

# Agenda

## Item #2



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

To: Commissioners

From: Jonathan Wayne, Executive Director

Date: April 17, 2014

Re: Over-the-Limit Contributions Accepted by the LePage Re-Election Campaign

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**\$1,500 Contribution Limit for Gubernatorial Candidates**

Under current law, donors may give candidates for the office of Governor up to \$1,500 per election. (21-A M.R.S.A. § 1015) Thus, candidates who are enrolled in a political party may accept up to \$3,000 per election cycle from a donor (\$1,500 for the primary election and \$1,500 for the general election).

Occasionally, candidates receive contributions that exceed the \$1,500 limit. For lack of a better term, we refer to these as “over-the-limit contributions” or “OTL.”

**Background: Commission’s Meeting on July 29, 2013**

At your July 29, 2013 meeting, you considered three contributions to the 2014 LePage campaign from Cianbro, FairPoint Communications, and the Maine Beer & Wine Wholesalers Association, which exceeded the \$1,500 limit. The campaign submitted a June 20, 2013 letter from its treasurer, William P. Logan, Esq., acknowledging a need for better screening procedures. The letter is attached, because of its continuing relevance.

**For Your Consideration on April 30, 2014**

In the January 2014 compliance review of candidates’ campaign finance reports, the Commission staff identified an additional five contributions received by the LePage campaign in 2013 from individual donors that exceeded the contribution limit of \$1,500 per election. The details are included in the attached letter from the Commission staff to Bill Logan dated April 3, 2014. In the letter, we advised Mr. Logan that the staff:

- would present the matter to you at your April 30, 2014 meeting,
- intended to recommend a finding that the five contributions violated 21-A M.R.S.A. § 1015(1), and
- intended to recommend no civil penalty under 21-A M.R.S.A. § 1004-A(2).

Mr. Logan will attend your meeting on April 30, 2014 to answer any questions that you have. The campaign will not be submitting a written response to the staff's recommendations.

**FYI – Training New Staff on Compliance Review Procedures**

The staff continues to review the campaign finance reports filed by every county, legislative and gubernatorial candidate in the two weeks following each filing deadline. The next filing deadline for all candidates will be May 30, 2014. The Commission staff will review more than 500 campaign finance reports after that deadline.

During the fall of 2013, half of the Commission's positions were vacant (3/6). Some employees were doing "double-duty." We are now fully staffed and the new employees have been trained in how to review candidates' reports. Some of the training is a continual process, as certain issues arise infrequently. I have advised the new employees on prioritizing contribution limit violations. We miss the experience of our veteran colleagues, but the January compliance reviews went well and were a good training opportunity.

Thank you for your consideration of this agenda item.



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

April 3, 2014

William P. Logan, Esq.  
Irwin, Tardy & Morris  
P.O. Box 476  
Newport, Maine 04953

Dear Mr. Logan:

Thank you for the information you provided to the Ethics Commission staff concerning over-the-limit (OTL) contributions accepted by Governor LePage's 2014 campaign for re-election. Candidates for Governor may accept up to \$1,500 from each donor per election. Thus, candidates who are enrolled in a political party may accept up to \$3,000 per election cycle from a donor (\$1,500 for the primary election and \$1,500 for the general election).

**Commission Policy on Over-the-Limit Violations**

The staff of the Ethics Commission is required by its rules to bring "substantial" violations to the attention of the Commissioners at a public meeting. At the Commission's July 29, 2013 meeting, the members considered three OTL contributions to the LePage campaign that exceeded the limit by \$1,500, \$500, and \$1,500. These contributions were from business or association donors who gave the maximum amount in December 2011 and then made additional donations in late 2012. At the meeting, the Chair stated his preference that the Commission staff view OTL contributions of that magnitude as "substantial" noncompliance.

