



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

To: Commission
From: Erin Gordon, Candidate Registrar
Date: January 23, 2023
Re: Recommended Finding of Violation and Penalty - Frank Roma

Frank Roma was an unsuccessful 2022 Maine Clean Election Act (MCEA) House candidate. After qualifying for public campaign funding, MCEA candidates may not spend their own money to promote their election. Mr. Roma spent \$943.00 of his personal funds for three campaign purchases intending to be reimbursed by his campaign but did not have enough campaign funds with which to reimburse himself.

Applicable Law – Maine Clean Election Act Program

Limits on Spending. Once qualified for MCEA funding, a candidate may spend only public funds received from the state:

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.)

21-A M.R.S. § 1125(6). If a candidate violates the MCEA, the Commission may assess a penalty of up to \$10,000. 21-A M.R.S. § 1127(1).

Facts

Mr. Roma reported three debts during his campaign. On August 8, 2022, he ordered mailings from Frame Media for \$756.00; this was reported on the 42-Day Pre-General Report. On August 24, he paid \$12.00 to Google for a web domain. On September 9, he placed ads with the Town of Levant's Old Home Days brochure for \$175.00. Both debts were reported on the 11-Day Pre-General Report.

When Mr. Roma opened his campaign bank account, he did not set it up so that he could make payments directly from that account. Rather, throughout the campaign, he made campaign expenses with his personal account and transferred funds from his campaign account for the expense. It is neither unusual nor impermissible for candidates to make *some* campaign purchases from personal funds and be reimbursed for the purchase from the campaign account after the fact. Mr. Roma's practice stands out only in its frequency.

Mr. Roma paid the debts totaling \$943.00 from his personal account as was his practice. After the August and September debts, he submitted qualifying contributions for supplemental MCEA funds and received notice of an additional authorization of \$4,125.00 on October 18. He reported an additional \$1,761.03 in expenditures after that notice. After the November 8 general election, Mr. Roma returned \$173.56 in surplus MCEA funds and filed his final report with a \$0 cash balance. The debts, however, remained outstanding in eFiling because the payments were not reported. Had he reported payments to those debts, his accounting would have been in the negative.

Staff Analysis

Once qualified for public funds, candidates are permitted to spend only MCEA funds to promote their election. That spending limitation is one of the essential trade-offs of participating in the MCEA program. They may not receive contributions and they cannot spend personal funds unless the campaign reimburses them.

Since 2006, the Commission staff has had one or two candidates per election cycle who have spent more than they were authorized under the program and used personal funds to pay for campaign goods or services – usually due to a bookkeeping or communication error within the campaign or by a vendor. The staff believes some financial penalty is appropriate even in the case of unintentional overspending violations to underscore that an important responsibility of publicly financed candidates is to keep their total spending within legal limits.

Commission guidance urges candidates to establish a campaign bank account with both checks and a debit card so that they can make campaign purchases, as much as possible, directly from the campaign account. If Mr. Roma had not been in the habit of using his personal funds to cover all

expenses before being reimbursed by the campaign account, he may have realized his error sooner and adjusted his spending plans accordingly. Though he may have expected to receive an additional supplemental payment of \$1,375 in the October 18 authorization, the fact that he returned surplus MCEA funds at the end of the campaign suggests that Mr. Roma simply lost track of the debts.

The following chart summarizes the finances of Mr. Roma’s campaign:

Revenue	
Seed money	\$1,000.00
MCEA funds	\$10,150.00
Total spending authorization	
	\$11,150.00
Campaign Expenditures	
Expenditure from campaign account (reimbursements to candidate)	\$10,976.44
Expenditures by candidate (unreimbursed)	\$943.00
Total spent	\$11,919.44
MCEA funds Returned to Commission	
	\$173.56

The chart illustrates that the candidate spent more than he was authorized to promote his election. Mr. Roma could have used the \$173.56 that he returned to the Commission to reimburse himself, but he did not.

