

Agenda

Item #6



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

To: Commission Members
From: Jonathan Wayne, Executive Director
Date: November 17, 2008
Re: Complaint Regarding Thomas Mooney

History of this Matter

House candidate James Martin filed a complaint against his general election opponent, Thomas Mooney, dated October 20, 2008. The complaint raised three issues:

1. the "paid for" disclosure statement on Mr. Mooney's campaign signs and palm card did not contain the required address of the person who made or financed the expenditures for the communications;
2. Mr. Mooney's palm card contained misleading information regarding endorsements that Mr. Mooney had claimed to receive; and
3. some of Mr. Mooney's expenditures of Maine Clean Election Act (MCEA) funds may not be campaign-related (\$102.56 and \$212.24 for cell phone service; \$65.78 for a 22-week Bangor Daily News subscription; and a \$80.22 reimbursement for a June 11 trip to Plantation 21).

Mr. Mooney initially replied to the complaint with two e-mails on October 21, 2008.

The staff originally scheduled the complaint for the Commission's meeting on Monday, October 27. Mr. Mooney requested that the matter be postponed because of a death of a family friend, and the complainant consented to the postponement.

On November 4, I requested that Mr. Mooney provide detailed information regarding the expenditures for cell phone service, the newspaper subscription, and the trip to Plantation 21. On November 13, Mr. Mooney replied with faxed documents and an e-mail. After discussing the candidate's response with the Commission's auditor, we felt that it did not supply sufficient explanation to verify that the MCEA expenditures were campaign-related. So, on November 14, I e-mailed and mailed a letter to Mr. Mooney requesting further information, which he acknowledged receiving. We hope to receive and analyze the information prior to your November 24 meeting in order to make a recommendation to use on the allegations of misuse of Maine Clean Election Act funds.

In the general election, Mr. Martin, a Democrat, was elected. Mr. Mooney ran as an independent. Mr. Mooney has previously run for the Legislature twice as a MCEA candidate.

Complaints by Mr. Mooney against Members of James Martin's Committee

Mr. Mooney has made a number of complaints against James Martin. In his October 21 e-mail responses, he complained "regarding Mr. Martin's unauthorized placement of campaign signs onto the lawns of people who are in fact supporters of my campaign" and misleading statements by Mr. Martin in his complaint. In his November 13 e-mail, Mr. Mooney complains of harassment by members of James Martin's campaign committee. Mr. Mooney is particularly troubled about the alleged activities of Mike Robinson, with whom Mr. Mooney has had prior disputes. The alleged behavior includes damage to Mr. Mooney's campaign property, video surveillance of Mr. Mooney around the time of his June 11 trip to Plantation 21, and Mike Robinson "staking out" Mr. Mooney's home on October 27, the day of the Commission's meeting.

The Commission staff understands that these are seriously felt convictions by Mr. Mooney. Nevertheless, it appears that they are outside the scope of the Commission's jurisdiction.

Staff Recommendation on Issue #1: Missing Address on Disclosure Statement

Attached to Mr. Martin's complaint were three pictures of Tom Mooney's campaign signs and a copy of his palm card. The communications contain the disclosure statement "Paid for and authorized by Mooney for Maine," but do not contain the required address of the person who made or financed the communication. The staff recommends finding the Mooney campaign in violation of 21-A M.R.S.A. § 1014(1) for omitting the address, but no assessment of any monetary penalty.

Staff Recommendation on Issue #2: Endorsements on Palm Card

In light of the recent decision by the Maine Supreme Judicial Court invalidating the state's endorsement statute (21-A M.R.S.A. § 1014-A), the staff recommends taking no action regarding the content of Mr. Mooney's palm card.

Issue #3: Allegation of Use of MCEA Funds for Personal Expenses

On November 14, the staff requested additional information from Mr. Mooney in order to make a recommendation to you on this issue. The candidate states that he did not have a cell phone account prior to his campaign. The staff has inquired whether the phone was used exclusively for campaign purposes. We also seek further information regarding the campaign purpose of the Bangor Daily News subscription and the trip to Plantation 21. Mr. Mooney states that he went to his mother's home town to receive advice, and complains that around this time his home was under video surveillance by Mike Robinson.

Under the Commission's policies, MCEA funds can be used to reimburse a candidate for travel outside of his or her legislative district, provided that the travel is campaign-related.

Thank you for your consideration of this memorandum.

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 are not required to include the disclosure.

