



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

To: Commissioners
From: Jonathan Wayne, Executive Director
Lorrie Brann, Commission Assistant
Date: August 23, 2016
Re: Petition for Waiver of Seed Money Restrictions by Candidate Rosemary Monahan

Rosemary Monahan is a replacement candidate for the Maine House of Representatives, District 146, who wishes to qualify for Maine Clean Election Act (MCEA) funding. Ms. Monahan and her campaign treasurer purchased palm cards, signs and t-shirts that unintentionally exceeded the \$1,000 limitation on “seed money” expenditures. Pursuant to statute and Commission Rule, Ms. Monahan is petitioning the Commission for an exception or waiver of the seed money restrictions so that she can participate in the MCEA program in the general election. She has collected more than the 60 valid qualifying contributions required for House candidates.

The petition is made through an August 20 letter (received yesterday) from the campaign’s treasurer, Sarah LeClaire. According to her letter, it was Ms. LeClaire’s purchase of 20 t-shirts which pushed the campaign over the \$1,000 limit. She paid \$426.36 for T-shirts for the campaign with her personal credit card, causing the campaign to overspend by \$243.92. (The expenditures are set out in the attached seed money report.) Ms. LeClaire takes responsibility for the violation.

In July, Ms. Monahan replaced a candidate who withdrew as her party’s nominee. Ms. Monahan registered with the Commission on July 15, 2016. Replacement MCEA candidates have until August 24, 2016 (tomorrow) to submit their qualifying contributions and to request certification.

The Commission staff appreciates your consideration of this item. We have added it to the August 31 agenda so that the candidate may receive a determination whether she has qualified for MCEA funding. If the Commission does not grant a waiver, she would need to finance her campaign through traditional campaign contributions.

LEGAL REQUIREMENTS

Prior to qualifying for MCEA funding, candidates may accept small donations of up to \$100 from individuals as “seed money contributions” to start their campaigns. (21-A M.R.S.A. §§ 1122(9) & 1125(2)) These contributions are optional, but they allow the candidate to engage in campaign activities before they receive public financing. Each individual donor may contribute up to \$100 as a seed money contribution. Candidates for the House may collect up to a total of \$1,000 in seed money contributions. (21-A M.R.S.A. § 1125(2))

All goods or services received prior to certification must be paid for with seed money contributions.¹ (21-A M.R.S.A. § 1125(2-A)(A), below) For House candidates, this effectively places a \$1,000 limit on expenditures during the qualifying period.

Under the MCEA, candidates who have accepted contributions or made expenditures that do not comply with the seed money restrictions may petition the Commission to remain eligible to receive MCEA funding:

2-A. Seed money restrictions. To be eligible for certification, a participating candidate may collect and spend only seed money contributions subsequent to becoming a candidate and prior to certification. A participating candidate may not solicit, accept or collect seed money contributions after certification as a Maine Clean Election Act candidate.

A. All goods and services received prior to certification must be paid for with seed money contributions, except for goods and services that are

¹ Although it is discouraged, the Commission’s procedures allow candidates to pay for campaign goods with a personal credit card, provided that they promptly use seed money or MCEA funds to reimburse the candidate.

excluded from the definition of contribution in section 1012, subsection 2, paragraph B. It is a violation of this chapter for a participating candidate to use fund revenues received after certification to pay for goods and services received prior to certification.

B. Prior to certification, a participating candidate may obligate an amount greater than the seed money collected, but may only receive that portion of goods and services that has been paid for or will be paid for with seed money. A participating candidate who has accepted contributions or made expenditures that do not comply with the seed money restrictions under this chapter may petition the commission to remain eligible for certification as a Maine Clean Election Act candidate in accordance with rules of the commission, if the failure to comply was unintentional and does not constitute a significant infraction of these restrictions.

C. Upon requesting certification, a participating candidate shall file a report of all seed money contributions and expenditures. If the candidate is certified, any unspent seed money will be deducted from the amount distributed to the candidate as provided in subsection 8-F.