**Violations Found Since July 29, 2013 Meeting of the Commission**

Since the July 29, 2013 meeting, the Commission staff has identified five more contributions to the LePage campaign that exceeded the \$1,500 limitation. These donations were from individuals who gave separate amounts over time which exceeded \$1,500 per election. All of these OTLs have been remedied by the campaign through returning the excessive portions of the contributions to the donors. The details of the contributions – and the returns to the donors – are shown in an enclosed chart:

- Three OTLs in first half of 2013. Three donors (Jim Boldebook, Gary Bahre, Mirza Zareen) made contributions that exceeded \$1,500 in February and June 2013. The campaign disclosed them in a report filed on July 15, 2013. They were not considered by the Commission at its July 29 meeting.

OFFICE LOCATED AT: 45 MEMORIAL CIRCLE, AUGUSTA, MAINE  
WEBSITE: WWW.MAINE.GOV/ETHICS

PHONE: (207) 287-4179

FAX: (207) 287-6775

The LePage campaign identified these contributions as over the \$1,500 limit on its own, without any notice or communication by the Commission staff. In August 2013, the campaign returned the excessive portions of the contributions to the donors.

- Two OTLs in second half of 2013. Two other contributions (Michael Varney and John Fortier) exceeded the \$1,500 limit in September and December 2013. These contributions exceeded the limit by small amounts – \$50 and \$25, respectively. The campaign disclosed them in a report filed on January 15, 2014. Candidate Registrar Beth Hudson promptly brought them to the campaign's attention, and the campaign returned the excessive portions on January 26, 2014.

#### **Consideration by the Commission on April 30, 2014**

The excessive portions of these five contributions total \$2,125. In keeping with the direction from the Commission at the July 2013 meeting, the Commission staff has scheduled these OTL contributions to be considered by the Commission at its April 30, 2014 meeting.

#### **Applicable Law**

*Contribution Limitations.* Under the Election Law, no donor may make a contribution of more than \$1,500 to a gubernatorial candidate per election, unless the contribution is from the candidate or the candidate's spouse or domestic partner. (21-A M.R.S.A. §§ 1015(1) & (2))

*Civil Penalty.* A person who accepts or makes a contribution that exceeds the contribution limitations may be assessed a penalty of no more than the amount by which the contribution exceeded the limitation. (21-A M.R.S.A. § 1004-A(2))

#### **Staff Recommendations**

At the Commission's meeting on Wednesday, April 30, 2014, the Commission staff intends to recommend that the Commission find that the five contributions violated 21-A M.R.S.A. § 1015(1), but to assess no civil penalty under 21-A M.R.S.A. § 1004-A(2). The recommendation of no penalty is based on the following considerations:

- The 2014 LePage campaign has accepted 1,492 contributions. The five contributions in the attached chart – even when combined with the three considered in July 2013 – constitute a small percentage of contributions received by the campaign (less than 1%). These are not widespread violations. They appear to be inadvertent and caused by administrative errors in screening contributions.

William P. Logan, Esq.  
April 3, 2014  
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- The campaign self-identified the contributions from Jim Boldebook, Gary Bahre, Mirza Zareen as non-compliant and returned the excessive portions without any direction from the Commission well before the 2014 elections.
- The contributions received after the July 29, 2013 meeting from John Fortier and Michael Varney exceeded the \$1,500 limit by small amounts – \$25 and \$50, respectively.
- The Commission should use its penalty authority to encourage compliance, but should also acknowledge that unintentional errors can occur. Fundraising for a gubernatorial campaign can involve multiple individuals, including some not under the direct control of the campaign.
- In your letter submitted for the July 2013 meeting of the Commission, you described new procedures to prevent the campaign from accepting OTL contributions in the future. During the second half of 2013, the campaign accepted only two OTL contributions and they were relatively small.

