

Agenda

Item #2



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: May 22, 2009
Re: Request by Deborah Hutton to Investigate Maine Leads

Introduction

Deborah Hutton and her counsel, Benjamin K. Grant, have submitted three letters to the Ethics Commission dated April 24, May 20, and May 22 requesting that the Commission investigate whether Maine Leads qualifies as a political action committee (PAC) based on the funding it provided for three citizen initiatives. Maine Leads is a public policy advocacy organization based in Maine which has described its purpose as “empower[ing] citizens to fight for lower taxes, government transparency and economic freedom.”

Ms. Hutton believes that Maine Leads qualifies as a PAC because it provided 75% of the funding for the gathering of signatures for petitions in support of three citizen initiatives. Without this funding, she contends, none of the citizen initiatives would be on the ballot this November. She argues that, by not registering and reporting as a PAC, Maine Leads has concealed from the public the true source of the initiation of these ballot questions.

Factual Background

Maine Leads was formed as a corporation in Maine on October 18, 2007. It is a tax-exempt charitable organization under Section 501(c)(4) of the Internal Revenue Code.

The Maine Leads website lists its staff as:

- Roy Lenardson, Executive Director
- Trevor Bragdon, Grassroots Director
- Chris Cinquemani, Communications Director.

On November 15, 2007 (roughly one month after it incorporated), Maine Leads made three \$25,000 contributions to PACs which were gathering signatures for three citizen initiatives. As shown on the chart below, these three contributions constituted 75% of the total contributions received by these PACs.

Name of Original PAC	Ballot question Supported	Total Contributions received by the Original PAC	% of Contributions to Original PAC Provided by Maine Leads	Name of Successor PAC
Citizens for a Prosperous Maine PAC	An Act to Provide Tax Relief (TABOR II)	\$41,554	60.2%	TABOR Now PAC
Road to a Cleaner Maine PAC	An Act to Decrease the Automobile Excise Tax and Promote Energy Efficiency	\$25,072	99.7%	More Green Now PAC
Affordable Health Care Choices for Maine PAC	An Act to Expand Affordable Health Insurance Choices in Maine	\$33,305	75.3%	Health Care Choices NOW PAC

Each of the PACs then paid roughly \$25,000 - \$30,000 to Pioneer Group, Inc., which is the consulting firm solely owned by Trevor Bragdon. The total received by Pioneer Group from the PACs was \$81,704. I have attached a chart showing the flow of money through the three PACs.

On November 3 and 6, 2008, the PACs submitted the initiative petitions to the Secretary of State. That office determined that the petitions for the excise tax initiative and TABOR II had sufficient signatures. Because the Legislature did not enact these two proposed laws, both of the initiatives will be on the ballot for the November 3, 2009 election. The Secretary of State determined that there were insufficient signatures submitted for the health care alternatives citizen initiative, so it will not be on the 2009 ballot.

In February 2009, the PACs contacted the Commission staff and stated their interest in adopting new names for the PACs. Because of certain constraints in the Commission's electronic filing system, the staff informed the PACs that they would have to terminate and form different PACs with the new names. The three new PACs were organized, and will be reporting financial activity that began in February 2009.

Activities of Maine Leads

Deborah Hutton argues that the major purpose of Maine Leads is to initiate or promote the three citizen initiatives. It has been difficult for the Commission staff to find

information about Maine Leads' activities from publicly available sources in order to make a judgment about the organization's major purpose.

My review of Maine Leads' website (www.meleads.org) suggests that initiating and promoting the three citizen initiatives has been – at the very least – a significant activity of the organization. For example, Maine Leads' description of the duties of its Grassroots Director, Trevor Bragdon, is: “[h]is responsibilities include initiative and referenda campaign management and coalition building. He is currently managing a team of over 250 Mainers collecting signatures for three citizen initiatives for the 2009 ballot.” This certainly sounds like a major undertaking for the organization.

Also, Maine Leads' website contains a page that describes and promotes the citizen initiatives. A hyperlink to that page is prominently displayed throughout the entire Maine Leads' website.

Maine Leads' website does not include a detailed description of *any* other sizeable program or activity on any other policy issue. The only other specific programs referred to on the website are three sets of automated telephone calls made in the spring of 2008 to influence some budget decisions by the Maine Legislature and a municipality. This appears to be a very minor project compared to organizing three state-wide citizen initiatives.

Maine Leads has recently begun a limited amount of lobbying. On May 1, 2009 (after the filing of Ms. Hutton's request), Chris Cinquemani registered with the Commission as a lobbyist for Maine Leads. His registration indicates that he began lobbying on April 1, 2009. To date, he has reported lobbying on a single bill, LD 1353. Maine Leads did not register as a lobbyist in 2007 or 2008.

The filings of Maine Leads with the Secretary of State do not provide specific descriptions of the organization's activities, and I have been unable to find publicly available tax returns (Form 990) of the organization. It is quite possible that in 2007 and 2008 Maine Leads participated in activities that would demonstrate that it had a major purpose *other than* initiating and promoting ballot questions, but those activities are not known at this time.

Organization of Maine Leads

As noted above, Maine Leads states that it has three staff members, Roy Lenardson (Executive Director), Trevor Bragdon (Grassroots Director), and Chris Cinquemani (Communications Director). Mr. Lenardson is the President and Treasurer of the organization, according to its 2009 annual report on file with the Secretary of State. The Board of Directors consists of three members: Roy Lenardson, Michael Duddy, and Kent Lassman. Neal Freeman formerly was a member of the Board.

There may not be a formal relationship between Maine Leads and the Maine Heritage Policy Center, but it appears that there is a certain degree of cooperation and shared officers and personnel between the two organizations:

- At least two of the three citizen initiatives promoted by Maine Leads (TABOR II and An Act to Reduce the Automobile Excise tax) were drafted by the MHPC.
- Roy Lenardson was a policy analyst with the MHPC from 2002-2005, where he specialized in tax, budget, and commerce issues. He is now the Executive Director, President, and Treasurer of Maine Leads.
- Michael Duddy is currently a member of both organizations' Boards of Directors. Neal Freeman (formerly on the Board of Maine Leads) is currently on the Board of the MHPC.

Maine Leads is a 501(c)(4) tax exempt charitable organization. As such, it may engage in an unlimited amount of lobbying, including the promotion of ballot questions. The Maine Heritage Policy Center is a 501(c)(3) organization, which is restricted in the amount of its activities which can be devoted to lobbying and promotion of ballot questions.

Legal Requirements

Gathering Signatures for Citizen Initiatives is Reportable PAC Activity

Based on a recent amendment to the campaign finance law, there can be no question that the Maine Legislature intended that contributions received and expenditures made to gather signatures for ballot questions is reportable PAC activity. In 2005, the Legislature

convened a study commission to consider citizen initiatives and other election issues.

The commission “determined that voter information about the financing of an initiative effort, the financing of opposing an initiative effort and the reporting of such financing is insufficient.” (Final Report, at 4, available at www.maine.gov/legis/opla/electrpt.pdf)

To remedy the problem, the Commission recommended statutory changes to clarify that contributions received and expenditures made during the petitioning phase of a citizen initiative must be reported by PACs:

Legislation should be enacted to require that campaign finance reports by PACs organizing citizen initiative campaigns specify expenditures made as payment to petition circulators. This legislation should also clarify that contributions received and expenditures made by a PAC during the signature gathering phase of a citizen initiative campaign must be reported when current statutory thresholds are met. The Commission unanimously supported clarifying the law so that there is no ambiguity that if a group spends \$1500 (current trigger to report with the Commission on Governmental Ethics and Election Practices as a PAC) to support or discourage the gathering of signatures for a citizen initiative it meets the definition of a PAC and is required to submit reports. The Commission unanimously agreed that payment made by PACs to people for circulating initiative petitions should be itemized on required campaign finance reports. Those Commission members agreed that this information should be available to the public and is consistent with reporting requirements of campaigns for state office. (Final report, at 13, emphasis in original)

The Legislature enacted Chapter 575 of the Public Laws of 2005 to insert the phrase “including the collection of signatures for a direct initiative” to the definition of the term expenditure for PACs and to the PAC definition.

Requirement to Register and File Reports as a PAC

Ms. Hutton contends in her counsel's May 20 letter that Maine Leads qualifies as a PAC under 21-A M.R.S.A. § 1052(5)(A)(4) that was applicable when Maine Leads made its \$75,000 in contributions on November 15, 2007:

Any organization, including any corporation or association, that has as its major purpose advocating the passage or defeat of a ballot question and that solicits funds from members or nonmembers and spends more than \$1,500 in a calendar year to initiate, advance, promote, defeat or influence in any way a candidate, campaign, political party, referendum or initiated petition, including the collection of signatures for a direct initiative, in this State

The PAC definition that applied at that time (21-A M.R.S.A. § 1052(5)) contained four subparagraphs (A)(1) – (4). An organization could qualify as a PAC under one or more of those subparagraphs. (In my opinion, three of those subparagraphs are potentially applicable to the facts of this case.) In 2008, the Maine Legislature amended and simplified the PAC definition (21-A M.R.S.A. § 1052(5)(A)), and the new definition took effect on June 30, 2008. I have attached both versions of the provision and a chart showing the provisions that I believe are relevant.

Alternative Reporting Requirement – Section 1056-B Reporting

In 2000, the Legislature created an alternative reporting requirement for organizations *other than PACs* that raised or spent more than \$1,500 to initiate, promote, defeat or influence in any way a ballot question. (21-A M.R.S.A. § 1056-B) Thus, if an organization does not have as its major purpose influencing ballot questions, it may still be required to file campaign finance reports under Section 1056-B if it received contributions or made expenditures (other than by contribution to a PAC) aggregating

more than \$1,500 for the purpose of initiating or promoting a ballot question. In 2008, this reporting requirement was amended to increase the reporting threshold to \$5,000 and to introduce a new term for this type of campaign finance filer (“ballot question committee”). If the Commission determines that the major purpose of Maine Leads was *not* to initiate or promote a ballot question, it may be worth considering whether Maine Leads is required to file campaign finance reports under Section 1056-B.

Responses by Counsel for Maine Leads

On April 27, 2009, I provided Ms. Hutton’s request to Dan Billings, counsel for Maine Leads, with some requests for factual information. Mr. Billings has made three submissions dated May 11th, 20th, and 21st. In the first response, Mr. Billings argues that Ms. Hutton has offered no facts which, if true, constitute a violation of law. He states that my initial request to him provided Maine Leads with insufficient time to respond. He also contends that my request would require Maine Leads to disclose confidential information. I refer you to Maine Leads’ three submissions for an understanding of the organization’s legal positions.

Maine Leads’ Concern About Confidentiality

The Commission staff appreciates that Maine Leads is reluctant to disclose *future* sensitive political activities. Nevertheless, as a 501(c)(4) tax exempt charity, Maine Leads is required to make publicly available some degree of information about its *past* activities and finances through its annual tax return (the Form 990, Return of

Organization Exempt from Income Tax). The return must be filed 5 ½ months after the end of the organization's annual accounting period, although extensions are permitted.

As shown on the attached pages of the blank reporting form, the Form 990 requires the charity to:

- briefly describe the organization's mission or most significant activities for the year covered by the return; (page 1)
- disclose whether the organization undertook any new significant program services during the year, which were not reported on previous Form 990 in previous years; (page 2)
- describe the achievements for each of the organization's three largest program services, as determined by the expenses of the program (page 2)
- list all current key employees and state the compensation for those employees (page 7)
- provide total revenue for the year, and a breakdown of revenue (page 9)
- provide total expenditures for the year and a breakdown by categories (grants to organizations, compensation to key employees, other salaries, fees paid to non-employees (page 10).

Since this information about the *past* activities and finances of Maine Leads should be publicly available, it is difficult to see why information which has been or will be disclosed in a Form 990 must be kept confidential for purposes of the Commission's consideration of this matter. By suggesting this, I do not wish to foreclose the possibility that the Commission may decide that it requires other information from Maine Leads – not required on Form 990 – in order to make a determination about the major purpose of Maine Leads.

Grounds for Believing a Violation May Have Occurred

As noted by Dan Billings, if someone requests that the Commission conduct an investigation on a campaign finance matter, the Commission is required to review the request and “shall make the investigation if the reasons stated for the request show sufficient grounds for believing that a violation may have occurred.” (21-A M.R.S.A. § 1013(2)) In the view of the Commission staff, the Commission *could* find that the factual circumstances known at this time are sufficient to believe that a violation *may* have occurred. The violation that may have occurred in this instance is operating as a PAC or a Section 1056-B filer without registering or filing campaign finance reports. We believe the following factual circumstances are relevant:

1. Maine Leads has provided 75 % of the funding for the PACs that collected the signatures for the three citizen initiatives. This is the primary ground relied upon by Ms. Hutton.

2. The members of Maine Leads staff have key roles in the initiation and promotion of the citizen initiatives.

- Roy Lenardson, Chris Cinquemani, and Trevor Bragdon are the three individuals identified as the principal decision-makers or fundraisers for More Green Now, the PAC which is now promoting the excise tax referendum.
- Trevor Bragdon and Chris Cinquemani are two of the three individuals identified as the principal decision-makers or fundraisers for the Health Care Choices NOW PAC.
- According to the Maine Leads’ website, Trevor Bragdon oversaw the collection of signatures for the three citizen initiatives. His firm, Pioneer Group, Inc., received \$81,714 in income for this effort.

- On November 3, 2008, Chris Cinquemani submitted petitions containing 69,000 signatures to the Secretary of State in support of the excise tax initiative. Roy Lenardson submitted the application in August 2007 to gather signatures for the initiative. On November 6, 2008, Trevor Bragdon submitted petitions for the health care alternatives initiative.

3. *As noted above, based on information that is publicly available, initiating and promoting the ballot questions appears to be – at the very least - a significant activity of Maine Leads. This is relevant to the major purpose of the organization, although not dispositive.*

4. *Expenditures Made by Maine Leads Directly to Trevor Bragdon and Other Staff.* The counsel for Maine Leads, Dan Billings, states in his May 20th letter that Maine Leads made expenditures directly to Trevor Bragdon during the months of February - April 2008, and December 2008 - March 2009. (These direct expenditures to Mr. Bragdon are in addition to the \$81,704 in funding that Pioneer Group received.) The amount and the purpose of these payments is unknown. If Maine Leads made expenditures to Mr. Bragdon or to other staff such as Roy Lenardson or Chris Cinquemani totaling more than \$1,500 for the purpose of initiating or promoting the three citizen initiatives, those expenditures would, by themselves, trigger the campaign finance reporting requirement under 21-A M.R.S.A. § 1056-B, and could be a factor in a determination that Maine Leads was a PAC.

5. *Maine Leads Exerted a Large Degree of Influence Over the Three PACs.* When a PAC registers with the Commission, it is required to report all individuals who are the primary decision-makers or fundraisers for the PAC. The three members of Maine

Leads' staff are the reported decision-makers or fundraisers for More Green NOW, which currently is promoting the excise tax referendum. Chris Cinquemani and Trevor Bragdon are two of three of the reported decision-makers or fund-raisers for Healthcare Choices Now.

This suggests that Maine Leads' staff had substantial influence, if not control, over the spending decisions of at least two of the three PACs. It appears likely that Maine Leads' staff decided to pay the PACs' cash to Pioneer Group, Inc. for signature-gathering. Thus, in deciding how to apply the campaign finance law to achieve the disclosure purposes of the law, Maine Leads should not be viewed merely as a contributor to the PACs. It is arguably also a spender of the money, or at least a decision-maker on how that money was spent.

6. Purpose of Donors to Maine Leads

Maine Leads had existed for only one month when it contributed \$75,000 for signature-gathering efforts to the three PACs. At that time, Maine Leads did not have any apparent sources of revenue such as dues-paying members or purchasers of good or services provided by Maine Leads. These factors suggest the possibility that at the time Maine Leads obtained the \$75,000 in funds that it provided to the PACs on November 17, 2007, its purpose in soliciting the funds was to initiate the three citizen initiatives. These factors may also suggest that the donors to Maine Leads in 2007 were aware that Maine Leads would spend all or part of their donations to promote the three citizen initiatives, although it is premature to reach any conclusions without receiving more information

from Maine Leads. The purpose of Maine Leads in soliciting the donations – and of the donors in making the donations – is relevant to whether Maine Leads qualified as a PAC or was required to file campaign finance reports under 21-A M.R.S.A. § 1056-B.

Potential Investigation

If you decide to conduct an investigation, the counsel for Deborah Hutton made some suggestions in his May 20 letter for how to proceed:

The Commission should open an investigation to clarify the following question: Was Maine Leads' "major purpose" to "influence in any way" the collection of signatures for these direct initiatives? Ancillary questions might include: What other activities has Maine Leads engaged in since its formation? What other activities was Maine Leads engaged in during the period in question? The \$75,000 in question was what percent of Maine Leads' overall budget for the period in question.

If the Commission is inclined to conduct an investigation, we offer a few thoughts:

Procedure

Response time for Maine Leads. The scheduling of your next meeting on July 30, 2009 would provide enough time for:

- Maine Leads to provide any information or legal argument you request
- Deborah Hutton to provide a response
- The Commission staff and counsel to analyze both submissions and to make recommendations to you, if desired.

