



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

Agenda

Meeting of February 14, 2007

9:00 a.m., Commission Offices, 242 State Street, Augusta, Maine

PUBLIC HEARING

1. Public Hearing on Proposed Rule Changes

On January 19, the Commission members accepted proposed changes to the Commission rules for the purpose of receiving public comment. Invitations to comment were sent to all regular filers of disclosure reports, legislative leadership and staff, and others. Two written comments have been received to date. Written comments are welcome until February 28. If the rule-making remains on schedule, the changes would be adopted at the March 9 meeting.

NEW BUSINESS

2. Ratification of minutes of the October 13, October 20, and November 2, 2006 meetings

3. Assessment of Civil Penalty for Late Filing/Hon. Joshua A. Tardy

Rep. Joshua A. Tardy was a candidate for re-election to the Maine House of Representatives in 2006. Because he was a privately financed candidate with a Maine Clean Election Act (MCEA) opponent, he was required to file a 101% Report within 48 hours of when his cash receipts for the general election exceeded \$4,406. The 101% Report allows the Commission to determine whether a MCEA opponent is due to receive any matching funds. The Commission staff has concluded that Rep. Tardy's 101% Report was filed eighteen days late on September 26th, but that his opponent was not disadvantaged by the late filing. Rep. Tardy has stated that he is not contesting the finding of late filing or the penalty recommended by staff. *Staff recommendation: the staff recommends that the Commission assess a penalty of \$724.71 for the late filing.*

4. Request for Guidance/Hon. Thomas B. Saviello

Rep. Thomas B. Saviello represents District 90 in the Maine House of Representatives and works as the environmental manager of a paper plant in Jay. He asks whether it would be a conflict of interest for him to vote on or otherwise influence an upcoming major substantive rule-making regarding the Regional Greenhouse Gas Initiative. Based

on the titles of bills submitted for this session, he likely will be interested in advice on whether he can vote on other legislation later this year.

5. Complaints/Carol Grose and Susan Wasserott Campaigns

Carol Grose and Susan Wasserott ran against each other for the Maine House of Representatives in District 65. The Grose campaign filed a letter by e-mail alleging that the Wasserott campaign received unreported contributions that violated the Maine Clean Election Act: free advertising in a local newspaper, uncompensated website services, and wood from a former candidate that was used for signs. Attorney Daniel I. Billings submitted a complaint alleging that a television network aired advertising paid for by the Grose campaign that incorrectly stated that it was paid for by the Sagadahoc County Democratic Committee. *Staff recommendation: the staff recommends that the Commission find the Grose campaign and/or the agent for the television network in violation (no penalty assessed) for not including accurate information about the financing for the ads. Depending on the facts of the wood and services donated to the Wasserott campaign, they seem to be covered by exceptions to what is a contribution under the Election Law.*

6. Assessment of Civil Penalty for Late Filing/Hon. Kimberly Davis

Kimberly Davis was a candidate for re-election to the Maine House of Representatives in 2006. Because she was a privately financed candidate with a Maine Clean Election Act (MCEA) opponent, she was required to file a 101% Report within 48 hours of when her cash receipts for the general election exceeded \$4,406. The 101% Report allows the Commission to determine whether a MCEA opponent is due to receive any matching funds. The Commission staff has concluded that Ms. Davis' 101% Report was filed one day late on October 17th, but that her opponent was not disadvantaged by the late filing. Ms. Davis has stated that she is not contesting the finding of late filing or the penalty recommended by staff. *Staff recommendation: the staff recommends that the Commission assess a penalty of \$67.00 for the late filing.*

7. Request for Reconsideration of Late Filing Penalty/South Portland Democratic City Committee

At the November 20, 2006 meeting of the Commission, it assessed a \$500 penalty against the South Portland Democratic City Committee for the late filing of a campaign finance report due July 15, 2006. The committee requests an opportunity for reconsideration so that the chair of the committee can explain the filing. The committee states that its fundraising for the period of January 1 - June 30, 2006 was well below the \$1,500 threshold. In addition, because the committee had a problem with its credit card system at an auction in October 2005, it had to re-collect \$1,050 in payments for high school scholarships in early 2006. The chair states that he did not realize that this collection of 2005 income would count toward the \$1,500 threshold for the July 15, 2006 report. *Staff recommendation: the staff recommends that the Commission re-hear the committee's explanation directly from the committee chair.*

8. Request for Waiver of Late Filing Penalty/Opportunity Maine PAC

The Opportunity Maine PAC was seven minutes late in filing the campaign finance report due October 16, 2006. The preliminary penalty amount was \$105.70. The PAC's treasurer had difficulty using the Commission's e-filing system with a MacIntosh Apple computer. He then used another computer and filed the report at 5:07 p.m. As designed in 2000, the Commission's e-filing system does not work well with the Apple web browser. *Staff recommendation: the staff believes the PAC intended to file on time and recommends a waiver of the \$105.70 penalty.*

9. Complaint/Late Filing of Independent Expenditure Reports

The Maine Senate Republican Victory Fund filed a complaint that three independent expenditure reports were not filed by the Maine Democratic Party within 24 hours of making the expenditures as required by statute and Commission rule.

