

Agenda

Item #2



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

November 4, 2008

By E-Mail and Regular Mail

Hon. Philip A. Curtis
93 Blackwell Hill Rd
Madison, ME 04950

Dear Representative Curtis:

The Maine Commission on Governmental Ethics and Election Practices received the attached letter and photographs from John Bertl regarding the disclosure statement on your campaign signs. He previously visited the Commission's office on October 15 to discuss the issue, which resulted in your telephone conversation with Candidate Registrar Sandy Thompson. (Although the letter is dated October 15, Mr. Bertl did not send it to the Commission until October 28.)

Under 21-A M.R.S.A. § 1014(1), when a candidate makes an expenditure for campaign signs that expressly advocate for his or her election, the signs

must clearly and conspicuously state that the communication has been ... authorized [by the candidate] and must clearly state the name and address of the person who made or financed the expenditure for the communication.

Your signs include the statement "PAID FOR AND AUTHORIZED BY THE CANDIDATE." Mr. Bertl complains that your signs "do not display a name and address of who authorized the sign." In 2008 and past election years, the Commission's guidebook has suggested that candidates may use the phrase "the candidate" in lieu of the candidate's name (see attached two pages).

Mr. Bertl's letter will be considered by the members of the Commission at their next meeting on Monday, November 24, 2008, at 9:00 a.m. in the Cross Office Building, Room 208, in Augusta. At that meeting, the Commission members may wish to consider whether to find that your 2008 campaign violated § 1014(1) and whether to assess a civil fine of up to \$200 under subsection 4. The staff of the Commission will recommend a finding of violation, because the signs do not contain your address.

You are welcome to respond to Mr. Bertl's letter in person at the November 24 meeting or in writing in advance of the meeting. If you would like to include a written response

Hon. Philip A. Curtis

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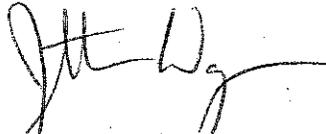
November 4, 2008

for the Commission's consideration before the meeting, please provide one by Friday, November 14. My e-mail address is Jonathan.Wayne@Maine.gov, and the Commission's fax number is 287-6776.

At the November 24 meeting, in the discretion of the Commission members Mr. Bertl may be permitted to provide additional comments to the Commission if he wishes.

If you have any questions regarding this matter, please telephone me at 287-4179.

Sincerely,

A handwritten signature in black ink, appearing to read 'Jonathan Wayne', with a long horizontal flourish extending to the right.

Jonathan Wayne
Executive Director

cp
attachment

cc: John Bertl

October 15, 2008

John Bertl
32 Bog Road
New Portland, Maine 04961

Mr. Jonathan Wayne
Executive Director
Maine Ethics Commission
135 State House Station
Augusta, Maine 04333

Dear Mr. Wayne

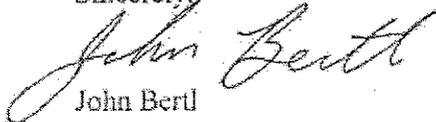
Thank you very much for seeing me today on such a short notice in a very brief meeting on your lunch break. As it turned out, I was late getting to the airport to pick up my parents but not that much. They were waiting in baggage claim but had not received all their luggage yet. If I had been much later, there could have been confusion on their part.

This letter is to confirm our conversation in our meeting where I furnished to you photos of two "homemade" campaign signs for Mr. Philip Curtis, house district 86, that are placed in the road right-a-way. One in Norridgewock and one in Madison. These signs do not comply with Maine law and do not display a name and address of who authorized the sign.

The Honorable Phil Curtis is an incumbent and has been a member of the house for the last two sessions. His signs were not legal during previous campaigns and I understand he was made aware of this problem. I also contacted Mr. Curtis and told him what he needed to do to make his campaign signs compliant with Maine law by E-mail to his address RepPhilip.Curtis@legislature.maine.gov. Even with this knowledge, he refuses to comply with Maine campaign requirements and I wish to take this matter up with the Ethics Commission to the full extent possible.

