



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

To: Commission  
 From: Michael Dunn, Political Committee Registrar  
 Date: 08/26/2021  
 Re: Enhanced Compliance Review Policy and Considerations

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During its August 23, 2021 meeting, the Commission expressed an interest in continuing the review of PACs consistent with the 2021 Leadership PAC Enhanced Compliance Review. The Commission also expressed an interest in expanding the review to include Caucus PACs. The Commission staff expressed some concern regarding the workload entailed with reviewing both Caucus PACs and Leadership PACs due to the amount of financial activity that Caucus PACs routinely engage in during an election year. At the time, Commission staff did not have any specifics to state those concerns with specificity.

The purpose of this memo is to detail the 2021 review, establish the procedures for a 2023 review, and get guidance from the Commission based on the anticipated workload.

**2021 Leadership PAC Review Process**

In December 2019, the Commission staff notified all Leadership PACs that the Commission would be conducting a review and that they may be selected to provide information to the Commission staff. In November 2020, the Commission staff selected fifteen Leadership PACs who raised or spent more than \$5,000 in 2020 and requested records from them. Those fifteen committees were:

<b>Committees (and Associated Legislators)</b>	<b>2020 Contributions</b>	<b>2020 Expenditures</b>
Aroostook PAC (John Martin)	\$6,400.00	\$2,686.00
Charlotte PAC (Charlotte Warren)	\$4,745.00	\$10,733.23
Committee for Peace and Justice (Michael Brennan)	\$8,755.00	\$4,755.19

<b>Committees (and Associated Legislators)</b>	<b>2020 Contributions</b>	<b>2020 Expenditures</b>
Fecteau for Leadership (Ryan Fecteau)	\$31,876.00	\$46,557.56
Libby Leadership PAC (Nathan Libby)	\$23,750.00	\$15,283.90
Maine First PAC (Lawrence Lockman)	\$3,600.00	\$7,757.01
Maine Opportunity PAC (Andrew Gattine)	\$500.00	\$18,152.59
One Maine (Kathleen Dillingham)	\$55,428.00	\$30,468.71
PAC to the Future (Matt Moonen)	\$12,505.00	\$23,643.13
Prosperity for Maine's Future (Matthew Pouliot)	\$58,515.00	\$138,182.45
Revive Home Town Maine PAC (Joel Stetkis)	\$25,050.00	\$22,275.76
Shiretown PAC (Gregg Swallow)	\$5,789.00	\$4,932.67
Star City PAC (Trey Stewart)	\$10,450.00	\$28,589.66
Still Fed Up with Taxes (Jeffrey Timberlake)	\$92,063.20	\$136,585.77
Sunshine Hill (Stacey Guerin)	\$24,000.00	\$27,720.99
<b>TOTAL</b>	<b>\$363,426.20</b>	<b>\$518,324.62</b>

On December 8, 2020, the Commission staff mailed each PAC a letter requesting the following documents:

- All 2020 bank statements for the PAC;
- Receipts/invoices for all expenditures over \$50 incurred during 2020;
- Documentation of any new loans or debts, or any payments thereof in 2020; and
- Records from ActBlue, Anedot, or similar fundraising service of contributions received in 2020.

All PACs were given a deadline of January 31, 2021.

Once these documents were received, the Commission staff began reviewing the documents and then comparing them to the PAC's campaign finance reports. The Commission staff would flag

issues<sup>1</sup> found in the records for appropriate follow-up. On March 9, 2020, the Commission staff had completed its initial review and mailed specific follow-up questions to each PAC based on the issues that were flagged by the Commission staff. The PACs were asked to provide the additional information by March 23, 2021.

After reviewing the additional information, the Commission staff would mark each issue as either: (1) Resolved; (2) Exception; or (3) Potential Violation. A Resolved issue means the PAC provided sufficient information to show that the issue was reported appropriately. An Exception means the PAC has slightly deviated from the statutory requirements, but no further action is warranted. A Potential Violation means the PAC has significantly deviated from the statutory requirements and the Commission staff may recommend a finding of violation and potentially a civil penalty, if warranted.

The Commission staff mailed the PACs draft individual reports noting any Exceptions and/or Potential Violations approximately one month prior to the Commission staff's presentation to the Commission. The Commission staff invited the PACs to submit any replies or rebuttals. Lastly, the Commission staff prepared a cover memo and materials for each PAC that documented the issues and any necessary needed follow-ups.

