

Agenda

Item #1



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

Minutes of the March 31, 2008, Meeting of the
Commission on Governmental Ethics and Election Practices
Held in the Commission's Meeting Room,
PUC Building, 242 State Street, Augusta, Maine

Present: Michael Friedman, Esq., Chair; Hon. David Shiah; Hon. Francis C. Marsano; Hon. Edward M. Youngblood, Hon. Mavourneen Thompson. Staff: Executive Director Jonathan Wayne; Phyllis Gardiner, Counsel.

At 9:00 A.M., Chair Michael Friedman convened the meeting.

The Commission considered the following items:

Agenda Item #1. Ratification of Minutes of the January 25 and February 11, 2008 Meetings

On a motion made by Mr. Youngblood and seconded by Mr. Shiah, the minutes of the January 25 and February 11 meetings were accepted as written (5-0).

Agenda Item #2. Request for an Investigation/Maine Heritage Policy Center

Mr. Carl Lindemann participated by telephone since he was unable to attend the meeting in person. Mr. Wayne reviewed, briefly, the background on Mr. Lindemann's complaints against the MHPC. On February 26, 2008, the Maine Superior Court dismissed Carl Lindemann's petition for judicial review challenging the Commission's 2006 determination that the MHPC was not a political action committee. Mr. Lindemann's second complaint filed in March of 2007 is that the campaign finance report filed by the Maine Heritage Policy Center under 21-A M.R.S.A. § 1056-B report is incomplete. In May of 2007, the Commission voted 2-1 to table Mr. Lindemann's second request for investigation until the Superior Court made a determination on the first request, whether MHPC was a PAC. The Court dismissed Mr. Lindemann's first complaint, since he did not have standing to challenge the Commission. Currently, Mr. Lindemann is asking the Commission to consider his second request regarding the completeness of the 1056(B) report filed by MHPC. Mr. Wayne also added that Dan Billings was present today on behalf of the MHPC.

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

PHONE: (207) 287-4179

FAX: (207) 287-6775

Mr. Friedman asked if the Court ruling was final. Ms. Gardiner said Mr. Lindemann has appealed the Court's ruling, so it is not final.

Mr. Wayne also said Mr. Billings is arguing that in May 2007, the Commission decided not to proceed with investigating the MHPC reporting because the question as to whether they were a PAC or not had not been settled. Since that question is still undetermined, the Commission may still have to revisit that issue. The MHPC is asking that any further decisions regarding the 1056(B) report be postponed until the Court has made a final decision on whether the MHPC is a political action committee.

Mr. Lindemann addressed the Commission members. He requested that Chair Friedman step aside as chair for this discussion because he served along side former Commission member Jean Ginn Marvin. He said he would prefer to have a chair that was not associated with Ms. Ginn Marvin's term on the Commission.

Mr. Friedman stated his interest was a fair proceeding also, but did not feel it was necessary for him to step aside.

Reading from a prepared statement, Mr. Lindemann explained why this board was not the appropriate place to hear a case concerning one of its own members. Mr. Lindemann said it was not proper for an officer of a regulated entity (political action committee) to serve as a regulator on the Ethics Commission. He further said that Commission members should not rule on fellow commissioners. He believes this is problematic for the Commission staff as well as the Commission members. He stated three troubling issues that he saw in the way that Mr. Wayne framed the issues in his memo:

- 1.) The Executive Director down played Jean Ginn Marvin's role, and therefore failed to address an important issue – Ms. Ginn Marvin's dual role as chair of the Commission and treasurer of MHPC.
- 2.) The Executive Director misstated the legal standard for when the Commission initiates an investigation, and Mr. Billing's repeats the same misstatement in his letter of March 21, 2008.
- 3.) The Executive Director deflected attention away from MHPC inaccurate statements to the Commission.

Mr. Lindemann further stated that the complaint is whether the 1056(B) report is accurate; he believes the MHPC has history of providing incomplete and untrue information to the Commission. Mr. Lindemann said Mr. Wayne failed to mention this information.

Mr. Lindemann also spoke to the issue of recusal of Commission members. He said commissioners should not judge fellow commissioners and there are three current members who served with Ginn Marvin and the remaining two are not sufficient to hear the complaint since, as a result, there no longer is a quorum. He believes this issue must be heard elsewhere.

Mr. Lindemann also referred to the Ethics Commission's mission statement to, "conduct its duty promptly, fairly and efficiently." He said this lengthy delay in his matter is denying the public's right to know. He said fact finding should go forward by a State Auditor or the Attorney General's office immediately in order to preserve evidence. He further reviewed a memo he sent the Attorney General's office in response to a memo Phyllis Gardiner provided at the last meeting and said regardless of the Court's ruling on the type of political entity the MHPC is, their report must be truthful, therefore action should be taken on the truthfulness of this report. Mr. Lindemann said he believes the Law Court will rule in favor of his appeal but that the Commission should not wait for guidance from the Court, since it will most likely not happen.

Mr. Friedman summarized two points he understood Mr. Lindemann was making: the issue of Commissioner Ginn Marvin's participation, in his view, regarding a decision affecting of MHPC, and the issue of whether the Commission is the proper venue to investigate Ms. Ginn Marvin's activities and if it is not, then that matter should be referred to another agency. Mr. Friedman said the Ginn Marvin issue had been asked and answered several times in the past. It has been determined that this Commission did not have jurisdiction to investigate fellow commissioners. The Commission had also encouraged Mr. Lindemann to seek out another opinion or get advice from the Attorney General's office or legislative offices, if he wished in order to get a different result.

Mr. Lindemann disagreed with Mr. Friedman's summation. He said the qualifications and, in his view, prohibited conduct of Ginn Marvin was put aside because statutes regarding qualifications to serve on the Commission and prohibited activities are not within the purview of the Commission; however, he believes this is different – something clearly within the purview and involves a commissioner.

Ms. Gardiner explained her understanding of Mr. Lindemann's request. She said that he was not asking the Commission to rule on former Commissioner Ginn Marvin's qualifications, but that the Commission cannot fairly investigate and determine the accuracy and completeness of MHPC's 1056(B) report because

of the fact that allegations are being made regarding Ginn Marvin's role as treasurer of MHPC and her role in that reporting.

Mr. Lindemann asked whether it was correct to say that officers of political committees are not to serve on the Commission.

Ms. Gardiner said she thought that he was not pressing that issue. She thought the issue was regarding whether the Commission will take up the matter of the MHPC's 1056-B report and, if the Commission does take it up, how the Commission will proceed regarding investigation of MHPC's 1056(B) report since the treasurer was a Commission member.

Mr. Lindemann said he believes this conflict issue has to be dealt with before any investigation should take place on the accuracy of the reporting.

Mr. Friedman said this Commission is well intentioned and well guided and will do the appropriate investigation if that is determined to be necessary. Mr. Friedman further stated he believes the issue is whether MHPC is a PAC or not and, if not a PAC, then whether the 1056(B) report is accurate. That is what the Commission has jurisdiction to investigate, if the Court determines that is required. Mr. Friedman asked Mr. Lindemann whether anything has changed since May 2007, when the Commission decided that an investigation would not happen unless the Court says the MHPC is in fact a PAC. Mr. Friedman asked Mr. Lindemann whether he was still in litigation regarding these issues with MHPC.

Mr. Lindemann admitted that this issue is still in litigation and no ruling has been determined by the Courts.

Mr. Dan Billings, on behalf of the Maine Heritage Policy Center, addressed the Commission and referred to his letter dated March 21, 2008, to the Commission. He stated he believes the Commission is the only body that could take up a complaint regarding MHPC's 1056-B report. He said currently there is no procedure in Maine law that says the issue could be referred to any other body. The Legislature charged the Commission with this duty. He stated the issue Mr. Lindemann raised regarding current commissioners participating in prior considerations regarding MHPC does not seem valid. Regarding Mr. Lindemann's comments regarding the staff's role, Mr. Billings stated that the staff only advises the Commission. The

commissioners consider the advice and make their own decisions on each matter brought forth. Mr. Billings said Ms. Ginn Marvin was not an officer of a political committee in October, 2006, because the Commission determined that MHPC was not a PAC. He said Mr. Lindemann has taken issue with the Commission's procedures and Mr. Lindemann has stated the Commission is biased and unfair. Mr. Billings believes any procedure this Commission takes going forward on this issue will not satisfy Mr. Lindemann. He expressed his concern that if the Commission proceeds with this matter, Mr. Lindemann will again find the procedure inadequate and will advance that argument to the Court as he did with regard to the first complaint against MHPC that he filed. Mr. Billings thought that a more prudent course would be for the Commission to wait until the Court had ruled on the appeal and whether it takes up the issue of the Commission's procedure.

Mr. Billings stated before moving forward on any investigation, a preliminary fact finding needs to be made by the Commission. The laws and rules do not provide good guidance about what that finding should be. However, the evidence must be in support of the complaint before an investigation is done. The Commission should conduct investigations only when it determines to do so, not by an individual coming forward saying they do not think a report is accurate. He said that does not justify an investigation.

Mr. Billings also reviewed the language in the reporting requirements for contributions within the law and the MHPC's reporting procedures. He said he thought the law was clear that it was the intent of the organization receiving the contribution that would be relevant for the 1056-B reporting requirement and that a 1056(B) report could show more expenditures than contributions. The way the law refers to these reporting requirements can be interpreted differently. Some organizations show more expenditures than contributions and other show more contributions than expenditures. He also noted that MHPC was asked to come up with information for their report after the fact, and therefore no logs were kept during the election period. He said general allegations are not enough to justify going forward with an investigation.

Mr. Friedman asked Mr. Billings if the appeal to Law Court is on the standing issue. Mr. Billings confirmed it was.

Mr. Friedman further asked if the Law Court determines that Mr. Lindemann has standing to raise the issues that he has raised in Superior Court, the likely result is that the Law Court will send it back to the Superior Court for a determination as to whether the MHPC is either a 1056(B) entity or a PAC.

Mr. Billings said that it is likely it will go back to Superior Court. He further stated that Mr. Lindeman raises issues beyond the issues of that legal determination. He said Mr. Lindeman raises issues regarding the fairness of the Commission and procedures used by the Commission.

Mr. Friedman asked Mr. Billings if, in his view, anything had changed on this issue since the May 14, 2007 meeting. Mr. Billings stated other than passage of time, no different than where we were in May, 2007.

Mr. Wayne read the motion by Commissioner Cassidy from the May 14, 2007, meeting to reschedule the item until after the Superior Court decision.

Ms. Thompson said that the core issue before the Commission was whether the 1056(B) report filed by MHPC is accurate. She asked what the staff's procedures are to determine if a report is accurate and how the reports are reviewed. She said she thinks the priority is looking over the reported information for accuracy.

Mr. Wayne said 1056(B) reporting is a new territory for the Commission. He said the Legislature created the 1056(B) reporting requirement in 2001 and the report was not used much until 2006 when TABOR was on the ballot. He said there are no routine procedures established for reviewing this report for accuracy.

Ms. Thompson asked if these reviews happen regularly. Mr. Wayne said they do not.

Ms. Thompson said going forward, it would be important for the Commission to have procedures to verify the accuracy of 1056-B reports filed with the Commission. To her, the accuracy of these reports is the core issue. She wondered what would be the impact on the Commission's credibility and the public's right to know if the Commission had to wait until the courts decided whether the Commission should investigate an organization's reporting.

Mr. Wayne said the Legislature has changed the law this year regarding these reports. The statute is clearer as to what a filer will need to report. He said an aggressive education plan is also being worked on by staff, currently, so that future entities will have more guidelines. Mr. Wayne said in the future, better education and better outreach will help this situation.

Ms. Thompson asked if the staff believes in the veracity of MHPC's report that was filed.

Mr. Wayne said accuracy depends on how the statute on the contribution side is interpreted. He said the MHPC identified contributors who specifically indicated their funds go towards TABOR. He explained that the statute says contributions are only required to be reported if the funds were to influence a ballot question. He said MHPC said they did not solicit money specifically for TABOR. Only funds contributed for the general operations of MHPC were solicited, so therefore, they do not need to report all of their contributors, only TABOR contributors.

Mr. Wayne said Mr. Lindemann believes that MHPC fundraising letters were mailed out that said help support this TABOR issue and that those contributions were not reported.

Mr. Lindemann began to speak regarding the substance of the complaint.

Mr. Friedman said the discussion is only on the procedural aspect, not substance of the complaint and the public comments on procedural aspect are over.

Ms. Thompson said Mr. Billings spoke to the substance of the complaint and she thought Mr. Lindemann should get an opportunity to speak to the substance of the claim. She asked when Mr. Lindemann will have an opportunity to speak on the substance of the complaint.

