



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

Minutes of the January 25, 2012, Meeting of the
Commission on Governmental Ethics and Election Practices
Held at the Commission Office, 45 Memorial Circle,
Augusta, Maine

Present: Walter F. McKee, Esq., Chair; André G. Duchette, Esq.; Margaret E. Matheson, Esq.; Hon. Jane A. Amero. Staff: Executive Director Jonathan Wayne; Phyllis Gardiner, Counsel.
Absent: Michael T. Healy, Esq.

At 9:05 a.m., Chair Walter McKee convened the meeting.

The Commission considered the following items:

Agenda Item #1. Ratification of Minutes of the November 30, 2011 Meeting

Ms. Matheson moved to accept the minutes as drafted. Mr. Duchette seconded.
Motion passed unanimously (4-0).

2. Request by Michael G. Hein to Investigate Christian Civic League of Maine

Michael G. Hein requested that the Commission investigate whether an e-mail communication by the Christian Civic League of Maine (CCLM) should have been disclosed in campaign finance reports for the Christian Civic League PAC or Rep. Raymond Wallace's candidate committee. Mr. Wayne explained that there is an exception in the statute for communications from membership organizations to their members which staff believes this falls under.

Michael G. Hein explained that he was not a current member of the Christian Civic League of Maine (CCLM) but was on the e-mail distribution list which goes out to thousands of people in addition to members. He said he was familiar with the organization's practices because he used to be an administrator. He said in the past the CCLM would always take care to make sure that its political action committee reports completely disclosed its activities. He said that complete disclosure regarding communications to support candidates are particularly important. He explained his view was this was an in-kind contribution which was not reported by CCLM.

Mr. McKee said although in the past when Mr. Hein was the administrator for CCLM he went beyond what was required with regard to filing but in this case this issue falls within the exception.

Mr. Hein said he did not examine the exception to the law and had not seen the staff recommendation with regard to the exception. However, the CCLM reports available to the public show no activity when in fact they were in support of a candidate and thousands of people received their e-mail.

Mr. McKee said the statute specifically states that “membership communications from a membership organization to its members” would fall under the exception in this case.

Mr. Hein said this e-mail went beyond the members of the Christian Civic League to many hundreds of people. He said the Christian Civic League ceased being a membership organization in 2007 and no longer has paid memberships. He said it was a 501(c)(4) non-profit corporation, but not a membership organization.

Mr. McKee said whether the CCLM is a membership organization would be an issue to consider.

Mr. Hein said, further, that he was concerned whether Rep. Wallace was involved in coordinating the event. He said the e-mail stated that a board member from the CCLM would be at the event.

Mr. Wayne explained that, when reviewing this matter, the Commission staff presumed this was a membership organization.

Carroll Conley, Jr., Executive Director of Christian Civic League of Maine, stated that they reorganized and have not been a membership organization since 2008. He said the e-mail was not intended to be done under the cloak of being a membership. There are about 4,500 people on the CCLM e-mail list. When he was informed by the board member about the event, he asked the CCLM writer to send an e-mail out about it. He explained that the e-mail originated from the 501(c)(4) corporation of CCLM.

Mr. Wayne explained that if it was determined the organization was not a membership, then the decision should be based on whether Mr. Wallace's campaign actually knew that there was going to be an expenditure made by the CCLM staff to promote his candidacy.

Mr. Duchette asked whether there was any type of *de minimis* expenditure allowed.

Mr. Wayne said the payment to CCLM staff for sending out the invitation could be considered a contribution. As a Maine Clean Election Act candidate, Mr. Wallace is not supposed to accept any contribution of any size to his campaign. Mr. Wayne also said there were many volunteers involved with this event and he did not feel comfortable assuming Mr. Wallace received anything of value from it.

William Logan, Esq., representing Rep. Wallace said the main question was whether Rep. Wallace knew about the e-mail.

Rep. Wallace stated he did not know about the e-mail and was surprised to receive the letter from the Commission. He said there were many people there and he did not have any knowledge that the Christian Civic League was involved in the event.

Mr. Logan stated further that the expenditure exception for membership organizations and corporations is not defined within the statute so the Commission has the liberty to define those in an appropriate fashion. He said there are plenty of membership groups that send e-mails on a regular basis regarding pending legislation and upcoming events without any coordination with campaigns or ballot questions. He said the cost of an e-mail is *de minimis* and questioned the need for the Commission to get involved with reporting them. He said if there had been coordination, then the Commission would have reason to get involved but that is not the case here.

