



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

Commission Meeting 11/18/2020
Agenda Item #4

To: Commission
From: Jonathan Wayne, Executive Director
Date: November 11, 2020
Re: Staff Adjustments to Financial Reporting by PAC/BQCs

At your September 30, 2020 meeting, you discussed a \$3,270 adjustment that the Commission staff made in June 2019 to allow the Gideon Leadership PAC to terminate. Since receiving your feedback, the Commission staff has indefinitely discontinued making adjustments to financial reporting by PACs and BQCs. I conferred with Assistant Director Paul Lavin and Political Committee and Lobbyist Registrar Michael Dunn concerning the staff's history of making these adjustments, and Michael assembled the attached chart of staff adjustments entered since January 1, 2019. This practice is discussed in more detail below but can be summarized as follows:

- In the past several years, the Commission staff entered a handful of adjustments to financial reports when a PAC or BQC wished to dissolve.
- Beginning in July 2020, the Commission's Political Committee and Lobbyist Registrar has entered some adjustments for active PACs when they were unable to resolve a discrepancy in the committee's cash balance as part of the Commission's compliance review.

Background on PACs and BQCs

Formation and Financial Activity by PACs/BQCs. Currently, 121 PACs and nine BQCs are registered with the Commission:

- Some PACs/BQCs have been formed by an association of businesses, laborers, or professionals (*e.g.*, retailers, teachers, truckers).
- Others were formed by an existing nonprofit organization that is involved in influencing public policy and state government (*e.g.*, AARP, Planned Parenthood, Maine Heritage Policy Center).

- Roughly 20 PACs are leadership PACs (formed by legislators to pay for expenses associated with holding office or to conduct activities to obtain or maintain a leadership position).
- Others were organized by partisan organizations to promote candidates from a political party to the Maine Legislature.

PACs and BQCs differ in several critical respects from candidate campaigns:

- Candidate campaigns typically exist for one or two years for a specific election, whereas PACs and BQCs file reports for a longer period.
- Some PACs and BQCs can spend hundreds of thousands of dollars or more, whereas candidate campaigns tend to spend in the thousands or tens of thousands.
- More people can be involved in financial activity and record-keeping for a PAC or BQC.
- PACs and BQCs are not required to segregate their campaign activity in a separate bank account.

Calculated Cash Balance in Commission’s E-filing System. PACs and BQCs are required to file reports electronically. Each report covers a specific time period. The PAC/BQC enters cash contributions, other receipts, and expenditures, along with non-monetary events like receiving an in-kind contribution or entering into an unpaid debt. The e-filing system compiles the transaction information into a campaign finance report, which the PAC/BQC can review before filing the report, in the form of a PDF. After filing the report, the PDF becomes available to the public.

The first page of each PAC/BQC campaign finance report displays a “Financial Activity Summary,” which contains calculated totals of the different types of transactions, both for the report period and for the year. Line 12 displays a “Cash Balance at End of Period.” (see attached cover sheet) This cash balance is calculated by the e-filing system, and is not entered by the PAC or BQC. If the PAC or BQC is keeping a separate bank account for the PAC/BQC activity, the calculated cash balance in the report ought to correspond to the actual bank account, although that can be complicated if payments have not cleared

the PAC/BQC bank account. If the PAC or BQC is not keeping a separate bank account for PAC/BQC activity, the calculated bank account will not correspond to an actual cash balance.

This calculated cash balance at the end of the period, along with the entire financial activity summary, is not a required element of the campaign finance report. The summary has been created by the Commission as part of its reporting forms to assist the public in understanding campaign finance activity by a committee in the aggregate and the amount of financial assets currently available to a committee at the end of a report period. We are hopeful that the cash balance assists PACs and BQCs in verifying they have reported their contributions and expenditures accurately (the equivalent of balancing a checkbook).

