

STATE OF MAINE  
COMMISSION ON GOVERNMENTAL ETHICS AND ELECTION PRACTICES

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IN THE MATTER OF:

CAMPAIGN SPENDING IN MAINE HOUSE OF  
REPRESENTATIVES, DISTRICT ONE

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November 5, 2012

HELD AT: County of Kennebec  
State of Maine

BEFORE: WALTER F. MCKEE, ESQ., Chair  
MICHAEL T. HEALY, ESQ.  
ANDRE G. DUCHETTE, ESQ.  
MARGARET E. MATHESON, ESQ.  
HON. JANE A. AMERO

COMMISSION STAFF: JONATHAN WAYNE, ESQ., Executive Director  
PHYLLIS GARDINER, ESQ., Commission  
Counsel

APPEARANCES: KATE R. KNOX, ESQ., Counsel for Maine  
Democratic Party  
L. PHILIP SOUCY  
WILLIAM P. LOGAN, ESQ., Counsel for Mr.  
Soucy

[START RECORDING]

MR. WALTER MCKEE: --specially scheduled to deal with the requests for investigation of Candidate Michael Nadeau and Citizens for Effective Government, and maybe Jonathan you could for us and for the audience here today summarize where we are and what brought us here today.

MR. JONATHAN WAYNE: Well, we're in a time period in which the Commission is required to meet rather quickly on the filing of a complaint. And on the evening of last Friday, November 2nd, we received a request from the Maine Democratic Party concerning a flyer that was sent in support of Michael Nadeau, and Mr. Nadeau's full name is Allen Michael Nadeau but I believe he goes by Mike according to his website. So, Kate Knox is here on behalf of the Maine Democratic Party and she can present the complaint to you, but it has to do with the involvement of Mr. Soucy who is on the phone. He was part of the filing of the Independent Expenditure Report for this flyer in which he signed an affidavit saying that the expenditure

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2 for the flyer was made without any consultation  
3 with the candidate, or the candidate's  
4 committee, or their agents. But the problem  
5 with that is Mr. Soucy is actually himself the  
6 Treasurer of the candidate's campaign, so he's  
7 part of the campaign committee according to the  
8 Maine Democratic Party, and they're saying that  
9 that's--that this whole financial arrangement  
10 ends up constituting a contribution to the  
11 candidate's campaign, which he can't accept  
12 because he's in the Maine Clean Election. But  
13 I'll let Ms. Knox explain the complaint to you.

14 MR. MCKEE: Certainly. Why don't you go  
15 ahead and make your presentation. We can go  
16 right from there.

17 MR. L. PHILLIP SOUCY: Can I take a little  
18 break right here and put on a hearing aid?

19 MR. MCKEE: You can go right ahead Mr.  
20 Soucy.

21 MR. SOUCY: It will take about three  
22 minutes.

23 MR. MICHAEL HEALY: I need to do the same  
24 thing. I can't hear him. My hearing aids are  
25 out in the car.

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FEMALE VOICE: Do you want to go get them?

MR. MCKEE: Do you want to take a break?

That's fine.

FEMALE VOICE: Do you want to get them?

MR. HEALY: I'll probably--if I have a problem I'll ask for a break and go get them.

MR. MCKEE: Okay.

MR. HEALY: So far, I couldn't hear him but  
- - .

MS. KATE R. KNOX: Can we turn this up? Can it go up?

FEMALE VOICE: Yeah, it looks like it might transport you to another dimension if you--

MS. KNOX: I just threw it out there. I'm not going to try to do it.

MR. SOUCY: I am back.

MR. MCKEE: Alright, excellent. Alright, we're going to hear from Ms. Knox first. Alright.

MS. KNOX: Commissioners, good afternoon. Thank you for taking the time this afternoon to talk about our request. I think unlike maybe some other issues we've dealt with our request and complaint for lack of a better word is

1 relatively straightforward. And the concern  
2 comes from Mr. Soucy's independent expenditure  
3 report or Citizen's for Effective Government,  
4 where it is penciled in on the name of, it says  
5 "Person/Committee" and it says "L. Phillip  
6 Soucy, Treasurer/Citizen's for Effective  
7 Government" who made the Independent Expenditure  
8 Report in Mike Nadeau's district. And a review  
9 of Mr. Nadeau's paperwork indicates that he also  
10 serves as the treasurer for Mr. Nadeau's  
11 campaign, and Mr. Nadeau is a Clean Elections  
12 candidate. So I think I'll simply put forth a  
13 few of our concerns. This is a little bit of an  
14 unusual circumstance because we as the  
15 requester, and I think staff as well, haven't  
16 heard any information to sort of respond to or  
17 by way of explanation what could be going on  
18 here. But obviously we consider this to be a  
19 clear violation of the Cooperation Rule which  
20 says that a candidate or a candidate's agent may  
21 not cooperate or coordinate on expenditures or  
22 they become an in-kind contribution. And in  
23 this case we're dealing with a Clean Elections  
24 candidate so we can't have any expenditure  
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2 whatsoever, and a review of the paperwork looks  
3 on its face that Mr. Soucy is sort of on both  
4 sides of this fence which I hope this commission  
5 would agree, the statute is pretty clear, you  
6 cannot do that. I think although there, it  
7 sounds like there has been some attempt, valiant  
8 attempts to contact Mr. Nadeau about this  
9 particular issue and we don't have a lot of  
10 information about his perspective, but I would  
11 argue to you about that is I don't think, I  
12 think the person you really need to speak to is  
13 on the phone. So Mr. Soucy is the treasurer.  
14 He's a candidate's agent and his actions alone  
15 being the agent and being in charge of this,  
16 it's not a PAC, this organization, are enough to  
17 find the campaign in violation. Whether or not  
18 Mr. Nadeau knew about the expenditure I think is  
19 irrelevant to your finding of a violation in  
20 this particular matter. It's really Mr. Soucy's  
21 actions and his position in both the  
22 organization and the campaign which are of  
23 concern to the Commission. I would also say to  
24 you that we're in a very delicate time. We have  
25 less than 24 hours before the polls open, and I

1 think it's important that the voters in this  
2 district understand what this commission's take  
3 on this particular request is. I would argue  
4 too there's enough information here, there  
5 should be enough information after your  
6 discussions with Mr. Soucy to at least find a  
7 violation has occurred. I can understand if the  
8 Commission feels somewhat reluctant without  
9 having spoken to Mr. Nadeau to deal with the  
10 issue of penalty, but I think, I would urge you  
11 to make a decision on the violation so that the  
12 voters in District One can at least be given  
13 some information about the status of this  
14 request, and if something was done improperly I  
15 think they deserve to know that before they vote  
16 tomorrow. And I think that's all that I can add  
17 at this point. I would be happy to answer any  
18 questions for you or come back up to respond if  
19 that's helpful once we hear the other  
20 information.  
21

22 MR. MCKEE: Sure. Any questions for Ms.  
23 Knox? Alright.

24 MR. HEALY: I have a question.

25 MR. MCKEE: Go ahead.

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2 MR. HEALY: I haven't had a chance to read  
3 all of it but I skimmed it, but it's your  
4 allegation against Mr. Nadeau, his campaign  
5 committee, Mr. Soucy, or the Citizen's for  
6 Effective Government? Who is the--

7 MS. KNOX: Yeah, it's a fair question.

8 MR. HEALY: But wait, who is the defendant?  
9 Who are the defendants that you're looking for a  
10 penalty to be assessed against.

11 MS. KNOX: Well, I don't mean to be flip.  
12 It's a fair question. We were discussing it  
13 earlier. I think that you potentially have  
14 several violations. What we issued--

15 MR. HEALY: But I want to know in your view.

16 MS. KNOX: I'm getting there. What we, what  
17 we, what I put in my request relates to the  
18 campaign, and so I'm talking about finding Mr.  
19 Nadeau's campaign in violation because Mr. Soucy  
20 is an agent of that campaign.

21 MR. HEALY: And when you say his campaign do  
22 you mean his campaign committee?

23 MS. KNOX: Yes.

24 MR. HEALY: So if the campaign committee  
25 violated it then the campaign committee would be

1 levied the penalty to pay, to the pay the fine.

2 MS. KNOX: Correct. He is in essence part  
3 of that campaign committee by virtue of his  
4 position as treasurer. I do think you have an  
5 outstanding issue about who this Citizens for  
6 Effective Government is. They're not a  
7 registered PAC. I don't have any information  
8 about them. I would urge the Commission to ask  
9 some more questions about did they really stay  
10 under the \$1,500 limit to register? Maybe they  
11 did. But I think given the lack of information  
12 and the information that we've had to date about  
13 several of the players participating in both  
14 organizations, you know, I would urge you to ask  
15 some more questions and potentially look at the  
16 organization as also having committed a  
17 violation. But we would need more information.

18 MR. MCKEE: Wasn't Mr. Soucy individually at  
19 issue here because he signed something saying it  
20 was not coordinated and there appears to be some  
21 information that suggests that it was?