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. Unicef 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

WINDMILL

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State Representative

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PAID FOR AND AUTHORIZED BY MOONEY FOR MAINE

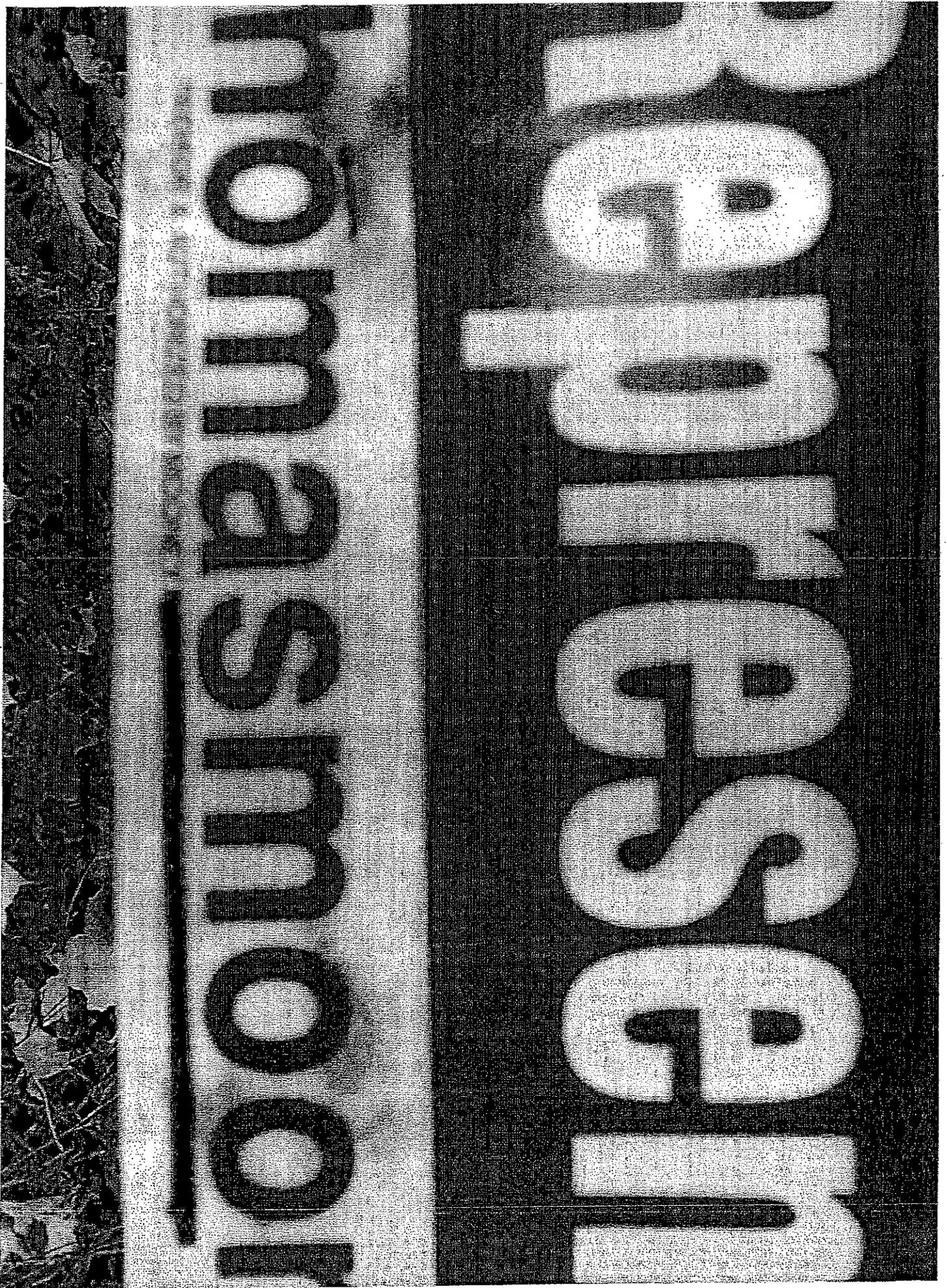


MOONWAVE

Integrity Yields Progress

HOUSE DISTRICT 18

www.thomasmoononey.net



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

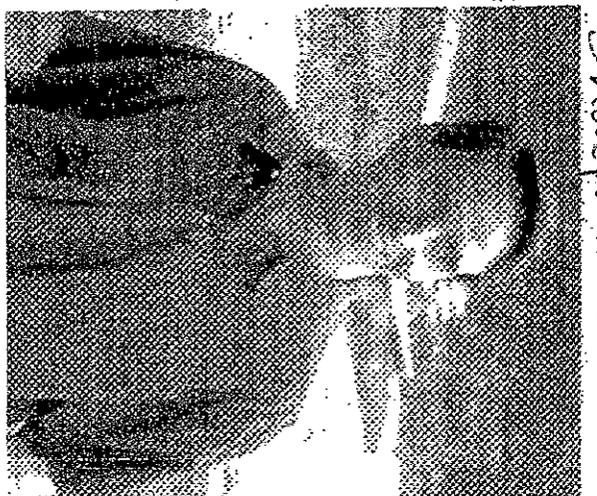


Tom with son, Dominic

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-~~3000~~ 3913



MacPernalemi

THOMAS MOONEY

State Representative
For Bangor

LEADERSHIP THAT CARES

Sam I missed you!

-Don

PAID FOR AND AUTHORIZED BY MOONEY FOR MAINE

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



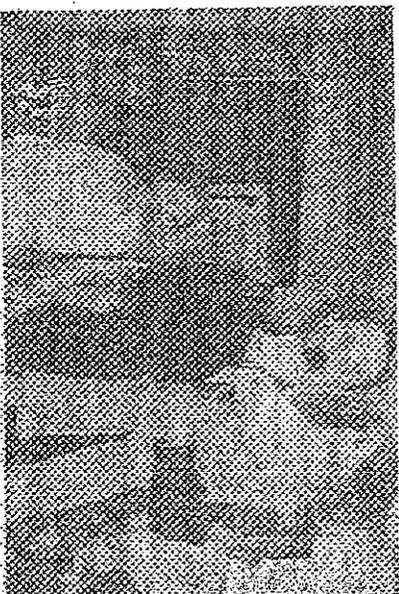
State Youth Essay contest organizer, Tom Mooney, presents top award to All Saints School pupil in Bangor

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



Emceeing 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.

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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.

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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 Unicef -- Here again, it is clearly stated in the rules that campaign-related travel, and expenses incurred for campaiagn 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

11/17/2008

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 harrassment. 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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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,

11/17/2008

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

November 4, 2008

By E-Mail and Regular Mail

James R. Martin
557 Forest Avenue
Orono, ME 04473

Thomas Mooney
217 Elm Street
Bangor, ME 04401

Dear Gentlemen:

This is to notify you that James R. Martin's October 20, 2008 complaint against Thomas Mooney will be considered by the members of the Maine Commission on Governmental Ethics and Election Practices at its meeting on Monday, November 24, 2008, at 9:00 a.m. in Room 208 of the Cross Office Building, 111 Sewall Street, in Augusta. For the benefit of Mr. Martin, I have attached Mr. Mooney's two e-mail responses to the complaint dated October 21, 2008.