Right to Dissolve

When a PAC or BQC wishes to terminate, they may dissolve in accordance with this provision:

Dissolution of committees. Whenever any committee determines that it will no longer accept any contributions or make any expenditures, the committee shall file a termination report that includes all financial activity from the end date of the previous reporting period through the date of termination with the commission. The committee shall dispose of any surplus prior to termination. In the termination report, the committee shall report any outstanding loan, debt or obligation in the manner prescribed by the commission.

21-A M.R.S. § 1061.

Staff Adjustments since January 1, 2019

The Commission staff has found 17 situations in which we have entered an adjustment to a PAC or BQC's contributions or expenditures since January 1, 2019, shown on the attached chart. The situations fall into two categories:

Dissolution of PAC/BQC. In seven cases, a PAC or BQC approached the Commission staff because the committee wished to dissolve, as entitled under Maine Election Law. The design of the Commission's electronic filing system does not allow a committee to become inactive if the committee has a positive or negative balance. The system assigns campaign finance reports to every committee with an active status, and – if no report is received – sends notices of unfiled reports to the committee. In these situations, we entered a staff adjustment to allow the PAC or BQC to be terminated in our e-filing system in order to reflect the reality that the committee's leaders had dissolved the committee and it was not required to continue filing campaign finance reports.

One factor considered was that we could not be 100% certain that a positive or negative balance that accrued over a number of years was necessarily due to a reporting error by the committee. We could not rule out that a positive or negative balance could have been caused by a fluke error in our e-filing system. The Commission introduced new electronic filing systems in December 2013 and July 2018 in which database tables of transactional information were converted from one system to another. Our IT vendors have tried hard to make sure that all data was transferred correctly, but we cannot rule out an error.

Discrepancies Identified During Compliance Reviews Since July 2020

After each filing deadline, the staff reviews each committee's report for easily identifiable errors and contacts the committee's treasurer in order to make the necessary corrections. Starting in July 2020, the Commission staff expanded its compliance reviews to include an email with the committee's calculated cash balance at end of period with instructions to contact Commission staff if the balance differed from the Committee's actual bank balance.

Since July, several committees contacted the Commission's Political Committee and Lobbyist Registrar to report a discrepancy in the cash balance for reasons that were unknown to the committee. The Registrar directed the treasurer to perform an internal review of all reported activities from January 1, 2018 through present (two and a half years of activity). In most cases, the committee treasurers were able to locate the errors and work with Commission staff to correct the reporting deficiencies.

In a handful of cases, the treasurer had been aware of the discrepancy and its cause for some time. These were generally caused by a technical issue with the Commission's online reporting system, rather than inaccurate reporting by the committee. The Commission staff has contacted the Commission's IT vendor to resolve the discrepancy. In a few cases, a staff adjustment was necessary to fix the committee's cash balance because the IT vendor could not solve the problem.

In some cases, the committees reported back to Commission staff that they could not identify the cause of the discrepancy by reviewing transactions since 2018. The Commission staff had to decide whether to request the committee conduct a further review or enter the staff adjustment. In making this determination, staff weighed the utility of requesting a further review by taking into consideration the number of years that the committee has been active, the total level of activity, the percentage of the discrepancy, and the accessibility of records. If the balance of these factors favored making the adjustment, then staff entered a clearly marked transaction so that the committee's cash balance at end of period would be accurate going forward. (Currently, three committees are under review for discrepancies because the balance of factors does not favor entering an adjustment.)

The staff engaged in a balancing of interests in deciding whether to enter a staff adjustment. The public should be provided with accurate information; however, reporting errors do occur. Most treasurers do not have accounting or bookkeeping backgrounds. Some are merely volunteers. By requesting that the committee review the

previous 2 ½ years of transactions, the staff ensured that the most recent financial activity of the committee was accurate and, by making the staff adjustment, the public can assess the current financial assets of each committee. This is counter-balanced by the time and drain of resources that conducting an extended review (beyond the past two-years), would take, including the drain on Commission staff resources.