22 MS. KNOX: Right, I mean he says--

23 MR. MCKEE: So he's another individual  
24 defendant in that sense. Right?

1  
2 MR. HEALY: Yeah, well I mean just reading  
3 it quickly it seemed to me that based upon the  
4 rule there's enough evidence here to presume  
5 there might have been a violation.

6 MR. MCKEE: Right.

7 MR. HEALY: But that doesn't prove a  
8 violation unless you have nothing but the  
9 presumption after hearing. What I'm concerned  
10 about is evidently Mr. Soucy is available by  
11 telephone, Mr. Nadeau is evidently not  
12 available. Evidently he's received this by e-  
13 mail Friday night.

14 MR. MCKEE: It's always difficult, these  
15 situations. I mean what are we supposed to do?  
16 We're given the information about your contact.  
17 If you don't make yourself available there's  
18 only so much we can do. It was the last known  
19 e-mail address and phone number, but that's  
20 really, I share your concerns too.

21 MR. HEALY: Yes.

22 MS. KNOX: Well I think, and maybe the staff  
23 can clarify, it's my understanding, although  
24 this has been quick and a lot of information has  
25 flown around, that he's, that he, that Mr.

1  
2 Nadeau spoke with Paul Lavin in Friday and was  
3 alerted to this information. I mean it's hard  
4 to imagine a candidate who's forwarded a  
5 complaint and told that there has been an  
6 allegation against their campaign treasurer  
7 simply not responding at all, and knowing that a  
8 meeting might be taking place Monday. So I  
9 don't, I think it's, I understand the concern  
10 but I also think we don't want to reinforce  
11 someone just avoiding as a way to deal with it  
12 and hoping that the Commission won't take action  
13 because they're hiding somewhere.

14 MR. MCKEE: Right, but the issue here is  
15 we've got to figure out the defendant that we  
16 assess the penalty to. If it's Mr. Nadeau  
17 that's one thing but if it's the committee  
18 generally that's a little bit easier to deal  
19 with, or Mr. Soucy for that matter.

20 MS. KNOX: It is a bit complicated.

21 MR. MCKEE: Okay. Any other questions? Why  
22 don't we hear next--

23 MS. KNOX: Thank you.

24 MR. MCKEE: --from, you're welcome, Mr.  
25 Soucy's attorney.

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2 MR. WILLIAM P. LOGAN: Good afternoon  
3 Commissioners. We are here on an expedited  
4 basis so bear with me if it's not as prepared of  
5 a response. On a preliminary note I'll indicate  
6 that I have not had an opportunity to speak with  
7 the candidate personally. I did have a, I  
8 became aware that there was a potential issue  
9 Friday, late Friday evening by phone call and  
10 then Jonathan managed to reach me Saturday when  
11 I was in a bad cell phone reception area and we  
12 got disconnected at some point. And there was a  
13 conversation where there could have been some  
14 confusion over whether I was also going to be  
15 representing Mr. Nadeau. And so just with  
16 respect to the, if he is going to be  
17 essentially, having represented Republican  
18 candidates in the past, if he's certainly a  
19 defendant I think he probably deserves some  
20 opportunity to be heard if here.

21 MR. MCKEE: You're right, but you probably  
22 called back after you got disconnected and it  
23 sounds like Mr. Nadeau, I mean I don't know what  
24 else we have to do here. I mean clearly he  
25 should know that these things happen on short

1 notice in the last few days. So I'm a little  
2 less sympathetic, and you're responsible enough  
3 to follow up with a phone call because  
4 invariably you might be able to pick up a  
5 landline like an old fashioned phone. They  
6 probably have those up in Fort Kent to make a  
7 phone call down here.  
8

9 MR. LOGAN: Certainly but to one extent I  
10 know he did have a conversation with Mr. Lavin  
11 on Friday where I believe he indicated that he  
12 had no knowledge of the mailer in question, and  
13 I think he had a conversation this morning with  
14 Jonathan.

15 MR. MCKEE: Right.

16 MR. LOGAN: But I can't speak for what his  
17 mindset is. Why we're here is obviously my  
18 client, Mr. Soucy, has agreed, he agreed early  
19 on to be the treasurer for Mr. Nadeau's  
20 campaign. The agreement I think is that he was  
21 essentially going to be, treasurers as you may  
22 or may not be aware have varying levels of  
23 interaction in varying campaigns. Some  
24 campaigns they do absolutely nothing. When I  
25 ran for legislature my treasurer did nothing. I

1 filed all of the reports myself. Other times  
2 they file the reports, and it's just a question  
3 of how involved they're going to be. Sometimes  
4 it's just a name. In this case you'll hear from  
5 Mr. Soucy that he didn't have any real formal  
6 role or active role in the campaign itself, that  
7 Mr. Nadeau ran his own campaign, he filed the  
8 reports. If you look back through the  
9 Commission's filed reports you'll see that Mike  
10 Nadeau was the one who filed every single  
11 report, the registration, seed money, 11-day and  
12 42-day pre and post-primary, as well as all of  
13 the other filings to date, and that Mr. Soucy  
14 did not have any real active role in doing  
15 anything with the campaign. I'll also note that  
16 this is Mr. Soucy's first time being a treasurer  
17 and so I think looking back on it he would just  
18 to avoid a presumption not have done this. But  
19 he certainly did not consider it to be in any  
20 way coordination or concert with the Nadeau  
21 campaign. He didn't have any specific  
22 communications with Mr. Nadeau and he'll be able  
23 to testify to that today that Mr. Nadeau had,  
24 they didn't consult with him, they didn't

1 republish any of the campaign's own literature,  
2 that ultimately this was a decision that he and  
3 two other individuals who made this group, which  
4 is an informal group, it's not a registered PAC.  
5 They did not get to the \$1,500 threshold to do  
6 that. They essentially raised enough money  
7 simply to do this one mailer that they felt they  
8 wanted to do in support of Mr. Nadeau's  
9 campaign. The issue is there is that  
10 presumption in the statute but that's what it  
11 is, a presumption, and certainly can be rebutted  
12 just like any presumption. And I think based  
13 upon information you'll hear from Mr. Soucy that  
14 certainly there was no involvement with Mike  
15 Nadeau, the candidate, and the expenditure at  
16 issue here. This was these three, three local  
17 folks who decided they wanted to do something in  
18 support of somebody they wanted, they wanted  
19 elected. Finally, there's no doubt he's the  
20 treasurer. With regards to whether he's an  
21 agent of the campaign I think the staff  
22 correctly points out that agent is not  
23 specifically defined in the Commission's  
24 guidelines. The only thing is that the

1  
2 Commission has essentially adopted similar  
3 language then that's used by the Federal  
4 Election Commission in terms of coordinated  
5 communication, and under the Code of Federal  
6 Regulations to be an agent of a candidate or  
7 their committee for the purposes of determining  
8 whether communication is coordinated the  
9 individual or person must have actual  
10 authorization either expressed or implied from  
11 the principal to engage in those specific  
12 activities, and then to engage in that. That  
13 simply wasn't the case here. Mr. Nadeau  
14 certainly didn't delegate any authority to Mr.  
15 Soucy to do any communications on his behalf.  
16 This was, Mr. Nadeau ran his own campaign. He  
17 wrote all of the checks. He did the checkbook.

18 MR. HEALY: When you say "he wrote all the  
19 checks" Nadeau or Soucy?

20 MR. LOGAN: Nadeau wrote, the candidate Mike  
21 Nadeau wrote all of the checks.

22 MR. HEALY: Mr. Soucy didn't draw any checks  
23 on the account?

24 MR. LOGAN: No he did not.

25 MR. HEALY: Did he have signature authority

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on the checking account?

MR. LOGAN: I do not know for certain, and he'll certainly be able to answer that question if you would like to pose that to him at this point I'll be happy to have him answer.

MR. HEALY: It's up to you.

MR. MCKEE: Well, we can have you finish your part. We'll ask Mr. Soucy if he wanted to add anything and then we'll ask him some questions.

MR. LOGAN: Certainly. I think that given, it's an informal group and all of the information that I have today indicates that there was no involvement of the candidate who based upon my understanding essentially ran his own campaign like most house candidates do, that it's, there is sufficient evidence to rebut the presumption. I certainly think, and Mr. Soucy probably would agree, that better practice not to have done this. But given the fact that he had really no active, no active role other than being a name on a document, but had done none of the things that one would expect of a treasurer or somehow a field director or whatever type of

1  
2 other role you'd have in a campaign, that  
3 there's sufficient evidence to rebut that  
4 presumption. And I think I'll turn it over to  
5 Commission to ask any questions of Mr. Soucy at  
6 this point that they may have.

7 MR. MCKEE: Okay. Mr. Soucy, before we ask  
8 you some questions did you have anything else  
9 that you wanted to add to your attorney's  
10 presentation?