Mr. Friedman said Mr. Lindemann will have an opportunity to respond, if the Commission decides to go forward with the investigation. He said that discussion may not be necessary at this point. He said the status of the Court's determination is directly related to investigation of the submitted report. Mr. Friedman said it may not be required to do an investigation or review of the report. The MHPC may need to file a PAC report. He said the next step requires the Commission to wait until the Court makes a determination.

Ms. Thompson expressed her concern over the veracity of the report filed by MHPC. Since Mr. Billings took time to speak to the substance of the issue, Mr. Lindemann's comments may help her decide whether to table this issue. Mr. Lindemann's response to Mr. Billings' comments will affect her decision.

Mr. Marsano stated that, from his view, Mr. Lindemann's difficulty may be the motion itself in that Superior Court has acted but the Superior Court's decision is not yet final. Now the Commission is waiting for the appeal to the Law Court to rule on the Superior Court's decision. He understands that Mr. Lindemann's efforts are to preserve his rights going forward. He expressed concern over the lack of clarity in the original motion at the May 2007 meeting and believes the intent was to wait until the Court's decision is final, but that is not the way the motion reads.

Mr. Marsano moved that further proceedings with respect to this matter be tabled pending a final decision of the courts. Mr. Shiah seconded the motion.

Mr. Marsano said the Law Court can make a ruling to do a number of different things that would make a final determination. He said that the Commission needs a final decision. Mr. Lindemann's rights have been preserved.

The motion passed by a vote of 4 to 1 (Ms. Thompson opposing).

Mr. Lindemann asked what actions would be appropriate to protect the record since the issue may drag on for a while.

Mr. Friedman advised Mr. Lindemann to contact his attorney.

Agenda Item #3. Request for Waiver of Late-Filing Penalty/Lobbyist Dennise D. Whitley

Mr. Wayne informed the Commission that Ms. Whitley is a lobbyist for the American Heart Association and filed the lobbyist registration form four days late on February 12, 2008. Ms. Whitley requests a waiver of the \$200 penalty because she believed that the report was due on February 15, 2008.

Dennise Whitley addressed the Commission. She has been a lobbyist and employee at the American Lung Association for approximately eight years. She explained that this is her first time being late. She believes the problem occurred because she reached the eight-hour threshold for registration earlier in the month than she has previously. She thought her registration was due within 15 days of the end of the calendar month in which the lobbying occurred, which in her case would be February 15. She said that she had always thought that was the requirement but that in the past she had probably reached the threshold later in the

month and was still within the 15 business day period when she did file her registration. She also said that the penalty is based on each person listed on the registration; however, she is required to list her immediate supervisor who is not a lobbyist in Maine. She believes the additional \$100 is not fair in this case.

Mr. Youngblood said charging \$200 seems high for the affiliated lobbyist, but someone lobbying for eight years should know the reporting requirements for registration.

Mr. Marsano said the statute is very confusing but that the information for lobbyists provided by the staff was clear. He would leave the penalty as the staff recommends.

Mr. Friedman said the registration date is fairly clear; however, he said that he thought it was unfair to assess a \$200 penalty against her since the statute refers to a penalty of \$100 per person. He would support a reduced penalty of \$100.

Ms. Thompson said a two week period is a generous amount of time to register. She would not support a reduction in the penalty.

Ms. Thompson moved to accept the staff recommendation of a \$200 penalty for failure to register appropriately after having lobbied for more than eight hours in a one month period. Mr. Marsano seconded the motion, which failed by a vote of 2 in favor and 3 opposed.

Mr. Youngblood moved to assess a \$100 penalty against Ms. Whitley for the failure to register. The motion was seconded by Mr. Friedman. The motion passed (5-0).

Agenda Item #4. Request for Waiver of Late-Filing Penalty/Lobbyist Katherine D. Pelletreau

Mr. Wayne explained that Katherine D. Pelletreau sent in a second explanation at the request of the Commission at last month's meeting. She is the Executive Director of the Maine Association of Health Plans, and was registered as a lobbyist for the Association in 2007. She was two days late to file an annual report due on December 31, 2007. The amount of the statutory penalty is \$200. Ms. Pelletreau requests a waiver of the penalty because she was on leave from her work through December 31, 2007, due to her husband's heart attack. Mr. Wayne said the staff was recommending a \$50 penalty in recognition of Ms. Pelletreau's circumstances. Ms. Pelletreau was not present for the discussion.

Mr. Friedman confirmed with Mr. Wayne that the statute permits reduction due to mitigating circumstances such as medical emergencies.

Mr. Shiah asked if Ms. Pelletreau had filed her past monthly reports on time. Staff confirmed that it appeared her previous reports were filed on time.

Mr. Marsano said her letter leaves the same gap as he had questioned in the material last month. He also questioned whether the item needed to have a motion to discuss, since it was tabled last month by motion.

Mr. Friedman stated and Ms. Gardiner confirmed that when a motion is tabled at a meeting, a motion is not required to have an item removed from table at the next meeting.

Mr. Shiah moved to reduce the penalty to zero due to mitigating circumstances; Mr. Youngblood seconded the motion, which passed unanimously (5-0).

Agenda Item #5. Request for Waiver of Late-Filing Penalty/Lobbyist Tracy Allen

Mr. Wayne explained that Tracy Allen was a lobbyist for Environment Maine who filed the January monthly report three days late on January 18, 2008. She requests a waiver of the \$100 penalty because she was out of town on the day of the filing and did not receive a reminder notice until one day prior to the deadline. Ms. Allen was not present for the discussion.

Mr. Friedman asked if there was a reason for her being out of town. Mr. Wayne said that she gave no particular reason why she was out of town.

Ms. Thompson confirmed with Mr. Wayne that electronic filing was appropriate.

Mr. Youngblood moved to accept the staff recommendation of a \$100 penalty; the motion was seconded by Mr. Friedman. The motion passed by a vote of 5-0.

Agenda Item #6. Request for Waiver of Late-Filing Penalty/Lobbyist Elizabeth Sweet

Mr. Wayne stated that Elizabeth Sweet of Moose Ridge Associates is a registered lobbyist for five clients, and was required to file a monthly report for each client on December 15, 2007, and an annual report on December 31, 2007. Mr. Wayne read a statement from John Hennessy, the associate lobbyist in charge of filing the reports, requesting a waiver of the \$500 penalty because he mistakenly believed that the annual reports due on December 31 would include the November filing requirement. Mr. Wayne said the staff recommends assessing the penalty of \$500.

Mr. Shiah stated \$500 seems like a high figure. Mr. Friedman explained that there were five clients, and the penalty is \$100 for each.

Ms. Thompson moved to accept the staff recommendation and assess a penalty of \$500. The motion was seconded by Mr. Youngblood. The motion passed by a vote of 4-1 (Mr. Shiah opposed).

In consideration of the Commission's practice of addressing agenda items out of order to accommodate the attendance of public participants regarding particular items, the Commission considered the following item at this time:

Other Business - Carl J. Young, House District #65 Candidate, Request for Guidance

Mr. Wayne explained that Mr. Young failed to file a required form when he registered as a candidate in December, 2007, declaring his intention to run as a Clean Election Act candidate. He is required to collect 50 qualifying contributions and signatures from registered voters. He did not file the Declaration of Intent form within five business days of collecting the contributions. He has collected 54 contributions but only 13 are valid because the other contributions were collected more than five business days before filing his Declaration. Mr. Young is asking for guidance as to how to handle the contributions that are not valid. The staff has suggested that Mr. Young either get a new check from the contributors dated correctly or have the contributors change the date of the check and initial the change on the check. Mr. Wayne said his opponents have been notified of the situation and do not object to the staff's suggestions.

Mr. Shiah suggested that the contributors could make their donations on line.

Mr. Young addressed the Commission. He stated this is his first time through the process and he is not sure where the Declaration of Intent form ended up. He stated that he went to each person and talked with them all, across their kitchen table. He wants to make the correction of this error as easy as possible on the contributors. He does not want to impose on the contributors to write another check or go online to make their contributions. He would prefer to go back to each contributor and ask that they change the date. He also stated he has checked with a bank and the bank agreed that changing the date on the check is acceptable.

Mr. Friedman stated concern that possibly further down the road during the campaign, Mr. Young could open himself up to a potential problem if someone comes forward and says he did not qualify properly because he has to be able to prove that the contributor changed the date on the checks. He said the burden of proof would then be on Mr. Young. Mr. Friedman thought that having the contributor write a new check would remove any doubt regarding the legality of his qualifying.

Ms. Thompson stated that Mr. Young has two weeks until the deadline to go back to the contributors and get a new check to cover all the bases, or he could get new contributors with new signatures within the time left. She agreed with Mr. Friedman's advice. She acknowledged it would be more work to get those new signatures, but worth the effort in the end.

Mr. Friedman said the Commission would advise Mr. Young to either solicit 37 new contributors or ask the current contributors to write new checks.

Ms. Gardiner left the meeting.

Agenda Item #7. Request for Waiver of Late-Filing Penalty/Lobbyist Severin Beliveau

Mr. Wayne explained that Mr. Paul Padillo, who files reports for Severin Beliveau, a lobbyist for the Maine Health Care Association, filed Mr. Beliveau's monthly report about one hour late at 6:02 p.m. Mr. Padillo requests a waiver of the \$100 penalty because he had no internet access at his office computer and had to file the report from home. Mr. Wayne stated that the Commission has granted some waivers when internet access has been compromised.

Mr. Friedman stated that this issue is different than internet access being denied due to weather or other issues. He said this is a case of waiting until the last minute, he feels.

Mr. Youngblood moved to follow the staff recommendation and assess a penalty of \$100 to Severin Beliveau for late filing of his monthly report; Ms. Thompson seconded the motion, which passed by a vote of 5-0.

Agenda Item #8. Request for Waiver of Late-Filing Penalty/Cape Elizabeth Republican Committee

Mr. Wayne stated that the treasurer of the committee is attending a funeral today and asked that this be postponed until next month's meeting.

Mr. Shiah moved to table this item until the next meeting; the motion was seconded by Mr. Youngblood and passed by a vote of 5-0.

Agenda Item #9. Policy Question: Amending Requirements for Lobbyist Registration

This question was raised at the last meeting by Ms. Thompson. Mr. Wayne said there probably are cases where lobbyists do not exceed the current eight-hour threshold for registering but that there is no way to know with certainty. Mr. Wayne stated the lobbyists are comfortable with the current threshold amounts.

Ms. Thompson asked if there was an upper threshold amount in the law. Mr. Wayne said currently there is no upper threshold in the law.

Mr. Youngblood stated that there have not been any complaints from the public or individuals regarding lobbyist's reporting time. He said it is up to the Legislature to make changes in the eight-hour threshold requirement, not the Commission. If someone thought it was a problem, changes would have been made, he said.

Ms. Thompson stated that the Legislature should be looking at this issue since many hours can be spent lobbying, but lobbyists do not have to register if they do not reach the eight-hour threshold within a month.

Mr. Friedman stated he agrees with Ms. Thompson's concern. He said further discussion should take place by the Commission and by the LVA Committee at a later date. Mr. Friedman thought that this matter should be addressed again later in the year.

Agenda Item #10. Procedural Issue: Proposed Regular Public Comment Session

Ms. Thompson asked the Commission to consider whether to include a regular public comment session during each monthly meeting.

Mr. Wayne stated that he did some research with other agencies and with staff counsel. Ms. Gardiner said there were no rules requiring a public comment session. Mr. Wayne further reported that other State regulatory agencies such as the Land Use Regulation and Board of Environmental Protection do not have a public comment session.

Mr. Friedman said the Worker's Compensation Board and the Human Rights Commission do not have a separate agenda item for public comments. He said he thought the reason being that many people could address the board with tangential issues, putting regular agenda items that were scheduled aside to hear issues that may not pertain to that board.

Ms. Thompson said the Commission's practice under different chairs was to allow the public to make comments and bring forth issues at the end of the meeting. She feels that a public body should always have a citizen comment period on their agenda. She further stated that the Ethics Commission will become more publicly noted and publicly reviewed, especially if certain legislation regarding legislative ethics becomes law. She said that it was therefore very important that the Commission be as open and transparent as possible for citizens. She said the Chair and the Commission have the right under Roberts Rules to put a time limit or to rule anyone out of order.

Mr. Marsano stressed the need for careful scrutiny by the Chair of the Commission as to the length of time someone is allowed to address the Commission.

Ms. Thompson moved to establish as formal practice for putting a public comment session at the beginning of each meeting; the motion was seconded by Mr. Shiah.

Mr. Youngblood stated while this is a good idea, he is opposed to this practice. He said if someone has a real legitimate issue, they can be put on the agenda. If their issue is not legitimate, then they should not be making comments at a Commission meeting anyway.