Staff Recommendations

The Commission staff has discontinued making staff adjustments, for the time being. If we are interested in resuming the practice, we will present you with a proposal for implementing them based on a limited set of conditions.

Below we offer our thoughts on whether to take action on the adjustments we have entered since January 1, 2019 (shown on the attached chart). We are prepared to take whatever action you would like and appreciate your consideration of our recommendations.

One option you have is to direct staff to conduct an enhanced compliance review of some of the committees by obtaining their bank statements and comparing the committee's actual financial activity to the reported transactions to identify any reporting errors. *In general, we recommend against this*, for the following reasons:

- The amount of Commission staff time devoted to performing an enhanced compliance review of the committees would draw limited staff resources from more important projects in the next three months, such as auditing leadership PACs and working with our IT vendor on an improved electronic filing system for lobbyist reporting that will benefit the public and all lobbyists.
- Around half of the discrepancies are in the range of \$300 or less. Some of the PACs and BQCs received and spent hundreds of thousands of dollars. Locating any reporting discrepancies would, in some cases, amount to finding a needle in a haystack.

- Some of the committees have existed for more than 10 or 15 years. In some cases, any reporting errors relate to elections that are long past. The public interest in fixing a reporting error from 10 or 15 years ago is very low. We are not sure that we can even amend transactions in our e-filing system that are more than six years old.
- Unfortunately, we cannot be 100% certain that the discrepancies in the cash balance are due to a reporting error by the committees. We cannot rule out that a discrepancy is due to a fluke IT problem in our electronic filing system or the conversion of data in 2013 or 2018.

If you believe it would be appropriate to conduct an enhanced compliance review of any of the PACs/BQCs, we would propose that the Commission staff obtain *three years* of bank statements from the committees (or from their banks, through a written release by the committee). The committees that seem like the most appropriate would be the Gideon Leadership PAC and the Langley Leadership PAC.

We specifically recommend against conducting an enhanced compliance review of the following committees:

- The Associated Builders and Contractors of Maine PAC went above and beyond in reviewing its 2018-2020 transactions to identify any reporting errors. We believe it is unlikely that an enhanced compliance review by the Commission staff would identify any additional errors relating to 2018-2020. (The PAC has existed for 18 years.)
- The Mainers for Fair Bear Hunting discrepancy is \$9,762, but the size of the PAC is very large. It spent more than \$2.7 million to promote a 2014 citizen initiative to restrict bear hunting. Finding a discrepancy in that context could be a huge expenditure of staff time for an election that is now six years old.
- Respect Maine PAC has a \$1,002 discrepancy. The Commission staff already invested a very large amount of effort investigating this PAC in 2016-2017. The PAC has been found in violation and been assessed penalties of \$7,500. We believe we have done our utmost in identifying reporting errors by this PAC and

devoting further staff time to an enhanced compliance review would not be worth the diversion of staff resources, in our opinion.

Thank you for your consideration of these recommendations.