11 MR. SOUCY: Oh no, that was very well done.  
12 I'm okay.

13 MR. MCKEE: Okay. Questions from the  
14 Commissioners of Mr. Soucy?

15 MR. HEALY: Mr. Soucy, what were your duties  
16 as treasurer of this campaign?

17 MR. SOUCY: I was a treasurer in name  
18 only. I made sure that when Mike asked me to be  
19 treasurer that I would not do any of the work.  
20 He said he'd do it all. As to the question of  
21 signature authority I did not sign any checks.  
22 It's possible that he put my name there with  
23 signatures--

24 MR. HEALY: I can't hear that, what he said  
25 on that.

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2 MR. SOUCY: I'm not aware of it but at any  
3 rate I did not sign any checks at all. The  
4 candidate did all of the work. I was, I was  
5 just there in name only.

6 MR. HEALY: Okay. Did you say you had  
7 signature authority or you didn't? I couldn't  
8 hear you on the telephone.

9 MR. SOUCY: I'm sorry. I said that I don't  
10 think I had but it's possible that my name is on  
11 there. But even if I did I never used that  
12 signature authority.

13 MR. HEALY: So you've never written any  
14 checks payable for any campaign bills.

15 MR. SOUCY: That is correct.

16 MR. HEALY: Did you have any other duties  
17 with the committee? Did the candidate assign  
18 you any other duties or authority on his behalf?

19 MR. SOUCY: No, he did not but I took on  
20 some for myself. Every time I had a mailing  
21 from the Ethics Committee I would call the  
22 candidate to make sure that the questions were  
23 being asked and the work was being done, but  
24 that's as far as I did.

25 MR. HEALY: Okay, and whose idea was it to

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2 do this mailing that's the subject of this  
3 complaint? The flyer that was mailed out.

4 MR. SOUCY: The Citizens for Effective  
5 Government?

6 MR. HEALY: Yes.

7 MR. SOUCY: That was my idea along with two  
8 other people on the committee.

9 MR. HEALY: Okay and did you discuss it with  
10 Mr. Nadeau in any way?

11 MR. SOUCY: No we did not.

12 MR. ANDRÉ DUCHETTE: Who were the two other  
13 people on the committee?

14 MR. SOUCY: There was a Dana Saucier and a  
15 Jim Majka.

16 MR. DUCHETTE: And did they have any  
17 relationship with Mike Nadeau?

18 MR. SOUCY: No, they do not.

19 MR. MCKEE: Okay, Mr. Soucy, this is Walt  
20 McKee. Obviously you knew that you had some  
21 responsibilities when you decided to become the  
22 treasurer of that campaign I gather.

23 MR. SOUCY: Yes sir I did, and I'm very  
24 sorry that I went there. As the second  
25 treasurer for the Citizens of Effective

1  
2 Government I did, it did not occur to me that  
3 this would happen, that there was something  
4 wrong there. I should have known but I was not  
5 aware at the time.

6 MR. MCKEE: Are you saying you weren't aware  
7 that you couldn't sit on basically both, you  
8 know, be the treasurer of the campaign and also  
9 be involved with what looks like a pretty clear  
10 flyer that promoted the candidate that you were  
11 the treasurer for?

12 MR. SOUCY: That's right. I wasn't even  
13 aware that that would be a request for sending  
14 in paperwork on the CEG situation. But upon  
15 finding out that not only did we have to do it  
16 we had a deadline to meet. That was brought to  
17 my attention by Dana Saucier.

18 MR. MCKEE: Right. Well maybe ask you this  
19 way, I mean do you agree that you and your group  
20 in essence because you were the treasurer of the  
21 campaign you were coordinating it with Mr.  
22 Nadeau's campaign? I mean you were sitting in  
23 both chairs.

24 MR. SOUCY: Well, you can accuse me of that  
25 but I wasn't thinking that way at the time.

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2 MR. MCKEE: Well, and don't, I understand  
3 your position but I gather that you just didn't  
4 understand that there couldn't be, you couldn't  
5 be in both roles there, to be treasurer of the  
6 campaign and yet also promoting it through a  
7 separate entity. You just didn't know that was  
8 the law.

9 MR. SOUCY: That is correct sir.

10 MR. MCKEE: Okay.

11 MR. HEALY: I have another question. This  
12 is Michael Healy Mr. Soucy.

13 MR. SOUCY: Yes sir?

14 MR. HEALY: Do you have any knowledge as to  
15 whether either of the other gentlemen discussed  
16 this independent expenditure that was made with  
17 Mr. Nadeau?

18 MR. SOUCY: I can't speak for them but I  
19 would assume--

20 MR. HEALY: I'm only asking, I don't want  
21 you to assume anything, I want to know if you  
22 know any knowledge, did they ever say anything  
23 to you that they spoke to Mike Nadeau about it?

24 MR. SOUCY: I have no knowledge of the fact  
25 that they might have spoke with Mike Nadeau

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about it.

MR. HEALY: Okay. They never referred to a conversation in your presence with him about it?

MR. SOUCY: That is correct.

MR. HEALY: And they never discussed it with him in your presence, that you--

MR. SOUCY: That is correct.

MR. HEALY: Okay.

MR. MCKEE: Now Mr. Soucy, could you tell me a little about your background at all? It wasn't clear for me from the materials. Have you been involved in politics for some period of time?

MR. SOUCY: Not for a long time. The last time that I was involved in politics was when Governor McKernan appointed me to the Board of Environmental Protection but never any more. Besides that I've never ran for office. I'm retired. I'm 77 years old. Even having a hard time to write checks.

MR. MCKEE: Right, are you part of the Republican Committee up in Fort Kent? Is that a--

MR. SOUCY: Yes, yes I am.

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MR. MCKEE: Okay.

MR. SOUCY: I am also, I am part of the Republican Fort Kent Committee and I have been actively helping the two other candidates involved.

MR. MCKEE: Alright, and how long have you been doing that work?

MR. SOUCY: Oh for about six months.

MR. MCKEE: Alright. Were you involved with the Republican Committee up there before that time?

MR. SOUCY: Let me see, how long are we talking about here? I was involved since the time of the primary.

MR. MCKEE: Alright. Have you ever done any work with the Republican Committee before the time of the primary?

MR. SOUCY: Only for candidates who asked me to put up their signs in the past, the past 30 or 40 years I've always helped people put up signs.

MR. MCKEE: Okay. Any other questions from the Commissioners? Sure.

MR. WAYNE: Would you mind if I ask?

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MR. MCKEE: Go right ahead please.

MR. WAYNE: Mr. Soucy, can you hear me okay?

MR. SOUCY: Yes sir.

MR. WAYNE: Could you describe how you raised the money for the expenditure?

MR. SOUCY: I was approached by three people who wanted to do something to help Mike, look at what he's doing, and the three of us, I wasn't alone and I was also in conjunction with the two other people. And the people agreed to give us some money to buy, to buy this ad. Those were the only three people involved.

MR. WAYNE: So who were the, who were those three people?

MR. SOUCY: The three people were Renaldo Thibeault, a resident, a resident of Fort Kent, Norman Nadeau, a snowbird, actually he lives in Connecticut but has a summer home in Fort Kent, Kenneth Nadeau, Connecticut resident, has a summer home in Fort Kent.

MR. WAYNE: And they provided all of the money for the expenditure? Those three individuals?

MR. SOUCY: Yes they did.

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2 MR. WAYNE: How did you decide how much the,  
3 of a mailing to do? I mean how was the cost  
4 determined?

5 MR. SOUCY: The cost?

6 MR. WAYNE: Yeah.

7 MR. SOUCY: Well, I'm not a, I guess I can't  
8 really because I didn't do the costing. All I  
9 know is I was told that we'd need, we'd need  
10 about \$1,500 to put, to put the printing by the  
11 printer, how much it would cost. He gave us an  
12 idea, told us what it would cost, and we  
13 proceeded and raised the money. Once we had  
14 enough we, had made the purchase.

15 MR. WAYNE: Did you receive the money from  
16 the three individuals?

17 MR. SOUCY: Oh I, yes I did.

18 MR. WAYNE: And what did you do with the  
19 money?

20 MR. SOUCY: I put it in the, in the safety  
21 deposit box and paid the printer with a credit  
22 card.

23 MR. WAYNE: Did you receive cash from them  
24 or checks?

25 MR. SOUCY: Cash.

1  
2 MR. WAYNE: And then you put the cash in a  
3 safety deposit box. Is that right?

4 MR. SOUCY: Safety purposes.

5 MR. WAYNE: Sorry?

6 MR. SOUCY: Yes.

7 MR. WAYNE: Would there be any record of  
8 that? Any paper record?

9 MR. SOUCY: None except mine. The safety  
10 deposit box was my safe in my home.

11 MR. WAYNE: And all three gave you in cash.

12 MR. SOUCY: That is correct.

13 MR. WAYNE: Are they related to the  
14 candidate?

15 MR. SOUCY: I don't know. You would have to  
16 ask them that.

17 MR. WAYNE: Norman Nadeau, Kenneth Nadeau,  
18 and Mr. Thibeault? Is that right? Did I get  
19 those names right?

20 MR. SOUCY: Yeah, that's right Thibeault,  
21 Renaldo Thibeault.

22 MR. WAYNE: Okay, thank you.

23 MR. MCKEE: Let me just follow up on, sorry.

24 MS. MARGARET MATHESON: Mr. Soucy, this is  
25 Mag Matheson, Commissioner. When you say then

1 used a credit card whose name was on the credit  
2 card?  
3

4 MR. SOUCY: Mine.

5 MS. MARGARET MATHESON: Thank you.

6 MR. MCKEE: Mr. Soucy, did everybody pay the  
7 same amount to you to get up to the \$1,475.16?

8 MR. SOUCY: Yes, they paid \$500 each.

9 MR. MCKEE: Okay and so are they going to  
10 get refunded back the \$24.84? Is that your  
11 plan?

12 MR. SOUCY: Yes that would, that was, that  
13 will be the plan.

14 MR. MCKEE: Is there some reason why the,  
15 how did that \$1,500 number come up?

16 MR. SOUCY: Well, in fact there are two  
17 reasons. I was told that to keep from becoming  
18 a full PAC, I don't know how true that is, I had  
19 to keep it under \$1,500.

