

Agenda

Item #1



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

Minutes of the July 16, 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: Michael Friedman, Esq., Chair; Hon. Jean Ginn Marvin; Hon. Vinton Cassidy; Hon. Mavourneen Thompson; Staff: Executive Director Jonathan Wayne; Phyllis Gardiner, Counsel.

At 9:06 A.M., Jean Ginn Marvin convened the meeting and welcomed new Commission member David C. Shiah to the Commission.

The Commission considered the following items:

Agenda Item #1 Ratification of Minutes: March 9 and May 14, 2007 Meetings

Mr. Friedman moved, and Ms. Thompson seconded, that the Commission ratify the minutes of the March 9 and May 14, 2007 meetings. The motion passed by a vote of 4-0 (Mr. Shiah abstained).

Counsel Phyllis Gardiner advised the Commission that it would be in the best interest of the Commission to appoint a new chair at this point, since an acting chair is only for occasions when the chair cannot be in attendance. Ms. Ginn Marvin agreed to be the acting chair when Andrew Ketterer's term ended in April. Ms. Gardiner referred to the provision on appointing a chair in Title 1, Section 1002 (1-A).

Discussion followed regarding appointment of a new chair. Ms. Thompson nominated Mr. Friedman; Mr. Cassidy seconded.

Mr. Friedman stated that he would be honored and expressed his belief that the dynamics of this current Commission indicate that the members are all very independent thinkers and non-partisan members.

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WEBSITE: WWW.MAINE.GOV/ETHICS

The motion passed (5-0).

Mr. Friedman assumed the chair for the remainder of the meeting.

Ms. Thompson spoke to the issue of a written protocol for procedures and hearings of the Ethics Commission so that the public, Legislators, and others will have a clearer understanding about how the Commission conducts meetings and hearings. She stated that she did not bring this issue up because she thinks that there has been a problem with people getting a fair hearing, but that she thinks the process will be clearer for the public if there were written protocols.

Ms. Gardiner pointed out that the current rules for conducting hearings may be quite out-dated. She suggested that there could be a written protocol on how to conduct regular meetings but that some other procedures, such as requesting a reconsideration, should be done by rulemaking.

Mr. Friedman asked the staff to look at the procedures that other boards and commissions employ and bring that to the Commission for the next meeting. He said that at least the Commission could come up with a consistent procedure for conducting meetings.

Agenda Item #2 Audit Findings/Hon. Philip A. Cressey

Mr. Wayne notified the Commission that Representative Philip A. Cressey could not be at today's meeting due to a new job he has started. Mr. Wayne indicated the Commission could discuss the issue today without Mr. Cressey or postpone until the August meeting. It was decided to postpone until the August 13, 2007 meeting.

Ms. Thompson made a motion to postpone this matter until August 13th meeting. Mr. Shiah seconded. The motion passed (5-0).

Agenda Item #3 Violations of Maine Clean Election Act/Hon. Arthur H. Clement

Mr. Wayne reported that Mr. Clement was a MCEA candidate for the House in the 2006. Mr. Clement did not return unspent MCEA funds by the deadline. The Commission staff did a preliminary investigation and the Commission issued a subpoena for Mr. Clements' bank records. In June, he deposited \$4,362 into his personal bank account and spent most of it on personal expenses (e.g.,

mortgage payment) not related to his campaign. In October, Mr. Clement received another check for matching funds in the amount of \$8,724, which were returned but which the staff believes that some portion was used for personal expenses before being paid back. Eventually, Mr. Clement repaid all unspent MCEA funds. The staff is recommending penalties totaling \$2,000 for violations of commingling funds, spending public funds on non-campaign purposes, and for returning funds late.

Ms. Thompson asked if this was a result of a random audit. Mr. Wayne said that it was not. This came to the staff's attention because Mr. Clement did not repay the unspent funds by the deadline and did not do so until the Commission had referred this case to the Attorney General's office.

Mr. Arthur Clement said that he had been a candidate and Legislator in the past and that he knew that he was not supposed to use MCEA funds for personal purposes. He said that he did not spend any of the matching funds he received for personal purposes. He informed the Commission that he had been on pain medicine during last fall's election as the result of a 2003 motorcycle accident injury. He said that the medication affected his thinking negatively. He explained that he spent several months confused and unclear until he requested his doctor take him off the pain medicine. At that point, he went through a detoxification program at home. He said that he was just recently hospitalized and learned he needs a liver transplant. A side effect of the liver disease was an accumulation of ammonia levels in his blood system which causes mental confusion.

He stated that he let down the people of his district and members of his family. Mr. Clement is concerned because he cannot work, he has no health insurance and does not know how he will pay these penalties. Mr. Clement provided a doctor's letter.

Mr. Clement said that when he was first contacted by Sandy Thompson, candidate registrar, about returning the unspent MCEA funds, he made up an elaborate story about how he told his daughter to deposit the check into his personal account because he thought it was a rebate check from the State.

Ms. Thompson expressed sympathy for Mr. Clement's health issues. She asked whether Mr. Clement was sick during the time period he received his first payment.

Mr. Clement confirmed he was sick but he did not know it at the time.

Mr. Friedman asked when the motorcycle accident was. Mr. Clement said that it happened in 2003. Mr. Friedman asked how long he had been out of work and Mr. Clement thought it was around May 11, 2007. Mr. Friedman asked Mr. Clement whether he was on any pain medications today or had been in the past 72 hours. Mr. Clement answered “no” to both questions. Mr. Friedman asked Mr. Clement if he understood the charges. Mr. Clement said that he did. Mr. Friedman asked whether Mr. Clement had used MCEA funds for personal purposes, commingled MCEA funds with personal funds, and returned the unspent MCEA funds late. Mr. Clement said that he had. Mr. Friedman further asked Mr. Clement to confirm whether he thought the reason for these actions was the side effects caused by his pain medicine. Mr. Clement said that he believed that was the reason and that when he ran before, he ran a responsible campaign.

Mr. Friedman asked Mr. Wayne whether there were any inconsistencies between Mr. Clement’s statements and what the staff discovered. Mr. Wayne stated that it was possible that Mr. Clement did not use the second payment for personal purposes but that he did use his first payment for personal expenses.

Mr. Cassidy asked what amount was actually spent on Mr. Clement’s campaign. Mr. Wayne stated that approximately \$600 was spent on his campaign.

Ms. Ginn Marvin asked whether he had a treasurer; Mr. Clement said he did until he fired him after a few weeks and then he acted as his own treasurer.

Mr. Shiah asked if the money used for personal expenses was repaid; Mr. Wayne confirmed that it had been.

Ms. Thompson asked whether there are procedures for people on whom the Commission has imposed penalties to pay on an extended basis or an appeal process for people who have medical conditions to request to delay paying penalties. Ms. Gardiner stated that the Commission has provided payment plans; however, Ms. Gardiner stressed that the Commission is not a collection agency. She further stated that the decision regarding how the penalty is to be paid or whether it should be collected due to undue financial circumstances for this case should be established now.

Discussion followed regarding ability to pay. Ms. Gardiner stated that if the Commission decides to pursue the recovery of the penalty amount owed, a payment schedule could be established informally. The other option would be a more formal process through a collection action in the court in which the person can bring forth information about their ability to pay at a disclosure hearing.

Ms. Thompson made a motion to assess the staff recommended penalty of \$2,000 with provision Mr. Clement will be advised of all avenues of payment procedures with regard to payment of the penalty. The motion failed for the lack of a second.

Mr. Wayne explained the staff arrived at this penalty in comparison to the Tom Bossie issue; however, Mr. Bossie was more deliberate in trying to take money from the State. Mr. Clement's medical issues which have left him unable to work, has set a new precedent since this has not come up before. The Commission has leeway to decide what they want to do.

Mr. Cassidy made a motion to cut the penalty to \$1,000 and set up a payment schedule due to Mr. Clement's medical issues. Ms. Ginn Marvin seconded for discussion purposes.

Ms. Ginn Marvin expressed concern over Mr. Clement's lack of means to pay this penalty. She felt that to issue a penalty he cannot pay, seems unproductive on the Commission's behalf, knowing Mr. Clement would be referred to the Attorney General's office in the end.

Mr. Wayne said there have been no previous cases similar to this one where the candidate does not have resources to pay a penalty.

Ms. Thompson stressed her concern over the increasing number of violations with regard to commingling and using public funds as a personal 'loan' which can be paid back before returning the funds to the State. There already is a procedure in place for this very serious violation and she feels the Commission should stand by these procedures. Since there is a procedure in place to assess a penalty; the Commission's decision should not be based on the ability to pay penalties.

Mr. Friedman stated it is a serious situation to consider the ability to pay when assessing a penalty. If a penalty is uncollectible, that should be someone else's determination. The Commission should decide to impose a penalty because of the seriousness of the violation and let collection fall to others.

Mr. Cassidy's motion did not pass (1 – 4; Mr. Cassidy in favor).

Ms. Thompson made a motion to adopt the staff recommendation and assess the \$2,000 penalty; seconded by Ms. Ginn Marvin. The motion passed by a vote of 3-2 (Ms. Ginn Marvin, Ms. Thompson, and Mr. Friedman in favor; Mr. Cassidy and Mr. Shiah opposed).

Agenda Item #4 Request for Waiver of Late-Filing Penalty/ Hon. Arthur H. Clement

Mr. Wayne explained that the preliminary penalty for the late 42-Day Post General filing is \$2,224.75 for filing 55 days late. However, the staff recommends that the Commission reduce the penalty to \$400 because the preliminary penalty amount was disproportionate to the level of harm suffered by the public and because it would be consistent with previous determinations.

Mr. Cassidy moved to accept the staff recommendation; seconded by Ms. Thompson.

Ms. Ginn Marvin asked how the penalty amount was derived.

Mr. Wayne explained that the staff has been much more diligent in notifying candidates when reports are due, reminding them of deadlines, and consequences if they are delinquent. This figure is the maximum amount that has been issued within this election cycle. The Commission staff prefers to keep it within reasonable limits but send the message that reports need to be filed on time.

Ms. Ginn Marvin stated she will not support the motion because it does not follow the formula designed for these violations.

The motion passed by a vote of 3-2 (Ms. Thompson, Mr. Cassidy, and Mr. Friedman in favor; Ms. Ginn Marvin and Mr. Shiah opposed).

NEW BUSINESS

Agenda Item #5 Request for Waiver of Penalty/Leadership for Maine's Future PAC

Mr. Wayne explained that Representative Josh Tardy would be on the phone for this discussion. Due to the special election in June, political action committees that raised contributions or made expenditures were required to file a campaign finance report six days before the election. On May 10, 2007, the Commission staff sent a filing schedule by e-mail to all PACs. The schedule inadequately described the June 6 special election filing requirement. The Election Law authorizes the Commission to waive late-filing penalties due to errors by the Commission staff.

Mr. Wayne explained that the Leadership for Maine's Future is Rep. Tardy's PAC. Three other PAC's should have filed a report on June 6. The staff recommends waiver of these penalties because the filing schedule may have contributed to the late filing.

Ms. Ginn Marvin moved to accept the staff recommendation to grant a waiver due to a staff error for the Leadership for Maine's Future, Senate Republican Victory Fund, and Experience Counts. The motion was seconded by Ms. Thompson. The motion passed by a vote of 5-0.

Due to Senator Perry's late arrival (Item #6), Item #9 was taken out of order and discussed at this time.

Agenda Item #6 Violations of Maine Clean Election Act/Hon. Joseph C. Perry

Mr. Wayne explained that the audit of Senator Joseph C. Perry showed that he had deposited his MCEA funds in his credit union savings account in order to earn interest on the funds. The savings account was linked to his personal checking account for overdraft protection. Over the course of the campaign, MCEA funds from his savings account were transferred to his checking account to cover insufficient funds for a total of \$4,028. Senator Perry recognizes he should have stopped these transfers but he did not. As a result of the overdraft transfers, Sen. Perry commingled MCEA funds with personal funds. The audit also concludes that Senator Perry did not obtain complete documentation of his campaign expenditures as required by the MCEA. Mr. Wayne said that Sen. Perry's case and one other that will come before the Commission in August are instances where the candidate used their MCEA funds to cover personal expenses in the short term but returned the funds after the election at the required deadlines. Mr. Wayne stated that the staff did not believe that Sen. Perry had any intention of holding

onto the funds and fully intended to return the funds. Mr. Wayne referred to the chart provided to the Commission members. Mr. Wayne recommended three findings of violation and a total penalty of \$950: a penalty of \$600 for spending MCEA funds for non-campaign purposes; \$250 for commingling MCEA funds with personal funds; and \$100 for not keeping required documentation.

Ms. Thompson asked if the penalty was based on an established formula. Mr. Wayne stated that these cases are new to the Commission and are not based on a particular formula. This would be the first time the Commission has issued a penalty for not keeping correct documentation. Mr. Wayne referred to the chart he gave to the Commission members and explained that the penalty amounts for misuse of MCEA funds for Sen. Perry and Mr. Feeney (to appear before the Commission in August) are half of the amounts recommended for Thomas Bossie and Arthur Clement because the misuse by Sen. Perry and Mr. Feeney was not as serious as that by Mr. Bossie and Mr. Clement who gave every indication that they did not intend to return the funds. He stressed to the Commission that they could change the penalty amounts up or down, if deemed necessary. Regarding the penalty for the commingling of funds, Mr. Wayne explained that when compared to the commingling by Joan Bryant-Deschenes and Donald Marean, the commingling by Sen. Perry and Mr. Feeney was a more serious problem because it resulted in the misuse of MCEA funds.

Ms. Thompson asked again if there was a formula for calculating penalties for commingling offenses. Mr. Wayne said that there was not but that the penalty amounts set now could be considered as precedents in determining penalties in subsequent elections.

Ms. Thompson stated her concern over the commingling issues. She said it appears some candidates are using MCEA funds as a loan for the candidate's personal use, which is not what the public money was intended for. She said that there should be a specific formula for a penalty for commingling rather than leaving it to the Commission's discretion on a case-by-case basis. She believes the candidate guidebook needs to be very specific and more direct with the wording as to what constitutes commingling and the penalty for such actions. The Commission needs to give attention to this issue as a priority she said.

Senator Perry approached the Commission members along with his attorney, Newell Auger. He read a prepared statement apologizing for his actions and commending the Commission staff for their professionalism during this time. He said that he did not disagree with the staff's audit findings but he

did dispute the penalty amounts. He explained he was his own treasurer and that since he did not have a treasurer he did not have the expertise necessary to fill this role.

Mr. Auger pointed out the precedent setting nature of this issue. He said that he did disagree with the penalty amount as he indicated in his letter to the Commission.

Mr. Cassidy asked the procedure for interest on public funds earned in candidates' accounts. Mr. Wayne explained that the candidates are allowed to spend the interest and the money is counted as a receipt in the tabulations. This interest does not trigger matching funds since the amount is so small.

Mr. Wayne clarified for Mr. Cassidy that the maximum penalty amount is \$10,000 for this type of violation. Mr. Cassidy stated he could not understand why Senator Perry would not stop the transfers when he first found out it happened. Senator Perry admitted that he was overwhelmed with all that was going on at the time and felt the money was being spent appropriately on campaign purposes.

Discussion followed regarding the amount of the penalties for each violation.

Mr. Augur argued that the commingling penalty should be reduced to \$100 similar to the penalty amount for Representatives Bryant-Deschenes and Marean. He thought that since the candidate was being penalized for misusing campaign funds as a result of the commingling, he should not also get a larger penalty for the commingling itself.

Ms. Ginn Marvin expressed concern with regard to candidates using public funds for personal expenses. She said Senator Perry is not new to the program; therefore, he should have known the seriousness of this violation. Ms. Ginn Marvin stated she would be in favor of a larger penalty due to the seriousness. She said candidates cannot use public money for personal use, even if they justify it by paying it back in the end.

Ms. Thompson asked for clarification of past cases. She said she would support the staff's recommended penalty. She said that the Commission needs to be more specific with penalty amounts for these types of violations and also be diligent and provide candidates with a detailed list of procedures to follow when receiving their MCEA money. She said it was important for the Commission to give

detailed guidance to the candidates so that they were very clear about what they had to do to stay within the bounds of the law. She also stressed that it was important that candidates not be discouraged from running as a MCEA for fear of making an inadvertent mistake.

Mr. Cassidy stated that the candidates are not children. If they are elected, they need to be able to account for money if they are going to be a member of the Legislature. He would not support holding their hand during their campaign. They know the laws and should be able to follow them. He believes the penalties are not high enough and that if they were aware of the seriousness of the penalties and violation, there would be fewer cases.

Mr. Shiah asked for clarification as to whether all the money was returned. Mr. Wayne confirmed that the funds were all paid back.

Mr. Friedman stated each case has its own story, some more believable than others. This penalty could amount to \$30,000 and the staff recommended \$950 for a variety of reasons. He would be concerned if every case were treated the same because each case is different and the results will be different. Mr. Friedman expressed his concern if the Commission were restricted to a certain fine for a particular case despite the facts. This case, he feels, is serious since MCEA public funds were used for personal use. The Commission needs to be flexible and consider all facts of each case.

Ms. Thompson moved to accept the staff recommendation of \$950 penalty. Ms. Ginn Marvin seconded the motion. There was no further discussion and the motion passed unanimously.

Agenda Item #7 Violations of Maine Clean Election Act/Hon. Barbara E. Merrill

Mr. Wayne explained that the staff are conducting audits of all MCEA candidates running for Governor. Mr. Wayne informed the Commission that former State Representative Barbara E. Merrill was a MCEA candidate for Governor in the 2006 elections. The audit of her campaign disclosed some reporting and documentation problems along with a conflict of interest issue (Finding #1). Mr. Wayne referred specifically to Finding #1 which he expressed concern over since Mr. Merrill was the deputy treasurer and a media consultant for the campaign. Mr. Merrill was making payments on behalf of the campaign to himself as a vendor (Mountain Top Productions) to the campaign. Mr. Wayne stated that this is legal

under the MCEA laws; however, he feels the lack of public disclosure of this relationship is an issue of concern.

Mr. Vincent Dinan, staff auditor, approached the Commission. This was the second of four audits to be conducted of the gubernatorial candidates. These campaigns were the most heavily funded campaigns during the 2006 elections. Issues addressed in the audit report were conflict of interest, qualifying contributions (seed money) reporting, and lack of documentation for expenditures. The campaign returned all money, so recovery is not an issue. Mr. Dinan stressed that in normal financial management practices, the person procuring is not the person who provides the service and also pays for the service. He said although this is not an illegal practice, it is not a normal financial practice due to oversight concerns.

Ms. Ginn Marvin asked why the seed money issue was not found in violation. Mr. Dinan explained that almost all gubernatorial campaigns audited in 2006 had these seed money reporting issues in the beginning of their campaigns; therefore, staff was more lenient in this area. Mr. Dinan stated that the staff sought a balance between enforcing the reporting requirements and an acknowledgment of the real world difficulties that candidates experience.

Mr. Dinan explained the audit procedure for verifying expenditures made with public funds. He said that the Merrill campaign had nine expenditures that had proof of payment but not adequate support of the original invoices. These were Mountain Top Production payments he said.

Ms. Thompson asked for clarification of the media outlet invoices. Mr. Dinan restated that the invoices for the services were not received in connection to the payments made. He further stated that the candidate is responsible for going to the media outlet to get proof, not the Commission's auditor. He also said this finding could be reduced or eliminated if this had been done. Other candidates have been able to produce this documentation when requested to do so.

Mr. Cassidy asked about FCC's requirement to return funds for spots not run. Mr. Dinan said there have been occasions when candidates contract for services with the station and if something does not run, the media company will issue a refund. He said this happened in the Merrill campaign also.

Mr. Friedman asked if any audits showed that the campaign did not receive value for Mr. Merrill's services. Mr. Dinan could confirm that the value appeared to be legitimate.

Ms. Ginn Marvin asked Mr. Dinan if he was concerned that Mountain Top Productions was not known to be Mr. Merrill in the beginning. Mr. Dinan stated this was a concern. Ms. Ginn Marvin asked if there is a routine billing amount for media services; Mr. Dinan confirmed that it is difficult to determine from invoices what the rate is. He stated that the fees were not out of line with other campaigns. Ms. Ginn Marvin stated that \$100,000 for less than a year's work seemed like a great deal of money.

Ms. Thompson spoke to the issue of procurement, providing and paying for a service by the same person as being a concern as far as appearances. She also wondered why this was not illegal. Mr. Dinan stressed the importance of oversight in this financial process.