(21-A M.R.S.A. § 1125(2-A), underscoring added)

The Commission has adopted a rule setting out standards for considering requests for an exception or waiver of the seed money restrictions:

F. Case-by-Case Exception. A participating candidate who has accepted contributions or made expenditures that do not comply with seed money restrictions may petition the Commission to remain eligible for certification as a Maine Clean Election Act candidate. The Commission may approve the petition and restore a candidate's eligibility for certification if the candidate successfully establishes all of the following criteria:

- (1) the failure to comply was the result of an unintentional error;
- (2) the candidate immediately returned all contributions that did not comply with seed money restrictions or paid for goods or services contributed that did not comply with seed money restrictions;²
- (3) the candidate petitioned the Commission promptly upon becoming aware of the unintentional error; and
- (4) the failure to comply did not involve expenditures by the participating candidate significantly in excess of seed money total amount restrictions or otherwise constitute systematic or significant infractions of seed money restrictions.

(Commission Rules, Chapter 3, Section 2(3)(F))

REQUEST FOR SEED MONEY WAIVER

Sarah LeClaire, treasurer for Rosemary Monahan, states that due to the compressed timeline for qualifying as a Maine Clean Election candidate, the campaign incurred several large expenditures, which triggered the overspending of her seed money. This was an unintentional error made in an effort to get Ms. Monahan's name out in the public and build support for her campaign. Ms. LeClaire states the candidate participated in four parades and multiple public events for which she needed campaign materials, such as T-shirts, palmcards, signs. Due to the shortness of time, the campaign designed and ordered all campaign materials online and because they needed these materials as soon as possible, it incurred \$189.38 in shipping charges.

Ms. LeClaire states that she and Ms. Monahan repeatedly contacted Commission staff with questions to ensure they were doing everything correctly. She contends that the

² The Commission staff believes that paragraph F(2) does not apply because the compliance issue relates to Ms. Monahan's expenditures, not the contributions that she received.

overspending was unintentional, it was immediately reported, and the amount of overspending was not a significant amount nor was it a systematic or significant infraction of seed money restrictions.

STAFF COMMENTS

In 2012, the Commission authorized the Commission's Executive Director to consider requests for waivers to the seed money restrictions – rather than scheduling the requests for consideration by the Commissioners directly. Most of these waivers involve:

- Candidates who have accidentally accepted too much seed money, which can be remedied through returning contributions.
- Candidates who have spent slightly more than the maximum amount, because they paid small fees for money orders which they did not realize would need to be accounted for.

Because these violations have been unintentional and in minor amounts, the Commission staff granted the requests in accordance with the Commission's Rule, Chapter 3, Section 2(3)(F) (quoted above).

In this case, it appears that the Monahan campaign meets at least two requirements of the Commission's Rule:

- The overspending was unintentional.
- The candidate promptly petitioned the Commission for an exception upon becoming aware of the non-compliance.

The Commission staff has scheduled this for your consideration because the Monahan campaign exceeded the \$1,000 spending limit by \$243.92. We are unsure whether we can conclude that the overspending meets the following criterion:

the failure to comply did not involve expenditures by the participating candidate significantly in excess of seed money total amount restrictions.

We are sympathetic to the candidate's objective of qualifying for MCEA funding and understand how this was an easy mistake to make, but are uneasy granting the waiver ourselves because the candidate exceeded the spending limit by 24%. Thank you for your consideration of this item.

ROSEMARY MONAHAN
CANDIDATE FOR MAINE HOUSE DISTRICT# 146
293 PRATT RD. WOODLAND, MAINE 04736
207-498-6058 ROSEMONAHAN146@GMAIL.COM

Blaine, Mars Hill, Westfield, Chapman, Castle Hill, Mapleton, Washburn, Wade, Perham, and Woodland

Maine Ethics Commission
45 Memorial Circle
135 State House Station
Augusta, Maine 04333-0135

August 20, 2016

REQUEST FOR WAIVER: Ch. 3, Sec 2(3)(f) of Commission Rules

Dear Commissioners:

I am respectfully requesting that Rosemary Monahan be granted a waiver for her campaign's violation of the Maine Clean Election Rules regarding the expenditure of funds in excess of allowed seed money totals and prior to becoming certified. The 08/18/16 Seed Money Report shows contributions of \$1000 and expenditures of \$1253. At the outset, please know that I fully appreciate that the rules for the Clean Election Program are fair, and I accept full responsibility for all non-compliance in this case. In particular, I want to acknowledge that the Maine Ethics Commission staff provided prompt and accurate information and assistance on every issue upon which we made inquiry and I certainly wish I had contacted them on this occasion prior to making the expenditure.