Thank you in advance for your understanding and help in this matter.

Sincerely,


John Bertl

21-A MRSA § 1014

PUBLICATION OR DISTRIBUTION OF POLITICAL COMMUNICATIONS

1. Authorized by candidate. Whenever a person makes an expenditure to finance a communication expressly advocating the election or defeat of a clearly identified candidate through broadcasting stations, newspapers, magazines, campaign signs or other outdoor advertising facilities, publicly accessible sites on the Internet, direct mails or other similar types of general public political advertising or through flyers, handbills, bumper stickers and other nonperiodical publications, the communication, if authorized by a candidate, a candidate's authorized political committee or their agents, must clearly and conspicuously state that the communication has been so authorized and must clearly state the name and address of the person who made or financed the expenditure for the communication. The following forms of political communication do not require the name and address of the person who made or authorized the expenditure for the communication because the name or address would be so small as to be illegible or infeasible: ashtrays, badges and badge holders, balloons, campaign buttons, clothing, coasters, combs, emery boards, envelopes, erasers, glasses, key rings, letter openers, matchbooks, nail files, noisemakers, paper and plastic cups, pencils, pens, plastic tableware, 12-inch or shorter rulers, swizzle sticks, tickets to fund-raisers and similar items determined by the commission to be too small and unnecessary for the disclosures required by this section. A communication financed by a candidate or the candidate's committee that is made through a broadcasting station is not required to state the address of the candidate or committee that financed the communication. *

2. Not authorized by candidate. If the communication described in subsection 1 is not authorized by a candidate, a candidate's authorized political committee or their agents, the communication must clearly and conspicuously state that the communication is not authorized by any candidate and state the name and address of the person who made or financed the expenditure for the communication. If the communication is in written form, the communication must contain at the bottom of the communication in print that is no smaller in size than 10-point bold print, Times New Roman font, the words "NOT PAID FOR OR AUTHORIZED BY ANY CANDIDATE."

2-A. Other communications. Whenever a person makes an expenditure to finance a communication that names or depicts a clearly identified candidate and that is disseminated during the 21 days before a primary election or 35 days before a general election through the media described in subsection 1, the communication must state the name and address of the person who made or financed the communication and a statement that the communication was or was not authorized by the candidate. The disclosure is not required if the communication was not made for the purpose of influencing the candidate's nomination for election or election.

3. Broadcasting prohibited without disclosure. No person operating a broadcasting station within this State may broadcast any communication, as described in subsections 1 to 2-A, without an oral or written visual announcement of the disclosure required by this section.

3-A. In-kind contributions of printed materials. A candidate, political committee or political action committee shall report on the campaign finance report as a contribution to the candidate, political committee or political action committee any contributions of in-kind printed materials to be used in the support of a candidate or in the support or defeat of a cause to be voted upon at referendum. Any in-kind contributions of printed materials used or distributed by a candidate, political committee or political action committee must include the name or title of that candidate, political committee or political action committee as the authorizing agent for the printing and distribution of the in-kind contribution.

The use or distribution of in-kind printed materials contributed to a candidate, political committee or political action committee must be reported as an expenditure on the campaign finance report of that candidate, political committee or political action committee.

3-B. Newspapers. A newspaper may not publish a communication described in subsections 1 to 2-A without including the disclosure required by this section. For purposes of this subsection, "newspaper" includes any printed material intended for general circulation or to be read by the general public, including a version of the newspaper displayed on a website owned or operated by the newspaper. When necessary, a newspaper may seek the advice of the commission regarding whether or not the communication requires the disclosure.