Mr. Cassidy wondered about the need for creating a rule in the MCEA program. Mr. Dinan explained that the Commission is considering this issue for future discussions.

Ms. Thompson asked if Mr. Dinan had seen other cases where family members have been reimbursed for campaign activity. Mr. Dinan stated that the Woodcock campaign had one and the LaMarche campaign also had a couple family members, both were small payment amounts and low level of service was provided.

Ms. Gardiner clarified that Finding #1 was focusing on the dual role of deputy treasurer and consultant, not the family member issue.

Philip Merrill, Deputy Treasurer for the Merrill campaign, approached the Commission. Mr. Merrill did not dispute the findings regarding the incomplete reporting and record keeping during the qualifying period. He also stated that keeping track of the money orders during the qualifying process is a nightmare.

The finding lack of documentation was the next issue Mr. Merrill addressed. He strongly stated that all documentation received from the stations was submitted to the Commission. Some documentation submitted by stations is difficult to follow with regard to the service provided and payments made. Mr.

Merrill informed the Commission that he has done all he could and spent a great deal of time trying to get the documentation the Commission requested. Due to the lateness of the request, he feels the stations do not feel obligated to provide documentation months after the campaign is finished. Mr. Merrill strongly urged anyone trying to get this documentation to demand the station provide this documentation at the time the campaign requests the service.

Mr. Merrill addressed the conflict of issue matter. He became the deputy treasurer because during the campaign, one cannot always get to the treasurer when something needs to be done. He said that he did not carry out treasurer's duties on a daily basis. He was not hired at the onset of the campaign to be the principal media consultant; he was the second choice of Ms. Merrill. She wanted an experienced Maine political advisor to rely on and felt Mr. Merrill, with his background, was that person. He submitted a written proposal to Ms. Merrill and the campaign manager, they provided a counter-proposal, and that became a contract for services. Mr. Merrill said he stuck with this contract through the campaign regarding purchases and services. He also informed the Commission that he was the person who submitted the original legislation for an independent commission to handle legislative conflicts of interests.

Mr. Merrill stated that independent candidates have a narrower field of political and media consultants to chose from than do party candidates. Most consultants are affiliated with one party or another. Mr. Merrill said that the staff memo suggested that there was something surreptitious in how the campaign reported the expenditures to his company. He said that whenever he has been involved as a consultant in a campaign, he has used the name of a company. For a long time, he called his business the Kennebec Group. He said that there was no attempt at stealth and that he was in contact with television stations on a daily basis. He stressed that he was not trying to be secretive with his association as a consultant and vendor providing services. He said television stations knew he was the person in charge of these efforts and any one could have found out this information at any time during the campaign. Mr. Merrill raised the question of what other kinds of information should be disclosed by publicly funded candidates, such as whether the media company used by a candidate also does work for tobacco companies, whether the campaign is purchasing goods and services from out of state, etc. He also questioned, if there was a prohibition on hiring family members, how the Commission would treat gay couples.

Ms. Thompson recognized that Mr. Merrill did try to get the documentation that was missing and the seed money reporting issue does need to be looked at. However, the conflict of interest issue is concerning. She asked whether Mr. Merrill personally earned money from the campaign funds. Mr. Merrill confirmed that he did. Ms. Thompson stated that is the concern here. She said a family member earning a large amount of money and providing a service for the campaign does not look appropriate.

Mr. Merrill stated that the Legislature previously turned down this change in statute when recommended by the Commission. He acknowledged that David Emery consulted with the Commission about whether he could use public funds to pay his own firm. Mr. Merrill said that he and his wife are both attorneys and know what the law is. They also knew that the Commission had asked the Legislature to prohibit the hiring of family members and that the Legislature had turned down that request. He feels the law is very clear - if the Legislature says it is not illegal to have family members in this role, then it should be a non-issue. He further stated in his opinion, that the greater threat to this MCEA law is the fact that more money is spent outside MCEA by PACs and "independent groups." The other issue he is concerned about is absentee ballot voting trend. Quite often when matching funds are received it is too late to make an impact because of the number of people who have already voted by that time.

Ms. Thompson asked about the amount of money made by Mr. Merrill. Mr. Merrill explained the process of procuring, creating and purchasing the services and expenses involved in doing this. He said that the amount he made was about \$100,000.

Ms. Thompson stated that the issue is not whether the work was done – it was. The issue is the public appearance of this significant amount of public money going to a family member. Mr. Merrill suggested that the law needs to be changed if the Commission does not like it the way it is, but the Commission should not penalize him for the law that should be in place.

Ms. Ginn Marvin asked why it was not clear at the beginning that Mr. Merrill was Mountain Top Productions. She said there is no separate bank account for Mountain Top, or corporate registration. She asked if there were any other clients. Mr. Merrill said there was no separate account or corporate registration, and no other clients for Mountain Top Productions. Ms. Ginn Marvin asked if Mr. Merrill thought it was wise to sign his own checks. Mr. Merrill admitted that he did sign a few, but it was not the general practice. Ms. Ginn Marvin stressed to Mr. Merrill that this was the issue – billing and

paying by one person. Mr. Merrill stated that his contract outlined what was agreed upon. His experience with campaign practices is that it is often the campaign manager writing checks, including his or her own check, and paying bills.

Mr. Ginn Marvin stated that the public has entrusted the Commission to oversee their money and therefore the Commission needs to be sure that this money is not being spent inappropriately.

Ms. Ginn Marvin asked why other candidates have been able to provide the documentation that the auditor requested, but the Merrill campaign cannot do so. Mr. Merrill said he requested a form from the auditor which he could provide to the stations to get the requested documentation, but he did not receive a form from the Commission auditor.

Mr. Daniel Billings, counsel for the Woodcock campaign, addressed the Commission. He spoke to the issue of the money order tracking. The Woodcock campaign went through similar problems trying to keep track of contributions, especially with so many volunteers working on this. He thought it was important to point out that in the qualifying period the candidate is not using public funds.

Mr. Billings stated the missing documentation was a finding in the Woodcock audit also; however, after Mr. Dinan requested more detail be provided, it was obtained with some extra work and diligence on the part of the campaign. Mr. Billings also stated he feels the documentation is required and requests by the auditor are within reason. He also confirmed the amounts of the media invoices are similar to the Woodcock campaign's billed amount and that dollar amount for services would warrant the need for the documentation.

Carl Lindemann, the founder of truedialog.org, which is concerned primarily with the integrity of the state Ethics Commission, spoke from his professional expertise regarding the process of how media companies document services. Broadcast companies are not helpful in getting validation of when spots actually run.

Mr. Friedman opened the discussion on this item. Mr. Friedman said that as he saw it there were two issues before the Commission: the conflict of interest issue and the filing and documentation requirements. He restated Mr. Merrill's testimony regarding the two issues. Mr. Friedman stressed that

recordkeeping for publicly funded candidates is very important and the burden of proof for documentation sufficient for auditing purposes is on the candidate. Mr. Friedman would support the penalty of \$1,500 for this violation. He said the conflict of interest issue did not have merit. He said that while the conflict of interest issue seems pressing, everyone also seems to agree that the Merrill campaign did not violate any law or rule. Mr. Friedman feels this situation is unique since the person hired by the candidate is an expert in this field – political campaigning – and he brings unique knowledge to the campaign. Mr. Merrill was paid a reasonable sum for his time and provided fair value to the campaign. Mr. Friedman believes other campaigns or the press would have picked up on this issue if it were significant problem. Mr. Friedman said that there was nothing before the Commission in this case that was illegal or unethical. If the Commission decides to do something in the future regarding the use of public funds to pay for services from a family member, it can do so by proposing a statutory amendment. The Legislature refused to support the proposal that the Commission recently brought to that body. He thought that this was an issue that should be addressed by the Legislature if it deems it significant enough to act upon.

Ann Luther asked if future legislative proposals were going to be discussed today. Mr. Friedman stated this issue would not be discussed today but will be on a future agenda.

Ms. Thompson stated she believes the Legislature was wrong in not adopting previous legislation regarding conflict of interest submitted by the Commission. She also stated that the legislation should be submitted again.

Mr. Cassidy stated that there is no violation of law. He believes the arrangement does give the appearance of a conflict, even though the value of work was there. Mr. Cassidy feels the public may have trouble with this and Mr. Merrill should have been up front at the beginning as to the connection to Mountain Top Productions.

Mr. Shiah stated he was troubled also by the appearance of a conflict; the Commission is limited as to what they can do regarding penalties for conflict of issues. Mr. Shiah would support reviewing this issue at a future meeting also.

Mr. Cassidy moved to accept the staff recommendation for a total penalty in the amount of \$1,500; Mr. Shiah seconded, and the motion passed (5-0).

Mr. Shiah left the meeting.

Agenda Item #8 Presentation of Audit Reports

Mr. Dinan presented audit reports for seven candidates. Three of the reports contain minor findings, and four reports contain no exceptions. The staff recommends that the Commission make minor findings of violation against Joseph Hanslip and John Cushing with no penalties.

Joseph Hanslip addressed the Commission. Mr. Hanslip stated he was present out of respect for the process. He complimented the Commission staff by saying that everyone was professional, gracious and helpful. He further stated the audit report was fair and accurate.

Ms. Thompson moved to accept staff recommendation regarding Mr. Hanslip's violation to amend errors and no penalty be assessed. Mr. Cassidy seconded the motion. The motion passed (4-0).

Ms. Ginn Marvin moved to accept staff recommendation regarding John Cushing. Ms. Thompson seconded the motion, which passed by a vote of 4-0.

Ms. Thompson asked Mr. Dinan for his rough estimate regarding percentage of commingling of funds instances. Mr. Dinan said out of 48 audits conducted, 5 or 6 were found commingling. He further stated that many instructions were sent out to the candidates regarding this violation and new materials have been drafted for the 2008 elections. Ms. Thompson asked if this issue should be a concern for the Commission; Mr. Dinan confirmed the increasing occurrences are a concern.

Discussion followed regarding keeping candidates and public informed about this issue.

Agenda Item #9 Amounts of Maine Clean Election Act Payments for 2008 Candidates

Mr. Wayne explained that during the four elections to-date, MCEA payments have been increased. The staff recommends keeping the 2008 payment amounts at 2006 levels, rather than increasing them. The amounts of the initial payments made to MCEA candidates are based on average candidate spending in

the two previous elections. The staff received no complaints from candidates that the 2006 amounts were inadequate. If the 2008 amount was adjusted according to the formula, the increase could be as much as 15 %. He said the staff was a little concerned about maintaining the same level because some costs, *e.g.*, the cost of postage, have gone up. He reported that the only comment was received from Rep. Patrick Flood who recommended using 2006 levels.

Ann Luther representing Maine Citizens for Clean Elections distributed written testimony from her non-partisan organization to protect the Clean Election Act. In summary, MCCE supports the recommendation of the Commission staff to keep the distribution for 2008 the same as 2006, in order to balance inflation in the cost of the program and candidates' ability to run competitive campaigns. It appears candidates were not at a disadvantage in 2006. The current formula is based on average campaign spending in the preceding two elections and extreme spending can skew averages which pushes results upward, affecting the following election cycle distributions. The MCCE would support more sophisticated techniques for determining averages. The Ethics Commission has the authority for obtaining and adopting these techniques.

Daniel Billings, Esq., said that he spoke with many Republican legislative candidates regarding this issue. He supports the staff recommendation with some concerns. Legislators are concerned with cost of the MCEA program, so the Commission needs to be aware of the need to place controls on the costs. He is concerned that the Legislature will take steps that may be harmful to the program. He said postage rates have increased since the last election, so that was a major expense increase for most candidates. Mr. Billings believes the formula in the statute could be reviewed; however, he does not believe that the determination of the distribution amount should be left to the discretion of Commission. He believes changes in the formula need to go out for public comment through rules process or statutory changes. He said that averaging may not be the best way to go and that inflation needs to be considered.

Ms. Ginn Marvin asked why inflation should be a consideration if everyone gets same amount. Mr. Billings felt that by not factoring in inflation, the amount of money candidates have in order to reach candidates will decline. He feels the amount of money could force candidates to run as privately funded if the funds do not cover the cost of running an effective, successful campaign. This would decrease the number of MCEA candidates.

Ms. Ginn Marvin stated she believed with the increased use of computers to reach the public the result would be a decrease in mailing costs. Mr. Billings stated the information needs to be pushed to the public, not many are apt to go and get information themselves. It has to be placed in front of them, especially the last few weeks before the election.

Ms. Thompson expressed concern over the future of MCEA with regard to this issue. She said since outliers are allowed in the averages, how accurate are the averages. She further asked if a statutory change for more sophisticated techniques is required.

Mr. Wayne stated he felt most comfortable with a statutory change in the next two years. He said that one approach could be to consider inflation; another could be to use an average that would remove the outliers. Based on what the Commission thought was appropriate, a proposal could be made for the 2009 session of the Legislature to request a statutory change. Mr. Wayne said he would like to get away from using averages. If there is a change in 2009, the revised formula would be used for 2010.

Ms. Gardiner stated that most people would understand “average” to mean exactly what the Commission has done in calculating payment amounts: adding together the expenditures of all campaigns and dividing by total number of campaigns. She has not looked into whether the plain language of the statute is broad enough to include other methods of averaging as Ms. Luther suggested. It is a different question as to whether the Commission has the discretion to do this through rule-making or whether it must be done by statutory amendment.

Ms. Ginn Marvin suggested contacting the Muskie School in Portland for a professional statistician that would be the most accurate resource.

Ms. Thompson stated her concern that by using a simple averaging formula could be detrimental to the viability of the program.

Ms. Thompson moved to accept the recommendation from staff to keep funding limits the same as 2006 for the 2008 election. Mr. Cassidy seconded. The motion passed by a vote of 5-0. (This item had been taken out of order. Mr. Shiah was present for the vote.)

Agenda Item #10 Proposed Changes to MCEA Expenditure Guidelines for 2008

Mr. Wayne outlined briefly the changes. The Maine Clean Election Act requires the Commission to publish guidelines outlining permissible campaign-related expenditures. In June 2007, the staff proposed changes to the guidelines and invited comments from legislative leadership and committees. The staff recommends that the Commission adopt the proposed changes regarding:

- The permissible use of MCEA funds to pay an entry fee to an event or an ad in a program as long as it is campaign related;
- The prohibition that public funds cannot be used on short term basis for personal use;
- The prohibition against using public funds for thank you gifts for campaign volunteers or supporters;
- The proper reporting of equipment expenditures on Schedules B and E of the campaign finance report;
- The proper way to document and report travel expenditures and expenditures made by campaign consultants;
- The required documentation to support campaign expenditures for auditing purposes; and
- The process for auditing MCEA candidates.

Mr. Friedman and Ms. Thompson suggested changes to the language regarding the prohibition against using public funds for personal purposes. Ms. Gardiner also suggested possible language. The Commission asked Mr. Wayne to change that particular guideline accordingly. Ms. Thompson suggested that the section on auditing candidates be changed to indicate that at least 25% of candidates will be audited.

Mr. Cassidy moved to accept staff recommendations regarding guidelines with the suggested changes; Ms. Thompson seconded, and motion passed by a vote of 4-0.

Agenda Item #11 Final Adoption of Rule Changes

Mr. Wayne stated this only requires a vote from the Commission members at this point. Legislators approved changes submitted. This is the final adoption of the rules as required by the Maine Administrative Procedures Act.

Ms. Ginn Marvin moved to accept the final adoption of the rules as authorized by the Legislature; Mr. Cassidy seconded, and the motion passed by a vote of 4-0.

OTHER BUSINESS

Carl Lindemann approached the Commission. He said that he appreciated Ms. Ginn Marvin handing over the gavel but wondered about the propriety of Ms. Ginn Marvin remaining on the Commission while there are still questions in the air about her status when she came onto the Commission and continued service on the Commission. He asked whether it would be appropriate for her to step aside until those issues are resolved in order to maintain the highest standard and integrity of the Commission. He also said that he was talking with Mr. Wayne about some jurisdictional issues.

Mr. Wayne said that Mr. Lindemann has raised an argument that Ms. Ginn Marvin is disqualified from serving on the Commission because she is an officer of the Maine Heritage Policy Center (MHPC) which qualifies as a political committee. He said that he discussed this with Ms. Gardiner and that they disagree with that point of view.

Mr. Lindemann said that he thought the discussion he had with Mr. Wayne was about whether this issue was within the purview of the Commission.

Mr. Wayne agreed. He stated that, in his discussion with Mr. Lindemann, Mr. Lindemann raised the question of whether it was appropriate for the Commission to consider the concerns Mr. Lindemann raised with the Governor and the presiding officers or whether the Commission had any jurisdiction to take any action regarding the qualifications of a single Commission member.

Ms. Gardiner stated that after looking at the statute, Section 1002 of Title 1 on Commission membership, it does not appear to be within the Commission's purview to rule on the qualifications of its members or whether any Commission member has engaged in any prohibited activities.

Any Commission member whose qualifications or activities are challenged can answer that individually as to their reasoning why they can continue to serve on the Commission and why they have not engaged in prohibited activities. Other than that, the remedy is not with this Commission.

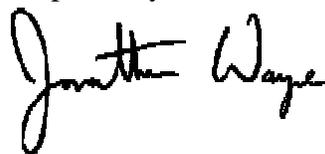
Mr. Friedman stated that he had looked at the statute and had done some research. He said that he agreed with Ms. Gardiner that this body does not have jurisdiction to expel or to any way exclude a Commission member from taking part in anything before the Commission. The individual can decide whether there is a conflict and not participate in that agenda item. He said he believed that Ms. Ginn Marvin did exactly that. He stated that Ms. Ginn Marvin has recused herself regarding any MHPC issues, which he thought was sufficient in that situation.

Mr. Friedman suggested that Mr. Lindemann and his counsel submit their research on the issue to the Commission's counsel for the purpose of reaching an agreement about the jurisdictional issue. If there were no meeting of the minds, the issue could be scheduled for a future Commission meeting. He advised Mr. Lindemann to submit something in writing for a future if meeting, if he thought necessary.

Mr. Lindemann said that he has not file anything with the Commission because he did not think that it would work for the Commission to stand in judgment or rule on a Commission member's qualifications. He sought clarification regarding the oversight of the Commission. He said that he was concerned that if there was no clear jurisdiction that no one would touch the issue.

There being no further business, the meeting adjourned.

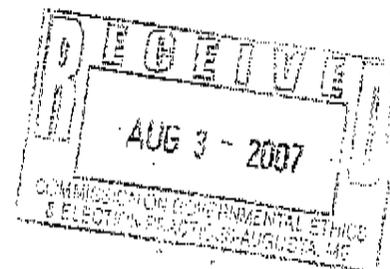
Respectfully submitted,

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



August 3, 2007.

Martha Demeritt
Lobbyist, PAC & Party Registrar
Commission on Governmental Ethics & Elections Practices
135 State House Station
Augusta, Maine 04333-0135

Dear Ms. Demeritt:

In response to your certified letter dated 7/17/07, please accept this as a request for the Commission on Governmental Ethics & Election Practices to make a final penalty determination regarding the most recent House Republican Fund PAC campaign finance report and to consider a waiver either in whole or in part.

It is my belief that a contributing factor to our clerical error was the Commission's reminder for filing sent Tuesday, July 10, 2007 setting the deadline of "two weeks from today on Tuesday (sic), July 16, 2007." A copy of the message is enclosed hereto as Exhibit A.

At approximately 4:45 p.m. on Monday, July 16th a member of my staff who donates her personal time to assist with report filings realized that the finance report was actually due that same day. The e-mailed reminder not only misstated the day, but also the fact that the report was due in two weeks.

On a final note, the aforementioned certified letter was addressed to Heather Priest and listed her as Treasurer of the House Republican Fund. I understood Heather informed you that I have replaced the former Treasurer, Joe Bruno. Please address all future correspondence to me.

Thank you for your time and consideration.

Sincerely,


Joshua A. Tardy, Treasurer
House Republican Fund

cc: Mr. Jonathan Wayne

Enclôsure

Heather Priest

From: "Demeritt, Martha" <Martha.Demeritt@maine.gov>
To: <undisclosed-recipients:>
Sent: Tuesday, July 10, 2007 11:34 AM
Subject: July Quarterly PAC Report Due 7/16/07

PAC Treasurer,

The purpose of this e-mail is to remind you that your PAC's July Quarterly campaign finance report is due electronically two weeks from today on Tuesday, July 16, 2007 by 5:00 p.m.

