

Agenda

Item #4B

RECEIVED

OCT 21 2008

MAINE ETHICS COMMISSION

October 20th, 2008

Maine Ethics Commission
Attn: Gavin O'Brien
242 State St
Augusta, ME 04333

Dear Mr. O'Brien:

I am writing to lodge an ethics complaint regarding my Independent opponent, Mr. Thomas Mooney. I would like to report the following issues:

1. Mr. Mooney has been using old campaign signs and possibly new signs (has not been reported), that do not provide the required campaign disclosure information. They simply read "Paid for and authorized by Mooney for Maine". They do not contain any address or treasurer information. There are two different versions of lawn signs being used. The older signs from a campaign several years ago simply have the previous campaign disclosure information blacked out. (I have attached photographs of both versions of the signs for your review)
2. Mr. Mooney has been distributing hundreds of palm cards at people's doors that:
 - a. Do not contain the required campaign disclosure information (see attached PDF image of the palm card).
 - b. List organization endorsements he has not received during this campaign.
3. On his 42 day post-primary campaign finance report, he lists several expenses which do not seem to be at all related to his campaign:
 - a. Unicel Phone Service (6/7/08)
 - b. Bangor Daily News (BDN - 6/10/08) - but I could not locate any advertisement.
 - c. Travel Mileage Reimbursement to areas of the state clearly not in House District 18, including Plantation 21.

I am sure that using previous endorsements does not come under the scope of the ethics commission. However, I know several organizations have complained to Mr. Mooney that he must remove their names from his campaign materials and to date, he has refused to do so.

I believe these violations are very serious and demonstrate a complete disregard for the ethical rules that candidates agree to when they decide to run for public office. Since Mr. Mooney has run for public office as a clean elections candidate twice before, he is fully aware of the rules and I can only assume he is deliberately skirting the law.

Further, considering the late date of these violations, the inability to provide corrective action before election day and the fact that he has knowingly distributed a significant amount of literature and more than 200 lawn signs in the district, I would hope the Maine Ethics Commission would issue the strongest penalties available.

I am willing to make myself available for any questions you may have regarding this complaint.

Respectfully,

Jim Martin
Democratic Candidate for Maine House District 18
557 Forest Ave.
Orono, Maine 04473
Home: 207-942-7681
Email: martinHD18@jimmartin.com

AND THE

'Leadership that cares'

State Representative

www.thomasmooney.net

PHOTO BY GREGG HENRI FOR THE NEWS

ity Views Pro

See Disfranch

with Thomas Mooney.