The Commission staff focused on the following issues as part of their review:

- The transactions in the campaign finance reports were reported accurately and completely.
- No transactions were omitted or duplicated.
- The PAC's actual bank balance can be reconciled with the PAC's reported balance.<sup>2</sup>
- All required records (receipts, invoices, bank statements, *etc.*) were maintained.
- There were no prohibited transactions (lobbyist contributions, and/or self-enrichment).
- Any other issues that were apparent.

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<sup>1</sup> The term "issue" here means that information provided raised questions for the Commission staff. It does not mean that it was a violation, only that it warranted gathering further information.

<sup>2</sup> For each campaign finance report filed by a candidate or committee, the Commission's e-filing system calculates a "cash balance at end of period" based on the transactions reported by the filer, and displays that balance in the financial activity summary on the cover page of the report.

## 2023 Review Timeline

The Commission staff would anticipate the timeline for the review to be as follows, barring any unforeseen circumstances:

- December 2021 – Notify all PACs that could be subject to the review that the Commission will be conducting these enhanced compliance reviews.
- November 2022 – Select the PACs to be reviewed by Commission staff.
- December 2022 – Send document requests to the selected PACs.
- January 2023 – Receive the initial responses from the PACs.
- March 2023 – Complete the initial review of all PACs. The Commission staff will request additional information as required.
- April/May 2023 – Finalize the findings and present to the Commission.
- June/July 2023 – Additional time allotted for PACs with complex issues and presentation to the Commission.

## Caucus PAC Considerations

In 2020, the Caucus PACs raised and spent the following amounts:

Committee	2020 Contributions	2020 Expenditures
House Republican Fund	\$155,903.75	\$204,163.70
House Democratic Campaign Committee	\$722,248.20	\$604,474.78
Senate Republican Majority Committee	\$494,918.84	\$587,051.10
Senate Democratic Campaign Committee	\$1,600,106.24	\$1,726,678.73
<b>Total</b>	<b>\$2,973,177.03</b>	<b>\$3,122,368.31</b>

In 2021, the Commission staff reviewed approximately \$900,000 in financial activity (combining contributions and expenditures) in a period of six months. The Caucus PACs' financial activity is approximately 6.8 times higher than the total financial activity of the Leadership PACs. The

2023 review will also take place during a gubernatorial election, which historically has PACs spending more money than in non-gubernatorial elections.

The financial activity, of course, is not the only factor in determining the overall workload of the project. The experience of the committee officers also plays a factor in the workload. The Leadership PACs that were reviewed who had an officer who was also an officer for a Caucus PAC, tended to have fewer reporting errors, which allowed Commission staff to more quickly review those PACs.

The Commission staff believes that reviewing the four Caucus PACs would result in more work than reviewing the fifteen Leadership PACs. The Commission staff thinks it could be done in a comparable amount of time to the fifteen Leadership PAC review (although it may take slightly longer). The review would need to be completed prior to October, when the Commission staff begins preparing forms and guidance forms for the next election cycle.

### **Possible Approaches**

The Commission staff is supportive of continuing this type of review process after future elections. The review, however, needs to be balanced with the Commission staff's other responsibilities. The Commission staff would suggest taking one of the following approaches in 2023:

1. The Commission staff reviews Leadership PACs who exceed \$5,000 in financial activity in 2022.
2. The Commission staff reviews the four Caucus PACs.
3. The Commission staff reviews two Caucus PACs and four to seven Leadership PACs.
4. The Commission staff reviews the four Caucus PACs and the Leadership PACs who exceed \$5,000 in financial activity, but the Commission staff selects report periods at random for each PAC reviewed. For example, the Senate Republicans will provide bank statements and supporting documents for the time-period of the October Quarterly and a Leadership PAC would provide bank statements and supporting documents for the time-period of the 11-Day Pre-General. The PACs and report periods would be randomly selected by staff.

5. The Commission staff can randomly select a set number of PACs, regardless of classification, and review those PACs 2022 filings for errors. The PAC's would have financial activity that exceeded \$10,000.

The Commission staff is open to other options or hybrid approaches.

Thank you for your attention in this matter.