

Agenda

Item #1

Minutes of the June 22, 2006 Meeting of the
Commission on Governmental Ethics and Election Practices
Held in the Commission's Meeting Room,
PUC Building, 242 State Street, Augusta, Maine

Present: Chair Jean Ginn Marvin; Hon. A. Mavourneen Thompson; Hon. Andrew Ketterer, Hon. Vinton E. Cassidy (by telephone for Agenda Item #4 only); Staff: Executive Director Jonathan Wayne; Phyllis Gardiner, Counsel.

At 9:05 A.M., Chair Ginn Marvin convened the meeting. The Commission considered the following items:

Agenda Item #1 – Ratification of minutes of the April 28 and June 12, 2006 meetings

Mr. Ketterer moved, and Ms. Thompson seconded, that the Commission adopt the minutes of the April 28 and June 12 meetings.

Ms. Gardiner recommended that page 3 of the April 28 minutes be amended to replace “allow” with “grant” in the Commission’s motion. Ms. Gardiner recommended that page 5 of the June 12 minutes be amended to replace “defer a penalty” with “defer any decision regarding a penalty.”

Mr. Ketterer amended his motion, and the Commission voted unanimously (3-0) to adopt the minutes of the April 28 and June 12 meetings with the changes suggested by Ms. Gardiner.

The Commission decided to take up Item 3 out of order.

Agenda Item #3 – Use of Endorsement Without Authorization/Michael D. Mowles

Mr. Wayne said that the Commission staff received a complaint from Jennifer Duddy, a candidate for House District 121 in the Republican primary. Mr. Wayne said that Ms. Duddy

objected to a flyer put out by her primary opponent, Michael Mowles, which she considered misleading because it used endorsements from Senators Snowe and Collins in the 2004 general election. Mr. Wayne said that three Commission members (Ms. Ginn Marvin, Mr. Ketterer, and Mr. Cassidy) met by telephone on June 12, and the Commission found that Mr. Mowles violated 21-A M.R.S.A. §1014(A) by using unauthorized endorsements from Senators Snowe and Collins. Mr. Wayne said that Mr. Mowles did not participate in the telephone meeting as he was campaigning the day before the primary election, but he did submit a letter to the Commission. Mr. Wayne said that this letter requested a postponement of the meeting to give Mr. Mowles a chance to be represented by an attorney. Mr. Wayne said that the staff received a request from Mr. Mowles and his attorney, David Lourie, that the Commission reconsider its decision. Mr. Wayne said that the statute allows for a penalty of up to \$200 for the endorsement violation, but the staff recommended against any penalty against Mr. Mowles. Mr. Wayne said that there were no guidelines on what circumstances should result in a reconsideration by the Commission.

David Lourie said that Mr. Mowles wanted to participate in the June 12 meeting, but was unable primarily due to business reasons.

Mr. Mowles said that business and family obligations prevented him from participating in the meeting by telephone. Mr. Mowles clarified that he was involved with two loan closings during the time of the June 12 telephone meeting, not campaigning.

Mr. Lourie said that Mr. Mowles' flyer was not in violation of the statute. Mr. Lourie said that Ms. Duddy served as Mr. Mowles' campaign manager and knew in advance that he planned to reuse the 2004 endorsements in the 2006 primary campaign.

Mr. Wayne apologized for misrepresenting the reason for Mr. Mowles' non-participation in the June 12 meeting.

Ms. Ginn Marvin asked why the Commission should reconsider its decision. Mr. Lourie said that the quotations from Senators Snowe and Collins were in the public arena, allowing Mr. Mowles to use them after the 2004 election. Mr. Lourie said that the flyer included language

stating that the quotations were from 2004. Mr. Lourie said that the quotations cannot be considered to be endorsements. Mr. Lourie said that contrary to Ms. Duddy's concern, Mr. Mowles had no intention to mislead. Mr. Lourie said that a past endorsement is not subject to regulation and such regulation was not the intent of the Legislature in the elections law. Mr. Lourie said that regulations on using past endorsements would also be an unconstitutional restriction of speech. Mr. Lourie said that Ms. Duddy donated \$100 of seed money to Mr. Mowles and knew that he planned on using the 2004 endorsements at the end of his campaign. Mr. Lourie said that various people had accused Mr. Mowles of being unethical and called him a criminal. Mr. Lourie said that the June 12 meeting did not afford Mr. Mowles due process, and Ms. Duddy knew that he would not have time to prepare a defense.

Mr. Ketterer said that he was still looking for a reason to reconsider the Commission's decision. Mr. Ketterer said that Mr. Mowles sent a letter prior to the June 12 meeting, but did not mention Ms. Duddy's involvement in his campaign or knowledge of the flyers. Mr. Ketterer said that the Commission would consider e-mail correspondence and other evidence that a court would not.

Mr. Lourie said that he was not aware of Ms. Duddy's involvement with the campaign until the morning of the hearing. Mr. Lourie said that it did not immediately occur to Mr. Mowles that Ms. Duddy's complaint was strategically planned. Mr. Lourie said that Mr. Mowles did not have enough time to draft a thorough letter of defense before the June 12 meeting.

Ms. Thompson asked about the proper process for reconsideration. Ms. Gardiner said that there was no formal process. Ms. Gardiner said that the short notice of the June 12 meeting could be a reason for reconsideration, as well as anything that could result in the Commission's decision being made in error. Ms. Gardiner said that the Commission could open up the meeting to have both sides present testimony for the record.

Ms. Thompson asked if it was appropriate to have a reconsideration hearing at the current meeting, given that neither side was prepared for such a hearing. Ms. Gardiner said that the Commission could consult with those involved or could first vote on a motion to reconsider.

Mr. Ketterer asked if a motion to reconsider would vacate the Commission's original finding. Ms. Gardiner said that this would not be the case, that the Commission could just hear additional testimony that was not presented at the June 12 meeting. Ms. Gardiner said that it appeared Mr. Lourie was asking the Commission to vacate its previous decision, but that would not be necessary to reconsider.

Mr. Lourie said that a reconsideration undoes the previous decision under Robert's Rules. Mr. Lourie said that the Commission did not have to take new evidence in order to reconsider.

Chair Ginn Marvin invited Ms. Duddy to comment on the issue of the process for the Commission to undertake for reconsideration.

Jennifer Duddy identified herself for the record. Ms. Duddy said that Mr. Mowles' letter to the Commission outlined his reasons for reconsideration. Ms. Duddy said that her previous involvement with Mr. Mowles' campaign was not relevant. Ms. Duddy said that she assisted Mr. Mowles for four weeks and was not his campaign manager. Ms. Duddy said that at the time, Mr. Mowles had no opponent running against him in the primary election. Ms. Duddy said that Mr. Mowles showed her flyers he used in the 2004 election, telling her that he planned to use the same endorsements again in November of 2006. Ms. Duddy said that she did not expect Mr. Mowles to use the endorsements before the primary election. Ms. Duddy said that since Mr. Mowles had time to type a lengthy letter to the Commission, he should have had time for a 45-minute conference call. Ms. Duddy said that her June 20 letter to the Commission expressed her wishes in regard to a possible reconsideration.

Mr. Ketterer said that the Commission should take into account that their decision against Mr. Mowles will stay with him in the future. Mr. Ketterer said that the statute required that the Commission take prompt action after receiving Ms. Duddy's complaint shortly before the primary election.

Ms. Duddy said that candidates must be held accountable. Ms. Duddy said that the Commission should treat the matter as a serious one if it involves an attempt to mislead voters.

Mr. Lourie said that the basis for the reconsideration request was not on Ms. Duddy's prior knowledge but on grounds of unconstitutionality. Mr. Lourie said that a court in California threw out a charge of misleading use of an endorsement, deciding that "misleading use" is not an appropriate standard. He read the case citation into the record.

Ms. Thompson asked if it would be appropriate for her to move for reconsideration given that she did not participate in the June 12 meeting. Ms. Gardiner advised Ms. Thompson against making the motion.

Mr. Ketterer made a motion to grant reconsideration. Ms. Ginn Marvin seconded for the purpose of discussion.

Ms. Thompson said that Mr. Lourie presented new information on whether the flyer constituted an endorsement. Ms. Thompson said it would not be appropriate to have a full hearing during the current meeting, since it was not an item on the public agenda. Ms. Thompson asked if the constitution allowed the 2004 endorsements to be used in the 2006 election.

Ms. Ginn Marvin said that there was no need for reconsideration. Ms. Ginn Marvin said that participating in the June 12 meeting should have been a priority for Mr. Mowles. Ms. Ginn Marvin said that the Commission was bound by statute to rule on the matter before the primary election.

Ms. Thompson said that while the June 12 meeting was warranted, the Commission has been presented with new information on the use of past endorsements.

Mr. Ketterer said that the Commission benefited from hearing Mr. Lourie's presentation, but questioned whether there were adequate grounds to support a request for reconsideration. Mr. Ketterer said that he understood the difficulty Mr. Mowles had in participating in the June 12 meeting, but he and the other Commission members put aside business matters to attend the hearing. Mr. Ketterer said that Mr. Mowles provided the Commission information in his letter

even though he did not attend the hearing. Mr. Ketterer said that found it difficult to see the need for reconsideration in this case.

Mr. Mowles said that there was no way he could have participated in the June 12 meeting. Mr. Mowles said that in the past, he had requested approval from the Commission staff on his flyers. He said that throughout the campaign he has tried to comply with all the Commission's laws and rules.

On the motion to grant Mr. Mowles' request for reconsideration of the Commission's June 12 decision, the Commission voted 1-2 to deny Mr. Mowles' request for a reconsideration. Ms. Thompson voted for the motion; Mr. Ketterer and Ms. Ginn Marvin voted against it. The motion failed.

Mr. Ketterer moved, and Ms. Thompson seconded, that the Commission assess no financial sanction against Mr. Mowles. Mr. Lourie requested an opportunity to comment. Mr. Ketterer withdrew the motion.

Mr. Lourie said that Mr. Mowles had no intention of paying any fine. Mr. Lourie said that the Commission's ruling was unconstitutional and that Mr. Mowles would appeal. Mr. Lourie said that Mr. Mowles had already been punished for his actions. Mr. Lourie requested that the Commission impose the maximum penalty so that Mr. Mowles could appeal in court.

Ms. Gardiner said that even if the Commission decides not to penalize Mr. Mowles, he could still appeal the ruling.

Mr. Ketterer said that an appeal does not rely on the issuance of a penalty.

Ms. Thompson asked why the Commission should not assess a penalty. Mr. Wayne said that since Mr. Mowles' reputation suffered from press coverage of the flyers, the Commission could decide that he has already been sufficiently punished.

Ms. Thompson asked if Mr. Mowles could appeal without having been penalized. Mr. Wayne said that was the case, and the Commission should only assess a penalty if it was justified, without taking the appeal into consideration.

Mr. Ketterer suggested a \$1 penalty.

