law would have set limits on government spending. Voters rejected the plan on Nov. 7, 54 percent to 46 percent.

The case initiated by Lindemann will return on Dec. 12 for further review by the state Commission on Governmental Ethics and Election Practices.

"I think we have more than enough evidence to warrant an investigation," said Jon Crasnick, director of a nonprofit group called Democracy Now, and an ally of Lindemann. Crasnick and Dennis Bailey, leader of the political action committee that opposed TABOR, released the new documents obtained by Lindemann.

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On Monday, Billings said Lindemann's report was a political set-up, designed to smear the reputation of the Maine Heritage Policy Center.

"They are playing dirty politics," Billings said. He noted that the donation check and letter were dated Nov. 1, the day after his statements at the ethics commission meeting. "The timing of this is not a coincidence."

Billings said the staff at the heritage center did not have time to screen every donation. In hindsight, Billings said, he would have changed the wording of the form letter sent out by the center. But he stood by his basic assertions: No one at the center violated any laws, and they did not directly advocate passage of TABOR.

Generally, groups whose purpose is to influence elections are defined as political action committees. They are required to file reports of contributions and expenditures. Groups that have broader missions but still spend more than $1,500 to influence a campaign are required to file less detailed reports.

Ethics commissioners will determine whether the Maine Heritage Policy Center falls into either of those categories.

Lindemann, a former radio commentator in Portland, said he worked with an attorney to make sure the documents were obtained legally. He asked ethics commissioners to use their power of subpoena to review the center's records and interview witnesses under oath.

Wayne said the commission has never taken those steps but it is one option available. Those options range from no action to a full investigation of the policy center's receipts and expenses related to TABOR.

Wayne said he will consult on the matter with Assistant Attorney General Phyllis Gardiner, who advises the commission.

Staff Writer Trevor Maxwell can be contacted at 791-6451 or at:

tmaxwell@pressherald.com

Reader comments

Dave of Portland, me
Nov 28, 2006 7:56 AM
For the love that is all holy!!! These anti americans have already ruined any chance for real reform with their sky is falling scare tactics and bullying...now they have nothing better to do than waste more state money on frivaless investigations? Heres an idea....why not investigate where a gov with 38% of the vote and a lower approval rating got all his money?

BTW Dont any of these people have jobs they should be at instead of casting futher ruin on our state in its final gasps under the crushing weight of 32 years of demcratic ruin?

Sun Journal

Author of TABOR accused of violation

By David Farmer , *Staff Writer*
Tuesday, November 28, 2006

PORTLAND - The Maine Heritage Policy Center, the author of the Taxpayer Bill of Rights, has been accused of flouting state law - and perhaps federal law as well - with its activities during this year's election.

Democracy Maine, a nonprofit public advocacy organization that opposed TABOR, made public new documents Monday that it says prove that MHPC misled the state's ethics commission and show that it should be required to file financial disclosures about its political activities.

In a presentation to reporters, Jonathan Crasnick, Democracy Maine's executive director, and Dennis Bailey, a consultant for the group and one of its founders, revealed a photocopy of a check sent to the Maine Heritage Policy Center from David A. Briney of Denver, Colo., on Nov. 1. Reporters also received copies of a handwritten letter that accompanied the contribution and a "thank you" letter sent to Briney from the center.

The information appears to contradict October testimony, both in writing and delivered in person, before the Maine Commission on Governmental Ethics and Election Practices.

Only one David Briney could be found in telephone and Internet listings for Denver. Messages left at the number Monday were not returned.

In October, former Mainer and current Texan Carl Lindemann sought an investigation into the policy center's role in supporting TABOR, which appeared as Question 1 on November's ballot and was ultimately defeated by voters.

In response to Lindemann's request, the ethics commission asked the center for information and received a written response on Oct. 26 from its lawyer, Dan Billings. Billings defended the Maine Heritage Policy Center's role in support of TABOR and argued that it was not required to disclose its financial activities.

"While MHPC's activities may influence the referendum on the Maine Taxpayer Bill of Rights, MHPC's (sic) has not solicited or accepted contributions or made expenditures for the purpose of initiating, promoting, defeating, or influencing in any way the outcome of the referendum."

Along with Bill Becker, the center's president and executive director, Billings gave similar testimony during an ethics commission meeting on Oct. 31. The commission ultimately decided that the center should not have to submit a financial disclosure before the Nov. 7 election and that it would consider the issue further at its Dec. 12 meeting.

The center is incorporated as a 501(c)3 nonprofit, public policy think tank. Contributions to the center are tax deductible, but there are limits to the political activity it is allowed to conduct.

"During the campaign, we felt certain that the Maine Heritage Policy Center was not complying with the law - not only Maine law but federal law with their tax exempt status," Bailey said.

"They were operating, essentially, as the press arm of the campaign," Bailey said.

The documents presented Monday include a copy of a check from Briney made out to the Maine Heritage

Policy Center for $125 on Nov. 1, the day after the commission's meeting. In the memo field, it says: "For TABOR support." In the handwritten note that accompanied the check, Briney wrote to Becker: "I found out about your work for passing the Taxpayer Bill of Rights in Maine ... and want to give my support to it."

Becker confirmed that the contribution was received and accepted, and that he had sent the response, which was also released Monday. In his letter to Briney dated Nov. 6, the day before the election, Becker wrote: "We are very grateful for this donation, and will use it to advance our mission of promoting The Taxpayer Bill of Rights, a solution that will benefit all people of Maine."

"The Maine Heritage Policy Center has deceived Maine voters, and they have deceived the Maine ethics commission," Bailey said.

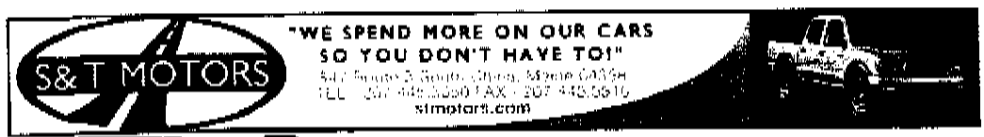
Not so, Becker said on Monday. "I don't think it contradicts testimony before the ethics commission at all."

"People support us for a variety of reasons," including the center's support for TABOR, its opposition to Dirigo Health and for other market-based government reforms, Becker said. "We cover a wide range of issues."

"We're not involved in direct advocacy," Becker said, adding that the center never said "vote for" or "support" TABOR, which would trigger the financial disclosures.

Maine law on the topic is broad and open to interpretation, a task the commission will consider on Dec. 12. The law requires groups that aren't political action committees but nonetheless solicit and receive contributions and make expenditures of more than $1,500 for the "purpose of initiating, promoting, defeating or influencing in any way a ballot question" to file a report with the ethics commission.

The Maine Heritage Policy Center has not filed the disclosure reports with the ethics commission and says that it is not required to. So far, the commission has agreed.



Complaint revived against pro-TABOR backers

By SUSAN M. COVER
Staff Writer
KENNEBEC JOURNAL Morning Sentinel

E-mail this page
E-mail a letter to the editor
Reader Comments (below)

Saturday, January 20, 2007

Today's Top Headlines from the Kennebec Journal

- Baldacci's school district reduction proposal faces some competition
- Instant messages a concern in session
- Council to discuss travel-lift rules, empty mill
- Where does she find the time?
- MPBN planning for next decade
- Board to review expansion of industrial site
- Uecker ups her training
- Racing hits high gear

All of today's: **News** | **Sports**
from the Kennebec Journal

Today's Top Headlines from the Morning Sentinel

- Skowhegan contemplates returning to 2-way traffic
- District consolidation plan not the only one to tackle school costs
- Instant messages to lawmakers of concern in sessions
- 1 student can make difference
- School opens up $8.8 million 'green' building
- Volunteer finds her niche
- Uecker ups her training
- Racing season is here

All of today's: **News** | **Sports**
from the Morning Sentinel

AUGUSTA -- A Texas man alleged in court papers Friday that the state ethics commission acted irresponsibly when it ruled on a case involving the Maine Heritage Policy Center.

Carl Lindemann, a former Maine resident who now lives in Texas, filed an appeal in Kennebec County Superior Court to challenge a decision issued by the commission in December.

The decision followed an October complaint filed by Lindemann against the conservative Portland think-tank that alleged that the group didn't file paperwork to disclose its involvement in the Taxpayer Bill of Rights campaign. He asked the commission to launch a full investigation of the group's finances.

But the commission opted to require the Center only to file a form that discloses how much it spent on activities related to the campaign. That form is due Monday.

In his appeal, Lindemann asks the court to send the matter back to the commission and require it to perform a "full and formal investigation of the finances and activities" of the center.

Also Friday, the commission met to discuss some of the issues brought forward by Lindemann and others over the last two years. The commission voted to send recommendations to the Legislature that would change the definition of political action committee.

In an interview, Lindemann said the commission used unreliable information to make its decision regarding the Maine Heritage Policy Center.

"Any decision made was based on information that was suspect," he said.

The complaint alleges officials for the policy center lied to the commission by denying that the group accepted any money specifically earmarked for the Taxpayer Bill of Rights campaign.

However, Lindemann asked a college friend to send money to the group to support the campaign, and later presented the commission with a letter from the center thanking the man for his support.

Center attorney Daniel Billings of Waterville said any money collected went into a general fund that supports all of the center's activities and was not segregated so it could be spent only on the TABOR campaign.

The Maine Heritage Policy Center wrote the legislation that later became a ballot measure rejected by Maine voters in November. Billings and policy center Executive Director Bill Becker insist they did not try to encourage voters to support the initiative.

Instead, they say the center played an educational role in providing information at public forums and in the media. It did not purchase advertising or pay to send mail directly to voters, Billings said.

He doubted the court would consider Lindemann's appeal.

"It's hard for me to come up with a reason Mr. Lindemann is an aggrieved party," Billings said. "He was in

no way harmed by the decision."

Billings said the only party with legal standing to appeal is the Maine Heritage Policy Center, which has decided not to challenge the decision.

In its December decision, the commission ruled that the center did not meet the state's definition of a political action committee, but that it must file a different form to disclose that fact that it spent more than $1,500 to influence the outcome of the campaign.

Commission members said they did not believe the policy center, founded in 2001, had "as its major purpose" the goal of passing the Taxpayer Bill of Rights. At least some of the issues raised by Lindemann and his attorney, John Branson of Portland, were discussed Friday by the ethics commission at its regular meeting.

Commission Executive Director Jonathan Wayne presented the commission with two options that would change the definition of a political action committee. After a discussion, the commission voted to send both options to the Legislature for consideration.

Wayne recommends getting rid of the 1056-B form that Maine Heritage and others are currently required to file. That would be replaced by a requirement that any group that spends more than $5,000 to influence a ballot question must form a political action committee.

One option would only count money spent on communicating with voters, such as advertising, signs, and bumper stickers. The other definition is more broad and covers any expenditure of more than $5,000 in any one year to promote or defeat a question.

If any changes are made, they should provide the public with better and more complete information, said Jonathan Crasnick of Democracy Maine, a group that promotes open government.

"Democracy Maine believes that the people need to know who is funding organizations that attempt to influence the outcomes of elections," he said. "The current system is flawed, and this commission should be careful not to recommend changes that could create loopholes."

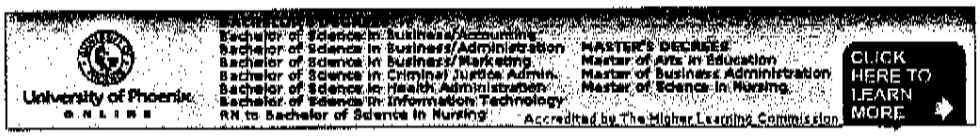
Susan Cover -- 623-1056

scover@centralmaine.com

Reader comments

tiredtaxpaye of central, ME
Jan 20, 2007 8:55 AM
next time the taxpayer bill of rights will pass.as we can see the democrats continue to raise taxes.....

You must be a registered user of MaineToday.com to post a comment. Register or log in.



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Agenda Item #14

AARP Maine

RECEIVED
FEB - 2 2007
COMMISSION ON GOVERNMENTAL ETHICS & ELECTION PRACTICES

February 1, 2007

Mr. Jonathan Wayne
Executive Director
Commission on Governmental Ethics
135 State House Station
Augusta, ME 04333-0135

Dear Mr. Wayne:

This letter is sent in response to your January 16, 2007 letter regarding AARP Maine's 2006 activities regarding the Taxpayer Bill of Rights ballot question ("TABOR"). During the election cycle of November 7, 2006, AARP placed ads that opposed the TABOR ballot question in television, radio, and print media.