Accordingly, Rosemary Monahan is petitioning the Commission for leave to remain eligible for certification as a Maine Clean Election Act candidate as follows. It is my understanding that the Commission may approve such a petition and restore a candidate's eligibility for certification if the candidate establishes the following criteria:

- (1) "the failure to comply was the result of an unintentional error":

Rosemary Monahan entered the 2016 election for House District 146 on July 15, 2016 when she was nominated as a replacement candidate by the Aroostook County Democratic Committee when the prior candidate dropped out. Rosemary immediately began the process of qualifying as a Clean Elections Act candidate. Unfortunately, Rosemary's late entry into the race presented many challenges that came at us very fast. Her nomination occurred on the very eve of the most important series of community parades and events which Aroostook County political candidates rely upon to obtain name recognition and introduce themselves to the public. In the brief period she has been a candidate, Rosemary has attended 9 public events – and has coordinated supporters to participate with her, including 4 full scale parades - the Fort Fairfield Potato Blossom parade, and the annual Caribou, Washburn and Mars Hill parades. She has responded to requests for information, has been interviewed, has met with supporters,

attended public events, and campaigned. She has done all this while maintaining a very demanding job and attending to family matters which required her immediate attention during this period.

As a new candidate Rosemary also had to register with the Commission, set up a new bank account for her seed money contributions, wait for funds to clear on a rolling basis and wait for her debit card. She has been heavily involved in collecting the requisite number of Qualifying \$5 Contributions by making calls and recruiting supporters to assist in that endeavor. It is noted that District 146 is comprised of 10 highly rural communities covering over 355 square miles - which required the better part of a work day just to obtain municipal clerk certifications.

When appearing at public events such as parades, picnics, cook outs, etc. it was deemed imperative that Rosemary have at least a minimum amount of campaign material. As a new candidate she did not have any campaign material stockpiled from a prior campaign. Accordingly, due to the highly compressed schedule and the immediate need for campaign materials we chose to design and order online some introductory palm cards, 14 signs for Rosemary and her supporters to carry and display on vehicles, and tee-shirts to wear at events. Our first tee-shirt order was very inadequate because we did not order enough shirts or sizes. While there are local printers who may have been able to provide some of this material, and whom we'll use once we have the luxury of more time – I was working at night to design and order campaign materials since we have so little time during the work day. Also, because the campaign material was needed on a “rush” basis we incurred significant shipping charges totaling \$189.38. We also spent \$9.08 to overnight the Qualifying Contributions to the Commission to assure “tracking” capability. The seed money over expenditure was essentially caused by the last order of 20 tee-shirts which I ordered using my American Express card. The expenditure was the result of my ignorance of the rules related to putting the expenditure on my credit card. Accordingly, given the entirety of the situation and Rosemary’s good faith in otherwise fully complying with the Commission’s Rules we request that non-compliance be deemed unintentional.

(2) the candidate immediately returned all contributions that did not comply with seed money restrictions or paid for goods or services contributed that did not comply with seed money restrictions

The violation involves over expenditure and not over collection of seed money. Rosemary has paid for the over expenditure in the amount of \$253 from her personal funds.

(3) the candidate petitioned the Commission promptly upon becoming aware of the unintentional error;

Rosemary caused the Commission to be timely notified of her expenditures and has promptly caused this Petition for Waiver to be filed.

(4) the failure to comply did not involve expenditures by the participating candidate significantly in excess of seed money total amount restrictions or otherwise constitute systematic or significant infractions of seed money restrictions.