Ms. Thompson moved, Mr. Ketterer seconded, and the Commission voted unanimously (3-0) to assess a penalty of \$1 against Mr. Mowles.

Agenda Item #2 – Mailings by Rep. Kevin J. Glynn

Mr. Cassidy joined the meeting by telephone.

Ms. Thompson recused herself from the agenda item due to a potential conflict of interest. Ms. Thompson explained that her policy research group did research for Kevin Glynn's opponent.

Mr. Wayne said that Representative Lawrence Bliss filed a complaint against Representative Kevin Glynn for mailing constituent newsletters outside of Rep. Glynn's House district but within the Senate district for which he is currently running. Mr. Wayne said that Rep. Bliss argued that these newsletters should be considered campaign expenditures, since it is unfair to Rep. Glynn's Clean Election opponents who are limited in how much they can spend. Mr. Wayne said that Rep. Glynn began receiving seed money on February 8, though he did not register as a candidate until mid-March. Mr. Wayne said that the seed money contributions indicated that Rep. Glynn was a candidate under the law, and his legislative newsletter was mailed after February 8. Mr. Wayne said that the statute was not clear in distinguishing between legislative and campaign mailings. Mr. Wayne said that Dan Billings, who represented Rep. Glynn, argued that only the content of the newsletters should matter in making this determination. Mr. Wayne said that the Commission should also consider past practice and who received the mailings.

Mr. Wayne said that Rep. Glynn came to the Commission office on April 10 asking for advice on the newsletter mailing. Mr. Wayne said that the Commission staff was rushed in giving him advice due to an upcoming certification deadline. Mr. Wayne said that Rep. Glynn spoke with a candidate registrar and the assistant director, who told Rep. Glynn that the newsletter was not a campaign expenditure. Mr. Wayne said that the staff may not have known the extent to which Rep. Glynn planned on mailing the newsletter outside his House district.

Dan Billings said that Rep. Glynn sent a letter summarizing his discussion with the Commission staff on the newsletter issue, in which he wrote of his plans to mail the newsletter outside his House district. Mr. Billings said that Rep. Glynn previously sent out inserts in newspapers and mailed flyers to people outside his district. Mr. Billings said there was little guidance in the statute or Commission rules on what constitutes a campaign expenditure. Mr. Billings said that it was difficult to determine whether the intent of the communication was to influence the election, and the same mailing that is determined to be a campaign expenditure may not be an expenditure under different circumstances. Mr. Billings said that an expenditure may be campaign related depending on whether a candidate is an incumbent or challenger, presenting a vague standard. Mr. Billings said that there was a history of legislators sending communications outside their districts. Mr. Billings cited a 2004 memo from Phil Merrill, who served as legal counsel to the Senate President. Mr. Billings said that the memo indicated that an appropriate standard for campaign communications would be any express advocacy for a candidate. Mr. Billings asked that the Commission not take action on the complaint against Rep. Glynn, but should clarify its rules to prevent similar issues in the future. Mr. Billings said that Rep. Glynn sent letters to honor roll students for schools within his district. Mr. Billings said that Rep. Glynn could not obtain the addresses for those students due to privacy restrictions, so he gave the letters to the schools to mail themselves. Mr. Billings said that Rep. Glynn had no way of determining which parents resided outside his district in doing this mailing. Mr. Billings said that Rep. Hutton sent out letters in June, paid for with tax money, and there was no prohibition against it.

Rep. Glynn said that he mailed out a resource guide the first year he was elected. Rep. Glynn said he frequently received phone calls from outside his district, since he was the only

Republican Representative in the area. Rep. Glynn said that on June 5 he received a \$495 check from the legislature to provide constituent services. Rep. Glynn said that since he served in a statewide office, his constituents could be considered to include people outside of his home district. Rep. Glynn said that communication about the legislature's activities was an important part of his job as a legislator.

Kathleen Brogan introduced herself as an attorney representing Senator Lynn Bromley. Ms. Brogan said that the Commission should consider whether Rep. Glynn had the intent of influencing the election in his newsletters. Ms. Brogan said that of the House districts neighboring his, Rep. Glynn only mailed newsletters to people within his potential Senate district. Ms. Brogan said that mass mailings outside of a legislator's home district were not appropriate.

Ms. Ginn Marvin asked about the size of the area in which Rep. Glynn typically sends mailings. Rep. Glynn replied that he asked for advice on the subject from the Commission staff. Rep. Glynn said that the mail is restricted to his geographic area, typically Portland, South Portland, and Scarborough. Rep. Glynn said that there is not a set group of people that receives his mailings, since the size of the mailing depends on available funds. Rep. Glynn said that many people in his area who live outside his House district lack access to balanced information.

Mr. Ketterer said that Rep. Glynn was acting in good faith by consulting with the Commission staff on two occasions.

Ms. Brogan said that the Commission staff did not have enough information from Rep. Glynn and did not know he intended to mail the newsletters exclusively to people within his potential Senate district.

Ms. Ginn Marvin asked Ms. Brogan if the Commission staff had the responsibility of asking clarifying questions before giving advice to Rep. Glynn. Ms. Brogan replied that it was an issue for the April mailing but not the February mailing, when Rep. Glynn had not yet registered as a

candidate. Ms. Brogan said that the February mailing was a campaign expenditure that could affect the Clean Election campaigns of Rep. Glynn and his opponents.

Alison Smith, after introducing herself as a member of the public, said that the public had a right to know who paid for the communications from Rep. Glynn, which was not clear in the newsletters. Ms. Ginn Marvin said that there was a statement on the newsletters indicating that they were paid for with personal funds. Ms. Smith said that even if personal funds were used, they should be considered as campaign expenditures.

Mr. Billings said that the statute only requires a disclaimer on campaign communications, not on constituent mailings. Mr. Billings said that Rep. Glynn did not receive funds from any third parties to pay for the mailings.

Mr. Ketterer asked Ms. Smith if she was a concerned citizen or if anyone had asked her to speak at the Commission meeting. Ms. Smith replied that no one asked her to speak and that she was an advocate for clean elections. Ms. Smith said that it was a concern if Clean Election candidates were donating more than the limit of \$100 in seed money to their campaigns from their personal funds.

Mr. Cassidy asked if there was any policy about sending constituent mailings when the legislature was not in session. Mr. Ketterer replied that there was currently no such policy, though past sessions of the legislature may have had restrictions on the timing of mailings.

Mr. Cassidy said that he received a newsletter from an incumbent legislator that included a picture of the legislator with a U.S. Congressman. Mr. Cassidy said that there was a need for better policies in the future.

Mr. Wayne said that he interpreted Phil Merrill's 2004 memo differently from Mr. Billings. Mr. Wayne said that the memo urges caution for legislators sending out constituent mailings outside their districts. Mr. Wayne said that the memo advised against sending bulk mailings outside of a legislator's home district, but communications with specific individuals was acceptable.

Mr. Wayne said that the fact Rep. Glynn mailed to his potential Senate district could be relevant to the Commission's decision. Mr. Billings said that the communication was either a campaign expenditure or wasn't, regardless of the mailing area.

Ms. Brogan said that the April newsletter was mailed at the expense of the legislature for those sent within Rep. Glynn's district, while personal expenses were used to mail newsletters outside his district. Ms. Brogan said that the February mailing was mailed entirely with Rep. Glynn's personal funds.

Mr. Wayne said that Rep. Glynn had not sent a constituent mailing outside of South Portland until 2005. Mr. Billings replied that Rep. Glynn had sent newspaper inserts outside of South Portland prior to 2005.

Mr. Billings said that using the area of mailings to decide whether a communication was a campaign contribution would be a subjective standard and is based on whether someone is an incumbent. Ms. Gardiner asked whether geographic area would be an objective standard. Mr. Billings replied that it would be subjective because sending mailings to only a few people outside the district was acceptable.

Mr. Wayne said that the Commission had the options of taking no action, requiring Rep. Glynn to use Clean Election funds to reimburse himself for the newsletter costs, or considering the mailings to be a contribution to his campaign and thus a violation of the Clean Election Act. Mr. Wayne advised against the last option, since Rep. Glynn consulted with the Commission staff prior to the mailing.

Mr. Ketterer moved, and Mr. Cassidy seconded, that the Commission take no action regarding Rep. Glynn. Mr. Ketterer said that Rep. Glynn made a good faith effort to seek advice from the Commission staff. Mr. Ketterer said there was a question of who a legislator represents, since legislators serve as state officials voting on issues that do not affect their districts alone. Mr. Ketterer said that the Commission's response to a specific letter would be different from its

response to a mass mailing. Mr. Ketterer said that was difficult to determine from mailing addresses who actually resided within Rep. Glynn's district. Mr. Ketterer said that there should be some clarification of the rules since action by the Commission requires an intent to influence the election, which is difficult to prove.

Mr. Cassidy said that he agreed with the motion but the Commission should clarify ambiguities in the law.

Ms. Ginn Marvin said that she supported the motion. Ms. Ginn Marvin said that the Commission should consider issues such as the timing of letters, where they are sent, and whether they constitute direct advocacy, though no action was appropriate in the case of Rep. Glynn.

Mr. Ketterer suggested that the Commission discuss constituent mailings at a later meeting, taking testimony from interested parties. Mr. Ketterer said that the Commission might discover related issues. Mr. Ketterer said that people should feel that they are treated fairly by the state government. Mr. Wayne agreed with the suggestion, saying that the issue affects many incumbents. Mr. Ketterer said that people should have advanced notice that the topic would be on the agenda. Ms. Ginn Marvin recommended that the topic be placed on the agenda of the next meeting and notification be sent to candidates and party leaders. Ms. Gardiner said that the meeting should be open to public comment but should not be a formal rulemaking hearing.

The Commission voted unanimously (3-0) to take no action regarding Rep. Glynn.

Tom Watson, State Representative from Bath, said that the Commission could consult with the Ethics Committee. Ms. Gardiner said that the Committee cannot address campaign finance issues.

Mr. Cassidy left the meeting at the close of this agenda item.

Agenda Item #4 – Recruitment of Opponents by Maine Clean Election Act Candidates

Ms Thompson rejoined the meeting for the remaining agenda items.

Mr. Wayne said there were cases in 2004 and 2006 where Clean Election candidates may have assisted people to run as their opponents in order to gain additional public financing for a contested primary election. Mr. Wayne said that while no laws were broken in these cases, recruiting opponents could be used in the future as a way of manipulating the Clean Election Act to get more funds. Mr. Wayne said that the staff could recommend changes to the Clean Election Act after the November election.

Ms. Ginn Marvin said that Jennifer Duddy ran against Michael Mowles in the primary election after having previously assisted his campaign. Mr. Wayne said that there may be some difficult cases where the intentions of the candidates are not clear. Ms. Gardiner said that neither Mr. Mowles nor Ms. Duddy assisted the other in first becoming a candidate.

Ms. Thompson asked how the Commission would determine whether someone is a candidate. Ms. Thompson asked what would happen if the assistance was given before officially becoming a candidate. Mr. Wayne said that the changes to the law would have to cover all possibilities.

