



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

To: Commission
From: Jonathan Wayne, Executive Director
Date: October 28, 2024
Re: Agenda Item #7 - Maine Senate Republican PAC Mailing

Under Maine law, if a candidate, or the candidate's agent or political committee, cooperates with an expenditure by another person to promote the candidate, the candidate has received an in-kind contribution. The Ethics Commission received a complaint requesting a thorough investigation into whether a candidate for State Senate received a contribution because his campaign treasurer may have participated in a mailing by a PAC to promote the candidate.

The Maine Senate Republican PAC paid for a mailing to support Rep. Richard "Dick" Bradstreet, who is the Republican nominee running for the Maine Senate in District 15. Rep. Bradstreet is participating in the Maine Clean Election Act (MCEA) program, which means he is not allowed to accept any cash or in-kind contributions from others.

The mailing includes a message from the outgoing State Senator, Matthew Pouliot, in which he thanks his constituents and encourages a vote for Dick Bradstreet. Sen. Pouliot is the campaign treasurer for Dick Bradstreet's Senate campaign. The complaint asks the Commission to determine whether Dick Bradstreet has received a contribution because Sen. Pouliot is an agent of Rep. Bradstreet and cooperated in the expenditure by the Maine Senate Republican PAC. A related question is whether Dick Bradstreet received a contribution because Sen. Pouliot should be considered part of Dick Bradstreet's political committee.

Applicable Law

Restrictions on Acceptance of Contributions by MCEA Candidates

After qualifying to receive MCEA funding, a candidate may spend only public campaign funds received from the State to promote their election. 21-A M.R.S. § 1125(6). Candidates are forbidden from accepting any cash or in-kind contributions. *Id.*

Under the statute that establishes contribution limits for candidates generally, if a candidate, *or the candidate's agent or political committee*, cooperates with an expenditure by another person to promote the candidate, the candidate has received an in-kind contribution:

Any expenditure made by any person in cooperation, consultation or concert with, or at the request or suggestion of, a candidate, a candidate's political committee or their agents is considered to be a contribution to that candidate.

21-A M.R.S. § 1015(5). One effect of this law is that PACs, parties, and other third-parties may spend unlimited funds on communications promoting candidates, provided that they are acting independently of a candidate, the candidate's political committee, and the agents of the candidate.

Political Committee, Agent, and Treasurer

Political committee is defined in 21-A M.R.S. § 1(30) to mean "2 or more persons associated for the purpose of promoting or defeating a candidate, party or principle."

Agent is not defined in Maine campaign finance law but is often understood in other contexts as someone who acts on behalf of another person, the "principal."¹

Candidates are required to appoint a treasurer before accepting any contributions or making expenditures. They must identify the treasurer in the candidate's registration statement filed with the Commission. 21-A M.R.S. § 1013-A(1). Candidates "may" authorize a political committee and list the name of the committee in the registration. *Id.* In practice, when they register, few candidates for the Legislature list a political committee by name.

Factual Background

The PAC. The Maine Senate Republican PAC is the political action committee established by the Senate Republican Caucus to promote its nominees for State Senate. Like the other "caucus PACs," it is active in making independent expenditure communications to voters.

Rep. Bradstreet and Sen. Pouliot. Rep. Bradstreet is completing his fourth term in the Maine House of Representatives and is now a candidate for the State Senate. As a MCEA candidate, he can enter his expenditures into the Commission's e-filing system but must rely on his treasurer, Sen. Pouliot, to file his campaign finance reports. Rep.

¹ See Black's Law Dictionary 72 (9th ed.2009) (defining "agent" as "[o]ne who is authorized to act for or in place of another"); Restatement (Second) of Agency § 387 cmt. a (1958) ("An agent is one who acts on behalf of the principal and only for his benefit."). These definitions are not authoritative for purposes of applying 21-A M.R.S. § 1015(5) in this case.

Bradstreet's frequent logins into the Commission's eFiling system suggests that he has been entering the financial transactions for his campaign, but not filing the reports.

Sen. Pouliot is completing his third term in the State Senate, and previously served three terms in the Maine House of Representatives. He previously served in leadership of his caucus.

Correspondence. On October 24, 2024, the Commission received a request for investigation from Whitney A. Parrish Perry. Commission staff forwarded the complaint to attorney Joshua Tardy, who is representing the PAC. He submitted a letter earlier today stating:

- The mailer containing Senator Pouliot's endorsement was prepared and distributed by the Maine Senate Republican PAC without Rep. Bradstreet's knowledge, consent or participation.
- Although the text of the endorsement had been previously approved by Senator Pouliot, the mailer was designed and distributed without Senator Pouliot's knowledge or participation.
- The PAC acknowledges that it failed to recognize that Senator Pouliot serves as treasurer to the Bradstreet campaign.