20 MR. MCKEE: Right and each, each, you put in  
21 your safe deposit box or in your safe the \$1,500  
22 in cash that you received. Is that correct?

23 MR. SOUCY: That is correct.

24 MR. MCKEE: Did you receive any other monies  
25 on behalf of this group other than the \$1,500?

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MR. SOUCY: None.

MR. MCKEE: And who was it that made the contact with the printing company to determine the cost of the flyer?

MR. SOUCY: It wasn't me but I would suspect it would have been Dana Saucier.

MR. MCKEE: Okay, why do you think that?

MR. SOUCY: Because he, he and Jim Majka, the names match here, Jim Majka were the two people who designed the brochure and that were talking to the printer. I did very little talking with the printer.

MR. MCKEE: Right, sorry, so who designed, who designed it did you say?

MR. SOUCY: It would have to be either Dana Saucier or Jim Majka.

MR. MCKEE: Okay, did Mike Nadeau have any, a role at all in helping design the flyer at all?

MR. SOUCY: No.

MR. DUCHETTE: Do you, Mr. Soucy, this is Commissioner André Duchette. Do you know if Dana Saucier had a working relationship with Mike Nadeau?

1  
2 MR. SOUCY: What kind of working  
3 relationship?

4 MR. DUCHETTE: Did they have, did he help  
5 work on Mr. Nadeau's campaign at all?

6 MR. SOUCY: I was aware that he tried to but  
7 Mike was very independent. We wouldn't accept  
8 some of my help or anybody else as a Republican,  
9 but he might have accepted some advice from Mr.  
10 Saucier. But you would have to ask him that.

11 MR. MCKEE: Okay. Any other questions?  
12 Jonathan?

13 MR. WAYNE: Well Phyllis and I thought it  
14 might be reasonable for someone to ask him about  
15 what his mindset was when he provided, signed  
16 the affidavit. As long as you think that's--

17 MR. MCKEE: Right, that's, no thank you,  
18 that's one of my notes. Mr.--

19 MR. WAYNE: Soucy.

20 MR. MCKEE: Soucy, thank you. One document  
21 you signed that was of some concern to us was a  
22 document that said that there was no  
23 coordination. I understand that you said you  
24 didn't understand or appreciate that you  
25 couldn't do what ultimately happened here but

1  
2 what did you think you were signing when it said  
3 you weren't allowed to coordinate?

4 MR. SOUCY: Really I don't know how to  
5 answer that question. I did not--nothing in  
6 that--in other words--first of all, I read the  
7 thing and I scanned it, I just scanned it in a  
8 hurry. I was accustomed to having Mike do all  
9 the paperwork and all the thinking for me. And  
10 so it was pretty much the same thing so I  
11 probably missed that part of the document. And  
12 it did not occur to me that I should have  
13 checked it further than I did and that was an  
14 error.

15 MR. MCKEE: Right, I mean the document, this  
16 was an affidavit, you actually had to sign in  
17 front of a notary or an attorney.

18 MR. SOUCY: That's right. We did that.

19 MR. MCKEE: Right, and it said that each of  
20 the expenditures listed in the attached report  
21 were independent and not in cooperation,  
22 consultation, or concert with, or at the request  
23 or suggestion or any candidate, authorized  
24 committee, or agent of a candidate in a race.  
25 Didn't you think at that time that you were an

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agent of a candidate in a race?

MR. SOUCY: I don't know what to tell you. I don't, we went to the town office, Saucier and me and we had the affidavit, and I guess I probably didn't really know what I was signing.

MR. MCKEE: Any other questions for Mr. Soucy?

MR. WAYNE: Mr. Soucy, if the Commission wanted to get in touch with Mr. Thibeault and Norman and Kenneth, or Norman Nadeau, I may be getting the names wrong, but those three donors and we were to make a request to your attorney would you be able to provide us with contact information for those three individuals?

MR. SOUCY: I believe that could, that could happen. Two of them are out of town but I can, they can be located. I don't have their addresses but I can find out easy enough.

MR. WAYNE: And so as of today is the \$1,500 still in the deposit box?

MR. SOUCY: No it's not. As of today the, whatever the bills were I don't have a copy of the bill in front of me, \$1,470 some odd dollars, there's probably about \$25 or \$30 left

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in the account.

MR. WAYNE: Is there a reason that you paid with your credit card if you had all of this cash available to you? I mean why didn't you just give the cash to the vendor?

MR. SOUCY: I do everything by credit card. It's a habit of mine. I have one credit card and I do all my business with it.

MR. WAYNE: Can you think of any record that would have been produced to document this, the trail of money. I mean either them giving you the money, or you putting it in the box, or any of that? I mean is there anything that we could, you could come up with to document what you've just described to us?

MR. SOUCY: I'd have to contact the three people and see if they'd be willing to, give me something of documentation.

MR. WAYNE: Okay, thank you. Thank you. That's it.

MR. MCKEE: Any other questions at all from the Commissioners? Alright. You all set? Okay.

MR. LOGAN: Do you have any further

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questions for me.

MR. MCKEE: I don't have any further questions for you.

MR. WAYNE: I'm sorry. I just have one more. Mr. Soucy, you and I talked Saturday and I talked to you about the, the money, and I remember you saying that some people gave small donations, maybe of less than \$100, and I think we talked about possibly Mr. Saucier or Mr. Majka contributing money, and I asked you at that time whether there were any other sources of money other than these small donors and the three of you, and I thought you said no. And I'm just wondering how come you didn't mention these folks on the phone on Saturday when you and I were taking about this exact same topic?

MR. SOUCY: Probably one of the reasons is that I talked to you before I talked to my attorney, so I was being interrogated without an attorney so I was a little bit apprehensive.

MR. MCKEE: Well, maybe I'll ask you this Mr. Soucy, this is Walt McKee again, the statement Mr. Wayne is referring to is that you indicated that when asked where the money came

1  
2 from Mr. Soucy replied, "Individuals giving  
3 small amounts under \$100." Was that a truthful  
4 statement at the time?

5 MR. SOUCY: I'd have to say that it was not  
6 truthful because I didn't, I was saying smaller  
7 amounts because my understanding, and I was  
8 talking about the fact that smaller amounts  
9 don't need to be identified while larger amounts  
10 do. I mean if I had said I had received smaller  
11 amounts I was in error.

12 MR. MCKEE: And that didn't have anything to  
13 do with whether you needed to talk to an  
14 attorney or not.

15 MR. SOUCY: Well the whole thing we talked  
16 about.

17 MR. MCKEE: Right. Mr. Wayne was asking you  
18 where the money came from and you indicated to  
19 him, at least at that time two days ago, that  
20 individuals giving small amounts under \$100, and  
21 is it fair to say that there were no individuals  
22 giving small amounts under \$100 according to you  
23 today?

24 MR. SOUCY: I mean if your question is is it  
25 fair to say there were no small amount

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donations--

MR. MCKEE: Under \$100, right.

MR. SOUCY: That is correct. There were none.

MR. MCKEE: But you did tell that to Mr. Wayne on Saturday.

MR. SOUCY: I must have been in error.

MR. MCKEE: Any other questions? Alright. You can hang on Mr. Soucy and listen along. We don't have any more questions for you right now.

MR. SOUCY: Okay.

MR. MCKEE: I believe we indicated to Ms. Knox that we'd give her the opportunity to come back up after to respond to Mr. Soucy's testimony. Did you want to do so?

MS. KNOX: Thank you. Yeah, I think just in the chance I had to listen that obviously, it actually raised more concerns about what is going on with the organization and the sort of cross pollination of all these folks with the campaign and the organization. I mean there are a couple of inconsistencies that maybe Mr. Soucy can help us with. It sounds like two of the folks he mentioned gave him cash are out of

1 town. So I don't, I don't understand how  
2 logistically you could give cash, I mean I'm  
3 sure there's a way to do it but there's a bunch  
4 of things like that that don't make sense to me.  
5 You know I might just say the Commission going  
6 back to my prior point it doesn't sound like  
7 there's a denial about having been involved on  
8 both sides of the fence. So what you may be  
9 struggling with now based on the information  
10 you're getting is who exactly to penalize and  
11 how much to penalize. And I would just say  
12 maybe you need further information on the how  
13 much but that we would argue this is a pretty  
14 serious violation, that there was money being  
15 spent in a race for two Clean Elections  
16 candidates that clearly is in violation of the  
17 statute. And so we would ask you again to take  
18 some action to indicate that this was not  
19 allowed before tomorrow.  
20

21 MR. MCKEE: Okay. Thank you.

22 MS. KNOX: Thank you.

23 MR. HEALY: I have a question.

24 MR. MCKEE: Go ahead.

25 MR. HEALY: You contend that Mr. Soucy is an

1 agent of Mr. Nadeau's.