To assist the Commission in considering the complaint, the Commission staff requests that Mr. Mooney provide the following information and documents regarding his expenditures to me no later than Friday, November 14:

- (1A) an explanation of the campaign purpose for the travel to Plantation 21 for which the campaign reimbursed the candidate on June 11, 2008 (including a statement whether the travel was made entirely for campaign purposes);
- (1B) a mileage log supporting the reimbursement, if one was prepared by Mr. Mooney at the time of travel;
- (2A) an explanation for the campaign purpose of the payments of \$102.56 and \$212.24 to Unicel for phone service (including a statement whether any portion of those payments was for Mr. Mooney's personal telephone use);
- (2B) bills from Unicel supporting the two expenditures;
- (3A) an explanation of the \$65.78 payment to the Bangor Daily News; and
- (3B) an invoice or receipt from the Bangor Daily News for the expenditure.

James R. Martin, Thomas Mooney

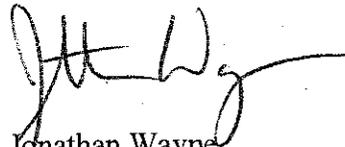
Page 2

November 4, 2008

In addition, in Mr. Mooney's e-mail responses on October 21, 2008, he formally complained "regarding Mr. Martin's unauthorized placement of campaign signs onto the lawns of people who are in fact supporters of my campaign" and misleading statements by Mr. Martin in his complaint. In the view of the Commission staff, because of the scope of the Commission's statutory jurisdiction it is unlikely that the Commission is authorized to take action on these issues. Nevertheless, in the discretion of the Commission members, Mr. Mooney may be able to discuss these issues with the Commission at the November 24th meeting if he would like.

If either party wishes to supplement their previous correspondence to the Commission with additional written comments, please provide them no later than Friday, November 14 so that they can be included in written materials provided to the Commission members in advance of their meeting. Please telephone me at 287-4179 if you have any questions. Thank you.