AARP Maine funded these advertisements in the ordinary course of operations as a social welfare organization. In funding its TABOR ballot question opposition, AARP Maine received no cash or in-kind contributions, nor did it solicit its members or the public for contributions.

AARP Maine disclosed fully all expenditures and the lack of contributions in the October 31, 2006 § 1056-B report. Moreover, AARP Maine consulted Ms. Martha Currier-Demeritt of the Commission on Government Ethics (the "Commission") staff prior to submitting this report to ensure its full and complete compliance with the laws of Maine. Ms. Currier-Demeritt advised that disclosing the direct costs of our television, radio and print ads plus the portion of the production costs associated with those ads would constitute full compliance. Following this expert advice, AARP Maine prepared the October 31, 2006 § 1056-B report (attached). The December 27, 2006 memorandum regarding the Commission staff's advice on § 1056-B reporting reiterates Ms. Currier-Demeritt's advice, and confirms that AARP Maine disclosed all TABOR-related activities fully and in the proper manner in its October 31, 2006 § 1056-B report.

In response to Mr. Lenardson's inquiry, AARP Maine, a state office of AARP, respectfully submits that neither it nor the national AARP organization is a political action committee under Maine or federal law. AARP Maine's purpose is not to influence the outcome of any election. AARP Maine expended only AARP institutional funds and did not act as a conduit for others. AARP Maine's major purpose emphatically was and is not to advocate the election or defeat of any candidate or ballot initiative.

1685 Congress Street | Portland, ME 04102 | toll-free 1-866-554-5380 | 207-775-5727 fax | toll-free 1-877-434-7598 TTY
Erik D. Olsen, President | William D. Novelli, Chief Executive Officer | www.aarp.org/me

Instead, AARP is a nonprofit, nonpartisan membership organization dedicated to helping people ages 50 and over enjoy personal independence, choice, and control in ways that are beneficial and affordable to them and society as a whole. In 1964, AARP received a Determination Letter from the Internal Revenue Service, concluding that AARP was organized and operated exclusively for the promotion of social welfare, pursuant to Section 501(c)(4) of the Internal Revenue Code. That determination, and AARP's status, is the same today. AARP's official tax-exempt status as a nonpartisan social welfare organization extends to AARP's state offices, as well. Consequently, AARP Maine does not satisfy or fit within the definition of a political action committee under ME. REV. STAT. tit. 21-A §1052(5) (2006).

We hope that this letter will satisfy the Commission's concerns about Mr. Lenardson's inquiry and conclude this matter. Please feel free to contact me at any time if you should require any additional information from AARP Maine.

Sincerely,

Jud Dolphin
Maine State Director
AARP

cc. Jami Wyatt, AARP Office of General Counsel

Dear Jonathan:

I would like to formally request that the staff review whether or not Democracy Maine incorrectly filed as a 1056-B when their activities are more accurately reflected as a Political Action Committee. In addition to the Democracy Maine inquiry, I am concerned that the AARP, while certainly a large organization with many responsibilities beyond anti-Tabor activities, fails to meet the 1056-B test. I am not familiar with an organization spending 300,000 dollars in a single campaign, and deciding it is not a PAC.

It makes sense to me that a quick review of all the 1056-B filers is in order. I am specifically requesting the AARP review, although there may be others that should also be included.

I am attaching several documents which I believe represent a "major" portion of the activities of the Democracy Maine during the referendum campaign.

Including:

1. Email solicitations (I have included 3) asking for money for the defeat of TABOR
2. A press release announcing that "Democracy Maine Begins Campaign to Expose TABOR as a Fraud"
3. A copy of one of the Newspaper Ads (Full page) that ran in papers throughout Maine urging a NO vote on Question 1
4. A copy of one of the mailings that was sent from Democracy Maine urging the defeat of TABOR
5. A screen shot of their campaign website www.stophurricanetabor.com, which also links to their other website, www.democracymaine.com and includes a link for a radio Ad.
6. A copy of their 1056-B report which shows just over $1000 dollars in contributions and more than $42,000 in expenditures July 24th through October 23, a 3 month period. I do not have the latest copy.

Finally, I would like to state that I am adamantly opposed to the requirement created in the context of the 1056-B reports that an organization file where and when they have spoken on an issue. This new requirement that groups register their speaking activities with the government is dangerous.

However, I believe the Maine Heritage Policy Center, which is now required to register with the government, is being unfairly singled out. The following organizations did not file a 1056-B report yet expended resources and spoke in opposition to TABOR:

1. The City of Portland
2. The Kathadin Institute
3. The University of Maine System
4. The Catholic Church
5. The Maine State Chamber

This is by no means a complete list, but before I file an additional complaint, could you please provide me with guidance on the standards being used that will trigger the reporting requirement? Information on how many speeches have to be given or the number of meetings held, the number of mentions in the paper, radio and TV. If there are specific content issues that one would need to consider, that be helpful to know as well. My goal here is to understand exactly when the 1056-B report would be triggered.

I look forward to working with you in this issue.

Roy Lenardson
Strategic Advocacy, LLC
605 US Route One, Suite B
Scarborough, Maine 04074
207.329.0992 (c)
207.510.7631 (o)
207.221.1041(f)
roy@strategicadvocacy.com

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

January 16, 2007

Jud Dolphin
American Association of Retired Persons - Maine
1685 Congress Street
Portland, ME 04102

Dear Mr. Dolphin:

The Ethics Commission has received the attached request from Roy Lenardson regarding the American Association of Retired Persons (AARP) in Maine. Mr. Lenardson inquires whether AARP Maine's 2006 activities regarding the Taxpayer Bill of Rights (TABOR) citizen initiative required it to register as a political action committee and to file regular campaign finance reports. I have attached his complaint, the definition of political action committee under 21-A M.R.S.A. §1052(5), the separate reporting requirement (§1056-B) under which you filed a report, and an advisory memo from the Commission staff regarding §1056-B reporting.

I am scheduling this matter for the Commission's meeting in March, because the agenda for the February meeting is already quite long. The date for the March meeting has not been finalized. **Please submit a written response to the request no later than Wednesday, February 7th.** In your response, please describe AARP Maine's activities relating to the Taxpayer Bill of Rights (TABOR) initiative, how they were funded, and whether they have been fully disclosed in your October 31, 2006 §1056-B report or elsewhere.

With regarding to the completeness of your §1056-B report, the Commission staff has developed advice for organizations filing §1056-B reports to encourage consistent reporting. Please take time to consider the attached guidance memo and whether all of AARP's 2006 financial activity regarding TABOR was reported.

Sincerely,

Jonathan Wayne
Executive Director

cc: Roy Lenardson
Nancy B. Kelliher (w/o attachments)

Title 21-A, §1052, Definitions

4. **Expenditure.** The term "expenditure:"

A. Includes:

(1) A purchase, payment, distribution, loan, advance, deposit or gift of money or anything of value, made for the purpose of influencing the nomination or election of any person to political office; or for the initiation, support or defeat of a campaign, referendum or initiative, including the collection of signatures for a direct initiative, in this State;

(2) A contract, promise or agreement, expressed or implied, whether or not legally enforceable, to make any expenditure for the purposes set forth in this paragraph; and

(3) The transfer of funds by a political action committee to another candidate or political committee; and

[2005, c. 575, §4 (amd).]

B. Does not include:

(1) Any news story, commentary or editorial distributed through the facilities of any broadcasting station, newspaper, magazine or other periodical publication, unless these facilities are owned or controlled by any political party, political committee or candidate;

(2) Activity designed to encourage individuals to register to vote or to vote, if that activity or communication does not mention a clearly identified candidate;

(3) Any communication by any membership organization or corporation to its members or stockholders, if that membership organization or corporation is not organized primarily for the purpose of influencing the nomination or election of any person to state or county office;

(4) The use of real or personal property and the cost of invitations, food and beverages, voluntarily provided by a political action committee in rendering voluntary personal services for candidate-related activities, if the cumulative value of these activities by the political action committee on behalf of any candidate does not exceed $100 with respect to any election;

(5) Any unreimbursed travel expenses incurred and paid for by a political action committee that volunteers personal services to a candidate, if the cumulative amount of these expenses does not exceed $100 with respect to any election; and

(6) Any communication by any political action committee member that is not made for the purpose of influencing the nomination for election, or election, of any person to state or county office.

[2005, c. 301, §22 (amd).]
[2005, c. 575, §4 (amd).]

5. **Political action committee.** The term "political action committee:"

A. Includes:

(1) Any separate or segregated fund established by any corporation, membership organization, cooperative or labor organization whose purpose is to influence the outcome of an election, including a candidate or question;

(2) Any person who serves as a funding and transfer mechanism and spends money to initiate, advance, promote, defeat or influence in any way a candidate, campaign, political party, referendum or initiated petition in this State;

(3) Any organization, including any corporation or association, that has as its major purpose advocating the passage or defeat of a ballot question and that makes expenditures other than by contribution to a political action committee, for the purpose of the initiation, promotion or defeat of any question; and

(4) Any organization, including any corporation or association, that has as its major purpose advocating the passage or defeat of a ballot question and that solicits funds from members or nonmembers and spends more than $1,500 in a calendar year to initiate, advance, promote, defeat or influence in any way a candidate, campaign, political party, referendum or initiated petition, including the collection of signatures for a direct initiative, in this State; and

[2005, c. 575, §5 (amd).]

B. Does not include:

(1) A candidate or a candidate's treasurer under section 1013-A, subsection 1;

(2) A candidate's authorized political committee under section 1013-A, subsection 1, paragraph B; or

Title 21-A, §1056-B, Reports of contributions and expenditures by persons

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§1056-B. Reports of contributions and expenditures by persons

Any person not defined as a political committee who solicits and receives contributions or makes expenditures, other than by contribution to a political action committee, aggregating in excess of $1,500 for the purpose of initiating, promoting, defeating or influencing in any way a ballot question must file a report with the commission. In the case of a municipal election, a copy of the same information must be filed with the clerk of that municipality. [1999, c. 729, §8 (new).]

1. Filing requirements. A report required by this section must be filed with the commission according to a reporting schedule that the commission shall establish that takes into consideration existing campaign finance reporting schedule requirements in section 1059. [1999, c. 729, §8 (new).]

2. Content. A report must contain an itemized account of each contribution received and expenditure made aggregating in excess of $100 in any election; the date of each contribution; the date and purpose of each expenditure; and the name of each contributor, payee or creditor. Total contributions or expenditures of less than $500 in any election need not be itemized. The report must state whether the purpose for receiving contributions and making expenditures is in support of or in opposition to the ballot question. [1999, c. 729, §8 (new).]

3. Forms. A report required by this section must be on a form prescribed and prepared by the commission. A person filing this report may use additional pages if necessary, but the pages must be the same size as the pages of the form. [1999, c. 729, §8 (new).]

PL 1999, Ch. 729, §8 (NEW).

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

To: Interested Persons
From: Jonathan Wayne, Executive Director
Date: December 27, 2006
Re: Advice from Commission Staff on §1056-B Reporting

In response to a request, the Ethics Commission staff is offering the advice below regarding which financial activities are covered by 21-A M.R.S.A. §1056-B. This advice is offered provisionally until more permanent guidance can be determined through formal rulemaking or, possibly, a statutory amendment to §1056-B. If you believe you may need to file an amended §1056-B report as a result of this advice, please feel free to telephone Martha Demeritt at 287-4179. Please keep in mind that the advice has been drafted by the Commission staff, and has not been specifically approved by the Commission members.

Contributions Covered by §1056-B

Section 1056-B covers "contributions ... made for the purpose of initiating, promoting, defeating, or influencing in any way a ballot question ...." We propose that this would include the following:

- funds which the contributor specified were given in connection with a ballot question (*i.e.*, for the purpose of promoting or opposing a ballot question);
- funds provided in response to a solicitation which would lead the contributor to believe that the funds would be used specifically for the purpose of promoting or opposing a ballot question; and
- funds which can reasonably be determined to have been provided by the contributor for the purpose of promoting or opposing a ballot question when viewed in the context of the contribution and the recipient's activities regarding a ballot question.