The over expenditure was essentially caused by a purchase of 20 tee-shirts by a replacement candidate entering very late into the campaign at a critical point in the campaign schedule. The candidate has no prior experience with a Maine Clean Election campaign – or any other campaign. The seed money funds were significantly depleted by shipping charges of \$189.38 that would not have been incurred had the timeframe not been so highly compressed. Further, Rosemary spent \$9.08 to assure “tracked” delivery of her Qualifying Contributions package to the Commission – another cost that many candidates with more time are able to avoid by arranging for in-person delivery by a colleague travelling to Augusta. We have had many things go right and have made numerous calls to the Commission for help to try to do things right given Rosemary’s appreciation of, and great respect for Maine’s Clean Elections process - which she understands is essential to the participation of a broad range of Maine’s citizens as candidates in the election process.

Thank you very much for your consideration.

Respectfully submitted,

Sarah LeClaire, Treasurer

Read and Approved:

Rosemary Monahan, Candidate



Commission on Governmental Ethics and Election Practices
Mail: 135 State House Station, Augusta, Maine 04333
Office: 45 Memorial Circle, Augusta, Maine
Website: www.maine.gov/ethics
Phone: 207-287-4179
Fax: 207-287-6775

2016 CAMPAIGN FINANCE REPORT

FOR MCEA CANDIDATES

COMMITTEE		TREASURER	
MS. ROSEMARY Z MONAHAN 293 PRATT RD. WOODLAND, ME 04736 PHONE: (207) 227-1598 EMAIL: ROSEMONAHAN146@GMAIL.COM		Ms. Sarah E LeClaire 409 Main Street Presque Isle, ME 04769 PHONE: (207) 227-1597 EMAIL: sleclair1@mac.com	
REPORT	DUE DATE	REPORTING PERIOD	
SEED MONEY REPORT	08/24/2016	06/14/2016 - 08/24/2016	

FINANCIAL ACTIVITY SUMMARY

CASH ACTIVITY		
	TOTAL FOR THIS PERIOD	TOTAL FOR CAMPAIGN
1. CASH BALANCE FROM LAST REPORT	\$0.00	
2. SEED MONEY CONTRIBUTIONS	\$1,000.00	\$1,000.00
3. MAINE CLEAN ELECTION ACT PAYMENTS & AUTHORIZATIONS	\$0.00	\$0.00
4. SALE OF CAMPAIGN PROPERTY (SCHEDULE E, PART 2)	\$0.00	\$0.00
5. OTHER CASH RECEIPTS (INTEREST, ETC.,)	\$0.00	\$0.00
6. MINUS EXPENDITURES (SCHEDULE B)	\$1,243.92	\$1,243.92
7. CASH BALANCE AT CLOSE OF PERIOD	(\$243.92)	
OTHER ACTIVITY		
8. IN-KIND SEED MONEY CONTRIBUTIONS	\$0.00	\$0.00
9. TOTAL UNPAID DEBTS AT CLOSE OF PERIOD (SCHEDULE D)	\$0.00	

I, Not Available in Preview, CERTIFY THAT THE INFORMATION CONTAINED IN THIS REPORT IS TRUE, ACCURATE, AND COMPLETE TO THE BEST OF MY KNOWLEDGE.

REPORT FILED BY: Not Available in Preview
REPORT FILED ON: 08/17/2016
LAST MODIFIED: 07/18/2016
PRINTED: 08/17/2016
COMMITTEE ID: 9562

SCHEDULE A CASH CONTRIBUTIONS

- For contributors who gave more than \$50, the names, address, occupation, and employer must be reported. If "information requested" is listed instead of occupation and employer, the candidate is waiting to receive that information.
- Cash contributions of \$50 or less can be added together and reported as a lump sum.
- Contributor Types

