

Agenda

Item #3



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

To: Commissioners
From: Jonathan Wayne, Executive Director
Date: May 17, 2010
Re: Request for Reconsideration from Peter Martin

At the April 29, 2010 meeting, you determined that Peter Martin had failed to register as required by law for lobbying he performed in March 2010 on behalf of Black Bear Entertainment LLC. The preliminary penalty is \$200 under the Commission's rules. On May 15, 2010, Mr. Martin submitted the attached request for reconsideration of your April 29 determination.

I. Procedural Issues Regarding Reconsideration

The Commission's Rules are silent regarding reconsideration. You have the discretion to reconsider your April 29, 2010 determination, but you are under no obligation to do so. The Commission has entertained reconsideration requests before.¹

In many courts and administrative agencies, reconsideration is granted if there is evidence which could not have been presented to the court or agency when it made its original decision. (For example, Rule 7(b)(5) of the Maine Rules of Civil Procedures states that: "[m]otions for reconsideration of an order shall not be filed unless required to bring to the court's attention an error, omission or new material that could not previously have been presented.") You may, however, grant reconsideration for reasons other than new evidence that wasn't previously available. For example, some agencies allow reconsideration as a means to correct a decision believed to be in error and not intended

¹ I could find only two requests for reconsideration within my seven-year employment. On July 13, 2005, the Commission declined to reconsider a decision from May 2005 assessing penalties totaling \$8,967 against Maine Clean Election Act candidate Christopher McCarthy. On October 20, 2004, the Commission declined to reconsider a September 2004 decision to award matching funds to Paul Davis and Chandler Woodcock based on a radio advertisement criticizing "Republican leaders."

by the agency, to address “significant, relevant information not previously considered by the department” (certificates of need for construction of health care facilities, 22 M.R.S.A § 240), or to respond to significant changes in factors or circumstances relied upon by the agency in making the initial decision.

The Commission is not bound by Robert’s Rules of Order, but has previously relied on them in this context. Under Robert’s Rules, the Commission could only reconsider its April 29, 2010 determination if a member of the majority voting on the motion at the April 29, 2010 meeting moved to reconsider that vote.

Procedurally, reconsideration is a two-step process: first, you would decide whether or not to reconsider the April 29, 2010 determination; then, if the majority votes to reconsider, the April 29, 2010 determination would be vacated, and the matter would be re-opened for a new determination.

II. Timeliness of Lobbyist Determination

If you decide to reconsider your April 29, 2010 determination, this section of the memo discusses Mr. Martin’s argument that he registered on time.

A. Legal Requirement to Register as a Lobbyist

As defined in the lobbyist disclosure law, a person engages in “lobbying” if he or she directly communicates with a covered official for the purpose of influencing legislative action, when the person receives compensation or reimbursement of expenses for those activities. (3 M.R.S.A. § 312-A(9)) Also included in lobbying is the preparation of testimony, analyses, or proposals that are submitted to covered officials for the purpose of influencing legislative action. (*Id.*) The Commission has adopted guidance concerning what activities do and do not count as lobbying. (*See attached flier.*)

The definition of lobbying contains a recently enacted exception for time spent by any person providing information to or participating in a subcommittee, stakeholder group, task force or other work group regarding a legislative action by the appointment or at the request of the Governor, a Legislator or legislative committee

(3 M.R.S.A. § 312-A(9)) Mr. Martin argues that some of his communications with officials should be exempt. The Commission staff disagrees. We suggest narrowly construing this exception to communications to an organized stakeholder group or task force that has been formally established by statute or other means.

Once a person engages in more than eight hours of lobbying within a calendar month on behalf of their regular employer, he or she qualifies as a “lobbyist” or a “lobbyist associate.” (3 M.R.S.A. §§ 312-A(10) and (10-A)) Each lobbyist or lobbyist associate is required to register with the Commission:

Every employer of a lobbyist and every lobbyist and lobbyist associate who lobbies on behalf of that employer shall register jointly at the office of the commission no later than 15 business days after commencement of lobbying and pay a registration fee of \$200 for the registration of each lobbyist and \$100 for the registration of each lobbyist associate or such other amounts as the commission determines approximate the cost to the commission of administering and enforcing the provisions of this chapter.

