Agenda Item #5

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

To: Commission Members

From: Jonathan Wayne, Executive Director

Date: April 21, 2008

Re: Referral of Alvin Schulman to Attorney General

Alvin Schulman was a candidate for Portland City Council in 2005. Because the City of Portland has more than 15,000 residents, candidates for City Council are subject to the state's campaign finance laws governing legislative and county candidates. They must file a campaign finance report 42 days after the election. The reports are filed with the municipal clerk rather than the Ethics Commission.

After the 2005 general election, the Portland City Clerk contacted the Commission because she was unable to obtain a post-election campaign finance report from Mr. Schulman. After the Commission scheduled the missing report for its meeting in March 2006, Mr. Schulman filed the report with the City Clerk.

At its meeting on April 28, 2006, the Commission assessed a $100 civil penalty against Mr. Schulman for the late filing of the report. After the penalty remained unpaid for some time, the Commission staff notified him that it would recommend to the members of the Commission that they refer this matter to the Maine State Attorney General for collection.

On February 13, 2007, the Commission received the attached handwritten letter from Mr. Schulman explaining that he was unemployed and on public assistance. In the letter he wrote: "[a]s soon as I get a job I will be happy to send you the $100 imposed." He asked whether this matter could be left in abeyance.

Because of the small amount of the penalty and the candidate's expressed intention to pay, the Commission staff departed from its usual procedure of referring unpaid penalties to the Maine State Attorney General for collection. In June 2007, September 2007, and January 2008, Candidate Registrar Sandy Thompson sent Mr. Schulman letters inquiring about his employment status. In his latest response (a January 31, 2008 e-mail), Mr. Schulman replied that he was still unemployed and "unable to pay any thing." He restated that "As soon as things change, I will be happy to pay ...."

The Commission staff has concluded that Mr. Schulman is unable or unwilling to find employment. On April 10, 2008, the staff sent by regular mail the attached letter informing Mr. Schulman that this matter would be scheduled for your consideration at the

April 28 meeting. The letter was e-mailed to him at the same e-mail address he used on January 31, 2008. It invited him to come to the meeting or to submit written comments by today. He submitted no comments.

The staff recommends that the Commission refer this matter to the Attorney General for collection. Alternatively, the Commission may wish to consider waiving the penalty because of Mr. Schulman's financial circumstances.

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April 10, 2008

By E-Mail and Regular Mail
Mr. Alvin Schulman
6 White Birch Lane
Portland, ME 04103

Dear Mr. Schulman:

This letter is with regard to an unpaid $100 late-filing penalty assessed by the Maine Ethics Commission on April 28, 2006. The penalty arose out of your 2005 campaign for Portland City Council. You were required to file a 42-day post-election report on December 20, 2005. The Office of the Portland City Clerk notified the Commission that you had not filed the report. You filed the report with the Portland City Clerk on March 21, 2006 after the matter was scheduled for the Commission's meeting on the following day.

At the Commission next meeting on April 28, 2006, the Commission assessed a $100 penalty against you for filing the report late. After the penalty remained unpaid for some time, the Commission staff notified you that it would recommend to the members of the Commission that they refer this matter to the state's Attorney General for collection.

On February 13, 2007, the Commission received a handwritten letter from you which explained that you were unemployed and on public assistance. In your letter you wrote: "[a]s soon as I get a job I will be happy to send you the $100 imposed." You asked whether this matter could be left in abeyance. In June and September 2007, and January 2008, the staff sent you letters inquiring about your employment status. On January 31, 2008, you replied by e-mail that you are still unemployed and "unable to pay any thing."

Because of your personal circumstances, the Commission staff had departed from its usual procedure for handling unpaid penalties, which is to refer them to the Attorney General for collection. The staff is unwilling to wait any longer.