If you decide to conduct an investigation, we suggest setting deadlines for these submissions at your May 28 meeting.

Sworn Statements. The submissions by Deborah Hutton and Maine Leads contain a noticeable tone of mutual suspicion. For this reason, the Commission may wish to request that Maine Leads respond in the form of an affidavit by someone with personal knowledge of its financial activities, such as Roy Lenardson. While this has not been the common practice of the Commission, a higher level of formality in this case may provide greater assurance to the parties and to interested observers that the Commission has received carefully considered, accurate information.

Major Purpose of Maine Leads

If the Commission believes there are grounds to conduct an investigation, the Commission staff agrees with Deborah Hutton that it should gather information that would allow the Commission to determine if the major purpose of the organization was to initiate or promote the citizen initiatives.

General financial information about Maine Leads. The staff agrees with Ms. Hutton that the ratio of the \$75,000 paid by Maine Leads to the overall budget of the organization would be relevant to the major purpose of the organization. As noted above, tax exempt organizations are required to disclose their annual total expenditures in the Form 990.

Relevant time period of Maine Leads' Activities. The Commission staff also believes it would be relevant to gain an understanding of Maine Leads' activities after it organized in October 2007. We suggest that the relevant time period is the roughly one year from October 2007 (the incorporation of Maine Leads) to November 2008 (the submission of

petitions to the Secretary of State). The focus should be on the *actual* activities of Maine Leads during the period, and not on hoped-for or planned activities of the organization at its inception in 2007 or during 2008.

Expenditures by Maine Leads to initiate or promote the citizen initiatives

The staff suggests that the Commission should request that Maine Leads state whether it has made expenditures exceeding \$1,500 to initiate or promote the three citizen initiatives (other than by making the three contributions of \$25,000). If it has made such expenditures, its counsel should provide legal justification why Maine Leads has not registered as a PAC or filed campaign finance reports as a ballot question committee under 21-A M.R.S.A. § 1056-B.

Contributions to influence the ballot question

The staff suggests that the Commission request that Maine Leads state whether it solicited contributions *for the purpose of initiating or promoting* a ballot question, which is relevant to whether Maine Leads is a PAC. Also, the Commission should request whether Maine Leads received contributions in which the purpose of *the donor* was to influence or promote the ballot question. This would include “funds provided in response to a solicitation that would lead the contributor to believe that the funds would be used specifically for the purpose of initiating, promoting, defeating or influencing in any way a ballot question” and “[f]unds that can reasonably be determined to have been provided by the contributor for the purpose of initiating, promoting, defeating or influencing in any

way a ballot question when viewed in the context of the contribution and the recipient's activities regarding a ballot question ...” (21-A M.R.S.A. § 1056-B(2-A))

If the Commission decides to authorize an investigation, the members or Deborah Hutton may have other specific suggestions for information, testimony, or documents which Maine Leads should provide.

Staff Recommendation

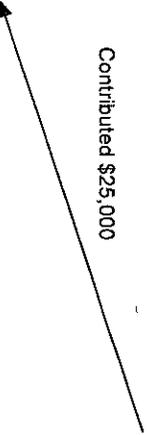
Given the legislative concern that financial activity for signature-gathering ought to be disclosed publicly and the heavy involvement of Maine Leads staff in the petitioning process and in promoting the citizen initiatives, the staff suggests that some fact-gathering or investigation is necessary to determine whether Maine Leads was required to register or file reports. Maine Leads should be given sufficient time to provide a factual and legal response.

Original sources



Maine Leads
(Incorporated 10/18/07)
Staff is
Roy Lenardson (Executive Director)
Trevor Bragdon (Grassroots Director)
Chris Cinquemani (Communications Director)

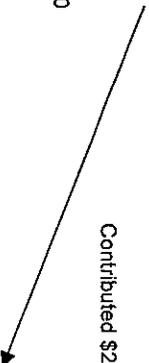
Contributed \$25,000



Contributed \$25,000



Contributed \$25,000



More Green Now PAC
(formerly The Road to a Cleaner Maine PAC)
Reported primary decision-makers
and fundraisers are:
Roy Lenardson
Chris Cinquemani
Trevor Bragdon

Health Care Choices NOW PAC
(formerly Affordable Health Care
Choices for Maine PAC)
Reported primary decision-makers
and fundraisers are:
Trevor Bragdon
Chris Cinquemani
Joel Allumbaugh

TABOR NOW PAC
(formerly Citizens for a
Prosperous Maine PAC)
Reported principal officer and
treasurer are:
David Crocker
David Wiegleb

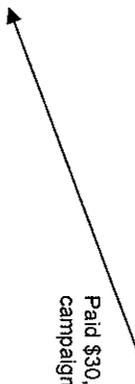
Paid \$22,649 for signatures



Paid \$26,230 for signatures



Paid \$30,296 for signatures,
campaign management



Pioneer Group, Inc.
Trevor Bragdon's consulting firm

Current law	Before 6/30/08
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An organization must register and file campaign finance reports as a PAC if ...

<p>The organization has as its <i>major purpose</i> initiating or promoting a ballot question,</p> <p><u>and</u></p> <p>It spends more than \$1,500 to initiate or promote a ballot question including for collection of signatures</p> <p align="right">§ 1052(5)(A)(5)</p>	<p>The organization has as its major purpose advocating the passage or defeat of a ballot question, <u>and</u></p> <p>solicits funds from members or nonmembers to initiate or promote an initiated petition, including the collection of signatures, <u>and</u></p> <p>spends more than \$1,500 to initiate or promote an initiated petition, including the collection of signatures</p> <p align="right">§ 1052(5)(A)(4)</p>
	<p>The organization has as its major purpose advocating the passage or defeat of a ballot question, <u>and</u></p> <p>That makes expenditures other than by contribution to a PAC, for the initiation, promotion or defeat of any question</p> <p align="right">§ 1052(5)(A)(5)</p>
	<p>The organization serves as a funding and transfer mechanism, <u>and</u></p> <p>Spends money to initiate or promote an initiated petition</p> <p align="right">§ 1052(5)(A)(2)</p>

An organization must file campaign finance reports as a ballot question committee if ...

<p>The organization</p> <p>Solicits and receives contributions in excess of \$5,000 for the purpose of initiating or promoting a ballot question,</p> <p><u>or</u></p> <p>Makes expenditures in excess of \$5,000 – other than by contribution to a PAC – for the purpose of initiating or promoting a ballot question</p> <p align="right">§ 1056-B</p>	<p>Same requirements, except threshold was \$1,500</p> <p align="right">§ 1056-B</p>
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maine LEADS

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Friday, May 22, 2009

IT'S TIME FOR ACTION!

The movement for lower taxes, government transparency and economic freedom has begun. Are you ready?

Think of the challenges we face every day. Maine has a long history of high taxes, low incomes and a government that spends more and more of our hard earned income each year. Meanwhile, another generation of young people move away in search of opportunity. Had enough?

It's time to change the course of history and move Maine in a new direction.

Enter Maine Leads.

Our goal is simple—responsible government and future prosperity. We are a resource for the citizens and elected officials who will make it happen. Maine Leads is about action.



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Friday, May 22, 2009

CITIZEN INITIATIVES

Tax relief is just one election away!

Maine Leads turns valuable ideas into powerful citizen initiative campaigns. The citizen initiative lets us vote for the accountability and prosperity that will move Maine forward.

Right now, we are promoting three citizen initiatives that will be on the ballot in November 2009. Each of these initiatives promotes economic freedom and government accountability. When they pass, it will be a great victory for the citizens of Maine.

1) TABOR NOW

An Act to Provide Tax Relief

Politicians have been promising tax relief for decades. TABOR is a guarantee.

- YOU decide whether politicians can pass a new tax or tax increase
- YOU decide if state spending should balloon above inflation plus population growth
- YOU decide if the gas tax should increase every year
- YOU decide if property taxes should grow faster than your paycheck
- YOU can see how your town or city is spending your tax dollars, and compare your town's spending to other towns in Maine

CLICK HERE to visit the TABOR NOW campaign website.

2) MORE GREEN NOW

An Act to Decrease the Automobile Excise Tax and Promote Energy Efficiency

The MORE GREEN NOW initiative saves Mainers nearly \$1,000 in taxes over the lifetime of a car.

- Encourages a statewide conversation on the fairness of Maine's excise tax

DONATE
ONLINE

TAKE ACTION
CONSTRUCTIVE

CITIZEN
INITIATIVES

E-NEWS
SIGN UP

- Reduces auto excise taxes by nearly 50 percent
- Saves Maine taxpayers \$70 million each year
- Eliminates the sales tax on new hybrid and energy efficient vehicles
- Eliminates the first three years of auto excise tax on new hybrid and energy efficient vehicles
- Promotes cleaner air and greater fuel efficiency

CLICK HERE to visit the MORE GREEN NOW campaign website.

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- AUDIO

OUR MISSION

Why we are

DIRECTORS

Who we are

STAFF

Who we are:

Roy Lenardson
Executive Director

Trevor Bragdon
Grassroots Director

Chris Cinquemani
Public Affairs Director

Laura Santini-Smith
Special Projects
Director

TREVOR BRAGDON

Grassroots Director

Trevor Bragdon is the Grassroots Director for Maine Leads. His responsibilities include initiative and referenda campaign management and coalition building. He is currently managing a team of over 250 Mainers collecting signatures for three citizen initiatives for the 2009 ballot.

Previously, he served as a Legislative Aide for six senators at the Maine Senate Republican Office. In 2006, he managed six State Senate campaigns, winning four. In 2005 he was the Political Director of the Maine Republican Party, where he worked extensively with grassroots activists and citizen initiative campaigns.

In 2004, Trevor was the Bush/Cheney campaign's Field Coordinator for Maine's 2nd Congressional District. In that role, he managed a network of over 3,000 volunteers.

Trevor received his Bachelor of Arts degree in financial economics from the University of Maine and now lives Augusta.

DONATE ONLINE

TAKE ACTION GRASSROOTS

CITIZEN INITIATIVES

E-NEWS SIGN UP

**STATE OF MAINE
122nd LEGISLATURE
SECOND REGULAR SESSION**

**Final Report
of the
STUDY COMMISSION TO STUDY
ALTERNATIVE VOTING PROCEDURES,
THE CITIZEN INITIATIVE PROCESS AND
MINOR PARTY BALLOT ACCESS**

January 2006

Members:

**Senator Bill Diamond, Chair
Representative Sean Faircloth, Chair
Senator Kenneth T. Gagnon
Senator Debra D. Plowman
Representative David N. Ott
Representative Linda M. Valentino
Randall L. Bumps
Patrick Colwell
Julie Flynn
Ruth Lyons
Frances Smith**

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Maine Legislature
(207) 287-1670**

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G. Resolve 2005, chapter 70	

A report published by the National Conference of State Legislators in July 2002, *Initiative and Referendum in the 21st Century – The Final Report and Recommendations of the I&R Task Force*, shows the costs some states incur for the distribution of voter pamphlets. The costs tend to vary from year to year depending on the number of initiatives that have made it to the ballot and the number of pages it takes to provide the summaries. The cost also varies from state to state based on what content is required to be included in the pamphlet. The following are examples from the report:

- Oregon mails a voter information packet to every residential household. In 2000, Oregon spent \$1.9 million on printing and \$870,000 on postage to mail 1.6 million pamphlets;
- Arizona mails voter information pamphlets to every registered voter household and county offices. In 2000, Arizona spent \$443,000 on printing and \$190,000 to mail 1.1 million pamphlets (1.3 million were printed); and
- Colorado mails a voter information pamphlet to every registered voter household and county offices. In 2000, Colorado spent \$283,000 on printing and \$192,000 on postage to mail 1.6 million pamphlets.

To view a copy of the NCSL report on the web use the following link:
<http://www.ncsl.org/programs/legman/irtaskfc/irtaskforce.htm>

In light of the costs of mailing voter information pamphlets, Commission members brainstormed for ideas about how to cover the costs. The Commission considered charging a fee to proponents of an initiative who raised over a certain dollar amount to support an initiative campaign. However, this suggestion raised issues with regard to infringing on a person's constitutionally protected right to free speech as well as simply having a chilling effect on participation in the initiative process. In the end, this idea did not generate significant support from members of the Commission. Several members of the Commission suggested discontinuing the legal notice, considering it rather obscure and not very helpful, and using that savings to defray the cost incurred in creating a more readable and accessible publication. The Commission agreed to consider this idea further and requested a report from the Secretary of State examining options for a more accessible and readable publication.

Reporting Financing of Citizen Initiative Campaigns: The Commission determined that voter information about the financing of an initiative effort, the financing of opposing an initiative effort and the reporting of such financing is insufficient. It was clear to the Commission that once a proposed initiative is certified to become a ballot question, the campaigns for and against that measure are subject to the laws that require campaign finance reports. Not as clear to the Commission was whether or not campaign finance reports are required during the signature gathering phase of the process. At their first meeting, Commission members received remarks from Jonathan Wayne, the executive director of the Commission on Governmental Ethics and Election Practices. The Commission asked Mr. Wayne to comment on whether advocates of ballot questions must file campaign finance reports of contributions and expenditures for the gathering of petition signatures. He cited current law, 21-A MRSA, §1053, stating that when an organization meets the definition of a political action committee (PAC) by

receiving or spending more than \$1,500 in a calendar year to initiate, support, defeat or influence in any way a ballot measure, it must register as a PAC and file campaign finance reports. Mr. Wayne stated it is his opinion that “initiate” should be understood to include signature gathering but noted that the Commission on Governmental Ethics and Election Practices has not previously been presented an instance where it was necessary to provide guidance on the issue.

Mr. Wayne also pointed out a provision in current law, 21-A MRSA §1058, that states that any organization opposing a ballot question shall begin filing campaign finance reports within 10 days of the Secretary of State drafting the referendum question and prior to the distribution of petitions for voter signatures . Commission members questioned how this provision would be enforced unless a PAC was already registered in anticipation of a potential citizen initiative. They also found it in conflict with current law governing PACs. In addition, legal questions were raised regarding placing a stricter reporting requirement on an entity simply because of the type of speech they were expressing, meaning speech in opposition to a measure. Thus, the Commission determined that this provision should be clarified to be consistent with the law governing campaign finance reports by PACs. Furthermore, the Commission supported the idea that PAC campaign reports should be further itemized and be required to show signature gatherers as employees and report payments to those employers. A copy of Mr. Wayne’s testimony may be found in Appendix F.

Determining that information about campaigns for citizen initiatives should be accessible to the general public, the Commission agreed that the Secretary of State and the Commission on Governmental Ethics and Election Practices coordinate efforts in order to make information more readily available to the public about who is coordinating or supporting initiative campaigns.

Signature Verification at Municipal Level: At the beginning of the Commission’s first meeting, members received comments from the Town and City Clerk’s Association regarding municipal clerks’ responsibility to verify the signatures gathered in their municipality for citizen initiative petitions. The Commission was informed that there is usually very little time for them to fulfill their obligation to verify signatures considering the short time between when the petitions are submitted to them and when they are due at the Secretary of State’s office. The Constitution of Maine, Article IV, Part Third, Section 18, states that petitions must be submitted to local officials by 5:00pm on the 10th day before they are due to the Secretary of State (excluding weekends and holidays) in order that those signatures may be verified as those of registered voters of the municipality. The Commission was informed that it is often the case that petitions are turned in later than that, thus shortening an already brief time period to complete verification. In combination with the other duties of the municipal clerk, meeting this obligation is often difficult. Different reasons are presumed to be the cause of late filing, including the political strategy of holding the number of signatures gathered close to the vest until the last possible minute or simply because it requires that much time to gather enough signatures to be successful. Regardless of the reason, members of the Commission recognized the burden on municipal officials as well as their strong commitment to meet their obligation.

Ideas considered by the Commission to address the limited timeframe to verify signatures proved complex. Statutory changes were limited because the signature verification process is

of Qualified Political Parties which was carried over on the Appropriations Table by Senate Paper 640, should be referred back to the Joint Standing Committee on Legal and Veterans' Affairs.



- **Legislation should be enacted to require that campaign finance reports by PACs organizing citizen initiative campaigns specify expenditures made as payment to petition circulators. This legislation should also clarify that contributions received and expenditures made by a PAC during the signature gathering phase of a citizen initiative campaign must be reported when current statutory thresholds are met.** The Commission unanimously supported clarifying the law so that there is no ambiguity that if a group spends \$1500 (current trigger to report with the Commission on Governmental Ethics and Election Practices as a PAC) to support or discourage the gathering of signatures for a citizen initiative it meets the definition of a PAC and is required to submit reports. The Commission unanimously agreed that payment made by PACs to people for circulating initiative petitions should be itemized on required campaign finance reports. Those Commission members agreed that this information should be available to the public and is consistent with reporting requirements of campaigns for state office.
- **In order to better facilitate the constitutionally provided right to the initiation of law by citizen petition, the Legislature should consider an amendment to the Constitution of the State of Maine that would ensure municipal officials are afforded adequate time to verify petition signatures before they are due to the Secretary of State.** The Commission determined that for various reasons, petitions for citizen initiatives are often turned into a municipal clerk's office for signature verification too close to when they need to be submitted to the Secretary of State for certification. As a result, municipal officials find it difficult to meet their obligation to verify signatures. The commission looked at various statutory proposals to address the issue but found that they may conflict with the Constitution of the State of Maine. Thus, the Commission determined that if the Legislature deemed the issue important enough to amend the Constitution it should have that option. The Commission stated that this recommendation in no way intended to infringe upon the rights of petitioners but is intended to create a time period where municipal officials could appropriately meet its Constitutional obligation to verify signatures. The Commission's recommendation would state that signatures are due to municipal officials 10 days before required to be at the Secretary of State's office. Signatures not submitted to municipal officials by this date would be invalid. This recommendation is to be put forward as a separate bill was supported unanimously by the commission.