2 MS. KNOX: Yes.

3 MR. HEALY: And okay and could you describe  
4 on this record what in your opinion his  
5 authority was?  
6

7 MS. KNOX: Well, I think there are--

8 MR. HEALY: On the record that we have to  
9 deal with, not on supposition but on the  
10 evidence that we've gotten so far.

11 MS. KNOX: Well I think when you sign up to  
12 be a campaign treasurer you have particular  
13 duties including submission of reports and  
14 agreeing that those reports are accurate.  
15 Whether or not Mr. Soucy had check-signing  
16 authority or how much authority he had within  
17 the campaign I don't think is particularly  
18 relevant. I mean he had, he was the treasurer of  
19 that campaign. It is the only other position, I  
20 won't even get into the, you know, other  
21 possible positions. In a candidate committee,  
22 it's the candidate and the treasurer and that's  
23 it. So I think this analysis of how much he  
24 acted as a treasurer or whether he undertook  
25 particular treasurer duties, whether he opened

1  
2 the mail and passed on information, I would  
3 argue too isn't irrelevant. He is by nature of  
4 being the treasurer an agent of that campaign.  
5 And there are, I'm sorry I left my book, but  
6 there are--

7 MR. HEALY: And does that mean he's  
8 personally responsible for everything that  
9 campaign does or doesn't do?

10 MS. KNOX: The treasurer or the candidate?

11 MR. HEALY: No, the treasurer.

12 MS. KNOX: Well, I think, I think that's a  
13 complicated question but I think in this  
14 instance he's absolutely responsible because the  
15 assumption is the candidate and the treasurer  
16 know what expenses are going on, what the  
17 operation of the campaign is, and for your  
18 purposes here about coordination I think there's  
19 no question he's responsible. Whether he would  
20 be responsible in a situation of fraud where he  
21 didn't have check-writing authority I think  
22 that's a different analysis. But he is  
23 presumed, and I think that the Commission rules  
24 sort of acknowledge this, he is presumed to have  
25 knowledge equivalent to the candidate. I don't

1  
2 understand how you could be a treasurer, I mean  
3 there seems to be this sort of rash of people  
4 saying well I'm in this position but I'm not  
5 really doing anything. You know?

6 MR. MCKEE: Well that was, that was one  
7 situation last week and we're all pretty  
8 familiar with that.

9 MS. KNOX: Well but I, but--

10 MR. MCKEE: That was that unique situation  
11 and--

12 MS. KNOX: But he made a similar argument  
13 Commissioner which was I didn't write checks, I  
14 didn't--

15 MR. MCKEE: But here's somebody, right but  
16 that's, I mean I think we had a very different  
17 record there and we're all very cognizant and  
18 sensitive to that issue. This is an actual  
19 treasurer. This is your argument. This is a  
20 person actually in the line of site who swears  
21 like I know exactly what's going on, when it's  
22 going on. I am the treasurer. I assume those  
23 duties when I become the treasurer. This is Mr.  
24 Soucy. And at the same time spends money on  
25 this exact same program that he's part of. He

1 knows both. We don't have the foreign situation  
2 where it's like I don't even know how this is  
3 rolling. Here this person knows exactly what it  
4 is. He's in the same position. Isn't that your  
5 best argument?  
6

7 MS. KNOX: It is and I guess the point I was  
8 trying to clarify is that what he, what I heard  
9 him say on the phone was that I wasn't really  
10 acting as a treasurer, you know, I didn't sign  
11 checks. I wasn't involved in expenditures. And  
12 my point was that I don't think that that  
13 explanation holds here, that I think a treasurer  
14 is a treasurer. You have particular duties.  
15 You have responsibilities. Whether or not those  
16 individual transactions happen between the  
17 candidate and the treasurer I think is  
18 irrelevant to your analysis. He is the  
19 treasurer and so he's presumed to be involved.  
20 And I guess that's the--

21 MR. MCKEE: Alright, when you sign up as,  
22 when you sign up as treasurer you're saying I'm  
23 going to be--

24 MS. KNOX: Correct.

25 MR. MCKEE: I'm taking the whole

1  
2 responsibility whether I like it or not. I may  
3 do a little as some do or nothing. I may do a  
4 ton. But you're in all the way either way.

5 MS. KNOX: I see what you're saying. I'm  
6 sorry. I was looking at it the other way. Yes,  
7 absolutely.

8 MR. HEALY: But you would agree that someone  
9 that signs up to be a treasurer, and let's make  
10 a hypothetical, signs up to be a treasurer and  
11 in fact doesn't control the checking account,  
12 doesn't make the disbursements, doesn't file the  
13 reports, and has maybe assumed a responsibility  
14 but in fact in reality isn't involved. I mean  
15 that could be the case. That could happen.  
16 I've been a candidate and I've been a treasurer  
17 and when you stop and think about it becoming a  
18 treasurer is an important thing and if you  
19 aren't going to be a treasurer, an active  
20 treasurer, you shouldn't be a treasurer, but  
21 that doesn't mean that an inactive treasurer  
22 that does nothing all of a sudden has all of the  
23 sorts of the knowledge that he may or may not  
24 have, maybe should have but didn't have. I  
25 don't know. I'm just going on what I've heard.

1  
2 MS. KNOX: Yeah, and I guess that's what I  
3 was trying to say to you because I don't think  
4 that's a fair analysis. I don't think that you  
5 can sign up for the responsibility and then  
6 later claim I didn't, I'm on the paperwork and I  
7 signed these things but I don't have any  
8 knowledge. It is one of two positions, the  
9 candidate and the treasurer, and if you make the  
10 choice not to be involved in those things you do  
11 that at your own risk because you are on the  
12 paperwork and you've accepted that  
13 responsibility. So I don't think there's a  
14 difference. I think that's--

15 MR. DUCHETTE: And isn't that the question?  
16 Isn't the question then can a treasurer say I'm  
17 a nonactive treasurer and because I'm nonactive  
18 I can start this other group and make  
19 contributions on that campaign?

20 MS. KNOX: I don't think so. I mean under  
21 1127 you'll--

22 MR. HEALY: What happens if a candidate has  
23 a treasurer and the treasurer is not writing the  
24 checks and the candidate writes the checks and  
25 he writes the checks all for his own benefit, to

1  
2 take a trip to Bermuda. Is the treasurer  
3 personally responsible for that misspending of  
4 the Clean Election funds?

5 MR. MCKEE: I was hoping you would ask that  
6 question because that's going in the other  
7 direction, and I think that's the unique  
8 situation. What you're saying is I'm not  
9 responsible for everything the candidate does.  
10 If they want to run off with the money you're  
11 not going to come after me for the violation  
12 here. But I think that's when this is going out  
13 that way. Here one foot in one place and one  
14 foot clearly in the other. You know? And  
15 here's the candidate doing one thing but the  
16 treasurer is just sitting here. Here the  
17 treasurer has got these two separate roles. So  
18 I heard where you were, where you were going and  
19 I was hoping you would ask the question so I  
20 could answer it even though we have someone  
21 [laughter].

22 MS. KNOX: No, I'm happy to help you with  
23 it.

24 MR. MCKEE: Please ask me more questions.

25 MS. KNOX: And I just want to, I think the

1  
2 statute and the rules do contemplate building  
3 the treasurer out in a position of  
4 responsibility potentially unlike other  
5 positions. And I mean they're accounted for in  
6 11-27. So a treasurer who violates a treasurer,  
7 a candidate, a consultant, or other agent who  
8 violates brings that committee under possible  
9 penalty under 11-27. So I mean they do, they do  
10 have the ability to get the campaign in trouble  
11 or be found in violation based on their  
12 individual actions.

13 MR. MCKEE: Any other questions for Ms.  
14 Knox? Thank you. Do you want to respond? I  
15 didn't give you the chance after you, well I  
16 guess I did. Mr. Soucy spoke.

17 MR. LOGAN: But just briefly. I mean it's  
18 kind of unique where she's getting an  
19 opportunity to make her argument.

20 MR. MCKEE: Okay, go ahead.

21 MS. KNOX: But you didn't respond Bill. You  
22 didn't respond to the complaint so--

23 MR. LOGAN: Well, that's because I didn't -

24 - .