Mr. McKee questioned the need to define a corporation/membership entity.

Mr. Wayne explained that the Commission Rules define a membership organization. He said the basic key is members have to pay dues or have some type of significant financial attachment to the organization that gives a participatory right in the governance of the organization. He said if all those factors are missing

from the CCLM, then it could not be considered a membership organization. Mr. Wayne offered a revised staff recommendation that the CCLM was operating independently of the campaign and the cost of this was not high enough to file an independent expenditure report, and that an in-kind contribution was not made to the campaign and recommend no violation be found and no action be taken. He said it would be appropriate for the Commission to advise the Christian Civic League's political action committee to be more specific in their expenditure reporting going forward. Mr. Wayne explained that omissions and errors in political action committee reporting are common so the staff is fairly forgiving and allows them to file amendments when appropriate.

Ms. Amero asked if any value is or could be placed on e-mail communications.

Mr. Wayne said it is an open question and there has been reluctance to do that.

Mr. Duchette said in this era everyone has an e-mail list and you can reach a thousand people in an instant. It would be very difficult to place a dollar amount on that. He said his concern was an e-mail could be sent out so quickly and easily and the campaign would not necessarily know about it but be responsible somehow.

Ms. Gardiner explained that if it is not considered a membership communication, then it is not outside the expenditure definition. If it is coordinated with the candidate, then it is not a contribution to the candidate. If it does not meet the \$100 expenditure threshold, then it is not an independent expenditure requiring a report under § 1019(B). She said it does appear to be an activity by a political action committee that is registered with the Commission and, as such, is required to report all its expenditures and contributions. So the question is whether the PAC should have reported this activity even though it was a small amount. She said although this can be viewed as a small omission, their regular PAC report should have included it.

Mr. McKee moved that the Commission find there was no violation. Ms. Amero seconded.

Motion failed (2-2). Mr. McKee and Ms. Amero in favor; Mr. Duchette and Ms. Matheson opposed.

Mr. McKee said the expenditure was *de minimis* and the campaign was not aware of it so in his view this does not warrant the process of finding a violation.

Mr. Duchette stated that in the past the Commission has found an entity in violation but chose not to assess a penalty.

Mr. McKee said he personally could not reach that conclusion here.

Ms. Matheson expressed concern that this type of activity occurs very frequently with political action committees and wondered how it could be monitored, realistically and wondered how 20 minutes of staff time would be valued.

Mr. Wayne said most PACs understand and are very careful about what needs to be reported with regard to staff time. He said it is possible that the Legislature intended for this type of activity to be reported by political committees.

Ms. Gardiner said if something has value and supports the candidate, it is considered an expenditure.

Ms. Matheson said it is potentially an omission.

Mr. Wayne said the Commission could continue consideration of this matter at a later time or the Commission could go over corrective ways with the PAC for future reporting.

Mr. Duchette said he would not support spending any more time and money on this issue than already has been done for such a small activity.

Mr. Duchette moved that a violation had occurred and assess no penalty. Ms. Matheson seconded.

Motion failed (2-2). Mr. Duchette and Ms. Matheson in favor; Mr. McKee and Ms. Amero opposed.

3. Request by Joseph R. Mackey for Waiver of Late-Filing Penalty

Lobbyist Joseph R. Mackey was six days late in filing monthly reports covering November 2011 for five clients. Because the Legislature was not in session, he filed the short form report indicating that he did not lobby for the clients during November 2011. The total preliminary penalty is \$500; however Mr. Wayne said the staff is recommending a partial waiver because the penalty is disproportionate to the harm suffered by the public by the late filing.

Joseph R. Mackey explained that he was clearly at fault and missed the deadline because he was moving his office at the time but also has become too dependent on regular e-mail reminders provided by Commission staff. He said he has no excuse except that he asks for the Commission's discretion in handing down the penalty since he has never been late before in over twenty years as a lobbyist.

Ms. Matheson moved the Commission accept the staff recommendation and reduce the penalties by 50% to a total of \$250. Mr. McKee seconded.

Motion passed unanimously (4-0).

4. Request by Susan P. Strommer for Waiver of Late-Filing Penalty

During the 2011 session, Susan P. Strommer, Esq. was a registered lobbyist for CEI Capital Management, LLC, which is a for-profit subsidiary of Coastal Enterprises, Inc. She was late filing the monthly report for November 2011 because she left her employment at CEI Capital Management, LLC. The preliminary penalty is \$100 for the late report.