Sincerely,

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

Jonathan Wayne
Executive Director

cp

RECEIVED

NOV 12 2008

MAINE ETHICS COMMISSION

From: THOMAS MOONEY
District 18 House

ATTN: Gavin

5 pages, including cover sheet

UNICEL

Page 1 of 5

THOMAS C MOONEY
39 PARKVIEW AVE
BANGOR ME 04401-5420

Account Number [REDACTED]
Invoice Number [REDACTED]
Bill Date 05/27/08

Account Summary

Previous Balance	\$.00
Payments	.00
Adjustments	.00
Balance Forward - Due Immediately	.00
Late Payment Charges	.00
Current Monthly Charges	102.56
Total Amount Due on 06/22/2008	\$102.56

Customer Service

Dial toll free
1-800-215-7004

Dial 611 from your
wireless phone

Visit us online at
www.unicel.com

UNICEL BANGOR RETAIL
990 STILLWATER AVE
UNIT B
BANGOR, ME 4401
(800)462-3558

Payment on Account

Acct# [REDACTED]
THOMAS C MOONEY
39 PARKVIEW AVE
BANGOR, ME 04401

Amount Due \$102.56
Credit Card \$102.56

[REDACTED]
Authorization # 101795

Total Received \$102.56

UNICEL

Page 1 of 5

THOMAS C MOONEY
717 ELM ST
BANGOR ME 04401 4005

Account Number [REDACTED]
Invoice Number [REDACTED]
Bill Date 10/27/08

Account Summary

Previous Balance	\$212.24
Payments	212.24 CR
Adjustments	.00
Balance Forward - Due Immediately	.00

Customer Service

Dial toll free
1-800-215-7004

Payment made: 11/10/08 **Bangor Daily News**

Acct. # [REDACTED] Telephone: [REDACTED]

Received of Tom Mooney subscription

Street address 217 Elm St

Mailing address _____

City Bangor State ME Zip 04401

Balance on Acct. \$ — **PAID** # 110073

Subscription Amt. \$ 65.78 Weeks 22

Tip \$ —

NIE \$ — Bangor Publishing Company

Total \$ 65.78 Per KD

Wayne, Jonathan

From: Lavin, Paul
Sent: Thursday, November 13, 2008 9:11 AM
To: Wayne, Jonathan
Subject: FW: Requested documentation

From: Thomas Mooney [mailto:thomasmooney@thomasmooney.net]
Sent: Wednesday, November 12, 2008 7:21 PM
To: Lavin, Paul
Subject: Requested documentation

Dear Mr. Lavin,

This message is a follow-up to my fax from earlier today.

Included in that fax were the bills/receipts you had requested, regarding Mr. Martin's complaint.

In the case of one of the Unicel bills, proof of payment is listed on the statement as a credit.

Note that payments for this rules-authorized account for campaign business covered more than one month's fees.

No fees were ever incurred for the purchase of a phone, or anything else other than basic phone service.

Prior to the campaign, I did not have a cell phone account, even for personal use.

The account numbers were blacked out on the statements/receipts for confidentiality purposes.

I continue to encounter attempted invasions of privacy at the hands of members of Mr. Martin's campaign committee, who have put me and my home under surveillance; including the staking out of my home on the day that I attended the funeral of a friend, and was unable to meet with the commission.

I believe this goes to the heart of the motivation behind Mr. Martin's complaints.

I continue to be harassed by Mr. Martin's committee members, who have sponsored a smear campaign against my candidacy, and against me personally. Jim Martin's complaints represent an extension of a personal vendetta waged against me and my campaign by Martin, his treasurer, Mike Dunn, and another prominent member of his committee, Mike Robinson. Robinson was the one observed staking out my home on the morning of my friend's funeral.

Clearly, his intent was to gain evidence that I did not in fact, have a funeral to attend.

Mr. Robinson cannot claim that he was merely driving by our home, since he was followed, after leaving our home, directly back to his home. The sole purpose of his visit to our home was to check up on me.

This is the sad extent to which Mr. Martin's committee's vigilante-style tactics have descended.

False accusations have been leveled. Thinly veiled personal attacks have been waged via letters-to-the-editor.

Campaign property has been destroyed. Mr. Martin has issued multiple, unsubstantiated charges; including that I have deliberately attempted to mislead voters.

His committee member, Mike Robinson, who has for years engaged in harassing behaviors toward me and my family -- such that we had to move out of the neighborhood we once shared with him -- continues to issue obscene and insulting attacks at every possible opportunity, including on election morning, as I peaceably attempted to distribute campaign signs.