1 = Individual

9 = Candidate / Candidate Committee

2 = Candidate/ Spouse/ Domestic Partner

10 = General Treasury Transfer

3 = Commercial Source

11 = Transfer from Previous Campaign

4 = Nonprofit Organization

12 = Contributors giving \$50 or less

5 = Political Action Committee

13 = Contributors giving \$100 or less

6 = Political Party Committee

14 = Contributors giving \$200 or less

7 = Ballot Question Committee

15 = MCEA Payment

8 = Other Candidate/ Candidate Committee

16 = Financial Institution

DATE RECEIVED	CONTRIBUTOR	OCCUPATION AND EMPLOYER	TYPE	AMOUNT
7/15/2016	PATRICK HUNT 7 SHERMAN STREET ISLAND FALLS, ME 04747	SELF DESCRIPTION: Attorney/Legal	1	\$100.00
7/15/2016	SARAH LECLAIRE 293 PRATT RD. WOODLAND, ME 04736	SELF DESCRIPTION: Attorney/Legal	2	\$100.00
7/15/2016	ROSEMARY MONAHAN 293 PRATT RD WOODLAND, ME 03736	SARAH LECLAIRE LAW OFFICE DESCRIPTION: PARALEGAL	2	\$75.00
7/16/2016	GINETTE RIVARD 26 FORT STREET CARIBOU, ME 04736	DESCRIPTION: RETIRED	1	\$50.00
7/16/2016	ROGER ROY 287 LAKE SHORE DRIVE MADAWASKA, ME 04783	UMFK DESCRIPTION: Teacher/Education	1	\$100.00
7/18/2016	GARY SANFACON 24 PATTEN ST. CARIBOU, ME 04736	STATE OF MAINE DESCRIPTION: Government/Civil	1	\$50.00
7/21/2016	CATHY BEAULIEU 2039 CHAPMAN RD CHAPMAN, ME 04757	SELF DESCRIPTION: Retail Sales	1	\$100.00
7/22/2016	MARY MCGLINN 237 PRATT RD. WOODLAND, ME 04736	SELF DESCRIPTION: Homemaker	1	\$100.00
7/26/2016	GARY SAYERS PO BOX 78 FORT FAIRFIELD, ME 04742	NONE DESCRIPTION: RETIRED	1	\$100.00
7/27/2016	NAN HIRST 2 WATER STREET SO. WELLFLEET, MA 02663	NONE DESCRIPTION: RETIRED	1	\$100.00

8/1/2016	CONTRIBUTORS GIVING \$50 OR LESS		12	\$110.00
8/17/2016	ROSEMARY MONAHAN 293 PRATT RD WOODLAND, ME 03736	SARAH LECLAIRE LAW OFFICE DESCRIPTION: PARALEGAL	2	\$15.00
TOTAL CASH CONTRIBUTIONS				\$1,000.00

**SCHEDULE B
EXPENDITURES**

EXPENDITURE TYPES				
CNS	Campaign consultants	POL	Polling and survey research	
CON	Contribution to other candidate, party, committee	POS	Postage for U.S. Mail and mail box fees	
EQP	Equipment (office machines, furniture, cell phones, etc.)	PRO	Other professional services	
FND	Fundraising events	PRT	Print media ads only (newspapers, magazines, etc.)	
FOD	Food for campaign events, volunteers	RAD	Radio ads, production costs	
LIT	Print and graphics (flyers, signs, palmcards, t-shirts, etc.)	SAL	Campaign workers' salaries and personnel costs	
MHS	Mail house (all services purchased)	TRV	Travel (fuel, mileage, lodging, etc.)	
OFF	Office rent, utilities, phone and internet services, supplies	TVN	TV or cable ads, production costs	
OTH	Other	WEB	Website design, registration, hosting, maintenance, etc.	
PHO	Phone banks, automated telephone calls			