System Issues: These are several system errors that we are still in the process of fixing. Please do not attempt to fix them and just file your PAC report as is.

- Like the April Quarterly, you'll notice that your PAC balance on Schedule F is incorrect.
- When you go to view/print the report, sections of the cover page will be blank.
- You may or may not receive an e-mail confirmation that your report has been filed. Please print off the page that reads FILED REPORT RECEIPT to show proof of filing. You get to this page after entering your password to file your report.

If you have any questions about filing, please contact me.

Martha

Martha Demeritt
Lobbyist, PAC & Party Registrar
Maine Ethics Commission
195 S.H.S.
Augusta, ME 04333
(207) 287-6221
www.maine.gov/ethics

Demeritt, Martha

From: Demeritt, Martha
Sent: Tuesday, July 10, 2007 11:58 AM
Subject: UPDATE: July Quarterly PAC Report Due 7/16/07
Importance: High

PAC Treasurer,

The purpose of this e-mail is to remind you that your PAC's July Quarterly campaign finance report is due electronically two weeks from today on **MONDAY, July 16, 2007** by 5:00 p.m.

System Issues: These are several system errors that we are still in the process of fixing. Please do not attempt to fix them and just file your PAC report as is.

- Like the April Quarterly, you'll notice that your PAC balance on Schedule F is incorrect.
- When you go to view/print the report, sections of the cover page will be blank.
- You may or may not receive an e-mail confirmation that your report has been filed. Please print off the page that reads FILED REPORT RECEIPT to show proof of filing. You get to this page after entering your password to file your report.

If you have any questions about filing, please contact me.

Martha

Martha Demeritt
Lobbyist, PAC & Party Registrar
Maine Ethics Commission
135 S.H.S.
Augusta, ME 04333
(207) 287-6221
www.maine.gov/ethics



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

July 17, 2007

Mrs. Heather Priest, Treasurer
House Republican Fund
P.O. Box 5629
Augusta, ME 04332

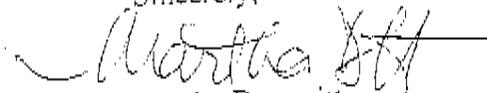
Dear Mrs. Priest:

You filed the July Quarterly campaign finance report on 7/16/07 at 6:36 p.m. that was due by 5:00 p.m. A penalty must be assessed for late reports based on the amount of financial activity conducted during the filing period, the number of calendar days a report is filed late, and the PAC's filing record. Based on the prescribed statutory formula, the preliminary determination of the penalty for the late filing of your report is \$51.05. Please refer to the enclosed penalty matrix for more details on how the penalty is computed.

If you have a reason for filing late, you may request the Commission to make a final penalty determination. Any request for a Commission determination must be made within 10 calendar days of receipt of this notice, beginning on the day you sign for receipt. If this notice has been refused or left unclaimed at the post office, the 10-day period begins on the day the post office indicates it has given first notice of a certified letter. Upon receipt of your request for a Commission determination, we will schedule you to appear and will notify you of the date and time of the next Commission meeting. You or a person you designate may then appear personally before the Commission or you may send a written statement for the Commission's consideration. A statement must be notarized and contain a full explanation of the reason you filed late. Statements should be sent to the address shown on this letterhead. The Commission will notify you of the disposition of your case within 10 days after its determination.

Please note that the Commission may waive the penalty in whole or in part if it determines the failure to file a timely report was due to mitigating circumstances. "Mitigating circumstances" means 1) a valid emergency of the committee treasurer determined by the Commission, in the interest of the sound administration of justice, to warrant the waiver of the penalty in whole or in part; 2) an error by the Commission staff; or 3) other circumstances determined by the Commission that warrant mitigation of the penalty, based upon relevant evidence presented that a bona fide effort made to file the report in accordance with the statutory requirements, including, but not limited to, unexplained delays in postal service.

Sincerely,


Martha Demeritt
PAC Registrar

Enc.: PAC Penalty Matrix

OFFICE LOCATED AT: 241 STATE STREET, AUGUSTA, MAINE
WEBSITE: WWW.MAINE.GOV/ETHICS

House representatives
July Quarterly

COMMISSION ON GOVERNMENTAL ETHICS AND ELECTION PRACTICES

PENALTY MATRIX FOR LATE POLITICAL ACTION COMMITTEE REPORT FILINGS

BASIS FOR PENALTIES
21-A M.R.S.A. Section 1062-A

The penalty for filing a required report late is a percentage of the total contributions or expenditures for the filing period, whichever is greater, multiplied by the number of calendar days the report is filed late, as follows:

- For the first violation, 1%
- For the second violation, 3%
- For the third and each subsequent violation, 5%

Example: The treasurer files the PACs report two (2) calendar days late. The PAC has not had any previous late filings in the past 2 years. The PAC reports a total of \$2,500 in contributions and \$1,500 in expenditures for the filing period. The penalty is calculated as follows:

\$2,500	Greater of the amount of total contributions received or expenditures made during the filing period.
X .01	Percent prescribed for first violation
\$25.00	One percent of total contributions
x 2	Number of calendar days late
\$50.00	Total penalty Commission may assess

Your penalty is calculated as follows:

Contributions/Expenditures	\$ <u>5,105.80</u>
Percent prescribed:	x <u>1%</u>
	\$ <u>51.05</u>
Number of days late:	x <u>1</u>
Total penalty accrued:	\$ <u>51.05</u>

X A penalty begins to accrue at 5:00 p.m. on the day the report is due.

Any penalty of less than \$5 is waived.

X Violations accumulate on reports with filing deadlines in a 2-year period that begins on January 1st of each even-numbered year. Waiver of a penalty does not nullify the finding of a violation.

Title 21-A M.R.S.A. Section 1004-A(1) states the Commission may assess a penalty of no more than \$100 when a person files a late campaign finance report containing no contributions or expenditures.

MAXIMUM PENALTIES
21-A M.R.S.A. Section 1062-A (4)

\$10,000 for 6-day pre-election reports, 42-day post-election reports, and 24-Hour reports;
\$5,000 for quarterly reports.



Welcome to the Campaign Finance Electronic Filing System Site

- [Menu](#)
- [Home](#)
- [Help](#)
- [Logout](#)
- [Change Password](#)
- [Admin Page](#)

8/6/2007

Home Page for House Republican Fund

CAMPAIGN YEAR

REPORT TYPE	REPORTING PERIOD	DUE DATE	DATE FILED	STATUS	LAST MODIFIED	
April Quarterly	1/6/2007 to 3/31/2007	4/10/2007	4/10/2007 4:25:18 PM	Filed	4/13/2007 11:05:54 AM	Print
6-Day Pre-Election (PARTICIPANTS ONLY)	4/1/2007 to 5/31/2007	6/6/2007				
July Quarterly	4/1/2007 to 7/5/2007	7/16/2007	7/16/2007 6:36:30 PM	Filed	7/17/2007 9:30:20 AM	Print
42-Day Post Election (PARTICIPANTS ONLY)	6/1/2007 to 7/17/2007	7/24/2007				
October Quarterly	7/6/2007 to 9/30/2007	10/10/2007				
6-Day Pre-Election (PARTICIPANTS ONLY)	10/1/2007 to 10/25/2007	10/31/2007				
42-Day Post-Election (PARTICIPANTS ONLY)	10/26/2007 to 12/11/2007	12/18/2007				
January Quarterly	10/1/2007 to 1/5/2008	1/15/2008				
PAC Termination	1/1/2007 to 12/31/2007					
24-Hr Report of Late Expenditures		N/A		MULTIPLE		

Please click on the following buttons to Download schedule informations in excel format.

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Title 21-A, §1062-A, Failure to file on time

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§1062-A. Failure to file on time

1. Registration. A political action committee required to register under section 1053 that fails to do so in accordance with section 1053 or that fails to provide the information required by the commission for registration may be assessed a forfeiture of \$250. [1995, c. 483, §21 (new).]

2. Campaign finance reports. A campaign finance report is not timely filed unless a properly signed copy of the report, substantially conforming to the disclosure requirements of this subchapter, is received by the commission before 5 p.m. on the date it is due. Except as provided in subsection 6, the commission shall determine whether a required report satisfies the requirements for timely filing. The commission may waive a penalty if it is disproportionate to the level of experience of the person filing the report or to the harm suffered by the public from the late disclosure. The commission may waive the penalty in whole or in part if the commission determines the failure to file a timely report was due to mitigating circumstances. For purposes of this section, "mitigating circumstances" means:

A. A valid emergency of the committee treasurer determined by the commission, in the interest of the sound administration of justice, to warrant the waiver of the penalty in whole or in part; [1999, c. 729, §9 (amd).]

* B. An error by the commission staff; or [1999, c. 729, §9 (amd).]

C. Other circumstances determined by the commission that warrant mitigation of the penalty, based upon relevant evidence presented that a bona fide effort was made to file the report in accordance with the statutory requirements, including, but not limited to, unexplained delays in postal service. [1999, c. 729, §9 (new).]
[2003, c. 628, Pt. A, §7 (amd).]

3. Basis for penalties. The penalty for late filing of a report required under this subchapter is a percentage of the total contributions or expenditures for the filing period, whichever is greater, multiplied by the number of calendar days late, as follows:

A. For the first violation, 1%; [1995, c. 483, §21 (new).]

B. For the 2nd violation, 3%; and [1995, c. 483, §21 (new).]

C. For the 3rd and subsequent violations, 5%. [1995, c. 483, §21 (new).]

Any penalty of less than \$5 is waived.

Violations accumulate on reports with filing deadlines in a 2-year period that begins on January 1st of each even-numbered calendar year. Waiver of a penalty does not nullify the finding of a violation.

A report required to be filed under this subchapter that is sent by certified or registered United States mail and postmarked at least 2 days before the deadline is not subject to penalty.

A required report may be provisionally filed by transmission of a facsimile copy of the duly executed report to the commission, as long as an original of the same report is received by the commission within 5 calendar days thereafter.

[1995, c. 483, §21 (new).]

4. Maximum penalties. The maximum penalties under this subchapter are \$10,000 for reports required under section 1059, subsection 2, paragraphs B, C and E and \$5,000 for reports required under section 1059, subsection 2, paragraph A.

STATE OF MAINE
 COMMISSION ON GOVERNMENTAL ETHICS AND ELECTION PRACTICES
 135 STATE HOUSE STATION
 AUGUSTA, MAINE 04333
 Phone: (207)287-4179 Fax: (207)287-6775
 Website: www.maine.gov/ethics

2007 FILING SCHEDULE - POLITICAL ACTION COMMITTEES

<u>Type of Report</u>	<u>Due Date</u>	<u>Covering Period</u>
January Quarterly	January 16, 2007	December 13, 2006 - January 5, 2007
April Quarterly	April 10, 2007	January 6, 2007 - March 31, 2007
July Quarterly	July 16, 2007	April 1, 2007 - July 5, 2007
October Quarterly	October 10, 2007	July 6, 2007 - September 30, 2007
January Quarterly	January 15, 2008	October 1, 2007 - January 5, 2008

PACs participating in the June 12, 2007 bond referendum or special election in HD 83 must file the following additional reports:

6-Day Pre-Election	June 6, 2007	April 1, 2007 - May 31, 2007
July Quarterly	-----	This does not need to be filed.
42-Day Post-Election	July 24, 2007	June 1, 2007 - July 17, 2007

If an election is held on November 6, 2007, PACs participating in that election must file the following additional reports:

6-Day Pre-Election	October 31, 2007	October 1, 2007 - October 25, 2007
42-Day Post-Election	December 18, 2007	October 26, 2007 - December 11, 2007

24-HOUR REPORTS

PACs participating in either the June 12, 2007 or November 6, 2007 elections must disclose any expenditure of \$500 or more made:

After May 31, 2007 and before 5:00 p.m. on June 11, 2007

After October 25, 2007 and before 5:00 p.m. on November 5, 2007

in a special report filed within 24 hours making the expenditure (including Saturdays and Sundays). This report can be filed electronically through the Commission's electronic filing system.

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: August 7, 2007
Re: Update on Information Provided by Rep. Philip Cressey

On August 1, 2007, Rep. Philip Cressey submitted the attached e-mail explanation of his \$517.63 expenditure to Staples. I forwarded his e-mail to Michele Hardin, Assistant Manager at the North Windham Staples. She confirmed that his calculation of \$516.81 was consistent with what Staples would have charged for the described copying job.

The amount of the reported expenditure was \$517.63. Neither Ms. Hardin nor Rep. Cressey has explained the \$0.82 difference, which is obviously quite small.

Wayne, Jonathan

From: philcressey@verizon.net
Sent: Wednesday, August 01, 2007 1:40 PM
To: Wayne, Jonathan
Subject: Re: Ethics Commission Meeting Date

Hi Jonathan;
I received the letter in the mail and this email. Due to my new job, I will not be able to be present in person for the August 13th meeting.

As stated in my previous reports and testimony, I purchased 2300 copies of my handouts for summer parades and events on 8.5x11 canary 67lb card stock and printed on both sides. Staples recently calculated that at .215 cents per sheet with tax. The amount quoted as of July 31, 2007. In my discussion with the sales person at the Staples Copy Center, it is believed to be that the cost of canary stock printed on both sides in 2006 was at .214 cents per sheet with tax which would come to \$516.81

The original receipt was faxed at the same time as the other audit finding requests were made October 2006. Since that time I have not been able to find that particular receipt. The receipt was either accidentally thrown away as the trash can was next to the fax machine; Or the receipt was part of the paper debris pulled out of the fax machine when it was moved and cleaned earlier this year.

One thing I did mean to mention was to view a copy of the faxed receipts back in October 2006 as the receipt in questions was taped and faxed alongside the other Staples receipt. This should be in my folder and hopefully the receipt was just overlooked.

In the letter that I recently received, an incorrect amount was listed for this expense. It should be \$517 not \$571.

Please let me know if there is anything further that is needed.
Phil Cressey

From: "Wayne, Jonathan" <Jonathan.Wayne@maine.gov>
Date: 2007/07/20 Fri PM 03:17:54 CDT
To: philcressey@verizon.net
Subject: Ethics Commission Meeting Date

Ethics Commission Meeting Date

The next meeting of the Commission is Monday, August 13 at 9:00 a.m. At the meeting, the Commission will consider the findings in the audit report.

Please confirm by e-mail whether you will be able to provide by that date the explanation of the \$517 expenditure to Staples which was requested by the Commission members at the May 14, 2007 meeting and able to attend the meeting.

Thank you.

<<Notice of August 13 Meeting.pdf>>



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

August 3, 2007

By E-Mail to philcressey@verizon.net and Regular Mail

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

Dear Representative Cressey:

Thank you for your e-mail dated August 1, 2007 providing us with information regarding your Staples purchase. This will be helpful to the Commission members when they continue considering the audit of your campaign.

Please let me know if you prefer the Commission to:

- consider the audit on August 13 with you participating by speakerphone;
- consider the audit on August 13 without your participation; or
- consider the audit at the Commission's meeting in September (the date has not been selected).

I ask for your preference because there is a possibility that the Commission members could decide to ask you to return a portion of the \$62.50 purchase price of the flash drive or to assess a penalty for not keeping the required documentation. (The staff will continue to recommend no penalty for the lack of documentation.) If you decide not to participate in the meeting, I want you to understand that the Commission members could make a decision that is not favorable to you.

If you want to participate on August 13 by telephone, I could schedule your matter at the beginning of the 9:00 a.m meeting or near the end of the meeting (around 12:00 noon, although it is difficult to estimate). We could call you or provide you with a telephone number to call.

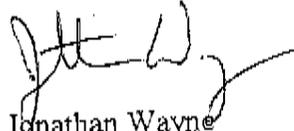
Hon. Philip A. Cressey

- 2 -

August 3, 2007

Please let me know how you would like the Commission to proceed. If I do not hear from you, I will schedule the matter for August 13. My telephone number is 287-4179 if you would like to discuss this.

Sincerely,



Jonathan Wayne
Executive Director

cp

cc: Vincent Dinan



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

July 16, 2007

By Regular and E-Mail

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

Dear Representative Cressey:

This is to notify you of the next meeting of the Maine Commission on Governmental Ethics and Election Practices at 9 a.m., Monday, August 13, 2007, at the Commission office. At your request, this matter was rescheduled from today's meeting.

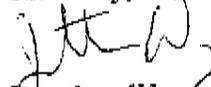
At our May 14 meeting, the Commission asked you to obtain a detailed explanation of your expense in the amount of \$517.63 to Staples. In March, I telephoned the manager at Staples in North Windham, Michele Hardin. This was a departure from our usual procedures, but I made the inquiry to try to resolve the issue. Ms. Hardin ran a search for the payment in her computer system and could not verify it. Also, she could not explain why a ream of card stock and the photocopying job would add up to \$517.63.

The Commission requests that you obtain a written verification from Staples that you made the \$517.63 purchase. Even if that is not available, we ask that you submit a written explanation of the total expense, explaining what was purchased, what was the cost of each item, and how those costs add up to \$517.63.

That explanation would assist the Commission in verifying that the expenditure was for campaign-related purposes. If you can provide it in advance of the August 13 meeting, that would facilitate the conclusion of this matter. We also ask that you attend the meeting to answer any questions. If you are out-of-state, we can arrange for you to speak to the Commission members by telephone.

If you have any questions, please call me at 287-4179.

Sincerely,


Jonathan Wayne
Executive Director

cc: Vincent W. Dinan



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

July 6, 2007

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

Dear Representative Cressey:

This is to notify you of the next meeting of the Maine Commission on Governmental Ethics and Election Practices at 9 a.m., Monday, July 16, 2007, at the Commission office.

At our May 14 meeting, the Commission asked you to obtain a detailed explanation regarding your expense in the amount of \$517.63 to Staples. In March, I telephoned the manager at Staples in North Windham, Michele Hardin. This was a departure from our usual procedures, but I made the inquiry to try to resolve the issue. Ms. Hardin ran a search for the payment in her computer system and could not verify it. Also, she could not explain why a ream of card stock and the photocopying job would add up to \$517.63. That explanation would assist the Commission in verifying that the expenditure was for campaign-related purposes. Kindly attend the July 16 meeting with an oral or written explanation. I will put your matter first on the agenda so that you can complete your business with the Commission as quickly as possible.

If you have any questions, please call me at 287-4179.

Sincerely,

A handwritten signature in black ink, appearing to read "Jonathan Wayne".

Jonathan Wayne
Executive Director

cp



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

May 15, 2007

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

Dear Representative Cressey:

At its meeting yesterday, the Maine Ethics Commission tabled its consideration of the findings in your audit report.

If you would kindly contact Staples to obtain a receipt or other explanation of your expenditure in the amount of \$571.63, this matter will be heard again at the next meeting of the Commission to be scheduled in June.

Please feel free to call me at 287-4179 should you have any questions regarding this issue.

Sincerely,


Jonathan Wayne
Executive Director

cp



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 -

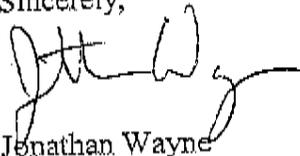
March 30, 2007

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.

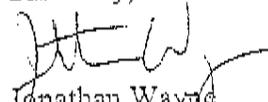
One of the candidates we are auditing is unable to locate a receipt for a purchase made at your store last summer, and he suggested that we attempt to confirm the purchase through your store. We are simply trying to confirm that the purchase took place and that the goods he states he purchased is consistent 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,


Jonathan Wayne
Executive Director

OFFICE LOCATED AT: 242 STATE STREET, AUGUSTA, MAINE
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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

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
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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', written over a horizontal line.

Vincent W. Dinan
Commission Auditor

Enclosure

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



STATE OF MAINE
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AND ELECTION PRACTICES
135 STATE HOUSE STATION
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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 unrecadable)". 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.

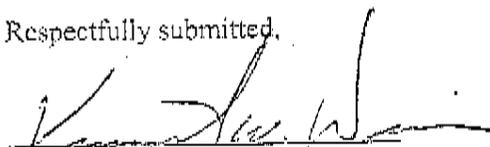
Criteria - the MCEA requires participating candidates to report campaign expenditures according to procedures developed by the Commission. (21-A M.R.S.A. §1125 (12) and 21-A M.R.S.A. §1125 (12-A)).

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

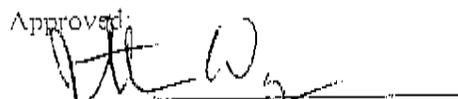
Rep. Cressey's comments on the audit findings and recommendations are attached.