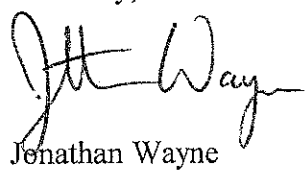
This letter is to notify you that I will be scheduling this matter for consideration by the members of the Commission at their next meeting on Monday, April 28, 2008, at 9:00 a.m. At this meeting, I will be asking the Commission members whether they wish to refer the matter to the state's Attorney General for collection or whether they have any interest in waiving the penalty due to your financial circumstances. You are welcome to comment on either course of action by appearing at the meeting or by submitting written comments no

later than Monday, April 21. On that day, the office will be closed for a holiday, but we will be able to receive faxes or e-mails.

I would also encourage you to resolve this matter by paying the penalty in full by any means available to you, including by credit card if that is an option for you.

If you wish to submit any further comments, please feel to e-mail them to me at Jonathan.Wayne@maine.gov or fax them to me at 287-6775. Please telephone me if you have any questions at 287-4179.

Sincerely,



Jonathan Wayne
Executive Director

cp

Wayne, Jonathan

From: Wayne, Jonathan
Sent: Thursday, April 10, 2008 1:18 PM
To: 'al.schulman@yahoo.com'
Cc: Thompson, Sandy; Lavin, Paul
Subject: Notice of Recommended Referral to AG

Attachments: Ethics Penalty - Referral to AG.pdf

Mr. Schulman,

Please read the attached letter regarding your unpaid penalty of $100.

Sincerely,

Jonathan Wayne
Executive Director
Maine Ethics Commission
135 SHS
Augusta, ME 04333
287-4179

Ethics Penalty - Referral to A...

Thompson, Sandy

MUNICIPAL CANDIDATE

From: al schulman [al.schulman@yahoo.com]
Sent: Thursday, January 31, 2008 5:00 PM
To: Thompson, Sandy
Subject: your letter of 1/09/08

Dear Sandy: I have nothing to report. I am still unemployed as of this date. I an unable to pay any thing at this time. As soon as things change, I will be happy to pay what I have been instructed by your office. Please keep in touch with me, and I will keep you posted as well.

Never miss a thing. Make Yahoo your homepage.

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AUGUSTA, MAINE
04333-0135

January 9, 2008

Mr. Alvin Schulman
6 White Birch Lane
Portland, ME 04103

BY REGULAR MAIL

Dear Mr. Schulman:

As of the date of this letter, your 2005 municipal campaign has an unpaid penalty of $100 for the late filing of your 42-Day Post-Election Campaign Finance Report.

The purpose of this letter is to confirm that your employment status has either not changed (that you are still unemployed) or your employment status has changed and that you are now working. You previously stated that you were unemployed and could not pay the penalty until you started working again.

In response to the last letter I sent you (letter dated September 24, 2007), you informed me that you were still unemployed and your intention was to pay the penalty as soon as possible. Please contact me by January 31, 2008 either in writing, e-mail or by telephone concerning your current employment status including a payment plan for the penalty if you are employed. If you are not employed, please consider paying a small amount ($10) each month to demonstrate your intention of paying the penalty.

If you have any questions regarding this matter, please telephone me at 287-7651. Thank you.

Sincerely,

Sandy Thompson
Candidate Registrar

OFFICE LOCATED AT: 242 STATE STREET, AUGUSTA, MAINE
WEBSITE: WWW.MAINE.GOV/ETHICS

PHONE: (207) 287-4179 FAX: (207) 287-6775

STATE OF MAINE
COMMISSION ON GOVERNMENTAL ETHICS
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AUGUSTA, MAINE
04333-0135

September 24, 2007

Mr. Alvin Schulman
6 White Birch Lane
Portland, ME 04103

BY REGULAR MAIL

Dear Mr. Schulman:

This is a follow-up to the letter that the Commission sent you in April. In that letter, the Commission requested a written payment plan for the outstanding penalty of $100. Following the receipt of that letter, you contacted the Commission and requested a delay in the payment of the penalty until your employment situation changed. You stated that you were unemployed and could not pay the penalty until you started working again.

In June, the Commission set you another letter asking for an update on your employment status. You notified the Commission that you were still unemployed. The purpose of this letter is to confirm that your employment status has either not changed (that you are still unemployed) or your employment status has changed and that you are now working.

