

# Agenda Item #1



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

Minutes of the January 19, 2007 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: Hon. Andrew Ketterer, Chair; Hon. Michael P. Friedman (by telephone); Hon. Jean Ginn Marvin; Hon. A. Mavourneen Thompson (by telephone). Staff: Executive Director Jonathan Wayne; Phyllis Gardiner, Counsel.

At 9:05 A.M., Chair Andrew Ketterer convened the meeting. The Commission considered the following items:

**Agenda Item #1 – Return of Maine Clean Election Act Funds/Thomas Bossie**

Mr. Wayne said that Mr. Bossie returned to the Commission staff the full amount of unauthorized matching funds that he received. Mr. Wayne said that Mr. Bossie stated that he spent the entirety of the authorized funds. Mr. Wayne said that the Commission staff was not yet certain that Mr. Bossie reported his expenditures correctly and recommended putting discussion of this item off until the next meeting.

Mr. Ketterer asked what amounts Mr. Bossie returned and what amounts he may still owe the Commission. Mr. Wayne said that Mr. Bossie repaid funds that were spent on unallowable expenditures, paid a penalty, and returned the unauthorized amount of matching funds. Mr. Wayne said that Mr. Bossie appears to still owe \$4,080 in authorized funds, though Mr. Bossie said that he spent that money on advertising.

Mr. Ketterer recommended that the Commission not wait until the next meeting to make a decision.

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Mr. Wayne said that the Commission staff could request invoices and subpoena Mr. Bossie's campaign bank records.

Ms. Thompson asked why Mr. Bossie has not responded to the Commission's requests. Mr. Wayne said that Mr. Bossie's response was that he already returned all his unspent Clean Election funds.

Mr. Ketterer said that Mr. Bossie refused certified mail from the Commission staff.

Mr. Friedman asked if Mr. Bossie was present at the meeting. Mr. Ketterer replied that he was not.

Mr. Friedman suggested that Mr. Bossie be referred to the Attorney General's Office.

Ms. Ginn Marvin moved, Ms. Thompson seconded, and the Commission voted unanimously (4-0) to refer the collection of Mr. Bossie's unspent Maine Clean Election Act funds to the Attorney General.

#### **Agenda Item #2 – PAC Reporting Issue/Maine Economic Research Institute**

Mr. Ketterer asked whether the Commission had dismissed the complaint against the Maine Economic Research Institute (MERI). Mr. Wayne replied that it had, but that the Commission had postponed a decision on whether MERI should be required to register as a political action committee.

Mr. Ketterer said that would be acceptable to proceed without Mr. Hanson who filed the original complaint against MERI. Mr. Ketterer said that MERI did not appear to meet the definition of a PAC in that it did not function as a funding and transfer mechanism or as a segregated fund.

Mr. Friedman and Ms. Thompson agreed with Mr. Ketterer that MERI was not a PAC.

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Ms. Ginn Marvin moved, and Mr. Friedman seconded, that the Commission adopt the staff recommendation to find that the Maine Economic Research Institute was not a PAC and to consider changes to the statutory definition of a PAC.

Mr. Ketterer said that the voter guide published by MERI did appear to be intended to influence the vote.

The Commission voted unanimously (4-0) to adopt the staff recommendation to find that the Maine Economic Research Institute was not a PAC and to consider changes to the statutory definition of a PAC.

**Agenda Item #3 – Proposed Changes to PAC Definition, §1056-B Reporting**

Mr. Wayne said that proposed changes to the PAC definition would set a \$1,500 threshold of contributions or expenditures that would require an organization with the major purpose of influencing an election to register as a PAC. Mr. Wayne said that an organization without the major purpose of influencing an election would not have to register as a PAC unless it spent more than \$5,000 to influence an election.

John Branson, Esq., objected to Ms. Ginn Marvin's participation in the discussion of any topic affecting the Maine Heritage Policy Center (MHPC). Mr. Branson said that the proposed changes to the PAC definition would not require any reporting from MHPC. Mr. Branson said that he was appealing the Commission's decision regarding Carl Lindemann's complaint against MHPC.

In response to a suggestion by Mr. Branson, Mr. Ketterer said that the Commission members do not hold private meetings and only communicate to discuss the scheduling of meetings.

Phyllis Gardiner joined the meeting.

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Mr. Ketterer asked if the Commission should hold a vote on Ms. Ginn Marvin's recusal. Ms. Gardiner said that there was nothing specified in the rules relating to recusal and that it was up to the individual Commission member.

Ms. Thompson said that recusal would be appropriate for meeting items discussing MHPC specifically, but not for general policy discussions. Mr. Friedman agreed that no recusal was necessary because the Commission was holding a policy discussion and not an adjudicatory procedure. Mr. Ketterer agreed that no recusal was necessary. Mr. Ketterer said that a motion was not necessary but he would make one anyway. Mr. Ketterer moved, and the Commission voted 0-3, to require Ms. Ginn Marvin's recusal from agenda item #3. The motion failed.

Mr. Branson said that he did not receive a copy of the December 27 memo to interested persons on changes to §1056-B reporting. Mr. Branson said that the proposed change was drastic and would eliminate the §1056-B filing requirement. Mr. Branson said that the \$5,000 PAC registration threshold would not include staff time. Mr. Branson said that he preferred that the Commission make no recommendations and wait for a judicial determination.

Ms. Thompson asked about the December 27 memo. Mr. Ketterer said that it would be discussed later in the meeting.

Carl Lindemann said that newspaper editorials portrayed him as curtailing First Amendment rights, but he had not heard any complaints from groups about the reporting requirements.

Daniel Billings, Esq., representing MHPC, said that he became aware of the PAC definition proposal the previous Monday. Mr. Billings said that the Commission staff's December 27 memo was a good-faith effort to notify interested parties. Mr. Billings said that the proposed changes did not result from pressure from MHPC. Mr. Billings said that the changes would draw clearer lines, but it would still be difficult to determine whether activities were meant to influence the election. Mr. Billings said that the Commission should not wait for guidance from the courts and that MHPC would not appeal the court's decision.

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Jonathan Crasnick of Democracy Maine said that Democracy Maine originally requested that MHPC be required to file a §1056-B report, but then decided that it should be required to register as a PAC. Mr. Crasnick said that Democracy Maine was willing to register as a PAC and file the required reports. Mr. Crasnick said that public had a right to know who was influencing elections.

Christopher St. John of the Maine Center for Economic Policy said that the Commission would go too far by requiring MCEP to register as a PAC. Mr. St. John recommended changing the §1056-B requirement instead. Mr. St. John said that the definition of a PAC was already sufficiently detailed and that disclosure requirements should focus on large organizations. Mr. St. John said that the proposed changes would result in less disclosure, since PACs could transfer general support funds from another organization without reporting the original contributors.

Mr. Wayne said that Paul Lavin mailed the memo on proposed changes to all §1056-B filers but did not send a copy to Mr. Branson. Mr. Wayne said that the proposal would strengthen disclosure and was not influenced by any requests from MHPC. Mr. Wayne said that the public was generally not familiar with the §1056-B reports and they were difficult to find on the Commission's website. Mr. Wayne said that he was not aware of any other state with a reporting requirement similar to the §1056-B report. Mr. Wayne said that the Commission was not required to solicit comments from §1056-B filers but did so as a courtesy. Mr. Wayne said that the Commission staff could still withdraw its proposed changes.

Ms. Thompson asked whether the Commission would be receiving guidance from the court. Ms. Gardiner replied that she had not seen the complaint, but that the court would only address the existing statute. Ms. Gardiner said that the court would not be discussing alternatives to the existing law.

Mr. Friedman said that the court's previous case on the appeal filed by Pat LaMarche limited discussion on the merits of the law. Mr. Friedman said that the Commission should not wait for

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a judicial decision. Mr. Friedman said that the Commission should not worry about drafting a perfect bill, since the Legislature would refine it and hold public hearings.

Mr. Ketterer said that it was not necessary to have a proposed bill from the Commission for the Legislature to make changes. Mr. Friedman said that a proposed bill would be a more public process.

Ms. Thompson said that the proposed changes to the statute did not have a consensus and should be discussed further. Mr. Ketterer said that there was a limited amount of time during which the Commission was allowed to present statutory changes to the Legislature. Ms. Thompson said that the Commission needed to discuss the changes further and see the bill proposed by Rep. Cynthia Dill.

Ms. Ginn Marvin said that it was the job of the Commission to propose changes, and the ones put forward by the Commission staff were a good first step.

Ms. Thompson asked what issues needed clarification and suggested the possibility of postponing the bill.

Mr. Friedman recommended sending the bill to the Legislature.

Mr. Ketterer said that there was not much time, and the proposed changes had already been refined by Commission staff. Mr. Ketterer recommended putting the bill forward and letting the Legislature make any further changes.

Mr. Branson said that the Commission did not have the statutory authority to propose changes without due process. Mr. Ketterer said that Mr. Branson's comments were on the record and he could appeal the decision if he wished. Mr. Wayne said that the Commission staff's procedures

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included sending e-mails to all candidates, PACs, and party committees notifying them of the proposed changes.

Ms. Thompson suggested increasing the proposed PAC registration threshold from \$5,000 to \$10,000 and include staff time. Mr. Wayne said that keeping track of staff time would be burdensome.

Ms. Gardiner said that there may be tax issues involved with counting staff time rather than monetary expenditures. Mr. Ketterer said that the Commission should let the Legislature work around those issues.

Ms. Thompson moved that the Commission accept the staff recommendation while amending §1052-A(2) to \$10,000 rather than \$5,000 as originally proposed. The motion failed for lack of a second.

Mr. Ketterer asked if the motion would include staff time toward the \$10,000 threshold. Ms. Thompson said no.

Ms. Ginn Marvin moved that the Commission accept the staff recommendation using the second version of §1052-A(2) proposed by the staff. The motion failed for lack of a second.

Mr. Friedman moved, Ms. Ginn Marvin seconded, and the Commission voted 3-1 to accept the staff recommendation using both alternatives proposed for changes to §1052-A(2). Mr. Friedman, Mr. Ketterer, and Ms. Thompson voted for the motion and Ms. Ginn Marvin voted against it.

Mr. Friedman amended his motion to indicate that the Commission would send two separate bills to the Legislature, each including one of the proposed changes to §1052-A(2). The Commission

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voted 3-1 to adopt the amended motion. Mr. Friedman, Ms. Ginn Marvin, and Mr. Ketterer voted for the motion and Ms. Thompson voted against it.

**Agenda Item #4 – Proposed Rule on Voter Guides and Legislative Scorecards**

Mr. Wayne said that under the proposed changes, organizations could still mail voter guides more than 60 days before the election without triggering filing requirements.

Ed McLaughlin of the Maine Economic Research Institute said that there should be some differentiation between educating the public and an intent to influence an election. Mr. McLaughlin said that the proposed changes should consider electronic communications in addition to printed materials. Mr. McLaughlin said that MERI met with Mr. Wayne and his predecessor William Hain, who said that MERI did not meet the definition of a PAC. Mr. McLaughlin said that MERI had followed the advice given by Commission staff.

Mr. Ketterer said that it was good of MERI to seek guidance by the Commission staff.

Tony Paine of the Alliance for Maine's Future said that educational organizations would not limit their communications to their members.

Mr. Ketterer recommended discussing this item along with agenda item #6.

**Agenda Item #5 – Development of Administrative Policy/Inadequate Documentation of MCEA Expenditures**

Mr. Wayne said that some candidates may have been unaware of the requirement to keep receipts and invoices. Mr. Wayne said that the Commission could consider it a violation to not keep the required documentation. It could consider the undocumented expenditures to be invalid and require candidates to pay back the funds, or it could assess a civil penalty.

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Vincent Dinan, the staff auditor, said that most candidates could provide documentation when asked. Mr. Dinan said that some candidates claimed expenditures with no proof that the expenditure was made and others reimbursed themselves with campaign funds without maintaining a receipt of the transaction.

Ms. Ginn Marvin asked if candidates only needed a receipt if a reimbursement occurred. Mr. Dinan said that candidates also needed proof of payment. Mr. Dinan said that best practice was to use a campaign debit card.

Ms. Thompson asked what percentage of Clean Election candidates was audited. Mr. Dinan said that 20% of candidates for Representative were chosen for an audit and half of those audits were completed.

Mr. Ketterer asked what the staff recommended. Mr. Dinan recommended disallowing the undocumented expenditures.

Ms. Thompson asked how many candidates were found to have undocumented expenditures. Mr. Dinan replied that the staff had found five so far. Ms. Thompson asked about the severity of the undocumented expenditures. Mr. Dinan said that some were large expenditures but most were small.

Daniel Billings, Esq., counsel for the Woodcock for Governor campaign, said that the campaign had to request invoices after the expenditures had been made. Mr. Billings said that the campaign did have cancelled checks as proof of purchase, but it was difficult to get invoices from some businesses. Mr. Billings said that TV stations did not print the invoices until after the ads had run. Mr. Billings said that disallowing undocumented expenditures was the best option. Mr. Billings recommended that the Commission separately consider the five cases of undocumented expenditures. Mr. Billings said that the Commission should look closely at large cash expenditures.

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Ms. Thompson said that the five cases were not a matter of timeliness in getting the required documentation. Mr. Billings said that some businesses may never provide invoices, making disallowance of those expenditures inappropriate.

Ms. Thompson asked Mr. Dinan what the status was of the five cases of undocumented expenditures. Mr. Dinan said that he was working with them to get the requested documentation.

Mr. Ketterer said that some candidates may not have had prior business experience. Mr. Ketterer said that unverified expenditures should still be paid back to the Commission.

Mr. Dinan said that some of the cases of undocumented expenditures would be ready for Commission review at the February meeting. Mr. Dinan said that he would present several options available to the Commission.

Ms. Thompson said that it seemed logical that large expenditures would require documentation. Ms. Thompson said that monetary penalties may be warranted for some of the violations.

Mr. Friedman agreed with the other Commission members, saying that candidates had a responsibility to know the requirements and keep records.

#### **Agenda Item #6 – Presentation of Proposed Statutory and Rule Changes**

Mr. Wayne said that there was a February 7 deadline to submit statutory changes. Mr. Wayne said that a hearing on proposed rule changes would be scheduled for February.

Mr. Lavin said that the staff proposal would allow party committees to provide assistance in addition to advice to candidates, change the entity from “political party” to “state party committee,” and specify that state party committees were limited to providing 20 hours of assistance per candidate.

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Mr. Lavin said that a proposed change would allow radio and television ads to omit the address on the disclosure statement if the candidate financed the expenditure.

Ms. Ginn Marvin asked if any disclosure would be required for an announcement about a candidate receiving an award if there was no express advocacy and it was not a political communication. Mr. Lavin said yes, the proposal would eliminate the requirement to include the address but would not entirely eliminate the disclosure requirement during the presumption period.

Mr. Lavin outlined the following proposed changes to the Commission:

- move the dates when reports must be filed so that matching funds would be based on up-to-date campaign finance information;
- eliminate the requirement for privately financed candidates to file an affidavit stating that they did not exceed 101% of their publicly financed opponent's Clean Election distribution in receipts or expenditures;
- simplify the 24-hour reports;
- clarify record-keeping requirements;
- change the period during which an independent expenditure is presumed to be intended to influence an election to 21 days before a primary election and 60 days before a general election;
- restrict the collection of seed money contributions to Maine residents;
- end the practice of reducing a Clean Election candidate's initial distribution by the amount of unspent seed money remaining;
- require money orders used in collecting \$5 qualifying contributions to be signed by the contributor;
- require gubernatorial candidates to raise a minimum of \$15,000 in seed money as one of the qualifications to receive public funding;

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- allow the Commission to revoke a candidate's certification to receive public funding under certain circumstances; and
- allow the Commission staff to audit lobbyists.

Ms. Ginn Marvin asked if candidates could accept cash as a qualifying contribution. Mr. Lavin said they could accept cash by exchanging it for a money order. Mr. Wayne said that a candidate could accept cash if the contributor signs a money order. Mr. Lavin said that the candidate could not submit \$5 in cash to the Commission as a qualifying contribution. Ms. Ginn Marvin said that she recognized the need for a paper trail.

Ms. Thompson asked if the \$15,000 seed money minimum came with any geographic requirement. Mr. Lavin replied that it did not.

Alison Smith of Maine Citizens for Clean Elections said that the Commission should raise the required number of qualifying contributions rather than adding an additional seed money requirement if it wishes a stronger test for a candidate's validity.

Ms. Ginn Marvin moved, Mr. Friedman seconded, and the Commission voted unanimously (4-0) to accept the proposed statute changes and forward the recommendations to the Legislature.

Mr. Lavin outlined the following proposed rule changes for the Commission:

- require the Commission to meet once a month;
- eliminate the requirement that oral complaints be placed on the agenda for the next Commission meeting;
- allow Commission staff to take testimony for an investigation without the testimony being given at a Commission meeting;
- clarify that Commission members may speak to the press about an issue before the Commission after the 30-day period for filing an appeal has ended;

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- require the circulator of a qualifying contributions receipt and acknowledgement form to sign the form and include his or her address. (Ms. Gardiner said that the printed name should be included as well);
- require verification of voter registrations to be completed by the certification deadline (Mr. Lavin said that in the future, Commission staff may be able to verify voter registrations by computer);
- end the practice of including unspent primary funds in the calculation of matching funds for the general election;
- provide for the Commission to assess a penalty and require the repayment of funds for undocumented expenditures of Clean Election funds after a hearing has been held;
- allow gubernatorial candidates to withhold a portion of their Clean Election funds at the end of the campaign for the costs associated with the audit; and
- require candidates making mileage reimbursements to use the flat rate and keep a mileage log. Mr. Lavin said that many candidates from the 2006 election were reimbursing themselves or their staff for travel and not keeping mileage logs.

Ms. Ginn Marvin said that the Commission should be able to reschedule meetings due to weather. Ms. Ginn Marvin said that the Commission should not be required to meet monthly if there was a lack of business for it to consider. Ms. Gardiner said that there was not a need for language in the rules specifying these exceptions. Mr. Wayne said that the rules did not reflect the statute's requirement that the Commission meet once a month.

Ms. Ginn Marvin asked if candidates were required to reimburse themselves for travel. Mr. Lavin said they were not.

Ms. Thompson left the meeting.

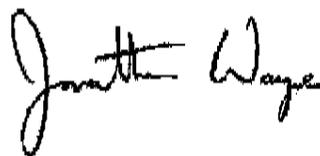
Ms. Gardiner said that some of the proposed rule changes assumed that the proposed statute changes would be adopted by the Legislature. Ms. Gardiner said that the proposed rule changes should be based on the existing statutes.

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Ms. Ginn Marvin moved, Mr. Friedman seconded, and the Commission voted unanimously (3-0) to accept the proposed rules for public comment.

Mr. Wayne said that the hearing on the proposed rule changes would be held on February 14 at 9:00 a.m., followed by the Commission's regular meeting.

Respectfully submitted,

A handwritten signature in black ink that reads "Jonathan Wayne". The signature is written in a cursive style with a large, looped initial "J".

Jonathan Wayne  
Executive Director



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Commission on Governmental Ethics and Election Practices  
Held in the Commission's Meeting Room,  
PUC Building, 242 State Street, Augusta, Maine

Present: Hon. Andrew Ketterer, Chair; Hon. Jean Ginn Marvin; Hon. Mavourneen Thompson;  
Hon. Vinton Cassidy, Hon. Michael Friedman. Staff: Executive Director Jonathan Wayne;  
Phyllis Gardiner, Counsel.

At 9:10 A.M., Chair Andrew Ketterer convened the meeting. Mr. Ketterer reminded the group that the items on the agenda are from the February 14 meeting that was rescheduled to today due to bad weather. Also new matters will be discussed.

**Agenda Item #1 – Proposed Rule Changes rescheduled for March 9 meeting.**

**Agenda Item #2 – Ratification of the Minutes of the October 13, October 20, and November 2 Meetings**

Mr. Wayne noted that there is a name correction on the October 20 meeting and November 2 meeting had a company (Ourso Beychok) referred to as an individual.

Ms. Ginn Marvin moved and Ms. Thompson seconded to accept the minutes as amended. The motion passed (5-0).

**Agenda Item #3 – Assessment of Civil Penalty for Late Filing/Hon. Joshua A. Tardy**

Mr. Wayne explained that Rep. Tardy ran as a traditional candidate in the 2006 election against a Clean Election Act candidate. This required him to file three additional reports, one of which was to be filed when his cash receipts or expenditures went over a certain amount. Since Representative Tardy did not realize that he had gone over that threshold, he did not file this

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report. He did, however, fix the error as soon as he realized it. His opponent was not disadvantaged in any way. Rep. Tardy sent a letter saying that he did not object to the penalty.

Mr. Wayne feels Rep. Tardy was acting in good faith and qualifies for an exception in his penalty. The staff recommends a \$724.71 penalty.

Rep. Tardy was present at the meeting but said that he had nothing further to add to what Mr. Wayne said or to what he wrote in his letter.

Ms. Ginn Marvin moved, Mr. Cassidy seconded to adopt the staff recommendation and impose a penalty in the amount of \$724.71. The motion passed (5-0).

**Agenda Item #4 –Request for Guidance/Hon. Thomas B. Saviello**

Mr. Wayne explained that Rep. Saviello is requesting advice on a conflict of issue matter. Mr. Wayne introduced the various issues confronting Rep. Saviello in the current session of the Legislature. These issues are more thoroughly discussed in the memorandum on this matter that Mr. Wayne wrote for the Commission. There are at least two bills that will be introduced this session that deal with the regulation of emissions of power plants. These bills are a part of a regional effort in the Northeast states to combat the effects of power plant emissions. Rep. Saviello seeks guidance from the Commission on whether he has a conflict of interest in regards to these bills. He is employed by Verso Paper as its environmental manager at its Jay plant. In at least one of the bills, Verso may be required to purchase emissions allowances, which could cost millions of dollars.

Ms. Thompson requested some background information on a prior conflict of interest issue with Representative Saviello during the last legislative session. Mr. Wayne presented a synopsis of the matter considered by the Commission last year.

Mr. Wayne referred the Commission members to the section of the legislative ethics law that he thought was most relevant in this situation: "Where a legislator derives a direct substantial personal financial benefit from close association with a person." So in this case, Rep. Saviello

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does derive a financial benefit (his salary) from close economic association with Verso Paper, Mr. Saviello's employer. Mr. Wayne urged the Commission to consider there could be a substantial financial effect to Verso Paper.

Ms. Ginn Marvin stated she interpreted the law as meaning if the person derived a benefit different from anyone else, like a bonus to that person.

Mr. Ketterer pointed out that the smaller number of people or entities affected by legislation gets, the more likely it gets that someone derives a unique benefit.

Rep. Saviello, District #90, addressed the Commission. He expressed his concern over being able to participate in discussions regarding these bills, being able to vote, and being able to represent his constituents in a fair manner. He requested that the Commission consider his professional and academic background and how that can add to the level of discussion and understanding in the debate on these bills. He asked the Commission to consider three other factors in making their decision. First, he is only one of 186 Legislators and is not single-handedly so powerful that he could get his colleagues to vote his way. Second, he is not on the Natural Resources Committee, nor Utilities and Energy. He is on the Inland Fisheries and Wildlife Committee. Third, he does not have any direct financial interest in Verso Paper; he holds no stocks in Verso and Verso is not a publicly traded company. He also asked the Commission to consider the fact that he represents constituents who depend on the mill for their livelihood and the company's contribution to the community. Rep. Saviello stated that he received over 75% of the vote and that if his constituents were dissatisfied with him or that he had a conflict of interest, they would have voted him out.

Mr. Friedman asked if Rep. Saviello would get any special benefit for getting legislation passed, or receive any better job offers as a result of being in the Legislature. Rep. Saviello said that he did not.

Ms. Thompson asked whether Rep. Saviello could only participate in discussions and not actually vote. Rep. Saviello replied that he believes he could not do one without the other.

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Mr. Dylan Voorhees of the Natural Resources Council of Maine addressed the Commission. Mr. Voorhees stated that he views paragraphs A, E, and F of §1014(1) as describing different types of conflict of interest. Mr. Voorhees thought that paragraph A seemed to relevant in this case. He said that under that paragraph he did not think that any private benefit to Rep. Saviello was a factor. However, NRCM feels that there is a direct economic connection as Rep. Saviello is an employee of Verso and that any person working for the six mills should not participate in any legislation regarding RGGI given that the financial impact on the companies is significant.

Mr. Cassidy asked if any NRCM members were Legislators. Mr. Voohees replied that he was not sure but that it was likely that there were. Mr. Cassidy asked if it would be appropriate for Legislators who were NRCM members to vote on these bills. Mr. Voorhees said that NRCM did not have a financial interest in the bills. He drew a distinction between NRCM employees and members.

Mr. Friedman pointed to the part of §1014 that states "or derives a direct substantial personal financial benefit." Mr. Friedman asked whether Mr. Voorhees interpreted that as Rep. Saviello's salary. Mr. Friedman questioned whether the type of work Rep. Saviello performs would make any difference in the type of conflict of interest. Mr. Voorhees said that he was not sure and would have to look further into the definition. But he did think that it was possible that a janitor who was a Legislator to have a similar close economic association as Rep. Saviello.

Ms. Ginn Marvin pointed out that he is only one out of 151 House members and wonder how much of an effect Rep. Saviello could have on the vote. He does have the expertise and authority in this area and, if she were a Legislator, she would listen to what he had to offer. She does not see any harm in allowing him to vote since he has the knowledge that would benefit other Legislators' decisions.

Mr. Voorhees stated that Mr. Saviello's influence, whether large or small is not the issue, the conflict of interest still exists. His employer has a direct financial interest with this legislation.

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Ms. Ginn Marvin was concerned that Legislators would lose the benefit from hearing the issues debated and discussed by their colleagues who have specialized knowledge about issues that are the subject of legislation. Mr. Voorhees said that this was a particularly difficult decision to make and there were certain trade offs that may have to be made to ensure the public's confidence in the integrity of the Legislature.

Mr. Cassidy noted that we need to keep in mind how the bills will affect jobs in the state.

Ms. Thompson asked Mr. Voorhees if a Legislator can give factual information without being persuasive. Mr. Voorhees said that it would be a very slippery slope.

Dan Riley, Esq., of Bernstein Shur, indicated he is here on behalf of no one, just an interested party. He was involved with the matter that was before the Commission last year, which involved Rep. Saviello. Mr. Riley found it troubling what Rep. Saviello went through last year. This issue is critical to the nature of the citizen legislature. The balance of opinion that needs to be brought to bear on the consideration of legislative matters is lost if members of the public who work for manufacturing organizations (mills) do not feel comfortable serving in the Legislature and representing their constituents because of this sort of issue. Mr. Saviello's background and expertise is very important to other Legislators that do not have a great deal of knowledge in this area. NRCM has board members serving on the Natural Resources Committee – no one claims conflict of interest there.

In his experience working at the State House, the clause of section 1014(1)(A), which states, "direct substantial personal financial interest distinct from that of the general public" and the clause in paragraph (F) of §1014(1), "benefit has to be unique from that of the general public and persons engaged in similar professions, trades, employment" have been read together by the Attorney General and the presiding officers and their counsels. This interpretation creates a bright line. It could be more artfully drawn perhaps, but it is bright. It states that, as a Legislator, you or family have to directly and personally benefit financially which is different from anyone else in the class. That unique benefit is the quid pro quo of a conflict of interest.

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Mr. Riley strongly urged, if that distinction is not made, you put at risk our citizen legislature and severely diminish the group who can act as Legislators.

Ms. Thompson asked about the appearance of misconduct by Legislators. Mr. Riley responded that the only appearance of misconduct would be if the Legislator directly benefited financially.

Kim Davis, former Legislator from Augusta, addressed the Commission. Because Maine has a citizen legislature, many of its members have many issues about which they feel very passionate. She stated that she has spoken out very passionately about certain issues in front of the Health and Human Services Committee and supposes that her purpose could be misconstrued because her husband works in that area. She feels Rep. Saviello has always been very respectable and is in the Legislature for all the right reasons.

Rep. Saviello made one final comment that the interests of his constituents were also at stake in this legislation because of the potential for increasing the cost of electricity.

There being no further public comment, Mr. Ketterer asked Mr. Wayne if he had any concluding comments.

Mr. Wayne concluded that most of the comments today pertained to any harm that could come from Rep. Saviello voting on these issues. Rep. Saviello should be commended for coming forward on this matter. Mr. Wayne also confirmed that this does affect a small group of organizations. There is an argument since the financial affect to Verso could be \$5 to \$15 million dollars so there could be conflict of interest for Rep. Saviello to vote on either of these bills.

Even though there are several cases that deal with whether a Legislator derives a personal benefit from proposed legislation, that is not the whole universe of what constitutes a conflict of interest. There are other ways to interpret the statute. Mr. Wayne pointed out that if there were a payment from the State to Verso that none of the other power plants received, that would be a conflict of

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interest if Rep. Saviello voted on that particular bill. We have not seen that exact legislation, but if it were to be presented that way, Mr. Wayne feels that would be a direct conflict of interest.

Mr. Cassidy reminded the group that these 5 – 7 plants employ many people and jobs are affected. Every one of the Legislators at some point is going to deal with bills that affect their area. Mr. Cassidy strongly believes if it does not benefit the Legislator's family then that is where the line should be drawn.

There being no further comments, a motion by Ms. Thompson that the Commission recommend Rep. Saviello participate in discussions about all legislation facing his committee, providing factual information pertaining to this particular legislation, but that he recuse himself from voting on the legislation that is relevant to the topic before us when it is before the House.

The motion failed to receive a second.

Mr. Friedman noted that any decision would be an individual one involving a particular bill. It is difficult to recommend or advise on whether to refrain from doing something until there is an actual bill to reference. We could give advice on whether he can participate in the process, and if the bill surfaces, then Rep. Saviello would make the decision.

Mr. Cassidy stated that he does not believe in restricting any Legislator to what he or she can and cannot talk about or be involved with. We need to trust in our representatives to do the right thing and let Rep. Saviello go do his job at the State House.

Mr. Friedman stated in the legislative area conflict of interest issues should be kept to a minimum. The make up of the Legislature is working people who give up much of their time, and where they are employed should not be a disqualification. Mr. Friedman believes it would be a disservice to the public to start excluding Legislators from voting on issues that deal with their area of expertise.

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Ms. Ginn Marvin commented that she agrees with Mr. Cassidy, Rep. Saviello should just do his job at the State House.

Ms. Thompson referred to §1014's conflict of interest and appearance of misconduct by Legislators. She also spoke of the interpretation by 'the man on the street' and how it would look. She believes Rep. Saviello can provide factual information, but should recuse himself from any final votes on these bills.

Mr. Ketterer commended Rep. Saviello for coming in to get some advice in advance. He agrees with Ms. Thompson regarding the need to avoid appearance of impropriety, but acknowledged that it was difficult to advise without a particular bill. Maine does not want a full time Legislature, we want different people who bring different skills and knowledge to the Legislature. The Commission does not want to get into the practice that would exclude votes by certain Legislators. Mr. Ketterer agreed with Mr. Friedman, unless there is a particular bill to be discussed, it is difficult to give direct advice.

Mr. Friedman motioned that the Commission issue an advisory opinion which indicates it would not be a conflict of interest for Rep. Saviello to participate in the legislative process with regard to the RGGI initiative but the Commission would strongly urge Rep. Saviello to consider whether he should recuse himself from voting on any particular bill regarding RGGI which may affect Verso, so any conflict is avoided.

Ms. Thompson seconded this motion.

Mr. Cassidy reiterated that he does not feel the Legislators should be restricted in any way from performing their duties on any initiatives. He opposes this motion.

Ms. Ginn Marvin asked whether an employer would need to be named in the bill.

Mr. Friedman feels it would be an individual decision, naming employer is not a factor. Rep. Saviello will need to make the ultimate decision whether it is a conflict to vote.

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Ms. Ginn Marvin noted that in her six years in the Legislature, she does not recall there being a conflict of interest being brought up. The nature of the citizen's legislature means there is a connection with all Legislators at some point to the issues. The Commission needs to be cautious about restricting.

Mr. Cassidy asked why we need a motion.

Mr. Friedman suggested that since Rep. Saviello asked for advice, he deserves to know where the Commission stands.

Ms. Gardiner advised that procedurally, the Commission has been asked to give an advisory opinion, so really need to provide something.

Rep. Saviello expressed concern over whether he would be allowed to vote on workers compensation and tax issues since they all affect Verso Paper.

Mr. Friedman stated that was not his intent. He does not want to restrict Rep. Saviello. Mr. Friedman reiterated that his motion pertained only to the REGGI initiative bill and Ms. Thompson concurred.

Mr. Ketterer asked for a vote on Mr. Friedman's motion. Vote was 3 in favor, 2 opposed (Ms. Ginn Marvin and Mr. Cassidy opposed) to adopt the pending motion.

Mr. Wayne explained that Rep. Saviello has two other bills that he foresees as having the same issue. One is for water quality that would affect Androscoggin River and the other is pertaining to company's duty to report when they spill oil. Mr. Wayne asked the Commission if he should develop something in writing at the staff level that includes what was discussed here today.

Mr. Ketterer felt that would be appropriate.

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**Agenda Item #5 - Complaints/Carol Grose and Susan Wasserott Campaigns postponed until May 14, Meeting**

**Agenda Item # 6 – Assessment of Civil Penalty for Late Filing/Hon. Kimberly Davis**

Mr. Wayne explained briefly that Kimberly Davis ran for re-election in 2006, privately financed with a publicly funded opponent and should have filed an accelerated report on October 16, 2006. It was filed one day late, and she went over by \$67. Her opponent, Kim Silsby, who won the election, was not disadvantaged in any way. A penalty of \$67 is being recommended since Ms. Davis did not act in bad faith.

Kimberly Davis addressed the Commission. She thanked Sandy Thompson for all her help through her campaign.

Motion by Ms. Ginn Marvin to adopt the staff recommendation of \$67 penalty for late filing; seconded by Mr. Cassidy. The motion passed (5-0).

A fifteen minute recess was called.

**Agenda Item #7 – So. Portland Democratic Committee Reconsideration postponed until 3/9/07**

**Agenda Item #8 -Request for Waiver of Late Filing Penalty/Opportunity Maine PAC**

Jeremy Collette, Treasurer for Opportunity Maine addressed the Commission via phone.

Mr. Wayne briefly described the circumstances around the late filing of the PAC report. It should have been filed October 10, 2006, by 5:00 p.m. The report was filed seven minutes late. Mr. Wayne informed the group that the staff never grants waivers to penalties for late-filed reports because the 5:00 p.m. deadline is firm. The PAC did have a problem with his Macintosh computer and there is currently an issue with Apple computers being able to access the e-filing system. Because he was not able to use his computer, Mr. Collette moved to another computer but the delay caused him to be late. The staff feels he tried in good faith and believes the \$106 penalty should be waived.

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Mr. Collette had no further comments.

Ms. Ginn Marvin recused herself from this matter since her nephew is active in Opportunity Maine.

Mr. Friedman moved to accept the Commission staff recommendation under the circumstances, the late filing penalty be waived; seconded by Ms. Thompson. The motion passed with Ms. Ginn Marvin abstaining.

**Agenda Item #9 (Expenditure Reports) and #10 (Nancy Bessey penalty) moved to March 9.**

**Agenda Item #11 – Request for Waiver of Late Filing Penalty/Todd Brackett**

Mr. Wayne explained that Mr. Brackett was running for county sheriff in Lincoln County in the general election. The request for waiver is from the Treasurer, Penelope Card. The report was due November 1, it was two days late, which would require a \$74.60 by statute. Ms. Card's reason for requesting the waiver was due to an accident on October 25 and a power outage shortly thereafter. The Commission staff feels a waiver is appropriate under the circumstances.

Ms. Ginn Marvin moved and Mr. Friedman seconded to adopt the staff recommendation of finding in violation but no penalty. The motion passed (5-0).

**Agenda Item #12 – Request for Waiver of Late Filing Penalty/Christopher Wainwright**

Mr. Wayne explained that Mr. Wainwright was a candidate for sheriff in Oxford County in the election. The request is brought by his Treasurer, Lynn Cameron. The report was due on December 19. Ms. Cameron's husband had a stroke two days before the report was due. She called one day late to notify the Commission of what was happening and she paid the penalty of \$20.18, recognizing that there may or may not be a waiver. The staff feels this is a valid reason for being late and recommends a waiver and refund of the penalty she paid.

Ms. Thompson moved and Mr. Friedman seconded to adopt the staff recommendation and refund Ms. Cameron her \$20.18 payment. The motion passed (5-0).

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**Agenda Item #13 – Request for Waiver of Late Filing Penalty/Gerald York**

Mr. Wayne recommended a staff recommendation of a waiver for this penalty. Mr. York was running for county commissioner in Somerset County, filed one day late due to the fact his daughter-in-law was hospitalized for emergency surgery the day the report was due. Mr. York filed one day late.

Ms. Thompson moved and Mr. Friedman seconded to adopt the staff recommendation. The motion passed (5-0).

**Agenda Items #14, 15 and 16 are rescheduled for March 9 Meeting**

#14 Request for Waiver of Late Filing Penalty/Bernard Ayotte

#15 Referral to Attorney General for Failure to Pay Civil Penalty/David Hughes

#16 Referral to Attorney General for Failure to Pay Civil Penalty/Arthur Clement

**Referrals to Attorney General for Collection of Unspent MCEA Funds:**

**Agenda Item #17 David Hughes was resolved.**

**Agenda Item #18 – Arthur Clement**

Mr. Wayne explained that Mr. Clement declined to be present for this meeting. Mr. Clement is a former Legislator who ran as a Clean Election candidate for House district 29 in the 2006 general election. Mr. Clement originally was unresponsive to staff requests to return unspent MCEA funds. When he finally did come forward, he said that he received a check for approximately \$4,000 that he believed was a tax rebate, and he instructed his daughter to deposit it in his personal account since he was in Florida. He spent the money on personal expenses, including his mortgage. He knows he owes the State \$5,988 of unspent MCEA funds. Mr. Clement has proposed to repay this amount within a year, paying \$50 a month. Mr. Wayne expressed hesitation to work out an amicable plan, since Mr. Clement chose not to appear at this meeting to explain his case. Staff recommendation is to refer this case to the Attorney General's Office for civil action.

Ms. Thompson asked if there is anything on the check that indicates MCEA funds.

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Sandy Thompson, candidate registrar, explained that Mr. Clement learned later what the money was for and still did not attempt to explain where the money had gone. He only indicated he had hoped to have the money back by the December 19<sup>th</sup> filing.

Mr. Cassidy noted that there is usually a voucher with any State check that explains what the funds are for and he supports the staff recommendation.

Ms. Gardiner asked what communication he received from the Commission that told him the check was a Clean Election check for his campaign.

Mr. Wayne explained that there is a form letter regarding initial MCEA payment and also one for the general election matching fund money.

Ms. Ginn Marvin asked what the check for \$6,949.33 represented.

Mr. Wayne clarified that Mr. Clement received matching funds that he was not authorized to spend and he refunded that amount (\$6,949.33). The money he was authorized to spend (\$5,988) he spent on personal expenses.

Ms. Gardiner noted that he wrote the check for return of unauthorized matching funds (\$6,949.33) out of his personal account and not his campaign account.

Mr. Lavin did clarify that the check does say "general election initial distribution" or "general election matching funds."

Ms. Ginn Marvin suggested in the future redacting social security numbers on documents we have in the candidates' files.

Ms. Gardiner pointed out that the facts suggest there may be commingling of funds in addition to the unauthorized funds still outstanding. She said additionally, the statute authorizes the

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Commission to impose a penalty when a candidate fails to comply with the Clean Election Act rules, which may be the case if commingling of funds has in fact occurred. Additional fact-finding would determine this. Discussion followed on how to refer the case to the Attorney General's office, with the commingling of funds or just retrieval of the unauthorized funds.

Mr. Wayne pointed out that the other possible violations include commingling and spending the MCEA funds on personal expenses. If the Commission chooses to also take action on these issues, Mr. Wayne suggested putting off for one month and giving Mr. Clement a chance to respond again. The Commission could assess penalties at its next meeting and, if necessary, make a referral to the Attorney General.

Ms. Thompson and Mr. Cassidy supported this option, which would support penalties for mishandling and commingle of funds in addition to retrieval of the MCEA funds.

Ms. Thompson made a motion to refer this issue back to the staff to determine whether commingling and misuse of funds have occurred in addition to retrieval of unauthorized funds.

Seconded by Mr. Cassidy. The motion passed 4-0 (Mr. Ketterer abstaining).

The Commission further authorized Mr. Wayne to subpoena Mr. Clement's bank records by motion of Ms. Ginn Marvin, seconded by Mr. Friedman for the purpose of determining whether funds were misused. The motion passed 4-0 (Mr. Ketterer abstaining). Mr. Ketterer requested Ms. Ginn Marvin sign the subpoena due to his abstention.

**Agenda Item #19 – Paul Nixon was resolved.**

**Agenda Item #20 – Debra Reagan**

Mr. Wayne noted that Ms. Reagan has filed her final campaign finance report that shows a balance of unspent funds of \$4,518.00. Ms. Reagan is aware that she still owes this money. She has told the staff that she has not spent the money, but has not been able to be contacted since

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has told the staff that she has not spent the money, but has not been able to be contacted since mid-December 2006. Since she has not responded to several mailings and attempted phone calls, Mr. Wayne feels the only alternative is to refer the issue to the Attorney General.

Mr. Friedman made a motion to follow staff recommendation to refer this issue to the Attorney General's office for collection of unspent Clean Election funds totaling \$4,518; seconded by Ms. Thompson.

There being no discussion, the motion passed with a vote of 5-0.

#### **Agenda Item #21 – Presentation of Audit Reports**

Mr. Dinan, staff auditor, reported on the results of five audits. Four had no exceptions. Candidate Brian Rines, ran for senate in District #21, misreported on his 42-Day Post-Primary Report. The error appears to be an inadvertent error, after Commission staff notified Mr. Rines of the error, the report was amended. Mr. Dinan recommends finding in violation with no penalty.

Mr. Cassidy moved to accept the staff recommendation; the motion was seconded by Mr. Friedman. The motion passed by a vote of 5-0.

#### **Agenda Item #22 – Subpoena of Bank Records of Thomas Bossie**

Mr. Wayne explained three subpoenas that will be required; one for bank records, one for the Bridgton News, and one to Mr. Bossie. There have been a number of red flags beginning with routine reviews of his campaign finance reports through getting his Clean Election funds back from him after the election. The staff had a great deal of difficulty getting Mr. Bossie to return the balance of his unspent Clean Election funds. It was only after applying a lot of pressure, including a referral to the Attorney General, did Mr. Bossie return any funds and amend his final campaign finance report. The Maine Republican Party has also filed a complaint against Mr. Bossie alleging the misuse of public funds to pay for advertising for Mr. Bossie's business. Mr. Wayne indicated that looking at his bank records and other records to verify whether he actually

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spent the money as claimed in his campaign finance reports, whether he misused public funds for personal purposes, and to be sure he has returned all funds.

Ms. Ginn Marvin moved to adopt the staff recommendation to issue subpoenas to the Bridgton News, Evergreen Credit Union, and Mr. Bossie to obtain information necessary to balance the campaign account; the motion was seconded by Mr. Cassidy. The motion passed (5-0).

There being no further business, Ms. Ginn Marvin motioned to adjourn the meeting; Mr. Cassidy seconded.

Respectfully submitted,

A handwritten signature in black ink that reads "Jonathan Wayne". The signature is written in a cursive style with a large initial "J" and a long, sweeping underline.

Jonathan Wayne  
Executive Director



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

Minutes of the April 6, 2007 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: Hon. Andrew Ketterer, Chair; Hon. Jean Ginn Marvin; Hon. Vinton Cassidy; Michael Friedman; Jonathan Wayne, Executive Director; Phyllis Gardiner, Counsel. Hon. Mavourneen Thompson by telephone conference.

At 9:13 A.M., Chair Ketterer convened the meeting. Mr. Ketterer reminded the group that the items on the agenda are a portion of the April 5 meeting agenda that was rescheduled to today due to bad weather.

**Agenda Item #1 – Ratification of November 20 and December 12 Meetings**

Ms. Ginn Marvin moved, Ms. Thompson seconded, and the Commission voted unanimously (4-0) to ratify the minutes of the November 20, and the December 12, 2006 meetings.

Mr. Cassidy joined the meeting.

**Agenda Item #2 – Karl W. Turner Request for Recommendation**

Mr. Wayne informed the group that this request came about when he was before the Appropriations & Financial Affairs Committee last month when the question came up as to whether the MCEA may have a short fall in funds during the next election (2010) for governor which could possibly require the Commission to restrict candidates for governor. At that meeting, Senator John Martin stated that the Legislature could, through an amendment to the budget bill, end funding for gubernatorial candidates.

Senator Turner asked for a recommendation from the Commission as to whether there should be a repealing of the 1996 MCEA law which includes gubernatorial candidates. Mr. Wayne stated a few different options that would be possible. 1) Support funding for gubernatorial candidates as was past in the 1996 law; 2) Commission only administers the program that was passed by the citizens, changes

Commission on Governmental Ethics & Election Practices  
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should come from the Legislature; 3) Publicly funded candidates should not be part of the MCEA program any longer (that is not was Mr. Wayne would recommend since the law was passed by the citizens.) Mr. Wayne feels any repeal should be a public process. There are currently six bills before the Legislature to make it more difficult to qualify for MCEA funds for candidate for governor.

Alison Smith, co-chair, ME Citizens for Clean Elections, addressed the board. Ms. Smith stressed that the citizens created MCEA, voters passed and the law states the Commission is in charge of administering the MCEA. Overall this is a very successful program, the system works well. Over the years, the system has been 'tweaked' to keep it working well. Ms. Smith spoke to the issue of the Legislature borrowing money against the MCEA fund and have not returned all the money back to the Fund. She informed the group that the original process established a funding mechanism to build up the Fund over a four year cycle in a dedicated, non lapsing fund in order to provide for future use during an election year. Ms. Smith believes that borrowing against the Funds has created the current funding shortfall.

Ms. Smith also strongly urged the Commission not to tamper with the matching funds process, since it is a successful mechanism for the MCEA. She believes this is a cash flow issue and not a funding issue.

Ms. Smith also noted that Senator Martin's suggestion that the Appropriations Committee do away with the gubernatorial financing would be undemocratic since this was a citizen initiative. It would undermine the law that the citizens voted on; they should be the ones to decide on a repeal by way of public vote. In closing, she stated that the MCEA has provided many people the opportunity to run for public office that would not have been able to do so if it were not for this program.

Mr. Ketterer noted that there were two additional materials pertaining to this matter. One, a letter from the League of Women Voters of Maine, and a second letter from Jon Bartholomew, Common Cause Maine.

After a lengthy discussion, the Commission felt that its role was to only administer the MCEA, not make changes to it since it was a citizen's initiative. If the Legislature wants to make changes to it, they would be the body to do so.

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Mr. Friedman stated that he believes the Commission should be more focused on getting the money back into the MCEA where it belongs instead of changing the rules for gubernatorial funding. The program has been successful overall.

Mr. Ketterer believes major policy issue changes are not the responsibility of the Commission. He also confirmed that the economic shortfalls due to previous legislative actions play a major part in the current funding problems.

After further discussion, the Commission agreed that the best action to take would be a letter to the Appropriations & Financial Affairs Committee in support of funding the gubernatorial candidates as the law is currently written.

#### **Agenda Item #3 – Proposed Changes to Commission Bill**

Mr. Wayne explained that since the bills submitted to the Legislature have not been printed, the staff has made a few amendments. Regarding the gubernatorial election, in addition to having candidates in order to qualify for governor collect \$15,000 they also would be required to file documents in support of the qualifying forms. The commission also would audit all MCEA candidates running in the gubernatorial races. Mr. Wayne handed out a chart regarding the timing of matching funds for gubernatorial candidates. The staff proposes to provide a larger initial payment in June in order to give them access to money earlier in their campaigns.

Mr. Cassidy motioned to accept the staff recommendation and include these amendments to the proposed bills submitted to the Legislature, Ms. Ginn Marvin seconded. The Commission voted unanimously (5-0) to adopt the staff recommendation.

#### **Agenda Item #4 – Adoption of Changes to Commission Rules**

Paul Lavin, Assistant Director, outlined the comments received and changes the staff has recommended. These changes were not made because of comments received. In Chapter 1, the following changes are recommended:

- Eliminating the 15 day period to correct errors on reports – eliminate that rule and let staff determine on case by case basis.

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- Clarification of existing rule – how filers (candidates and PACs) should report expenditures made by consultants or other agents. Need more clarification on reports, should be itemized, as it states in the rule.
- Delete a proposed rule regarding voter guides and legislative score cards as an expenditure. This was as a result of the MERI Voter Guide questionnaire distributed back in the fall. There are currently several bills proposed that will change this rule also. If any of the bills pass, we can do another rulemaking to make the changes.

Chapter 3 changes as follows:

- Receipt and Acknowledgment form changes. In order to verify validity, proposes include having circulators sign the form, attest to validity of contributions and the staff recommends requiring a phone number be a voluntary option.
- Request for certification process. This is a staff initiated change, mainly to clarify the process; it keeps the same requirements; however, if all the required documents cannot be provided by the deadline, the candidate may request a waiver to submit the documents after the deadline. The receipt and acknowledgment forms and the qualifying contributions would have to be received by the deadline.
- Matching funds section, how seed money would be handled was inadvertently left out. No change, just originally not included.
- Travel reimbursement expense – how candidates reimburse themselves and how to keep track of these expenses.
- Gubernatorial MCEA candidates should be allowed to reserve a sum of money for auditing expenses for gubernatorial candidates. The staff proposes increasing the amount to \$2,000 for unsuccessful candidates for the primary election and \$3,500 for general election.

Alison Smith asked what other monies could be used for an audit if there were no reserve amounts. Ms. Gardiner stated that since it was a post election issue and would not influence the election, then monies raised or received would not be contributions towards elections and would not need to be reported.

Mr. Friedman made a motion to adopt the proposed amendment to the routine rule changes in Chapter 1, seconded by Ms. Ginn Marvin. The Commission voted unanimously (5-0) to adopt.

Commission on Governmental Ethics & Election Practices  
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Mr. Friedman made a motion to adopt the amendments to the major rule changes in Chapter 3, seconded by Mr. Cassidy. The Commission voted unanimously (5-0) to adopt the staff recommended rule changes in Chapter 3.

### **OTHER BUSINESS**

Mr. Wayne advised the Commission of the statute requiring the submission every four years of a report on how the MCEA is running. The draft report is ready for the Commission's review.

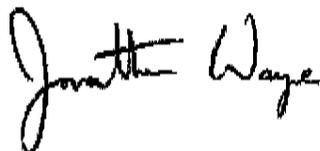
Positive affects of MCEA, explained in the report: In legislative races, helping caucuses recruit more candidates; fewer uncontested elections; new people are running as public candidates. Mr. Wayne pointed out that the report tries to portray the Commission as only administrator of the law, not cheerleader for the law.

Mr. Ketterer stated this was his last Commission meeting, after serving five years. He believes the Commission should remain as a quasi-judicial group, so rules are based on evidence not party affiliation. He also reminded the group of the statute, which states the Commission will be comprised of "no more than two people from the same political party."

Mr. Ketterer thanked his previous and present co-commissioners and expressed appreciation of the Commission staff.

There being no further business, the meeting adjourned at 10:25 a.m.

Respectfully submitted,

A handwritten signature in black ink that reads "Jonathan Wayne". The signature is written in a cursive, flowing style.

Jonathan Wayne  
Executive Director

# Agenda

## Item #2



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

March 30, 2007

Hon. Philip A. Cressey  
PO Box 183  
Cornish, ME 04020

Dear Representative Cressey:

This is to ask you for a little more information to assist the Ethics Commission in resolving the audit finding regarding your June 28, 2006 payment of \$517.63 to Staples. Please understand that we are simply trying to confirm that the payment was made for campaign-related purposes as required by statute and to confirm that Staples received a payment in this amount.

You explained in your January 18, 2007 letter that you had a receipt for the payment, but cannot locate it now. In your letter you also stated that the \$517.63 payment was for

printing of 2000 copies of my flyer handed out at the four parades and three fairs during the summer months, on yellow card stock and printed on both sides. Plus a ream of 125 card stock blank yellow paper.

In addition, you stated that "Staples can verify this expense." Following up on your suggestion, I faxed the attached letter today to managers at the Staples in North Windham hoping to verify the expense. I received a telephone response from Michele Hardin, a manager at the store, who said:

- She ran various searches for payments her store received and could not find the payment. In particular, she ran a search for payments her store received in the range of \$450 - \$550 within the dates of June 1 - July 25, 2006. She could not find a purchase within those ranges for printing and cardstock.
- A ream of card stock would cost \$4.34. Photocopying with one color only (black) costs eight cents per page. So, a copying job of 2,000 pages with both sides (4,000 sheets) would cost only \$320. A print job with more than one color costs thirty-nine cents per sheet. Without more information, she was unable to confirm that the purchase you described would cost \$517.63.

OFFICE LOCATED AT: 242 STATE STREET, AUGUSTA, MAINE  
WEBSITE: WWW.MAINE.GOV/ETHICS

Hon. Philip A. Cressey

- 2 -

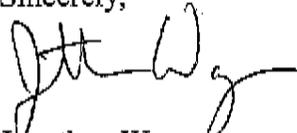
March 30, 2007

If you could provide the following information at the April 5, 2007 meeting, I believe it could help the Commission resolve the audit finding.

1. Please provide the Commission with information about the printing job at Staples, including whether more than one color was printed on the flyers and how many sheets were involved in the printing. In other words, can you give the Commission some idea of why the card stock and printing job cost \$517.63?
2. Please bring a copy of the flyer with you to the meeting.
3. In order to assist the Commission in confirming that Staples received a payment of Maine Clean Election Act funds in the amount of \$517.63, please explain how it is that you wrote check #108 to yourself in that amount. For example, did you go to Staples to determine that the exact price of the print job and card stock, later cash check #108 at TD Banknorth in the amount of \$517.63, and then return to Staples to make a cash payment in the amount of \$517.63?

Thank you for being prepared to help the Commission better understand the expenditure when it is considered at the April 5, 2007 meeting. Please feel free to call me or the Commission auditor at 287-4179 if you have any questions.

Sincerely,



Jonathan Wayne  
Executive Director

cc: Vincent W. Dinan, Commission Auditor



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

March 30, 2006

**Faxed to (207) 892-1744**

Michele Hardin or Ken Hagan

Staples

770 Roosevelt Trail

North Windham, ME 04062

Dear Sir/Madam:

The Maine Commission on Governmental Ethics and Election Practices has been conducting a routine audit of a candidate for the Maine State Legislature in 2006. This type of audit is strictly routine, and is conducted of 20% of legislative candidates who receive public funds for their election campaigns.

One of the candidates we are auditing is unable to locate a receipt for a purchase made at your store last summer, and he suggested that we attempt to confirm the purchase through your store. We are simply trying to confirm that the purchase took place and that the goods he states he purchased is consistent with the cost. The candidate states that on June 28, 2006, he made a cash purchase in the amount of \$517.63. He states that he bought one ream of 125 card stock yellow paper, and had 2,000 copies of a flyer printed at your store.

You could help us in two ways:

- If there is any way you could confirm a purchase in that amount on that date, we would greatly appreciate it.
- If you can confirm whether or not a ream of card stock paper and the photocopying job described would cost about \$517.63, that would also be very helpful.

Thank you very much for whatever assistance you can provide. My telephone number is 287-4179 if you would like to discuss the request.

Sincerely,

A handwritten signature in black ink, appearing to read 'Jonathan Wayne', written over a printed name and title.

Jonathan Wayne  
Executive Director

OFFICE LOCATED AT: 242 STATE STREET, AUGUSTA, MAINE  
WEBSITE: WWW.MAINE.GOV/ETHICS



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: March 29, 2007  
Re: Audit of Rep. Philip A. Cressey

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Rep. Philip A. Cressey was a candidate for re-election to the House of Representatives in the 2006 elections. He was selected at random to be one of the 20% of Maine Clean Election Act (MCEA) legislative candidates who were audited. I have attached the final audit report. It includes a January 18, 2007 letter from Rep. Cressey responding to the two findings in the audit report.

#### **Timing of Audit**

Rep. Cressey complains that the Ethics Commission's audit of his campaign should not have begun in the last month before the November 7, 2006 election. I agree that in the last four to six weeks before a general election, candidates should not be burdened with responding to audit requests from the Commission. That will be the staff policy in 2008. In fact, in 2008 the staff is leaning toward conducting all audits of candidates after the general election. I disagree, however, with Rep. Cressey's view that the timing of the Commission's audit somehow caused the Representative to lose a receipt.

### **Record-Keeping Requirements**

MCEA candidates are required to keep two documents for expenditures over \$50:

- a receipt or invoice from the vendor which demonstrates that the goods or services purchased were campaign-related;
- a canceled check, bank statement, credit card statement or other document proving that the vendor received a payment from the campaign.

Candidates are not required to submit these records to the Commission unless they are requested, but they are required to keep them for two years after the election. The Commission has found in conducting these audits that a significant number of candidates are unaware of these requirements.

### **Finding #1: Rep. Cressey's Payment of \$517.63**

On June 28, 2006, Rep. Cressey wrote a check in the amount of \$517.63 to himself. He told the Commission auditor that he cashed the check and used the cash to pay Staples for a ream of 125 yellow card stock and for the printing of 2,000 copies of a flyer on yellow card stock that was handed out at four parades and three fairs. Rep. Cressey states that he kept the Staples receipt for the expenditure, but after faxing his receipts to the Commission's auditor he accidentally dropped a file folder and cannot now relocate the receipt.

The Commission's audit discloses that Rep. Cressey does not have written proof that Staples received a payment of \$517.63 or a receipt or invoice from Staples proving what goods or services were purchased. Rep. Cressey notes that he wrote "Staples Printing"

on the personal check which supports his explanation that the amount of the check was intended for Staples.

I recommend that you hear Rep. Cressey explain the goods he purchased. If you find him to be credible that the purchase was for goods that were campaign-related, I recommend that you do not disallow the expenditure which would require him to repay \$517.63.