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



Banknorth, N.A.

Maine

7 of 7

PHILIP CRESSEY
CRESSEY FOR LEGISLATURE

H.A 99

STATEMENT OF ACCOUNT

Page: 4 of 4
Statement Period: Jun 19 2006-Jul 18 2006
Cust. Ref #:
Primary Account #:
[REDACTED]

PHILIP A. CRESSEY
CRESSEY FOR LEGISLATURE
P.O. BOX 101, 100 BUCKINGHAM
CORNER, ME 04002

ACCOUNT # 101
DATE 6/15/06

TO THE ORDER OF Philip A. Cressey \$572.00

PHILIP A. CRESSEY
CRESSEY FOR LEGISLATURE
P.O. BOX 101, 100 BUCKINGHAM
CORNER, ME 04002

Banknorth
Maine

Signature: Philip A. Cressey

#101 6/19 \$512.00

PHILIP A. CRESSEY
CRESSEY FOR LEGISLATURE
P.O. BOX 101, 100 BUCKINGHAM
CORNER, ME 04002

ACCOUNT # 102
DATE 6/17/06

TO THE ORDER OF Philip A. Cressey \$39.94

PHILIP A. CRESSEY
CRESSEY FOR LEGISLATURE
P.O. BOX 101, 100 BUCKINGHAM
CORNER, ME 04002

Banknorth
Maine

Signature: Philip A. Cressey

#102 6/20 \$39.94

PHILIP A. CRESSEY
CRESSEY FOR LEGISLATURE
P.O. BOX 101, 100 BUCKINGHAM
CORNER, ME 04002

ACCOUNT # 103
DATE 6/21/06

TO THE ORDER OF Philip A. Cressey \$86.91

PHILIP A. CRESSEY
CRESSEY FOR LEGISLATURE
P.O. BOX 101, 100 BUCKINGHAM
CORNER, ME 04002

Banknorth
Maine

Signature: Philip A. Cressey

#103 6/21 \$86.91

PHILIP A. CRESSEY
CRESSEY FOR LEGISLATURE
P.O. BOX 101, 100 BUCKINGHAM
CORNER, ME 04002

ACCOUNT # 104
DATE 6/19/06

TO THE ORDER OF Philip A. Cressey \$117.00

PHILIP A. CRESSEY
CRESSEY FOR LEGISLATURE
P.O. BOX 101, 100 BUCKINGHAM
CORNER, ME 04002

Banknorth
Maine

Signature: Philip A. Cressey

#104 6/19 \$117.00

PHILIP A. CRESSEY
CRESSEY FOR LEGISLATURE
P.O. BOX 101, 100 BUCKINGHAM
CORNER, ME 04002

ACCOUNT # 105
DATE 6/22/06

TO THE ORDER OF Philip A. Cressey \$1,839.00

PHILIP A. CRESSEY
CRESSEY FOR LEGISLATURE
P.O. BOX 101, 100 BUCKINGHAM
CORNER, ME 04002

Banknorth
Maine

Signature: Philip A. Cressey

#105 6/22 \$1,839.00

PHILIP A. CRESSEY
CRESSEY FOR LEGISLATURE
P.O. BOX 101, 100 BUCKINGHAM
CORNER, ME 04002

ACCOUNT # 106
DATE 6/28/06

TO THE ORDER OF Philip A. Cressey \$517.63

PHILIP A. CRESSEY
CRESSEY FOR LEGISLATURE
P.O. BOX 101, 100 BUCKINGHAM
CORNER, ME 04002

Banknorth
Maine

Signature: Philip A. Cressey

#106 6/28 \$517.63

PHILIP A. CRESSEY
CRESSEY FOR LEGISLATURE
P.O. BOX 101, 100 BUCKINGHAM
CORNER, ME 04002

ACCOUNT # 107
DATE 7/05/06

TO THE ORDER OF Philip A. Cressey \$95.26

PHILIP A. CRESSEY
CRESSEY FOR LEGISLATURE
P.O. BOX 101, 100 BUCKINGHAM
CORNER, ME 04002

Banknorth
Maine

Signature: Philip A. Cressey

#107 7/05 \$95.26

PHILIP A. CRESSEY
CRESSEY FOR LEGISLATURE
P.O. BOX 101, 100 BUCKINGHAM
CORNER, ME 04002

ACCOUNT # 108
DATE 7/06/06

TO THE ORDER OF Philip A. Cressey \$185.43

PHILIP A. CRESSEY
CRESSEY FOR LEGISLATURE
P.O. BOX 101, 100 BUCKINGHAM
CORNER, ME 04002

Banknorth
Maine

Signature: Philip A. Cressey

#108 7/06 \$185.43

Agenda

Item #4



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

July 31, 2007

Audit Report No. 2006-HR032

**Candidate: Representative Glenn Cummings
House District 115**

Background

Representative Glenn Cummings, Speaker of the Maine House of Representatives, was re-elected to the District 115 seat in the 2006 general election. Rep. Cummings was certified by the Commission as a Maine Clean Election Act (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.

Audit Findings and Recommendations

Missing Documentation and Misreporting Campaign Expenditures - The Cummings campaign reported that Rep. Cummings was reimbursed for postage costs in the amount of \$335.00 on December 11, 2006. Although a copy of the reimbursement check was on file, the actual purchase of the postage and payment to USPS were undocumented. The examination disclosed that the reimbursement actually covered three campaign expenditures:

- \$145.00 for postage used for campaign mailings, but originally purchased for personal use by Rep. Cummings. The auditor was informed that the records of purchase and payment were not on file.
- \$60.00 for envelopes used in campaign mailings, but originally purchased for personal use. Rep. Cummings was unable to provide proof of purchase or payment for the envelopes.

Campaign Audit
Candidate: Rep. Glenn Cummings
Page 2

- \$130.00 for a sign stencil. The candidate's legal counsel informed the auditor that later investigation showed that Rep. Cummings' check in payment for the stencil was never cashed, and in fact, the stencil was never fabricated. Rep. Cummings has indicated that he will repay the Maine Clean Election Fund for the amount of the over-reimbursement.

The reporting issues summarized above are described in detail in Attorney Daniel Walker's letter to the auditor dated July 27, 2007, which is included as Exhibit I to this report.

In the auditor's opinion, the Cummings campaign mis-reported the types and amounts of the expenditures discussed above. With respect to the missing proof of purchase and proof of payment for the postage and envelopes, in the absence of vendor invoices and cancelled checks, we would have preferred to see a contemporaneous memo in the candidate's campaign records which supported the costs for stamps and envelopes. Such a memo would document the basis for charging the campaign \$145 and \$60, respectively. Nonetheless, we find Rep. Cummings' explanation credible, and do not believe that the lack of formal expenditure documentation in this case rises to the level of a violation.

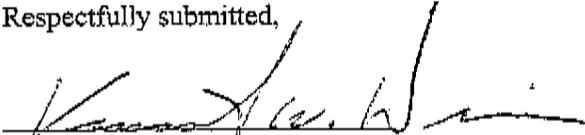
Criteria: 21-A M.R.S.A. § 1016 (4) states that "... a treasurer shall obtain and keep a receipted bill, stating the particulars, for every expenditure in excess of \$50 made by or on behalf of ... a candidate.... The Maine Clean Election Act permits the Commission to assess a penalty of up to \$10,000 for any violation of the MCEA. 21-A M.R.S.A. § 1125 (12) states "...participating and certified candidates shall report any money collected, all expenditures, obligations and related activities to the commission according to procedures developed by the commission."

Recommendation: the Commission staff recommends that the Commission find the candidate in violation of 21-A M.R.S.A. § 1125 (12) for not accurately reporting the three expenditures, but the staff does not recommend assessment of a penalty. The staff also recommends that the Commission direct Rep. Cummings to amend his 42 Day Post-General campaign finance report to accurately reflect the expenditure transactions made during the reporting period, and also direct him to promptly repay \$130 to the Maine Clean Election Fund for the sign stencil that was never produced.

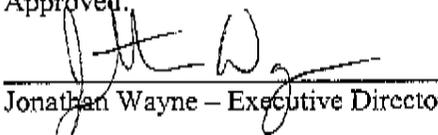
Candidate's Comments:

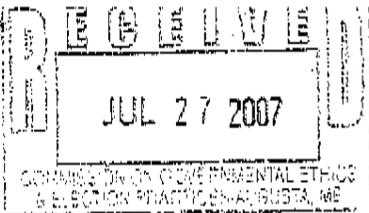
The comments of Attorney Daniel Walker, legal counsel to Rep. Cummings, appear as Exhibit I.

Respectfully submitted,


Vincent W. Dinan - Staff Auditor

Approved:


Jonathan Wayne - Executive Director

Preti Flaherty

Campaign Audit
Rep. Glenn Cummings
 Page 1 of 7

Direct Dial: (207) 791-3281

July 27, 2007

VIA HAND DELIVERY

Mr. Vincent W. Dinan, Staff Auditor
 Maine Commission on Governmental Ethics and Election Practices
 135 State House Station
 Augusta, Maine 04333

RE: Audit Report No. 2006-HR032

Dear Mr. Dinan:

The following letter is in response to your findings regarding Audit Report No. 2006-HR032 for the campaign of Speaker Glenn Cummings, House District 115, and is intended to clarify the \$335.00 reimbursement to him dated December 11, 2006, which was identified in the report to "reimburse postage." The \$335.00 reimbursement was in actuality a reimbursement for three separate expenditures.

1. \$145.00 Reimbursement for Postage

The first part of the reimbursement was for \$145.00 worth of postage purchased by Speaker Cummings or his wife, Leslie Appelbaum, for personal use that was used to mail out absentee ballots. Unfortunately, Speaker Cummings did not retain a receipt and thorough searches of both his debit card statements and cleared checks at his credit union have shown no record of the purchase. Rather than use the postage without claiming the expenditure, and thereby possibly exceed the limit on expenditures for clean elections, Speaker Cummings felt it would be more honest to claim the value.

2. \$60.00 Reimbursement for Envelopes

The second part of the reimbursement was for \$60.00 worth of personal envelopes purchased by Speaker Cummings or his wife, Leslie Appelbaum, used during the course of the campaign. The envelopes were a few years old and rather than use them without claiming the expenditure, and thereby possibly exceed the limit on expenditures for clean elections, Speaker Cummings felt it would be more honest to claim the value. Because the personal envelopes were a few years old, Speaker Cummings did not retain a receipt for them.

3. \$130.00 Reimbursement for Sign Stencil

The third part of the reimbursement expenditure was for \$130.00 for a wooden sign stencil and several signs, which were to be produced by Mr. James Trott of Portland. Speaker Cummings requested these services from Mr. Trott during the campaign via telephone call and handwritten note. However, Mr. Trott never performed the work on the stencil. Thinking Mr.

Preti Flaherty Beliveau & Pachios LLP Attorneys at Law

1247717.1
 45 Memorial Circle | Augusta, ME 04330 | Tel: 207.623.5300 | Fax: 207.623.7814 | Mailing address: P.O. Box 1058 | Augusta, ME 04332-1058

Augusta Bath Boston Concord Portland

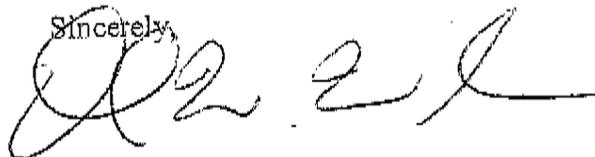
PRETI FLAHERTY
Mr. Vincent W. Dinan, Staff Auditor
July 27, 2007
Page 2

Trott had cashed or would cash the check, Speaker Cummings asked to be reimbursed for the \$130.00. However, recent communications with Mr. Trott have demonstrated that Mr. Trott never cashed the check because he never performed the work. Attached as Exhibit A, please find a letter from Mr. Trott supporting this assertion, a copy of the uncashed check of \$130.00 from Speaker Cummings to Mr. Trott, and a copy of a hand-written note from Speaker Cummings to Mr. Trott that accompanied the check, requesting the work. To further verify this information, Mr. Trott can be contacted at his home at 207-775-4363.

As a result of discovering that Mr. Trott never cashed this check, Speaker Cummings will reimburse the Maine Clean Elections Fund for \$130.00.

Please do not hesitate to contact me with any questions regarding this response to your Audit Report No. 2006-HR032.

Sincerely,



Daniel W. Walker

cc: Jonathan Wayne, Executive Director
Speaker Glenn Cummings

EXHIBIT A

Portland, Maine 04103

July 25, 2007

Mr. Jonathan Wayne, Executive Director
Maine Commission on Governmental Ethics
and Election Practices
135 State House Station
Augusta, ME 04333

Re: Audit Report No. 2006-HR032

Dear Mr. Wayne:

Please consider this letter as an explanation for Speaker Glenn Cummings' reimbursement of \$130.00 for "sign stencils," as part of his audit response. I have been a volunteer with many campaigns over the years and have worked primarily on large roadside signs and stencils.

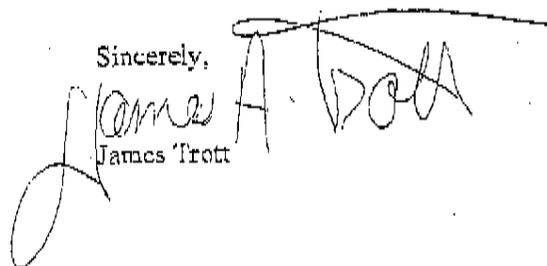
Early in the 2006 General Election, Speaker Cummings approached me about providing a stencil for large roadside signs for his campaign. I informed Speaker Cummings that this would cost him about \$130.00 to cover the cost of materials to produce the stencil. Speaker Cummings sent me a check for \$130.00 and asked me to provide him with the stencil. Unfortunately, shortly after receiving the check for materials, I accepted what I thought would be a two week, out of state, work assignment. This assignment proved to be several months in duration, and I did not return to Maine until after the fall elections were over.

The stencil that I offered to produce for Speaker Cummings was never produced and I never deposited the check, which sat on my desk for many months as a reminder to call Speaker Cummings with an apology and explanation as to my seemingly lack of follow through regarding the stencil.

Because I never provided any services to Speaker Cummings, I never cashed or deposited the check for \$130.00. However, I also never returned the check to Speaker Cummings. Attached please find a copy of the original check and note from Speaker Cummings requesting my services and the original envelope.

Hopefully, this explanation is sufficient for the Commission's purposes. Please contact me if you have any further questions regarding this event.

Sincerely,


James Trott

08/06/2007 15:40
26 Jul 07 22:08

2072876775
Trott, J & Family

ETHICS COMMISSION

PAGE 08/14

EXHIBIT I
Campaign Audit
Rep. Glenn Cummings
Page 5 of 7

GLENN A. CUMMINGS LESLIE J. APPELBAUM 24 NEVENS ST. 207-775-2855 PORTLAND, ME 04103		5516 <small>62-87092112</small>
Pay to the Order of		Date <u>9/6/05</u>
<u>Mr. Jim Trott</u>		\$ <u>130</u>
<u>One Hundred & Thirty</u>		Dollars
CUMBERLAND COUNTY TEACHERS FEDERAL CREDIT UNION <small>181 BRAT ROAD HALLOWELL, MAINE 04105</small>		
For	<u>Glenn Cummings</u>	



SO. MAINE F&DC 0410
05 SEP 2006 PM 3 T

Mr. Jim Trott
166 Murray Str.
Portland, ME

09102+4210 04/03
Handwritten barcode

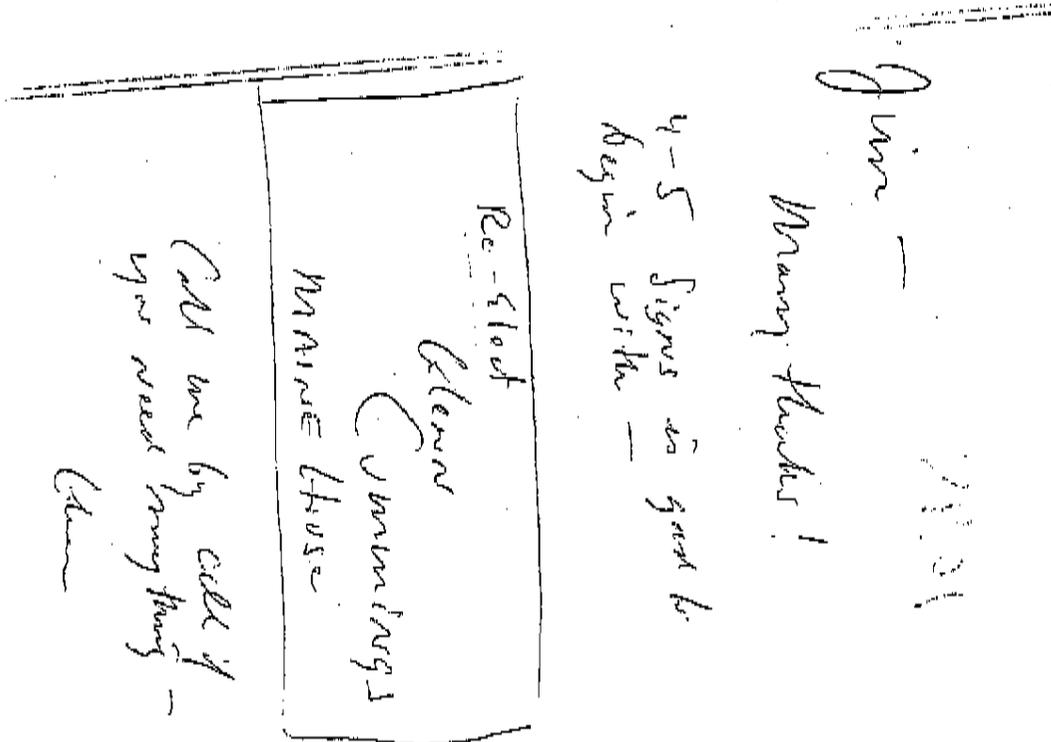
Appelbaum/Cummings
24 Nevens Street
Portland, Maine 04103

26 Jul 07 22:08

Trott, J & Family

21

EXHIBIT I
Campaign Audit
Rep. Glenn Cummings
Page 7 of 7



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 (rpr).]

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, §1017, Reports by candidates

- (1) A report filed not later than 5 p.m. on the 42nd day before the date on which an election is held and complete as of the 44th day before that date;
- (2) A report filed no later than 5 p.m. on the 21st day before the date on which an election is held and complete as of the 23rd day before that date; and
- (3) A report filed no later than 5 p.m. on the 12th day before the date on which an election is held and complete as of the 14th day before that date.

[2001, c. 589, §1 (amd).]

C. A candidate who is required to file a report under paragraph A must file with the commission an updated report that reports single expenditures in the following amounts that are made after the 14th day before an election and more than 24 hours before 5:00 p.m. on the date of that election:

- (1) For a candidate for Governor, a single expenditure of \$1,000;
- (2) For a candidate for the state Senate, a single expenditure of \$750; and
- (3) For a candidate for the state House of Representatives, a single expenditure of \$500.

A report filed pursuant to this paragraph must be filed within 24 hours of the expenditure. [2003, c. 628, Pt. B, §3 (amd).]

The commission shall provide forms to facilitate compliance with this subsection. The commission shall notify a candidate within 48 hours if an amount reported on any report under paragraph B exceeds 1% in excess of the primary or general election distribution amounts for a Maine Clean Election Act candidate in the same race and no report has been received under paragraph A.

[2003, c. 628, Pt. B, §3 (amd).]

4. New candidate or nominee. A candidate for nomination or a nominee chosen to fill a vacancy under chapter 5, subchapter III is subject to section 1013-A, subsection 1, except that the candidate shall register the name of a treasurer or political committee and all other information required in section 1013-A, subsection 1, paragraphs A and B within 7 days after the candidate's appointment or at least 6 days before the election, whichever is earlier. The person required to file a report under section 1013-A, subsection 1 shall file a campaign report under this section 15 days after the candidate's appointment or 6 days before the election, whichever is earlier. The report must include all contributions received and expenditures made through the completion date. The report must be complete as of 4 days before the report is due. Subsequent reports must be filed on the schedule set forth in this section. The commission shall send notification of this requirement and registration and report forms to the candidate and the candidate's treasurer immediately upon notice of the candidate's and treasurer's appointments.

[1991, c. 839, §16 (amd).]