Mr. Marsano stated he would like to propose an amendment that would limit the amount of time an individual could address the Commission to two minutes as protection for the Chair.

Ms. Thompson accepted this amendment and seconded.

Mr. Friedman stated his concern that when the press shows up at a meeting, some members of the public will take advantage of the press time and speak to the press not to the Commission. He would be opposed to a public comment session. He also stated that there have been cases where someone is in attendance at the end of a meeting and have been heard by the Commission.

Mr. Friedman said it puts a burden on the Chair to try to determine someone's motivation in speaking. He said an item that does not appear on the agenda could take over legitimate issues that need to be discussed and are on the agenda.

The motion failed by a vote of 2 to 3. Ms. Thompson and Mr. Marsano voted in favor of the motion; Mr. Friedman, Mr. Youngblood and Mr. Shiah voted in opposition to the motion.

Agenda Item #11. Proposed Rule Amendment

Mr. Wayne explained that the Legal and Veterans Affairs Committee has requested the Commission adopt a rule change which would allow candidates to re-use campaign signs from a previous election without requiring the disclosure statement be updated regarding who paid for the communication. Mr. Wayne said the statute requires the authorization and name and address of the person financing the communication be on the sign. The LVA Committee is directing the Commission to begin a rulemaking.

Mr. Friedman asked if the LVA has the power to direct the Commission.

Mr. Wayne said the LVA Committee is used to agencies being cooperative regarding requests for rule changes. He told the LVA Committee he would pass this request on to this Commission. He has not

expressed the Commission's point of view to the LVA Committee to place a sticker over the old information which would keep the signs 100% accurate.

Ms. Thompson said that she did not think that the Commission should be interpreting the statute regarding disclosures on campaign communications in a way that does not provide the public with 100% accuracy.

Mr. Friedman stated that he is troubled that the LVA Committee has requested the Ethics Commission lower its standards by allowing old, outdated information be acceptable on campaign signs. He further expressed concern over the Legislature to suggest that the Ethics Commission permit conduct which does not reach the highest standards of election practices. He further said if the Legislature wants to force the Commission to make this change, they need to do so by way of legislation. He said if the Legislature wants changes to the rule, he would accept the sticker concept over using an outdated, misinformed sign. He said the signs need to be 100% accurate to the public.

Mr. Wayne offered to draft a letter to the LVA Committee.

Mr. Marsano said that a letter should state that this request is beyond the scope and authority of the Commission and is in the purview of the Legislature.

Agenda Item #12. Dates of May and June Meetings of the Commission

The following dates were set for meetings: Friday, May 30, 2008 and Friday, June 27, 2008.

There being no further business, the meeting was adjourned at 11:50 a.m.

Respectfully submitted,

Jonathan Wayne, Executive Director

Agenda

Item #2

From: Bill Gross [mailto:bgross@maine.rr.com]
Sent: Tuesday, April 22, 2008 5:12 AM
To: jeremy.j.brown@maine.goc
Cc: Christine Zachman; Jan Martin Staples; Matthew Jones; Reid Jones
Subject: background info for request for waiver

Jeremy Brown

Here is a synopsis of the reason we are asking for a waiver of the fine for late filing of our report to the commission for the second half of 2007.

- 1) Lack of experience in filing commission reports within our town committee.

We filed a report for the first half of 2007 because we had raised \$1,741.00 in the January – June 2007 period. This is the only record I have of our town committee ever filing a report with the commission. One of the other committee members believes we may have submitted a report in 2002, but that was several Treasurers before me and we have no record of this possible report filing.

We only raised \$1,016.00 in the second half of 2007 and did not remember that we still had to file a report for the second half of 2007 because we had raised more than \$1,500 in the first half of 2007. Our former Treasurer, Christine Zachman, first became aware of this fact when she received a phone call from the Secretary of State's office telling her we had missed the January 15 filing deadline.

- 2) Changes in town committee officers.

We had our both our chairman and secretary resign during the summer of 2007.

At our September 25 meeting:

Nominated Matt Jones for chairman

Nominated Christine Zachman (existing treasurer) for secretary

At our October 23 meeting:

Elected Matt Jones as chairman

Elected Christine Zachman as secretary

Christine Zachman resigned as treasurer

Nominated William Gross for treasurer

At our November 27 meeting:

Elected William Gross as treasurer

At our December 19 meeting:

Christine Zachman turned over financial records and check book to William Gross

On December 22:

Christine Zachman and William Gross went to bank and added William Gross to signature card for checking account

As a result of all these changes, I was the treasurer at the time we should have filed a report for the second half of 2007, but I was unaware that a report was due and as new treasurer, I did not receive any notification from the state that a report was due by January 15, 2008.

Thank you,

William Gross
Treasurer
Cape Elizabeth Republican Town Committee
(207) 799-1634

RECEIVED

FEB 19 2008

Christine Zachman
42 Scott Dyer Road
Cape Elizabeth, ME 04107
CDoyle01@maine.rr.com • (207) 318-3761 MAINE ETHICS COMMISSION

February 16, 2008

Via Facsimile
(207) 287-6775

Gavin O'Brien
State of Maine Commission on Government Ethics & Election Practices
135 State House Station
Augusta, ME 04033-0135

Re: Cape Elizabeth Republican Committee Fine for Late Filing

Dear Mr. O'Brien:

I served as the Cape Elizabeth Republican Committee Treasurer until December 18, 2007. At that time, a new Treasurer, William Gross III, was elected. In the fall of 2007, our Committee had several emergency elections to fill the positions of Chairperson, Secretary and Treasurer. As I'm sure you can understand, there were several weeks of confusion as files, documents and other information exchanged hands to get to the appropriate officer.

At the time that the Notice of the filing was sent, the new Treasurer had just been elected. I don't recall receiving the Notice. However, I did receive a call mid-January alerting me of the missed deadline and the steps to follow to file the report. It was my understanding that we had until the end of the month to get the report filed. Due to personal and work travel, it was the following week until I was able to get the information needed to prepare the Report for filing.

I did file the Report the last week of January. Shortly thereafter the new Treasurer, Mr. Gross, received a notification of a \$120.00 fine assessed for the late filing. Though I understand that the deadlines are set for a purpose, I ask for your understanding of the extenuating circumstances in our Committee at the time resulting in the late filing of our end of year Report. I also ask that the \$120.00 fine be waived.

I thank you for your attention to this matter and I look forward to your response.

Sincerely,



Christine R. Zachman, Secretary
Cape Elizabeth Republican Committee

RECEIVED

FEB 14 2008

MAINE ETHICS COMMISSION

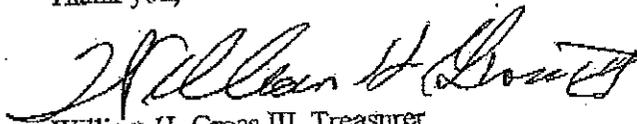
William H. Gross III, Treasurer
Cape Elizabeth Republican Committee
7 Seaview Avenue
Cape Elizabeth, Maine 04107

Gavin O'Brien
State of Maine
Commission on Governmental Ethics and Election Practices
135 State House Station
Augusta, Maine 04033-0135
Fax (207) 287-6775

Dear Mr. O'Brien

I would like to request a final determination by the commission on the \$120.00 penalty assessed for late reports. I am the newly elected Treasurer and never received the notice of the filing deadline. The previous Treasurer informed me that she had not received the filing deadline notice and only became aware of the deadline when she received a notice that the deadline had passed, when she immediately forwarded the required information to your office.

Thank you,



William H. Gross III, Treasurer
Cape Elizabeth Republican Committee



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

January 31, 2008

William H. Gross III, Treasurer
Cape Elizabeth Republican Committee
7 Seaview Avenue
Cape Elizabeth, ME 04107

Dear Mr. Gross:

Our records show that your committee's January Semiannual report, due on 1/15/08 was filed on 1/31/08. State law [21-A M.R.S.A. §1020-A] requires that a penalty be assessed for late reports based on the amount of financial activity conducted during the filing period, the number of calendar days a report is filed late, and the party committee's filing record. Based on the prescribed statutory formula, the preliminary determination of the penalty for the late filing of your campaign finance report would be \$120.00. Please refer to the enclosed penalty matrix for more details on how the penalty is computed. If you agree with this preliminary determination of the amount of the penalty, you may use the enclosed billing statement to pay that penalty.

If you have a reason for filing late, you may request a final determination by the Commission on Governmental Ethics and Election Practices. Any request for a Commission determination must be made within 10 calendar days of receipt of this certified U.S. mail notice, beginning on the day you sign for receipt of this notice of the proposed penalty. If this certified letter has been refused or left unclaimed at the post office, the 10-day period begins on the day the post office indicates it has given first notice of a certified letter.

Upon receipt of your request for a Commission determination, we will schedule you to appear at the next scheduled Commission meeting and notify you of the date and time of that meeting. You or a person you designate may then appear personally before the Commission; or, you may send a written statement for the Commission's consideration. If you elect to send a statement, it must be notarized and must contain a full explanation of the reason you filed late. Statements should be sent to the address shown on this letterhead. The Commission will notify you of the disposition of your case within 10 days after its determination.

The Commission may waive penalties for late reports only in cases where tardiness is due to mitigating circumstances. The law defines "mitigating circumstances" as: 1) a valid personal emergency of the committee treasurer, such as a personal illness or death in the immediate family; 2) an error by the Commission staff; 3) failure to receive notice of the filing deadline; or 4) other circumstances determined by the Commission that warrant mitigation of the penalty, based upon relevant evidence presented that a bona fide effort was made to file the report in accordance with the statutory requirements, including, but not limited to, unexplained delays in postal service.

Sincerely,

Gavin O'Brien

enc: Penalty Matrix & Billing Statement

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

January 31, 2008

William H. Gross III, Treasurer
Cape Elizabeth Republican Committee
7 Seaview Avenue
Cape Elizabeth, ME 04107

The Commission on Governmental Ethics and Election Practices has made a preliminary determination that a penalty of \$120.00 applies for the late filing of your January 2008 Semiannual report. If you agree with this determination, please make your check or money order payable to "Treasurer, State of Maine," and send it, along with the bottom half of this letter, to the **Commission on Governmental Ethics and Election Practices, 135 State House Station, Augusta, Maine 04333** within 30 days of the date noted above. Please see the instructions included in the attached letter if you would like to request a formal Commission determination of any penalty to be assessed in this case.

FAILURE TO PAY THE FULL AMOUNT OF THIS PENALTY IS A CIVIL VIOLATION. Pursuant to 21-A M.R.S.A. § 1020-A(10), the Commission is required to report to the Attorney General the name of any political committee that fails to pay the full amount of any penalty.

Please direct any questions you may have about this matter to the Commission at 287-4179.

Cut Along Dotted Line

To: Commission on Governmental Ethics and Election Practices
135 State House Station
Augusta, Maine 04333

From: William H. Gross III, Treasurer
Cape Elizabeth Republican Committee

For Office Use Only Account: CGEEP Fund: 014 Appr: 02
--

Re: Penalty for late filing of January Semiannual campaign finance report (\$120.00)

Amount Enclosed: \$ _____

Check/M.O. No.: # _____

Please Make Check/M.O. Payable to: Treasurer, State of Maine

COMMISSION ON GOVERNMENTAL ETHICS AND ELECTION PRACTICES

**CONTRIBUTION/EXPENDITURE PENALTY MATRIX
LATE PARTY COMMITTEE REPORTS**

21-A M.R.S.A. Section 1020-A

A campaign finance report is timely filed when a properly signed copy of the report, substantially conforming to the disclosure requirements, is received by the Commission before 11:59 p.m. on the date it is due. A penalty begins to accrue after 11:59 p.m. on the day the report is due. Penalties are based on a percentage of the total contributions or expenditures for the filing period, whichever is greater, multiplied by the number of calendar days the report is filed late, as follows:

- For the first violation, 1%
- For the second violation, 3%
- For the third and each subsequent violation, 5%

<u>Example:</u> The party committee treasurer files the report two calendar days late. The committee has not had any previous late filings in the past 2 years. The committee reports a total of \$2,500 in contributions and \$1,500 in expenditures for the filing period. The penalty is calculated as follows:	
\$2,500	Greater of the amount of total contributions received or expenditures made during the filing period.
X .01	Percent prescribed for first violation
\$25.00	One percent of total contributions
x 2	Number of calendar days late
\$50.00	Total penalty Commission may assess

Cape Elizabeth Republican Committee	
<u>Your penalty is calculated as follows:</u>	
Contributions/Expenditures	\$ _____ 750
Percent prescribed:	X _____ 0.01
	\$ _____ 7.50
Number of days late:	X _____ 16
Total penalty accrued:	\$ _____ 120
Maximum penalty	\$ _____

A penalty begins to accrue at 11:59 p.m. on the day the report is due.

