



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 25, 2022
Re: Additional Materials – Agenda Item #2

The understanding of the Commission staff is that Rep. Sue Bernard intends to participate in tomorrow's Commission meeting, along with legal counsel, Joshua A. Tardy. Mr. Rommy Haines, who filed the complaint, is also expected to participate in the meeting.

The Commission staff does not wish to make any recommendations in advance of the presentations you will hear tomorrow, because we do not know most of the facts concerning the mailings. As context, however, we do suggest keeping in mind that legislative campaigns in Maine typically involve coordination among multiple persons, including paid vendors. Mistakes happen – both by legislative candidates and by large campaign operations such as the state's political parties.

The Commission is authorized in 21-A M.R.S. § 1014(4) to assess penalties for violations of the “paid for and authorized by” disclosure requirements. This penalty authority is discretionary. The Commission is not required to assess any penalty for a violation of the statute. When considering whether to assess a penalty and any penalty amount, the Commission is directed to consider a number of factors, including 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 the communication.

The Commission hears relatively few complaints concerning missing “paid for and authorized by” disclosure statements. For your reference, I have attached a list of enforcement outcomes during 2016-2020 that the Commission staff prepared for a case last year. Thank you for your consideration of this memo.

Allegations of Disclosure Statement Violations Considered by Ethics Commission (2016-2020)

Year/Person Filing Complaint	Communication	Decision by Commission
2020/Candidate for State Rep. Timothy Goodwin	Local store owner Steve Collins purchased yard signs stating "Vote No on Goodwin" that lacked disclosure statements	On 12/18/2020, the Commission (5-0) assessed a \$200 penalty.
2020/Scarborough Democratic Town Committee	Letter by Dan Warren criticizing Democratic incumbent State Representative as unfit for office. Complaint was against Republican challenger on the assumption that she had helped finance the letter. Mr. Warren described the letter as a solo effort by him to recruit a write-in candidate against the incumbent.	On 9/30/2020, the Commission found insufficient grounds to conduct an investigation against Annalee Rosenblatt (5-0) or Dan Warren (4-1).
2018/Catherine Weeks, candidate for City Council in Waterville	Anonymous flyer hand-delivered to households in Ward 1 of Waterville. Flyer may have met exception for communications costing no more than \$100 by persons acting independently of candidates and committees.	On 11/28/2018, the Commission declined to pursue an investigation (3-1, with one recusal).
2018/Former State Rep. Bradley Moulton	Simple flyer by Rep. Patty Hymanson describing her legislative voting record. She explained that if no one was home when she campaigned door to door, she would leave the flyer and a commercially printed brochure. The brochure stated that it was paid for and authorized by the candidate.	On 11/28/2018, the Commission voted (3-1) to find no violation because the flyer was part of a single communication with the brochure.
2017/Maine Democratic Party	Self-described news website (www.maineexaminer.com) published negative stories about the Democratic nominee in runoff election for Lewiston mayor. Website did not identify any owners or authors. Executive director of Maine Republican Party responded to Commission that he was solely responsible for the website as a personal project he undertook on his own time, separate from his employment by the party. He asserted the total cost of the website was \$74.	On 2/22/2018, the Commission voted (3-2) to deny the request for investigation.
2016/Maine Democratic Party	Two candidates Andre Cushing (running for re-election to State Senate) and David Haggen (running for State Rep.) paid for joint mailing that lacked disclosure statements.	On 12/8/2016, the Commission assessed a penalty of \$50 against both candidates.