Mr. Ketterer said that the Commission should decide if the changes belong in the packet of proposed amendments to the Clean Election Act, but it was not necessary to discuss the details of the changes at that time.

Ms. Gardiner said that no motion was needed.

Mr. Ketterer recommended discussing the issue at the end of the year, after the November election.

Agenda Item #5 – Referral to Attorney General for Collection of Civil Penalty/Paul Volle and PACs

Ms. Ginn Marvin said that the Commission would not be considering Item 5.

Agenda Item #6 – Discussion of Improved Audit Procedures

Mr. Wayne said that the staff had always reviewed all expenditures made by Clean Election candidates and has found that a majority of candidates comply with the requirements of the law. Mr. Wayne said that there were a limited number of problems uncovered. Mr. Wayne said that staff auditor Vincent Dinan would outline the staff's proposal for improved auditing procedures. Mr. Wayne said that the staff recommended further checks on finance reports to ensure the accuracy of reporting.

Mr. Dinan said that the staff was working to develop a formal audit program, which resulted in the audit memorandum included in the meeting materials. Mr. Dinan said that the audit program would result in a review of all reports. Mr. Dinan said that a random sample of reports would be selected for a more extensive audit, where the staff would request supporting documentation from the campaigns. Mr. Dinan said that select transactions in about 20% of reports would be audited in this manner. Mr. Dinan said that legislative and, to a lesser extent, county candidates would be included. Mr. Dinan said that all gubernatorial candidates would be fully audited. Mr. Dinan said that the auditing would result in a report made to the Commission, which would decide whether to take further action in each case, with the Commission staff outlining each option.

Mr. Ketterer said that despite the random sampling, candidates may complain if they are selected for an audit but not their opponents. Mr. Dinan responded that everyone would have an equal chance of being selected. Mr. Dinan said that the sampling technique should withstand scrutiny and should also accommodate audit requests for specific candidates.

Mr. Ketterer asked if it would be possible to select districts to audit rather than individual candidates. Mr. Dinan said that several selection options were possible, and there would not be a problem selecting by district.

Ms. Thompson asked if the random sampling would create hesitation among candidates deciding whether to be publicly financed. Mr. Wayne said that there was a record keeping requirement in the law. Mr. Wayne said that the Commission staff would send a letter requesting a few invoices to candidates chosen for an audit, and it would be done in a non-threatening way. Mr. Wayne said that the staff would also send informational letters after the audit to inform candidates of the results. Mr. Wayne said that candidates must keep receipts for all expenditures of over \$50. Mr. Wayne said that the positive result of the audits will be greater accountability in the use of public funds.

Ms. Gardiner said that the audits would serve as a deterrent against improper use of funds.

Ms. Thompson asked if a sample chosen by district would influence the randomness of the sample. Mr. Dinan said it would still be a random sample. Ms. Thompson asked if there would be a different procedure followed for gubernatorial candidates. Mr. Dinan replied that all gubernatorial candidates would be fully audited on-site.

Mr. Wayne said that the Commission could receive feedback from legislative leadership.

Agenda Item #7 – Staff Update on Criminal Prosecution of Peter Throumoulos

Mr. Wayne said that Peter Throumoulos qualified for public financing in 2004. Mr. Wayne said that he also tried to become certified as a Clean Election candidate in 2006. Mr. Wayne said that the Commission staff received a call from the Saco city clerk, who noticed that some of the signatures on Mr. Throumoulos' qualifying contribution receipt and acknowledgement forms did not match the voter registration cards on file. Mr. Wayne said that some of the allegedly forged signatures came from people who had died in 2004. Mr. Wayne said that Mr. Throumoulos was indicted by a grand jury on June 6.

Ms. Gardiner said that Mr. Throumoulos was denied certification in 2006 after a staff review of his submitted materials. Ms. Gardiner said that Mr. Throumoulos only submitted the required minimum of 150 qualifying contributions. Ms. Gardiner said that the indictment listed three counts of aggravated forgery on the forms and money orders, one count of theft by deception for receiving Clean Election funds in 2004, and one count of attempted theft by deception for his attempt to be qualified in 2006. Ms. Gardiner said that Mr. Throumoulos was representing himself and moved for a dismissal of the charges. Ms. Gardiner said that the trial would be in York County and could start in about six months. Ms. Gardiner said that Mr. Throumoulos was no longer a candidate in the 2006 election since he lost the primary. Ms. Gardiner said that Mr. Throumoulos would likely be asked to repay the public funds he received in 2004.

Agenda Item #8 – Selection Dates of Commission Meetings in July, August, and September

The Commission agreed on dates of Wednesday, July 19 and Wednesday, August 23 at 9 a.m., with the September date to be decided at a later meeting.

Other Business

Mr. Wayne said that Heather Mills, a candidate for State Representative, requested certification to receive Clean Election funds. Mr. Wayne said that the Commission staff denied Ms. Mills' certification request due to concerns that she did not meet the requirements governing seed money contributions and expenditures. Mr. Wayne said that Paul Lavin, the Assistant Director, would provide further details.

Mr. Lavin said that Ms. Mills was a candidate for House District 136 who originally registered as a privately financed candidate in March. Mr. Lavin said that Ms. Mills signed a Declaration of Intent to Seek Certification as a Maine Clean Election Act Candidate on May 11. Mr. Lavin said that it was not common for a privately financed candidate to later request Clean Election certification since Clean Election candidates face greater restrictions on raising and spending seed money. Mr. Lavin said that Ms. Mills requested certification on May 25. Mr. Lavin said

that Ms. Mills' seed money report indicated that she had spent about \$1,800 in seed money without having collected any seed money contributions. Mr. Lavin said that Bob Mills, the committee treasurer for Heather Mills, submitted an amended seed money report that included seed money contributions. Mr. Lavin said that on the amended seed money report, the goods and services received by the campaign still exceeded the total amount of contributions. Mr. Lavin said that Mr. Mills was not appealing the denial of certification, but he wished to explain the circumstances leading to the seed money report errors and that the errors were unintentional.

Mr. Mills explained that he was a candidate for governor until March 13, but is now a candidate for York County Commissioner. Mr. Mills said that he was doing all the campaign finance reports for his gubernatorial campaign, his county commissioner campaign, and his wife's seed money report. Mr. Mills said that an attorney signed Ms. Mills' seed money report but did not review it. Mr. Mills said that he took responsibility for the errors in the report and will not appeal the denial of certification. Mr. Mills said that Ms. Mills will continue to run as a privately financed candidate. Mr. Mills said that he thought the seed money report only covered the time between when a candidate signs a Declaration of Intent form and the candidate's request for certification.

Ms. Thompson moved, Mr. Ketterer seconded, and the Commission voted unanimously (3-0) to enter executive session to hear a complaint against a current legislator.

The Commission returned from executive session. Mr. Ketterer moved, Ms. Thompson seconded, and the Commission voted unanimously (3-0) to dismiss the complaint and take no further action.

There being no further business, Mr. Ketterer moved, Ms. Thompson seconded, and the Commission unanimously voted (3-0) to adjourn.

Respectfully submitted,
Jonathan Wayne
Executive Director

Agenda

Item #2

122nd Legislature
Senate of
Maine
Senate District 6

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BY FAX & U.S. MAIL

July 6, 2006

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

Dear Mr. Wayne:

Please accept this letter as my response to your letter dated June 29, 2006 concerning my end-of-session newsletter. Like all members of the Legislature, I distributed this newsletter as a service to my constituents, providing information on the work of the 122nd Legislature. I have repeated your questions below and included responses in italics directly below each question.

1. When was the newsletter mailed?

The newsletter was printed and mailed at the direction of the Secretary of the Senate. To the best of my knowledge, the newsletter was mailed in late June.

2. What source paid for the mailings?

The newsletter was paid for with legislative funds allocated for constituent services by the Legislative Council.

3. Was the newsletter mailed to anyone outside of your legislative district (other than the "spillover" effect of postal carrier routes within your district that extend beyond your district)?

To the best of my knowledge, the newsletter was mailed only to households within my Senate district. As you suggest, there may have been some "spillover" to households in neighboring districts due to postal carrier routes, but the newsletter was not intentionally distributed to anyone other than my constituents.

4. Was the primary purpose in sending the mailing to influence your election? If not, what was the primary purpose of the mailing?

The primary purpose of the newsletter was to inform my constituents about the work of the 122nd Legislature and to solicit feedback on the issues that are important to them. This was not a mailing for the purpose of influencing my election but rather to provide constituents with information about my activities as their elected representative.

5. Please describe whether the information from the constituent survey will be used for legislative business, or your re-election campaign, or both purposes?

Responses from the constituent survey will be used to help me determine policy priorities in representing the people of Senate District 6. Responses will also be aggregated with responses received from other senate districts to influence the state-wide policy priorities of the Senate Democratic Caucus.

Please let me know if I can provide any further information to assist the Commission in its review of this matter.

Sincerely,

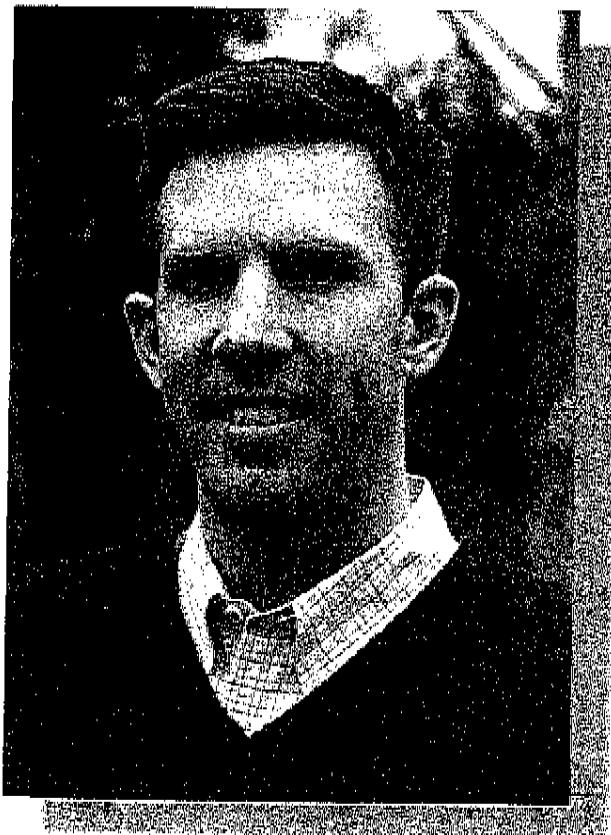


Philip L. Bartlett II

cc: Kate Brogan, Esq.

Senator Phil BARTLETT

SENATE DISTRICT 6



In this Update

- Taxes
- Education
- Energy
- Public Safety
- Health Care
- Environment

Dear Friends and Neighbors,

It has been another busy year at the State House, and I'd like to take this opportunity to share some of our accomplishments. Even though this was the "short" session, we have tackled a number of important issues.