Return of Organization Exempt From Income Tax

2008

Under section 501(c), 527, or 4947(a)(1) of the Internal Revenue Code (except black lung benefit trust or private foundation)

Open to Public Inspection

Department of the Treasury
Internal Revenue Service

▶ The organization may have to use a copy of this return to satisfy state reporting requirements.

A For the 2008 calendar year, or tax year beginning _____, 2008, and ending _____, 20

B Check if applicable: <input type="checkbox"/> Address change <input type="checkbox"/> Name change <input type="checkbox"/> Initial return <input type="checkbox"/> Termination <input type="checkbox"/> Amended return <input type="checkbox"/> Application pending	Please use IRS label or print or type. See Specific Instructions.	C Name of organization Doing Business As		D Employer identification number
		Number and street (or P.O. box if mail is not delivered to street address) Room/suite		E Telephone number ()
		City or town, state or country, and ZIP + 4		G Gross receipts \$
F Name and address of principal officer:			H(a) Is this a group return for affiliates? <input type="checkbox"/> Yes <input type="checkbox"/> No	H(b) Are all affiliates included? <input type="checkbox"/> Yes <input type="checkbox"/> No If "No," attach a list. (see instructions)
I Tax-exempt status: <input type="checkbox"/> 501(c) () (insert no.) <input type="checkbox"/> 4947(a)(1) or <input type="checkbox"/> 527			H(c) Group exemption number ▶	
J Website: ▶				
K Type of organization: <input type="checkbox"/> Corporation <input type="checkbox"/> Trust <input type="checkbox"/> Association <input type="checkbox"/> Other ▶			L Year of formation:	M State of legal domicile:

Part I Summary

Activities & Governance	1 Briefly describe the organization's mission or most significant activities: _____		
	2 Check this box <input type="checkbox"/> if the organization discontinued its operations or disposed of more than 25% of its assets.		
	3 Number of voting members of the governing body (Part VI, line 1a)	3	
	4 Number of independent voting members of the governing body (Part VI, line 1b)	4	
	5 Total number of employees (Part V, line 2a)	5	
	6 Total number of volunteers (estimate if necessary)	6	
	7a Total gross unrelated business revenue from Part VIII, line 12, column (C)	7a	
7b Net unrelated business taxable income from Form 990-T, line 34	7b		
Revenue	8 Contributions and grants (Part VIII, line 1h)	Prior Year	Current Year
	9 Program service revenue (Part VIII, line 2g)		
	10 Investment income (Part VIII, column (A), lines 3, 4, and 7d)		
	11 Other revenue (Part VIII, column (A), lines 5, 6d, 8c, 9c, 10c, and 11e)		
	12 Total revenue—add lines 8 through 11 (must equal Part VIII, column (A), line 12)		
Expenses	13 Grants and similar amounts paid (Part IX, column (A), lines 1–3)		
	14 Benefits paid to or for members (Part IX, column (A), line 4)		
	15 Salaries, other compensation, employee benefits (Part IX, column (A), lines 5–10)		
	16a Professional fundraising fees (Part IX, column (A), line 11e)		
	b Total fundraising expenses (Part IX, column (D), line 25) ▶		
	17 Other expenses (Part IX, column (A), lines 11a–11d, 11f–24f)		
18 Total expenses. Add lines 13–17 (must equal Part IX, column (A), line 25).			
19 Revenue less expenses. Subtract line 18 from line 12			
Net Assets or Fund Balances	20 Total assets (Part X, line 16)	Beginning of Year	End of Year
	21 Total liabilities (Part X, line 26)		
	22 Net assets or fund balances. Subtract line 21 from line 20		

Part II Signature Block

Under penalties of perjury, I declare that I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief, it is true, correct, and complete. Declaration of preparer (other than officer) is based on all information of which preparer has any knowledge.

Sign Here ▶ _____ Date _____
Signature of officer

▶ _____
Type or print name and title

Paid Preparer's Use Only	Preparer's signature ▶	Date	Check if self-employed <input type="checkbox"/>	Preparer's identifying number (see instructions)
	Firm's name (or yours if self-employed), address, and ZIP + 4 ▶	EIN ▶	Phone no. ▶ ()	

May the IRS discuss this return with the preparer shown above? (see instructions) Yes No

Part V Statements Regarding Other IRS Filings and Tax Compliance

		Yes	No
1a	Enter the number reported in Box 3 of Form 1096, Annual Summary and Transmittal of U.S. Information Returns. Enter -0- if not applicable		
	1a		
b	Enter the number of Forms W-2G included in line 1a. Enter -0- if not applicable		
	1b		
c	Did the organization comply with backup withholding rules for reportable payments to vendors and reportable gaming (gambling) winnings to prize winners?		
	1c		
2a	Enter the number of employees reported on Form W-3, Transmittal of Wage and Tax Statements, filed for the calendar year ending with or within the year covered by this return		
	2a		
b	If at least one is reported on line 2a, did the organization file all required federal employment tax returns? Note. If the sum of lines 1a and 2a is greater than 250, you may be required to e-file this return. (see instructions)		
	2b		
3a	Did the organization have unrelated business gross income of \$1,000 or more during the year covered by this return?		
	3a		
b	If "Yes," has it filed a Form 990-T for this year? If "No," provide an explanation in Schedule O		
	3b		
4a	At any time during the calendar year, did the organization have an interest in, or a signature or other authority over, a financial account in a foreign country (such as a bank account, securities account, or other financial account)?		
	4a		
b	If "Yes," enter the name of the foreign country: ▶ _____ See the instructions for exceptions and filing requirements for Form TD F 90-22.1, Report of Foreign Bank and Financial Accounts.		
	5a		
5a	Was the organization a party to a prohibited tax shelter transaction at any time during the tax year?		
	5a		
b	Did any taxable party notify the organization that it was or is a party to a prohibited tax shelter transaction?		
	5b		
c	If "Yes," to question 5a or 5b, did the organization file Form 8886-T, Disclosure by Tax-Exempt Entity Regarding Prohibited Tax Shelter Transaction?		
	5c		
6a	Did the organization solicit any contributions that were not tax deductible?		
	6a		
b	If "Yes," did the organization include with every solicitation an express statement that such contributions or gifts were not tax deductible?		
	6b		
7	Organizations that may receive deductible contributions under section 170(c).		
a	Did the organization provide goods or services in exchange for any quid pro quo contribution of more than \$75?		
	7a		
b	If "Yes," did the organization notify the donor of the value of the goods or services provided?		
	7b		
c	Did the organization sell, exchange, or otherwise dispose of tangible personal property for which it was required to file Form 8282?		
	7c		
d	If "Yes," indicate the number of Forms 8282 filed during the year		
	7d		
e	Did the organization, during the year, receive any funds, directly or indirectly, to pay premiums on a personal benefit contract?		
	7e		
f	Did the organization, during the year, pay premiums, directly or indirectly, on a personal benefit contract?		
	7f		
g	For all contributions of qualified intellectual property, did the organization file Form 8899 as required?		
	7g		
h	For contributions of cars, boats, airplanes, and other vehicles, did the organization file a Form 1098-C as required?		
	7h		
8	Section 501(c)(3) and other sponsoring organizations maintaining donor advised funds and section 509(a)(3) supporting organizations. Did the supporting organization, or a fund maintained by a sponsoring organization, have excess business holdings at any time during the year?		
	8		
9	Section 501(c)(3) and other sponsoring organizations maintaining donor advised funds.		
a	Did the organization make any taxable distributions under section 4966?		
	9a		
b	Did the organization make a distribution to a donor, donor advisor, or related person?		
	9b		
10	Section 501(c)(7) organizations. Enter:		
a	Initiation fees and capital contributions included on Part VIII, line 12	10a	
b	Gross receipts, included on Form 990, Part VIII, line 12, for public use of club facilities	10b	
11	Section 501(c)(12) organizations. Enter:		
a	Gross income from members or shareholders	11a	
b	Gross income from other sources (Do not net amounts due or paid to other sources against amounts due or received from them.)	11b	
12a	Section 4947(a)(1) non-exempt charitable trusts. Is the organization filing Form 990 in lieu of Form 1041?	12a	
b	If "Yes," enter the amount of tax-exempt interest received or accrued during the year	12b	

Part VI Governance, Management, and Disclosure (Sections A, B, and C request information about policies not required by the Internal Revenue Code.)

Section A. Governing Body and Management

		Yes	No
For each "Yes" response to lines 2-7b below, and for a "No" response to lines 8 or 9b below, describe the circumstances, processes, or changes in Schedule O. See instructions.			
1a	Enter the number of voting members of the governing body		
1b	Enter the number of voting members that are independent		
2	Did any officer, director, trustee, or key employee have a family relationship or a business relationship with any other officer, director, trustee, or key employee?		
3	Did the organization delegate control over management duties customarily performed by or under the direct supervision of officers, directors or trustees, or key employees to a management company or other person?		
4	Did the organization make any significant changes to its organizational documents since the prior Form 990 was filed?		
5	Did the organization become aware during the year of a material diversion of the organization's assets?		
6	Does the organization have members or stockholders?		
7a	Does the organization have members, stockholders, or other persons who may elect one or more members of the governing body?		
7b	Are any decisions of the governing body subject to approval by members, stockholders, or other persons?		
8	Did the organization contemporaneously document the meetings held or written actions undertaken during the year by the following:		
a	The governing body?		
b	Each committee with authority to act on behalf of the governing body?		
9a	Does the organization have local chapters, branches, or affiliates?		
b	If "Yes," does the organization have written policies and procedures governing the activities of such chapters, affiliates, and branches to ensure their operations are consistent with those of the organization?		
10	Was a copy of the Form 990 provided to the organization's governing body before it was filed? All organizations must describe in Schedule O the process, if any, the organization uses to review the Form 990		
11	Is there any officer, director or trustee, or key employee listed in Part VII, Section A, who cannot be reached at the organization's mailing address? If "Yes," provide the names and addresses in Schedule O		

Section B. Policies

		Yes	No
12a	Does the organization have a written conflict of interest policy? If "No," go to line 13		
b	Are officers, directors or trustees, and key employees required to disclose annually interests that could give rise to conflicts?		
c	Does the organization regularly and consistently monitor and enforce compliance with the policy? If "Yes," describe in Schedule O how this is done		
13	Does the organization have a written whistleblower policy?		
14	Does the organization have a written document retention and destruction policy?		
15	Did the process for determining compensation of the following persons include a review and approval by independent persons, comparability data, and contemporaneous substantiation of the deliberation and decision:		
a	The organization's CEO, Executive Director, or top management official?		
b	Other officers or key employees of the organization? Describe the process in Schedule O. (see instructions)		
16a	Did the organization invest in, contribute assets to, or participate in a joint venture or similar arrangement with a taxable entity during the year?		
b	If "Yes," has the organization adopted a written policy or procedure requiring the organization to evaluate its participation in joint venture arrangements under applicable federal tax law, and taken steps to safeguard the organization's exempt status with respect to such arrangements?		

Section C. Disclosure

- 17** List the states with which a copy of this Form 990 is required to be filed ▶
- 18** Section 6104 requires an organization to make its Forms 1023 (or 1024 if applicable), 990, and 990-T (501(c)(3)s only) available for public inspection. Indicate how you make these available. Check all that apply.
 Own website Another's website Upon request
- 19** Describe in Schedule O whether (and if so, how), the organization makes its governing documents, conflict of interest policy, and financial statements available to the public.
- 20** State the name, physical address, and telephone number of the person who possesses the books and records of the organization: ▶

Part VIII Statement of Revenue				(A) Total revenue	(B) Related or exempt function revenue	(C) Unrelated business revenue	(D) Revenue excluded from tax under sections 512, 513, or 514
Contributions, gifts, grants, and other similar amounts	1a Federated campaigns	1a					
	b Membership dues	1b					
	c Fundraising events	1c					
	d Related organizations	1d					
	e Government grants (contributions).	1e					
	f All other contributions, gifts, grants, and similar amounts not included above	1f					
	g Noncash contributions included in lines 1a-1f: \$						
	h Total. Add lines 1a-1f						
Program Service Revenue			Business Code				
	2a						
	b						
	c						
	d						
	e						
	f All other program service revenue						
g Total. Add lines 2a-2f							
Other Revenue	3 Investment income (including dividends, interest, and other similar amounts)						
	4 Income from investment of tax-exempt bond proceeds						
	5 Royalties						
		(i) Real	(ii) Personal				
	6a Gross Rents						
	b Less: rental expenses						
	c Rental income or (loss)						
	d Net rental income or (loss)						
		(i) Securities	(ii) Other				
	7a Gross amount from sales of assets other than inventory						
	b Less: cost or other basis and sales expenses						
	c Gain or (loss)						
	d Net gain or (loss)						
	8a Gross income from fundraising events (not including \$ of contributions reported on line 1c). See Part IV, line 18	a					
	b Less: direct expenses	b					
c Net income or (loss) from fundraising events							
9a Gross income from gaming activities. See Part IV, line 19	a						
b Less: direct expenses	b						
c Net income or (loss) from gaming activities							
10a Gross sales of inventory, less returns and allowances	a						
b Less: cost of goods sold	b						
c Net income or (loss) from sales of inventory							
Miscellaneous Revenue		Business Code					
11a							
b							
c							
d All other revenue							
e Total. Add lines 11a-11d							
12 Total Revenue. Add lines 1h, 2g, 3, 4, 5, 6d, 7d, 8c, 9c, 10c, and 11e							

Part IX Statement of Functional Expenses

Section 501(c)(3) and 501(c)(4) organizations must complete all columns.

All other organizations must complete column (A) but are not required to complete columns (B), (C), and (D).

<i>Do not include amounts reported on lines 6b, 7b, 8b, 9b, and 10b of Part VIII.</i>	(A) Total expenses	(B) Program service expenses	(C) Management and general expenses	(D) Fundraising expenses
1 Grants and other assistance to governments and organizations in the U.S. See Part IV, line 21				
2 Grants and other assistance to individuals in the U.S. See Part IV, line 22				
3 Grants and other assistance to governments, organizations, and individuals outside the U.S. See Part IV, lines 15 and 16				
4 Benefits paid to or for members				
5 Compensation of current officers, directors, trustees, and key employees				
6 Compensation not included above, to disqualified persons (as defined under section 4958(f)(1)) and persons described in section 4958(c)(3)(B)				
7 Other salaries and wages				
8 Pension plan contributions (include section 401(k) and section 403(b) employer contributions)				
9 Other employee benefits				
10 Payroll taxes				
11 Fees for services (non-employees):				
a Management				
b Legal				
c Accounting				
d Lobbying				
e Professional fundraising services. See Part IV, line 17				
f Investment management fees				
g Other				
12 Advertising and promotion				
13 Office expenses				
14 Information technology				
15 Royalties				
16 Occupancy				
17 Travel				
18 Payments of travel or entertainment expenses for any federal, state, or local public officials				
19 Conferences, conventions, and meetings				
20 Interest				
21 Payments to affiliates				
22 Depreciation, depletion, and amortization				
23 Insurance				
24 Other expenses. Itemize expenses not covered above. (Expenses grouped together and labeled miscellaneous may not exceed 5% of total expenses shown on line 25 below.)				
a				
b				
c				
d				
e				
f All other expenses				
25 Total functional expenses. Add lines 1 through 24f				
26 Joint Costs. Check here <input type="checkbox"/> if following SOP 98-2. Complete this line only if the organization reported in column (B) joint costs from a combined educational campaign and fundraising solicitation				

(5) Any unreimbursed travel expenses incurred and paid for by a political action committee that volunteers personal services to a candidate, if the cumulative amount of these expenses does not exceed \$100 with respect to any election; and

(6) Any communication by any political action committee member that is not made for the purpose of influencing the nomination for election, or election, of any person to state or county office.

5. Political action committee. The term "political action committee:"

A. Includes:

(1) Any separate or segregated fund established by any corporation, membership organization, cooperative or labor organization whose purpose is to influence the outcome of an election, including a candidate or question;

(2) Any person who serves as a funding and transfer mechanism and spends money to initiate, advance, promote, defeat or influence in any way a candidate, campaign, political party, referendum or initiated petition in this State;

(3) Any organization, including any corporation or association, that has as its major purpose advocating the passage or defeat of a ballot question and that makes expenditures other than by contribution to a political action committee, for the purpose of the initiation, promotion or defeat of any question; and

(4) Any organization, including any corporation or association, that has as its major purpose advocating the passage or defeat of a ballot question and that solicits funds from members or nonmembers and spends more than \$1,500 in a calendar year to initiate, advance, promote, defeat or influence in any way a candidate, campaign, political party, referendum or initiated petition, including the collection of signatures for a direct initiative, in this State; and

B. Does not include:

(1) A candidate or a candidate's treasurer under section 1013-A, subsection 1;

(2) A candidate's authorized political committee under section 1013-A, subsection 2; or

(3) A party committee under section 1013-A, subsection 3.

