



May 24, 2016

Jonathan Wayne
Executive Director
Commission on Governmental Ethics and Election Practices
135 State House Station
Augusta, ME 04333-0135

Re: Invitations, Food and Beverages Exemptions in 21-A M.R.S.A. §1012(2)

Dear Director Wayne:

Please accept these comments regarding provisions in §1012(2) relating to payments for invitations, food and beverages. The exemption in §1012(2) is at the center of item #3 on the Commission's agenda for the meeting of May 25, 2016 ("Request to Investigate Invitations Mailed in Support of Hon. Benjamin Chipman.")

I submit these comments on behalf of Maine Citizens for Clean Elections ("MCCE"). MCCE is a nonprofit organization dedicated to educating and engaging the public on matters of money in politics and campaign finance law, and to encouraging citizens to participate in our electoral system and in government to make ours a more politically responsive democracy. MCCE has been at the forefront of Maine campaign finance reform issues for over two decades, and we have frequently appeared before the Commission and the legislature to provide our public-interest perspective on important issues relating to the Maine Clean Election Act, disclosure laws, and private campaign financing. MCCE was the architect of the supplemental funding system and transparency reforms included in the successful 2015 citizen initiative campaign.

MCCE is strictly non-partisan and does not take sides in political campaigns. We do not take a position on the dispute in agenda item #3. We only hope to offer our public-interest perspective based on years of experience in this arena and a suggestion for moving forward.

Under Maine law, certain campaign-related costs are exempted from the definition of "contribution," which means that ordinary limitations and reporting requirements do not apply. The principle behind this exemption is sound: grassroots events and related activities voluntarily conducted by active supporters of a candidate are among the most beneficial types of campaign activities. Accordingly, they should not be burdened by concerns about paperwork or by the need to research legal technicalities beyond the knowledge of typical citizens.

Specifically, under §1012(2) volunteers may pay a limited amount – \$250 per election¹ – for "invitations, food and beverages" purchased in connection with "voluntary personal services" of that volunteer for use at "candidate-related activities." This is often referred to as "the house party exception" because the

¹ The original house party limit of \$50 per person was increased by the legislature to \$100 many years ago, and then increased again to \$250 in 2013.

Director Jonathan Wayne

May 24, 2016

Page 2

volunteer's use of his or her home and furnishings (i.e. "real or personal property") is specifically exempted from the definition of "contribution." This exemption is available to volunteers of all candidates, whether privately funded or using Clean Election funds.

Over time, use of this exemption has gradually increased and expanded in ways that raise concerns. We do not believe the legislature, through its amendment of the statute, or the Commission, through its interpretation of it, meant to open up a major loophole, but precedents were set in small matters that have become more consequential over time. Regardless of what the Commission decides on this agenda item, we are now concerned that the house party exemption has expanded beyond its original intent – which we heartily endorse -- to the point that campaigns can use it to legally evade other limitations in campaign finance law. We don't have a firm proposal at this writing about how to put this genie back in the bottle for the remainder of the 2016 cycle, but we are interested in exploring some options.

We respectfully suggest that you convene a small working group of stakeholders and others knowledgeable about Maine campaign law to discuss this issue. That group might recommend approaches for balancing the unquestioned value of volunteer-provided campaign events with the need to ensure the effectiveness of the existing regulatory system, including its contribution limits, disclosure, and spending restrictions.

We would be more than happy to participate in such a group and help Commission staff identify others who may have valuable perspectives on this question.

Thank you for the opportunity to comment on this item. A representative of MCCE will be present for the Commission's meeting.

Sincerely,



Andrew Bossie

Executive Director

cc: Hon. Benjamin Chipman
Steven J. Biel