



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

To: Commissioners
From: Martha Currier, Assistant Director
Date: October 28, 2024
Re: Yes on 1 – Freeport Referendum

On October 25, 2024, Freeport resident Ralph Dean filed a complaint with the Commission regarding lawn signs and a mailer that promotes the passage of a local referendum on November 4, 2024 regarding the town's purchase of a parcel of land at 22 Main Street. His complaint asked whether the sponsors of the communications should register and file campaign finance reports with the Commission. He also raised the issue that the communications lacked the proper disclaimer.

During its preliminary review of this complaint, Commission staff reached out to members of a town committee that previously worked on this issue to identify those who might be involved with the *Yes on 1* effort and learned of three individuals (John Patterson, Susan Nourse, and Ed Bradley). Commission staff were able to contact Ms. Nourse and Mr. Bradley who provided a written response on behalf of the *Yes on 1* committee.

LEGAL REQUIREMENTS

In October 2023, the law changed to require municipal BQCs in towns with less than 15,000 people to report to the Commission. At that time, the Commission reached out to all town clerks and provided them with our "2023 Municipal BQC Guidebook", which is also posted to our website. In 2024, Commission staff again reached out to the town clerks as a reminder of the new filing requirement.

Registration

A ballot question committee (BQC) is defined as a person (either an individual or organization) that receives contributions or makes expenditures of more than \$5,000 for the purpose of initiating or influencing a ballot question campaign. 21-A M.R.S. § 1052(2-A). Once a BQC raises or spends more than \$5,000 to influence a municipal referendum in a town with less than

15,000 people, the BQC is required to register with the Commission. 21-A M.R.S. §§ 1052-A(1)(A-1) & 1053-A.

Disclaimer on Certain Communications

When a person makes paid communications (e.g., ads or signs) costing more than \$500 expressly advocating support for a referendum, they must include the name and the address of the person(s) who paid for the communication. 21-A M.R.S. § 1055-A.

DISCUSSION AND STAFF RECOMMENDATION

Based on the information provided to the Commission, *Yes on 1*, is an informal group of Freeport citizens who support question 1 on the municipal November ballot. During an initial discussion with Commission staff, Mr. Bradley acknowledged the group put up signs around town, and that he sent the postcard mailer. He was unaware that a disclaimer was required on the mailer. Commission staff note that hand painted signs do not require a disclaimer.

In their written response to the Commission, *Yes on 1* outlined their expenses to date of approximately \$1,200, which are far below the \$5,000 registration and reporting trigger. Additionally, they do not anticipate additional expenses prior to election day that would require them to file with the Commission.

Item	Amount
Mailer Printing	\$335.00
Postage	\$446.00
Printed Signs	\$120.00
Handouts	\$88.00
Social Media Ads	\$200.00
TOTAL	\$1,189.00

When a person makes expenditures exceeding \$500 expressly advocating for or against a referendum on the ballot, the communication must clearly and conspicuously state the name and address of the person who made or financed the communication. 21-A M.R.S. § 1055-A. *Yes on 1* acknowledged that they sent one mailer that did not include the required disclaimer.

A violation of this requirement may result in a penalty of no more than \$5,000. When assessing a penalty for lack of disclaimers the Commission considers, among other things, how widely the communication was disseminated, whether the violation was intentional, whether it was due to an error by another, and whether the communication conceals or misrepresents the person who financed it.

Given the circumstances of this new municipal filing requirement and the Commission staff suggest a \$50 penalty for the lack of disclaimer on the mailer. *Yes on 1* has clearly stated that they were unaware of the disclosure requirement and had no intent to deceive the public.

Ralph J. Dean
125 Dune Drive
Freeport, ME 04032
(207) 485-5446

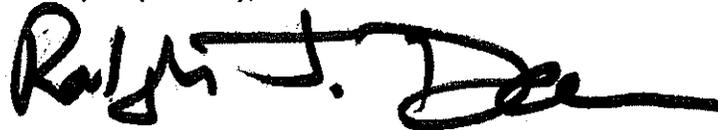
25 October, 2024

Mr. Jonathan Wayne
Maine Commission on Government Ethics
And Election Practices

Mr. Wayne –

As discussed yesterday, please find attached photos of yard signs (front and back) and mailer (6"x9"). Please note that there is no attribution on either. If you would, please confirm receipt of this e-mail and keep me apprised of the progress of this issue. Thanks very much.