Ms. Matheson questioned when Ms. Strommer left her employment and Mr. Wayne responded he believed it was some time in November. Mr. Wayne explained that the e-mail reminder the Commission has on file was most likely at her old office so she would not have received it. At that point, he explained, she would have received the written reminder letter after the report was not received on time.

Mr. McKee said this situation is a little different than the previous matter with Mr. Mackey.

Mr. Duchette asked why the staff would not want to give Ms. Strommer a reduced penalty.

Mr. Wayne said it would be fine to grant a reduction except in order to be consistent with a similar situation which has come before the Commission a reduction was not granted.

Mr. Duchette moved to find Ms. Strommer in violation but reduce the penalty to \$50. Ms. Amero seconded.

Motion passed unanimously (4-0).

5. Request by CasinosNO! to Investigate Green Jobs for ME and People of Lewiston/Auburn Committee

CasinosNO! has filed a request that the Commission investigate the 2011 campaign finance reporting by the two political action committees that promoted the 2011 Lewiston casino citizen initiative. Mr. Wayne explained that there were two political action committees (PACs) formed to promote the casino effort in Lewiston. Green Jobs for ME (Green Jobs) which was active during the petition drive during 2010 and headed up by Stavros Mendros and the campaign finance reporting was handled by Peter Robinson. In 2011, the Legislature turned down the citizen initiative and it went to a referendum in November. A new PAC was formed three weeks before the election called People of Lewiston & Auburn Committee (PLAC). It was formed by many of the same individuals involved in Green Jobs. He said the CasinosNO! group came into possession of a proposed option agreement between the local casino advocates and an organization called M Five, Inc. (M5). He explained that the agreement proposed M5 would make financial contributions to fund this political campaign effort but when CasinosNO! looked at the reporting of the local PACs there was only one large outside contributor called GT Source Corp. Mr. Bailey, the director of CasinosNO!, has inquired as to whom the real contributor is, GT Source or M5. Mr. Bailey also raises some question about one of the vendors listed in the PACs' report, Dome Messaging, because there appears to be very little information about this vendor and Mr. Bailey questions whether Dome Messaging is a real entity or is a made-up name to mask the true identity of the vendor.

Mr. Wayne said that Mr. Bailey is asking the Commission to conduct an investigation of the PACs. In order to take that step, the Commission must determine whether Mr. Bailey has provided sufficient evidence for the Commission to believe that a violation may have occurred. Mr. Wayne said that the staff

has conducted some preliminary fact-finding in order for the Commission to have more information about the PACs and Dome Messaging to consider in reaching its decision.

Mr. McKee said there was a minimal standard, similar to probable cause, and Mr. Wayne confirmed that.

Dennis Bailey, a principal officer of Casinos*NO!*, said that this matter focused on a proposed agreement with M Five, Inc. He said the PAC made comments during the campaign that a third party would be brought in to operate the casino once the initiative passed. He said this agreement makes it appear that there already was a partner. He said this information was not provided to the public and it should have been. He said the PAC denied having any agreement but the agreement clearly states that M5 would fund the campaign. He said M5 does not appear on the campaign finance reports for this PAC. He said a group called GT Source, a Georgia casino company, is listed as a contributor and GT Source's president is an officer of M5. Mr. Bailey said the PAC admitted recently that M5 did provide funding to the PAC but this was not known during the campaign. He said the purpose of campaign finance reporting is to provide full disclosure to the public about who is funding the campaign. Mr. Bailey said he believed this information was kept out of the public's view deliberately for a reason which he did not know.

Mr. Bailey said he did receive an e-mail from a former employee of GT Source who was let go from his job back in August, as were others, because the company was not able to make payroll or pay its vendors. He said the employee wondered how GT Source could contribute \$400,000 to support a campaign for a casino in Maine, if it could not make payroll.

Mr. Bailey also said there was another provision in the agreement that stated that M5 would hire a company called Dome Messaging to run the campaign. The only contact information for Dome Messaging on its website is an e-mail address with no other information provided. Mr. Bailey said the PAC was trying to convince us that the only way it contacted Dome Messaging, which was spending hundreds of thousands of dollars, was through this e-mail address. He did not find that believable at all. The PAC knows who is behind Dome Messaging but for some reason, that person wants to be anonymous. He said the lack of information and anonymity is concerning. He said if campaigns are allowed to have "front groups" providing the funding and other "front groups" managing the campaign it would not be consistent with the purpose of campaign finance laws. He said the purpose of campaign laws is to keep the public informed

and in this case the public was denied the complete information. Mr. Bailey urged the Commission to investigate further and get full disclosure about the spending on this campaign.