21A § 1053. Registration

Every political action committee that accepts contributions, incurs obligations or makes expenditures in the aggregate in excess of \$1,500 in any single calendar year to initiate, support, defeat or influence in any way a campaign, referendum, initiated petition, including the collection of signatures for a direct initiative, candidate, political committee or another political action committee must register with the Commission, within 7 days of accepting those contributions, incurring those obligations or making those expenditures, on forms prescribed by the Commission. These forms must include the following information and any additional information reasonably required by the Commission to monitor the activities of political action committees in this State under this subchapter:

1. Identification of committee. The names and mailing addresses of the committee, its treasurer, its principal officers, the names of any candidates and Legislators who have a significant role in fund raising or decision-making for the committee and all individuals who are the primary fund-raisers and decision makers for the committee;

2. Form of organization. The form or structure of organization, including cooperatives, corporations, voluntary associations, partnerships or any other structure by which the committee functions. The date of origin or incorporation must also be specified; and

3. Statement of support or opposition. A statement indicating the positions of the committee, support or opposition, with respect to a candidate, political committee, referendum, initiated petition or campaign, if known at the time of registration. If a committee has no position on a candidate, campaign or issue at the time of registration, the committee must inform the Commission as soon as the committee knows this information.

Every change in information required by this section must be included in an amended registration form submitted to the Commission within 10 days of the date of the change. The committee must file an updated registration form every 2 years between January 1st and March 1st of an election year. The commission may waive the updated registration requirement for newly registered political action committees or other registered political action committees if it determines that the requirement would cause an administrative burden disproportionate to the public benefit of updated information.

At the time of registration, the political action committee shall file an initial campaign finance report disclosing all information required by section 1060.

21A § 1054. Appointment of treasurer

Any political action committee required to register under section 1053 must appoint a treasurer before registering with the commission. The treasurer shall retain, for a minimum of 4 years, all receipts, including cancelled checks, of expenditures made in support of or in opposition to a campaign, political committee, political action committee, referendum or initiated petition in this State.

21A § 1055. Publication or distribution of political communications

A political action committee that makes an expenditure to finance a communication expressly advocating the election or defeat of a candidate or that names or depicts a clearly identified candidate is subject to the requirements of section 1014.

21A § 1056. Expenditure limitations

Any committee required to register under this chapter shall comply with the following expenditure limitations.

1. Aggregate expenditures. A committee may not make contributions in support of the candidacy of one person aggregating more than \$500 in any election for a gubernatorial candidate, or \$250 in any election for any other candidate.

2. Prohibited expenditures. No committee may make any expenditure for liquor to be distributed to or consumed by voters while the polls are open on election day.

21A § 1056-A. Expenditures by political action committees

A political action committee shall report all expenditures in cash or in kind made by the committee.

21A § 1056-B. Reports of contributions and expenditures by persons

Any person not defined as a political committee who solicits and receives contributions or makes expenditures, other than by contribution to a political action committee, aggregating in excess of \$1,500 for the purpose of initiating, promoting, defeating or influencing in any way a ballot question must file a report with the Commission. In the case of a municipal election, a copy of the same information must be filed with the clerk of that municipality.

1. Filing requirements. A report required by this section must be filed with the Commission according to a reporting schedule that the Commission shall establish that takes into consideration existing campaign finance reporting schedule requirements in section 1059.

2. Content. A report must contain an itemized account of each contribution received and expenditure made aggregating in excess of \$100 in any election; the date of each contribution; the date and purpose of each expenditure; and the name of each contributor, payee or creditor. Total contributions or expenditures of less than \$500 in any election need not be itemized. The report must state whether the purpose for receiving contributions and making expenditures is in support of or in opposition to the ballot question.

3. Forms. A report required by this section must be on a form prescribed and prepared by the Commission. A person filing this report may use additional pages if necessary, but the pages must be the same size as the pages of the form.

21A § 1057. Records

Any political action committee that makes expenditures which aggregate in excess of \$50 to any one or more candidates, committees or campaigns in this State shall keep records as provided in this section. Records required to be kept under subsections 1, 2 and 3 shall be retained by the political action committee until 10 days after the next election following the election to which the records pertain.

1. Details of records. The treasurer of a political action committee must record a detailed account of:

- A. All expenditures made to or in behalf of a candidate, campaign or committee;
- B. The identity and address of each candidate, campaign or committee;

C. The office sought by a candidate and the district he seeks to represent, for candidates which a political action committee has made an expenditure to or in behalf of; and

D. The date of each expenditure.

2. Receipts. The treasurer of a political action committee must retain a vendor invoice or receipt stating the particular goods or services purchased for every expenditure in excess of \$50.

3. Record of contributions. The treasurer of a political action committee must keep a record of all contributions to the committee, by name and mailing address, of each donor and the amount and date of the contribution. This provision does not apply to aggregate contributions from a single donor of \$50 or less for an election or referendum campaign. When any donor's contributions to a political action committee exceed \$50, the record must include the aggregate amount of all contributions from that donor.

21A § 1058. Reports; qualifications for filing

A political action committee that is registered with the Commission or that accepts contributions or makes expenditures and incurs obligations in an aggregate amount in excess of \$1,500 on any one or more campaigns for the office of Governor, for state or county office or for the support or defeat of a referendum or initiated petition shall file a report on its activities in that campaign with the Commission on forms as prescribed by the Commission. A political action committee organized in this State required under this section to file a report shall file the report for each filing period under section 1059. A political action committee organized outside this State shall file with the Commission on Governmental Ethics and Election Practices of this State a copy of the report that the political action committee is required to file in the state in which the political action committee is organized. The political action committee shall file the copy only if it has expended funds or received contributions or made expenditures in this State. The copy of the report must be filed in accordance with the schedule of filing in the state where it is organized. If contributions or expenditures are made relating to a municipal office or referendum, the report must be filed with the clerk in the subject municipality.

21A § 1059. Report; filing requirements

Committees required to register under section 1053 shall file reports in compliance with this section. All reports must be filed by 11:59 p.m. on the filing deadline.

1. Contents; quarterly reports and election year reports. (REPEALED)

2. Reporting schedule. Committees shall file reports according to the following schedule.

A. Quarterly reports must be filed:

(1) On January 15th and must be complete as of January 5th;

(2) On April 10th and must be complete as of March 31st;

(3) On July 15th and must be complete as of July 5th; and

(4) On October 10th and must be complete as of September 30th.

B. General and primary election reports must be filed:

(1) On the 11th day before the date on which the election is held and must be complete as of 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 as of the 35th day after that date.

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

(1) On the 11th day before the date on which the election is held and must be complete as of 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 as of the 35th day after that date.

D. A committee that files an election report under paragraph B or C is not required to file a quarterly report when the deadline for that quarterly report falls within 10 days of the filing deadline established in paragraph B or C.

E. A 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.

3. Report of expenditures made after the 11th day and more than 48 hours before any election. (REPEALED)

4. Special election reports. (REPEALED)

5. Electronic filing. 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 committee submits a written request that states that the committee lacks access to the technology or the technological ability to file reports electronically. The request for an exception must be submitted within 30 days of the registration of the committee. The Commission shall grant all reasonable requests for exceptions.

21A § 1060. Content of reports

The reports must contain the following information and any additional information required by the Commission to monitor the activities of political action committees:

1. Identification of candidates. The names of and offices sought by all candidates whom the committee supports, intends to support or seeks to defeat;

2. Identification of committees; parties. The names of all political committees or party committees supported in any way by the committee;

3. Identification of referendum or initiated petition. The referenda or initiated petitions that the committee supports or opposes;

4. Itemized expenditures. An itemization of each expenditure made on behalf of any candidate, campaign, political committee, political action committee and party committee or to support or oppose a referendum or initiated petition, including the date, payee and purpose of the expenditure; the name of each candidate, campaign, political committee, political action committee or party committee on whose behalf the expenditure was made; and each referendum or initiated petition supported or opposed by the expenditure. If expenditures were made to a person described in section 1012, subsection 3, paragraph A, subparagraph (4), the report must contain the name of the person; the amount spent by that person on behalf of the candidate, campaign, political committee, political action committee, party committee, referendum or initiated petition, including, but not limited to, expenditures made during the signature-gathering phase; the reason for the expenditure; and the date of the expenditure. The Commission may specify the categories of expenditures that are to be reported to enable the Commission to closely monitor the activities of political action committees;

5. Aggregate expenditures. An aggregation of expenditures and cumulative aggregation of expenditures to a candidate, campaign, political committee, political action committee, party committee, referendum or initiated petition;

6. Identification of contributions. Names, occupations, places of business and mailing addresses of contributors who have given more than \$50 to the political action committee in the reporting period and the amount and date of each contribution; and

7. Other expenditures. Operational expenses and other expenditures in cash or in kind that are not made on behalf of a candidate, committee or campaign.

21A § 1061. Dissolution of committees

Whenever any political action committee determines that it will no longer solicit or accept any contributions, incur any obligations, make any expenditures to or on behalf of any candidate, political committee, party committee or political action committee to initiate, support, defeat or influence in any way the outcome of a referendum, initiated petition or election and the committee has no outstanding loans, debts or other obligations, the committee shall file a termination report that includes all financial activity from the end date of the previous reporting period through the date of termination with the commission. If a termination report is not filed, the committee shall continue to file periodic reports as required in this chapter.

21A § 1062. Failure to file on time (REPEALED)

21A § 1062-A. Failure to file on time

1. Registration. A political action committee required to register under section 1053 that fails to do so in accordance with section 1053 or that fails to provide the information required by the Commission for registration may be assessed a forfeiture of \$250.

(6) Any communication by any political action committee member that is not made for the purpose of influencing the nomination for election, or election, of any person to state or county office.

5. Political action committee. The term "political action committee:"

A. Includes:

(1) Any separate or segregated fund established by any corporation, membership organization, cooperative or labor or other organization whose purpose is to influence the outcome of an election, including a candidate election or ballot question;

(2) **(REPEALED)**

(3) **(REPEALED)**

(4) Any organization, including any corporation or association, that has as its major purpose initiating, promoting, defeating or influencing a candidate election, campaign or ballot question and that spends more than \$1,500 in a calendar year for that purpose, including for the collection of signatures for a direct initiative or referendum in this State; and

(5) Any organization that does not have as its major purpose promoting, defeating or influencing candidate elections but that spends more than \$5,000 in a calendar year for the purpose of promoting, defeating or influencing in any way the nomination or election of any candidate to political office.

B. Does not include:

(1) A candidate or a candidate's treasurer under section 1013-A, subsection 1;

(2) A candidate's authorized political committee under section 1013-A, subsection 2; or

(3) A party committee under section 1013-A, subsection 3.

21A § 1053. Registration

Every political action committee, as defined under section 1052, subsection 5, paragraph A, subparagraph (1) or (4) that makes expenditures in the aggregate in excess of \$1,500 and every political action committee, as defined under section 1052, subsection 5, paragraph A, subparagraph (5), that makes expenditures in the aggregate in excess of \$5,000 must register with the Commission within 7 days of exceeding the applicable amount on forms prescribed by the Commission. These forms must include the following information and any additional information reasonably required by the Commission to monitor the activities of political action committees in this State under this subchapter:

1. Identification of committee. The names and mailing addresses of the committee, its treasurer, its principal officers, the names of any candidates and Legislators who have a significant role in fund raising or decision-making for the committee and all individuals who are the primary fund-raisers and decision makers for the committee;

2. Form of organization. The form or structure of organization, including cooperatives, corporations, voluntary associations, partnerships or any other structure by which the committee functions. The date of origin or incorporation must also be specified; and

3. Statement of support or opposition. A statement indicating the positions of the committee, support or opposition, with respect to a candidate, political committee, referendum, initiated petition or campaign, if known at the time of registration. If a committee has no position on a candidate, campaign or issue at the time of registration, the committee must inform the Commission as soon as the committee knows this information.

Every change in information required by this section must be included in an amended registration form submitted to the Commission within ten (10) days of the date of the change. The committee must file an updated registration form every two (2) years between January 1st and March 1st of an election year. The commission may waive the updated registration requirement for newly registered political action committees or other registered political action committees if it determines that the requirement would cause an administrative burden disproportionate to the public benefit of updated information.

At the time of registration, the political action committee shall file an initial campaign finance report disclosing all information required by section 1060.

21A § 1054. Appointment of treasurer

Any political action committee required to register under section 1053 must appoint a treasurer before registering with the commission. The treasurer shall retain, for a minimum of four (4) years, all receipts, including cancelled checks, of expenditures made in support of or in opposition to a campaign, political committee, political action committee, referendum or initiated petition in this State.

21A § 1055. Publication or distribution of political communications

A political action committee that makes an expenditure to finance a communication expressly advocating the election or defeat of a candidate or that names or depicts a clearly identified candidate is subject to the requirements of section 1014.

21A § 1056. Expenditure limitations

Any committee required to register under this chapter shall comply with the following expenditure limitations.

1. Aggregate expenditures. A committee may not make contributions in support of the candidacy of one person aggregating more than \$500 in any election for a gubernatorial candidate, or \$250 in any election for any other candidate.

2. Prohibited expenditures. No committee may make any expenditure for liquor to be distributed to or consumed by voters while the polls are open on election day.

21A § 1056-A. Expenditures by political action committees

A political action committee shall report all expenditures in cash or in kind made by the committee.

21A § 1056-B. Ballot question committees

Any person not defined as a political action committee who solicits and receives contributions or makes expenditures, other than by contribution to a political action committee, aggregating in excess of \$5,000 for the purpose of initiating, promoting, defeating or influencing in any way a ballot question must file a report with the Commission. In the case of a municipal election, a copy of the same information must be filed with the clerk of that municipality. Within seven days of receiving contributions or making expenditures that exceed \$5,000, the person shall register with the Commission as a ballot question committee. For the purposes of this section, expenditures include paid staff time spent for the purpose of influencing in any way a ballot question. The Commission must prescribe forms for the registration, and the forms must include specification of a treasurer for the committee, any other principal officers and all individuals who are the primary fund-raisers and decision makers for the committee.

1. Filing requirements. A report required by this section must be filed with the Commission according to a reporting schedule that the Commission shall establish that takes into consideration existing campaign finance reporting schedule requirements in section 1059.

2. Content. A report must contain an itemized account of each expenditure made to and contribution received from a single source aggregating in excess of \$100 in any election; the date of each contribution; the date and purpose of each expenditure; and the name and address of each contributor, payee or creditor. The filer is required to report only those contributions made to the filer for the purpose of initiating, promoting, defeating or influencing in any way a ballot question and only those expenditures made for those purposes. The definitions of "contribution" and "expenditure" in section 1052, subsections 3 and 4, respectively, apply to persons required to file ballot question reports.

2.A. Contributions. For the purposes of this section, "contribution" includes, but is not limited to:

- A. Funds that the contributor specified were given in connection with a ballot question;
- B. Funds provided in response to a solicitation that would lead the contributor to believe that the funds would be used specifically for the purpose of initiating, promoting, defeating or influencing in any way a ballot question;
- C. Funds that can reasonably be determined to have been provided by the contributor for the purpose of initiating, promoting, defeating or influencing in any way a ballot question when viewed in the context of the contribution and the recipient's activities regarding a ballot question; and
- D. Funds or transfers from the general treasury of an organization filing a ballot question report.

3. Forms. A report required by this section must be on a form prescribed and prepared by the Commission. A person filing this report may use additional pages if necessary, but the pages must be the same size as the pages of the form.

4. Records. A person filing a report required by this section shall keep records as required by this subsection for one year following the election to which the records pertain.

A. The filer shall keep a detailed account of all contributions made to the filer for the purpose of initiating, promoting, defeating or influencing in any way a ballot question and all expenditures made for those purposes.

B. The filer shall retain a vendor invoice or receipt stating the particular goods or services purchased for every expenditure in excess of \$50.

21A § 1057. Records

Any political action committee that makes expenditures which aggregate in excess of \$50 to any one or more candidates, committees or campaigns in this State shall keep records as provided in this section. Records required to be kept under subsections 1, 2 and 3 shall be retained by the political action committee until ten (10) days after the next election following the election to which the records pertain.

1. Details of records. The treasurer of a political action committee must record a detailed account of:

- A. All expenditures made to or in behalf of a candidate, campaign or committee;
- B. The identity and address of each candidate, campaign or committee;
- C. The office sought by a candidate and the district he seeks to represent, for candidates which a political action committee has made an expenditure to or in behalf of; and
- D. The date of each expenditure.

2. Receipts. The treasurer of a political action committee must retain a vendor invoice or receipt stating the particular goods or services purchased for every expenditure in excess of \$50.

3. Record of contributions. The treasurer of a political action committee must keep a record of all contributions to the committee, by name and mailing address, of each donor and the amount and date of the contribution. This provision does not apply to aggregate contributions from a single donor of \$50 or less for an election or referendum campaign. When any donor's contributions to a political action committee exceed \$50, the record must include the aggregate amount of all contributions from that donor.