Very respectfully,

A handwritten signature in black ink, appearing to read "Ralph J. Dean". The signature is fluid and cursive, with a long horizontal stroke at the end.

YES #1

BUY

22 MAIN ST

NOV 16 12:00 PM '08



YES #1
BUY
22 MAIN ST

PRSRT STD
ECRWSS
U.S. Postage
PAID
EDDM RETAIL

*****ECRWSS****
Local
Postal Customer



VOTE YES ON QUESTION #1

BUY 22 MAIN ST.

The Door TO OUR Downtown
For less than the cost of one cup of
coffee a Month

The property could remain open space, or become a
critical Town or suitable private use

Buy 22 Main St. now so the Town will have it when our
time is right.

Vote Yes on Question # 1 so 22 Main isn't sold to the
highest bidder

Voting Yes for buying this parcel makes it ours
for the future



COMMISSION ON GOVERNMENTAL ETHICS AND ELECTION PRACTICES
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By Email Only

October 25, 2024

Mr. Ed Bradley, Esq.
cflat@outlook.com

Dear Bradley,

Thank you for speaking with me regarding the postcard recently sent to households in Freeport regarding Question 1 on the town's November ballot. The Commission received the attached complaint regarding this communication.

One of the roles of the Ethics Commission is to enforce Maine's campaign finance laws, which provide voters with information about who is influencing them in elections. Specifically, Maine law requires groups who raise or spend more than \$5,000 on referendums in municipalities of fewer than 15,000 people to file reports with the Commission. [21-A M.R.S. § 1053-A](#). Additionally, any communications costing more than \$500 requires a disclaimer as to who made it. [21-A M.R.S. § 1055-A](#).

The Commission has a meeting on Wednesday, October 30, 2024 at 9:00 a.m. and will discuss this complaint towards the end of the meeting. If you wish to participate, you can do so in-person or by Zoom. In the meantime, we would appreciate a written response from you regarding the following:

- What was the cost of the attached mailer?
- A list of the expenditures, dates, and amounts spent by *Yes on 1* for the November 2024 referendum to date.
- Why does the mailer does not have the required disclaimer?
- Any other information that you deem relevant to this complaint.

Please provide the requested information to me via email at martha.currier@maine.gov by Monday, October 28, 2024.

Sincerely,

A handwritten signature in blue ink that reads 'Martha Currier'.

Martha Currier
Assistant Director

Martha Currier

Assistant Director

Maine Ethics Commission

Dear Martha:

I am responding to your request for information regarding a mailer sent to Freeport residents urging support of Yes on # 1, a ballot question in Freeport's upcoming municipal election. As I said during our call, I paid \$335 to Printplace to produce the card and \$446 to the USPS to have it delivered to residents on or about October 15, 2024. Others involved paid for signs(\$120), for handouts (\$88) and social media(\$200) to support Yes on #1. My belief is that the total amount we spent in support of Yes on #1 was approximately \$1200.

You also asked why the mailer didn't have the required disclaimer. The answer is that I didn't know I should put any more information on the card than I did. If I should have included a "disclaimer," I made an honest mistake.

Your last question is about other information relevant to the complaint. In brief, we had substantial interactions with the Town Clerk, the Town Manager, the Freeport Town Council and the public to put the issue on the ballot and into the public eye. The Group you call "Yes on 1" played an active public role as the question was framed, placed on the ballot, then discussed in at least two public hearings. The fact of our support for the ballot was publicly known and reported on Freeport's public access channel at the time.

There was no effort to hide our support for this issue or our identity either in the public proceedings, the reports, or on the cards that were mailed.

I hope the Commission will appreciate I wasn't hiding my identity or support for the ballot issue, and I hope you will agree my failure to include the "disclaimer" was an honest mistake.

I am sending this response in the time frame you requested and will be glad to try to answer any other questions you. I am hopeful the Commission will decide to dismiss this complaint based on the response I have made.

Sincerely,

Edward F. Bradley Jr.

Commission Penalty Decisions - Candidates

Candidate	Late Report/Other Violation	Preliminary Penalty	Final Penalty	Commission Meeting Date
Legislative and County candidates				
Steve Collins	No Disclaimer on Signs		\$200.00	12/18/20
William Guerrette	No Disclaimer on Signs		\$0.00	03/08/21
Susan Bernard	No Disclaimer on mailing		\$75.00	10/26/22

Commission Penalty Decisions - PACs, BQCs, Party Committees (2018 - present)

Committee Name	Violation	Preliminary Penalty	Final Penalty	Commission Meeting Date
Other Enforcement Decisions - Committees				
Mainers for Fair Laws BQC	Missing Disclaimers in television ads		\$2,500.00	09/29/21

21-A M.R.S. § 1052. Definitions

As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings.