DATE OF EXPENDITURE	PAYEE	REMARK	TYPE	AMOUNT
7/27/2016	NORSTATE FEDERAL CREDIT UNION/HARLAND & CLARK 78 FOX STREET MADAWASKA, ME 04756	CHECKS FOR CAMPAIGN ACCOUNT	OTH	\$17.40
8/1/2016	DIGIMAGINATION, LLC DBA E-SIGNS.COM PO BOX 38205 HOUSTON, TX 77238	CAMPAIGN SIGNS FOR PARADES. ORDER # 2910352644. REIMBURSEMENT TO SARAH DECLARE, CANDIDATES DOMESTIC PARTNER	LIT	\$231.90
8/1/2016	DIGIMAGINATION, LLC DBA E-SIGNS.COM PO BOX 38205 HOUSTON, TX 77238	MAGNETIC CAR SIGNS. ORDER # 613451002. REIMBURSEMENT TO SARAH LECLAIRE	LIT	\$109.76
8/1/2016	UNITED STATES POSTAL SERVICE SECOND STREET PRESQUE ISLE, ME 04769	30 X \$1.20 POSTAL MONEY ORDER FEES FOR QUALIFYING CONTRIBUTIONS. REIMBURSEMENT TO SARAH DECLARE CANDIDATE DOMESTIC PARTNER	OTH	\$36.00
8/1/2016	UPRINTING 8000 HASKELL AVE. VAN NUYS, CA 91406	PALM CARDS ORDER # 2568264 REIMBURSEMENT TO SARAH DECLARE, CANDIDATE DOMESTIC PARTNER	LIT	\$74.30
8/9/2016	PRINTFLY CORP. D/B/A RUSH ORDER TEES 2727 COMMERCE WAY PHILADELPHIA, PA 19154	TEE SHIRTS FOR PARADE. ORDER # 356799. REIMBURSEMENT TO SARAH LECLAIRE, CANDIDATES DOMESTIC PARTNER	LIT	\$310.98
8/9/2016	SAVE-A-LOT SKYWAY PLAZA CARIBOU, ME 04736	CANDY FOR CARIBOU PARADE. REIMBURSEMENT TO ROSEMARY MONAHAN.	FOD	\$9.43
8/13/2016	PRINTFLY CORP. D/B/A RUSH ORDER TEES 2727 COMMERCE WAY PHILADELPHIA, PA 19154	TEE SHIRTS FOR PARADES. TO BE REIMBURSED TO SARAH LECLAIRE, CANDIDATES DOMESTIC PARTNER	LIT	\$426.36

8/13/2016	STAR CITY IGA 247 MAIN STREET PRESQUE ISLE, ME 04769	CANDY FOR MARS HILL PARADE. REIMBURSEMENT TO ROSEMARY MONAHAN	FOD	\$27.79
TOTAL EXPENDITURES FOR CANDIDATE:				\$1,243.92

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

1. Declaration of intent. A participating candidate must file a declaration of intent to seek certification as a Maine Clean Election Act candidate and to comply with the requirements of this chapter. The declaration of intent must be filed with the commission prior to or during the qualifying period, except as provided in subsection 11, according to forms and procedures developed by the commission. Qualifying contributions collected more than 5 business days before the declaration of intent has been filed will not be counted toward the eligibility requirement in subsection 3.

[2011, c. 389, §51 (AMD) .]

 **2. Contribution limits for participating candidates.** Subsequent to becoming a candidate as defined by section 1, subsection 5 and prior to certification, a participating candidate may not accept contributions, except for seed money contributions. A participating candidate must limit the candidate's total seed money contributions to the following amounts:

A. Two hundred thousand dollars for a gubernatorial candidate; [2009, c. 363, §2 (AMD) .]

B. One thousand five hundred dollars for a candidate for the State Senate; or [1995, c. 1, §17 (NEW) .]

C. Five hundred dollars for a candidate for the State House of Representatives. [1995, c. 1, §17 (NEW) .]

The commission may, by rule, revise these amounts to ensure the effective implementation of this chapter.

[2009, c. 363, §2 (AMD) .]

 **2-A. Seed money restrictions.** To be eligible for certification, a participating candidate may collect and spend only seed money contributions subsequent to becoming a candidate and prior to certification. A participating candidate may not solicit, accept or collect seed money contributions after certification as a Maine Clean Election Act candidate.

A. All goods and services received prior to certification must be paid for with seed money contributions, except for goods and services that are excluded from the definition of contribution in section 1012, subsection 2, paragraph B. It is a violation of this chapter for a participating candidate to use fund revenues received after certification to pay for goods and services received prior to certification. [2007, c. 443, Pt. B, §6 (NEW) .]

 B. Prior to certification, a participating candidate may obligate an amount greater than the seed money collected, but may only receive that portion of goods and services that has been paid for or will be paid for with seed money. A participating candidate who has accepted contributions or made expenditures that do not comply with the seed money restrictions under this chapter may petition the commission to remain eligible for certification as a Maine Clean Election Act candidate in accordance with rules of the commission, if the failure to comply was unintentional and does not constitute a significant infraction of these restrictions. [2007, c. 443, Pt. B, §6 (NEW) .]

