

Agenda

Item #1



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

December 10, 2013

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Mr. Dwayne Graham
GT Source Corporation
1640 Airport Road, Suite 105
Kennesaw, GA 30144

Dear Counsel and Mr. Graham:

This letter is to provide notice to M Five, Inc., Scott Nash, Ryan Hill, and Dwayne Graham concerning a proposed expansion of an ongoing enforcement proceeding concerning the political action committees, Green Jobs for ME and People of Lewiston Auburn Committee ("casino PACs"), that were engaged in the referendum campaign for the Lewiston casino in the fall of 2011. To date, the Maine Commission on Governmental Ethics and Election Practices has been considering whether three campaign finance reports filed by the casino PACs in October -- December, 2011, should be considered untimely filed, pursuant to 21-A M.R.S. § 1062-A(2), because they did not substantially conform to legal requirements for campaign finance disclosure. In addition, the investigation has explored whether the casino PACs' campaign finance reports contained any material false statements, in violation of 21-A M.R.S. § 1004-A(5).

At a hearing on December 5, 2013, the Commission received testimony from Stavros Mendros, Peter Robinson, Ryan Hill, and Jeffrey Kinney, a witness with expertise in information technology. Following the hearing, Commissioner Michael Healy made a recommendation that the scope of the hearing be expanded to consider whether M Five, Inc. qualified as a political action committee in 2011.

The Commission is scheduled to meet on Thursday, December 12, 2013 at 1:30 p.m. At the meeting, the Commission staff will seek authorization of the Commission to include the following questions in the scope of the casino PAC enforcement proceeding:

- Did M Five, Inc. qualify as a political action committee (PAC) or ballot question committee (BQC) pursuant to 21-A M.R.S. §§1052(5)(A)(4) or 1056-B, based on its financial activities to support passage of the Lewiston casino referendum in 2011?

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- Should Scott Nash, Ryan Hill, and/or Dwayne Graham be considered primary fundraisers, decision-makers or officers of the People of Lewiston Auburn Committee, who may be held jointly responsible for any civil penalties that may be assessed by the Commission against People of Lewiston Auburn Committee if the Commission finds that the PAC violated the law?

I have attached unofficial versions of the PAC and BQC statutes that were in effect during the fall of 2011.

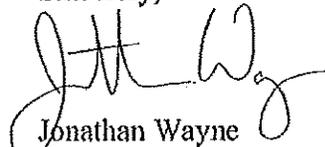
The staff anticipates that, on Thursday, the Commission will select a date in January when we can resume (and conclude) the investigative hearing in this matter with the testimony of Scott Nash and any other respondents.

Your Opportunity to Comment

The Commission's December 12 meeting will be held at the Commission's Office at 45 Memorial Circle, in Augusta, Maine. If you would like to comment at the meeting, you are welcome to attend the meeting and address the Commissioners. If you wish to make a submission in writing on or before December 12, the Commission staff will distribute it to the Commissioners.

Thank you.

Sincerely,



Jonathan Wayne
Executive Director

cc: Commission Chair Walter F. McKee, Esq.
Assistant Attorney General Phyllis Gardiner, Esq.
Elizabeth A. Germani, Esq., Counsel for Peter Robinson
Mark L. Walker, Esq., Counsel for Casino PACs and Stavros Mendros

5. Political action committee. The term "political action committee:"

A. Includes:

(1) Any separate or segregated fund established by any corporation, membership organization, cooperative or labor or other organization whose purpose is to initiate or influence a campaign;

(2) (REPEALED)

(3) (REPEALED)

(4) Any organization, including any corporation or association, that has as its major purpose initiating or influencing a campaign and that receives contributions or makes expenditures aggregating more than \$1,500 in a calendar year for that purpose; and

(5) Any organization that does not have as its major purpose influencing candidate elections but that receives contributions or makes expenditures aggregating more than \$5,000 in a calendar year for the purpose of influencing the nomination or election of any candidate to political office.

B. Does not include:

(1) A candidate or a candidate's treasurer under section 1013-A, subsection 1;

(2) A candidate's authorized political committee under section 1013-A, subsection 2;

(3) A party committee under section 1013-A, subsection 3; or

(4) An organization whose only payments of money in the prior 2 years for the purpose of influencing a campaign in this State are contributions to candidates, party committees, political action committees or ballot question committees registered with the commission or a municipality and that has not raised and accepted any contributions during the calendar year for the purpose of influencing a campaign in this State.