Mr. Tardy will appear at the October 30 meeting with a consultant of the PAC. Sen. Pouliot provided an email statement but cannot attend the October 30 meeting because of prior commitments.

Preliminary View by Staff

In Maine, independent expenditures have become a common part of election communication. PACs and party committees may receive unlimited contributions and spend as much as they would like on communications to voters. While many PACs and candidates take seriously the idea they should not coordinate with each other on PAC spending, it can be hard for the public and for political actors to know if PACs and candidates are truly maintaining their independence. In order to maintain trust in the system and encourage compliance, Commission staff believes the outcome in this matter should reinforce that PACs need to act independently of candidates' agents and their political committees.

Commission staff recommends the view that this matter may not be ready for a conclusion at the October 30 meeting. For one thing, the PAC only had a couple of business days to present whatever factual or legal information it would like. Depending on the presentations at the October 30 meeting, the Commission may wish to assign some fact-gathering to the Commission staff. In addition to the issue of whether the PAC mailing constituted a contribution to Richard Bradstreet, the Commission may wish to

review the PAC's independent expenditure reports in support of Rep. Bradstreet to verify whether they were accurate. As you consider next steps, if necessary, the Commission's next meeting is scheduled for November 20 and the periods just before and after the November 5, 2024 election will be busy for the participants and counsel.

October 24, 2024

Maine Ethics Commission
135 State House Station
Augusta, ME 04333-0135

RE: Maine Clean Election Act Complaint, Richard Bradstreet campaign

Dear Executive Director Wayne and Members of the Maine Ethics Commission:

I am writing to file a complaint with the Maine Ethics Commission regarding a potential violation of the Maine Clean Election Act (the "Act"). This complaint regards actions by Matt Pouliot, current treasurer for Dick Bradstreet's Maine Senate campaign.

It has come to my attention that Mr. Pouliot coordinated with the Maine Senate Republican PAC in an activity that may breach the ethical and legal standards established by the Act. Specifically, Mr. Pouliot signed onto a mailer that was paid for and authorized by the Maine Senate Republican PAC, a third-party organization. Please find attached the mailer (front and back, addressed to me as an Augusta resident). This appears to be in contravention of provisions set forth in the Act, given it strictly prohibits candidates or their agents, *including treasurers*, from coordinating with any outside group that makes independent expenditures on behalf of the campaign.

As you know, the purpose of this act is to ensure transparency, prevent undue influence, and safeguard the integrity of Maine's publicly funded election process. To that end, this action by Mr. Pouliot, the treasurer of a candidate benefiting from Maine Clean Elections funds, raises serious concerns about the potential misuse of public resources and coordination with independent political entities. These actions undermine the critical yet fragile trust the public places in the electoral process and, I believe, warrant immediate investigation.

I request that the Maine Ethics Commission conduct a thorough investigation into this matter and take appropriate corrective and disciplinary actions as required by law. I would greatly appreciate being informed of the outcome of the investigation once it has been completed.

Thank you for your attention to this urgent and important matter. I trust that the Maine Ethics Commission will handle this complaint with the seriousness it deserves.

Respectfully,

Whitney A. Parrish Perry



Paid for and authorized by the Maine Senate Republican PAC, PO Box 1, Augusta, ME 04330. NOT AUTHORIZED OR PAID FOR BY ANY CANDIDATE.
The top-3 funders of the Maine Senate Republican PAC are RSLC, Maine Senate Republican Majority PAC, & Grover Gaming.

Friends,

Greetings! I wanted to send a short note to say thank you for allowing me to represent you in the House and Senate these last 12 years. I'm happy to report that my colleague, State Representative Dick Bradstreet, will be running to replace me. Dick is a thoughtful leader, a great listener, and one of the most honest, hardworking men I've ever met. I hope you will join me in voting for Dick Bradstreet. Early voting starts on October 7th and you can vote early at city hall or your town office to skip the long lines on Election Day!