Mark Walker, Esq., said he represented the People of Lewiston and Auburn Committee (PLAC) and Peter Robinson, who was the treasurer for Green Jobs and who did the reporting for both PACs. He said if most of the complaint is based on the proposed agreement, it should be understood that the agreement was never executed. He did not understand how Mr. Bailey obtained a copy of an unsigned agreement and wondered whether that issue should be investigated. He said the proposed agreement had been signed by several members of the developer, Great Falls Recreation & Development, LLC, which had an option agreement with the City of Lewiston to develop mill number 5. However, that agreement was never signed by the other side. There were discussions about the agreement and the other parties to the agreement changed but no agreement was ever signed because they were trying to run a campaign and they were running out of time. He said the charge that the people involved with the campaign denied that there was an agreement lacks basis because there was never any executed agreement. He explained that GT Source was the original funding and this was reported. Mr. Walker said Mr. Robinson contacted the Commission staff on several occasions to find out how to report correctly.

Mr. Robinson explained that his discussions with Commission staff went back to 2010 when he called to find out how to report contributions from Great Falls Recreation & Development, LLC. He said he was told not to list the LLC as the contributor but list the actual people who paid capital into the LLC which was then used to make the contributions.

Mr. Walker said M5 was created in October of 2011 for the sole purpose of developing the casino if the initiative passed. It did not have assets to speak of. He said M5 was not the hidden source of funding. GT Source was the original source of the funds for the contributions. On one occasion, the funds flowed through M5 to the PACs. He said Mr. Robinson reported the contributions correctly according to the law.

Mr. Walker said that Stavros Mendros was the campaign manager for the campaign and had been given that responsibility by both PACs. He was responsible for fundraising for the campaign and making decisions about campaign spending. Dome Messaging was recommended to him as an expert in the field of media buys. He said federal law requires that a contact person be on file at the media outlets and so the

contact for Dome Messaging can be obtained from those media outlets. He said Stavros Mendros managed the campaign and directed Dome Messaging to do the work. He said Mr. Robinson was told to communicate via e-mail with Dome Messaging which is what he did.

Mr. McKee said that the staff recommended that they follow up on making contact with Dome Messaging for the purpose of seeing whether there is basis for believing that a violation may have occurred. He asked Mr. Walker whether he was suggesting that the staff not pursue that line of inquiry.

Mr. Walker said he understood why the Commission, its staff and others would like to know that piece of information; however, he questioned whether it was an obligation to find out that information. He said Mr. Robinson was able to communicate with Dome Messaging without knowing a specific individual.

Mr. McKee said the request is just for staff to get contact information for Dome Messaging from Mr. Mendros. It seemed like a reasonable and limited request to clear up questions about expenditures made by Dome Messaging. It may turn out that there are no issues but, at this point, there is practically no information about this vendor and contact with it may put to rest some of these questions.

Mr. Robinson said Mr. Mendros was the person involved with bringing Dome Messaging onboard and Mr. Mendros knows the individuals involved. He said his involvement was just through e-mail communication. He said Dome Messaging was very forthcoming about providing expenditure statements and they were very familiar with the reporting requirements. He said all the expenditures were consistent with what was being delivered. The information on file with the media outlets will corroborate the expenditures listed in the campaign finance reports.

Mr. Walker said the campaign finance reports show expenditures made by Dome Messaging at the request of the campaign manager and as reported by the campaign treasurer. But for a question raised by an opponent of the referendum, would the Commission question the content of the PACs' campaign finance reports? He said that he believes the answer would be no. The PACs reported the expenditures completely and accurately and timely and they have met the reporting requirements of the law.

Ms. Amero said the reporting may be compliant but there is a question as to whom this vendor is. There must be more information than just an e-mail address. She said that it does not pass the straight-face test when a company that runs media and marketing campaigns, possibly across the country, does not identify any of the people in the company. She said they were paid nearly \$400,000 but there is no information about who they are. She said she found it quite curious that there is so little information available about the company and the people involved in it.