21A § 1053. Registration

Every political action committee, as defined under section 1052, subsection 5, paragraph A, subparagraph (1) or (4) that makes expenditures in the aggregate in excess of \$1,500 and every political action committee, as defined under section 1052, subsection 5, paragraph A, subparagraph (5), that makes expenditures in the aggregate in excess of \$5,000 must register with the commission within 7 days of exceeding the applicable amount on forms prescribed by the commission. These forms must include the following information and any additional information reasonably required by the commission to monitor the activities of political action committees in this State under this subchapter:

1. Identification of committee. The names and mailing addresses of the committee, its treasurer, its principal officers, the names of any candidates and Legislators who have a significant role in fund raising or decision-making for the committee and all individuals who are the primary fund-raisers and decision makers for the committee;

21A § 1054. Appointment of treasurer

Any political action committee required to register under section 1053 must appoint a treasurer before registering with the commission. The treasurer shall retain, for a minimum of 4 years, all receipts, including cancelled checks, of expenditures made in support of or in opposition to a campaign, political committee, political action committee, referendum or initiated petition in this State.

21A § 1055. Publication or distribution of political communications

A political action committee that makes an expenditure to finance a communication expressly advocating the election or defeat of a candidate or that names or depicts a clearly identified candidate is subject to the requirements of section 1014.

21A § 1056. Expenditure limitations

Any committee required to register under this chapter shall comply with the following expenditure limitations.

1. **Aggregate expenditures.** A committee may not make contributions in support of the candidacy of one person aggregating more than the contribution limits established by the commission pursuant to section 1015.

2. **Prohibited expenditures.** No committee may make any expenditure for liquor to be distributed to or consumed by voters while the polls are open on election day.

21A § 1056-A. Expenditures by political action committees

A political action committee shall report all expenditures in cash or in kind made by the committee.

21A § 1056-B. Ballot question committees

 A person not defined as a political action committee who receives contributions or makes expenditures, other than by contribution to a political action committee, aggregating in excess of \$5,000 for the purpose of initiating or influencing a campaign as defined by section 1052, subsection 1, shall file reports with the commission in accordance with this section. For the purposes of this section, "campaign" does not include activities to influence the nomination or election of a candidate. Within 7 days of receiving contributions or making expenditures that exceed \$5,000, the person shall register with the commission as a ballot question committee. For the purposes of this section, expenditures include paid staff time spent for the purpose of initiating or influencing a campaign. The commission must prescribe forms for the registration, and the forms must include specification of a treasurer for the committee, any other principal officers and all individuals who are the primary fund-raisers and decision makers for the committee.

1. Filing requirements. A report required by this section must be filed with the commission according to the reporting schedule in section 1059. After completing all financial activity, the committee shall terminate its campaign finance reporting in the same manner provided in section 1061. The committee shall file each report required by this section through an electronic filing system developed by the commission unless granted a waiver under section 1059, subsection 5.

2. Content. A report must contain an itemized account of each expenditure made to and contribution received from a single source aggregating in excess of \$100 in any election; the date of each contribution; the date and purpose of each expenditure; the name and address of each contributor, payee or creditor; and the occupation and principal place of business, if any, for any person who has made contributions exceeding \$100 in the aggregate. The filer is required to report only those contributions made to the filer for the purpose of initiating or influencing a campaign and only those expenditures made for those purposes. The definitions of "contribution" and "expenditure" in section 1052, subsections 3 and 4, respectively, apply to persons required to file ballot question reports.

2.A. Contributions. For the purposes of this section, "contribution" includes, but is not limited to:

- A. Funds that the contributor specified were given in connection with a campaign;
- B. Funds provided in response to a solicitation that would lead the contributor to believe that the funds would be used specifically for the purpose of initiating or influencing a campaign;
- C. Funds that can reasonably be determined to have been provided by the contributor for the purpose of initiating or influencing a campaign when viewed in the context of the contribution and the recipient's activities regarding a campaign; and
- D. Funds or transfers from the general treasury of an organization filing a ballot question report.

3. Forms. A report required by this section must be on a form prescribed and prepared by the commission. A person filing this report may use additional pages if necessary, but the pages must be the same size as the pages of the form.

4. Records. A person filing a report required by this section shall keep records as required by this subsection for 4 years following the election to which the records pertain.

- A. The filer shall keep a detailed account of all contributions made to the filer for the purpose of initiating or influencing a campaign and all expenditures made for those purposes.
- B. The filer shall retain a vendor invoice or receipt stating the particular goods or services purchased for every expenditure in excess of \$50.