5. Content. A report required under this section must contain the itemized accounts of contributions received during that report filing period, including the date a contribution was received, and the name, address, occupation, principal place of business, if any, and the amount of the contribution of each person who has made a contribution or contributions aggregating in excess of \$50. The report must contain the itemized expenditures made or authorized during the report filing period, the date and purpose of each expenditure and the name of each payee and creditor. Total contributions with respect to an election of less than \$500 and total expenditures of less than \$500 need not be itemized. The report must contain a statement of any loan to a candidate by a financial institution in connection with that candidate's candidacy that is made during the period covered by the report, whether or not the loan is defined as a contribution under section 1012, subsection 2, paragraph A. Until December 31, 1992, the candidate is responsible for the timely and accurate filing of each required report. Beginning January 1, 1993, the candidate and the treasurer are jointly responsible for the timely and accurate filing of each required report.

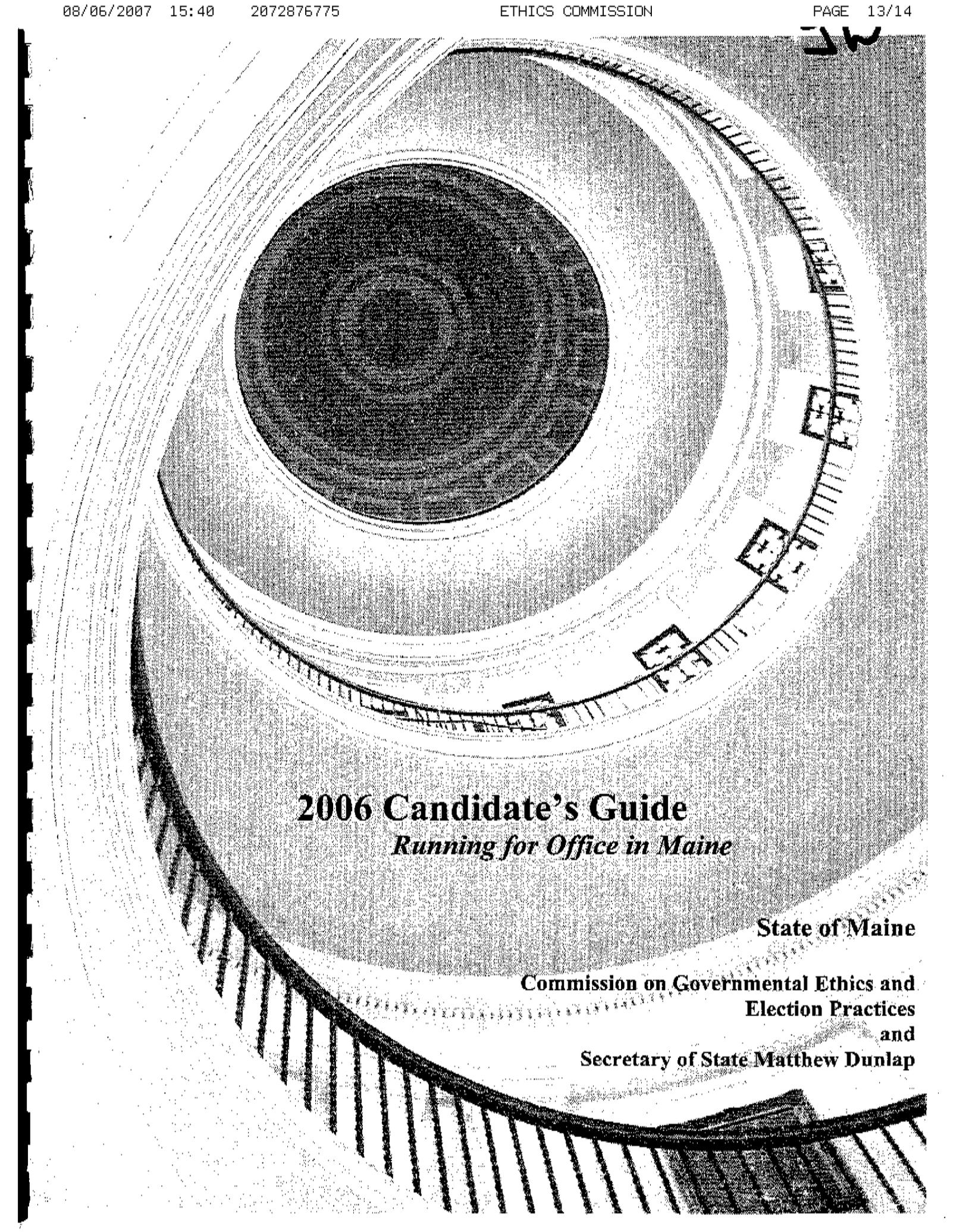
[1991, c. 839, §17 (amd).]

5-A. Valuation of contributions sold at auction. Any contribution received by a candidate that is later sold at auction shall be reported in the following manner.

A. If the contribution is sold at auction before the commencement of the appropriate reporting period specified in subsections 1 to 4, or during that period, the value of the contribution is deemed to be the amount of the purchase price paid at auction. [1987, c. 726, §2 (new).]

B. If the contribution is sold after the termination of the appropriate reporting period specified in subsections 1 to 4, the value of the contribution is the difference between the value of the contribution as originally reported by the treasurer and the amount of the

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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**

Reporting Reimbursements Made to the Candidate or Supporter

Many MCEA candidates ask if they or a supporter can use personal funds or a credit card to pay for campaign goods or services and later be reimbursed by the campaign. This is permissible as long as the campaign is careful to reimburse the candidate or supporter. If no reimbursement is made, the campaign has received an in-kind contribution of goods and services, which is not permitted for MCEA candidates.

If you or one of your supporters uses personal funds or a credit card to pay a vendor, report the vendor as the payee, and the date and amount of your or your supporter's payment to the vendor. Do not report the campaign's reimbursement to you or the supporter. The payment is reported in the reporting period in which the vendor received the payment, and the reimbursement must be made during the same reporting period. If the reimbursement is not made within the same reporting period, then you have received an in-kind contribution which is prohibited. *

Reporting Withdrawals of Cash

The Commission recommends paying for expenditures by writing checks and using debit cards for the campaign's bank account, so that as many expenditures as possible are made through the campaign's bank account. This will help the campaign keep track of the dates, amounts, and payees of all expenditures.

Because you, as a candidate, must report the date, amount, payee, and purpose of every expenditure, the Commission discourages the use of petty cash or the withdrawals of large amounts of cash to pay campaign workers.

If the campaign chooses to withdraw cash to use for petty expenses or campaign workers, do not report a payment to "cash." Instead, for each expenditure of the cash, keep a receipt or record which includes the date, amount, payee, and purpose of each expenditure, and include this information on your campaign finance reports.

Expenditures Made by a Consultant or Firm

If you hire a consultant or firm to assist your campaign, and the consultant or firm makes expenditures on behalf of you and your campaign, you must report those expenditures as though the campaign made them directly. It is your responsibility to find out about expenditures made by your consultants and to report those expenditures. You need to deduct those costs from the amounts you have reported on Schedule B that you paid to the consultant (so the costs are not double-reported), and you should note in the remarks column that the expenditures were made by the consultant.

Reporting Unpaid Debts and Obligations on Schedule D

On Schedule D, please report the date of any unpaid debt or obligation your campaign has incurred, along with the amount and purpose of the transaction, and the name of the creditor. If a debt or obligation remains unpaid in subsequent report periods, please include the debt or obligation on each report until full payment is made to the vendor. If only partial payment is made on the debt, continue to disclose the unpaid balance of that debt or

Agenda

Item #5



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

July 31, 2007

Audit Report No. 2006-GV003

**Candidate: Senator Chandler E. Woodcock
2006 Republican Candidate for Governor**

Background

Senator Chandler E. Woodcock was the Republican candidate for Governor in the 2006 general election. Sen. Woodcock was certified by the Commission as a Maine Clean Election Act (MCEA) candidate on April 12, 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:

- January 2006 Semiannual
- Seed Money
- 42 Day Pre-Primary
- Six Day Pre-Primary
- 42 Day Post-Primary
- 42 Day Pre-General
- 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 Commission distributed a total of \$ 1,303,727 to the Woodcock campaign during the primary and general election periods. Of this amount, \$599,999 was paid to the candidate for initial payments in the primary and general elections and \$703,728 was paid in matching funds for the general election.

Audit Findings and Recommendations

Finding No. 1 – Uncontrolled Money Order Expenditures During the Qualifying Period: The Woodcock campaign purchased 739 five dollar money orders to use as qualifying contributions in lieu of cash from contributors. The audit disclosed that the campaign properly accounted for 649 money orders (\$3,245). However, 90 money orders were unaccounted for. In addition, the campaign treasurer reported that of the 90 (\$450), \$48 was spent on campaign expenses other than qualifying contributions. The auditor believes that it is unclear whether a violation occurred here. The 90 money

Gubernatorial Campaign Audit
Candidate: Sen. Chandler Woodcock
Page 2

orders may in fact be lost or may have been liquidated by campaign workers and the funds used for other seed money expenditures. Also, it could not be determined if the \$48 was included in any of the reported expenses or was in fact unreported. The campaign was unable to offer any additional information to resolve the issue.

Criteria: 21-A M.R.S.A. § 1016(3) (C): "A treasurer shall keep a detailed and exact account of: ...All expenditures made by or on behalf of the ...candidate...."

Recommendation: the Commission staff is concerned about the campaign's lack of accountability for the missing money orders and the uncontrolled expenditure of \$48. However, the staff does not believe there is a solid basis for a finding of violation, and therefore recommends no further action by the Commission on this matter.

Finding No. 2 – Unreported Seed Money Expenditures; Seed Money Expenditures in Excess of the Maximum Allowable: The audit disclosed that the Woodcock campaign purchased 739 money orders during the qualifying period, and 506 were submitted to the Commission as qualifying contributions. The campaign reported total money order fees of \$140 on their January Semiannual and Seed Money reports. Using a pro-rated unit price of \$.60 (see Exhibit I), the auditor determined that total money order fees should have been about \$443, which suggests that more than \$300 of such fees went unreported. The unreported purchases caused total seed money expenditures to exceed the amount of seed money contributions and were therefore unallowable. In addition, since reported seed money contributions were accounted for by the campaign, the unallowable purchases may have been made with impermissible in-kind contributions, also unallowable. The campaign was unable to document these questioned transactions.

Criteria: 21-A M.R.S.A. § 1016(3)(C): "A treasurer shall keep a detailed and exact account of: ...All expenditures made by or on behalf of the...candidate...." 21-A M.R.S.A. § 1125: "Any money order fees paid by a participating candidate must be paid for with seed money and reported in accordance with commission rules." Commission Rules, Chapter 3, Section 2(4)(C)(3): "This provision does not prohibit a candidate from using seed money to pay the fee for a money order provided the qualifying contributor pays the \$5 amount reflected on the money order as permitted by 21-A M.R.S.A. § 1125(3)."

Recommendations: The Commission staff recommends that the Commission find the candidate and the campaign treasurer in violation of the cited provisions of the Maine Clean Election Act. The staff found the Woodcock campaign's financial records to be generally well maintained, and the violation is relatively insignificant when compared to the level of MCEA funding distributed to the candidate. Nonetheless, this violation had implications for qualification as an MCEA candidate, and for that reason the staff believes a penalty is appropriate. Accordingly, the staff recommends the Commission assess the Woodcock campaign with a penalty of \$100.

Finding No. 3 – Questioned "Fair Market Value" for Sales of Campaign Equipment: The Woodcock campaign purchased ten equipment items during the campaign at a total cost of \$3,616. After the election, the campaign sold the items for \$900 or about 25 percent of the purchase price. In the auditor's opinion, most of the items were not sold at fair market value as required by the election law. Questioned sales and/or dispositions include:

- Two desktop computers with monitors were sold for \$100 each or about 17 percent of their purchase price after a little over five months of use.

Gubernatorial Campaign Audit
Candidate: Sen. Chandler Woodcock
Page 3

- Two Microsoft Access software packages originally purchased for \$231 each were apparently included in the computer sales at no additional cost.
- A Microsoft Office software package originally purchased for \$157 was apparently included in one computer sale at no additional cost.
- A wireless router originally costing \$121 was included in one computer sale at no additional cost.
- A telephone purchased for \$62 remained unsold at the time of the audit.
- A printer/copier/fax/scanner machine that originally cost \$472 was sold for \$150 or about 32 percent of the purchase price after about five months of use.

The details of the sales and/or dispositions are summarized in Exhibit II to this report.

Discussion: The Commission staff acknowledges that selling used campaign equipment is problematical. In addition, the concept of "fair market value" (FMV) is highly subjective. In the Commission's rules, fair market value is defined as "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 but acceptable evidence of value." (Commission's Rules, Chapter 3, Section 7(2) (C) (2)) Another widely used definition considers FMV derived when a willing seller offers an item at a price that a willing buyer accepts. The Commission staff analyzed all equipment purchases by publicly funded legislative and gubernatorial candidates in the 2006 election (see Exhibit III), and determined that overall, such items were sold for 40 percent of their purchase price. In addition, the "market" for these items was essentially the candidates, their family members, and their campaign workers. This conclusion is affirmed when one considers the list of buyers of the Woodcock campaign's equipment.

At the same time, the staff does not want to underestimate the difficulty of simply locating a market for used campaign equipment (primarily computers, computer accessories and peripherals). Exhibit IV is a letter from Chris Jackson, the Woodcock campaign manager, who outlines the significant efforts that he made to (1) establish FMV for the items, and (2) to find buyers for them.

The Commission staff has also conducted significant online research to identify resources for establishing FMV. We have found that such resources do exist, frequently on a "fee for service" basis. However, in order to extract the information needed to determine FMV, the user must input precise equipment specifications, e.g., model numbers, disk storage capacity, operating speed, accessories and peripheral equipment, and related information. Current Commission rules do not require candidates to report equipment acquisitions at that level of detail.

Criteria: 21-A M.R.S.A. §1126: "The commission shall adopt rules to ensure effective administration of this chapter. These rules must include but not be limited to procedures for ... disposition of equipment purchased with clean election funds and compliance with the Maine Clean Election Act..." Commission Rules, Chapter 3, Section 7(2) (C): "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...."

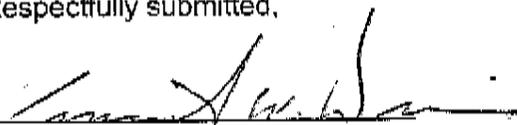
Gubernatorial Campaign Audit
Candidate: Sen. Chandler Woodcock
Page 4

Recommendations: It is difficult for the Commission staff to accept that the Woodcock campaign could not have sold its campaign equipment – none of which was more than six months old – for more than 25 percent of its purchase value, as they did. At the same time, the staff understands the extreme difficulty of meeting the subjective standard of “fair market value”, and we credit the campaign for the efforts it made to do so. The Commission staff recommends that the Commission consider whether to accept the amount generated by the Woodcock campaign’s sales of equipment items as meeting the FMV requirement, or alternatively, consider requiring the campaign to pay an additional amount more in line with the overall sales results of 40 percent of the purchase price referred to above. In the present case, that would require the Woodcock campaign to remit an additional \$546 to the Commission. Regardless of the Commission’s decision, the Commission staff will continue its attempt to find a more workable solution to guiding candidates toward establishing “fair market value.”

Candidate's Comments

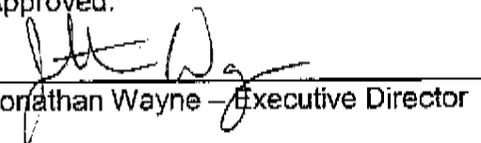
The comments of Attorney Daniel Billings, Counsel to the Woodcock Campaign, are attached.

Respectfully submitted,



Vincent W. Dinan - Staff Auditor

Approved:



Jonathan Wayne - Executive Director

EXHIBIT I**CHANDLER WOODCOCK CAMPAIGN****Determination of Pro-rated Unit Price Per Money Order and Approximate Total Money Order Fees**

VENDOR	UNIT PRICE	NO. OF MONEY ORDERS SUBMITTED	TOTAL AMOUNT	PRO-RATED UNIT PRICE
WalMart	\$0.46	154	\$70.84	\$0.15
Western Union	\$0.59	250	\$147.50	\$0.32
USPS	\$0.95	63	\$59.85	\$0.13
All Others		39		
Totals		506		\$0.60

Total Money Orders Purchased	739
Pro-rated unit price	\$0.60
Approximate total fees	<u>\$443.40</u>

CHANDLER WOODCOCK CAMPAIGN
 Analysis of Equipment/Property Sales

DATE OF PURCHASE	DATE OF SALE	DESCRIPTION OF PROPERTY	PURCHASE PRICE	SALES PRICE	SALES/PURCHASE	COMMENTS
6/30/2006	12/12/2006	Computer with monitor	\$577.49	\$100.00	17.32%	Sold with software included
6/30/2006	12/12/2006	Computer with monitor	\$577.49	\$100.00	17.32%	Sold with software included
6/30/2006	12/12/2006	Printer/copier/fax/scanner	\$472.49	\$150.00	31.75%	
8/7/2006	12/12/2006	MS ACCESS Software	\$230.99	\$0.00	0.00%	Included in sale of computer
9/15/2006	12/12/2006	MS ACCESS Software	\$230.99	\$0.00	0.00%	Included in sale of computer
6/30/2006	12/12/2006	MS OFFICE Software	\$157.49	\$0.00	0.00%	Included in sale of computer
6/30/2006	12/12/2006	Router	\$120.74	\$0.00	0.00%	Included in sale of computer
6/30/2006	Unsold	Telephone	\$62.49	\$0.00	0.00%	Not sold at the date of audit
7/16/2006	12/12/2006	Digital Camera	\$556.20	\$200.00	35.96%	Heavy usage - diminished value
6/30/2006	12/12/2006	Laptop Computer	\$629.99	\$350.00	55.56%	
Totals			\$3,616.36	\$930.00		

2006 PRIMARY AND GENERAL ELECTIONS
Acquisition and Sale of Campaign Equipment
MCEA-Funded Candidates
June 1, 2007

Candidate	Purchase Date	Equipment	Purchase Price	Date Sold	Sold To	Sale Price
J. Chipman Beckwith	6/19/2006	Microsoft Front Page Software	\$95.94	12/10/2006	Candidate	\$50.00
Patricia Blanchette	8/14/2006	car cell phone charger	\$20.99	12/14/2006	Candidate	\$20.99
Bruce Bryant	10/8/2006	screw gun	\$73.49	11/13/2006	Candidate	\$40.00
Harvey Devane	3/8/2006	Motorola V190 cell phone	\$120.00	7/6/2006	Candidate	\$50.00
Christopher Duperry	4/17/2006	HP printer	\$136.48	12/12/2006	Candidate	\$85.00
Peter Edgecomb	9/14/2006	computer and monitor	\$1,058.40	12/12/2006	Candidate	\$400.00
Chester Garrison	8/30/2006	Microcassette recorder	\$31.49	12/12/2006	Candidate	\$12.00
Deborah Gibbs	7/25/2006	printer	\$141.74	12/14/2006	Ronald Fraser	\$75.00
Leonard Greaney	11/6/2006	Black & Decker 14v cordless drill	\$68.57	12/12/2006	Candidate	\$45.00
Darren Hall	9/18/2006	sledge hammer	\$20.99	11/22/2006	Candidate	\$15.00
Ryan Harnden	7/28/2006	printer	\$71.99	12/10/2006	Candidate	\$25.00
Richard Holden	9/15/2006	printer	\$235.18	12/12/2006	Candidate	\$94.07
Dana Kadey	6/17/2006	Dell computer	\$2,928.26	11/29/2006	Lynn Ross	\$1,500.00
John Kasten	6/17/2006	Dell all-in-one printer	\$155.45	12/12/2006	Candidate	\$79.79
	6/17/2006	Photoshop Elements & software	\$138.50	12/12/2006	Candidate	\$70.69
	10/27/2006	stamps	\$42.96	11/6/2006	M. Kasten	\$42.96
	10/27/2006	paintbrush	\$6.27	11/6/2006	M. Kasten	\$6.27
Robert Learnard	10/19/2006	copier	\$144.85	12/12/2006	Madawaska Dem. Party	\$80.00
Patricia LaMarche	6/5/2006	Cannon digital camera	\$183.91	11/15/2006	Blair Bobier	\$100.00
	6/8/2006	4-Sony Ericsson Go-phones	\$335.96	NOT SOLD		
	7/6/2006	Motorola Voice Terminal	\$100.00	NOT SOLD		
	6/13/2006	Gateway Notebook Computer	\$1,089.97	12/14/2006	Candidate	\$330.00
	6/13/2006	Cannon inkjet printer	\$49.99	12/14/2006	Candidate	\$20.00
	7/5/2006	Laptop Computer	\$1,195.54	12/14/2006	Candidate	\$300.00
	9/5/2006	cell phone & accessories	\$188.96	12/14/2006	Candidate	\$100.00
	4/19/2006	web page software	\$104.09	11/30/2006	Candidate	\$1.00
	10/2/2006	Microsoft Office	\$149.00	12/2/2006	Dick Dyer	\$30.00
Keith Louis	9/28/2006	Office Chair	\$94.48	12/12/2006	Candidate	\$40.00
John McDonough	10/24/2006	6-foot table	\$47.08	12/2/2006	Jim Webster	\$20.00
Jonathan McKane	9/28/2006	White Board	\$41.99	12/12/2006	Candidate	\$10.00
Barbara Merrill	9/29/2006	2- erasable wall calendars	\$40.70	12/12/2006	Beryl Leach	\$7.00
	9/29/2006	Desk lamp	\$13.64	12/12/2006	Candidate	\$5.00
	9/29/2006	Bulletin board	\$15.74	12/12/2006	Candidate	\$5.00
	9/29/2006	7- outlet power strip	\$15.75	12/12/2006	Candidate	\$5.00
	9/28/2006	Logitech mouse	\$20.98	12/12/2006	Beryl Leach	\$5.00
	9/28/2006	PC keyboard	\$16.79	12/12/2006	Beryl Leach	\$5.00
	10/26/2006	Headphone for Nokia cell phone	\$20.99	12/12/2006	Beryl Leach	\$5.00
	10/26/2006	LCD cell charger	\$10.48	12/12/2006	Beryl Leach	\$3.00
	10/30/2006	AT&T cell earphone	\$18.89	12/12/2006	Beryl Leach	\$5.00
	10/30/2006	USB Parallel port cable	\$41.98	12/12/2006	Beryl Leach	\$20.00
	5/29/2006	Display canopy	\$93.16	12/2/2006	Jim Webster	\$40.00
	6/17/2006	Microsoft Office Pro 2003 software	\$293.99	12/3/2006	Jim Webster	\$100.00
	6/23/2006	L-shaped desk	\$83.99	12/12/2006	Dick Dyer	\$30.00
	6/23/2006	HP computer monitor	\$141.73	12/12/2006	Candidate	\$35.00
	6/23/2006	Compag CPU	\$359.09	12/12/2006	Candidate	\$180.00
	6/23/2006	8 part ethernet	\$52.48	12/12/2006	Candidate	\$25.00
	6/20/2006	HP all-in-one fax/copy/printer	\$419.98	12/3/2006	Jim Webster	\$200.00
	12/1/2006	Meigear Rangemax	\$104.98	12/12/2006	Candidate	\$50.00