21A § 1058. Reports; qualifications for filing

A political action committee that is required to register with the Commission shall file a report on its activities in that campaign with the Commission on forms as prescribed by the Commission. A political action committee organized in this State required under this section to file a report shall file the report for each filing period under section 1059. A political action committee organized outside this State shall file with the Commission on Governmental Ethics and Election Practices of this State a copy of the report that the political action committee is required to file in the state in which the political action committee is organized. The political action committee shall file the copy only if it has expended funds or received contributions or made expenditures in this State. The copy of the report must be filed in accordance with the schedule of filing in the state where it is organized. If contributions or expenditures are made relating to a municipal office or referendum, the report must be filed with the clerk in the subject municipality.

21A § 1059. Report; filing requirements

Committees required to register under section 1053 shall file reports in compliance with this section. All reports must be filed by 11:59 p.m. on the filing deadline, except that reports submitted to a municipal clerk must be filed by the close of business on the filing deadline.

1. Contents; quarterly reports and election year reports. (REPEALED)

2. Reporting schedule. Committees shall file reports according to the following schedule.

A. Quarterly reports must be filed:

- (1) On January 15th and must be complete as of January 5th;
- (2) On April 10th and must be complete as of March 31st;
- (3) On July 15th and must be complete as of July 5th; and
- (4) On October 10th and must be complete as of September 30th.

B. General and primary election reports must be filed:

- (1) On the 11th day before the date on which the election is held and must be complete as of 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 as of the 35th day after that date.

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

- (1) On the 11th day before the date on which the election is held and must be complete as of 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 as of the 35th day after that date.

D. A committee that files an election report under paragraph B or C is not required to file a quarterly report when the deadline for that quarterly report falls within ten (10) days of the filing deadline established in paragraph B or C.

E. A 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.

3. Report of expenditures made after the 11th day and more than 48 hours before any election. (REPEALED)

4. Special election reports. (REPEALED)

5. Electronic filing. 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 committee submits a written request that states that the committee lacks access to the technology or the technological ability to file reports electronically. The request for an exception must be submitted within 30 days of the registration of the committee. The Commission shall grant all reasonable requests for exceptions.

21A § 1060. Content of reports

The reports must contain the following information and any additional information required by the Commission to monitor the activities of political action committees:

1. Identification of candidates. The names of and offices sought by all candidates whom the committee supports, intends to support or seeks to defeat;

2. Identification of committees; parties. The names of all political committees or party committees supported in any way by the committee;

3. Identification of referendum or initiated petition. The referenda or initiated petitions that the committee supports or opposes;

4. Itemized expenditures. An itemization of each expenditure made on behalf of any candidate, campaign, political committee, political action committee and party committee or to support or oppose a referendum or initiated petition, including the date, payee and purpose of the expenditure; the name of each candidate, campaign, political committee, political action committee or party committee on whose behalf the expenditure was made; and each referendum or initiated petition supported or opposed by the expenditure. If expenditures were made to a person described in section 1012, subsection 3, paragraph A, subparagraph (4), the report must contain the name of the person; the amount spent by that person on behalf of the candidate, campaign, political committee, political action committee, party committee, referendum or initiated petition, including, but not limited to, expenditures made during the signature-gathering phase; the reason for the expenditure; and the date of the expenditure. The Commission may specify the categories of expenditures that are to be reported to enable the Commission to closely monitor the activities of political action committees;

5. Aggregate expenditures. An aggregation of expenditures and cumulative aggregation of expenditures to a candidate, campaign, political committee, political action committee, party committee, referendum or initiated petition;

6. Identification of contributions. Names, occupations, places of business and mailing addresses of contributors who have given more than \$50 to the political action committee in the reporting period and the amount and date of each contribution, except that an organization qualifying as a political action committee under section 1052, subsection 5, paragraph A, subparagraph (5) is required to report only those contributions made to the organization for the purpose of promoting, defeating or influencing a ballot question or the nomination or election of a candidate to political office and all transfers to or funds used to support the political action committee from the general treasury of the organization; and

7. Other expenditures. Operational expenses and other expenditures in cash or in kind that are not made on behalf of a candidate, committee or campaign, except that an organization qualifying as a political action committee under section 1052, subsection 5, paragraph A, subparagraph (5) is required to report only those expenditures made for the purpose of promoting, defeating or influencing a ballot question or the nomination or election of a candidate to political office.

21A § 1061. Dissolution of committees

Whenever any political action committee determines that it will no longer solicit or accept any contributions, incur any obligations, make any expenditures to or on behalf of any candidate, political committee, party committee or political action committee to initiate, support, defeat or influence in any way the outcome of a referendum, initiated petition or election and the committee has no outstanding loans, debts or other obligations, the committee shall file a termination report that includes all financial activity from the end date of the previous reporting period through the date of termination with the commission. If a termination report is not filed, the committee shall continue to file periodic reports as required in this chapter.

21A § 1062. Failure to file on time (REPEALED)

21A § 1062-A. Failure to file on time

1. Registration. A political action committee required to register under section 1053 that fails to do so in accordance with section 1053 or that fails to provide the information required by the Commission for registration may be assessed a forfeiture of \$250.

2. Campaign finance reports. A campaign finance report is not timely filed unless a properly signed or electronically submitted copy of the report, substantially conforming to the disclosure requirements of this subchapter, is received by the Commission by 11:59 p.m. on the date it is due. Except as provided in subsection 6, the Commission shall determine whether a required report satisfies the requirements for timely filing. The Commission may waive a penalty if it is disproportionate to the level of experience of the person filing the

APR 24 2009

MAINE ETHICS COMMISSION

Dear Members of the Maine Ethics Commission,

I am writing today to request that the Ethics Commission conduct an investigation of the campaign activities conducted by the several overlapping groups spearheading three of the referendum questions due to appear on the November 2009 ballot.

Specifically, Maine Heritage Policy Center, Maine Leads, The Road to a Cleaner Maine PAC, Citizens for a Prosperous Maine PAC, Affordable Health Care Choices PAC, TABOR Now PAC, and More Green Now PAC have created a web of donations and personnel that violate the letter of Maine's campaign finance laws.

These are the facts that are available upon public inspection:

- 1) Maine Heritage Policy Center is a 501(c)3 organization. It's Board of Directors includes Michael Duddy and Neal Freeman. It's Board of Adjunct Fellows includes Roy Lenardson. It's Executive Director is Tarren Bragdon.
- 2) Maine Leads is a 501(c)4 organization, and is able to conduct direct advocacy. Its Board of Directors includes Michael Duddy, Neal Freeman and Roy Lenardson. Its staff includes Chris Cinquemani and Trevor Bragdon.
- 3) The Road to a Cleaner Maine PAC paid for the gathering of the signatures for the excise tax repeal referendum. It was terminated on 2/23/09. It listed no officers, and its treasurer was Anna Bradgon, wife of Tarren Bragdon.
- 4) The Road to a Cleaner Maine PAC generated \$25,072 in contributions for the effort. \$25,000 from Maine Leads and \$72.00 from Tarren Bragdon.
- 5) On the same day, 2/23/2009, More Green Now PAC was registered. It's purpose is to support the excise tax repeal legislation that The Road to a Cleaner Maine PAC got on the ballot. Its decision makers are Roy Lenardson, Chris Cinquemani, and Trevor Bragdon. Its treasurer is Anna Bragdon.
- 6) Citizens for a Prosperous Maine PAC paid for the gathering of the signatures for the TABOR II referendum. It was terminated on 2/25/2009. Its officer was David Crocker and its treasurer was Fred Wiegleb.
- 7) Citizens for a Prosperous Maine PAC generated \$42,554 in contributions. Again, \$25,000 came from Maine Leads.
- 8) On 2/18/2009, TABOR Now PAC was registered. Its purpose is to support the TABOR II legislation that Citizens for a Prosperous Maine PAC got on the ballot. Its officer is David Crocker and its treasurer is Fred Wiegleb. Its first contribution was \$222.29 from Citizens for a Prosperous Maine PAC.

9) Affordable Health Care Choices for Maine PAC paid for the gathering of signatures for the health care referendum question. It is still active and its treasurer is Chris Cinquemani and an officer is Joel Allumbaugh.

10) Affordable Health Care Choices for Maine PAC generated \$33,305 in contributions. Again, \$25,000 came from Maine Leads. \$60.00 came from Chris Cinquemani.

11) On 2/11/2009, Health Care Choices Now PAC was registered. Its purpose is to support the health care referendum question that Affordable Health Care Choices for Maine PAC got on the ballot. Its officers are Joel Allunbaugh, Chris Cinquemani and Trevor Bragdon.

12) So far in 2009 Maine Leads has been distributing leaflets and calculators at town meetings to support the TABOR and Excise Tax Referendums.

The conclusions to be drawn are obvious: a small group of people erected a web of organizations designed to gather money through charitable and other non-profit organizations, and funnel those funds to pay for signature gathering and other advocacy with the sole purpose of getting referendum questions on the ballot. The purpose is to hide the source of that money, and therefore the true interests behind these questions. Setting aside the way in which this undermines the purported "citizen's initiative" process, this scheme clearly violates Maine's campaign finance rules. Maine Leads has created three dummy PACs designed only to pass its contribution through the system without having to report the origins. The same people are in control of all of these entities. This is nothing more than a shell game designed by those at Maine Heritage Policy Center and Maine Leads to disguise political activity.

Our suggestion is that the Ethics Commission rule that by these activities, Maine Leads has qualified itself as a PAC under 21-A M.R.S.A. §1052(5), and, therefore, should have filed the required reports. Because they did not, they should be reprimanded and fined. To do otherwise would be to condone and ratify such a brazen scheme to circumvent the rigorous disclosure requirements under Maine law.

These actions are nothing short of a fraud on the system and on the citizens of Maine.

Sincerely,



Deborah Hutton
31 Carding Machine Rd.
Bowdoinham, ME
04008

MORE GREEN NOW

CLEAN AIR. LOWER TAXES.

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An Act to
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Automobile Excise Tax
and Promote Energy
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- ENCOURAGES A STATEWIDE CONVERSATION ABOUT THE FAIRNESS OF MAINE'S EXCISE TAX
- REDUCES AUTO EXCISE TAXES BY 50 PERCENT
- SAVES MAINE TAXPAYERS \$80 MILLION EACH YEAR
- ELIMINATES THE SALES TAX ON NEW ENERGY EFFICIENT VEHICLES
- ELIMINATES THE FIRST THREE YEARS OF EXCISE TAX ON NEW ENERGY EFFICIENT VEHICLES
- PROMOTES CLEANER AIR AND GREATER FUEL EFFICIENCY

YOU CAN MAKE A DIFFERENCE

YOUR GIFT GOES A LONG WAY

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- \$100 MORE GREEN NOW can make *2,000 phone calls* to voters across the State
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LOWER TAXES

YEAR	CURRENT EXCISE TAX	PROPOSED EXCISE TAX RATE	PERCENT DECREASE
1	2.40%	1.20%	50% ↓
2	1.75%	0.80%	54% ↓
3	1.35%	0.40%	70% ↓
4	1.00%	0.40%	60% ↓
5	0.65%	0.40%	39% ↓
6	0.40%	0.40%	NO CHANGE

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- Among the **most popular cars** on the market
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LOWER TAXES. MORE JOBS.

An Act to
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CAN PASS A NEW TAX OR TAX INCREASE

✓ YOU DECIDE IF STATE SPENDING
SHOULD BALLOON ABOVE INFLATION
PLUS POPULATION GROWTH

✓ YOU DECIDE IF THE GASOLINE TAX
SHOULD INCREASE EVERY YEAR

✓ YOU DECIDE WHETHER YOUR
PROPERTY TAXES SHOULD GROW
FASTER THAN YOUR PAYCHECK

✓ YOU CAN SEE HOW YOUR TOWN OR
CITY SPENDS YOUR TAX DOLLARS
AND COMPARE YOUR TOWN'S
SPENDING TO OTHER MAINE TOWNS

YOU CAN MAKE A DIFFERENCE

<i>YOUR GIFT</i>	<i>GOES A LONG WAY</i>
\$25	TABOR NOW can print and distribute 50 bumper stickers
\$50	TABOR NOW can order 25 lawn signs and wires
\$100	TABOR NOW can make 2,000 phone calls to voters across the State
\$250	TABOR NOW can air 5 radio spots in the Portland or Bangor markets
\$500	TABOR NOW can print and insert 10,000 fliers into a weekly newspaper
\$1000	TABOR NOW can air 20 ads on cable TV

Why TABOR NOW?

- **4th highest tax burden** in the nation
- **State taxes increased by over \$220 million** since 2006
- **State spending spiked 6.9%** between 2006 and 2007, erasing a **\$71.4 million surplus**
- **3rd highest property taxes** in the nation
- **Ranked 47th for business climate** in the nation (Forbes Magazine)

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

April 27, 2009

By E-Mail and Regular Mail

Daniel I. Billings, Esq.
Marden, Dubord, Bernier & Stevens
P.O. Box 708
Waterville, ME 04901-0708

Dear Mr. Billings:

On Friday, April 24, 2009, the Maine Commission on Governmental Ethics and Election Practices received the attached request by Deborah Hutton that the Commission investigate whether Maine Leads qualifies as a political action committee. In her request, she refers to three contributions of \$25,000 each which Maine Leads made to political action committees (PACs) conducting signature-gathering for three citizen initiatives during 2007 and 2008: An Act to Provide Tax Relief, An Act to Decrease the Automobile Excise Tax and Promote Energy Efficiency, and An Act to Expand Affordable Health Insurance Choices in Maine.¹ (Below, these ballot questions will be referred to as the "three citizen initiatives.")

Ms. Hutton alleges that

Maine Leads has created three dummy PACs designed only to pass its contribution through the system without having to report the origins. ... This is nothing more than a shell game designed by those at the Maine Heritage Policy Center and Maine Leads to disguise political activity. Our suggestion is that the Ethics Commission rule that by these activities, Maine Leads has qualified itself as a PAC under 21-A M.R.S.A. § 1052(5), and, therefore, should have filed the required reports To do otherwise would be to condone and ratify such a brazen scheme to circumvent the rigorous disclosure requirements under Maine law.

This letter is to request a written response from Maine Leads and to provide you with advance notice of the issues that the Commission staff preliminarily views as relevant. Kindly submit a response no later than 5:00 p.m. on Monday, May 11, 2009.

¹ Two of the citizen initiatives (An Act to Provide Tax Relief and An Act to Decrease the Automobile Excise Tax and Promote Energy Efficiency) likely will be on the November 3, 2009 election ballot. The advocates for An Act to Expand Affordable Health Insurance Choices in Maine did not collect sufficient signatures, so that proposed law will not be on the November 3, 2009 election ballot.

Additional Compliance Questions Proposed by Staff

In addition to the specific legal violation alleged by Ms. Hutton, the Commission staff believes that her request raises two general compliance questions:

- (1) Was Maine Leads required to register and to file campaign finance reports as a PAC, under the PAC definition (21-A M.R.S.A. § 1052(5)) that applied before or after June 30, 2008?
- (2) Was Maine Leads required to file campaign finance reports with the Commission under 21-A M.R.S.A. § 1056-B, under the requirements that applied before or after June 30, 2008?

Background on Reporting Requirements for Organizations Initiating or Promoting Ballot Questions

Under current Maine law, there are two alternative sets of reporting requirements for organizations that raise and spend money to influence ballot questions. The more common reporting requirement is for organizations to register as PACs under 21-A M.R.S.A. § 1053 and to file campaign finance reports as PACs under 21-A M.R.S.A. §§ 1058-60.

Filing Requirement under 21-A M.R.S.A. § 1056-B

In 2000, the Legislature created a second reporting requirement for organizations other than PACs that raise and spend money to influence a ballot question. The requirement was intended to be less burdensome than registration and reporting as a PAC, and was in response to a U.S. District Court case in Maine, Volle v. Webster, 69 F.Supp.2d 171 (D. Me. 1999). Under this requirement, “[a]ny person not defined as a political committee who solicits and receives contributions or makes expenditures, other than by contribution to a political action committee, aggregating in excess of \$1,500 for the purpose of initiating, promoting, defeating or influencing in any way a ballot question must file a report with the Commission. ...” (21-A M.R.S.A. § 1056-B, in effect through June 29, 2008)

2006 Campaign Finance Reports and Requests for Investigation

In 2006, several organizations raised and spent substantial sums of money to support and to oppose the Taxpayer Bill of Rights (TABOR) citizen initiative. Some of these organizations registered and filed reports as PACs, and some filed reports under 21-A M.R.S.A. § 1056-B (see attached list).

Initially, the Commission did not receive any campaign finance report from the Maine Heritage Policy Center (MHPC), even though the MHPC had drafted the TABOR law and MHPC staff were speaking in support of TABOR in various public forums. In October 2006, the Commission received a complaint from Carl Lindemann that the MHPC qualified as a PAC. In December 2006, the Commission determined that the MHPC was not a PAC because the major purpose of the organization in 2006 was not to

promote or influence the TABOR citizen initiative. The Commission did, however, determine that the MHPC had raised or spent more than \$1,500 to influence the TABOR citizen initiative, and therefore was required to file campaign finance reports under 21-A M.R.S.A. § 1056-B. The Commission also considered complaints filed by Roy Lenardson concerning Democracy Maine, the Katahdin Institute, and the Maine chapter of the AARP regarding their reporting of activities in opposition to TABOR.