Any penalty of less than \$10 is waived.

Violations accumulate on reports with filing deadlines in a 2-year period that begins on January 1st of each even-numbered year. Waiver of a penalty does not nullify the finding of a violation.

A required report that is sent by certified or registered United States mail and postmarked at least 2 days before the deadline is not subject to penalty.

Maximum penalties:

State Party Committee:	\$5,000
Municipal, District, & County Committees	\$500

STATE OF MAINE
COMMISSION ON GOVERNMENTAL ETHICS AND ELECTION PRACTICES

RECEIVED

Mail: 135 State House Station, Augusta, ME 04333
Office: 242 State Street, Augusta, Maine
Tel: (207) 287-4179 Fax: (207) 287-6775
Website: www.maine.gov/ethics
Electronic Filing: http://www.maine.campaignfinance.com

JAN 31 2008

MAINE ETHICS COMMISSION

MUNICIPAL, DISTRICT & COUNTY PARTY COMMITTEE REPORT - 2007

COMMITTEE IDENTIFICATION (Include full name of committee.)

Name Cape Elizabeth Republican Committee
Mailing address 7 Seaview Avenue
(official headquarters of committee)
City, zip code Cape Elizabeth, ME 04107 Telephone 799-1634

Check if address is different than previously reported.

TREASURER IDENTIFICATION

Name of treasurer William H. Gross III
Mailing address 7 Seaview Avenue
City, zip code Cape Elizabeth, ME 04107 Telephone 799-1634
E-mail address BGross@maine.rr.com

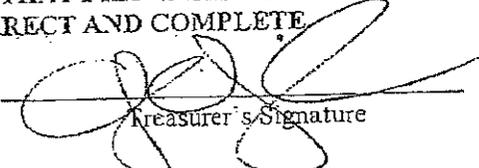
Check if address is different than previously reported.

MUNICIPAL/COUNTY/DISTRICT COMMITTEE FILING PERIODS (Check applicable period below):

Due Date	Reporting Period
<input type="checkbox"/> July 16, 2007	January 1, 2007 – June 30, 2007
<input checked="" type="checkbox"/> January 15, 2008	July 1, 2007 – December 31, 2007
<input type="checkbox"/> October 31, 2007	July 1, 2007 – October 25, 2007
<input type="checkbox"/> January 15, 2008	October 26, 2007 – December 31, 2007

Any local party committees participating in the November 6, 2007 election who raise or spend money to support or defeat items on that ballot must file the following reports:

I CERTIFY THAT I HAVE EXAMINED THIS REPORT AND TO THE BEST OF MY KNOWLEDGE IT IS TRUE, CORRECT AND COMPLETE


Treasurer's Signature

1/29/08
Date

REPORTING EXEMPTION: Any party committee receiving and expending less than \$1,500 in one calendar year is exempt from the reporting requirements for that year.



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

CERTIFIED MAIL

January 28, 2008

Christine Zachman, Treasurer
Cape Elizabeth Republican Committee
42 Scott Dyer Road
Cape Elizabeth, ME 04107

Re: Failure to File Campaign Finance Report

Dear Ms. Zachman:

Our records show that your January Semiannual campaign finance report, due 1/15/08 for the above-mentioned party committee, has not been filed. Maine State Election law requires that a penalty be assessed for late reports based on the amount of financial activity conducted during the filing period, the number of calendar days a report is filed late, and the party's filing record. Because your penalty may increase daily, we **urge you to file your report as soon as possible.**

Once you have filed your delinquent report, our office will calculate any penalty that may apply, and will notify you of the amount. Maine State Elections law (21-A M.R.S.A. § 1004-A) permits the commission to assess a late-filing penalty on reports with zero financial activity.

Thank you for your prompt attention to this matter.

Sincerely,

A handwritten signature in black ink that reads "Gavin O'Brien".

Gavin O'Brien
Registrar

IMPORTANT: A TREASURER WHO FAILS TO FILE A REQUIRED PAC REPORT WITHIN 30 DAYS OF THE FILING DEADLINE IS GUILTY OF A CLASS E CRIME. VIOLATIONS ARE REFERRED TO THE ATTORNEY GENERAL FOR PROSECUTION.

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

PHONE: (207) 287-4179

FAX: (207) 287-6775

Action

called 1/16; treasurer is away and will file next week

Last Name
Cape Elizabeth Republican Committee



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

To: All Municipal, District, and County Party Committees
From: Gavin O'Brien, Registrar
Date: December 21, 2007
Re: January 15, 2008 Filing Deadline

Your municipal, district or county party committee filed a July semiannual campaign finance report with our office. Since you have met the \$1,500 threshold for reporting in 2007, you are obligated to file the January semiannual report. The report must include all financial activity from July 1 to December 31, 2007.

Filing Deadline: 11:59 p.m. on January 15, 2008

Reporting Period: July 1 – December 31, 2007

Committees that file reports electronically may do so at any time. If you do not remember your user code and password or if you have any problems entering information into the report, please contact the Commission. To file your report on time, you must hit the "File Report" button by 11:59 p.m. on January 15, 2008.

If you do not file your report electronically, you may fax it to the Commission (at 287-6775), provided the signed original report is received in this office within 5 calendar days after the fax. The time stamp on the Commission's fax machine will be deemed the time the report was filed.

You may also mail your report. If you mail your report, the Commission must receive it on January 15, 2008. A report that is sent by certified or registered mail and is postmarked at least two days prior to the deadline will not be considered late even if it is received after the deadline.

A blank reporting form is enclosed with this memo. You can also download a reporting form on the Commission's website at <http://www.maine.gov/ethics/forms/index.htm#party>.

A party committee that receives and spends less than \$1,500 in a calendar year is exempt from the requirement of filing reports for that year. Once a party committee receives or spends more than \$1,500 in a calendar year, the committee must file the next scheduled report and all subsequent reports for that year. The first report filed in any calendar year must include all contributions received and expenditures made since January 1 of that year.

Please call me at 287-4709 or e-mail Gavin.O'Brien@maine.gov if you have any questions.

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

Name	Address	City	State	Zip	Treasurer Name	Treasurer Address	Treasurer City
Androscoggin County Republican Committee	544 Sabathus Street	Sabathus	ME	04280	Tammy W. Seger	P.O. Box 1255	Sabathus
Arrostock Democratic County Committee	19 Baird Road	Carbou	ME	04736	Roger A. Roy	19 Baird Road	Carbou
Cape Elizabeth Republican Committee	42 Scott Dyer Road	Cape Elizabeth	ME	04107	Christine Zachman	42 Scott Dyer Road	Cape Elizabeth
Cumberland County Democratic Committee	P.O. Box 1894	Portland	ME	04104	Lawrence Bliss	504 Cottage Rd.	South Portland
Cumberland County Green Independent Committee	Fore Street	Portland	ME	04101	Benjamin Mellejohn	11 Exchange St.	Portland
Hancock County Democratic Committee	P.O. Box 1414	Ellsworth	ME	04605	Sally A. Crowley	P.O. Box 64	Corra
Hancock County Republican Committee	P.O. Box 5407	Ellsworth	ME	04605	Troy A.H. Adams	200 High St.	Ellsworth
Kennebec County Democratic Committee	P.O. Box 238	Manchester	ME	04284	Linda McKee	201 Walton Rd.	Wayne
Knox County Democratic Committee	P.O. Box 482	Rockland	ME	04841	Stuart Thro	PO Box 215	Ow's Head
Knox County Republican Committee	P.O. Box 448	Rockland	ME	04841	Lawrence A. Bird	PO Box 391	Ow's Head
Lincoln County Democratic Committee	P.O. Box 336	Waldoboro	ME	04572	Sandra O'Farrell	P.O. Box 336	Waldoboro
Lincoln County Republican Committee	Inn Rd.	South Bristol	ME	04568	Peter Lawrence	438 Duck Puddle Road	Nobleboro
Oxford County Democratic Committee	PO Box 187	Greenwood	ME	04255	Michael K. Broderick	77 Sunday River Road	Bethel
Oxford County Republican Committee	1023 King Street	Oxford	ME	04270	Lynn Hamper	1023 King St.	Oxford
Penobscot County Democratic Committee	P.O. Box 2685	Bangor	ME	04402	Kurt A. Keef	42 Skyway Dr.	Hannan
Penobscot County Republican Committee	P.O. Box 1734	Bangor	ME	04402	Harrison Clark	P.O. Box 1734	Bangor
Piscataquis County Democratic Committee	PO Box 44	Gulfport	ME	04443	Patricia Fortier	P.O. Box 44	Gulfport
Portland Democratic City Committee	P.O. Box 1332	Portland	ME	04104	Sive Neilan	28 Emerson St.	Portland
Sagadahoc County Democratic Committee	241 Fiddler's Reach Road	Phillipsburg	ME	04562	Stephen C. Masters	241 Fiddler's Reach Road	Phillipsburg
Seacoast Democrats	647 US Route 1 Unit 14-121	York	ME	03909			
Waldo County Republican Committee	P.O. Box 811	Belfast	ME	04915	Brian Scagliarini	P.O. Box 811	Belfast
Woolwich Republican Committee	157 Phipps Point Road	Woolwich	ME	04579	Pamela L. Cahill	157 Phipps Point Road	Woolwich
York County Republican Committee	P.O. Box 291	Lebanon	ME	04027	Karen Gerrish	PO Box 291	Lebanon
York Democratic Town Committee	3 Carwin Drive	York	ME	03909	Glen MacWilliams	77 Chases Pond Road	York

21-A MRSA §1017-A. Reports of contributions and expenditures by party committees

1. Contributions. A party committee shall report all contributions in cash or in kind from a single contributor that in the aggregate in a campaign total more than \$200. The party committee shall report the name, mailing address, occupation and place of business of each contributor. Contributions of \$200 or less must be reported, and these contributions may be reported as a lump sum.

[2007, c. 443, Pt. A, §17 (AMD) .]

2. Expenditures on behalf of candidates, others. A party committee shall report all expenditures in cash or in kind of the committee made on behalf of a candidate, political committee, political action committee or party committee registered under this chapter. The party committee shall report:

A. The name of each candidate , political committee, political action committee or party committee; [2007, c. 443, Pt. A, §17 (AMD) .]

B. The office sought by a candidate and the district that the candidate seeks to represent; and [1991, c. 839, §23 (NEW); 1991, c. 839, §33 (AFF) .]

C. The date , amount and purpose of each expenditure. [2007, c. 443, Pt. A, §17 (AMD) .]

[2007, c. 443, Pt. A, §17 (AMD) .]

3. Other expenditures. Operational expenses and other expenditures in cash or in kind of the party committee that are not made on behalf of a candidate, committee or campaign must be reported separately. The party committee shall report:

A. The name and address of each payee or recipient; [2007, c. 443, Pt. A, §17 (AMD) .]

B. The purpose for the expenditure; and [2007, c. 443, Pt. A, §17 (AMD) .]

C. The date and amount of each expenditure. [1993, c. 715, §2 (NEW) .]

[2007, c. 443, Pt. A, §17 (AMD) .]

4. Filing schedule.

[2003, c. 302, §2 (RP) .]

4-A. Filing schedule. A state party committee shall file its reports according to the following schedule.

A. Quarterly reports must be filed by 11:59 p.m.:

(1) On January 15th and must be complete up to January 5th;

(2) On April 10th and must be complete up to March 31st;

(3) On July 15th and must be complete up to July 5th; and

(4) On October 10th and must be complete up to September 30th. [2007, c. 443, Pt. A, §17 (AMD) .]

B. General and primary election reports must be filed by 11:59 p.m.:

(1) On the 11th day before the date on which the election is held and must be complete up to the 14th day before that date; and

(2) On the 42nd day after the date on which the election is held and must be complete up to the 35th day after that date. [2007, c. 443, Pt. A, §17 (AMD) .]

C. Reports of spending to influence special elections, referenda, initiatives, bond issues or constitutional amendments must be filed by 11:59 p.m.:

- (1) On the 11th day before the date on which the election is held and must be complete up to the 14th day before that date; and
- (2) On the 42nd day after the date on which the election is held and must be complete up to the 35th day after that date. [2007, c. 443, Pt. A, §17 (AMD).]

D. A state party committee that files an election report under paragraph B or C is not required to file a quarterly report under paragraph A when the deadline for that quarterly report falls within 10 days of the filing deadline established in paragraph B or C. [2003, c. 302, §3 (NEW).]

E. A state party committee shall report any expenditure of \$500 or more made after the 14th day before the election and more than 24 hours before 5:00 p.m. on the day of the election within 24 hours of that expenditure. [2007, c. 443, Pt. A, §17 (AMD).]

[2007, c. 443, Pt. A, §17 (AMD) .]