Funds provided in response to a solicitation which would lead the contributor to believe that the funds would be for an organization's general activities would not be covered by Section 1056-B.

Expenditures Covered by §1056-B

Section 1056-B covers "expenditures made for the purpose of initiating, promoting, defeating, or influencing in any way a ballot question ...." We propose that this would include the following:

- expenditures for communications to voters for the purpose of promoting or opposing a ballot question, including advertising on television, radio, and print media; literature that is mailed or distributed by hand to voters; automated telephone calls and scripted calls from live callers; signs, bumper stickers, and other forms of outdoor advertising;
- staff time promoting or opposing the ballot question at public or press events;
- staff time canvassing (conducting door-to-door visits to) voters;
- travel expenses paid to employees in connection with appearances at public or press events;
- staff time preparing presentations, testimony or press releases to promote or oppose the ballot question;
- research or technical analysis including the writing of reports, where the sponsoring organization knows or reasonably should know that the research will be used to promote or oppose the ballot question; and
- expenditures to distribute research or technical analysis of a ballot question for the purpose of encouraging voters to vote yes, or no, on the question.

This list is not intended to be exhaustive and is similar to the types of expenditures reported by political action committees to promote or defeat a ballot question.

Expenditures Not Covered by §1056-B

We propose that expenditures made merely to educate voters or others in a neutral way about a ballot question are not covered by §1056-B:

- Hosting a meeting at which advocates or members of the public are invited to present their views on the ballot question, provided that the sponsors of the event make reasonable efforts to ensure that the forum is balanced.

  In 2006, for example, this would include the many community organizations (rotary clubs, public libraries, church groups) that hosted TABOR-related debates.

- News stories, commentary, or editorials concerning a ballot question distributed through the facilities of a broadcasting station, newspaper, magazine, or other periodical publication, unless the facilities are owned or controlled by persons otherwise engaged in other advocacy activities to promote or oppose the ballot question.

- Research or analysis of a ballot question which is not conducted for the purpose of initiating, promoting, or defeating the ballot question.

  This could include research that is conducted in a neutral fashion and is intended to be communicated to opinion leaders, in academic settings, or to the public at large. When statewide ballot questions are pending, it is not unusual for individuals with specialized skills (*e.g.*, academics, attorneys, educational institutions, pollsters) to be hired to undertake research or analysis concerning the ballot question. If these activities are neutral and not made for the purpose of promoting or defeating the question, they would not be covered by §1056-B.

STATE OF MAINE
COMMISSION ON GOVERNMENTAL ETHICS AND ELECTION PRACTICES
Mail: 135 State House Station, Augusta, Maine 04333-0135
Tel: (207)287-6221 FAX: (207)287-6775 Website: /www.maine.gov/ethics/

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OCT 31 2006
COMMISSION ON GOVERNMENTAL ETHICS
& ELECTION PRACTICES-AUGUSTA, ME

REPORTS OF CONTRIBUTIONS AND EXPENDITURES BY PERSONS OTHER THAN POLITICAL ACTION COMMITTEES
21-A M.R.S.A. § 1056-B

Any person who solicits and receives contributions or makes expenditures, other than by contribution to a political action committee, aggregating in excess of $1,500 for the purpose of initiating, promoting, defeating or influencing in any way a ballot question must file a report with the Commission.

NAME OF PERSON AARP
(Person means an individual, committee, firm, partnership, corporation, association, group or organization.)

Mailing address 1685 Congress

City, zip code Portland ME 04102

Telephone number 207-791-3501 Fax _____ E-mail jdolphin@aarp.org

NAME OF TREASURER Jud Dolphin, State Director
(or other officer or employee authorized to file this report, if person reporting is other than an individual)

Mailing address Same

City, zip code _____

Telephone number _____ Fax _____ E-mail _____

The purpose for receiving contributions and making expenditures is (check one):
to SUPPORT ___ or OPPOSE ✓ ballot question number (if known) ON or the ballot question regarding
TABOR

TYPE OF REPORT AND FILING PERIOD (check one)

Type of report:	Due date:	Filing period:
( ) 6-day pre-primary	June 7, 2006	January 1, 2006 to June 1, 2006
( ) 42-day post-primary	July 25, 2006	June 2, 2006 to July 18, 2006
(X) 6-day pre-general	November 1, 2006	July 19, 2006 to October 26, 2006
( ) 42-day post-general	December 19, 2006	October 27, 2006 to December 12, 2006

( ) Other (specify): _____

( ) Amendment to: _____

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

Jud Dolphin
Person's/Authorized Official's signature

10/16/06
Date

AARP
Name of PERSON

Page 2 of 4
(Schedule A only)

SCHEDULE A
CASH CONTRIBUTIONS

Include cash contributions only. Itemize contributions aggregating in excess of $100 in this election from the same source. Do not include in-kind contributions or loans on this schedule.

DATE RECEIVED	Contributor's name, mailing address, zip code (Contributions in excess of $100)	Amount
	None	

1. Total cash contributions this page only

Complete lines 2-4 on last page of Schedule A only:

2. Total from attached Schedule A pages

3. Aggregate of cash contributions of $100 or less not itemized

4. Total cash contributions this reporting period (Add lines 1, 2 & 3)

Name of PERSON

Page 3 of 4
(Schedule B only)

SCHEDULE B
EXPENDITURES

Enter expenditures made aggregating in excess of $100 in this election. Do not include in-kind expenditures on this schedule.

Date of Expenditure	Name of Payee or Creditor and Purpose of Expenditure	Amount
10/6	GSD and M Advertising 828 W. 6th Street Austin, TX 78703 / TV Advertising	169,210
10/6	GSD and M Advertising / Radio Advertising	23,044
10/6	GSD and M Advertising / Print	8,823
9/25	GSD and M Advertising / Production costs of Ads.	94,481

1. Total cash contributions this page only — 295,558

Complete lines 2-4 on last page of Schedule A only:

2. Total from attached Schedule A pages

3. Aggregate of cash contributions of $100 or less not itemized — 0

4. Total cash contributions this reporting period (Add lines 1, 2 & 3) — 295,558

Agenda Item #15

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

Dear Mr. Wayne and Members of the Commission,

Thank you for your information regarding the petition from Roy Lenardson concerning the Katahdin Institute. We appreciate that there is much energy around the recent campaign cycle and we look forward to clarification as to the parameters of the appropriate activities for engaged organizations. The TABOR referendum invited a very different type of public dialogue and we were glad to be exposed to new organizations like the Maine Heritage Policy Center.

The Katahdin Institute has been pleased to play a different role in engaging the public by expanding debate around the role of government in the state of Maine and in the nation. Our activities, based on the themes of Community, Fairness and Investing in the Future (developed at a conference in 2004), have served as an alternative way to evaluate such areas as taxation, community development, energy conservation and the environment, the safety of our families and the shrinking middle class. Our activities include public speaking, writing columns, a web site, workshops and conferences. One of these diverse activities, the workshop series, has been a great opportunity to work with specific constituent groups on finding new ways to frame a controversial issue.

This is where there may be some confusion around the role of our work. It is in this context that I would like to address Mr. Lenardson's two primary concerns.

A. The Tides Foundation Grant noted by Mr. Lenardson was awarded based on our ability to engage the public in the broader context of the debate around tax and spending issues. Note the "Deliverables" indicated (taken from page three of submitted grant included as Attachment "The Community Leadership Network"):

Deliverables:

- *Fifteen workshops; with strategic focus on five counties (goal of 700 participants).*
- *Ten trainings for organizational leaders of Blueprint partner organizations.*
- *A published collection of message frames developed at these workshops that will advance our long-term goal of shifting the debate around fair taxation, sustainable budgets, and essential state services. These frames can be used by organizations and community leaders for their own communications and outreach initiatives.*
- *A core of 60 leaders strategically identified for their ability to communicate to a broad cross-section of Mainers.*
- *Opinion pieces and letters to the editor in all major media markets and in local weeklies where the programs are held.*

B. The Katahdin Institute Resource Guide: Included you will find the entire resource book utilized by The Katahdin Institute, in addition to resource guides that we have used in the past. This is included because it indicates our methodology. We selected TABOR as a model case, because the issue of spending caps goes to the heart of all political debate – what it should be empowered to do and how it should be paid for.

Below is an excerpt from the Table of Contents, in order to provide context for your evaluation.

Beyond Communication:
Changing the Rules of the Political Debate
Community, Fairness, Investing in the Future

Part One: Introduction to Framing and Worldview
- A. Worldview: Building a Long Term Political Strategy
- B. Framing the Argument
- C. Examples:
  1. Education (page 8)
  2. Environment (page 9)
  3. Marriage (page 10)
  4. Reproductive Rights (page 11)
  5. Healthcare (page 12)
  6. Taxes (page 13)

Part Two: TABOR: The New Threat to Maine's Future (page 15)
- A. What is TABOR
- B. Frequently Asked Questions
- C. Writing an Editorial on TABOR
- D. Writing Letters to the Editor

Part Three: Appendix
- A. Neil Rolde Speech on December 3, 2005
- B. Outcomes of December 11, 2004 Event

Thank you for your assistance in this. If you have any further questions, please do not hesitate to contact me at klein@gwi.net or cell 712-0508. You may also want to reference our web site at www.katahdininstitute.org.

Best wishes,

Anna Marie Klein
Executive Director

THE KATAHDIN INSTITUTE
COMMUNITY * FAIRNESS * INVESTING IN THE FUTURE

TABOR: The New Threat to Maine's Future

The Community Leadership Network
An Innovative Leadership Development Project
Engaging Community Leaders to Promote Sensible Alternatives

"My goal is to cut government in half in twenty-five years to get it down to the size where we can drown it in a bathtub." Grover Norquist, President of Americans for Tax Reform

"I look forward with great anticipation to the potential transformation that will happen in Maine in 2006 . . . It is our time to get assertive." Bill Becker, Executive Director of the Maine Heritage Policy Center

The Challenge:

After decades of leadership in reforming education, campaign finance, healthcare and environmental regulations, Maine has become the target of a national strategy to shrink government and eliminate the vital services that it provides.

The most recent attack was a California Prop 13-style property tax cap, which voters rejected in a 2004 ballot initiative. The newest threat takes the form of a state and local spending cap known as TABOR (The Taxpayers Bill of Rights). TABOR was developed by radical neoconservative leaders like Grover Norquist, and first implemented in Colorado thirteen years ago. TABOR restricts all government growth by placing a cap on spending increases equal to the rate of population growth plus inflation. A similar formula was adopted in Colorado and severely handicapped state and local government's ability to sustain essential services. The effects in Colorado were so devastating that Colorado's Republican Governor Bill Owens – one of its original proponents - recently led a successful effort to suspend TABOR[1]. A similar version of the Colorado law will appear on the November ballot in Maine and at least 10 other states, risking major cuts in state and local spending for children and families, education, the environment, infrastructure and other vital areas.

Maine citizens take the responsibilities of their government very seriously. Their overwhelming rejection of the property tax cap (67.2% to 37.3%) in 2004 was both a repudiation of radical tax cuts and a vote for the essential services that would have been eliminated. While we won that fight, we failed to capitalize on the victory in order to pass sensible tax reforms in this recent Legislative session. A major factor in our inability to develop and implement tax reform is that at this time the terms of the debate are defined by a few predominantly conservative sources that espouse limited government, hyper-individualism and undermining the social safety net. Citizens need to understand this newly emerging radical ideology in Maine and be schooled in alternative language, addressing current issues in ways that are reflective of Maine's traditional values. The TABOR referendum will force a welcome debate about the role of government, spending priorities, shared responsibilities and the relationship between our elected officials and our communities. Defeating TABOR will require building vibrant, integrated community networks with the staying power to affect state and local tax reforms in years to come. New leadership and a better educated public can take this as an opportunity

[1] "Owens goes toe-to-toe with TABOR's author," Chris Frates, (Denver Post Staff Writer), October 15, 2005, The Denver Post

to build the foundation for emerging leadership and the innovative policy decisions for which Maine is so well known.

The Project: *The Community Leadership Network*

The Katahdin Institute proposes to conduct a civic leadership development and community engagement project in collaboration with our partners the Maine Center for Economic Policy (MECEP) and the Maine People's Resource Center/Maine People's Alliance (MPRC/MPA) who are included in this proposal. As a continuation of the Katahdin Institute's Maine Prosperity Initiative, this project will consist of interactive workshops supported by leadership training and publications. As a compliment to the other civic engagement work currently being implemented, these programs will teach participants to analyze the political influences in the state, explore the impact of spending caps in Maine, and develop a new language to talk about spending caps, the role of government and equitable means to pay for essential services. This will create the foundation for building networks of emerging leaders, engaging the public and investing in long-term change.