2008 Revisions to Campaign Finance Law

Following the conclusion of these enforcement matters, in 2008 the Legislature amended the PAC definition and the reporting requirements under 21-A M.R.S.A. § 1056-B. (Chapter 477 of the Public Laws of 2007) The 2008 amendments took effect on June 30, 2008. I have attached the relevant PAC provisions and § 1056-B reporting requirements that applied before and after June 30, 2008.

The Commission staff will recommend that the Commission apply these requirements to determine whether Maine Leads qualified as a PAC or as a § 1056-B filer in 2007, 2008, or this year.

Relevant Factual Information

Please respond to the following requests and provide any other factual information which you believe is relevant to the allegations in Ms. Hutton's request:

1. Please provide a description of the activities of Maine Leads since its creation in October 2007 that will assist the Commission in determining whether the major purpose of Maine Leads was to influence the three citizen initiatives. My brief review of the organization's website (www.meleads.org) indicates that promoting the three citizen initiatives has been, at least, a significant activity of Maine Leads.

For example, Maine Leads' description of the organization's "grassroots director," Trevor Bragdon, states that "[h]is responsibilities include initiative and referenda campaign management and coalition building. He is currently managing a team of over 250 Mainers collecting signatures for three citizen initiatives for the 2009 ballot." Also, there is a page on the Maine Leads website devoted to the citizen initiatives, and a hyperlink to that page is prominently displayed throughout the entire website. The website does not include a detailed description of any other program or activity of Maine Leads on any other policy issue.

2. Please explain the relationship between Maine Leads and the Maine Heritage Policy Center.
3. Please explain whether Maine Leads has received contributions from sources whose purpose in contributing was to influence an election, including to

Daniel I. Billings, Esq.

Page 4

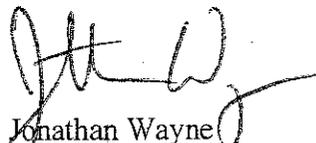
April 27, 2009

initiate or to promote the three citizen initiatives, or from sources whose purpose Maine Leads reasonably should have known was to influence an election. The major contention of Ms. Hutton's request is that Maine Leads amounts to a "pass-through" organization, which facilitated the flow of \$75,000 in funding through Maine Leads to initiate or promote citizen initiatives without public knowledge of the original source of the funding.

4. Please explain whether Maine Leads has made expenditures to influence the three ballot questions. For example, did Mr. Bragdon receive compensation from Maine Leads or from any other source for his management of the three citizen initiatives? Has Maine Leads made other payments for goods or services to initiate or promote the three citizen initiatives, such as expenditures to internal staff, hiring outside petition gatherers or other consultants, or polling? For what purpose did Maine Leads buy the calculators, a sample of which accompanied Ms. Hutton's request?

The Commission staff's intent in seeking this additional information is to ensure that the disclosure purposes of the campaign finance law are being met. One of these purposes is to allow the public to understand who is underwriting the initiation and promotion of ballot questions in the State of Maine. Please telephone me at 287-4179 if you have any questions about this request.

Sincerely,



Jonathan Wayne
Executive Director

cc: Roy C. Lenardson, Executive Director, Maine Leads (by e-mail and regular mail)
Hon. Deborah Hutton (by e-mail and regular mail)

**Organizations filing Campaign Finance Reports
in Support and in Opposition to
the 2006 Taxpayer Bill of Rights (TABOR) Citizen Initiative**

	Filed Reports in Support of TABOR	Filed Reports in Opposition to TABOR
PACs	<ul style="list-style-type: none"> - Citizens' Alliance of Maine - Common Sense for Maine Taxpayers - Mainer's for Tax Relief - Taxpaybillofrights.com 	<ul style="list-style-type: none"> - Citizen's United to Protect Our Public Safety, Schools, and Communities. - Citizens who Support Maine's Public Schools.
§ 1056-B Filers	<ul style="list-style-type: none"> - Maine Heritage Policy Center - Associated Builders & Contractors 	<ul style="list-style-type: none"> - ME People's Resource Center - ME People's Alliance - ME Association of Non-Profits - Center on Budget and Policy Priorities - ME Center for Economic Policy - League of Pissed off Voters - ME Women's Lobby - ME Equal Justice Partners - AARP - Democracy ME

**MARDEN, DUBORD,
BERNIER & STEVENS**

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dbillings@mardendubord.com

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PHONE (207) 873-0186
FAX (207) 873-2245

May 11, 2009

Jonathan Wayne, Executive Director
Maine Commission on Governmental Ethics & Election Practices
135 State House Station
Augusta, Maine 04333-0135

RECEIVED

MAY 12 2009

MAINE ETHICS COMMISSION

RE: Hutton complaint against Maine Leads

Dear Mr. Wayne:

I am writing in response to your letter of April 27, 2009 concerning the request for an investigation of Maine Leads made by Deborah Hutton. For the reasons stated below, your request for information is premature and you have failed to comply with the laws and rules that govern the Commission's activities.

The Commission must consider Ms. Hutton's request before an investigation is begun

While your letter quotes numerous statutes that could apply to Ms. Hutton's allegations, you have failed to consider the statutes which govern the Commission's own activities, including 21-A M.R.S.A. §1003 which governs the Commission's consideration of requests for investigations:

A person may apply in writing to the commission requesting an investigation concerning the registration of a candidate, treasurer, political committee or political action committee and contributions by or to and expenditures by a person, candidate, treasurer, political committee or political action committee. The commission shall review the application and shall make the investigation if the reasons stated for the request show sufficient grounds for believing that a violation may have occurred.

By your letter, it is apparent that you have begun an investigation before the Commission has even considered whether Ms. Hutton's request shows sufficient grounds to believe that a violation may have occurred. This is inappropriate and contrary to law. An agency such as the Commission -- which demands compliance from others -- should comply with the laws that govern its own activities.

The statute requires that, as a preliminary matter, the Commission make a qualitative assessment of the request for an investigation. More than a mere allegation or potential for a

violation is required before an investigation is ordered. The Commission should only begin an investigation if the person requesting an investigation has come forward with sufficient grounds to convince the Commission that a violation may have occurred.

This determination, required by the statute, is important to protect parties from the burdens imposed by unnecessary investigations. It is also a protection from someone using the Commission to harass their political opponents¹.

I also object to the approach to the complaint that you have taken in your letter. Ms. Hutton offers no facts in her letter which, if true, would constitute a violation of Maine law. She makes unfounded allegations which your letter asks be rebutted and, in doing so, you ask for information that the Commission would not be entitled to even if Maine Leads was a political action committee. You have effectively demanded that Maine Leads prove it is not a political action committee. This turns the burden of proof on its head. Our system does not require that the accused prove their innocence – it is the burden of the one making an allegation to prove it. This is supported by the statute quoted above that requires that a person requesting an investigation come forward with information that, if true, “would show sufficient grounds for believing that a violation may have occurred.” Ms. Hutton has alleged that Maine Leads is a political action committee that has not filed with the Commission as required by Maine law. What facts has she alleged that show sufficient grounds to believe that such a violation may have occurred?

Ms. Hutton’s Request Fails to comply with Commission rules

Ms. Hutton’s request also fails to comply with Commission rules concerning requests for Commission investigations. 94-270 Chapter 1 Section 4(2)(C) requires that statements contained in requests for a Commission investigation “be made upon personal knowledge” and that statements not made upon personal knowledge must identify the source of the information which is the basis for the request so that respondents and Commission staff may adequately respond to the request. Ms. Hutton’s letter fails to meet this requirement. For example, she alleges that “in 2009 Maine Leads has been distributing leaflets and calculators at town meetings to support TABOR and Excise Tax Referendums.” Ms. Hutton does not state at what town meetings Maine Leads has made the alleged distributions or what the source is for this information upon which her allegation is based². Because Ms. Hutton’s

¹ Central to Ms. Hutton allegations are that “a small group of people erected a web of organizations” intended to circumvent Maine law. Her complaint is primarily based on guilt by association and the personal and professional relationships between various people involved in the named organizations. In considering that claim it is relevant to consider the web of associations involving Ms. Hutton: she is a former Democrat state legislator; her husband, Tim Belcher, is Executive Director of the Maine State Employee Association, an organization which is opposed to the two referendums at issue in Ms. Hutton’s complaint; and, during 2008, Ms. Hutton was a paid consultant for the Berry for Maine PAC, the leadership PAC of Rep. Seth Berry, now the House Majority Whip.

² Ms. Hutton is a resident of the Town of Bowdoinham. The Bowdoinham Town Meeting will be held on June 10, 2009. As a result, it is unlikely that Ms. Hutton’s allegation is based on her personal knowledge from her own attendance at a town meeting.

request does not comply with the requirements contained in the Commission rules, the appropriate action by Commission staff would be to seek more information from her before placing her request on the Commission's agenda.

You have failed to provide sufficient time to respond to the request for information

Your request for information is dated April 27, 2009 and was received by e-mail after 5:00 p.m. on that date. You requested that a response be provided two weeks later on May 11, 2009. Your request seeks detailed information about Maine Leads' activities and finances over an 18 month period. Your request is burdensome and can't be fully and accurately replied to within two weeks. Even if the request was made after an appropriate preliminary determination by the Commission as discussed above, two weeks is not a sufficient amount of time to properly respond to such a request.

In contrast to the process you have suggested in this matter, those served with a civil complaint are given 20 days before an answer is required to be filed with a court – and all that is required in an answer is that the factual allegations in the complaint be admitted or denied. No detailed factual response is required. Once a lawsuit is underway, parties are allowed 30 days to respond to written interrogatories or requests for documents. The Commission should provide at least 30 days to respond to detailed questions such as those contained in your April 27, 2009 letter.

A response from Maine Leads would require the disclosure of confidential information

Maine Leads is involved in a number of activities that fall outside of the Commission's jurisdiction. Maine Leads understands that consideration of all of the organization's activities may be needed to determine whether or not the organization is a political action committee. However, answering the questions contained in your April 27, 2009 letter would require the disclosure of private financial and strategic information that would not otherwise be available to the public or those, such as Ms. Hutton, who are opposed to Maine Leads' aims.

If the Commission finds that Ms. Hutton's complaint meets the requirements of 21-A M.R.S.A. §1003 and commission rules, Maine Leads requests that its submissions about its finances and non-regulated activities be kept confidential pursuant to 21-A M.R.S.A. §1003(3-A). This statute allows to be kept confidential "financial information not normally available to the public" and "information . . . that, if disclosed, would reveal sensitive political or campaign information." Your request for information about Maine Leads' activities, contributions, and expenditures falls squarely within these provisions. Though Maine Leads is willing to provide the information requested because it believes the information supports the conclusion that Maine Leads is neither a political action committee nor a ballot question committee, Maine Leads should not be required to publicly disclose private financial and operational information to defend itself against a baseless complaint. As a result, if the Commission decides to open an investigation based on Ms. Hutton's complaint, Maine Leads requests that any information provided to the Commission or Commission staff that would not

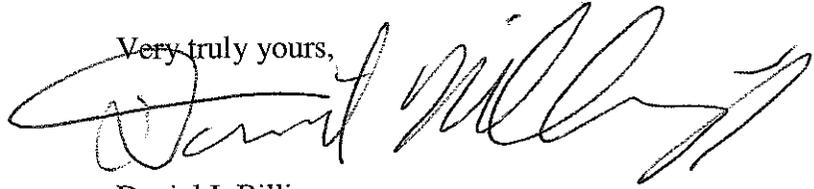
Jonathan Wayne, Executive Director
May 11, 2009
Page 4

be required to be disclosed under the statutes within the Commission's jurisdiction be kept confidential pursuant to 21-A M.R.S.A. §1003.

Conclusion

If it is decided that Ms. Hutton's complaint contains sufficient information to justify its inclusion on the agenda for the Commission's May 28th meeting, I will be in attendance at the meeting along with Roy Lenardson of Maine Leads.

Very truly yours,

A handwritten signature in black ink, appearing to read "Daniel I. Billings". The signature is fluid and cursive, with a large initial "D" and a long, sweeping tail.

Daniel I. Billings



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

May 14, 2009

By E-Mail and Regular Mail

Daniel I. Billings, Esq.
Marden, Durbord, Bernier & Stevens
PO Box 708
Waterville, ME 04903-06708

Dear Mr. Billings:

Thank you for your May 11 response to Deborah Hutton's request that the Ethics Commission consider whether Maine Leads is a political action committee (PAC). This is to notify you that I will be scheduling Deborah Hutton's request for the Commission's meeting on Thursday, May 28, 2009 at 9:00 a.m. This letter also requests that you and Roy Lenardson attend the meeting. At this time, I intend to schedule this matter as the first item on the agenda (after adoption of the minutes for the previous meeting).

The purpose of my April 27 letter was to obtain preliminary factual information that would assist the Commission members in deciding on May 28th whether to conduct any further fact-gathering or investigation. Your May 11 letter provided absolutely no factual information, and instead raised a number of procedural objections. Regrettably, that approach will reduce the information available to the Commission members on May 28th and could have the effect of prolonging the Commission's consideration of this matter.

Preliminary Fact-Gathering by Staff

My letter to you fully complied with 21-A M.R.S.A. § 1003(2) and Chapter 1, Section 5 of the Commission's rules. As you know, the Commission is a citizen board that will meet on a bi-monthly basis during 2009. Under Chapter 1, Section 5 of the Commission's rules, when the Commission receives a request for an investigation, the Commission's director may conduct preliminary fact finding as he or she deems prudent and desirable until the matter reaches the members of the Commission at a public meeting.

CHAPTER 1, SECTION 5. FACT FINDING AND INVESTIGATIONS

1. Before Commission Meeting. With respect to any inquiry, complaint, or request for Commission action properly filed in accordance with the preceding section, or any potential violation that comes to the attention of Commission staff through an audit or review of reports, the Director may conduct such preliminary fact finding as is deemed prudent and desirable. ... When a matter is ready for presentation to the Commission, the

Daniel I. Billings, Esq.

Page 2

May 14, 2009

Director, in consultation with Counsel, will prepare a summary of findings and recommendations for inclusion on the agenda.

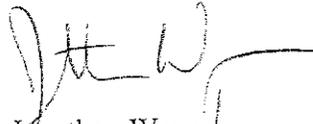
2. By the Commission. Once any matter is reached on the agenda of a Commission meeting, the Commission will control any further investigation or proceedings. No hearings will be held except by direction of the Commission. On a case-by-case basis, the Commission may authorize its Chair, Director, or any ad hoc committee of its members, to conduct further investigative proceedings on behalf of the Commission between Commission meetings. Any authorization so conferred will be fully reflected in the minutes of the Commission meeting.

Sufficient Grounds to Believe that a Violation May Have Occurred

In my view, the members of the Commission could find that Ms. Hutton's request provides "sufficient grounds for believing that a violation may have occurred." (21-A M.R.S.A. § 1003, emphasis added) The statute does not require that complainants requesting a Commission investigation prove that a violation occurred. That would be a standard that many complainants could not meet because they lack access to the relevant information. I believe it would be appropriate for the Commission to take into consideration the statement on the "Staff" section of Maine Leads' website that its Grassroots Director managed a sizeable signature-collection campaign for three citizen initiatives as well as the lack of publicly available information concerning the other (non-electoral) activities of Maine Leads. The term "staff" usually connotes someone who has received expenditures of money in exchange for providing services.

For the May 28th meeting, I will draft a memo for the Commission that will discuss arguments for and against conducting an investigation regarding whether Maine Leads may have been operating as a PAC or as a ballot question committee. The memo will be based on the limited factual information presently available – without the information that I had anticipated Maine Leads would be willing to provide. On May 21st, I will e-mail the memo to you and to Benjamin K. Grant, counsel for Ms. Hutton.

Sincerely,



Jonathan Wayne
Executive Director

cc: Benjamin K. Grant, Esq.
Assistant Attorney General Phyllis Gardiner

**MARDEN, DUBORD,
BERNIER & STEVENS**

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May 20, 2009

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MAY 21 2009

Jonathan Wayne, Executive Director
Maine Commission on Governmental Ethics & Election Practices **MAINE ETHICS COMMISSION**
135 State House Station
Augusta, Maine 04333-0135

RE: Hutton complaint against Maine Leads

Dear Mr. Wayne:

I am in receipt of your letter of May 14, 2009. This letter will confirm that I will be in attendance at the Commission's May 28, 2009 with Roy Lenardson of Maine Leads.

I am concerned that your letter leaves the impression that Maine Leads has not responded to your request for information for merely procedural reasons. In my May 11, 2009 letter, I explained two substantive reasons for not providing responses to your detailed request for information: (1) you did not provide sufficient time to respond completely and accurately and (2) responding to your questions would require the disclosure of confidential information.