4-B. Filing schedule for municipal, district and county party committees. Municipal, district and county party committees shall file reports according to the following schedule.

A. Reports filed during an election year must be filed with the commission by 11:59 p.m. on:

- (1) July 15th and be complete as of June 30th;
- (2) The 11th day before the date on which the election is held and must be complete up to the 14th day before that date; and
- (3) January 15th and be complete as of December 31st. [2007, c. 443, Pt. A, §17 (AMD) .]

B. Reports filed during a nonelection year must be filed by 11:59 p.m. on:

- (1) July 15th and be complete as of June 30th; and
- (2) January 15th and be complete as of December 31st. [2007, c. 443, Pt. A, §17 (AMD) .]

C. Any expenditure of \$1,000 or more made after the 14th day before any election and more than 24 hours before 11:59 p.m. on the day of the election must be reported within 24 hours of that expenditure. [2007, c. 443, Pt. A, §17 (AMD) .]

[2007, c. 443, Pt. A, §17 (AMD) .]

4-C. Electronic filing. State party committees shall file each report required by this section through an electronic filing system developed by the commission. The commission may make an exception to this electronic filing requirement if a party committee submits a written request that states that the party committee lacks access to the technology or the technological ability to file reports electronically. The request for an exception must be submitted by March 1st of the election year. The commission shall grant all reasonable requests for exceptions.

[2007, c. 443, Pt. A, §17 (AMD) .]

5. Penalties. A party committee is subject to the penalties in section 1020-A, subsection 4-A.

[2003, c. 1, §13 (COR) .]

6. Notice; forms. A state party committee shall notify all county, district and municipal party committees of the same political party of the party committee reporting requirements. The party committees shall obtain the necessary forms from the commission to complete the filing requirements.

[1991, c. 839, §23 (NEW); 1991, c. 839, §33 (AFF) .]



7. Exemption. Any party committee receiving and expending less than \$1,500 in one calendar year is exempt from the reporting requirements of this section for that year.

[1991, c. 839, §23 (NEW); 1991, c. 839, §33 (AFF) .]

8. Municipal elections. When a party committee makes contributions or expenditures on behalf of a candidate for municipal office subject to this subchapter, it shall file a copy of the reports required by this section with the clerk in that candidate's municipality.

[1995, c. 483, §10 (NEW) .]

SECTION HISTORY

1991, c. 839, §23 (NEW). 1991, c. 839, §33 (AFF). 1993, c. 228, §1 (AMD). 1993, c. 680, §C2 (AMD). 1993, c. 715, §§1,2 (AMD). 1995, c. 228, §1 (AMD). 1995, c. 483, §§9,10 (AMD). RR 1995, c. 2, §37 (COR). 2003, c. 302, §§2,3 (AMD). 2003, c. 628, §§A2,B4 (AMD). RR 2003, c. 1, §13 (COR). 2005, c. 301, §§18-20 (AMD). 2007, c. 443, Pt. A, §17 (AMD).

Agenda

Item #3



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 22, 2008
Re: Cumberland County Republican Committee

The county and municipal committees of the political parties are required to file with the Commission two to four campaign finance reports per year if they raise or spend \$1,500 or more in a calendar year. The vast majority of these local party committees never reach the \$1,500 threshold, so they are not required to file campaign finance reports with our office.

The Cumberland County Republican Committee raised \$3,818 at a fundraiser in August 2007. Because the committee's receipts for 2007 exceeded the threshold of \$1,500, the committee was required to file a report on January 15, 2008 that disclosed the committee's contributions and expenditures for the calendar year of 2007. The committee had previously filed campaign finance reports during 2002 through 2006.

In 2007, the leadership of the committee changed. Brian Bicknell became the treasurer in March 2007. He was not made aware by others in the committee that it would need to file campaign finance reports if it raised more than \$1,500 during the year.

In late March 2008, Mr. Bicknell contacted Jeremy Brown, the Commission's PAC/Party/Lobbyist Registrar to find out about the reporting requirements for 2008. After hearing the requirements, he investigated whether the committee was in error by not filing any reports for the previous year, 2007. He discovered that the committee was required to file the January 2008 report covering the 2007 calendar year. He notified Jeremy that the committee had been delinquent in not filing the report and filed it on April 8, 2008.

After the report was filed, Jeremy notified the committee of the possibility of the assessment of a penalty of \$500. The amount of a late-filing penalty for a county party committee is capped at a maximum of \$500 per report. Mr. Bicknell submitted an April 17, 2008 letter requesting a waiver of the penalty on the basis of turnover in the leadership of the committee, displacement of the committee's records due to a fire, lack of notice, and other reasons. I have attached his letter for your consideration.

The Commission staff believes that Mr. Bicknell has shown a very high degree of good faith in self-reporting the problem to the Commission. Nevertheless, late-filing penalties are assessed against the committee, not the treasurer personally. We believe some penalty should be assessed because it is the committee's responsibility to learn that campaign finance reports must be filed if the committee raises or spends more than \$1,500 in a calendar year. Mr. Bicknell became the treasurer in March 2007. At that time, other officers of the committee should have explained the \$1,500 threshold to him or he should have contacted our office to learn about the reporting requirements. (As noted above, the committee had filed campaign finance reports between 2002 and 2006.) In addition to being available by telephone, the Commission staff has posted on the agency's website a filing schedule and a party committee guidebook outlining the reporting requirements if a party committee raises or spends more than \$1,500 in a calendar year.

The staff recommends assessing the \$500 penalty in order to be consistent with the stricter approach taken by the Commission members toward party committees in the last few years. For example, the Portland City Democratic Committee did not file two campaign finance reports for calendar year 2005 even though it reached the \$1,500 threshold. For the March 2006 meeting, the committee treasurer argued for a waiver of the two \$500 penalties, citing turnover in the position of treasurer, no written reminder from the Commission, and a good faith intention to comply with the requirements. For these reasons, the Commission staff recommended a 50% reduction in the penalty, but the Commission assessed the full \$500 penalties for both reports (for a total of \$1,000). The Cumberland County Democratic Committee was late in filing three reports in 2006 and 2007. That committee paid the maximum penalty of \$500 for each report and did not ask for a waiver.

The Commission staff is mindful that Mr. Bicknell brought this matter to our attention. We do not want to discourage him and other committee treasurers from coming forward if there is a problem with the past reporting. Mr. Bicknell will be attending the April 28 meeting. If you are convinced that there were mitigating circumstances in this case, you may wish to consider reducing the penalty.

April 17, 2008

Commission on Governmental Ethics and Election Practices
135 State House Station
Augusta, Maine 04333-0135

RECEIVED

APR 18 2008

MAINE ETHICS COMMISSION

Dear Sirs,

I am appealing the \$500.00 fine imposed on me for the late filing of the 2007 report for the Cumberland County Republican Committee (CCRC). Although I do not dispute the lateness of my report, it was not done to avoid the requirement, but out of ignorance of the requirement.

I assumed the role of Treasurer of the CCRC in March of 2007. Never having functioned in this role before, I thought my responsibilities involved tracking the organization's income and expenses and paying the bills. There was very little money involved initially and no thought of a need to report, other than to the committee.

When we held a golf tournament in August, as a fund raiser, I realized we were handling enough money so that there might be a need to report beyond the CCRC. I kept a separate report of this event to identify net proceeds. The net proceeds from this event were \$3,818.00.

About the time I was going to check the files I inherited to see if I could figure out what reports might be required, we had a fire in our home. The fire resulted in our being out of our home for almost three months with all the related upheaval. Everything was removed from our cellar, where the records were stored, and only recently returned.

As soon as I discovered that I might need to file a report with the state, I made every effort to find out what needed to be done. I could not make the commission web site work from my computer. I then contacted Jeremy Brown, who e-mailed the documents to me and I subsequently submitted them.

The leadership of the CCRC completely changed in 2007. There was no attempt to not meet the state's requirements, only a lack of knowledge of what they were. Is anything sent out to town and county committees annually to alert them to the requirements? If so, I never received anything.

Given the lack of resources, lack of notification, our untimely fire, and my inability to access the commission web site, I am requesting that the commission waive the fine for my late filing. Had there been any intent to flaunt the law or try to avoid it, I would not have sought out help in filing. Had it not been for our fire and the resulting problems it caused, I would have sought that help sooner and not been in violation.

Thanks you for your consideration.



Brian Bicknell



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

April 9, 2008

Mr. Brian P. Bicknell, Treasurer
Cumberland County Republican Committee
21 Wildwood Circle
Portland, ME 04103

Re: Campaign Finance Report Late Filing

Dear Mr. Bicknell:

The January Semiannual report for the above mentioned party committee was received by our office on April 9, 2008. This report was due on the next filing period after the committee accepted contributions, incurred obligations or made expenditures in the aggregate in excess of \$1,500 in a single calendar year. Based on the information provided in your report, it should have been filed no later than January 15, 2008.

Penalties for late reports are based on the amount of financial activity during the filing period, the number of calendar days a report is filed late, and the committees filing history. Based on this formula however, the penalty for this filing would exceed the maximum permitted by statute for a municipal, county or district committee. The Commission has therefore assessed a preliminary penalty of \$500. Please refer to the enclosed penalty matrix for more information.

If you believe you have a valid reason for filing late, you may request that the Commission review your case make a final penalty determination. Any request for a Commission determination must be made within 10 calendar days of receiving this notice, beginning the day you sign for receipt. If this notice has been refused or left unclaimed at the post office, the 10-day period will begin on the day the post office indicates that it gave first notice of a certified letter. Upon receipt of your request for a Commission determination, we will schedule you to appear before the Commission at the next regularly scheduled meeting. You may appear before the Commission personally, designate a representative to appear on your behalf, or submit a notarized written statement in which you provide an explanation of the mitigating circumstances you wish the Commission to take into consideration. The Commission will notify you of the disposition of your case within 10 days after its determination.

Please direct any questions you may have about this matter to me at 287-6221.

Sincerely,

Jeremy J. Brown
PAC, Party & Lobbyist Registrar

Enclosures (2)

cc: Brian Bicknell (home)

April 9, 2008

Brian Bicknell, Treasurer
Cumberland County Republican Committee
21 Wildwood Circle
Portland, ME 04104

The Commission on Governmental Ethics and Election Practices has made a preliminary determination that a penalty of \$500 applies for the late filing of your January Semiannual report, covering your 2007 activity. If you accept this determination, please make your check or money order payable to "**Treasurer, State of Maine,**" and send it, along with the bottom half of this letter, to the **Commission on Governmental Ethics and Election Practices, 135 State House Station, Augusta, Maine 04333** within 30 days of the date noted above. Please see the instructions included in the attached letter if you would like to request a formal Commission determination of any penalty to be assessed in this case.

FAILURE TO PAY THE FULL AMOUNT OF THIS PENALTY IS A CIVIL VIOLATION.
Pursuant to 21-A M.R.S.A. § 1020-A(10), the Commission is required to report to the Attorney General the name of any political committee that fails to pay the full amount of any penalty.

Please direct any questions you may have about this matter to the Commission at 287-6221.

Cut Along Dotted Line

To: Commission on Governmental Ethics and Election Practices
135 State House Station
Augusta, Maine 04333

From: Brian Bicknell, Treasurer
Cumberland County Republican Committee

For Office Use Only Account: CGEEP Fund: 014 Appr: 02
--

Re: Penalty for late filing of January Semiannual campaign finance report (\$500.00)

Amount Enclosed: \$ _____

Check/M.O. No.: # _____

Please Make Check/M.O. Payable to: Treasurer, State of Maine

COMMISSION ON GOVERNMENTAL ETHICS AND ELECTION PRACTICES

CONTRIBUTION/EXPENDITURE PENALTY MATRIX LATE PARTY COMMITTEE REPORTS

21-A M.R.S.A. Section 1020-A

A campaign finance report is timely filed when a properly signed copy of the report, substantially conforming to the disclosure requirements, is received by the Commission before 11:59 p.m. on the date it is due. A penalty begins to accrue after 11:59 p.m. on the day the report is due. Penalties are based on a percentage of the total contributions or expenditures for the filing period, whichever is greater, multiplied by the number of calendar days the report is filed late, as follows:

- For the first violation, 1%
- For the second violation, 3%
- For the third and each subsequent violation, 5%

Example: The party committee treasurer files the report two calendar days late. The committee has not had any previous late filings in the past 2 years. The committee reports a total of \$2,500 in contributions and \$1,500 in expenditures for the filing period. The penalty is calculated as follows:

\$2,500	Greater of the amount of total contributions received or expenditures made during the filing period.
<u>X .01</u>	Percent prescribed for first violation
\$25.00	One percent of total contributions
<u>x 2</u>	Number of calendar days late
\$50.00	Total penalty Commission may assess

PARTY COMMITTEE
Your penalty is calculated as follows:

Contributions/Expenditures	\$ 9614.00
Percent prescribed:	<u>X .01</u>
	\$96.14
Number of days late:	<u>X 85</u>
Total penalty accrued:	\$ 8171.90
Maximum penalty	\$500

A penalty begins to accrue at 11:59 p.m. on the day the report is due.