We've previously had to take Mr. Robinson to court for such activities.

He is a man obsessed with finding a way to discredit me. When we were neighbors, my family sought mediation with him and his abusive tenants, through two separate agencies. He refused to participate.

He has more than once exclaimed that he wants to see me in jail.

This is a sick, unbalanced individual. And I am telling you these things, Mr. Lavin, because he represents the origin of Mr. Martin's unfounded complaints. I had never met Mr. Martin until one week before the general election.

Yet he has been vicious in his attacks against me and my campaign.

There can be only one explanation for this: the influence of Mr. Robinson and Mr. Dunn, and others who may hold a grudge against me personally; against whom, I by the way, harbor no animosity.

Please, Mr. Lavin, for the sake of justice, do not grant these individuals undue credence and/or latitude in their complaints against me.

11/13/2008

There have been others associated with these individuals, who have actually threatened physical violence against me. Police reports had to be filed.

My campaign has been harassed via e-mail, even subsequent to the election, when it appeared that I had won. Damage incurred against my campaign property also continued even after the election.

It is my firm belief that Mr. Martin's committee will not rest until it has exhausted all avenues of intimidation and false charges; in hopes of incurring the maximum harm to me personally.

The Ethics Commission is being used as a vehicle to deliver said harm.

Now, regarding the travel expense complaint, for which I have already provided a written (and multiple verbal) response(s), testifying to the legitimacy of the expenditure... I herewith reiterate that said travel was incurred specifically for purposes involving the advancement of my campaign.

The travel destination was my mother's hometown, a unique place -- not unlike that afforded to party convention attendees -- at which candidates receive benefit of consultation with individuals who assist them in the advancement of their campaigns. Such party conventions and other party-related settings are not questioned, in terms of the legitimacy of their importance to candidate campaigns.

We all know of candidates who have traveled hundreds of miles for such events -- events at which alcohol is served, entertainment is provided, and socializing takes place.

As an Independent candidate, I have no such events. I have no party to which to turn for consultation.

I do not get the access, granted to party-enrolled candidates, to the enormous party-machine support network.

I have to rely upon more non-traditional means of support and consultation.

And I like it this way. Because it keeps me focused on the people who I seek to serve.

Nonetheless, like any candidate, I need sound counsel. I need to avail myself to environments which can edify my campaign. My mother's hometown is such an environment. It -- like the party convention environment -- is one which cannot be brought to the candidate. The candidate must go to *it*.

There is a uniqueness to this rural setting that begets clear thinking. In early June, trust me, it is not a place -- with its mosquitoes, and blackflies, and pollen, and duck mite itch (from swimming) -- conducive to recreation.

No fishing poles were brought. No swimming was had. No overnight stay incurred.

What it did provide was peacefulness. What it did provide were individuals, of maturity and wisdom and sound judgment, who have offered counsel to more than one generation of politicians in my family.

This was my convention; and unlike the party convention attended by Mr. Martin, it included no frills.

The other thing this retreat provided my campaign was relief from harassment.

At the time of this travel, my family was under *video surveillance* by Martin's campaign lieutenant, Mike Robinson, and his cronies. There is no way I could convene meetings at my home without my campaign suffering from an invasion of privacy at the hands of Mr. Robinson.

He would know who visited our home, and how long they stayed.

This is the near unbearable environment in which my family and my campaign had to exist prior to August, before moving to our new home.

Are you beginning to get a feel for what we've had to endure?

And now, through this process, wherein Mr. Martin is demanding the Ethics Commission level the *harshes*t penalty possible, for things *never previously brought before the Commission* (according to Mr. Wayne) on the part of an opposing candidate...

Could it not be more abundantly clear that these complaints have more to do with revenge than they do substance?

Thank you for your attention.

We trust the Commission will exercise prudence in its consideration of these matters.



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

November 14, 2008

By E-Mail and Regular Mail

Thomas Mooney
217 Elm Street
Bangor, ME 04401

Dear Mr. Mooney:

Thank you for your documentation and e-mail, which we received yesterday. **Please e-mail to me at Jonathan.Wayne@maine.gov no later than Thursday, November 20 responses to the requests below.** The Commission's auditor and I will review your response before the Commission's November 24th meeting in order to advise the members of the Commission on the sufficiency of the evidence that your expenditures of Maine Clean Election Act funds were related to your campaign and not for personal purposes.