(3 M.R.S.A. § 313)

At some point prior to the beginning of my employment, the Commission staff began to advise that the deadline to register as a lobbyist is 15 business days after exceeding the eight-hour threshold, rather than 15 business days after the commencement of lobbying (as required by the statute). That advice has been included in the Commission’s lobbyist guidebook (pages attached). The reason for the staff advice is that someone may exceed eight hours of lobbying and thereby qualify as a lobbyist weeks or months after commencing lobbying for that client. Lobbyists expressed concern to the Commission staff about the possibility that once they reached the eight-hour threshold requiring registration, the deadline for registering could have already passed.

B. Mr. Martin's Argument that he Registered on Time

Mr. Martin's argues:

- Lobbyist registration must occur within 15 business days of when an individual lobbies for a client for eight hours in a calendar month.
- Fifteen business days generally is equivalent to 21 calendar days (three weeks).
- Mr. Martin registered on Wednesday, April 7, 2010.
- Fifteen business days prior to April 7, 2010 was Wednesday, March 17. (Please see the attached calendar.)
- Therefore, as long as Mr. Martin reached the eight-hour threshold on or after March 17, he registered on time.

Mr. Martin's argument that he did not reach the eight-hour threshold until the latter half of March rests on the timing of when a "competing measure" developed within the 2010 legislative session. After speaking to the analyst for the Joint Standing Committee on Legal and Veterans Affairs (LVA), my understanding of the timing of the competing measure is as follows. The LVA Committee had heard some suggestions that some interest groups might propose legislation that could compete on the ballot with the citizen-initiated bill establishing a casino in Oxford County (L.D. 1808). The committee received nothing specific in writing through the March 11 public hearing. At that hearing, representatives of the Passamaquoddy tribe expressed interest in a competing measure. A summary document (ideas in bullet point form) was submitted to the LVA Committee at the first work session on Wednesday, March 17. The committee voted on L.D. 1808 on Thursday, March 18. Some Legislators and staff put in a significant amount of time developing a competing measure after the March 18 work session, which would have presumably involved communications with Peter Martin. The competing measure was considered by the House and Senate chambers during the first week of April.

Mr. Martin has reviewed his calendar for March 1-17. He offers the following facts to support his contention that he reached the eight-hour threshold after March 17:

- The Secretary of State certified the Oxford County citizen initiative on February 17, 2010.

- The public hearing for the initiated bill (LD 1808) was held on Thursday, March 11, 2010.
- Mr. Martin expected the LVA committee to reject LD 1808. So, he performed very little lobbying through the date of the public hearing.
- Through March 16, Mr. Martin states that his lobbying consisted of
 - 30 minutes on March 9 preparing his testimony for the public hearing (his partner prepared the rest of the testimony)
 - 15 minutes of testimony at the March 11 public hearing
 - 30 minutes on March 13 preparing an e-mail communication to members of the LVA Committee.²

Mr. Martin states that his other lobbying during the 2010 session occurred on or after the first work session on March 17. Thus, he argues that, by registering on April 7, he met the requirement to register within 15 business days.

III. Staff Recommendation on Request for Reconsideration

I recommend reconsideration because:

- It was unclear from Mr. Martin's April 13 letter and April 27 presentation, exactly when Mr. Martin engaged in the lobbying communications described in his letter, and
- Mr. Martin has presented additional information in his May 15 request concerning the dates of those communications that is relevant to whether a violation occurred.

There is no question in my mind that Mr. Martin did not show as much attention to registering as a lobbyist as he should have. Had Dennis Bailey not filed his complaint, it seems unlikely that Mr. Martin would have registered as a lobbyist.