C. Upon requesting certification, a participating candidate shall file a report of all seed money contributions and expenditures. If the candidate is certified, any unspent seed money will be deducted from the amount distributed to the candidate as provided in subsection 8-A. [2009, c. 302, §11 (AMD); 2009, c. 302, §24 (AFF) .]

[2009, c. 302, §11 (AMD); 2009, c. 302, §24 (AFF) .]

 **5. Certification of Maine Clean Election Act candidates.** Upon receipt of a final submittal of qualifying contributions by a participating candidate, the executive director of the commission shall determine whether the candidate has:

- A. Signed and filed a declaration of intent to participate in this Act; [1995, c. 1, §17 (NEW).]
- B. Submitted the appropriate number of valid qualifying contributions; [1995, c. 1, §17 (NEW).]
- C. Qualified as a candidate by petition or other means no later than 5 business days after the end of the qualifying period; [2011, c. 389, §52 (AMD).]
- C-1. As a gubernatorial candidate, collected at least \$40,000 in seed money contributions from registered voters in the State; [2009, c. 363, §5 (NEW).]
- ★ D. Not accepted contributions, except for seed money contributions, and otherwise complied with seed money restrictions; [2003, c. 270, §1 (AMD).]
- D-1. Not run for the same office as a nonparticipating candidate in a primary election in the same election year; [2007, c. 443, Pt. B, §6 (AMD).]
- D-2. Not been found to have made a material false statement in a report or other document submitted to the commission; [2007, c. 443, Pt. B, §6 (NEW).]
- D-3. Not otherwise substantially violated the provisions of this chapter or chapter 13; [2009, c. 190, Pt. B, §2 (AMD).]
- D-4. Not failed to pay any civil penalty assessed by the commission under this Title, except that a candidate has 3 business days from the date of the request for certification to pay the outstanding penalty and remain eligible for certification; [2011, c. 389, §52 (AMD).]
- D-5. Not submitted any fraudulent qualifying contributions or any falsified acknowledgement forms for qualifying contributions or seed money contributions; and [2011, c. 389, §52 (NEW).]
- E. Otherwise met the requirements for participation in this Act. [1995, c. 1, §17 (NEW).]

The executive director shall certify a candidate complying with the requirements of this section as a Maine Clean Election Act candidate as soon as possible after final submittal of qualifying contributions and other supporting documents required under subsection 4 but no later than 3 business days for legislative candidates and 5 business days for gubernatorial candidates. The executive director may take additional time if further investigation is necessary to verify compliance with this Act as long as the commission notifies the candidate regarding the anticipated schedule for conclusion of the investigation. A candidate or other interested person may appeal the decision of the executive director to the members of the commission in accordance with subsection 14.

A certified candidate must comply with all requirements of this Act after certification and throughout the primary and general election periods. Failure to do so is a violation of this chapter.

[2011, c. 389, §52 (AMD) .]

5-A. Revocation of certification. The certification of a participating candidate may be revoked at any time if the commission determines that the candidate or an agent of the candidate:

- A. Did not submit the required number of valid qualifying contributions; [2007, c. 443, Pt. B, §6 (NEW).]
- B. Failed to qualify as a candidate by petition or other means; [2007, c. 443, Pt. B, §6 (NEW).]
- C. Submitted any fraudulent qualifying contributions or qualifying contributions that were not made by the named contributor; [2007, c. 443, Pt. B, §6 (NEW).]
- D. Misrepresented to a contributor the purpose of the qualifying contribution or obtaining the contributor's signature on the receipt and acknowledgement form; [2007, c. 443, Pt. B, §6 (NEW).]

E. Failed to fully comply with the seed money restrictions; [2007, c. 443, Pt. B, §6 (NEW) .]

F. Knowingly accepted any contributions, including any in-kind contributions, or used funds other than fund revenues distributed under this chapter to make campaign-related expenditures without the permission of the commission; [2007, c. 443, Pt. B, §6 (NEW) .]

G. Knowingly made a false statement or material misrepresentation in any report or other document required to be filed under this chapter or chapter 13; [2009, c. 363, §6 (AMD) .]