Cell Phone Use

- (1) With regard to the service paid for with \$102.56 and \$212.24 in Maine Clean Election Act funds, did you use your cell phone to any extent for personal (non-campaign) use? If so, please provide us with the best information you can as to what portion of the service was used for personal purposes.
- (2) Which months of service were covered by the \$102.56 and \$212.24 payments?
- (3) When did you buy the cell phone?
- (4) Please fax to 287-6775 the detailed telephone call information included in the \$102.56 and \$212.24 Unicel account statements for the Commission's auditor to review. Please also fax any receipt or bill in your possession to verify the purchase of the cell phone.

Bangor Daily News

- (5) Please describe how you used the 22-week subscription to the Bangor Daily News for campaign purposes.

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

PHONE: (207) 287-4179

FAX: (207) 287-6775

Thomas Mooney
Page 2
November 14, 2008

Travel to Plantation 21

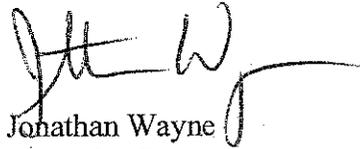
- (6) Please list which campaign volunteers, advisors, or others you met with on June 11, and describe the campaign issues discussed.

I will be including this letter in the written materials the members of the Commission receive before the meeting on November 24. They may wish to ask you about these issues at the meeting.

With regard to the allegations in your November 13 e-mail regarding harassment by James Martin and Mike Robinson, your e-mail will be included in the written materials received by the Commission members, and they can take whatever action they believe is appropriate regarding those allegations.

Thank you for your cooperation with this request.

Sincerely,

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

Jonathan Wayne
Executive Director



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

ADDITIONAL MATERIALS

Agenda Item #6

November 24, 2008

To: Commission Members
From: Jonathan Wayne, Executive Director
Date: November 21, 2008
Re: Update on Complaint against Thomas Mooney

I have informed Mr. Mooney by e-mail that the Chair has declined his request for an adjournment, so the Commission will consider James Martin's complaint against him at the November 24th meeting. I will attempt to telephone him as well.

In response to my letter of November 14, 2008, Mr. Mooney sent me a lengthy e-mail on November 17th. The most relevant portions of the e-mail are copied below. He additionally sent me the attached e-mail today, which he requested that you consider.

Payment of \$65.78 for 22-Week Subscription to Bangor Daily News

With regard to the twenty-two week subscription for the Bangor Daily News, Mr. Mooney stated in his November 17th e-mail:

Regarding the expenditure to the Bangor Daily News, the service period provided by the vendor began in June and ended in October, eleven days prior to election day. The service was engaged for the provision of campaign/political-related information, indispensable to the advancement of my political campaign. As an Independent candidate, there is/was no other source available -- no party-subsidized consultation, polling data, or any other means of raw news -- which could provide my campaign with the information needed, to effectively monitor campaign opportunities, and other political sources and information pertinent to the running of a legislative campaign. On-line sources just do not provide the breadth and depth of information needed.

Mr. Mooney further explained by telephone that the information in the newspaper assisted his campaign in learning about opportunities to meet with voters and about public issues that were important to his campaign. The Commission staff recommends concluding that the purchase of the newspaper subscription be viewed as campaign-related.

Reimbursement of \$80.22 to Mr. Mooney for his June 11, 2008 Trip to Plantation 21

With regard to Mr. Mooney's June 11 trip to Plantation 21, he stated in his November 17th e-mail:

Regarding your request for details of my conversations with campaign volunteers and advisors, I can only assure you that any travel-related expense involving such people, most certainly entailed activities related to the advancement of my campaign. Discussions held involved such topics as the dynamics of a three-way contest; strategies for winning it; the development of message; the targeting of specific constituency groups; and the need for campaign security measures -- this given the environment the candidate personally was exposed to at the time, and that which I remain exposed to now.

The Commission staff recommends concluding that the reimbursement of \$80.22 for the trip to Plantation 21 was campaign-related.

Payments for Unicel Telephone Services of \$102.56 and \$212.24

The Commission staff inquired about the two payments of Maine Clean Election Act funds of \$102.56 and \$212.24 to Unicel for cell phone service in order to verify that the funds were spent only for campaign-related purposes. Based on advice from the Commission's auditor, I requested a written explanation of the use of the phone, and account statements from Unicel relating to the expenditures. MCEA candidates are required to keep vendor invoices or receipts stating the particular goods or services purchased for all expenditures over \$50.