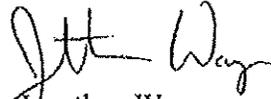
#### Opportunity to Respond

If you would like to respond in writing to the proposed findings of violation, please submit a letter response no later than Wednesday, April 16, 2014. The staff intends to send a packet of materials to the Commissioners on April 17 or 18, which will be posted to the Commission's website. If you need to submit a response later than April 16, we will transmit it to the Commissioners separately from the initial packet.

The Commission is authorized to assess penalties for the violations, under 21-A M.R.S.A. § 1004-A(2) So, notwithstanding the staff's recommendation, you may wish to address the issue of civil penalties in your response.

If you have any questions concerning this matter, please call me at 287-4179.

Sincerely,

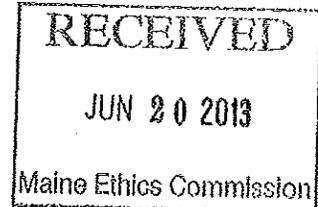
  
Jonathan Wayne  
Executive Director

2014 LePage Campaign  
 OTLs found after July 29, 2013 Commission Meeting  
 in Compliance Reviews

<i>Date of Contribution</i>	<i>Contributor</i>	<i>Amount of Contribution</i>	<i>Campaign Finance Report</i>	<i>Amount Returned</i>	<i>Date of Return</i>
12/21/11	Bahre, Gary	\$1,500.00	Jan 2012 Semiannual		
06/24/13	Bahre, Gary	\$500.00	July 2013 Semiannual		
06/24/13	Bahre, Gary	\$1,500.00	July 2013 Semiannual		
<b>TOTAL</b>		<b>\$3,500.00</b>		<b>\$500.00</b>	<b>8/7/2013</b>
06/28/13	Mirza, Zareen	\$2,500.00	July 2013 Semiannual		
06/28/13	Mirza, Zareen	\$1,500.00	July 2013 Semiannual		
<b>TOTAL</b>		<b>\$4,000.00</b>		<b>\$1,000.00</b>	<b>8/7/2013</b>
09/05/12	Boldebook, Jim	\$250.00	Jan 2013 Semiannual		
10/19/12	Boldebook, James (Jim)	\$300.00	Jan 2013 Semiannual		
02/05/13	Boldebook, James (Jim)	\$1,500.00	July 2013 Semiannual		
02/05/13	Boldebook, James	\$1,500.00	July 2013 Semiannual		
<b>TOTAL</b>		<b>\$3,550.00</b>		<b>\$550.00</b>	<b>8/29/2013</b>
10/19/12	Fortier, John	\$200.00	Jan 2013 Semiannual		
12/05/12	Fortier, John	\$200.00	Jan 2013 Semiannual		
06/29/13	Fortier, John	\$1,000.00	July 2013 Semiannual		
08/01/13	Fortier, John	\$25.00	Jan 2014 Semiannual		
12/10/13	Fortier, John	\$100.00	Jan 2014 Semiannual		
12/10/13	Fortier, John	\$1,500.00	Jan 2014 Semiannual		
<b>TOTAL</b>		<b>\$3,025.00</b>		<b>\$25.00</b>	<b>1/26/2014</b>
06/25/13	Vamey, Michael	\$250.00	July 2013 Semiannual		
06/26/13	Vamey, Michael	\$50.00	July 2013 Semiannual		
09/27/13	Vamey, Michael	\$1,250.00	Jan 2014 Semiannual		
09/27/13	Vamey, Michael	\$1,500.00	Jan 2014 Semiannual		
<b>TOTAL</b>		<b>\$3,050.00</b>		<b>\$50.00</b>	<b>1/26/2014</b>
<b>TOTAL OTL Contributions Reported:</b>		<b>\$2,125.00</b>			
<b>TOTAL Returned to Contributors:</b>				<b>\$2,125.00</b>	

June 20, 2013

Jonathan Wayne, Executive Director  
Maine Ethics Commission  
135 State House Station  
Augusta, ME 04333-0135



Re: *Response to June 6, 2013 letter*

Dear Jonathan:

Please accept the following as my response, as Treasurer for the LePage 2014 campaign, to your letter dated June 6, 2013. Should you have any additional questions following this letter, please feel free to contact me directly.