4. Enforcement. An expenditure, communication or broadcast made within 20 days before the election to which it relates that results in a violation of this section may result in a civil fine of no more than \$200. The person who financed the communication or who committed the violation shall correct the violation within 10 days after receiving notification of the violation from the commission. An expenditure, communication or broadcast made more than 20 days before the election that results in a violation of this section may result in a civil fine of no more than \$100 if the violation is not corrected within 10 days after the person who financed the communication or other person who committed the violation receives notification of the violation from the commission. If the commission determines that a person violated this section with the intent to misrepresent the name or address of the person who made or financed the communication or whether the communication was or was not authorized by the candidate, the commission may impose a fine of no more than \$5,000 against the person responsible for the communication. Enforcement and collection procedures must be in accordance with section 1020-A.

5. Telephone calls. Prerecorded automated telephone calls and scripted live telephone communications that name a clearly identified candidate during the 21 days before a primary election or the 35 days before a general election must clearly state the name of the person who made or financed the expenditure for the communication, except for prerecorded automated telephone calls paid for by the candidate that use the candidate's voice in the telephone call and that are made in support of that candidate. Telephone calls made for the purposes of researching the views of voters are not required to include the disclosure.



CHAPTER 21

Disclosure on Campaign Communications

Disclosure on Campaign Communications

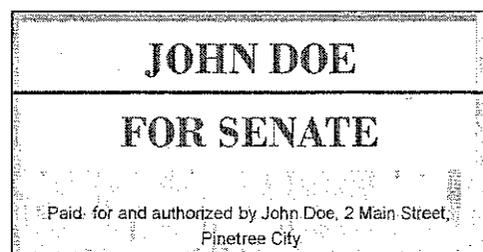
Whenever a person makes an expenditure to finance a communication expressly advocating the election or defeat of a clearly identified candidate through broadcasting stations, newspapers, magazines, outdoor advertising facilities, publicly accessible websites, direct mails or other similar types of general public political advertising, or through flyers, handbills, bumper stickers and other non-periodical publications, the communication, if authorized by a candidate, a candidate's authorized political committee, or their agents, must clearly and conspicuously state that the communication has been so authorized. The communication must also clearly state the name and address of the person who made or financed the expenditure for the communication.

In addition, these requirements apply to any communication that names or depicts a clearly identified candidate and that is disseminated to voters in the last 21 days before the primary election or in the last 35 days before the general election.

The following are examples of suitable attribution statements for political communications financed:

By a Candidate:

- Paid for and authorized by John Doe, 2 Main Street, Pinetree City
- Paid for and authorized by the candidate, 2 Main Street, Pinetree City (where the candidate's full name is clearly stated in the communication)



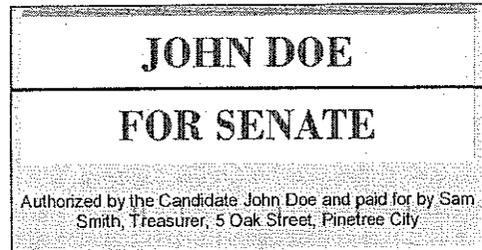


By a Candidate's Political Committee:

- Authorized by the Candidate and paid for by the Committee to Elect John Doe,
2 Main Street, Pinetree City

By the Candidate's Agents:

- Authorized by Candidate John Doe and paid for by Sam Smith, Treasurer, 5 Oak Street, Pinetree City
- Paid for by the Candidate and authorized by John Jones, Chairman of Committee to Reelect John Doe, 1 Cool Street, Pinetree City



Communications Exempt from Disclosure

Certain items are exempt from the disclosure requirement because of their small size: ashtrays, badges and badge holders, balloons, campaign buttons, clothing, coasters, combs, emery boards, envelopes, erasers, glasses, key rings, letter openers, matchbooks, nail files, noisemakers, paper and plastic cups, pencils, pens, plastic tableware, 12-inch or shorter rulers, swizzle sticks, and tickets to fund-raisers. The Commission may exempt similar items if it determines those items are too small and, therefore, it would be unnecessary to include the required disclosure.