This project is also an important aspect of the Maine Blueprint Project, which is a powerful strategy and program for progressive policy change and democracy in Maine. A long-term, non-partisan strategy for community based organizations and leadership, Blueprint provides grants and technical assistance to support effective, collaborative action for public policies that mean a better future for Mainers.

The integration of the *Community Leadership Network* into Maine Blueprint will provide an unprecedented opportunity for organizations to collaborate, using new tools to build a political environment that makes progressive social change possible. By intention, our efforts tie in with the civic engagement work currently underway in five of the six counties that Maine Blueprint has selected as priorities. We will educate leaders and opinion makers in those counties, including elected officials, business owners, organizational leaders, advocates and activists, building consensus and collaboration between these groups and a greater understanding of the political process. We will also build upon our membership in Community Voices Against TABOR, an 80 member C(3) coalition created to educate constituents around the effects of TABOR. Our target is to reach out to forty core member organizations. Our initial geographic focus will be in the communities located in five counties: York, Cumberland, Androscoggin, Penobscot and Kennebec.

Our unique curriculum is based on our experience developing new frameworks in which to discuss controversial issues and make them useful to our partners. This program builds upon our original success at a Post-Election Summit held by The Katahdin Institute in 2004 where more than 150 participants from 60 organizations defined the themes of a progressive worldview as ***Community, Fairness*** and ***Investing in the Future.*** We have since held eight major programs with hundreds of organizational leaders, elected officials, business leaders and members of the public to use these basic themes to reframe the issues that were and continue to be so important to these participants.

While each of the organizations participating in this project will also collaborate with the political action committee that will oppose TABOR, we see this project as being a distinct, but essential component of the overall effort to win in November and to continue this important work after the election. The experience in Maine with referenda campaigns is that early money is devoted to purchasing media time and late money is invested in building a field organization. There is virtually

no investment in building community networks for lasting social change once the election is over. With the stakes so high in November, our organizations believe that we need to invest resources early in developing the community-based organizing infrastructure necessary to defeat TABOR. Equally important, we recognize that if we want to win long term on this issue that we need to sustain those networks in order to capitalize on our victory to enact meaningful tax reform in the 2007 legislative session and beyond.

Our goals:

- Strengthen communities by broadening the political debate and giving participants tools to engage, speak and lead public discussion on the issues of spending caps, the essential role of government and sensible tax reform proposals.
- Cultivate new leadership on a local level, focusing on underrepresented populations and women whose presence has been shrinking on a state and local level.
- Hold at least two programs in five counties of the state of Maine to engage a larger and more representative population in the political debate.
- Train key organizations to build consensus and collaboration between organizations resulting in the use of shared resources and compelling language to defeat TABOR and to advocate the role of government that resonates with the public.
- Collaborate with 60 organizations that are participating in the Maine Blueprint Project with a combined membership of 265,000 to build strong long-term community networks.
- Mobilize this organizing capacity in order to educate the members of partner organizations, generate local media events, letters to the editor and opinion pieces as well as targeted voter education.

Deliverables:

- Fifteen workshops, with strategic focus on five counties (goal of 700 participants).
- Ten trainings for organizational leaders of Blueprint partner organizations[2].
- A published collection of message frames developed at these workshops that will advance our long-term goal of shifting the debate around fair taxation, sustainable budgets, and essential state services. These frames can be used by organizations and community leaders for their own communications and outreach initiatives.
- A core of 60 leaders strategically identified for their ability to communicate to a broad cross-section of Mainers.
- Opinion pieces and letters to the editor in all major media markets and in local weeklies where the programs are held.

Request:

The Katahdin Institute is requesting a $10,000 seed grant to initiate *The Community Leadership Network*. Seed grant funds will be shared with our organizational partners. All aspects of *The Community Leadership Network* will be conducted within strict accordance of IRS 501 (c)(3) permissible activities.

[2] Maine Education Association, Family Planning Association of Maine, Maine AFL-CIO, Maine Council of Senior Citizens/ARA, Maine People's Alliance, Maine Women's Lobby, National Association of Social Workers – PACE, Planned Parenthood of Northern New England, Maine Environmental Health Strategy Center, and Sierra Club Maine Chapter

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

January 16, 2007

Anna Marie Klein
The Katahdin Institute
P.O. Box 7606
Portland, ME 04112

Dear Ms. Klein:

This to notify you that the Ethics Commission received an inquiry from Roy Lenardson concerning The Katahdin Institute. He has inquired whether the organization was required to file a financial report with the Ethics Commission under 21-A M.R.S.A. §1056-B disclosing money raised or spent to oppose the Taxpayer Bill of Rights (TABOR) initiative. This reporting requirement is for organizations other than political action committees which raise or spend more than $1,500 for the purpose of promoting or opposing a ballot question.

Mr. Lenardson has submitted:

- A description from the Tides Foundation website indicating that the foundation made a $10,000 grant to Community Leadership Network with The Katahdin Institute to oppose TABOR;
- A 2005/2006 resource guide published by The Katahdin Institute that includes a sample editorial against TABOR and frequently asked questions regarding TABOR; and
- A notice on the website of the Maine Women's Fund indicating that The Katahdin Institute offered community leadership training about how to talk about TABOR.

Request for Response

I am scheduling this matter for the Commission's meeting in March, because the agenda for the February meeting is already quite long. The date for the March meeting has not been finalized. **Please submit a written response to the request no later than Wednesday, February 7th.** If you conclude that The Katahdin Institute was required to file a §1056-B report, kindly do so. The reporting form can be found in the forms section of www.maine.gov/ethics.

§1056-B Reporting Requirement

In 2000, the Maine Legislature created a new reporting requirement for organizations other than political action committees which raise or spend money on ballot questions. Under this requirement:

> Any person not defined as a political committee who solicits and receives contributions or makes expenditures, other than by contribution to a political action committee, aggregating in excess of $1,500 for the purpose of initiating, promoting, defeating or influencing in any way a ballot question must file a report with the Commission. In the case of a municipal election, a copy of the same information must be filed with the clerk of that municipality.

(21-A M.R.S.A. §1056-B) A number of organizations filed §1056-B reports with respect to their TABOR activities. Those reports can be found at: http://www.state.me.us/ethics/disclosure/index.htm.

Last month, the Ethics Commission determined that the Maine Heritage Policy Center was required to file a §1056-B report if it raised or spent more than $1,500 to promote or influence in any way the TABOR initiative. In response to a request for guidance, the Commission staff developed the attached December 27, 2006 advisory memo. Although it has not been specifically approved by the Commission members, you may wish to consider it in determining whether The Katahdin Institute was required to file a report.

Please telephone me at 287-4179 if you have any questions.

Sincerely,

Jonathan Wayne
Executive Director

cc: Roy Lenardson

Title 21-A, §1056-B, Reports of contributions and expenditures by persons

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§1056-B. Reports of contributions and expenditures by persons

Any person not defined as a political committee who solicits and receives contributions or makes expenditures, other than by contribution to a political action committee, aggregating in excess of $1,500 for the purpose of initiating, promoting, defeating or influencing in any way a ballot question must file a report with the commission. In the case of a municipal election, a copy of the same information must be filed with the clerk of that municipality. [1999, c. 729, §8 (new).]

1. Filing requirements. A report required by this section must be filed with the commission according to a reporting schedule that the commission shall establish that takes into consideration existing campaign finance reporting schedule requirements in section 1059. [1999, c. 729, §8 (new).]

2. Content. A report must contain an itemized account of each contribution received and expenditure made aggregating in excess of $100 in any election; the date of each contribution; the date and purpose of each expenditure; and the name of each contributor, payee or creditor. Total contributions or expenditures of less than $500 in any election need not be itemized. The report must state whether the purpose for receiving contributions and making expenditures is in support of or in opposition to the ballot question. [1999, c. 729, §8 (new).]

3. Forms. A report required by this section must be on a form prescribed and prepared by the commission. A person filing this report may use additional pages if necessary, but the pages must be the same size as the pages of the form. [1999, c. 729, §8 (new).]

PL 1999, Ch. 729, §8 (NEW).

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

To: Interested Persons
From: Jonathan Wayne, Executive Director
Date: December 27, 2006
Re: Advice from Commission Staff on §1056-B Reporting

In response to a request, the Ethics Commission staff is offering the advice below regarding which financial activities are covered by 21-A M.R.S.A. §1056-B. This advice is offered provisionally until more permanent guidance can be determined through formal rulemaking or, possibly, a statutory amendment to §1056-B. If you believe you may need to file an amended §1056-B report as a result of this advice, please feel free to telephone Martha Demeritt at 287-4179. Please keep in mind that the advice has been drafted by the Commission staff, and has not been specifically approved by the Commission members.

Contributions Covered by §1056-B

Section 1056-B covers "contributions ... made for the purpose of initiating, promoting, defeating, or influencing in any way a ballot question ...." We propose that this would include the following:

- funds which the contributor specified were given in connection with a ballot question (*i.e.*, for the purpose of promoting or opposing a ballot question);
- funds provided in response to a solicitation which would lead the contributor to believe that the funds would be used specifically for the purpose of promoting or opposing a ballot question; and
- funds which can reasonably be determined to have been provided by the contributor for the purpose of promoting or opposing a ballot question when viewed in the context of the contribution and the recipient's activities regarding a ballot question.

Funds provided in response to a solicitation which would lead the contributor to believe that the funds would be for an organization's general activities would not be covered by Section 1056-B.

Expenditures Covered by §1056-B

Section 1056-B covers "expenditures made for the purpose of initiating, promoting, defeating, or influencing in any way a ballot question ...." We propose that this would include the following:

- expenditures for communications to voters for the purpose of promoting or opposing a ballot question, including advertising on television, radio, and print media; literature that is mailed or distributed by hand to voters; automated telephone calls and scripted calls from live callers; signs, bumper stickers, and other forms of outdoor advertising;
- staff time promoting or opposing the ballot question at public or press events;
- staff time canvassing (conducting door-to-door visits to) voters;
- travel expenses paid to employees in connection with appearances at public or press events;
- staff time preparing presentations, testimony or press releases to promote or oppose the ballot question;
- research or technical analysis including the writing of reports, where the sponsoring organization knows or reasonably should know that the research will be used to promote or oppose the ballot question; and
- expenditures to distribute research or technical analysis of a ballot question for the purpose of encouraging voters to vote yes, or no, on the question.

This list is not intended to be exhaustive and is similar to the types of expenditures reported by political action committees to promote or defeat a ballot question.

Expenditures Not Covered by §1056-B

We propose that expenditures made merely to educate voters or others in a neutral way about a ballot question are not covered by §1056-B:

- Hosting a meeting at which advocates or members of the public are invited to present their views on the ballot question, provided that the sponsors of the event make reasonable efforts to ensure that the forum is balanced.

  In 2006, for example, this would include the many community organizations (rotary clubs, public libraries, church groups) that hosted TABOR-related debates.

- News stories, commentary, or editorials concerning a ballot question distributed through the facilities of a broadcasting station, newspaper, magazine, or other periodical publication, unless the facilities are owned or controlled by persons otherwise engaged in other advocacy activities to promote or oppose the ballot question.

- Research or analysis of a ballot question which is not conducted for the purpose of initiating, promoting, or defeating the ballot question.

  This could include research that is conducted in a neutral fashion and is intended to be communicated to opinion leaders, in academic settings, or to the public at large. When statewide ballot questions are pending, it is not unusual for individuals with specialized skills (*e.g.*, academics, attorneys, educational institutions, pollsters) to be hired to undertake research or analysis concerning the ballot question. If these activities are neutral and not made for the purpose of promoting or defeating the question, they would not be covered by §1056-B.

A>A

TIDES | FOUNDATION

Voter Action Fund 2006

First Round Grantees Announced

Tides' Voter Action Fund was first launched in 2004, when the Fund made more than 100 grants totaling over $4 million. In 2006, the Voter Action Fund continues to invest in key organizations working to increase and strengthen civic participation in communities across the United States.