2008 PRIMARY AND GENERAL ELECTIONS
Acquisition and Sale of Campaign Equipment
MCEA-Funded Candidates
June 1, 2007

Candidate	Purchase Date	Equipment	Purchase Price	Date Sold	Sold To	Sale Price
	6/20/2006	RCA 4-line phone	\$104.98	12/12/2006	Candidate	\$40.00
	6/20/2006	AT&T 2-line phone	\$262.49	12/12/2006	Candidate	\$100.00
	7/18/2006	Avertec laptop computer	\$892.48	12/12/2006	Candidate	\$450.00
	7/18/2006	2 port adaptor	\$62.98	12/12/2006	Candidate	\$20.00
	6/23/2006	VOIP 2 port adaptor	\$41.98	12/12/2006	Candidate	\$10.00
	6/23/2006	Uniden phone	\$28.34	12/12/2006	Candidate	\$10.00
	6/23/2006	USB jump drive	\$31.48	12/12/2006	Candidate	\$10.00
	6/23/2006	USB jump drive	\$34.18	12/12/2006	Candidate	\$10.00
	6/25/2006	2 poster frames	\$49.58	12/12/2006	Candidate	\$20.00
	7/18/2006	7-outlet power strip	\$15.74	12/12/2006	Candidate	\$5.00
	7/18/2006	White Board	\$41.99	12/12/2006	Candidate	\$10.00
	7/18/2006	Uniden phone	\$41.98	12/12/2006	Candidate	\$15.00
	10/18/2006	Cordless phone	\$148.97	12/12/2006	Candidate	\$75.00
John Nutting	8/18/2006	HP photosmart printer	\$185.82	12/12/2006	Candidate	\$125.00
David Partridge	9/8/2006	screw gun	\$129.59	12/12/2006	Candidate	\$65.00
John Patrick	6/28/2006	printer	\$149.99	12/12/2006	Candidate	\$75.00
Joseph Perry	7/21/2006	Laptop computer	\$503.99	12/12/2006	Candidate	\$300.00
	9/5/2006	cordless keyboard & mouse	\$69.99	12/12/2006	Candidate	\$35.00
Joyce Perry	3/19/2006	Hand held voice recorder	\$69.80	7/18/2006	Courtney Lewigne	\$40.00
Larry Poulin	9/16/2006	Software	\$89.99	12/12/2006	Candidate	\$30.00
	10/28/2006	Dill	\$41.97	12/12/2006	Candidate	\$40.00
	6/16/2006	tax machine	\$36.35	12/12/2006	Candidate	\$36.35
Brian Rinas	6/16/2006	stapler	\$21.00	12/12/2006	Candidate	\$21.00
	2/13/2006	copier	\$299.98	12/10/2006	Candidate	\$185.00
Elizabeth Schneider	9/29/2006	desk stapler	\$22.97	11/24/2006	Candidate	\$22.97
Donald Shepley	1/11/2006	stamps	\$163.00	12/12/2006	MCEA	\$168.00
Ruth-Marie Spellman	3/31/2006	cell phone	\$169.27	12/12/2006	Candidate	\$45.00
Charles Theriault	5/25/2006	Computer Monitor	\$199.00	6/25/2006	Candidate	\$90.00
Joanne Twomey	7/16/2006	digital camera	\$556.20	12/12/2006	Chris Jackson	\$200.00
Chandler Woodcock	6/30/2006	computer with monitor	\$577.49	12/12/2006	Bob Emrich	\$100.00
	6/30/2006	Laptop computer	\$629.98	12/12/2006	Trevor Bragdon	\$350.00
	6/30/2006	Router	\$120.74	NOT SOLD		
	6/30/2006	printer/copier/fax/scanner	\$472.49	12/12/2006	Bob Emrich	\$150.00
	6/30/2006	computer with monitor	\$57.49	12/12/2006	Bob Emrich	\$100.00
	6/30/2006	computer software	\$157.49	SOLD WITH COMPUTER		
	6/30/2006	telephone	\$62.49	NOT SOLD		
	8/7/2006	computer software	\$230.99	SOLD WITH COMPUTER		
	9/15/2006	computer software	\$230.99	SOLD WITH COMPUTER		
			<u>\$18,369.13</u>			<u>\$7,331.09</u>
				Sales Price/Cost		40%

EXHIBIT IV
Chandler Woodcock Audit
Page 1 of 2

June 15, 2007

Vincent Dinan, Staff Auditor
Maine Commission on Governmental Ethics & Election Practices
135 State House Station
Augusta, Maine 04333

Re: Fair Market Value of Woodcock for Governor Campaign Equipment

Dear Mr. Dinan,

I have been asked, as manager of the Woodcock for Governor Campaign, to provide information regarding "fair market value" of the equipment that was sold when the gubernatorial campaign ended in 2006.

It was my responsibility to sell the equipment we purchased and return the money to the Maine Clean Election Fund. Determining "fair market value" for this equipment is not an exact science, but I made an honest effort to get a reasonable price for it.

For the purposes of the audit, we purchased two EMachine desktop computers, a printer/scanner/fax, a laptop computer and a digital camera, as well as three office telephones.

There were other miscellaneous purchases in conjunction with these items, such as software, routers, cables, etc. I did not consider trying to sell items used. Therefore, most if not all of it was included with the sale of the computers.

The digital camera was purchased for \$556.20. I contacted the Photo Market in Portland to determine a fair price for the camera. I was told \$200. They would give me a more accurate price if I were willing to bring the camera in so they could look at it. The additional service cost \$40, so I declined and purchased the camera myself (for \$200).

The laptop computer was purchased for \$629.99. I took the computer to Capitol Computers in Augusta. They offered to purchase the computer for \$350. I sold it to a colleague instead, for the same price.

The desktop computers were purchased for approximately \$550 each. These EMachines are mass market computers. I asked a colleague to research the resale value of the computers. He visited several businesses, including Computer Renaissance in Bangor, and Capitol Computers in Augusta. We were actually told by at least one party that there was no market for this equipment used. I settled on \$100 for each machine, including software. I also included the router in this transaction, as I deemed any benefit from researching fair market value for a 6-month-old router to be marginal, at best.

EXHIBIT IV
Chandler Woodcock Audit
Page 2 of 2

A printer/copier/scanner/fax was purchased for approximately \$450. By the time the campaign ended, the machine had a scored drum and was in need of repair. Repairing the drum would have meant an additional expense. Several businesses told us that they had no interest in it. I sold it for \$150, which was more than I could have honestly expected for it.

I have a telephone in storage that has not been sold. The Ethics Commission is welcome to it.

Although it is not an unreasonable expectation for publicly funded campaigns, liquidating this equipment was burdensome. It required a considerable amount of time and energy on my part after the campaign ended, without compensation. As I stated, I made an honest attempt at getting a reasonable amount of money back to the Clean Election Fund from this equipment. I have given this information to the Commission over the phone, via email, in person and now, by letter.

I hope this settles the matter.

Sincerely,

Chris Jackson, Campaign Manager
Woodcock for Governor

**MARDEN, DUBORD,
BERNIER & STEVENS**

ATTORNEYS AT LAW

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July 30, 2007

Vincent W. Dinan, Commission Auditor
Maine Commission on Governmental Ethics & Election Practices
135 State House Station
Augusta, ME 04333-0135

RE: Draft Audit Report – Woodcock for Governor

Dear Mr. Dinan:

I am writing on behalf of Chandler Woodcock and Woodcock for Governor in response to the draft audit report dated July 20, 2007.

The campaign is in agreement with Findings No. 1 and 2 in the report. There were problems with the tracking and reporting of money orders and related seed money expenditures during the qualifying period. At that time, the campaign was being operated entirely by volunteers and there were literally dozens of people involved in the qualifying process. The involvement of so many people at a time that the campaign had no paid staff resulted in the problems noted in the report. However, it is important to note that the accounting problems did not involve any public funds and involved a relatively small amount of money. The Commission should also be aware that the campaign self reported the problem to Commission staff before the start of the audit.

The campaign strongly disagrees with Finding No. 3 of the audit report. In a letter dated June 15, 2007, Chris Jackson, who was Campaign Manager for Woodcock for Governor, detailed his efforts to obtain fair market value for the equipment in question. The campaign purchased inexpensive, mass market items which depreciate quickly. Mr. Jackson went to great lengths to find a market for the equipment and found that there was little or no market for the items in question. The campaign should not be expected to create a market when one does not exist.

Your analysis of the sales of equipment by other campaigns noted that the market for such equipment was essentially the candidates, their families, and their campaign workers. This indicates to me that there was not actually any market for the equipment. The people involved in those campaigns simply paid a price that they thought was reasonable in an attempt to meet their obligations as Clean Elections Act. I do not think you can use those figures as an indication of market value. What Woodcock for Governor did was try to find a market for the items outside of those involved in the campaign and found that no market

ATTACHMENT
C. Woodcock Campaign Audit
Page 2 of 2

Vincent W. Dinan, Commission Auditor
July 9, 2007
Page 2

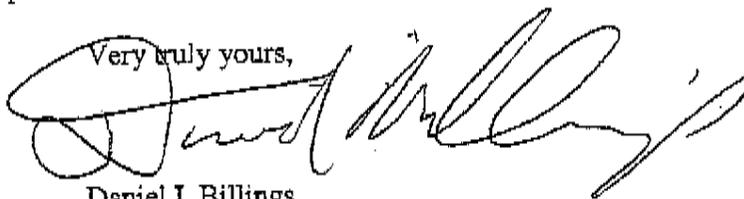
existed. Those involved in the Woodcock for Governor campaign or the candidate should not be expected to pay more simply because that was what was done by other campaigns.

Your report also includes no information related to any of the specific items sold by Woodcock for Governor to indicate what the market value was for any of those items. To conclude that the items sold by Woodcock for Governor were sold for less than fair market value, evidence would need to be presented concerning the actual fair market value of those items.

The Commission should also consider the policy implications of endorsement of the standard you have applied to the sale of equipment by the Woodcock for Governor. If the unreasonable standard you have applied is endorsed by the Commission, the message that will be sent to future candidates using Clean Elections funds will be that they should lease computer equipment instead of buying equipment. If the equipment is leased in a commercial transaction, there will be no basis to question the transaction or to suggest a violation by the campaign. However, the end result will be a greater expense for the campaign and no funds being returned to the Clean Elections Fund from the sale of equipment. That would be an unfortunate result.

Please let me know when the Commission will consider the audit report. Chris Jackson and I would like to be present to address the report.

Very truly yours,



Daniel I. Billings

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 (rpr).]

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, §1126, Commission to adopt rules

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§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).

- (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

Agenda Item #6



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

July 11, 2007

Audit Report No. 2006-HR025

**Candidate: David C. Feeney
House District 124**

Background

David C. Feeney was a candidate for the Maine House of Representatives, District 124, in the 2006 general election. Mr. Feeney was certified by the Commission as a Maine Clean Election Act (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.

Audit Findings

Finding No. 1 – Commingling Funds: The Commission disbursed \$13,598 in MCEA funds to the candidate, including \$4,874 in initial payments for the primary and general elections, and \$8,724 in matching funds for the general election. The auditors found that the monies disbursed to the candidate by the Commission were deposited into bank accounts he held jointly with his wife, and were commingled with the candidate's personal funds. The candidate made his campaign expenditures from a *Capital One* credit card account. Each time he made a campaign-related payment, he created additional credit card debt. No MCEA funds were deposited into the *Capital One* account. As discussed in the following finding, the commingling resulted in the use of MCEA funds for the candidate's personal expenses.

Criterion: 21-A M.R.S.A. § 1125(7-A) requires candidates to deposit MCEA funds into a campaign account at a bank or other financial institution, and further prohibits commingling of campaign funds with any other funds.

Finding No. 2 – Use of Public Funds for Personal Expenditures: The examination also determined that the candidate used MCEA funds for personal expenses. Mr. Feeney maintained his personal bank accounts with the *Town & Country Federal Credit Union*. The auditor's review of relevant banking documentation, including the candidate's own handwritten instructions to the bank on the MCEA checks, disclosed that Mr. Feeney deposited \$719 of MCEA funds into personal accounts which were never used for any campaign purpose. Although the deposit records are a little ambiguous, it appears that the \$719 reflects two \$10 deposits of MCEA funds into a "Christmas Club" account, \$100 deposited into his primary savings account, \$125 deposited into a "VIP Club" account (according to the credit union, a special type of savings account), \$250 deposited into an account labeled S79, and \$224 apparently taken out in cash from the matching funds payment which was not reflected in reported campaign expenditures.

More troublingly, Mr. Feeney deposited most of his MCEA funds into his primary checking account (S71) and used a significant portion of those funds to pay for personal expenses. He deposited the following amounts in his checking account:

<i>Date</i>	<i>Type</i>	<i>Amount of MCEA Payment</i>	<i>Deposited into Personal Checking</i>
6/24/06	Primary Payment	\$512	\$400
7/31/06	General Payment	\$4,362	\$4,000
10/23/06	General Matching Funds	\$8,724	\$8,500

The use of MCEA funds for personal expenses is evident by focusing on the checking account balance during August 2006 – before Mr. Feeney's campaign made its first campaign expenditure on September 15, 2006. Although a total of \$4,400 in MCEA funds was deposited into the account on June 24 and July 31, the balance in the account during August decreased to its lowest point of \$3,168.72 on August 18, 2006. This demonstrates that during the period of June 24 - August 18, at least \$1,231.28 in MCEA funds (\$4,400.00 - \$3,168.72) was used for personal expenses. This was before Mr. Feeney had made any campaign expenditures.

A chart is attached as Exhibit I showing the actual balance in Mr. Feeney's personal checking account (the dark line) compared to the balance of MCEA funds that would have been in the account if they had not been used for personal expenses (the shaded region). At any point in time when the dark line is within the shaded region, the gap is the amount of MCEA funds in Mr. Feeney's checking account that were used for personal expenses. (The chart does not include the \$719 in MCEA funds which Mr. Feeney deposited in other accounts or apparently used as cash.)

For purposes of preparing this chart, the only payments from the account which the Commission staff could identify as possibly being campaign-related were an October 2, 2006 payment of \$300.00 to *Capital One* and an October 30, 2006 payment of \$1,725.00 to *Capital One*. The staff is prepared to amend its views if Mr. Feeney responds to the audit by documenting that more payments from this account were campaign-related.

It is important to note that Mr. Feeney returned to the state the correct amount of MCEA funds that were not spent for campaign purposes. Nevertheless, a significant portion of MCEA funds were used by him in the short-term to finance personal expenses from his checking account.

Criteria: 21-A M.R.S.A. § 1125(7-A) requires candidates to deposit MCEA funds into a campaign account at a bank or other financial institution, and further prohibits commingling of campaign funds with any other funds. 21-A M.R.S.A. § 1125(6), "All revenues distributed to a certified candidate from the fund must be used for campaign-related purposes." Commission Rules, Chapter 3, Section 6(3), "A certified candidate must 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."

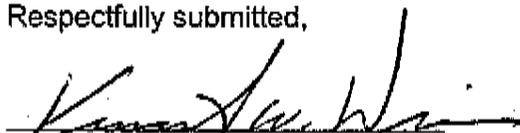
Recommendations

The Commission staff recommends that the Commission find Mr. Feeney in violation of 21-A M.R.S.A. § 1125(7-A) for not depositing MCEA funds in a campaign account and for commingling his MCEA funds with his personal funds, and assessing a penalty of \$250 for this violation. The staff also recommends that the Commission find Mr. Feeney in violation of 21-A M.R.S.A. § 1125(6) for spending MCEA funds for purposes that were not related to his campaign, and assessing a penalty of \$600 for this violation. The total recommended penalty is \$850.

Candidate's Comments

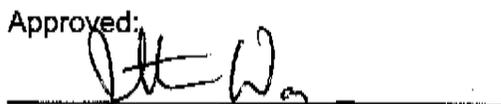
Mr. Feeney's comments on the audit findings and recommendations are attached.

