



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

COMMISSION ON GOVERNMENTAL ETHICS AND ELECTION PRACTICES

STATE HOUSE STATION 101
OFFICE OF THE SECRETARY OF STATE
AUGUSTA, MAINE 04333

February 23rd, 1990

Minutes of the February 23rd, 1990 meeting of the Commission on Governmental Ethics and Election Practices held in Room BB of the State Office Building, Augusta, Maine

Present: Chairman Arthur L. Lerman; Members Joseph B. Ezhaya, Richard H. Pierce, Paul E. Violette, Henry G. Beyer, Richard L. Trafton; Commission Counsel William R. Stokes

Absent: Member Gregory Cyr

The Chairman called the meeting to order at 1:05 p.m. Following introduction of new members, Ms. Canavan introduced new staff members Annette Jones and Nicole Theriault.

OLD BUSINESS:

First, the Chair reviewed background on a study of municipal candidate campaign finance reporting, conducted by Commission staff at the request of the Legal Affairs Committee. The study appears to show that candidates adhere more closely to the provisions of campaign finance law where they are properly informed of their obligations. There followed some discussion on the question of who is responsible for distributing forms and informing municipal candidates of their statutory obligations. While concern was expressed that any significant expansion of the Commission work program might diminish the staff's ability to fulfill its current responsibilities, there was agreement that staff could readily handle a general mailing to municipal clerks. Hence, Mr. Trafton moved that Commission staff prepare for distribution to clerks a summary of recording and reporting requirements of the campaign finance laws along with copies of standardized registration and reporting forms, such information to be sent within six months so as to allow clerks ample time to prepare for the November election. The motion was seconded and carried unanimously.

NEW BUSINESS:

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



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Lateness of delinquent filers was determined as follows:

Quarterly reports due October 16th, 1990

The Commission considered a letter from Bradley S. Moulton dated February 9th, 1990, explaining the reasons for the lateness of his report. Thereupon, Mr. Pierce made a motion to find Mr. Moulton's report eleven (11) days late (@ \$10 per business day - \$110.00). The motion was seconded and carried unanimously.

Mr. Violette made a motion to find Representative Kilkelly's report 11 days late (\$110.00). The motion was seconded and carried unanimously.

The Commission then considered the case of Phillip Stoddard, a 1988 candidate who failed to file required quarterly reports for 1989 and 1990, thereby accruing substantial penalty. Mr. Stokes recounted that he had met with Mr. Stoddard on February 20, 1990, at which time Mr. Stoddard agreed to disclose how he had disposed of surplus funds. In addition, Mr. Stoddard agreed to pay the original four day penalty (\$40.00) dating back to 1988. Mr. Pierce moved that the matter of the penalty be turned over to the Attorney General's office. The motion was seconded and carried unanimously.

The Commission reviewed a letter from the Smokeless Tobacco Council, Inc. PAC explaining why their October quarterly report was filed late. The Director said that a Commission letter sent to the PAC prior to the filing deadline arrived late because the PAC had moved; hence the committee's report was filed late. On motion of Mr. Trafton, the PAC was found 10 days late (@ \$50 per business day - \$500.00). The motion was seconded and carried unanimously.

After some discussion of the procedure for enforcement of the penalty provisions of the law, Mr. Pierce recommended that, with the agreement of commission members and the Attorney General's representative, the Attorney General's office submit to the Commission at the end of each year a report of all uncollected penalties.

Next, the Chair apprised members of the status of the Secretary of State's plan to move its entire operation from the State Office Building to another location. He reported that the move is not likely to be implemented in the near future. In the meantime, the Secretary of State's office is doing its utmost to accommodate the Commission's space needs.

Ms. Canavan then asked permission to submit to the Budget Office a Financial Order requesting that \$12,000 in personal services allotment reserve be transferred to capital equipment. She explained that the money would be used for purchase of furniture for new staff, a computer, and a Fax machine. Mr. Lerman suggested that it might be advisable to retain the funds as a cushion. He went on to explain that the Secretary of State may provide financial assistance to support the Commission's move to other quarters in order to free up space for its own staff; hence the Commission might need financial reserves to pay for extraordinary costs associated with such a move. The Director explained that personal services allotment reserve could be used only for personal services unless transferred to another account, and, if not used by the end of the fiscal



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year, such funds would lapse into the general fund. She added that there are sufficient "all other" funds to cover general costs for the remainder of the fiscal year. She noted that the Appropriations Committee would be meeting on the following Tuesday to examine the Commission's budget, among others, for the purpose of misappropriating unused funds.

