



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: Maine Families First PAC

On October 17, 2022, the Maine Ethics Commission received a request for investigation from Ms. Sara Salley and others alleging that the Maine Families First PAC failed to timely report contribution(s) to finance a \$999,245 independent expenditure to oppose Governor Janet T. Mills. In the complaint, Ms. Salley noted that in its October quarterly report, the PAC indicated that it had received and spent a total of \$100,000, leaving it with a calculated cash balance of \$0. That report covered financial activity through September 30, 2022.

In a subsequent independent expenditure report, the PAC reported making an October 5, 2022 expenditure of \$999,245 to FP1 Strategies for television advertising. According to Ms. Salley, that IE report was for a television advertisement critical of Governor Janet Mills on cost of living issues, which can be found at

<https://bigal.media/mediaplayer.php?q=v1ZzaT0%3D85c406379028c750ca2a75d59b7dc11a>.

The ad contains the disclosure: “the top funder of Maine Families First is Thomas Klingenstein.” In an earlier campaign finance report, the PAC reported that it had received \$100,000 from Mr. Klingenstein.

Ms. Salley questions the plausibility that the PAC had received only \$100,000 in contributions by September 30, 2022 (the end date of the October quarterly report) and could finance a \$999,245 expenditure five days later. She asserts that the tight timeframe suggests that the PAC received a pledge of money from Mr. Klingenstein and then relied on that pledge to create the advertisement. She asks the Commission to investigate whether the PAC’s reporting should have included additional contribution(s) from Mr. Klingenstein. Ms. Salley notes that the definition of a reportable “contribution” includes not just a payment of money to a PAC for the purpose of influencing a candidate election but also a promise or agreement to make a contribution to a [PAC].” 21-A M.R.S. § 1052(3)(B).

Relevant Laws and Rule

Commission initiation of investigation. The Commission is required to review every request to investigate an alleged violation of campaign finance law and to conduct an “investigation if the reasons stated for the request show sufficient grounds for believing that a violation may have occurred.” 21-A M.R.S. § 1003(2).

Regular campaign finance reports. All registered PACs are required to file campaign finance reports according to deadlines set out in 21-A M.R.S. § 1059. These regular reports are required for all PACs, regardless of the extent or type of campaign activity the PAC engaged in during the time period covered by the report. This year, PACs were required to file an October quarterly report on October 5, 2022 that was complete as of September 30, 2022. 21-A M.R.S. § 1059(2)(A)(4).

Content of regular reports. Among other things, regular campaign finance reports must contain “[a]n itemization of each contribution of more than \$50 made to or received by the committee for the purpose of initiating or influencing a campaign” and “any funds deposited into or transferred into the [PAC’s] campaign account, including but not limited to funds from the general treasury of an organization that is required to establish a committee.” 21-M.R.S. §§ 1060(6)&(6-A).

Other reports. Depending on the financial activity of a PAC, it may be required to file other special purpose reports, such as independent expenditure reports for express advocacy communications to voters or 24 hour reports for large transactions during the last 13 days before an election.” 21-M.R.S. §§ 1019-B & 1059(2)(E).

Definition of contribution. A contribution is defined in Maine’s PAC reporting law as a “gift, subscription, loan, advance or deposit of money or anything of value made to or received by a committee for the purpose of initiating or influencing a campaign.” 21-A M.R.S. § 1052(3)(A). The definition includes not just the receipt of a contribution, but also a donor’s contract, promise or agreement (express or implied) to make a contribution to the committee, regardless whether it is legally enforceable. 21-A M.R.S. § 1052(3)(B). The definition also includes all money deposited into the PAC’s campaign account. 21-A M.R.S. § 1052(3)(A-1).

Factual Background on the PAC

Maine Families First is a PAC that registered with the Ethics Commission on September 9, 2022. On September 15, 2022, the PAC filed a campaign finance report indicating that the PAC had received \$100,000 from contributor Thomas Klingenstein.

The PAC's registration statement suggested that the PAC had been established by the American Principles Project, which is a 501(c)(4) nonprofit corporation with offices in Arlington, Virginia. The PAC's principal officer is Mr. Terry Schilling, who is listed on the American Principles Project website as the organization's President. On that website, the American Principles Project describes itself as "the only national pro-family organization engaging directly in campaigns and elections."

Response from Maine Families First PAC

On October 19, 2022, the Commission sent a letter by email to the PAC inviting it to respond to Ms. Salley's request for investigation. The PAC provided a response yesterday in the form of a declaration from Mr. Schilling in which he states:

- Mr. Thomas Klingenstein is the sole funder of the PAC.
- The PAC first received the funds used for the \$999,245 television expenditure on October 3, 2022.
- Mr. Klingenstein did not promise or pledge funds to the PAC prior to October 1, 2022.

Preliminary Comments by Commission Staff

The facts known to date suggest that the PAC has relied, in some way, on Mr. Klingenstein to support the PAC's expenditures in Maine. The declaration from Mr. Schilling, however, states that Mr. Klingenstein had not pledged or promised funds to the PAC prior to October 1, 2022. No further information is available at this time about the funding relationship.

The PAC will be filing the 11-day pre-election campaign finance report this Friday, October 28. This report will be required to include all contributions as of October 25, 2022.

The statutory definitions of "contribution" applicable to candidates, PACs, party committees, and ballot question committees include the same concept of a promise or agreement to make a contribution for purposes of influencing a campaign. 21-A M.R.S. §§ 1012(2)(A)(2)

& 1052(3)(B). Nevertheless, in the experience of the Commission staff, this is an aspect of contribution reporting that comes up rarely in advice or enforcement situations.

Mr. Schilling has advised the Commission staff that he will be represented by counsel in tomorrow's Commission meeting. After hearing any additional information, the Commission has the option to request additional information or take no further action. The Commission staff would be pleased to take any additional steps the Commission would like. Thank you for your consideration of this agenda item.

Maine Ethics Commission
C/O Emma J. Burke
45 Memorial Cir
Augusta, ME 04330

October 24, 2022

Dear Ms. Burke,

We are in receipt of the ethics complaint made against Maine Families First, LLC (MFF) and your request for a response. Please see below for our responses.

-Is Thomas Klingenstein the sole funder of Maine Families First?

Yes.

-When did Maine Families First receive the funds used for the \$999,245 television advertising expenditure?


MFF first received the funds used for the \$999,245 television expenditure on October 3, 2022.

-Had Thomas Klingenstein, or any other person or organization, promised or pledged funds to Maine Families First prior to October 1, 2022?

No.

Please let me know if you need more information

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct. Executed on October 24, 2022.



Terry Schilling
President, Maine Families First