PAID FOR AND AUTHORIZED BY MOONEY FOR MAINE



MOONIE

Integrity Yields Progress

HOUSE DISTRICT 18

www.thomasmooney.net

PAID FOR AND AUTHORIZED BY MOONEY FOR RAIN

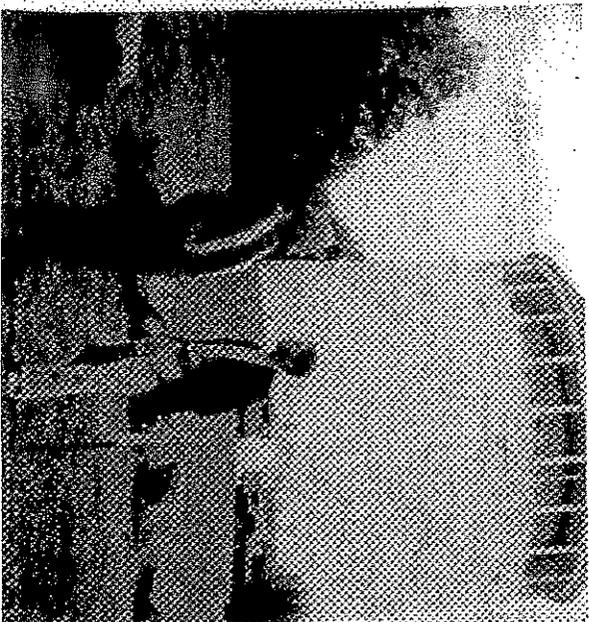


homerasmor

up for us up

CIVIC LEADERSHIP

- ▶ Working to improve climate for healthy business development
- ▶ Meeting with citizens to support fair educational funding standards
- ▶ Leading the call for government quality control and accountability measures
- ▶ Spearheaded the effort to install pet management stations, to promote public safety and responsibility in our neighborhoods and parks
- ▶ Developed statewide emergency foster care network helping rehabilitate at-risk youth while reducing cost to taxpayers
- ▶ Leading the fight against city indifference to keep dangerous elements out of our neighborhoods
- ▶ Led privately-funded, business-landowner alliance conserving 4,000 undeveloped acres near Craig Brook National Fish Hatchery



Tom with son, Dominic

PAST ENDORSEMENTS

- ▶ Maine Council of Senior Citizens
- ▶ Maine Credit Union League
- ▶ Maine League of Conservation Voters
- ▶ National Small Business Alliance
- ▶ Maine People's Alliance
- ▶ Maine Alliance for the Mentally Ill
- ▶ and 8,000 AREA CITIZENS who have supported Tom over two elections since 2002, including seniors, families and groups from across the social and political spectrum of our community. They appreciate an independent candidate of courage and commitment, who will make a difference for their community.

See us on the web at www.thomasmooney.net
or phone 745-5000 3313



thomasmoney

THOMAS MOONEY

State Representative
For Bangor

LEADERSHIP THAT CARES

Sarah I. Missedupin
-Tom

THOMAS MOONEY

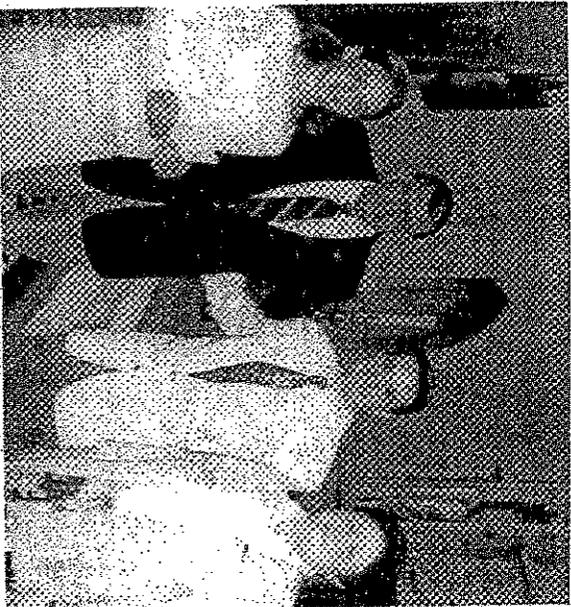
LIFE EXPERIENCE

- ▶ Business graduate of Husson College
- ▶ Realtor
- ▶ Social Services Coordinator
- ▶ Automotive Service Advisor & Manager
- ▶ Conservation Educator
- ▶ Naval Reservist
- ▶ Guardian Ad Litem
- ▶ Mental Health Advocate

LEADERSHIP THAT CARES



COURAGE
INDEPENDENCE
COMMITMENT



State Youth Essay contest organizer, Tom Mooney, presents top award to All Saints School pupil in Bangor

COMMITTED TO BANGOR

- ▶ Eighth child of Bangor judge, James Mooney and nurse, Paula Plaisted Mooney
- ▶ Thirty-year Bangor Eastside resident; family in bangor since 1850s
- ▶ Graduated with honors from Bangor public, parochial and post-secondary schools
- ▶ Put self through college while working four years with Sears Roebuck, Bangor
- ▶ Worked for Bangor family-run company
- ▶ Patron of and participant in local sports and performing arts
- ▶ Have received most votes, over past four years, of any candidate living in District 18

