



Minutes of the November 4, 2024 Meeting of the
Commission on Governmental Ethics and Election Practices
45 Memorial Circle, Augusta, Maine

Present: William Schneider, Esq., Chair; Dennis Marble; Sarah LeClaire, Esq.; and David Hastings, Esq. (all by Zoom)

Staff: Jonathan Wayne, Executive Director; and Jonathan R. Bolton, Assistant Attorney General
Commissioner Schneider convened the meeting at 11:00 a.m.

1. Complaint – Allegation of In-Kind Contribution to Candidate Susan Bernard

The Commission received a complaint from Ms. Ginette Rivard about a planned expenditure by the Maine Republican Party to record and broadcast a three-minute interview of State Senate candidate Sue Bernard on a radio station in Caribou on election day. Maine Clean Election Act (MCEA) candidates are prohibited from receiving donations from outside sources. The radio group owner told Commission staff that nine of the breaks were reserved for Sue Bernard and the other nine breaks were reserved for five other candidates. If Ms. Bernard had participated in the paid advertisement, it would have raised a legitimate compliance concern that she had received a contribution that is not permitted under the MCEA.

Mr. Joshua Tardy, Esq. representing the Maine Republican Party said they cancelled the radio ads upon notification of the complaint, therefore no expenditure had been made. He appreciated the Commission's role in facilitating compliance by candidates in addition to enforcement.

Mr. Schneider moved to take no further action on the complaint since there was no violation. Mr. Marble seconded the motion. The motion passed 4-0.

2. Complaint – Municipal Ballot Question Committee CapeVoters.com

The Commission received a request from Ms. Elizabeth Biermann for an investigation into campaign finance reporting by CapeVoters.com, the registered ballot question committee (BQC) opposing the November 5, 2024 school construction referendum in Cape Elizabeth. Ms. Biermann raised three compliance concerns: CapeVoters.com had not disclosed any expenditures for its

website; expenses for a third mailing from CapeVoters.com had not been disclosed in a 24-Hour Report; and CapeVoters may have received discounts on its mailings that the group should have reported as in-kind contributions from its mail house.

Mr. Wayne said a volunteer for CapeVoters had incurred one small expense for the website, which the BQC has now reported as an in-kind contribution. CapeVoters' response indicated that its third mailing had been paid for by a volunteer. He described his interview of a sales representative for CapeVoters' mail house. She said the charges to CapeVoters for its mailings were usual and customary, and it had provided no discount to the BQC.

Ms. Biermann questioned why the third mailing stated "Paid for by CapeVoters" if it was paid for by someone else and why CapeVoters was not obligated to file a 24-Hour Report.

Mr. Wayne said the mailer was paid for by supporter, Ms. Sandi Dunham. CapeVoters had already entered this transaction in the Ethics Commission's eFiling system as an in-kind contribution from Ms. Dunham to the BQC. The in-kind contribution would be disclosed to the public when the BQC files its post-election report. He offered the staff's view that CapeVoters.com was not required to file a 24-Hour Report for Ms. Dunham's purchase because it was an in-kind contribution to CapeVoters valued at \$2,129.92, which is below the \$5,000 threshold for 24-hour reporting of contributions. Staff viewed this as an expenditure by Ms. Dunham, not the BQC. The third mailing contained the disclaimer "Paid for by CapeVoters.com." He said the Commission had the option of considering whether the disclosure statement was compliant because it did not identify Sandi Dunham as the person who made or financed the expenditure for the mailing.

CapeVoters' Treasurer, Mary Ann Lynch, explained they had only planned on two mailers. On October 19, Ms. Biermann's group sent out a mailer with so much misinformation they felt an additional mailer was necessary to reply. They started preparing an ad. They looked for a donor who would pay the vendor directly in time since a contribution would need to clear the bank before the BQC could pay for the mailer. Ms. Lynch consulted with Commission staff to ensure she had recorded it properly.

Ms. LeClaire questioned the disclosure omission of Ms. Dunham's name as the donor. Mr. Bolton said it was completely up to the Commission to determine the seriousness of any violation.

Ms. Lynch explained she had only been made aware of a potential disclosure violation prior to the Commission meeting. If it was a concern, she would appreciate time to comment on it appropriately.

Mr. Hastings stated he considered this a contribution and expenditure, but the reporting is complicated in this case. CapeVoters reported it as the Commission staff recommended, and he felt the actual mailing people received correctly identified the party behind it.

Mr. Hastings moved to take no further action on this matter. Ms. LeClaire seconded the motion. The motion passed 4-0.

Mr. Hastings made a motion to adjourn. Mr. Marble seconded. The motion passed 4-0. The meeting was adjourned at 11:45 a.m.

Respectfully submitted,

Jonathan Wayne, Executive Director