First on my list was crafting and passing a bi-partisan energy bill designed to make Maine more fuel efficient and energy independent. We also passed a supplemental budget that was fiscally responsible, while meeting the needs of Maine's people by increasing state aid to local schools and protecting those who would have lost benefits under the new federal Medicare Part D program.

In other legislation, we passed an emergency fuel assistance measure to help those in greatest need cope with the record high cost of oil this winter, increased the state's minimum wage, and passed Tina's Law, which is designed to keep habitually unsafe drivers off the road. To strengthen our economy and promote investment here in Maine, we eliminated the tax on business equipment. All in all it has been a very busy and productive session.

I hope the information within this newsletter is of interest, and thank you for the honor of representing you in the State Senate.

Sincerely,

Moving Maine Forward ~ Putting People First

Investing in People, Innovation and Maine Small Business

Eliminating the Tax on Business Equipment

We succeeded in our work with the business community to repeal the Personal Property Tax on business equipment. Our efforts to protect municipalities from lost revenue were also successful, reducing opposition to this very important legislation. By eliminating the tax on business equipment, we've removed a roadblock to economic development and encouraged new investment and job growth in Maine.



The Best in Education for the Brightest Futures

College Funding

The Legislature continues its work to make higher education more affordable. In an effort to help high school students take college courses, the Legislature invested an additional \$500,000 in the Early College Initiative at the Maine Community College system. For adults trying to go to college, additional funds were devoted for the College Transitions Program. Nurses are in great demand and short supply; thus, we invested \$750,000 to increase the nursing faculty at Maine's community colleges and universities. This will help shorten the current 2-year wait for those wishing to enter nursing school. Finally, Maine tax law has been revised to allow an expanded tax deduction for interest paid on student loans.



K-12 School Funding

In its continued effort to reduce property taxes, the Legislature approved an additional \$42 million in new K-12 education funding for local communities. This will bring the State's share of education funding to 50%, the highest it has been since the early 1990's.

Teachers' Minimum Salaries Increase

Maine has some of the best teachers in the country – despite the fact their starting salaries have been among the lowest in the country. The last increase required in statute was in 1987 when the minimum starting salary was established at \$15,500. Legislation to address this injustice was passed this session and certified teachers will receive a minimum of \$27,000, increasing to \$30,000 by July, 2007. This is a critical step in helping school systems attract and retain the best and brightest teachers for Maine children.



Smart Energy Policies

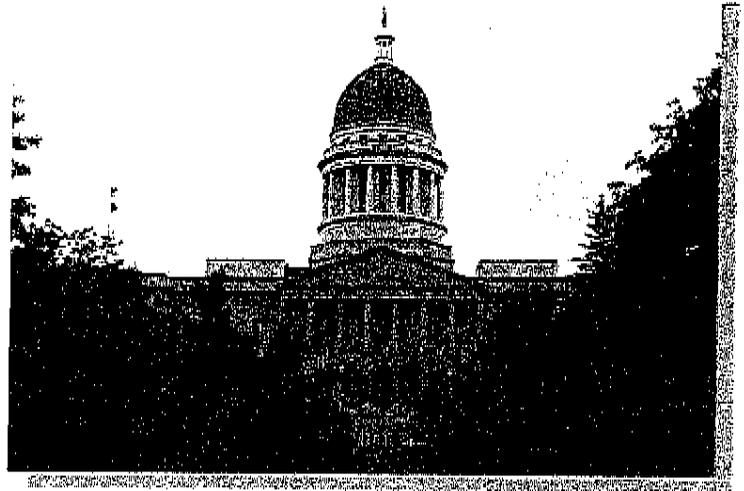
Energy Independence

The Legislature moved to address our energy problems this year with 'An Act to Encourage Energy Independence for Maine'. The bill, which I was proud to sponsor, requires the Public Utilities Commission (PUC) to develop a plan to expand the successful Efficiency Maine Program to lower energy costs for all consumers and requires the Office of Energy Independence to examine the state of home heating in Maine. Both will report back to the Legislature with their findings and policy recommendations. The bill also will help schools use less energy by providing school facility managers with training through the Efficiency Maine Program.

Public Safety

Tina's Law

At long last, we have passed legislation to stiffen penalties for drivers who continue to drive while their licenses are suspended. The bill was dubbed "Tina's Law" in honor of Tina Turcotte whose life was claimed by a horrific traffic accident last summer on Interstate 95. The driver behind the wheel of the tractor trailer rig that crashed into Tina's car had over 60 moving violations at the time of the accident and was driving while his license was under suspension. This new law will help protect Maine drivers and their families from similar offenders.



Health Care

Prescription Drugs

Once again, Maine lawmakers stepped up to protect Maine's elderly and disabled who might lose access to prescription drugs with the implementation of the Federal Medicare Part D program. The Legislature provided over \$10 million in additional funding to help ease the transition for those who received prescription drugs through Maine's Drugs for the Elderly Program or MaineCare and who would otherwise pay more or lose benefits because they are forced onto Medicare Part D.

Protecting our Heritage and Environment

Reducing Mercury Exposure

Maine continued its role as a national leader in reducing mercury from the environment. New laws were passed to further reduce our exposure to this dangerous material. Button cell batteries and products containing them will be banned by 2011. The State is required to report on the effectiveness of recycling programs of old cell phones which contain lead and/or mercury, posing health risks if released into the ground, water and air. After years of debate on health risks associated with dental fillings containing mercury, annual reporting of mercury amalgam amounts provided to Maine dentists is required. These and other initiatives aimed at reducing mercury exposure will help protect our people and wildlife and eventually make Maine fish safer to eat.





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Contact Senator Phil Bartlett
(207) 287-1515
3 State House Station
Augusta, ME 04333
E-mail:
phil@philbartlett.com



Cut here Cut here

Your Voice Counts!

Please rank the top five issues that are important to you with 1 being your top pick!

- | | |
|---|--|
| <input type="checkbox"/> Consumer Protection | <input type="checkbox"/> Access to Health Care |
| <input type="checkbox"/> K-12 School Funding | <input type="checkbox"/> Jobs/Economic Development |
| <input type="checkbox"/> Environmental Protection | <input type="checkbox"/> Taxes |
| <input type="checkbox"/> Energy Conservation | <input type="checkbox"/> Higher Education Funding |
| <input type="checkbox"/> and Independence | <input type="checkbox"/> Roads and Bridges |

Please detach survey and mail back to

**Senator Phil Bartlett
3 State House Station
Augusta, ME 04333**

You may also fill this survey out online at:
www.mainesenate.org/bartlett

- Yes or No** Did you take advantage of the recently expanded Property Tax Relief (Circuit Breaker and Homestead) Programs?
- Yes or No** Should more be done to create savings in Maine's health care market in an effort to improve access to health care?
- Yes or No** Should lowering taxes be a priority for the Legislature, even if it means cutting funding for higher education, state parks, health care, public safety, law enforcement or environmental protection?
- Yes or No** Should we invest more in economic development initiatives, including research and development or fixing our roads and bridges, in an effort to create good jobs in Maine?
- Yes or No** Should the State increase its rainy day fund, even though current reserves total approximately \$100 million?

Please show other comments you may have:

- (5) The payment by a party's state, district, county or municipal committee of the costs of preparation, display or mailing or other distribution of a party candidate listing;
- (6) Documents, in printed or electronic form, including party platforms, single copies of issue papers, information pertaining to the requirements of this Title, lists of registered voters and voter identification information, created or maintained by a political party for the general purpose of party building and provided to a candidate who is a member of that party;
- (7) Compensation paid by a political party to an employee of that party for the following purposes:
 - (a) Providing advice to any one candidate for a period of no more than 20 hours in any election;
 - (b) Recruiting and overseeing volunteers for campaign activities involving 3 or more candidates; or
 - (c) Coordinating campaign events involving 3 or more candidates;
- (8) Campaign training sessions provided to 3 or more candidates;
- (8-A) Costs paid for by a party committee in connection with a campaign event at which 3 or more candidates are present;
- (8-B) Wood or other materials used for political signs that are found or contributed if not originally obtained by the candidate or contributor for campaign purposes;
- (8-C) The use or distribution of any communication, as described in section 1014, obtained by the candidate for a previous election and fully paid for during that election;
- (9) The use of offices, telephones, computers and similar equipment when that use does not result in additional cost to the provider; or
- (10) Activity or communication designed to encourage individuals to register to vote or to vote if that activity or communication does not mention a clearly identified candidate.

3. Expenditure. The term "expenditure:"

A. Includes:

- (1) A purchase, payment, distribution, loan, advance, deposit or gift of money or anything of value made for the purpose of influencing the nomination or election of any person to political office, except that a loan of money to a candidate by a financial institution in this State made in accordance with applicable banking laws and regulations and in the ordinary course of business is not included;
- (2) A contract, promise or agreement, expressed or implied, whether or not legally enforceable, to make any expenditure;



- (3) The transfer of funds by a candidate or a political committee to another candidate or political committee; and
- (4) A payment or promise of payment to a person contracted with for the purpose of supporting or opposing any candidate, campaign, political committee, political action committee, political party, referendum or initiated petition; and

B. Does not include:

- (1) Any news story, commentary or editorial distributed through the facilities of any broadcasting station, newspaper, magazine or other periodical publication, unless the facilities are owned or controlled by any political party, political committee or candidate;
- (1-A) Any communication distributed through a public access television station if the communication complies with the laws and rules governing the station and all candidates in the race have an equal opportunity to promote their candidacies through the station;
- (2) Activity or communication designed to encourage individuals to register to vote or to vote if that activity or communication does not mention a clearly identified candidate;
- (3) Any communication by any membership organization or corporation to its members or stockholders, if that membership organization or corporation is not organized primarily for the purpose of influencing the nomination or election of any person to state or county office;
- (4) The use of real or personal property and the cost of invitations, food and beverages, voluntarily provided by an individual to a candidate in rendering voluntary personal services for candidate-related activities, if the cumulative value of these activities does not exceed \$100 with respect to any election;
- (5) Any unreimbursed travel expenses incurred and paid for by an individual who volunteers personal services to a candidate, if the cumulative amount of these expenses does not exceed \$100 with respect to any election;
- (5-A) Any unreimbursed travel expenses incurred and paid for by the candidate or the candidate's spouse;
- (6) Any communication by any person that is not made for the purpose of influencing the nomination for election, or election, of any person to state or county office;
- (7) The payment by a party's state, district, county or municipal committee of the costs of preparation, display or mailing or other distribution of a party candidate listing;
- (8) The use or distribution of any communication, as described in section 1014, obtained by the candidate for a previous election and fully paid for during that election campaign;

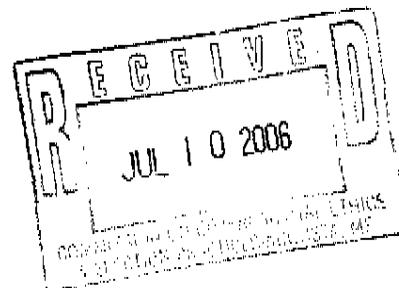


Agenda

Item #3

504 Cottage Road
South Portland, ME 04106
July 6, 2006

Mr. Jonathan Wayne
Executive Director
Commission on Governmental Ethics and Election Practices
133 State House Station
Augusta, Maine 04333-0135



Dear Mr. Wayne:

Thank you for the opportunity to comment on the request for an investigation from Mr. Paul Nixon, who ran in the Republican primary for House District 122 in last month's election. I am pleased to respond to the questions you present in your letter of June 29th, and would be happy to answer others as they arise.