In response, Mr. Mooney provided the attached portions of the account statements from Unicel. He wrote in his e-mail that "*Any expenditure incurred for allowable phone service communications has been solely related to the advancement of my campaign.*" He stated by telephone that he has had a "land line" at his home for personal calls, and that he never used his cell phone for purposes other than his campaign.

Mr. Mooney stated by telephone that he does not wish to provide the detailed information regarding telephone calls his campaign made because he does not want the privacy of his supporters to be violated. I have suggested to him that he attend the Commission's November 24 meeting and provide you with oral testimony regarding the cell phone use, and you may decide whether any additional written documentation is necessary (e.g., affidavit, unredacted cell phone statements, written description).

Concerns about Commission Procedure

Mr. Mooney has concerns regarding the Commission's procedures for considering complaints. He believes that complainants should be required to provide more factual information in support of a complaint before a candidate is required to respond. If you would like, the Commission staff can elaborate on its handling of James Martin's complaint at the November 24 meeting.

UNICEL

Page 1 of 3

THOMAS C MOONEY
39 PARKVIEW AVE
BANGOR ME 04401-5420

Account Number [REDACTED]
Invoice Number [REDACTED]
Bill Date 05/27/08

Account Summary

Previous Balance	\$.00
Payments	.00
Adjustments	.00
Balance Forward - Due Immediately	.00
Late Payment Charges	.00
Current Monthly Charges	102.56
Total Amount Due on 06/22/2008	\$102.56

Customer Service

Dial toll free
1-800-215-7004

Dial 611 from your
wireless phone

Visit us online at
www.unicel.com

UNICEL BANGOR RETAIL
930 STILLWATER AVE
UNIT B
BANGOR, ME 4401
(800)462-3558

Payment on Account

Acct# [REDACTED]
THOMAS C MOONEY
39 PARKVIEW AVE
BANGOR, ME 04401

Amount Due \$102.56
Credit Card \$102.56

[REDACTED]
Authorization # 101795

Total Received \$102.56

UNICEL

Page 1 of 5

THOMAS C MOONEY

717 ELM ST
BANGOR ME 04401 4005

Account Number [REDACTED]

Invoice Number [REDACTED]

Bill Date 10/27/08

Account Summary

Previous Balance	\$212.24
Payments	212.24 CR
Adjustments	.00
Balance Forward - Due Immediately	.00

Customer Service

Dial toll free
1-800-215-7004

Monthly Service Summary

Phone Number	Name	Monthly Access & Features	Total Usage Charges	Miscellaneous Charges & Credits	Taxes & Surcharges	Total Charges
207-145-3313	THOMAS C MOONE	\$61.49	\$0.00	\$30.00	\$11.07	\$102.56
	Total	\$61.49	\$0.00	\$30.00	\$11.07	\$102.56

Total Current Monthly Charges

For June

*Activation
Fee*

\$102.56

DST W25:512:03

Account Number [REDACTED]
Bill Date 10/21/08
Invoice Number [REDACTED]

Customer Service 1-800-211-7004
Dial 611 on your wireless phone
www.umtel.com

General Billing Information

Taxes are calculated in accordance with the appropriate tax laws in your area and may be applied to transactions differently, whether the taxes are federal, state, county, local, recurring, etc.

Universal Service Fund (USF) Fees* The USF supports affordable access to telecommunications services for schools, libraries, low income customers and high cost areas.

Regulatory Program Fees* A monthly, per line fee which helps Umcel recover some of our costs of satisfying certain federal government mandates and programs related to customers.

Fraud Protection Fees* A monthly, per line fee that funds Umcel's efforts to protect our customers from wireless fraud.

*USF, Fraud Protection and Regulatory Program Fees are neither taxes nor government imposed assessments but are charges which we are allowed to assess to cover our costs of compliance with these programs.

E911 Fees Mandatory fees for supporting network upgrades which are required for emergency service providers to determine the location of wireless callers who dial 911. E911 services may not be available or may be of limited availability at this time.

Late Payment Fees of 1.5% may be applied to any past due amount.

Payments Returned for non-sufficient funds or uncollected funds will be resubmitted for electronic payment.

Selection of service plan(s), additional and/or changes to service are the sole responsibility of the customer.

Payments & Adjustments for THOMAS C MOONEY

Payments

Date	Account Number	Description	Amount
10/16/08	[REDACTED]	PAYMENT	\$212.24 CR
		Total Payments	\$212.24 CR

For July thru Oct.