The first round of 2006 grants supports twelve grantees working on the long-term goals of election protection and increasing the mobilization capacity of the field, and the more immediate opportunities and imperatives of the reauthorization of the Voting Rights Act, protecting the Katrina vote, engaging immigrant communities, and supporting ballot initiatives in key states. All of these organizations place race, ethnicity, and class at the heart of their work, and prioritize the building of coalitions across issues, geographies and communities.

A second round of grantmaking is planned for the coming months. Through participating in the 2006 Voter Action Fund, you can support grassroots organizations that get out the vote every year – not just during presidential campaigns.

Election Protection

Within the broad goal of protecting and expanding the right to vote for all citizens, two issues emerge as priorities for 2006: a) protecting the "Katrina Vote" by ensuring that residents displaced by the hurricane are not disenfranchised; and b) ensuring the upcoming re-authorization of the Voting Rights Act to preserve vital protections against voter discrimination.

Name	Organization Description	Grant
NAACP Legal Defense and Educational Fund (LDF)	LDF is combining public education and advocacy to ensure reauthorization of the Voting Rights Act (VRA) and to inspire public dialogue on the current and potential threats to voting rights. LDF's "Protect the Katrina Vote" initiative includes producing step-by-step "how to vote" publications, opening Voter Empowerment Centers in Houston, Atlanta and Baton Rouge, and on-the-ground organizing to get absentee ballots and information to displaced voters.	$50,000
The Lawyers' Committee for Civil Rights Under Law	The 2006 National Campaign for Fair Elections includes a national voter protection hotline, deployment of mobile field attorneys, and Legal Command Centers to handle major election issues across the country. The Campaign also includes legal challenges to bills requiring photo IDs to vote; advocacy to promote the Count Every Vote Act, and Deceptive Practices and Voter Intimidation Act; and "Democracy Schools" to educate activists on issues related to election reform.	$25,000
The Leadership Conference on Civil Rights (LCCR)	Leading "Renew the Voting Rights Act", a grassroots education campaign about the need for strong and vigorous voting rights protections. LCCR has developed multi-media resources (at www.renewthevra.org) highlighting the impact of the VRA and of its key provisions which protect the right of minorities to elect candidates of choice, ensure language access to voting materials, and ensure federal election observers during elections.	$25,000

Building the Mobilization Capacity of the Field – Reaching Immigrant Voters

2004 gave us a glimpse of what can happen when the nonprofit sector applies more energy and innovation to the work of voter engagement. The cumulative impact of the 2004 efforts was that turnout in historically under-represented communities increased by over 5 million, dramatically changing the face of the electorate. The 2006 elections are the next opportunity to build on this momentum. As in 2004, mobilizing immigrant voters is an imperative for progressive movement, but all the more important given the recent surge of immigrant rights activism.

Name	Organization Description	Grant
The Center For Community Change (CCC)	The Community Voting Project has trained hundreds of grassroots groups to mobilize new and infrequent voters in low-income and minority communities across the country. CCC is now leading formation of the "We Are America Alliance", which coordinated Labor Day immigration reform mobilizations, and which, in July, will launch the "Democracy Summer" initiative with goals of a) producing a million new voters and citizens by Election Day, b) opposing the HR 4437 Enforcement First bill, and c) enacting real comprehensive immigration reform.	$50,000
Mobilize the Immigrant Vote (MIV)	MIV is a collaborative of six immigrant rights and anti-poverty networks and coalitions that has led California voter mobilization campaigns since 2004. MIV's 2006 Campaign will conduct electoral trainings and media coaching for community leaders across the state, including the Central Valley; develop and distribute language-appropriate voter information materials; and mobilize 150 grassroots organizations rooted in immigrant communities, many of which have never been involved in voter mobilization or political action.	$50,000
Democracy South	Democracy South is developing software and optical scanning equipment that will enable its partner voter mobilization organizations to automate the updating of voter records with canvassing results. In 2004 huge quantities of critical voter data were lost because the updating process for information gathered in the field depended on hand-held, voter-by-voter bar code scanning. This innovation will insure the capture of accurate mission critical voter data, the production of valuable databases, and substantial efficiencies and costs savings.	$25,000
	Wellstone Action Fund provides trainings that strengthen the efforts of individuals and organizations in the non-profit arena	

Tides Foundation | Voter Action Fund 2006

Wellstone Action Fund	to educate, engage, and mobilize voters. In three years, Wellstone Action has trained over 9,300 citizen activists in 29 states in political organizing skills. This year Wellstone Action will be running a new national series of trainings in both Spanish and English for people involved in the burgeoning immigrant rights movement.	$5,000
Women's Voices. Women Vote Action Fund (WVWV)	WVWV has helped increase the turnout of unmarried women - who are both the single most progressive constituency in the U.S. and the least likely to vote - from 19% in 2000 to 22.4% percent in 2004. WVWV has developed lists of registered and unregistered unmarried women in 16 states, conducted research on what motivates women to vote or abstain from voting, and shared its information and research with a broad range of organizations. Its priorities in 2006 include expanding voter lists, focusing research on unmarried Latinas and unmarried women who vote only in Presidential elections (drop off voters); developing a strategic communications plan; and increasing the distribution of its resources and data.	$50,000

Supporting Key Ballot Initiatives

Ballot initiatives motivate voters and help to make voting directly relevant and meaningful. In 2006 minimum wage initiatives will be decided in nine states, but many of those states will also be seeing TABOR (taxpayer bill of rights) initiatives, and/or other regressive initiatives (anti-gay marriage, limitations on abortion rights and restrictions on services to immigrants). Tides grantees are progressive coalitions organizing around these ballot initiatives in four states:

Name	Organization Description	Grant
The Colorado Progressive Coalition (CPC)	CPC is a statewide, multi-issue, and multiracial coalition of 5,000 community members and 41 civil rights, labor, faith, immigrant, and community organizations representing 250,000 members. In 2006 CPC is leading opposition to major anti-immigrant, anti-marriage equality, and anti-reproductive justice initiatives on its November ballot while, at the same time, promoting a minimum wage initiative and supporting mobilization in support of immigrant rights.	$25,000
Missouri Progressive Vote Coalition (Pro-Vote)	Pro-Vote's 40 members include labor, church, environmental, and civil rights groups, which together promote progressive policies, conduct grassroots organizing and run a state-of-the art voter registration and mobilization program. This year, Pro-Vote, has placed a state minimum wage hike (from $5.15 to $6.50) on the November ballot, which, according to April polls, is supported by nearly 80% of likely voters. Pro-Vote's mobilization efforts will target new and infrequent African American voters and their campaign has the potential both to give working Missourians a raise and to build the long-term power of progressives in this influential state.	$25,000
The Arizona Minimum Wage Coalition	This coalition is mobilizing diverse constituents around the shared commitment to raising the minimum wage to $6.75 per hour. Arizona's 2006 ballot includes both progressive issues and a "Protect Marriage Initiative" that would also ban domestic partner benefits. The Minimum Wage Initiative has enormous potential to bring out the vote: Arizona currently has the lowest minimum wage on the West Coast and recent polling found 81% voters in favor of the increase. The Coalition has the potential not only of a victory for low-income working families but also to build alliances for future progressive activism in this key electoral state.	$25,000
Community Leadership Network with the Katahdin Institute – Maine	This network is working with Community Voices Against TABOR, an 80 member coalition created to educate constituents about, and to oppose, the Taxpayers Bill of Rights (TABOR) on the ballot for November 2006. Rather than solely focusing on a rearguard action to defeat TABOR, the Community Leadership Network is working with community leaders to provide them the tools, and training to analyze the political influences in the state, and develop a new language to talk about the impact of spending caps, the role of government and equitable means to pay for essential services.	$10,000

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Beyond Communication:
Changing the Rules of the Political Debate

Community
Fairness
Investing In the Future

The Katahdin Institute
2005/2006 Resource Guide

THE KATAHDIN INSTITUTE

The Katahdin Institute is a non-partisan and non-profit think tank devoted to establishing a progressive agenda based on our American history of community, social investment, mutual responsibility and global leadership. This is a long term commitment and requires collaboration across disciplines, issues, experiences and interests.

OUR VISION:

The Katahdin Institute was formed on Martin Luther King, Jr. Day in 2001 by a broad base of community leaders who shared a belief that the American promise was being lost in the politics of extreme individualism and absolute reliance on market driven solutions.

Our inspiration comes from the leadership of one of America's greatest presidents and his ability to unify the nation in addressing our most challenging social problems. Franklin Delano Roosevelt articulated our most admirable core values guaranteeing each citizen four basic freedoms: freedom from fear, freedom from want, freedom of speech and freedom of religion. In addition, he recognized that democracy could not truly exist unless each citizen was guaranteed essential economic security.

Despite the unprecedented investment in spreading anti-government rhetoric, America has made great progress in achieving this vision. While optimistic about the future of the American people, the Katahdin Institute believes that this rhetoric has gone unanswered for too long. Therefore, we are laying the groundwork for long-term solutions to our nations greatest challenges.

OUR GOALS:

It is the goal of the Katahdin Institute to articulate an alternative value system – one that is consistent with our American history of community, social investment, mutual responsibility and global leadership.

We recognize that deliberation is crucial to the legitimacy of any democracy. At this time in America, the political debate is so dominated by anti-government ideology that we no longer have free and open debate about how government can be used to best serve the people.

The Katahdin Institute is pleased to work with a diverse array of advocates, activists, academics and policy analysts to address the greatest social problems of our times through:

- Strategic Policy Development
- Broad-based Collaboration
- Citizen Empowerment and Education
- Regular Publication

It is possible to achieve a democracy that fulfills its promise of life, liberty and the pursuit of happiness. We look forward to a long term collaborative effort to make this happen.

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Beyond Communication:
Changing the Rules of the Political Debate

Community
Fairness
Investing In the Future

Part One Introduction to Framing and Worldview
A. Worldview: Building a Long Term Political Strategy
B. Framing the Argument
C. Examples:
1. Education (page 8)
2. Environment (page 9)
3. Marriage (page 10)
4. Reproductive Rights (page 11)
5. Healthcare (page 12)
6. Taxes (page 13)

Part Two TABOR: The New Threat to Maine's Future (page 15)
A. What is TABOR?
B. Frequently Asked Questions
C. Writing an Editorial on TABOR
D. Writing Letters to the Editor on TABOR

Part Three Appendix
A. Neil Rolde Speech on December 3, 2005
B. Outcomes of December 11, 2004 Event

For more information about worldview, framing or the Katahdin Institute, please contact us at:

The Katahdin Institute
Post Office Box 7606, 15 Monument Square
Portland, Maine 04112
207/773-0980 klein@gwi.net

Friends,

In the last three decades, there has been a consistent and strategic shift in the way that Americans think about their government, behave towards their government, and use government as a tool for social change.

In the early 1970's, a small group of neo-conservatives made a strategic investment in developing new ideas about American government. They recognized that big ideas were valuable and strategically invested billions in developing them and the means to implement them on a grand scale. This investment included leadership training, research, policy development, lobbying, infrastructure, and media. They have taught their leaders to speak consistently and use short term electoral tactics to change the long term political landscape. Perhaps most important, they have used a few simple themes – those of self-government, hyper-individualism and market fundamentalism – to define all of their major initiatives.

One such initiative is a referendum that had the potential to destroy Maine's social and physical infrastructure. It will appear on the ballot in at least ten states and is part of a national strategy to diminish state government in coordination with federal efforts to do the same. This is the so called Taxpayers Bill of Rights (TABOR), a spending cap that was passed as a constitutional amendment in Colorado in (1993). It has been so devastating that the Governor who championed the idea at its passage worked to have it suspended in a successful vote this year. Even so, neo-conservatives are committed to implementing this policy in other states because it challenges the very role of government and builds power for their limited ideology. It is one of those strategic big ideas that could strike a blow to the traditional role of government.

As this infrastructure was developing, progressives were investing their resources very differently. Foundations with a strict commitment to non-partisanship invested in building ideas to address discrete social problems, but their investments stopped there. There were no strategic investments in the progressive infrastructure. This resulted in a fragmented political effort. Driven by the requirements of the funding community, Progressives created programs instead of a long term plan. Instead of a shared vision for America, progressives' measured their success in data. Instead of spreading a vision of America that can impact policy in the long term, the resources were allocated according to short term battles.