In previous election years, the Commission has assessed the following penalties when candidates have spent more than they were authorized:

Election Year/ Office	Candidate	Amount of Overspending – Explanation Offered by Candidate	Outcome
2006/ House	Anne Graham	Spent \$253.49 more than was permitted. A local newspaper’s delay in charging a first-time candidate misled her into thinking that she had more campaign funds available to spend.	Commission assessed \$50 penalty.

2008/ House	Frederick Austin	Spent \$29.85 more than was permitted. After treasurer became ill, candidate was confused about how much was left in his account.	Commission assessed \$50 penalty.
2008/ House	Seth Yentes	Spent \$51.80 more than was permitted. Candidate paid for last-minute advertising, not realizing that another media vendor was late in billing him.	Commission assessed \$50 penalty.
2010/ Senate	Roger Katz	Spent \$1,083.13 more than was permitted. Volunteer made second purchase of campaign signs, which candidate assumed had been paid. After the bill arrived, the candidate used personal funds to pay the bill.	Commission assessed \$50 penalty.
2014/ House	Alice Elliott	Audit determined candidate used \$52.91 in personal funds for photocopying services with her personal funds	Commission assessed \$50 penalty.
2018/ House	Cynthia Soma-Hernandez	Spent \$366.75 more than was authorized, believing she had time to request supplemental funds.	Commission assessed \$100 penalty.

Overspending is potentially a serious violation because of the concern that candidates may disregard the spending limitations of the MCEA program and gain an unexpected advantage. The Commission staff's best recollection is that the Commission began assessing small penalties for this violation in 2006 and 2008 because the candidates had also suffered the negative result of using personal funds unexpectedly for campaign purchases. In retrospect, we question whether the past penalties of \$50 are sufficient for the violation and, in particular, we view the \$50 penalty against Roger Katz as too low, given the amount of his overspending. The Commission may wish to consider a course correction and begin assessing penalties in the low hundreds of dollars for this violation.

Commission staff recommends finding that Mr. Roma violated 21-A M.R.S. § 1125(6) by spending \$943 in personal funds to promote his election. We also recommend assessing a penalty in the range of \$200 - \$400 because Mr. Roma's debts of \$943.00 represent about 8% of his total campaign activity, which significantly exceeds the prior cases of House candidates who overspent. The Commission has the option of considering the \$173.56 in surplus funds returned by Mr. Roma as a partial payment toward the penalty, since he could have used this \$173.56 to pay a portion of the debts.



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AND ELECTION PRACTICES
135 STATE HOUSE STATION
AUGUSTA, MAINE
04333-0135

January 6, 2023

By Email and Regular Mail

Frank Roma
103 Phillips Road
Glenburn, ME 04401

Dear Mr. Roma:

Thank you for discussing with me the matter of your outstanding campaign debts totaling \$943.00. It is my understanding from our conversation that errors in bookkeeping between your personal bank account and campaign bank account led these invoices to be paid with personal funds. You did not have sufficient MCEA funds to cover these expenses and the debts remain “unpaid” in the reporting.

Commission staff considers this overspending to be a violation of the MCEA program and will bring the matter before the Commissioners at their January 30, 2023, meeting.

Applicable Law – Maine Clean Election Act Program

Limits on Spending. After a candidate has qualified for MCEA funding, they may spend only public funds received from the state:

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.

(21-A M.R.S. § 1125(6))

Ethics Commission’s Consideration of this Matter

The Commission is currently scheduled to consider this matter at its next meeting on January 30, 2023, beginning at 9:00 a.m. at the Commission office, 45 Memorial Circle in Augusta, Maine.

Staff recommendation. The Commission staff will recommend that the Commission find that you violated 21-A M.R.S. § 1125(6) by spending money other than MCEA funds to promote your election. The staff will likely recommend a monetary penalty of \$400.