Please contact the Commission by October 8, 2007 either in writing or by telephone concerning your current employment status (including a payment plan for the penalty if you are employed).

If you have any questions regarding this matter, please telephone me at 287-7651. Thank you.

Sincerely,

Sandy Thompson

Sandy Thompson
Candidate Registrar

OFFICE LOCATED AT: 242 STATE STREET, AUGUSTA, MAINE
WEBSITE: WWW.MAINE.GOV/ETHICS

PHONE: (207) 287-4179 FAX: (207) 287-6775

STATE OF MAINE
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04333-0135

June 14, 2007

Mr. Alvin Schulman
75 Bartley Avenue
Portland, ME 04103

BY REGULAR MAIL

Dear Mr. Schulman:

This is a follow-up to the letter that the Commission sent you in April. In that letter, the Commission requested a written payment plan for the outstanding penalty of $100. Following the receipt of that letter, you contacted the Commission and requested a delay in the payment of the penalty until your employment situation changed. You stated that you were unemployed and could not pay the penalty until you started working again.

The purpose of this letter is to confirm that your employment status has either not changed (that you are still unemployed) or your employment status has changed and that you are now working. If you are employed, please provide the Commission with a payment plan for the penalty.

By June 30, 2007, please contact the Commission in writing or by telephone as to your current employment status (including a payment plan if you are employed).

If you have any questions regarding this matter, please telephone me at 287-7651. Thank you.

Sincerely,

Sandy Thompson
Candidate Registrar

OFFICE LOCATED AT: 242 STATE STREET, AUGUSTA, MAINE
WEBSITE: WWW.MAINE.GOV/ETHICS

HONE: (207) 287-4179 FAX: (207) 287-6775

STATE OF MAINE
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04333-0135

April 3, 2007

Mr. Alvin Schulman
75 Bartley Avenue
Portland, ME 04103

BY CERTIFIED AND REGULAR MAIL

Dear Mr. Schulman:

The Ethics Commission received your February 11th letter in which you described your present circumstances and requested a waiver of the payment of your late filing penalty ($100) until you become employed.

In order for the Commission to consider your request for a delayed payment, please submit a payment plan to the Commission that includes the date(s) and amount (s) of the payment (s) that will be made. Usually, the Commission will accept a payment plan if a good faith effort is shown to pay the penalty in the shortest time possible based on the amount of the penalty and the circumstances. Please submit the payment plan by April 20, 2007.

If you have any questions regarding this matter, please telephone me at 287-7651. Thank you.

Sincerely,

Sandy Thompson
Candidate Registrar

OFFICE LOCATED AT: 242 STATE STREET, AUGUSTA, MAINE
WEBSITE: WWW.MAINE.GOV/ETHICS

PHONE: (207) 287-4179 FAX: (207) 287-6775

February 11, 2007

RECEIVED
FEB 13 2007
COMMISSION ON GOVERNMENTAL ETHICS
& ELECTION PRACTICES, AUGUSTA, ME

Commission on Government Ethics
and Election Practices
135 State House Station
Augusta, ME 04333-0135

Re: Your letter Dated
January 19, 2007

Dear Ms. Thompson:

This is to request a waiver of the $100.00 fine imposed By the Commission. Since March of 2006 I have been Unemployed and since my Unemployment ran out, my family and I have been Unable to pay my bills. Due to family circumstances we were also forced to move from my wife's home due to some estate problems. Right now we are getting TANIF - Case # 10806443A and City of Portland Social Services - Case 651183.0S Soon as I get a job I will Be happy to send you the $100.00 imposed. Can we please leave this in abeance since I do not have any assets to pay this fine. I hope we can. Please use this letter as authorization to check with the City of Portland as well as the State of Maine as to the truth of my request. Hope to hear from you in the positive shortly.