This has resulted in a major shift in the role of government away from the ideals of the New Deal and the War on Poverty to broad based privatization and lack of government accountability. Fortunately, we are at a time of great opportunity. Progressives are beginning to recognize the power of big ideas. Organizations are starting to collaborate with a commitment to change the language of the political environment, framing our greatest social problems in new ways. Opening the debate allows for new solutions that reflect the Progressive commitment to social investment, mutual responsibility and global leadership.

The Katahdin Institute has been fortunate to collaborate with our partners and colleagues to develop this framework in Maine, creating a model that can be replicated nationwide. This work began with a Post-Election Summit in 2004 that crystallized the core themes of a progressive ideology as *Community, Fairness* and *Investing in the Future*. Since that time, we have worked with a broad base of organizations to develop a language that ties their respective issues to a larger progressive worldview, reflecting the frames that apply to their respective issues in such areas as economic development, the environment, women's health and diplomacy.

The workshop held on December 3, 2005 built on these endeavors by working with a new cross section of participants including elected officials, activists and organizational leaders. We used two issues that are important to Maine for models in a power analysis and a framing exercise. We chose Dirigo Health—the controversial state health insurance initiative—to create a power analysis, to look at the many influences on policy in the state where there are powerful interests on both sides of the issue. Society's role in ensuring public health has been hotly contested for most of American History. It was during Franklin D. Roosevelt's New Deal that society took on the shared responsibility of the health and well being of all. The debate about Dirigo Health is an extension of that debate.

For our framing exercise, we focused on TABOR, the spending cap referendum that will be on the ballot in 2006. We selected it because spending cuts go to the heart of the debate about the role of government in our lives. We also recognized its essential importance in a debate that is going on around the country. We hope that our participants will come to know more about TABOR and be able to speak about it in terms that expand the debate, challenge our friends and neighbors, and build upon a vision for America based on three core American values. *Community, Fairness, Investing in the Future.*

We would like to thank all of our participants in making this possible and invite continued input. Just as the neo-conservatives invested in ideas over a thirty-year period, we are at the beginning of a process.

Anne Marie Klein
Executive Director

Part II. TABOR: The New Threat to Maine's Future Framing One of the Most Important Issues of Our Time

1. What is TABOR?
2. Progressive Frame
3. Writing an Editorial About TABOR
4. Writing Letters to the Editor on TABOR

TABOR: Frequently Asked Questions:

Colorado's economy is stronger than ever, state spending is down and the population is growing—why wouldn't we want the same for Maine?

We would all love to have these things in Maine. However, TABOR was not the reason these things happened in Colorado and it would have exactly the opposite effect in Maine. Colorado has reaped the benefit of the post-technology boom migration from the west coast to the mountain region. In fact Colorado has had average economic growth when compared to the other mountain region states who do not have TABOR. While it is true that state spending is down due to TABOR, Colorado voters renounced this when it suspended TABOR in 2004. The price of major cuts in essential government programs and services was simply too high. Colorado has also enjoyed a population growth—due to an increase of employment opportunities, state investment in marketing and a growth in recreational amenities.

For Maine to have any of these outcomes, we will need to invest in research and development, the education and healthcare of our workforce, inexpensive and efficient energy. a healthy environment and a reliable infrastructure. None of this is possible without stable state revenue.

Don't the taxpayers know how to spend their own money better than the state?

The taxpayers do have control of how tax dollars are spent. In a representative democracy, we elect officials to make decisions based on complete information about the complex budgetary process. If our representatives do not reflect our values then it is up to us to send them a message during the election.

TABOR is a citizen initiative for the people to put reigns on government—why are you against a common sense solution to limiting government spending?

TABOR did not originate in Maine, it did not even originate in Colorado its pilot state. TABOR was dreamed up by the arch-conservatives in Washington who are part of a national campaign to paralyze government. Common sense dictates that we look to the experience of others before implementing such a policy here. It has been devastating in Colorado and it would be catastrophic here.

The Maine legislature passed LD One—what we refer to as the Community Prosperity Act—which is a spending cap and property tax assistance program. This is the first step in addressing the concerns of Maine people.

Haven't the problems in Colorado's TABOR been addressed in Maine's improved version?

Most importantly, Maine TABOR shares the most damaging aspects of the law. The problem comes with the way the spending cap is determined—based on a simple formula of population growth and the Consumer Price Index. This does not reflect the changes in demographics—population aging or needs for public schooling. It is also based on a false comparison in government and consumer spending. The CPI tracks basic household items. Instead of car payments or potato chips, government buys healthcare and construction goods. It buys the necessities for the common good, leaving individual needs and wants up to the individual household.

Don't the people have more direct say over how their tax dollars are spent?

The way the law is written—requiring a 2/3rd's approval and a majority public vote for any tax or fee increases, it gives new power to minorities. Further, it weakens democratic tradition in Maine. Our elected officials need to be agile in responding to crises like the Hurricane Katrina in New Orleans, the Ice Storm in Maine and the national oil crises.

A Sample Editorial based on the December 3, 2005 Workshop hosted by The Katahdin Institute

The Bulleted Themes May be Selected as the Situation Suggest .

TABOR: The Next Threat to Maine's Future

INTRODUCTION:

In the 2006 Election a spending cap initiative known as the "Taxpayer Bill of Rights" or TABOR is likely to appear on the Maine ballot subject to referendum. TABOR has been brought to Maine by anti-government activists as a part of a national strategy to cripple our democracy, shift power to special interests and eliminate programs and services essential to Mainers. Contrary to the arguments of its proponents, TABOR was developed in Washington, DC and tested in Colorado and is supported by conservative interests from away. It is just one component of a national strategy to shrink government to irrelevance. Large financial investments have put a version of this spending cap on the 2006 ballot in at least 10 states. This has been clearly marked by the visits from Grover Norquist who is one of its greatest champions, Colorado Governor Bill Owens, representatives from right-wing think tanks across the country and conservative members of the Colorado legislature.

When Maine people look at the facts, TABOR does not reflect historic Maine values of *Community*, *Fairness* and *Investing in the Future.*

COMMUNITY

Maine has a long history of caring for its communities. We have taken the lead in healthcare reform and access to prescription drugs, passing landmark legislation that serves as a model nationwide. When our elected officials in Washington fail us by cutting funding for families, for seniors, for education, for the environment and many of our other priorities we have come together as a state to ensure that these services continue. We recognize that without essential services like public education, healthcare, (_____ priority issue_____), Maine will not prosper. Time after time, we vote to ensure that that these services are provided efficiently and fairly.

TABOR is a danger to our communities because it threatens our ability to ensure vital services. It is designed to one end: to indiscriminately shrink government to the size that it is ineffective. We know that a blanket cut in public funding will force cuts in the programs that Mainers agree are so essential, particularly education, and healthcare. This is particularly important because the most recent budget proposed by the White House includes major federal cuts to these programs.

The TABOR funding formula requires citizens to pay out of pocket for services that were once a shared commitment. The government spending formula laid out in TABOR is the same formula that was applied with disastrous consequences in Colorado. Individuals were charged for services that were once a shared commitment of the community and a recognized investment. Voters were told that they would get refunds to cover their increased costs and it simply did not happen.

Across the board cuts will damage Maine's education priority and our vision for a sustainable economy. Mainers have invested consistently in education and we have one of the highest high school graduation rates in the nation. We recognize that a healthy economy requires an educated workforce, and despite federal budget cuts in money available for higher education, access to post high school degree programs in Maine has increased in recent years.

FAIRNESS

Mainers support fair taxation. We recognize that the tax system in Maine should reflect the needs of the people. Legislators developed the Circuit Breaker tax program and the Homestead Exemption for local residents to provide support for those whose property taxes surpassed their ability to pay.

Mainers support our democratic process. Maine led the nation in the passage of the Clean Elections Law, encouraging campaigns to be run free of large private contributions. This landmark legislation reflecting our vision of equal opportunity, shared responsibility, and accountability served as a model for Vermont, Massachusetts, Arizona, and California to follow. Other states are considering passage of similar legislation. The Clean Elections Law created a legislature that has worked to reflect the values of the state, unencumbered by the influence and corruption that dominates Washington politics. TABOR would weaken our ability to support Clean elections and resist the influence of special interests affecting pending legislation.

Mainers want fair and accountable government. We expect our elected officials will act in our best interests and the best interest of Maine. We demand fiscal responsibility while at the same time require adequately funded public programs that grow our economy and enrich our lives. If they don't, we vote them out of office. This is how our voices are heard; this is the nature of our democracy. The TABOR spending cap, is legislation that will remove this accountability and forever damage our democratic process.

Maine's tradition of fairness is clear in our social and economic policies. From the recent vote to ensure Maine's Gay, Lesbian, Bisexual and Transgender population, to the recent leadership in the Maine Prosperity Act (LD 1).. They have clearly endorsed legislative efforts to ensure fairness in property taxation through the Homestead Exemption and the Circuit Breaker program.

Mainers believe in economic fairness and with our Clean Elections system, our legislators are free to work towards tax reform without the dominance of special interest. TABOR is not tax reform – it is a spending cap that may or may not result in lower taxes for the few at great expense to the many. It does nothing to change the tax code and makes no commitment to spread basic costs of society across those who benefit most. Tax reform is complex and there are many conflicting proposals on the table. We must elect and support representatives to work to find the best solutions to the problems facing Maine people.

Mainers support equal opportunity. Children in Maine should have equal access to a

good education and be given the equal opportunity to succeed. Under TABOR in Colorado, opportunity was limited to those whose parents had the resources to afford private schools, or in the public school system purchase new textbooks, new computers, athletic equipment and art supplies. Maine's future is too important. For our economy to thrive, we need to encourage the ingenuity, creativity and the intelligence of our youth for the future of our shared prosperity. This will not be possible if opportunities are limited to the wealthy few.

Investing In the Future

Maine has a long history of committing to investment in our environment and our infrastructure. Our voters consistently vote to invest in education, and research and development. We recognize that this is a shared commitment. We have all benefited from investments made before our time and we recognize that we have an obligation to those who come after us.

Maine has a history of investing in our children's education In the Spring of 2004, Maine voters voted to support Referendum One which required a full 55% state funding of schools. In the 2006 legislature, Governor Baldacci has championed a bill to require an increase in teacher salaries. Maine voters consistently support bonds that fund after school programming and infrastructure.

Maine has been a leader in the nation in our commitment to a sustainable and healthy environment. From the unprecedented Land Use and Acquisition bills, to maintaining a fund to protect against the damages of oil spills, to our investments in the North Woods and Katahdin Lake, Mainers recognize the value of a healthy environment as our legacy, as our responsibility and as essential to our lively hood.

We value fiscal responsibility and consistently invest in essential government services and programs such as first responders, fire and police, social workers, councilors, public health officials, tutors, and many others. Maine's constitution requires a balanced budget. Even with the unanticipated blows to our budget in unfunded mandates and natural disasters, Maine has maintained its commitments.

Maine's investment in K-12 education has paid off. Maine's high school graduation rate is among the highest in the nation.

Conclusion

In 2006, Maine will be faced with important decisions about the future of the state, our resources and our long term prosperity. TABOR will be an important part of this decision as its defeat will mark a continued commitment to Maine values of *Community, Fairness, and Investing in the Future*. It is up to Mainers to find a solution that is right for Maine. TABOR was originated out of state and was specifically designed to cripple local and state government with a spending formula that bars the exercise of good judgment under changing conditions. The test site, Colorado, has suffered irreparable damage due to its passage thirteen years ago. The damage was so great, that Governor Bill Owens—once its greatest proponent—campaigned against it. This is not a vision for Maine. The quality of life that Mainers so value – a strong educational system, a healthy environment, an engaged and healthy workforce and a reliable infrastructure – would be devastated.

Maine Women's Fund

- Skip to Content
- Home
- Get Involved
- About the Fund
  - Board of Directors/Staff
  - Contact Us
- Grantmaking
  - MWF Grantmaking Program
  - New Girls' Fund for Social Change
  - Past Grants
- Programs
  - New Girls' Network
  - Women Standing Together
- FAQs
- What's New
- Events
- Mother's Day
- Links & Resources

Links and Resources

Financial Security

Why Social Security Matters to Women

The Institute for Women's Policy Research has created a Web site to address the issue of women and social security. You can sign up to receive e-mail alerts and newsletters about the latest news and reports concerning women and social security.