*Responses to requested information*

<u>Donor</u>	<u>Amount</u>	<u>Date</u>
E.J. Carrier	\$3,000.00	2/17/12
CIANBRO	\$3,000.00	12/15/11
	\$1,500.00	10/15/12
FairPoint	\$3,000.00	12/17/11
	\$500.00	11/8/12
Maine Beer & Wine	\$3,000.00	12/22/11
	\$1,500.00	12/5/12

Attached you will find copies of checks refunding the excessive donations from CIANBRO, FairPoint and Maine Beer & Wine Wholesalers Association. I note that the E.J. Carrier donation was not an over-the limit contribution but rather a typographical error by the previous treasurer in entering the information into the report. I confirmed with the campaign's records and the donor itself that there was only a single \$3,000.00 donation. This data entry error was corrected in the amended report filed on February 21, 2013.

The circumstances that led to the over the limit contributions are as follows. I came on as Treasurer for the campaign in the summer of 2012 - after the above contributors had made the December 2011 contributions. The 2012 contributions in question came via a fundraising professional. Given that the contributions were received not from individuals but rather from sophisticated entities and via a professional fundraiser, I, unfortunately and erroneously, assumed that the contributions were permissible. I neglected to properly cross-reference these contributions against the campaign's list of donors. As such, I did not identify the over-the-limit donations prior to deposit.

Jonathan Wayne  
June 20, 2013  
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After receiving notification from Sandy Thompson about these issues I double-checked the campaign's records. Also, and perhaps out of an overabundance of caution, the campaign reached out to the donors to have them confirm from their records the contributions they had made. While E.J. Carrier confirmed that they had not made an over-the-limit contribution, the other contributors, save FairPoint who we have been unable to receive a response from, have confirmed that the contributions show above were made and inadvertently resulted in an over-the-limit contribution. As noted above, refund checks have been issued to the contributors. It is also worth noting, and can be verified through the filed reports, that these funds were never spent by the campaign.

To ensure that this error will not occur in the future, I have taken the following steps. First, I now am in frequent contact with any fundraisers for the campaign and am providing updates as to received donations so that any fundraisers are aware of who has already donated and the amount they have contributed to date. Additionally, upon receipt of contributions I now employ a two-step verification process. First, prior to deposit, I check each and every contribution against the campaign's donor list to ensure that the contribution will not exceed the limit. Then, after depositing the contribution into the appropriate account, I enter the contribution into the donor list – again checking to ensure that the contribution does not exceed the statutory limit. Accordingly, every deposit is now checked twice against the campaign's donor list.

I understand that the staff intends to place this issue before the Commission at its next scheduled meeting, July 29, 2013. I will be present at that meeting and will be happy to answer any questions that the Commission may have. In the meantime, should you or any other member of the Commission Staff have further questions or request additional clarification, please feel free to contact me directly.

Thank you.

Sincerely,

A handwritten signature in black ink, appearing to read "William Logan", with a long horizontal flourish extending to the right.

William Logan  
Treasurer

## 21-A M.R.S.A. § 1015. LIMITATIONS ON CONTRIBUTIONS AND EXPENDITURES

✓  
**1. Individuals.** An individual may not make contributions to a candidate in support of the candidacy of one person aggregating more than \$1,500 in any election for a gubernatorial candidate, more than \$350 for a legislative candidate, more than \$350 for a candidate for municipal office and beginning January 1, 2012 more than \$750 for a candidate for municipal office or more than \$750 in any election for any other candidate. This limitation does not apply to contributions in support of a candidate by that candidate or that candidate's spouse or domestic partner. Beginning December 1, 2010, contribution limits in accordance with this subsection are adjusted every 2 years based on the Consumer Price Index as reported by the United States Department of Labor, Bureau of Labor Statistics and rounded to the nearest amount divisible by \$25. The commission shall post the current contribution limit and the amount of the next adjustment and the date that it will become effective on its publicly accessible website and include this information with any publication to be used as a guide for candidates.