25 MR. MCKEE: I'll hear from you on that part

1  
2 and then I do want to talk to the Commission  
3 Council about our defendant so to speak. I  
4 think it's an important question and I think  
5 there's one clear person here we're dealing with  
6 but maybe in the course of later meetings we  
7 want to develop that and maybe even the issue of  
8 this as a PAC. I mean obviously something  
9 worthy of investigation. So I just said that to  
10 Ms. Gardiner so she could be thinking about that  
11 in terms of what we're going to do today. Did  
12 you want to respond or otherwise provide  
13 information?

14 MR. LOGAN: Just briefly to respond to the  
15 argument forwarded by opposing counsel. I think  
16 when one looks at the statute and the  
17 guidelines, the regulations promulgated here,  
18 that the opposing counsel's argument essentially  
19 is treasurer equals agent. The problem with  
20 that is that the statute doesn't indicate that  
21 the position of treasurer does equal an agent.  
22 As a matter of fact, when one takes a statute  
23 and looks at the regulations promulgated by the  
24 Commission if treasurer equaled agent it  
25 wouldn't be a rebuttable presumption. There's a

1  
2 presumption that a treasurer if they're involved  
3 in another expenditure is that it would be  
4 coordinated, that it would not be independent.  
5 So I think that it's important that, and  
6 certainly I understand where the Commission has  
7 with the questions involved here in terms of  
8 whether treasurers should do this and what best  
9 practices may be. But I think the argument that  
10 treasurer equals agent is incorrect because just  
11 going back to, don't want to bring everyone back  
12 who's gone to law school to those days, but  
13 agents are limited by the scope of power  
14 delegated by the principal.

15 MR. DUCHETTE: What section of the statute  
16 are you referring to?

17 MR. HEALY: Yes, that's my question. What  
18 section of the statute defines the treasurer and  
19 what the duties are of the treasurer?

20 MR. LOGAN: What statute?

21 MR. HEALY: Yeah, what--

22 MR. LOGAN: I'm not looking at the statute  
23 that defines the duties of the treasurer I'm  
24 looking at the statute that indicates  
25 expenditures the candidate, candidate committee,

1  
2 or agent, and then I'm referring to the  
3 Commission regulation as it relates to the  
4 rebuttable presumption about treasurers.

5 MR. DUCHETTE: Section 1015(5).

6 MR. LOGAN: 1015(5) is any expenditure, it's  
7 actually on page, the relevant section is on  
8 page two of staff's memo.

9 MR. DUCHETTE: Right.

10 MR. LOGAN: And then it's chapter, and then  
11 it's regulation, and the Commissioner rule of  
12 Chapter 1 Section 6 Sub 9B1 that creates the  
13 presumptions. And that's the point I wish to  
14 make, that it's not, it's not a simple treasurer  
15 equals agent because if it was there wouldn't be  
16 a need for that regulation that creates a  
17 presumption for the treasurer. And once again--

18 MR. MCKEE: Do you have anything else?

19 MR. LOGAN: That's it.

20 MR. HEALY: Let me ask you a question Mr.  
21 Logan. Does the election law require the  
22 treasurer to file a campaign finance report and  
23 then sign them or does the candidate, can the  
24 candidate do that?

25 MR. LOGAN: The candidate, the candidate is

1  
2 allowed to do that, and often cases candidates  
3 do do that.

4 MR. HEALY: And according to the staff memo  
5 here in practice the role of a campaign  
6 treasurer varies greatly depending on the  
7 relationship between the candidate and the  
8 treasurer. Is that your experience?

9 MR. LOGAN: That's correct. I ran in 2010.  
10 I had, actually my office manager at my law  
11 practice was my treasurer. She did nothing.  
12 She never even saw the checkbook. I wrote all  
13 the checks. I did all the filing.

14 MR. HEALY: You represented yourself.

15 MR. LOGAN: I was a fool, yes.

16 COMMISSIONER AMERO: I know of occasions as  
17 well, particularly in House races where the  
18 treasurer is a person who has good name  
19 recognition in that community and has agreed to  
20 lend their name to the campaign because the  
21 treasurer's name goes out on everything that is  
22 published. So in that case it's often true that  
23 that person isn't going to do anything except in  
24 name only.

25 MR. DUCHETTE: Aren't we having a discussion

1  
2 then as to whether, who we find at fault and not  
3 a question of whether or not something wrong was  
4 done? I just don't see how you can, what was  
5 done here how you're allowed to do that. I  
6 don't think you can hide behind the veil of "I  
7 wasn't really involved in the committee." You  
8 were involved. I mean--

9 MR. WAYNE: Right, that was the--

10 MR. DUCHETTE: And granted at a very small  
11 role but even I this role he admitted that he  
12 was, he would receive the mailings from this  
13 Commission and forward them on. I mean if that  
14 was the only thing he did he still had a role in  
15 the campaign.

16 MR. MCKEE: Thank you Mr. Logan. Maybe we  
17 should now have a discussion which essentially  
18 we've been doing - - . And--

19 MR. DUCHETTE: Free form wasn't it?

20 MR. MCKEE: Yes, right. Ms. Gardiner, maybe  
21 you can help us in terms of obviously you heard  
22 that some of us are concerned, and maybe all of  
23 us are concerned about what happened. I think  
24 some of us are concerned about some of Mr.  
25 Soucy's testimony and so on. But that being

1  
2 said assuming we've had concerns about a  
3 violation here. Who is our, who is the person  
4 that we would assess a penalty against in the  
5 first place or what are our options.

6 MS. PHYLLIS GARDINER: Well, you have a  
7 number of options, of course one of which  
8 includes continuing to investigate further and  
9 then querying the people who aren't here today  
10 such as Mr. Nadeau. Let me just, if I could  
11 just back up one half-step just to flush out the  
12 discussion you were just having with Mr. Logan.  
13 The statute, the other thing, other parts of the  
14 statute I think that are relevant for you to  
15 look at are under section 1016 that describes a  
16 lot of the duties of treasurer. Again, the  
17 statutory duties, the treasurer shall keep a  
18 detailed and exact account of all contributions  
19 made to or for the candidate or committee, name  
20 and address of every person contributing, et  
21 cetera. The treasurer shall obtain and keep  
22 receipted bills stating particulars for every  
23 expenditure in excess of \$50, keep detailed  
24 records. So there are some specific statutory  
25 duties. And the other thing, and this maybe not

1  
2 be totally consistent with historical  
3 interpretation of the Commission or staff but I  
4 think this was a relatively recent change in the  
5 statutes, Clean Election candidates are not  
6 allowed to be treasurers for their own campaigns  
7 except for a very, a 14-day period after  
8 declaring an intention to qualify for financing.  
9 And under the new reporting statutes, that's in  
10 Section 1013A, the registration requirement says  
11 that normally candidates can be their own  
12 treasurer unless they're Maine Clean Election  
13 candidates in which case they cannot. And the  
14 statute on reporting which is 1017, subsection  
15 3A, says a treasurer of a candidate shall file  
16 reports with the Commission. So, if a treasurer  
17 such as Mr. Soucy wasn't in fact filing the  
18 reports and the candidate was that may be  
19 another issue that you want to discuss with the  
20 candidate as well before you make a decision  
21 about that. But I don't want to make things  
22 more complicated. I may just have but I think  
23 those are relevant statutory provisions. I mean  
24 you obviously have a lot of issues. You can  
25 address the issue today just of whether Mr.

1 Soucy has violated any of these provisions,  
2 whether he's, namely the coordination provision.  
3 You probably do have more questions about the  
4 status of Citizens for Effective Government and  
5 whether it was a PAC and needed to be  
6 registered, and you may want to hear from more  
7 people in addition to Mr. Soucy before you reach  
8 conclusions on that. You can always make a  
9 determination on a violation as Ms. Knox has  
10 urged you to do and defer action on a penalty  
11 until later, until you can finish more fact  
12 finding. So you really do have a number of  
13 options, but I think whether this, whether this  
14 candidate should have functioned as treasurer  
15 and filed his own reports is I think another  
16 question that you have in addition to the PAC  
17 questions and in addition to the coordinated  
18 expenditure being a contribution issue.

19 MR. MCKEE: But if we were to find a  
20 violation today it would be, it would be Mr.  
21 Soucy I gather that would be found to be in  
22 violation of these provisions. Is that right?  
23 There was some question before about whether  
24 it's the committee or who is it.  
25

1  
2 MS. GARDINER: Right, I mean and it can be  
3 more than one.

4 MR. MCKEE: Right.

5 MS. GARDINER: Because I think I think it is  
6 by, he's the, he's the person, you find that  
7 he's the person on both sides of the line so to  
8 speak and is the issue about him, the simple  
9 signing of an affidavit by itself could be a  
10 violation because that's a false statement that  
11 would probably be specific to Mr. Soucy. But if  
12 by virtue of making that expenditure through  
13 Citizens for Effective Government if that's  
14 deemed to be a contribution to the campaign then  
15 that does put the campaign's campaign committee  
16 in violation too. And so I think as Ms. Knox  
17 suggested I think she's accurate it's a legal  
18 matter that a treasurer can create some  
19 liability for the campaign by his or her  
20 inactions. So you may have a dual violation  
21 there even if you don't want to resolve both of  
22 them today, perhaps until you hear further from  
23 other players.