As you know, every member of the Maine State Legislature is entitled, at State expense, to send one mailing each year to every constituent in the House or Senate district which that Legislator represents. It is my belief that, because this mailing is designed to provide information about actions taken by the Legislature, that it is best sent at the very end of the legislative session. To that end, my 2006 mailing, which took the form of a newsletter (which you have seen), was mailed one week after the end of the legislative session. The session concluded on Wednesday evening, May 24th, and my newsletter was sent to the printer (who also did the mailing) the following Monday morning.

I should point out that the House Majority Office and the House Minority Office were given deadline dates for member mailings to be approved by the Clerk's office for appropriate content. My newsletter was approved by the Clerk of the House well in advance of that deadline and was, in fact, among the first to be approved through the House Majority Office.

This mailing was paid for by the State of Maine, and was the only piece of correspondence printed and mailed with State funds during the second year of the 122nd Legislature in my role as member of the Legislature representing House District 122.

To my knowledge, this newsletter was only mailed to residences inside my legislative district. Although some other legislators have argued before the Commission that they represent ALL of the people, and are therefore within their rights to send mailings outside of their own districts, I believe that this is contrary to the intent of the law. My newsletter was only mailed to residences within my district.

Your last question asks if my intent was to influence my election. I believe that Legislators have a responsibility to keep their constituents informed of their actions, their votes, and their feelings about issues being discussed in Augusta. I do this through monthly open meetings in South Portland (which I share with Representative Eberle and Representative Goldman), through regular email updates, and through this annual newsletter. My intent and primary purpose was to keep my constituents informed as the session drew to a close. This was not a mailing designed to influence the election.

And it should be pointed out that, since I ran unopposed in the Democratic primary for House District 122 in the election last month, there was no other candidate to influence voters against! I was not running against anyone.

I hope these comments answer the questions that you and the Commission might have with regard to my regular Legislative newsletter. If there are further questions, please let me know; I'll be happy to address them. I can most easily be reached via email, at bliss@usm.maine.edu. I can also be reached during the day in my office at the University of Southern Maine (207-780-4199).

Cordially,



Lawrence Bliss



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

June 29, 2006

Hon. Lawrence Bliss
504 Cottage Road
South Portland, ME 04106

Dear Rep. Bliss:

The Ethics Commission received the attached request for an investigation from Paul Nixon regarding a constituent newsletter you sent. The Commission staff will treat the request consistently with the Commission members' handling of mailings by Rep. Kevin Glynn, which they considered at their June 22 meeting.

Please provide the following information no later than Friday, July 7:

- When was the newsletter mailed?
- What source paid for the mailings (e.g., the Legislature, your personal funds)?
- To your knowledge, was the newsletter mailed to anyone outside of your legislative district (other than the "spillover" effect of postal carrier routes within your district that extend beyond your district)?
- Was your primary purpose in sending the mailing to influence your election? If not, what was the primary purpose of the mailing?

A response by e-mail would be acceptable. Please feel free to respond to anything else in Mr. Nixon's letter that you wish.

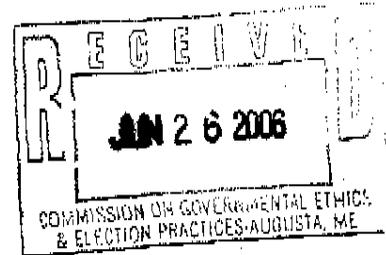
This matter will be considered by the Commission at its next meeting on Wednesday, July 19 at 9:00 a.m. Following the meeting, the Commission will be holding a public workshop on the issue of suggesting a statute or rule that would distinguish constituent mailings from campaign literature. You or Mr. Nixon are welcome to comment on the general policy issue if you would like. Please telephone me at 287-4179 if you have any questions.

Sincerely,

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

Jonathan Wayne
Executive Director

cc: Paul Nixon



June 26, 2006

Paul Nixon
158 Preble Street
South Portland, Maine 04106
(207) 799-2451

c/o Jonathan Wayne, Director
Governmental Ethics & Election Practices
135 State House Station
Augusta, Maine 04333

**RE: Complaint Against Candidate Lawrence Bliss
House District 122 Race**

Dear Mr. Wayne,

My name is Paul Nixon and I am the Republican candidate for Maine House District 122 in South Portland Maine.

I wish to report that my opponent, Lawrence Bliss (D-South Portland), distributed the attached newsletter by mail to residents of Maine House District 122 and beyond just prior to the June 13th, 2006 Primary Election. I wish to raise the following issues about this mailer entitled "2006 Legislative Update":

- 1) Unlike other political mail, this mail piece has no disclaimer telling the reader who paid for it or if it was authorized by the candidate.
- 2) The cost of this mail piece does not appear to be on Mr. Bliss's campaign finance report.
- 3) The piece is of a partisan nature referring readers to visit online at www.housedemocrats.maine.gov which is very partisan information regarding happenings in Augusta.
- 4) This mail piece was sent within 21 days before the Primary election for a certified Maine Clean Election's candidate and as such should be considered an "independent expenditure" (please see state law Title 21-A, Chapter 13, Section 119-B (1) & (2) below).

Title 21-A: ELECTIONS
Chapter 13: CAMPAIGN REPORTS AND FINANCES
Subchapter 2: REPORTS ON CAMPAIGNS FOR OFFICE

§1019-B. Reports of independent expenditures

1. Independent expenditures; definition. For the purposes of this section, an "independent expenditure":

A. Is any expenditure made by a person, party committee, political committee or political action committee, other than by contribution to a candidate or a candidate's authorized political committee, for any communication that expressly advocates the election or defeat of a clearly identified candidate; and [2003, c. 448, §3 (new).]

B. Is presumed in races involving a candidate who is certified as a Maine Clean Election Act candidate under section 1125, subsection 5 to be any expenditure made to design, produce or disseminate a communication that names or depicts a clearly identified candidate and is disseminated during the 21 days, including election day, before a primary election; the 21 days, including election day, before a general election; or during a special election until and on election day. [2003, c. 448, §3 (new).]

[2003, c. 448, §3 (new).]

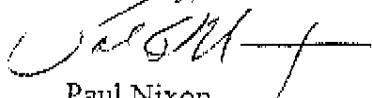
Finally, I wish to report that as a certified Maine Clean Election candidate I have been disadvantaged by this expenditure promoting candidate Lawrence Bliss. If this was truly a constituent service newsletter, it would have been mailed prior to the 21 day window and would have contained a disclaimer telling everyone who paid for it.

I am asking the Ethics Commission for one of the following remedies:

- 1) The expense of this mailer should be counted as a campaign expenditure of Lawrence Bliss as one of his General Election expenditures.
- 2) Each of the other candidates in the Maine House District 122 race should have a two color mailer of similar size to be sent to the same voters of the district.
- 3) Each of the other candidates in the Maine House District 122 race should be given matching funds so that we may send a similar informational mailer.

Thank you in advance for your prompt attention and investigation into this matter.

Sincerely,



Paul Nixon

Lawrence Bliss

State Representative

2006 Legislative Update



Thank you for taking a minute to read this Legislative update. It is my hope that this newsletter will help inform you of the new laws passed by the Maine Legislature, and tell you more about my efforts to represent our community and to move Maine forward with:

- ✓ **Quality Jobs**
- ✓ **Affordable Health Care**
- ✓ **Strong Consumer Protection Laws**
- ✓ **A Healthy Environment**

Please contact me with your input, or for assistance on any state issue:

REP. LAWRENCE BLISS

504 Cottage Road
South Portland, ME 04106

At home: 799-8229
In Augusta: 1-800-423-2900

E-mail: Lawrence.Bliss@legislature.maine.gov

Or visit me online at: www.housedemocrats.maine.gov

Maine House of Representatives

REP. LAWRENCE BLISS



Working for Maine families

I am working to build new opportunities for Maine families and a stronger future for our state. It's important to me that the unique interests and concerns of our community are well represented in Augusta, and I am committed to ensuring that our voice is heard.

My partner Nolan and I live on Cottage Road with our three children. Nolan works on Low Income Housing Tax Credits as a senior compliance monitor and I work as the director of Career Services and Professional Life Development at the University of Southern Maine.

If I can help on any state issue, please call me at 799-8229.

Quality Jobs

INVESTING IN PEOPLE, INNOVATION, SMALL BUSINESSES

As a legislator, working to create quality jobs and new opportunities for Maine people is a top priority. This year we made important progress by:

- **Spurring economic development**, expanding broadband and Internet access across Maine by growing our communications infrastructure.
- **Eliminating the equipment tax for Maine businesses**, making Maine more competitive by encouraging new investments and job growth.
- **Raising wages for Maine workers**, rewarding hard work with fair wages by increasing Maine's minimum wage to \$7 per hour by 2007.
- **Fighting for transportation bonds**, working to give Maine people an opportunity to approve investments in our roads and our economy.



Affordable Health Care

ACCESS TO QUALITY HEALTH CARE FOR EVERY MAINER

One of the toughest challenges facing our state and our country is the growing cost of health care. Maine is one of the on states working on a comprehensive solution - and one of the only states in the country to see real progress. Our efforts are helping to lower costs, ensure quality and expand access to health care. This year, Maine is leading by:

Rate of Uninsured:



Up 17%
in the U.S.

Down 5%
in Maine

- **Stepping up on Medicare Part D.** Maine lawmakers worked to provide drug coverage and protect access to prescription drugs for the thousands of Mainers left behind in the wake of the federal Medicare Part D debacle.
- **Helping consumers save on prescription drugs**, creating a statewide directory of Maine pharmacies and requiring pharmacists to disclose their prescription drug prices.
- **Cutting health care costs.** We continued our commitment to ensure access to quality affordable health care by working to improve and expand Dirigo Choice, the fastest growing insurance plan on the market. In the first year of the Dirigo Health initiative, Maine saved \$44 million in health care costs.

For more information on Dirigo Health visit: www.dirigohealth.maine.gov

House District 22

Serving as a voice for the people of South Portland.

Consumer Protection

PUTTING MAINE FAMILIES FIRST

Putting people first is my priority in lawmaking. I was glad to support passage of Maine's most important new consumer protection laws. These laws will help protect Mainers by:

- **Preventing price gouging**, capping price increases on family necessities such as oil.
- **Banning the sale of your private cell phone records**, leading the nation in closing a dangerous federal loophole allowing the sale of messages and cell records.
- **Protecting victims of identity theft**, ensuring that their credit records are repaired.
- **Ending hidden holds on your debit accounts**, requiring merchants to tell you if a purchase could tie up more of your money than just the purchase price.