For Maine,
Matt Pouliot
State Senator
Augusta

PO Box 1
Augusta, ME 04330



Whitney Parrish Perry
6 Bangor Street Pl
Augusta, ME 04330-4428



RUDMAN • WINCHELL

Joshua A. Tardy
(207)992-2267
jtardy@rudmanwinchell.com

October 28, 2024

Jonathan Wayne, Executive Director
Commission on Governmental Ethics &
Election Practices
135 State House Station
Augusta, Me 04333-0135
Jonathan.Wayne@maine.gov

Dear Jonathan,

As indicated in our phone call on Friday, I am representing the Maine Senate Republican PAC. I have attached an email from Senator Matt Pouliot regarding the subject matter of this complaint.

In response to the questions raised in your letter of October 24, please consider the following:

- The “post card” mailer containing Senator Pouliot’s endorsement was prepared and distributed by the Maine Senate Republican PAC without Rep. Bradstreet’s knowledge, consent or participation.
- Although the text of the endorsement had been previously approved by Senator Pouliot, the mailer was designed and distributed without Senator Pouliot’s knowledge or participation.
- The PAC acknowledges that it failed to recognize that Senator Pouliot serves as treasurer to the Bradstreet campaign.

Please be advised that I will be in attendance at the Commission meeting on October 30, 2024. Zach Lingley, consultant for the Maine Senate Republican PAC, will be able to participate remotely.

My client is committed to fully cooperate in the matter if the Commission chooses to further investigate.

Regards,

/s/ Joshua A. Tardy

Joshua A. Tardy

(R1877081.1)

RUDMAN WINCHELL
COUNSELORS AT LAW

84 HARLOW STREET
P.O. BOX 1401
BANGOR, ME 04402

140 HIGH STREET
P.O. BOX 712
ELLSWORTH, ME 04605

TEL 207.947.4501
FAX 207.941.9715
www.rudmanwinchell.com

Renee M. Knowles

From: Joshua A. Tardy
Sent: Monday, October 28, 2024 1:55 PM
To: Renee M. Knowles
Subject: Fwd: Wednesday

Sent from my iPhone

Begin forwarded message:

From: Matthew Pouliot <matt@pouliotrealestate.com>
Date: October 28, 2024 at 1:38:35 PM EDT
To: "Joshua A. Tardy" <jtardy@rudmanwinchell.com>
Subject: Wednesday

Josh -

Regarding the meeting on Wednesday, I have other commitments that have me tied up all day and unfortunately I am unable to attend with such short notice. In reference to the post card that was sent out for Dick by a PAC, I had no knowledge of who was authorizing a postcard for Dick to be sent and did not send the postcard. Any work I have done for Dick has been in a ceremonial capacity, so that his material could have my name on it as Treasurer because many folks recognize my name through current service to the district, this is a common practice when a member retires in support of their replacement. Dick has filled out his own reports and told me when they were complete to file on his behalf. We did not coordinate with any PACs for any expenditures, and while I support Dick and the language on the postcard, they used writing that looks like handwriting but is not mine. I did not write the postcard nor did I send it.

Please let me know if you need anything else.

Best,

Matt

--

Matthew Pouliot - Broker/Owner
Realtor®



Pouliot Real Estate
351 Water Street | Augusta, ME 04330
C: 207-441-9418 | O: 207-248-6044
matt@pouliotrealestate.com | www.pouliotrealestate.com

****For all real estate transactions, please CC my transaction coordinator, Danielle:**

danielle@pouliotrealestate.com**



21-A M.R.S. § 1015. Limitations on contributions and expenditures

1. Contributions by individuals. An individual may not make contributions to a candidate in support of the candidacy of one person aggregating more than \$1,950 in any election for a gubernatorial candidate, more than \$475 for a legislative candidate, more than \$575 for a candidate for municipal office and more than \$975 in any election for any other candidate. This limitation does not apply to contributions in support of a candidate by that candidate or that candidate's spouse or domestic partner. Beginning December 1, 2024, contribution limits in accordance with this subsection are adjusted every 2 years based on the Consumer Price Index as reported by the United States Department of Labor, Bureau of Labor Statistics and rounded to the nearest amount divisible by \$25. The commission shall post the current contribution limit and the amount of the next adjustment and the date that it will become effective on its publicly accessible website and include this information with any publication to be used as a guide for candidates.

2. Contributions by party committees, ballot question committees and political action committees. [2023, ch. 244, § 5 (RP).]

2-A. Contributions by business entities. [2023, ch. 244, § 6 (RP).]