I am sympathetic to the view that in order to educate candidates about the requirement to keep records of expenditures and to encourage compliance it could be helpful to impose some sanction against candidates that do not keep the required records. In this case, however, if the Commission is convinced that Rep. Cressey used the \$517.63 to buy campaign-related goods and services, I do not favor as a remedy disallowing the expenditure and requiring Rep. Cressey to return the funds.

#### **Requirement to Sell Goods that Could be Converted to Personal Use**

Candidates who use MCEA funds to buy goods that could be converted to personal use (e.g., computers, software, cell phones, printers) are required by the Commission's rule to sell them at fair market value and return the proceeds to the Commission. This is to prevent candidates from using the MCEA in order to buy goods that they will use personally after the election. Few candidates buy electronics equipment with that intention and I do not believe that was the intention of Representative Cressey.

**Finding #2: Purchase of Flash Drive for \$62.50**

Rep. Cressey states that he designed three mailers and one palm card, and was unable to send them by e-mail to his printer in New Hampshire. Because his computer does not let him copy files on to compact discs, the printer advised him to buy a "flash drive". A flash drive is a small piece of equipment (about the size of one's thumb) that can be plugged into a computer to save a large amount of data. Rep. Cressey states that he hadn't heard of flash drives previously, but bought one for \$62.50 at Staples. He copied the material onto the flash drive and mailed it to the printer.

Rep. Cressey states that he did not understand that the flash drive could be reused, and he thought it was a disposable item similar to a compact disc (CD). Initially he told the auditor that he had kept the flash drive, but later realized he threw it away.

In my view, Rep. Cressey did not comply with the Commission's rule, which is explained in the Commission's expenditure guidelines. Because the item cost \$62.50, it would have been preferable if he had considered whether the item was something that could have some personal value to him or someone else after the campaign.

I would urge you to hear from Rep. Cressey at the April 5 meeting. If you find his explanation credible, I would suggest finding him in violation of the Commission's rule but not asking him to reimburse the Commission for the device. He states that he no longer has it, so he is unable to make use of it himself or to find a buyer. Thank you for your consideration of these points.

## Title 21-A, §1125, Terms of participation

**12-A. Required records.** The treasurer shall obtain and keep:

A. Bank or other account statements for the campaign account covering the duration of the campaign; [2005, c. 542, §5 (new).]

B. A vendor invoice stating the particular goods or services purchased for every expenditure of \$50 or more; and [2005, c. 542, §5 (new).]

C. A record proving that a vendor received payment for every expenditure of \$50 or more in the form of a cancelled check, receipt from the vendor or bank or credit card statement identifying the vendor as the payee. [2005, c. 542, §5 (new).]

The treasurer shall preserve the records for 2 years following the candidate's final campaign finance report for the election cycle. The candidate and treasurer shall submit photocopies of the records to the commission upon its request. [2005, c. 542, §5 (new).]

**13. Distributions not to exceed amount in fund.** The commission may not distribute revenues to certified candidates in excess of the total amount of money deposited in the fund as set forth in section 1124. Notwithstanding any other provisions of this chapter, if the commission determines that the revenues in the fund are insufficient to meet distributions under subsections 8 or 9, the commission may permit certified candidates to accept and spend contributions, reduced by any seed money contributions, aggregating no more than \$500 per donor per election for gubernatorial candidates and \$250 per donor per election for State Senate and State House candidates, up to the applicable amounts set forth in subsections 8 and 9 according to rules adopted by the commission. [IB 1995, c. 1, §17 (new).]

**14. Appeals.** A candidate who has been denied certification as a Maine Clean Election Act candidate, the opponent of a candidate who has been granted certification as a Maine Clean Election Act candidate or other interested persons may challenge a certification decision by the commission as follows.

A. A challenger may appeal to the full commission within 7 days of the certification decision. The appeal must be in writing and must set forth the reasons for the appeal. [2005, c. 301, §32 (amd).]

B. Within 5 days after an appeal is properly made and after notice is given to the challenger and any opponent, the commission shall hold a hearing. The appellant has the burden of providing evidence to demonstrate that the commission decision was improper. The commission must rule on the appeal within 3 days after the completion of the hearing. [IB 1995, c. 1, §17 (new).]

C. A challenger may appeal the decision of the commission in paragraph B by commencing an action in Superior Court according to the procedure set forth in section 356, subsection 2, paragraphs D and E. [IB 1995, c. 1, §17 (new).]

D. A candidate whose certification by the commission as a Maine Clean Election Act candidate is revoked on appeal must return to the commission any unspent revenues distributed from the fund. If the commission or court find that an appeal was made frivolously or to cause delay or hardship, the commission or court may require the moving party to pay costs of the commission, court and opposing parties, if any. [IB 1995, c. 1, §17 (new).]

[2005, c. 301, §32 (amd).]

IB 1995, Ch. 1, §17 (NEW).

PL 2001, Ch. 465, §4-6 (AMD).

PL 2003, Ch. 270, §1,2 (AMD).

PL 2003, Ch. 448, §5 (AMD).

PL 2003, Ch. 453, §1,2 (AMD).

PL 2003, Ch. 688, §A21,22 (AMD).

PL 2005, Ch. 301, §29-32 (AMD).

PL 2005, Ch. 542, §3-5 (AMD).

- (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 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 Matching 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.
  - (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.
- 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



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

February 2, 2007

The Honorable Philip A. Cressey  
P. O. Box 183  
Cornish, ME 04020

Dear Rep. Cressey:

Enclosed please find a copy of the final audit report concerning our examination of contributions and expenditures listed in your Seed Money, Six Day Pre-Primary and 42 Day Post-Primary campaign finance reports.

As you know, the report contains two findings of non-compliance and related recommendations. We anticipate submitting the report to the Members of the Commission at their March, 2007 meeting. At that time, you will be afforded the opportunity to appear before the Commission and comment on the issues identified in the audit. Jonathan Wayne, Executive Director, will contact you in advance of the meeting to schedule your appearance.

Thank you for your cooperation and assistance during the audit process. Please call me at (207) 287-4727 if you have any questions or concerns regarding the report.

Sincerely,

A handwritten signature in black ink, appearing to read 'Vincent W. Dinan'.

Vincent W. Dinan  
Commission Auditor

Enclosure

Cc: Pretrea Cressey, Campaign Treasurer  
Jonathan Wayne  
Paul Lavin  
Sandy Thompson



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

February 2, 2007

**Audit Report No. 2006-HR019**

**Candidate: Representative Philip A. Cressey  
House District 99**

**Background**

Representative Philip A. Cressey was a candidate for re-election to the Maine House of Representatives, District 99, and successfully retained his seat in the 2006 general election. Rep. Cressey was certified by the Commission as an MCEA candidate on April 19, 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 in the qualifying period, and between April 19 – June 1, 2006 (Six Day Pre-Primary Report), and June 2 – July 18, 2006 (42 Day Post-Primary Report), as recorded in the candidate's accounting records, and as reported to the Commission, to determine if the identified transactions (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 91 percent of expenditures on his "Six Day" report, and 89 percent of the expenditures listed on his "42 Day" report. The candidate reported no contributions or expenditures for the "Seed Money" period.

**Audit Findings and Recommendations**

**Finding No. 1** - Rep. Cressey reported an expenditure of \$517.63 with Staples for LIT materials on 6/28/2006, during the 42 Day Post-Primary reporting period. Campaign records included a cancelled check dated 6/28/2006 payable to "Philip Cressey" in the amount of \$517.63 with the notation "Staples (second word unreadable)". Rep. Cressey informed us that he cashed the check and paid cash to Staples for the purchase. He was unable to provide a receipt from the vendor or proof of payment. Without proof of purchase or proof of payment the auditor was not able to verify that the expenditure was campaign-related.

***Criteria*** - the MCEA requires participating candidates to report campaign expenditures according to procedures developed by the Commission. (21-A M.R.S.A. §1125 (12) and 21-A M.R.S.A. §1125 (12-A)).

***Recommendations*** - the Commission staff recommends that the Commission take the following actions concerning Finding No. 1:

OFFICE LOCATED AT: 242 STATE STREET, AUGUSTA, MAINE  
WEBSITE: WWW.MAINE.GOV/ETHICS

- Consider Rep. Cressey's explanation in person at the March, 2007 Commission meeting, including whether to disallow the reported expenditure of \$517.63 for LIT materials by the Cressey campaign based on the candidate's failure to maintain acceptable documentation supporting (a) the campaign purpose of the expenditure, and (b) proof of payment. If the expenditure is disallowed, the Commission should direct the Cressey campaign to repay the amount of \$517.63 to the Maine Clean Election Fund.
- Consider whether failure to maintain the required documentation constitutes a violation that requires a penalty under the Act. The MCEA permits the Commission to assess a penalty of up to \$10,000 for any violation of the MCEA.
- Direct Rep. Cressey to amend his 42 Day Post-Primary campaign finance report to reflect the disposition of the audit finding.

Finding No. 2 – the Cressey campaign purchased a “flash drive” – an external data storage device that plugs into a computer's USB port -- for \$62.50 during the 42 Day Post-Primary reporting period. Rep. Cressey stated that he purchased the flash drive to facilitate data transfer to Spectrum, the printer of his campaign materials, and that he considered it a disposable item. Accordingly, he did not report the item on Schedule E (Campaign Equipment/Property Inventory) of his campaign finance report, and he did not sell the item at fair market value and remit the proceeds to the Maine Clean Election Fund. The Commission staff believes that under the Commission's rules for treatment of equipment purchases, the flash drive is a reportable equipment item, and should have been sold at the end of the election period.

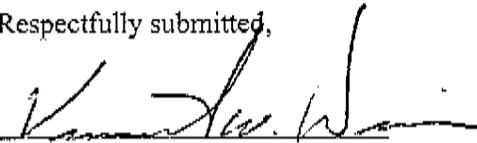
*Criteria* - the MCEA requires participating candidates to report campaign expenditures according to procedures developed by the Commission. (21-A M.R.S.A. §1125 (12) and 21-A M.R.S.A. §1125 (12-A)).

*Recommendation* – Rep. Cressey has reported (see the Attachment) that he discarded the flash drive in October, 2006. The Commission staff recommends that the Commission hear Rep. Cressey's testimony at its March, 2007 meeting, and consider whether to direct Rep. Cressey to reimburse the Maine Clean Election Fund in the amount of \$62.50, the cost of the item in question. Rep. Cressey should also be instructed to amend his 42 Day Post-Primary report to include the equipment item on Schedule E.

Candidate's Comments Regarding the Audit Findings

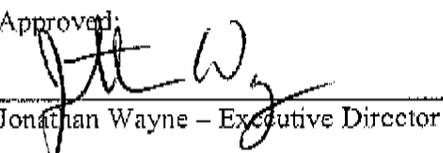
Rep. Cressey's comments on the audit findings and recommendations are attached.

Respectfully submitted,



Vincent W. Dinan - Staff Auditor

Approved:



Jonathan Wayne – Executive Director

**ATTACHMENT**  
**Rep. Philip A. Cressey**  
**Response to Audit Findings**  
**Page 1 of 2**

I disagree with the findings of the audit report. It should be noted that although this audit was for the April 19-June 1, 2006 Six-Day Pre-Primary Report and for the June 2-July 18, 2006 42 Day Post-Primary Report both of which were filed prior to August 2006, this audit was conducted four weeks before the election this past November. The audit took time away from my campaign activities, directly interfered with my campaign efforts and the audit did have a negative impact on my campaign for re-election. This audit should have been conducted in August or September or after the election was over, not during the busiest time of the campaign season. This is a very important point because in my haste to provide the documents requested of me, I lost a receipt that I did have in my possession. I was working ten hours a day at my regular job and then would go knocking on doors with the few hours of daylight remaining and go to various meetings in the evenings. On three separate days, I had to postpone all of those events to fulfill the auditors request which did prevent me from campaigning. This audit should have been held earlier or after the election was over. In my haste, I quickly faxed all documents required of me including the receipt of \$517.63 from Staples. This receipt was faxed along with the other Staples receipt which the auditor acknowledged to have received. I then threw all my receipts back into my folder and at that time accidentally dropped the folder and all the paperwork went all over the place. Because I was in a hurry, I quickly picked up the receipts and threw them back in the file folder and rushed out of the house. A week later, I was again asked for the Staples receipt which I did have earlier but was not able to find it due to my haste and pressed for time. For a third time I had to cancel my campaign activities in order to find the receipt that I had but could not find. During this time our family was packing our belongings up to move to another apartment. I still have not been able to find the receipt which I did have the first time I faxed the receipt to the auditor. He said he did not receive it so I think I must have taped the receipt backwards through the fax machine which would explain why it did not show up at his end or the faxing was too light to be seen at the receivers end. I should not have to reimburse the Clean Elections fund of \$517.63 as this was a legitimate expense and further this would force me to violate the contribution portion and paying for literature yet not counting it as expense is a violation of both clean election and ethic standards in campaign financing. The auditor failed to mention that I clearly stated that the memo portion of the reimbursed check states, "Staples Printing" and this was explained all five times the auditor requested information. Furthermore, this legitimate campaign expense was printing of 2000 copies of my flyer handed out at the four parades and three fairs during the summer months, on yellow card stock and printed on both sides. Plus a ream of 125 card stock blank yellow paper. Staples can verify this expense. I have no problem with an audit. However the timing was inappropriate and negatively impacted on the time constraints of my campaign. There was no reason the audit could have been held sooner in September or after the election was over. Because I was in a hurry and very pressed for time, I had the receipt, faxed it to the auditor, lost the receipt as I was rushing out the door, and we were in the process of moving to another apartment. Had the audit taken place sooner or after the election I know for certain the receipt would not have been lost.

On the second charge, again I disagree with the auditors findings. The "flash drive" is a legitimate campaign expense and was not a Campaign Equipment/Property Inventory in my understanding of the rules. This was the first time I ever used a "flash drive". Back in June I had designed all three of my campaign mailers for October and also my palm cards. However, when I tried to upload my pictures, files, and designs via email to the printer, the internet server providers system would shut down and the files would not be transferred on my dial up connection.

**ATTACHMENT**  
**Rep. Philip A. Cressey**  
**Response to Audit Findings**  
**Page 2 of 2**

I called Spectrum, the printer, and asked what I could do. They asked if I had a USB port. I did not know what that was and they said it is a plug in for many devices and memory card and I can upload the info to the disk just like a CD. That was good news to me as I did not know anything about that sort of high tech stuff at that time so they suggested I go and purchase a PNY flash memory drive and Staples should have them and to get one with at least 512 MB. I believe I purchased the PNY with more memory than 512MB. Because I did not know what they were talking about as this was all new info to me I asked for a specific item to purchase as I did not yet have a grasp on what the "flash drive" was so the PNY model was suggested and I wrote that down and they suggested Staples because that is where they purchased one as well. I had to ask them to spell this out for me as I had never purchased or used anything like this before. They said it works like a CD on the computer, just load the info into it, mail it to them and they can download all the info as it was too much to send over the dial up internet server I had. My computer is not CD writeable which was the first question they asked and then the USB port was the second question to solve the problem of getting the files and pics to them. My understanding of this "flash drive" device is that it is a disposable item like a CD and would work the same way. I did tell the auditor, in error, that I received the "flash drive" back from Spectrum, which I did. However, I no longer have the device when the auditor asked if I did. I thought I did but remembered I threw it away back in October as I mistakenly thought it could not be "written" over again like a CD and apparently a CD can now be written and copied over again like a tape cassette. I wish I had known this before I threw it away. I now understand a "flash drive" is just like a portable hard drive on a computer and works in a similar fashion. Had I known these facts back in June, I would not have listed this as a campaign expense at all. However, due to my understanding at that time, this would still be a legitimate campaign expense and I should not be required to change any reports or reimburse the Clean Election Fund at all as this was a legitimate expense for the purpose of printing campaign literature which in fact was done. The auditor suggested I sell the "flash drive" but because I threw it away I would be unable to comply with that request. Again, at that time I thought it was like a CD that could not be written over again and that the info on it would be permanent and could not be changed. I now realize that is not the case. Another reason I threw it away as I was not going to run for office again due to term limits and that we were moving and had no need for unnecessary items. The auditor may be able to confirm that I stated to him that I believed this to be a disposable item like a CD and not a permanent piece of equipment. Furthermore, there is no mention in the rules that a "flash drive" is to be considered equipment so this should be made clear in future printings and changes to the rules.

Respectfully Submitted via email,  
Philip A Cressey Jr  
January 18, 2007  
philcressey@verizon.net



# 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  
Date: February 7, 2006  
Re: Grose and Wasserott Complaints

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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. Wasseroth 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 Wasseroth campaign received a very slick, professional-looking website for little compensation. The Wasseroth 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 Wasseroth 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 Brunswick showed advertising paid for by the Grose campaign that incorrectly stated that it was paid for by the Sagadahoc County Democratic Committee.

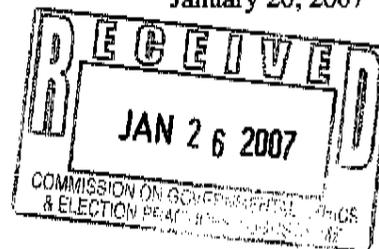
Jennifer Geiger of Briggs Advertising has submitted a letter explaining that the inaccurate "paid for" information was inadvertent and that it was quickly corrected.

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

1/18/2007

**MARDEN, DUBORD,  
BERNIER & STEVENS**

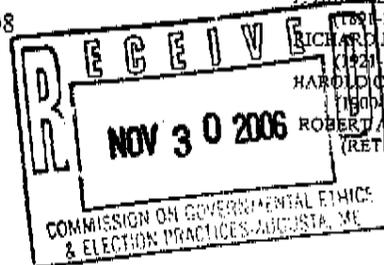
ATTORNEYS AT LAW

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ALBERT L. BERNIER  
(RETIRED)  
F. HAROLD DUBORD  
(1921-1964)  
RICHARD J. DUBORD  
(1923-1970)  
HAROLD C. MARDEN  
(1904-1994)  
ROBERT A. MARDEN  
(RETIRED)



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 17<sup>th</sup>. 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 8<sup>th</sup> 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

Paul Lavin, Assistant Director  
November 28, 2006  
Page 2

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,

A handwritten signature in black ink, appearing to read 'Daniel I. Billings', written over a horizontal line.

Daniel I. Billings  
e-mail: [dbillings@gwi.net](mailto: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](http://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](http://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 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](http://www.COASTALJOURNAL.com) Mr. Kahrl was a MCEC and should be aware that providing free space to one candidate 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](http://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-

11/13/2006

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

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.**

### §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 #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: March 29, 2007  
Re: Director's Recommendations - Audit of Campaign of S. Peter Mills

---

### **Audits of Candidates**

As you are aware, the Ethics Commission staff has undertaken audits of all of the candidates for Governor who received Maine Clean Election Act (MCEA) funding and 20% of the publicly funded legislative candidates. This is the first election year in which the Commission has conducted audits, and it has raised some new issues for the Commission.

#### *Campaign-Related Purposes*

The Maine Clean Election Act (subsection §1125(6)) requires that: "All revenues distributed to a [MCEA] candidate from the fund must be used for campaign-related purposes." The Act requires the Commission to publish guidelines for permissible expenditures of MCEA funds.

#### *Required Documentation*

MCEA candidates are required to keep two documents for each expenditure over \$50:

- a vendor invoice stating the particular goods or services purchased for every expenditure of \$50 or more; and
- a record proving that a vendor received payment for every expenditure of \$50 or more in the form of a cancelled check, receipt from the vendor or bank or credit card statement identifying the vendor as the payee.

There are additional documentation requirements for using MCEA funds to reimburse expenses for car travel.

#### *Commission Action when Documentation is Missing*

One policy question that has arisen in the audits is what action should the Commission take when a candidate is unable to produce the records required by the state for MCEA

candidates. In the attached memo dated January 10, 2007, the staff discussed three alternative actions the Commission could take:

- note the failure to obtain required documentation as a violation in the audit report;
- disallow the expenditure, which would require the candidate to repay the amount of the expenditure to the Maine Clean Election Fund; or
- assess a civil penalty for failure to keep required documentation.

The final audit reports for Sen. Mills and Rep. Cressey which you will consider at the April 5 meeting contains standard language suggesting that the Commission consider whether to disallow expenditures or whether to assess a civil penalty. Please be aware that the Commission has not previously disallowed expenditures of 2006 candidates based on inadequate documentation, or decided upon on a general policy.

#### **Audit of Sen. Peter Mills**

Sen. Peter Mills was a candidate for Governor in the 2006 Republican primary election. He received \$200,000 in Maine Clean Election Act funds. He ran against David Emery and Senator Chandler Woodcock, who became the Republican nominee.

Commission auditor Vincent Dinan audited Senator Mills' campaign. As part of the audit, Sen. Mills was invited to respond to a draft audit report. **Please read his January 29, 2007 letter which responds to each of the audit findings.** On February 2, 2007, the Commission staff issued a final audit report.

This memo is intended to supplement the February 2, 2007 audit report with my own recommendations.

#### **Finding #1 – Reimbursement for Money Order Transaction Fees**

On June 2, 2006, the Mills campaign used Maine Clean Election Act funds to reimburse the candidate \$722.20 for a large number of \$0.46 fees incurred in buying money orders to qualify for public funding. The campaign's reimbursement to Sen. Mills involved two errors: the campaign was not allowed to use MCEA funds for this purpose and the reimbursement was in the wrong amount.

As described in my letter dated March 29, I recommend finding the Mills campaign committee in violation of violating the seed money restrictions and assessing a civil penalty of \$253 against the campaign.

#### **Finding #2 – Reimbursement of \$501.40 to Campaign Manager James Cote for Cell Phone Use**

Campaign manager James Cote used his personal cell phone for campaign business. The campaign agreed to reimburse him for half of his total cell phone charges. The campaign reimbursed Mr. Cote a total of \$501.48 for his cell phone costs over six months.

As a general policy matter, reimbursing campaign staff with MCEA funds for their use of their personal cell phones raises the concern that MCEA funds could unintentionally be used to pay for personal phone calls. In this particular case, because Mr. Cote was the manager of a statewide campaign and the candidate has offered a credible explanation of the reimbursement, I recommend accepting that the \$501.40 was for campaign-related purposes and not disallowing the expenditure.

In the summer, the Commission staff will suggest changes to the Commission's expenditure guidelines. The Commission may adopt a new policy in this area, for example: if a campaign uses more than \$25 in MCEA funds to reimburse a candidate or supporter for use of their personal cell phone costs, the candidate or supporter should open a separate cell phone account for this purpose and should use the phone exclusively for campaign use.

### **Finding #3 – Reimbursement to Campaign Workers for Car Travel**

#### *Requirements for Reimbursing Car Travel Expenses*

Candidates who are funded by the Maine Clean Election Act may choose to reimburse themselves or their supporters for car travel. The Commission's rules contain special provisions for reimbursing car travel to ensure that public funds are not paid for personal travel.

When campaigns use MCEA funds to reimburse the candidate or volunteers for travel, they may do so at the rate of \$0.36 per mile – the rate of reimbursement the state pays to its employees for car travel. The campaigns are also required to keep a travel log that shows each campaign trip which has been reimbursed, the purpose of the trip, the origin and destination, and number of miles traveled.

In auditing 2006 candidates, the Commission staff has found that many candidates were unaware that they were required to keep a travel log if they reimbursed themselves or staff for travel. The Commission staff has accepted some alternative explanations or documentation for reimbursed car travel. For the 2008 elections, the staff is recommending that it distribute sample travel logs to all MCEA candidates, educate them on the requirement to fill out the log if they wish to reimburse the candidate or staff for travel with public funds, and adopt a policy disallowing travel reimbursements if the campaign did not keep a log.

#### *Mills Campaign*

The Commission auditor has found a few problems with the Mills campaign's reimbursements for car travel: no travel log in some cases; the amounts of some reimbursements were for the actual cost of gas purchased rather than at the rate of \$0.36 per mile; and reimbursements to one campaign worker, Eben Bouchard, at rates of \$0.40 and \$0.445 which are above the rate in the Commission's rule.

My recommendation is to accept travel reimbursements made by the Mills campaign that are less than or equal to \$0.36 per mile and to accept the \$71.00 in travel expenditures for which there is no adequate documentation.

With regard to the campaign's payments in excess of \$0.36 per mile, the Commission may wish to consider asking the campaign to repay the "overpayments" – that is, the difference between the amounts paid to Eben Bouchard at the rate of \$0.40 and \$0.445 and the \$0.36 rate permitted by the Commission rule. The Commission's auditor calculated this amount to be \$242.21. Alternatively, because Mr. Bouchard was a volunteer during this phase of the campaign you could choose to categorize part of the payments to him as compensation rather than reimbursement for car travel.

#### **Finding #4 – Reimbursement for Expenses of Public Relations Volunteer**

Sen. Mills invited Bill Johnson, a former Maine news anchor and public relations consultant, to come to Maine to volunteer for the campaign for two weeks leading up to the primary election. The campaign agreed to pay his expenses but not to pay him compensation. He was paid \$374.50 for food, travel, toiletries, and laundry.

The expenditure guidelines state that "MCEA funds may not be spent on personal expenses ... such as [d]ay-to-day household food items and supplies." This was presumably drafted for candidates or volunteers who were in Maine already for which there was no good reason to make reimbursements for day-to-day expenses.

You may wish to conclude that it is incompatible with the MCEA expenditure guidelines to use MCEA funds to pay for any personal expenses such as food, toiletries, and laundry. On the other hand, you may conclude it is acceptable in this case because the expenses of Mr. Johnson were not his normal day-to-day expenses and were only incurred because he was in Maine to volunteer for Sen. Mills' campaign. One possible accommodation would be to consider the payments to be compensation to Mr. Johnson, and to ask Sen. Mills to describe them as such in his campaign finance reports.

When the Commission reviews its expenditure guidelines this summer, the staff suggests revisiting this issue to make sure the Commission adopts the best policy for gubernatorial campaigns that balances safeguarding public funds with permitting reasonable payment arrangements with consultants or staff who travel statewide.



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AUGUSTA, MAINE  
04333-0135

To: Commission Members and Counsel

From: Jonathan Wayne, Executive Director

Date: January 10, 2007

Re: Remedies for Inadequate Documentation of Candidates' Expenditures  
of Maine Clean Election Act Funds

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As you are aware, the Commission staff has embarked on a new program of auditing 20% of legislative candidates receiving Maine Clean Election Act (MCEA) funds and all four MCEA candidates for governor. While the Commission has always reviewed all expenditures as reported to the Commission, this is the first time we have systematically reviewed the underlying documentation for the expenditures. The Commission's auditor, Vincent W. Dinan, has found a very high rate of compliance with the requirement that MCEA funds be spent on campaign-related expenditures. In most cases, he has found only minor reporting problems which he has directed that the candidates fix through amending their campaign finance reports.

We believe these audits are valuable in that they educate candidates about the responsibilities for MCEA candidates and because they reassure the Legislature and the taxpayers that the public funds paid to candidates are kept accountable. These audits were not performed in the 2000, 2002, and 2004 elections.

#### **Records Required to be Kept by MCEA Candidates**

The MCEA requires candidates to keep an invoice or other document from the vendor stating the particular goods and services purchased, for every expenditure in excess of \$50. The campaigns are also required to keep proof of payment to the vendor, such as a cancelled check, credit card statement, or a receipt from the vendor. The MCEA does not require that all participating candidates submit these documents to the Commission. Rather, all MCEA candidates are required to obtain and keep these records for two years after the final campaign finance report for the election.

Vincent has completed about one-half of the audits of the legislative candidates. He discovered that a minority of them did not obtain the required records at the time the expenditures were made or misplaced the records. In almost all cases, during the audit process the candidate or treasurer has been able to obtain acceptable documentation after-the-fact. Sometimes this has required multiple requests and patient explanations by Vincent.

## Choice of Remedies

The candidates' failure to keep records has raised a question of how the Commission and its staff should proceed if a candidate cannot provide the documentation required by the Election Law. The question is difficult when – as in most cases – the expenditures are properly reported and the Commission staff has no evidence that the MCEA funds were misspent. In the view of the Commission staff, these cases should be brought to your attention at a public meeting. In February and March, we are intending to bring 2 - 3 examples.

The Commission staff sees three options for the Commission and its staff:

**(1) Finding of violation in audit report.** If the undocumented expenditure was properly reported and there's no reason to believe the expenditure was misspent (not campaign-related), the staff – or the Commission at a public meeting - could accept the expenditure and take no action other than to find the candidate in violation for failing to document the expenditure in the audit report. Under this option, the State would, in effect, be trusting candidates that they reported expenditures on the campaign-related expenditures that were disclosed in campaign finance reports. If necessary, the Commission could require testimony at a public meeting regarding how the funds were spent.

**(2) Disallow the expenditure.** The Commission could “disallow” the expenditure and request that the candidate repay the amount of the expenditure to the Commission. Vincent has drafted the short attached memo discussing that option. Disallowing the expenditure would be analogous to what occurs in many governmental settings when a firm or person requesting reimbursement from a public agency lacks sufficient documentation. For example:

- Most governmental agencies would presumably be unwilling to reimburse a contractor for equipment purchased in the performance of providing services to the agency if the contractor is unable to produce the required receipt or invoice of goods or services purchased.
- Many employers – public and private - will not reimburse an employee for travel or meal costs if the employee is not able to produce a bill or receipt showing the goods or services purchased.

While these standards may not be exactly appropriate for candidates participating in the Maine Clean Election Act, they may be instructive to consider.

The downside of disallowing an expenditure is that many observers would consider it too harsh to impose a repayment obligation on a candidate, particularly when there was no evidence that the public funds were misspent. One alternative is to adopt a more lenient standard for 2006 candidates on the theory that

candidates are not aware of the importance of the record-keeping requirements, and to apply a stricter approach in the 2008 elections.

**(3) Civil penalty.** If the Commission or staff believes that the candidate has spent MCEA funds on reported expenditures that were campaign-related but not properly documented, it may seem more appropriate to assess a penalty for failing to obtain the required documentation. The Commission could, for example, use a sliding scale of \$100 to \$2,500 for these violations. The penalty would function as a sanction against candidates who did not keep the required documentation.

In addition, on a case-by-case basis the Commission may wish to consider a combination of options 2 (disallowance) and 3 (penalty).

### **Policy on Undocumented Reimbursements for Travel Expenses**

Maine Clean Election Act candidates may choose to pay for travel expenses themselves or to have their campaigns reimburse them. Campaign workers are eligible to pay up to \$100 of travel expenses from their personal funds in the course of volunteering for a MCEA campaign. After that, they must seek reimbursement from the Commission.

If a MCEA candidate chooses to use MCEA funds to reimburse themselves or others for car travel, they are required to keep specific records. Because of the personal nature of car use, these records are important in proving to the state that public funds have been spent for campaign – rather than personal – purposes.

#### *Current Reimbursement Methods*

The method of calculating the amount of the reimbursement is very specific under the Commission's current rules, and the candidate may pick one of two methods. The campaign may reimburse the candidate or others at the rate of 36 cents per mile (the current rate of reimbursement by the State of Maine to its employees for its expenses). Alternatively, the candidate may calculate total expenditures for gas, insurance, depreciation, etc. for a period of time and pro-rate them so that only campaign-related travel is reimbursed with public funds.

#### *Current Requirement to Keep Records*

Whether the candidate chooses to reimburse at the rate of 36 cents per mile or based on the pro-rated method, the Commission's rule requires candidates to keep a record (such as a log) that includes the date of travel, number of miles traveled, origin, destination, purpose of travel, and total amount claimed for reimbursement.

*Staff Findings regarding 2006 Candidates*

In conducting reviews of reported expenditures and in conducting audits, the Commission's auditor Vincent W. Dinan has found widespread non-compliance with both the rate of reimbursement and the requirement to keep a log.

*Policy for 2006 Candidates and Going Forward*

The staff would like to recommend leniency for 2006 candidates who may not have understood the reimbursement rates and the importance of the record-keeping requirements. We recommend a stricter approach in 2008 – perhaps disallowing all travel expenditures which were not properly documented.

We propose that any policy you adopt on these issues be included in the Chapter 3 rules of the Commission, which would be submitted to the Legislature for its approval. As a result, the policy that would be in effect in 2008 would be known in advance by the Legislature and would have met its approval. I have attached a proposed rule.

## DOCUMENTATION STANDARDS REQUIRED TO SUPPORT CAMPAIGN EXPENDITURES

By Vincent W. Dinan, Staff Auditor

Typically in most financial control systems found in government and industry, expenditures of organizational funds are supported by several documents:

- A purchase requisition which establishes the authority for the acquisition.
- A purchase order or contract issued by an authorized individual that sets forth the materials /services being purchased, the terms and conditions of the sale, and the price of the acquisition.
- A vendor invoice setting forth the materials/services provided and the costs.
- Payment document verifiable through a third party, e.g., bank, credit card company, cash receipt.
- Receiving report providing proof of receipt of the materials purchased.

In the area of "clean election" funding and in order to prove that materials and services have been bought for an allowable campaign purpose, the following documentation at a minimum is key and should be required: (1) a vendor invoice or closely related record that identifies the items purchased and the amount charged, and (2) documentation of payment. Payment documentation should be independently verifiable, and may include cancelled checks, debit card and credit card bank documentation, and cash receipts.

### Determination of Allowability

The Commission's auditor examines expenditures reported by candidates on their campaign finance reports. The auditor traces selected expenditures from the campaign finance reports back to source documentation, which may include original vendor invoices, cancelled checks, cash receipts, and credit and debit card transaction documentation. The purpose of the examination is to verify that MCEA funds have been paid to the vendor as reported, and that such funds have been expended for a purpose permitted under the Maine Clean Election Act and the Commission's rules governing campaign expenditures.

Generally accepted auditing standards established to guide the practice of auditing require that the auditor make an objective compliance determination of cost allowability based on unimpeachable documentation. Accordingly, if a campaign expenditure is supported by a vendor invoice that describes the item purchased, the quantity purchased,

**Documentation Standards for Campaign Expenditures**  
**Page 2**

and the price charged, and payment from campaign funds is clearly documented, e.g., cancelled check drawn on the campaign bank account, and the expenditure is for goods or services permitted under the Act or the Commission's rules, then, the expenditure should be deemed allowable. If on the other hand, one or more components of required expenditure documentation are absent, the allowability of the expenditure is called into question. Audit techniques are designed to facilitate objective judgments about demonstrated facts; therefore, if a candidate cannot provide acceptable documentary support for his or her campaign expenditures, the Commission should disallow the expenditure and require the candidate to re-pay the campaign fund for the amount of the disallowance. Adherence to established auditing standards that have evolved in both government and industry over the decades promotes system integrity and confidence in the Commission's decision-making apparatus. A more relaxed approach focusing more on subjective opinion will only erode trust in and support for the "clean elections" process.



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AUGUSTA, MAINE  
04333-0135

March 29, 2007

**By E-Mail and Regular Mail**

Hon. S. Peter Mills  
P.O. Box 9  
Skowhegan, ME 04976

Dear Senator Mills:

This is to inform you that the Ethics Commission is scheduled to consider the staff's audit of your 2006 campaign at its meeting on Thursday, April 5, 2007 at 9:00 a.m., and would appreciate your presence to provide any factual information needed by the Commission. We will schedule it as the first item on the April 5 agenda so that you can return to legislative business as quickly as possible.

I also wish to inform you of the staff's recommendation on the first finding of the audit, so that you have an adequate opportunity to respond. On June 2, 2006, your campaign reimbursed you \$722.20 for your purchase of money orders from Wal-Mart to be used in qualifying for Maine Clean Election Act (MCEA) funding. Our review of campaign documents indicates that you bought 830 money orders from Wal-Mart, but only around 550 were submitted to the Commission for the purposes of qualifying for public funding. The fees for the 550 money orders totaled \$253.00. You have stated that you are willing to return the \$722.20 upon the Commission's request.

The Commission staff accepts that you were acting in complete good faith in directing the campaign to reimburse you, and that your campaign workers were acting under considerable time pressure with the 2006 Republican primary election only five days away. Nevertheless, the Commission staff will recommend the following actions with regard to finding #1A:

- the Commission should find that your campaign committee violated 21-A M.R.S.A. §§1122(9) and 1125(3) by paying for \$253 in money order fees through funds other than seed money contributions; and
- the Commission should assess a monetary penalty of \$253 against your campaign committee for the violation, in addition to asking you to return the \$722.20.

The rationale for the recommendation is that the campaign should have understood that money order fees must be paid for with seed money and that the campaign worker should have shown greater care in reimbursing you in the correct amount. The staff believes the Commission should treat violations in a way that encourages candidates (particularly

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Hon. S. Peter Mills

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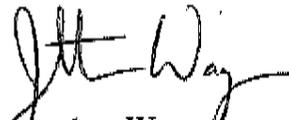
March 29, 2007

legislative candidates) to show greater care in accounting for qualifying expenses and in making reimbursements to the candidate in the proper amount. The Commission assessed a penalty against another candidate for Governor for using MCEA funds to pay for qualifying expenses, although that violation involved compensation to campaign workers that was worth far more than \$253. The amount of the recommended penalty is intended to reflect that you and your campaign acted in good faith; that this is a technical violation; and that once you return the \$720.00 you will be "out of pocket" for both the money order purchase as well as your gas expenses.

With regard to the other findings in the audit report, the staff will explain the findings to the Commission and provide them with information necessary to take any action that they wish. Most of the issues are new policy questions for the Commission because it has not systematically audited candidates before 2006.

Thank you for your cooperation with the audit.

Sincerely,



Jonathan Wayne  
Executive Director



STATE OF MAINE  
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135 STATE HOUSE STATION  
AUGUSTA, MAINE  
04333-0135

February 2, 2007

The Honorable S. Peter Mills  
P. O. Box 9  
Skowhegan, ME 04976

Dear Sen. Mills:

Enclosed please find a copy of our final audit report concerning the examination of the receipts and expenditures listed on your 2006 gubernatorial campaign finance reports.

As you know, the report includes four findings of non-compliance with the Maine Clean Election Act and the Commission's rules, along with related recommendations. We anticipate submitting the report to the Members of the Commission at their March, 2007 meeting. At that time, you will be afforded the opportunity to appear before the Commission to discuss the issues identified in the audit. Jonathan Wayne, Executive Director, will contact you in advance of the meeting to schedule your appearance.

Thank you for your cooperation and assistance during the audit process. Please contact me at (207) 287-4727 if you have any questions or concerns regarding the report.

Sincerely,

A handwritten signature in black ink that reads "Vincent W. Dinan".

Vincent W. Dinan  
Commission Auditor

Enclosure

Cc: Davida Barter, Campaign Treasurer  
Jonathan Wayne  
Paul Lavin  
Nathaniel Brown



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04333-0135

February 2, 2007

**Audit Report No. 2006-GV001**

**Candidate: Senator S. Peter Mills  
Gubernatorial Candidate – 2006 Republican Primary**

**Background**

Senator S. Peter Mills was a candidate for Governor of the State of Maine in the 2006 Republican primary election. His final campaign finance report was filed with the Commission on July 25, 2006.

Sen. Mills was certified by the Commission as an MCEA candidate on April 19, 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 contribution and expenditure transactions occurring in the January 2006 semi-annual reporting period (1/1 through 12/31/2005); the MCEA qualifying period (1/1/2006 through 4/18/2006); between April 19 – June 1, 2006 (Six Day Pre-Primary Report), and June 2 – July 18, 2006 (42 Day Post-Primary Report), as recorded in the candidate's accounting records, and as reported to the Commission, to determine if the identified transactions (1) were properly approved by the candidate or his authorized representative(s); (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 auditor examined documentation supporting three percent of contributions, and 73 percent of the aggregate total expenditures of \$250,000 reported by Senator Mills.

**Audit Findings and Recommendations**

**Finding No. 1A** - Sen. Mills was reimbursed on 6/2/2006 for money order transaction fees in the amount of \$722.20. Documentation provided by the campaign disclosed that the money orders were purchased at WalMart on November 1, 2005, for the purpose of facilitating the collection and remittance of five dollar cash contributions to assist the candidate to qualify for MCEA funding. Sen. Mills did qualify as an MCEA candidate in April, 2006.

The auditor determined that the reimbursement was in violation of the MCEA and the Commission's rules for the following reasons:

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**Gubernatorial Campaign Audit****Candidate: Sen. S. Peter Mills****Page 2**

- Use of MCEA funds to pay for the costs of goods and services incurred during the qualifying period is not permitted under 21-A M.R.S.A. §1122(9). The use of MCEA funds to pay the fees of money orders used to qualify for public funding constitutes a violation of the seed money restrictions under §1122(9).
- Sen. Mills purchased the money orders in November, 2005. He could have reimbursed himself from Seed Money funds any time up through April 18, 2006, but did not do so. Under 21-A M.R.S.A. §1125(3), "[a]ny money order fees paid by a participating candidate must be paid for with seed money and reported in accordance with commission rules." Failure to reimburse the candidate for the expenditure within the qualifying period resulted in an unallowable in-kind contribution to his campaign.
- It appears that some portion of the \$722.20 payment reimbursed Sen. Mills for fees for money orders that were not used as part of the qualification process and were not used as part of the candidate's re-election campaign. This seems to be a violation of 21-A M.R.S.A. §1125(6), which requires that "[a]ll revenues distributed to certified candidates from the fund must be used for campaign-related purpose."

*Criteria* - the MCEA requires participating candidates to accurately report campaign expenditures according to procedures developed by the Commission. (21-A M.R.S.A. §1125(12)).

Finding 1B - the auditor determined that in addition to the issues discussed above, the Mills campaign reported the costs of the money orders incorrectly:

- In response to an inquiry from the Commission staff, the campaign explained the \$772.20 payment as a reimbursement based on the purchase of 1,570 money orders with a transaction fee of \$.46 each, totaling \$722.20. Documentation provided by the Mills campaign substantiated a purchase of only 830 money orders which at \$.46 each would have yielded a total of \$381.80. The basis for the erroneous explanation for \$722.20 is uncertain and may have been unintentional, but the campaign should have shown greater care in responding to the audit.
- Commission staff analyzed Sen. Mills's submittal of qualifying contributions, and determined that only 550 WalMart money orders were used to remit qualifying contributions; accordingly there was a major discrepancy between the number of money orders paid for by the campaign (830) and the number actually constituting legitimate campaign expenditures (550).

*Criteria* - the MCEA requires participating candidates to accurately report campaign expenditures according to procedures developed by the Commission. (21-A M.R.S.A. §1125(12)).

*Recommendations* - the Commission staff recommends that the Commission take the following actions concerning Finding 1A:

- Require Sen. Mills to re-pay \$722.20, the amount of the unallowable expenditure, to the Maine Clean Election Fund.

Gubernatorial Campaign Audit  
Candidate: Sen. S. Peter Mills  
Page 3

- Direct the Mills campaign to amend the campaign report for the 42 Day Post-Primary period as necessary to correctly report campaign expenditures.
- Consider whether to assess a penalty against Sen. Mills for violating the seed money restrictions of §1122(9) by paying for money order fees from a source other than cash seed money received or a reported in-kind seed money contribution by Sen. Mills. (The MCEA permits the Commission to assess a penalty of up to \$10,000 for any violation of the MCEA under 21-A M.R.S.A. §1127(1)).
- Consider whether to assess a penalty against Sen. Mills for spending a portion of the \$772.20 payment for money order fees that were not campaign-related.

Finding No. 2 – The audit disclosed that one of the Mills campaign volunteers was reimbursed for the use of his personal cellular telephone while conducting campaign business. Over a period of six months, this volunteer was reimbursed a total of \$501.40 out of \$1,170.18 billed to the individual during the same period by the cellular telephone company. The examination found no agreement stipulating terms and conditions of the reimbursement. In addition, the volunteer was not required to maintain a log of campaign-related calls to support his claims for reimbursement. According to Sen. Mills, the agreement to reimburse was verbal, and made because the volunteer was functioning in a campaign management capacity, and used his personal cellular telephone extensively to conduct campaign business. The auditor believes the reimbursements described above are unallowable because although the campaign was able to provide call detail reports associated with the bills to the volunteer, there is no objective and reliable way, after the fact, to determine which calls were personal and which were campaign-related.

*Criteria* - the MCEA requires participating candidates to report campaign expenditures according to procedures developed by the Commission. (21-A M.R.S.A. §1125 (12) and 21-A M.R.S.A. §1125 (12-A)).

*Recommendation* – the Commission staff recommends that the Commission consider whether to disallow the reimbursement of \$501.40 in cellular telephone expenses by the Mills campaign based on the candidate's failure to maintain documentation that calls reimbursed were for campaign purposes.

Finding No. 3 – the Mills campaign – in common with the campaigns of many other candidates – reimbursed campaign workers for vehicle travel costs incurred on behalf of the candidate. Under the Commission's rules, "[c]andidates may elect to have the campaign reimburse them for vehicle travel at the reimbursement rate that is applicable to state employees or for amounts actually paid for fuel and repairs (pro-rated to reflect only campaign-related usage). (Chapter 3, Section 7(1)(C)) Candidates should keep a record for each trip that includes: date of travel, number of miles traveled, origination, destination, and purpose of travel." The state mileage reimbursement rate during the campaign period was \$.36 a mile. The auditor found that in most cases, the candidate's reimbursement practices did not comply with the Commission's rules regarding travel costs. Instead, the campaign reimbursed on the following bases:

- Campaign workers were paid for the fuel they used for travel on campaign business, but the amounts of the payments were not calculated according to Chapter 3, Section 7, para. 1(C) and proper documentation for these reimbursements were not kept.

Gubernatorial Campaign Audit  
Candidate: Sen. S. Peter Mills  
Page 4

- A cash advance was made by the campaign in anticipation of a future claim for reimbursement.
- Reimbursement at the rate of \$.40 per mile for miles reported by the worker but not substantiated by the required logbook.
- Reimbursement at the rate of \$.445 per mile for miles reported by the worker but not substantiated by the required logbook.

The campaign treasurer informed us that no logbook was maintained, but she was aware of what travel was performed, where campaign workers traveled to, and that the individuals usually reported the number of miles traveled. Based on the records the campaign made available, it appeared that in most cases the amount reimbursed to the traveler was less than it would have been if paid at the rate of \$.36 per mile.

*Criteria* - the MCEA requires participating candidates to report campaign expenditures according to procedures developed by the Commission. (21-A M.R.S.A. §1125(12)), and the Commission's rules, Chapter 3, Section 7, para. (1)(C).

*Recommendations* - the Commission staff recommends that the Commission take the following actions regarding Finding No. 3:

- Accept travel reimbursements made by the Mills campaign that constructively are less than or equal to \$.36 per mile.
- Consider whether to direct the candidate to repay amounts reimbursed by the campaign in excess of \$.36 per mile during the 2006 campaign. The auditor has determined that amount to be \$242.21.
- Consider whether to direct the candidate to repay amounts for which there is apparently no supporting documentation. The auditor has determined that amount to be \$71.00 (includes \$31.00 from Finding No. 4 below).
- Direct the candidate to amend all campaign finance reports impacted by the repayment of excess mileage rates.

**Auditor's Advisory Note:** Our 100 percent review of campaign finance reports over the past two reporting cycles has indicated that many candidates are out of compliance with the travel reimbursement rules discussed above. Although the rules were published in the *2006 Candidate's Guide*, and a special advisory concerning the issue was sent to all candidates during the election season, noncompliance continues to be widespread. The Mills campaign is not uncharacteristic in the way they treated travel reimbursement. Accordingly, we believe that the Commission should accept travel reimbursements made by all candidates during the 2006 election period, as long as such reimbursements are constructively less than or equal to \$.36 per mile. Acceptance would be for mileage reimbursement claims occurring during the 2006 campaign only. We also believe that the Commission should re-visit the matter of travel reimbursement and consider implementing revised rules that would encourage compliance by MCEA candidates.

Gubernatorial Campaign Audit  
Candidate: Sen. S. Peter Mills  
Page 5

Finding No. 4 – Sen. Mills enlisted the assistance of a public relations expert from Florida as a campaign volunteer during the primary election period. According to Sen. Mills, the volunteer was not compensated for his work on the Mills campaign. The campaign did report, however, reimbursements -- \$177.50 on 5/30/2006 and \$197.00 on 6/5/2006 – for food, gas, toiletries, and laundry made to the volunteer. The *2006 Candidate's Guide* states that “[c]andidates may spend a reasonable amount of MCEA funds on food for campaign events or to feed volunteers while they are working.” The Commission’s 2006 expenditure guidelines state that: “MCEA funds may not be spent on personal expenses ... such as [d]ay-to-day household food items and supplies ....”

The Commission staff consistently interprets this provision to mean that candidates may make occasional and incidental food expenditures for volunteers engaged in campaign tasks or at campaign events. While we understand that campaigns might be inclined to reimburse an out-of-state worker who volunteers his time for personal expenses that they would not otherwise purchase, the food, toiletries and laundry reimbursements do not seem consistent with the 2006 guidelines. Accordingly, we believe that the subject reimbursements are not allowable.

*Criteria* - 21-A M.R.S.A. §1125 (12), 21-A M.R.S.A. §1125 (12-A), and Commission Rules, Chapter 3, Section 7, (1) (c), and *Commission Guidelines on Permissible Expenditures of MCEA Funds*.

*Recommendations* – the Commission staff recommends that the Commission take the following actions regarding Finding No. 4:

- Determine whether the non-fuel expenditures listed above may be considered as “compensation”. If it is determined that the referenced expenditures may be treated as compensation, the Commission may offer the candidate one of two options: (a) re-classify the non-fuel expenditures from FOD to SAL (salary); or (b) accept the FOD claim as unallowable and refund the amounts of the reimbursements to the Maine Clean Election Fund.
- Alternatively, the Commission may choose to disallow a total of \$336.00, the amount of the two reimbursements for food, toiletries, and laundry.
- Consider whether to accept Sen. Mills’ explanation of \$31.00 in reimbursements for fuel costs (\$10.00 claimed on 5/30/2006 and \$21.00 claimed on 6/5/2006) or to disallow them because neither of the expenditures was supported by any documentation. Both amounts are included in the recommendation for Finding No. 3, above.
- Direct the candidate to amend all campaign finance reports as necessary to reflect the adjustments made for unallowable expenditures.

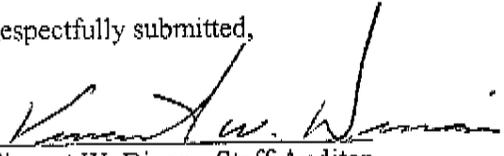
Administrative Issues:

On 7/18/2006, the Mills campaign recovered \$45.81, the remainder of a prepaid deposit for postage from the U.S. Post Office. The recovery was posted to Schedule E of the 42 Day Post-Primary report in error. The campaign should re-classify the recovered amount as “Other Cash Receipts”, and amend the referenced report to reflect the change.

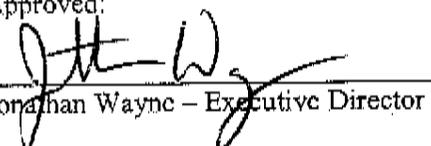
Candidate's Comments on the Audit Report

Senator Mills' comments on the audit findings and recommendations are attached.

Respectfully submitted,

  
\_\_\_\_\_  
Vincent W. Dinan - Staff Auditor

Approved:

  
\_\_\_\_\_  
Jonathan Wayne - Executive Director

ATTACHMENT  
Response to Audit Findings  
Senator S. Peter Mills  
Page 1 of 4

Peter Mills  
POB 9  
Skowhegan, Maine 04976  
January 29, 2007

Maine Commission on Governmental Ethics  
and Election Practices  
135 State House Station  
Augusta, Maine 04333-0135

Re: Comments on Draft Audit Report No. 2006-GV001

To the Commission:

**Finding No. 1A and 1B (Money order fees):**

Early in the qualifying period, I bought a number of money orders through Wal-Mart where they were available at 46¢ apiece as opposed to 90¢ from the Post Office. After the qualifying period ended on April 18, I directed one of our campaign workers to determine what the campaign owed me for the purchase of money orders actually used, a calculation that would have been difficult to make before donor acknowledgement forms had all been received at the end of the qualifying period. On June 2, 2006, a campaign check was issued to me for \$722.20.

I do not recall who was asked to do the calculation (It was neither the treasurer, nor the assistant). Whoever did it appears to have totalled up the sheer number of transactions (1570) from a portion of those purchased at Wal-Mart on November 1, 2005, and then multiplied by 46¢. Wal-Mart entered two transactions for each money order purchased, one for the \$5 amount and the other for the 46¢ fee.

This calculation resulted in an overpayment for two reasons: First, it was not based on the number of money orders actually used; and second, it doubled the cost of those counted.

When this compound error came to light during the audit, it was also apparent that the overriding mistake was how the reimbursement was made in the first place -- from the wrong source and at the wrong time (21A MRSA §1125(3)(C)), i.e., not from seed money and beyond the end of the qualifying period. Because the whole sum of \$722.20 must be returned to the Commission, it made little sense to spend the substantial time necessary to review 2800 acknowledgement forms to calculate the exact amount of the underlying mathematical errors after we had already determined their apparent genesis.

Given everything else that we did in response to the audit, we would gladly have worked this issue up in greater detail (and would still do so) if there were a point to it.

This is the only audit finding that approaches materiality. Even still, it represents less than 3 tenths of 1% of the \$250,000 in funds entrusted to us and a much smaller portion of the total value of human effort that was mustered from the hundreds of volunteers and underpaid workers who devoted themselves to our campaign.

The error occurred toward the end of a close and highly contested three-way campaign at a time when I was significantly preoccupied.

**ATTACHMENT**  
**Response to Audit Findings**  
**Senator S. Peter Mills**  
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January 29, 2007  
Mills Comments on Audit

The primary purpose of the Clean Election law is to force candidates to limit spending and to rely instead on volunteers or others willing to work for low wages. There is substantial pressure to conserve all available cash for TV, radio and direct mail.

As permitted by law, I received no personal reimbursement for mileage or meals despite having driven about 70,000 miles during 11 months of campaigning. Had I submitted a voucher for only 2006 miles at 36¢ per mile, the sum of \$722.20 could have been paid to me properly from Clean Election funds. The transaction of June 2 was a mistake and not the product of any personal venality. In fact, I had every motivation to put our limited public funds to much better use.

**Finding No. 2 (Cell phone expense for James Cote):**

From December of 2005 through early June of 2006, James Cote worked full time - and then some - on the campaign, first as a volunteer and then as an underpaid manager. Because his personal cell phone was used so extensively for campaign contact during that time, we agreed to reimburse him for up to half the cost. The campaign paid James \$501.40 against his total phone charges of \$1170.18 summarized as follows:

Statement Date	Statement Amount	Campaign Payment Date	Amount Reimbursed
Jan 8	\$227.60	Jan 27	\$113.80
Feb 8	\$289.86	Mar 3	\$144.00
Mar 8	\$218.72	Apr 11	\$106.00
Apr 8	\$ 94.89		
May 8	\$189.75		
Jun 8	\$149.36	Jun 8	\$137.60
<b>Total</b>	<b>\$1170.18</b>	<b>Total</b>	<b>\$501.40</b>

These six phone bills, which we have provided to the Commission, are over 100 pages long. They record more than 5000 calls made to and from Cote's phone during the six months covered by the partial reimbursements.

Although we can easily identify many phone numbers that reflect campaign use, it is impossible to ferret out the exact number of campaign calls. Many entries simply reflect incoming calls from unidentified sources or calls by Cote to his own number for messages.

While there is no practical way to calculate what proportion of the phone use was for campaign versus personal purposes, there is no reason to doubt our estimate that as many as half of them were connected with the campaign. It makes no sense to suggest that we should have kept a log on these 5000 calls to document charges worth only pennies per entry.

If we had issued Mr. Cote a separate phone for the campaign, there still would have been no practical way to track whether he used the phone for personal calls - or the extent to which someone else might have made personal calls to him at that number.

Statewide campaigns run on cell phones. People are constantly on the road travelling in different directions at all hours of the day and night. Cell phones are the only way to stay in touch. Because the campaign's reliance on Mr. Cote's personal phone went beyond the incidental, we felt it appropriate to reimburse him part of the cost.

ATTACHMENT I  
Response to Audit Findings  
Senator S. Peter Mills  
Page 3 of 4

January 29, 2007  
Mills Comments on Audit

We paid Mr. Cote an amount that clearly did not exceed the actual use of his phone for campaign purposes. This was not a misuse of public funds.

**Finding No. 3 (Mileage):**

We provided the Auditor a spread sheet outlining the amounts paid for travel, except for \$51 paid to Bill Johnson whose expenses are dealt with under Finding 4 below.

For many transactions, we paid the actual cost of buying gasoline. In most such cases, we were able to identify the destination either because of notes recorded on the slips or by reference to the campaign schedule. When calculating these travel expenses at 36¢ per mile, the mileage entitlement nearly always exceeds the amount actually reimbursed for gas alone.

Exceptions include the entries for Eben Bouchard on February 17 and for Allison Saviello on June 7. On those occasions they were each paid \$20 for gas. In February, Eben was a volunteer doing signature validations all over the state. In June, Allison was putting up signs in remote areas of the state. They both traveled extensively for the campaign.

Eben Bouchard began working early in the campaign as a volunteer. Neither Eben nor Alison was paid for time until near the end. In lieu of paying Eben for his time, we agreed to reimburse him 40¢ a mile for his travel expenses. On one occasion (Feb 23, 2006), we paid the maximum allowed federal rate of 44.5¢.

Eben's destinations were not always noted on his slips; however, he did much of the traveling necessary to certify petition signatures and \$5 check signatures in scores of town offices all over the state. Both he and Allison traveled extensively at the end to put up signs. Their mileage claims were conservatively estimated. They traveled far more than what they billed for. Both of these young people provided services whose value greatly exceeded any amounts of money provided to them.

Were we to do this again, we would hand out log sheets and clipboards to campaign workers to improve on tracking their travel expenses. As it was, we still got good travel receipts from some of the workers, but not from all.

In any case, there was no misuse of public funds.

**Finding No. 4 (Bill Johnson's expenses):**

Bill Johnson, a semi-retired newsman who lives in Florida, was for many years the news anchor for Channel 6, Maine's largest TV news outlet. During a sabbatical from television in 1974, he worked as manager of Harry Richardson's governor campaign. After leaving TV, he served on the staff of Senator Bill Cohen and later in public relations for Fairchild Semi-conductor. In retirement, he now works part time doing public relations for FEMA in disaster areas around the country.