Mr. Ezhaya moved to approve the issuance of a financial order requesting a transfer of funds from allotment reserve to capital equipment on the condition that such funds be held in reserve until the Commission's "space" situation becomes stabilized. The motion was seconded and carried unanimously.

The Chair requested that Item #10 of the agenda, election of a new Chair, be taken out of order. Mr. Lerman expressed his pleasure at the Commission's progress during the past two years, adding that the prospects for the new Commission in the next biennium are very positive. Mr. Pierce commended the Chair for his dedication, outstanding leadership and service to the Commission. He then moved that a letter, suitable for framing, be sent to Mr. Lerman, expressing the thanks of the Commission. The Director then extended her thanks, noting that Mr. Lerman has played a significant role in advancing Commission causes during the past two years.

Mr. Lerman opened the floor for nomination of a new Commission Chair. Mr. Pierce placed the name of Paul Chaiken of Bangor in nomination. Mr. Trafton stated that Mr. Jim Mundy had expressed interest in serving as Chairman. The Commission then voted to table the election of a new Chair until the next meeting at which time interested parties could make presentations in support of their candidacies.

Mr. Violette left the meeting at 2:35 p.m.

It was then reported that five legislators filed late financial disclosure statements; however, no action was taken as the law imposes no penalties for late filing of such statements.

INFORMATIONAL ITEMS:

After a short recess, the Commission reviewed correspondence from Mr. Edward Kane, counsel for the Brennan 190 Committee. On January 5th, 1990, Mr. Kane requested advice regarding the permissibility of the Brennan for Congress Committee transferring funds to the account of a committee associated with a campaign for Governor. In a subsequent letter dated February 6th, 1990, Mr. Kane withdrew his request to the Commission, proposing instead that persons or entities who made a contribution to Brennan for Congress in 1989 which was credited to the once-contemplated 1990 Congressional re-election effort would be contacted. The person or entity would be asked to make a choice: direct in writing that the contribution be credited to Brennan for Governor, effective upon signature, and acknowledge that any future contribution to Brennan for Governor is limited, under 21-A MRSA Section 1015, by the amount of the contribution made or, in the alternative, receive a refund of the contributed amount." Mr. Kane assured the Commission that "-- any amounts eventually transferred will be matched by written documentation of the contributors' direction that the amounts be so credited to Brennan for



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Governor, accompanied by the acknowledgment (so) described." The Commission also considered a letter submitted to the Commission on February 23rd, 1990 by Mr. Philip C. Jackson, Chairman of the Maine Republican Party, contending that a transfer of funds from the Brennan Congressional Committee to a campaign committee for Governor would be "inappropriate, if not illegal."

Mr. Stokes stated that he had ruled in a draft memorandum to the Chair and the Director, that the transfer of campaign funds from a Congressional campaign committee to a committee established to support the election of a candidate to the office of Governor would be deemed a contribution and therefore, subject to the limitations in 21-A MRSA Section 10150). He went on to emphasize that the questions raised in Mr. Jackson's letter of February 23rd, are rendered moot by virtue of Mr. Kane's proposed administrative solution which, if implemented as detailed, would be permissible under 21-A MRSA Section 1015(4).

Members then reviewed two pieces of legislation introduced during the current legislative session:

1. An Act to Amend Campaign Finance Reporting: The bill corrects errors and inconsistencies in legislation enacted during the first session of the 114th Legislature. One substantive provision in the bill would require political action committees to register with the Commission upon accepting contributions or making expenditures in excess of \$50.
2. L.D. 2601, enacted P.L. 1989, Ch. 608, corrects several inconsistencies in the disclosure laws.

Finally, the Commission reviewed correspondence relating to two complaints filed against members of the Judiciary Committee. A question was raised as to whether copies of the complaints should be circulated to the Legislators accused of wrongdoing. The consensus was that the Commission should withhold such information unless the Legislators become the subject of an investigation.

There followed a lengthy discussion of what procedures should be followed in handling complaints that have no apparent merit under the law. Mr. Trafton suggested that the Commission prescribe a standardized complaint form and establish a formal procedure for handling such matters. He suggested that the complaint form, copies of the law, and Commission procedures could be sent to each complainant along with a notice that a copy of the complaint would go to the affected parties. Ms. Canavan said that she has obtained a copy of New Jersey's complaint procedures and will write to other states to obtain information which the Commission could use in establishing a more formal complaint procedure.

The meeting was adjourned at 3:30 p.m.

Respectfully submitted,

Marilyn Canavan
Director

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