



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

Commission Meeting 7/23/2015
Agenda Item #5

To: Commissioners
From: Jonathan Wayne, Executive Director
Date: July 13, 2015
Re: Recommended Findings of Violation and \$50 Penalty / Alice D. Elliott

Alice D. Elliott was a Maine Clean Election Act candidate for the Maine House of Representatives in the 2014 elections. She was not elected to the Legislature. She was randomly selected for a post-election audit. The final audit report for her campaign is attached.

The audit found that she had made a payment of \$52.91 for photocopying services with her personal funds, rather than MCEA funds. One of the requirements of the Maine Clean Election Act (MCEA) program is that participating candidates may spend only MCEA funds to promote their campaign. This acts as an overall limit on the candidate's campaign expenditures and a prohibition on self-funding the campaign.

After Ms. Elliott did not respond to a draft version of the audit report, I telephoned her to discuss the finding. She said that she had tried to follow the rules of the program, but did not dispute the auditor's finding.

Potential finding of violation and penalty. The Commission staff recommends that you find that Ms. Elliott violated a provision in the Maine Clean Election Act (21-A M.R.S.A. § 1125(6)) by purchasing campaign services with money other than MCEA funds. We recommend assessing a civil penalty of \$50 for this violation pursuant to 21-A M.R.S.A. § 1127(1), in order to discourage MCEA candidates from going outside the rules of the program by spending their personal funds to promote their candidacies.

We view this situation as analogous to a handful of legislative MCEA campaigns in recent years that made some sort of communication or planning error, resulting in accidental overspending: 2006 House candidate Anne Graham, 2008 House candidates Frederick Austin and Seth Yentes, 2010 Senate candidate Roger Katz.

Thank you for your consideration of this agenda item.



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

June 8, 2015

Alice D. Elliott
14 Beech Street
Richmond, ME 04357

Subject: 2014 Campaign Audit – Final Audit Report

Dear Ms. Elliott:

Enclosed is the final report of the Commission's audit of your 2014 House campaign contributions and expenditures. We anticipate presenting the report to our commissioners at their meeting on Thursday, July 23, 2015. You are invited to attend the meeting for the purpose of discussing the audit findings with the members of the Commission. Jonathan Wayne, the Commission's Executive Director, will contact you in advance to schedule your appearance.

Call me at (207) 255-6618 or Jonathan at (207) 287-4179 if you have any questions or concerns regarding the report or its presentation at the Commission meeting.

Thank you for your cooperation during the audit process and for helping us meet the objectives of the Commission's audit program.

Sincerely,

A handwritten signature in black ink, appearing to read "Vincent W. Dinan".

Vincent W. Dinan
Commission Auditor

Enclosure

Cc: Jonathan Wayne
Megan V. Fossa, Campaign Treasurer



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

June 8, 2015
Audit Report No. 2014-HR035
Candidate: Alice D. Elliott
House District 55

Background

Alice D. Elliott was a candidate for election to the Maine House of Representatives, District 55, in the 2014 general election. Ms. Elliott was certified for Maine Clean Election Act (MCEA) funding on April 24, 2014. Under the terms of the Act, MCEA candidates are required to submit reports of contributions received, campaign expenditures, equipment purchases and dispositions, and outstanding campaign debt for specified periods during the election cycle.

Audit Scope

The auditor examined selected contributions made to the campaign, and certain expenditures made during the following reporting periods:

- Seed Money
- 11 Day Pre-Primary
- 42 Day Post-Primary
- 42 Day Pre-General
- 11 Day Pre-General
- 42 Day Post-General

The transactions examined were recorded in the campaign's accounting and banking records. The audit's purpose was to determine if the identified contributions and expenditures (1) were properly approved by the candidate or his or her authorized representative; (2) were adequately documented as evidenced by original vendor invoices and cancelled checks or other acceptable third party disbursement documentation; (3) were properly reported to the Commission; and (4) complied in all material respects with the requirements of the Maine Clean Election Act and the Commission's rules.

Audit Findings and Recommendations

Finding No. 1 – Failure to Reimburse a Campaign Expenditure Made with the Candidate's Personal Funds

Ms. Elliott purchased photocopying services from Saturn Services of Maine on 10/14/2014 in the amount of \$52.91. The candidate used her personal credit card to pay the vendor, and neglected to seek reimbursement from the campaign treasurer. In addition, the candidate's final campaign report (42 Day Post-General) listed an outstanding cash balance of 49 cents. Accordingly, the Auditor concluded that (a) at the end of the campaign, there were no funds available to reimburse the candidate for the Saturn Services expenditure, and (b) that Ms. Elliott spent personal, non-MCEA funds to pay the vendor.

2014 Campaign Audit
Candidate: Alice D. Elliott
Final Audit Report

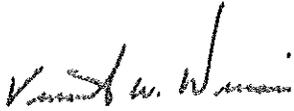
Standards – 21-A M.R.S.A. §1125 (6) states in part that “After certification, a candidate must limit the candidate's campaign expenditures and obligations, including outstanding obligations, to the revenues distributed to the candidate from the [Maine Clean Election] fund” This is one of the basic requirements of the MCEA program: after qualifying to receive public campaign funding, a candidate may spend only MCEA funds received from the State, and may not supplement those public campaign funds with personal funds or other contributions.

Recommendations – The Commission staff recommends that the Commission find the candidate in violation of 21-A M.R.S.A. §1125(6) for spending \$52.91 in personal funds to promote her campaign. The Staff further recommends that the Commission assess the candidate with a penalty of \$50 for the violation.