Any penalty of less than \$10 is waived.

Violations accumulate on reports with filing deadlines in a 2-year period that begins on January 1st of each even-numbered year. Waiver of a penalty does not nullify the finding of a violation.

A required report that is sent by certified or registered United States mail and postmarked at least 2 days before the deadline is not subject to penalty.

Maximum penalties:

State Party Committee:	\$5,000
Municipal, District, & County Committees	\$500

STATE OF MAINE
COMMISSION ON GOVERNMENTAL ETHICS AND ELECTION PRACTICES

Mail: 135 State House Station, Augusta, ME 04333

Office: 242 State Street, Augusta, Maine

Tel: (207) 287-4179 Fax: (207) 287-6775

Website: www.maine.gov/ethics

Electronic Filing: http://www.maineconline.com

RECEIVED

APR 9 2008

MUNICIPAL, DISTRICT & COUNTY PARTY COMMITTEE REPORT, 2007
MAINE ETHICS COMMISSION

COMMITTEE IDENTIFICATION (Include full name of committee.)

Name Cumberland County Republican Committee (CCRC)
Mailing address 21 Wildwood Circle
City, zip code Portland, ME 04103 Telephone 874-6680
(official headquarters of committee) Check if address is different than previously reported

TREASURER IDENTIFICATION

Name of treasurer Brian P. Bicknell
Mailing address 268 Sisquisie Trail
City, zip code Yarmouth, Me. 04096 Telephone 846-4977
E-mail address BrianBicknell04@Yahoo.Com
 Check if address is different than previously reported

MUNICIPAL/COUNTY/DISTRICT COMMITTEE FILING PERIODS (Check applicable period below):

Due Date	Reporting Period
<input checked="" type="checkbox"/> July 16, 2007	January 1, 2007 – June 30, 2007
<input checked="" type="checkbox"/> January 15, 2008	July 1, 2007 – December 31, 2007

Any local party committees participating in the November 6, 2007 election who raise or spend money to support or defeat items on that ballot must file the following reports:

_____ October 31, 2007	July 1, 2007 – October 25, 2007
_____ January 15, 2008	October 26, 2007 – December 31, 2007

I CERTIFY THAT I HAVE EXAMINED THIS REPORT AND TO THE BEST OF MY KNOWLEDGE IT IS TRUE, CORRECT AND COMPLETE.

B.P. Bicknell
Treasurer's Signature

4/8/08
Date

REPORTING EXEMPTION: Any party committee receiving and expending less than \$1,500 in one calendar year is exempt from the reporting requirements for that year.

1. Total contributions to candidates this page only
2. Total from attached Schedule B pages
3. Total contributions this reporting period (Lines 1 + 2)

	⊙

CCRE
Name of Party

Page ___ of ___
(Schedule B-1 only)

SCHEDULE B-1

OPERATING EXPENSES

Do not include loan repayments on this schedule.

Expenditure Types Requiring NO Remark	Expenditure Types REQUIRING Remark
CON contribution	CNS campaign consultants
EQP equipment	OTH other
FND fundraising events	PRO professional services
FOD food for campaign events, volunteers	
LIT campaign literature (printing and graphics)	
MHS mail house (all services purchased)	
OFF office rent and utilities	
POL polling and survey research	
PHO phone banks, automated telephone calls	
POS Postage for U.S. Mail	
PRT print media ads	
RAD radio ads, production costs	
SAL campaign workers' salaries	
TRV travel (fuel, mileage, lodging, etc.)	
TVN TV or cable ads, production costs	
WEB Internet and e-mail	

For every expenditure, list the appropriate code.

If a remark is required, list additional information such as type of consulting (media, messaging, campaign, etc.) or professional service provided.

Date of payment	Payee/organization name, address, zip code	Code	Remarks, Purpose of Expenditure	Amount
3/20/07	Print Mail Copy Center Portland, ME 04102	MHS	News letter Mailing	\$ 37.17
5/18/07	Annalee Rosenblatt	MHS	News letter May	21.60
7/12/07	Cumberland Farmers Club 72 Turkey Lane Auburn, Me 04210	OTH	Deposit for Cumberland Fair, Bath	100.00
8/6/07	City of Portland Portland, ME	FND	Charge for use of Riverside Golf Course	3,440.00
8/6/07	Bogeys Rest Portland, Me.	FND	Cost of food for golf tournament	1,320.00
8/12/07	William Holmes Westbrook, ME	FND	Miscellaneous expenses for golf tournament	114.00
9/4/07	Debi A. Davis 88 West St, Biddeford, Me, 04005	WEB	Set up website	130.00
9/18/07	Tony Oberley	OTH	Balance of cost of a bath at fair	200.00
10/1/07	Print Mail Copy Center Portland, ME 04102	MHS	News letter	15.96
10/7/07	The Black Tie Co Union Wharf Portland, Me. 04101	OTH	Deposit for caucus event	500.00

1. Total operating expenses this page
2. Total from attached Schedule B-1 pages
3. Total operating expenses this reporting period
(Add lines 1 & 2)

5878.73
5878.73

CCRC
Name of Party

SCHEDULE C IN-KIND CONTRIBUTIONS/EXPENDITURES

In-Kind CONTRIBUTIONS

With respect to all items and services received and expended, enter the date received, a description of the item or service, and the fair market value. Enter contributor information if the fair market value of donated item or service is more than \$200.

Date Received	Contributors name, address, zip code	Description of goods, services, discounts or facilities received/expended	Fair market value

In-Kind EXPENDITURES

If the items shown above were, in turn, contributed to candidates or committees, list to whom the items were donated and their description.

Date of payment	Recipient's name, address, zip code	Description of goods, services, discounts or facilities contributed	Fair market value

SCHEDULE D

LOANS/LOAN REPAYMENTS

List loans and loan repayments from all sources.

Date of loan/loan repayment	IDENTITY OF LENDER	COLUMN 1 Loan balance from previous period	COLUMN 2 Amount loaned this period	COLUMN 3 Amount repaid/forgiven this period	COLUMN 4 Unpaid loans Columns 1 + 2 - 3
8/4/07	B.P. Bicknell	—	\$800.00	\$800.00	0
				R/F	
				R/F	
				R/F	

SCHEDULE E

TOTAL UNPAID OBLIGATIONS (OTHER THAN LOANS)

Date obligation Incurred	Creditor's name, address, zip code	Purpose	Amount

CCRE
Name of Party

4/8/08
Date Submitted

**SCHEDULE F
SUMMARY SECTION**

RECEIPTS

1. Contributions Received (Schedule A, Line 4)
2. Other Receipts (interest income, etc.)
3. Loans Received (Schedule D)
4. **TOTAL RECEIPTS THIS PERIOD (Lines 1 + 2 + 3)**

THIS PERIOD ONLY

\$8,814.00
800.00
9,614.00

EXPENDITURES

5. Contributions to or on behalf of others (Schedule B, Line 3)
6. Operating Expenses (Schedule B-1, Line 3)
7. Loan Repayments Made (Schedule D)
8. **TOTAL EXPENDITURES THIS PERIOD (Lines 5 + 6 + 7)**

THIS PERIOD ONLY

0
5,878.73
800.00
6,678.73

IN-KIND SUMMARY

- Total In-Kind Contributions this period (Schedule C)
- Total In-Kind Expenditures this period (Schedule C)

Fair Market Value Totals

0
0

Agenda

Item #4



THE MAINE ASSOCIATION OF
MENTAL HEALTH SERVICES

United and inclusive voice for Mental Health Issues

April 18, 2008

Jeremy J. Brown
PAC, Party and Lobbyist Registrar
242 State Street
Augusta, Maine 04333-0135

Dear Mr. Brown:

In response to your letter of April 16, regarding my late monthly lobbyist disclosure report for March 2008, please accept my sincere apology for the oversight of my required compliance with the filing deadline, due to my misunderstanding about the dates requested being parallel with my month of hire. In fact, my responsibility for filing with the Commission was confused by the date of my hire, on March 10, 2008, as the new Executive Director of the Maine Association of Mental Health Providers.

I became registered as a lobbyist for the Association on March 19, 2008, which led me to the conclusion that my first filing date would be 30 days after my first month of work, or, May 15, 2008.

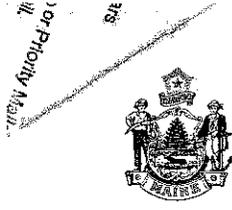
Please consider the first weeks of my employment, while I filed as a lobbyist, as a misunderstanding about my filing requirements, and, therefore an apologetically valid reason for my late compliance with the Commission. I only worked for two weeks in March with no active lobby activity to claim. In the month of April, 2008, I am in the process of following up with activity related to one bill, the supplemental budget bill, amendment LD 2290.

I sincerely appeal to your preliminary determination about the \$100 penalty, requesting this be removed, due to my date of hire being half way through the month of March, 2008. Moreover, I apologize for this mistake and promise it will not occur again.

Please inform me of further action required. Thank you for your consideration.

Sincerely,

Juliana L'Heureux BS, RN, MHSA
Executive Director



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

April 16, 2008

Ms. Juliana L'Heureux
Lobbyist
Maine Association of Mental Health Services
45 Memorial Circle
Augusta, ME 04330

Re: Monthly Lobbyist Disclosure Late Filing

Dear Ms. L'Heureux:

Our records show that your March monthly lobbyist disclosure report has not been filed to date. All lobbyists registered with the Commission are required to electronically file their monthly reports no later than 5:00 p.m. on the 15th of every month, or the next business day should the 15th fall on a weekend or holiday. Penalties are assessed for all reports not received by the deadline and every month thereafter that the report remains delinquent.

Pursuant to 3 M.R.S.A. § 319(1), the Commission has assessed a preliminary penalty of **\$100** for the late filing of this report. Please note that failure to pay this penalty or to file your delinquent report could result in suspension from further lobbying until the failure has been corrected.

If you believe you have a valid reason for filing late, you may request that the Commission make a final penalty determination. Any request for a Commission determination must be made within 10 calendar days of receiving this notice, beginning the day you sign for receipt. Upon receipt of your request for a Commission determination, we will schedule you to appear before the Commission at the next regularly scheduled meeting. You may appear before the Commission personally, designate a representative to appear on your behalf, or submit a written statement in which you provide an explanation of the mitigating circumstances you wish the Commission to take into consideration. The Commission will notify you of the disposition of your case shortly after its determination.

Please direct any questions you may have about this matter to me at 287-6221.

Sincerely,

COPY

Jeremy J. Brown
PAC, Party & Lobbyist Registrar

Enclosure (1)



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Multiple Reports for Ms. Juliana L'Heureux

Please select a report first...

Monthly Report - Short Form

Report Description	Report Status	Report Date		
March -- 2008	Filed	4-18-2008	Delete	Print

[Search](#)
[Add](#)
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[Page Up](#)
[Page Dn](#)
[End](#)
[Report Menu](#)

Instructions to:

Create new monthly report - click the Add button

****See Help Menu for Instructions****



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MAINE COMMISSION ON

Governmental Ethics & Election Practices

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Monthly Reports

Every registered lobbyist is required to file monthly reports that contain, among other things:

- the amount of compensation received during the month;
- other expenses incurred in the course of lobbying;
- legislative actions and documents that were the subject of lobbying during the month; and
- money or things of value given to or on behalf of Legislators.

Monthly reports must be filed electronically and are due by 5:00 p.m. on the 15th of the month following the month covered by the report (e.g., the April Report is due on May 15th).

Lobbyists who file late reports will be assessed a penalty of \$100 per month late.

Once a lobbyist is registered, he or she must file a report every month even if the lobbyist performed no lobbying or received no compensation for the month covered by the report. If the lobbyist performed no lobbying for the employer during the month, the lobbyist may file a short form indicating that no lobbying was performed.

The lobbyist is required to file reports covering each month through the end of the lobbying year (November 30). After the legislative session is concluded, if the lobbyist anticipates conducting no further lobbying for the employer through November 30, the lobbyist may request a waiver of the requirement to file monthly reports.

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3 MRSA §319. Penalty

1. Failure to file registration or report. Any person who fails to file a registration or report as required by this chapter may be assessed a fine of \$100 for each person listed or who should have been listed on the lobbyist registration for every month the person fails to register or is delinquent in filing a report pursuant to section 317. The commission may waive the penalty in whole or in part if the commission determines the failure to register or report was due to mitigating circumstances.

[1993, c. 691, §22 (RPR) .]