Very Truly yours

Alvin Jay Schulman

AR.SCHULMAN@YAHOO.COM

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

FINAL NOTICE

January 19, 2007

Mr. Alvin Schulman
75 Bartley Street
Portland, ME 04103

BY CERTIFIED AND REGULAR MAIL

Dear Mr. Schulman:

The Ethics Commission notified you on March 27, 2006 of the preliminary determination of a penalty in the amount of $100 for the late filing of your 42-Day Post-General 2005 campaign finance report and that at its April 28, 2006 meeting, the Commission would render a ruling on the final penalty. The Commission voted unanimously to assess a penalty of $100 for your late filing (see attached pages). Our records indicate that you have not paid the penalty or requested a waiver by the Commission.

Please pay the penalty in full within 30 days of the date of this letter. If the Commission does not receive payment, the Election Law requires the Commission to refer the penalty to the Attorney General's Office for collection.

If you would like a waiver of the penalty, you may request a waiver by faxing a written request no later than February 16, 2007. The Commission will decide on the waiver request at its March meeting. The request can be in the form of a brief letter stating the reasons why the report was late and why a waiver should be granted. The letter may be faxed to 287-6775.

If you have any questions regarding this matter, please telephone me at 287-7651. Thank you.

Sincerely,

Sandy Thompson
Candidate Registrar.

cc. Treasurer
Enc.: Original penalty notice
Commission Agenda and Minutes

OFFICE LOCATED AT: 242 STATE STREET, AUGUSTA, MAINE
WEBSITE: WWW.MAINE.GOV/ETHICS

PHONE: (207) 287-4179 FAX: (207) 287-6775

STATE OF MAINE
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04333-0135

April 28, 2006

Alvin Schulman
75 Bartley Street
Portland, ME 04103

Dear Mr. Schulman:

At its meeting today, the Maine Commission on Governmental Ethics and Election Practices assessed a civil penalty of $100 for the late filing of your 42-day post-election campaign finance report. Although the report was due on December 20, 2005, you filed it on March 21, 2006.

Please submit to the Ethics Commission a payment of $100 by check or money order payable to the "Treasurer, State of Maine" within 30 days. Failure to pay the penalty within 30 days will result in the Commission referring this matter to the State Attorney General for collection of the penalty.

Please telephone me at 287-4179 if you have any questions.

Sincerely,

Jonathan Wayne
Executive Director

cc: Portland City Clerk

OFFICE LOCATED AT: 242 STATE STREET, AUGUSTA, MAINE
WEBSITE: WWW.MAINE.GOV/ETHICS
PHONE: (207) 287-4179
FAX: (207) 287-6775

STATE OF MAINE
COMMISSION ON GOVERNMENTAL ETHICS
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04333-0135

March 27, 2006

Alvin Schulman
75 Bartley Street
Portland, ME 04103

Dear Mr. Schulman:

This is to confirm that the Ethics Commission received confirmation from the Portland City Clerk that on March 21 it received your post-election campaign finance report that you were required to file on December 20, 2005 in connection with your candidacy for the Portland City Council. Previous to filing that report, the Ethics Commission had sent you five notices regarding your failure to file the report, and received a green receipt card indicating you have received its correspondence. At the Commission's March 22 meeting, the staff of the Commission withdrew its recommended penalty of $465.

Instead, the Commission staff has decided to recommend that the Commission assess a civil penalty of $100 under 21-A M.R.S.A. §1004-A(1) (attached). The members of the Ethics Commission will consider the recommended penalty at their next meeting at 9:00 a.m. on Friday, April 28, 2006 at the Commission's office at 242 State Street in Augusta. You are welcome to respond to the recommended penalty in person at the meeting and/or in writing. If you choose to respond in writing, please submit your written response no later than Wednesday, April 19.

Please telephone me at 287-4179 if you have any questions.

Sincerely,

Jonathan Wayne
Executive Director

OFFICE LOCATED AT: 242 STATE STREET, AUGUSTA, MAINE
WEBSITE: WWW.MAINE.GOV/ETHICS

PHONE: (207) 287-4179 FAX: (207) 287-6775

21-A § 1004-A. Penalties

The commission may assess the following penalties in addition to the other monetary sanctions authorized in this chapter.

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.

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.

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.

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.

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.

When the commission has reason to believe that a violation has occurred, the commission shall provide written notice to the candidate, 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.