COMMUNITY INVOLVEMENT

- ▶ Kiwanian
- ▶ Cub Scout Volunteer
- ▶ Veteran's Home Entertainer & Minister
- ▶ Elementary School Volunteer
- ▶ Troop Greeter
- ▶ Susan B. Komen Fundraiser
- ▶ Oratorio Society Member
- ▶ EMAN Supporter
- ▶ Right to Life Advocate
- ▶ Cole Museum Chaperone
- ▶ Heart Walk Fundraiser
- ▶ K of C Officer
- ▶ Bog Walk Tour Volunteer
- ▶ Project Graduation Fundraiser
- ▶ Church Lay Minister/Soloist
- ▶ Community Theater Lead Actor
- ▶ 4th of July Parade Co-Grand Marshall
- ▶ Teen Mentor
- ▶ Food AND Medicine Steering Committee Member



Emceeding local charity event

21-A MRSA §1014. Publication or distribution of political communications

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

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

2-A. **Other communications.** Whenever a person makes an expenditure to finance a communication that names or depicts a clearly identified candidate and that is disseminated during the 21 days before a primary election or 35 days before a general election through the media described in subsection 1, the communication must state the name and address of the person who made or financed the communication and a statement that the communication was or was not authorized by the candidate. The disclosure is not required if the communication was not made for the purpose of influencing the candidate's nomination for election or election.

3. **Broadcasting prohibited without disclosure.** No person operating a broadcasting station within this State may broadcast any communication, as described in subsections 1 to 2-A, without an oral or written visual announcement of the disclosure required by this section.

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

The use or distribution of in-kind printed materials contributed to a candidate, political committee or political action committee must be reported as an expenditure on the campaign finance report of that candidate, political committee or political action committee.

3-B. Newspapers. A newspaper may not publish a communication described in subsections 1 to 2-A without including the disclosure required by this section. For purposes of this subsection, "newspaper" includes any printed material intended for general circulation or to be read by the general public, including a version of the newspaper displayed on a website owned or operated by the newspaper. When necessary, a newspaper may seek the advice of the commission regarding whether or not the communication requires the disclosure.

4. Enforcement. An expenditure, communication or broadcast made within 20 days before the election to which it relates that results in a violation of this section may result in a civil fine of no more than \$200. The person who financed the communication or who committed the violation shall correct the violation within 10 days after receiving notification of the violation from the commission. An expenditure, communication or broadcast made more than 20 days before the election that results in a violation of this section may result in a civil fine of no more than \$100 if the violation is not corrected within 10 days after the person who financed the communication or other person who committed the violation receives notification of the violation from the commission. If the commission determines that a person violated this section with the intent to misrepresent the name or address of the person who made or financed the communication or whether the communication was or was not authorized by the candidate, the commission may impose a fine of no more than \$5,000 against the person responsible for the communication. Enforcement and collection procedures must be in accordance with section 1020-A.

5. Telephone calls. Prerecorded automated telephone calls and scripted live telephone communications that name a clearly identified candidate during the 21 days before a primary election or the 35 days before a general election must clearly state the name of the person who made or financed the expenditure for the communication, except for prerecorded automated telephone calls paid for by the candidate that use the candidate's voice in the telephone call and that are made in support of that candidate. Telephone calls made for the purposes of researching the views of voters

Wayne, Jonathan

From: Thomas Mooney [iamtommooney@yahoo.com]
Sent: Tuesday, October 21, 2008 2:39 PM
To: Wayne, Jonathan
Subject: Re: Complaint from James Martin

Dear Mr. Wayne,

Thank you again for your feedback, via phone, regarding this issue.

Upon further consideration of the matter, I have decided that I would like to respond to the complaint in writing herewith.

It strikes me that the complaintant would probably like nothing better than to have me take time away from campaigning to travel to Augusta in order to address his complaints.

Unless required to do so by the commission, I would prefer not to have to do so.

For among other reasons, I have at home a very sick child, recently hospitalized, who is in need of my care at this time.