10. Assessment of Civil Penalty for Late Filing/Nancy Bessey

Nancy Bessey was a candidate for re-election to the Maine House of Representatives in 2006. Because she was a privately financed candidate with a Maine Clean Election Act (MCEA) opponent, she was required to file a 101% Report within 48 hours of when her cash receipts for the general election exceeded \$4,406. The 101% Report allows the Commission to determine whether a MCEA opponent is due to receive any matching funds. The Commission staff has concluded that Ms. Bessey's 101% Report was filed eight days late on October 31st, and that the late filing delayed the payment of matching funds to her opponent, Timothy Carter, in a very close race. The maximum penalty for the late filing is \$6,108.24. Ms. Bessey has responded that she attempted in good faith to file the required reports on time, but that she was a first-time candidate who misunderstood the filing requirements. *Staff recommendation: the staff believes that there are some mitigating circumstances present and that the maximum penalty would be excessive. Nevertheless, because the late filing delayed the payment of matching funds to Mr. Carter, the staff recommends that the Commission a penalty for the late filing of at least \$1,527.04 (25% of the maximum).*

11. Request for Waiver of Late Filing Penalty/Todd Brackett

Todd Brackett was a candidate for Sheriff in Lincoln County. Mr. Brackett filed his 6-Day pre-general report on November 3, 2006, which was two days late. Based on the formula in the statute, the amount of the preliminary penalty is \$74.60. The candidate's treasurer, Penelope Card, states that the report was filed late because she and her husband were involved in a construction accident one week before the deadline as well as dealing with a loss of power for an extended time during the filing period. Ms. Card has been responsible for filing all of Mr. Brackett's reports. *Staff recommendation: the staff believes these were valid emergencies and recommends granting a waiver of the penalty, but finding that the report was filed two days late.*

12. Request for Waiver of Late Filing Penalty/Christopher Wainwright

Christopher Wainwright was a candidate for Sheriff in Oxford County, who filed his 42-Day post-general report one day late on December 20, 2006. Based on the formula in the statute, the amount of the preliminary penalty is \$20.18. The candidate's treasurer,

Louanne Cameron, sates that the report was filed late because her husband had a stroke three days before the deadline and she was with him at the hospital until December 20 when he came home. Mrs. Cameron has already paid the \$20.18 penalty, but requests that the Commission grant her a waiver and that the payment be returned to her. *Staff recommendation: the staff recommends that the Commission find that the report was filed one day late, waive the penalty because of a valid emergency, and return the \$20.18 payment to the treasurer.*

13. Request for Waiver of Late Filing Penalty/Gerald York

Gerald York was a candidate for Somerset County Commissioner. He was one day late filing his November 1, 2006 campaign finance report. The preliminary penalty amount was \$59.80. He requests a waiver because his daughter-in-law had emergency surgery on the November 1 deadline. *Staff recommendation: the staff recommends waiving the penalty because of a valid emergency, but finding that the report was filed one day late.*

14. Request for Waiver of Late Filing Penalty/Bernard Ayotte

Bernard Ayotte was a replacement candidate for State Representative in the 2006 elections who received permission to file written campaign finance reports using the Commission's forms. He was required to file his first campaign finance report 6 days before the general election on November 1. The Commission staff contacted Mr. Ayotte on November 2 and assisted him in filling out the report correctly. The report was filed three days late on November 4, and the preliminary penalty amount was \$195.14. Mr. Ayotte has asked for a waiver of the penalty due to the difficulties he had in filling out the report. *Staff recommendation: the staff of the Commission understands that this was Mr. Ayotte's first campaign finance report, but does not see a basis for granting a waiver consistent with the Commission's past decisions.*

15. Referral to Attorney General for Failure to Pay Civil Penalty/David Hughes

David Hughes was a Maine Clean Election Act candidate for the Maine House of Representatives in 2006. He filed the 6-day pre-primary campaign finance report one day late on November 2, 2006. On November 13th, 2006 the Commission staff mailed him a letter by certified mail advising him of the statutory penalty amount of \$130.86. The letter requested that he pay the penalty or request a waiver from the Commission. The envelope was returned "unclaimed." On December 21, 2006 the staff sent a copy of the letter to him by regular mail. A "Final Notice" was mailed on December 15, and a family member of Mr. Hughes acknowledged receipt of the notice. In a January 17, 2007 telephone conversation with Candidate Registrar Sandy Thompson, Mr. Hughes acknowledged the penalty. He has not paid the penalty or requested a waiver. He also is required to return unspent MCEA funds. *Staff recommendation: the staff recommends that the Commission refer the unpaid penalty and the collection of unspent MCEA funds to the State Attorney General for collection pursuant to 21-A M.R.S.A. §1020-A(10).*