The WAGE Project -- addressing the wage gap between women and men

Women in the United States only earn an average of 77 cents for every dollar men earn. Over a lifetime, this wage gap results in a loss of $700,000 for a woman with a high school diploma and $1.2 million for a college graduate. A professional school graduate loses $2 million to the wage gap. Mad yet? In order to help women tackle this challenge, Evelyn Murphy, former Massachusetts Lieutenant Governor, launched The WAGE Project -- Women Are Getting Even. The Maine Women's Fund has joined the Maine YWCAs, Maine Women's Policy Center, Women, Work & Community, the Maine Department of Labor, and the University of Maine to bring The WAGE Project to Maine. Stay tuned to learn how you can get involved.

Maine Women's Fund opposing TABOR

You may have heard about the statewide Taxpayers Bill of Rights (TABOR) referendum that will appear on the November ballot this fall. The Maine

Women's Fund opposes the measure, which seeks to cap government spending at a rate that is likely to compromise many programs serving women and girls. Our reading of the analysis from Colorado (and other states where TABOR is either on the ballot, in the legislative pipeline, or shortly destined for one of the two) is that the negatives far outweigh the positives. We know that tax reform is high on the list of priorities for Maine people, but the TABOR approach goes too far and does not solve the problem. What we need are leaders who will spend our tax dollars wisely while providing essential state and local services. How are we learning more about TABOR? To start, our "Women Standing Together" giving circle hosted a discussion with Colorado resident and small business owner Kristi Hargrove on June 16 that drew a capacity crowd to the offices of Lapchick Baron in Portland. As more TABOR-related events come up, we will try to put the word out so that you can get the information you need to make an informed choice at election time. FMI about the political action committee organized against the initiative, "Citizens United," see http://www.NOTABOR.org/. (In the interest of parity, if you would like to learn more about TABOR from the group initiating the referendum, visit http://www.TaxpayerBillofRights.com/.)

Women's Business Center of Coastal Enterprises, Inc.

The Women's Business center at CEI is committed to supporting women in Maine who either own or are interested in starting a business in Maine. Our services include free one-on-one counseling, low-cost workshops, and peer networking opportunities on such topics as Internet and websites, business management, and financing a business. All women who are at least 50% owners of a business in Maine are eligible to join the directory for a minimal fee and financial aid is available to those who qualify. A subscription to the directory provides benefits that include Internet marketing, notification of networking events, a 50% discount on workshops at the WBC and the Maine Small Business Development Center at CEI, and an exhibit space at our annual Maine Women Business Owners Expo.

National Perspectives on TABOR

If you would like to understand how TABOR efforts in other states are affecting public policy, the Center on Budget and Policy Priorities in Washington, DC, has analyses available on its website.

DVD on TABOR's impact in Colorado available

The Maine Center for Economic Policy has a DVD available that explains the impact of TABOR in Colorado using the testimony of business leaders, parents, the philanthropic community, policy analysts, and elected officials.

MANP Town Hall Meetings on TABOR

If you are active in the nonprofit arena—as a staff member, board member, volunteer, and/or donor—you can learn more about how TABOR will impact the sector through the Maine Association of Nonprofits. MANP has been hosting a series of town hall meetings this summer across the state called the "Nonprofit Voice Project." These dynamic 4-hour trainings include lunch and are only $10 for MANP members and $15 for non-members.

Maine Women's Fund: Links and Resources

Community Leadership Training for People Opposed to TABOR

If you are opposed to TABOR and would like to learn more about how to talk about it, the Katahdin Institute is offering community leadership training over the next few months in several locations.

Working Women in Maine. Initial Indicators for Progress, 2006.

In August 2006, the Women's Employment Issues Committee of the Maine Job Council issued a report entitled "Working Women in Maine. Initial Indicators for Progress, 2006." The Committee is tracking progress in attaining economic security for women in Maine through annual evaluations in eight areas. The indicators for these spotlights include information on women's wages, unemployment, part-time versus full-time employment, new hire earnings, earnings and participation by occupation, education, poverty rate and women's health insurance coverage.

Girls

Understanding Gender Differences: Strategies to Support Girls and Boys

This article was published in Family Issues: Current Research on Family Topics for Maine Educators produced by University of Maine Cooperative Extension. Topics covered include "What Can We Do to Support Girls?", "Messages Girls Need to Hear", and "The Girls' Bill of Rights".

Health

True North, A Center for Health and Healing Offers Resources

True North, a Center for Health and Healing offers a unique integrative health practice located in Falmouth, Maine. They combine the best of conventional medicine with the finest complementary health care practices. Visit their resources page for a variety of holistic health information and resources.

Philanthropy

Inspired Philanthropy

This book will help you learn about giving plans and help you create your own that will reflect your values. Whether you are new to philanthropy or redefining your philanthropic goals, this book is an excellent resource.

Women's Funding Network

This umbrella organization represents more than 100 women's funds from around the world. The Maine Women's Fund is a member of the Women's Funding Network.

Maine Philanthropy Center

The Maine Philanthropy Center is an organization that promotes philanthropy in Maine, and is also a resource for grantmaking organizations.

Maine Women's Fund: Links and Resources

Women & Philanthropy

This national organization is a great resource for the latest news on women and philanthropy.

Prospective Funders

The Foundation Center

A good resource for both grantmaking organizations and individual grantmakers; they provide resources and educational workshops about the grantmaking process.

Haymarket People's Fund

A New England based grantmaking organization that gives grants to organzations committed to social change.

Maine Initiatives

A Maine based grantmaking organization that emphasizes giving to organizations working on economic, social, and enivironmental justice issues.

Maine Community Foundation

MCF is a community fund that gives grants to organizations in Maine. Their Web site also has information about planned giving and resources for professional advisors working with donors and charitable organizations.

Public Policy

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Maine Women's Fund: Links and Resources

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Self-Esteem

Women's eNews

An excellent source of articles and news pertaining to issues in American politics and society that directly affect women and girls. Subscribe for free and receive informative news summaries and links to articles about women in the news.

Savvy Miss

A website dedicated to connecting, empowering, and informing savvy women everywhere. Includes articles, interviews, message boards, and expert Q & A on a variety of subjects ranging from career, college, books, dating, volunteer information, and important societal issues

Social Change

Women's Funding Network

This umbrella organization represents more than 100 women's funds from around the world. The Maine Women's Fund is a member of the Women's Funding Network.

National Network of Grantmakers

NNG focuses on philanthropy and grassroots social change and is a resource for both foundations and individuals interested in grantmaking.

Neighborhood Funders Group

NFG is a network of foundations that are committed to supporting change in the economic and social conditions of low-income areas.

National Committee for Responsive Philanthropy

NCRP provides resources for nonprofit organizations and works on the issues of philanthropic accountability, nonprofit advocacy, and social justice philanthropy.

Strategic Grantee Partners

Maine Women's Policy Center

The Maine Women's Policy Center was founded in 1990 to improve the economic, social, and political status of women and girls in Maine through public policy and leadership development. The MWPC achieves it mission by focusing on four priority areas: economic security, civil rights, freedom from violence, and secure health care and reproductive rights.

Women, Work, and Community

Women, Work, and Community is committed to improving the economic lives of Maine women and their families. WCC works with women "where they are" and provides them with support, guidance, and the tools they need to take the next steps toward a more promising future. WCC provides training, advocacy and assistance in four program areas: workforce development, microenterprise development, asset development, and leadership development.

Maine Equal Justice

Maine Equal Justice works in the legislature, before administrative agencies, and in the courts providing legal and policy analysis, to give low-income Maine people an effective voice on issues they care about.

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Tel: (207) 774-5513 | Fax: (207) 774-5533 | Email Us

Wayne, Jonathan

From: Roy Lenardson [roy@strategicadvocacy.com]
Sent: Monday, January 08, 2007 7:52 AM
To: Wayne, Jonathan; Lavin, Paul
Subject: Complaint
Attachments: Press Release.pdf; emails.pdf; Hurrican Tabor Website.pdf; newspaper adPPH.pdf; postcard.pdf

Dear Jonathan:

I would like to formally request that the staff review whether or not Democracy Maine incorrectly filed as a 1056-B when their activities are more accurately reflected as a Political Action Committee. In addition to the Democracy Maine inquiry, I am concerned that the AARP, while certainly a large organization with many responsibilities beyond anti-Tabor activities, fails to meet the 1056-B test. I am not familiar with an organization spending 300,000 dollars in a single campaign, and deciding it is not a PAC.

It makes sense to me that a quick review of all the 1056-B filers is in order. I am specifically requesting the AARP review, although there may be others that should also be included.

I am attaching several documents which I believe represent a "major" portion of the activities of the Democracy Maine during the referendum campaign.

Including:

1. Email solicitations (I have included 3) asking for money for the defeat of TABOR
2. A press release announcing that "Democracy Maine Begins Campaign to Expose TABOR as a Fraud"
3. A copy of one of the Newspaper Ads (Full page) that ran in papers throughout Maine urging a NO vote on Question 1
4. A copy of one of the mailings that was sent from Democracy Maine urging the defeat of TABOR
5. A screen shot of their campaign website www.stophurricanetabor.com, which also links to their other website, www.democracymaine.com and includes a link for a radio Ad.
6. A copy of their 1056-B report which shows just over $1000 dollars in contributions and more than $42,000 in expenditures July 24th through October 23, a 3 month period. I do not have the latest copy.

Finally, I would like to state that I am adamantly opposed to the requirement created in the context of the 1056-B reports that an organization file where and when they have spoken on an issue. This new requirement that groups register their speaking activities with the government is dangerous.

However, I believe the Maine Heritage Policy Center, which is now required to register with the government, is being unfairly singled out. The following organizations did not file a 1056-B report yet expended resources and spoke in opposition to TABOR:

1. The City of Portland
2. The Kathadin Institute
3. The University of Maine System
4. The Catholic Church
5. The Maine State Chamber

This is by no means a complete list, but before I file an additional complaint, could you please provide me with guidance on the standards being used that will trigger the reporting requirement? Information on how many speeches have to be given or the number of meetings held, the number of mentions in the paper, radio and TV. If there are specific content issues that one would need to consider, that be helpful to know as well. My goal here is to understand exactly when the 1056-B report would be triggered.

I look forward to working with you in this issue.

Roy Lenardson
Strategic Advocacy, LLC

Wayne, Jonathan

From: Roy Lenardson [roy@strategicadvocacy.com]
Sent: Monday, January 08, 2007 6:22 PM
To: Lavin, Paul; Wayne, Jonathan
Subject: kathadin piece.pdf
Attachments: kathadin piece.pdf

I thought this might be helpful. it is typical of the materials distributed by the Kathadin Institute.

Roy

Wayne, Jonathan

From: Roy Lenardson [roy@strategicadvocacy.com]
Sent: Tuesday, January 09, 2007 6:11 PM
To: Wayne, Jonathan
Subject: Kathadin Institute

http://209.85.165.104/search?q=cache:PQdrpcjCus8J:www.mainewomensfund.org/links/+katahdin+grants+tabor&hl=en&gl=us&ct=clnk&cd=1

Community Leadership Training for People Opposed to TABOR

If you are opposed to **TABOR** and would like to learn more about how to talk about it, the **Katahdin** Institute is offering community leadership training over the next few months in several locations

Wayne, Jonathan

From: Roy Lenardson [roy@strategicadvocacy.com]
Sent: Monday, January 08, 2007 6:48 PM
To: Lavin, Paul; Wayne, Jonathan
Subject: More on Kathadin

The link below will take you to the Tides Foundation, which gave the Kathadin Institute 10,000 dollars to help teach groups how to defeat TABOR. I think the previous piece I sent you—the handbook from Kathadin was a part of this "grant".

The relevant part is in yellow.