2-B. Committees; corporations; associations. A political committee, political action committee, ballot question committee or other committee, firm, partnership, corporation, association or organization may not make contributions to a candidate in support of the candidacy of one person aggregating more than \$1,950 in any election for a gubernatorial candidate, more than \$475 for a legislative candidate, more than \$575 for a candidate for municipal office and more than \$975 in any election for any other candidate. Beginning December 1, 2024, contribution limits in accordance with this subsection are adjusted every 2 years based on the Consumer Price Index as reported by the United States Department of Labor, Bureau of Labor Statistics and rounded to the nearest amount divisible by \$25. The commission shall post the current contribution limit and the amount of the next adjustment and the date that it will become effective on its publicly accessible website and include this information with any publication to be used as a guide for candidates.

3. Aggregate contributions. [2023, ch. 324, § 9 (RP).]

4. Political committees; intermediaries. For the purpose of the limitations imposed by this section, contributions made to any political committee authorized by a candidate to accept contributions on the candidate's behalf are considered to be contributions made to that candidate. If the campaign activities of a political action committee within a calendar year primarily promote or support the nomination or election of a single candidate, contributions to the committee that were solicited by the candidate are considered to be contributions made to the candidate for purposes of the limitations in this section. For purposes of this subsection, solicitation of contributions includes but is not limited to the candidate's appearing at a fundraising event organized by or on behalf of the political action committee or suggesting that a donor make a contribution to that committee.

For the purposes of the limitations imposed by this section, all contributions made by a person, either directly or indirectly, on behalf of a particular candidate, that are in any way earmarked or otherwise directed through an intermediary or conduit to the candidate are considered to be contributions from that person to the candidate. The intermediary or conduit shall report the original source and the intended recipient of the contribution to the commission and to the intended recipient.

 **5. Other contributions and expenditures.** Any expenditure made by any person in cooperation, consultation or concert with, or at the request or suggestion of, a candidate, a candidate's political committee or their agents is considered to be a contribution to that candidate.

The financing by any person of the dissemination, distribution or republication, in whole or in part, of any broadcast or any written or other campaign materials prepared by the candidate, the candidate's political committee or committees or their authorized agents is considered to be a contribution to that candidate.

6. Prohibited expenditures. A candidate, a treasurer, a political committee, a party or party committee, a person required to file a report under this subchapter or their authorized agents may not make any expenditures for liquor to be distributed to or consumed by voters while the polls are open on election day.

7. Voluntary limitations on political expenditures. A candidate may voluntarily agree to limit the total expenditures made on behalf of that candidate's campaign as specified in section 1013-A, subsection 1, paragraph C and subsections 8 and 9.

8. Political expenditure limitation amounts. Total expenditures in any election for legislative office by a candidate who voluntarily agrees to limit campaign expenditures as provided in subsection 7 are as follows:

- A. For State Senator, \$25,000; and
- B. For State Representative, \$5,000.
- C. [2007, ch. 443, § A-14 (RP).]

Expenditure limits are per election and may not be carried forward from one election to another. For calculation and reporting purposes, the reporting periods established in section 1017 apply.

9. Publication of list. The commission shall publish a list of the candidates for State Representative and State Senator who have agreed to voluntarily limit total expenditures for their campaigns as provided in section 1013-A, subsection 1, paragraph C.

For the purposes of subsections 7 and 8 and this subsection, "total expenditures" means the sum of all expenditures made to influence a single election that are made by a candidate or made on the candidate's behalf by the candidate's political committee or committees, the candidate's party or the candidate's immediate family.

10. Business entity defined. [2023, ch. 244, § 8 (RP).]

21-A M.R.S. § 1125. Terms of participation [of Maine Clean Election Act]

...

 **6. Restrictions on contributions and expenditures for certified candidates.** After certification, a candidate must limit the candidate's campaign expenditures and obligations, including outstanding obligations, to the revenues distributed to the candidate from the fund and may not accept any contributions unless specifically authorized by the commission. Candidates may also accept and spend interest earned on fund revenues in campaign bank accounts. All revenues distributed to a certified candidate from the fund must be used for campaign-related purposes. The candidate, the treasurer, the candidate's committee authorized pursuant to section 1013-A, subsection 1 or any agent of the candidate and committee may not use these revenues for any but campaign-related purposes. The candidate, the treasurer, the candidate's committee authorized pursuant to section 1013-A, subsection 1 or any agent of the candidate and committee may not use these revenues for post-election parties. This section does not prohibit a candidate from using personal funds for post-election parties as governed by rules of the commission. The commission shall publish guidelines outlining permissible campaign-related expenditures.

...