In response to a request from Mr. Duchette for clarification, Mr. Walker said that the original source for the funds was GT Source, even though some of the funds did flow through M5. Any funds that flowed through M5 came from GT Source.

Mr. Robinson said that Mr. Bailey would have the Commission believe that the PACs are changing their story about the source of the contributions because they have been “caught” doing something wrong. It is clear that is Mr. Bailey’s intent when he said that even though GT Source was originally reported as the contributor, it turns out that the money came from M5. But it is simply not true. He explained that M5 was developed for the purpose of developing the casino. It had nothing to do with the campaign. The campaign was funded by GT Source. If the referendum had passed, M5 would have applied for the license to operate the casino. He said if he listed M5 as the contributor in the campaign finance report for Green Jobs, he would have been crucified. The bank statement for Green Jobs showed that the funds came from M5. But M5 was an LLC recently formed in the state of Maine just before the election. The same people criticizing him now for listing GT Source as the contributor instead of M5 would have criticized him back then for listing a shell company that no one had heard of before and trying to pass it off as a Maine company instead of the actual source of the funds. He said he would have been fined for that because the staff told him not to report the contributions that way. He was told to list the individual partners of Great Falls Recreation & Development, LLC as the contributors, not the LLC.

Mr. McKee asked why the money came through M5 instead directly from GT Source. Mr. Robinson said he was not sure.

Mr. Robinson explained that had M5 been reported as the contributor at the time, it would not have reflected the reality of what was going on. A deal had not been worked out between M5 and Great Fall

Recreation & Development. He said if he had listed M5 on the PAC report, it still would have created questions because the source of the money was GT Source.

Mr. McKee said following up with the investigation will just put all the questions to bed once and for all, understanding that Mr. Robinson would like to just have it done and over with.

Mr. Robinson said that he takes exception to Mr. Bailey's portrayal that the PACs got "caught" and have changed their story because it is absolutely not the case. Mr. Robinson said he wrote a six page response to this inquiry explaining who M5 was and other details in order to clarify the situation. There is nothing to correct because the report was accurate in stating that the funding came from GT Source. The fact that it flowed through GT Source was almost irrelevant. The people of Maine wanted to know where the money really came from and it came from GT Source. He reported that the money came from out of state, from a Georgia company, not an LLC recently formed in Maine. He said he stands by his explanation and reporting. He said Mr. Bailey's implication that his PAC got caught at something and is changing its story is not true.

Mr. Duchette said the Commission has to look into what is brought before them and this matter could have been brought to rest awhile ago if GT Source had been willing to speak to the Commission staff and answer a few questions. He said because GT Source would not cooperate with the staff, the matter has become more questionable and puts the Commission in the position of having to investigate further.

Mr. Robinson stated he did not think it was right that people can come before the Commission and spin a story and make it look like a cover-up of some sort. He said this was not fair. He said Mr. Bailey is trying to make people believe that his organization is trying to hide the fact that there was out-of-state funding and partnering and that is not true. He said he reported everything up front and resents the implication that something was being hidden.

In response to a question from Mr. Duchette, Mr. Walker said the first compliance issue that is being questioned is what was the original source of funding for the pro-casino PACs. The true source was GT Source and it was reported as GT Source. He said he did not know why GT Source refused to provide any further information to the Commission staff. He said the bottom line is that the original source of funding

was reported correctly. He said the second compliance issue is whether Dome Messaging was the payee for all expenditures. The answer is yes. The documentation has been provided to show that Dome Messaging was paid for expenditures. He said Dome Messaging is simply a company that performs media work and makes media buys; the company did the work and was paid for the work. He said the campaign finance reports are complete and there is back-up material to substantiate the expenditures listed in the report.

Mr. McKee said the focus today needs to be whether there appears to be evidence that there may have been a violation and asked Mr. Wayne if today's testimony changed the staff's outlook for the need of further investigation.

Mr. Wayne explained that it was not clear that the Commission absolutely had to look further into this issue. On one hand, Mr. Robinson was adamant that GT Source was in fact the source of the funding and no other source contributed. On the other hand, Dwayne Graham, owner of GT Source, has not cooperated with the Commission's request for information. Mr. Wayne said the company does not have a website any longer, although there may be a reasonable explanation for that. Mr. Bailey produces an e-mail which appears to be from a former employee of GT Source who stated that the company could not make payroll or pay its vendors. That gives rise to a question about GT Source's financial capacity prior to the contributions being made.