Respectfully submitted,



Vincent W. Dinah - Staff Auditor

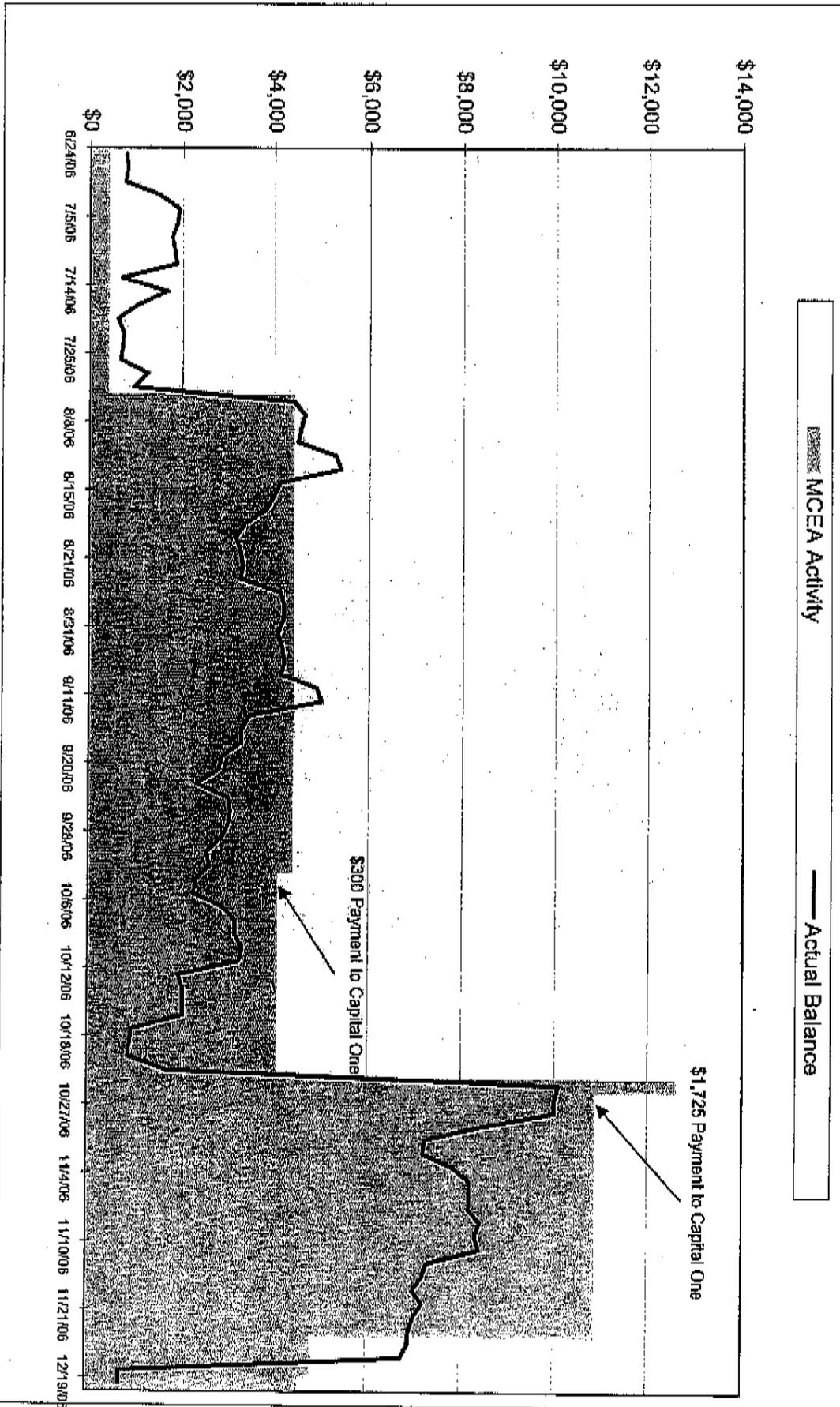
Approved:



Jonathan Wayne - Executive Director

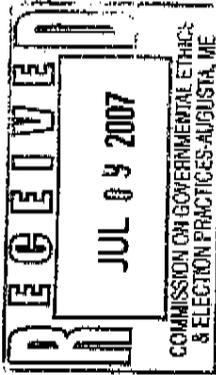
Exhibit I

**Feeney Checking Account: Actual Balance Compared to MCEA Activity
(does not include \$719 in MCEA funds deposited in other accounts)**



ATTACHMENT
Campaign Audit
Comments of David C. Feeney

Att: Vincent DiMar



7/7/07

I take total blame for my campaign practices and will take total blame for putting funds into my personal account. I hope the commission will accept my admission of fault.

I would like to again say I'm sorry and hope we can put this issue behind us after the August commission hearing

Thank you!
David Feeney



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

July 20, 2007

David Feeney
54 Granby Road
South Portland, ME 04106

Dear Mr. Feeney:

This is to notify you that the next meeting of the Maine Commission on Governmental Ethics and Election Practices will be on August 13 at 9:00 a.m. The Ethics Commission staff requests that you attend the meeting to respond to the audit findings. Although the meeting begins at 9:00 a.m., the Commission may not consider your matter until later in the meeting. Please give me or Cyndi Phillips a call between August 6 and 13 to discuss what time to arrive. Thank you very much for your cooperation with the audit.

Sincerely,

A handwritten signature in black ink, appearing to read "Jonathan Wayne".

Jonathan Wayne
Executive Director

cp
cc: Vincent Dinan

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).]

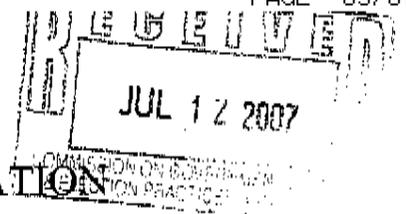
Funds may be distributed to certified candidates under this section by any mechanism that is expeditious, ensures accountability and safeguards the integrity of the fund.

[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).]

Agenda Item #7

**THE MAINE AQUACULTURE ASSOCIATION**

P.O. Box 148, 103 Water Street, 4th Floor
Hallowell, ME 04347

Telephone (207) 622-0136 • Fax (207) 622-0576 • E-mail: futureseas@aol.com

Wednesday, July 11, 2007

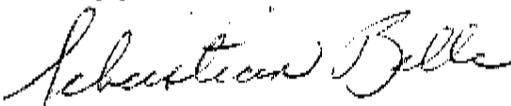
VIA FAX AND REGULAR MAIL

Mr. Jonathan Wayne, Commission Director
Commission on Governmental Ethics & Election Practices
135 State House Station
Augusta, ME 04333

Dear Director Wayne,

I am writing to you in regards to a recent notification I received from the Commission on Governmental Ethics and Election Practices dated June 18, 2007. (See, attached) I am not disputing the fact that the May Lobbyist Monthly was filed on Sunday, June 17, 2007, two days after the due date. Although I realize that there is no excuse for the late filing, I would ask that you take into consideration my filing record. Since I became a lobbyist in 2001, all monthly report and annual reports have been filed in a timely fashion and I have worked hard to ensure that the guidelines set forth by the ethics commission have been adhered to. As a one time courtesy, I would ask that this penalty be waived or reassessed.

Sincerely yours,



Sebastian M. Belle

SMB/rkc
Enclosure



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

To: Sebastian Belle, Lobbyist for:
 Maine Aquaculture Association

From: Martha Demeritt, Lobbyist Registrar

Date: June 18, 2007

Each registered lobbyist is required to file monthly reports with the Commission on Governmental Ethics and Election Practices no later than 15 calendar days following the month that is the subject of the report. Reports are due by 5:00 p.m. Any person who fails to file a timely report may be assessed a penalty of \$100 for every month the report is late. You filed your May Lobbyist Monthly Disclosure report on 6/17/07. The penalty is \$100.

If you agree with this preliminary penalty determination, you may use the attached billing statement to pay that amount within 30 days of the date of this notice. Please mail your remittance to the Commission on Governmental Ethics and Election Practices, 135 State House Station, Augusta, Maine 04333.

However, if you have a valid reason for filing late, you may request the Commission to make a final penalty determination. Address your request for penalty mitigation or waiver to the Commission Director, Jonathan Wayne. The Commission will notify you of the disposition of your case within 10 days after its determination.

Any person who fails to file a report or pay a fee may be suspended from further lobbying by written notice of the Commission until such failure is corrected.

Please direct any questions you may have about this matter to the Commission at (207) 287-6221.

 Cut Along Dotted Line

To: Commission on Governmental Ethics
 and Election Practices
 135 State House Station
 Augusta, Maine 04333

From: Sebastian Belle, Lobbyist for:
 Maine Aquaculture Association

Re: Penalty for late filing of the May Lobbyist Disclosure Report (\$100)

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 MAY , 2007 (year)

2. Lobbyist name BELLE, SEBASTIAN	Telephone (207)622-0136
Business address P.O. BOX 148	E-mail fyturceas@aol.com
City, state, zip code HALLOWELL ME 04347	Fax (207)622-0576

3. Employer name MAINE AQUACULTURE ASSOCIATION	Principal lobbyist contact name NELL HALSE
Business address P.O. BOX 148	Telephone (207)622-0139
City, state, zip code HALLOWELL ME 04347	E-mail Fax (207)622-0576

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.**

342.40

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.

1318-253-1081-1615-1684-1685-1778-1848-1893-277

11. Specifically identify each legislative action, Legislative Document, Senate Paper, House Paper or nomination for which the lobbyist was compensated or expects to be compensated, or expended in excess of \$1,000 for lobbying activities related to those actions, and state the amounts compensated or expended for each.

--	--

12. If the lobbyist is required to make a specific list of items in the preceding section of this form, list all original sources of any money received from that employer. "ORIGINAL SOURCE" means any person who contributes \$500 or more in any year directly or indirectly to any employer of a lobbyist, except that contributions of membership dues to nonprofit corporations formed under Title 13-B, any equivalent state law, or by legislative enactment are not considered contributions by an original source. If the employer or person who contributes to an employer is a corporation formed under Titles 13 or 13-A, nonprofit corporation formed under Title 13-B, or limited partnership under Title 31, list the corporation, nonprofit organization or limited partnership, not the individual members or contributors as the original source.

I, the undersigned, hereby swear or affirm that the information contained in this report is true and complete, and that no information is knowingly withheld.

SIGNATURE ON FILE

Signature of lobbyist or designee

6/17/2007

Date

Sworn falsification is a Class D crime(17-A M.R.S.A. Section 453).

THE COMMISSION MAY REJECT REPORTS THAT ARE INCOMPLETE.

NOTE: Violations of 17-A M.R.S.A. Chapter 25, are criminal offenses. Those provisions should be carefully reviewed before making expenditures on behalf of officials in the legislative branch.

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

ADDITIONAL MATERIALS

RE: Item #7
July 16, 2007

To: Commission Members

From: Jonathan Wayne, Executive Director

Date: July 13, 2007

Re: Options for Future Legislative Proposals: Maine Clean Election Act Candidates
Using Public Funds to Pay Family Members

In the Commission's bill earlier this year, the Commission proposed that Maine Clean Election Act (MCEA) candidates should be prohibited from using MCEA funds to pay family members for services rendered to the campaign. (Section B-6 of L.D. 1854) This originally became a concern for the staff after the 2004 elections. Although few candidates chose to pay family members, the staff made the proposal because of a concern that the practice erodes public confidence in the MCEA.

The Commission's oversight committee rejected the proposal. The committee considered the issue from the vantage point of a legislative candidate who receives far less public funds than a gubernatorial candidate. The committee questioned why a House or Senate candidate should be prohibited from paying a small amount (e.g., \$200) to a family member to design a website or provide some other service to the campaign.

Options for Future Proposals

In case you believe the Commission should address the issue again in a future legislative proposal, I see three approaches you could take:

- (1) *Prohibition.* The Commission could continue to advocate that MCEA candidates should be prohibited from paying MCEA funds to a family member for services rendered to a campaign. This would, in effect, require family members to provide services to a campaign on a volunteer basis.

- (2) *Impose a Cap.* The Commission could propose a cap on the amount that a MCEA candidate could pay to family members – for example, \$1,000 to all relatives for the entire campaign. You could propose a single cap for all three offices covered by the MCEA (House, Senate, Governor) or different maximums for the three offices. This would allow candidates some flexibility to pay family members, which was preferred by the Commission's oversight committee.
- (3) *Advocate for Better Disclosure.* The Commission could require by rule that if a MCEA candidate pays public funds to a relative of the candidate or a business that is affiliated with a relative, the campaign must disclose the family relationship on Schedule B of the campaign's financial reports. The rule would be major substantive and would be subject to legislative approval.

Conflict of Interest

The Commission's auditor has proposed that officers of a MCEA campaign or any other person involved in authorizing or making expenditures of MCEA funds should be barred from any commercial relationship with the campaign. You may wish to consider adopting this rule. I believe such a rule would be within the Commission's authority "to adopt rules to ensure the effective administration of the [MCEA]." 21-A M.R.S.A. §1126.



123rd MAINE LEGISLATURE

FIRST REGULAR SESSION-2007

Legislative Document

No. 1854

S.P. 668

April 12, 2007

An Act Regarding Campaign Finance Reporting and the Maine Clean Election Act

Reported by Senator MARRACHÉ of Kennebec for the Commission on Governmental Ethics and Election Practices pursuant to the Maine Revised Statutes, Title 1, section 1009.

Received by the Secretary of the Senate on April 11, 2007. Referred to the Committee on Legal and Veterans Affairs pursuant to Joint Rule 308.2 and ordered printed pursuant to Joint Rule 401.

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN
Secretary of the Senate

1 F. Knowingly accepted any contributions, including any in-kind contributions, or
2 used funds other than fund revenues distributed under this chapter to make campaign-
3 related expenditures without the permission of the commission;

4 G. Knowingly made a false statement or material misrepresentation in any report or
5 other document required to be filed under this chapter or chapter 13; or

6 H. Otherwise substantially violated the provisions of this chapter or chapter 13.

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

14 **6. Restrictions on contributions and expenditures for certified candidates.** After
15 certification, a candidate must limit the candidate's campaign expenditures and
16 obligations, including outstanding obligations, to the revenues distributed to the candidate
17 from the fund and may not accept any contributions unless specifically authorized by the
18 commission. Candidates may also accept and spend interest earned on fund revenues in
19 campaign bank accounts. All revenues distributed to a certified candidate from the fund
20 must be used for campaign-related purposes. The candidate, the treasurer, the candidate's
21 committee authorized pursuant to section 1013-A, subsection 1 or any agent of the
22 candidate and committee may not use these revenues for any but campaign-related
23 purposes. A candidate may not spend fund revenues on payments to the candidate, a
24 member of the candidate's immediate family or a business or nonprofit entity affiliated
25 with the candidate, except to make payment for goods or property provided to the
26 candidate's campaign. A candidate may not use fund revenues to pay or reimburse a
27 member of the candidate's immediate family for services provided to the campaign. The
28 commission shall publish guidelines outlining permissible campaign-related expenditures.

29 **6-A. Assisting a person to become an opponent.** A candidate or a person who later
30 becomes a candidate and who is seeking certification under subsection 5, or an agent of
31 that candidate, may not assist another person in qualifying as a candidate for the same
32 office if such a candidacy would result in the distribution of revenues under subsections 7
33 and 8 for certified candidates in a contested election.

34 **7. Timing of fund distribution.** The commission shall distribute to certified
35 candidates revenues from the fund in amounts determined under subsection 8 in the
36 following manner.

37 A. Within 3 days after certification, for candidates certified prior to March 15th of
38 the election year, revenues from the fund must be distributed as if the candidates are
39 in an uncontested primary election.

40 B. Within 3 days after certification, for all candidates certified between March 15th
41 and April 15th of the election year, revenues from the fund must be distributed
42 according to whether the candidate is in a contested or uncontested primary election.

Maine Citizens for Clean Elections

P.O. Box 18187, Portland, ME 04112
www.maineckleanelections.org/

(207) 664-0696 (Ann Luther, co-chair)
(207) 979-7440 (Alison Smith, co-chair)
info@maineckleanelections.org

July 16, 2007

To: Maine Commission on Governmental Ethics and Election Practices

Re: MCEA Candidates Using Public Funds to Pay Family Members

Maine Citizens for Clean Elections

Maine Citizens for Clean Elections (MCCE) is a nonpartisan coalition of groups and individuals which has advocated in support of the Maine Clean Election Act since its inception. Throughout the 10 years of Clean Elections in Maine, MCCE has provided a consistent, nonpartisan voice for the Act. While we have encouraged candidates to use the Clean Election public funding program, we never have and never will endorse or oppose individual candidates or political parties for any reason. Our aim is to make sure the Maine Clean Election Act works well for the people of Maine.

Our Clean Election system has been used successfully and with integrity by hundreds of candidates since it went into effect in 2000. The law's success is a result of strong citizen participation, broad popularity among candidates, and vigorous enforcement by the Ethics Commission. As with all reform laws, continual vigilance is needed to ensure that the law in practice continues to live up to the voters' intent in passing it.

Summary Statement on MCEA Candidates Using Public Funds to Pay Family Members

In our testimony earlier this year on LD 1854, we said

While we understand the concern when a candidate pays a family member with public funds, we believe candidates have the right to pay for campaign related professional services from their Clean Election distribution. We do not think it is appropriate to limit who may provide those professional services.

While we support candidates' right to pay family members for professional services, we do not believe such payments should constitute a windfall for the candidate's family. This is a particular concern in the case of gubernatorial candidates where larger sums of money are available. Such payments should be consistent with what someone else would pay that family member for their professional services in a similar capacity.

For this reason, we feel that it is vital to the integrity of the system that any payments to family members by an MCEA candidate be clearly and transparently disclosed. We believe the most important anti-corruption measure that the Commission could adopt here is a "sunshine" measure – full and timely disclosure would make the facts available to opponents, the press and citizens. We support the Ethics Commission's staff recommendation for disclosure on Schedule B of the campaign's financial reports.

We also support the Commission auditor's proposal that officers of an MCEA candidate campaign or any other person authorized to make expenditures of MCEA funds be barred from any commercial relationship with the campaign.

Maine Citizens for Clean Elections is a nonpartisan coalition of organizations and individuals who worked together to help pass Maine's Clean Election Act and who continue to work together to support and defend its use and the integrity of its implementation. Its members include AARP, Common Cause Maine, the League of Women Voters of Maine, Maine AFL-CIO, Maine People's Alliance and Peace Action Maine.

Agenda Item #9



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: August 7, 2007
Re: Request for Funding for the Maine Clean Election Act

The Maine Clean Election Fund will not have sufficient money to pay for the public financing of candidates in 2010 due to past legislative deappropriations. The staff recommends that in the 2008 session the Commission request that the Legislature make two transfers in fiscal years 2010 and 2011 totaling \$5,200,000. This represents the money which was transferred from the Fund plus a large portion of the interest which the deappropriated money would have earned.

History and Design of the Maine Clean Election Fund

Three offices covered. When voters enacted the Maine Clean Election Act in 1996, they approved a voluntary public funding option for candidates seeking three offices:

- Governor
- Maine Senate
- Maine House of Representatives

A single state account, the Fund, was established to pay all three types of candidates.

Insufficient funding. If there is insufficient money in the Fund, the MCEA provides the Commission with only one recourse: authorizing candidates to accept private contributions up to the amount of public funding the candidate is authorized to receive. The law does not suggest that any of the three offices is more or less deserving of funding.¹

Revenue to the Fund. The original law enacted by Maine voters was very clear about the cost of the program to the General Fund. The revenue to the Fund comes from:

- an annual transfer for \$2,000,000 from the General Fund
- the taxpayer check-off (about \$200,000 annually)
- \$5 qualifying contributions;
- interest earned, and penalties

¹ A number of states have opted to publicly fund candidates for Governor, although the programs vary in their usefulness to candidates. Partial public financing of gubernatorial campaigns has existed in states such as New Jersey, Florida, Maryland, and Michigan since the 1970's and 1980s. The state of Arizona funds candidates for Governor under a "clean election" system of full public financing, which the current Governor, Janet Napolitano, has participated in twice. Since 1976, every major party nominee in the U.S. presidential elections has been financed with some public funding, including Presidents Carter, Reagan, George H.W. Bush, Clinton, and George W. Bush.

Legislative Deappropriations

Since 2002, the Legislature has transferred about \$8 million from the Maine Clean Election Fund to balance budgets or to use for other priorities, including a reduction of \$1,200,000 in funding scheduled for 2009. (Please see attachment.) The Legislature has returned to the Fund a little less than one-half of the amounts that were transferred out. By 2010, a net amount of \$4,425,000 will have been deappropriated. Using a formula provided by the Office of Fiscal and Program Review, we estimate that if the funds had not been deappropriated, they would have earned approximately \$1.4 million in interest by 2010.

As the elected representatives of Maine voters, Legislators must balance competing priorities and make very difficult funding decisions. While they have relied on MCEA funds for other purposes, they have always returned the money when necessary to fund the program. Nevertheless, it is a matter of fact that the original revenue to the MCEA approved by Maine voters (the annual transfer of \$2,000,000, the taxpayer check-off, etc.) would have been sufficient to fund the MCEA at least through 2010 if the Legislature had not deappropriated cash from the Fund.

Presumptions for 2010 and Estimated Shortfall

I have attached some current projections about the cost of the MCEA program in the 2008 and 2010 elections. Because the MCEA program is relatively new, it can be difficult to make projections about its cost – particularly because it is impossible to know three years in advance which candidates for Governor will seek public funding. The staff believes it is prudent to presume that four candidates for Governor in the 2010 general election will be publicly funded, and that two additional candidates would be publicly funded for the primary only.

Our presumptions for 2010 include that we will advance about 50% of the maximum matching funds to most legislative candidates who qualify for matching funds, and that we will advance 100% of the maximum matching funds to candidates in the most competitive districts. This will not lower the net cost of the program, but it will reduce the reserve of funds that we advance to candidates and that we ask them to return after the election.

It is important to note that the cost of the MCEA program in 2010 could be greater than the attached presumptions. For example, if a high-spending privately financed candidate were to run against a MCEA opponent in the Democratic or Republican primary elections, the MCEA opponent could receive as much as \$400,000 in matching funds. Also, the Commission's electronic filing and disclosure website uses technology that is outdated, and an upgrade in technology may be necessary. Because of these contingencies, it is possible that the Commission could have to ask for additional money in the 2009 or 2010 sessions.