[ 2011, c. 382, §1 (AMD) .]

**2. Committees; corporations; associations.** A political committee, political action committee, other committee, firm, partnership, corporation, association or organization may not make contributions to a candidate in support of the candidacy of one person aggregating more than \$1,500 in any election for a gubernatorial candidate, more than \$350 for a legislative candidate, more than \$350 for a candidate for municipal office and beginning January 1, 2012 more than \$750 for a candidate for municipal office or more than \$750 in any election for any other candidate. Beginning December 1, 2010, contribution limits in accordance with this subsection are adjusted every 2 years based on the Consumer Price Index as reported by the United States Department of Labor, Bureau of Labor Statistics and rounded to the nearest amount divisible by \$25. The commission shall post the current contribution limit and the amount of the next adjustment and the date that it will become effective on its publicly accessible website and include this information with any publication to be used as a guide for candidates.

[ 2011, c. 382, §2 (AMD) .]

**3. Aggregate contributions.** No individual may make contributions to candidates aggregating more than \$25,000 in any calendar year. This limitation does not apply to contributions in support of a candidate by that candidate or that candidate's spouse or domestic partner.

[ 2007, c. 443, Pt. A, §12 (AMD) .]

**4. Political committees; intermediaries.** For the purpose of the limitations imposed by this section, contributions made to any political committee authorized by a candidate to accept contributions on the candidate's behalf are considered to be contributions made to that candidate. If the campaign activities of a political action committee within a calendar year primarily promote or support the nomination or election of a single candidate, contributions to the committee that were solicited by the candidate are considered to be contributions made to the candidate for purposes of the limitations in this section. For purposes of this subsection, solicitation of contributions includes but is not limited to the candidate's appearing at a fundraising event organized by or on behalf of the political action committee or suggesting that a donor make a contribution to that committee.

For the purposes of the limitations imposed by this section, all contributions made by a person, either directly or indirectly, on behalf of a particular candidate, that are in any way earmarked or otherwise directed through an intermediary or conduit to the candidate are considered to be contributions from that person to the candidate. The intermediary or conduit shall report the original source and the intended recipient of the contribution to the commission and to the intended recipient.

[ 2011, c. 389, §14 (AMD) .]

**5. Other contributions and expenditures.** Any expenditure made by any person in cooperation, consultation or concert with, or at the request or suggestion of, a candidate, a candidate's political committee or their agents is considered to be a contribution to that candidate.

The financing by any person of the dissemination, distribution or republication, in whole or in part, of any broadcast or any written or other campaign materials prepared by the candidate, the candidate's political committee or committees or their authorized agents is considered to be a contribution to that candidate.

[ 1989, c. 504, §§7, 31 (AMD) .]

**6. Prohibited expenditures.** A candidate, a treasurer, a political committee, a party or party committee, a person required to file a report under this subchapter or their authorized agents may not make any expenditures for liquor to be distributed to or consumed by voters while the polls are open on election day.

[ 1991, c. 839, §11 (AMD); 1991, c. 839, §34 (AFF) .]

**7. Voluntary limitations on political expenditures.** A candidate may voluntarily agree to limit the total expenditures made on behalf of that candidate's campaign as specified in section 1013-A, subsection 1, paragraph C and subsections 8 and 9.

[ 1995, c. 384, §2 (NEW) .]

**8. Political expenditure limitation amounts.** Total expenditures in any election for legislative office by a candidate who voluntarily agrees to limit campaign expenditures as provided in subsection 7 are as follows:

A. For State Senator, \$25,000; and [2007, c. 443, Pt. A, §14 (AMD) .]

B. For State Representative, \$5,000. [2007, c. 443, Pt. A, §14 (AMD) .]

Expenditure limits are per election and may not be carried forward from one election to another. For calculation and reporting purposes, the reporting periods established in section 1017 apply.