As you know, within days of receipt of your April 27, 2009 letter, both Mr. Lenardson and I offered to meet with Commission staff privately to provide answers to the questions you asked. In response to this offer you reasonably replied that you did not believe you had the authority to engage in confidential fact finding without authorization from the Commission. While I understand and accept your response, your refusal to proceed as suggested will reduce the information available to the Commission members on May 28th and could have the effect of prolonging the Commission's consideration of this matter. Due to your negative response to the offer to meet privately, I made the request on behalf of Maine Leads that its submissions about its finances and non-regulated activities be kept confidential pursuant to 21-A M.R.S.A. §1003(3-A).

Also, as you know, one of my other clients has been accused of making materials misrepresentations to the Commission. Due to the possibility of such accusations being made again in the future, it is imperative that those who are asked to respond to complaints be given sufficient time to respond so that research can be completed to ensure that responses are carefully considered and accurate. Though two weeks or less may be enough time to reply to simple questions from Commission staff, it is not enough time to respond to detailed requests like your April 27, 2009 letter.

I am surprised by your suggestion that your letter fully complies with 21-A M.R.S.A. §1003. It appears from the contents of your May 14, 2009 letter that your actual position is that 21-A M.R.S.A. §1003 does not apply to requests such as those contained in your April 27, 2009 letter. While I understand that Commission rules allow for preliminary fact finding by the Executive Director, the requests contained in your April 27, 2009 go beyond what I would consider preliminary fact finding and amount to an investigation.

Your May 14, 2009 letter does not address Ms. Hutton's failure to comply with Commission rules concerning requests for Commission investigations. One of the few factual allegations contained in Ms. Hutton's letter is that "in 2009 Maine Leads has been distributing leaflets and calculators at town meetings (plural) to support the TABOR and Excise Tax Referendums." Commission rules, and fundamental fairness, require that she list what town meetings Maine Leads is alleged to have made such distributions and the source of the information that supports her allegation. No person or entity should be expected to respond to such allegations without being provided such information. I reiterate my request that you ask Ms. Hutton to provide such detail, as required by Commission rules, before the May 28th Commission meeting.

I agree with your position that the statute does not require a person making a complaint to prove that a violation has occurred. Though the wording of the statute should be more clear, it is apparent that some showing beyond a mere allegation is necessary before an investigation is conducted. The statute also requires that the Commission "review the application" for an investigation, which suggests that the burden to make a sufficient showing is on the party requesting an investigation, not on the Commission staff or the party who would be the subject to the investigation. Though the statute is not specific as to what standard must be met, "sufficient grounds" implies that there must be some standard, apart from mere allegation. Generally, in such matters, administrative bodies may rely on such information that a reasonable person in the relevant profession or activity would rely on to base decisions. "Sufficient grounds" implies that the Commission must consider such evidence and determine whether it is more likely than not that a violation has occurred.

As a preliminary matter, I request that the Commission consider what standard is required to be met before an investigation is conducted pursuant to 21-A M.R.S.A. §1003. It is imperative that an agency that regulates activities that fall within fundamental First Amendment protections not subject parties to investigations of their constitutionally protected activities based on mere allegation or speculation. When investigations are begun by the Commission, the reputation of the party being investigated is harmed by the mere fact that an investigation is being conducted; the party being investigated may be required to disclose information that would not otherwise be publicly available; and participating in an investigation imposes costs on the party being investigated. For all these reasons, the Commission should not open an investigation without more of showing than has been made by Ms. Hutton.

In your May 14, 2009 letter, you raise specific issues regarding Trevor Bragdon. Because now more than two weeks have passed since Maine Leads was made aware of Ms.

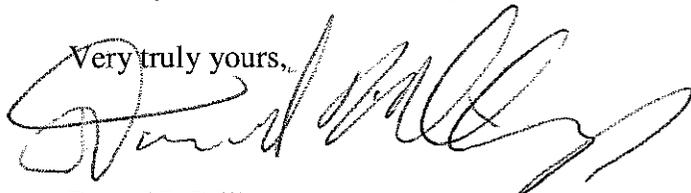
Hutton's complaint, there has been more of opportunity to consider Mr. Bragdon's work for Maine Leads and involvement in the petition gathering process.

If one reviews the filings of the political action committees ("PACs") involved in the signature gathering for the initiatives in questions¹, one will find that the PACs paid Pioneer Group, Inc. for signature collection. A review of the Secretary of State's online database of Maine corporations shows that Pioneer Group, Inc. is a Maine corporation in good standing and that Trevor Bragdon is the clerk/registered agent for the corporation. (Enclosed is a copy of the information summary from that database.) Mr. Bragdon tells me that he is the sole shareholder of the corporation.

Mr. Bragdon was a paid employee of Maine Leads only in February, March, and April of 2008 and again from December 2008 through March 2009². A majority of the signatures for the initiatives were collected in November of 2007 and June of 2008, on and around the elections held in those months³. During the periods of time when the majority of the signatures for the initiatives were collected, Mr. Bragdon was not a paid employee of Maine Leads. His paid involvement in the signature gathering process was through his company, Pioneer Group, Inc. In addition, a search of the Commission's online database reveals that Pioneer Group, Inc. received payments throughout 2008 from the Maine Senate Republican Committee, a political action committee that supported Senate Republican candidates. During most of 2008, Mr. Bragdon worked for Pioneer Group, Inc. as the corporation provided services to its client PACs. Mr. Bragdon has provided me information that indicates that he received significantly more income from Pioneer Group, Inc. than from Maine Leads during 2008⁴.

I request that this letter be provided to the Commission members as part of the information provided to them before the May 28th meeting. Thank you.

Very truly yours,



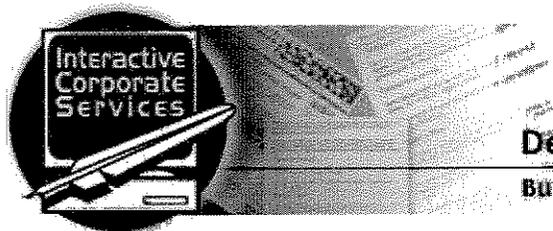
Daniel I. Billing

¹ Preliminary fact gathering by the Commission's Executive Director should include a review of the records on file with the Commission and other available public records that are relevant to the request for an investigation.

² Mr. Bragdon is not currently a paid employee of Maine Leads and has not been since April 1, 2009. It is anticipated that he will not be a paid employee of Maine Leads, because of his work on the referendum campaigns, through the November election.

³ This fact can be confirmed by a review of the petitions on file with the Secretary of State.

⁴ More detailed information concerning Mr. Bragdon's income and sources of income could be provided. Such information is information that should be confidential pursuant to 21-A M.R.S.A. §1003(3-A) and therefore is not being provided now.



MAINE

Department of the Secretary of State
Bureau of Corporations, Elections and Commissions

Corporate Name Search

Information Summary

[Subscriber activity report](#)

This record contains information from the CEC database and is accurate as of: Tue May 19 2009 14:10:54. Please print or save for your records.

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PIONEER GROUP	20080394 D	BUSINESS CORPORATION	GOOD STANDING

Filing Date	Expiration Date	Jurisdiction
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Other Names (A=Assumed ; F=Former)

NONE

Clerk/Registered Agent

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McTEAGUE, HIGBEE, CASE, COHEN, WHITNEY & TOKER, P.A.

ATTORNEYS AT LAW

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MAINE ETHICS COMMISSION

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PATRICK N. MCTEAGUE
OF COUNSEL

May 20, 2009

Jonathan Wayne, Executive Director
Maine Commission on Governmental Ethics & Election Practices
135 State House Station
Augusta, ME 04333-0135

RE: Hutton Complaint against Maine Leads

Dear Mr. Wayne:

I am writing in response to the May 11, 2009 letter from Maine Leads and Attorney Dan Billings to the Ethics Commission. Several of Maine Leads' contentions warrant a response at this time, so that the Commission has a clear view of the exact nature of Ms. Hutton's request for an investigation. As a preliminary matter, we support your positions regarding the propriety of your initial requests to Maine Leads and feel your response on the issue comports with the relevant law. Regarding the substantive contentions, please accept the following.

Ms. Hutton's Request Offers Facts Which, If True, Constitute A Violation Of Maine Law

Maine Leads contends that Ms. Hutton's allegations would not amount to a violation of Maine law if proven true. This contention is incorrect. Provided here is a detailed recounting of the actions that violate Maine law.

On October 18, 2007, Roy Lenardson registered Maine Leads as a non-profit corporation with the Secretary of State. On November 15, 2007, Maine Leads made three large financial contributions:

- A) \$25,000 to The Road to a Cleaner Maine PAC;
- B) \$25,000 to Citizens for a Prosperous Maine PAC, and;
- C) \$25,000 to Affordable Health Care Choices for Maine PAC.

These three PACs were formed for the sole purpose of gathering sufficient signatures to force legislative action, and, ultimately, a public vote on three ballot initiatives related to taxes and health care.¹ While PACs must disclose the name and occupation of donors, a "non-profit"

¹ The PACs were terminated upon completion of the signature gathering process and replaced by three new PACs formed, presumably, to facilitate the public campaign for the initiatives' passage. The health care ballot initiative failed to garner enough signatures, but that result is not material to the question at issue here.

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does not face the same requirements. However, mere legal designation as a non-profit does not automatically exempt the organization from Maine's campaign disclosure laws if the organization's actions bring it under the definition of a political action committee. 21-A M.S.R.A. §1052(5)(A)(4), the law governing the definition of a political action committee on November 15, 2007, includes in the definition of a PAC:

"Any organization . . . that has as its major purpose advocating the passage or defeat of a ballot question and that solicits funds from members or nonmembers and spends more than \$1,500 in a calendar year to initiate, advance, promote, defeat or influence in any way a . . . referendum or initiated petition, including the collection of signatures for a direct initiative[.]"

A further look at the records of the three PACs mentioned above indicates that the PACs' major purpose was to act as a conduit for Maine Leads' \$75,000. The facts are these:

In addition to the \$25,000 from Maine Leads, The Road to a Cleaner Maine PAC generated \$72,000 in contributions from additional sources. Therefore, of \$25,072 in contributions, Maine Leads was responsible for 99.7%.

In addition to the \$25,000 from Maine Leads, Citizens for a Prosperous Maine PAC generated \$16,554 in contributions from additional sources. Therefore, of \$41,554 in contributions, Maine Leads was responsible for 60.2%.

In addition to the \$25,000 from Maine Leads, Affordable Health Care Choices for Maine PAC generated \$8,200 in contributions from additional sources. Therefore, of \$33,200 in contributions, Maine Leads was responsible for 75.3%.

In sum, within one month of formation, Maine Leads contributed \$75,000 of the \$99,826 (75.1%) that ultimately funded the collection of signatures for the ballot initiatives in question. Of that total, at least \$81,704.47 was paid to an entity called "Pioneer Group Inc," for campaign consulting, signature collection and verified signatures. Without Maine Leads, neither of the ballot questions at issue here would be on the ballot this November. As such, and absent any evidence of other activities conducted by the organization, Maine Leads' "major purpose" should be deemed the collection of signatures for the direct initiatives described above.

Therefore, we contend that by the above actions, Maine Leads qualified as a PAC under Maine law. Its major purpose at the time was to collect signatures for the ballot initiatives described above, and the PACs in question appear as mere pass-through organizations created only to provide concealment for Maine Leads contributors and/or allow Maine Leads to maintain its non-profit status. 21-A M.S.R.A. § 1052(5)(A)(4) prevents this kind of pass-through.

The Commission should open an investigation to clarify the following question: Was Maine Leads' "major purpose" to "influence in any way" the collection of signatures for these direct

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initiatives? Ancillary questions might include: What other activities has Maine Leads engaged in since its formation? What other activities was Maine Leads engaged in during the period in question? The \$75,000 in question was what percent of Maine Leads' overall budget for the period in question?

If it is found that Maine Leads' major purpose was, in fact, collecting signatures for the ballot initiatives at issue here, the Commission should find that Maine Leads was a political action committee and its failure to file the appropriate reports was a violation of Maine law.

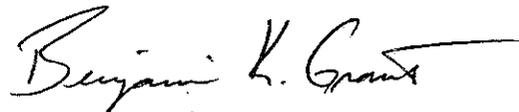
The investigation might also explore the relationship between Maine Leads and Pioneer Group Inc. Trevor Bragdon is listed as a current staff member of Maine Leads, an officer in More Green Now PAC (The Road to a Cleaner Maine PAC's successor), and the President and only listed Director of Pioneer Group Inc. Mr. Bragdon made the only individual contribution to The Road to a Cleaner Maine PAC, and listed The Pioneer Group as his employer. Certainly the nexus between the money raised into Maine Leads, staffed by Mr. Bragdon, and paid to Pioneer Group Inc, operated by Mr. Bragdon, deserves investigation, as it further implies that these organizations were mere "on-paper" distinctions. If this is found to be the case, it further supports the assertion that Maine Leads was, in fact, a political action committee for the time period in question.

Conclusion

The public policy implicated here is vital to the health of our political process. Maine has gone to great lengths to codify rigorous disclosure requirements so that every voter can access information regarding the entities and individuals financing campaigns in this State. Maine Leads has attempted an end-run around those requirements, and the Commission risks creating a blueprint for such evasion in the future if it ratifies the actions outlined above.

1 M.S.R.A. § 1001 establishes the Statement of Purpose for the Ethics Commission. In part, it states, "there is created an independent commission on governmental ethics and election practices to guard against corruption or undue influencing of the election process." Ms. Hutton submits that the actions of Maine Leads are the type of undue influence that the Legislature had in mind.

Very truly yours,



Benjamin K. Grant

BKG:cja

**MARDEN, DUBORD,
BERNIER & STEVENS**

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MAY 22 2009

May 21, 2009

Jonathan Wayne, Executive Director
Maine Commission on Governmental Ethics & Election Practices
135 State House Station
Augusta, Maine 04333-0135

MAINE ETHICS COMMISSION

RE: Attorney Grant's Letter of May 20, 2009

Dear Mr. Wayne:

I am in receipt of Attorney Benjamin Grant's letter of May 20, 2009. Mr. Grant is correct that Ms. Hutton has made allegations of violations of law but, as outlined in my previous letters, more than mere allegations are necessary to justify the opening of an investigation. The facts that she has come forward with do not show sufficient grounds for believing that a violation may have occurred. Mr. Grant is asking the Commission to consider the facts in the negative light that Ms. Hutton places them in and to then force Maine Leads to prove that the allegations are false. Such a process turns the burden of proof on its head. Ms. Hutton is asking the Commission to engage in a new form of McCarthyism where instead of being asked by a government panel to prove that one is not a Communist, the accused will be forced to prove it is not a political action committee.

In his letter, Mr. Grant suggests that Maine Leads is a political action committee ("PAC") because it contributed the majority of the funds to three political action committees gathering signatures for three separate initiatives. Making contributions to PACs does not, on its own, turn the contributor into a PAC. It is not unusual for PACs involved in initiative campaigns to receive their funding from a small number of contributors, particularly during the signature gathering process. A good example is the school funding initiative brought forward a few years ago by the Maine Municipal Association. During the signature gathering process, the PAC funding the signature drive received \$182,094.02 in cash and in-kind contributions -- 98.21% of those contributions came from the Maine Municipal Association. In addition, the various gaming referendums in recent years are other examples of referendums where the funding for the PACs behind the referendums came from a small number of sources.

Mr. Grant quotes part of the definition of political action committee that was effect in 2007 and suggests that the three separate contributions by Maine Leads in support of three separate initiatives alone could make Maine Leads a PAC. The plain language of the statute states otherwise.

The statute quoted by Mr. Grant defines a political action committee as “Any organization . . . that has as its major purpose advocating the passage or defeat of a ballot question and that solicits funds from members or nonmembers and spends more than \$1,500 in a calendar year to initiate, advance, promote, defeat or influence in any way a . . . referendum or initiated petition, including the collection of signatures for a direct initiative, in this State.” (Emphasis added.) This definition sets up a three part test that must be passed for an organization to be defined as a political action committee. The organization must (1) have as its major purpose advocating the passage or defeat of a ballot question; (2) it must solicit funds for that purpose; and (3) it must spend more than \$1,500 in a calendar year for that purpose. If any one of three requirements is not present, the organization is not a PAC.

It is not in dispute that Maine Leads made contributions to three political action committees that were collecting signatures for three separate initiatives. Even if one is to assume, for the purpose of argument, that in 2007, the major purpose of Maine Leads was supporting the signature gathering process for the three initiatives, the statute defines as a political action committee an organization that has as its major purpose advocating the passage or defeat of a single ballot question. The statute speaks of a single ballot question and does not include in the definition organizations that have the major purpose advocating the passage or defeat of multiple ballot questions. In addition, no evidence has been presented that Maine Leads solicited funds “to initiate, advance, promote, defeat or influence in any way a . . . referendum or initiated petition, including the collection of signatures for a direct initiative, in this State.” Without evidence of such solicitation, the Commission can not conclude that Maine Leads is a political action committee.