Bill came up from Florida to Maine to volunteer on my campaign from May 22 through June 4. Because he was so far from home, he asked that the campaign take care of his expenses, but he received no other compensation.

He is a highly experienced newsman whose consulting services and press releases were extraordinarily valuable. He devoted full time to the campaign while he was here and had no other business to accomplish in Maine.

## Response to Audit Findings

Senator S. Peter Mills

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January 29, 2007

Mills Comments on Audit

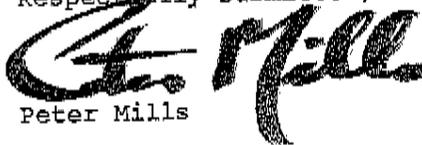
His submitted expenses totaled \$374.50 in two statements, one for \$177.50 and the other for \$197. Most of charges were modest amounts for food, meals and toiletries.

A total of \$51 was spent on gas, for driving borrowed automobiles on campaign business. On May 27, we drove round trip from Skowhegan to Dover-Foxcroft for a three-way candidates' debate. The distance was 90 miles which, at 36¢ per mile, equates to \$32.40. On June 1, we drove round trip from Skowhegan through Lewiston to Portland to attend four events, including two TV debates. The distance that day was over 200 miles. At 36¢, the charge would equate to \$72.

If we had paid Mr. Johnson a contract sum of \$375, this would have complied with Commission rules. To have reimbursed him his expenses was simply more convenient - and completely legal - from an income tax perspective.

There was no misuse of Clean Election funds.

Respectfully submitted,



Peter Mills

## Title 21-A, §1125, Terms of participation

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### §1125. Terms of participation

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

[2005, c. 301, §29 (amd).]

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

- A. Fifty thousand dollars for a gubernatorial candidate; [IB 1995, c. 1, §17 (new).]
- B. One thousand five hundred dollars for a candidate for the State Senate; or [IB 1995, c. 1, §17 (new).]
- C. Five hundred dollars for a candidate for the State House of Representatives. [IB 1995, c. 1, §17 (new).]

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

[IB 1995, c. 1, §17 (new).]

**3. Qualifying contributions.** Participating candidates must obtain qualifying contributions during the qualifying period as follows:

- A. For a gubernatorial candidate, at least 2,500 verified registered voters of this State must support the candidacy by providing a qualifying contribution to that candidate; [IB 1995, c. 1, §17 (new).]
- B. For a candidate for the State Senate, at least 150 verified registered voters from the candidate's electoral division must support the candidacy by providing a qualifying contribution to that candidate; or [IB 1995, c. 1, §17 (new).]
- C. For a candidate for the State House of Representatives, at least 50 verified registered voters from the candidate's electoral division must support the candidacy by providing a qualifying contribution to that candidate. [IB 1995, c. 1, §17 (new).]

A payment, gift or anything of value may not be given in exchange for a qualifying contribution. A candidate may pay the fee for a money order in the amount of \$5, which is a qualifying contribution, as long as the donor making the qualifying contribution pays the \$5 amount reflected on the money order. Any money order fees paid by a participating candidate must be paid for with seed money and reported in accordance with commission rules.

[2001, c. 465, §4 (amd).]

**4. Filing with commission.** A participating candidate must submit qualifying contributions to the commission during the qualifying period according to procedures developed by the commission, except as provided under subsection 11.

[IB 1995, c. 1, §17 (new).]

## Title 21-A, §1122, Definitions

A. For a gubernatorial participating candidate, the qualifying period begins November 1st immediately preceding the election year and ends at 5:00 p.m. on April 15th of the election year unless the candidate is unenrolled, in which case the period ends at 5:00 p.m. on June 2nd of the election year. [2001, c. 465, §3 (amd).]

B. For State Senate or State House of Representatives participating candidates, the qualifying period begins January 1st of the election year and ends at 5:00 p.m. on April 15th of that election year unless the candidate is unenrolled, in which case the period ends at 5:00 p.m. on June 2nd of the election year. [2001, c. 465, §3 (amd).]  
[2001, c. 465, §3 (amd).]

\* **9. Seed money contribution.** "Seed money contribution" means a contribution of no more than \$100 per individual made to a candidate, including a contribution from the candidate or the candidate's family. To be eligible for certification, a candidate may collect and spend only seed money contributions subsequent to becoming a candidate as defined by section 1, subsection 5 and throughout the qualifying period. A participating candidate who has accepted contributions or made expenditures that do not comply with the seed money restrictions under this chapter may petition the commission to remain eligible for certification as a Maine Clean Election Act candidate in accordance with rules of the commission, if the failure to comply was unintentional and does not constitute a significant infraction of these restrictions. Prior to certification, a candidate may obligate an amount greater than the seed money collected if the value of the goods and services received from a vendor does not exceed the amount paid to the vendor. A candidate may not collect or spend seed money contributions after certification as a Maine Clean Election Act candidate. A seed money contribution must be reported according to procedures developed by the commission.

[2005, c. 301, §28 (amd).]

IB 1995, Ch. 1, §17 (NEW).

PL 2001, Ch. 465, §3 (AMD).

PL 2005, Ch. 301, §28 (AMD).

## Title 21-A, §1125, Terms of participation

**12-A. Required records.** The treasurer shall obtain and keep:

\* A. Bank or other account statements for the campaign account covering the duration of the campaign; [2005, c. 542, §5 (new).]

B. A vendor invoice stating the particular goods or services purchased for every expenditure of \$50 or more; and [2005, c. 542, §5 (new).]

C. A record proving that a vendor received payment for every expenditure of \$50 or more in the form of a cancelled check, receipt from the vendor or bank or credit card statement identifying the vendor as the payee. [2005, c. 542, §5 (new).]

The treasurer shall preserve the records for 2 years following the candidate's final campaign finance report for the election cycle. The candidate and treasurer shall submit photocopies of the records to the commission upon its request. [2005, c. 542, §5 (new).]

**13. Distributions not to exceed amount in fund.** The commission may not distribute revenues to certified candidates in excess of the total amount of money deposited in the fund as set forth in section 1124. Notwithstanding any other provisions of this chapter, if the commission determines that the revenues in the fund are insufficient to meet distributions under subsections 8 or 9, the commission may permit certified candidates to accept and spend contributions, reduced by any seed money contributions, aggregating no more than \$500 per donor per election for gubernatorial candidates and \$250 per donor per election for State Senate and State House candidates, up to the applicable amounts set forth in subsections 8 and 9 according to rules adopted by the commission. [IB 1995, c. 1, §17 (new).]

**14. Appeals.** A candidate who has been denied certification as a Maine Clean Election Act candidate, the opponent of a candidate who has been granted certification as a Maine Clean Election Act candidate or other interested persons may challenge a certification decision by the commission as follows.

A. A challenger may appeal to the full commission within 7 days of the certification decision. The appeal must be in writing and must set forth the reasons for the appeal. [2005, c. 301, §32 (amd).]

B. Within 5 days after an appeal is properly made and after notice is given to the challenger and any opponent, the commission shall hold a hearing. The appellant has the burden of providing evidence to demonstrate that the commission decision was improper. The commission must rule on the appeal within 3 days after the completion of the hearing. [IB 1995, c. 1, §17 (new).]

C. A challenger may appeal the decision of the commission in paragraph B by commencing an action in Superior Court according to the procedure set forth in section 356, subsection 2, paragraphs D and E. [IB 1995, c. 1, §17 (new).]

D. A candidate whose certification by the commission as a Maine Clean Election Act candidate is revoked on appeal must return to the commission any unspent revenues distributed from the fund. If the commission or court find that an appeal was made frivolously or to cause delay or hardship, the commission or court may require the moving party to pay costs of the commission, court and opposing parties, if any. [IB 1995, c. 1, §17 (new).]

[2005, c. 301, §32 (amd).]

IB 1995, Ch. 1, §17 (NEW).

PL 2001, Ch. 465, §4-6 (AMD).

PL 2003, Ch. 270, §1,2 (AMD).

PL 2003, Ch. 448, §5 (AMD).

PL 2003, Ch. 453, §1,2 (AMD).

PL 2003, Ch. 688, §A21,22 (AMD).

PL 2005, Ch. 301, §29-32 (AMD).

PL 2005, Ch. 542, §3-5 (AMD).

## **Title 21-A, Chapter 14, THE MAINE CLEAN ELECTION ACT (HEADING: IB 1995, c. 1, §17 (new))**

**14. Appeals.** A candidate who has been denied certification as a Maine Clean Election Act candidate, the opponent of a candidate who has been granted certification as a Maine Clean Election Act candidate or other interested persons may challenge a certification decision by the commission as follows.

A. A challenger may appeal to the full commission within 7 days of the certification decision. The appeal must be in writing and must set forth the reasons for the appeal. [2005, c. 301, §32 (amd).]

B. Within 5 days after an appeal is properly made and after notice is given to the challenger and any opponent, the commission shall hold a hearing. The appellant has the burden of providing evidence to demonstrate that the commission decision was improper. The commission must rule on the appeal within 3 days after the completion of the hearing. [IB 1995, c. 1, §17 (new).]

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[2005, c. 301, §32 (amd).]

IB 1995, Ch. 1, §17 (NEW).

PL 2001, Ch. 465, §4-6 (AMD).

PL 2003, Ch. 270, §1,2 (AMD).

PL 2003, Ch. 448, §5 (AMD).

PL 2003, Ch. 453, §1,2 (AMD).

PL 2003, Ch. 688, §21,22 (AMD).

PL 2005, Ch. 301, §29-32 (AMD).

PL 2005, Ch. 542, §3-5 (AMD).

### **§1126. Commission to adopt rules**

The commission shall adopt rules to ensure effective administration of this chapter. These rules must include but must not be limited to procedures for obtaining qualifying contributions, certification as a Maine Clean Election Act candidate, circumstances involving special elections, vacancies, recounts, withdrawals or replacements, collection of revenues for the fund, distribution of fund revenue to certified candidates, return of unspent fund disbursements, disposition of equipment purchased with clean election funds and compliance with the Maine Clean Election Act. Rules of the commission required by this section are major substantive rules as defined in Title 5, chapter 375, subchapter II-A. [2001, c. 465, §7 (amd).]

IB 1995, Ch. 1, §17 (NEW).

PL 2001, Ch. 465, §7 (AMD).

### **§1127. Violations**

**1. Civil fine.** In addition to any other penalties that may be applicable, a person who violates any provision of this chapter or rules of the commission adopted pursuant to section 1126 is subject to a fine not to exceed \$10,000 per violation payable to the fund. The commission may assess a fine of up to \$10,000 for a violation of the reporting requirements of sections 1017 and 1019-B if it determines that the failure to file a timely and accurate report resulted in the late payment of matching funds. This fine is recoverable in a civil action. In addition to any fine, for good cause shown, a candidate, treasurer, consultant or other agent of the candidate or the committee authorized by the candidate pursuant to section 1013-A, subsection 1 found in violation of this chapter or rules of the commission may be required to return to the fund all amounts distributed to the candidate from the fund or any funds not used for campaign-related purposes. If the commission makes a determination that a violation of this chapter or rules of the commission has occurred, the commission shall assess a fine or transmit the finding to the Attorney General for prosecution. Fines paid under this section must be deposited in the fund. In determining whether or not a candidate is in violation of the expenditure limits of this chapter, the commission may consider as a mitigating factor any circumstances out of the candidate's control.

[2005, c. 542, §6 (amd).]

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.

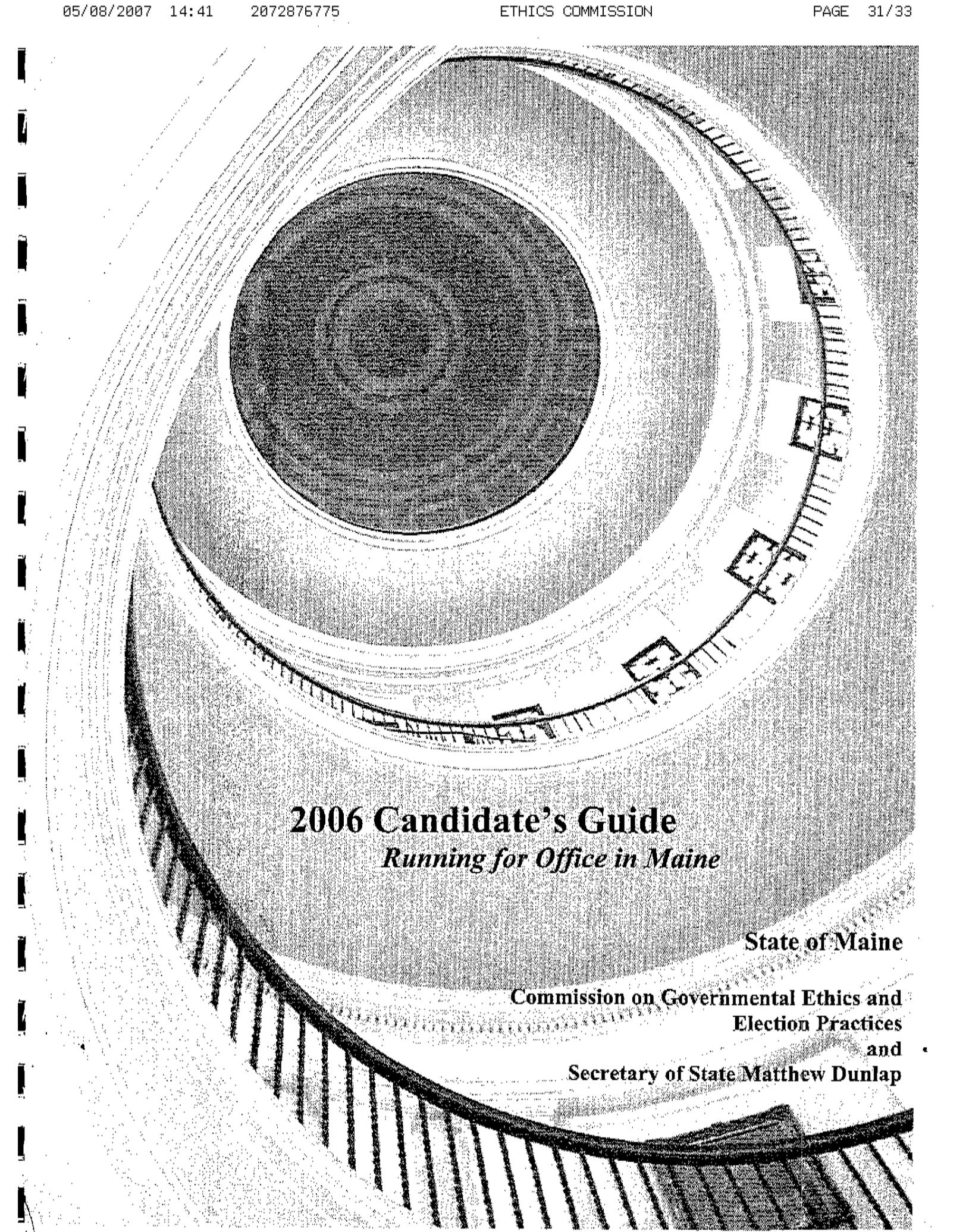
## SECTION 7. RECORD KEEPING AND REPORTING

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.

- (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 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 Matching 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.
  - (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.
- 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,



**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**

## Commission's Guidelines on Permissible Expenditures of MCEA Funds

- Expenditures for "campaign-related purposes" are those which are traditionally accepted as necessary to promote the election of a candidate to political office. Candidates using MCEA funds must also take into account the public nature of the funds, the underlying objectives of the MCEA, and the reasonableness of the expenditures under the circumstances. In Maine, traditional campaign expenses have included:
  - Printing and mailing costs;
  - Political advertising expenses;
  - Campaign communications such as signs, bumper stickers, T-shirts, or caps with campaign slogans, etc.;
  - Office supplies;
  - Campaign events (e.g., food, rent of tent or hall, etc.);
  - Campaign staff expenses; and
  - Campaign travel expenses, such as fuel and tolls.
  
- MCEA funds may not be spent on personal expenses. Those expenses are for goods and services that the candidate would otherwise purchase independently of the campaign, such as:
  - Day-to-day household food items and supplies;
  - Vehicle and transportation expenses unrelated to the campaign;
  - Mortgage, rent, or utility payments for the candidate's personal residence, even if part of the residence is being used by the campaign; and
  - Clothing, including attire for political functions such as business suits or shoes.
  
- Maine Clean Election Act funds may not be spent to:
  - make independent expenditures supporting or opposing any candidate, ballot measure, or political committee;
  - assist in any way the campaign of any candidate other than the candidate for whom the funds were originally designated;
  - contribute to another candidate, a political committee, or a party committee, other than in exchange for goods and services;
  - pay a consultant, vendor, or campaign staff, other than in exchange for campaign goods or services;
  - compensate the candidate for services provided by the candidate;
  - pay an entry fee for an event organized by a party committee, charity, or community organization or to place an ad in an event publication, unless the expenditure benefits the candidate's campaign;
  - make a donation to a charity or a community organization, other than in exchange for campaign goods or services;
  - promote political or social positions or causes other than the candidate's campaign;

- pay civil penalties, fines, or forfeitures to the Commission, or defend the candidate in enforcement proceedings brought by the Commission; or
- assist the candidate in a recount of an election.

#### ■ Guidelines on Selected Issues

- *Electronics and Other Personal Property.* Goods purchased with MCEA funds that could be converted to personal use after the campaign (e.g., computers, fax machines, and cellular telephones) must be reported on Schedule E of the campaign reporting form. No later than 42 days after the general election, the goods must be sold at fair market value and the proceeds returned to the Maine Clean Election Fund. Candidates are welcome to lease electronic and other equipment.
- *Food.* Candidates may spend a reasonable amount of MCEA funds on food for campaign events or to feed volunteers while they are working. Legislative candidates should not use MCEA funds to purchase food that is consumed only by the candidate and/or the candidate's spouse. Gubernatorial candidates may use MCEA funds to purchase meals for the candidate and/or candidate's spouse if associated with travel for campaign purposes.
- *Vehicle Travel.* Candidates may elect to have the campaign reimburse them for vehicle travel at the reimbursement rate that is applicable to state government employees or for amounts actually paid for fuel and repairs (pro-rated to reflect only campaign-related usage). Candidates should keep a record for each trip that includes: date of travel, number of miles traveled, origination, destination, and purpose of travel.
- *Lodging.* Candidates may use MCEA funds to pay for lodging if necessary for campaign purposes, but must keep lodging expenses reasonable.
- *Post-Election Notes and Parties.* Candidates may spend up to the following maximum amounts of MCEA funds on post-election parties, thank you notes, or advertising to thank supporters or voters: \$250 for State Representative candidates, \$500 for State Senate candidates, \$2,500 for gubernatorial candidates. Candidates may also use personal funds for these purposes.
- *Campaign Training.* Candidates may use Maine Clean Election Act funds for tuition or registration costs to receive training on campaigning or policy issues.
- *Salary and Compensation.* Candidates may use MCEA funds to pay for campaign-related services by staff or consultants, provided that compensation is made at or below fair market value and sufficient

# Agenda

## Item #5



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

To: Ethics Commission Members  
From: Jonathan Wayne, Executive Director  
Date: May 9, 2007  
Re: Second Request for Investigation by Carl Lindemann

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On March 5, 2007, Carl Lindemann filed with the Ethics Commission a second request for an investigation regarding the financial activities of the Maine Heritage Policy Center (MHPC) in support of the Taxpayer Bill of Rights (TABOR) citizen initiative. His first complaint, filed on October 19, 2006, alleged that the MHPC's activities in support of TABOR qualified it as a political action committee (PAC) under Maine Election Law.

At its meeting on December 20, 2006, the Commission determined that the MHPC was not a PAC but was required to file a financial report of its contributions and expenditures relating to TABOR under 21-A M.R.S.A. §1056-B. Mr. Lindemann has appealed the determination to the Maine Superior Court. On January 22, 2007, the MHPC filed a §1056-B report showing four contributions totaling \$975.00 and \$30,962.19 in expenditures. These were the same four contributions that the MHPC identified in a December 4, 2006 letter to the Commission as the only contributions it received in 2006 that included a reference to TABOR on the contribution checks or in correspondence that accompanied the checks.

### **Carl Lindemann's Second Request for an Investigation**

Mr. Lindemann's second request for an investigation is attached for your consideration. His request includes a number of contentions regarding why the MHPC's §1056-B report is not complete and accurate. For the purposes of this memo, I have summarized what I regard as his two major arguments. First, he argues that the MHPC sent fundraising letters in 2006 that heavily mentioned TABOR, so it is highly unlikely that the MHPC received only four contributions to promote TABOR. Second, he argues that the MHPC has under-reported the amount of staff time which the organization dedicated to supporting TABOR.

### **Response by the MHPC**

Attorney Daniel Billings submitted a short response on behalf of the MHPC in a letter dated March 30, 2007. He states that the MHPC's §1056-B report is complete and accurate, and that the MHPC worked diligently to apply the guidelines provided by the Commission staff. He argues that Mr. Lindemann's points have been heard by the Commission before, are not supported by new evidence, and so are not worthy of consideration. He requests that if the Commission decides to consider them, the matter should be deferred until the Maine Superior Court has reached a decision on Mr. Lindemann's first request for an investigation. Mr. Billings states that the MHPC has spent a great deal of time and resources responding to Mr. Lindemann's allegations and it would be an unfair burden on the MHPC to require the organization to respond to Mr. Lindemann's new complaint at the same time it is participating in Mr. Lindemann's appeal in the Superior Court.

**Reply by Carl Lindemann**

In reply to Mr. Billings' March 30 letter, Carl Lindemann asks the Commission to consider his second request for an investigation. He argues that by not appealing the Commission's determination that the MHPC was required to file a §1056-B report, the organization has waived its right to object to a request for an investigation. Also, he points out that "whatever judgment is rendered as the result of the pending Petition for Review will, at a minimum, require MHPC to disclose information typically encompassed by Section 1056-B, which imposes less comprehensive disclosure requirements than the statutes governing political action committees."

**Staff Recommendation on Deferring the Second Complaint**

At the outset on May 14<sup>th</sup>, you may wish to consider the MHPC's request to delay your consideration of Mr. Lindemann's request until after the Maine Superior Court makes a ruling. If you are concerned that the MHPC has under-reported, I do not quite understand the MHPC's contention that you should defer your consideration until after the Superior Court has reached a decision. Regardless whether the MHPC reports as a PAC or as a §1056-B filer, it is required to disclose the contributions it has received for the purpose of supporting TABOR and the expenditures it made to support TABOR. I will consult further with the Commission's counsel prior to the May 14<sup>th</sup> meeting, but at this point I recommend taking the complainant's view on this procedural question. On the other hand, if you are comfortable with the MHPC's §1056-B reporting, I recommend voting on May 14<sup>th</sup> to take no action on Mr. Lindemann's second request.

### **Duty to Report Contributions under 21-A M.R.S.A. §1056-B**

On December 20, 2006, the Commission determined that the MHPC was required to file a report under 21-A M.R.S.A. §1056-B. This section was inserted in the PAC law in 2000 to cover organizations that do not qualify as a PAC but which raise or spend more than \$1,500 to influence a ballot question. Section 1056-B provides in full:

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. [underlining added]

**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.

**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. [underlining added]

**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.

On December 27, 2006 the Commission staff distributed the attached memo in response to a request for guidance from the MHPC about what activity to include in its §1056-B report. The memo was also distributed to previous §1056-B filers to encourage consistent reporting by all filers. With regard to reporting contributions, the staff offered the following guidance:

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.

This advice was not approved by you in advance of its distribution, but the staff mailed it during the week after the Christmas holiday in order to provide timely guidance to the MHPC about how to complete its §1056-B report. At your March 9, 2007 meeting, you approved including the bullet-point language within legislation intended to improve PAC and §1056-B reporting. In his most recent request, Mr. Lindemann argues that the MHPC has not complied with the second bullet point by failing to report “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.”

### **MHPC’s Reporting of Contributions to Influence TABOR**

In its §1056-B report, the MHPC reported four contributions totaling \$975.00. In its December 4, 2006 letter to the Commission, the MHPC stated that it completed a review of all of its 2006 contributions. It could find only these four contributions which

included a reference to TABOR either on the contribution check or in correspondence accompanying the check.

Mr. Lindemann notes that the two 2006 MHPC fundraising letters received by the Commission cited the MHPC's work on TABOR at length. In particular, he argues that two thirds of the text of the fundraising letter dated August 2, 2006 concerned the MHPC's efforts to promote TABOR. He argues that the MHPC's §1056-B report should include all of the contributions received by the MHPC in response to the August 2, 2006 fundraising letter because they were all contributions made to influence TABOR.

#### *Background on MHPC Fundraising Concerning TABOR*

In his first presentation to the Commission on behalf of the MHPC, Dan Billings stated orally to the Commission that the MHPC had not solicited funds in support of TABOR. In his October 26, 2006 letter, Mr. Billings responded to the issue more fully:

[The MHPC] has not solicited or received any contributions to influence the outcome of a referendum campaign. ... While MHPC's activities may influence the referendum on the Maine Taxpayer Bill of Rights, [MHPC] 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. MHPC's purpose in speaking about the Maine Taxpayer Bill of Rights is to further the Center's mission to analyze and promote conservative and free market public policy solutions that will benefit the people of Maine. (underlining in original)

On November 27, 2006, Carl Lindemann submitted to the Commission a check dated November 1, 2006 to the MHPC which he had asked a friend of his, David Briney, to make to the organization. In response the MHPC sent a thank you letter to Mr. Briney dated November 6, 2006. The letter states: "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.” (underlining added.) I interpreted this letter as a form letter sent to thank contributors who had made a donation for the purpose of supporting TABOR. Because the existence of an apparent form letter seemed at odds with the statements by Mr. Billings in his October 26<sup>th</sup> letter, I requested more information from the MHPC in the form of four questions numbered (1) - (4).

On December 4, 2006, Dan Billings responded in writing. In response to Question (1) (*“Has the MPHC received any funds from any source specifically to promote, initiate, or influence the TABOR initiative?”*), Mr. Billings responded:

MHPC has not received any funds from any sources specifically to promote, initiate, or influence the TABOR initiative. All contributions received are used to support the overall operations and general mission of MHPC. No funds were specifically segregated or dedicated to activities related to the Maine Taxpayers Bill of Rights. No activities undertaken by MHPC related to the Maine Taxpayers Bill of Rights were contingent upon or the result of any funds received from any source.

As a result of this question, MHPC staff has reviewed all contributions received by the Center this year. Four contributions, including the contribution from Mr. Briney, were made along with correspondence or references on checks mentioning TABOR or MHPC’s work related to TABOR. ...

In response to Question (2) (*“Has the MPHC solicited any contributions or other funds in connection with the TABOR initiative?”*), Mr. Billings stated:

No. However, MHPC has mentioned its TABOR related work in its general fundraising activities. For example, the enclosed fundraising letter, marked as Exhibit A, mentions MHPC’s work related to TABOR. It should be noted that though the letter is dated October 18<sup>th</sup>, it did not go out until after November 7<sup>th</sup> and no contributions were received as a result of the letter before November 7<sup>th</sup>. Also, the letter was only sent to existing MHPC members.

In response to Question (3) (*"Is the November 6 letter from Bill Becker a form letter used by the MHPC to thank donors for contributions or other funds given to promote TABOR?"*), Dan Billings responded

No. Enclosed, marked as Exhibit B, is a copy of the form letter used by the MHPC to thank contributors. As you can see, changes were made to the regular form letter to recognize Mr. Briney's expressed interest in MHPC's work related to TABOR. It is MHPC's practice to alter the general form letter as a result of areas of interest mentioned by the donor.

At the December 20, 2006 meeting, Dan Billings and William Becker provided further testimony regarding the MHPC's fundraising, and I have attached the relevant pages of the transcript for that meeting. Mr. Becker testified that he believed contributors to the MHPC were supporting "our overall mission" and "our ongoing work on spending limits" – not TABOR specifically. (Transcript, at 108.) He repeated that "we did not solicit any contributions to support activities related to TABOR, [ ] we did not segregate funds for TABOR related activities and none of the activities were tied to or dependent upon receiving contributions." (Transcript, at 110.)

*MHPC's August 2, 2006 and October 18, 2006 Fundraising Letters*

In its consideration of Mr. Lindemann's previous complaint, the Commission received two of the MHPC's 2006 fundraising solicitations. Both make significant mention of the MHPC's work in support of TABOR, which is not surprising. Other 2006 fundraising letters may have mentioned TABOR as well.

In the MHPC's December 4, 2006 submission, it included a MHPC fundraising letter dated October 18, 2006 as Exhibit A. Mr. Billings refers to it as an example of "general fundraising activities," although five of the seven paragraphs in the letter

mention TABOR or the MHPC's work on TABOR. In their testimony on December 20, Mr. Billings and Mr. Becker explained that the letter was intended to be mailed before the November 7, 2006 general election but because of a problem with a printer or mailhouse it was not distributed until after the election. (Transcript, at 159-60.)

On December 21, 2006 (the day after the Commission reached its determination that the MHPC was not a PAC), the Commission staff received another MHPC fundraising solicitation dated August 2, 2006. It was submitted to the Commission by Christopher St. John of the Maine Center for Economic Policy.

The August 2, 2006 solicitation was an e-mail which describes TABOR as a reasonable and effective way for Maine to begin repairing its lagging economy and as one of the MHPC's top priorities. It certainly includes language that could lead some recipients to believe that their contribution would be used by the MHPC conduct public relations efforts in support of TABOR in the coming three months before the election:

The Taxpayer Bill of Rights is a reasonable and effective way for Maine to begin repairing its lagging economy. It paves the way for lower taxes and a more favorable business climate, attracting new jobs, strengthening the economy and increasing incomes.

The net result will be to expand the economic pie – securing existing jobs, while keeping young people, families, and retirees in Maine. It will also create an environment where fewer people will need to rely on government assistance programs, thus relieving at least some of the pressure on state and local government. It is, in short, smart growth for our public and private sectors.

Now more than ever, your support is needed to help us educate Maine people about the opportunity that could be found through a reasonable and effective measure. [emphasis added] Unfortunately, there are those who are actively misleading the public and distorting the facts.

However, thanks to your support and generosity, we will continue to provide truthful and credible analysis, information, and commentary about

Maine's competitive position and how we can improve it. It's great when the facts are on our side!

Please consider a gift today to support the important work of The Maine Heritage Policy Center.

On the other hand, the e-mail also contains some indications that the funds raised would be used for the general work of the MHPC. The e-mail asks: "Will you please consider a gift to our Summary Annual Fund Drive today?" and "Please consider a gift today to support the important work of the Maine Heritage Policy Center." It also states "we will continue to provide truthful and credible analysis, information, and commentary about Maine's competitive position and how we can improve it," which may imply continued communication efforts beyond TABOR.

#### *Staff Recommendation on Reporting of Contributions*

I believe Carl Lindemann has raised a valid argument about the MHPC's reporting of its contributions. It is distinctly possible that individuals who received the August 2, 2006 or other fundraising communications made contributions to the MHPC for the purpose of promoting the TABOR ballot question. Even if these funds were in fact used for general purposes, it is not an unreasonable interpretation of 21-A M.R.S.A. §1056-B to conclude that those contributions must be included in a §1056-B report.

Part of the dispute between the complainant and the MHPC seems to rest on whether the reporting obligation in §1056-B is tied to the contributor's purpose in making the contribution or to the recipient's (*i.e.*, MHPC's) purpose in soliciting and receiving the contributions. Relying on the guidance of the Commission staff in its December 27 memo (not binding on you), Mr. Lindemann asks the Commission to consider the

contributor's purpose, and urges the Commission to conclude that all contributions made in response to the August 2, 2006 solicitation and similar communications should be considered made to influence TABOR.

The Commission has not received a full response from the MHPC to the substantive points in Mr. Lindemann's second complaint. Based on its 2006 submissions, however, it seems likely that the MHPC would argue that it complied with the §1056-B requirement because the organization's purpose in soliciting and receiving contributions was to use the income for the organization's overall operations – not specifically to influence TABOR.

Two other arguments potentially are available to the MHPC. First, it might argue that it has no way of knowing whether a 2006 contributor made a donation to support TABOR or to support the MHPC's general advocacy for limited government, other than by looking for some objective notation on each contribution it received. Also, many non-profit organizations raise funds with the expectation that their contributors will be kept private. Presumably, the MHPC would object to being compelled to disclose contributors who had not intention of influencing an election.

The MHPC's reliance on its purpose in receiving the contributions and its actual use of the funds for general operations is reasonable, but it could lead to less disclosure of money contributed to influence elections. To illustrate this, I have attached two fundraising e-mails of Democracy Maine supplied to the Commission as part of a complaint that Democracy Maine was a PAC. The first (dated September 28, 2006) asks for an on-line contribution to "help Democracy Maine spread the truth about TABOR" while the second (dated October 3, 2006) explicitly states that funds raised would be used

to pay for newspaper advertising against TABOR. On the MHPC's view, would Democracy Maine be entitled not to disclose the contributors who responded to the September 28, 2006 solicitation if Democracy Maine used those revenues for its general operations?

Both interpretations of §1056-B have some basis in the Election Law. The definition of a "contribution" to a candidate seems to refer to the contributor's purpose in giving something of value to candidates. ("A gift ... of anything of value made for the purpose of influencing the nomination or election of any person to ... office ....") (21-A M.R.S.A. §1012(2)(A)(1)) Subsection (2) of §1056-B refers to the filer's purpose in receiving contributions or making expenditures ("The report must state whether the purpose for receiving contributions and making expenditures is in support of or in opposition to the ballot question.")

I recommend that you consider the disclosure purposes of the campaign finance law and the language in §1056-B, and consider whether you are comfortable with the MHPC reporting only those contributions that explicitly mentioned TABOR. If you have doubts about whether this reporting complies with the requirements of §1056-B, the staff recommends that you schedule this matter for the June meeting and request any additional information you require. For example, you might be interested in topics or question such as:

- A description (or copies) of all 2006 MHPC fundraising communications that highlight in a significant way the MHPC's work in support of TABOR
- An explanation why the MHPC believes that it is required under §1056-B to report only those contributions that specifically mentioned TABOR
- An explanation whether the MHPC sent to its members who responded to the August 2, 2006 fundraising e-mail the TABOR-specific thank you letter received

by Mr. Briney or the “general” thank you letter attached as Exhibit B to Mr. Billings’ December 4, 2006 letter. The MHPC’s choice of thank-you letter could be an objective indication whether the MHPC believed that contributions received in response to the August 2, 2006 e-mail were made to promote TABOR or were made to promote the organization’s overall mission.

- If a contributor uses the MHPC’s on-line donation form on the organization’s website, the only opportunity for a contributor to cite TABOR as the purpose of the contribution is to type a comment in the “Comments” box. In that context, is it reasonable to conclude that the only contributions made to support TABOR in response to the August 2, 2006 e-mail were those that specifically mentioned TABOR on a check or in correspondence that accompanied a contribution?

If, on the other hand, you believe the MHPC has adequately explained its reporting of contributions, the staff recommends voting to taking no action with respect to this issue.

#### **Mr. Lindemann’s Second Argument: Under-Reporting of Staff Time**

Because of time constraints, I will summarize the other major contention in Mr. Lindemann’s request for an investigation: the MHPC has under-reported the amount of staff time it dedicated to supporting TABOR in 2006. Mr. Lindemann focuses on the six-month period of May 5 – November 7, 2006. He observes that 18 of the MHPC’s press releases (60% for that period) relate to TABOR, but that the MHPC reported only 35 hours of labor by Jason Fortin, the MHPC’s Director of Communications. According to Mr. Lindemann, this represents only 4% of Mr. Fortin’s work time for the six-month period leading up to the general election.

Mr. Lindemann has calculated that during the six-month period, each employee was available to work for 984 hours. The MHPC reported that William Becker, the MHPC’s Executive Director, spent 190 hours in support of TABOR in speaking engagements, research, and travel. Mr. Lindemann believes that this amount is less than 20% of his work time for the period. He finds this implausible, but he has not cited

specific reasons. For example, is the amount of 190 hours inconsistent with the volume of TABOR-related activities which Mr. Becker engaged in (public forums, comments to the press, etc.)? Perhaps Mr. Lindemann believes the reason is obvious based upon his monitoring of the MHPC, but his reasoning is not clear from the March 5 request.

Mr. Lindemann argues that the MHPC's total TABOR-related expenditures of \$30,962 account for only 12.4% (about one-eighth) of MHPC's "projected budget" for the late part of 2006.<sup>1</sup> Apparently, he believes this total is incredible, but he does not explain why the Commission must conclude that the MHPC's total TABOR expenditures were in fact higher.

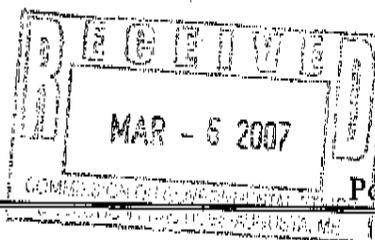
My recommendation would be to ask Mr. Lindemann at the May 14<sup>th</sup> meeting for a further explanation why he believes that these reported expenditures on staff time are not credible. After listening to his explanation, if you have significant doubts about whether the reporting is accurate, I would recommend that you schedule this matter for the June meeting of the Commission. You may wish to ask the MHPC to describe some of its other significant projects during the six months leading up to the November 7, 2006 general election to obtain a sense of context for evaluating whether the staff time reported is reasonable.

Thank you for your consideration of this memorandum.

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<sup>1</sup> He has extrapolated that the MHPC's six-month budget was \$250,000 based on a comment Mr. Becker made to the Forecaster newspaper about the MHPC having a projected annual budget of \$500,000.

**Carl Lindemann**



P.O. Box 171  
Portland, Maine 04112

Phone 207-774-1936

Email Carl@cyberscene.com

March 5, 2007

**BY ELECTRONIC AND OVERNIGHT MAIL**

Jonathan Wayne, Executive Director

Maine Commission on Governmental Ethics & Election Practices

135 State House Station

Augusta, Maine 04333

Dear Executive Director Wayne:

Pursuant to 21-A M.R.S.A. § 1003(2), I hereby request an immediate investigation by the Maine Commission on Governmental Ethics & Election Practices into whether the §1056-B filing made by Maine Heritage Policy Center ("MHPC") on January 22 is accurate and complete. Based on all the evidence available to those outside the organization itself, the disclosure of staff time, contributions, and in-kind donations contained in this filing is factually inaccurate and incomplete. The evidence upon which this complaint is based consists not only of MHPC's active promotion of TABOR in the period before the 2006 TABOR election, but MHPC's utter lack of credibility as demonstrated by the material false statements made to the Commission and its staff in the last three months of 2006. Complicating this matter is Commissioner Jean Ginn Marvin's role as treasurer for MHPC. The treasurer has a fiduciary responsibility to see to it that the organization's §1056-B filing is "true, correct and complete". As such, the review necessary to fulfill the Commission's statutory duty is, of necessity, a review of her conduct.

This matter should be of special interest given the extraordinary measure taken by Executive Director Wayne in his March 1 memo *RE: Complaint Against Democracy Maine*. On his own initiative, he raises questions about whether Democracy Maine's §1056-B is complete and his action is separate from any formal complaint made against that organization. He is prompted to do this because of the "recent attention over the sufficiency of §1056-B reporting". He states the need for this special examination because that organization reported spending more funds on a ballot initiative than it received. Here, MHPC's reported expenditures on the same ballot initiative exceed reported contributions by over a factor of thirty. Also, there is a similar preponderance of evidence pointing to likely funders who would have an interest in avoiding disclosure. If Executive Director Wayne is appropriate raising such a matter on his own initiative, then bringing this parallel case forward here through standard procedures is not only appropriate but also necessary.

There are additional motives for MHPC's incomplete filing. Because this is a highly visible case where these disclosures would likely undergo close scrutiny, it is improbable that this inaccurate and incomplete filing is the result of carelessness or misunderstanding. Concealing contributors, as mentioned above, is one very plausible motive of concern to the Commission. But there is another compelling motivation for MHPC to understate expenditures. Unlike Democracy Maine, MHPC is a 501(c)(3) public charity. Maintaining tax-deductible status for contributions requires stringent limits on such expenditures. A fully accurate and complete §1056-B filing would likely

reveal that it had exceeded those limits. If so, the orchestrated efforts to avoid disclosure followed by this wholly incomplete and inaccurate filing could constitute a conspiracy to commit tax fraud. Addressing such an offense is far beyond the scope of the Commission, but does show motive for the matters of concern here. I have attached hereto for your review the Maine Association of Nonprofits flyer *Federal Lobbying Rules and Regulations for 501(c)(3) Organizations*. Please note that MHPC has never filed an IRS Form 5768 for 501(h) status election, and so is subject to the "insubstantial part test".

I have also attached a detailed analysis of the MHPC's activities in 2006 based upon that organization's public postings on such media as the Internet. Of particular interest is how the MHPC's disclosure of TABOR-related staff time on its 1056-B report is at variance with readily available evidence, as well as the Commission staff's own assessment of the organization level of involvement with the TABOR campaign. In the Commission staff's first memo of October 30, the value of a §1056-B disclosure for MHPC was questioned (*italics added*):

Since the MHPC has claimed that it "has not solicited or received any contributions to influence the outcome of a referendum campaign," it would presumably report no contributions if required to file a §1056-B report. The only reporting by the MHPC in a §1056-B report would then relate to expenditures, presumably mostly for staff time. *Many people who are concerned with the campaign finances of the TABOR initiative are likely already aware that the MHPC is spending a significant amount of staff time on TABOR.* The Commission may conclude that there is little additional public benefit to be gained by requiring disclosure of the monetary value of that staff time.

In retrospect, the staff's expectations take on special significance. First, MHPC's written and oral testimony to the Commission that it "has not solicited or received any contributions to influence the outcome of a referendum campaign" has since been shown to be demonstrably false. Second, the staff's acknowledgement "that the MHPC is spending a significant amount of staff time on TABOR" seems at odds with a self-disclosure that claims only 8% of its staff time was devoted to such efforts.

In addition, the reporting of contributions appears to run counter to the guidelines provided for MHPC. These are specific about what contributions should and should not be reported:

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...

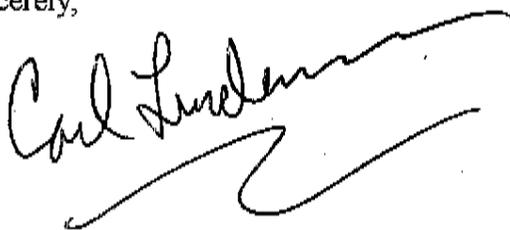
MHPC's written testimony dated December 4 included a single solicitation letter that, it was claimed, did not go out till after voting had taken place despite the document's October 18 date. After the December 20 Commission meeting, an additional fundraising letter dated August 2 surfaced and was distributed by Executive Director Wayne (see attached). While this references MHPC's "Summer Annual Fund Drive", nearly two-thirds of the text refers specifically to the organizations efforts to promote the passage of TABOR. Under the staff guidelines, this would require that every response to this be included in the §1056-B report. In fact, two of the four donations reported were received in August following this solicitation. Were these the only

responses to MHPC's "Summer Annual Fund Drive" solicitation? That assertion is highly unlikely and so is sufficient to warrant further investigation.

Moreover, Assistant Attorney General Gardiner's questioning of MHPC President Bill Becker on December 20 revealed that there may be additional solicitations for TABOR that are, as yet, undisclosed, along with the contributions they elicited. MHPC attorney Daniel Billings stated in his December 4 written testimony that there were no such solicitations whatsoever. That one has surfaced since and others may exist is troubling and points to another anomaly - the exceptionally small disclosure of contributions. As that attached analysis indicates, the \$975 in total contributions MHPC reported represents 0.0077% of a projected budget increase of \$124,000 over the previous year. There is little doubt that this 33% growth was fueled by donations resulting from the visibility enjoyed by MHPC for its prominent role in the TABOR campaign. Despite its high visibility in promoting the passage of TABOR, it is simply not credible that this highly publicized work earned the negligible public support in terms of contributions reported by MHPC in its most recent filing.

These questions and others raised by them, taken in the context of previous doubts about the veracity of MHPC's statements, should be sufficient to trigger a full, proper investigation to gather the information needed to verify that MHPC's §1056-B filing is accurate and complete. If it should be found to be inaccurate and/or incomplete as the result of the willful or knowing actions or omissions of MHPC or any of its officers, then appropriate sanctions should be assessed against MHPC.

Sincerely,

A handwritten signature in black ink, appearing to read "Carl Lindeman", with a long, sweeping underline that extends to the right and then loops back under the signature.

cc: w/encl. P. Lavin  
M. Demeritt  
P. Gardiner

## Carl Lindemann

P.O. Box 171  
Portland, Maine 04112

Phone 207-318-7093

Email Carl@cyberscene.com

### **ANALYSIS OF MAINE HERITAGE POLICY CENTER'S 1056B REPORT Press Releases, Time Study Indicates Underreporting and Omissions**

On January 22, 2007, Maine Heritage Policy Center (MHPC) released a Form §1056-B campaign report on activities related to promoting the passage of the ballot issue known as the Taxpayer Bill of Rights (TABOR) as ordered by the Maine Commission on Governmental Ethics and Election Practices on December 22, 2006. An analysis of the group's self-report includes these major findings:

- Despite being MHPC's major purpose in the 2006 political cycle, reported TABOR efforts account for only 8% of total staff/contracted time\*.
- TABOR-related expenditures disclosed accounted for only 12.4% of MHPC's projected budget.
- Reported donations relating to TABOR account for less than 1% of a projected 33% budget growth in 2006.
- The Executive Director invested less than 20% of his time promoting TABOR
- The Director of Communications spent less than 4% of his time on TABOR while 60% of the press releases he wrote related to the ballot initiative.
- The Health Reform Initiatives Director\* reassigned to the TABOR campaign spent only 4% of his time on it while press releases for health-related activities dropped over 75%.

#### **Methodology Accepted by Commission & MHPC**

This analysis of MHPC's form §1056-B report is based on the same methodology used in the December 20, 2006 presentation to the Commission demonstrating that MHPC'S TABOR campaign constituted the organization's major purpose during the 2006 election cycle. It relies on MHPC's published press releases and other public information including testimony made to the Commission by MHPC. When this previous study was presented, neither MHPC nor the Commissioners or staff questioned either the method or the findings.

#### **MHPC Media Output May-November, 2006**

The new analysis examines the thirty press releases published over the reporting period from May 5 through November 7, 2006. These address MHPC's week-to-week interests and so provide an indication as to the relative output of the organization's efforts in its different areas of interest. This same kind of media analysis technique is typically used to determine the "mix" of content in broadcast programming or print media, and readily adapts to reveal the level of MHPC's engagement in promoting the passage of TABOR.

\*Tarren Bragdon is listed as a staff member on MHPC's Web site, but is reported as being a contract employee in the Form 1056B report.

MHPC's mission statement indicates that the organization's efforts are divided between three primary areas of concern: economy/taxation, education and health care. Sorting the releases into these basic categories, education was non-existent during the TABOR campaign. Administrative and organizational announcements (eg. new hires, speakers for fundraiser events, etc.) make up "Other". TABOR releases are broken down into two categories – those that mention the initiative explicitly by name, and those that provided talking points for pro-TABOR presentations and appearances (eg. "Report: Maine and Louisiana the Only States to see 2005 Economic Decline").

Healthcare:	3 = 10%
Other:	4 = 13.3%
Economy/Taxation:	5 = 16.7%
TABOR Related:	7 = 23.3%
TABOR Explicit:	11=36.7%
<b>TOTAL TABOR:</b>	<b>18=60%</b>

It is notable that over the same time frame in 2005, healthcare accounted for nine of 21 releases - 43% of the total output.

#### **Time Factor Added to Analysis of MHPC Self-Report**

The available staff time was computed over the report period with 10 workdays subtracted for vacations to arrive at a total of 123 workdays. With six MHPC staff members listed on the organization's Web site, this adds up to 738 workdays. Figuring an eight-hour workday yields a possible 5,904 total hours available in the report period. MHPC reported 435 hours of staff time plus 40 hours of contract time spent for promoting the passage of TABOR – only 8% of the total.

The total TABOR expenditures reported came to \$30,962.19. This is out of a total projected annual budget of \$500,000.00\* that is then pro rated to \$250,000 for the six-month report period. This accounts for just 12.4% despite the fact that this budget projection represents a 33% increase over the \$375,965.00 in expenditures reported in MHPC's 2005 Form 990 Tax Return.

MHPC Director of Communications Jason Fortin claims only 35 hours were devoted to TABOR "press activities" though fully 60% of the press releases he wrote in this time frame were TABOR-related.

Director of Health Reform Initiatives Tarren Bragdon only claims 40 hours at speaking events (no travel time to and from events is reported as with Becker and staff economist Scott Moody), just 4% of full-time work. At the same time, healthcare-related press release output dropped drastically. Over the same period in 2005, healthcare accounted for the greatest number of releases, some nine out of 21 or 43%. Healthcare releases were literally decimated apparently as the organization's assets – including Bragdon - were reallocated and reassigned to the TABOR effort. In the report's time frame, only three healthcare releases were issued – just 10% of the total. Still, MHPC's self-report shows only a minor involvement by Bragdon "spent at public speaking events".

\* As reported in Marian McCue's 10/26/06 report published in *The Forecaster*.

### **Added Information on Funding Raises Questions**

Beyond the underreporting of staff/contract time spent on promoting the passage of the ballot initiative, funding disclosures, too, are implausible. MHPC reported the same four contributions previously admitted in testimony to the Commission. The \$975 in total contributions represents 0.0077% of a projected budget increase of \$124,000 over 2005\*. Though this 33% growth was likely fueled by donations resulting from the visibility enjoyed by MHPC for its TABOR promotions, there is no indication of that. Despite its high visibility for promoting the passage of TABOR, this signature work earned negligible financial support according to this disclosure.

This self-disclosure is also problematic in that it supposedly is made in accordance with the Commission staff's §1056-B guidelines of December 27, 2006 created for MHPC. The guidelines are specific in what contributions should and should not be reported. Of particular interest here is:

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...

MHPC's written testimony dated December 4, 2006 included a single solicitation letter that, it was claimed, did not go out till after voting had taken place despite the document's October 18 date. After the December 20 Commission meeting, an additional fundraising letter dated August 2 surfaced and was distributed by Executive Director Wayne on December 21. While this references MHPC's "Summer Annual Fund Drive", nearly 2/3rds of the text refers specifically to the organization's efforts to promote the passage of TABOR. Under the staff guidelines, this would require that every response to this be included in the §1056-B report. In fact, two of the four donations reported were received in August following this solicitation. It seems unlikely, however, that these were the only responses to it. Also, Assistant Attorney General Gardiner's questioning of Bill Becker on December 20 revealed that there may be additional solicitations for TABOR that are, as yet, undisclosed along with the funds generated from them.

### **No In-Kind Contributions/Expenditures**

Perhaps the most glaring omission of MHPC's underreport is the complete absence of any in-kind contributions and/or expenditures whatsoever. The legal proponent Political Action Committee for the ballot initiative is not listed as receiving any item or service valued at over \$100 despite being the direct beneficiary of MHPC's full-service public relations campaign. The report does not reflect the hand-in-glove relationship that existed. Roy Lenardson simultaneously held leadership roles in both organizations. But according to this self-report, there was no significant overlap or contribution made despite a sharing the same major purpose.

### **Dates Connect the Dots**

The dates assigned to contributions in the §1056-B filing further demonstrate that MHPC made material false statements to the Commission about accepting TABOR donations. MHPC had accepted money earmarked for TABOR both before it specifically and emphatically denied that it had done so in its testimony to the Commission on October 31. Then, only days after the

Commission clearly and specifically defined the acceptable boundaries, it accepted at least one other TABOR donation.

Pinning down the dates of the contributions also establishes a chronology for the composition of the "thank you" form letter. MHPC attorney Dan Billings testified in his December 4 response to direct written questions from the Commission staff that what appears to be a "thank you" form letter sent on November 6 was not a form letter at all. But MHPC Executive Director Bill Becker testified on December 20<sup>th</sup> that "three (of the other TABOR donors) got the same letter". Apparently, the form letter had been composed at least as far back as mid-August, presumably in anticipation of significant TABOR donations in response to the "Summer Annual Fund Drive" solicitation. Also, a later fund raising solicitation dated October 18 appears to have been based on this form letter. Given this chronology, Billings' testimony on December 20 that this document is the result of "the danger of 'cut & paste' in the computer age" is not credible.

#### Conclusion:

MHPC's Bill Becker signed off in lieu of MHPC Treasurer Jean Ginn Marvin on the January 22 filing to certify that "the information in this report is true, correct and complete". However, the information does not match the organization's prominence in promoting the passage of TABOR in the report period. In the Commission staff's first memo of October 30, the value of a §1056-B disclosure for MHPC was questioned (*italics added*):

Since the MHPC has claimed that it "has not solicited or received any contributions to influence the outcome of a referendum campaign," it would presumably report no contributions if required to file a §1056-B report. The only reporting by the MHPC in a §1056-B report would then relate to expenditures, presumably mostly for staff time. *Many people who are concerned with the campaign finances of the TABOR initiative are likely already aware that the MHPC is spending a significant amount of staff time on TABOR.* The Commission may conclude that there is little additional public benefit to be gained by requiring disclosure of the monetary value of that staff time.

In retrospect, the staff's expectations take on special significance. First, MHPC's written and oral testimony to the Commission that it "has not solicited or received any contributions to influence the outcome of a referendum campaign" has since been shown to be demonstrably false. Second, the staff's acknowledgement "that the MHPC is spending a significant amount of staff time on TABOR" seems at odds with this self-disclosure that claims only 8% of its staff time was devoted to such efforts.

MHPC's 1056B filing demonstrates the inadequacy of taking the organization at its word in the wake of the material false statements already made in testimony to the Commission. It is appropriate that a full, formal investigation should be conducted to ascertain "true, correct and complete" information on MHPC's TABOR activities.

-END-

\* Based on Marian McCue's 10/26/06 report published in *The Forecaster* and MHPC's 2005 Form 990.

Wayne, Jonathan, 03:59 PM 12/21/2006, For Your Information - MHPC Fundraising Letter Page 1 of 3

Subject: For Your Information - MHPC Fundraising Letter  
Date: Thu, 21 Dec 2006 15:59:43 -0500  
X-MS-Has-Attach: yes  
X-MS-TNEF-Correlator:  
Thread-Topic: For Your Information - MHPC Fundraising Letter  
Thread-Index: Aca2cuLemv9wfnAMQASTEJfjeCz9wJxusSeCwAAeWMDA=  
From: "Wayne, Jonathan" <Jonathan.Wayne@maine.gov>  
To: <Dib9@aol.com>  
Cc: "John Branson" <jbranson@bransonlawoffice.com>,  
"John Branson" <jbranson@bransonlawoffice.com>,  
"Carl Lindemann" <carl@cyberscene.com>,  
<jcrasnick@democracymaine.org>,  
<mecep@mecep.org>,  
"Lavin, Paul" <Paul.Lavin@maine.gov>,  
"Gardiner, Phyllis" <Phyllis.Gardiner@maine.gov>  
X-OriginalArrivalTime: 21 Dec 2006 20:59:44.0313 (UTC) FILETIME=[F0E7A290:01C72542]  
X-Nospam: Whitelist  
X-NAS-Language: English  
X-NAS-Bayes: #0: 0; #1: 1  
X-NAS-Classification: 0  
X-NAS-MessageID: 12  
X-NAS-Validation: {05CC28F7-969D-4640-898B-33B21AA18D71}

---

**From:** Kit St John [mailto:mecep@mecep.org]  
**Sent:** Thursday, December 21, 2006 2:40 PM  
**To:** Lavin, Paul; Wayne, Jonathan  
**Subject:** RE: Give a Gift to MHPC Today

Dear Paul and Jonathan,

At yesterday's hearing Dan Billings offered a copy of a MECEP solicitation that explicitly asked for support of our work against TABOR. ( I naturally don't know exactly what he was referring to, since he did not provide me with a copy of the letter he offered, but I attach a copy of the only one we sent of this nature.) We have tracked and reported the contributions we received as a result of that mailing on our 1056B reports. I attach our internal spreadsheet which backs up our 1056B. Dan Billings' summary appeared to have different numbers than we reported.

In furtherance of our interest that there be a set of clear standards applied to all engaged in the effort to pass or defeat a ballot initiative, we submit the following email (below) I received from Bill Becker in August soliciting from us support in which five out of ten paragraphs describe their "top priority" to "help us educate Maine people about the opportunity that could be found through a reasonable and effective measure," following their description of TABOR.

I would expect that MHPC should likewise track and report on contributions they received as a result of this mailing. I wonder how many other mailings or emailings they sent out, since they testified that they had not solicited at all specifically regarding their work on TABOR. The words of this email as an example certainly would be the sort of wording that we have assumed required reporting of resulting contributions. We look forward to further guidance from the Commission regarding what constitutes contributions "for the purpose of ... influencing " a ballot initiative. If the Commission were persuaded that there was some meaningful distinction that would require reporting of contributions resulting from our letter and not those resulting from theirs, we naturally would like to be informed of what that distinction is.

Thanks for your ongoing attention to these issues. Best wishes, Kit  
Christopher St. John  
Executive Director

Wayne, Jonathan, 03:59 PM 12/21/2006, For Your Information - MHPC Fundraising Letter Page 2 of 3

Maine Center for Economic Policy  
124 Sewall St.  
PO Box 437  
Augusta ME 04332  
207 622-7381, fax 622-0239, cell 441-2694  
[www.mecap.org](http://www.mecap.org)

1994-2006 Celebrating twelve years of advancing policy solutions for shared prosperity.

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**From:** [wbecker@mainepolicy.org](mailto:wbecker@mainepolicy.org) [mailto:[wbecker@mainepolicy.org](mailto:wbecker@mainepolicy.org)]  
**Sent:** Wednesday, August 02, 2006 3:33 PM  
**To:** Kit St John  
**Subject:** Give a Gift to MHPC Today

*We the people of Maine...*  
THE MAINE HERITAGE POLICY CENTER

August 2, 2006

Dear Friend,

What an exciting and busy time for our State. 2006 promises to be an important transitional year for the state's economy, and The Maine Heritage Policy Center (MHPC) is working every day throughout the summer to ensure future economic hope and opportunity for all Maine people.