[ 2007, c. 443, Pt. A, §14 (AMD) .]

**9. Publication of list.** The commission shall publish a list of the candidates for State Representative and State Senator who have agreed to voluntarily limit total expenditures for their campaigns as provided in section 1013-A, subsection 1, paragraph C.

For the purposes of subsections 7 and 8 and this subsection, "total expenditures" means the sum of all expenditures made to influence a single election that are made by a candidate or made on the candidate's behalf by the candidate's political committee or committees, the candidate's party or the candidate's immediate family.

[ 1995, c. 384, §2 (NEW) .]

#### SECTION HISTORY

1985, c. 161, §6 (NEW). 1989, c. 504, §§7,31 (AMD). 1991, c. 839, §11 (AMD). 1991, c. 839, §34 (AFF). IB 1995, c. 1, §11 (AMD). 1995, c. 384, §2 (AMD). 1999, c. 729, §§2,3 (AMD). 2007, c. 443, Pt. A, §§10-14 (AMD). 2009, c. 286, §§2, 3 (AMD). 2011, c. 382, §§1, 2 (AMD). 2011, c. 389, §14 (AMD).

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## 21-A M.R.S.A. § 1004-A. PENALTIES

The commission may assess the following penalties in addition to the other monetary sanctions authorized in this chapter. [2003, c. 628, Pt. A, §1 (NEW) .]

**1. Late campaign finance report.** A person that files a late campaign finance report containing no contributions or expenditures may be assessed a penalty of no more than \$100.

[ 2003, c. 628, Pt. A, §1 (NEW) .]

✓ **2. Contribution in excess of limitations.** A person that accepts or makes a contribution that exceeds the limitations set out in section 1015, subsections 1 and 2 may be assessed a penalty of no more than the amount by which the contribution exceeded the limitation.

[ 2003, c. 628, Pt. A, §1 (NEW) .]

**3. Contribution in name of another person.** A person that makes a contribution in the name of another person, or that knowingly accepts a contribution made by one person in the name of another person, may be assessed a penalty not to exceed \$5,000.

[ 2003, c. 628, Pt. A, §1 (NEW) .]

**4. Substantial misreporting.** A person that files a campaign finance report that substantially misreports contributions, expenditures or other campaign activity may be assessed a penalty not to exceed \$5,000.

[ 2003, c. 628, Pt. A, §1 (NEW) .]

**5. Material false statements.** A person that makes a material false statement or that makes a statement that includes a material misrepresentation in a document that is required to be submitted to the commission, or that is submitted in response to a request by the commission, may be assessed a penalty not to exceed \$5,000.

[ 2005, c. 301, §6 (AMD) .]

When the commission has reason to believe that a violation has occurred, the commission shall provide written notice to the candidate, party committee, political action committee, committee treasurer or other respondent and shall afford them an opportunity to appear before the commission before assessing any penalty. In determining any penalty under subsections 3, 4 and 5, the commission shall consider, among other things, the level of intent to mislead, the penalty necessary to deter similar misconduct in the future and the harm suffered by the public from the incorrect disclosure. A final determination by the commission may be appealed to the Superior Court in accordance with Title 5, chapter 375, subchapter 7 and the Maine Rules of Civil Procedure Rule 80C. [2009, c. 302, §1 (AMD) .]

Penalties assessed pursuant to this section that have not been paid in full within 30 days after issuance of a notice of the final determination may be enforced in accordance with section 1004-B. [2009, c. 302, §2 (NEW) .]

### SECTION HISTORY

2003, c. 628, §A1 (NEW). 2005, c. 301, §6 (AMD). 2007, c. 443, Pt. A, §2 (AMD). 2009, c. 302, §§1, 2 (AMD).