Mr. McKee asked Mr. Wayne whether he thought that, given all that Mr. Robinson and Mr. Walker have said, there was other information that he thought was necessary to answer the remaining questions in this matter.

Mr. Wayne said he thinks that additional steps could be taken to verify that the PACs receive funding from GT Source in the manner Mr. Robinson described. He said also there could be more fact-finding into the expenditures by Dome Messaging and talking with Mr. Mendros would be beneficial in that regard. While Dome Messaging may have business reasons for providing minimal information, the Commission has a duty to make sure the information on the campaign finance reports is correct.

Mr. McKee said the reasons stated show sufficient grounds that a violation may have occurred but no decision should be made until more investigation has been concluded. He said the Commission would be remiss if follow up was not done because there are too many remaining questions.

Mr. Wayne said the campaign finance reports for PLAC show that it received funds from GT Source and made payments directly to vendors with those funds. However, according to Mr. Robinson, even though the reports show money coming into and going out of the PAC, what really happened was GT Source paid Dome Messaging directly. Mr. Wayne said technically that could be a violation.

Mr. Duchette said this matter could have been handled much more efficiently and effectively if the staff's questions were answered completely with supporting documents, like bank account statements and invoices. The fact that GT Source is not cooperating makes resolving these questions that much more difficult. He did not see how the Commission could make a determination to not investigate without having that information.

Ms. Amero moved that the Commission conduct an investigation because the request shows sufficient grounds for believing that a violation may have occurred. Mr. Duchette seconded.

Motion passed unanimously (4-0).

Mr. Wayne explained that there may be different investigative steps that may need to be taken from this point; therefore communication with the Chair may be necessary before the next scheduled meeting.

6. Rulemaking

The Commission will consider whether to initiate a rulemaking for amendments to the Commission Rules proposed by the Commission staff. Mr. Wayne explained that the first step in the process was to initiate a rulemaking and set up at time and date to hear public comment either written or orally. He suggested having the public hearing for oral comments at the next meeting on Wednesday, February 29. After the March 28 meeting, the changes would go to the Legislature for adoption. Mr. Wayne pointed out that one of the changes is eliminating the matching fund portion of the Clean Election Act.

In response to Mr. Duchette's question regarding the options for replacing matching funds provided to the Veterans & Legal Affairs Committee for consideration, Mr. Wayne said that the VLA Committee carefully considered the Commission's report. Mr. Wayne said there were other options that were being explored at the Legislature. He also explained that the Governor's counsel, Daniel I. Billings, suggested that the Legislature do nothing which would mean the matching funds would be gone and there would be no funding to replace the matching funds. He said there are Legislators who believe there should be one or two additional payments after the initial payment is provided.

Mr. McKee said he has reviewed the changes and did not see any problem with accepting the proposed changes to get the process started.

Ms. Matheson had a question regarding "testing the waters" and how that would work with the Clean Election Act.

Mr. Wayne said the MCEA candidates can only accept seed money contributions that comply with the requirements in the program. He said large amounts of money outside the seed money would not be acceptable. He explained that funds received during the exploratory (testing the waters) phase would not be considered contributions. He said advice to candidates would be that those contributions have to comply with seed money contribution requirements.

Ms. Gardiner said it may be a close call as to whether one can say the contributions become seed money contributions once someone decides to become a candidate. A person does not meet the statutory definition of candidate if that person is not accepting money with the intent to qualify for the ballot. If a person is exploring whether to become a candidate, that does not necessarily make that person a candidate. The question is whether the Commission can reach back and call any money raised while exploring a candidacy can be deemed to be a contribution.

Ms. Matheson questioned the reason for eliminating the accelerated reports and said her concern was that public disclosure may be diminished.

Mr. Wayne explained that candidates would still have to file the 24-hour reports for large contributions and expenditures during the 13 days before the election. However, the lower thresholds for privately financed candidates who had filed a trigger (accelerated) report would be eliminated under the proposed rule. The accelerated reports, which are only summary reports and did not have any itemization about expenditures, apply more to matching funds which will be eliminated.

Ms. Matheson said if the Legislature does away with the matching funds, the rule for accelerated reports will not be necessary. She expressed concern over the lack of disclosure close to the election.

Ms. Matheson also expressed concern over a past situation where a candidate used the public funding as a campaign bank and paid all the money back after the election.