Best,

Roy

http://www.tidesfoundation.org/index.php?id=180&print=1

Supporting Key Ballot Initiatives

Ballot initiatives motivate voters and help to make voting directly relevant and meaningful. In 2006 minimum wage initiatives will be decided in nine states, but many of those states will also be seeing TABOR (taxpayer bill of rights) initiatives, and/or other regressive initiatives (anti-gay marriage, limitations on abortion rights and restrictions on services to immigrants). Tides grantees are progressive coalitions organizing around these ballot initiatives in four states:

Name	Organization Description	Grant
The Colorado Progressive Coalition (CPC)	CPC is a statewide, multi-issue, and multiracial coalition of 5,000 community members and 41 civil rights, labor, faith, immigrant, and community organizations representing 250,000 members. In 2006 CPC is leading opposition to major anti-immigrant, anti-marriage equality, and anti-reproductive justice initiatives on its November ballot while, at the same time, promoting a minimum wage initiative and supporting mobilization in support of immigrant rights.	$25,000
Missouri Progressive Vote Coalition (Pro-Vote)	Pro-Vote's 40 members include labor, church, environmental, and civil rights groups, which together promote progressive policies, conduct grassroots organizing and run a state-of-the art voter registration and mobilization program. This year, Pro-Vote, has placed a state minimum wage hike (from $5.15 to $6.50) on the November ballot, which, according to April polls, is supported by nearly 80% of likely voters. Pro-Vote's mobilization efforts will target new and infrequent African American voters and their campaign has the potential both to give working Missourians a raise and to build the long-term power of progressives in this influential state.	$25,000
The Arizona Minimum Wage Coalition	This coalition is mobilizing diverse constituents around the shared commitment to raising the minimum wage to $6.75 per hour. Arizona's 2006 ballot includes both progressive issues and a "Protect Marriage Initiative" that would also ban domestic partner benefits. The Minimum Wage initiative has enormous potential to bring out the vote: Arizona currently has the lowest minimum wage on the West Coast and recent polling found 81% voters in favor of the increase. The Coalition has the potential not only of a victory for low-income working families but also to build alliances for future progressive activism in this key electoral state.	$25,000
Community Leadership Network	This network is working with Community Voices Against TABOR, an 80 member coalition created to educate constituents about, and to oppose, the Taxpayers Bill of Rights (TABOR) on the ballot for November 2006. Rather than solely focusing on a rearguard action to defeat TABOR, the Community Leadership Network is working with community leaders	$10,000

with the Katahdin to provide them the tools, and training to analyze the political influences in the state, and develop a new language to

Institute – Maine talk about the impact of spending caps, the role of government and equitable means to pay for essential services.

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Roy Lenardson
Strategic Advocacy, LLC
605 US Route One, Suite B
Scarborough, Maine 04074
207.329.0992 (c)
207.510.7631 (o)
207.221.1041(f)
roy@strategicadvocacy.com

Agenda Item #17

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

To: Commission Members

From: Vincent W. Dinan, Staff Auditor

Date: March 2, 2007

Subject: March, 2007 Candidate Audit Report Submittals

Materials submitted with the March, 2007 Commission packet include the four candidate audit reports listed below.

Candidate Name	District	Disposition
Rep. Deborah Simpson	HD 69	No Exceptions Noted
Rep. Gary A. Connor	HD 140	No Exceptions Noted
Rep. John Brautigam	HD 113	No Exceptions Noted
Rep. Carol A. Grose	HD 65	No Exceptions Noted

Audit Findings of "No Exceptions Noted" are submitted for information and file, and no additional action is required by the Commission.

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04333-0135

February 15, 2007

Audit Report No. 2006-HR023

Candidate: Representative Deborah Simpson
House District 69

Background

Representative Deborah Simpson was a candidate for re-election to the Maine House of Representatives, District 69, and successfully retained her seat in the 2006 general election. Rep. Simpson was certified by the Commission as an MCEA candidate on April 21, 2006. MCEA candidates are required under the Act to submit reports of their receipts, expenditures, outstanding campaign debt, and equipment purchases and dispositions for specified periods during the election cycle.

Audit Scope

Examination of selected candidate contribution and expenditure transactions occurring during the following campaign reporting periods:

- Seed Money
- Six Day Pre-Primary
- 42 Day Post-Primary
- Six Day Pre-General
- 42 Day Post-General

Transactions subject to review were those recorded in the candidate's accounting records and reported to the Commission. The audit's purpose was to determine if the identified receipts and payments (1) were properly approved by the candidate or her authorized representative; (2) were adequately documented as evidenced by original vendor invoices and cancelled checks or other acceptable disbursement documentation; and (3) complied in all material respects with the requirements of the Maine Clean Election Act and the Commission's rules.

The auditors examined documentation supporting Rep. Simpson's campaign finance transactions in the following percentages:

- Seed Money: no material receipts or expenditures.
- Six Day Pre-Primary: expenditures -- no expenditures reported.
- 42 Day Post-Primary: expenditures – no expenditures reported.
- Six Day Pre-General: expenditures – 88 percent.
- 42 Day Post-General: expenditures – 99 percent.

Audit Findings and Recommendations

No exceptions were noted.

Respectfully submitted to the Members of the Commission for information and file.

Vincent W. Dinan - Staff Auditor

Approved:

Jonathan Wayne – Executive Director

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February 15, 2007

Audit Report No. 2006-HR022

Candidate: Representative Gary A. Connor
House District 140

Background

Representative Gary A. Connor was a candidate for the Maine House of Representatives, District 140, in the 2006 general election, and won the seat. Rep. Connor was certified by the Commission as an MCEA candidate on April 21, 2006. MCEA candidates are required under the Act to submit reports of their receipts, expenditures, outstanding campaign debt, and equipment purchases and dispositions for specified periods during the election cycle.

Audit Scope

Examination of selected candidate contribution and expenditure transactions occurring during the following campaign reporting periods:

- Seed Money
- Six Day Pre-Primary
- 42 Day Post-Primary
- Six Day Pre-General
- 42 Day Post-General

Transactions subject to review were those recorded in the candidate's accounting records and reported to the Commission. The audit's purpose was to determine if the identified receipts and payments (1) were properly approved by the candidate or his authorized representative; (2) were adequately documented as evidenced by original vendor invoices and cancelled checks or other acceptable disbursement documentation; and (3) complied in all material respects with the requirements of the Maine Clean Election Act and the Commission's rules.

The auditors examined documentation supporting Rep. Connor's campaign finance transactions in the following percentages:

- Seed Money: no material receipts or expenditures.
- Six Day Pre-Primary: expenditures – 95 percent.
- 42 Day Post-Primary: expenditures – 87 percent
- Six Day Pre-General: expenditures – 91 percent
- 42 Day Post-General: expenditures – 67 percent

Audit Findings and Recommendations

No exceptions were noted.

Respectfully submitted to the Members of the Commission for information and file.

Vincent W. Dinan - Staff Auditor

Approved:

Jonathan Wayne – Executive Director

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February 15, 2007

Audit Report No. 2006-HR021

Candidate: Representative John Brautigam
House District 113

Background

Representative John Brautigam was a candidate for re-election to the Maine House of Representatives, District 113, and successfully retained his seat in the 2006 general election. Rep. Brautigam was certified by the Commission as an MCEA candidate on April 21, 2006. MCEA candidates are required under the Act to submit reports of their receipts, expenditures, outstanding campaign debt, and equipment purchases and dispositions for specified periods during the election cycle.

Audit Scope

Examination of selected candidate contribution and expenditure transactions occurring during the following campaign reporting periods:

- Seed Money
- Six Day Pre-Primary
- 42 Day Post-Primary
- Six Day Pre-General
- 42 Day Post-General

Transactions subject to review were those recorded in the candidate's accounting records and reported to the Commission. The audit's purpose was to determine if the identified receipts and payments (1) were properly approved by the candidate or his authorized representative; (2) were adequately documented as evidenced by original vendor invoices and cancelled checks or other acceptable disbursement documentation; and (3) complied in all material respects with the requirements of the Maine Clean Election Act and the Commission's rules.

The auditors examined documentation supporting Rep. Brautigam's campaign finance transactions in the following percentages:

- Seed Money: expenditures – 90 percent
- Six Day Pre-Primary: expenditures – no reported expenditures during this period.
- 42 Day Post-Primary: expenditures – 100 percent
- Six Day Pre-General: expenditures – 82 percent
- 42 Day Post-General: expenditures – 36 percent

Audit Findings and Recommendations

No Exceptions were noted.

Respectfully submitted to the Members of the Commission for information and file.

Vincent W. Dinan - Staff Auditor

Approved:

Jonathan Wayne – Executive Director

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04333-0135

February 21, 2007

Audit Report No. 2006-HR026

Candidate: Representative Carol A. Grose
House District 65

Background

Representative Carol A. Grose was a candidate for re-election to the Maine House of Representatives, District 65, and successfully retained her seat in the 2006 general election. Rep. Grose was certified by the Commission as an MCEA candidate on April 21, 2006. MCEA candidates are required under the Act to submit reports of their receipts, expenditures, outstanding campaign debt, and equipment purchases and dispositions for specified periods during the election cycle.

Audit Scope

Examination of selected candidate contribution and expenditure transactions occurring during the following campaign reporting periods:

- Seed Money
- Six Day Pre-Primary
- 42 Day Post-Primary
- Six Day Pre-General
- 42 Day Post-General

Transactions subject to review were those recorded in the candidate's accounting records and reported to the Commission. The audit's purpose was to determine if the identified receipts and payments (1) were properly approved by the candidate or her authorized representative; (2) were adequately documented as evidenced by original vendor invoices and cancelled checks or other acceptable disbursement documentation; and (3) complied in all material respects with the requirements of the Maine Clean Election Act and the Commission's rules.

The auditors examined documentation supporting campaign finance transactions in the following percentages:

- Seed Money: no material contributions. Expenditures – 91 percent.
- Six Day Pre-Primary: No expenditures reported.
- 42 Day Post-Primary: No expenditures reported.
- Six Day Pre-General: expenditures – 75 percent.
- 42 Day Post-General: expenditures – 83 percent.

Audit Findings and Recommendations

No exceptions were noted.

Respectfully submitted to the Members of the Commission for information and file.

Vincent W. Dinan - Staff Auditor

Approved:

Jonathan Wayne – Executive Director

Agenda Item #18

LD 437 Document created 2/22/2007 12:18. - Get Text: MS-Word, RTF | PDF LR 1095 Item 1

An Act To Address the Reporting of Oil Spills

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 38 MRSA §550, first ¶, as repealed and replaced by PL 1991, c. 66, Pt. A, §18, is amended to read:

Any person who causes or is responsible for a discharge in violation of section 543 to which the provisions of section 550-A do not otherwise apply is not subject to any fines or civil penalties if that person:

Sec. 2. 38 MRSA §550-A is enacted to read:

§ 550-A. Enforcement and penalties for certain discharges

A person who causes or is responsible for a discharge in violation of section 543 is not subject to fines or civil penalties if:

1. **Removal of material.** That person arranges for the removal and lawful disposal of the discharge and any adversely affected soils or debris within 24 hours of discovery of the discharge;

2. **Type of discharge.** The material discharged is limited to used or unused hydraulic fluid, lubricating oil, motor oil, #2 fuel oil, diesel fuel, #5 fuel oil, crude oil or #6 fuel oil;

3. **Surface water or groundwater.** The discharge does not reach surface water or groundwater;

4. **Discharge quantity.** The quantity of material discharged is 50 gallons or less, except that the 50-gallon limitation does not apply to any portion of a discharge that does not reach soils and that is wholly contained within a building, a structure, secondary containment or equipment on that person's property;

5. **Control of location.** For discharges occurring at a property over which that person has control or ownership, that person maintains a facility-specific spill prevention, control and countermeasure plan meeting the requirements of 40 Code of Federal Regulations, Part 112, and for discharges occurring at a property over which the owner or operator of the equipment causing the discharge does not have control or ownership, the owner or operator of the equipment causing the discharge maintains a spill prevention, control and countermeasure plan containing procedures to address such discharges; and

6. **Record keeping.** The discharge is documented by the owner or operator of the equipment causing the discharge. The owner or operator shall maintain the documentation for a period of no less than 3 years and shall make

the documentation available upon request of the department. The documentation must be certified by the owner or operator of the equipment causing the discharge and must include the following information:

A. The date and time of discovery of the discharge;

B. The source and location of the discharge;

C. The material discharged;

D. The quantity discharged;

E. A description of the area affected; and

F. Clean-up measures implemented and the date and time of implementation.

The department shall adopt rules to implement this section. Rules adopted pursuant to this section are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.

SUMMARY

This bill provides that a person who causes certain discharges of oil will not be subject to fines or civil penalties if certain requirements are met.

Top of Page

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Amendments | Public Hearing Schedule | Committee Information
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Office of Legislative Information
100 State House Station
Augusta, ME 04333
voice: (207) 287-1692
fax: (207) 287-1580
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