More importantly, in 2007 when the contributions by Maine Leads were made, the PACs to which Maine Leads contributed were engaged in the signature gathering process. At that time, the signature gathering process was at the early stages and there were not yet any ballot questions for which an organization could advocate the passage or defeat. In fact, under the initiative and referendum process, initiated bills go first to the Legislature and it is only if the Legislature rejects the initiative that there will be any ballot question for which any organization may advocate the passage or defeat. If the Legislature enacts the initiated bill, which has been done, there is no ballot question. By the definition cited above, to be a political action committee, an organization must have as its major purpose “advocating the passage or defeat of a ballot question.” An organization with the major purpose of collecting signatures for an initiative is not, by definition, a political action committee.

It is also significant that the definition of political action committees that was in effect in 2007 also defined as a PAC “Any organization, including any corporation or association, that has as its major purpose advocating the passage or defeat of a ballot question and that makes expenditures other than by contribution to a political action committee, for the purpose of the initiation, promotion or defeat of any question.” (Emphasis added.) By this definition, if an organization’s only expenditures related to a ballot question were “by contribution to a political action committee,” the organization would not be a PAC. As a result, the contributions by Maine Leads to the three political action committees should not be considered grounds to believe that Maine Leads is a PAC.

As you know, the definition of political action committee that was in effect in 2007 was amended by the Legislature, in part, because the Commission found the definition difficult to apply and administer. The definition in effect in 2007 was vague and overbroad. Due to the problems with the definitions, to avoid constitutional issues, the Commission must interpret and apply the definition narrowly.

The Commission should also consider whether Ms. Hutton's complaint is timely. The three contributions in question were made by Maine Leads in November 2007 and the contributions were reported by the three PACs in January of 2008. Ms. Hutton's complaint was filed more than 15 months after information about the Maine Leads contributions was available to the public and Commission staff. The timing of the complaint raises the question as to whether the complaint is made in good faith. It seems unlikely that it is coincidence that Ms. Hutton's complaint was filed at the same time that Maine Leads was actively lobbying and publicly campaigning against LD 1353 An Act Regarding Salary Information for Public Employees. LD 1353 was aimed at shutting down a website that includes a database containing salary information for public employees. The bill was a major priority of the Maine State Employees Association, the union of which Ms. Hutton's husband is the Executive Director.

Very truly yours,

A handwritten signature in black ink, appearing to read "Daniel I. Billing". The signature is fluid and cursive, with a large initial "D" and "B".

Daniel I. Billing

McTEAGUE, HIGBEE, CASE, COHEN, WHITNEY & TOKER, P.A.

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PATRICK N. McTEAGUE
OF COUNSEL

May 22, 2009

Jonathan Wayne, Executive Director
Maine Commission on Governmental Ethics & Election Practices
135 State House Station
Augusta, ME 04333-0135

RE: Response to Attorney Billings' Letter of May 21, 2009

Dear Mr. Wayne:

At the risk of prolonging an already extensive correspondence leading up to next week's Ethics Commission meeting, I am writing to respond to several issues raised by Dan Billings and Maine Leads in their letter of May 21, 2009.

1. Burden of Proof

Mr. Billings continues to insist that we have insisted on an unreasonably high burden of proof from Maine Leads. Sensationalizing our request through comparison to "McCarthyism," however, does not turn our routine, ordinary request into anything more than it is. To reiterate, we have discovered and come forward with facts that, if proven, constitute a violation of Maine law. We do nothing more than relay those facts to the Commission and suggest that the Commission open an investigation and form its own conclusions. That Maine Leads might have to provide further information to the Commission about its activities hardly offends our well-worn standards regarding burdens of proof.

Despite his protests to the contrary, it is Mr. Billings, in fact, who is asking that a "normal" burden of proof be altered – namely that of a party bringing a complaint. There is simply no proceeding in which the complaining party must prove its case with its very first submission. We have shown sufficient grounds to believe that a violation occurred, but that is not really the core of Mr. Billings' argument. He has suggested that we have not proven that a violation did occur. That, of course, is for the Commission to decide, not a requirement of the complaining party.

2. Contributions to PACs

Mr. Billings believes that contributions to PACs are ordinary transactions and do not, of themselves, qualify the donating entity as a political action committee. He is correct, but this argument fails to

RE: Response to Attorney Billings' Letter of May 21, 2009
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address the relevant standard, or our contention regarding Maine Leads' donations. There is no specific activity listed in the 21-A M.S.R.A. § 1052(5)(A)(4) that proves an entity is, or is not, a PAC. Rather, the threshold question requires that we explore the "major purpose" of the entity in question, and our contention is that if the "major activity" is funding a signature collection campaign, then the entity in question comes under the definition of a PAC.

Mr. Billings' own example demonstrates this point precisely. The Maine Municipal Association (MMA) provided significant funds to the school funding initiative that appeared on the ballot several years ago. Similarly to Maine Leads and the several PACs involved in this dispute, a very high percentage of the PACs' money came from one source. However, a mere cursory investigation of the Maine Municipal Association reveals that the organization engages in many additional activities beyond support or opposition of referendum campaigns. For instance, MMA employs six attorneys and provides legal services to its members, offers a variety of workshops and conferences each year, and provides information about personnel services ranging from recruitment to labor relations. It is not apparent, on the other hand, that Maine Leads has any other major purpose – and that is precisely that point of our request.

3. Single Ballot Question vs. Multiple Ballot Questions

Mr. Billings contends that by contributing to three ballot initiative PACs, Maine Leads did not run afoul of the statute in question because the requirement speaks of a ballot question. This is an interpretation of the statute that would lead to absurd results and contravenes that purpose of Maine's campaign disclosure laws. The underlying purpose of the statutory scheme in question is to provide the public with information about the groups and individuals who support and oppose campaigns in Maine. To say that an entity can conceal its contributors because it supports multiple ballot initiatives, but an entity supporting only one ballot initiative must disclose its contributors is an absurd proposition.

4. Solicitation of Funds

Mr. Billings is correct that one element of the statute in question is the solicitation of funds to influence in any way a ballot initiative. His conclusion, however, demonstrates the very need for the investigation we have requested. That we do not possess evidence of Maine Leads' solicitation efforts is precisely the point. The other evidence indicates that Maine Leads' major activity was collecting signatures for the relevant ballot initiatives. However, because Maine Leads is a non-profit organization (on paper, at least), it does not have to disclose information about its fundraising activity. Disclosure of that information, however, may be necessary to determine whether or not Maine Leads was, in fact, operating as a political action committee.

5. Collecting Signatures

Mr. Billings contends that "[a]n organization with the major purpose of collecting signatures for an initiative is not, by definition, a political action committee" because the definition in question

RE: Response to Attorney Billings' Letter of May 21, 2009
May 22, 2009
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refers only to "advocating the passage or defeat of a ballot question." This is a classic "distinction without a difference." The entire point of collecting signatures is to qualify a question for the ballot, so to say that this process is not "advocating" for the question's passage is not credible.

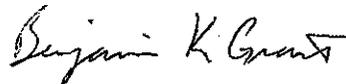
6. 21-A M.S.R.A. §1052(5)(A)(3)

Mr. Billings is correct that the definition of a PAC at the time in question included the provision that he quotes regarding contributions to PACs. However, his reading of the statute is incorrect. Subsection (3) merely covers entities who's activities are not contributions to political action committees. Maine Leads' activities in question were contributions, so the subsection does not apply. Mr. Billings has read this clause to provide an exclusion for contributions, when the language of the statute indicates otherwise. Summarized another way, subsection (3) applies to entities who influence ballot initiatives via contributions other than contributions to PACs. Subsection (4), then, applies when the major activity is monetary contribution.

7. Timeliness

Ms. Hutton's complaint is timely, as the ballot initiatives in question are schedule for appearance on the ballot this fall. The campaign activity has continued, and will increase over the course of this summer and fall. In fact, (and in response to Mr. Billings original objection to our lack of citation for the contention that Maine Leads has conducted advocacy at town meetings), Senate President Elizabeth Mitchell observed Maine Leads distributing "calculators" at a recent town meeting in Sidney, Maine. What is obvious from this fact is that the public still has an interest in being able to access information about Maine Leads, as Maine Leads continues to advocate for the ballot initiatives in question. This is an ongoing campaign, and, therefore, an ongoing problem.

Very truly yours,



Benjamin K. Grant

BKG:cja

Carl Lindemann

P.O. Box 74
Austin, Texas 78767

Phone 512-495-1511
Email Carl@cyberscene.com

May 26, 2009

Dear Commission Chair Friedman, Commissioners Marsano, McKee, Thompson & Youngblood,

Thank you for the opportunity to provide this information regarding Agenda Item #2, the complaint against "Maine Leads". Unfortunately, I will be unable to appear at the meeting in person. Please accept my apologies for that. I have an unexpected personal matter that keeps me from being present.

You may not know that I have two pending complaints against Maine Heritage Policy Center (MHPC) that had been scheduled for this month's meeting. In the process of researching those, I discovered significant factual information that may inform this complaint against "Maine Leads". In short, my research shows the following:

- 1.) Mr. Lenardson's previous testimony to the Commission regarding his PAC's relationship to MHPC was misleading and untrue. His failings as a fact-witness necessitate that his testimony on this matter be sworn;
- 2.) Mr. Lenardson himself raised the public policy issue regarding 501(c)4 abuses that justifies an investigation of "Maine Leads" activities now;
- 3.) Mr. Billings' statement regarding Mr. Bragdon's status as a "paid employee" of "Maine Leads" is meaningless;
- 4.) "Maine Leads" is apparently in violation of both state and federal regulations for public charity organizations.

1.) Mr. Lenardson's previous testimony to the Commission regarding his PAC's relationship to MHPC was misleading and untrue.

In his May 20 letter, Mr. Billings mentions that another of his client (MHPC) will have to address a complaint regarding its material false statements. He fails to mention that Mr. Lenardson is mentioned specifically in that complaint. The following is drawn from my complaint to be taken up at the July Commission meeting.

Taxpayerbillofrights.com was not involved in MHPC's activities.

At the December 20, 2006 meeting of the Commission, MHPC had Roy Lenardson speak on its behalf. Lenardson was presented as a senior official of the taxpayerbillofright.com organization. Though it was not mentioned, Lenardson had been featured as senior

management of MHPC only months earlier, and may even have been receiving financial compensation from the organization at that time or not long before.

At the meeting, Lenardson provided the following testimony:

MR. ROY LENARDSON: Uh, my name is Roy Lenardson. And I was involved with the Taxpayer Bill of Rights.com PAC and I just simply wanted to, um, lay out what did—did occur, um, just to give you a little bit of perspective. We had a little over 900 donors about—raised more than \$400,000. We maintain an office, website, phone numbers. We hired staff, one full-time, two part-time. We have about 250 active volunteers that regularly participated in what we did. We hired TV ad producers, we produced six TV ads. We hired a buyer for the TV ads. We paid a designer and paid a mail house for the, um, mailings that we did. We did several, uh, targeting mail features. We paid a design shop for newspaper ads and placement. We had our own treasurer who maintained all the bank records and transactions and specifically for the purpose, we did fund raising letters. Um, and our staff and volunteers participated in more than 100 debates and other speaking engagements. From our perspective we were all about the campaign, um, and I just wanted to make it a little bit more clear while the activities of MHPC participating in forums is really interesting, uh, it was horrifying to people in the campaign because it was an endless chat and we were all about raising money to get TV, newspaper ads, and out to the public and the debates were touching but that wasn't really what we found to be helpful for the campaign and... we did lose and I'm here celebrating that—

(Transcript 12/20/2006 pgs 176-178)

Lenardson's testimony gives the false impression that taxpayerbillofrights.com did not work with MHPC in its efforts to carry out its activities as a speaker bureau for the TABOR campaign. This posting at the "As Maine Goes" website on October 11, 2006 shows this to be false:

In my town, Mt. Vernon, one of my fellow Selectmen suggested that the Selectmen sponsor an informational forum on the Taxpayer Bill of Rights starring her friend Geoff Herman, who happens to be from Mt. Vernon. I immediately contacted Mary Adams to see if she could recommend someone to present the pro TABOR position at this forum and she put me in touch with Tarren Bragdon of the ME Heritage Policy Center. Mr. Bragdon was glad to appear on behalf of the Taxpayer Bill Rights.

I would STRONGLY suggest that you also contact Mary Adams and let her know what is going on at Lakes Region High School. I also suggest that you contact the Superintendent of that school district and DEMAND a balanced presentation. You can reach Mary Adams by email at mga@tdstelme.net or by phone at (207) 924-3835...

Bruce Inch, Selectman
Town of Mt. Vernon

In addition, documentation provided to the commission elsewhere show sadditional evidence of the partnership between Taxpayerbillofrights.org and MHPC to provide

speakers promoting TABOR. Mary Adams and Tarren Bragdon served side-by-side at numerous debates. Mr. Lenardson's suggestion that these debates were "horrifying to the people in the campaign...an endless chat" is false and misleading. Since Mr. Lenardson has been less than forthright about his previous organization's relationship to MHPC at the Commission, it is not appropriate to take his comments about his current organization at face value.

2.) Mr. Lenardson himself raised the public policy issue regarding 501(c)4 abuses that justifies an investigation of "Maine Leads" activities now;

Also in his comments before the Commission on December 20, 2006, Mr. Lenardson made the following comments regarding possible abuses of other entities:

MR. LENARDSON: At this point—I just want to add just one quick thing that I would relate to that, having done PACs now for ten plus years, um, there is a trend that is coming down that we're going to see more and more of and it's the notion of the C-4, the 527, all these different types of organizations that open up shop and pretend to be interested in one or two or three issues. It's on the right, whether it's the guns, it's on the left as well. And I don't think the current laws are capturing that and I—I'm very concerned about whether Kit's group or Bill's group, those are 501(c)(3)'s that contribute to the fabric of this state and are important. I think sort of getting dragged and trying to create this one size fits all from very real C-4 527 issues that you're going to face increasingly, as especially in the '08 election cycle, versus the 501(c)(3) people that are going to be here year in, year out. I think there's a problem and I realize you're starting to confuse state laws and federal laws and all the different designations but I—I think it's an important distinction you've got to make as you guys deliberate just going down the road.

(Transcript 12/20/2006 pgs 178-179)

As Mr. Lenardson himself notes, there is a potential for abuse here, and the Commission would well carry out its mission to explore whether the existing laws are adequate. Given his prior stated interest in the public interest here, Mr. Lenardson should be open to an exploration of his entity's practices.

3.) Mr. Billings' statement regarding Mr. Bragdon's status as a "paid employee" of "Maine Leads" is meaningless;

In his letter to Executive Director Wayne on May 20, Mr. Billings states that "Mr. Bragdon was a paid employee of Maine Leads only in February, March and April of 2008 and again in December 2008 through March 2009." Whether or not Mr. Bragdon was formally on the payroll, he had engaged in staff work "off the books". I have attached a receipt for certified mail signed by Mr. Bragdon on behalf of "Maine Leads" dated November 18, 2008. According to Mr. Billings, Bragdon was not a "paid employee" at the time. In light of this evidence, it seems more appropriate to determine when Mr.

Bragdon carried out the activities of a “Maine Leads” employee, rather than to ask when he was formally on the payroll.

4.) “Maine Leads” is apparently in violation of both state and federal regulations for public charity organizations.

In 2008, after I had left Maine, I asked an associate to seek public information for “Maine Leads” – its application for 501(c)4 status and Form 990 tax return. The certified receipt above confirms that Mr. Bragdon received that request addressed to Mr. Lenardson. According to IRS regulations, “Maine Leads” had 30 days to provide this public information. The organization failed to respond and so is apparently in violation of its public reporting requirements – if, in fact, this entity has 501(c) 4 status.

As of this morning, I also checked with the Maine Office of Licensing & Registration to see if “Maine Leads” had registered with them as is required for entities engaged in charitable solicitations in Maine. According to Marlene Mcfadden, there is no entity registered under “Maine Leads”. This is apparently in violation of state law. Mcfadden states that:

All organizations soliciting the Maine public for contributions must be licensed with this office.

While such possible violations of state and federal law are beyond the purview of the Commission, it may be of interest in that it might demonstrate a pattern of conduct that would be pertinent in this matter.

Please note that I had only two hours to prepare this document. I apologize for not being able to provide a more polished presentation. I hope this information proves useful, and again, I am sorry I am unable to present it in person.

Sincerely,

A handwritten signature in black ink, appearing to read "Carl Lindemann". The signature is fluid and cursive, with a long horizontal flourish extending to the right.

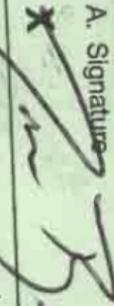
SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Roy Henderson
 Main Leads
 12 Church St. Supt #2
 PO Box 142
 Augusta, Me 04332

COMPLETE THIS SECTION ON DELIVERY

A. Signature 		<input type="checkbox"/> Agent <input checked="" type="checkbox"/> Addressee
B. Received by (Printed Name) Roy Henderson		C. Date of Delivery 11/18/08
D. Is delivery address different from item 1? If YES, enter delivery address below:		
		<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

3. Service Type

- Certified Mail
 Registered
 Insured Mail
 Express Mail
 Return Receipt for Merchandise
 C.O.D.

4. Restricted Delivery? (Extra Fee)

 Yes

2. Article Number

7007 1490 0001 664J 2394

(Transfer from)

PS Form 3811, February 2004

Domestic Return Receipt

102595-02-M-1540