For nearly four years, MHPC has been able to provide research and analysis on fiscal, health care, and education issues - thanks to the support of so many Maine people.

Your ongoing support has been tremendously beneficial, and is needed today more than ever as we move forward. Will you please consider a gift to our Summer Annual Fund Drive today?

This year, the Taxpayer Bill of Rights is obviously one of our top priorities. MHPC wrote the language for this bill nearly two years ago, and we have spent the last 18 months informing Maine people about the need for such a responsible and effective measure.

The Taxpayer Bill of Rights:

- Establishes annual growth targets for state and local government spending, tied to the growth in the economy
- Allows for majority voter approval for exceeding those growth targets
- Allows for majority voter approval for most tax or fee increases
- Encourages government to lower tax rates in order to match tax revenue with government spending
- Rebates money to taxpayers if government revenue exceeds voter-approved spending
- Creates budget stabilization funds at both the state and local level

Wayne, Jonathan, 03:59 PM 12/21/2006, For Your Information - MHPC Fundraising Letter Page 3 of 3

The Taxpayer Bill of Rights is a reasonable and effective way for Maine to begin repairing its lagging economy. It paves the way for lower taxes and a more favorable business climate, attracting new jobs, strengthening the economy and increasing incomes.

The net result will be to expand the economic pie - securing existing jobs, while keeping young people, families, and retirees in Maine. It will also create an environment where fewer people will need to rely on government assistance programs, thus relieving at least some of the pressure on state and local government. It is, in short, smart growth for our public and private sectors.

Now more than ever, your support is needed to help us educate Maine people about the opportunity that could be found through a reasonable and effective measure. Unfortunately, there are those who are actively misleading the public and distorting the facts.

However, thanks to your support and generosity, we will continue to provide truthful and credible analysis, information, and commentary about Maine's competitive position and how we can improve it. It's great when the facts are on our side!

Please consider a gift today to support the important work of The Maine Heritage Policy Center.

[You can give a gift in support of MHPC today by clicking here to make a secure donation online through our website.](#)

Or, mail your contribution to: The Maine Heritage Policy Center; P.O. Box 7829; Portland, Maine 04112.

Thank you. We are truly grateful for your consideration and for your ongoing support.

Sincerely,



Bill Becker  
President & CEO  
The Maine Heritage Policy Center



[06 TABOR revenue.xls](#)



[TABOR ask.doc](#)



advancing the nonprofit sector

## Federal Lobbying Rules and Regulations for 501(c)(3) Organizations

*Part of a series of MANP documents created to enhance understanding of the rules and regulations governing Maine's nonprofit organizations.*

### Purpose

- To provide a summary of the federal laws that define and regulate nonprofit advocacy efforts
- To explain prohibited electioneering activities
- To encourage nonprofits to legally and effectively advocate for their missions

### Lobbying

With the 1976 Lobby Law and the IRS Regulations set forth in 1990, Congress made it clear that influencing legislation is an appropriate and legitimate activity for charitable organizations.

Your organization must choose one of two standards by which your compliance with the Internal Revenue Code will be measured. These standards apply to lobbying activities with federal officials. You should also consult your state's laws.

#### Standard One - Insubstantial Part Test

Organizations that choose not to file Section 501 (h) of the IRS Code are still subject to the IRS guidelines set forth in 1934. Known as the "insubstantial part test," these guidelines require that "no substantial part of a charity's activities consist of carrying on propaganda or otherwise attempting to influence legislation." "Substantial" has never been fully defined. However, the courts have made clear that the definition of lobbying under the "insubstantial part test" is not only related to an expenditure of money. For example, activities conducted by volunteers to influence legislation must be considered lobbying.

#### Standard Two - Expenditure Test

Those charitable organizations that choose the Section 501(h) election must apply the "expenditure test." Under this standard, lobbying only occurs when there is an expenditure of money. It sets forth specific dollar limits, calculated as a percentage of a charity's total exempt purpose expenditures.

These limits are:

- 20% of the first \$500,000 of exempt purpose expenditures, plus
- 15% of the next \$500,000 of exempt purpose expenditures, plus
- 10% of the next \$500,000 of exempt purpose expenditures, plus
- 5% of the remaining exempt purposes expenditures, up to a total cap of \$1 million.

The organization's grassroots lobbying efforts (described in greater detail below) are limited to 25% of the organization's total lobbying activities as calculated using the formula above. Even if the organization chooses to spend very little on direct lobbying efforts, it may still spend up to 25% of the total limit under the law on grassroots lobbying.

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**Example:**

A nonprofit with a \$100,000 budget, that has chosen the 501(h) election, may spend up to \$20,000 on direct and grassroots lobbying combined. Of this \$20,000, no more than \$5,000 can be spent on grassroots lobbying.

It should be noted - churches and their affiliates are not allowed to elect 501(h) status, although they may lobby under the "insubstantial part test".

### Direct vs. Grassroots Lobbying

#### Examples of Direct Lobbying

- Communicating your organization's views on a specific legislative proposal to a legislator, a staff member, or any government employee who may help develop legislation
- Asking a legislator or related staff member to take action that would require legislation
- Asking your organization's members (those who contribute more than a nominal amount of money or time) to lobby for a particular bill
- Attempting to influence the opinion of the general public on referenda or ballot initiatives

#### Examples of Grassroots Lobbying

- Urging the general public to express a particular view to their legislators about a specific legislative proposal, including simply posting legislators' contact information
- Identifying legislators who are opposed to or undecided on a particular piece of legislation, identifying the audience's legislators, or naming the members on a committee that will vote on a piece of legislation

### Is it Advocacy or Lobbying?

The following examples are activities that are NOT considered lobbying by the IRS:

- An effort to influence an administrative agency (such as, federal and state agencies and local school and zoning boards) to change its policies, rules or regulations
- A general policy position (such as "government has a role in low-income housing"), given that the position does not speak to specific legislation
- Testimony before a legislative committee when your organization has received a written request from the committee to appear
- Nonpartisan analyses, which need not be neutral or objective, that present facts fully and fairly, are widely available and do not include a call to action (such as, request the reader contact their legislator)

*Note: If these materials are used later in a lobbying effort, the cost of preparing these materials must be counted as a lobbying expense.*

- Responses to written requests for information or technical assistance from legislators
- Discussion with government officials concerning legislation that directly impacts the organizations (such as its existence, powers, duties, tax-exempt status, or right to receive

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tax-deductible contributions). However, calling for programs or policies in your organization's field (such as the environment or healthcare, etc.) is considered lobbying.

### 501(h) Status Election

To elect 501(h) status, your organization will need to file a single page form: IRS Form 5768 "Election/Revocation of Election by an Eligible 501(c)(3) Organization to Make Expenditures to Influence Legislation". It requires only the organization's name, address, and the first tax year to which the election will apply.

### **Keep Track of Lobbying Activities**

It is essential to keep track of your lobbying, whether you elect 501(h) status or not, in order to calculate your total exempt purpose expenditures. Your bookkeeping system should include line items for total lobbying expenses as well as grassroots expenses. Since a large portion of your lobbying efforts will be staff oriented, your timesheets should have a method of tracking both direct and grassroots lobbying efforts. It is highly recommended that one employee be designated as the authority on the organization's lobbying efforts. A bookkeeping method is necessary to track all postage, copying, faxing and printed materials used in association with any lobbying efforts.

### **Sanctions for Violation of 501(h) Standards**

Under the 1976 Lobby Law, an organization that either exceeds their overall expenditure limit OR the 25% grassroots-lobbying limit in any year will be assessed a 25% excise tax on its excess lobbying expenses.

### **501(h) Election, Worry Free Lobbying**

The 501(h) expenditure election provides significant benefits over the "insubstantial part test," including:

- No limit on lobbying activities that do not require expenditures
- Clear definitions of various kinds of lobbying communications, which allows your organization to more easily determine whether or not it is engaging in lobbying activities
- Higher lobbying limits and fewer items that count toward the exhaustion of those limits
- Your organization is less likely to lose its exemption status, since the IRS may only revoke exempt status from electing organizations that exceed their lobbying limits by at least 50% averaged over a 4-year period (a non-electing organization may lose its status for a single year's excessive lobbying activities)
- No personal penalties assessed for individual organization managers whose organization exceeds its lobbying expenditures limits

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## Special Circumstances

### Foundations

- Under the 1976 Lobby Law, a foundation may make (without tax liability) a general-purpose grant to a nonprofit that lobbies, whether or not the nonprofit chooses the 501(h) election; however, a foundation cannot earmark funds for lobbying.
- A private foundation may also make a grant to support a specific project that includes lobbying, as long as the amount of the grant is less than the amount budgeted for the non-lobbying portion of the project. The fact that another private foundation may have provided grant funds to the same project need not be a consideration.
- A foundation may not supply grant funds that support research in an area where that foundation has a primary lobbying interest.
- Grants by community foundations are subject to the same laws as grants by private foundations. They may also make a grant that directly funds lobbying; however, it will have to treat the grant as a lobbying expenditure of its own, with the same system of limits that apply to 501(c)(3) organizations.

### Federal Grants

- Nonprofits that receive federal grants, contracts or cooperative agreements cannot use any portion of their federal funds to lobby. The Office of Management and Budget (OMB) Circular A-122 issues cost principles covering most nonprofits on the prohibition of lobbying with federal grants. (For more info please go to <http://www.whitehouse.gov/omb/circulars/a122/a122.html>)
- Often it is unavoidable for organizations that contract with the federal government to use federal funds to lobby at the local level; therefore it is not prohibited.
- Grantees are subject to audits to verify that grant funds have not been used either directly or indirectly for any unallowable expenses.
- The following activities are not considered lobbying activities (according to the OMB Circular A-122):
  - Providing technical and factual information in response to a documented request.
  - Lobbying at the state level in order to directly reduce the costs or avoid material impairment of the organization's authority to perform the grant, contract or agreement. However, lobbying for the purposes of improving performance is not exempt.
  - Anything specifically authorized by statute to be undertaken with funds from the grant, contract or agreement.

### Using the Internet

This is an area of increasing scrutiny. The IRS is interested and involved in the issues surrounding lobbying and charitable giving using the Internet, listservs and websites. Please review our document titled "Using the Internet For Lobbying". It is available on our website at <http://www.nonprofitmaine.org/advocacy.asp>.

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### Activities Surrounding Elections

**Your organization can do nothing to influence a federal, state or local election; it is cause for losing your tax-exempt status!**

The following activities are acceptable surrounding elections:

#### **Voter Education and Registration**

- Your organization may participate in voter education and registration activities provided that your activities are nonpartisan.
- Your organization cannot endorse any candidate or support them (for example, by letting them use your office space).
- A nonprofit may sell, trade or rent its member list to candidates as long as the organization is paid fair value for its use.
- If your organization registers voters, you cannot ask them for whom they plan to vote.
- When conducting voter education, you cannot target a particular population group that may affect the outcome of the election. However, it is acceptable to focus on certain blocks of the community, such as minority groups, students, recent immigrants, etc., as long as the targeted groups are defined in terms of historical deprivation or discrimination, or as those groups who broadly share specific problems or have a community of interests.

#### **Candidate Forums and Appearances**

- Your organization may organize candidate forums, yet all candidates must be treated fairly and impartially and the forum must address a broad range of issues. It can focus on one general topic, such as economic policy, but not on one specific issue, such as the minimum wage. It must have a nonpartisan person as the moderator.
- Candidate visits to your organization's events are risky. Candidates can appear at your organization's event, as long as they do so in a non-candidate capacity (for example, as an elected official). There can be no reference to their candidacy.

#### **Publishing Voting Records**

- You may communicate how legislators actually vote on issues of concern to your organization.
- You must avoid the appearance of endorsing or opposing candidates based on their votes. Publishing voting records, in the midst of an election campaign, could cross the line into "electioneering", especially if your organization does not regularly publish voting records.

#### **Candidate Questionnaires and Public Opinion Polls**

- Your organization may inform candidates of your position on particular issues and urge them to pledge their support on record. Candidates may distribute their responses, but your organization cannot. This also holds true for statements made by the candidate to the media. Your organization can distribute such statements following the election.

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Page 6

- The key to protecting your organization is to question all candidates, frame questions without a bias and cover a wide range of issues. You can include their responses in "voter's guides", as long as there is no evaluation of their responses.
- A public opinion poll can be an effective tool to convince candidates and elected officials to take your organization's issues seriously. Since the poll uses scientific techniques and questions do not directly or indirectly concern the records/positions of particular candidates/parties, your organization can do this during an election cycle. You should not release polls to the press during an election (especially if you do not have a history of conducting polls). If it appears that your organization is trying to influence the public on issues central to the campaign, your nonprofit status could be at stake.

### Lobbying as a 501(c)(4)

If your organization plans to do a substantial amount of lobbying, consider establishing a 501(c)(4) organization. Under IRS rules, a 501(c)(4) organization may use dues and contributions for independent political spending, which must be reported to the Federal Elections Commission. However, 501(c)(4) organizations cannot make campaign contributions to federal candidates and they cannot receive union or business money.

Organizations that are tax-exempt under section 501(c)(4) do not have limitations on lobbying on behalf of their exempt purpose. Charitable contributions to 501(c)(4) organizations are not tax exempt. According to a 1983 U.S. Supreme Court decision, the first amendment requires that a 501(c)(3) organization be permitted to lobby indirectly through a 501(c)(4). However, the 501(c)(4) organization must be run as a separate legal entity and must pay all its costs with nondeductible funds. The IRS monitors this very closely! Again, it is very important to keep clear records.

### Political Action Committees

Organizations that are tax-exempt under 501(c)(3) of the Internal Revenue Code are not permitted to establish political action committees. There is nothing in the law to prohibit 501(c)(4) organizations from setting up Political Action Committees (PAC). These entities are permitted to raise and disburse money in a federal election campaign.

03/01/2007 17:55 2072876775

ETHICS COMMISSION

PAGE 02/23



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

03/01/2007 17:55 2072876775

ETHICS COMMISSION

PAGE 04/23

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.<sup>1</sup>

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.

---

<sup>1</sup> 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.

01/22/2007 18:00 2072876775

ETHICS COMMISSION

PAGE 01/07

FROM : MAINE HERITAGE POLICY CENTER

FAX NO. : 2077734385

Jan. 22 2007 05:56PM P1

Post Office Box 7829  
Portland, Maine 04112  
Phone: 207-321-2550  
Fax: 207-773-4385

**The Maine Heritage  
Policy Center**

**RECEIVED**  
JAN 22 2007  
COMMISSION ON GOVERNMENTAL ETHICS  
& ELECTION PRACTICES AUGUSTA, ME

**Fax**

<b>To:</b> Jonathan Wayne	<b>From:</b> Bill Becker
<b>Fax:</b> 207-287-6775	<b>Pages:</b> 7
<b>Phone:</b> 207-287-6221	<b>Date:</b> 1/22/2007
<b>Re:</b> The Maine Heritage Policy Center	<b>cc:</b>

Dear Jonathon,

The requested 1050-B report is attached per your letter of December 22, 2006.

Sincerely,

Bill Becker

01/22/2007 18:00 2072876775

ETHICS COMMISSION

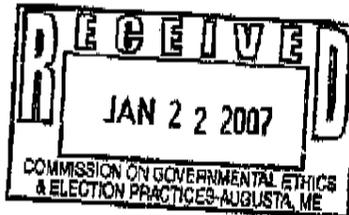
PAGE 02/07

FROM : MAINE HERITAGE POLICY CENTER FAX NO. : 2077734385

Jan. 22 2007 05:56PM P2

*We the people of Maine...*

THE MAINE HERITAGE POLICY CENTER



January 22, 2007

www.maineheritagepolicy.org

P.O. Box 7829  
Portland, Maine 04112

Tel: 207.321.2550  
Fax: 207.773.4385

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

**RE: Response to Final Agency Determination dated December 22, 2006**

Dear Jonathan:

Please find attached the requested report of The Maine Heritage Policy Center. The report filed is under 21-A M.R.S.A. §1056-B as determined by the Maine Commission on Governmental Ethics and Election Practices at its meeting on December 20, 2006 and directed by your letter of December 22, 2006.

This report is being sent via facsimile as well as U. S. Postal Service.

Sincerely,

Bill Becker  
President and Chief Executive Officer

Attachment: Report (5 pages)

01/22/2007 18:00

2072876775

ETHICS COMMISSION

PAGE 03/07

FROM : MAINE HERITAGE POLICY CENTER

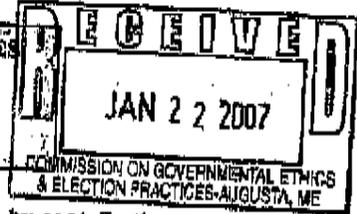
FAX NO. : 2077734385

Jan. 22 2007 05:56PM P3

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 The Maine Heritage Policy Center  
(Person means an individual, committee, firm, partnership, corporation, association, group or organization.)

Mailing address P.O. Box 9829

City, zip code Portland ME 04112

Telephone number 207-321-2550 Fax 207-7734385 E-mail info@mainepolicy.org

NAME OF TREASURER Bill Becker, Pres/CEO  
(or other officer or employee authorized to file this report, if person reporting is other than an individual)

Mailing address Dame

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) \_\_\_\_\_ or the ballot question regarding THE TAXPAYER BILL OF RIGHTS

TYPE OF REPORT AND FILING PERIOD (check one)

Type of report:	Due date:	Filing period:
<input type="checkbox"/> 6-day pre-primary	June 7, 2006	January 1, 2006 to June 1, 2006
<input type="checkbox"/> 42-day post-primary	July 25, 2006	June 2, 2006 to July 18, 2006
<input type="checkbox"/> 6-day pre-general	November 1, 2006	July 19, 2006 to October 26, 2006
<input type="checkbox"/> 42-day post-general	December 19, 2006	October 27, 2006 to December 12, 2006

Other (specify): Per December 22, 2006 Determination Letter

Amendment to: \_\_\_\_\_

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

[Signature]  
Person's/Authorized Official's signature  
CGEP Form 1056-B (Rev. 5/06)

01/22/2007  
Date



The Maine Heritage Policy Center  
Name of PERSON

Page 1 of 2  
(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
MAY - November	STAFF Time Allocated for Research - J. Scott Moody - 140 HRS.	\$7,000.00
MAY - November	STAFF Time Allocated to Public Speaking Events - J. Scott Moody 22 HRS.	\$1,100.00
MAY - November	STAFF Time Allocated for Travel - J. Scott Moody - 48 HRS.	\$2,400.00
MAY - November	Travel Reimbursement - J. Scott Moody	\$624.00
MAY - November	STAFF Time Allocated to Research - Bill Becker - 50 HRS.	\$2,650.00
MAY - November	STAFF Time Allocated to Public Speaking Events - Bill Becker - 85 HRS.	\$4,505.00
MAY - November	STAFF Time Allocated for Travel - Bill Becker - 55 HRS.	\$2,915.00
MAY - November	Travel Reimbursement - Bill Becker	\$536.00
<sup>Expenditures</sup> 1. Total cash contributions this page only		\$21,730.00
<sup>Expenditures</sup> 2. Total from attached Schedule B pages		
<sup>Expenditures</sup> 3. Aggregate of cash contributions of \$100 or less not itemized		
<sup>Expenditures</sup> 4. Total cash contributions this reporting period (Add lines 1, 2 & 3)		

FROM : MAINE HERITAGE POLICY CENTER

FAX NO. : 2077734385

Jan. 22 2007 05:57PM P6

*The Maine Heritage Policy Center*  
Name of PERSON

Page 2 of 2  
(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
MAY - November	STAFF Time Allocated To Press Activities - JASON FORTIN - 35 HRS.	\$1,050.00
MAY - November	Contracted Time Spent AT Public Speaking Events - JAYEN BRADY - 40 HRS.	\$1,600.00
5/24/06	Full Court Press - Printing of Maine View #4-5	\$888.22
10/27/06	Full Court Press - Printing of Maine View #4-8	\$184.68
9/20/06	Hon. John Andrews - Travel Expenses to Maine	\$731.00
MAY - November	Kinko's - Copies for handouts at public speaking events	\$1,153.00
08/05/06	CRITICAL Insights - 2 questions on "Mindin' Maine's Business Survey"	\$3,000.00
9/12/06	Travel Reimbursement for Paul Bachman, Beacon Hill Institute	\$125.29
8/29/06	Maine Secretary of State - Voter Guide	\$500.00
1. Total <sup>expenditures</sup> cash contributions - this page only		\$9232.19
2. Total from attached Schedule B pages <i>Complete lines 2-4 on last page of Schedule B only:</i>		\$21,730.00
3. Aggregate of cash contributions of \$100 or less not itemized expenditures		- 0 -
4. Total <sup>expenditures</sup> cash contributions this reporting period (Add lines 1, 2 & 3)		\$30,962.19





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

March 6, 2007

**By E-Mail and Regular Mail**

Daniel I. Billings  
Marden, Dubord, Bernier & Stevens  
PO Box 708  
Waterville, ME 04901-0708

Dear Mr. Billings:

Yesterday, Carl Lindemann filed the attached request under 21-A M.R.S.A. §1003(2) that the Ethics Commission consider whether the §1056-B report filed by the Maine Heritage Policy Center (MHPC) was accurate and complete. Section 1003(2) provides:

A person may apply in writing to the commission requesting an investigation concerning ... contributions by or to and expenditures by a person, candidate, treasurer, political committee or political action committee. The commission shall review the application and shall make the investigation if the reasons stated for the request show sufficient grounds for believing that a violation has occurred.

This is to request that the MHPC submit a response to the Commission that is sufficient for it to make a determination on Mr. Lindemann's request at a single meeting, keeping in mind the Commission's responsibility to ensure that all financial reporting required by the Election Law is accurate and complete.

Mr. Lindemann's request contains a number of detailed arguments. I believe it is necessary to schedule this matter for the Commission's May meeting so that there is adequate time for interested parties to make submissions and for the Commission and staff to consider the submissions. The date of the May meeting has not been determined. As director of the Commission staff, I request the following:

- The MHPC will submit a written response no later than Friday, March 30;
- Mr. Lindemann will submit all reply materials no later than Friday, April 13;
- In keeping with its customary practice, the Commission staff will request any additional information from the parties and will draft a memo for the Commission no later than one week before the May Commission meeting.

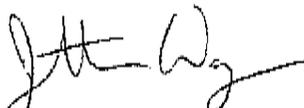
Daniel I. Billings

- 2 -

March 6, 2007

If you or Mr. Lindemann disagree with the proposed schedule, please submit your objections in writing and I will bring them up to the Commission under the heading of other business at the end of the Commission meeting on Friday, March 9. Thank you.

Sincerely,



Jonathan Wayne  
Executive Director

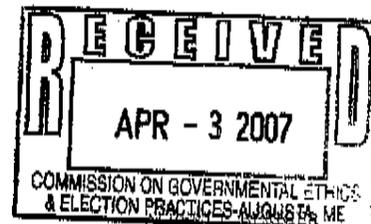
cc: **By e-mail without attachments**  
Carl Lindemann  
John H. Branson  
Phyllis Gardiner

**MARDEN, DUBORD,  
BERNIER & STEVENS**

ATTORNEYS AT LAW

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

(207) 873-0186  
FAX (207) 873-2245  
E-MAIL: [mdb@ghi.net](mailto:mdb@ghi.net)  
<http://www.maine-lawfirm.com>



(RETIRED)  
F. HAROLD DUBORD  
(1891-1964)  
RICHARD J. DUBORD  
(1921-1970)  
HAROLD C. MARDEN  
(1900-1994)  
ROBERT A. MARDEN  
(RETIRED)

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

March 30, 2007

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

**RE: Carl Lindemann's March 5, 2007 Complaint**

Dear Jonathan:

I am writing on behalf of the Maine Heritage Policy Center ("MHPC") in response to your request for a response to Carl Lindemann's complaint dated March 5, 2007.

MHPC's §1056(B) submission is complete and accurate. MHPC staff worked diligently to apply the guidelines prepared by the Commission's staff to MHPC's activities. When there was any question as to whether an expenditure should or should not be included in the §1056(B) filing, MHPC erred on the side of including the expenditure in the report.

The arguments made by Mr. Lindemann in his March 5, 2007 complaint are fundamentally the same as those he made in support of his earlier complaint against MHPC. He has offered no evidence to support his claim that MHPC's §1056(B) filing is incomplete. His complaint is based on his allegations concerning the veracity of statements by representatives of MHPC, his analysis of press releases, and his complaints about Commissioners and Commission staff. The Commission has heard all these arguments before. The arguments are not worthy of further consideration.

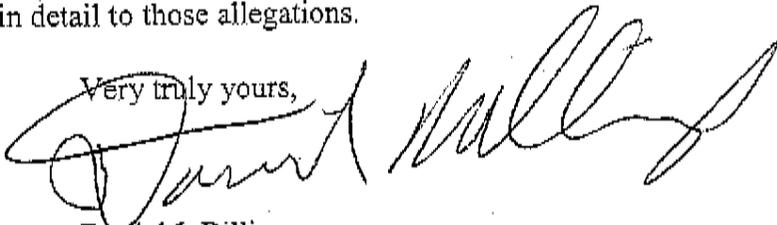
If the Commission decides that Mr. Lindemann's theories are worthy of consideration, I request that any action concerning Mr. Lindemann's new complaint be deferred until the court has completed its consideration Mr. Lindemann's appeal of the Commission's ruling on his earlier complaint. If Mr. Lindemann's appeal is successful, MHPC will likely be required to make new submissions to the Commission and any questions about the completeness of MHPC's §1056(B) filing will be moot.

Jonathan Wayne, Executive Director  
March 30, 2007  
Page 2

To date, MHPC has expended a great deal of time and resources responding to Mr. Lindemann's allegations. It would be an unfair burden on MHPC to require the organization to respond to Mr. Lindemann's new complaint at the same time it is participating in the court's consideration of his appeal.

I request that the Commission first determine whether this matter is worthy of consideration. If the Commission is going to take up the matter now, I request guidance regarding which of Mr. Lindemann's many allegations it considers worthy of consideration and additional time to respond in detail to those allegations.

Very truly yours,



Daniel I. Billings  
e-mail: [dbillings@gwi.net](mailto:dbillings@gwi.net)

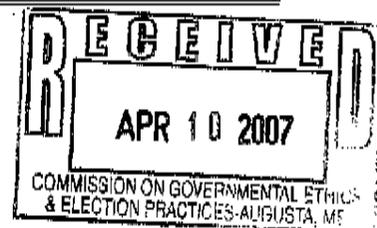
## Carl Lindemann

P.O. Box 171  
Portland, Maine 04112

Phone 207-774-1936

Email Carl@cyberscene.com

April 3, 2007



### BY ELECTRONIC AND USPS MAIL

Jonathan Wayne, Executive Director

Maine Commission on Governmental Ethics & Election Practices

135 State House Station

Augusta, Maine 04333

Dear Executive Director Wayne:

If Maine Heritage Policy Center (MHPC) had concerns of the nature raised in Mr. Billings' letter of March 30, it seems to me these should have brought to the Commission's attention earlier, perhaps when you offered to discuss your proposed deadlines. Instead, MHPC apparently accepted the deadline proposed by the Commission, and now requests what amounts to an extension to those deadlines. Also, please note that I was not copied on this document and only received it because you kindly forwarded it to me. Please inform Mr. Billings to copy me on such communications regarding this case in the future.

Moreover, it should be noted that MHPC did not file a cross-appeal of the Commission's ruling that it file a report under 21-A M.R.S.A. § 1056-B. For this reason, it is disingenuous for MHPC to request a delay in consideration of my complaint on the ground that the Superior Court may find that disclosures under Section 1056-B were not required. Furthermore at the time that MHPC filed its 1056-B report to the Commission, I had already filed court petition for review of the Commission's ruling. At that juncture, MHPC could have sought from the Commission a stay of the ruling requiring MHPC to make disclosures under Section 1056-B. In deciding not to seek such a stay, and instead proceeding with its filing under 1056-B, MHPC arguably has waived any right to delay the Commission's discharge of its statutory responsibilities with regard to that filing, including any complaints challenging the accuracy and/or completeness of said filing.

Finally, whatever judgment is rendered as the result of the pending Petition for Review will, at a minimum, require MHPC to disclose information typically encompassed by Section 1056-B, which imposes less comprehensive disclosure requirements than the statutes governing political action committees. The public has been denied much substantive information about MHPC's actual involvement in the TABOR campaign for long enough. Also, should the courts properly determine that MHPC operated as a PAC with regard to TABOR and compel additional disclosures, such an outcome would not deprive the Commission of the authority to impose sanctions upon MHPC for making inaccurate representations in their 1056-B filing.

Additionally, I do wish to make a few brief observations responding to the many distortions contained in Mr. Billings' letter. His inappropriate *ad hominem* attacks and gross misrepresentations of the sum and substance of my complaint show bad faith through and through. I will respond to those at another time (see below). For now, it is worth noting that he

only mentions MHPC's purported efforts to validate expenditures in the 1056-B filing. This focus underscores my point that MHPC is greatly concerned about the IRS regulation that "no substantial part of a charity's activities consist of carrying on propaganda or otherwise attempting to influence legislation." Of course, as you consider how to respond to Mr. Billings' request, you may prefer to evaluate the glaring inconsistencies in the reported contributions that he omits any reference to whatsoever. Taken together, the real possibility emerges that MHPC had accepted the deadlines to respond to these charges and then discovered it did not really have any plausible response to make. In that light, you may judge that his request is merely a delaying tactic and should be treated as such.

Given this likely possibility and to avoid the kind of administrative inefficiencies and wasted time which were generated last fall due solely to misrepresentations and/or omissions in the initial response to the Commission made by Mr. Billings, I would respectfully request that the Commission require that any response now filed with the Commission on behalf of MHPC, to the second complaint, be by sworn affidavit.

By way of example, the Commission can merely demand of Mr. Billings that the narrative statements made in his March 30 letter be incorporated in such an affidavit. This will maximize administrative economy in the further processing of the pending complaint.

Once such a sworn statement is generated by the Respondent, I will generate a substantive response to the allegations therein.

Sincerely,

A handwritten signature in black ink, appearing to read "Carl J. ...", with a long horizontal flourish extending to the right.

cc:

D. Billings  
P. Gardiner

**Wayne, Jonathan**

---

**From:** Carl Lindemann [carl@cyberscene.com]  
**Sent:** Wednesday, May 09, 2007 2:03 AM  
**To:** Wayne, Jonathan  
**Cc:** Dib9@aol.com; Lavin, Paul; Gardiner, Phyllis  
**Subject:** FOR INCLUSION IN: Packet for May 14th Meeting  
**Importance:** High  
**Attachments:** Becker give a yes on 1 - WGAN.mp3; Lindemann - add'l docs - MHPC 1056-B 5-9-07.pdf

Dear Jonathan,

It's been over a month since I sent what I thought I had been clear was a PRELIMINARY reply to Mr. Billings. I am sorry that, somehow, this was not adequately communicated. This is the first I've heard from you since, now with less than a week till the scheduled session and on the eve of you issuing a memo based on this preliminary, incomplete information.

As I had indicated in my communication of April 3, I had expected to provide a substantive response to Mr. Billing's allegations. Also, there is additional documentary evidence that is crucial for both the staff and Commission's consideration to put MHPC's 1056-B filing in an appropriate context.

I am on the road now and traveling through the day today (Wednesday) with limited phone and e-mail access but will arrive back in Portland tonight. I am scrambling, but I have attached some additional documents that are pertinent. I hope I will be able to provide a fuller, detailed narrative on Thursday to tie these together and then to address Mr. Billing's allegations made in his 3-30-2007 written statement.

For the time being, let me offer this. In brief, MHPC's 1056-B filing has been understood, till now, in the context of an organization that DID NOT expressly advocate for the ballot measure. As the following documents demonstrate, that is no longer viable. Since MHPC engaged in expressed advocacy by promoting the campaign slogan for taxpayerbillofrights.com, a broader range of its activities should be included in its 1056-B report than, one might argue, would be necessary if it had not expressly advocated.

Please note especially that, counter to Mr. Billing's claims, this is not an attempt to cover the same ground addressed earlier. These materials simply provide a more accurate framework for interpreting the subsequent 1056-B filing made by MHPC on January 22, 2007 (not March 6 as stated in the agenda).

Please review the attached .PDF file. I should hope that, despite the late date, this will inform the staff report as well as be included in the Commission packet. Here is a precis of its contents that, along with this e-mail, I request be included in the packet sent to the Commissioners:

Pgs. 1-2: Ancillary e-mails between Paul Lavin and Dan Billings regarding the clarification of the staff guidelines for 1056-B reporting. Mr. Billings has not (as yet) offered any explanation as to why public perception and the Commission staff's experience of MHPC's high visibility in the TABOR campaign could result in such an apparent underreport. However, it is reasonable to say that his constitutional concerns reflected in these e-mails point to a possible explanation he might offer - since MHPC had purportedly NOT engaged in expressed advocacy, a portion of its TABOR activities might not require reporting under 1056-B.

Pg. 3: The definition of "expressly advocate" from the Commission rules. See section 2-B:  
*The 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!"*

5/9/2007

Pg. 4: Slide from MHPC's TABOR presentation. Note the "REASONABLE. EFFECTIVE" slogan. If you like, I can also send along the full presentation should you or the Commissioners wish to view this slide in context.

Pgs 5-6: taxpayerbillofrights.com flyers/posters. Note the "REASONABLE. EFFECTIVE" campaign slogan. This was also featured on all the yard signs instead of the typical "magic words" (Vote Yes on 1).

P. 7 transcript of Bill Becker/Dennis Bailer debate on WGAN-AM on 10-30-2006. Note Becker statement: "The Taxpayer Bill of Rights is Reasonable and Effective". Also, see attached sound clip to verify accuracy. This is also available independently on the WGAN.com Web site.

P. 8-9 transcript of Becker's Commission testimony of 10/31/06 where he provides an alternate account of above debate denying any expressed advocacy.

#### ANCILLARY MATERIAL:

P. 10 transcript of Becker testimony on 12-20-2006 discussing the opportunity for fundraising that the TABOR campaign offered.

P. 11 MHPC press release of 9-15-2006 announcing hiring of Development Director. Ms. Noyes is not listed in MHPC's 1056-B report. It is simply not credible that she did not invest any time whatsoever pursuing the fundraising opportunities Becker mentions above.

Pgs 12-23: MHPC's IRS Form 1023 filing. This substantiates my previous statements over MHPC's awareness of the "insubstantial part test" to maintain its public charity status. See esp. pg 22: "The organization's activities and products will not be substantially directed toward the enactment of particular legislation...". See also page 15, item #13: "Does or will the organization attempt to influence legislation?"

Again, it is regrettable that I did not have more advanced notice to provide a fully explication. I trust that you'll appreciate the importance of seeing MHPC's filing as that of an organization engaged in expressed advocacy as well as the identification of an MHPC staff member that likely engaged in fundraising activities for the organization's TABOR efforts.

Sincerely,

-CL

At 03:38 PM 5/8/2007, Wayne, Jonathan wrote:

The Commission member's packet for the May 14th meeting will be completed tomorrow morning. It will be posted on the internet by 12:00 noon. I will e-mail you a copy of the staff memo regarding Mr. Lindemann's second complaint.

Carl Lindemann  
P.O. Box 171  
Portland, ME 04112  
<http://www.cyberscene.com>  
(207) 774-1936

"Who seeks gold  
digs much earth  
and finds little"

-Heracleitus

5/9/2007

**Unknown**

---

**From:** Dib9@aol.com  
**Sent:** Monday, January 08, 2007 11:40 AM  
**To:** Lavin, Paul  
**Cc:** Wayne, Jonathan; Demeritt, Martha  
**Subject:** Re: Section 1056-B Report Guidance

Thanks. That is what I figured would be your take,

Dan

**Unknown**

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**From:** Dib9@aol.com  
**Sent:** Monday, January 08, 2007 12:22 PM  
**To:** Lavin, Paul  
**Subject:** Re: Section 1056-B Report Guidance

In a message dated 1/8/2007 12:46:15 P.M. Eastern Standard Time, Paul.Lavin@maine.gov writes:

And can I interpret that to mean, "I figured that would be your take because it is so reasonable." Or, "I figured that would be your take because you are the Enemy of Free Speech."

Well, if you put the First Amendment aside and apply the overbroad and vague statute as written, your interpretation is a good one.

;-)

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

# The Taxpayer Bill of Rights – Reasonable. Effective.

## Reasonable

Provide reasonable growth of government at all levels

- Growth rate- inflation plus population growth

Allow additional spending increases with voter approval

## Effective

Make it tougher to raise taxes

- Require voter approval of all tax and fee increases

Provide a Rainy Day Fund for emergencies

Return surplus taxes to taxpayer

## Needed

Maine is

#1 in tax burden (with highest property tax burden)

#39 in income

#45 in small-business climate

July 26, 2006



**Reasonable. Effective.**

# **TAXPAYER BILL OF RIGHTS**

**Feeling taxed to death?**

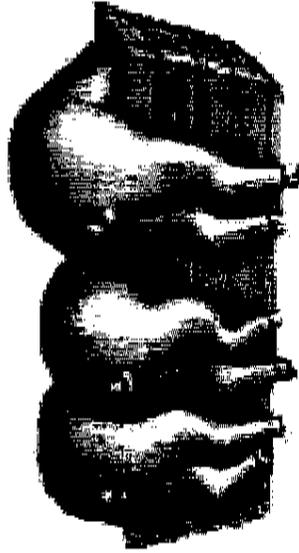
**Are Maine's high taxes hurting  
you and your family?**

**Let's cut property taxes and  
take control!**

**Spread the word**

**Vote YES on #1 on  
November 7th.**

**Pay no mind to our opposition.  
They have other concerns.**



**Find out what the Maine Taxpayer  
Bill of Rights is really about at  
[www.TaxpayerBillofRights.com](http://www.TaxpayerBillofRights.com)**

**Help out in your town. Call 207-924-3835 or sign up  
at [www.TaxpayerBillofRights.com](http://www.TaxpayerBillofRights.com)**

Reasonable. Effective.

# TAXPAYER BILL OF RIGHTS

## WHO'S SPEAKING FOR YOUR TOWN?

The Maine Municipal Association would like you to believe they speak for all Maine cities and towns.

## THEY DON'T.

Mayor LePage in Waterville doesn't think so either. The Mayor supports the Taxpayer Bill of Rights. In fact, more than 50 municipal officials across Maine have already come out in support of the Taxpayer Bill of Rights.

## WHY?

Maine has the **highest property taxes** in the country as a percent of our incomes!

The Taxpayer Bill of Rights will get spending under control and **LOWER YOUR PROPERTY TAXES.**

**LEARN MORE AND GET INVOLVED!**

Visit us on the web at  
[www.TaxpayerBillOfRights.com](http://www.TaxpayerBillOfRights.com)

Paid for by the TaxpayerBillOfRights.com PAC



CITY OF WATERVILLE  
OFFICE OF THE MAYOR

Mr. Geoff Herman  
Maine Municipal Association  
60 Community Drive  
Augusta, ME 04330-9486

Re: TABOR

Dear Mr. Herman,

As an elected official of the City of Waterville, I have seen little benefit over the years in being a paying member of MMA. Your invitation for the October 4, 2006 informational meeting concerning TABOR is one-sided and self-indulgent. Not all elected officials take such a dim view of our hardworking taxpayers in Maine.

Your sarcastic comment referencing the so-called "Taxpayer Bill of Rights" was offensive and unnecessary. As a special interest organization that depends on community dues paid by property taxpayers, I would expect a bit more moderation. You should inform taxpayers of both sides of the issue or none at all. Further, some of us in the public arena have deep concern for those elderly on fixed incomes who struggle to keep their homes due to high property tax rates, or the young couples who struggle to earn a decent living and create homes to raise families while faced with agonizing energy costs, high taxes, and unbearable health insurance costs.

It would seem to me that you should be helping communities in governing more efficiently, and in being fiscally responsible to constituents and refrain from expending taxpayer dollars for your own personal survival. In addition, negative letters from your organization and board members to others organization such as the Maine Oil Dealers Association are despicable.

Until this point, I have been relatively quiet on the TABOR subject, but now I feel compelled to defend Maine taxpayers against such irresponsible and deceitful organizations. To me any community operating efficiently, while being fiscally responsible to its taxpayers, would have little or no difficulty in asking to exceed the TABOR cap during times of need. Using emotional scare tactics, distortions, and lack of trust in our democratic society is contemptible.

Community referendums and town meetings are the purest form of democracy. We are still a society "of the people, for the people, by the people," not solely a society of special interest groups feeding off society. When government fails its constituent, citizens need to take action. While I would prefer having fiscally responsible elected officials, however, short of having that we must resort to referendums. I would agree that L.D.1, Patesky or TABOR may not be perfect, but the same old -same-old tax and spend mentality is far worse for Maine people.

I can assure you that at budget time this year, I will carefully review how much money our City spends on supporting special interest groups.

Sincerely,

Paul R. LePage, Mayor

## **WGAN-AM 10/30/2006 Close of Debate**

Mike Violette: Dennis Bailey, Bill Becker – gentlemen, thanks. I think we lived up to the expectation...

Dennis Bailey: And – no on 1.

MV: Thank you. You want to give a “Yes on 1” before we go Bill?

Bill Becker: The Taxpayer Bill of Rights is reasonable and effective.

DB: He can't say “yes”.

MV: Thank you fellas.

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## PROCEEDINGS

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JONATHAN WAYNE: So would you mind if I

HON. KETTERER: Yes, just let me see if any Commission members have questions. No further questions, okay Jonathan go ahead.

JONATHAN WAYNE: I wanted to ask, how can you be so sure that you haven't engaged in express advocacy and I just wondered about Mr. Lindemann's example when Mike Violette turns to you and said, give us a yes on you know, one statement and then you replied - sounds like you didn't say no we're are a tax-exempt organization and we are not really urging you one way or the other but here's our analysis.

MR. BECKER: I can tell you exactly what I said because -

JONATHAN WAYNE: (Interposing) Well just in general you know, in the context of what the spirit of the law is trying to do and what people take away from your presentation in the media, how can you be so sure you haven't expressly advocated in support of TABOR.

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## PROCEEDINGS

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MR. BECKER: Because I haven't expressly advocated. As a matter of fact what Dennis Bailey said at the end of that interview yesterday was, could Becker keep his - I said specifically I said, Maine voters would be wise to look at this issue I said, and if they like the current status quo then they should vote against it. If they think that we need a new direction and a new opportunity then there is much about the Taxpayer Bill of Rights that they might want to study.

Dennis Bailey said then, to my left, he said because he can't specifically say vote yes on one vote no on one, I vote no on one and he said that is right. Because I can't and I won't, I cannot put out stuff like that and I would not put out stuff like that which specifically says, here Dan Tabor wipes out real tax relief vote no and that is express advocacy. My organization has policy restriction. Their organization is doing political advocacy. There is a difference between policy and politics.

Ethics Commission Testimony: 12-20-06; pgs 156-157  
(emphasis added)

MR. BECKER: Yeah. Yeah I would, um... I would say this. First of all that went to our members. It was not a general—it—we may have misstated when we said it's a general fund raising letter, a general fund raising letter to our own members, uh, which I think clears—makes a distinction in the law as opposed to sending it out to a broader direct mail list. Uh, second of all, uh, nowhere in there, though we're mentioning it, obviously, I mean, again, we were out there talking about it because we thought it was a good idea then. We think it's a good idea now. Um, a lot of our supporters, a lot of our members agreed with us and... **what a better time to raise money** than when you're, uh, in the—talking about it publicly. Obviously we are out there invited to many forums, many speeches that we were giving and—and—and wanted to do that. Uh, it's not unique. Uh, I have in front of me a nice letter from the Maine Center for Economic Policy, May 30<sup>th</sup>, 2006, uh, in which, uh, it's more expressly advocating a—a-a—uh, donation to support their efforts regarding the Taxpayer Bill of Rights. They may have only sent that to their members as well. Um, but again, organizations are out there talking about. The difference is of course, we weren't expressly advocating our position. Even in that letter.

*We the people of Maine...*

THE MAINE HERITAGE POLICY CENTER

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9/15/08: Heather Noyes Joins MHPC as Director of Development

## PRESS RELEASE

# The Maine Heritage Policy Center

FOR IMMEDIATE RELEASE  
SEPTEMBER 15, 2008

CONTACT: JASON FORTIN  
(207) 321-2550

## Heather Noyes Joins MHPC as Director of Development

*The addition of Ms. Noyes positions the think tank for future growth.*

**PORTLAND, ME** – The Maine Heritage Policy Center (MHPC) today announced the appointment of Heather Noyes as Director of Development. In her role, Ms. Noyes will coordinate all of MHPC's ongoing development work, while also managing special events.

Ms. Noyes brings to MHPC ten years of outside sales and management experience from her time with The Protocol School of Washington and C.B. Sullivan Company.

"The Maine Heritage Policy Center welcomes the skill set and experience that Heather brings to the organization," said Bill Becker, president and CEO of The Maine Heritage Policy Center. "MHPC is continually working to educate the Maine media, business leaders, and policymakers about public policy solutions that would lead to fiscal responsibility and a prosperous economy. We are confident that the addition of Heather will help MHPC secure the resources necessary to expand those efforts."

Ms. Noyes resides in Falmouth with her husband Tom and daughter Althea.

*The Maine Heritage Policy Center is a 501 (c) 3 nonprofit, nonpartisan research and educational organization based in Portland, Maine. The Center formulates and promotes free market, conservative public policies in the areas of economic growth, fiscal matters, health care, and education – providing solutions that will benefit all the people of Maine. Contributions to MHPC are tax deductible to the extent allowed by law.*

*Material from this document may be copied and distributed with proper citation.  
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P. O. Box 7829  
 Portland, ME 04112  
<http://www.maineconomy.org>  
<http://blog.maineconomy.org>

**Contacts:**  
**Jason Fortin**  
**Maine Heritage Policy Center**  
**207-321-2550**  
[jfortin@maineconomy.org](mailto:jfortin@maineconomy.org)

Form **1023**  
(Rev. September 1998)  
Department of the Treasury  
Internal Revenue Service

### Application for Recognition of Exemption Under Section 501(c)(3) of the Internal Revenue Code

OMB No. 1545-0058  
*Note: If exempt status is approved, this application will be open for public inspection.*

Read the instructions for each Part carefully.  
**A User Fee must be attached to this application.**  
*If the required information and appropriate documents are not submitted along with Form 9719 (with payment of the appropriate user fee), the application may be returned to you.*  
**Complete the Procedural Checklist on page 8 of the instructions.**

#### Part I Identification of Applicant

<b>1a</b> Full name of organization (as shown in organizing document)  The Maine Heritage Policy Center		<b>2</b> Employer identification number (EIN) (If none, see page 3 of the Specific Instructions.)  22-3888250
<b>1b</b> c/o Name (if applicable)		<b>3</b> Name and telephone number of person to be contacted if additional information is needed.  ( 207 ) 831-4674, William Becker
<b>1c</b> Address (number and street)  P.O. Box 7829	Room/Suite	<b>4</b> Month the annual accounting period ends  December
<b>1d</b> City, town, or post office, state, and ZIP + 4. If you have a foreign address, see <b>Specific Instructions</b> for Part I, page 3.  Portland, ME 04112		
<b>1e</b> Web site address		<b>5</b> Date incorporated or formed December 20, 2002
<b>7</b> Did the organization previously apply for recognition of exemption under this Code section or under any other section of the Code? If "Yes," attach an explanation.		<b>6</b> Check here if applying under section: a <input type="checkbox"/> 501(e) b <input type="checkbox"/> 501(f) c <input type="checkbox"/> 501(k) d <input type="checkbox"/> 501(n)
<b>8</b> Is the organization required to file Form 990 (or Form 990-EZ)? If "No," attach an explanation (see page 3 of the <b>Specific Instructions</b> ).		<input type="checkbox"/> N/A <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
<b>9</b> Has the organization filed Federal income tax returns or exempt organization information returns? If "Yes," state the form numbers, years filed, and Internal Revenue office where filed.		<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

**10** Check the box for the type of organization. ATTACH A CONFORMED COPY OF THE CORRESPONDING ORGANIZING DOCUMENTS TO THE APPLICATION BEFORE MAILING. (See **Specific Instructions** for Part I, Line 10, on page 3.) See also Pub. 557 for examples of organizational documents.)

- a  **Corporation**—Attach a copy of the Articles of Incorporation (including amendments and restatements) showing approval by the appropriate state official; also include a copy of the bylaws.
- b  **Trust**— Attach a copy of the Trust Indenture or Agreement, including all appropriate signatures and dates.
- c  **Association**—Attach a copy of the Articles of Association, Constitution, or other creating document, with a declaration (see instructions) or other evidence the organization was formed by adoption of the document by more than one person; also include a copy of the bylaws.

If the organization is a corporation or an unincorporated association that has not yet adopted bylaws, check here

I declare under the penalties of perjury that I am authorized to sign this application on behalf of the above organization and that I have examined this application, including the accompanying schedules and attachments, and to the best of my knowledge it is true, correct, and complete.

Please Sign Here

*Ronald L. Trowbridge*  
(Signature)

Ronald Trowbridge, President  
(Type or print name and title or authority of signer)

1-20-03  
(Date)

**Part III** **Activities and Operational Information**

- 1 Provide a detailed narrative description of all the activities of the organization—past, present, and planned. **Do not merely refer to or repeat the language in the organizational document.** List each activity separately in the order of importance based on the relative time and other resources devoted to the activity. Indicate the percentage of time for each activity. Each description should include, as a minimum, the following: (a) a detailed description of the activity, including its purpose, and how each activity furthers your exempt purpose; (b) when the activity was or will be initiated; and (c) where and by whom the activity will be conducted.

See Attachment #1

- 2 What are or will be the organization's sources of financial support? List in order of size.

The Center will be seeking contributions from grant-making foundations, individuals and corporations with public policy interests similar to the Institute.

- 3 Describe the organization's fundraising program, both actual and planned, and explain to what extent it has been put into effect. Include details of fundraising activities such as selective mailings, formation of fundraising committees, use of volunteers or professional fundraisers, etc. Attach representative copies of solicitations for financial support.

See Attachment #2

**Part III** Activities and Operational Information (Continued)

**4** Give the following information about the organization's governing body:

a. Names, addresses, and titles of officers, directors, trustees, etc.	b. Annual compensation
Richard Jackson, Chairman of the Board, 55 Burbank Lane, Yarmouth, ME 04096	0
Ronald Trowbridge, President, 30 Colonial Drive, Durham, ME 04222	0
Thomas Mead, Treasurer, 5 Ledgewater Drive, Kennebunk, Maine 04043	0
William Becker, Executive Director and Secretary, ADDRESS TK	\$65,000

**c** Do any of the above persons serve as members of the governing body by reason of being public officials or being appointed by public officials?  Yes  No  
If "Yes," name those persons and explain the basis of their selection or appointment.

**d** Are any members of the organization's governing body "disqualified persons" with respect to the organization (other than by reason of being a member of the governing body) or do any of the members have either a business or family relationship with "disqualified persons"? (See Specific Instructions for Part II, Line 4d, on page 3.)  Yes  No  
If "Yes," explain.

**5** Does the organization control or is it controlled by any other organization?  Yes  No  
Is the organization the outgrowth of (or successor to) another organization, or does it have a special relationship with another organization by reason of interlocking directorates or other factors?  Yes  No  
If either of these questions is answered "Yes," explain.

**6** Does or will the organization directly or indirectly engage in any of the following transactions with any political organization or other exempt organization (other than a 501(c)(3) organization): (a) grants; (b) purchases or sales of assets; (c) rental of facilities or equipment; (d) loans or loan guarantees; (e) reimbursement arrangements; (f) performance of services, membership, or fundraising solicitations; or (g) sharing of facilities, equipment, mailing lists or other assets, or paid employees?  Yes  No  
If "Yes," explain fully and identify the other organizations involved.

**7** Is the organization financially accountable to any other organization?  Yes  No  
If "Yes," explain and identify the other organization. Include details concerning accountability or attach copies of reports if any have been submitted.

**Part III** Activities and Operational Information (Continued)

**8** What assets does the organization have that are used in the performance of its exempt function? (Do not include property producing investment income.) If any assets are not fully operational, explain their status, what additional steps remain to be completed, and when such final steps will be taken. If none, indicate "N/A."

Not fully operational; fundraising dependent on being granted 501(c)3 exemption status.

**9** Will the organization be the beneficiary of tax-exempt bond financing within the next 2 years?  Yes  No

**10a** Will any of the organization's facilities or operations be managed by another organization or individual under a contractual agreement?  Yes  No

**b** Is the organization a party to any leases?  Yes  No

If either of these questions is answered "Yes," attach a copy of the contracts and explain the relationship between the applicant and the other parties.

**11** Is the organization a membership organization?  Yes  No

If "Yes," complete the following:

**a** Describe the organization's membership requirements and attach a schedule of membership fees and dues.

**b** Describe the organization's present and proposed efforts to attract members and attach a copy of any descriptive literature or promotional material used for this purpose.

**c** What benefits do (or will) the members receive in exchange for their payment of dues?

**12a** If the organization provides benefits, services, or products, are the recipients required, or will they be required, to pay for them?  N/A  Yes  No

If "Yes," explain how the charges are determined and attach a copy of the current fee schedule.

**b** Does or will the organization limit its benefits, services, or products to specific individuals or classes of individuals?  N/A  Yes  No

If "Yes," explain how the recipients or beneficiaries are or will be selected.

**13** Does or will the organization attempt to influence legislation?  Yes  No

If "Yes," explain. Also, give an estimate of the percentage of the organization's time and funds that it devotes or plans to devote to this activity.

**14** Does or will the organization intervene in any way in political campaigns, including the publication or distribution of statements?  Yes  No

If "Yes," explain fully.

**Part III** Technical Requirements

- 7 Are you filing Form 1023 within 15 months from the end of the month in which your organization was created or formed?  Yes  No

If you answer "Yes," do not answer questions on lines 2 through 6 below.

- 2 If one of the exceptions to the 15-month filing requirement shown below applies, check the appropriate box and proceed to question 7.

**Exceptions**—You are not required to file an exemption application within 15 months if the organization:

- a Is a church, interchurch organization of local units of a church, a convention or association of churches, or an integrated auxillary of a church. See **Specific Instructions**, Line 2a, on page 4;
- b Is not a private foundation and normally has gross receipts of not more than \$5,000 in each tax year; or
- c Is a subordinate organization covered by a group exemption letter, but only if the parent or supervisory organization timely submitted a notice covering the subordinate.

- 3 If the organization does not meet any of the exceptions on line 2 above, are you filing Form 1023 within 27 months from the end of the month in which the organization was created or formed?  Yes  No

If "Yes," your organization qualifies under Regulation section 301.9100-2, for an automatic 12-month extension of the 15-month filing requirement. Do not answer questions 4 through 6.

If "No," answer question 4.

- 4 If you answer "No" to question 3, does the organization wish to request an extension of time to apply under the "reasonable action and good faith" and the "no prejudice to the interest of the government" requirements of Regulations section 301.9100-3?  Yes  No

If "Yes," give the reasons for not filing this application within the 27-month period described in question 3. See **Specific Instructions**, Part III, Line 4, before completing this item. Do not answer questions 5 and 6.

If "No," answer questions 5 and 6.

- 5 If you answer "No" to question 4, your organization's qualification as a section 501(c)(3) organization can be recognized only from the date this application is filed. Therefore, do you want us to consider the application as a request for recognition of exemption as a section 501(c)(3) organization from the date the application is received and not retroactively to the date the organization was created or formed?  Yes  No

- 6 If you answer "Yes" to question 5 above and wish to request recognition of section 501(c)(4) status for the period beginning with the date the organization was formed and ending with the date the Form 1023 application was received (the effective date of the organization's section 501(c)(3) status), check here  and attach a completed page 1 of Form 1024 to this application.

**Part III** Technical Requirements (Continued)

- 7 Is the organization a private foundation?
- Yes (Answer question 8.)
- No (Answer question 9 and proceed as instructed.)

- 8 If you answer "Yes" to question 7, does the organization claim to be a private operating foundation?
- Yes (Complete Schedule E.)
- No

After answering question 8 on this line, go to line 14 on page 7.

- 9 If you answer "No" to question 7, indicate the public charity classification the organization is requesting by checking the box below that most appropriately applies:

**THE ORGANIZATION IS NOT A PRIVATE FOUNDATION BECAUSE IT QUALIFIES:**

- |   |  |  |
|---|--|--|
| a | <input type="checkbox"/> As a church or a convention or association of churches<br>(CHURCHES MUST COMPLETE SCHEDULE A.)  | Sections 509(a)(1)<br>and 170(b)(1)(A)(i)                          |
| b | <input type="checkbox"/> As a school (MUST COMPLETE SCHEDULE B.)   | Sections 509(a)(1)<br>and 170(b)(1)(A)(ii)                         |
| c | <input type="checkbox"/> As a hospital or a cooperative hospital service organization, or a medical research organization operated in conjunction with a hospital (These organizations, except for hospital service organizations, MUST COMPLETE SCHEDULE C.)                                      | Sections 509(a)(1)<br>and 170(b)(1)(A)(iii)                        |
| d | <input type="checkbox"/> As a governmental unit described in section 170(c)(1).  | Sections 509(a)(1)<br>and 170(b)(1)(A)(v)                          |
| e | <input type="checkbox"/> As being operated solely for the benefit of, or in connection with, one or more of the organizations described in a through d, g, h, or i (MUST COMPLETE SCHEDULE D.)   | Section 509(a)(3)  |
| f | <input type="checkbox"/> As being organized and operated exclusively for testing for public safety.  | Section 509(a)(4)  |
| g | <input type="checkbox"/> As being operated for the benefit of a college or university that is owned or operated by a governmental unit.  | Sections 509(a)(1)<br>and 170(b)(1)(A)(iv)                         |
| h | <input type="checkbox"/> As receiving a substantial part of its support in the form of contributions from publicly supported organizations, from a governmental unit, or from the general public.  | Sections 509(a)(1)<br>and 170(b)(1)(A)(vi)                         |
| i | <input type="checkbox"/> As normally receiving not more than one-third of its support from gross investment income and more than one-third of its support from contributions, membership fees, and gross receipts from activities related to its exempt functions (subject to certain exceptions). | Section 509(a)(2)  |
| j | <input checked="" type="checkbox"/> The organization is a publicly supported organization but is not sure whether it meets the public support test of h or i. The organization would like the IRS to decide the proper classification.   | Sections 509(a)(1)<br>and 170(b)(1)(A)(vi)<br>or Section 509(a)(2) |

*If you checked one of the boxes a through i in question 9, go to question 14. If you checked box g in question 9, go to questions 11 and 12. If you checked box h, i, or j, in question 9, go to question 10.*

**Part III** Technical Requirements (Continued)

- 10** If you checked box **h**, **i**, or **j** in question 9, has the organization completed a tax year of at least 8 months?
- Yes**—indicate whether you are requesting:
    - A definitive ruling. (Answer questions 11 through 14.)
    - An advance ruling. (Answer questions 11 and 14 and attach two Forms 872-C completed and signed.)
  - No**—You must request an advance ruling by completing and signing two Forms 872-C and attaching them to the Form 1023.