24 MR. MCKEE: Okay. That helps me because it  
25 sounds like the two potential or most likely

1  
2 defendants here, just a second Jon, would be Mr.  
3 Soucy and then the campaign committee. There  
4 are other pieces that we may need to flush out  
5 in investigation but is that, do you agree with  
6 that Jon?

7 MR. WAYNE: Well where I thought you would  
8 be headed is that either the campaign committee  
9 or the candidate has accepted a, has received a  
10 contribution by virtue of the actions of the  
11 campaign treasurer.

12 MR. MCKEE: In violation.

13 MR. WAYNE: In violation of the Maine Clean  
14 Election Act.

15 MR. MCKEE: Right. To do that we would have  
16 to establish the agency, the actual agency.

17 MR. WAYNE: Yeah, I mean I don't want to--

18 MR. MCKEE: Oh but I'm not saying that  
19 there's--

20 MR. WAYNE: Yeah.

21 MR. MCKEE: --doubt about that, but--

22 MR. WAYNE: Well I also think that Mr. Soucy  
23 is part of the political committee. If the  
24 spending can't be made in cooperation with the  
25 candidate, or the candidate's political

1  
2 committee, or their agents and it seems to me he  
3 qualifies maybe as the committee. I mean why  
4 wouldn't the treasurer be part of the political  
5 committee or maybe as an agent? But that's my  
6 personal view. And I'm, I guess I'm still a  
7 little bit in the dark on why, so I think the  
8 candidate would be a potential, I would  
9 recommend finding a violation that pertains to  
10 the candidate or the candidate's committee  
11 depending on how you want to look at it. I'm  
12 not quite sure what the, what Mr. Soucy has  
13 violated or Citizen's for Effective Government,  
14 but maybe I'm just missing that. I don't, I  
15 don't know what--

16 MR. MCKEE: Well the statement, I mean--

17 MR. WAYNE: Oh well yes, he has made false  
18 statements in documents submitted to the  
19 Commission.

20 MR. MCKEE: Right.

21 MR. DUCHETTE: In your--

22 MR. HEALY: But what's the, can we--

23 MR. DUCHETTE: Go ahead.

24 MR. HEALY: In 1015(5) it says, "Any  
25 expenditure made by any person in cooperation,

1  
2 consultation, or concert with or at the request  
3 or a suggestion of a candidate." There's no  
4 evidence here that the candidate requested this,  
5 suggested it, or anything of that nature. A  
6 candidate's political committee there is on the  
7 face of it a suggestion that it was because Mr.  
8 Soucy was the named treasurer. But as Mr. Soucy  
9 described his relationship with Mr. Nadeau Mr.  
10 Nadeau does everything on his own. So it's a  
11 committee of Mr. Nadeau with Mr. Soucy as the  
12 named treasurer with I don't know what duties,  
13 not very many if any, or their agents. Well to  
14 be an agent he has to be authorized by Mr.  
15 Nadeau. If he's not authorized by Mr. Nadeau  
16 then he's not an agent.

17 MR. MCKEE: Well I would just say that in a  
18 parent agency if the treasurer signs a check or  
19 says to me I'm going to find Mr. Nadeau I'm  
20 going to see oh are you the treasurer, I pull  
21 your paperwork up, you are the treasurer, you  
22 filed with the Commission. Yeah, I guess I  
23 could do business with you. You are, as far as  
24 I'm concerned, acting on behalf of Mr. Nadeau.  
25 That's what the whole issue with when you sign

1  
2 there you're signing and you're entrusting this  
3 person to take steps. And maybe you don't,  
4 maybe you're doing most of it yourself so you  
5 don't have to even worry about authorization but  
6 in the meantime you've authorized somebody to  
7 act on your behalf.

8 MR. HEALY: Okay, then what you're saying  
9 then as a matter of law Mr. Soucy violated the  
10 law when he being the treasurer of a political  
11 committee became the treasurer of the PAC and  
12 went out and raised \$1,000 and spent \$1,000.

13 MR. MCKEE: Yes.

14 MR. HEALY: As a matter of law, no matter  
15 what his authority was or not.

16 MR. MCKEE: Yes.

17 MR. HEALY: And then that would be, if he  
18 had no authority then it would be his violation  
19 and not Mr. Nadeau's.

20 MR. MCKEE: Well then the issue is the  
21 authority, and my view here is that as signing  
22 up as a treasurer and accepting the duties and  
23 responsibilities here that you have the  
24 authority. You just have it. And I would--

25 MR. HEALY: So if the candidate is stuck

1  
2 with an overenthusiastic treasurer that goes off  
3 and does something that they don't know about.

4 MR. MCKEE: Well within scope there's normal  
5 course of duties with a treasurer. So if he  
6 went out and spent it on Hollywood slots I think  
7 we all could agree that under most circumstances  
8 that would not be appropriate. But if the  
9 treasurer says I'm going to buy some signs and  
10 then later on the candidate says what do you  
11 mean? I told you like 500. I didn't want  
12 1,000. You know? Would I first of all if I'm  
13 selling the signs say well look you're the  
14 treasurer right? I looked you up. You actually  
15 can write, you have the authority to do that.

16 MR. HEALY: Correct.

17 MR. MCKEE: There would be no issue about  
18 that at all. I mean a candidate can't back out  
19 of it later on. That's the whole idea.  
20 Especially under Clean Elections where we  
21 actually separate that out. We're actually  
22 going to have somebody else keeping an eye on  
23 things. Whether they do or they don't.

24 MR. DUCHETTE: Jonathan in your  
25 conversation, in your brief conversation with

1  
2 Mr. Nadeau did he offer any sort of response or  
3 indication as to what he may or may not have  
4 known?

5 MR. WAYNE: Well actually he spoke briefly  
6 with Paul Lavin, the Assistant Director, on  
7 Friday night and I think there's a little, just  
8 a teeny bit more substance in that conversation  
9 and I think he said that he didn't know about  
10 the mailing. But more than that I don't, I  
11 didn't--

12 MR. PAUL LAVIN: No he said that he had no  
13 idea that the mailing was done or who the  
14 Citizens for Effective Government was. He had  
15 no clue.

16 MR. DUCHETTE: Was there any conversation  
17 about his relationship with Dana?

18 MR. LAVIN: No. The name didn't come up in  
19 our conversation.

20 MR. DUCHETTE: Okay and have we had any  
21 conversations with Dana?

22 MR. WAYNE: I left a voicemail message on  
23 Saturday morning asking him to return my call  
24 yesterday. It was definitely his residence but  
25 I didn't hear back from him.

1  
2 MR. DUCHETTE: Okay.

3 MR. WAYNE: May I address one thing? I mean  
4 I think there could be an element of unfairness  
5 that the candidate is being charged with  
6 accepting a contribution by virtue of the  
7 actions of his treasurer, and that the candidate  
8 didn't even know about it, and that might be  
9 something that's a challenge or maybe it isn't.  
10 But I mean I think what is a good policy is that  
11 there are core people who are involved in a  
12 campaign who ought to know or be instructed by  
13 the candidate that they can't go out and  
14 cooperate with others spending money. Maybe the  
15 candidate can't get that instruction down to  
16 every single person who posts a sign or  
17 something, but the key people ought to know they  
18 can't spend money. And that's a good policy,  
19 and that will help, you know, no more said,  
20 that's a good policy. So, I think it's fair  
21 personally. Maybe no, maybe at the end of the  
22 day no civil penalty would be appropriate  
23 because Mr. Nadeau had a lack of knowledge, but  
24 I think it's fair to say that the candidate,  
25 personally I'm comfortable with it in terms of

1  
2 my recommendations, see that the candidate did  
3 accept, or the committee accepted contribution  
4 by virtue of the treasurer's actions even though  
5 the candidate didn't know about it.

6 MR. MCKEE: Well this is kind of a rush  
7 situation. It is what it is so we have to, we  
8 have to deal with it but I'd like to be as  
9 limited as possible in terms of what our action  
10 is because I think that there should be some  
11 more follow-up investigation when we have more  
12 time to talk to all of the different players  
13 involved and figure out exactly what happened  
14 here, and also investigate the monies that were  
15 paid in in cash, who actually paid them in  
16 because it's pretty clear to me that there is  
17 some confusion to put it very nicely about who  
18 paid what when. I'm not sure we have to deal  
19 with that issue now. It affects some  
20 credibility issues but I don't know that we even  
21 need to delve into those. So, I'm comfortable  
22 with the finding against the committee because I  
23 think it's been pretty clearly proven. I don't  
24 believe that there's been any, the presumption  
25 is it's not in fact been rebutted. But with

1  
2 respect to the others I just think we need more  
3 time to do that and maybe have Mr. Soucy provide  
4 more information in the later hearing as to why  
5 he signed a form that does not appear to be  
6 accurate. I'm really not comfortable. I don't  
7 think we have to take that action. It's a  
8 pretty significant allegation to say somebody  
9 made a false statement in an affidavit, and I  
10 just don't feel comfortable going after him for  
11 lack of a better term today. Sorry to push  
12 your--

13 MR. HEALY: Well, are we obligated to make a  
14 finding today? I mean are we, is this an  
15 emergency that requires?