Regarding the specific complaints, about which I promptly responded verbally, to you within the past hour --

As you stated Mr. Wayne, regarding the sign issue, it is abundantly clear that the signs belong to my campaign. One reason there is no address listed is because I try to be frugal with the public financing and re-use the campaign signs. I knew, during the last campaign, that my family would be moving soon to a new address. I am not new to the district in which I have run. My family has lived in this district for over one-hundred years. I believe I have been compliant with the spirit of the rules in identifying the campaign advertising as authorized by my campaigns.

Regarding the complaint about endorsements -- The endorsements are clearly and obviously noted on my campaign literature as *past endorsements*. We believe it to be completely legitimate to list past endorsements as a means of highlighting my background and experience as a candidate. I believe the commission is aware of the fact that candidates are not given opportunity to earn endorsement *in every election cycle*.

Most organizations offer limited opportunities for endorsement. For instance, House candidates do not always get the consideration that Senate candidates get. Six years ago, I was a Senate candidate. In 2008, I am a House candidate.

Does this mean that

my hard-earned 2002 endorsements should be considered irrelevant to my current campaign? We don't think so. We view my listing of past endorsements as an exercise of free speech, which in no way viloates good campaign ethics. Regarding mileage listed for travel outside the district, and expenditures made to the BDN and Unicel -- Here again, it is clearly stated in the rules that campaign-related travel, and expenses incurred for campiagn communications are allowable expenditures.

As explained to you during our phone conversation earlier today, the travel-related expense involved a legitimate meeting/retreat for the purposes of campaign planning and strategy. No lodging expenditures were made. No frivolous expenditures of any kind were incurred for this or any other activity related to my campaign.

We hope this clarifies for you our position on these matters.

Should either you or anyone else at the commission have any further questions for me, please feel free to contact me.

In closing, we would like to formally issue a complaint to the commission regarding Mr. Martin's unauthorized placement of campaign signs onto the lawns of people who are in fact supporters of my campaign.

It has been brought to our attention by said people that Mr. Martin had not contacted them prior to the placement of his signs; and that they were in fact distressed by this activity. There have been perhaps ten such complaints in which permission was not granted Mr. Martin, including the following: The Baber, King, and Cosman families, Veazie; and the Hopkins, Connor, McKinnon, and Vardamis families in Bangor. We suspect other unauthorized placements have also been made.

We previously had chosen to ignore these viloations, but given Mr. Martin's recent accusations, we feel it only appropriate to proceed with a formal complaint.

We also wish to pre-empt other attempts of similar baseless charges involving signs.

It seems Mr. Martin's campaign views the disappearance of his lawn signs (at the hands of appropriately disgruntled property owners) as an excuse to make accusations against my campaign.

As a means of providing some relevant background info. regarding Mr. Martin's campaign committee, we wish to point out that his two primary campaign supporters, Mr. Dunn (his treasurer) and Mr. Robinson, have a history of

10/23/2008

attempting to stir up trouble with me and my family. Mr. Dunn, a former legislator, has an axe to grind with me over our criticism of his failure to provide adequate advocacy and representation regarding matters important to my family. He even made a false report of harassment (to law enforcement) against my developmentally disabled younger sibling. It was subsequently proven that my brother had nothing to do with the incident. Mr. Dunn's judgement and credibility on this and many other such issues, such as those presented in Mr. Martin's complaint, should not be trusted. The other person behind these complaints, Mr. Robinson, is just a disgruntled, failed local politician, who evidently can't stand to see an adversary and non-Democrat being in a position to possibly win in this district. In fact, Mr. Robinson and his former tenant were involved in nefarious activities which caused my family to have to take them to court for harrasment. In fact, Mr. Robinson's family had once mailed a complaint regarding my removal of one of Mr. Dunn's campaign signs (Robinson was Dunn's campaign treasurer). The fact is, Mr. Dunn's sign had been sitting on the ground, *in the gutter* in front of our home, for a month. We finally picked it up, and placed it against a tree in front of our home. When, after days, it wasn't recovered (we lived right next door to Mr. Robinson), it was disposed of. This was deemed as tampering with a campaign sign?