- 11** If the organization received any unusual grants during any of the tax years shown in Part IV-A, **Statement of Revenue and Expenses**, attach a list for each year showing the name of the contributor; the date and the amount of the grant; and a brief description of the nature of the grant.

No unusual grants received.

- 12** If you are requesting a definitive ruling under section 170(b)(1)(A)(iv) or (vi), check here  and:

- a** Enter 2% of line 8, column (e), Total, of Part IV-A
- b** Attach a list showing the name and amount contributed by each person (other than a governmental unit or "publicly supported" organization) whose total gifts, grants, contributions, etc., were more than the amount entered on line 12a above.

- 13** If you are requesting a definitive ruling under section 509(a)(2), check here  and:

- a** For each of the years included on lines 1, 2, and 9 of Part IV-A, attach a list showing the name of and amount received from each "disqualified person." (For a definition of "disqualified person," see **Specific Instructions**, Part II, Line 4d, on page 3.)
- b** For each of the years included on line 9 of Part IV-A, attach a list showing the name of and amount received from each payer (other than a "disqualified person") whose payments to the organization were more than \$5,000. For this purpose, "payer" includes, but is not limited to, any organization described in sections 170(b)(1)(A)(i) through (vi) and any governmental agency or bureau.

<b>14</b> Indicate if your organization is one of the following. If so, complete the required schedule. (Submit only those schedules that apply to your organization. Do not submit blank schedules.)	Yes	No	If "Yes," complete Schedule:
Is the organization a church?		✓	A
Is the organization, or any part of it, a school?		✓	B
Is the organization, or any part of it, a hospital or medical research organization?		✓	C
Is the organization a section 509(a)(3) supporting organization?		✓	D
Is the organization a private operating foundation?		✓	E
Is the organization, or any part of it, a home for the aged or handicapped?		✓	F
Is the organization, or any part of it, a child care organization?		✓	G
Does the organization provide or administer any scholarship benefits, student aid, etc.?		✓	H
Has the organization taken over, or will it take over, the facilities of a "for profit" institution?		✓	I

**Part III Financial Data**

Complete the financial statements for the current year and for each of the 3 years immediately before it. If in existence less than 4 years, complete the statements for each year in existence. If in existence less than 1 year, also provide proposed budgets for the 2 years following the current year.

**A. Statement of Revenue and Expenses**

	Current tax year	3 prior tax years or proposed budget for 2 years			(e) TOTAL
	(a) From 12-02 to 12-02	(b) 01-03 to 12-03	(c) 01-04 to 12-04	(d) .....	
<b>Revenue</b>					
1 Gifts, grants, and contributions received (not-including unusual grants—see page 6 of the instructions).	20,000	262,920	399,130		
2 Membership fees received	0	0	0		
3 Gross investment income (see instructions for definition)	0	0	0		
4 Net income from organization's unrelated business activities not included on line 3	0	0	0		
5 Tax revenues levied for and either paid to or spent on behalf of the organization	0	0	0		
6 Value of services or facilities furnished by a governmental unit to the organization without charge (not including the value of services or facilities generally furnished the public without charge)	0	0	0		
7 Other income (not including gain or loss from sale of capital assets) (attach schedule)	0	0	0		
8 Total (add lines 1 through 7)	20,000	262,920	399,130		
9 Gross receipts from admissions, sales of merchandise or services, or furnishing of facilities in any activity that is not an unrelated business within the meaning of section 513. Include related cost of sales on line 22	0	0	0		
10 Total (add lines 8 and 9)	20,000	262,920	399,130		
11 Gain or loss from sale of capital assets (attach schedule)	0	0	0		
12 Unusual grants	0	0	0		
13 Total revenue (add lines 10 through 12)	20,000	262,920	399,130		
<b>Expenses</b>					
14 Fundraising expenses	0	10,000	10,000		
15 Contributions, gifts, grants, and similar amounts paid (attach schedule)	0	0	0		
16 Disbursements to or for benefit of members (attach schedule)	0	0	0		
17 Compensation of officers, directors, and trustees (attach schedule)	5,416	65,000	75,000		
18 Other salaries and wages	0	57,500	104,000		
19 Interest	0	0	0		
20 Occupancy (rent, utilities, etc.)	0	28,500	34,500		
21 Depreciation and depletion	0	0	0		
22 Other (attach schedule)	1,879	124,625	185,630		
23 Total expenses (add lines 14 through 22)	7,295	275,625	399,130		
24 Excess of revenue over expenses (line 13 minus line 23)	12,705	(12,705)	0		

Form 1023 (Rev. 9-98)

Page 9

**Part III****Financial Data (Continued)**

<b>B. Balance Sheet (at the end of the period shown)</b>		Current tax year 2002
<b>Assets</b>		
<b>1</b>	Cash . . . . .	12,705
<b>2</b>	Accounts receivable, net . . . . .	0
<b>3</b>	Inventories . . . . .	0
<b>4</b>	Bonds and notes receivable (attach schedule) . . . . .	0
<b>5</b>	Corporate stocks (attach schedule) . . . . .	0
<b>6</b>	Mortgage loans (attach schedule) . . . . .	0
<b>7</b>	Other investments (attach schedule) . . . . .	0
<b>8</b>	Depreciable and depletable assets (attach schedule) . . . . .	0
<b>9</b>	Land . . . . .	0
<b>10</b>	Other assets (attach schedule) . . . . .	0
<b>11</b>	<b>Total assets</b> (add lines 1 through 10) . . . . .	<b>12,705</b>
<b>Liabilities</b>		
<b>12</b>	Accounts payable . . . . .	0
<b>13</b>	Contributions, gifts, grants, etc., payable . . . . .	0
<b>14</b>	Mortgages and notes payable (attach schedule) . . . . .	0
<b>15</b>	Other liabilities (attach schedule) . . . . .	0
<b>16</b>	<b>Total liabilities</b> (add lines 12 through 15) . . . . .	<b>0</b>
<b>Fund Balances or Net Assets</b>		
<b>17</b>	<b>Total fund balances or net assets</b> . . . . .	<b>12,705</b>
<b>18</b>	<b>Total liabilities and fund balances or net assets</b> (add line 16 and line 17) . . . . .	<b>12,705</b>

If there has been any substantial change in any aspect of the organization's financial activities since the end of the period shown above, check the box and attach a detailed explanation

Form **872-C**

### Consent Fixing Period of Limitation Upon Assessment of Tax Under Section 4940 of the Internal Revenue Code

OMB No. 1545-0050

(Rev. September 1998)

Department of the Treasury  
Internal Revenue Service

(See instructions on reverse side.)

To be used with  
Form 1023. Submit  
in duplicate.

Under section 6501(c)(4) of the Internal Revenue Code, and as part of a request filed with Form 1023 that the organization named below be treated as a publicly supported organization under section 170(b)(1)(A)(v) or section 509(a)(2) during an advance ruling period.

The Maine Heritage Policy Center

*(Exact legal name of organization as shown in organizing document)*

P.O. Box 7829, Portland, ME 04112

*(Number, street, city or town, state, and ZIP code)*

} and the  
District Director of  
Internal Revenue, or  
Assistant  
Commissioner  
(Employee Plans and  
Exempt Organizations)

consent and agree that the period for assessing tax (imposed under section 4940 of the Code) for any of the 5 tax years in the advance ruling period will extend 8 years, 4 months, and 15 days beyond the end of the first tax year.

However, if a notice of deficiency in tax for any of these years is sent to the organization before the period expires, the time for making an assessment will be further extended by the number of days the assessment is prohibited, plus 60 days.

Ending date of first tax year 12/31/02  
*(Month, day, and year)*

Name of organization (as shown in organizing document)	Date
The Maine Heritage Policy Center	1-20-03
Officer or trustee having authority to sign	Type or print name and title
Signature ▶ <i>Ronald L. Trowbridge</i>	Ronald Trowbridge, President
<b>For IRS use only</b>	
District Director or Assistant Commissioner (Employee Plans and Exempt Organizations)	Date

By ▶

**ATTACHMENT #1**

IRS FORM 1023  
Part II, Question 1

**ACTIVITIES AND OPERATIONAL INFORMATION**

The Maine Heritage Policy Center will engage in broad educational activities subject to the constraints of the regulations regarding 501(c)3 exempt organizations. The Center was formed to broaden the public policy debate in Maine by studying, researching and assembling materials and presenting an objective analysis to those interested in a wide range of public policy issues, including the general public; and the Center's activities, as outlined in this 1023 application, are designed as such. The organization's activities and products will not be substantially directed toward the enactment of particular legislation as defined by the courts and the Internal Revenue Code.

The Maine Heritage Policy Center shall provide a forum for the exchange of ideas be it through the written word or by means of meetings and conferences. The Center shall provide the general public with up-to-date research on important issues of the day and publish these findings in a variety of formats for the benefit of decision makers, the media, the business community and the public at large.

Research results will generally be published in such form as to be available to the interested public. The Center will publish hard copies of its products that it will make publicly available, will produce e-mail copies as appropriate, and will publish its products on the Institute's web site whenever possible. No research has been published to date.

Subject to the constraints of its tax-exempt status, the Center shall provide educational material to the public, with an over-all view to increasing its awareness regarding the benefits of increased reliance upon the private and nonprofit sectors for the delivery of public services.

The Center shall provide a resource bank of public policy experts available for legislative or executive committee testimony and shall be available to organize briefings for decision makers. The Center shall strive to keep the relevant elements of the business and nonprofit communities abreast of all educational and legislative developments which may benefit them.

The Center shall make all its studies available to all members of the Maine legislature regardless of party affiliation. In addition, the Center shall publish and/or disseminate the following, on a regular basis:

1. A series of periodic, in-depth analyses of public policy issues. Each report shall be accompanied by an executive summary and, when appropriate, press releases. Authorship shall generally be by outside contractors, who are experts in their various fields of study and/or experience.
2. A regularly issued newsletter mailed to all supporters of the Center and any/all other interested persons or organizations. This newsletter will be used for the purpose of informing the above-mentioned interested supporters/organizations about developments at the Center and will be written primarily by Center staff.

Additionally, the Center shall from time to time bring together local, state and national opinion leaders and policy makers to discuss issues and ideas in various settings, which may include, but not be limited to, the following:

- Issues conferences
  - Single or multi-day conferences convening local, state and national leaders to address specific issues.
- Breakfast or luncheon seminars throughout the state.
  - These brief (one and one-half to three hours in length) meetings might feature lectures by national, state or local experts in a given field; audience participants might be Center supporters, donors, media, and policymakers; these seminars might be combined with fundraising efforts.

Where appropriate, text from visiting speakers' lectures shall be published by the Center and distributed/disseminated in the manner of the Center's other publications.

Subject matter for these various activities, broadly speaking, will include, but not limited to local, state and possibly national public policy issues focusing primarily on the promotion of free-market economic policy, reforming public-sector service delivery systems, researching market-driven approaches to health care reform, and developing ways to overhaul public education.

Maine Heritage Policy Center

**MARDEN, DUBORD,  
BERNIER & STEVENS**

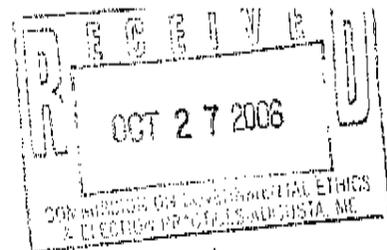
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DANIEL I. BILLINGS  
DANIEL W. MARRA

ALBERT L. BERNIER  
(RETIRED)  
F. HAROLD DUBORD  
(1891-1964)  
RICHARD J. DUBORD  
(1921-1970)  
HAROLD C. MARDEN  
(1900-1994)  
ROBERT A. MARDEN  
(RETIRED)



October 26, 2006

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

**RE: Maine Heritage Policy Center**

Dear Jonathan:

I am responding on behalf of the Maine Heritage Policy Center ("MHPC") to your letter of October 24<sup>th</sup> concerning the complaint by Carl Lindemann. The complaint raises significant and complicated issues and we are happy to cooperate with the Commission's inquiry. Before responding to the specific issues raised by the complaint, I would like to provide an overview of MHPC and its activities to provide some context to their activities related to the Maine Taxpayer Bill of Rights.

**Maine Heritage Policy Center's Activities**

The Maine Heritage Policy Center is a nonprofit, nonpartisan research and educational organization whose purpose is to analyze and promote conservative and free market public policy solutions that will benefit the people of Maine. MHPC's work is primarily focused on fiscal, health care, and education issues – as well as data collection and publications.

In 2003, MHPC authored its first-ever policy report on tax-and-expenditure limits (TELS). MHPC identified TELS as a potential solution to Maine's high tax ranking, researching the make-up of the 25+ states that had some form of TELS. MHPC has continued to promote TELS as a policy solution since that first report.

In 2004, MHPC hosted the "Emergency Tax Summit" in Portland, bringing together respected economists and policy experts from Maine and around the nation to address Maine's continued high tax burden. Two respected economists from Colorado spoke about the Colorado TEL, instituted in 1992, that served to lower taxes and strengthen the economy.

Jonathan Wayne, Executive Director  
October 26, 2006  
Page 2

Following that conference, MHPC set about the task of drafting model legislation for a TEL in Maine. In consultation with Maine legislators, national economists and policy experts, MHPC worked to design a TEL that would work within Maine's unique dynamics and laws. That work was completed in the summer of 2004.

Following the completion of the model TEL, it was advanced in two separate directions. Mary Adams became interested in using the model TEL as a citizen's initiative, and took the necessary steps to begin that process, including the creation of a political action committee "TaxpayerBillOfRights.com". Additionally, Senator Mary Andrews took the model TEL and submitted it in the Legislature as a legislative bill. That bill eventually was voted down in the Legislature.

In October of 2004, Mary Adams received approval to circulate petitions for what was to be known as the Maine Taxpayer Bill of Rights. Signatures were gathered through October of 2005, when the petitions were submitted to the Secretary of State. In February of 2006, the Secretary of State certified the petitions. Soon thereafter, Kathleen McGee filed a suit in Superior Court challenging the Secretary of State's decision. The Superior Court found in McGee's favor, and Mary Adams appealed to the Law Court.

In the Law Court case, Democracy Maine filed an amicus brief, siding with Ms. McGee's defense of the Superior Court decision. Michael Duddy, Esquire was retained by Mary Adams for the appeal, and Assistant Attorney General Phyllis Gardner also argued against the Superior Court decision on behalf of the Secretary of State. In May of 2006, the Law Court unanimously found in Adams' favor, ordered that the petitions be ruled valid, and thus placed the citizen's initiative on the November 2006 ballot.

Over the past two years, MHPC has conducted additional research and analysis on Maine's proposed TEL. MHPC researchers have studied the impact of TELs on other states, notably Colorado, as well as the other states that now have a TEL and the positive correlation between lower taxes and economic vitality. MHPC has used comprehensive computer equilibrium modeling to estimate the job creation and increase of personal income that would result from Maine's proposal. MHPC has further delved into Maine's struggling economy and continued to encourage restrained government growth as a way to reduce Maine's tax burden.

The staff at MHPC has been invited numerous times to speak about the Maine Taxpayer Bill of Rights. Most often, MHPC has been asked to educate audiences about what the bill says, why it was designed the way it was and in what context it was seen as a solution. MHPC is the author of the model legislation that since became a citizen's initiative. The staff of MHPC is seen as experts on the initiative, and as such, has been asked to testify at the Legislature and at the municipal level, and also to speak at debates and service organizations regarding the research and analysis MHPC has conducted. Often, MHPC is contacted by the media to answer technical questions about the bill or to answer charges from those opposed to the Taxpayer Bill of Rights initiative.

Jonathan Wayne, Executive Director

October 26, 2006

Page 3

As the drafters who developed the initial model legislation, MHPC is in the best position to provide information on what the initiative says and what the analysis shows will be the initiative's impact. That is the nature of MHPC's work as a public policy research and educational organization – to research and analyze public policies and educate people regarding the findings.

The Maine Heritage Policy Center has not distributed or produced political literature that specifically advocates a "Yes on 1" or "Vote Yes on TABOR" position. In their remarks, MHPC's staff does not tell people to vote one way or the other. The materials submitted by Mr. Lindemann and Democracy Maine show this to be the case. MHPC has not purchased television, radio, or newspaper advertisements to influence the outcome of the referendum. MHPC has not purchased nor distributed lawn signs, bumper stickers, or other types of campaign material. The Maine Heritage Policy Center does not solicit or receive funds that are predicated on the Center's taking a position on any issue. All donations received are used to support the overall operations and general mission of the Center.

In short, the Maine Heritage Policy Center is engaged in policy research and analysis, and not political campaigning. The Center's staff serves as policy experts in key areas, including Tax and Expenditure Limits. As such, MHPC is called to provide analysis in those areas.

With this letter, copies of recent publications produced by MHPC are being provided to give the Commission a clear picture of the Center's activities.

#### **Responses to Questions in October 24<sup>th</sup> letter**

It is important to begin this discussion by noting that the United States Supreme Court has held that advocacy concerning referendum-type elections involves "core political speech," and state regulation of election advocacy accordingly requires "exacting scrutiny" to ensure that the regulation is "narrowly tailored" to an "overriding state interest." McIntyre v. Ohio Elections Comm'n, 514 U.S. 334, 347, 115 S.Ct. 1511, 131 L.Ed.2d 426 (1995). The Court has reminded us that the premise of the First Amendment is that voters are presumed to be able to assess the persuasiveness of a message and vote a ballot issue up or down on its merits. See Id. at 348-49, 115 S.Ct. 1511. Though the wording of the Maine statutes in this area are quite broad, the Commission should keep in mind that core political speech is at issue and the statutes should, as a result, be read and applied narrowly.

In applying the statutes to MHPC's activities, it is my conclusion that neither registration with nor financial reporting to the Commission is required.

MHPC is not a political action committee ("PAC") as defined by 21-A M.R.S.A. §1052. MHPC is not a segregated fund, established with the purpose of influencing an election. MHPC is not a funding or transfer mechanism for a campaign. Its major purpose is not advocating the passage of a ballot question. It has not solicited or received any contributions to influence the outcome of a referendum campaign. It should be noted that other similar organizations, such as the Maine Center for Economic Policy, have not

Jonathan Wayne, Executive Director  
October 26, 2006  
Page 4

registered as a PAC, though they are involved in the campaign to defeat the Maine Taxpayer Bill of Rights.

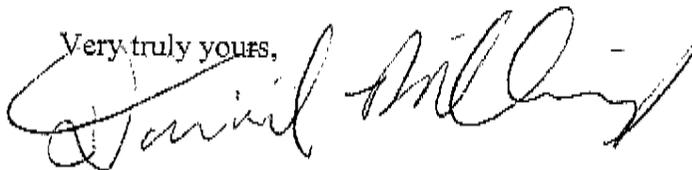
MHPC should also not be required to file financial reports under 21-A M.R.S.A. §1056-B. While MHPC's activities may influence the referendum on the Maine Taxpayer Bill of Rights, MHPC's has not solicited or accepted contributions or made expenditures for the purpose of initiating, promoting, defeating, or influencing in any way the outcome of the referendum. MHPC's purpose in speaking about the Maine Taxpayer Bill of Rights is to further the Center's mission to analyze and promote conservative and free market public policy solutions that will benefit the people of Maine. MHPC is engaging in the same types of activities today as it did before the referendum was placed on the ballot and it will be engaging in the same types of activities after November 7<sup>th</sup>. The purpose of MHPC's activities is not to influence the outcome of the referendum, therefore, its activities do not trigger reporting under 21-A M.R.S.A. §1056-B.

As I noted in my brief presentation to the Commission last week, if the Commission decides that the time spent by MHPC staff speaking about the Maine Taxpayer Bill of Rights triggers reporting, there are dozens of other organizations that should also report. Many municipalities have spent considerable staff time on the referendum and some have spent money getting information about the municipality's view on the initiative to citizens. Other organizations such, as the Maine Chamber of Commerce, several local chambers of commerce, and even the Roman Catholic Diocese of Portland, have spent considerable time and effort studying the Maine Taxpayer Bill of Rights and communicating their views to the public. I do not believe that the Legislature intended reporting to be triggered simply by the study of an issue and public statements concerning an issue. Even if that was intended, I do not believe that such a broad regulation of core political speech would withstand constitutional scrutiny.

I will be in attendance at the Commission's meeting on October 31<sup>st</sup>, along with Bill Becker, President & Chief Executive Officer of MHPC. Bill has a pre-existing commitment on the morning of October 31<sup>st</sup> and will not likely be able to get to the meeting before 10:30 a.m. I request that this matter be scheduled after other matters on the agenda so Bill can participate in the discussion. Though I will certainly be prepared to discuss the issue, Bill is in the best position to answer any questions that Commission members may have about MHPC and its activities.

If you believe any further information would be of assistance to the Commission, please let me know.

Very truly yours,



Daniel I. Billings  
e-mail: [dbillings@ewi.net](mailto:dbillings@ewi.net)

*We the people of Maine...*

THE MAINE HERITAGE POLICY CENTER

November 6, 2006

www.mainepolicy.org

Mr. David A. Briney

REDACTED  
Denver, Colorado

P.O. Box 7829  
Portland, Maine 04112

Tel: 207.321.2550  
Fax: 207.773.4385

Dear Mr. Briney,

On behalf of the Board of Directors, please accept my sincere thanks for your generous contribution of \$125.00 to The Maine Heritage Policy Center. 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.

Board of Directors

As the author of The Taxpayer Bill Of Rights, we believe that this initiative provides a road map to jump-start Maine's economy. With only a few weeks until the election, we are in a fight for Maine's economic life. As you are aware, Maine has the highest property taxes and the highest state and local tax burden in the country. Our economy continues to struggle. In 2005, Maine was just one of two states to see a decline in economic activity, as reported by the Federal Reserve Bank of Boston. Louisiana, which was ravaged by hurricane Katrina, was the only other state to see a decline. It is more important than ever to educate Maine citizens about the challenges we currently face.

Mr. John Austin  
Mr. William G. Becker, III  
Chief Executive Officer  
Hon. Richard A. Bennett  
Michael A. Duddy, Esq.  
Mr. Neal B. Freeman  
Hon. Jean Ginn Marvin  
Mr. W.R. Jackson, Jr.  
Chairman of the Board  
Mr. Thomas W. Mead  
Treasurer

We understand that the economic pie is shrinking. A large part of the problem has been Maine's highest-in-the-nation tax burden, driven by out-of-control government spending. One way to address that problem is through an effective "Tax-and-Expenditure Limit" such as Maine's proposed The Taxpayer Bill Of Rights. Such responsible public policy encourages Maine businesses to remain in the state and grow, thus creating more Maine jobs and higher incomes for Maine workers. With Maine's per capita tax burden growing 50% faster than the rate of inflation, we must act now and work to stop Maine's spending frenzy. Since January 2003, government jobs are growing at more than twice the rate of private sector jobs. This is not an investment in Maine's future. We are digging out the facts everyday and working hard to promote this race based on facts and evidence, not emotions.

The Taxpayer Bill Of Rights is the only public policy in front of Maine voters or our legislators that is guaranteed to reduce Maine's tax burden and ensure that government does not grow faster than the people's ability to pay. It is a reasonable solution for Maine citizens and I thank you for being part of the solution in helping to solve Maine's economic challenges and for investing in Maine's future.

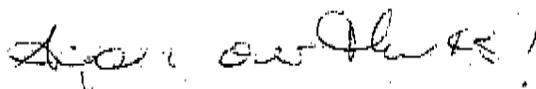
Thank you for joining this effort to help our leaders understand the need for genuine reforms in the way Maine operates - and for providing them with viable and proven policy solutions that will change Maine's future to one of opportunity and promise.

Please do not hesitate to contact me at 207-321-2550 with any questions or suggestions. Thank you again for your support - I look forward to seeing you at a Maine Heritage event very soon.

Yours truly,

  
Bill Becker

President and Chief Executive Officer



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**MARDEN, DUBORD,  
BERNIER & STEVENS**

---

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(RETIRED)

December 4, 2006

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

**RE: Maine Heritage Policy Center**

Dear Jonathan:

I am writing in response to your November 28<sup>th</sup> letter seeking more information from the Maine Heritage Policy Center ("MHPC") due to new allegations raised by Carl Lindemann. While I am happy to answer the questions raised in your letter, I need to first address the legal standard that the Commission must apply when considering the questions that have been raised concerning MHPC's activities related to the Maine Taxpayer Bill of Rights. Much of the difficulty in assessing the concerns that have been raised about MHPC has been the uncertainty that has resulted from the broad language contained in 21-A M.R.S.A. §1056-B and the court decisions indicating only a much narrower approach to regulation of speech regarding ballot measures can sustain constitutional scrutiny. Before considering the complaint against MHPC, the Commission should first decide how it will apply Maine law to all persons and entities engaging in speech regarding ballot measures in light of the court decisions in this area.

**Constitutional Standards**

21-A M.R.S.A. §1056-B requires that "[a]ny 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." The statute further requires that the report filed "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." The statute includes very broad language, which if not applied narrowly, would, for the reasons explained below, not withstand a constitutional challenge.

Jonathan Wayne, Executive Director  
December 4, 2006  
Page 2

In Buckley v. Valeo, 424 U.S. 1, 96 S.Ct. 612, 46 L.Ed.2d 659 (1976), the Supreme Court considered wide-ranging challenges to the Federal Election Campaigns Act ("FECA"). The Court described "[d]iscussion of public issues and debate on the qualifications of candidates [as] integral to the operation of the system of government established by our Constitution [to which] [t]he First Amendment affords the broadest protection." Id. at 14, 96 S.Ct. 612. The Court then recognized a "distinction between discussion of issues and candidates and advocacy of election or defeat of candidates." Id. at 42, 96 S.Ct. 612. To avoid problems of vagueness and overbreadth that would otherwise be presented by certain of FECA's provisions, the Court construed them to reach only communications "that expressly advocate the election or defeat of a clearly defined candidate." Id. at 80, 96 S.Ct. 612; See also Id. at 43-44, 96 S.Ct. 612. The Court restricted express advocacy, in turn, to communications utilizing imperative terms such as "vote for [or against]," "support," "defeat" or "reject." Id. at 44 n. 52, 96 S.Ct. 612.

While Buckley dealt with candidate elections, only in later cases did the Supreme Court deal with ballot measures that did not involve candidates for office. An examination of the Supreme Court's jurisprudence in the area is useful to the issues currently before the Commission.

In First National Bank of Boston v. Bellotti, 435 U.S. 765, 790, 98 S.Ct. 1407, 55 L.Ed.2d 707 (1978), the Supreme Court recognized that votes on ballot measures involve less risk of corruption than do candidate elections where there is concern to avoid a quid pro quo arrangement between a candidate and the contributor. "Referenda are held on issues, not candidates for public office. The risk of corruption perceived in cases involving candidate elections simply is not present in a popular vote on a public issue." Id. at 790, 98 S.Ct. 1407 (citations and footnote omitted).

In Citizens Against Rent Control v. City of Berkeley, 454 U.S. 290, 102 S.Ct. 434, 70 L.Ed.2d 492 (1981), the Supreme Court struck down state limitations on money contributions to political committees supporting or opposing a ballot measure. In doing so, the Court observed that "[t]he integrity of the political system will be adequately protected if contributors are identified in a public filing revealing the amounts contributed." Id. at 299-300, 102 S.Ct. 434.

In McIntyre v. Ohio Elections Comm'n, 514 U.S. 334, 347, 115 S.Ct. 1511, 131 L.Ed.2d 426 (1995), the Supreme Court held that "the principles enunciated in Buckley extend equally to issues-based elections" and made clear that exacting scrutiny applies to any state regulation of advocacy in noncandidate elections like referenda.

The Supreme Court's most recent pronouncement in this area of noncandidate elections is Buckley v. American Constitutional Law Foundation, 525 U.S. 182, 119 S.Ct. 636, 142 L.Ed.2d 599 (1999) ("Buckley II"). That decision struck down a number of Colorado regulations concerning the state's petition process. In doing so, however, the Supreme Court said that it was legitimate for a state to require sponsors of ballot initiatives to disclose to the State the names of proponents of the petition and the amount being spent. Id. at 647-48. The Court approvingly identified that requirement as a way to inform voters of

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Page 3

"the source and amount of money spent by proponents to get a measure on the ballot." *Id.* at 647.

Though the Supreme Court cases in this area do not directly address whether a state can constitutionally require disclosure of contributions and expenditures that are spent on speech that does not expressly advocate the passage or defeat of a referendum question, the lower courts that have considered the issue have concluded that state regulation must be limited to express advocacy. In *Richey v. Tyson*, 120 F. Supp. 2d 1298, 1319 (D. Alabama 2000), the District Court held that the U.S. Constitution required that Alabama's Fair Campaign Practices Act, which contained broad language such as is contained in Maine law, must be read narrowly to confine the scope of its disclosure requirements to contributions and expenditures for the purpose of expressly advocating the passage or defeat of a referendum question. In *California Pro-Life Council, Inc. v. Getman*, 328 F.3d 1088, 1098-99 (9<sup>th</sup> Cir. 2003), the Court of Appeals held that a state court ruling limiting state regulation of candidate related ads to those containing express advocacy also applied to speech related to referendum questions.

A review of these cases leads to the conclusion that state regulation of speech regarding referendum questions is only constitutional if the regulation is limited to speech which expressly advocates the passage or defeat of a referendum question. With these cases in mind, the Commission should read Maine law narrowly as to only require reporting of contributions and expenditures which are used for speech which directly advocates the passage or defeat of a referendum question. Any other reading would impermissibly interfere with speech which is entitled to the broadest First Amendment protection.

It should also be noted that none of the policy concerns that continue to be debated regarding what expenditures should trigger matching funds to candidate under Maine's Clean Elections Act are relevant to this issue. There are no matching funds at stake that can be triggered in referendum campaigns and there are no contribution limits which are applicable to such campaigns.

If Maine law is read narrowly, as required by the U.S. Constitution, no reporting of any kind should be required by MHPC. A great deal of material concerning MHPC has been submitted to the Commission. To date, I have seen nothing which would indicate that MHPC spent any funds to expressly advocate the passage of the Maine Taxpayer Bill of Rights.

#### **Responses to Questions in November 28<sup>th</sup> letter**

In your letter, you asked four questions. Each question is addressed below:

- (1) *Has the MHPC received any funds from any source specifically to promote, initiate, or influence the TABOR initiative? If so, please state the total amount received. If an exact amount is not available by December 4, please provide an estimated amount for the time being.*

MHPC has not received any funds from any source specifically to promote, initiate, or influence the TABOR initiative. All contributions received are used to support the overall

Jonathan Wayne, Executive Director  
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Page 4

operations and general mission of MHPC. No funds were specifically segregated or dedicated to activities related to the Maine Taxpayers Bill of Rights. No activities undertaken by MHPC related to the Maine Taxpayer Bill of Rights were contingent upon or the result of any funds received from any source.

As a result of this question, MHPC staff has reviewed all contributions received by the Center this year. Four contributions, including the contribution from Mr. Briney, were made along with correspondence or references on checks mentioning TABOR or MHPC's work related to TABOR. These four contributions total \$975, less than the \$1500 threshold requiring reporting under Maine law. It should be noted that these contributions were not treated any differently than any other contributions to MHPC and the funds were not dedicated to any activities related to the Maine Taxpayers Bill of Rights. It should be no surprise that some contributors may mention MHPC's TABOR related work, based on MHPC's activities as detailed in my letter of October 26<sup>th</sup>.

There were also two other contributions received where TABOR was referenced along with the contributions. In both cases, MHPC staff spoke to the donor and made sure the donor understood that contributions to MHPC would not be used as part of the campaign to pass TABOR and that all contributions received are used to support the overall operations and general mission of MHPC.

In October, MHPC received a \$3,000 contribution with "TABOR" in the memo. MHPC staff knew the donor personally, and communicated with the donor regarding the donor's intent. MHPC staff explained to the donor that MHPC's role was limited to research and education and that a separate, independent organization was running the initiative campaign and purchasing media, etc. Based on these discussions, the contributor asked that \$2500 be refunded, with \$500 retained by MHPC for their general operating research and analysis work. MHPC complied with the request.

Additionally, one other \$1,000 unsolicited donation was received in 2006 with a personal check that did not reference TABOR. However, on the inside of the donation envelope, a note "For TABOR!" was handwritten. MHPC staff called the donor and spoke with the donor about the nature of MHPC's work. It is the MHPC staff's belief that the donor was aware that the organization's work was not political, nor engaged in express advocacy – but rather that the donor's contribution was for general support of MHPC's role in strictly research and education efforts

(2) *Has the MHPC solicited any contributions or other funds in connection with the TABOR initiative?*

No. However, MHPC has mentioned its TABOR related work in its general fundraising activities. For example, the enclosed fundraising letter, marked as Exhibit A, mentions MHPC's work related to TABOR. It should be noted that though the letter is dated October 18<sup>th</sup>, it did not go out until after November 7th and no contributions were received as a result of the letter before November 7<sup>th</sup>. Also, the letter was only sent to existing MHPC members.

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December 4, 2006  
Page 5

- (3) *Is the November 6 letter from Bill Becker a form letter used by the MHPC to thank donors for contributions or other funds given to promote TABOR?*

No. Enclosed, marked as Exhibit B, is a copy of the form letter used by MHPC to thank contributors. As you can see, changes were made to the regular form letter to recognize Mr. Briney's expressed interest in MHPC's work related to TABOR. It is MHPC's practice to alter the general form letter as a result of areas of interest mentioned by the donor.

- (4) *Was part of MHPC's mission in 2006 to promote TABOR, as stated in Mr. Becker's November 6 letter?*

The language contained in the November 6 letter was a result of changing the usual form letter which states "we will use [your donation] to advance our mission of promoting free markets and conservative public policy solutions that will benefit all people of Maine."

MHPC's mission, as stated on its application for 501(c)(3) status is:

*The Maine Heritage Policy Center is a research and educational organization whose mission is to formulate and promote conservative public policies based on the principles of free enterprise; limited, constitutional government; individual freedom; and traditional American values—all for the purpose of providing public policy solutions that benefit the people of Maine.*

*MHPC's staff pursues this mission by undertaking accurate and timely research and marketing these findings to its primary audience: the Maine Legislature, nonpartisan Legislative staff, the executive branch, the state's media, and the broad policy community. MHPC's products include publications, articles, conferences, and policy briefings.*

*The Maine Heritage Policy Center researches and formulates innovative and proven conservative public policy solutions for Maine in three general areas:*

*Economy/Taxation  
Education  
Health Care*

*Governed by an independent Board of Directors, The Maine Heritage Policy Center is a nonprofit, nonpartisan, tax-exempt organization. MHPC relies on the generous support from individuals, corporations, and foundations, and does not accept government funds or perform contract work.*

A more abbreviated version of MHPC's mission appears on its publications:

*The Maine Heritage Policy Center is a 501 (c) 3 nonprofit, nonpartisan research and educational organization based in Portland, Maine. The Center formulates and promotes free market, conservative public policies in the areas*

Jonathan Wayne, Executive Director  
December 4, 2006  
Page 6

*of economic growth, fiscal matters, health care, and education -- providing solutions that will benefit all the people of Maine. Contributions to MHPC are tax deductible to the extent allowed by law.*

MHPC believes that its work related to the Maine Taxpayer Bill of Rights, which was detailed in my October 26<sup>th</sup> letter and in testimony to the Commission, is in keeping with this mission.

**Allegations contained in Carl Lindemann's November 27<sup>th</sup> letter**

Mr. Lindemann's allegations of "criminality," "willful deceit," and "material false statements" are not worthy of a response. The alleged "new evidence" provided by Mr. Lindemann is dated after my letter of October 26<sup>th</sup> and after the October 31<sup>st</sup> Commission Meeting. Therefore, nothing contained in the documents is relevant to the facts as they existed on October 26<sup>th</sup> or October 31<sup>st</sup>. More importantly, for the reasons stated above, the documents do not substantively contradict the position previously advanced by MHPC.

Mr. Lindemann's complaints to the Commission are just one part of his long running campaign against MHPC. Previously, he has filed complaints against MHPC with the Internal Revenue Service which were dismissed. His more recent actions, which include what appears to be an attempt to entrap MHPC into accepting what he believes is an illegal contribution and written attacks against me, Bill Becker, Commission staff, and members of the Commission, go well beyond what should be considered acceptable behavior by someone appearing before the Commission. A good faith disagreement on the meaning of the law should not result in such personal attacks as part of a proceeding before a regulatory board. The Commission should also consider what could result if it takes action based on one party's apparent attempt to lure an opposing party into what the first party sees as a campaign finance violation.

I will be in attendance at the Commission's December 12<sup>th</sup> meeting, along with MHPC President and Chief Executive Officer Bill Becker. If I can be of assistance by providing additional information or answering additional questions before the meeting, please let me know.

Very truly yours,



Daniel I. Billings  
e-mail: [dbillings@gwi.net](mailto:dbillings@gwi.net)



October 18, 2006

Dear :

The Maine Heritage Policy Center continues to educate Maine people on the value of a strong economy and the need for fundamental reforms in the way we operate our state. In addition to authoring THE TAXPAYER BILL OF RIGHTS, we've completed our latest publication, the *Maine Economic Atlas*. This comprehensive book provides an objective look at Maine at the municipal level, providing lawmakers, schools and the media with a tool with which to make informed policy decisions. The Atlas provides statistics on demographics, education, economics, health care and taxation and it's available for purchase by calling our office at 207-321-2550 or on our Web site at [www.mainepolicy.org](http://www.mainepolicy.org).

As the author of THE TAXPAYER BILL OF RIGHTS, we believe that this initiative provides a road map to jump-start Maine's economy. With only a few weeks until the election, we are in a fight for Maine's economic life. As you are aware, Maine has the highest property taxes and the highest state and local tax burden in the country. Our economy continues to struggle. In 2005, Maine was just one of two states to see a decline in economic activity, as reported by the Federal Reserve Bank of Boston. Louisiana, which was ravaged by hurricane Katrina, was the only other state to see a decline. It is more important than ever to educate Maine citizens about the challenges we currently face.

We understand that the economic pie is shrinking. A large part of the problem has been Maine's highest-in-the-nation tax burden, driven by out-of-control government spending. One way to address that problem is through an effective "Tax-and-Expenditure Limit" such as Maine's proposed TAXPAYER BILL OF RIGHTS. Such responsible public policy encourages Maine businesses to remain in the state and grow, thus creating more Maine jobs and higher incomes for Maine workers. With Maine's per capita tax burden growing 50% faster than the rate of inflation, we must act now and work to stop Maine's

spending frenzy. Since January 2003, government jobs have grow at more than twice the rate of private sector jobs. This is not an investment in Maine's future. MHPC is digging out the facts every day and working hard to promote responsible public policies based on facts and evidence, not emotions, and we need your support.

Maine has seen a decline of forty thousand school children in forty years – this is an alarming and startling figure. THE TAXPAYER BILL OF RIGHTS addresses this with reasonable increases in local education spending. By creating more jobs and attracting people to the state, we can change the fact that we have the second-lowest birth rate in the country. This will reverse the decline of school enrollment, thus strengthening our schools.

In order to be successful, we are asking for your financial investment. Your tax-deductible contribution can be made by returning the enclosed donor envelope with a check or credit card information. Or, simply go online to our Web site at [www.mainepolicy.org](http://www.mainepolicy.org) and click on "Donate Online" to make a secure donation via credit card. Please consider a gift to MHPC today!

THE TAXPAYER BILL OF RIGHTS is the only public policy in front of Maine voters or our legislators that is guaranteed to reduce Maine's tax burden and ensure that government does not grow faster than the peoples' ability to pay. It is a reasonable solution for Maine citizens and I thank you for being part of the solution in helping to solve Maine's economic challenges and for your ongoing investment in Maine's future.

Please find enclosed two new Maine Heritage Policy Center publications and an editorial on how the media has grasped the *Maine Economic Atlas*. I hope that you enjoy reading this material and I welcome your feedback at [wbecker@mainepolicy.org](mailto:wbecker@mainepolicy.org). Thank you again.

Sincerely,

Bill Becker

President and Chief Executive Officer

FROM : MAINE HERITAGE POLICY CENTER

FAX NO. : 2077734385

Nov. 29 2006 04:59PM P2



November 29, 2006

Name  
Address  
City, State Zip

Dear Name,

On behalf of the Board of Directors, please accept my sincere thanks for your very generous contribution of \$0.00 to The Maine Heritage Policy Center. We are extremely grateful for this donation, and will use it to advance our mission of promoting free market and conservative public policy solutions that will benefit all people of Maine.

Maine remains in a precarious position today. The state continues to run significant budget shortfalls resulting in well-publicized debates on what program or service must be cut. Our state and local tax burden is the highest in the nation. Our highest marginal income tax rate remains one of the highest in the nation with one of the lowest thresholds. Our Medicaid program is one of the largest, fastest growing, and most costly Medicaid programs in the nation. Our business-friendliness is ranked near the bottom of all states, and our economic freedom index is similarly poor. All this is additionally burdened by the Governor's questionable and unsustainable Dirigo Health initiative.

Yet, there is another way for Maine. Our vision at The Maine Heritage Policy Center is that Maine becomes a state that embraces the free markets by implementing public policies that help, rather than hinder, job creation and retention. Lowering the overwhelming state tax burden, putting a spending cap on all levels of government spending, promoting competition in the health insurance market, and putting the patient, rather than the government, back in charge of their health care choices – these are each examples of the policies that The Maine Heritage Policy Center researches, analyzes, and promotes.

Our long-term goal is to dramatically alter Maine's future through a paradigm shift that will move the State away from its 30-year drift toward a culture of dependence. Our efforts are to redirect Maine's public policies to create a culture of entrepreneurship and economic growth. Immediately lowering Maine's overall tax burden and excessive health insurance premiums are both immediate goals of the Center. Until we are seen as an equal to other states, Maine will never be able to attract real and sustained business development and economic growth.

Thank you for joining this effort to help our leaders understand the need for genuine reforms in the way Maine operates – and for providing them with viable and proven policy solutions that will change Maine's future to one of opportunity and promise.

Please do not hesitate to contact me at 207-321-2550 with any questions or suggestions. Thank you again for your support – I look forward to seeing you at a Maine Heritage event very soon.

Yours truly,

Bill Becker  
President and Chief Executive Officer

## PROCEEDINGS

Dec 20, 2006  
Transcript

1  
2 Policy which both were engaged in express  
3 advocacy against the Taxpayer Bill of Rights,  
4 unlike the Maine Heritage Policy Center. Let  
5 me address the recent allegation of MHPC's  
6 accepting TABOR contributions specifically.  
7 MHPC accepts donations that support our  
8 overall mission, to research, analyze and  
9 promote conservative and free-market public  
10 policy solutions that will benefit the people  
11 of Maine. We do not have segregated funds  
12 for any public policy about which we are  
13 researching. As an educational and research  
14 organization we have donors who on their own  
15 free will, will support different aspects of  
16 our work. Some support our healthcare  
17 analysis. Some support our data collection.  
18 Some will come to support our education  
19 reform efforts. This is very similar to a  
20 school that accepts money from a donor that  
21 sends it in and says please use this to  
22 support your music program, or your athletic  
23 program, or your science program. That's a  
24 similar situation at MHPC. We have donors  
25 who support different aspects of our work.

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## PROCEEDINGS

108

2 When we were first asked about our  
3 contributors, we answered quickly and  
4 accurately that we do not take any  
5 contributions that are contingent upon any  
6 action on the Taxpayer's Bill of Rights. I  
7 did not, nor do I believe that any of the  
8 donors who referenced TABOR in their donation  
9 or notes, thought that they were getting a  
10 lawn sign, a bumper sticker, or a political  
11 ad. They were not getting express advocacy.  
12 Instead they were supporting our ongoing work  
13 on spending limits including research,  
14 analysis and speaking publicly about Maine's  
15 economy and the positive role that TABOR  
16 could play. In fact, and not surprisingly,  
17 there were a number of donors who knowingly  
18 support MHPC's overall mission and who at the  
19 same time made separate political  
20 contributions to the Taxpayer Bill of Rights  
21 campaign. We have never claimed that we do  
22 not talk about TABOR. Of course we do. We  
23 wrote the model legislation. We believe that  
24 it would be a good policy solution for Maine.  
25 We were in the media in 2004 talking about

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## PROCEEDINGS

109

2 this model legislation about the same time  
3 that other organizations were expressly  
4 advocating a known position on the tax gap,  
5 otherwise known as the Pulaski [phonetic]  
6 position, without filing the necessary  
7 1056(b) forms. So even if four donors  
8 referenced TABOR on their donations, they  
9 were not supporting the initiative campaign,  
10 nor the express advocacy of it. There was a  
11 separate PAC organization, organized to  
12 advocate the passage of the TABOR referendum.  
13 Donors to MHPC were supporting our research,  
14 our analysis and yes our educational efforts  
15 regarding this specific spending reform  
16 proposal. We just received a publication  
17 from, uh, an organization that was writing  
18 about the Maine Heritage Policy Center and  
19 I'll just read this sentence to you. It says  
20 MHPC, and this was a few months ago, is the  
21 principal author and information source for a  
22 pending citizen's initiative referendum that  
23 would create a statutory Taxpayer's Bill of  
24 Rights for Maine. And I think that's a fair,  
25 accurate representation. We wrote it. We

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## PROCEEDINGS

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were considered to be the experts on it. It

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was a clear delineation when the press

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called, if they called me, they knew--or any

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of my staff, they knew that they were asking

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a policy question about the impacts of a

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specific section of the law, or what our

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analysis was going to show. I remember a

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case where a news anchor actually called me

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and I can't remember if I was in the airport

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or if she was in an airport, but we were

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talking about a very specific section within

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the law. It had nothing to do with the

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campaign and the advocacy there, it was

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talking about the law and what it meant. We

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had a very limited time to respond to the

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Ethic Commission request for information in

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October. We answered the questions based on

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what we knew about our operations. That we

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did not solicit any contributions to support

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activities related to TABOR, that we did not

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segregate funds for TABOR related activities

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and none of the activities were tied to or

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dependant upon receiving contributions. We

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never considered at that time that the

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## PROCEEDINGS

111

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comment sent with checks would be considered

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information of importance to the Commission

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when such comments do not control how the

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funds were used. When the further additional

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issue was raised, we did review our

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contributions in 2006, and have since

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provided the information requested based on

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our more substantial analysis. I would point

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out that at this point no other organization

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that either did file a 1056 or did not file a

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1056(b) has been asked to engage in such a

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review of their contributions. I'd be happy

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to answer any questions you might have.

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HON. KETTERER: Uh, thank you. Uh,

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questions by Commission members, uh, do you

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have any?

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MS. THOMPSON: Uh.

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HON. KETTERER: How about you?

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MS. THOMPSON: None [unintelligible].

21

HON. KETTERER: Okay. Uh, Vin?

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MR. CASSIDY: I'm going to save

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[unintelligible].

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HON. KETTERER: Okay. Mike?

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MR. FRIEDMAN: Yeah I have some. Uh,

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## PROCEEDINGS

120

Moody for MHPC. That happened in regards to Maine Taxpayer Bill of Rights and in other issues. I'm sure it will happen in the next few months as things get going on the legislature. Um, you know, those are organizations with a point of view that are involved in a number of different issues. Um... and I don't think just because they get involved in speaking out on a referendum, I don't think that transforms the organization into a PAC.

MR. FRIEDMAN: Mr. Becker, um, we had some discussion this morning about Mr. Briney's check. I'm sure you recognize that name by now. And I think you just indicated that we shouldn't be... uh, I guess overwhelmed by the fact that you responded because the letter contains no comment as to how the funds are going to be used. That means you wanted to give us the impression that these contributions are now made, go into a general fund and you spend them in accordance with, uh, the purposes that you deem important to the entity, is that right?

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## PROCEEDINGS

121

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MR. BECKER: That's correct.

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MR. FRIEDMAN: You do acknowledge receiving that \$125 check.

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MR. BECKER: I do.

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MR. FRIEDMAN: Did you receive any others in addition to that one that you recall? Any other checks from other individuals?

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MR. BECKER: During—we have hundreds of donors.

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MR. FRIEDMAN: Okay. Were any--

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MR. BECKER: [i] But if there were any that specifically referenced TABOR, as we filed before, uh, we found, uh, four checks that specifically referenced TABOR. With whom, I did not have a conversation with the contributor directly. Two additional checks with whom I did have contribution, uh, conversations with the donor directly under—and very well understood—they understood that our role was not as an express advocacy organization, uh. One donor said well I want to support some of your work, so keep \$500 of it, send \$2,500 back to the original donor.

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## PROCEEDINGS

122

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Uh, and the other donor understood

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completely. So four specifically was that

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with whom I did not have a conversation with,

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totaling \$975.

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MR. FRIEDMAN: And did they all get the

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same kind of letter in return as Mr. Briney

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did?

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MR. BECKER: Three got that letter and

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two got a different letter with a hand

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written note at the bottom of me—uh, from me.

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MR. FRIEDMAN: Let me just read to you

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one thing and I'd like your comment on it.

14

Well let—let me read the first paragraph. On

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behalf of the Board of Directors, please

16

accept my sincere thanks for your generous

17

contribution of \$125 to the Maine Heritage

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Policy Center. We are grateful for this

19

donation and will use it to advance our

20

mission of promoting the Taxpayer Bill of

21

Rights a solution that will benefit all

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people of Maine. Was there any particular

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need... to use the word promote? Uh, what—what

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went into the—into framing the sentence in

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that way. Because it looks to me like you

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## PROCEEDINGS

123

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planned to spend that \$125 in promoting

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TABOR.

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MR. BECKER: Uh, the quick answer, to

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your question is regarding, um... uh, an

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acknowledgement letter, whether it be any

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organization, you try to acknowledge that the

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donor has indicated a specific level of

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interest. And ours, uh—it's let it—uh,

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indicated a specific interest in our work on

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the Taxpayer Bill of Rights. Uh, that letter

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was then tailored and conformed to that

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donor's specific, uh, message. I did not

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know that the word promote was going to

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become such a—such a word that we needed to,

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uh, to look at so closely. Uh, but I would

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say that the mission of the organization is

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to formulate and promote... free-market

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conservative public policies that will

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provide benefit to all the people of Maine.

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So promote was not a word that we had shied

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away from, ever before uh, in terms of our—in

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terms of our, uh, our work.

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MR. BILLINGS: And—I think if you look

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at Exhibit that was provided in Mr.

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## PROCEEDINGS

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Briney's—I mean Mr. Lindemann provided again this morning, the—the—the general fundraising letter, um, uses in the first paragraph, the second sentence, we are extremely grateful for this donation. We will use it to advance our mission of promoting free-market and conservative public policy solutions that will benefit all people of Maine. I think what we have here is, the danger of cut and paste in the computer age. Um, it appears to me and that what happened here is a couple of letters that were, uh, available digitally, they were [Coughing] and pasted together to come up with this fund raising letter without a whole lot of thought about how somebody might look at it in a proceeding like this. And uh, I think most attorneys have run into this, so, cut and paste problem with using a, uh, pleadings that you make, you grab something from another pleading and cause you problems. And I think that promoting word is in the general fund raising letter and what happened here is that a change was made to recognize the area of interest that the

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## PROCEEDINGS

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contributor mentioned with the contribution.

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MR. FRIEDMAN: So, you are in agreement with me though, that if you had the

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opportunity--

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MR. BILLINGS: [Interposing] Oh.

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MR. FRIEDMAN: --to review the letter of Mr. Briney you would have changed that first paragraph.

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MR. BILLINGS: Absolutely. And I'd recog-and I said that to members of the press when this-this matter was first taken-uh, brought to my attention. Um, and I think, uh, this also supports or contradicts the idea that somehow this-our response is in, in and the way we've provided information to the Commission has been some sort of a clever, calculated, uh, strategy put together by me, um, I was so clever and calculated I think I would have dealt with this differently. I think frankly, I wasn't concerned about their fund raising letters, you know, this came to our attention, um, when it was brought to the attention of the Commission by others. And again, I wouldn't have sent the letter, um,

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## PROCEEDINGS

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actually even-though I'm not sure if I'd looked at in August before anyone had raised this issue about, um, maybe MHFC was a PAC if it would have set off bells and whistles in my head. Um... but certainly once the issue came before the Commission and the allegations were being made, if I'd looked at it, the letter wouldn't have gone out. But, you know, they're not running fund raising letters or thank you letters by their attorney but I don't think they really need to. But certainly-it certainly gives an impression that, um... I wouldn't want to give and I don't think fairly represents what the organization has been doing.

MR. FRIEDMAN: Are you familiar with the, uh... the works of the Maine Economic Research Institute?

MR. BILLINGS: Uh, generally.

MR. FRIEDMAN: Okay. Are you familiar enough with what they do in comparing it to this organization, to indicate to us whether there are any differences, at least with regard to 1056(b) filing?

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## PROCEEDINGS

151

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what are the kind of communication and

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activities that the--an organization is

4,

related to. And you've had all sorts of

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evidence, um, before you related to MHPC.

6

Um, and I think the staff has looked at--at

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information and applied the--the definition in

8

Maine law, um, to reach the recommendation

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that MHPC is not a PAC. Um, and... I think

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that's--that's the kind of analysis you need

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to--to do and um, but sort of theoretically

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could you start out as not being a PAC and

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become a PAC, certainly.

14

[Off mic]

15

HON. KETTERER: Any follow-up questions?

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MR. FRIEDMAN: No.

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HON. KETTERER: Okay. Vin?

18

JONATHAN WAYNE: I have one follow-up

19

question.

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HON. KETTERER: Sure.

21

JONATHAN WAYNE: [Skip in audio] Sorry.

22

for grilling you but I just wanted to go back

23

to the explanation you had about Dan

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Billing's letter on October 26<sup>th</sup>, when he was

25

pretty categorical in his statement that, um...

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## PROCEEDINGS

152

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that the Center hadn't received any

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contributions to influence, um, a referendum

4

campaign. Let me just read this sentences

5

again. The Maine Heri-The Maine Heritage

6

Policy Center does not solicit or receive

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funds that are predicated on the Center's

8

taking a position on any issue and it has not

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received, solicited, or received

10

contributions--any contributions to influence

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the outcome of a ref-referendum campaign.

12

And that was following--that was in response

13

to a letter that I sent where--where I said

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please clarify whether the Center has

15

received any funds from any source

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specifically in connection with the TABOR

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initiative. So, I mean, if you're aware, as

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you said, that donors give contributions to

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support different aspects of your work, why

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be--I'm just want to see that the Commission--

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you--you undertake to file a 1056 report, um,

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I just want the Commission and--and the public

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to know that you've shown the proper care in

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submitting accurate information to the

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Commission. So, um, why would you--I just

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## PROCEEDINGS

153

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don't understand, um, why it would never

3

occur to you that when people say... great work

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on TABOR, or mention TABOR in any way, isn't

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that a contribution that's being given to

6

your organization well to--in connection with

7

TABOR-- ?

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MR. BILLINGS: [i] Well.

9

JONATHAN WAYNE: --Well why wouldn't you

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just be a little bit more--you haven't done a

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necessary investigation or... almost

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[Coughing], I mean I just don't understand.

13

MR. BILLINGS: Well--well first I wrote

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the letter and--and influencing the outcome of

15

a referendum to me has--has meaning that may

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not have the same meaning to you. But the

17

kind of questions that I asked, in preparing

18

that letter, was what did you do. What have

19

you been involved in, uh, related to TABOR?

20

Uh, and the kind of things that Bill

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described to me... in my opinion didn't meet

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the definition of trying to influence the

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outcome of an election. Because I--I take the

24

view and... and that--that was telling people

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how to vote, and um, specifically trying to

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## PROCEEDINGS

154

2 influence the vote. Um, and I did  
3 specifically ask at the time, um, have you  
4 done, uh, you know, fund raising specifically  
5 to support your TABOR activities? Do you  
6 have a segregated fund to promote TABOR. Um,  
7 then this issue of the Briney contribution  
8 came up, I said okay. Hold on. You know, we  
9 weren't looking at it the same way that  
10 others were apparently looking at. Um, you  
11 know, why don't you go back through all your  
12 records and see if anybody else's donations  
13 were kind of promised. And that's what we've  
14 done. Um, but again, I... looking at some of  
15 the other organizations and how they filed, I  
16 wonder, you know, if AARP has ever gone  
17 through and say, you know, geeze, has anybody  
18 ever sent them a check saying I'm glad you're  
19 fighting against the Taxpayer's Bill of  
20 Rights. Maybe not, but-but I don't think  
21 anybody's asked them that questions. They  
22 filed a report saying that they received no  
23 contributions. Um, I suspect that they look  
24 at it the same way we do. That they don't,  
25 uh, they don't have a segregated fund, uh,

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## PROCEEDINGS

155

taking contributions specifically for  
[unintelligible] activity.

MR. CASSIDY: Uh, the other question I  
had was on this, uh... fund raising letter  
that's dated October 18<sup>th</sup>, but which you said  
wasn't sent out until after—I'm sorry did you  
want to add something?

MALE VOICE: I was just whispering.

MR. CASSIDY: If you know, you described  
it in your letter as a general fund raising  
letter, but I noticed that the Taxpayer Bill  
of Rights is mentioned in it in every single  
paragraph. So I'm wondering... to the extent  
you're willing to answer this, uh, did you  
send out similar general fund raising letters  
prior to the election, and—which have TABOR,  
TABOR, TABOR mentioned, and if you got  
contributions in response to these letters,  
would it be fair for someone to think those  
were contributions made to promote your TABOR  
work, or... or would those be categorized as  
general fund type of contributions.