PAC & BQC STAFF ADJUSTMENTS SINCE JANUARY 1, 2019

Committee Name	Status	PAC Duration	Date of Adjustment	Adjustment Amount	Total Contributions	Adjustment Percentage	Notes
ASSOCIATED BUILDERS AND CONTRACTORS OF MAINE PAC	Active	18-Years (04/19/02)	06/30/2020	\$ 3,385.04	\$ 161,823.54	2%	Located discrepancy by emailing reported balance to treasurer. Commission staff and treasurer reviewed transactions entered into the system. Identified approximately \$5,700 worth of transactions to correct and entered appropriately. The adjustment amount is 2% of total contributions over an 18-year period.
BANGOR FIRE FIGHTERS PAC FUND	Active	15-Years (12/28/05)	06/30/2020	\$ 7.00	\$ 7,219.66	0.1%	Located discrepancy by emailing reported balance to treasurer. Due to the small discrepancy of 0.1% of the total activity of the committee and the length of time; Commission staff did not review the activity for correction and instead entered the adjustment to correct the balance.
ENERGY PAC FOR MAINE	Active	18 years (04/22/02)	06/30/2020	\$ (720.30)	\$ 135,302.82	0.5%	Located discrepancy by emailing reported balance to treasurer. The treasurer was unable to reconcile the balance after review of the previous two years. The committee has been active for 18 years and the adjustment represents 0.5% of the total funds received by the committee.
GIDEON LEADERSHIP PAC	Terminated	6-Years (05/23/14)	07/15/2019	\$ (3,272.80)	\$ 272,288.71	1%	Committee approached Commission for termination and located a discrepancy. After review staff entered the adjustment and filed termination report. Adjustment is 1% of total funds received over a 5-year period.
GO MAINE PAC	Terminated	9-Years (10/21/13)	07/06/2020	\$ (159.76)	\$ 48,705	0.3%	Committee approached staff to terminate and located the discrepancy. Committee reviewed transactions and was unable to reconcile accounts. Staff entered the adjustment to terminate the committee. The adjustment is 0.3% of the total funds received over a 6-year period.

LANGLEY LEADERSHIP PAC	Terminated	5-Years (09/16/15)	06/30/2019	\$ 1,071.41	\$ 36,273.39	3%	Committee approached staff to terminate and located the discrepancy. Committee reviewed transactions and was unable to reconcile accounts. Staff entered adjustment to terminate the committee. The adjustment is 3% of the total funds received over a 5-year period.
MAINE BREWERS' GUILD	Active	7-Years (02/05/13)	07/06/2020	\$ (12.00)	\$ 28,181.67	De Minimis	Located discrepancy by emailing reported balance to treasurer. Was unable to reconcile after review of account. The adjustment represents a de minimis amount over a 7-year period.
MAINE EDUCATION ASSOCIATION PAC	Active	18-Years (04/24/02)	09/21/2020	\$ (361.59)	\$ 351,234.76	0.1%	Located discrepancy by emailing reported balance to treasurer. Was unable to reconcile after review of account. The adjustment represents a 0.1% adjustment in total funds over an 18-year period.
MAINE INNKEEPERS PAC	Terminated	18-Years (04/24/02)	06/30/2019	\$ (5.55)	\$ 47,457.5	De Minimis	Discrepancy found because committee contacted staff to terminate. Committee reviewed transactions and was unable to reconcile accounts. Staff entered the adjustment to terminate the committee. The adjustment is de minimis.
MAINE INSURANCE AGENTS	Active	18-Years (04/24/02)	6/30/2020	\$ (172.80)	\$120,043.10	0.1%	Located discrepancy by emailing reported balance to treasurer. PAC was unable to reconcile the discrepancy, but Commission staff determined that most of it was caused by two entries in 2012-2013 by a former Commission employee who was trying to help the PAC during data conversion. The current unexplained discrepancy is \$ (172.80).
Maine Young Democrats Political Action Committee	Active	4-Years (07/22/16)	06/30/2020	\$ (9.63)	\$ 3,589.76	0.3%	Located discrepancy by emailing reported balance to treasurer. The Committee was able to reconcile \$428.67 of the discrepancy but could reconcile the final \$9.63. Commission staff entered the adjustment of a de minimis amount.

