



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
Date: November 5, 2012, 12:05 p.m.
Re: Participation of House Candidate Michael Nadeau in Meeting

This is to inform you of the staff's efforts to notify Michael Nadeau that the Commission would be meeting at 3:00 p.m. today concerning a matter that could result in a finding of violation against him. You may wish to consider whether he has received adequate notice of a proposed violation and an adequate opportunity to respond.

- On the evening of Friday, November 2, Assistant Director Paul Lavin talked to Mr. Nadeau by telephone and explained that a complaint had been filed. Mr. Lavin said that the Commission may hold a meeting this afternoon.
- Later that evening, Mr. Lavin sent Mr. Nadeau the attached e-mail to wtpfordist1@yahoo.com. That is the e-mail address that Mr. Nadeau instructed Mr. Lavin to use. The complaint by the Maine Democratic Party was attached to the e-mail. In the e-mail, Mr. Lavin stated "[T]here is a high probability that the Commission will hear the MDP's request on Monday afternoon."
- On the morning of Saturday, November 3, I left a voicemail message for Mr. Nadeau informing him that the Commission would be meeting Monday and that I would be interested in interviewing him on November 4. He did not return my call on November 4.

- On November 3, Philip Soucy informed me that he would be represented by legal counsel, William Logan. I assumed erroneously that Mr. Logan would also be representing Mr. Nadeau, since he is the Republican nominee in House District #1. Mr. Logan informed me this morning that he is not representing Mike Nadeau, which surprised me.
- Therefore, this morning I called Mike Nadeau and reached him by telephone on a cell phone. I mentioned that the Commission was meeting at 3:00 p.m. and asked whether he could participate by phone. The phone connection deteriorated and I could only hear him sporadically by the end of the call. Although he understood me clearly at the start of the phone call, he may not have heard me toward the end.
- At 10:49 a.m., the Commission Assistant e-mailed him the call-in information (attached e-mail).
- I tried reaching him a little before 12:00 noon by phone and he did not answer. I left a voicemail asking him to return my call.

At this time, it is unconfirmed whether he will be participating in the meeting by phone.

Thank you for your consideration of this memo.

Wayne, Jonathan

From: Lavin, Paul
Sent: Friday, November 02, 2012 8:35 PM
To: 'louispsoucy@yahoo.com'; 'wtpfordist1@yahoo.com'
Cc: Wayne, Jonathan; Marett, Matthew
Subject: Notice of the Maine Democratic Party's Request for Investigation
Attachments: Nadeau RFI (FINAL).pdf

Mr. Soucy and Mr. Nadeau,

Thank you both for taking the time to talk with me this evening.

I have attached a request for an investigation filed by the Maine Democratic Party (MDP) regarding an independent expenditure by the Citizens for Effective Government (CEG) on Friday, November 1, 2012 (IE #205). The expenditure was for a mailing in support of Mr. Nadeau's candidacy. The independent expenditure report was signed by Mr. Soucy as the authorized individual or treasurer for CEG. A copy of IE #205 is attached to the MDP's request.

For an expenditure for a campaign communication to be an independent expenditure under Maine Election Law, there can be no coordination between the person spending the money and the candidate the expenditure is intended to benefit. In its request, the Maine Democratic Party contends that the expenditure was not made independently from the candidate but was coordinated with the candidate's campaign by virtue of Mr. Soucy's dual roles in the CEG and as treasurer for the Nadeau campaign. The MDP contends that this coordination resulted in an impermissible in-kind contribution from CEG to the Nadeau campaign in violation of the Maine Clean Election Act.

There is a high probability that the Commission will hear the MDP's request on Monday afternoon. However, we do not have a specific time yet but will notify you immediately when we do. The Commission's usual practice is that all parties to a complaint or request for an investigation appear before the Commission but given that you are in northern Aroostook County and the election is this Tuesday, this would seem to be highly impracticable. We will also notify you about how the hearing will be conducted as soon as those procedures have been decided upon. If you have someone who will be assisting you in responding to the MDP's request, please let us know as soon as possible or have that person contact Jonathan Wayne, the Commission's Executive Director, by phone or e-mail.

Jonathan Wayne will be sending a more detailed letter by e-mail tomorrow. He will also be in the office tomorrow if you wish to speak with him. Matt Marett, the Commission's PAC/Party/Lobbyist Registrar will also be in the office tomorrow morning and he is familiar with this matter.

The office's main line is 287-4179.

Jonathan Wayne's direct line is 287-6219. His e-mail address is Jonathan.Wayne@Maine.gov.

Matt Marett's direct line is 287-6221. His e-mail address is Matthew.Marett@Maine.gov.

My contact information is below.

Thank you again.

Paul Lavin
Assistant Director
Maine Ethics Commission
Office: 45 Memorial Circle
Mailing address: 135 State House Station

Augusta, Maine 04333-0135

207-287-3024

Paul.Lavin@maine.gov

Phillips, Cyndi

From: Phillips, Cyndi
Sent: Monday, November 05, 2012 10:49 AM
To: 'wtpfordist1@yahoo.com'
Subject: FW: Conference Call Invitation for 11/05/2012 03:00 PM



Please call with any questions.