Candidate's Comments on the Audit Finding

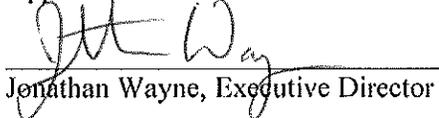
Ms. Elliott chose not to comment on the finding.

Respectfully Submitted,



Vincent W. Dinan, Auditor

Approved:



Jonathan Wayne, Executive Director

Maine Revised Statutes

Title 21-A: ELECTIONS

Chapter 14: THE MAINE CLEAN ELECTION ACT HEADING: IB 1995, c. 1, §17 (new)

§1125. TERMS OF PARTICIPATION

...



6. Restrictions on contributions and expenditures for certified candidates. After certification, a candidate must limit the candidate's campaign expenditures and obligations, including outstanding obligations, to the revenues distributed to the candidate from the fund and may not accept any contributions unless specifically authorized by the commission. Candidates may also accept and spend interest earned on fund revenues in campaign bank accounts. All revenues distributed to a certified candidate from the fund must be used for campaign-related purposes. The candidate, the treasurer, the candidate's committee authorized pursuant to section 1013-A, subsection 1 or any agent of the candidate and committee may not use these revenues for any but campaign-related purposes. The commission shall publish guidelines outlining permissible campaign-related expenditures.

...

Maine Revised Statutes
Title 21-A: ELECTIONS
Chapter 14: THE MAINE CLEAN ELECTION ACT
HEADING: IB 1995, c. 1, §17 (new)

§1127. VIOLATIONS



1. Civil fine. In addition to any other penalties that may be applicable, a person who violates any provision of this chapter or rules of the commission adopted pursuant to section 1126 is subject to a fine not to exceed \$10,000 per violation payable to the fund. In addition to any fine, for good cause shown, a candidate, treasurer, consultant or other agent of the candidate or the political committee authorized by the candidate pursuant to section 1013-A, subsection 1 found in violation of this chapter or rules of the commission may be required to return to the fund all amounts distributed to the candidate from the fund or any funds not used for campaign-related purposes. If the commission makes a determination that a violation of this chapter or rules of the commission has occurred, the commission shall assess a fine or transmit the finding to the Attorney General for prosecution. A final determination by the commission may be appealed to Superior Court in accordance with Title 5, chapter 375, subchapter 7 and the Maine Rules of Civil Procedure, Rule 80C. Fines assessed or orders for return of funds issued by the commission pursuant to this subsection that are not paid in full within 30 days after issuance of a notice of the final determination may be enforced in accordance with section 1004-B. Fines paid under this section must be deposited in the fund. In determining whether or not a candidate is in violation of the expenditure limits of this chapter, the commission may consider as a mitigating factor any circumstances out of the candidate's control.

[2011, c. 558, §10 (AMD) .]

2. Class E crime. A person who willfully or knowingly violates this chapter or rules of the commission or who willfully or knowingly makes a false statement in any report required by this chapter commits a Class E crime and, if certified as a Maine Clean Election Act candidate, must return to the fund all amounts distributed to the candidate.

[1995, c. 1, §17 (NEW) .]

SECTION HISTORY

IB 1995, c. 1, §17 (NEW). 2003, c. 81, §1 (AMD). 2005, c. 301, §33 (AMD). 2005, c. 542, §6 (AMD). 2009, c. 302, §23 (AMD). 2011, c. 558, §10 (AMD).



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

July 9, 2015

By Email and Regular Mail

Ms. Alice D. Elliott
14 Beech Street
Richmond, ME 04357

**NOTICE OF PROPOSED FINDING OF VIOLATION
AND \$50 PENALTY**

Dear Ms. Elliott,

Thank you for your cooperation with the Ethics Commission's audit of your 2014 campaign as a Maine Clean Election Act candidate. The audit will be considered at a meeting of the Commission on Thursday, July 23, 2015 in Augusta (details below).

Conclusion in the audit. On June 8, 2015, the Commission staff mailed you the final audit report for your 2014 campaign. One of the requirements of the Maine Clean Election Act (MCEA) program is that participating candidates spend only MCEA funds to promote their campaign. The audit determined that you had made a payment of \$52.91 for photocopying services from your personal funds, rather than MCEA funds, and that the campaign had insufficient MCEA funds with which to reimburse you.

Potential finding of violation and penalty. At the July 23, 2015 meeting, the Commission staff intends to recommend that the Commissioners find that you violated a provision in the Maine Clean Election Act (21-A M.R.S.A. § 1125(6)) by purchasing campaign services with money other than MCEA funds.

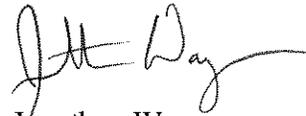
The Commission staff intends to recommend the assessment of a civil penalty of \$50 for this violation pursuant to 21-A M.R.S.A. § 1127(1), in order to discourage MCEA candidates from going outside the rules of the program by spending their personal funds to promote their candidacies. This is consistent with some past \$50 penalties assessed against candidates who overspent their authorized campaign funds.

Your opportunity to respond. You are welcome to attend the Commission's July 23 meeting to respond to the proposed finding of violation and penalty. The meeting will be held at 9:00 a.m. at the Commission's Office at 45 Memorial Circle in Augusta. You are also welcome to submit a written response. I will distribute any response to the Commissioners by electronic and/or U.S. Mail before the July 23 meeting.

Ms. Alice D. Elliott
Page 2
July 9, 2015

Please feel free to call me at 287-4179 or email me at Jonathan.Wayne@maine.gov if you have any questions about the July 23 meeting or the audit.

Sincerely,

A handwritten signature in black ink, appearing to read "Jonathan Wayne". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Jonathan Wayne
Executive Director

cc: Commission Auditor Vincent W. Dinan (by email)