Recommended Actions

While the Legislature's job is to balance public priorities, Maine voters entrusted the Commission with the mandate of administering the MCEA. To fulfill that duty, the staff makes the following recommendations:

Amount of request. The Commission should request that \$2,800,000 be transferred from the General Fund to the Maine Clean Election Fund no later than June 1, 2010 (in fiscal year 2010) and that \$2,400,000 be transferred no later than August 1, 2010 (in fiscal year 2011). This represents the net \$4,425,000 deappropriated from the Fund plus a large portion of the \$1,400,000 in interest that the deappropriated money would have earned in the Fund. The staff asks your authorization to modify this request modestly in the coming weeks if we find we need to adjust one of our presumptions.

Urgency for 2008 legislative session. Even though the proposed transfers would not be deposited into the Fund until 2010, the staff recommends making the request in the 2008 legislative session. Potential candidates for Governor need to know in 2008 whether this voter-approved program will be available for them in 2010. Otherwise, they likely would not know whether public financing is a viable option until June 2009. That is only four months before candidates for Governor can begin qualifying for public funding on November 1, 2009.

Ask the Governor to support funding. The staff recommends asking the Governor to include unallocated language in the 2008 supplemental budget bill directing that the State Controller make the proposed transfers in 2010 and 2011. (I have attached similar language from the 2006 budget bill.) If the Governor includes the language in his budget bill, that would improve the chances that the Legislature will approve the funding.

Commission legislation. In addition, the Commission should introduce its own bill requesting the transfers from the General Fund, in case the Governor is not convinced to include the language.

History of Transfers from Maine Clean Election Fund

Transfers from Maine Clean Election Fund Totaling \$8,025,000		
\$4.0 million to Maine Rainy Day Fund	P.L. 2001, Chapter 559, Part E-3 (May 2002)	Transferred on June 30, 2003
\$2.5 million to General Fund	P.L. 2001, Chapter 714, Part N-1 (Nov. 2002)	Transferred on June 30, 2003
\$225,000 to General Fund	P.L. 2003, Chapter 20, Part D-26 (June 2003)	Transferred on June 30, 2004
Reduction of \$1.3 million in FY 09 revenue	P.L. 2007, Chapter 240, Part F (June 2007)	Revenue would occur on January 1, 2009
Returns to Maine Clean Election Fund Totaling \$3,600,000		
\$2.4 million from General Fund	P.L. 2005, Chapter 3, Part P-1 (March 2005)	Returned on January 1, 2006
\$1.2 million from General Fund	P.L. 2005, Chapter 519, Part KK (April 2006)	Returned on September 30, 2006

**Net Transfer from Maine Clean Election Fund =
\$4,425,000 plus roughly \$1,400,000 in interest earned by 2010**

Shortfalls Caused by Transfers, and Legislative Remedies

Legislative Session	Problem	Remedy by Legislature
2004	Insufficient funding for 2004 elections	Advance of \$1,500,000 on 1/1/05 transfer of \$2 million
2005	Insufficient funding for 2006 elections	Transfer of \$2,400,000 from General Fund; advance of 1/1/07 transfer of \$2 million
2006	Insufficient funding for 2006 elections	Transfer of \$1,200,000 from General Fund
2007	Insufficient funding for 2008 elections	Advance of \$700,000 on 1/1/09 transfer of \$2 million
2008	Insufficient funding for 2010 elections	<i>Commission requests return of transferred amounts plus interest</i>

PUBLIC LAW, c. 519

SECOND REGULAR SESSION - 2005

OTHER SPECIAL REVENUE FUNDS 2005-06 2006-07
 POSITIONS - LEGISLATIVE COUNT (1,000) (1,000)

HEALTH AND HUMAN SERVICES, DEPARTMENT OF (FORMERLY DHS)

Bureau of Medical Services 0129

OTHER SPECIAL REVENUE FUNDS 2005-06 2006-07
 POSITIONS - LEGISLATIVE COUNT (6,000) (6,000)

INLAND FISHERIES AND WILDLIFE, DEPARTMENT OF

Maine Outdoor Heritage Fund 0829

OTHER SPECIAL REVENUE FUNDS 2005-06 2006-07
 POSITIONS - LEGISLATIVE COUNT (1,000) (1,000)

LABOR, DEPARTMENT OF

Safety Education and Training Programs 0161

OTHER SPECIAL REVENUE FUNDS 2005-06 2006-07
 POSITIONS - LEGISLATIVE COUNT (2,000) (2,000)

MARINE RESOURCES, DEPARTMENT OF

Division of Community Resource Development 0043

OTHER SPECIAL REVENUE FUNDS 2005-06 2006-07
 POSITIONS - LEGISLATIVE COUNT (1,000) (1,000)

PUBLIC SAFETY, DEPARTMENT OF

State Police 0291

OTHER SPECIAL REVENUE FUNDS 2005-06 2006-07
 POSITIONS - LEGISLATIVE COUNT (2,000) (2,000)

Sec. JJ-6. Appropriations and allocations.

The following appropriations and allocations are made to eliminate 2 vacant positions, resulting in elimination of .211 FTE headcount in fiscal years 2005-06 and 2006-07.

TRANSPORTATION, DEPARTMENT OF

Island Ferry Services Fund 0326

ISLAND FERRY SERVICES FUND 2005-06 2006-07
 POSITIONS - FTE COUNT (0.211) (0.211)

Sec. JJ-7. Appropriations and allocations.

The following appropriations and allocations are made to eliminate one vacant position, resulting in elimination of 1,000 legislative headcount in fiscal years 2005-06 and 2006-07.

CORRECTIONS, DEPARTMENT OF

State Prison 0144

PRISON INDUSTRIES FUND 2005-06 2006-07
 POSITIONS - LEGISLATIVE COUNT (1,000) (1,000)

Sec. JJ-8. Appropriations and allocations.

The following appropriations and allocations are made to eliminate one vacant position, resulting in elimination of .827 FTE headcount in fiscal years 2005-06 and 2006-07.

AGRICULTURE, FOOD AND RURAL RESOURCES, DEPARTMENT OF

Seed Potato Board 0397

SEED POTATO BOARD FUND 2005-06 2006-07
 POSITIONS - FTE COUNT (0.827) (0.827)

Sec. JJ-9. Appropriations and allocations.

The following appropriations and allocations are made to eliminate one vacant position, resulting in elimination of 1,000 legislative headcount in fiscal years 2005-06 and 2006-07.

ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF

Lottery Operations 0023

STATE LOTTERY FUND 2005-06 2006-07
 POSITIONS - LEGISLATIVE COUNT (1,000) (1,000)

* PART KK

Sec. KK-1. Transfer to Maine Clean Election Fund. On or before September 30, 2006, the State Controller shall transfer an additional \$1,200,000 from undedicated General Fund revenue to the Maine Clean Election Fund in addition to the transfers authorized pursuant to the Maine Revised Statutes, Title 21-A, section 1124.

PART LL

Sec. LL-1. 20-A MRSA §15671, sub-§6, as amended by PL 2005, c. 12, Pt. UU, §1 and affected by §§12 and 13 and Pt. WW, §18, is further amended to read:

6. Targeted funds. Funds for technology, ~~assessment~~ implementation of a standards-based system and the costs of additional investments in educating children in kindergarten to grade 2 as described in section 15681 must be provided as targeted allocations. School administrative units shall submit a plan for the use of these funds and ~~shall~~ receive funding based on approval of the plan by the commissioner.

Sec. LL-2. 20-A MRSA §15681, sub-§2, as enacted by PL 2003, c. 504, Pt. A, §6, is repealed.

**Maine Clean Election Fund
Preliminary Projected Revenues and Expenditures for FY 08, 09
(8/13/07)**

Revenue for Fiscal Year 2008

Cash Balance from FY 2007	\$4,306,216
Annual Transfer from General Fund (1/1/08)	\$2,000,000
Qualifying Contributions in 2008 (4/15/08)	\$128,000
Taxpayer Check-Off (6/30/2008)	\$199,812
Interest	\$308,084
Penalties	\$4,000
Other Income	\$0
Total	\$6,946,112

Expenditures for Fiscal Year 2008

Personnel	\$323,006
Other Administrative Costs (including technology)	\$281,296
Primary Election Initial Distributions	\$423,418
Primary Election Matching Funds	\$43,119
General Election Initial Distributions	\$2,703,972
Total	\$3,774,811

Revenue for Fiscal Year 2009

Cash Balance from FY 2008	\$3,171,301
Annual Transfer from General Fund (9/1/08 - reduced from \$2 million)	\$700,000
Taxpayer Check-Off (6/30/09)	\$199,812
Interest	\$177,027
Penalties	\$4,000
Other Income	\$0
Total	\$4,252,140

Expenditures for Fiscal Year 2009

Personnel	\$367,146
Other Administrative Costs (including technology)	\$154,546
NET General Election Matching Funds	\$1,085,736
Total	\$1,607,428

Cash balance on 6/30/09

\$2,644,712

Table B
Preliminary Projected MCEA Payments
to 2008 Legislative Candidates (8/13/07)

Primary Election Initial Distributions (Table C)	\$423,418
Primary Election Matching Funds (double 2006 total)	\$43,119
General Election Initial Distributions (Table C)	\$2,703,972
General Election Matching Funds (Table E)	\$2,714,340
Total	\$5,884,849

Table C
Presumed Initial MCEA Distributions to 2008 Legislative Candidates
(8/13/07)

	# of 2004 Participants in Category	# of 2006 Participants in Category	<u>Projected Payments for 2008</u>		
			Projected # for 2008	Amount of Initial Distribution	Total
Primary Election Initial Distributions					
House - Contested Candidates	41	32	42	\$1,504	\$63,168
House - Uncontested Candidates	207	212	213	\$512	\$109,056
Total	248	244	255		\$172,224
Senate - Contested Candidates	18	9	18	\$7,746	\$139,428
Senate - Uncontested Candidates	45	56	58	\$1,927	\$111,766
Total	63	65	76		\$251,194
Total Primary Election Initial Distributions					\$423,418
General Election Initial Distributions					
House - Contested - Democrats	127	136	142	\$4,362	\$619,404
House - Contested - Republicans	103	101	111	\$4,362	\$484,182
House - Contested - Greens	15	5	10	\$4,362	\$43,620
House - Contested - Unenrolleds	5	3	7	\$4,362	\$30,534
House - Uncontested	0	3	0		0
Total	250	248	270		\$1,177,740
Senate - Contested - Democrats	28	32	34	\$20,082	\$682,788
Senate - Contested - Republicans	26	31	34	\$20,082	\$682,788
Senate - Contested - Greens	1	2	4	\$20,082	\$80,328
Senate - Contested - Unenrolleds	2	2	4	\$20,082	\$80,328
Senate - Uncontested	1	0	0		0
Total	58	67	76		\$1,526,232
Total General Election Initial Distributions					\$2,703,972

Table D
Actual Matching Funds Paid in the 2006 General Election

	# of Candidates Receiving Matching Funds	Amount of Matching Funds Paid Each Candidate	Total Paid	Total Authorized	Total Unauthorized	Percentage Authorized	Average Amount Authorized
House Democrats	77	\$8,724	\$671,748	\$260,683	\$411,065	38.81%	\$3,385.50
House Republicans	46	\$8,724	\$401,304	\$100,282	\$301,022	24.99%	\$2,180.04
House Greens	4	\$8,724	\$34,896	\$16,255	\$18,641	46.58%	\$4,063.68
House Unenrolled	1	\$8,724	\$8,724	\$4,697	\$4,027	53.84%	\$4,696.68
Total for House	128		\$1,116,672	\$381,917	\$734,755	34.20%	\$2,983.72
Senate Democrats	11	\$40,164	\$441,804	\$123,735	\$318,069	28.01%	\$11,248.66
Senate Republicans	9	\$40,164	\$361,476	\$90,999	\$270,477	25.17%	\$10,110.98
Senate Greens	1	\$40,164	\$40,164	\$20,209	\$19,955	50.32%	\$20,208.69
Senate Unenrolled	1	\$40,164	\$40,164	\$2,045	\$38,119	5.09%	\$2,045.02
Total for Senate	22		\$883,608	\$236,988	\$646,620	26.82%	\$10,772.17
Legislative Total	150		\$2,000,280	\$618,904	\$1,381,376	0.31	

Table E
Projected Matching Funds for 2008 Legislative Candidates
(8/13/06)

	Projected # of Candidates Receiving Matching Funds	Amount of Matching Funds Paid Each Candidate	Total Projected Payments	Projected Amount Authorized to Spend	Projected Unauthorized Funds to be Returned
House Candidates	150	\$8,724	\$1,308,600	\$523,440	\$785,160
Senate Candidates	35	\$40,164	\$1,405,740	\$562,296	\$843,444
Legislative Total	185		\$2,714,340	\$1,085,736	\$1,628,604

**Maine Clean Election Fund
Preliminary Projected Revenues and Expenditures for FY 10, 11
(8/13/07)**

Revenue for Fiscal Year 2010

Cash Balance from FY 2009	\$2,644,712
Annual Transfer from General Fund (1/1/10)	\$2,000,000
Qualifying Contributions in 2010 (4/15/10)	\$225,500
Additional Transfer Requested (by 6/1/10)	\$2,800,000
Taxpayer Check-Off (6/30/10)	\$199,812
Interest	\$209,392
Penalties	\$4,000
Other Income	\$0
Total	\$8,083,416

Expenditures for Fiscal Year 2010

Personnel	\$355,307
Other Administrative Costs	\$156,290
Legislative - Primary Election Initial Distributions	\$486,931
Legislative - Primary Election Matching Funds	\$49,587
Legislative - General Election Initial Distributions	\$3,109,568
Gubernatorial - Primary Election Initial Distributions	\$1,000,000
Gubernatorial - Primary Election Matching Funds	\$0
Gubernatorial - General Election Initial Distributions	\$2,400,000
Total	\$7,557,682

Revenue for Fiscal Year 2011

Cash Balance from FY 2010	\$525,734
Additional Transfer Requested (by 8/1/10)	\$2,400,000
Annual Transfer from General Fund (by 9/1/10)	\$2,000,000
Taxpayer Check-Off (6/30/11)	\$199,812
Interest	\$111,190
Penalties	\$4,000
Other Income	\$0
Total	\$5,240,736

Expenditures for Fiscal Year 2011

Personnel	\$403,861
Other Administrative Costs	\$161,803
Legislative - General Election Matching Funds (NET - see notes)	\$1,248,596
Gubernatorial - General Election Matching Funds	\$2,400,000
Total	\$4,214,260

Projected Balance on 11/2/10 General Election

\$405,753

Projected Balance on 6/30/11

\$1,026,476

Presumed Payments to Gubernatorial Candidates in 2010

Primary Election Initial Distribution	Primary Election Matching Funds	General Election Initial Distribution	General Election Matching Funds	Total for Candidate
--	--	--	--	------------------------

Scenario 1 - presumed for 8/13/07 proposal

Democrat 1 (nominee)	\$200,000	\$0	\$600,000	\$600,000	\$1,400,000
Democrat 2	\$200,000	\$0	\$0	\$0	\$200,000
Republican 1 (nominee)	\$200,000	\$0	\$600,000	\$600,000	\$1,400,000
Republican 2	\$200,000	\$0	\$0	\$0	\$200,000
Green-Independent	\$200,000	\$0	\$600,000	\$600,000	\$1,400,000
Independent	\$0	\$0	\$600,000	\$600,000	\$1,200,000
Total	\$1,000,000	\$0	\$2,400,000	\$2,400,000	\$5,800,000

Scenario 2 - additional costs are shaded

Democrat 1 (nominee)	\$200,000	\$400,000	\$600,000	\$600,000	\$1,800,000
Democrat 2	\$200,000	\$400,000	\$0	\$0	\$600,000
Republican 1 (nominee)	\$200,000	\$400,000	\$600,000	\$600,000	\$1,800,000
Republican 2	\$200,000	\$400,000	\$0	\$0	\$600,000
Green-Independent	\$200,000	\$0	\$600,000	\$600,000	\$1,400,000
Independent	\$200,000	\$0	\$600,000	\$600,000	\$1,400,000
Total	\$1,200,000	\$1,600,000	\$2,400,000	\$2,400,000	\$7,600,000

NOTES

For the 8/13/07 proposal, the staff presumes that the total cost of the 2010 legislative payments will be 15% greater than in 2008 to account for increases in candidate participation, initial payment amounts, and matching funds triggered.

April 2008 MCEA Payments	Leg - Primary Initial Distributions	\$486,931			
	Leg - Primary Matching Funds	\$49,587			
	Gov - Primary Initial Distributions	\$1,000,000			
	Total for April	\$1,536,518			
June 2008 MCEA Payments	Leg - General Initial Distributions	\$3,109,568			
	Gov - General Initial Distributions	\$2,400,000			
	Total for June	\$5,509,568			
Oct 2008 MCEA Payments	Leg - General Matching Funds	\$1,248,596	(NET - see below)		
	Gov - General Matching Funds	\$2,400,000			
	Total for Oct	\$3,648,596			
Leg Matching Funds (increased from 2008 by 15%)					
	Total Projected Payments		Projected Amount Authorized to Spend	Projected Unauthorized Funds to be Returned	
2008	\$2,714,340		\$1,085,736	\$1,628,604	
2010	\$2,000,000		\$1,248,596	\$751,404	

Staff proposes to advance 50% of the maximum matching funds in 2010 to legislative candidates except those in the most competitive districts.

Agenda

Item #10



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: August 6, 2007

Subject: August, 2007 Candidate Audit Report Submittals

Materials submitted with the August, 2007 Commission packet include the five candidate audit reports listed below.

Candidate Name	District	Disposition
Sen. Chandler Woodcock	2006 Gubernatorial Candidate	See Agenda
Rep. Glenn Cummings	HD 115	See Agenda
David C. Feeney	HD 124	See Agenda
Rep. Richard Woodbury	HD 107	No Exceptions
Beth P. Turner	HD 11	No Exceptions

Audit Findings of "No Exceptions" are submitted for information and file, and no additional action is required by the Commission.



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

July 31, 2007

Audit Report No. 2006-HR040

**Candidate: Representative Richard Woodbury
House District 107**

Background

Representative Richard Woodbury was re-elected to the Maine House of Representatives, District 107, in the 2006 general election. Rep. Woodbury was certified by the Commission as A Maine Clean Election Act (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:

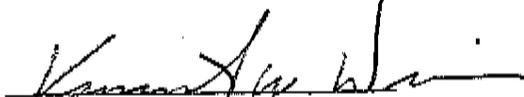
- Seed Money
- Six Day Pre-Primary
- 42 Day Post-Primary
- Six Day Pre-General
- 42 Day Post-General

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.

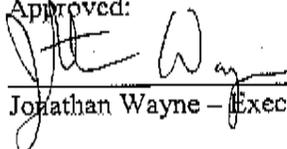
Audit Findings and Recommendations

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



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

July 25, 2007

Audit Report No. 2006-HR042

**Candidate: Beth P. Turner
House District 11**

Background

Beth P. Turner was a candidate for the Maine House of Representatives, District 11, in the 2006 general election. Ms. Turner was certified by the Commission as a Maine Clean Election Act (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 contribution and expenditure transactions occurring during the following campaign reporting periods:

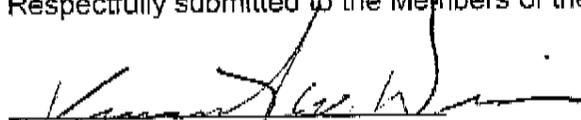
- Seed Money
- Six Day Pre-Primary
- 42 Day Post-Primary
- Six Day Pre-General
- 42 Day Post-General

Transactions subject to review were those recorded in the candidate's accounting records and reported to the Commission. The audit's purpose was to determine if the identified receipts and payments (1) were properly approved by the candidate or her authorized representative; (2) were adequately documented as evidenced by original vendor invoices and cancelled checks or other acceptable disbursement documentation; and (3) complied in all material respects with the requirements of the Maine Clean Election Act and the Commission's rules.

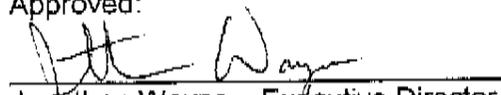
Audit Findings and Recommendations

No exceptions were noted.

Respectfully submitted to the Members of the Commission for information and file.


Vincent W. Dinan - Staff Auditor

Approved:


Jonathan Wayne - Executive Director

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