MR. BILLINGS: Well I'll let Bill answer  
the factual question about previous fund

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## PROCEEDINGS

156

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raising letters. Uh... as far as the-but I do

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think it's important that-to recognize that

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that letter was-was sent to existing members,

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um, I do think that, um, that's an important

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contact that the law does, um, look at them

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and communications in a slightly different

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way, and [unintelligible] to the Center, sort

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of a [unintelligible] of fund raising

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activities. As far as other letters..

11

MR. BECKER: Yeah. Yeah I would, um.. I

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would say this. First of all that went to

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our members. It was not a general-it-we

14

understand when the State says general fund

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raising letter, a general fund raising letter

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to our own members, uh, which I think clears-

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makes a distinction in the law as opposed to

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sending it out to a broader direct mail list.

19

Uh, second of all, uh, nowhere in there,

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though we're mentioning it, obviously, I

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mean, again, we were out there talking about

22

it because we thought it was a good idea

23

then. We think it's a good idea now. Um, a

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lot of our supporters, a lot of our members

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agreed with us and.. what a better time to

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## PROCEEDINGS

157

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raise money than when you're, uh, in the-

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talking about it publicly. Obviously we are

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out there invited to many forums, many

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speeches that we were giving and-and-and

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wanted to do that. Uh, it's not unique. Uh,

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I have in front of me a nice letter from the

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Maine Center for Economic Policy, May 30<sup>th</sup>,

9

2006, uh, in which, uh, it's more expressly

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advocating a-a-a-uh, donation to support

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their efforts regarding the Taxpayer Bill of

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Rights. They may have only sent that to

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their members as well. Um, but again,

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organizations are out there talking about.

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The difference is of course, we weren't

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expressly advocating our position. Even in

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that letter.

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JONATHAN WAYNE: That's all

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[unintelligible].

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HON. KETTERER: Phyllis do you have a

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question?

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MS. GARDINER: I do [unintelligible].

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HON. KETTERER: Well why don't you ask

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and then help the Commission in its work

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instead of...

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## PROCEEDINGS

158

MS. GARDINER: [unintelligible] Well it's not helpful [unintelligible]. You mentioned, um, Bill, that you have hundreds of contributors, [unintelligible] what I'm trying to get at is what effort did you actually undertake to review [unintelligible] contributions received [unintelligible] whether, um, Bill [unintelligible] to targeted [unintelligible].

MR. BECKER: The arrival of the Briney information brought by our friends, uh, in the media, um, that morning a few weeks ago. Um, we undertook to review all contributions. Uh, and go back and check checks and not only just checks, um, but also go find the actual donation envelopes and find if someone actually--what someone said on the actual donation envelope. That's the review that we've undertaken.

MR. BILLINGS: And you're also--I believe you're reviewed--

MR. BECKER: [i] Every thank you letter that went out. As well. Right [Coughing] I mean they're all on individual donors.

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## PROCEEDINGS

159

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[Coughing]

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MR. BILLINGS: I'm not sure how we got either the four or the six that we talked about, um.

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MS. GARDINER: And did you, um, when did the October 18<sup>th</sup>, letter go to the members for fund raising.

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MR. BECKER: It appears to have gone after the election. Um, the only reason I know that is because mine arrived after the election. Um, there was a problem with the mail house. Apparently there was lots of mail going out, um, right before the election and... every reg--everybody that we talked to, uh, has said, hey did you know we got a letter after November 7<sup>th</sup>.

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MS. GARDINER: Uh, your intention was to get it out before--

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MR. BECKER: [i] Sure.

MS. GARDINER: --did you get it to a mail house?

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MR. BECKER: To our--to our, um, we got it to the printer. And then they were moving along the process.

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## PROCEEDINGS

160

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MS. GARDINER: Do you know when you got it to the printer?

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MR. BECKER: Um, October 21<sup>st</sup>.

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MR. BILLINGS: The intent obviously was to get it out before the election.

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MS. GARDINER: And did you--have you given the Commission copies of all of the fund raising letters you've given to other folks. Uh, if you haven't, that [unintelligible] the Commission members would be, information would be, or [unintelligible].

MR. BECKER: I believe we have. I'd have to back and see what sort of fund raising letter--I mean you're talking about direct mail to our members within--

MS. GARDINER: [i] Any--to any audience. And then--

MR. BECKER: --I'd have to go back and look, again. I don't have--

MS. GARDINER: [i] So to this point you haven't--

MR. BECKER: --made [unintelligible].

MS. GARDINER: You just submitted that

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## PROCEEDINGS

161

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category.

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MR. BECKER: If we were asked, we would be happy to go back, uh.

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MS. GARDINER: Um, in-so I take it from your review of the contributions, were there any contributions you received that you turned over to the PAC, contributions of any sort?

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MR. BECKER: No.

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MR. BILLINGS: And I think that's an important distinction that maybe there's a misunderstanding about my place in that. Frankly, if MHPC did get contributions and pass them on to that, that would be an issue. What happened in the case of, uh, the one donor, is Bill knew that donor and was concerned that the [Skip in audio] donor might be, um, confused about the different roles. So Bill called the donor, explained there's a separate organization that's running the campaign, this is what we do. Um, and the donor said oh, well send a-you can keep \$500 to support that work, send me back the \$2,500. I mean we assume that he

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## PROCEEDINGS

162

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may have made a donation to the--to the PAC,

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but we haven't done [unintelligible]

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researched it and Bill didn't pass along the

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money, it went back to the donor. Once it

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goes back to the donor, the donor's money,

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they can do what they like with it. I don't

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think that, um, makes, uh, MHPC a transfer

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mechanism that was suggested this morning.

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And frankly I think it shows that a non-

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profit is concerned about, um, making sure

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that the donations that it accepts, um, were

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intended for that organization.

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MS. GARDINER: And is that the only

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instance you came across in your review of

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the records?

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MR. BECKER: It was in addition--there

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was one other, uh, donation in which, uh, I

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had--actually called the donor, um, given the

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size--it was a \$1,000 donation. Called the

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donor, uh, had a conversation with the donor

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about our role and the donor fully understood

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what our role was as opposed to a PAC's role.

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MS. GARDINER: [Inaudible, background

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noise]

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## PROCEEDINGS

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MR. BECKER: They supported our research work and then [Skip in audio] work.

HON. KETTERER: The MHPC work.

MS. GARDINER: So you kept the donation.

MR. BECKER: Yes. Correct.

MR. BILLINGS: And—and that's also is discussed in my December 4<sup>th</sup> letter. It's not a new contribution that we haven't provided before.

MS. GARDINER: Okay. And [unintelligible]. Um...setting aside your arguments about express advocacy, for the moment [unintelligible]. Express advocacy is not relevant to the determination of the allegation initially reported [unintelligible] subpoena. Um, do you acknowledge that MHPC made expenditures in 2006 to promote or to influence TABOR, as a ballot question?

MR. BECKER: I guess my questions would be to define an expenditure. Would be—what is the definition of expenditure. Looking at the 1056 (b) reports that were filed, it—and understanding that certain organizations

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## PROCEEDINGS

164

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[Coughing] leaving one of them that were

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holding forums, I was debating them. They

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were attending events and forums. So we

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didn't spend any money. I-I had nothing to

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point to.

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MS. GARDINER: I'm not asking you to-I-

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I'd like you to-prior to answering my

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question, to know what other organizations

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did. They may or may not have reported

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appropriately. Um, but I'm just asking

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whether if you-if you leave the express

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advocacy test out of it... um, and you go with

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the language of 10565(b), expenditures for

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the purpose of promoting or influencing in

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any way a ballot question.

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MR. BILLINGS: Then you also have to

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look at 1052--

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MS. GARDINER: [i] I understand-I did--

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MR. BILLINGS: --at the definition

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that's--

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[Crosstalk]

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MS. GARDINER: Yes. I'm-I'm--

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MR. BILLINGS: [i] It's basically asking

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that--

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## PROCEEDINGS

165

MS. GARDINER: --I'm just--

MR. BILLINGS: --a layman can't make a legal conclusion.

MS. GARDINER: I'm only asking--actually what I was asking you simply whether [Sneeze] the organization, um... represented by--and Bill, either one of you can answer, acknowledges that, under expenditures to, even if you didn't expressly advocate, if you made expenditures to promote or influence TABOR. I'm simply trying to understand if we have a dispute about this. It could be a factual dispute. It could be a legal dispute. I'm [inaudible] simply acknowledge there's something to dispute.

MR. BILLINGS: Well my problem is I don't know [Coughing] where to draw that line. Um, I do think someone could--I mean we've been forthcoming about what MHPC has done. And I think it--it, I mean--I think someone could look at that and--and reach that conclusion. Um, that's not the conclusion that we reach because MHPC sees all--all its activities in 2006 for the purpose of

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## PROCEEDINGS

166

advancing its, um, overall mission. Um... but I think that's-um, somebody else could, um... look at those activities and reach a different conclusion. But it wasn't the purpose of MHPC activities to try to influence the way people voted on the referendum.

MS. GARDINER: Is your position is very different from how people who are donors [unintelligible]?

MR. BILLINGS: Obvious-obviously Bill said that he thought was a good idea. They continue to think it's a good idea but they stopped short of telling people how to vote.

MS. GARDINER: So your [unintelligible] express it, your position.

MR. BILLINGS: Well. I-I think if you look at 1052, it talks about, um... it talks about promoting the passage or defeat of a referendum question in the expenditure definition and I think that-uh, and the exact same language is express advocacy, but it certainly implied that you're telling people how to vote. It's taking a-you're taking a

## 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).

Candidate  
Law**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;

PAC Law

## Title 21-A, §1052, Definitions

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### §1052. Definitions

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

**1. Campaign.** "Campaign" means any course of activities for a specific purpose such as the initiation, promotion or defeat of a candidate or question, including:

A. The referendum procedure under the Constitution of Maine, Article IV, Part Third, Section 17; [1985, c. 161, §6 (new).]

B. The initiative procedure under the Constitution of Maine, Article IV, Part Third, Section 18; [1985, c. 161, §6 (new).]

C. An amendment to the Constitution of Maine under Article X, Section 4; [1985, c. 161, §6 (new).]

D. Legislation expressly conditioned upon ratification by a referendum vote under the Constitution of Maine, Article IV, Part Third, Section 19; [1989, c. 504, §§21, 31 (amd).]

E. The ratification of the issue of bonds by the State or any agency thereof; and [1989, c. 504, §§21, 31 (amd).]

F. Any county or municipal referendum. [1995, c. 483, §17 (amd).]  
[1995, c. 483, §17 (amd).]

**2. Committee.** "Committee" means any political action committee, as defined in this subchapter, and includes any agent of a political committee.

[1985, c. 161, §6 (new).]

**3. Contribution.** "Contribution" includes:

 A. A gift, subscription, loan, advance or deposit of money or anything of value made to a political action committee, except that a loan of money by a financial institution made in accordance with applicable banking laws and regulations and in the ordinary course of business is not included; [1985, c. 161, §6 (new).]

B. A contract, promise or agreement, expressed or implied whether or not legally enforceable, to make a contribution to a political action committee; [1985, c. 161, §6 (new).]

C. Any funds received by a political action committee that are to be transferred to any candidate, committee, campaign or organization for the purpose of promoting, defeating or initiating a candidate, referendum, political party or initiative, including the collection of signatures for a direct initiative, in this State; or [2005, c. 575, §3 (amd).]

D. The payment, by any person or organization, of compensation for the personal services of other persons provided to a political action committee which is used by the political action committee to promote, defeat or initiate a candidate, campaign political party, referendum or initiated petition in this State. [1985, c. 161, §6 (new).]  
[2005, c. 575, §3 (amd).]

FROM :

FAX NO. :

Dec. 20 2006 01:50PM P1

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/Skins/Blue_H-Menu_NB/people.jpg)>

<[http://www.democracymaine.org/Portals/0/images/DemMaine\\_logo\\_\(cmyk\)\(contribution\).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](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>>

Forward this message to a friend

<<https://www.myngp.com/ngpweb/app/tools/broadcast/broadcastforward.aspx?value1=3534444&value2=1319&value3=8031>>

To unsubscribe from this mailing list, click here

<<http://images.myngp.com/unsubscribe.html?mailid=NGPClientData6~/3534444>>

Powered by NGP Software, Inc.

FROM :

FAX NO. :

Nov. 30 2006 09:06AM P2

----- Forwarded Message

From: Democracy Maine <[info@democracymaine.org](mailto:info@democracymaine.org)>  
Reply-To: <[info@democracymaine.org](mailto: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

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<<http://www.ngpsoftware.com>>

----- End of Forwarded Message

# Agenda

## Item #6



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:** May 7, 2007

**Subject:** May, 2007 Candidate Audit Report Submittals

Materials submitted with the May, 2007 Commission packet include the six candidate audit reports listed below.

<b>Candidate Name</b>	<b>District</b>	<b>Disposition</b>
Sen. S. Peter Mills	2006 Gubernatorial Primary	See Commission Agenda
Rep. Philip A. Cressey	HD 99	See Commission Agenda
Gary J. Crosby	HD 123	No Exceptions
Rep. Benjamin M. Pratt	HD 20	No Exceptions
Laurier P. Lachance	HD 73	No Exceptions
Rep. Seth Berry	HD 67	No Exceptions

Audit Findings of "No Exceptions Noted" are submitted for information and file, and no additional action is required by the Commission.

OFFICE LOCATED AT: 242 STATE STREET, AUGUSTA, MAINE  
WEBSITE: WWW.MAINE.GOV/ETHICS



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

March 29, 2007

**Audit Report No. 2006-HR028**

**Candidate: Gary J. Crosby  
House District 123**

**Background**

Gary J. Crosby was a candidate for the Maine House of Representatives, District 123, in the 2006 general election. Mr. Crosby was certified by the Commission as an MCEA candidate on April 11, 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 expenditures 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 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 Mr. Crosby's campaign finance transactions in the following percentages:

- Seed Money: expenditures – 100 percent.
- Six Day Pre-Primary: expenditures - 66 percent.
- 42 Day Post-Primary: expenditures – no expenditures reported.
- Six Day Pre-General: expenditures – 67 percent.
- 42 Day Post-General: expenditures – 88 percent.

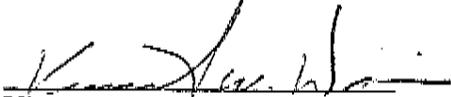
OFFICE LOCATED AT: 242 STATE STREET, AUGUSTA, MAINE  
WEBSITE: WWW.MAINE.GOV/ETHICS

Campaign Audit  
Candidate: Gary J. Crosby  
Page 2

Audit Findings and Recommendations

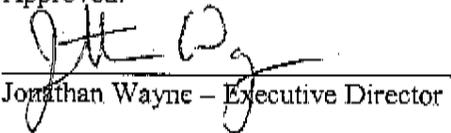
No exceptions were noted.

Respectfully submitted to the Members of the Commission for information and file.



Vincent W. Dinan - Staff Auditor

Approved:



Jonathan Wayne - Executive Director



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

March 29, 2007

**Audit Report No. 2006-HR027**

**Candidate: Representative Benjamin M. Pratt  
House District 20**

**Background**

Representative Benjamin M. Pratt ran successfully for a seat in the Maine House of Representatives, District 20, in the 2006 general election. Rep. Pratt 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. Pratt's campaign finance transactions in the following percentages:

- Seed Money: contributions and expenditures – 40 percent (contributions) and 30 percent (expenditures).
- Six Day Pre-Primary: no material expenditures.

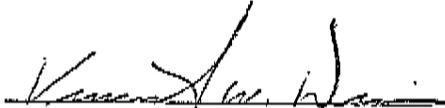
OFFICE LOCATED AT: 242 STATE STREET, AUGUSTA, MAINE  
WEBSITE: WWW.MAINE.GOV/ETHICS

- 42 Day Post-Primary: expenditures – 88 percent.
- Six Day Pre-General: expenditures – 96 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



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

April 9, 2007

**Audit Report No. 2006-HR033**

**Candidate: Laurier P. Lachance  
House District 73**

**Background**

Laurier P. Lachance was a candidate for the Maine House of Representatives, District 73, in the 2006 general election. Mr. Lachance was certified by the Commission as an MCEA candidate on March 16, 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 Mr. Lachance's campaign finance transactions in the following percentages:

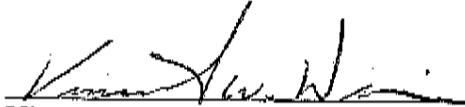
Campaign Audit  
Candidate: Laurier P. Lachance  
Page 2

- Seed Money: contributions and expenditures – No material receipts or expenditures.
- Six Day Pre-Primary: expenditures – None reported.
- 42 Day Post-Primary: expenditures – 98 percent.
- Six Day Pre-General: expenditures – 76 percent.
- 42 Day Post-General: expenditures – 92 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



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

April 25, 2007

Audit Report No. 2006-HR029

**Candidate: Representative Seth Berry  
House District 67**

Background

Representative Seth Berry ran successfully for a seat in the Maine House of Representatives, District 67, in the 2006 general election. Rep. Berry was certified by the Commission as an MCEA candidate on April 13, 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:

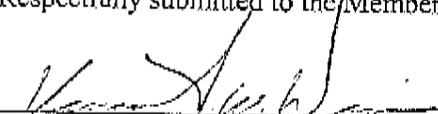
- Seed Money
- Six Day Pre-Primary
- 42 Day Post-Primary
- Six Day Pre-General
- 42 Day Post-General

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.

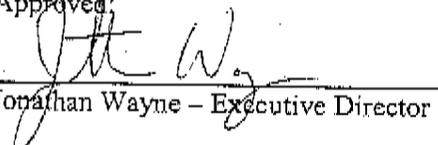
Audit Findings and Recommendations

**No exceptions were noted.**

Respectfully submitted to the Members of the Commission for information and file.

  
Vincent W. Dinan - Staff Auditor

Approved:

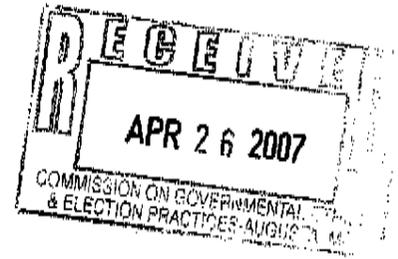
  
Jonathan Wayne - Executive Director

OFFICE LOCATED AT: 242 STATE STREET, AUGUSTA, MAINE  
WEBSITE: WWW.MAINE.GOV/ETHICS

# Agenda

## Item #7

**Jennifer Puser Andersen**  
54 Central Ave.  
Peaks Island, ME 04108  
207-766-5563  
jpuser@hotmail.com



April 24, 2007

Mr. Jonathon Wayne  
Executive Director, Commission on Governmental Ethics and Election Practices  
135 State House Station  
Augusta, ME 04333

Dear Commissioner Wayne,

I am writing in regard to my missing the filing deadline for my April 17<sup>th</sup>, 2007 lobbyist disclosure report.

I terminated my employment with Environment Maine on March 30<sup>th</sup>. The following week I came down with the shingles and was sick in bed until the NorEaster hit on Patriots Day. As a result of the storm, I lost power in my home on Peaks Island for close to three days and ended up with a flooded basement. Because of these circumstances, I filed my report one day late.

I hope you will consider these circumstances and waive the \$100 penalty. I will be filing the annual report and termination reports to the Commission shortly.

Thank you for your consideration.

Sincerely,

A handwritten signature in cursive script that reads "Jennifer Andersen".

Jennifer Andersen



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

To: Ms. Jennifer Anderson, Lobbyist for:  
 Environment Maine

From: Martha Demeritt, Lobbyist Registrar

Date: April 17, 2007

Our records show that your March monthly lobbyist disclosure report has not been filed to date. The monthly report, due on the 15<sup>th</sup> of every month – or the next business day if the 15<sup>th</sup> falls on a weekend or holiday, is required to be filed *electronically* by all lobbyists registered with the Commission by 5:00 p.m. The March report was due by 5:00 p.m. on April 17, 2007.

In addition, 3 M.R.S.A. §319(1) states that any person who fails to file a timely report may be assessed a penalty of \$100 for every month the person is delinquent in filing the report; thus, to date your penalty is **\$100**. If you agree with this preliminary determination, you may use the attached billing statement to pay that penalty 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 a final penalty determination by the Commission. Requests for penalty waivers should be addressed to the Executive Director of the Commission, Jonathan Wayne. The Commission will notify you of the disposition of your case within 10 days after its determination.

**To avoid further penalty, you should file the report as soon as possible.** Pursuant to 3 M.R.S.A. § 319(1-A), 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 me at (207) 287-6221.

Cut Along Dotted Line

To: Commission on Governmental Ethics and Election Practices  
 135 State House Station  
 Augusta, Maine 04333

From: Ms. Jennifer Anderson, Lobbyist for:  
 Environment Maine

Re: Penalty for late filing of the March 2007 monthly lobbyist disclosure report (\$100)

For Office Use Only Account: CGEEP Fund: 014 Appr: 01
--

Amount Enclosed: \$ \_\_\_\_\_

Check/M.O. No.: # \_\_\_\_\_

Please Make Check or Money Order Payable to Treasurer, State of Maine

OFFICE LOCATED AT: 242 STATE STREET, AUGUSTA, MAINE  
 WEBSITE: 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 MARCH, 2007 (year)

2. Lobbyist name ANDERSEN, JENNIFER	
Business address 39 EXCHANGE ST., #301	Telephone (207)253-1965
	E-mail jennifer@environmentmaine.org
City, state, zip code PORTLAND ME 04101	Fax (207)000-0000

3. Employer name ENVIRONMENT MAINE	Principal lobbyist contact name JENNIFER ANDERSON
Business address 39 EXCHANGE ST., #301	Telephone (207)253-1965
	E-mail jennifer@environmentmaine.org
City, state, zip code PORTLAND ME 04101	Fax (207)253-1966

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.

67.50

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.

WATER BONDS
REGIONAL GREENHOUSE GAS INITIATIVE
RAIL BONDS

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.

## Title 3, §319, Penalty

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.**

### §319. Penalty

**1. Failure to file registration or report.** Any person who fails to file a registration or report as required by this chapter may be assessed a fine of \$100 for each person listed or who should have been listed on the lobbyist registration for every month the person fails to register or is delinquent in filing a report pursuant to section 317. The commission may waive the penalty in whole or in part if the commission determines the failure to register or report was due to mitigating circumstances.  
[1993, c. 691, §22 (rpr).]

**1-A. Notice of suspension.** Any person who fails to file a report or pay a fee as required by this chapter may be suspended from further lobbying by written notice of the commission until such failure is corrected.  
[1993, c. 446, Pt. B, §12 (amd).]

**2.**  
[1979, c. 632, §3 (rp).]

**3. Exemption.** Notwithstanding section 317, subsection 1, a registered lobbyist is exempt from the penalty imposed under this section if, while the Legislature is convened in special session, the lobbyist failed to file a report with the commission pursuant to section 317 if no lobbying has been performed during that special session.  
[1993, c. 446, Pt. B, §13 (amd).]

PL 1975, Ch. 576, § (NEW).  
 PL 1975, Ch. 621, §2 (RP).  
 PL 1975, Ch. 724, § (REN).  
 PL 1977, Ch. 696, §17 (AMD).  
 PL 1979, Ch. 632, §3 (RPR).  
 PL 1989, Ch. 114, § (AMD).  
 PL 1991, Ch. 465, §2 (AMD).  
 PL 1993, Ch. 446, §A15,B11-13 (AMD).  
 PL 1993, Ch. 691, §22 (AMD).

# Agenda Item #8



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

*(by regular and certified mail)*

March 30, 2007

Kenneth F. Anderson  
146 Katahdin Avenue  
Millinocket, ME 04462

**Re: Delinquent Campaign Finance Report – Due Dec 19, 2006**

Dear Mr. Anderson:

The Ethics Commission has previously written to you regarding your failure to file a campaign finance report, as required under the Election Law. Failure to file a campaign finance report within 30 days of a filing deadline is a Class E Crime under 21-A M.R.S.A. §1020-A(8-A).

**If you do not file your report prior to the Commission's meeting on May 14, 2007, the Commission staff will recommend to the Commission members that you be referred to the Maine State Attorney General's Office for possible criminal prosecution under 21-A M.R.S.A. §1020-A(8-A).**

To stop this process, immediately submit the following reports:

- **42-Day Post-General Report**

The Commission staff will send you five notices to alert you to your possible referral to the Attorney General, and the Commission staff will also contact you by telephone. The first notice will include a blank reporting form which you can use to file the report.

Please telephone me 287-4709 regarding this matter, and inform me whether you will be filing the report or if you believe no report is required. Thank you.

Sincerely,

A handwritten signature in cursive script that reads 'Gavin O'Brien'.

Gavin O'Brien  
Candidate Registrar

OFFICE LOCATED AT: 242 STATE STREET, AUGUSTA, MAINE  
WEBSITE: WWW.MAINE.GOV/ETHICS

PHONE: (207) 287-4179

FAX: (207) 287-6775

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

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UNITED STATES POSTAGE  
02 14  
204515920 MAR 30 2007  
\$ 04.640  
PRINTED FROM ZIP CODE 04335

~~Kenneth F. Anderson  
146 Katakam Avenue  
Millinoquet, ME 04852~~

*NOT RECORDED  
4-16*

**REGISTERED**  
APR 20 2007

COMMISSION ON GOVERNMENTAL ETHICS  
& ELECTION PRACTICES/AUGUST 2007



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Millinoquet, ME 04852



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

February 26, 2007

Kenneth F. Anderson  
146 Katahdin Avenue  
Millinocket, ME 04462

**Re: Delinquent Campaign Finance Report – Due Dec 19, 2006**

Dear Mr. Anderson:

The Ethics Commission has previously written to you regarding your failure to file a campaign finance report, as required under the Election Law. Failure to file a campaign finance report within 30 days of a filing deadline is a Class E Crime under 21-A M.R.S.A. §1020-A(8-A).

**If you do not file your report prior to the Commission's meeting on February 14, 2007, the Commission staff will recommend to the Commission members that you be referred to the Maine State Attorney General's Office for possible criminal prosecution under 21-A M.R.S.A. §1020-A(8-A).**

To stop this process, immediately submit the following reports:

- **42-Day Post-General Report**

The Commission staff will send you five notices to alert you to your possible referral to the Attorney General, and the Commission staff will also contact you by telephone. The first notice will include a blank reporting form which you can use to file the report.

Please telephone me 287-4709 regarding this matter, and inform me whether you will be filing the report or if you believe no report is required. Thank you.

Sincerely,

A handwritten signature in cursive script that reads 'Gavin O'Brien'.

Gavin O'Brien  
Candidate Registrar

**CERTIFIED MAIL**

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



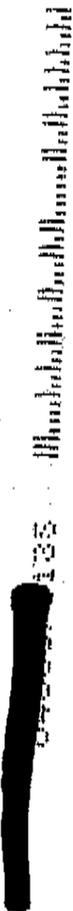
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**REASON CHECKED**  
Undeliverable  
Addressed  
Incorrect  
Insufficient Postage  
No Postage Address  
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No Such Zip Code  
No Such Office in State  
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~~Kenneth F. Anderson  
146 Katahdin Avenue  
Millinocket, ME 04462~~

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2/23/07

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NECESSARY IF MAILED  
IN THE UNITED STATES





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

February 6, 2007

Kenneth F. Anderson  
146 Katahdin Avenue  
Millinocket, ME 04462

**Re: Delinquent Campaign Finance Report – Due Dec 19, 2006**

Dear Mr. Anderson:

The Ethics Commission has previously written to you regarding your failure to file a campaign finance report, as required under the Election Law. Failure to file a campaign finance report within 30 days of a filing deadline is a Class E Crime under 21-A M.R.S.A. §1020-A(8-A).

**If you do not file your report prior to the Commission's meeting in March, the Commission staff will recommend to the Commission members that you be referred to the Maine State Attorney General's Office for possible criminal prosecution under 21-A M.R.S.A. §1020-A(8-A).**

To stop this process, immediately submit the following reports:

- **42-Day Post-General Report**

The Commission staff will send you five notices to alert you to your possible referral to the Attorney General, and the Commission staff will also contact you by telephone. The first notice will include a blank reporting form which you can use to file the report.

Please telephone me 287-4709 regarding this matter, and inform me whether you will be filing the report or if you believe no report is required. Thank you.

Sincerely,

*Gavin*  
Gavin O'B  
Candidate

6042 E082 0000 DTTE 5002

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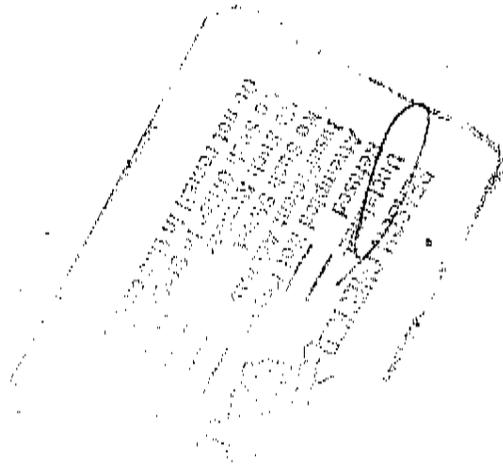
Postmark Here

Sent To *Anderson*  
Street, Apt. No., or PO Box No.  
City, State, ZIP+4

OFFICE LOCATED AT: 242 STATE STREET  
WEBSITE: WWW.MAINE.GOV

Commission on Governmental Ethics  
and Election Practices

S.H.S. 135  
242 State Street  
Augusta, ME 04333



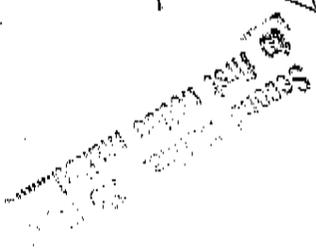
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**First Class Mail**

~~Kenneth F. Anderson  
146 Katahdin Avenue  
Millinocket, ME 04462~~

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2-12  
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STATE OF MAINE  
COMMISSION ON GOVERNMENTAL ETHICS  
AND ELECTION PRACTICES  
135 STATE HOUSE STATION  
AUGUSTA, MAINE  
04333-0135

January 18, 2007

Kenneth F. Anderson  
146 Katahdin Avenue  
Millinocket, ME 04462

**Re: Delinquent Campaign Finance Report – Due Dec 19,**

Dear Mr. Anderson:

The Ethics Commission has previously written to you regarding your failure to file a campaign finance report, as required under the Election Law. Failure to file a campaign finance report within 30 days of a filing deadline is a Class E Crime under 21-A M.R.S.A. §1020-A(8-A).

**If you do not file your report prior to the Commission's meeting on February 14, 2007, the Commission staff will recommend to the Commission members that you be referred to the Maine State Attorney General's Office for possible criminal prosecution under 21-A M.R.S.A. §1020-A(8-A).**

To stop this process, immediately submit the following reports:

- **42-Day Post-General Report**

The Commission staff will send you five notices to alert you to your possible referral to the Attorney General, and the Commission staff will also contact you by telephone. The first notice will include a blank reporting form which you can use to file the report.

Please telephone me 287-4709 regarding this matter, and inform me whether you will be filing the report or if you believe no report is required. Thank you.

Sincerely,

Gavin O'Brien  
Candidate Registrar

OFFICE LOCATED AT: 242 STATE STREET, AUGUSTA, MAINE  
WEBSITE: WWW.MAINE.GOV/ETHICS

PHONE: (207) 287-4179

FAX: (207) 287-6775

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U.S. Postal Service™	
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<b>OFFICIAL</b>	
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Certified Fee	
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$
Sent To <i>Anderson</i>	
Street, Apt. No., or PO Box No.	
City, State, ZIP+4	
PS Form 3800, June 2002	

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

Postmark: AUG 12 2007  
Post Office: AUGUSTA, ME 04333-0135

~~Kenneth H. Anderson  
146 Katahdin Avenue  
Millinocket, ME 04462~~

**CERTIFIED MAIL**

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

December 21, 2006

Mr. Kenneth F. Anderson  
146 Katahdin Avenue  
Millinocket, ME 04462

Re: Delinquent Campaign Finance Report – Due December 19, 2006

Dear Mr. Anderson:

Our records show that you have not filed your 42-Day Post-General Report. 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, on the number of calendar days a report is filed late, and on the candidate's filing record. If you raised or spent money during the filing period, you could be subject to civil penalties, which are accruing on a daily basis. Once you have filed your report, our office will calculate the penalty using the enclosed penalty matrix, and will notify you of the amount of the penalty. **Therefore, we urge you to file your report as soon as possible.**

Sincerely,

*Gavin O'Brien*

Gavin O'Brien  
Candidate Registrar

U.S. Postal Service™  
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Postage	\$
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Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$

Sent To: *Anderson*  
 Street, Apt. No. or PO Box No.  
 City, State, ZIP+4  
 PS Form 3800, June 2002

6699 6092 0000 078E 5007

<p><b>SENDER: COMPLETE THIS SECTION</b></p> <ul style="list-style-type: none"> <li>Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.</li> <li>Print your name and address on the reverse so that we can return the card to you.</li> <li>Attach this card to the back of the mailpiece, or on the front if space permits.</li> </ul> <p>1. Article Addressed to:           Mr. Kenneth F. Anderson          146 Katahdin Avenue          Millinocket, ME 04462</p> <p>2. Article Number (Transfer from service label)</p>	<p><b>COMPLETE THIS SECTION ON DELIVERY</b></p> <p>A. Signature <input type="checkbox"/> Agent  <input checked="" type="checkbox"/> Addressee</p> <p>B. Received by (Printed Name) <i>K Anderson</i></p> <p>C. Date of Delivery <i>12/21/06</i></p> <p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes  <input checked="" type="checkbox"/> No          If YES, enter delivery address below:</p> <p>3. Service Type  <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail  <input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise  <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.</p> <p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>
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OFFICE

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## 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).

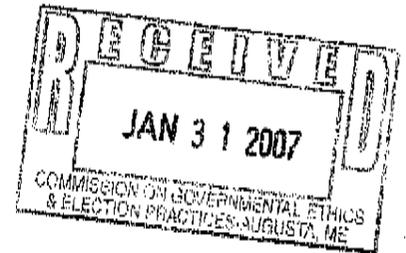
PL 2003, Ch. 448, §4 (AMD).

PL 2003, Ch. 628, §A3-6 (AMD).

RR 2003, Ch. 1, §14 (COR).

# Agenda Item #9

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 22<sup>nd</sup> of December 2006. The holidays came, and I finally filed on the 3<sup>rd</sup> 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 your time,

Sincerely,

Richard R. Dort



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

---

	<b>Due Date</b>	<b>Date Filed</b>	<b>Final Penalty</b>
<b>42-Day Post-Primary</b>	7/25/2006	7/30/2006 (5 days late)	\$218.10 (paid 8/17/06)
<b>6-Day Pre-General</b>	11/1/2006	11/2/2006 (1 day late)	\$185.39 (paid 1/5/07)
<b>42-Day Post-General</b>	12/19/2006	1/3/2007 (15 days late)	\$1908.32 (waiver requested)

## Title 21-A, §1020-A, Failure to file on time

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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.**

### §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 Estabrookc 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  
Candidate Registrar

OFFICE LOCATED AT: 242 STATE STREET, AUGUSTA, MAINE  
WEBSITE: WWW.MAINE.GOV/ETHICS

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

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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
<u>X .01</u>	Percent prescribed for first violation
\$25.00	One percent of total contributions
<u>X 2</u>	Number of calendar days late
\$50.00	Total penalty

Your penalty is calculated as follows:

Contributions/Expenditures: \$	<u>\$2,544.43</u>
Percent prescribed:	<u>0.05</u>
	\$ <u>\$127.22</u>
Number of days late:	<u>X 15</u>
Total penalty accrued:	\$ <u>\$1,908.32</u>

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.



### Welcome to the Campaign Finance Electronic Filing System Site

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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		
Seed Money Report	11/3/2004 to 4/18/2006	4/18/2006	4/18/2006	Filed	4/18/2006	
6-Day Pre-Primary - MCEA Candidates	4/19/2006 to 6/1/2006	6/7/2006	6/7/2006	Filed	5/22/2006	
42-Day Post-Primary	6/2/2006 to 7/18/2006	7/25/2006	7/30/2006 1:40:33 PM	In-Progress (A)		
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	
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	
24-Hr Report of Late Contributions and Expenditures		N/A		MULTIPLE		

Please click on the following buttons to Download schedule informations in excel format.

# Agenda

## Item #10



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

**FINAL NOTICE**

January 19, 2007

Mr. Phillip Morris Napier  
Thu Peoples Hero  
P.O. Box 1923  
Portland, ME 04104

**BY CERTIFIED AND REGULAR MAIL**

Dear Mr. Napier Thu Peoples Hero:

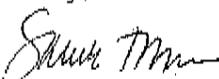
The Ethics Commission notified you on October 4, 2006 of the preliminary determination of a penalty in the amount of \$32.63 for the late filing of your 42-Day Pre-General Gubernatorial campaign finance report. Our records indicate that you have not paid the penalty or requested a waiver by the Commission.

Please pay the penalty in full within 30 days of the date of this letter. If the Commission does not receive payment, the Election Law requires the Commission to refer the penalty to the Attorney General's Office for collection.

If you would like a waiver of the penalty, you may request a waiver by faxing a written request no later than February 16, 2007. The Commission will decide on the waiver request at its March meeting. The request can be in the form of a brief letter stating the reasons why the report was late and why a waiver should be granted. The letter may be faxed to 287-6775.

If you have any questions regarding this matter, please telephone me at 287-7651. Thank you.

Sincerely,

  
Sandy Thompson  
Candidate Registrar.

cc. Treasurer  
Enc.: Original penalty notice

OFFICE LOCATED AT: 242 STATE STREET, AUGUSTA, MAINE  
WEBSITE: WWW.MAINE.GOV/ETHICS

## 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

October 4, 2006

Mr. Philip Morris Napier Thu Peoples Hero  
P.O. Box 1923  
Portland, ME 04104

**BY CERTIFIED MAIL**

Dear Mr. Napier Thu Peoples Hero:

RE: Late 42-Day Pre-General Campaign Finance Report Due 09/26/2006 by 5:00 p.m.

You filed a 42-Day Pre-General campaign finance report on 9/27/2006. 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 is \$32.63. 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.

Sincerely,

Sandra Thompson  
Candidate Registrar

cc. Treasurer

OFFICE LOCATED AT: 242 STATE STREET, AUGUSTA, MAINE  
WEBSITE: WWW.MAINE.GOV/ETHICS

## 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: \$ 1,087.67

Percent prescribed: X 3%

\$ 32.63

Number of days late: X 1

Total penalty accrued: \$ 32.63

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.



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

August 3, 2006

Mr. Philip Morris Napier Thu Peoples Hero  
P.O. Box 1923  
Portland, ME 04101

The Commission staff has made a preliminary determination, based upon application of the statutory formula, that a penalty of \$32.63 applies for the late filing of your 42-Day Pre-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 Sandy Thompson 287-7651.

Cut Along Dotted Line

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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. Philip Morris Napier

RE: Penalty for late filing of 42-Day Pre-General Campaign Finance Report

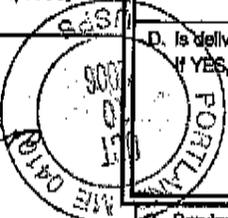
Amount Enclosed: \$ \_\_\_\_\_

Check/M.O. No.: # \_\_\_\_\_

**Please Make Check or Money Order Payable to Treasurer, State of Maine**

OFFICE LOCATED AT: 242 STATE STREET, AUGUSTA, MAINE  
WEBSITE: WWW.MAINE.GOV/ETHICS

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY	
<ul style="list-style-type: none"> <li>Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.</li> <li>Print your name and address on the reverse so that we can return the card to you.</li> <li>Attach this card to the back of the mailpiece, or on the front if space permits.</li> </ul>	<p>A. Signature  <i>Philip Morris Napier</i>  <i>of the Peoples Hero</i> <input type="checkbox"/> Agent <input checked="" type="checkbox"/> Addressee</p>	
<p>1. Article Addressed to:</p> <p><i>Philip Morris Napier</i>  <i>The Peoples Hero</i>  <i>P.O. Box 1923</i>  <i>Portland, ME 04104</i></p>	<p>B. Received by (Printed Name)</p>	<p>C. Date of Delivery</p>
<p>2. Article Number  <i>0002 100 50</i>  <small>(Transfer from service label)</small></p>	<p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes  <input checked="" type="checkbox"/> No          If YES, enter delivery address below:</p>	
<p>3. Service Type</p> <p><input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail  <input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise  <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.</p>	<p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>	
<p>PS Form 3811, February 2004 Domestic Return Receipt 102895-02-M-1540</p>		



ST

Welcome to the Public Campaign Finance Page for the State of Maine - Microsoft Internet Explorer

File Edit View Favorites Tools Help

Address: https://secure.mahecampaignfinance.com/mainpage.asp

# MAINE

Welcome to the Campaign Finance Electronic Filing System Site

Menu Home Help Logout Change Password Admin Page

3/29/2007

Home Page for Phillip Morris NaPier . Tim PeoplesHero

CAMPAIGN YEAR 2006

REPORT TYPE	REPORTING PERIOD	DUPLICATE	FILED	STATUS	DATE MODIFIED	
Candidate Registration			6/19/2006	Filed		Print
42-Day Pre-Primary	11/3/2002 to 4/25/2006	5/2/2006	4/26/2006	Filed		Print
6-Day Pre-Primary	11/3/2004 to 6/1/2006	6/7/2006	6/7/2006	Filed	6/16/2006	Print
42-Day Post-Primary	6/2/2006 to 7/18/2006	7/25/2006	7/28/2006	Filed	7/28/2006	Print
42-Day Pre-General	7/19/2006 to 9/19/2006	9/26/2006	9/27/2006 9:17:06 AM	Filed	9/27/2006 2:59:16 PM	Print
6-Day Pre-General - Governor	9/20/2006 to 10/26/2006	11/1/2006	11/1/2006 3:56:00 PM	Filed	11/1/2006 3:56:00 PM	Print
42-Day Post-General	10/27/2006 to 12/12/2006	12/19/2006	11/29/2006 11:45:00 AM	Filed	11/29/2006 11:45:00 AM	Print
24-Hr Report of Late Contributions and Expenditures		N/A	MULTIPLE			

Please click on the following buttons to Download schedule information in excel format.

Download Schedule Information

LATE →

# Agenda

## Item #11



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

April 13, 2007

**By Regular and Certified Mail**

Mr. Arthur H. Clement  
931 Hinckley Road  
Clinton, ME 04927

**Re: Notice of Recommended Penalties and Opportunity to Respond**

Dear Mr. Clement:

This letter and accompanying memo notify you of your opportunity to respond to the Ethics Commission staff's preliminary factual findings and penalty recommendations concerning your 2006 campaign. The recommendations will be considered by the Commission at its next meeting on Monday, May 14 at 9:00 a.m. We request that you be present at the Commission's meeting to respond to the findings and recommended penalties. Also, we highly recommend that if you disagree with the staff's preliminary recommendations or findings, you respond in writing to them no later than Thursday, May 3. Your response would be included in a packet of materials sent to the Commission members prior to the meeting.

Based on its preliminary factual findings, the staff recommends that the Commission assess the following penalties against you. The full violations are explained in the accompanying memo.

- The Commission should assess a civil penalty of \$1,250 against you for violating 21-A M.R.S.A. §1125(6) by spending Maine Clean Election Act (MCEA) funds for purposes that were not related to your campaign. Although you subsequently used personal funds to reimburse the Maine Clean Election Fund for these purchases, it was a violation of the MCEA for you to use public funds provided to your campaign for these personal expenses.
- The Commission should assess a civil penalty of \$500 against you for violating 21-A M.R.S.A. §1125(12) and Chapter 3, Section 7(2)(B) of the Commission's rules by failing to return all unspent campaign funds by the December 19, 2006 deadline. You eventually returned these funds to the Commission, but it was only after repeated requests by the Commission staff and the Commission's referral of the matter to the State Attorney General for collection.
- The Commission should assess a civil penalty of \$250 against you for violating 21-A M.R.S.A. §1125(7-A) by commingling your MCEA funds with your personal funds. You deposited most of a June 2006 payment of \$4,362 into your

OFFICE LOCATED AT: 242 STATE STREET, AUGUSTA, MAINE  
WEBSITE: WWW.MAINE.GOV/ETHICS

Arthur H. Clement

- 2 -

April 13, 2007

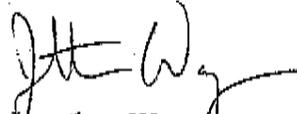
personal account and transferred all of an October payment of \$8,724 to your business account. You went on to spend large amounts of these payments for personal expenses.

The recommended penalties against you total \$2,000. The staff may adjust its recommendations prior to the May 14 meeting depending on any written response you provide by May 3.

Please be aware that the Commission is authorized under 21-A M.R.S.A. §1127(1) to assess penalties of up to \$10,000 for each violation of the Maine Clean Election Act or the Commission's rules. It is possible that at the May 14<sup>th</sup> meeting the Commission could assess penalties that are significantly higher than those recommended by the staff. The staff urges you to take seriously responding to the preliminary findings and penalty recommendations.

Please telephone me at 287-4179 if you have any questions about the recommendations or the enforcement process. Thank you.

Sincerely,



Jonathan Wayne  
Executive Director



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

To: Hon. Arthur H. Clement  
 From: Jonathan Wayne, Executive Director  
 Date: April 13, 2007  
 Re: Preliminary Staff Findings

---

This memo describes the preliminary factual findings by the Ethics Commission staff which are the basis for civil penalties the staff intends at this time to recommend to the Commission at its May 14<sup>th</sup> meeting. As stated in the accompanying letter, the staff urges you to attend the May 14<sup>th</sup> meeting and to respond in writing no later than Thursday, May 3. Your response will be included in a packet of materials that we will send to the Commission. The staff is willing to reconsider our recommendations to the Commission if we conclude that our preliminary findings were in error or if there were mitigating circumstances of which we were not aware.

#### Financial Overview of Your Campaign

Cash Activity		Notes
Seed money contributions received	\$25.00	
Total MCEA funds received	\$13,573.00	includes \$6,929.33 which you were not authorized to spend
Total reported expenditures	\$660.98	
Return of unauthorized funds	\$6,949.33	due 11/21/06; returned 11/27/06
Return of unspent MCEA funds	\$5,988.29	due 12/19/06; returned 3/7/07 and 3/20/07

OFFICE LOCATED AT: 242 STATE STREET, AUGUSTA, MAINE  
 WEBSITE: WWW.MAINE.GOV/ETHICS

### Legal Restrictions on Use of MCEA Funds

The Maine Clean Election Act (MCEA) requires candidates to use MCEA funds for "campaign-related purposes." (21-A M.R.S.A. §1125(6)) The statute does not define acceptable campaign related expenditures, but rather requires the Commission to issue guidelines on permissible uses of MCEA funds. The Commission's guidelines state:

Candidates must spend all Maine Clean Election Act funds for campaign-related purposes and not for other purposes such as the candidate's personal benefit.

MCEA funds may not be spent on personal expenses. Those expenses are for goods and services that the candidate would otherwise purchase independently of the campaign, such as:

- Day-to-day household food items and supplies;
- Vehicle and transportation expenses unrelated to the campaign;
- Mortgage, rent, or utility payments for the candidate's personal residence, even if part of the residence is being used by the campaign; and
- Clothing, including attire for political functions such as business suits or shoes.

### Your 2006 Campaign Expenditures

Your campaign finance reports indicate that you made a small number of campaign expenditures in 2006:

Date	Payee	Expenditure Code/Remark	Amount
5/9/2006	Gardiner Savings	Service charge	\$3.00
5/9/2006	Gardiner Savings	Service charge	\$3.00
6/14/2006	Capitol Promotions	Signs	\$379.98
10/26/2006	Maine Street Solutions	Literature	\$275.00
<b>Total</b>			<b>\$660.98</b>

## **Expenditures of MCEA for Purposes that were not Campaign-Related**

### *Initial Payment of \$4,362 for the General Election*

On June 21, 2006 you deposited your initial general election payment of \$4,362 into your personal checking account, rather than your campaign account.<sup>1</sup> You were authorized to spend this entire amount for campaign-related purposes, but your only campaign expenditure of these June funds was the October 26 payment of \$275 to Maine Street Solutions. The remaining portion of the \$4,362 apparently was spent on personal expenses.

The Commission staff does not have bank records for this account, so it does not know the exact nature of your personal expenses. In a January 26, 2007 telephone conversation with Sandy Thompson, you stated that you used the \$4,362 check to pay your mortgage and other personal expenses. In your February 7, 2007 letter to the Commission you stated that you "made out checks for bills."

We acknowledge that in March 2007 you eventually reimbursed the Maine Clean Election Fund for these personal expenditures after the Commission referred this matter to the State Attorney General for collection. Nevertheless, it was a violation of 21-A M.R.S.A. §1125(6) for you to spend these funds for purposes that were not campaign-related.

### *Matching Funds Payment of \$8,724 for the General Election*

On October 27, 2006, the State of Maine electronically transferred a matching funds payment of \$8,724.00 to your campaign account. The Commission authorized you

---

<sup>1</sup> The Commission staff's review of your campaign disclosed that you have three accounts at the Gardiner Savings Institution: a campaign account, a personal checking account, and a business account.

to spend a total of \$1,774.67 of these funds, but you did not spend any portion of these funds on campaign-related payments.

You transferred the \$8,724 from your campaign account to your business account in two parts on November 6 and 15, 2007. Prior to November 6, you had a limited amount of funds (\$536.45) in your business account from other sources. During the month of November, you were outside of Maine (mostly in Virginia). In considering your expenditures from your business account, the Commission staff presumes that you first used the \$536.45 in non-MCEA money and afterward used the MCEA funds transferred on November 6 and 15.

That presumption leads us to the finding that you used MCEA funds to make personal expenses which included:

<b>Payee</b>	<b>Amount</b>
US Airways	\$307.70
Econo Lodge in Newport News, VA	\$253.13
ATM withdrawals (3)	total of \$140
Direct TV	\$132.95
Retailers/gas stations/restaurants (Rite Aid, Sears, Walgreens, Pizza House, etc )	Various (\$5.00 - \$65.00)

On November 27, 2006, you returned \$6,949.33 to the Maine Clean Election Fund from your business account. It appears that you did not spend this amount while it was in your business account from November 6 and 15 to November 27.

The Commission staff finds that \$1,774.67 - the amount of matching funds that was not returned on November 27, 2006 - was used for purposes not related to your campaign. These expenditures violated 21-A M.R.S.A. §1125(6).

**Failure to Return Unspent Campaign Funds**

Under 21-A M.R.S.A. §1125(12) and Chapter 3, Section 7(2)(B) of the Commission's rules, you were required to return any remaining unspent MCEA funds by December 19, 2006, the reporting deadline for your final campaign finance report. You returned this amount, \$5,988.29, about three months late in two payments on March 7 and March 20, 2007.

You returned the unspent MCEA funds only after repeated requests by the Commission staff and only after the Commission staff scheduled this matter for referral to the Attorney General at the Commission's February 27 meeting. I have attached a list of those requests. By returning these funds about three months after the deadline, you violated 21-A M.R.S.A. §1125(12) and Chapter 3, Section 7(2)(B) of the Commission's rules.

**Commingling MCEA Funds with Personal Funds**

Under 21-A M.R.S.A. §1125(7-A), candidates are required to deposit MCEA funds into a campaign account with a bank or other financial institution, and those "funds must be segregated from, and many not be commingled with, any other funds." It appears you violated this restriction by depositing most of the \$4,362 into your personal account and transferring the \$8,724 payment to your business account. Large portions of these MCEA funds were later used for personal expenses, which is what the prohibition on commingling was intended to prevent.

### Questionable Explanation Previously Provided

The Commission staff is not recommending that the Commission take any action on the following issue, but we are concerned that you may have provided information to the Commission in writing that is inaccurate. In your January 26, 2007 telephone conversation with Sandy Thompson, you stated that:

- you were out of town when a check from the state was delivered to your home;
- your daughter told you that you had received a check from the state; and
- you directed her to deposit in your business account, believing it to be a tax credit check.

You re-stated that account in your February 7, 2007 letter to the Commission:

I [r]eceived a check from Maine Clean Election Fund to my home. I was out of town at the time and when I inquired with my daughter, she said it was a check from the state, in which I thought it was the homeowner rebate check, I told her to put it into my business account, in which I made out checks for bills. When I returned home several weeks later, I realized the error of it being the clean elections funds check and not the rebate check.

That story appears to be inconsistent with the bank records we received from the Gardiner Savings Institution. You received two MCEA checks in 2006: a check dated April 24 in the amount of \$487.00 (your primary election payment) and a check dated June 15 in the amount of \$4,362.00. The signature on the checks seem to indicate that you (not your daughter) signed both checks at the time they were deposited on April 27 and June 21. The signatures seem to be consistent with each other, and with the registration documents you signed and submitted to the Commission in February 2006. The \$4,362 check was deposited on June 21, 2006 along with an unemployment check of \$151.00. Your bank has supplied us with the deposit ticket you signed and the cash slip providing you with \$100 in cash.

At the May 14 meeting, the Commission staff hopes you will explain why the bank records are not consistent with the explanation of your daughter depositing the check. The Commission staff have not reached any conclusion but we are troubled by the possibility that you may have provided a false explanation to the Commission in your February 7, 2007 letter.

Thank you for your consideration of these preliminary findings. The Commission staff urges you to be at the May 14<sup>th</sup> meeting to respond to the findings and proposed penalties. We also believe it would help the Commission reach a fair decision of this matter if you would submit no later than May 3 a written response to the proposed factual findings and recommendations.

Candidate: Arthur Clement

Date: 4/11/2007

## Accounts Analysis - Deposits/Credits, Withdrawals/Debits

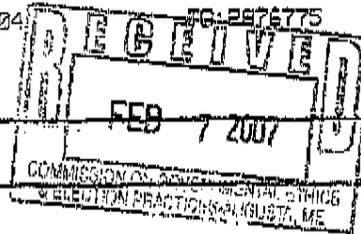
Date	Campaign Account XXXXXX08	Personal Account XXXXXX90	Business Account XXXXXX57	Comments
4/10/2006	\$25 Check deposit			Seed money
4/27/2006	\$487 Check deposit			Primary payment
6-16 and 6/17	\$379.98 Debits			Campaign expenditure paid to Capital Promotions
6/21/2006	\$1,500 Cash deposit	\$4,362 Check deposit		General payment check signed by A. Clement and deposited in personal account.
6/23/2006	\$800 Counter check withdrawal	\$800 Cash deposit		MCE funds deposited into personal account
6/28/2006	\$100 ATM withdrawal			
7/14/2006	\$550 Counter check withdrawal	\$550 Cash deposit		MCE funds deposited into personal account
7/27/2006	\$250 Cash deposit			
8/16/2006	\$275 Payment by check			Campaign expenditure paid to Maine Street Solutions
Please note: Campaign account balance is now \$50.09				
10/27/2006	\$8,724 EFT credit			Matching funds payment
11/6/2006	\$1,500 Telephone transfer (debit)		\$1,500 Telephone transfer (credit)	MCE funds transferred to business account.
11/15/2006	\$7,288.26 Withdrawal		\$7,288.26 Deposit	Campaign account closed. MCE funds deposited into business account.

FEB-7-2007 12:44P FROM:ERROL W CLEMENT

2076343004

TC:2876775

P.1



**A - CLEMENT CERTIFIED & STUD WELDING**

931 HINCKLEY RD  
CLINTON, ME 04927  
Phone (207) 426-9085  
Cell (207) 314-0525

To: Maine Ethics Commission,

Attn: Sandy Thompson  
Fax (207-6775)

2/7/07

I Received a check from Maine Clean Election Fund to my home. I was out of town at the time and when I inquired with my daughter, she said it was a check from the state, in which I thought it was the homeowner rebate check, I told her to put it into my business account, in which I made out checks for bills. When I returned home several weeks later, I realized the error of it being the clean elections funds check and not the rebate check. My intention was to pay the money back before it was due in December. When I realized that I couldn't, I immediately called Sandy Thompson to explain the situation. In talking to Sandy Thompson there was a misunderstanding as she thought the check was the \$8700 that was electronically put into my campaign account in which it was, but not the check we were discussing. The first check to my home was the check we were talking about.

I would like to pay a schedule of 50.00 a month, to be paid in full in one year if not sooner. It was an unfortunate error on my part and I am truly sorry and embarrassed of the situation and am looking forward to any assistance from your department on this matter.

Authorized by;

Arthur Clement



STATE OF MAINE  
Augusta, Maine 04333

CHECK DATE 4/24/06

FOUR HUNDRED EIGHTY SEVEN AND 00/100 DOLLARS

ARTHUR H CLEMENT  
931 HINCKLEY RD  
CLINTON ME 04927

TO THE  
ORDER  
OF

1611100767

SHOW YOUR ENDORSER  
REQUIRE IDENTIFICATION

VOID 180 DAYS FROM CHECK DATE

\$487.00



Maine 52-7445  
2112

*Justine*  
*Edward A. Henson*  
*David Loria*

⑆1611100767⑆ ⑆211274450⑆ ⑆999060335⑆

⑈0000048700⑈

601007849 20060428 00  
INCLEARINGS 01 068

1110660470 4/27/2006 211272465

1110660470 513 4/22/2006

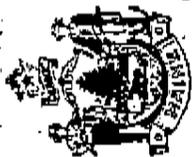
211272465

BEFORE THIS CHECK HAS THE FOLLOWING SECURITY FEATURES PLEASE  
1. CHECK FOR THE WORD VOID APPEARING ON FACE WHEN PHOTOCOPIED.  
2. THE PAPER HAS A CHAIN PATTERN WHEN VIEWED THRU THE LIGHT.  
3. THE INSIDE OF THE BORDER SAYS "STATE OF MAINE" OVER AND OVER IN VERY  
SMALL TYPE. PLACE YOUR FINGER ON THE RED INK CIRCLE BELOW. IT WILL  
FADE IN 10 SECONDS AND REAPPEAR.