For more information on Maine's consumer protection laws and how you can help protect your family visit: www.maine.gov/portal/living/consumer_protection.html.

Environment

PRESERVING OUR NATURAL HERITAGE

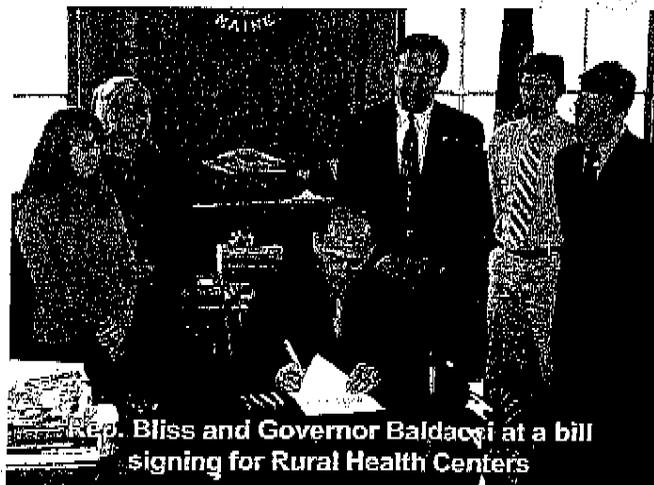
I believe lawmakers have a responsibility to take care of Maine's landscape and to preserve our quality of life for future generations. To help protect our natural heritage, we passed new laws:

- **Phasing-out mercury batteries and cutting emissions**, protecting Maine families from hazardous materials by restricting mercury emissions, recycling mercury thermostats and banning mercury-added batteries.
- **Expanding Baxter State Park**, preserving public access to some of Maine's most beautiful lands for generations to come.
- **Restricting aerial pesticide spraying**, protecting coastal habitat and fishing grounds by establishing no-pesticide buffer zones along Maine's shorelines.

For information on renewable energy and solar power rebates visit: www.maine.gov/msep.



Meeting with Congressman
John Allen



Rep. Bliss and Governor Baldacci at a bill
signing for Rural Health Centers



**If you have
any questions,
or need help
with a state
issue, please
contact me.**

REP. LARRY BLISS
504 Cottage Road
South Portland, ME 04106

at home: 207-799-8229
in Augusta: 800-423-2900

or visit me online at:
www.houseDemocrats.maine.gov



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Rep. Larry Bliss

Dear Friends and Neighbors,

It has been a great pleasure to serve as your State Representative this past year. As your legislator, it is my duty to ensure that the laws we pass in the Legislature reflect the changing needs of our local families. This legislative session, we made great progress and I am pleased to be able to share some of the results with you.

We passed several new laws that will move Maine forward and, despite setbacks from the federal government, we crafted a responsible state budget that puts Maine people first and increases Maine's rainy day savings to \$100 million.

I hope the information in this update is helpful and of interest, and I thank you for the honor of representing you in the Maine Legislature.

Sincerely,



Larry Bliss
State Representative

122ND MAINE LEGISLATURE:

Leaving a greater legacy for future generations

Expanding Baxter State Park - Katahdin Lake

Maine will finally fulfill Governor Baxter's vision by adding Katahdin Lake and the surrounding lands to Baxter State Park. With this once-in-a-lifetime opportunity, the Legislature has guaranteed access to one of Maine's most scenic and beloved landscapes for future generations to enjoy.

Ending Discrimination - Civil Rights

This Legislature put an end to discrimination, making it illegal to deny a person access to housing, credit, or employment because of sexual orientation.

A Cleaner, Safer Environment -

Recycling E-Waste, cutting emissions

Maine is leading in efforts to cut hazardous wastes and protect clean air with landmark laws to reduce mercury emissions and recycle dangerous electronic wastes like computers, TVs and mercury thermostats.

Agenda

Item #4



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: July 11, 2006

Re: Recommended Penalty against George Thomson

George Thomson was running against Randall Greenwood in the Republican primary election for House District #80. Because Mr. Thomson was a privately financed candidate running against a Maine Clean Election Act opponent, he was required to file a 101% Report when his contributions – or his expenditures plus obligations – exceeded \$1,519. That amount is 1% more than the \$1,504 amount which Mr. Greenwood received for the primary election under the Maine Clean Election Act. Mr. Thomson won the primary election by a margin of 407 (60.8%) to 263 (39.2%).

In early May, Mr. Thomson ordered cards from Spectrum Publishing that would be mailed within the district. On May 22, Mr. Thomson received a telephone call from Spectrum's Chuck McGee regarding a printer's proof. After the candidate approved the proof, Mr. McGee asked if he would like to order a *second* mailing. Mr. Thomson replied yes. He did not pay for the second mailing until June 5, 2006.

The Commission staff believes the ordering of the literature on May 22 constituted an obligation, based on the Commission's Rule regarding what constitutes an expenditure (attached). If viewed as an obligation, placing the order required the filing of a 101% Report within 2 days on May 24, 2006. Mr. Thomson did not report the expenditures and obligation until June 1, when he filed the 12-day accelerated report. The Commission staff is treating June 1 as the filing date of the 101% Report. Mr. Thomson argues that he did not become obligated to buy the second order until he made a partial payment.

On June 1, the Commission staff realized that Mr. Thomson's expenditures and obligations exceeded the 101% Amount, and authorized Mr. Greenwood to spend \$512.50 in matching funds. Because Mr. Thomson's reporting was filed 8 days late, there was an 8-day delay in authorizing Mr. Greenwood to spend \$512.50 in matching funds.

The staff believes the Commission should assess a nominal monetary penalty against Mr. Thomson because his opponent *could* have been disadvantaged by his late filing, and the reporting form – which he had filed earlier – clearly calls for the reporting

of obligations. If he had questions about what constitutes an obligation, he could have called the Commission staff. Based on the formula in the statute, the maximum penalty is \$12,117.60 (see attached penalty calculation).

Instead, the staff recommends a penalty of \$253.70, which is one-half of the unreported amount. The amount of the penalty is relatively low compared to the maximum because there are some specific circumstances that are present:

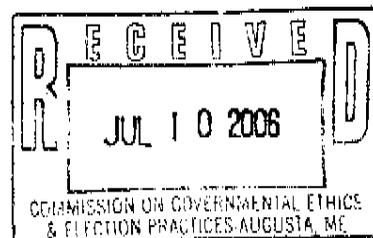
- By June 1, Randall Greenwood had spent only \$57.13 of his April initial distribution of \$1,504. It does not appear that Mr. Greenwood was substantially disadvantaged by Mr. Thomson's late filing. Even if on May 24 Mr. Greenwood had received \$512.50 in matching funds, it is unclear whether he would have spent those funds by June 1.
- Mr. Thomson was very responsive to the staff's requests for more information and to file amended reports. Mr. Thomson acted quickly upon being informed of the late filing by the staff on June 1. He came into the Commission's office the next morning to cure the reporting problems identified by the staff.

The Commission staff believes that Mr. Thomson acted in good faith in performing his primary election reporting responsibilities, would have filed the appropriate report if he had a better understanding of reportable obligations, and did not intend to disadvantage his primary opponent.

For the above reasons, the staff recommends assessing a penalty of \$253.70.

July 8, 2006

State of Maine
Commission on Governmental Ethics
And Election Practices
135 State House Station
Augusta, Maine 04333



RE: Waiver of penalty

Dear Commission:

I am requesting that the commission waive the penalty for my late 101% campaign finance report on 6/2/2006. It is my belief that the 101% amount of \$1,519.00 was not exceeded until 6/3/2006, and the report was not required till 6/5/2006.

On 6/3/06 I paid Spectrum Printing \$734.20 for a campaign mailing. Spectrum, (Chuck McGee, Vice President) told me they would not mail the items unless they received fifty percent (half the fee) to cover postage. I believed the expenditure was not "obligated" till paid in advance of the mailing; no payment, no mailing, simple and clear. My Treasurer agreed with me. As a traditionally funded candidate, my intent to buy campaign advertising is not always achievable due to lack of contributions and limited personal funds.

The definition of "obligate" is not covered in the 2006 Candidate's guide. I made a *bona fide* effort to reveal my intentions to fund the campaign mailing with my own money by including it on the 12 day report on 6/1/2006. When Sandy Thompson questioned me about the report, I went to the commission immediately to rectify it.

I was informed by the commission staff that "obligate" was synonymous with "intent" for these purposes. I will comply with that definition in the future. Prior to that meeting I was unaware that I had to report "intent" to obligate.

I believe that the greater public good is served by the MCEA. I endeavored to respect and comply with the word and intent of this law. As a thirty year veteran and senior officer in the United States Air Force, I fully understand that ethics and integrity are the bedrock of public service, and I have never willfully violated any ethics practices.

Sincerely,

George R. Thomson Jr. Colonel, USAF Ret.



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

June 30, 2006

Mr. George R. Thomson, Jr.
136 Dennis Hill Road
Litchfield, ME 04350

BY CERTIFIED MAIL

Dear Mr. Thomson:

RE: Late 101% Campaign Finance Report Due 5/24/2006 By 5:00 p.m.

You filed a 101% campaign finance report on 6/2/2006. A penalty must be assessed for late reports based on the amount of financial activity greater than the 101% amount of \$1,519, the number of calendar days a report is filed late, and the candidate's filing record. Based on the prescribed statutory formula, the maximum penalty amount is \$12,177.60. Please refer to the enclosed penalty matrix for more details on how the maximum penalty is computed. If you agree with this preliminary determination of the amount of the penalty, you may use the enclosed billing statement to pay that penalty. Given the particular circumstances of the late filing, the Commission staff has determined that it will recommend the assessment of a penalty of \$253.70 (one-half of the unreported amount). This recommendation will be made at the next Commission meeting scheduled for Wednesday, July 19 at 9:00 a.m..

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

NOTE: The Commission may waive penalties for late reports only in cases where tardiness is due to mitigating circumstances. The law defines "mitigating circumstances" as: 1) a valid emergency determined by the Commission, in the interest of the sound administration of justice, to warrant the waiver of the penalty in whole or in part; 2) an error by the Commission staff; 3) failure to receive notice of the filing deadline; or (4) other circumstances determined by the Commission that warrant mitigation of the penalty, based upon relevant evidence presented that a *bona fide* effort was made to file the report in accordance with the statutory requirements, including, but not limited to, unexplained delays in postal service.

Sincerely,

Sandy Thompson
Candidate Registrar

cc. Treasurer
Randall Greenwood



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
 PENALTY MATRIX FOR LATE 101% AMOUNT & ACCELERATED REPORT
 FILINGS

BASIS FOR PENALTIES 21-A M.R.S.A. SECTION 1020-A(4)

The penalty for late filing of an accelerated report is equivalent to but not more than 3 times the amount by which the contributions received or expenditures obligated or made, whichever is greater, exceed the applicable Maine Clean Election Fund payment per day of violation, multiplied by the number of calendar days the report is filed late.