Mr. Duchette suggested that was a unique situation and does not occur regularly.

Mr. Wayne pointed out the change to the candidate's recordkeeping for travel expenses. He said the change would require the record be kept contemporaneously and include an affirmation on the form stating that the record provided is accurate and true.

Mr. Duchette said his preference was to let candidates know what information should be provided on a form, including the purpose of the travel and not require them to use the Commission's form.

Mr. McKee moved that the Commission initiate a rulemaking for amendments to the Commission Rules.

Mr. Duchette seconded.

Motion passed unanimously (4-0).

7. Final Audits of Legislative Candidates

In December 2011, the Commission's auditor completed the final two audits of 2010 candidates. The audit of 2010 Senate candidate H. Sawin Millett disclosed no violations. The audit of 2010 House candidate Mark L. Chizmar found one violation. He was four months late in returning \$270.75 in unspent Maine Clean Election Act (MCEA) funds to the Commission. The audit showed that he did not mispend MCEA

funds. The Commission staff recommended that the Commission find that Mr. Chizmar violated 21-A M.R.S.A. §1125(12) by not returning unspent MCEA funds by the December 13, 2010 deadline but assessing no penalty for the violation.

No discussion or action took place.

8. Summary of Audits of 2010 Candidates

The Commission's auditor presented a Summary Report of his audits of 2010 Maine Clean Election Act candidates.

Mr. Dinan explained that this was the second summary report that had been done, the first being done in 2008. He said the purpose of the audits is to assure that Maine Clean Election Act candidates who receive public funding are complying with the provisions of the Act but also to see whether there are particular trends regarding non-compliance, to review whether statutory requirements need to be adjusted to ensure compliance, to review problem situations to see if any additional training is required for candidates and treasurers, Commission staff and campaigns.

Mr. Dinan said 20% of the candidates were randomly selected through a software program designed for this purpose. He said of all the candidates audited 81% were trouble free or were no exception audits meaning fully compliant, which is an impressive rate of compliance. He said this was an increase from 2006 when 65% of the candidates were in compliance. Mr. Dinan said this was most likely due to improved electronic information systems but also because the candidate registrar staff is very good at staying on top of any possible trouble situations and in providing assistance all the way through the process if necessary. He said also the campaign treasurers were more involved and proactive this cycle. He said candidates who can rely on an active treasurer are usually more successful with complying.

Mr. Dinan said willful violations are very few, however documentation errors do occur unintentionally. He said he was concerned with the difficulty in receiving bank records from candidates. He said these documents are one of the most important pieces of the audit process and are necessary to verify contributions and expenditures reported by the candidate. He said candidates have to go to the bank in some cases in order to obtain the records which can take months and these records can be critical in determining whether a violation occurred.

Mr. Dinan said most candidates are doing what they should and the audit program shows this. He said the Commission needs to concentrate on training candidates and staff and maintaining the information systems.

In response to Ms. Amero's question regarding the special purpose audits, Mr. Dinan explained that these are performed when a candidate registrar is concerned over activities reported by a candidate that raise questions and the candidate does not come up on the random audit selection process. Mr. Dinan used the special audit of Mark Chizmar as an example. Mr. Chizmar was brought before the Commission on two previous occasions for not filing campaign reports on time and was penalized financially. On several occasions the candidate registrar requested more records from Mr. Chizmar regarding his campaign activity and Mr. Chizmar always had difficulty providing them. When he did provide them, it was found that a large cash withdrawal from the campaign bank account took place during his campaign. Mr. Dinan said when there are a lot of unexplained issues going on in a campaign, the candidate registrar will bring it to the attention of the Executive Director and a special audit will be performed.

OTHER BUSINESS

Review of the meeting schedule took place and the following dates were tentatively set:

February 29	May 30	August 22	November 28
March 28	June 19	September 25	December 19
April 25	July 25	October 31	

Mr. McKee said with regard to a complaint that had been recently filed concerning the statement of sources of income disclosure form filed by Bruce Poliquin, State Treasurer, that Mr. Poliquin requested that a special meeting be held by the Commission to hear his testimony. Mr. McKee said he would support holding this discussion at the next regular meeting in February since there was no real urgency associated with the matter. All Commissioners concurred.

Mr. Duchette moved to adjourn and Ms. Matheson seconded the motion, which passed unanimously.
Meeting adjourned at 11:30 a.m.

Respectfully submitted,

Jonathan Wayne, Executive Director