Mainers Against Doctor Prescribed Suicide Political Action Committee	Terminated	1-Year (07/26/19)	02/18/2020	\$ 0.01	\$ 30,100.00	De Minimis	The committee contacted staff to close account but could not reconcile the account. Staff entered the adjustment as de minimis. It should be noted that the same treasurer was also running the Not My Tax Dollars PAC listed below and it's believed that a single cent had been misallocated.
MAINERS FOR FAIR BEAR HUNTING	Active	7-Years (04/26/13)	08/18/2020	\$ (9,762.92)	\$ 2,733,240.82	0.3%	Located discrepancy by emailing reported balance to treasurer. Treasurer was unable to reconcile the account. Staff made the adjustment which represents 0.3% of the total funds of the committee over a 7-year period.
MOVE TO AMEND MAINE	Terminated	6-Years (04/23/14)	06/30/2020	\$ 154.59	\$ 10,563.02	1%	Located discrepancy by emailing reported balance to treasurer. Treasurer was able to reconcile \$1,266.25 of the discrepancy. Commission staff entered the adjustment for the amount that could not be reconciled. The adjustment represents 1% of the total funds received by the committee over a 6-year period.
Not My Tax Dollars Political Action Committee	Terminated	1-Year (07/26/19)	02/18/2020	\$ (0.01)	\$ 25,880.00	De Minimis	See Mainers Against Doctor Prescribed Suicide PAC.
RESPECT MAINE	Terminated	10-Years (06/03/10)	07/31/2019	\$ (1,002.32)	\$ 531,250.57	0.1%	Terminated after investigation. The adjustment was 0.1% of the total funds over a 10-year period.
VALUE VOTERS PAC	Terminated	6-Years (08/29/14)	09/12/2019	\$ (296.02)	\$ 10,050.00	3%	Committee agreed to terminate after years of filing no-activity reports. The adjustment is 3% of the total funds received by the committee over a 6-year period.



Commission on Governmental Ethics and Election Practices
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2020 CAMPAIGN FINANCE REPORT

FOR POLITICAL ACTION COMMITTEES

COMMITTEE		TREASURER	
BUILDING TRADES PAC 519 Congress Street Portland, ME 04101 PHONE:(207) 613-0584 EMAIL: jshedlock@mainebuildingtrades.org		Lewis Overlock 519 Congress Street Portland, ME 04101 PHONE: EMAIL: LOVERLOCK@LNEROF.ORG	
REPORT	DUE DATE	REPORTING PERIOD	
11-Day Pre-General Election Report	10/23/2020	10/01/2020 - 10/20/2020	

FINANCIAL ACTIVITY SUMMARY

RECEIPTS	TOTAL FOR PERIOD	TOTAL FOR YEAR
1. CASH CONTRIBUTIONS (SCHEDULE A)	\$0.00	\$1,000.00
2. OTHER CASH RECEIPTS (INTEREST, ETC.)	\$0.00	\$0.00
3. LOANS (SCHEDULE C)	\$0.00	\$0.00
4. TOTAL RECEIPTS (LINE 1 + 2 + 3)	\$0.00	\$1,000.00
EXPENDITURES		
5. EXPENDITURES TO SUPPORT OR OPPOSE (SCHEDULE B)	\$0.00	\$0.00
6. OPERATING EXPENDITURES (SCHEDULE B-1)	\$0.00	\$2,030.00
7. LOAN REPAYMENTS (SCHEDULE C)	\$0.00	\$0.00
8. TOTAL PAYMENTS (LINE 5 + 6 + 7)	\$0.00	\$2,030.00
CASH SUMMARY		
9. CASH BALANCE AT BEGINNING OF PERIOD	\$1,310.58	
10. PLUS TOTAL RECEIPTS THIS PERIOD (LINE 4)	\$0.00	
11. MINUS TOTAL PAYMENTS THIS PERIOD (LINE 8)	\$0.00	
12. CASH BALANCE AT END OF PERIOD	\$1,310.58	
OTHER ACTIVITY		
13. IN-KIND CONTRIBUTIONS (SCHEDULE A-1)	\$0.00	\$0.00
14. TOTAL LOAN BALANCE AT END OF PERIOD (SCHEDULE C)	\$0.00	
15. TOTAL UNPAID DEBTS AT END OF PERIOD (SCHEDULE D)	\$0.00	

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

REPORT FILED BY: Jason Shedlock
REPORT FILED ON: 10/22/2020 9:05:51 AM
LAST MODIFIED:
COMMITTEE ID: 830