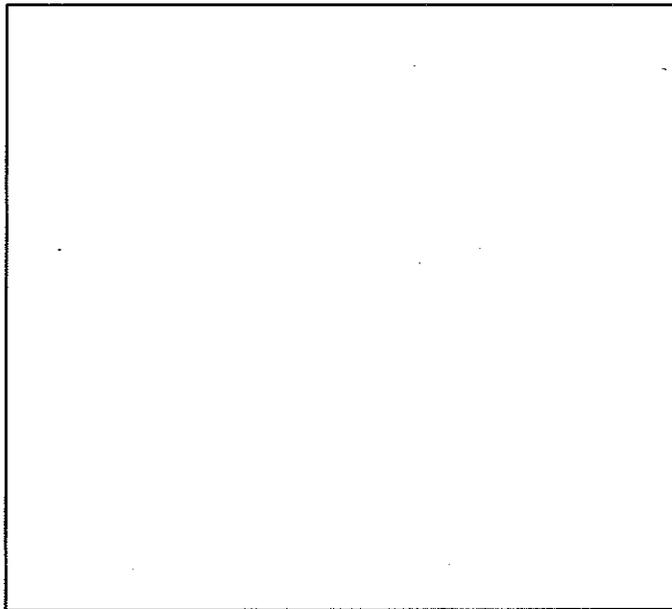
Subject:	Citizens for Effective Gov't IE
Date:	Monday, November 05, 2012
Start Time:	03:00 PM Eastern Std Time
End Time:	04:55 PM Eastern Std Time
Primary Dial-in Number:	1-800-371-8200 (Toll Free in USA and Canada)
Alternate Dial-in Numbers:	1-805-620-4010 (for callers outside the USA and Canada)
Access Code:	987813

Please Select a Way to RSVP

via the Web: [Accept/Decline](#)

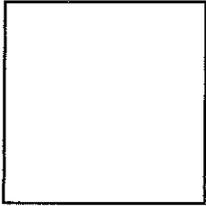
via e-mail: [Accept](#) or [Decline](#) (you can include a personal message for the conference Organizer in the body of your email)

Conference Touch-Tone Quick Reference



For your convenience, we have attached a calendar entry containing your conference details. Depending on which operating system and calendar program you use, you can drag and drop, double-click or download the attached file into your calendar.

See you there!



This message was sent to cyndi.phillips@maine.gov. To stop receiving conference invitations click [here](#) or reply to this message with UNSUBSCRIBE in the subject.



November 5, 2012

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

Re: Request for Investigation regarding Allen Nadeau/Citizens for Effective Government

Dear Director Wayne:

On behalf of Maine Citizens for Clean Elections ("MCCE"), thank you for the opportunity to submit these comments regarding this request for investigation.

Under Maine law, a candidate who has qualified for the Maine Clean Election Act public funding program must limit his or her spending to funds distributed by the Commission. Any other payment by any person made for the purpose of influencing that candidate's election is a prohibited expenditure unless it meets the definition of "independent expenditure." An expenditure which is coordinated with the candidate's campaign is not entitled to the "independent expenditure" exemption.

This case appears to involve precisely the type of coordinated expenditure not allowed under Maine law. Commission Rule 94-270 Chapter 1 Section (6)(9)(B)(1) provides that an expenditure made "in cooperation, consultation or in concert with" the treasurer of a candidate's campaign is presumed to be coordinated. In fact, the person who authorized the expenditure in Report #205 – L. Philip Soucy – also serves as the treasurer of Mr. Nadeau's campaign, and this is indicated on numerous reports filed by the campaign.

Mr. Soucy's statement on Schedule B-IE-3 that the expenditure was the "Final effort . . . to reach voters. . ." further indicates that it was coordinated with the campaign. This statement, which we must take at face value, identifies this expenditure not as an isolated and independent occurrence but instead as the last in a series of expenditures. It seems obvious that the previous expenditures were those that were made by the campaign itself. Thus, the entire series – including the expenditure in Report #205 – appears to be one coordinated effort.

Under any reasonable application of the statute and the Commission's rules, the transaction reported in Independent Expenditure Report #205 is a contribution and not an independent expenditure.

Partner Organizations

AARP Maine, Common Cause Maine, EqualityMaine, League of Women Voters of Maine, League of Young Voters, Maine AFL-CIO, Maine Council of Churches, Maine People's Alliance/Maine People's Resource Center, Maine State Employees Association/SEIU Local 1989, Maine Women's Lobby, NAACP-Portland, Sierra Club Maine Chapter

P.O. Box 18187, Portland, ME 04112 • info@mainecleanelections.org

Jonathan Wayne
November 5, 2012
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The prohibition on coordinated expenditures is a fundamental aspect of the public funding program and a serious obligation undertaken by participating candidates. We urge the Commission to use this opportunity to reaffirm the importance of the statutes and rules governing such expenditures.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Andrew Bossie". The signature is written in a cursive, flowing style.

Andrew Bossie
Executive Director, Maine Citizens for Clean Elections