...

2-A. Ballot question committee. “Ballot question committee” means a person that receives contributions or makes expenditures aggregating in excess of \$5,000 for the purpose of initiating or influencing a campaign, other than a campaign for the nomination or election of a candidate. The term “ballot question committee” does not include a political action committee or an exempt donor.

...

21-A § 1052-A. Registration

A committee shall register with the commission and amend its registration as required by this section. A registration is not timely filed unless it contains all the information required in this section.

1. Deadlines to file and amend registrations. A committee shall register and file amendments with the commission according to the following schedule.

A. A political action committee as defined under section 1052, subsection 5, paragraph A, subparagraph (1) or (5) shall register with the commission within 7 days of receiving contributions or making expenditures in the aggregate in excess of \$2,500.

A-1. A ballot question committee shall register with the commission within 7 days of receiving contributions or making expenditures in the aggregate in excess of \$5,000.

A-2. A registered committee that does not qualify for an exception to registration pursuant to subsection 1-A shall register as a political action committee or ballot question committee, as applicable, within 7 days of exceeding the \$10,000 threshold specified in subsection 1-A.

B. A committee shall amend the registration within 10 days of a change in the information that committees are required to disclose under this section.

C. A committee shall file an updated registration form between January 1st and March 1st of each year in which a general election is held. The commission may waive the updated registration requirement for a newly registered political action committee or other registered committee if the commission determines that the requirement would cause an administrative burden disproportionate to the public benefit of the updated information.

1-A. [omitted]

2. Disclosure of treasurer and officers. A committee must have a treasurer and a principal officer. The same individual may not serve in both positions, unless the committee is an individual registering as a ballot question committee. The committee’s registration must contain the names and addresses of the following individuals:

A. The treasurer of the committee;

B. A principal officer of the committee;

C. Any other individuals who are primarily responsible for making decisions for the committee;

D. The individuals who are primarily responsible for raising contributions for the committee; and

E. The names of any other candidates or Legislators who have a significant role in fund-raising or decision-making for the committee.

3. Other disclosure requirements. A committee's registration must also include the following information:

- A.** A statement indicating the specific candidates, categories of candidates or campaigns or ballot questions that the committee expects to support or oppose;
- B.** If the committee is formed to influence the election of a single candidate, the name of that candidate;
- C.** The form or structure of the organization, such as a voluntary association, membership organization, corporation or any other structure by which the committee functions, and the date of origin or incorporation of the organization;
- D.** If the committee has been formed by one or more for-profit or nonprofit corporations or other organizations for the purpose of initiating or influencing a campaign, the names and addresses of the corporations or organizations;
- E.** The name of the account that the committee will use to deposit contributions and make expenditures pursuant to section 1054, and the name and address of the financial institution at which the account is established; and
 - E-1.** [2023, ch. 244, § 14 (RP).]
- F.** Any additional information reasonably required by the commission to monitor the activities of committees in this State under this subchapter.

4. Acknowledgment of responsibilities. The treasurer, principal officer and any other individuals who are primarily responsible for making decisions for the committee shall submit a signed statement acknowledging their responsibilities on a form prescribed by the commission within 10 days of registering the committee. The signed acknowledgment statement serves as notification of the responsibilities of the committee to comply with the financial reporting, record-keeping and other requirements of this chapter and the potential personal liability of the treasurer and principal officer for civil penalties assessed against the committee. The commission shall notify the committee of any individual who has failed to submit the acknowledgment statement. Failure to return the acknowledgment statement is a violation of this subchapter for which a fine of \$100 may be assessed against the committee. This section also applies to individuals named in an updated or amended registration required by this subsection who have not previously submitted an acknowledgment statement for the committee with the commission.

5. Resignation and removal. An individual who resigns as the treasurer, principal officer or primary decision maker of a committee shall submit a written resignation statement to the commission. An individual's resignation is not effective until the commission receives the written resignation statement from the individual. If an individual is involuntarily removed from the position of treasurer, principal officer or primary decision maker by the committee, the committee shall notify the commission in writing that the individual has been removed from the position. The commission may prescribe forms for these purposes.

6. Modified registration. The commission may adopt simplified registration procedures and forms for an individual registering as a ballot question committee to initiate or influence a ballot question.