OFFICE LOCATED AT: 45 MEMORIAL CIRCLE, AUGUSTA, MAINE
WEBSITE: WWW.MAINE.GOV/ETHICS

PHONE: (207) 287-4179

FAX: (207) 287-6775

The maximum penalty for a violation of the MCEA is \$10,000, but penalties are typically significantly less than that.

Your opportunity to respond. You are encouraged to attend the January 30 meeting to provide any information which you believe is relevant and to respond to the proposed findings of violation and monetary penalties. You may also provide a written response by Wednesday, January 18, 2023, so that it can be included in a packet of information which we send to the Commissioners on January 23.

Please email me at erin.gordon@maine.gov or call me at 287-3651 if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read 'ERIN GORDON', with a long horizontal flourish extending to the right.

Erin Gordon
Candidate Registrar



Commission on Governmental Ethics and Election Practices
Mail: 135 State House Station, Augusta, Maine 04333
Office: 45 Memorial Circle, Augusta, Maine
Website: www.maine.gov/ethics
Phone: 207-287-4179
Fax: 207-287-6775

2022 CAMPAIGN FINANCE REPORT

FOR MCEA CANDIDATES

COMMITTEE		TREASURER	
Mr. Frank Roma 103, Phillips Road GLENBURN, ME 04401 PHONE:(207) 992-3581 EMAIL: frankroma434@gmail.com		Ms. Sandra Babcock 103, Phillips Road GLENBURN, ME 04401 PHONE: EMAIL: turner177@msn.com	
REPORT	DUE DATE	REPORTING PERIOD	
42-Day Post-General Report	12/20/2022	10/26/2022 - 12/13/2022	

FINANCIAL ACTIVITY SUMMARY

CASH ACTIVITY		
	TOTAL FOR PERIOD	TOTAL FOR CAMPAIGN
1. CASH BALANCE FROM LAST REPORT	(\$769.44)	
2. SEED MONEY CONTRIBUTIONS	\$0.00	\$1,000.00
3. MAINE CLEAN ELECTION ACT PAYMENTS & AUTHORIZATIONS	(\$173.56)	\$9,976.44
4. SALE OF CAMPAIGN PROPERTY (SCHEDULE E, PART 2)	\$0.00	\$0.00
5. OTHER CASH RECEIPTS (INTEREST, ETC.,)	\$0.00	\$0.00
6. <i>MINUS</i> EXPENDITURES (SCHEDULE B)	\$0.00	\$11,919.44
7. CASH BALANCE AT CLOSE OF PERIOD	(\$943.00)	
OTHER ACTIVITY		
8. IN-KIND SEED MONEY CONTRIBUTIONS	\$0.00	\$0.00
9. TOTAL UNPAID DEBTS AT CLOSE OF PERIOD (SCHEDULE D)	\$0.00	

I, Frank Roma, CERTIFY THAT THE INFORMATION CONTAINED IN THIS REPORT IS TRUE, ACCURATE, AND COMPLETE TO THE BEST OF MY KNOWLEDGE.

REPORT FILED BY: Frank Roma
REPORT FILED ON: 12/8/2022 9:10:49 AM
LAST MODIFIED: 1/24/2023 9:13:45 AM
COMMITTEE ID: 426320

**SCHEDULE A
CASH CONTRIBUTIONS**

- For contributors who gave more than \$50, the names, address, occupation, and employer must be reported. If "information requested" is listed instead of occupation and employer, the candidate is waiting to receive that information.
- Cash contributions of \$50 or less can be added together and reported as a lump sum.
- Contributor Types

- | | |
|--|--|
| 1 = Individual | 9 = Candidate / Candidate Committee |
| 2 = Candidate/ Spouse/ Domestic Partner | 10 = General Treasury Transfer |
| 3 = Commercial Source | 11 = Transfer from Previous Campaign |
| 4 = Nonprofit Organization | 12 = Contributors giving \$50 or less |
| 5 = Political Action Committee | 13 = Contributors giving \$100 or less |
| 6 = Political Party Committee | 14 = Contributors giving \$200 or less |
| 7 = Ballot Question Committee | 15 = MCEA Payment |
| 8 = Other Candidate/ Candidate Committee | 16 = Financial Institution |

