



Minutes of the April 29, 2015, Meeting of the  
Commission on Governmental Ethics and Election Practices  
45 Memorial Circle, Augusta, Maine

Present: Walter McKee, Esq., Chair; Margaret E. Matheson, Esq.; André G. Duchette, Esq.;  
Michael T. Healy, Esq.; Hon. Richard A. Nass

Staff: Jonathan Wayne, Executive Director; Phyllis Gardiner, Counsel

Commissioner McKee convened the meeting at 9:00 a.m.

The Commission considered the following items:

**1. Ratification of Minutes of February 25, 2015 Meeting**

Ms. Matheson moved to accept the minutes as written. Mr. Nass seconded. The motion passed (5-0).

**2. Request for Waiver of Late-Filing Penalty – Lisa Willey**

Mr. Wayne explained that Ms. Willey was a Maine Clean Election Act candidate for the House of Representatives. In the campaign finance reports she originally filed in 2014, she disclosed only two of her forty-nine expenditures of MCEA funds. This issue came to light when the staff saw a large discrepancy between the amount of unspent MCEA funds she returned after the general election and the cash balance as shown on her campaign finance reports. Ms. Willey amended the reports at the request of the Commission staff on February 2, 2015. Because four of the reports were substantially incomplete, they are considered late. The preliminary penalty is \$16,587. In letters and conversations with the staff, Ms. Willey stated that she understood that she had an obligation to report her expenditures and file her reports. She said that something went wrong in the filing process. However, the staff's understanding of the e-filing system is that once a transaction has been entered and saved, the data does not get lost. Mr. Wayne said the staff recommended a penalty of \$300.

Lisa Willey appeared before the Commission. She said that she did not fully understand how to use the system. In response to a question from Mr. Healy, Ms. Willey said that she and her treasurer were together when the reports were filed. She said she understood that she would have to disclose all of her expenditures at some point at the end of the campaign. However, when she filed the reports, she thought that it was more of a “check-in” and that she would submit a complete account of her campaign spending at a later date. She said she did not intentionally file false reports.

In response to a question from Mr. Duchette regarding the steps she took to understand her obligations as a Maine Clean Election Act candidate, Ms. Willey said she went to a candidate training put on by the Green-Independent Party. However, she did not fully understand what her reporting requirements were.

Mr. Nass moved that the Commission grant a partial waiver of the penalty and reduce it to \$300. Ms. Matheson seconded.

Mr. Healy said that he was troubled by the fact that the reports were significantly non-conforming and that the proposed penalty was too low. Mr. McKee said that he was sympathetic toward the candidate because of the financial hardship any penalty would cause but he agrees that the reports were substantially non-conforming. He said he would be in favor of a higher penalty.

The motion failed (2-3). Mr. Nass and Ms. Matheson voted in favor. Mr. McKee, Mr. Healy and Mr. Duchette opposed the motion.

Mr. Duchette moved that the Commission grant a partial waiver of the penalty and reduce it to \$500. Mr. Healy seconded. The motion passed (5-0).

### **3. Request for Waiver of Late-Filing Penalty – Equality Maine**

Mr. Wayne explained that the Equality Maine PAC filed a late independent expenditure report regarding an expenditure in the 2014 gubernatorial election. The PAC did file a 24-Hour Report

disclosing the expenditure; however, an independent expenditure report should have been filed instead. The staff recommended a \$250 penalty. Mr. Wayne said PACs need to understand the difference between the two reports and that they serve two different purposes. The independent expenditure report form includes an affidavit attesting that there was no coordination between the spender and the candidate in making the expenditure. Additionally, if independent expenditures are not reported properly, the public may not have adequate notice of those expenditures.

Kate Knox, Esq., appeared before the Commission on behalf of Equality Maine PAC. She said that the PAC did not oppose the staff's recommended penalty. In response to a question from Mr. Nass, Ms. Knox said that the PAC did not often get involved in candidate elections.

Ms. Matheson moved that the Commission grant a partial waiver of the penalty and reduce it to \$250. Mr. Duchette seconded. The motion passed (5-0).

#### **4. Request for Waiver of Late-Filing Penalty – Kennebunk Republican Committee**

Mr. Wayne explained that the Kennebunk Republican Committee was required to file a pre-election report. Due to the demands of his business, the treasurer for the committee failed to file the report. The preliminary penalty is \$500. The staff recommended a penalty of \$100.

Edward Karytko appeared before the Commission on behalf of the committee. Mr. Karytko said that he had been the treasurer of the committee; however, he resigned when he became a candidate in the 2014 election. When he found out that there was a late-filed report, he immediately took steps to rectify the problem. The committee is currently in the process of appointing a new treasurer and reviewing its books.

Mr. Healy moved that the Commission grant a partial waiver of the penalty and reduce it to \$100. Mr. Duchette seconded. The motion passed (5-0).

## **5. Request for Waiver of Late-Filing Penalty – Washington County Republican Committee**

Mr. Wayne said that the Washington County Republican Committee was required to file a report in January 2015 but did not file the report until March. The treasurer had filed a report earlier in 2014 and had entered several new transactions into the e-filing system. However, due to personal issues, the treasurer resigned and did not take the final step to file the report. In addition, the Commission staff did not add the report covering the post-election reporting period to the committee's filing schedule.

Tim Thompson, the new chairman for the Washington County Republican Committee, appeared before the Commission. He explained that the delay in filing the report was due in part to the resignations of the former treasurer and former chairman. He said he was not aware of the administrative problem regarding the assignment of the report but it appears that was a factor contributing to the late-filing of the report.

Mr. Nass moved that the Commission grant a full waiver of the penalty. Mr. Duchette seconded. The motion passed (5-0).

## **6. Update on Audits of 2014 Maine Clean Election Act Candidates**

Vincent Dinan, the independent auditor under contract with the Commission, provided the Commission with an update of the audits of Maine Clean Election Act candidates. The audit selection included 37 House candidates and 13 Senate candidates as well as 2 candidates who were referred by the staff as "for cause" audits. Mr. Dinan said that he has completed the audits of 33 House candidates and 10 Senate candidates. All of those audits are "no exception" audits, which means that there were no findings of violations of campaign finance laws, rules or policies. He said that the audit program would likely be completed by June.

Prior to the executive session, Mr. McKee left the meeting. Ms. Matheson assumed the duties of the chair.

## **Executive Session**

Pursuant to Title 1 of the Maine Revised Statutes, section 405(4), Ms. Matheson moved that the Commission go into executive session pursuant to Title 1, section 405(6)(E) to consult with the Commission's counsel concerning pending or contemplated litigation. Mr. Duchette seconded. The motion passed (4-0).

Mr. Healy made a motion to come out of executive session. Mr. Duchette seconded. The motion passed (4-0).

Mr. Duchette made a motion, seconded by Mr. Nass, to adjourn. The motion passed. The meeting adjourned at 10:10 a.m.

Respectfully submitted,

*/s/ Jonathan Wayne*

Jonathan Wayne, Executive Director