H. Otherwise substantially violated the provisions of this chapter or chapter 13; or [2009, c. 363, §6 (AMD) .]

I. As a gubernatorial candidate, failed to properly report seed money contributions as required by this section. [2009, c. 363, §6 (NEW) .]

The determination to revoke the certification of a candidate must be made by a vote of the members of the commission after an opportunity for a hearing. A candidate whose certification is revoked shall return all unspent funds to the commission within 3 days of the commission's decision and may be required to return all funds distributed to the candidate. In addition to the requirement to return funds, the candidate may be subject to a civil penalty under section 1127. The candidate may appeal the commission's decision to revoke certification in the same manner provided in subsection 14, paragraph C.

[2009, c. 363, §6 (AMD) .]

SECTION 2. PROCEDURES FOR PARTICIPATION**3. Seed Money Restrictions**

- A. **General.** After becoming a candidate and before certification, a participating candidate may collect and spend only seed money contributions. The restrictions on seed money contributions apply to both cash and in-kind contributions.
- B. **Total Amount**
- (1) A participating candidate must limit the candidate's total seed money contributions to the following amounts:
 - (a) two hundred thousand dollars for a gubernatorial candidate;
 - (b) one thousand five hundred dollars for a candidate for the State Senate; or
 - (c) five hundred dollars for a candidate for the State House of Representatives.
 - (2) Notwithstanding any other provision of this chapter, a candidate may carry forward to a new candidacy of that candidate campaign equipment or property, subject to the reporting requirements of Title 21-A, chapter 13 [Campaign Reports and Finances].
 - (3) The Commission periodically will review these limitations and, through rulemaking, revise these amounts to ensure effective implementation of the Act.
- C. **Required seed money for gubernatorial candidates.** In addition to the other requirements for certification, a candidate for Governor seeking to qualify for Maine Clean Election Act funding shall collect at least \$40,000 in seed money contributions from registered voters in Maine. Only cash seed money contributions count toward the \$40,000 requirement. The candidate shall obtain documentation of the contributions as required by the Act [§1125(2-B)].
- D. **Campaign surplus.** A candidate who has carried forward campaign surplus according to Title 21-A, chapter 13, subchapter II [§1017(8) and §1017(9)], and who intends to become a participating candidate, must dispose of campaign surplus in accordance with the requirements of Title 21-A, chapter 13, subchapter II [§1017(8)]; provided, however, that a candidate may carry forward only those portions of campaign surplus that comply with the provisions of this Act regarding seed money contributions [§§ 1122(9) and 1125(2)]. Any campaign surplus (excluding campaign equipment or property) carried forward under this provision will be counted toward that candidate's total seed money limit.

INFORMATIONAL NOTE: The Commission will provide educational materials to all former candidates who have a campaign surplus describing the requirement that individuals must dispose of campaign surplus to remain eligible for participation as a Maine Clean Election Act candidate.

E. **Return of Contributions Not in Compliance with Seed Money Restrictions.** A participating candidate who receives a contribution exceeding the seed money per donor restriction or the total amount restriction must immediately return the contribution and may not cash, deposit, or otherwise use the contribution.



F. **Case-by-Case Exception.** A participating candidate who has accepted contributions or made expenditures that do not comply with seed money restrictions may petition the Commission to remain eligible for certification as a Maine Clean Election Act candidate. The Commission may approve the petition and restore a candidate's eligibility for certification if the candidate successfully establishes all of the following criteria:

- (1) the failure to comply was the result of an unintentional error;
- (2) the candidate immediately returned all contributions that did not comply with seed money restrictions or paid for goods or services contributed that did not comply with seed money restrictions;
- (3) the candidate petitioned the Commission promptly upon becoming aware of the unintentional error; and
- (4)  the failure to comply did not involve expenditures by the participating candidate significantly in excess of seed money total amount restrictions or otherwise constitute systematic or significant infractions of seed money restrictions.

G. After becoming a candidate and prior to certification, accepting a loan from any source including a financial institution and spending money received in the form of a loan, are violations of the seed money restrictions of the Act.

H. **Other.** A seed money contributor may also make a qualifying contribution to the same participating candidate provided that the contributor otherwise meets the requirements for making a qualifying contribution.