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

Example: The treasurer files the accelerated report two days late. The candidate reports a total of \$2,500 in contributions and \$1,500 in expenditures (made and obligated). The 101% Amount is \$1,600. The difference between \$2,500 contributions (greater than \$1,500 in expenditures) is: \$900

<u>\$2,500</u>	Greater amount of the total contributions received or expenditures made during the filing period
- <u>\$1,600</u>	Applicable 101% Amount
<u>\$900</u>	Difference
<u>X 3</u>	No more than 3 times the per day
<u>\$2,700</u>	Maximum amount per day
<u>X 2</u>	Number of calendar days late
<u>\$5,400</u>	Total maximum penalty

Your penalty is calculated as follows:

Contributions/Expenditures: (Greater amount)	\$ <u>2,026.40</u>
Minus 101% Amount:	\$ <u>1,519.00</u>
Difference:	\$ <u>507.40</u>
Multiplied by 3 =:	\$ <u>1,522.22</u>
Multiplied by number of days late:	\$ <u>8</u>
Total maximum penalty:	\$ <u>12,177.60</u>

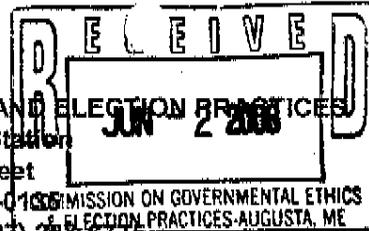
Any penalty of less than \$5 is waived.

Waiver of a penalty does not nullify the finding of a violation.

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

Revised 6/06

STATE OF MAINE
 COMMISSION ON GOVERNMENTAL ETHICS AND ELECTION PRACTICES
 Mail: 135 State House Station
 Office: 242 State Street
 Augusta, Maine 04333-0108
 Tel: (207) 287-4179 FAX: (207) 287-6775



Sent by
 fax 06/01/06
 0930
 mailed original
 06/01/06

**PRIMARY ELECTION 2006
 ACCELERATED REPORT
 FOR PRIVATELY FINANCED LEGISLATIVE CANDIDATES
 WITH MCEA OPPONENTS**

PLEASE INDICATE TYPE OF REPORT

42-Day (Due 5/2) 21-Day (Due 5/23) 12-Day (Due 6/1) 101% (Due: See Reverse)

CANDIDATE INFORMATION

Name of Candidate <i>George Thomson</i>	Telephone Number <i>207 582 0879</i>
Mailing Address <i>136 Dennis Hill</i>	Office Sought <i>REP</i>
City, Zip Code <i>Litchfield, ME</i>	District <i>80</i>
Name of Opposing MCEA Candidate(s) <i>Randy Greenwood, Nancy Smith</i>	

TOTAL RECEIPTS FOR THE PRIMARY ELECTION

Total cash contributions:	<i>550⁰⁰</i>
Total value of in-kind contributions:	<i>734²⁰</i>
Total loans:	
Total bank interest:	
TOTAL RECEIPTS:	<i>\$1284.20</i>

TOTAL EXPENDITURES FOR THE PRIMARY ELECTION

Total expenditures:	<i>330⁰⁰</i>
Total unpaid debts and obligations:	<i>962²⁰</i>
Total value of in-kind contributions:	<i>734²⁰</i>
TOTAL EXPENDITURES:	<i>\$2026.40</i>

I CERTIFY THAT THE INFORMATION IN THIS REPORT IS TRUE, CORRECT AND COMPLETE.

George Thomson
 Signature of Candidate

06/01/06
 Date

COMMISSION Rules

committee. No contribution has been made if the employee is providing services as a volunteer outside of the employee's paid work-time.

5. A commercial vendor that has extended credit to a candidate or political committee has not made a contribution if the credit is extended in the ordinary course of the vendor's business and the terms are substantially similar to extensions of credit made to nonpolitical debtors that are of similar risk and size of obligation.

SECTION 7. EXPENDITURES

1. Expenditures By Consultants, Employees, and Other Agents of a Political Campaign. Expenditures made on behalf of a candidate, political committee, or political action committee by any person, agency, firm, organization, etc. employed or retained for the purpose of organizing, directing, managing or assisting the candidate, the candidate's committee, or the political action committee shall be deemed expenditures by the candidate or committee. Such expenditures must be reported by the candidate or committee as if made or incurred by the candidate or committee directly.
2. Expenditures By Political Action Committees. In addition to the requirements set forth in 21-A M.R.S.A. Section 1060(4), the reports must contain the purpose of each expenditure and the name of each payee and creditor.
3. Timing of Reporting Expenditures.
 - A. Placing an order with a vendor for a good or service; signing a contract for a good or service; the delivery of a good or the performance of a service by a vendor; or a promise or an agreement (including an implied one) that a payment will be made constitutes an expenditure, regardless whether any payment has been made for the good or service.
 - B. Expenditures must be reported at the earliest of the following events:
 - (1) The placement of an order for a good or service;
 - (2) The signing of a contract for a good or service;
 - (3) The delivery of a good or the performance of a service by a vendor;
 - (4) A promise or an agreement (including an implied one) that a payment will be made; or
 - (5) The making of a payment for a good or service.

- C. At the time the duty to report an expenditure arises, the person submitting the report is required to determine the value of goods and services to be rendered (preferably through a written statement from the vendor) and to report that value as the amount of the expenditure. If the expenditure involves more than one candidate election, the report must include an allocation of the value to each of those candidate elections.
4. Advance Purchases of Goods and Services for the General Election.
 - A. Consulting services, or the design, printing or distribution of campaign literature or advertising, including the creation and broadcast of radio and television advertising, contracted or paid for prior to the primary election must be received prior to the primary election in order to be considered primary election expenditures.
 - B. If the Commission receives a complaint stating that a candidate or a committee purchased goods or services before a primary election for use in the general election, the Commission may request that the candidate or committee distinguish which of the goods and services were used in the primary election and which were used in the general election.
 5. All payments made by a candidate or by individuals authorized by the candidate for the purpose of influencing the candidate's nomination or election must be reported as expenditures in the reporting period during which the payment is made, including payments made with the personal funds or credit card of the candidate or authorized individual. When the expenditure is reported, the candidate should indicate the person making the payment by entering "Paid by [candidate or supporter]" in the remarks section of the expenditure schedule.
 6. Multiple expenditures for bank fees and for vehicle travel may be reported in an aggregate amount, provided that the candidate or committee identifies the time period of the expenditures in the remarks section of the report.

SECTION 8. PROHIBITED COMMUNICATIONS

Commission members shall not discuss any specific case under investigation, or any case which may reasonably be expected to be the subject of investigation, as long as the matter is pending before the Commission and, where applicable, until anybody to whom the Commission renders an advisory opinion has concluded its action and any appeals therefrom have been exhausted.

21-A MRSA § 1017

January 15th of the following calendar year. These reports must include all contributions made to and all expenditures made or authorized by or on behalf of the candidate or the treasurer of the candidate as of the end of the preceding month, except those covered by a previous report.

B. Reports must be filed no later than 5 p.m. on the 6th day before the date on which an election is held and must be complete as of the 12th day before that date. If a report was not filed under paragraph A, the report required under this paragraph must cover all contributions and expenditures through the completion date.

C. Contributions aggregating \$1,000 or more from any one contributor or single expenditures of \$1,000 or more, made after the 12th day before any election and more than 24 hours before 5 p.m. on the day of any election must be reported within 24 hours of those contributions or expenditures.

D. Reports must be filed no later than 5 p.m. on the 42nd day after the date on which an election is held and must be complete for the filing period as of the 35th day after that date.

E. Unless further reports will be filed in relation to a later election in the same calendar year, the disposition of any surplus or deficit in excess of \$50 shown in the reports described in paragraph D must be reported as provided by this paragraph. The treasurer of a candidate with a surplus or deficit in excess of \$50 shall file reports semiannually with the commission within 15 days following the end of the 2nd and 4th quarters of the State's fiscal year, complete as of the last day of the quarter, until the surplus is disposed of or the deficit is liquidated. The first report under this paragraph is not required until the 15th day of the period beginning at least 90 days from the date of the election. The reports may either be filed in person with the commission on that date or postmarked on that date. The reports must set forth any contributions for the purpose of liquidating the deficit, in the same manner as contributions are set forth in other reports required in this section.

F. Reports with respect to a candidate who seeks nomination by petition must be filed on the same dates that reports must be filed by a candidate for the same office who seeks that nomination by primary election.

3-B. Accelerated reporting schedule. Additional reports are required from nonparticipating Maine Clean Election Act candidates pursuant to this subsection.

A. In addition to other reports required by law, any candidate for Governor, State Senate or State House of Representatives who is not certified as a Maine Clean Election Act candidate under chapter 14 and who receives, spends or obligates more than 1% in excess of the primary or general election distribution amounts for a Maine Clean Election Act candidate in the same race shall file by any means acceptable to the commission, within 48 hours of that event, a report with the commission detailing the candidate's total campaign contributions, obligations and expenditures to date.

*

B. A nonparticipating candidate with a Maine Clean Election Act opponent shall file the following additional reports detailing the candidate's total campaign contributions, obligations and expenditures to date, unless that candidate signs an affidavit by the date the report is due, attesting that the candidate has not received, spent or obligated an amount sufficient to require a report under paragraph A:

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

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

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

A report filed pursuant to this paragraph must be filed within 24 hours of the expenditure.

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

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

5. Content. A report required under this section must contain the itemized accounts of contributions received during that report filing period, including the date a contribution

each payee or creditor. The report must state whether the contribution or expenditure is in support of or in opposition to the candidate and must include, under penalty of perjury, as provided in Title 17-A, section 451, a statement under oath or affirmation whether the contribution or expenditure is made in cooperation, consultation or concert with, or at the request or suggestion of, the candidate or an authorized committee or agent of the candidate.

C. A report required by this subsection must be on a form prescribed and prepared by the commission. A person filing this report may use additional pages if necessary, but the pages must be the same size as the pages of the form.

21A § 1020. Failure to file on time (REPEALED)

21A § 1020-A. Failure to file on time

1. Registration. A candidate that fails to register the name of a candidate, treasurer or political committee with the commission within the time allowed by section 1013-A, subsection 1 may be assessed a forfeiture of \$10. The commission shall determine whether a registration satisfies the requirements for timely filing under section 1013-A, subsection 1.