1-A. Notice of suspension. Any person who fails to file a report or pay a fee as required by this chapter may be suspended from further lobbying by written notice of the commission until such failure is corrected.

[1993, c. 446, Pt. B, §12 (AMD) .]

2.

[1979, c. 632, §3 (RP) .]

3. Exemption. Notwithstanding section 317, subsection 1, a registered lobbyist is exempt from the penalty imposed under this section if, while the Legislature is convened in special session, the lobbyist failed to file a report with the commission pursuant to section 317 if no lobbying has been performed during that special session.

[1993, c. 446, Pt. B, §13 (AMD) .]

SECTION HISTORY

1975, c. 576, (NEW). 1975, c. 621, §2 (RP). 1975, c. 724, (REN). 1977, c. 696, §17 (AMD). 1979, c. 632, §3 (RPR). 1989, c. 114, (AMD). 1991, c. 465, §2 (AMD). 1993, c. 446, §§A15,B11-13 (AMD). 1993, c. 691, §22 (AMD).

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.



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

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.

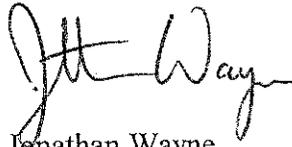
This letter is to notify you that I will be scheduling this matter for consideration by the members of the Commission at their next meeting on Monday, April 28, 2008, at 9:00 a.m. At this meeting, I will be asking the Commission members whether they wish to refer the matter to the state's Attorney General 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,

A handwritten signature in black ink that reads "Jonathan Wayne". The signature is written in a cursive style with a large initial "J" and a long, sweeping underline.

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

From: al.schulman [al.schulman@yahoo.com]*MUNICIPAL CANDIDATE***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 am 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.



STATE OF MAINE
COMMISSION ON GOVERNMENTAL ETHICS
AND ELECTION PRACTICES
135 STATE HOUSE STATION
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



STATE OF MAINE
COMMISSION ON GOVERNMENTAL ETHICS
AND ELECTION PRACTICES
135 STATE HOUSE STATION
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
Candidate Registrar



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

A handwritten signature in cursive script, appearing to read "Sandy Thompson".

Sandy Thompson
Candidate Registrar



STATE OF MAINE
COMMISSION ON GOVERNMENTAL ETHICS
AND ELECTION PRACTICES
135 STATE HOUSE STATION
AUGUSTA, MAINE
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.

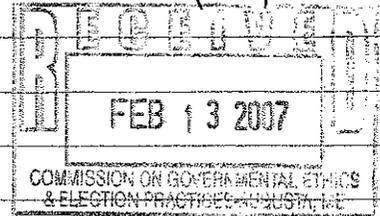
Sincerely,

A handwritten signature in cursive script, appearing to read 'Sandy Thompson'.

Sandy Thompson
Candidate Registrar

February 11, 2007

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 TAXIF - Case # 10806443 A and City of Portland Social Services - Case 651183. AS soon as I get a job I will be happy to send you the \$100.00 imposed. Can we please leave this in abeyance 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

Robert J. Schuman
AR. SCHUMAN@FACTOR.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,

A handwritten signature in cursive script that reads "Sandy Thompson".

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



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

A handwritten signature in black ink, appearing to read 'Jonathan Wayne'.

Jonathan Wayne
Executive Director

cc: Portland City Clerk



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

March 27, 2006

Alvin Schulman
75 Bartley Street
Portland, ME 04103

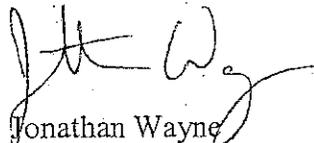
Dear Mr. Schulman:

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

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.

Agenda

Item #6



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: Recommended Civil Penalties against David Hughes

David Hughes was a Maine Clean Election Act (MCEA) candidate for House District 72 in the 2007 special election, after the incumbent, William Walcott, resigned. He received \$4,287 in MCEA funds for his campaign. He was required to file a post-election campaign finance report and return unspent campaign funds by December 18, 2007. The staff made eight communications to him regarding these requirements. (Please see attachment to this memo.) After receiving no response, the Commission staff scheduled the matter for the Commission's January 25, 2008 meeting.

One day before that meeting (on January 24th), Mr. Hughes came to our office, filed the post-election report, submitted a check for \$509.17 (the unspent campaign funds), and presented bank statements and other documentation of his expenditures. Mr. Hughes came to the January 25 meeting and apologized for the lateness.

On February 19, 2008, the staff requested additional documentation which the candidate supplied on March 19, 2008.

Audit Finding – Misreporting of Seed Money Expenditure

Because of Mr. Hughes' lateness, the Commission's staff performed an audit of his campaign to determine whether all MCEA funds were spent appropriately and reported correctly. Although the Commission is temporarily without a staff auditor, the staff attempted to use the same standards as former auditor Vincent W. Dinan employed in his audits of 2006 candidates.

The only audit finding was a minor misreporting of a seed money expenditure. When Mr. Hughes submitted his qualifying papers on October 23, 2007, he reported receiving contributions of \$275, making an expenditure of \$200 to Olympic Consulting for printed literature, and having a cash balance of \$75. As a result, the Commission reduced the amount of his MCEA payment by \$75 and paid him \$4,287.

	Reported on 10/23/07	Actual
Seed money contributions	\$275	\$275
Expenditures	\$200	\$0
Cash balance	\$75	\$275

In fact, he had a cash balance of \$275 because he had not yet made a payment to Olympic Consulting. Rather, the candidate owed Olympic Consulting an unpaid obligation of \$200 for some design work performed by the firm.

As a result, the Commission overpaid Mr. Hughes for the general election by \$200. (When a candidate receives his or her first payment of MCEA funds, the Election Law states that the first payment is reduced by the amount of any unspent seed money remaining at the end of the qualifying period.

Consistent with the Vincent Dinan's auditing of 2006 candidates, the staff recommends that the Commission find Mr. Hughes in violation of 21-A M.R.S.A. §1125(12) and Chapter 3, Section 7(2)(A) of the Commission rules for failing to report accurately his expenditures, and assess a penalty of \$50 for this violation. While this error may have been unintentional, it did result in an overpayment of MCEA funds to the candidate in the amount of \$200.

Recommended Penalties for Lateness

The staff also recommends:

- *Late return of unspent campaign funds.* The Commission should assess a civil penalty of \$200 against Mr. Hughes for violating 21-A M.R.S.A. § 1125(12) and Chapter 3, Section 7(2)(B) of the Commission's rules by failing to return \$509.17 in unspent campaign funds by the December 18, 2007 deadline.

Mr. Hughes eventually returned these funds to the Commission on January 24, 2008, but it was only after repeated requests by the Commission staff and the scheduling of this matter for the January 25, 2008 meeting of the Commission which resulted in attention to this matter in the press. It is unclear whether the \$509.17 would have been returned to the Commission except for the scheduling of this matter for the January 25, 2008 meeting.

By way of comparison, the Commission assessed penalties of \$500 and \$750 against 2006 candidates Arthur Clement and Thomas Bossie (respectively) for returning unspent MCEA funds late. The staff believes your actions are less serious than candidates Clement and Bossie because you did not misuse MCEA funds. The Commission could assess a penalty of up to \$10,000 for this violation.

- *Late filing of campaign finance report.* The Commission should assess a civil penalty of \$200 against Mr. Hughes for violating 21-A M.R.S.A. § 1017(3-A)(D) by not filing the post-election campaign finance report due December 18, 2007. The preliminary penalty amount for this late filing violation based on the formula in 21-A M.R.S.A. § 1020-A(4-A) is \$1,499.24 ($\40.52×37 days). The staff is recommending a reduction to \$200 because of mitigating personal circumstances which were discussed at the January 25, 2008 meeting and because \$1,499.24 seems excessive for lateness of approximately one month.

The total of penalties recommended by staff is \$450. Mr. Hughes was advised of the recommended penalties in a letter dated March 28, 2008. He did not respond in writing to the proposed penalties, but it is anticipated that he will attend the Commission's meeting on April 28 to answer any questions by the Commission.

Attachment

Notice to David Hughes (DH) of December 18, 2007 Deadlines for Repaying Unspent Campaign Funds and Filing a Post-Election Campaign Finance Report

- a November 13, 2007 letter reminding DH that December 18 would be the deadline to file his post-election report and to return all unspent funds;
- a telephone call to DH on December 18 by Commission Assistant Cyndi Phillips reminding DH to file the report by 5:00 p.m. (Cyndi spoke directly with DH);
- a voicemail message on December 21 from Candidate Registrar Sandy Thompson informing DH that his report was two days late;
- a certified letter from Ms. Thompson dated December 28, 2007 warning DH of civil penalties for late-filing (DH signed the postal receipt for this letter);
- a January 2, 2008 letter from me requesting that DH file the report and return all unspent Maine Clean Election Act funds;
- a voicemail message from me on January 7, 2008 summarizing the January 2 letter and requesting that DH return my call;
- a January 14, 2008 voicemail from me requesting the report and the payment of unspent funds; and
- my January 14, 2008 e-mail with the January 2 letter attached.

CANDIDATE'S FULL NAME

SCHEDULE B
EXPENDITURES

- Enter the date, payee, expenditure type, and amount for each expenditure made during the reporting period.
- For expenditure types which require a remark, enter a description of the goods and services purchased.
- Expenditures made with a candidate's or an authorized individual's personal funds must be reimbursed within the same reporting period as the expenditure. Enter the vendor as the payee and the purchase date. Report the name of the individual who made the payment in the remarks section. Report goods and services purchased by others for which no reimbursement will be made as an in-kind contribution on Schedule A-1.
- Only enter expenditures that have actually been paid. Enter unpaid debts and obligations on Schedule D.
- If the campaign pays a lump sum or retainer to a consultant, all campaign-related expenditures paid by the consultant with campaign funds must be itemized as if the campaign itself made the expenditure.

Expenditure Types Requiring NO Remark		Expenditure Types Which REQUIRE Remark	
ADS	Print media ads only (newspapers, magazines, etc.)	CNS	Campaign consultants
CON	Contribution to other candidate, party, committee	EQP	Equipment (office machines, furniture, cellphones, etc.)
FOD	Food for campaign events, volunteers	FND	Fundraising events
MHS	Mail house (all services purchased)	OTH	Other (bank fees, entrance fees, small tools, wood, etc.)
OFF	Office rent, utilities, phone and internet service, supplies	PRO	Other professional services
PHO	Phone banks, automated telephone calls	SAL	Campaign workers' salaries and personnel costs
POL	Polling and survey research	TRV	Travel (fuel, mileage, lodging, etc.)
POS	Postage for U.S. Mail and mail box fees		
PRT	Printing and graphics (flyers, signs, palmcards, t-shirts, etc.)		
RAD	Radio ads, production costs		
TVN	TV or cable ads, production costs		
WEB	Website design, registration, hosting, maintenance, etc.		

DATE EXPENDITURE MADE	NAME OF EACH PAYEE	EXPENDITURE TYPE (use code from above)	REMARK (if the expenditure type requires a remark, describe all goods and services purchased)	AMOUNT
10/22/07	Olympic Consulting	PRT		\$200.00

Total expenditures (this page only) ⇒ \$200.00
(combined totals from all Schedule B pages must be listed on Schedule F, line 5)



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

March 28, 2008

By E-Mail and Regular Mail

Mr. David Hughes
34 Howe Street
Lewiston, ME 04240

Re: Notice of Recommended Penalties and Opportunity to Respond

Dear Mr. Hughes:

This is to notify you of your opportunity to respond to the Ethics Commission staff's penalty recommendations concerning your 2007 special election campaign. The recommendations will be considered by the Commission at its meeting on Monday, April 28 at 9:00 a.m. We request that you be present at the Commission's meeting to respond to the findings and recommended penalties. At the meeting, the staff intends to recommend:

- (1) The Commission should assess a civil penalty of \$200 against you for violating 21-A M.R.S.A. § 1125(12) and Chapter 3, Section 7(2)(B) of the Commission's rules by failing to return \$509.17 in unspent campaign funds by the December 18, 2007 deadline. You eventually returned these funds to the Commission on January 24, 2008, but it was only after repeated requests by the Commission staff and the scheduling of this matter for the January 25, 2008 meeting of the Commission which resulted in attention to this matter in the press.
- (2) The Commission should assess a civil penalty of \$200 against you for violating 21-A M.R.S.A. § 1017(3-A)(D) by not filing the post-election campaign finance report due December 18, 2007. The preliminary penalty amount for this late filing violation based on the formula in 21-A M.R.S.A. § 1020-A(4-A) is \$1,499.24 ($\40.52×37 days). The staff is recommending a reduction to \$200 because of mitigating personal circumstances which were discussed at the January 25 meeting.
- (3) The Commission should assess a civil penalty of \$50 against you for violating 21-A M.R.S.A. § 1125(12) and Chapter 3, Section 7(2)(A) of the Commission rules by failing to report accurately your expenditures. In your seed money report filed on October 23, 2007, you reported making a \$200 expenditure dated October 22, 2007 to Olympic Consulting and reported a cash balance of \$75. In fact, although you may have owed that firm a debt of \$200, you had made zero expenditures at that time and had a cash balance of \$275. The misreporting caused the Commission to overpay you by \$200 for the 2007 special election.