16 MR. MCKEE: Well it's a good point.

17 MR. HEALY: So we can issue a temporary  
18 restraining order.

19 MR. MCKEE: Right, right I mean there's a, I  
20 mean there's a, I mean the issue is we have to  
21 meet in a certain short period of time and I  
22 presume that the reason that that was done was  
23 so that these issues could be resolved so close  
24 to the election and I think that imposes an  
25 obligation on us to really do something. If the

1 whole idea was we would just have a meeting and  
2 then kick the can down the road then I think  
3 we're not really doing what we're supposed to be  
4 doing.  
5

6 MR. DUCHETTE: Here's my question for the  
7 fellow commissioners. Is there any doubt as to  
8 whether or not we have a violation of, that  
9 there was a coordinated expenditure? I just  
10 don't see how we get around the fact that you  
11 had a treasurer of the candidate's campaign and  
12 a treasurer for this other group and money was  
13 spent. I just don't, I mean that's the facts as  
14 we know, nobody is denying any of that.

15 MR. HEALY: I'm comfortable concluding that  
16 Mr. Soucy in the role as treasurer of both  
17 campaigns violated the statute, Mr. Soucy. I'm  
18 not comfortable saying that Mr. Nadeau violated  
19 the statute nor am I comfortable saying that his  
20 committee violated the statute.

21 MR. DUCHETTE: And so where you're getting  
22 at is whether Mr. Soucy is part of the  
23 candidate's political community or its agent.

24 MR. HEALY: Well, I'm accepting his  
25 interpretation that Mr. Soucy as the treasurer,

1  
2 he was the treasurer, assumed that  
3 responsibility and he was the treasurer of the  
4 PAC. So he put himself in a conflict of  
5 interest situation he should have never put  
6 himself in which he did I guess unknowingly.

7 MR. DUCHETTE: Right.

8 MR. HEALY: And it's pretty hard to say he  
9 didn't coordinate it. He did it himself. I  
10 mean of course it was coordinated. But the  
11 question in my mind, the more serious question  
12 is to what extent is Mr. Nadeau, to what extent  
13 did he violate the statute? I have no evidence  
14 now at all to say that has, no evidence today,  
15 to this point. Now whether it should be further  
16 investigated you know what? There's grounds for  
17 that but I'm certainly not prepared myself to  
18 vote. And on top of that Mr. Nadeau hasn't even  
19 responded and he's only had one business day,  
20 well he hasn't even had one business day. Today  
21 is Monday. Right?

22 MR. MCKEE: Right, but I think you're, I  
23 actually hear what you're saying and I don't  
24 disagree. I mean I think that, I think that we  
25 need to do something today because there's some

1 parts which we all clearly agree on with respect  
2 to Mr. Soucy, and there are certainly, I don't  
3 want to necessarily assess this on Mr. Nadeau or  
4 his committee because that ties it to him and we  
5 don't know what he knew. I do think it would be  
6 nice if he was a little more responsive but I'll  
7 give him the benefit of a little bit of doubt.  
8 So I hear what you're saying and I hate to rush,  
9 especially if we're in this kind of rush mode,  
10 but I think there's some parts that we can  
11 pretty clearly find based on what's right here,  
12 just as you indicated. I guess the only issue  
13 is whether, I mean whether people would want to  
14 assess it against the committee today.

16 MR. DUCHETTE: I guess I'm more, look this  
17 is where I struggle with people's kind of  
18 preferring the - - animals. I don't know how  
19 much Mr. Nadeau can kind of run away from the  
20 actions of his, of people who are involved in  
21 his committee. Now ultimately that may, we may  
22 find that Mr. Nadeau had no knowledge of what  
23 was going on and what type of, whether or not we  
24 assess a penalty or anything on those lines, but  
25 I think it's your, it's the candidates, the

1 treasurer was a part of the candidate's  
2 committee. It's the candidate's committee that  
3 was at fault. And I feel like in our past  
4 practice as we've had whether it's candidates or  
5 treasurers who violated the acts I've never  
6 thought about it in terms of people, who is  
7 personally responsible. It's more of, it's the  
8 act of the committee, the campaign. So to say,  
9 so to kind of just hold Mr. Soucy individually  
10 responsibly I mean he was, I don't know how we  
11 do that. He was the treasurer of the, he was  
12 the treasurer of the candidate's committee. And  
13 here's my thoughts, I hope maybe we can move  
14 things along. Like I said I think there's no,  
15 nobody is disputing that he was the treasurer of  
16 both committees. Nobody is disputing that as a  
17 result of this mailing going out that it was an  
18 unlawful coordination under the statute, and  
19 thus resulted in an illegal contribution. With  
20 respects to the Nadeau campaign why don't we  
21 find that and then also say we need to, because  
22 I have a lot of questions about Dana's  
23 involvement, his discussions with Mike Nadeau.  
24 I think there's enough information there to  
25

1  
2 question who knew what because in a way I feel  
3 like poor Mr. Soucy was put in this position as  
4 treasurer because he was told to by people  
5 around him.

6 MR. MCKEE: Mr. Soucy.

7 MR. DUCHETTE: Mr. Soucy, and so I think we  
8 need to find out more. But I'm at least  
9 comfortable today getting as far as there was an  
10 illegal contribution to the campaign and that we  
11 need to find out more facts and go from there.

12 MR. MCKEE: So we make basically factual  
13 findings today and deal with the next steps in  
14 terms of violations and who is responsible  
15 later.

16 MR. HEALY: One of the suggestions that just  
17 came to my mind that we might consider is make a  
18 finding today that yes it's presumed that a  
19 violation has occurred, and I don't know if we  
20 have the authority to issue like a show cause  
21 order to Mr. Nadeau to come to Augusta on a  
22 date, certain scheduled period, so that we can  
23 examine him further and further investigate the  
24 matter to find out to what extent he may or may  
25 not have violated the statute and/or his

1  
2 committee may or may not have violated the  
3 statute. At this point we know what Mr. Soucy  
4 did. He pretty much admits it.

5 MR. MCKEE: Right. Well I guess I like the  
6 idea of a factual finding because I think that  
7 we're all comfortable going forward with just  
8 the defendant part of it, and who knew what when  
9 is something we'll have to determine later. The  
10 factual findings themselves will be significant  
11 because it's a clear violation and money is  
12 being basically put into Mr. Nadeau's campaign  
13 that shouldn't have been there in the first  
14 place. Who is at fault and what that means for  
15 the responsible parties is something that I  
16 think we're just going to have to determine  
17 later. Do you want to make a motion with  
18 respect to maybe making findings of facts along  
19 those lines and see where that takes us? I know  
20 it's not what everybody wants but it gets us to  
21 moving at least forward here and we know already  
22 who one of the significantly potential parties  
23 or defendants are given Mr. Soucy's testimony.

24 MR. DUCHETTE: Certainly, I would move that  
25 we find that there was a coordinated expenditure

1  
2 under Section 1015(5) as a result of the actions  
3 by the Mike Nadeau treasurer and his involvement  
4 in both the Mike Nadeau campaign as well as his  
5 involvement in The Citizens for Effective  
6 Government. And as a result also find that  
7 there was an unauthorized campaign contribution  
8 under the Maine Clean Election Act.

9 MR. MCKEE: Anyone second that motion? I'll  
10 second the motion. Alright. Any further  
11 discussion on the motion for that finding of, or  
12 those findings of fact? All in favor? Alright,  
13 that motion passes. I would then now make a  
14 motion that the staff commence an investigation  
15 with respect to the issues raised today  
16 concerning this coordinated action, and also  
17 with respect to this organization and whether it  
18 should have registered as a PAC given the  
19 testimony we heard from Mr. Soucy, and also of  
20 the issue of Mr. Soucy's statement sworn to  
21 under oath concerning the lack of coordination.  
22 I understand he has an attorney here today and  
23 I'm sure he'll advise him as to the issues with  
24 respect to that but I would like all of those  
25 issues followed up on before we come back again,

1  
2 if we have time to do that, so we can fully  
3 flush out this issue. But I think we've done as  
4 much as we can today. So, I would move that we  
5 commence an investigation or continue the  
6 investigation along those lines.

7 MR. DUCHETTE: I second it.

8 MR. MCKEE: Second that? Discussion? All  
9 in favor? And I gather that may involve,  
10 probably should involve a strong invitation to  
11 Mr. Nadeau to come here and talk to us about  
12 what happened. Anybody want the staff to take  
13 any further action or take any other action  
14 today at all ourselves? Somebody want to move  
15 to adjourn?

16 MR. DUCHETTE: So moved.

17 MR. MCKEE: Seconded? All in favor? We are  
18 adjourned.

19 [END RECORDING]  
20  
21  
22  
23  
24  
25

C E R T I F I C A T E

I, Marni Roybal certify that the foregoing transcript of nadeau\_mtg\_20121105.WMA was prepared using standard electronic transcription equipment and is a true and accurate record.

Signature Marni Roybal

Date March 16, 2013