*Arthur H. Clement*

DO NOT WRITE, STAMP OR SIGN BELOW THIS LINE

RECEIVED BY THE ETHICS COMMISSION



STATE OF MAINE  
Augusta, Maine 04333

CHECK DATE 6/15/06

1616501386

KNOW YOUR ENDORSER  
REQUIRE IDENTIFICATION

VOID 180 DAYS FROM CHECK DATE

\$4,362.00



MAINE 52-7445  
2112

FOUR THOUSAND THREE HUNDRED SIXTY TWO AND 00/100 DOLLARS

ARTHUR H CLEMENT  
731 HINCKLEY RD  
CLINTON ME 04927

*James B. ...*  
EDWARD A. KEENE  
STATE COMPTROLLER  
*Richard L. ...*  
TREASURER

TO THE  
ORDER  
OF

⑆1616501386⑆ ⑆211274450⑆ 7999060335⑆

⑆000436200⑆

602006069 20060622 0000  
INCLEARINGS 01.054  
1114250410 6/21/2006 >211272465<

1116501386 609 6/11/2006  
>211272465<

WARNING: ALL CHECKS HAS THE FOLLOWING SECURITY FEATURES. PLEASE  
SEARCH FOR THEM: 1. THE WORDS "VOID" ARE PRINTED ON THE BACK OF THE CHECK.  
2. THE WORDS "VOID" ARE PRINTED ON THE FRONT OF THE CHECK.  
3. THE WORDS "VOID" ARE PRINTED ON THE FRONT OF THE CHECK.  
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9. THE WORDS "VOID" ARE PRINTED ON THE FRONT OF THE CHECK.  
10. THE WORDS "VOID" ARE PRINTED ON THE FRONT OF THE CHECK.

*Arthur H. Clement*

DO NOT WRITE, STAMP OR SIGN BELOW THIS LINE  
VOIDS CHECK IMMEDIATELY



Account Number: [REDACTED]

Date:

March 23, 2007

Page:

1 of 2

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DEPOSIT TICKET

Name ARTHUR CLEMENT AMOUNT 1500.00

CASH

DATE

Gardiner Savings Institution, FSB  
Gardiner, Maine 04135

NET DEPOSIT \$ 1500.00

⑆211272465⑆ [REDACTED] 05

06/21/2006

\$1500.00

1114250390 6/21/2006 >211272465<

009 011 6/21/06#0350 \$1,500.00 0

06/21/2006

\$1500.00

DEPOSIT TICKET

ARTHUR H. CLEMENT  
531 HINCKLEY ROAD  
CLINTON, ME 04527  
207-426-8088

AMOUNT 1510.00

CASH

DATE

Gardiner Savings Institution, FSB  
Gardiner, Maine 04135

NET DEPOSIT \$ 2913.00

⑆211272465⑆ [REDACTED] 05

06/21/2006

\$2913.00

1114250388 6/21/2006 >211272465<

009 011 6/21/06#0340 \$2,913.00 0

06/21/2006

\$2913.00

Version © 2004 CARDWORKS

CASH OUT WATERVILLE  
CREDIT UPPER MAIN  
TELLER 9

AMOUNT 100.00

⑆5000⑆ [REDACTED] ⑆P001⑆

11009

06/21/2006

\$100.00

1114250390 6/21/2006 >211272465<

009 011 6-21-06#034 \$100.0000

11009

06/21/2006

\$100.00

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24-HOUR AUTOMATED PHONE BANKING: 1-800-598-4300 LOCAL NUMBER: 558-2284



Account Number:



Date:

March 23, 2007

Page:

2 of 2

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STATE OF MAINE  
 TREASURY DEPARTMENT, AUGUSTA, MAINE  
 0004907756  
 1004 16 00-17-00-16 0004907756 1001000  
 PAY EXACTLY  
 One Hundred Fifty One 00/100  
 \$151.00  
 PAY TO THE ORDER OF  
 ARTHUR H CLEMENTY  
 881 HINCKLEY RD  
 CLINTON ME 04027  
 7999060369 06/21/2006 4907756 \$151.00

1114258400 6/21/2006 >2132724654  
 7999060369 06/21/2006 4907756 \$151.00

STATE OF MAINE  
 CHECK DATE 6/13/06  
 \$4362.00  
 FOUR THOUSAND THREE HUNDRED SIXTY TWO AND 00/100 DOLLARS  
 ARTHUR H CLEMENTY  
 131 HINCKLEY RD  
 CLINTON ME 04027  
 1616501386  
 7999060335 06/21/2006 1616501386 \$4362.00

1114258410 6/21/2006 >2132724654  
 7999060335 06/21/2006 1616501386 \$4362.00

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24-HOUR AUTOMATED PHONE BANKING: 1-800-566-4300 LOCAL NUMBER: 888-3261



Gardiner Savings Institution, FSB

Account Number: [REDACTED]

Date:

March 23, 2007

Page:

1 of 1

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DEPOSIT TICKET

ARTHUR H. CLEMENT  
931 HINGKLEY ROAD  
CLINTON, ME 04827  
207-426-9089

DATE: \_\_\_\_\_

NON NEGOTIABLE INSTRUMENTS  
Gardiner Savings Institution, FSB  
Clinton, Maine 04827

22-TIME/1111  
CASH  800.00  
DEPOSITED   
CHECKS OR TOTAL FROM OTHER SIDE   
TOTAL  800.00  
LESS CASH   
NET DEPOSIT \$ 800.00

⑆241272465⑆ [REDACTED] 06/23/2006 \$800.00

1114390158 6/23/2006 >211272465

006 061 6/23/06H0480 800.00 0-

06/23/2006 \$800.00

COUNTER CHECKING WITHDRAWAL DEBIT

GARDINER SAVINGS INSTITUTION, FSB NOT NEGOTIABLE

NAME ARTHUR H. CLEMENT DATE 6/23/06  
x Arthur H. Clement

ACCOUNT NUMBER - FILL IN LEFT TO RIGHT [REDACTED]

AMOUNT OF WITHDRAWAL 800.00

⑆5500-1000⑆ [REDACTED] 06/23/2006 \$800.00

1114390158 6/23/2006 >211272465

800.00 925027064

06/23/2006 \$800.00

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24-HOUR AUTOMATED PHONE BANKING: 1-800-335-4300 LOCAL NUMBER: 207-287-6775



Account Number: [REDACTED]

Date:

March 23, 2007

Page:

1 of 1

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**CHECKING DEPOSIT - CREDIT**

GARDINER SAVINGS INSTITUTION, FSB

DATE 11 15 06

NAME A. Clement

AMOUNT 7288.26

TOTAL 7288.26

ACCOUNT NUMBER - FULL IN LEFT TO RIGHT [REDACTED]

⑆5000⑆1000⑆

11/15/2006

\$7288.26

1114200170 11/15/2006 ⑆211272465⑆

006 0111/15/060000 ⑆7288.26⑆

11/15/2006

\$7288.26

**GENERAL LEDGER DEBIT**

DESCRIPTION: Arthur Clement closing acct # [REDACTED]

DDA & SAVINGS SETTLEMENT ACCT

ACCOUNT TITLE: [REDACTED]

AMOUNT: 7288.26

DATE 11 15 06 BRANCH NAME W&P

PREPARED BY USER PROFILE: All

APPROVED BY USER PROFILE: [REDACTED]

AMOUNT: 7288.26

00102301000000

⑆5000⑆3000⑆ 00102301000000⑆

00102301000000

11/15/2006

\$7288.26

1114200180 11/15/2006 ⑆211272465⑆

7288.26

⑆3000⑆

00102301000000

11/15/2006

\$7288.26

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24-HOUR AUTOMATED PHONE BANKING: 1-800-596-4300 LOCAL NUMBER: 538-2284



Gardiner Savings  
INSTITUTION, FSB

Date 11/07/06  
Primary

Page 1

Arthur H Clement  
Representative for House District 29  
931 Hinckley Rd  
Clinton ME 04927

Gardiner Savings and Calais Federal Savings & Loan are happy to announce the two banks have agreed to merge. The merger complements Gardiner Saving's recent acquisition of First Citizens Bank and helps us better serve our customers.

STATEMENT INFORMATION

Personal Checking		Number of Enclosures	0
Account Number	[REDACTED]	Statement Dates	10/11/06 thru 11/07/06
Previous Balance	47.25	Days in the Statement Period	28
1 Credited Items	8,724.00	Average Ledger	3,678.96
1 Debited Items	1,500.00	Average Collected	3,678.96
Service Charge	.00	Interest Earned	11.41
Interest Paid	11.41	Annual Percentage Yield Earned	4.12%
Ending Balance	7,282.66	2006 Interest Paid	16.64

CREDIT ITEMS POSTED

Date		Amount
10/27	[REDACTED] STATE OF MAINE	8,724.00
11/07	CTX INTEREST PAID	11.41

DEBIT ITEMS POSTED

Date		Amount
11/06	TELEPHONE TRANSFER DEBIT	1,500.00-

DAILY BALANCE INFORMATION

Date	Balance	Date	Balance
10/11	47.25	11/06	7,271.25
10/27	8,771.25	11/07	7,282.66

\* \* \* END OF STATEMENT \* \* \*

**Arthur Clement Communications Concerning Unspent Funds**

Date: 4/3/2007

Date	Mode	Description
1/18/2007	Letter	Form letter sent to all candidates who have not returned unspent funds.
1/24/2007	Letter	Commission letter (from Jonathan Wayne) sent regular and certified mail to Clement requesting the payment of a late filing penalty and the return of unspent funds. If payments not received by 2/5/2007, his name would be on the 2/14 Commission meeting agenda.
1/26/2007	Phone	Sandy Thompson called Clement and left message and he returned her call at 9:45 a.m. He explained situation: he was in VA, thought check was tax credit payment, had daughter deposit it in his personal account, paid his mortgage, when he returned to ME he realized his mistake.
1/26/2007	Letter	Commission letter (from Jonathan Wayne) requesting written explanation from Clement as follow-up to telephone conversation.
2/5/2007	Phone	Clement called Sandy concerning Commission's 1/26 letter. He explained that: the check was the general payment check (6/14) not the matching funds payment (10/27). Since he closed his campaign account on 11/15/2007, he would have to pay with a personal check.
2/7/2007	Letter via fax	Letter from Clement explaining how general payment deposited into his account.
2/13/2007	Phone and Letter	Clement sent letter describing payment plan. Sandy called him back to clarify his plan and recommended that he pay (at least half) ASAP to show good faith effort.
3/5/2007	Phone	Clement called Sandy informing her that he would be sending bank check for full amount (if possible).
3/7/2007	Phone	Clement called Sandy and left message that he would be able to pay \$3000 and will send another check for remaining balance as soon as he had the funds.
3/20/2007	Letter	Commission received payment from Clement of his remaining balance (\$2,988.29) of unspent funds.

## Title 21-A, §1125, Terms of participation

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### §1125. Terms of participation

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

[2005, c. 301, §29 (amd).]

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

A. Fifty thousand dollars for a gubernatorial candidate; [IB 1995, c. 1, §17 (new).]

B. One thousand five hundred dollars for a candidate for the State Senate; or [IB 1995, c. 1, §17 (new).]

C. Five hundred dollars for a candidate for the State House of Representatives. [IB 1995, c. 1, §17 (new).]

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

[IB 1995, c. 1, §17 (new).]

**3. Qualifying contributions.** Participating candidates must obtain qualifying contributions during the qualifying period as follows:

A. For a gubernatorial candidate, at least 2,500 verified registered voters of this State must support the candidacy by providing a qualifying contribution to that candidate; [IB 1995, c. 1, §17 (new).]

B. For a candidate for the State Senate, at least 150 verified registered voters from the candidate's electoral division must support the candidacy by providing a qualifying contribution to that candidate; or [IB 1995, c. 1, §17 (new).]

C. For a candidate for the State House of Representatives, at least 50 verified registered voters from the candidate's electoral division must support the candidacy by providing a qualifying contribution to that candidate. [IB 1995, c. 1, §17 (new).]

A payment, gift or anything of value may not be given in exchange for a qualifying contribution. A candidate may pay the fee for a money order in the amount of \$5, which is a qualifying contribution, as long as the donor making the qualifying contribution pays the \$5 amount reflected on the money order. Any money order fees paid by a participating candidate must be paid for with seed money and reported in accordance with commission rules.

[2001, c. 465, §4 (amd).]

**4. Filing with commission.** A participating candidate must submit qualifying contributions to the commission during the qualifying period according to procedures developed by the commission, except as provided under subsection 11.

[IB 1995, c. 1, §17 (new).]

## Title 21-A, §1125, Terms of participation

**5. Certification of Maine Clean Election Act candidates.** Upon receipt of a final submittal of qualifying contributions by a participating candidate, the commission shall determine whether or not the candidate has:

- A. Signed and filed a declaration of intent to participate in this Act; [IB 1995, c. 1, §17 (new).]
- B. Submitted the appropriate number of valid qualifying contributions; [IB 1995, c. 1, §17 (new).]
- C. Qualified as a candidate by petition or other means; [IB 1995, c. 1, §17 (new).]
- D. Not accepted contributions, except for seed money contributions, and otherwise complied with seed money restrictions; [2003, c. 270, §1 (amd).]
- D-1. Not run for the same office as a nonparticipating candidate in a primary election in the same election year; and [2003, c. 270, §2 (new).]
- E. Otherwise met the requirements for participation in this Act. [IB 1995, c. 1, §17 (new).]

The commission shall certify a candidate complying with the requirements of this section as a Maine Clean Election Act candidate as soon as possible and no later than 3 business days after final submittal of qualifying contributions.

Upon certification, a candidate must transfer to the fund any unspent seed money contributions. A certified candidate must comply with all requirements of this Act after certification and throughout the primary and general election periods. Failure to do so is a violation of this chapter.

[2005, c. 301, §30 (amd).]

**6. Restrictions on contributions and expenditures for certified candidates.** After certification, a candidate must limit the candidate's campaign expenditures and obligations, including outstanding obligations, to the revenues distributed to the candidate from the fund and may not accept any contributions unless specifically authorized by the commission. Candidates may also accept and spend interest earned on bank accounts. All revenues distributed to a certified candidate from the fund must be used for campaign-related purposes. The candidate, the treasurer, the candidate's committee authorized pursuant to section 1013-A, subsection 1 or any agent of the candidate and committee may not use these revenues for any but campaign-related purposes. The commission shall publish guidelines outlining permissible campaign-related expenditures.

[2005, c. 542, §3 (amd).]

**7. Timing of fund distribution.** The commission shall distribute to certified candidates revenues from the fund in amounts determined under subsection 8 in the following manner.

- A. Within 3 days after certification, for candidates certified prior to March 15th of the election year, revenues from the fund must be distributed as if the candidates are in an uncontested primary election. [2001, c. 465, §4 (amd).]
- B. Within 3 days after certification, for all candidates certified between March 15th and April 15th of the election year, revenues from the fund must be distributed according to whether the candidate is in a contested or uncontested primary election. [2001, c. 465, §4 (amd).]
- B-1. For candidates in contested primary elections receiving a distribution under paragraph A, additional revenues from the fund must be distributed within 3 days of March 15th of the election year. [2001, c. 465, §4 (new).]
- C. Within 3 days after the primary election results are certified, for general election certified candidates, revenues from the fund must be distributed according to whether the candidate is in a contested or uncontested general election. [2001, c. 465, §4 (amd).]

Funds may be distributed to certified candidates under this section by any mechanism that is expeditious, ensures accountability and safeguards the integrity of the fund.

[2001, c. 465, §4 (amd).]

**7-A. Deposit into account.** The candidate or committee authorized pursuant to section 1013-A, subsection 1 shall deposit all revenues from the fund in a campaign account with a bank or other financial institution. The campaign funds must be segregated from, and may not be commingled with, any other funds.

[2005, c. 542, §4 (new).]

## Title 21-A, §1127, Violations

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### §1127. Violations

**1. Civil fine.** In addition to any other penalties that may be applicable, a person who violates any provision of this chapter or rules of the commission adopted pursuant to section 1126 is subject to a fine not to exceed \$10,000 per violation payable to the fund. The commission may assess a fine of up to \$10,000 for a violation of the reporting requirements of sections 1017 and 1019-B if it determines that the failure to file a timely and accurate report resulted in the late payment of matching funds. This fine is recoverable in a civil action. In addition to any fine, for good cause shown, a candidate, treasurer, consultant or other agent of the candidate or the committee authorized by the candidate pursuant to section 1013-A, subsection 1 found in violation of this chapter or rules of the commission may be required to return to the fund all amounts distributed to the candidate from the fund or any funds not used for campaign-related purposes. If the commission makes a determination that a violation of this chapter or rules of the commission has occurred, the commission shall assess a fine or transmit the finding to the Attorney General for prosecution. Fines paid under this section must be deposited in the fund. In determining whether or not a candidate is in violation of the expenditure limits of this chapter, the commission may consider as a mitigating factor any circumstances out of the candidate's control.

[2005, c. 542, §6 (amd).]

**2. Class E crime.** A person who willfully or knowingly violates this chapter or rules of the commission or who willfully or knowingly makes a false statement in any report required by this chapter commits a Class E crime and, if certified as a Maine Clean Election Act candidate, must return to the fund all amounts distributed to the candidate.

[IB 1995, c. 1, §17 (new).]

IB 1995, Ch. 1, §17 (NEW).

PL 2003, Ch. 81, §1 (AMD).

PL 2005, Ch. 301, §33 (AMD).

PL 2005, Ch. 542, §6 (AMD).

- (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 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 Matching 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.
  - (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.
- 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,

**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  
Website: [www.maine.gov/ethics](http://www.maine.gov/ethics)

**EXPENDITURE GUIDELINES FOR 2006**  
**MAINE CLEAN ELECTION ACT CANDIDATES**

**Candidates must spend all Maine Clean Election Act (MCEA) funds for campaign-related purposes and not for other purposes such as the candidate's personal benefit, party-building, or to promote another candidate's campaign.**

■ **Expenditures for "campaign-related purposes" are those which are traditionally accepted as necessary to promote the election of a candidate to political office. Candidates using MCEA funds must also take into account the public nature of the funds, the underlying objectives of the MCEA, and the reasonableness of the expenditures under the circumstances. In Maine, traditional campaign expenses have included:**

- Printing and mailing costs;
- Political advertising expenses;
- Campaign communications such as signs, bumper stickers, T-shirts, or caps with campaign slogans, etc.;
- Office supplies;
- Campaign events (e.g., food, rent of tent or hall, etc.);
- Campaign staff expenses; and
- Campaign travel expenses, such as fuel and tolls.

■ **MCEA funds may not be spent on personal expenses. Those expenses are for goods and services that the candidate would otherwise purchase independently of the campaign, such as:**

- Day-to-day household food items and supplies;
- Vehicle and transportation expenses unrelated to the campaign;
- Mortgage, rent, or utility payments for the candidate's personal residence, even if part of the residence is being used by the campaign; and
- Clothing, including attire for political functions such as business suits or shoes.

■ **Maine Clean Election Act funds may not be spent to:**

- make independent expenditures supporting or opposing any candidate, ballot measure, or political committee;
- assist in any way the campaign of any candidate other than the candidate for whom the funds were originally designated;
- contribute to another candidate, a political committee, or a party committee, other than in exchange for goods and services;
- pay a consultant, vendor, or campaign staff, other than in exchange for campaign goods or services;
- compensate the candidate for services provided by the candidate;
- pay an entry fee for an event organized by a party committee, charity, or community organization or to place an ad in an event publication, unless the expenditure benefits the candidate's campaign;
- make a donation to a charity or a community organization, other than in exchange for campaign goods or services;
- promote political or social positions or causes other than the candidate's campaign;

- pay civil penalties, fines, or forfeitures to the Commission, or defend the candidate in enforcement proceedings brought by the Commission; or
- assist the candidate in a recount of an election.

#### ■ Guidelines on Selected Issues

- *Electronics and Other Personal Property.* Goods purchased with MCEA funds that could be converted to personal use after the campaign (e.g., computers, fax machines, and cellular telephones) must be reported on Schedule E of the candidate reporting form. No later than 42 days after the general election, the goods must be sold at fair market value and the proceeds returned to the Maine Clean Election Fund. Candidates are welcome to lease electronic and other equipment.
- *Food.* Candidates may spend a reasonable amount of MCEA funds on food for campaign events or to feed volunteers while they are working. Legislative candidates should not use MCEA funds to purchase food that is consumed only by the candidate and/or the candidate's spouse. Gubernatorial candidates may use MCEA funds to purchase meals for the candidate and/or candidate's spouse if associated with travel for campaign purposes.
- *Vehicle Travel.* Candidates may elect to have the campaign reimburse themselves for vehicle travel at the reimbursement rate that is applicable to state government employees or for amounts actually paid for fuel and repairs (pro-rated to reflect only campaign-related usage). Candidates should keep a record for each trip that includes: date of travel, number of miles traveled, origination, destination, and purpose of travel.
- *Lodging.* Candidates may use MCEA funds to pay for lodging if necessary for campaign purposes, but must keep lodging expenses reasonable.
- *Post-Election Notes and Parties.* Candidates may spend up to the following maximum amounts of MCEA funds on post-election parties, thank you notes, or advertising to thank supporters or voters: \$250 for State Representative candidates, \$500 for State Senate candidates, \$2,500 for gubernatorial candidates. Candidates may also use personal funds for these purposes.
- *Campaign Training.* Candidates may use Maine Clean Election Act funds for tuition or registration costs to receive training on campaigning or policy issues.
- *Salary and Compensation.* Candidates may use MCEA funds to pay for campaign-related services by staff or consultants, provided that compensation is made at or below fair market value and sufficient records are maintained to show what services were received. The Commission recommends keeping a record that shows how many hours of services were provided by the staff member or consultant each month, and a description of services provided that month.

#### ■ Enforcement

- The Commission reviews all expenditures disclosed by MCEA candidates in campaign finance reports, and frequently requests additional information from candidates to verify that public funds were spent for campaign-related purposes. Candidates who misuse public funds may be required to repay some or all public funds received, may be liable for civil penalties, and may be referred to the State Attorney General for possible criminal prosecution.

# Agenda

## Item #12



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

April 19, 2007

Mr. Arthur H. Clement  
931 Hinckley Road  
Clinton, ME 04927

**BY REGULAR AND CERTIFIED MAIL**

Dear Mr. Clement:

RE: Late 42-Day Post-General Campaign Finance Report Due 12/19/2006.

You filed a 42-Day Post-General campaign finance report on 2/12/2007. 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 \$2,224.75. 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. If you request either a Commission determination or a waiver, it will be placed on the agenda for the May 14, 2007 since you are already scheduled to appear before the Commission on that date. 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,

Sandy Thompson  
Candidate Registrar

OFFICE LOCATED AT: 242 STATE STREET, AUGUSTA, MAINE  
WEBSITE: WWW.MAINE.GOV/ETHICS



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

April 19, 2007

Mr. Arthur H. Clement  
 931 Hinckley Road  
 Clinton, ME 04927

The Commission staff has made a preliminary determination, based upon application of the statutory formula, that a penalty of \$2,224.75 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 Sandy Thompson at 287-7651.

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. Arthur H. Clement

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**

OFFICE LOCATED AT: 242 STATE STREET, AUGUSTA, MAINE  
 WEBSITE: WWW.MAINE.GOV/ETHICS

## 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.

Any penalty of less than \$5 is waived.

*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: \$ \$1,348.27

Percent prescribed: 0.03

\$ \$40.45

Number of days late: X 55

Total penalty accrued: \$ \$2,224.75

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

7005 3110 0000 2803 6952

**U.S. Postal Service™**  
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Certified Fee	
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
<b>Total Postage &amp; Fees</b>	<b>\$</b>

Sent To Arthur Clement  
 Street, Apt. No., or PO Box No. 42-Post 6 P.O.  
 City, State, ZIP+4

**SENDER: COMPLETE THIS SECTION**

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mail piece, or on the reverse of the mail piece.

1. Article Addressed to:  
**MR. ARTHUR H. CLEMENT**  
**931 HINCKLEY ROAD**  
**CLINTON, ME 04927**

2. Article Number  
 (Transfer from service label) 7005-3110 0000 2803 6952

3. Service Type **USPS**  
 Certified Mail     Express Mail  
 Registered     Return Receipt for Merchandise  
 Insured Mail     C.O.D.

4. Restricted Delivery? (Extra Fee)     Yes

**COMPLETE THIS SECTION ON DELIVERY**

A. Signature  Agent  
Arthur H. Clement     Addressee

B. Received by (Printed Name)    C. Date of Delivery  
ARTHUR H. CLEMENT

D. Is delivery address different from item 1?  Yes  
 If YES, enter delivery address below:     No

**APR 20 2007**



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

January 24, 2007

Mr. Arthur H. Clement  
931 Hinckley Road  
Clinton, ME 04927

**BY CERTIFIED AND REGULAR MAIL**

Dear Mr. Clement:

This is to follow up on the letters we have sent you over the past two months requesting that:

- you pay the penalty of \$51.17 for the late filing of your 6-Day Pre-General campaign finance report;
- you file your 42-Day Post General campaign finance report and;
- you return unspent MCEA funds found on line 6 of Schedule F, 42-Day Post General campaign finance report. Since the report is not filed, the unspent amount is unknown. Under the MCEA, you were required to return these funds at the time you filed your final campaign finance report that was due no later than December 19, 2006. (21-A M.R.S.A. §1125(12)).

Since the Commission did not receive payment of your penalty by January 15, 2007, it is tentatively scheduled for the February 14 meeting for referral to the Attorney General's office for collection. **If the Commission does not receive the payment of your penalty, the unspent MCEA funds and your filed campaign finance report by Monday, February 5, 2007, your name will be printed on the public agenda for the Ethics Commission's February 14, 2007 meeting for all three issues.**

Please telephone me at 287-4179 if you have any questions or I can help in any way.

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Certified Fee		
Return Receipt Fee (Endorsement Required)		
Restricted Delivery Fee (Endorsement Required)		
Total Postage & Fees	\$	

Sincerely,  
*Jonathan Wayne*  
Jonathan Wayne  
Executive Director

Sent to *Mr. Arthur Clement*

Street, Apt. No.,  
or PO Box No.

City, State, ZIP+4  
*Clinton, ME*

PS Form 3800, June 2002

D AT: 242 STATE STREET, AUGUSTA, MAINE  
ITE: WWW.MAINE.GOV/ETHICS

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY
<ul style="list-style-type: none"> <li>■ Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.</li> <li>■ Print your name and address on the reverse so that we can return the card to you.</li> <li>■ Attach this card to the back of the mailpiece, or on the front if space permits.</li> </ul>	<p>A. Signature <input checked="" type="checkbox"/> Addressee <input type="checkbox"/> Agent <input type="checkbox"/></p> <p>B. Received by <i>NAKISSA CLEMENT</i> C. Date of Delivery</p>
<p>1. Article Addressed to:</p> <p><i>Mr. Arthur H. Clement 931 Hinckley Road Clinton, ME 04927</i></p> <p style="text-align: right;"><i>ST</i></p>	<p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>If YES, enter delivery address below.</p> <p style="text-align: center;"><b>JAN 30 2007</b> USPS</p> <p>3. Service Type</p> <p><input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail</p> <p><input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise</p> <p><input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.</p> <p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>
<p>2. Article Number (Transfer from service label)</p>	<p><b>7005 3110 0000 2803 6914</b></p>



SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY
<ul style="list-style-type: none"> <li>■ Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.</li> <li>■ Print your name and address on the reverse so that we can return the card to you.</li> <li>■ Attach this card to the back of the mailpiece, or on the front if space permits.</li> </ul>	<p>A. Signature  <input checked="" type="checkbox"/> Agent  <input type="checkbox"/> Addressee</p> <p>B. Received by: (Printed Name) C. Date of Delivery</p>
<p>1. Article Addressed to:</p> <p style="text-align: center;">Arthur H. Clement  931 Hinckley Road  Clinton, ME 04927</p>	<p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes  If YES, Enter delivery address below: <input type="checkbox"/> No</p> <p style="text-align: center; border: 1px solid black; border-radius: 50%; padding: 10px;">JAN 26 2007</p> <p>3. Service Type <span style="float: right;">USPS</span></p> <p><input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail  <input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise  <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.</p> <p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>
<p>2. Article Number  (Transfer from service label)</p>	<p style="text-align: center;">7005 3110 0000 2803 7355</p>



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

December 21, 2006

Mr. Arthur H. Clement  
931 Hinckley Road  
Clinton, ME 04927

**Re: Delinquent Campaign Finance Report – Due December 19, 2006**

Dear Mr. Clement:

Our records show that you have not filed your 42-Day Post-General Report. 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, on the number of calendar days a report is filed late, and on the candidate's filing record. If you raised or spent money during the filing period, you could be subject to civil penalties, which are accruing on a daily basis. Once you have filed your report, our office will calculate the penalty using the enclosed penalty matrix, and will notify you of the amount of the penalty. **Therefore, we urge you to file your report as soon as possible.**

Sincerely,

Gavin O'Brien  
Candidate Registrar

SENDER: COMPLETE THIS SECTION		COMPLETE THIS SECTION ON DELIVERY	
<b>U.S. Postal Service™</b> <b>CERTIFIED MAIL™ RECEIPT</b> (Domestic Mail Only; No Insurance Coverage Provided) For delivery information visit our website at <a href="http://www.usps.com">www.usps.com</a>		<b>OFFICIAL USE</b>	
Postage \$ _____ Certified Fee _____ Return Receipt Fee (Endorsement Required) _____ Restricted Delivery Fee (Endorsement Required) _____ Total Postage & Fees \$ _____	Postmark Here _____	A. Signature <input checked="" type="checkbox"/> <i>Arthur H. Clement</i> <input type="checkbox"/> Agent <input type="checkbox"/> Addressee	B. Received by (Printed Name) <i>ARTHUR H. CLEMENT</i>
C. Date of Delivery <i>12-22</i>		D. Is delivery address different from item 1? <input type="checkbox"/> Yes if YES, enter delivery address below <input type="checkbox"/> No	
Addressed to:  Arthur H. Clement Hinckley Road Clinton, ME 04927		3. Service Type <b>USPS</b> <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.	
Sent To <i>Clement</i> Street, Apt. No., or PO Box No. City, State, ZIP+4		4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes	
Number from service label)		7005 3110 0000 2803 6716	
811, August 2001		102595-02-M-154c	

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# MAINE

Welcome to the Campaign Finance Electronic Filing System Site

Menu Home Help Logout Change Password Admin Page

5/4/2007

Home Page for Arthur H. Clement

CAMPAIGN YEAR 2006

REPORT TYPE	REPORTING PERIOD	DUE DATE	DATE FILED	STATUS	LAST MODIFIED	
Candidate Registration			2/27/2006 12:06:13 PM	Filed	2/13/2007 1:49:05 PM	Print
Seed Money Report	11/3/2004 to 4/12/2006	4/18/2006	4/12/2006	Filed	4/12/2006	Print
6-Day Pre-Primary - MCEA Candidates	4/13/2006 to 6/1/2006	6/7/2006	6/19/2006	Filed		Print
42-Day Post-Primary	6/2/2006 to 7/18/2006	7/25/2006	7/24/2006	Filed	6/7/2006	Print
6-Day Pre-General	7/19/2006 to 10/26/2006	11/1/2006	11/13/2006 3:18:25 PM	Filed	11/19/2006 3:18:25 PM	Print
42-Day Post-General	10/27/2006 to 12/12/2006	12/19/2006	2/12/2007 8:46:25 AM	Filed	2/12/2007 8:46:25 AM	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.

Done Internet

Late

ARTHUR H. CLEMENT

05/04/2007

CANDIDATE'S FULL NAME

Date Submitted

**SCHEDULE F  
SUMMARY SECTION  
(MAINE CLEAN ELECTION ACT CANDIDATES)**

<b>CASH ACTIVITY</b>		
	<b>TOTAL FOR THIS PERIOD</b>	<b>TOTAL FOR CAMPAIGN</b>
1. CASH BALANCE FROM LAST REPORT (if any)	4,640.02	
2. MAINE CLEAN ELECTION ACT Payments	+ 1,348.27	6,648.67
3. SALE OF CAMPAIGN PROPERTY (Schedule E, Part II)	+ 0.00	0.00
4. OTHER CASH RECEIPTS (interest, etc.)	+ 0.00	0.60
5. MINUS TOTAL EXPENDITURES (total of all Schedule B pages)	- 0.00	660.98
6. CASH BALANCE AT CLOSE OF PERIOD (lines 1 + 2 + 3 + 4 - 5)	= 5,988.29	
7. CASH NOT AUTHORIZED TO SPEND	0.00	
8. CASH AUTHORIZED TO SPEND (line 6 - 7)	5,988.29	

<b>OTHER ACTIVITY THIS REPORTING PERIOD</b>		
9. TOTAL UNPAID DEBTS AT CLOSE OF PERIOD (total all Schedule D pages)	0.00	

## 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).]

# Agenda

## Item #13

05/03/07

Maine Ethics Commission and Election Practices  
135 State House Station  
Augusta, ME 04333-0135

Andrew Ketterer, Chair  
Vinton Cassidy  
Michael Friedman  
Jean Ginn Marvin  
A. Mavoureen Thompson

Jonathan Wayne, Executive Director  
Paul Lavin  
Vincent Dinan  
Sandy Thompson  
Staff

Dear Commission Members, Personnel and Staff,

This letter is my response to the findings made by the Commission and outlined in the Commissions letter date April 13<sup>th</sup>.

I will not refute nor will I argue the findings of the Commission and I fully intend to comply with civil penalty recommended by the Commission.

I realize that a crafty attorney could find mitigating reasons to counter some of the findings of the Commission. However, it is my intention to accept the penalty of \$2750.00.

Please know that I am further embarrassed by the fact that if I had kept better track of the accounting of this campaign and if I had spent the remainder of the funds "authorized to spend", I could have passed my opponent by sending an additional mailer which could have earned myself the seat in the House. So, I am humiliated on several fronts.

And, I am further embarrassed by the fact that articles written most particularly the article published in the Lake Region Weekly. This article I believe was unfair and surely was very harsh. It virtually convicted me even prior to the findings of the Commission.

While in the heat of the campaign, I should have stopped to think about what I was doing and subsequent ramifications that have resulted from my stupidity.

My personal debit card and campaign debit card are virtually identical at a glance. It was easy to use both cards interchangeably and I neglected the specific rules that I was trusted to follow by this Commission.

Receipts did indeed arrive late.

And I fell short as to upholding the integrity and the long history of the Maine House of Representatives.

But I have no excuses.

When I did finally audit myself, I realized just how many times Sandy Thompson attempted to call me virtually begging me to call her. She even drove to Windham just to serve paperwork. And over the phone, she was always professional, accommodating and patient. For this, I am truly sorry to Sandy Thompson.

And, to Jonathan Wayne and Paul Lavin, how brazen of me to test your positions? For having to deal with this mess and taking precious time out from other matters of importance, I apologize.

So therefore, since all taxpayer funds have been returned, I ask the Commission to accept the recommendations of the Executive Director Jonathan Wayne, and his staff so that closure can be obtained. Healing can begin which will allow all of us to move on. I can assure you that this will never, ever happen again.

As to the \$384.85 overpayment, if the Commission decides to return this overpayment, please donate it to the Women Infants and Children Nutritional Program.

To the Governor, Maine Ethics Commission and the citizens of the State of Maine, I have made the biggest mistakes of my life and for that I apologize.

Very Truly Yours,

Tom Bossie



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

April 13, 2007

**By Regular and Certified Mail**

Thomas J. Bossie  
74 Point Sebago Road  
Casco, ME 04015

**Re: Notice of Recommended Penalties and Opportunity to Respond**

Dear Mr. Bossie:

This letter and accompanying memo notify you of your opportunity to respond to the Ethics Commission staff's preliminary factual findings and penalty recommendations concerning your 2006 campaign. The recommendations will be considered by the Commission at its next meeting on Monday, May 14 at 9:00 a.m. We request that you be present at the Commission's meeting to respond to the findings and recommended penalties. Also, we highly recommend that if you disagree with the staff's preliminary recommendations or findings, you respond in writing to them no later than Thursday, May 3. Your response would be included in a packet of materials sent to the Commission members prior to the meeting.

Based on its preliminary factual findings, the staff recommends that the Commission assess the following penalties against you. The full violations are explained in the accompanying memo.

- The Commission should assess a civil penalty of \$1,250 against you for violating 21-A M.R.S.A. §1125(6) by spending Maine Clean Election Act (MCEA) funds for purposes that were not related to your campaign. These expenditures include a payment to the Point Sebago Resort, costs of two advertisements for your business, car and personal loan payments, and a variety of other purchases. Although you subsequently used personal funds to reimburse the Maine Clean Election Fund for these purchases, it was a violation of the MCEA for you to use public funds provided to your campaign for these personal expenses.
- The Commission should assess a civil penalty of \$750 against you for violating 21-A M.R.S.A. §1125(12) and Chapter 3, Section 7(2)(B) of the Commission's rules by failing to return all unspent campaign funds by the November 21 and December 19, 2006 deadlines. You eventually returned these funds to the Commission, but it was only after repeated requests by the Commission staff and the Commission's referral of the matter to the State Attorney General for collection. Even after Candidate Registrar Sandy Thompson personally spoke to you on November 28, 2006 about your responsibility to return these funds, you continued to use them for personal purposes.

OFFICE LOCATED AT: 242 STATE STREET, AUGUSTA, MAINE  
WEBSITE: WWW.MAINE.GOV/ETHICS

Thomas J. Bossie

- 2 -

April 13, 2007

- The Commission should assess a civil penalty of \$500 against you for violating 21-A M.R.S.A. §1125(12) and Chapter 3, Section 7(2)(A) of the Commission rules for failing to report accurately your expenditures of MCEA campaign funds. The major part of the violation is that you initially failed to report by the December 19, 2006 deadline any expenditures for the period of October 27 - December 12, 2006. Only after the Commission pressed you to return unspent funds did you file an amended report disclosing the \$2,690 in expenditures. You also failed to report 16 expenditures totaling \$384.85 which you made from July 16 to October 3, 2006 and which you later identified to the staff as being campaign-related. By not disclosing these expenditures, you failed to disclose how you spent public campaign funds and the Commission was unable to determine the cash balance that you were required to pay to the Commission.
- The Commission should assess a civil penalty of \$250 against you for violating 21-A M.R.S.A. §1125(7-A) by commingling your MCEA funds with your personal funds. You transferred \$1,200 in MCEA funds to your personal bank account and spent them for personal uses. You also used MCEA funds in your campaign account as your private funds and spent them for personal expenses.

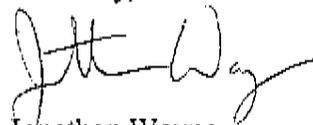
The recommended penalties against you total \$2,750. The staff may adjust its recommendations prior to the May 14 meeting depending on any written response you provide by May 3.

Please be aware that the Commission is authorized under 21-A M.R.S.A. §1127(1) to assess penalties of up to \$10,000 for each violation of the Maine Clean Election Act or the Commission's rules. It is possible that at the May 14<sup>th</sup> meeting the Commission could assess penalties that are significantly higher than those recommended by the staff. The staff urges you to take seriously responding to the preliminary findings and penalty recommendations.

The staff acknowledges that your eventual repayment of public funds was \$384.85 higher than was owed because you made campaign-related payments totaling that amount that were not reflected in the cash balance on your final campaign finance report. The staff will recommend to the Commission that this overpayment of \$384.85 be credited toward any penalty assessed against you.

Please telephone me at 287-4179 if you have any questions about the recommendations or the enforcement process. Thank you.

Sincerely,



Jonathan Wayne  
Executive Director



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

To: Thomas J. Bossie  
From: Jonathan Wayne, Executive Director  
Date: April 13, 2007  
Re: Preliminary Staff Findings

---

This memo describes the preliminary factual findings by the Ethics Commission staff which are the basis for civil penalties the staff intends at this time to recommend to the Commission at its May 14<sup>th</sup> meeting. As stated in the accompanying letter, the staff urges you to respond in writing to the staff findings and recommended penalties no later than Thursday, May 3. Your response will be included in a packet of materials that will send to the Commission. The staff is willing to reconsider our recommendations to the Commission if we conclude that our preliminary findings were in error or if there were mitigating circumstances of which we were not aware.

### **Overall Findings**

In some important respects, your 2006 campaign came into compliance with the requirements of the Maine Clean Election Act (MCEA), even though much of that compliance was the result of repeated requests by the Commission staff. Your campaign made \$9,404.10 in legitimate expenditures to promote your election that were within the Commission's guidelines. You reported all but \$384.85 of these expenditures in campaign finance reports submitted to the Commission, and you returned the appropriate amount of unspent MCEA funds to the state.

OFFICE LOCATED AT: 242 STATE STREET, AUGUSTA, MAINE  
WEBSITE: WWW.MAINE.GOV/ETHICS

Nevertheless, it appears that your campaign committed some serious violations of the MCEA for which the Commission staff preliminarily recommends civil penalties totaling \$2,750. Most troubling is the use of MCEA funds for personal expenses, including restaurant and convenience store purchases, accommodations at a resort, and advertising to promote your business as a mortgage broker. The recommended penalty for this violation is well less than the \$10,000 maximum because you eventually reimbursed the state for the MCEA funds used for these personal expenses. That reimbursement does not take away from the fact that you used public funds which the state entrusted to you for campaign purposes, at best, as a personal loan. Indeed, given the difficulty the Commission staff had in recovering the reimbursements from you, it is unclear whether after the election you initially intended to return the funds.

#### **Legal Restrictions on Use of MCEA Funds**

The Maine Clean Election Act requires candidates to use MCEA funds for "campaign-related purposes." (21-A M.R.S.A. §1125(6)) The statute does not define acceptable campaign related expenditures, but rather requires the Commission to issue guidelines on permissible uses of MCEA funds. The Commission's guidelines state:

Candidates must spend all Maine Clean Election Act (MCEA) funds for campaign-related purposes and not for other purposes such as the candidate's personal benefit.

MCEA funds may not be spent on personal expenses. Those expenses are for goods and services that the candidate would otherwise purchase independently of the campaign, such as:

- Day-to-day household food items and supplies;
- Vehicle and transportation expenses unrelated to the campaign;

- Mortgage, rent, or utility payments for the candidate's personal residence, even if part of the residence is being used by the campaign; and
- Clothing, including attire for political functions such as business suits or shoes.

...

*Food.* Candidates may spend a reasonable amount of MCEA funds on food for campaign events or to feed volunteers while they are working. Legislative candidates should not use MCEA funds to purchase food that is consumed only by the candidate and/or the candidate's spouse. Gubernatorial candidates may use MCEA funds to purchase meals for the candidate and/or candidate's spouse if associated with travel for campaign purposes.

...

*Vehicle Travel.* Candidates may elect to have the campaign reimburse themselves for vehicle travel at the reimbursement rate that is applicable to state government employees or for amounts actually paid for fuel and repairs (pro-rated to reflect only campaign-related usage). Candidates should keep a record for each trip that includes: date of travel, number of miles traveled, origination, destination, and purpose of travel.

...

*Lodging.* Candidates may use MCEA funds to pay for lodging if necessary for campaign purposes, but must keep lodging expenses reasonable.

### Financial Overview of Your Campaign

Cash Activity		Notes
Seed money contributions received	\$130.00	
Total MCEA funds received	\$13,594.07	includes \$2,866.20 which you were not authorized to spend
Total reported expenditures	\$9,019.25	does not include \$384.85 in unreported campaign expenses
Return of unauthorized funds	\$2,866.20	due 11/21/06; returned 1/16/07
Return of payment to Point Sebago Resort	\$448.70	paid 1/16/07
Return of unspent MCEA funds	\$1,390.00	due 12/19/06; returned 2/23/07
Return of campaign's overpayment to Bridgton News	\$96.00	paid 3/9/07

## **Expenditures of MCEA for Purposes that were not Campaign-Related**

### *Payment of \$448.70 to Point Sebago Resort*

• In your pre-general election campaign finance report (attached), you disclosed making a payment of \$448.70 to the Point Sebago Resort on July 25, 2006. In the remarks field for the expenditure, you included the description "Outing." In the course of our routine review of your reported expenditures, our staff auditor noticed the expenditure and asked you for an explanation. You responded by e-mail:

This expense covered housing for three individuals who came to Casco to assist and build a democratic float for the Casco Days parade. The expense code should have been for food and lodging.

(Your e-mail is attached.) The Commission's auditor informed you that the expenditure did not appear to be allowable because the accommodations purchased were not directly related to your campaign. Accordingly, you returned \$448.70 in personal funds to the Commission along with your first repayment of unspent MCEA funds.

The Commission raised the issue of a Democratic float with Mr. Kelly Simpson, the chair of the Casco Democratic Party Committee. He responded that the Casco Democratic committee does not organize a Democratic float for that parade, and that each candidate usually does their own. The Commission staff also reviewed the website of the town of Casco, which includes pictures of the Casco Day Parade. It shows a trailer displaying political signs for Democratic Party candidates, but does not include a vehicle which we would describe as a float. If you were referring to the trailer with signs of Democratic candidates, it is not apparent that the trailer involved building or decorating that would require accommodating workers at a resort.

Based on the information available at this time, the staff has found preliminarily that the expenditure of \$448.70 was not for campaign-related purposes, and therefore violated 21-A M.R.S.A. §1125(6). We are concerned that the expense may have been more of a personal nature. If you disagree, kindly provide in writing:

- the names of the persons who stayed there
- what work they performed on a Democratic float or other projects; and
- how that work benefited your legislative campaign.

If you can provide a more specific explanation of the expense, the staff is willing to reconsider its view that the expense was not campaign-related.

#### *Payment of Personal Expenses from Campaign Account*

As you know, the Commission subpoenaed the bank records of your campaign account. It appears that you made 95 expenditures totaling \$2,867.06 that were not included in your campaign finance reports. (See attached list.) Twenty-five percent of the expenditures were at food or drinking establishments such as Bray's Brew Pub. Also, the majority of the expenditures (totaling \$1,721.24) were made after the November 7, 2006 general election, and so it is difficult to see how they were related to your campaign.

We presume that all of these expenditures were personal in nature because:

- they were not included in your campaign finance reports;
- they were not among the list of 16 unreported campaign expenditures you have provided to the Commission during the audit entitled "Point of Sale Campaign Invoices"; and
- the timing and payees involved suggest that the expenditures were personal in nature.

We acknowledge that you have reimbursed your campaign account or the Maine Clean Election Fund for these personal expenditures. Nevertheless, it appears that MCEA funds

were used -- at least initially -- for purposes that were not campaign-related and therefore violated 21-A M.R.S.A. §1125(6). Also, the staff is concerned that you made the reimbursements only because of repeated requests by the Commission for the return of unspent campaign funds and for complete reporting of expenditures. If you believe these expenditures were for campaign-related purposes or that they otherwise comply with Section 1125(6), please explain in writing.

*Newspaper Ads for Your Business*

On July 10, 2006 you paid \$288 for six campaign advertisements to run in six consecutive editions of the weekly Bridgton News, at a cost of \$48 per ad. At some point in the following eight days, you changed the order to four campaign advertisements and four ads for your personal business as a mortgage broker that would run in alternating weeks.

The first two business ads ran in the July 27 and August 10, 2006 editions of the newspaper. Of the initial July 10, 2006 payment, the amount of \$96 in MCEA funds were used to pay for the July 27 and August 10 business advertisements. The Bridgton News has informed us that it billed you for these advertisements on March 22, 2007 and still has not received payment.

Because the \$96 of the July 10, 2006 expenditure was used for purposes that were not campaign-related, that portion of the expenditure appears to violate 21-A M.R.S.A. §1125(6). If we have misunderstood the situation, please provide whatever information you believe is appropriate.

*Transfer of \$1,200 from Campaign Account to Personal Account*

As shown on the attached chart, between August 8 and November 16, 2006 you made four transfers of MCEA funds totaling \$1,200 from your campaign account to your personal account. On the day of each transfer or shortly afterward, you used these funds for a variety of personal expenses that included a monthly car payment, a loan repayment, and purchases at gasoline stations and convenience stores. On two of these occasions (August 8 and September 20) the cash balance in your personal account at the time of these transfers was \$9.42 and -\$4.19, which suggested that you transferred the money to fulfill scheduled personal obligations or to purchase other desired personal goods and services.

We are not aware of any reason to believe the \$1,200 in transferred funds were for used for campaign-related purposes. Therefore, these expenditures of MCEA funds appear to violate 21-A M.R.S.A. §1125(6). Please provide any information that you believe is relevant to the issue of whether these funds were used for campaign-related purposes, or otherwise complied with Section 1125(6).

**Failure to Return Unspent Campaign Funds**

Under 21-A M.R.S.A. §1125(12) and Chapter 3, Section 7(2)(B) of the Commission's rules, you were required to return by November 21, 2006 (two weeks after the general election) \$2,866.32 in MCEA funds which you received but were not authorized to spend. You returned this amount roughly two months late on January 16, 2007. In addition, you were obligated to return any remaining unspent public funds by

December 19, 2006, the reporting deadline for your final campaign finance report. You returned those funds (\$1,390) roughly two months late on February 23, 2006.

You returned the unspent MCEA funds only after repeated requests by the Commission staff and only after the Commission staff scheduled this matter for referral to the Attorney General at the Commission's January 19, 2007 meeting. I have attached a list of those requests. By returning these funds about two months after the deadlines, you violated 21-A M.R.S.A. §1125(12) and Chapter 3, Section 7(2)(B) of the Commission's rules.

The Commission staff is particularly disturbed that even after Candidate Registrar Sandy Thompson explained to you by telephone your obligation to return unspent campaign funds on November 28, 2006, you continued to use them for personal expenses as explained on pages 5-6 above. This suggests a knowing decision not to return these funds and to use them, instead, on personal purchases.

#### **Failure to Report Expenditures**

As a MCEA candidate for the House of Representatives, you were required under 21-A M.R.S.A. §1125(12) and Chapter 3, Section 7(2)(A) of the Commission's rules to file campaign finance reports that disclosed all expenditures of MCEA funds. When you filed your report due December 19, 2006, the report listed no expenditures for the period of period of October 27 - December 12, 2006. After the Commission pressed you to return unspent funds, you filed an amended report disclosing \$2,690 in expenditures for that period. You also did not include in your reporting 16 expenditures totaling \$384.85 which you made from July 16 to October 3, 2006 and which you later identified to the

staff as being campaign-related. By not disclosing these expenditures, you failed to disclose to the public how you spent MCEA campaign funds which you received from the state and the Commission was unable to determine the cash balance that you were required to pay to the Commission. The failure to report your expenditures violates 21-A M.R.S.A. §1125(12) and Chapter 3, Section 7(2)(A).

### **Commingling MCEA Funds with Personal Funds**

Under 21-A M.R.S.A. §1125(7-A), candidates are required to deposit MCEA funds into a campaign account with a bank or other financial institution, and those "funds must be segregated from, and may not be commingled with, any other funds." It appears you violated this restriction by transferring \$1,200 in MCEA funds to your personal bank account. Those funds were later used for personal expenses, which is what the prohibition on commingling was intended to prevent.

### **Questionable Explanations Provided Previously**

In the course of making requests for returned funds, the staff has received from you a few explanations which, in retrospect, are difficult to accept as true. We are not going to recommend that the Commission take action on this, but we wish to make the Commission and you aware of our views.

#### *Missing Check from November 2006*

In November 2006, you told us that you mailed a check on Wednesday, November 29 to return the \$2,866.20 in unauthorized matching funds. On December 1

after we had not received the check, Sandy Thompson e-mailed you a recommendation that you stop-payment on the check.

We did not hear back from you until early January 2007, when we recommended that the Commission refer you to the State Attorney General for collection of these funds. On January 16, 2007, you hand-delivered check #532 in the amount of \$2,866.20 – presumably the check you mailed on November 29.

A few factors suggest to us that you did not, in fact, write check #532 in November 2006 and mail it to us on November 29<sup>th</sup>:

- Your handwritten date on check #532 was “11/19/07,” suggesting that it was written in January 2007 rather than November 2006.
- On November 19, 2006, the balance in your campaign account was \$1,589.45, which would not have covered the amount of the check.
- If you had mailed the check on November 29 and it was lost in the U.S. Postal System, it seems likely that you would have followed up in December to confirm whether we received it, or to request that we deposit the check, destroy it, or return the check to you upon receipt. Instead, we never heard back from you regarding the missing check until January, when we recommended referring you to the State Attorney General.
- When you delivered the check #532 to us on January 16<sup>th</sup> and followed up by e-mail to confirm Sandy’s receipt of it, you did not offer an explanation for how you came to possess it after it was lost in the postal system.

#### *Missing Check from February 2007*

On Tuesday, February 20, 2007, you faxed us a copy of a check #534 dated February 19 in the amount of \$1,389.50. You also faxed us a copy of a metered envelope dated February 20, 2007. You sent Sandy Thompson a number of two e-mails attempting to confirm we received the check. Unfortunately, we never received a copy of the

check.<sup>1</sup> Because we never received it and because the balance in the account on February 18<sup>th</sup> was \$6.59, it seems unlikely that you wrote check #534 on February 18<sup>th</sup> and mailed it on February 20<sup>th</sup>.

*Spending "All the Funds"*

When we spoke to you in January 2007 and reminded you that we needed to receive your unspent campaign funds, you stated that you had spent all funds that you were authorized to spend. You made that statement again in an e-mailed dated January 19<sup>th</sup> in which you said: "All other authorized funds were spent on the campaign ...." In fact, you had not spent more than \$1,000 of your authorized funds on your campaign.

Thank you for your consideration of these preliminary findings. The Commission staff urges you to be at the May 14<sup>th</sup> meeting to respond to the findings and proposed penalties. We also believe it would help the Commission reach a fair decision of this matter if you would submit no later than May 3 a written response to the proposed factual findings and recommendations.

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<sup>1</sup> The envelope used the unique zip code for the Maine state government (04333) and our street address of 242 State Street (rather than our internal office number of 135 State House Station). Even though the address was incorrect, we mailed a test envelope from Southern Maine and we would have received it within two days of you mailing it on February 20<sup>th</sup>.

THOMAS J. BOSSIE

(Schedule B Only)

CANDIDATE'S FULL NAME

**SCHEDULE B  
EXPENDITURES**

- Itemize each expenditure made during the reporting period.
- Enter the date, payee, expenditure type, and amount for each expenditure.
- For expenditure types which require a remark, enter a description of the goods and services purchased.
- Only enter expenditures that have actually been paid. Enter unpaid debts and obligations on Schedule D.

**Expenditures paid with non-campaign funds:** Whenever an expenditure is made on behalf of a candidate with funds other than campaign funds, the campaign **must** reimburse that expenditure with campaign funds. Following the instructions above, enter the information for the vendor that actually provided the goods or services. In the remarks section, include the name of the person reimbursed and any other required remarks.

Expenditure Types Requiring <b>NO</b> Remark		Expenditure Types Which <b>REQUIRE</b> Remark	
PRT	Print media ads	SAL	Campaign workers' salaries
TVN	TV or cable ads, production costs	CNS	Campaign consultants
RAD	Radio ads, production costs	PRO	Other professional services
LIT	Campaign literature (printing and graphics)	EQP	Equipment
POS	Postage for U.S. Mail	FND	Fundraising events
MHS	Mail house (all services purchased)	TRV	Travel (fuel, mileage, lodging, etc.)
PHO	Phone banks, automated telephone calls	OTH	Other
FOD	Food for campaign events, volunteers		
OFF	Office rent and utilities		
WEB	Internet and e-mail		
POL	Polling and survey research		
RTA	Return of authorized MCEA funds		
RTU	Return of unauthorized MCEA funds		

DATE EXPENDITURE MADE	NAME OF EACH PAYEE	EXPENDITURE TYPE (use code from above)	REMARK (if the expenditure type requires a remark, describe all goods and services purchased)	AMOUNT
7/19/2006	FAITH BAKER	PRT	PRESS RELEASE	40.00
7/25/2006	POINT SEBAGO RESORT	CNS	OUTING	448.70

Please be patient while your image is downloading.

THOMAS J. BOSSIE DBA: HOUSE FUND  
 74 POINT SEBAGO RD.  
 CASCO, ME 04015

DATE 7/25/06 510

52-0751/21 12

PAY TO THE ORDER OF Point Sebago Perout \$ 448.70

four hundred forty eight <sup>70</sup>/<sub>100</sub> DOLLARS

MEMO [Signature]

251127445044 009018097660 0510 0000044870

Front



Close

Please be patient while your image is downloading.

52101020 7999057184 HAVENHILL MA 01835  
 602081698-15-1305-157 0322320060725

2103

2344 26060

PAY TO THE ORDER OF  
 FOR CREDIT TO THE ACCOUNT OF  
 POINT SEBAGO ENTERPRISES INC  
 7999057184

Back

Front

**Thompson, Sandy**

---

**From:** Dinan, Vincent W  
**Sent:** Wednesday, November 15, 2006 9:39 AM  
**To:** 'Tom Bossie'  
**Cc:** Thompson, Sandy  
**Subject:** RE: Six Day Pre-General Campaign Finance Report  
**Importance:** High

Dear Mr. Bossie:

The expenditure as you have explained it, appears to be unallowable. Please answer the following questions:

1. What was the campaign purpose of the expenditure? Your statement regarding a "democratic float" is unclear, particularly concerning the specific benefit to the Bossie campaign.
2. Why did you have to provide food and lodging at a resort for campaign workers? This seems unreasonable, and unlikely to comply with the provisions of the Commission's rules or the MCEA.

In addition, please fax me copies of the documentation that supports this expenditure. My fax number is 287-6775.

Regards,

Vincent Dinan

*Vincent W. Dinan*  
**Auditor**  
**Maine Commission on Governmental Ethics**  
**and Election Practices**  
**135 State House Station**  
**Augusta, ME 04333-0135**  
**Tel. (207) 287-4727**  
**Fax (207) 287-6775**

---

**From:** Tom Bossie [mailto:sebago32@yahoo.com]  
**Sent:** Tuesday, November 14, 2006 8:56 AM  
**To:** Dinan, Vincent W  
**Subject:** Re: Six Day Pre-General Campaign Finance Report

Dear Mr. Dinan,

 I now see how this expense was construed. This expense covered housing for three individuals who came to Casco to assist and to build a democratic float for the Casco Days parade. The expense code should have been for food and lodging. Sorry for the inconvenience.

Tom Bossie

"Dinan, Vincent W" <Vincent.W.Dinan@maine.gov> wrote:

Dear Mr. Bossie:  
I am reviewing the subject report and need more information on the following expenditure:

4/11/2007

7/25/2006 CNS \$448.70 Point Sebago Resort. The expense code indicates this is a "consulting" expense. What specific services were provided by Point Sebago, and what were their purpose(s)? Please respond by e-mail or call me to discuss at 287-4727.