I think the commission should take a hard look at the motives of these individuals.

We can assure you that no "skirting of law," as characterized by Mr. Martin, has occurred. And we view this attempt at discrediting my campaign as nothing more than sour grapes on the part of Mr. Martin and his committee.

It would behoove the committee to not allow these individuals to waste any more of its or my campaign's time. For Mr. Martin's intent seems to be one of malice.

If this activity continues, my campaign will be forced to pursue action against Mr. Martin for his obvious attempt to sabotage the success of my campaign.

--- On Tue, 10/21/08, Wayne, Jonathan <Jonathan.Wayne@maine.gov> wrote:

From: Wayne, Jonathan <Jonathan.Wayne@maine.gov>
 Subject: Complaint from James Martin
 To: IAmTomMooney@yahoo.com
 Date: Tuesday, October 21, 2008, 10:44 AM

Please call me at 287-4179 when you have read the attached.

Jonathan Wayne
 Executive Director
 Maine Ethics Commission
 135 SHS
 Augusta, ME 04333
 287-4179
 <<Ethics - Request for Response to Complaint.pdf>>

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

Wayne, Jonathan

From: Thomas Mooney [iamtommooney@yahoo.com]
Sent: Tuesday, October 21, 2008 4:25 PM
To: Wayne, Jonathan
Subject: Follow-up to previous correspondence

Dear Mr. Wayne,

I just spoke to you once again, over the phone, in terms of follow-up information regarding Mr. Martin's complaint. I have decided it best to put this information in writing to you.

In my haste to respond to your initial correspondence, I did not address one of Mr. Martin's complaints -- that I had "refused" to make changes to my campaign advertising, after having received complaints from organizations.

This statement is patently false.

My campaign was contacted three times. The first incident involved a direct conversation over the phone, with an individual who requested that I change an item on my web site; specifically one word -- from *member* to *supporter*. I disagreed with him regarding my status (as I had in fact been included/invited as a committee member), but nonetheless *did not hesitate* to make the change, *immediately*. There was *no request* from this individual that I remove this item from my palm card -- none; period. The matter was resolved. And I challenge Mr. Martin to produce evidence to the contrary.

The second communication involved an e-mail communication, which I again responded to *immediately* upon having received it. In this instance, I had not listed the organization as one of my endorsements, period. This instance involved a Maine Veterans' Home, at which I had, over many years, volunteered as a lay minister, for church services and one-on-one ministry, as an entertainer, and as a regular visitor of family members and acquaintances living there. This involvement was clearly and obviously listed on my website under its own distinctive heading of *Other consideration, support, and affiliation*.

This was a completely accurate depiction, and an important and relevant inclusion on my website. There was no attempt, as charged by Mr. Martin, to mislead.

Nonetheless, once again, in order to remain in good standing with the organization, and to cooperate as fully as possible, *I removed the item from my website*.

I did not *refuse* to do so, as charged. And I received no further correspondence from the organization. The matter was resolved. No breach of good ethics had occurred.

And this item *never was listed as an endorsement on my palm card*.

To include this as another example of misleading palm card information is a lie, period.

The third communication to my campaign came via a voice mail. My desire was to speak to the individual directly, concerning the matter, but no contact information was left. I found this to be unprofessional. I attempted to locate contact information from the organization's website; but none was available for this particular person.

Nonetheless, I took *immediate* action to remove the item, as listed, on my site -- even though its listing was completely accurate and legitimate. This was another case of a past endorsement. I simply included a re-submission of the listing, with the date of the endorsement next to it, so that no further confusion could be claimed in relation to it.

I heard nothing further from the organization. The matter was resolved.

This item was *never included anywhere on my palm card, or any other piece of campaign literature, period*.

Mr. Martin, in his accusations, has been at best, disingenuous. At worst, he has been intentionally misleading, even libelous, as well as no doubt slanderous.

I would like therefore to file a formal complaint against him for such activity.

For he has not produced any evidence to support his charges. He can't. Because there is none.

