



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

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August 8th, 2001

Minutes of the August 8th, 2001, meeting of the Commission on Governmental Ethics and Election Practices held in the Commission (PUC) Hearing Room, 242 State Street, Augusta, Maine.

Present: Chair Peter B. Webster; Member Hon. Michael Carpenter, and Dr. Linda Cronkhite, Executive Director William C. Hain, III; Counsel Phyllis Gardiner, Esq.; and Commission Assistant Judy Parker.

Absent: Hon. Harriet P. Henry

Chair Webster called the meeting to order at 9:40 a.m.

The Commission considered items on the published agenda as follows:

Agenda Item #8: Executive Session

At 9:42 a.m. Ms. Cronkhite moved, Mr. Carpenter seconded, and Members voted unanimously to go into executive session. The purpose was to discuss a possible conflict of interest involving a Legislator. The subject of such consideration is required to be kept confidential pending the completion of any investigation to determine whether a hearing shall be ordered or until the nature of any investigation becomes public knowledge. At 10:30, Mr. Carpenter moved, Ms. Cronkhite seconded, and Members voted unanimously to adjourn from executive session and return to regular session. No action was taken in executive session that required ratification.

Agenda Item #2. Loren J. Bailey; Possible violation of 21A M.R.S.A. § 1125(6) (restrictions on expenditures)

Mr. Hain presented Members with a copy of a telefaxed letter dated August 7th, 2001, from James Cloutier, attorney for Mr. Bailey, informing the Commission that he and Mr. Bailey would not be able to attend the meeting. Attorney Cloutier unexpectedly had been called to trial in a case in Superior Court. Mr. Hain was directed to confirm the details of that matter. Chair Webster suggested and Members unanimously agreed to table further consideration until the September meeting.

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Agenda Item #3: Possible violations of 21A M.R.S.A. § 1017(3-B) (accelerated reporting schedule)

Mr. Hain presented an overview of the Commission staff's implementation of the accelerated reporting requirements of the Maine Clean Election Act during the 2000 elections. He then presented a chronology of events leading to the Legislature's amendment of the penalty assessment provision for violation of the accelerated reporting requirements. Finally, he explained the facts of each penalty case being considered by the Commission. As required by the amended statute, the Commission made specific findings of fact establishing when reports were due in each case. Those findings were based upon the particular facts of each case presented by Mr. Hain and any rebuttal thereto by individual respondents. Inasmuch as the cases the Commission considered were similar, but for the amounts of contributions or expenditures involved and the dates on which accelerated reports were required, the Commission made the following determinations with respect to each case:

A. Representative Ronald F. Collins: Following a presentation of the facts, Attorney Jon Doyle and Representative Collins addressed the Commission on Representative Collins' behalf. After discussion of the facts, Mr. Carpenter moved, Ms. Cronkhite seconded, and Members voted unanimously to find that Representative Collins' 101% Report was due on September 16th, 2000, a 21-Day Report was due on October 17th, 2000, and a 12-Day Report was due on October 26th, 2000, and that the reporting requirements were fulfilled on November 1st, 2000; noted technical violations of the reporting requirements for each report; but declined to assess a penalty based on mitigating circumstances as defined in the statute. The Commission cited the complexity of the new accelerated reporting requirements and possible confusion that may have resulted from Commission staff advice as contributing factors in their determination.

B. Senator Betty Lou Mitchell: Following a presentation of the facts, Attorney Jon Doyle and Senator Mitchell addressed the Commission on Senator Mitchell's behalf. After discussion of the facts, Mr. Carpenter moved, Ms. Cronkhite seconded, and Members voted unanimously to find that Senator Mitchell's 101% Report was due on October 27th, 2000, and that the reporting requirement was fulfilled on November 2nd, 2000; noted a technical violation of the reporting requirements for that report; but declined to assess a penalty based on mitigating circumstances as defined in the statute. The Commission cited the complexity of the new accelerated reporting requirements and possible confusion that may have resulted from Commission staff advice as contributing factors in their determination.

C. Representative Charles C. LaVerdiere: Following a presentation of the facts, Representative LaVerdiere addressed the Commission on his own behalf. After discussion of the facts, Mr. Carpenter moved, Ms. Cronkhite seconded, and Members voted 2-1 (Mr. Carpenter opposed) to find that Representative LaVerdiere's 101% Report was due on July 20th, 2000, and that the reporting requirement was fulfilled on October 2nd, 2000; noted a technical violation of the reporting requirements for that report; but declined to assess a penalty based on mitigating circumstances as defined in the statute. The Commission cited the complexity of the new accelerated reporting requirements and possible confusion that may have resulted from Commission staff advice as contributing factors in their determination.



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D. Honorable Richard P. Ruhlin: The Commission tabled consideration of this matter until the September meeting due to the unavailability of former Senator Ruhlin and Kurt Adams, Esq., his attorney.

E. Mr. Austin Treworgy: Following a presentation of the facts, Attorney Orville Ranger and Mr. Treworgy addressed the Commission on Mr. Treworgy's behalf. After discussion of the facts, Mr. Carpenter moved, Ms. Cronkhite seconded, and Members voted unanimously to find that Mr. Treworgy's 101% Report was due on October 30th, 2000, and that the reporting requirement was fulfilled on November 1st, 2000; noted a technical violation of the reporting requirements for that report; but declined to assess a penalty based on mitigating circumstances as defined in the statute. The Commission cited the complexity of the new accelerated reporting requirements and possible confusion that may have resulted from Commission staff advice as contributing factors in their determination.