Thanks,  
Vincent Dinan

**Vincent W. Dinan**  
**Auditor**  
**Maine Commission on Governmental Ethics**  
**and Election Practices**  
**135 State House Station**  
**Augusta, ME 04333-0135**  
**Tel. (207) 287-4727**  
**Fax (207) 287-6775**



[galleries/Parade06/slides/IMG\\_9467.html](http://galleries/Parade06/slides/IMG_9467.html)



**Tom Bossie - 2006 House Campaign**  
**Personal Expenses Paid From Campaign Account**  
**(does not include transfers to personal account)**

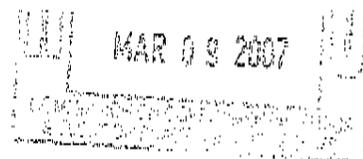
<b>Date</b>	<b>Payee</b>	<b>Amount</b>
6/7/2006	Port City Graphics	\$70.00
7/26/2006	Tim Harriman	\$100.00
7/30/2006	Staples	\$23.61
8/4/2006	Exxon	\$25.00
8/4/2006	Danielle's Sebago	\$10.00
8/6/2006	Hill Top Shamrock	\$9.22
8/6/2006	Wal-Mart	\$63.70
8/7/2006	Exxon	\$21.40
8/7/2006	Cafe Sebago	\$20.00
8/8/2006	Danielle's Sebago	\$28.00
8/8/2006	Hill Top Shamrock	\$18.88
8/9/2006	Current Publishing	\$54.38
8/12/2006	Big Apple	\$10.09
8/12/2006	ATM Withdrawal	\$42.00
8/13/2006	Hill Top Shamrock	\$11.08
8/14/2006	Irving	\$20.00
8/14/2006	Verizon Wireless	\$150.00
8/15/2006	Tommy's Gas	\$26.62
8/16/2006	Exxon	\$29.76
8/16/2006	Gulf	\$20.00
9/19/2006	Staples	\$9.73
9/19/2006	Dollar Tree	\$15.75
9/20/2006	Bray's Brew Pub	\$38.00
9/20/2006	Exxon	\$16.00
9/20/2006	Windham Paint	\$11.53
9/20/2006	Lake Region Gulf	\$22.07
9/21/2006	Hill Top Shamrock	\$6.57
9/21/2006	Staples	\$54.53
9/21/2006	Big Apple	\$10.00
9/22/2006	Cafe Sebago	\$23.00
9/22/2006	Lake Region Gulf	\$20.00
9/22/2006	Big Apple	\$27.25
9/23/2006	Exxon	\$20.00
9/25/2006	Lake Region Gulf	\$23.93
9/26/2006	Aubuchon Hardware	\$8.64
9/28/2006	Bray's Brew Pub	\$25.00
10/20/2006	Staples	\$35.69
11/3/2006	Staples	\$24.39
11/19/2006	Bray's Brew Pub	\$56.00 after election
11/19/2006	Lowe's	\$158.00 after election
11/19/2006	Aubuchon Hardware	\$15.73 after election
11/20/2006	Pat's Pizza	\$41.00 after election
11/20/2006	Big Apple	\$22.62 after election
11/21/2006	Tony's Foodland	\$31.66 after election
11/22/2006	Bray's Brew Pub	\$9.00 after election
11/22/2006	Chute's Cafe	\$12.00 after election
11/23/2006	Hannaford	\$24.44 after election

11/23/2006	Lowe's	\$28.63	after election
11/23/2006	Exxon	\$16.00	after election
11/24/2006	The Great Lost Bear	\$11.85	after election
11/24/2006	Home Depot	\$75.00	after election
11/24/2006	Wal-Mart	\$44.57	after election
11/26/2006	Cafe Sebago	\$46.00	after election
11/26/2006	Lowe's	\$314.43	after election
11/27/2006	Aubuchon Hardware	\$5.76	after election
11/27/2006	Tony's Foodland	\$40.96	after election
11/29/2006	Exxon	\$20.00	after election
11/29/2006	USPS	\$14.40	after election
11/29/2006	Shaw's	\$24.63	after election
11/30/2006	Gulf	\$4.18	after election
11/30/2006	Exxon	\$2.76	after election
12/1/2006	Exxon	\$19.38	after election
12/1/2006	Cafe Sebago	\$11.00	after election
12/2/2006	Exxon	\$15.01	after election
12/2/2006	Home Depot	\$20.78	after election
12/2/2006	Aubuchon Hardware	\$12.05	after election
12/2/2006	Tony's Foodland	\$16.45	after election
12/3/2006	Exxon	\$10.01	after election
12/4/2006	Danielle's Sebago	\$11.00	after election
12/4/2006	Danielle's Sebago	\$11.00	after election
12/4/2006	Lowe's	\$5.05	after election
12/4/2006	Bray's Brew Pub	\$10.00	after election
12/4/2006	Bray's Brew Pub	\$57.00	after election
12/5/2006	Gulf	\$15.00	after election
12/6/2006	Cafe Sebago	\$18.00	after election
12/6/2006	Bray's Brew Pub	\$40.00	after election
12/6/2006	Aubuchon Hardware	\$4.18	after election
12/6/2006	Tony's Foodland	\$29.26	after election
12/6/2006	Hill Top Shamrock	\$19.30	after election
12/7/2006	Burlington Coat Factory	\$48.28	after election
12/7/2006	Bray's Brew Pub	\$5.00	after election
12/7/2006	Anania's	\$5.36	after election
12/7/2006	ATM Withdrawal	\$60.00	after election
12/9/2006	Exxon	\$20.00	after election
12/11/2006	Top of the Hill Grill	\$20.00	after election
12/13/2006	Tommy's Gas	\$7.45	after final reporting period
12/14/2006	Pat's Pizza	\$22.00	after final reporting period
12/14/2006	Hill Top Shamrock	\$13.77	after final reporting period
12/15/2006	Danielle's Sebago	\$17.00	after final reporting period
1/20/2007	Exxon	\$10.00	after final reporting period
1/21/2007	Hannaford	\$35.55	after final reporting period
1/23/2007	Cafe Sebago	\$38.00	after final reporting period
1/24/2007	Tommy's Gas	\$12.74	after final reporting period
1/25/2007	Exxon	\$40.00	after final reporting period
1/28/2007	Top of the Hill Grill	\$22.00	after final reporting period

**Total** \$2,867.06

**95 expenditures total**

**Amount spent after 11/7/06 election = \$1,721.24**



## Point of Sale Campaign Invoices

10/03/06	Lowes	18.31
09/30/06	Staples	10.62
09/14/06	Staples	43.31
08/18/06	Staples	33.09
09/14/06	Staples	40.95
08/11/06	Staples	33.32
09/18/06	Staples	32.49
09/18/06	Staples	8.91
11/01/06	Staples	41.99
09/02/06	Aubuchon	3.45
07/16/06	Aubuchon	2.10
09/27/06	Aubuchon	15.74
09/22/06	Home Depot	12.72
09/28/06	Home Depot	12.55
09/14/06	Home Depot	37.65
09/14/06	Home Depot	37.65

Total		384.85
<i>Lake Region Weekly</i>	<i>—</i>	<i>+ 160.00</i>
		<u><i>544.85</i></u>

This list were all "point of sale" purchases not paid for with checks.

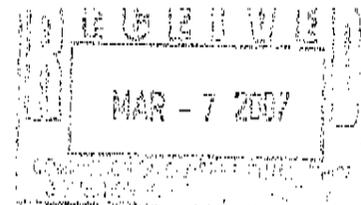
The amount of "authorized to spend" funds should be reduced from

\$1390.00 Previously paid 2/23/06

<i>— 544.85</i>	) Less Invoices above
<u><i>\$ 845.15</i></u>	Equals New "Authorized to Spend"

This would complete all the invoices campaign related

*544.85*



## Tom Bossie advertising 2006

Date run	Size	Cost	Payment date & amount	
			07/11/06	\$288.00
07/20/06	8" ad (pol)	48.00		
07/27/06	8" ad (bus)	48.00		
08/03/06	8" ad (pol)	48.00		
08/10/06	8" ad (bus)	48.00		
08/17/06	8" ad (pol)	48.00		
			08/18/06	\$192.00
08/24/06	20" ad (pol)	120.00		
08/24/06	8" ad (bus)	48.00		
09/07/06	8" ad (bus)	48.00		
09/07/06	20" ad (pol)	120.00		
09/21/06	20" ad (pol)	120.00	09/15/06	\$120.00
10/26/06	48" ad (pol)	288.00	10/20/06	\$288.00
11/02/06	48" ad (pol)	<u>288.00</u>	10/27/06	<u>\$288.00</u>
212		1272.00		\$1176.00

# The Bridgton News

P.O. Box 244  
Bridgton, Maine 04009

Established 1870

Phone (207) 647-2851

Amount \_\_\_\_\_

Please Tear Off and Return With Remittance

Tom Bossie  
Maine State Representative  
District 101

7/27 8" Display Ad  
to run 6 weeks

6 x \$48 = \$288

\$288

Paid  
Ch # 505

Terms: Net 10 days, no cash discount  
THE BRIDGTON NEWS

### INSERTION ORDER

Date: 7/20 Issue # 29

Size: 2x4 Purchase Order # \_\_\_\_\_

Code: 4T29X20W0 No. of Tearsheets: \_\_\_\_\_

Customer Name: Tom Bossie / ME State Rep

Advertising Agency: \_\_\_\_\_

Billing Address: \_\_\_\_\_

Special Instructions: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

FAX PROOF -- Attn: \_\_\_\_\_

Fax #: \_\_\_\_\_

EMAIL PROOF -- Email address: \_\_\_\_\_

tbossie@chimg.com

Sales Rep: \_\_\_\_\_

Typesetter: \_\_\_\_\_

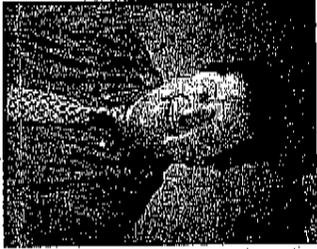
Proofreader: \_\_\_\_\_

Proof Sent: 4-18-07

*Reserved for [unclear]*

# News of Naples and area

POLITICAL ADVERTISEMENT



**ELECT TOM BOSSIE**

**MAINE STATE REPRESENTATIVE**  
District 101  
Casco, Naples & part of Poland

1. Creating jobs by investing in People, innovation and Maine Small Business.
2. A Stronger, more competitive Maine, sound fiscal management, and smart energy policies.
3. Access to quality healthcare for every Mainer.
4. Protect Maine Consumers, Workers and Families.
5. Opportunities through Education.
6. Protect our unique Natural Resources.
7. Pick up the pieces. Insist that the resurfacing of Route 11 and the Causeway Bridge replacement gets back on schedule.

**Tom Bossie**  
74 Point Sebago Rd. Casco, ME 04015 • (207) 653-3741  
info@tombossie.com • www.tombossie.com

Clean Election Candidate

Paid for by the Committee to Elect Tom Bossie, Jan Bossie, 74 Point Sebago Rd., Casco, ME 04015

4728X EDWD

POLITICAL ADVERTISEMENT

**INSERTION ORDER**

Date: 8/3 Issue # 30 *to give back*

Size: 2x4 Purchase Order # \_\_\_\_\_

Code: 4T30EOWE No. of Tearsheets: \_\_\_\_\_

Customer Name: Tom Bossie

Advertising Agency: Cornerstone Home Loans

Billing Address: 1711 Congress St Suite 2  
Portland ME 04102

Special Instructions: \_\_\_\_\_

FAX PROOF - Attn: \_\_\_\_\_ Sales Rep: [Signature]

Fax #: \_\_\_\_\_ Typesetter: [Signature]

EMAIL PROOF - Email address: tbossie@chlmtg.com Proofreader: \_\_\_\_\_

Proof Sent: 7-18-06 [Signature]

*Proof*

Tom's  
DK

Tom  
Bossie

- \* Purchases / Refi's ✓
- \* Personal Home Financing ✓
- \* All Programs ✓
- \* Construction Financing ✓
- \* 1st Time Homebuyer ✓
- \* All credit profiles ✓

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Tom Bossie  

 Cornerstone Home Loans, LLC

*Handwritten notes and signature*

4T30 EOWE

July 27, 2006, The Bridgton News, Page 15A



# CORNERSTONE HOME LOANS, LLC



**Tom Bossie**  
Mortgage Loan Officer

- ★ Purchases/Refs'
- ★ Seasonal Home Financing
- ★ All Programs
- ★ Construction Financing
- ★ First Time Home Buyers
- ★ All Credit Profiles

**Cornerstone Home Loans, LLC**

1711 Congress Street, Suite 2, Portland, Maine 04102

207-774-0999 Phone 866-424-5684 Toll Free

207-774-0899 Fax

Online: [www.chlmtg.com](http://www.chlmtg.com) Email: [tbossie@chlmtg.com](mailto:tbossie@chlmtg.com)

4130X ECOM



# The Bridgton News

118 Main Street • P.O. Box 244

Bridgton, Maine 04009

Established 1870

Phone (207) 647-2851

Fax (207) 647-5001

*Tom Bossie*

Amount \_\_\_\_\_

Please Tear Off and Return With Remittance

*20" AD 9-21-06*

*Fadel CK  
516*

*120 00*

THE BRIDGTON NEWS

20" AD	8/24/06	120	-
20" AD	9/7/06	120	-
less cred. + 8"		48	-
Bridgton News		Total	
lt# 514	FD ck 514	192.00	
THE BRIDGTON NEWS			

**Tom Bossie**  
**2006 House Campaign**  
**Transfers from Campaign Account to Personal Account**

<b>Date</b>	<b>Amount</b>	<b>Notes</b>
8/8/06	\$500.00	When the transfer was made, the balance in Mr. Bossie's personal account was \$9.72.
9/13/06	\$250.00	On 9/13/06, a monthly car payment of \$232.79 was deducted from the personal account.
9/20/06	\$250.00	The balance in the personal account before the transfer was -\$4.19. On 9/20/06, there was a \$178.15 withdrawal from the personal account with a memo of "note balance."
11/16/06	\$200.00	

**Total      \$1,200.00**

**TOM BOSSIE**  
Account Summaries of Transfers - April 2, 2007

Date of Transfer of MCE Funds to Personal Acct.	Personal Account Balance Before Transfer	Amount of NCEA funds Transferred	Personal Acct. Balance After Transfer	Withdrawals Checks/Debits Amounts	Date (s)	Acct. Balance after Withdrawals/ Checks/Debits	Comments
8-Aug-06	\$9.72	\$500.00	\$509.72	\$286.55	8/8/2006 - 8/10/2006	\$223.17	(1) Check: \$130.00 (payable to Windham Rental) (2) Debits: \$134.60 (Travelocity.com, U.S. Airways) (1) ATM Withdrawal: \$21.95
				\$1,350.00	8/10/06	-\$1,126.83	(1) Check (#3046): \$1,350.00 (may have been payable to "Cash" since a later counter check (# 3052) for same amount dated 8/21/2006 was made payable to "Cash." "NSF" due to account balance of \$223.17; second time check returned;
				(+\$1,126.83)	8/10/06	\$223.17	(1) Check # 3046 rejected.
				\$190.00	8/10/2006 - 8/11/2006	\$53.17	(1) Bank charge: \$20 (1) Check: \$170.00 (payable to AAA Financial Services - loan)
13-Sep-06	\$294.81	\$250.00	\$544.81	\$549.00	9/13/2006 - 9/18/2006	-\$4.19	(1) Withdrawal transfer: \$232.79 (loan payment) (1) Debits totaling: \$250.21 (restaurants, gas stations/convenience stores, Home Depot, Hammford) (3) ATM withdrawals totaling: \$66.00
20-Sep-06	-\$4.19	\$250.00	\$245.81	\$222.15	9/20/2006 - 9/22/2006	\$23.66	(1) Withdrawal transfer: \$178.15 (loan payment) (2) ATM Withdrawals totaling: \$44.00
16-Nov-06	\$406.91	\$200.00	\$606.91	\$181.75	11/16/2006 - 11/17/2006	-\$112.87	(1) ATM Withdrawal: \$181.75 (2) Debits totaling: \$237.69 (Time Warner, restaurant) (1) Electronic check: \$300.34
				(+\$300.34)	11/17/06	\$187.47	(1) Electronic check for \$300.34 rejected (second time).
				\$57.29	11/17/2006 - 11/29/2006	\$80.16	(2) Bank Charges: \$40.00 (2) Debits: \$17.29 (e-mail/Internet & gas station/convenience store)

## Contacts with Thomas Bossie Requesting Return of Public Funds

Date	Mode	Comments/Results
11/8/06	Letter	Staff mailed letter to all MCEA candidates requesting return of funds.
11/28/06	Telephone	Candidate Registrar Sandy Thompson called Bossie's work phone and left message with colleague and fellow candidate Geoffrey Heckman. Sandy called Bossie's home phone and spoke to him. He said that he thought his treasurer (his son) already sent the check; will check with his treasurer. If it wasn't sent out, it will be mailed this week.
12/1/06	Telephone and e-mail (attached)	Sandy left message and sent e-mail that we did not receive the check this week.
12/10/06	Telephone	Sandy left message that we did not receive the check yet.
12/11/06	Letter	Sandy sent certified letter requesting funds.
12/20/06	Telephone	Sandy left messages at his home # and work # (spoke with Geoffrey Heckman, who he works with, that Bossie's report late and that unauthorized funds not received and asked him to give Bossie this message).
12/20/06	Telephone	Sandy also called Democratic staffer Paul Brunetti and left a message asking for his assistance in getting Bossie to return unauthorized amount and filing report.
12/20/06	Telephone	Bossie returned Sandy's call. He said he would get his report filed and that the check for the unauthorized amount was mailed out certified registered mail on Monday 12/18/2006. Sandy told him that we have not received it yet. He said we should get it.
1/2/07	Letter	Jonathan Wayne sent letter by certified and regular mail requesting return of funds and informing him that this matter would be scheduled for the January 19th meeting. Jonathan left voicemail messages at his home and work phones.
1/9/07	Telephone	Sandy left voicemail message on his work phone (774-0999) informing him that he is scheduled for the Jan 19th meeting.
1/9/07	Telephone	Sandy spoke to Democratic staffer Paul Brunetti who said that he saw Bossie last week and asked him about repayment. Bossie said that "everything was taken care of."
1/17/2007	e-mail	Sandy sent Bossie an e-mail confirming that the unauthorized funds were received and that the unspent funds need to be returned.
1/19/2007	e-mail	Bossie e-mailed Sandy informing her that all authorized funds were spent. This was a surprise since there were no reported expenditures in his report filed on 12/20/2006. He was told to amend his report.
2/9/2007	Telephone	Bossie called Sandy requesting an appointment for 2/12, Monday, to explain his situation. He said that he would amend his report over the weekend. He did not amend his report until 2/16/07

2/16/2007	Telephone and e-mail	Bossie called requesting help in filing his amended report. He filed his amended report and Sandy confirmed.
2/20/07	Telephone and Fax	Bossie faxed a copy of the unspent funds check and envelope to Sandy and called her to confirm that the fax was received.
2/21/2007	e-mail	Bossie asked if unspent check mailed on 2/20/2007 was received yet.
2/22/2007	e-mail	Bossie asked if unspent check mailed on 2/20/2007 was received yet. Sandy notified him that penalty check was received (postage <u>cancellation</u> on 2/21/07) but that unspent check (postage <u>metered</u> on 2/20/07) was not received.
2/23/2007	Telephone, e-mail and in person	Since unspent check was not received, Bossie hand delivered the unspent funds using 2 money orders.

*Originally Filed*

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.maine.gov/campaignfinance.com

**2006 CAMPAIGN FINANCE REPORT  
MAINE CLEAN ELECTION ACT CANDIDATES  
FOR THE LEGISLATURE**

(Please Complete ALL Entries)

Name of CANDIDATE THOMAS J. BOSSIE

---

Mailing address 74 POINT SEBAGO RD.

---

City, Zip Code Casco ME 04015

---

Telephone number (207)653-3741 Fax \_\_\_\_\_ E-mail sebago32@yahoo.com

---

Office Sought REPRESENTATIVE District Number 101

CHECK IF CHANGED  
SINCE PREVIOUS  
REPORT

Name of TREASURER IAN T. BOSSIE

---

Mailing address 74 POINT SEBAGO RD.

---

City, Zip Code CASCO ME 04015

---

Telephone number (207)653-2277 Fax \_\_\_\_\_ E-mail sebago32@yahoo.com

CHECK IF CHANGED  
SINCE PREVIOUS  
REPORT

<u>Type of Report</u>	<u>Due Date</u>	<u>Dates of Report Period</u>
42-DAY POST-GENERAL	12/19/2006	10/27/2006 - 12/12/2006

- 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.

<u>SIGNATURE ON FILE</u>	<u>12/21/2006</u>	<u>SIGNATURE ON FILE</u>	<u>12/21/2006</u>
Treasurer's Signature	Date	Candidate's Signature	Date

THOMAS J. BOSSIE

(Schedule B Only)

CANDIDATE'S FULL NAME

**SCHEDULE B  
EXPENDITURES**

- Itemize each expenditure made during the reporting period.
- Enter the date, payee, expenditure type, and amount for each expenditure.
- For expenditure types which require a remark, enter a description of the goods and services purchased.
- Only enter expenditures that have actually been paid. Enter unpaid debts and obligations on Schedule D.

**Expenditures paid with non-campaign funds:** Whenever an expenditure is made on behalf of a candidate with funds other than campaign funds, the campaign must reimburse that expenditure with campaign funds. Following the instructions above, enter the information for the vendor that actually provided the goods or services. In the remarks section, include the name of the person reimbursed and any other required remarks.

Expenditure Types Requiring <u>NO</u> Remark		Expenditure Types Which <u>REQUIRE</u> Remark	
PRT	Print media ads	SAL	Campaign workers' salaries
TVN	TV or cable ads, production costs	CNS	Campaign consultants
RAD	Radio ads, production costs	PRO	Other professional services
LIT	Campaign literature (printing and graphics)	EQP	Equipment
POS	Postage for U.S. Mail	FND	Fundraising events
MHS	Mail house (all services purchased)	TRV	Travel (fuel, mileage, lodging, etc.)
PHO	Phone banks, automated telephone calls	OTH	Other
FOD	Food for campaign events, volunteers		
OFF	Office rent and utilities		
WEB	Internet and e-mail		
POL	Polling and survey research		
RTA	Return of authorized MCEA funds		
RTU	Return of unauthorized MCEA funds		

DATE EXPENDITURE MADE	NAME OF EACH PAYEE	EXPENDITURE TYPE (use code from above)	REMARK (if the expenditure type requires a remark, describe all goods and services purchased)	AMOUNT

Total expenditures (this page only) ⇒

*(combined totals from all Schedule B pages must be listed on Schedule F, line 5)*

Total Expenditures
--------------------

Amended

**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.maine.campaignfinance.com

**2006 CAMPAIGN FINANCE REPORT**  
**MAINE CLEAN ELECTION ACT CANDIDATES**  
**FOR THE LEGISLATURE**

(Please Complete ALL Entries)

Name of CANDIDATE THOMAS J. BOSSIE

Mailing address 74 POINT SEBAGO RD.

City, Zip Code Casco ME 04015

Telephone number (207)653-3741 Fax \_\_\_\_\_ E-mail scbago32@yahoo.com

Office Sought REPRESENTATIVE District Number 101

CHECK IF CHANGED  
SINCE PREVIOUS  
REPORT

Name of TREASURER IAN T. BOSSIE

Mailing address 74 POINT SEBAGO RD.

City, Zip Code CASCO ME 04015

Telephone number (207)653-2277 Fax \_\_\_\_\_ E-mail scbago32@yahoo.com

CHECK IF CHANGED  
SINCE PREVIOUS  
REPORT

Type of Report 42-DAY POST-GENERAL Due Date 12/19/2006 Dates of Report Period 10/27/2006 - 12/12/2006

- 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.

SIGNATURE ON FILE _____	2/16/2007	SIGNATURE ON FILE _____	2/16/2007
Treasurer's Signature	Date	Candidate's Signature	Date

THOMAS J. BOSSIE

(Schedule B Only)

CANDIDATE'S FULL NAME

**SCHEDULE B  
EXPENDITURES**

- Itemize each expenditure made during the reporting period.
- Enter the date, payee, expenditure type, and amount for each expenditure.
- For expenditure types which require a remark, enter a description of the goods and services purchased.
- Only enter expenditures that have actually been paid. Enter unpaid debts and obligations on Schedule D.

Expenditures paid with non-campaign funds: Whenever an expenditure is made on behalf of a candidate with funds other than campaign funds, the campaign must reimburse that expenditure with campaign funds. Following the instructions above, enter the information for the vendor that actually provided the goods or services. In the remarks section, include the name of the person reimbursed.

Expenditure Types Requiring <u>NO</u> Remark		Expenditure Types Which <u>REQUIRE</u> Remark	
PRT	Print media ads	\$AL	Campaign workers' salaries
TVN	TV or cable ads, production costs	CNS	Campaign consultants
RAD	Radio ads, production costs	PRO	Other professional services
LIT	Campaign literature (printing and graphics)	EQP	Equipment
POS	Postage for U.S. Mail	FND	Fundraising events
MHS	Mail house (all services purchased)	TRV	Travel (fuel, mileage, lodging, etc.)
PHO	Phone banks, automated telephone calls	OTH	Other
FOD	Food for campaign events, volunteers		
OFF	Office rent and utilities		
WEB	Internet and e-mail		
POL	Polling and survey research		
RTA	Return of authorized MCEA funds		
RTU	Return of unauthorized MCEA funds		

DATE EXPENDITURE MADE	NAME OF EACH PAYEE	EXPENDITURE TYPE (use code from above)	REMARK (if the expenditure type requires a remark, describe all goods and services purchased)	AMOUNT
10/27/2006	THE COPY CENTER	PRT	POSTCARDS, THE MAINE DEMOCRATIC COMMITTEE, CHECK #524	750.00
10/27/2006	BRIDGTON NEWS	PRT	4R INCH AD, THE COMMITTEE TO ELECT TOM BOSSIE, HOUSE FUND	288.00

10/30/2006	MONICA WENDALL	LIT	FROM GRAPHETERIA, POST CARD DESIGN, 2 HOURS.	50.00
10/30/2006	FAITH BAKER	PRT	WRITER, PRESS RELEASE.	75.00
11/1/2006	PICKERING ADVERTISING	PRT	5 X 7 POSTCARD, 3300 COUNT	1,200.00
11/2/2006	PICKERING ADVERTISING	POS	POSTAGE FOR POST CARDS	227.50
11/6/2006	FAITH BAKER	PRT	WRITING, PRESS RELEASE	100.00
<b>Total expenditures(this page only) ⇒</b> <i>(combined totals from all Schedule B pages must be listed on Schedule F,line 5)</i>				<b>2,690.50</b>

**Thompson, Sandy***(Unauthorized Funds)*

**From:** Thompson, Sandy  
**Sent:** Friday, December 01, 2006 4:56 PM  
**To:** 'sebago32@yahoo.com'  
**Cc:** Brown, Nathaniel T  
**Subject:** Please mail check for \$2,866.20 -Return of Unauthorized Matching Funds  
**Importance:** High

Dear Tom Bossie – I left a message for you on your work and home voice mails too. We did not receive a check this week. If you did send it out on Wed, please let Nat Brown know by calling him at 287-7652 or by e-mailing him on Monday (I will be out until Thursday). We will probably receive you check on Monday (no later than Monday) and everything will be okay. If we don't get it, you may have to stop payment and issue new check. Hopefully we will get it on Monday. Thanks.

Sandy Thompson  
Candidate Registrar  
Maine Commission on Governmental Ethics  
and Election Practices  
Website: [www.maine.gov/ethics](http://www.maine.gov/ethics)

1/2/2007

61-ETH

RECEIVED  
JAN 16 2007  
COMMISSION ON GOVERNMENTAL ETHICS  
& ELECTION PRACTICES-AUGUSTA, ME

I entered

gross return  
600 \$

← Remedy

THOMAS J. BOSSIE DBA: HOUSE FUND  
74 POINT SEBAGO RD.  
CASCO, ME 04015

DATE 1/19/07 532

PAY TO THE ORDER OF ME ETHICS Commission \$ 2866.32

*Twenty eight hundred sixty six and 32/100 DOLLARS*

MEMO Al Bowen

MEMO # 2112876124 007016097660 0532

25 Riverside Street  
Bangor, ME 04401  
www.bangorcreditunion.org

THOMAS J. BOSSIE DBA: HOUSE FUND  
74 POINT SEBAGO RD.  
CASCO, ME 04015

DATE 1/19/07 533

PAY TO THE ORDER OF ME Ethics Commission \$ 449.70

*four hundred forty eight and 70/100 DOLLARS*

MEMO Ballard Expense

MEMO # 2112876124 007016097660 0533

225 Riverside Street  
Bangor, ME 04401  
www.bangorcreditunion.org

THOMAS J. BOSSIE  
74 POINT SEBAGO RD.  
CASCO, ME 04015

DATE 1/19/07 3126

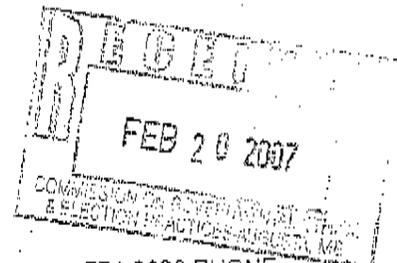
PAY TO THE ORDER OF MCZ A \$ 38.52

*Thirty eight dollars and 52/100 DOLLARS*

MEMO Al Bowen

MEMO # 2112876124 007016097660 3126

225 Riverside Street  
Bangor, ME 04401  
www.bangorcreditunion.org



207-774-0999 PHONE  
207-774-0899 FAX

FAX COVER SHEET

TO: Sandy Thompson FROM: Tony

COMPANY: \_\_\_\_\_ DATE: \_\_\_\_\_

FAX NUMBER: \_\_\_\_\_ TOTAL NO. OF PAGES (INCLUDING COVER): \_\_\_\_\_

PHONE NUMBER: \_\_\_\_\_ EXT.: \_\_\_\_\_

RE: \_\_\_\_\_

URGENT/PLEASE RUSH     FOR REVIEW     PLEASE REPLY     CONFIDENTIAL

NOTES/COMMENTS:  
your copy

*Sabags Rd*

*204015*



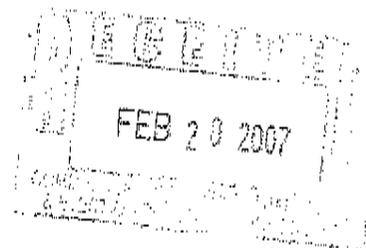
015H14113587
<b>HASLER</b>
<b>\$0.39</b>
02/20/07
Mailed From 04102

US POSTAGE

*Sandy Thompson  
 c/o Maine Ethics Commission  
 242 State St.  
 Augusta, Me  
 04333*

<b>THOMAS J. BOSSIE DBA: HOUSE FUND</b> 74 POINT SIB AGO RD. CASCO, ME 04015	DATE <u>2/12/07</u>	534
PAY TO THE ORDER OF <u>Me Ethics Commission</u>	\$ <u>1389.50</u>	
<u>Thirteen hundred eighty nine and 50/100</u>	DOLLARS	
226 Riverside Blvd Portland, Maine 04104 www.evergreencreditunion.org	MEMO <u>Balance Due</u>	
⑆211287612⑆ 007016097860⑆ 0534		

*287-6775*



**Thompson, Sandy**

---

**From:** Tom Bossie [tbossie@chlmtg.com]  
**Sent:** Thursday, February 22, 2007 5:50 PM  
**To:** Thompson, Sandy  
**Subject:** RE: Unspent Funds Check

Thank you

-----Original Message-----

**From:** Thompson, Sandy [mailto:Sandy.Thompson@maine.gov]  
**Sent:** Thursday, February 22, 2007 5:19 PM  
**To:** Tom Bossie  
**Cc:** Lavin, Paul; Wayne, Jonathan  
**Subject:** RE: Unspent Funds Check

Tom - I will give you a call and/or e-mail you tomorrow a.m. and let you know if we have received it. If it's not in the morning mail delivery, I will plan on seeing you sometime before 2 p.m. so that we have the check on Friday.

---

**From:** Tom Bossie [mailto:tbossie@chlmtg.com]  
**Sent:** Thursday, February 22, 2007 4:53 PM  
**To:** Thompson, Sandy  
**Subject:** RE: Tom Bossie

Dear Sandy,  
Yes, it was mailed to 242 State Street. You'll see, I'm telling the truth. I mailed it in Freeport on Tuesday. If it is not in your office by noon on Friday, then I will hand deliver it by 2:00.  
Thanks  
Tom

-----Original Message-----

**From:** Thompson, Sandy [mailto:Sandy.Thompson@maine.gov]  
**Sent:** Thursday, February 22, 2007 2:52 PM  
**To:** Tom Bossie  
**Subject:** RE: Tom Bossie

Dear Tom - I was waiting for the afternoon mail delivery before I e-mailed you. We received the penalty payment check in the morning mail (postage cancellation on 2/21/07). However, we did not receive the return of unspent funds check that was postage metered on 2/20/07. Did the unspent check get mailed on 2/20?

---

**From:** Tom Bossie [mailto:tbossie@chlmtg.com]  
**Sent:** Thursday, February 22, 2007 1:22 PM  
**To:** Thompson, Sandy  
**Subject:** RE: Tom Bossie

Did you check the check yet?  
Tom

-----Original Message-----

**From:** Thompson, Sandy [mailto:Sandy.Thompson@maine.gov]  
**Sent:** Wednesday, February 21, 2007 4:22 PM

**To:** Tom Bossie  
**Subject:** RE: Tom Bossie

Dear Tom – We didn't receive anything today. I will let you know if we receive anything tomorrow.

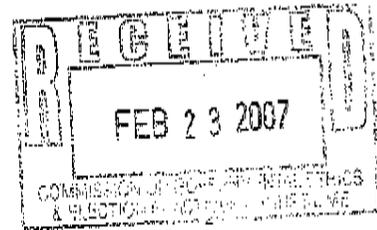
---

**From:** Tom Bossie [mailto:tbossie@chlmtg.com]  
**Sent:** Wednesday, February 21, 2007 3:05 PM  
**To:** Thompson, Sandy  
**Subject:** Tom Bossie

Dear Sandy,

Have you received any lettered mail from me today?

Tom



THE BACK OF THIS DOCUMENT CONTAINS AN OFFICIAL WATER MARK - HOLD AT AN ANGLE TO VIEW

**WESTERN UNION MONEY ORDER** **INTEGRATED PAYMENT SYSTEMS INC. - ISSUER**  
Greenwood Village, Colorado

**show's STAR MARKET** (ISSUING AGENT) **08-599013521**  
AGENT 173545 DATE 022307 TIME 1049 02 **490.00**  
08599013521 LOCATION 000482

PAY EXACTLY \*\* PAY EXACTLY FOUR HUNDRED NINETY DOLLARS AND NO CENTS \*\*\*\*  
PAY TO THE ORDER OF **ME ETHICS COMMISSION** PAYMENT FOR/ACCT. #  
**Bossie** **\$490.00** DRAWER'S ADDRESS **[Signature]** PURCHASER, SIGNER FOR DRAWER  
PURCHASER BY SIGNING YOU AGREE TO THE TERMS ON THE REVERSE SIDE

Western Union Money Order and Design is a service mark of Western Union Holdings, Inc./Payable at Wells Fargo Bank Grand Junction - Downtown, N.A., Grand Junction, Colorado

⑆102100400⑆ 40085990135211⑆

THE BACK OF THIS DOCUMENT CONTAINS AN OFFICIAL WATER MARK - HOLD AT AN ANGLE TO VIEW

**WESTERN UNION MONEY ORDER** **INTEGRATED PAYMENT SYSTEMS INC. - ISSUER**  
Greenwood Village, Colorado

**show's STAR MARKET** (ISSUING AGENT) **08-599013520**  
AGENT 173545 DATE 022307 TIME 1049 02 **900.00**  
08599013520 LOCATION 000482

PAY EXACTLY \*\* PAY EXACTLY NINE HUNDRED DOLLARS AND NO CENTS \*\*\*\*  
PAY TO THE ORDER OF **ME ETHICS COMMISSION** PAYMENT FOR/ACCT. #  
**Bossie** **\$900.00** DRAWER'S ADDRESS **[Signature]** PURCHASER, SIGNER FOR DRAWER  
PURCHASER BY SIGNING YOU AGREE TO THE TERMS ON THE REVERSE SIDE

Western Union Money Order and Design is a service mark of Western Union Holdings, Inc./Payable at Wells Fargo Bank Grand Junction - Downtown, N.A., Grand Junction, Colorado

⑆102100400⑆ 40085990135202⑆

11/05/07  
2/23/07 - Said that he used M.O. because "didn't have anything with me" (when I emailed him this am)... and wanted to get this paid" ST.  
Compare  
the two to Merit Check...

**Thompson, Sandy**

---

**From:** Tom Bossie [tbossie@chlmtg.com]  
**Sent:** Friday, January 19, 2007 10:10 AM  
**To:** Thompson, Sandy  
**Subject:** RE: Tom Bossie

Thank you. I shall open that storage bin over the weekend and make sense of it all. And, as always will be in touch with you on Monday. Sorry for the hassle.  
Tom

-----Original Message-----

**From:** Thompson, Sandy [mailto:Sandy.Thompson@maine.gov]  
**Sent:** Friday, January 19, 2007 9:00 AM  
**To:** Tom Bossie  
**Cc:** Wayne, Jonathan  
**Subject:** RE: Tom Bossie

Dear Tom – Because you didn't return your unauthorized matching funds until 3 days ago, you may have not fully understood my phone messages.

You may not have entered all of your expenses because your last report is showing a balance of \$4,080.12. When I left you messages in mid-December concerning the need for you to return the unauthorized funds, I included the need for you to return the unspent amount. I was hoping that you would look at your report and get back to me. Please amend your report by entering the missing expenditures. Based on your message below, line 6 and 8 of the 42-Day Post-General report, should be zero.

A letter is going out today to all candidates who have not returned unspent amounts (amounts on line 6 or 8). You should receive the letter Monday. The deadline for return unspent funds is Friday, January 26, 2007.

As always if you have any questions, please call 287-7651.

---

**From:** Tom Bossie [mailto:tbossie@chlmtg.com]  
**Sent:** Friday, January 19, 2007 8:36 AM  
**To:** Thompson, Sandy  
**Subject:** RE: Tom Bossie

Well obviously there is a problem with the accounting. The unauthorized matching funds are in your possession. All other authorized funds were spent on the campaign and this is the first I hear of it. I am shocked. I will review my 42 post election report as something is very wrong. I will plan to call you today. If this is owed, it will be paid. However, all authorized funds were spent on advertising.  
Tom

-----Original Message-----

**From:** Thompson, Sandy [mailto:Sandy.Thompson@maine.gov]  
**Sent:** Wednesday, January 17, 2007 8:58 AM  
**To:** Tom Bossie  
**Cc:** Wayne, Jonathan  
**Subject:** RE: Tom Bossie  
**Importance:** High

Dear Tom – Sorry I missed you yesterday. The three checks you dropped off yesterday

(1/16/2007) were: (1) \$2,866.32 for the unauthorized matching funds; (2) \$448.70 for the unallowable expense on your 6-Day Pre-General report and; (3) \$38.52 for the penalty due to the late filing of your 42-Day Post-General report. Still outstanding is the unspent amount of \$4,080.12, which is found on line 8 of the attached pdf copy of your 42-Day Post-General report.

Please contact me today or tomorrow as to when you plan to return this unspent amount to the Commission. It is important that you contact me since your case is on the agenda for the Commission meeting on Friday (1/19) and the Commission members will be asking questions concerning this. In my recent messages I left you, I stated that both the unauthorized amount and unspent amount needed to be return. Again, please contact me on this. I can be reached at 287-7651. Thank you.

---

**From:** Tom Bossie [mailto:tbossie@chimg.com]  
**Sent:** Tuesday, January 16, 2007 6:27 PM  
**To:** Thompson, Sandy  
**Subject:** Tom Bossie

Sandy,

Did you recieve the checks?  
Thanks.

Tom

## Title 21-A, §1125, Terms of participation

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### §1125. Terms of participation

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

[2005, c. 301, §29 (amd).]

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

A. Fifty thousand dollars for a gubernatorial candidate; [IB 1995, c. 1, §17 (new).]

B. One thousand five hundred dollars for a candidate for the State Senate; or [IB 1995, c. 1, §17 (new).]

C. Five hundred dollars for a candidate for the State House of Representatives. [IB 1995, c. 1, §17 (new).]

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

[IB 1995, c. 1, §17 (new).]

**3. Qualifying contributions.** Participating candidates must obtain qualifying contributions during the qualifying period as follows:

A. For a gubernatorial candidate, at least 2,500 verified registered voters of this State must support the candidacy by providing a qualifying contribution to that candidate; [IB 1995, c. 1, §17 (new).]

B. For a candidate for the State Senate, at least 150 verified registered voters from the candidate's electoral division must support the candidacy by providing a qualifying contribution to that candidate; or [IB 1995, c. 1, §17 (new).]

C. For a candidate for the State House of Representatives, at least 50 verified registered voters from the candidate's electoral division must support the candidacy by providing a qualifying contribution to that candidate. [IB 1995, c. 1, §17 (new).]

A payment, gift or anything of value may not be given in exchange for a qualifying contribution. A candidate may pay the fee for a money order in the amount of \$5, which is a qualifying contribution, as long as the donor making the qualifying contribution pays the \$5 amount reflected on the money order. Any money order fees paid by a participating candidate must be paid for with seed money and reported in accordance with commission rules.

[2001, c. 465, §4 (amd).]

**4. Filing with commission.** A participating candidate must submit qualifying contributions to the commission during the qualifying period according to procedures developed by the commission, except as provided under subsection 11.

[IB 1995, c. 1, §17 (new).]

## Title 21-A, §1125, Terms of participation

**5. Certification of Maine Clean Election Act candidates.** Upon receipt of a final submittal of qualifying contributions by a participating candidate, the commission shall determine whether or not the candidate has:

- A. Signed and filed a declaration of intent to participate in this Act; [IB 1995, c. 1, §17 (new).]
- B. Submitted the appropriate number of valid qualifying contributions; [IB 1995, c. 1, §17 (new).]
- C. Qualified as a candidate by petition or other means; [IB 1995, c. 1, §17 (new).]
- D. Not accepted contributions, except for seed money contributions, and otherwise complied with seed money restrictions; [2003, c. 270, §1 (amd).]
- D-1. Not run for the same office as a nonparticipating candidate in a primary election in the same election year; and [2003, c. 270, §2 (new).]
- E. Otherwise met the requirements for participation in this Act. [IB 1995, c. 1, §17 (new).]

The commission shall certify a candidate complying with the requirements of this section as a Maine Clean Election Act candidate as soon as possible and no later than 3 business days after final submittal of qualifying contributions.

Upon certification, a candidate must transfer to the fund any unspent seed money contributions. A certified candidate must comply with all requirements of this Act after certification and throughout the primary and general election periods. Failure to do so is a violation of this chapter.

[2005, c. 301, §30 (amd).]

**6. Restrictions on contributions and expenditures for certified candidates.** After certification, a candidate must limit the candidate's campaign expenditures and obligations, including outstanding obligations, to the revenues distributed to the candidate from the fund and may not accept any contributions unless specifically authorized by the commission. Candidates may also accept and spend interest earned on bank accounts. All revenues distributed to a certified candidate from the fund must be used for campaign-related purposes. The candidate, the treasurer, the candidate's committee authorized pursuant to section 1013-A, subsection 1 or any agent of the candidate and committee may not use these revenues for any but campaign-related purposes. The commission shall publish guidelines outlining permissible campaign-related expenditures.

[2005, c. 542, §3 (amd).]

**7. Timing of fund distribution.** The commission shall distribute to certified candidates revenues from the fund in amounts determined under subsection 8 in the following manner.

- A. Within 3 days after certification, for candidates certified prior to March 15th of the election year, revenues from the fund must be distributed as if the candidates are in an uncontested primary election. [2001, c. 465, §4 (amd).]
- B. Within 3 days after certification, for all candidates certified between March 15th and April 15th of the election year, revenues from the fund must be distributed according to whether the candidate is in a contested or uncontested primary election. [2001, c. 465, §4 (amd).]
- B-1. For candidates in contested primary elections receiving a distribution under paragraph A, additional revenues from the fund must be distributed within 3 days of March 15th of the election year. [2001, c. 465, §4 (new).]
- C. Within 3 days after the primary election results are certified, for general election certified candidates, revenues from the fund must be distributed according to whether the candidate is in a contested or uncontested general election. [2001, c. 465, §4 (amd).]

Funds may be distributed to certified candidates under this section by any mechanism that is expeditious, ensures accountability and safeguards the integrity of the fund.

[2001, c. 465, §4 (amd).]

**7-A. Deposit into account.** The candidate or committee authorized pursuant to section 1013-A, subsection 1 shall deposit all revenues from the fund in a campaign account with a bank or other financial institution. The campaign funds must be segregated from, and may not be commingled with, any other funds.

[2005, c. 542, §4 (new).]

## Title 21-A, §1125, Terms of participation

**8. Amount of fund distribution.** By July 1, 1999 of the effective date of this Act, and at least every 4 years after that date, the commission shall determine the amount of funds to be distributed to participating candidates based on the type of election and office as follows.

A. For contested legislative primary elections, the amount of revenues to be distributed is the average amount of campaign expenditures made by each candidate during all contested primary election races for the immediately preceding 2 primary elections, as reported in the initial filing period subsequent to the primary election, for the respective offices of State Senate and State House of Representatives. [2003, c. 453, §1 (amd).]

B. For uncontested legislative primary elections, the amount of revenues distributed is the average amount of campaign expenditures made by each candidate during all uncontested primary election races for the immediately preceding 2 primary elections, as reported in the initial filing period subsequent to the primary election, for the respective offices of State Senate and State House of Representatives. [2003, c. 453, §1 (amd).]

C. For contested legislative general elections, the amount of revenues distributed is the average amount of campaign expenditures made by each candidate during all contested general election races for the immediately preceding 2 general elections, as reported in the initial filing period subsequent to the general election, for the respective offices of State Senate and State House of Representatives. [2003, c. 688, Pt. A, §21 (amd).]

D. For uncontested legislative general elections, the amount of revenues to be distributed from the fund is 40% of the amount distributed to a participating candidate in a contested general election. [2003, c. 453, §1 (amd).]

E. For gubernatorial primary elections, the amount of revenues distributed is \$200,000 per candidate in the primary election. [2003, c. 453, §1 (new).]

F. For gubernatorial general elections, the amount of revenues distributed is \$400,000 per candidate in the general election. [2003, c. 453, §1 (new).]

If the immediately preceding election cycles do not contain sufficient electoral data, the commission shall use information from the most recent applicable elections.

[2003, c. 688, Pt. A, §21 (amd).]

**9. Matching funds.** When any campaign, finance or election report shows that the sum of a candidate's expenditures or obligations, or funds raised or borrowed, whichever is greater, alone or in conjunction with independent expenditures reported under section 1019-B, exceeds the distribution amount under subsection 8, the commission shall issue immediately to any opposing Maine Clean Election Act candidate an additional amount equivalent to the reported excess. Matching funds are limited to 2 times the amount originally distributed under subsection 8, paragraph A, C, E or F, whichever is applicable.

[2003, c. 688, Pt. A, §22 (rpx).]

**10. Candidate not enrolled in a party.** An unenrolled candidate certified by April 15th preceding the primary election is eligible for revenues from the fund in the same amounts and at the same time as an uncontested primary election candidate and a general election candidate as specified in subsections 7 and 8. For an unenrolled candidate not certified by April 15th at 5:00 p.m. the deadline for filing qualifying contributions is 5:00 p.m. on June 2nd preceding the general election. An unenrolled candidate certified after April 15th at 5:00 p.m. is eligible for revenues from the fund in the same amounts as a general election candidate, as specified in subsections 7 and 8.

[2001, c. 465, §6 (amd).]

**11. Other procedures.** The commission shall establish by rule procedures for qualification, certification, disbursement of fund revenues and return of unspent fund revenues for races involving special elections, recounts, vacancies, withdrawals or replacement candidates.

[IB 1995, c. 1, §17 (new).]

**12. Reporting; unspent revenue.** Notwithstanding any other provision of law, participating and certified candidates shall report any money collected, all campaign expenditures, obligations and related activities to the commission according to procedures developed by the commission. Upon the filing of a final report for any primary election in which the candidate was defeated and for all general elections that candidate shall return all unspent fund revenues to the commission. In developing these procedures, the commission shall utilize existing campaign reporting procedures whenever practicable. The commission shall ensure timely public access to campaign finance data and may utilize electronic means of reporting and storing information.

[IB 1995, c. 1, §17 (new).]

## Title 21-A, §1125, Terms of participation

**12-A. Required records.** The treasurer shall obtain and keep:

A. Bank or other account statements for the campaign account covering the duration of the campaign; [2005, c. 542, §5 (new).]

B. A vendor invoice stating the particular goods or services purchased for every expenditure of \$50 or more; and [2005, c. 542, §5 (new).]

C. A record proving that a vendor received payment for every expenditure of \$50 or more in the form of a cancelled check, receipt from the vendor or bank or credit card statement identifying the vendor as the payee. [2005, c. 542, §5 (new).]

The treasurer shall preserve the records for 2 years following the candidate's final campaign finance report for the election cycle. The candidate and treasurer shall submit photocopies of the records to the commission upon its request. [2005, c. 542, §5 (new).]

**13. Distributions not to exceed amount in fund.** The commission may not distribute revenues to certified candidates in excess of the total amount of money deposited in the fund as set forth in section 1124. Notwithstanding any other provisions of this chapter, if the commission determines that the revenues in the fund are insufficient to meet distributions under subsections 8 or 9, the commission may permit certified candidates to accept and spend contributions, reduced by any seed money contributions, aggregating no more than \$500 per donor per election for gubernatorial candidates and \$250 per donor per election for State Senate and State House candidates, up to the applicable amounts set forth in subsections 8 and 9 according to rules adopted by the commission. [IB 1995, c. 1, §17 (new).]

**14. Appeals.** A candidate who has been denied certification as a Maine Clean Election Act candidate, the opponent of a candidate who has been granted certification as a Maine Clean Election Act candidate or other interested persons may challenge a certification decision by the commission as follows.

A. A challenger may appeal to the full commission within 7 days of the certification decision. The appeal must be in writing and must set forth the reasons for the appeal. [2005, c. 301, §32 (amd).]

B. Within 5 days after an appeal is properly made and after notice is given to the challenger and any opponent, the commission shall hold a hearing. The appellant has the burden of providing evidence to demonstrate that the commission decision was improper. The commission must rule on the appeal within 3 days after the completion of the hearing. [IB 1995, c. 1, §17 (new).]

C. A challenger may appeal the decision of the commission in paragraph B by commencing an action in Superior Court according to the procedure set forth in section 356, subsection 2, paragraphs D and E. [IB 1995, c. 1, §17 (new).]

D. A candidate whose certification by the commission as a Maine Clean Election Act candidate is revoked on appeal must return to the commission any unspent revenues distributed from the fund. If the commission or court find that an appeal was made frivolously or to cause delay or hardship, the commission or court may require the moving party to pay costs of the commission, court and opposing parties, if any. [IB 1995, c. 1, §17 (new).]

[2005, c. 301, §32 (amd).]

IB 1995, Ch. 1, §17 (NEW).

PL 2001, Ch. 465, §4-6 (AMD).

PL 2003, Ch. 270, §1,2 (AMD).

PL 2003, Ch. 448, §5 (AMD).

PL 2003, Ch. 453, §1,2 (AMD).

PL 2003, Ch. 688, §A21,22 (AMD).

PL 2005, Ch. 301, §29-32 (AMD).

PL 2005, Ch. 542, §3-5 (AMD).

## Title 21-A, §1127, Violations

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### §1127. Violations

*A* **1. Civil fine.** In addition to any other penalties that may be applicable, a person who violates any provision of this chapter or rules of the commission adopted pursuant to section 1126 is subject to a fine not to exceed \$10,000 per violation payable to the fund. The commission may assess a fine of up to \$10,000 for a violation of the reporting requirements of sections 1017 and 1019-B if it determines that the failure to file a timely and accurate report resulted in the late payment of matching funds. This fine is recoverable in a civil action. In addition to any fine, for good cause shown, a candidate, treasurer, consultant or other agent of the candidate or the committee authorized by the candidate pursuant to section 1013-A, subsection 1 found in violation of this chapter or rules of the commission may be required to return to the fund all amounts distributed to the candidate from the fund or any funds not used for campaign-related purposes. If the commission makes a determination that a violation of this chapter or rules of the commission has occurred, the commission shall assess a fine or transmit the finding to the Attorney General for prosecution. Fines paid under this section must be deposited in the fund. In determining whether or not a candidate is in violation of the expenditure limits of this chapter, the commission may consider as a mitigating factor any circumstances out of the candidate's control.

[2005, c. 542, §6 (amd).]

**2. Class E crime.** A person who willfully or knowingly violates this chapter or rules of the commission or who willfully or knowingly makes a false statement in any report required by this chapter commits a Class E crime and, if certified as a Maine Clean Election Act candidate, must return to the fund all amounts distributed to the candidate.

[IB 1995, c. 1, §17 (new).]

IB 1995, Ch. 1, §17 (NEW).

PL 2003, Ch. 81, §1 (AMD).

PL 2005, Ch. 301, §33 (AMD).

PL 2005, Ch. 542, §6 (AMD).

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.

- (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 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 Matching 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.
  - (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.
- 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

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**EXPENDITURE GUIDELINES FOR 2006**  
**MAINE CLEAN ELECTION ACT CANDIDATES**

Candidates must spend all Maine Clean Election Act (MCEA) funds for campaign-related purposes and not for other purposes such as the candidate's personal benefit, party-building, or to promote another candidate's campaign.

■ Expenditures for "campaign-related purposes" are those which are traditionally accepted as necessary to promote the election of a candidate to political office. Candidates using MCEA funds must also take into account the public nature of the funds, the underlying objectives of the MCEA, and the reasonableness of the expenditures under the circumstances. In Maine, traditional campaign expenses have included:

- Printing and mailing costs;
- Political advertising expenses;
- Campaign communications such as signs, bumper stickers, T-shirts, or caps with campaign slogans, etc.;
- Office supplies;
- Campaign events (e.g., food, rent of tent or hall, etc.);
- Campaign staff expenses; and
- Campaign travel expenses, such as fuel and tolls.

■ MCEA funds may not be spent on personal expenses. Those expenses are for goods and services that the candidate would otherwise purchase independently of the campaign, such as:

- Day-to-day household food items and supplies;
- Vehicle and transportation expenses unrelated to the campaign;
- Mortgage, rent, or utility payments for the candidate's personal residence, even if part of the residence is being used by the campaign; and
- Clothing, including attire for political functions such as business suits or shoes.

■ Maine Clean Election Act funds may not be spent to:

- make independent expenditures supporting or opposing any candidate, ballot measure, or political committee;
- assist in any way the campaign of any candidate other than the candidate for whom the funds were originally designated;
- contribute to another candidate, a political committee, or a party committee, other than in exchange for goods and services;
- pay a consultant, vendor, or campaign staff, other than in exchange for campaign goods or services;
- compensate the candidate for services provided by the candidate;
- pay an entry fee for an event organized by a party committee, charity, or community organization or to place an ad in an event publication, unless the expenditure benefits the candidate's campaign;
- make a donation to a charity or a community organization, other than in exchange for campaign goods or services;
- promote political or social positions or causes other than the candidate's campaign;

- pay civil penalties, fines, or forfeitures to the Commission, or defend the candidate in enforcement proceedings brought by the Commission; or
- assist the candidate in a recount of an election.

#### ■ Guidelines on Selected Issues

- *Electronics and Other Personal Property.* Goods purchased with MCEA funds that could be converted to personal use after the campaign (e.g., computers, fax machines, and cellular telephones) must be reported on Schedule E of the candidate reporting form. No later than 42 days after the general election, the goods must be sold at fair market value and the proceeds returned to the Maine Clean Election Fund. Candidates are welcome to lease electronic and other equipment.
- *Food.* Candidates may spend a reasonable amount of MCEA funds on food for campaign events or to feed volunteers while they are working. Legislative candidates should not use MCEA funds to purchase food that is consumed only by the candidate and/or the candidate's spouse. Gubernatorial candidates may use MCEA funds to purchase meals for the candidate and/or candidate's spouse if associated with travel for campaign purposes.
- *Vehicle Travel.* Candidates may elect to have the campaign reimburse themselves for vehicle travel at the reimbursement rate that is applicable to state government employees or for amounts actually paid for fuel and repairs (pro-rated to reflect only campaign-related usage). Candidates should keep a record for each trip that includes: date of travel, number of miles traveled, origination, destination, and purpose of travel.
- *Lodging.* Candidates may use MCEA funds to pay for lodging if necessary for campaign purposes, but must keep lodging expenses reasonable.
- *Post-Election Notes and Parties.* Candidates may spend up to the following maximum amounts of MCEA funds on post-election parties, thank you notes, or advertising to thank supporters or voters: \$250 for State Representative candidates, \$500 for State Senate candidates, \$2,500 for gubernatorial candidates. Candidates may also use personal funds for these purposes.
- *Campaign Training.* Candidates may use Maine Clean Election Act funds for tuition or registration costs to receive training on campaigning or policy issues.
- *Salary and Compensation.* Candidates may use MCEA funds to pay for campaign-related services by staff or consultants, provided that compensation is made at or below fair market value and sufficient records are maintained to show what services were received. The Commission recommends keeping a record that shows how many hours of services were provided by the staff member or consultant each month, and a description of services provided that month.

#### ■ Enforcement

- The Commission reviews all expenditures disclosed by MCEA candidates in campaign finance reports, and frequently requests additional information from candidates to verify that public funds were spent for campaign-related purposes. Candidates who misuse public funds may be required to repay some or all public funds received, may be liable for civil penalties, and may be referred to the State Attorney General for possible criminal prosecution.