16. Referral to Attorney General for Failure to Pay Civil Penalty/Arthur Clement

Arthur Clement was a Maine Clean Election Act candidate for the Maine House of Representatives in 2006. He filed the 6-day pre-primary campaign finance report twelve days late on November 13, 2006. On that day, the Commission staff mailed him a letter

by certified mail advising him of the statutory penalty amount of \$130.86. The letter requested that he pay the penalty or request a waiver from the Commission. A "Final Notice" was mailed on December 14, and a family member acknowledged receipt of the notice. Mr. Clement has failed to pay the penalty or request a waiver. He also is required to return unspent MCEA funds. *Staff recommendation: the staff recommends that the Commission refer the unpaid penalty and the collection of unspent MCEA funds to the State Attorney General for collection pursuant to 21-A M.R.S.A. §1020-A(10).*

Referral to Attorney General for Collection of Unspent MCEA Funds

17. David Hughes

18. Arthur Clement

19. Paul Nixon

20. Debra Reagan

Under 21-A M.R.S.A. §1125(12), Maine Clean Election Act (MCEA) candidates are required to return all unspent MCEA funds with their final campaign finance report, which was due December 19, 2006. Four candidates who appear to owe more than \$100 have not returned this money. The staff recommends that the Commission request that the Attorney General initiate civil lawsuits to recover the funds.

David Hughes

Mr. Hughes received \$4,362 in public funds from the state as a House candidate. He understands his obligation to return \$140.73 in unspent MCEA funds and has failed to return the money. The staff recommends that the Commission request the Attorney General to file a civil suit against Mr. Hughes to recover the \$140.73 in public funds and the \$130.86 civil penalty. Mr. Hughes has received ample notice of the obligation: he received pre-deadline notices dated October 1 and November 27, 2006 reminding him of his obligation to return unspent MCEA funds. Candidate Registrar Sandy Thompson left a voicemail message for him on January 9 and talked to him on January 17 in which he acknowledged that he had to return the funds and pay his late filing penalty. The Commission staff sent him personalized letters on January 19 and February 1.

Arthur Clement

Arthur Clement is required to return \$5,988.29 in unspent Maine Clean Election Act funds. Mr. Clement has received multiple written requests for these funds. On January 26th, he spoke to Candidate Registrar Sandy Thompson. He stated that while out of the state, he asked his daughter to deposit a payment of MCEA funds in his personal account believing the payment to be a tax credit. He subsequently used the funds for personal expenses, and cannot presently pay the full amount due. In a letter received February 7, he states that he wants to return the funds and proposes a plan to return \$50 per month that would pay off the balance in one year if not sooner. The staff recommends against the proposed plan because the debt would not be paid for 10 years. Mr. Clement has only recently begun responding to the Commission's correspondence, and it is not yet known if he can propose a payment plan that the Commission would find acceptable.

Paul Nixon

Mr. Nixon, a House candidate, has \$1,762.00 in unspent MCEA funds which he must return. He received the October 10 and November 27, 2006 reminder notices, and the personalized memos and letters on January 18 and February 1, 2007. Candidate Registrar Nathaniel Brown left messages on his home phone requesting these funds. On February 2, Mr. Nixon called from Florida and said that he would be sending the funds right away. While the staff is hopeful this may be resolved within a civil action, it recommends referral to hasten the collection.

Debra Reagan

Ms. Reagan, a House candidate, apparently spent only \$300 of the MCEA funds she received and has retained unspent MCEA funds of \$4,518. She received the October 10 and November 27, 2006 reminder notices, and the personalized memos and letters on January 18 and February 1, 2007. On December 20, 2006 Candidate Registrar Nathaniel Brown specifically reminded her by telephone that she would have to return the funds. He later left voicemail messages for her at the correct telephone number and has sent e-mail requesting the unspent funds. In spite of these efforts, the Commission staff is unsure whether she understands the obligation to return the funds.

21. Presentation of Audit Reports

The Commission's auditor will present five audit reports to the Commission. Only one of the reports contains findings. The Commission staff recommends finding 2006 Senate candidate Brian Rines in violation of his obligation to report his expenditures because of some minor reporting errors which have been rectified.

22. Subpoena of Bank Records of Thomas Bossie

At its January 19, 2007 meeting, the Commission referred Mr. Bossie to the State Attorney General for collection of \$4,080.12 in unspent Maine Clean Election Act funds. Mr. Bossie has not responded to the Commission's request for these funds. The Commission staff believes it should conduct a closer review of the candidate's reported expenditures of MCEA funds to verify that they were made for campaign-related purposes. The Commission staff seeks authorization of the Commission to subpoena the bank records for Mr. Bossie's campaign account if he does not provide them voluntarily in response to a request by the Commission.

Other

Miscellaneous as needed.

EXECUTIVE SESSION

If necessary.

ADJOURNMENT