We ask that the commission move to reprimand Mr. Martin's campaign for activity that can only be seen as vindictive (based upon background information we provided in our last correspondence), petty, and unwarranted.

We also believe that his campaign was probably behind the so-called complaints,

10/22/2008

to begin with.

This represents to us everything that's wrong with politics; and a total waste of the commission's precious resources.

We thank you for your time, and hope that this matter might be resolved in a fair and timely manner.

We pledge our complete cooperation.

--- On Tue, 10/21/08, Wayne, Jonathan <Jonathan.Wayne@maine.gov> wrote:

From: Wayne, Jonathan <Jonathan.Wayne@maine.gov>

Subject: Complaint from James Martin

To: IAmTomMooney@yahoo.com

Date: Tuesday, October 21, 2008, 10:44 AM

Please call me at 287-4179 when you have read the attached.

Jonathan Wayne

Executive Director

Maine Ethics Commission

135 SHS

Augusta, ME 04333

287-4179

<<Ethics - Request for Response to Complaint.pdf>>

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<http://mail.yahoo.com>

21-A §1014. Publication or distribution of political communications

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21-A §1014. Publication or distribution of political communications

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[2007, c. 443, Pt. A, §9 (AMD) .]

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

[2003, c. 510, Pt. F, §1 (AMD); 2003, c. 599, §15 (AFF) .]

2-A. Other communications. Whenever a person makes an expenditure to finance a communication that names or depicts a clearly identified candidate and that is disseminated during the 21 days before a primary election or 35 days before a general election through the media described in subsection 1, the communication must state the name and address of the person who made or financed the communication and a statement that the communication was or was not authorized by the candidate. The disclosure is not required if the communication was not made for the purpose of influencing the candidate's nomination for election or election.

[2007, c. 443, Pt. A, §9 (AMD) .]

3. Broadcasting prohibited without disclosure. No person operating a broadcasting station within this State may broadcast any communication, as described in subsections 1 to 2-A, without an oral or written visual announcement of the disclosure required by this section.

[2007, c. 443, Pt. A, §9 (AMD) .]

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

The use or distribution of in-kind printed materials contributed to a candidate, political committee or political action committee must be reported as an expenditure on the campaign finance report of that candidate, political committee or political action committee.

[1991, c. 839, §9 (NEW) .]

3-B. Newspapers. A newspaper may not publish a communication described in subsections 1 to 2-A without including the disclosure required by this section. For purposes of this subsection, "newspaper" includes any printed material intended for general circulation or to be read by the general public, including a version of the newspaper displayed on a website owned or operated by the newspaper. When necessary, a newspaper may seek the advice of the commission regarding whether or not the communication requires the disclosure.

[2007, c. 443, Pt. A, §9 (AMD) .]

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[2007, c. 443, Pt. A, §9 (AMD) .]

5. Telephone calls. Prerecorded automated telephone calls and scripted live telephone communications that name a clearly identified candidate during the 21 days before a primary election or the 35 days before a general election must clearly state the name of the person who made or financed the expenditure for the communication, except for prerecorded automated telephone calls paid for by the candidate that use the candidate's voice in the telephone call and that are made in support of that candidate. Telephone calls made for the purposes of researching the views of voters are not required to include the disclosure.

[2007, c. 443, Pt. A, §9 (AMD) .]

SECTION HISTORY

1985, c. 161, §6 (NEW). 1987, c. 188, §17 (AMD). 1989, c. 504, §§5,6,31

(AMD). 1991, c. 466, §37 (AMD). 1991, c. 839, §§8-10 (AMD). 1995, c. 483, §6 (AMD). 2003, c. 302, §1 (AMD). 2003, c. 510, §F1 (AMD). 2003, c. 510, §F2 (AFF). 2003, c. 599, §15 (AFF). 2005, c. 301, §§10-12 (AMD). 2005, c. 308, §1 (AMD). 2005, c. 542, §1 (AMD). 2007, c. 443, Pt. A, §9 (AMD).