DATE RECEIVED	CONTRIBUTOR	EMPLOYER AND OCCUPATION	TYPE	AMOUNT
12/12/2022	MCEA Payment	Returned Contribution RETURN OF UNUSED PUBLIC FUNDS. ORIGINAL FUNDS RECEIVED 10/18/2022 \$4,125.00 This is a return of unspent Maine Clean Election Act funds.	15	(\$173.56)
TOTAL CASH CONTRIBUTIONS				(\$173.56)

- F. Knowingly accepted any contributions, including any in-kind contributions, or used funds other than fund revenues distributed under this chapter to make campaign-related expenditures without the permission of the commission;
- G. Knowingly made a false statement or material misrepresentation in any report or other document required to be filed under this chapter or chapter 13;
- H. Otherwise substantially violated the provisions of this chapter or chapter 13; or
- I. As a gubernatorial candidate, failed to properly report seed money contributions as required by this section.

The determination to revoke the certification of a candidate must be made by a vote of the members of the commission after an opportunity for a hearing. A candidate whose certification is revoked shall return all unspent funds to the commission within 3 days of the commission's decision and may be required to return all funds distributed to the candidate. In addition to the requirement to return funds, the candidate may be subject to a civil penalty under section 1127. The candidate may appeal the commission's decision to revoke certification in the same manner provided in subsection 14, paragraph C.

5-B. Restrictions on serving as treasurer. A participating or certified candidate may not serve as a treasurer or deputy treasurer for that candidate's campaign, except that the candidate may serve as treasurer or deputy treasurer for up to 14 days after declaring an intention to qualify for campaign financing under this chapter until the candidate identifies another person to serve as treasurer.

→ **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.

6-A. Assisting a person to become an opponent. A candidate or a person who later becomes a candidate and who is seeking certification under subsection 5, or an agent of that candidate, may not assist another person in qualifying as a candidate for the

§ 1127. Violations

1. Civil fine. In addition to any other penalties that may be applicable, a person who violates any provision of this chapter or rules of the commission adopted pursuant to section 1126 is subject to a fine not to exceed \$10,000 per violation payable to the fund. In addition to any fine, for good cause shown, a candidate, treasurer, consultant or other agent of the candidate or the political committee authorized by the candidate pursuant to section 1013-A, subsection 1 found in violation of this chapter or rules of the commission may be required to return to the fund all amounts distributed to the candidate from the fund or any funds not used for campaign-related purposes. If the commission makes a determination that a violation of this chapter or rules of the commission has occurred, the commission shall assess a fine or transmit the finding to the Attorney General for prosecution. A final determination by the commission may be appealed to Superior Court in accordance with Title 5, chapter 375, subchapter 7 and the Maine Rules of Civil Procedure, Rule 80C. Fines assessed or orders for return of funds issued by the commission pursuant to this subsection that are not paid in full within 30 days after issuance of a notice of the final determination may be enforced in accordance with section 1004-B. Fines paid under this section must be deposited in the fund. In determining whether or not a candidate is in violation of the expenditure limits of this chapter, the commission may consider as a mitigating factor any circumstances out of the candidate's control.

2. Class E crime. A person who willfully or knowingly violates this chapter or rules of the commission or who willfully or knowingly makes a false statement in any report required by this chapter commits a Class E crime and, if certified as a Maine Clean Election Act candidate, must return to the fund all amounts distributed to the candidate.

§ 1128. Study report

By March 15, 2011 and every 4 years after that date, the commission shall prepare for the joint standing committee of the Legislature having jurisdiction over legal affairs a report documenting, evaluating and making recommendations relating to the administration, implementation and enforcement of the Maine Clean Election Act and Maine Clean Election Fund.