Adjustments & Taxes

Date	Account Number	Description	Amount
		Total Adjustments & Taxes	\$.00

Current Monthly Charges for THOMAS C MOONEY

Monthly Service Summary

Phone Number	Name	Monthly Access & Features	Total Usage Charges	Miscellaneous Charges & Credits	Taxes & Surcharges	Total Charge
207 745-3313	THOMAS C MOONEY	\$50.99	\$.20	\$.00	\$6.62	\$57.81
	Total	\$50.99	\$.20	\$.00	\$6.62	\$57.81

Total Current Monthly Charges

\$57.81

0877254-5 2:18

Wayne, Jonathan

From: Thomas Mooney [iamtommooney@yahoo.com]
Sent: Friday, November 21, 2008 10:19 AM
To: Wayne, Jonathan
Subject: Re: Update Memo

Thank you as well, Mr. Wayne.
Your overall conscientiousness is greatly appreciated.

In your consideration of the matter, I wish to reiterate the fact that there remains a lack of evidence which suggests that funds were *not used* for purposes other than for campaign-related business. A routinely allowable expenditure was incurred, having no apparent excesses attached to it. The vendor bills and receipts provide evidence of this. The monthly service charges are clearly delineated in the bills. There were no overages in charges. The basic service charges were never exceeded. There is nothing about the expenditures that are unique, or provide cause for inquiry; other than those *unspecified* by my political opponent.

We believe that motivation behind complaints, when discernible, is highly relevant to the spirit and purpose of ethics oversight. We believe that it is most certainly within the responsibilities and powers of the Commission staff to exercise discernment in terms of its appropriate use of time and resources; especially when dealing with complaints of this nature -- from people, for instance, who having been in the past directly involved with my previous campaigns, and fully possessive, for instance, of knowledge regarding whether or not I am/was the sponsor of campaign signs. Mr. Martin's campaign treasurer, Mr. Dunn, who was extremely active in Martin's campaign, knew full well, not only that there was no question who had sponsored the advertising, but that he, himself, six years previous, as a member of my state senate campaign committee, *had approved* of the attribution on my signs.

The complaints not only lack ingenuousness, they provide no explanation and/or evidence of cause.

Given the importance of Commission staff's role as gatekeeper in the process of ethics oversight, we feel it bears a proactive responsibility in its recommendations or non-recommendations for action to be taken by Commission members.

We therefore feel that it is appropriate that staff issue a recommendation that no action be taken in this matter.

In the absence of such a recommendation, and in light of staff's stated position that our refusal to disclose personal information (concerning people with whom my campaign has held communications), in and of itself represents possible evidence of inappropriate use of funds, we must request a postponement of consideration of this matter by the Commission until such time that we may have benefit of assistance from a representative or agent of the ACLU, and/or similar body.

We just haven't the time to properly prepare for the Monday meeting, given the weekend and given staff's timing in its provision of its memo to the Commission.

We believe that in the interest of good ethics and the wise use of taxpayer resources it is time for this matter to be resolved; and that Commission staff can facilitate said resolution through an appropriately determined finding that no action should be taken in regard to the appropriateness of use of funding for the cell phone expenditure in my campaign.

We would like it further noted that we resent having to have had spent enormous amounts of time and resources on a
11/21/2008

matter whose genesis is rooted in an attempt at political gain and in an unrelated personal vendetta. And should such maliciousness and waste, in terms of public funds be allowed to continue to drive this process, then my campaign and stakeholders therein, including the media, will be appropriately alerted to the obvious deficiencies and lack of safeguards in place, in terms of abuses of the ethics process in our state.

Thank you.

We feel we have a right that you should read this communication in its entirety, consider it fully, and respond to it by the end of the day, so that we might know where we stand.

Again, if Mr. Martin's complaint had been appropriately screened to begin with -- said screening being a necessary component and function of responsible government oversight -- you and I would not now have to be spending so much time on this matter. And Mr. Martin ought to be held accountable for this. Any annoyance experienced on the part of the Commission by my campaign's responses ought to be directed back toward the source of the unfounded complaints -- Mr. Martin, and his henchmen -- and not taken out on this writer.

Thank you.

--- On **Thu, 11/20/08, Wayne, Jonathan** <Jonathan.Wayne@maine.gov> wrote:

From: Wayne, Jonathan <Jonathan.Wayne@maine.gov>
Subject: Update Memo
To: IAMTomMooney@yahoo.com
Cc: "Field, Sumner" <Sumner.Field@maine.gov>
Date: Thursday, November 20, 2008, 5:24 PM

My meeting at 3:30 ran long, so I was not able to complete the memo for this evening. I will finish it tomorrow and send it to you.

Thank you for the productive telephone conversation today.