Automated Telephone Calls

Prerecorded automated telephone calls and scripted live telephone calls that name a clearly identified candidate during the 21 days before a primary election or 35 days before a general election must include the name of the person who made or financed the communication, except that the disclosure is not required for prerecorded automated calls paid for by the candidate using the candidate's voice and are made in support of that candidate.

Communications Not Authorized by the Candidate

Similar requirements apply to communications that are paid for by third-parties such as political action committees and party committees and that are not authorized by the candidates. Those communications must disclose the person who made or financed the communication and that the communication was not authorized by the candidate or campaign.

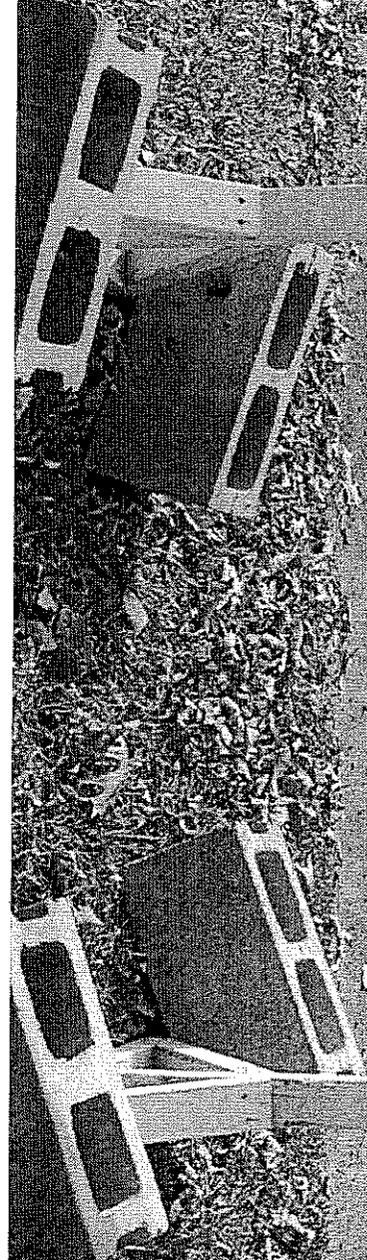
PHIL CURTIS
for
Representative
MADISON, NORRIDGEWOCK, SOLON

Vote for
ROY
for County
Commissioner

Mr
P

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ills



NOPE
for County
Commissioner
ROY

MCCAIN
PALIN
WWW.IOHNNMCCAIN.COM

PHIL CURTIS
for
Representative
MADISON, NORRIDGEWOCK, SOLON

TO
189
EXIT

Peter Mills
for State Senate

PHIL CURTIS

for

Representative

MADISON, NORRIDGEWOCK, SOLON

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PHIL CURTIS

for

Representative

MADISON, NORRIDGEWOCK, SOLON

PHIL CURTIS
PHOTOGRAPHY

PAID FOR AND AUTHORIZED
BY THE CANDIDATE

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November 24, 2008

November 18, 2008

John Bertl
32 Bog Road
New Portland, Maine 04961

RECEIVED

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MAINE ETHICS COMMISSION

Mr. Jonathan Wayne
Executive Director
Maine Ethics Commission
135 State House Station
Augusta, Maine 04333

Dear Mr. Wayne

Thank you for putting me on the agenda for the November 24, 2008 Commission Meeting. I plan to attend and look forward to actually seeing the commission members and putting a face to the names.

I would like to point out something that is not obvious and make sure you and the commission members know a fact that I failed to mention earlier. All of the Honorable Phil Curtis's campaign signs had the phrase Authorized by the Candidate and did not contain the required address. Although I only show you the homemade campaign signs in my photos, his purchased signs were the same. These signs were numerous in number. If I had to guess, I would say they were a hundred to two hundred signs.

.Thanks once again for your help.

Sincerely,


John Bertl