21-A M.R.S. § 1053-A. Municipal elections (highlighting added)

If an organization qualifies as a committee under section 1052, subsection 2 and that organization receives contributions or makes expenditures to influence a municipal campaign in towns or cities with a population of 15,000 or more, that organization must register and file reports with the municipal clerk as required by Title 30-A, section 2502. **If an organization qualifies as a ballot question committee under section 1052, subsection 2-A and that organization makes expenditures exceeding \$5,000 to influence a municipal referendum campaign in a town or city with a population of less than 15,000, that organization must register and file reports with the commission using the electronic filing system pursuant to section 1059, subsection 5.** The reports must be filed in accordance with the reporting schedule in section 1059 and must contain the information listed in section 1060. A committee registered with the commission and that receives contributions or makes expenditures relating to a municipal election shall file a copy of the report containing such contributions or expenditures with the clerk in the subject municipality. The commission retains the sole authority to prescribe the content of all reporting forms. The commission does not have responsibility to oversee the filing of registrations or campaign finance reports relating to municipal campaigns in towns or cities with a population of 15,000 or more. If a municipal clerk becomes aware of a potential violation of this subchapter that the clerk considers to be substantial, the clerk may refer the matter to the commission for enforcement. The commission may conduct an investigation if the information referred by the municipal clerk shows sufficient grounds for believing that a violation may have occurred. After conducting the investigation, if the commission determines that a violation of this subchapter has occurred, the commission may assess penalties provided in this subchapter.

21-A M.R.S. § 1055-A. Political communications to influence a ballot question

1. Communications to influence ballot question elections. Whenever a person makes an expenditure exceeding \$500 expressly advocating through broadcasting stations, cable television systems, prerecorded automated telephone calls or scripted live telephone calls, newspapers, magazines, campaign signs or other outdoor advertising facilities, publicly accessible sites on the Internet, direct mails or other similar types of general public political advertising or through flyers, handbills, bumper stickers and other nonperiodical publications, for or against an initiative or referendum that is on the ballot, the communication must clearly and conspicuously state the name and address of the person who made or financed the expenditure for the communication, except that telephone calls must clearly state only the name of the person who made or financed the expenditure for the communication. A digital communication costing more than \$500 that includes a link to a publicly accessible website expressly advocating for or against an initiative or referendum that is on the ballot must clearly and conspicuously state the name of the person who made or financed the expenditure, unless the digital communication is excluded under subsection 2. Telephone surveys that meet generally accepted standards for polling research and that are not conducted for the purpose of influencing the voting position of call recipients are not required to include the disclosure.

2. Exceptions. The following forms of political communication do not require the name and address of the person who made or financed the expenditure for the communication because the name or address would be so small as to be illegible or infeasible: clothing, envelopes and stationery, small promotional items, tickets to fundraisers and electronic media advertisements where compliance with this section would be impracticable due to size or character limitations and similar items determined by the commission to be too small and unnecessary for the disclosures required by this section. "Small promotional items" includes but is not limited to ashtrays, badges and badge holders, balloons, campaign buttons, coasters, combs, emery boards, erasers, glasses, key rings, letter openers, matchbooks, nail files, noisemakers, paper and plastic cups, pencils, pens, plastic tableware, 12-inch or shorter rulers and swizzle sticks.

3. Enforcement. A violation of this section may result in a penalty of no more than \$5,000. In assessing a penalty, the commission shall consider, among other things, how widely the communication was disseminated, whether the

violation was intentional, whether the violation occurred as the result of an error by a printer or other paid vendor and whether the communication conceals or misrepresents the identity of the person who financed it.

30-A M.R.S. § 2502. Campaign reports in municipal elections

1. Reports by candidates. A candidate for municipal office of a town or city with a population of 15,000 or more is governed by Title 21-A, sections 1001 to 1020-A, except that registrations and campaign finance reports must be filed with the municipal clerk instead of the Commission on Governmental Ethics and Election Practices. A town or city with a population of less than 15,000 may choose to be governed by Title 21-A, sections 1001 to 1020-A by vote of its legislative body at least 90 days before an election for office. A town or city that votes to adopt those provisions may revoke that decision, but it must do so at least 90 days before an election subject to those sections.

A. [2009, ch. 366, § 10 (RP).]

2. Municipal referenda campaigns. Municipal referenda campaign finance reporting is governed by Title 21-A, chapter 13, subchapter 4.

3. Public access to records. A town or city that receives registrations or reports pursuant to this section must keep them for 8 years.