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

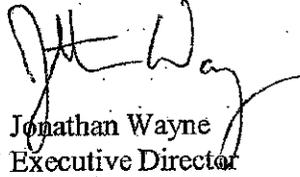
PHONE: (207) 287-4179

FAX: (207) 287-6775

The recommended penalties against you total \$450. Please be aware that the Commission is authorized under 21-A M.R.S.A. §1127(1) to assess penalties of up to \$10,000 for each violation of the Maine Clean Election Act or the Commission's rules, including violations (1) and (3) above. It is possible that at the April 28 meeting, the Commission could assess penalties that are significantly higher than those recommended by the staff.

You are also welcome to respond in writing. Since the matter is scheduled for the April 28 meeting, I would need to receive your response on the morning of Friday, April 18, so that I could distribute the response to the Commission members. Please telephone me at 287-4179 if you have any questions. Thank you.

Sincerely,

A handwritten signature in black ink, appearing to read "Jonathan Wayne". The signature is fluid and cursive, with the first name "Jonathan" and last name "Wayne" clearly distinguishable.

Jonathan Wayne
Executive Director

Agenda

Item #7

Draft



COMMISSION ON GOVERNMENTAL ETHICS AND ELECTION PRACTICES
Mail: 135 State House Station, Augusta, Maine 04333
Office: 242 State Street, Augusta, Maine

Website: www.maine.gov/ethics
Phone: 207-287-4179
Fax: 207-287-6775

Policy on Paying Campaign Funds to Family Members

This memorandum describes the policies and procedures regarding the use of campaign funds to pay a member of the candidate's family or household, which were established by the Maine Ethics Commission pursuant to statutory changes enacted by during the First Special Session of the 124th Legislature (P.L. 2007, c. 567 and c. 571 (eff. July 18, 2008)).

Disclosing a Payment to a Member of the Candidate's Family or Household (applies to gubernatorial, legislative, and county candidates)

- *Traditionally financed candidates.* If a candidate makes a payment of campaign funds to a member of the candidate's household, the candidate must report the family or other relationship (e.g., "brother" or "roommate") in the remarks section of Schedule B (for expenditures) of the campaign finance report.
- *Maine Clean Election Act candidates.* If a candidate makes a payment of Maine Clean Election Act funds to a member of the candidate's "immediate family" (defined below), a member of the candidate's household, or a business or nonprofit entity affiliated with a member of the candidate's immediate family, the candidate must disclose the family or household relationship (e.g., "spouse," "domestic partner," "brother," "roommate," or "business owned by daughter") in the remarks section of Schedule B of the campaign finance report.

For purposes of this disclosure requirement, "immediate family" means the candidate's spouse, parent, grandparent, child, grandchild, sister, brother, stepparent, stepgrandparent, stepchild, stepgrandchild, stepsister, stepbrother, mother-in-law, father-in-law, brother-in-law, sister-in-law, son-in-law, daughter-in-law, guardian, former guardian, or domestic partner. See 21-A M.R.S.A. §§ 1(20) & 1122(4-A).

Restrictions on Maine Clean Election Act Candidates

Legal Restriction (21-A M.R.S.A. § 1125(6-B), enacted by P.L. 2007, c. 567 (eff. July 18, 2008))

This new statute provides that Maine Clean Election Act (MCEA) candidates may not use public campaign funds to pay:

- the candidate
- a member of the candidate's household,
- or a business, corporation or nonprofit entity in which the candidate or a member of the candidate's household holds a significant proprietary or financial interest

unless the candidate submits evidence to the Commission that the expenditure will be made:

- for a legitimate campaign-related purpose;
- to an individual or business that provides the goods or services being purchased in the normal course of their occupation or business; and
- in an amount that is reasonable taking into consideration current market value and other factors the commission may choose to consider.

Timing of Submitting Evidence

If a MCEA candidate intends to spend more than a total of \$250 to an individual or entity covered by subsection 1125(6-B) during the course of a campaign, the candidate must submit the evidence required by that statute before entering into an obligation to the payee. If the total payments from the campaign to a covered individual or entity will be \$250 or less, the evidence of compliance with 21-A M.R.S.A. § 1125(6-B) may be submitted to the Commission at the next campaign finance reporting deadline after the payment is made. The Commission shall consider this evidence to determine whether the expenditure meets the requirements of 21-A M.R.S.A. § 1125(6-B).

Provisional Approval by Commission Staff

A candidate may seek provisional approval by the Commission staff by submitting the evidence required by 21-A M.R.S.A. § 1125(6-B). The staff shall grant provisional approval only if the weight of the evidence presented indicates that the expenditure will meet the requirements of 21-A M.R.S.A. § 1125(6-B). Any provisional approval or rejection by the staff will be reviewed by the Commission members at their next regularly scheduled meeting.

Normal Course of Occupation or Business

Maine Clean Election Act candidates may use public campaign funds to pay an individual or business covered by subsection 1125(6-B) for goods or services, if the individual or entity provides those goods or services as part of their current or recent employment. An individual or entity will not be considered to meet the normal course of business requirement of 21-A M.R.S.A. § 1125(6-B)(B) if it has been more than two years prior to the proposed expenditure since that individual or entity provided these types of goods or services as a part of their occupation or business.

An individual or business does not need to provide these types of goods or services as their full-time occupation or primary business activity. For example, an individual who performs some graphics and layout work as part of their paid employment could provide similar services on a paid basis to a Maine Clean Election Act candidate who lives in the same household, provided that the other requirements of 21-A M.R.S.A. § 1125(6-B)(B) are met.

Reimbursing for Goods or Services Advanced to the Campaign

If a MCEA candidate or a supporter of that candidate uses personal funds or a personal credit card to pay a vendor for campaign goods or services, the candidate may reimburse the candidate or supporter, provided that the reimbursement occurs in the same campaign finance reporting period as payment to the vendor. This reimbursement is permitted even if the supporter resides in the same household as the candidate.

PLEASE NOTE: Legislative Information **cannot** perform research, provide legal advice, or interpret Maine law. For legal assistance, please contact a qualified attorney.

An Act To Ensure Integrity in Financing Publicly Funded Campaigns

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 21-A MRSA §1017, sub-§5, as amended by PL 2007, c. 443, Pt. A, §16, is further amended to read:

5. Content. A report required under this section must contain the itemized accounts of contributions received during that report filing period, including the date a contribution was received, and the name, address, occupation, principal place of business, if any, and the amount of the contribution of each person who has made a contribution or contributions aggregating in excess of \$50. The report must contain the itemized expenditures made or authorized during the report filing period, the date and purpose of each expenditure and the name of each payee and creditor. If the payee is a member of the candidate's household, the candidate must disclose the family relationship in a manner prescribed by the commission. The report must contain a statement of any loan to a candidate by a financial institution in connection with that candidate's candidacy that is made during the period covered by the report, whether or not the loan is defined as a contribution under section 1012, subsection 2, paragraph A. The candidate and the treasurer are jointly and severally responsible for the timely and accurate filing of each required report.

Sec. 2. 21-A MRSA §1125, sub-§6-B is enacted to read:

6-B. Expenditures as payment to household members. A candidate may not make expenditures using fund revenues to pay the candidate, a member of the candidate's household or a business, corporation or nonprofit entity in which the candidate or a member of the candidate's household holds a significant proprietary or financial interest, unless the candidate submits evidence according to procedures established by the commission that the expenditure will be made:

- A. For a legitimate campaign-related purpose;
- B. To an individual or business that provides the goods or services being purchased in the normal course of their occupation or business; and
- C. In an amount that is reasonable taking into consideration current market value and other factors the commission may choose to consider.

This subsection does not prohibit reimbursement to a member of a candidate's household when made in accordance with this chapter and rules adopted by the commission.

Effective 90 days following adjournment of the 123rd Legislature, Second Regular Session, unless otherwise indicated.

Chapter 571,
see § 12 only
(effective
4/7/08)

PLEASE NOTE: Legislative Information **cannot** perform research, provide legal advice, or interpret Maine law. For legal assistance, please contact a qualified attorney.

An Act To Improve the Campaign Finance Laws and Their Administration

Emergency preamble. Whereas, acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, legislation enacted during the First Regular Session of the 123rd Legislature created an error in statute regarding qualifying contributions under the Maine Clean Election Act; and

Whereas, proper oversight of the collection of qualifying contributions is necessary to ensure appropriate distribution of taxpayer funds under the Maine Clean Election Act; and

Whereas, the 2008 election cycle for candidates for the 124th Legislature is already underway; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 1 MRSA §1002, sub-§2, as amended by PL 2005, c. 271, §1, is further amended to read:

2. Qualifications. The members of the commission must be persons of recognized judgment, probity and objectivity. A person may not be appointed to this commission who is a member of the Legislature or who was a member of the previous Legislature, who was a declared candidate for an elective county, state or federal office within 2 years prior to the appointment, ~~or who now holds an elective county, state or federal office, who is an officer of a political committee, party committee or political action committee or who holds a position in a political party or campaign.~~ A person may not serve on the commission who is an officer, director, employee or primary decision maker of a party committee, political action committee or candidate committee authorized under Title 21-A, section 1013-A, subsection 1, paragraph B.

Sec. 2. 1 MRSA §1002, sub-§2-A is enacted to read:

2-A. Conflict of interest. This subsection governs conflicts of interest of members of the commission.

A. A member of the commission has a conflict of interest in a matter before the commission if the member has a business or close political relationship with a party to the matter. A close political relationship exists when a member has significant past or ongoing involvement with a political committee or a candidate, as defined in Title 21-A, section 1, subsection 30 and subsection 5, respectively, or other organization involved in the matter, that would lead a reasonable person to believe that the member is unable to objectively consider the matter. A close political relationship is not created by making a contribution to a political committee, organization or candidate; party enrollment status; or mere membership in an organization involved in the matter.

3. Qualifying contributions. Participating candidates must obtain qualifying contributions during the qualifying period as follows:

- A. For a gubernatorial candidate, at least 3,250 verified registered voters of this State must support the candidacy by providing a qualifying contribution to that candidate;
- B. For a candidate for the State Senate, at least 150 verified registered voters from the candidate's electoral division must support the candidacy by providing a qualifying contribution to that candidate; or
- C. For a candidate for the State House of Representatives, at least 50 verified registered voters from the candidate's electoral division must support the candidacy by providing a qualifying contribution to that candidate.

A payment, gift or anything of value may not be given in exchange for a qualifying contribution. A candidate may pay the fee for a money order that is a qualifying contribution in the amount of \$5 as long as the donor making the qualifying contribution pays the \$5 amount reflected on the money order. Any money order fees paid by a participating candidate must be paid for with seed money and reported in accordance with commission rules. A money order must be signed by the contributor to be a valid qualifying contribution. The commission may establish by routine technical rule, adopted in accordance with Title 5, chapter 375, subchapter 2-A, a procedure for a qualifying contribution to be made by a credit or debit transaction and by electronic funds transfer over the Internet. Records containing information provided by individuals who have made qualifying contributions over the Internet are confidential, except for the name of the individual making the contribution, the date of the contribution, the individual's residential address and the name and office sought of the candidate in whose support the contribution was made.

It is a violation of this chapter for a participating candidate or an agent of the participating candidate to misrepresent the purpose of soliciting qualifying contributions and obtaining the contributor's signed acknowledgement.

Sec. 12. 21-A MRSA §1125, sub-§12, as enacted by IB 1995, c. 1, §17, is amended to read:

12. Reporting; unspent revenue. Notwithstanding any other provision of law, participating and certified candidates shall report any money collected, all campaign expenditures, obligations and related activities to the commission according to procedures developed by the commission. If a certified candidate pays fund revenues to a member of the candidate's immediate family or a business or nonprofit entity affiliated with a member of the candidate's immediate family, the candidate must disclose the family relationship in a manner prescribed by the commission. Upon the filing of a final report for any primary election in which the candidate was defeated and for all general elections that candidate shall return all unspent fund revenues to the commission. In developing these procedures, the commission shall utilize existing campaign reporting procedures whenever practicable. The commission shall ensure timely public access to campaign finance data and may utilize electronic means of reporting and storing information.

Emergency clause. In view of the emergency cited in the preamble, this legislation takes effect when approved.

Effective April 7, 2008.