F. Ms. Priscilla Taylor: Following a presentation of the facts, Ms. Taylor addressed the Commission on her own behalf. After discussion of the facts, Mr. Carpenter moved, Ms. Cronkhite seconded, and Members voted unanimously to find that there had been no late reporting violation in Ms. Taylor's case and to dismiss the matter.

G. Representative Randall L. Bumps: Mr. Hain presented a letter from Representative Bumps dated August 7th, 2001, explaining his unavailability. The Commission was reluctant to consider the matter in Representative Bumps' absence and tabled further consideration until the September meeting.

H. Representative Arthur F. Mayo, III: Following a presentation of the facts, Attorney Richard Thompson addressed the Commission on Representative Mayo's behalf, explaining that Representative Mayo had been present earlier, but had to leave to attend another meeting. After discussion of the facts, Ms. Cronkhite moved, Mr. Carpenter seconded, and Members voted unanimously to find that Representative Mayo's 101% Report was due on October 30th, 2000, that a 48-Hour Report was due on November 6th, 2000, and that the reporting requirements were fulfilled on November 7th, 2000; noted a technical violation of the reporting requirements for those reports; but declined to assess a penalty based on mitigating circumstances as defined in the statute. The Commission cited the complexity of the new accelerated reporting requirements and possible confusion that may have resulted from Commission staff advice as contributing factors in their determination.

I. Representative Donald P. Berry, Sr. Following a presentation of the facts, Representative Berry addressed the Commission on his own behalf. After discussion of the facts, Ms. Cronkhite moved, Mr. Carpenter seconded, and Members voted unanimously to find that Representative Berry's 101% Report was due on October 30th, 2000, and that the reporting requirement was fulfilled on November 4th, 2000; noted a technical violation of the reporting requirements for that report; but declined to assess a penalty based on mitigating circumstances as defined in the statute. The Commission cited the complexity of the new accelerated reporting requirements and



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Agenda Item #4: Political Action Committee Quarterly Report Filing Violations; No Dice/Mainers Against a Dishonest Deal; Dennis Bailey, Campaign Manager

Following a presentation of the facts and consideration of the correspondence submitted by Mr. Bailey, Ms. Cronkhite moved, Mr. Carpenter seconded, and Members voted unanimously to note violations for the two late submissions and assess a cumulative penalty in the amount of \$7,500.00. However, the Commission suspended collection of that penalty on the condition that all future reports are filed on time. If any report that may be required in the future is filed late, the full amount of the assessed penalty will become due and payable, in addition to any penalty that may be associated with any future late report.

Agenda Item #5: Lobbyist Disclosure Report Filing Violation: Richard Galena, Executive Director, Maine Lesbian Gay Political Alliance

Following a presentation of the facts and consideration of the correspondence submitted by Mr. Galena, Mr. Carpenter moved, Ms. Cronkhite seconded, and Members voted unanimously to assess a \$50.00 penalty.

Agenda Item #1: Ratification of July Minutes:

Members voted unanimously to approve the minutes of the July 11th, 2001 meeting as submitted.

Agenda Item #6: Consideration of Maine Clean Election Fund Distributions

As a result of recent changes to uncontested general election distributions by Chapter 465 (LD 1711), Public Laws, and questions raised about the absence of a distribution amount for uncontested gubernatorial primary candidates, the Commission considered reexamining and revising the distributions previously approved. With respect to the amounts for uncontested general election candidates, the Legislature's action eliminated the need for further Commission action by statutorily adopting an amount of 40% of the amount received by participating candidates in general elections. The Commission required no further action. The Commission tabled further consideration of the question of the amount of funds to provide to uncontested primary election gubernatorial candidates and directed Mr. Hain to solicit comments from the certified political parties for consideration at the September meeting.

Agenda Item #7: Consideration of MCEA Report and Biennial Report

The MCEA requires the Commission to report to the Legislature not later than January 30th, 2002, documenting, evaluating, and making recommendations relating to the administration, implementation, and enforcement of the MCEA. The Biennial Report is prepared following each election biennium and summarizes Commission activities for that two (2) year period.

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Commission Members unanimously agreed to adopt the two reports and directed Mr. Hain to forward the Maine Clean Election Act report to the Legislature.

Agenda Item #9: Other

Counsel Gardiner informed Members of the results of discussions with the Bureau of Human Resources regarding the steps required to create a general counsel position and the meaning of the statutory language regarding an "administrative director." Their assessment is that the reference to an "administrative director" in the statute does not, by itself, create a new position, and the Legislature did not take any other steps either to create that as a new position or to eliminate or de-classify the position Bill Hain presently fills as a classified employee. Given that the current job classification of executive director already includes administrative functions, this legislation would not prompt the Bureau to conduct a reclassification. Accordingly, no further action is required.

Members discussed the time and date of the next meeting and unanimously agreed to meet at 9:30 a.m. on Wednesday, September 12th, 2001.

There being no further business, on motion and unanimous vote, the Commission adjourned at 3:02 p.m.

Respectfully submitted,

William C. Hain, III
Director