



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

Minutes of the March 25, 2010, Meeting of the  
Commission on Governmental Ethics and Election Practices  
Held at the Commission Office, 45 Memorial Circle,  
2<sup>nd</sup> Floor, Augusta, Maine

Present: Walter F. McKee, Esq., Chair; André Duchette, Esq.; Hon. Francis C. Marsano; Margaret E. Matheson, Esq. Staff: Executive Director Jonathan Wayne; Phyllis Gardiner, Counsel.

At 9:00 a.m., Chair Walter McKee convened the meeting.

The Commission considered the following items:

**Agenda Item #1. Ratification of Minutes of the February 25, 2010 Meeting**

Mr. Marsano moved to accept the minutes of the February 25, 2010 meeting with one typographical correction. Mr. Duchette seconded the motion, which passed unanimously (4-0).

**Agenda Item #2. Petition by the National Organization for Marriage to Stay Investigation**

Mr. Wayne reviewed the background of the National Organization for Marriage (NOM) issue and explained that NOM has filed an application to stay enforcement of the subpoenas issued to the organization and to its executive director, Brian Brown, in connection with the Commission's investigation of NOM to determine if it should have registered and filed reports as a ballot question committee in 2009. He said this particular issue brought forth today is a request to stay the investigation pending the Maine Superior Court decision on NOM's March filing of a petition for review of agency action. He said the Commission staff and counsel recommend that the Commission deny the petition for a stay of the investigation.

Mr. McKee asked whether the information provided by NOM had changed the staff's view.

Mr. Wayne stated that NOM had not provided any new or additional information that would change the staff's view on the need to limit the scope of the investigation or stay the investigation.

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Mr. McKee asked if there was any difference between the standard applied at the February meeting and that standard to be used in deciding on NOM's request for a stay of the investigation.

Ms. Gardiner said it is slightly different because grounds for a stay pending appeal are the traditional preliminary injunction grounds. At the February meeting the Commission was considering whether to vacate or modify the subpoena. The standard for that consideration is found in the Maine Administrative Procedure Act. In terms of the merits of the First Amendment claim, NOM has not presented any new information and the Commission has to consider whether NOM has a likelihood of success on the merits.

Mr. Marsano moved that the Commission deny NOM's request for stay of enforcement of subpoenas in connection with the Commission's investigation. Ms. Matheson seconded.

Motion passed unanimously (4-0).

**Agenda Item #3. Update on Administration of Maine Clean Election Act Program**

Mr. Wayne explained that the deadline for candidates for governor seeking Maine Clean Election Act funding is April 1. He said the Commission staff is working very diligently to keep the candidates on track to meet this deadline.

There being no further business, Mr. Duchette moved to adjourn. Mr. Marsano seconded. The motion passed. The meeting adjourned at 9:10 a.m.

Respectfully submitted,

Jonathan Wayne, Executive Director