2. Campaign finance reports. A campaign finance report is not timely filed unless a properly signed copy of the report, substantially conforming to the disclosure requirements of this subchapter, is received by the commission before 5 p.m. on the date it is due. Except as provided in subsection 7, the commission shall determine whether a report satisfies the requirements for timely filing. The commission may waive a penalty if the commission determines that the penalty is disproportionate to the size of the candidate's campaign, the level of experience of the candidate, treasurer or campaign staff or the harm suffered by the public from the late disclosure. The commission may waive the penalty in whole or in part if the commission determines the failure to file a timely report was due to mitigating circumstances. For purposes of this section, "mitigating circumstances" means:

- A. A valid emergency determined by the commission, in the interest of the sound administration of justice, to warrant the waiver of the penalty in whole or in part;
- B. An error by the commission staff;
- C. Failure to receive notice of the filing deadline; or
- D. Other circumstances determined by the commission that warrant mitigation of the penalty, based upon relevant evidence presented that a bona fide effort was made to file the report in accordance with the statutory requirements, including, but not limited to, unexplained delays in postal service.

3. Municipal campaign finance reports. Municipal campaign finance reports must be filed, subject to all the provisions of this subchapter, with the municipal clerk on forms prescribed by the Commission on Governmental Ethics and Election Practices. The

municipal clerk shall send any notice of lateness required by subsection 6 and shall notify the commission of any late reports subject to a penalty.

4. Basis for penalties. (REPEALED)

4-A. Basis for penalties. The penalty for late filing of a report required under this subchapter, except for accelerated campaign finance reports required pursuant to section 1017, subsection 3-B, is a percentage of the total contributions or expenditures for the filing period, whichever is greater, multiplied by the number of calendar days late, as follows:

- A. For the first violation, 1%;
- B. For the 2nd violation, 3%; and
- C. For the 3rd and subsequent violations, 5%.

Any penalty of less than \$5 is waived.

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

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

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

* The penalty for late filing of an accelerated campaign finance report as required in section 1017, subsection 3-B may be up to but no more than 3 times the amount by which the contributions received or expenditures obligated or made by the candidate, whichever is greater, exceed the applicable Maine Clean Election Fund disbursement amount, per day of violation. The commission shall make a finding of fact establishing when the report was due prior to imposing a penalty under this subsection. A penalty for failure to file an accelerated campaign finance report must be made payable to the Maine Clean Election Fund. In assessing a penalty for failure to file an accelerated campaign finance report, the commission shall consider the existence of mitigating circumstances. For the purposes of this subsection, "mitigating circumstances" has the same meaning as in subsection 2.

5. Maximum penalties. (REPEALED)

5-A. Maximum penalties. Penalties assessed under this subchapter may not exceed:

- A. Five thousand dollars for reports required under section 1017, subsection 2, paragraph B, C, D, E or H; section 1017, subsection 3-A, paragraph B, C, D or F; section 1017, subsection 4; and section 1019-B, subsection 3;
- B. Five thousand dollars for state party committee reports required under section 1017-A, subsection 4-A, paragraphs A, B, C and E;

C. One thousand dollars for reports required under section 1017, subsection 2, paragraphs A and F and section 1017, subsection 3-A, paragraphs A and E;

D. Five hundred dollars for municipal, district and county committees for reports required under section 1017-A, subsection 4-B; or

E. Three times the unreported amount for reports required under section 1017, subsection 3-B, if the unreported amount is less than \$5,000 and the commission finds that the candidate in violation has established, by a preponderance of the evidence, that a bona fide effort was made to file an accurate and timely report.

 **6. Request for a commission determination.** Within 3 days following the filing deadline, a notice must be forwarded to a candidate and treasurer whose registration or campaign finance report is not received by 5 p.m. on the deadline date, informing them of the basis for calculating penalties under subsection 4 and providing them with an opportunity to request a commission determination. The notice must be sent by certified United States mail. Any request for a determination must be made within 10 calendar days of receipt of the commission's notice. The 10-day period during which a determination may be requested begins on the day a recipient signs for the certified mail notice of the proposed penalty. If the certified letter is refused or left unclaimed at the post office, the 10-day period begins on the day the post office indicates it has given first notice of a certified letter. A candidate or treasurer requesting a determination may either appear in person or designate a representative to appear on the candidate's or treasurer's behalf or submit a notarized written explanation of the mitigating circumstances for consideration by the commission.

7. Final notice of penalty. After a commission meeting, notice of the commission's final determination and the penalty, if any, imposed pursuant to this subchapter must be sent to the candidate and the treasurer.

If no determination is requested, the commission staff shall calculate the penalty as prescribed in subsection 4 and shall mail final notice of the penalty to the candidate and treasurer. A detailed summary of all notices must be provided to the commission.

8. Failure to file report. The commission shall notify a candidate who has failed to file a report required by this subchapter, in writing, informing the candidate of the requirement to file a report. If a candidate fails to file a report after 3 written communications from the commission, the commission shall send up to 2 more written communications by certified mail informing the candidate of the requirement to file and that the matter may be referred to the Attorney General for criminal prosecution. A candidate who fails to file a report as required by this subchapter after the commission has sent the communications required by this subsection is guilty of a Class E crime.

8-A. Penalties for failure to file report. The penalty for failure to file a report required under this subchapter may not exceed the maximum penalties as provided in subsection 5-A.

9. List of late-filing candidates. The commission shall prepare a list of the names of candidates who are late in filing a report required under section 1017, subsection 2,

21-A MRSA § 1125

If the immediately preceding election cycles do not contain sufficient electoral data, the commission shall use information from the most recent applicable elections.

* **9. Matching funds.** When any campaign, finance or election report shows that the sum of a candidate's expenditures or obligations, or funds raised or borrowed, whichever is greater, alone or in conjunction with independent expenditures reported under section 1019-B, exceeds the distribution amount under subsection 8, the commission shall issue immediately to any opposing Maine Clean Election Act candidate an additional amount equivalent to the reported excess. Matching funds are limited to 2 times the amount originally distributed under subsection 8, paragraph A, C, E or F, whichever is applicable.

10. Candidate not enrolled in a party. An unenrolled candidate certified by April 15th preceding the primary election is eligible for revenues from the fund in the same amounts and at the same time as an uncontested primary election candidate and a general election candidate as specified in subsections 7 and 8. For an unenrolled candidate not certified by April 15th at 5:00 p.m. the deadline for filing qualifying contributions is 5:00 p.m. on June 2nd preceding the general election. An unenrolled candidate certified after April 15th at 5:00 p.m. is eligible for revenues from the fund in the same amounts as a general election candidate, as specified in subsections 7 and 8.

11. Other procedures. The commission shall establish by rule procedures for qualification, certification, disbursement of fund revenues and return of unspent fund revenues for races involving special elections, recounts, vacancies, withdrawals or replacement candidates.

12. Reporting; unspent revenue. Notwithstanding any other provision of law, participating and certified candidates shall report any money collected, all campaign expenditures, obligations and related activities to the commission according to procedures developed by the commission. Upon the filing of a final report for any primary election in which the candidate was defeated and for all general elections that candidate shall return all unspent fund revenues to the commission. In developing these procedures, the commission shall utilize existing campaign reporting procedures whenever practicable. The commission shall ensure timely public access to campaign finance data and may utilize electronic means of reporting and storing information.

13. Distributions not to exceed amount in fund. The commission may not distribute revenues to certified candidates in excess of the total amount of money deposited in the fund as set forth in section 1124. Notwithstanding any other provisions of this chapter, if the commission determines that the revenues in the fund are insufficient to meet distributions under subsections 8 or 9, the commission may permit certified candidates to accept and spend contributions, reduced by any seed money contributions, aggregating no more than \$500 per donor per election for gubernatorial candidates and \$250 per donor per election for State Senate and State House candidates, up to the applicable amounts set forth in subsections 8 and 9 according to rules adopted by the commission.

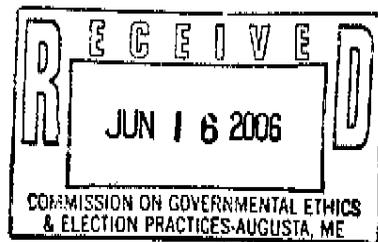
14. Appeals. A candidate who has been denied certification as a Maine Clean Election Act candidate, the opponent of a candidate who has been granted certification as

Agenda

Item #5

6/15/06

State Commission on Governmental
Ethics and Election Practices
35 State House Station
Augusta, Me 04333



Dear Commission Members,

I feel very embarrassed and apologetic to have again failed to understand your reporting rules or the online reporting system.

I had thought that I had fulfilled my obligation but as a non-professional and first-time operator in a lobbying campaign, I failed.

Martha Coucier-Demerit has informed me that your June meeting is being held on one of my duty days at the Portland Fire Department. We only have "sick" leave and not "personal" leave so I would be unable to attend that meeting even if you would have me.

I respectfully ask that you consider my non-professional and novice stature, as well as my mental, spiritual and emotional condition towards the end of the LD 1021 Lobbying Campaign. I worked mostly alone for a very long time, and the task left me weary.

I also respectfully ask that you allow me to appear "in person" at one of your meetings in the future to further explain my failure to comply with your rules and reporting requirements.

Thank you.

Dick W. ...



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

To: Mr. Richard Wurfel, Lobbyist for:
 Professional Fire Fighters of Maine

From: Martha Demeritt, Lobbyist Registrar

Date: May 16, 2006

Our records show that your April monthly lobbyist disclosure report has not been filed to date. The monthly report, due on the 15th of every month – or the next business day if the 15th falls on a weekend or holiday, is required to be filed by all lobbyists registered with the Commission by 5:00 p.m.

In addition, 3 M.R.S.A. §319(1) states that any person who fails to file a timely report may be assessed a penalty of \$100 for every month the person is delinquent in filing the report; thus, to date your penalty is **\$100**. If you agree with this preliminary determination, you may use the attached billing statement to pay that penalty within 30 days of the date of this notice. Please mail your remittance to the Commission on Governmental Ethics and Election Practices, 135 State House Station, Augusta, Maine 04333.

However, if you have a valid reason for filing late, you may request a final penalty determination by the Commission. Requests for penalty waivers should be addressed to the Executive Director of the Commission, Jonathan Wayne. The Commission will notify you of the disposition of your case within 10 days after its determination.

To avoid further penalty, you should file the report as soon as possible. Pursuant to 3 M.R.S.A. § 319(1-A), any person who fails to file a report or pay a fee may be suspended from further lobbying by written notice of the Commission until such failure is corrected.

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

Cut Along Dotted Line

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

From: Mr. Richard Wurfel, Lobbyist for:
 Professional Fire Fighters of Maine

For Office Use Only Account: CGEEP Fund: 014 Appr: 01
--

Re: Penalty for late filing of the April 2006 monthly lobbyist disclosure report (\$100)

Amount Enclosed: \$ _____

Check/M.O. No.: # _____

Please Make Check or Money Order Payable to Treasurer, State of Maine



Menu Home Help Logout Change Password

Multiple Reports for Mr. Richard Wurfel

Please select a report first...

Monthly - LONG Report

Dve 5/15 ->

Report Description	Report Status	Report Date		
March -- 2006	Filed	4-15-2006	Delete	
April -- 2006	Filed	6-15-2006	Delete	

Search Add Top Page Up Page Down End Report Menu

Instructions to:

Create new monthly report - click the Add button

****See Help Menu for Instructions****