Nevertheless, even if Mr. Martin only filed as a lobbyist as a result of Mr. Bailey's complaint, it is quite possible that he filed on time. Regardless of his personal dedication to filing on time, I do find it believable that he performed less than eight hours

² Mr. Martin also counts 60 minutes he spent on March 15 speaking with two lobbyists for Penn National Gaming and Chief Nicholas of the Passamaquoddy Tribe. In my view, that time was not lobbying because that conversation was not with public officials (Legislators, staff, etc.) covered by the lobbyist disclosure law.

of lobbying because the competing measure “took off” after the March 18 work session. In other words, this could be an instance of a paid advocate who was headed in the direction of non-compliance, but who, ironically, complied with Maine’s lobbyist disclosure laws because a political opponent filed a complaint with the Ethics Commission.

Calendar for March–April 2010 (United States)

March						
Sun	Mon	Tue	Wed	Thu	Fri	Sat
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30	31			
Phases of the moon: 7:☉ 15:☉ 23:☉ 29:☉						

April						
Sun	Mon	Tue	Wed	Thu	Fri	Sat
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	
Phases of the moon: 6:☉ 14:☉ 21:☉ 28:☉						
Holidays and Observances: 4: Easter Sunday						

Calendar generated on www.timeanddate.com/calendar

- March 11 - Public hearing
- March 17 - First work session
- March 18 - Second work session
- April 7 - Peter Martin registers as a lobbyist

124th Maine Legislature, Second Regular Session**An Act To Allow a Casino in Oxford County****IB 5, LD 1808****Final Disposition:** INDEFINITELY POSTPONED, Apr 5, 2010**Amendments to IB 5**

Filing Number	Amendment	Adopted By	Notes
H-804	C "A"		Fiscal Impact, Change Title
Web Page	MS-Word File	PDF Document	Fiscal Note
H-817	H "A" to C "A"		Fiscal Impact, Change Title <i>Sponsored By: Representative VALENTINO of Saco</i>
Web Page	MS-Word File	PDF Document	Fiscal Note

Need a paper copy? Contact the Document Room at 287-1408 or send an e-mail with the LD number, the Item number and a mailing address to webmaster_house@legislature.maine.gov.

Status In Committee

Referred to Committee on Legal and Veterans Affairs on Mar 4, 2010.

Latest Committee Action: VOTED, Mar 18, 2010, Ant. Div. Rep.

Committee Report: Mar 30, 2010, MAJ: Ought Not to Pass, MIN: Ought to Pass as Amended

Public Hearing List

- Mar 11, 2010, 0100PM, Room 437 State House *

Work Session List

- Mar 17, 2010, 0100PM, Room 437 State House *
- Mar 18, 2010, 0100PM, Room 437 State House *

Divided Report

Donor	Donor
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From the desk of
J. Peter Martin

Mr. Jonathan Wayne
Executive Director
Maine Commission on Governmental Ethics and Election Practices
45 Memorial Circle
135 State House Station
Augusta, ME 04333

May 15, 2010----via email

Dear Mr. Wayne:

I am requesting a reconsideration of the decision of the Maine Ethics Commission of the April 29, 2010 finding that I registered late as a Maine Lobbyist. My request is based upon the following points:

1. The failure of Mr. Bailey, or anyone else, to provide any credible testimony that would account for allegations that between March 1 and March 17, that 8 hours in lobbying time was achieved.
2. The denial of the commission to allow me to introduce testimony that could have proved 8 hours of lobbying time between March 1 and March 17 was not achieved.

The critical period of time that should be considered in the decision is from March 1 through March 17, 2010 as the dates from March 18 to March 31 were covered by my April 7 registration with the commission. When the discussion about that time period was taking place at the commission hearing, I raised my hand to contribute additional testimony but was not allowed to introduce any more information; that information would have given additional facts about the time period in question. Those facts I believe were central to the ultimate decision and if heard, could have created a possibly different outcome. As discussed previously very little lobbying time was logged between March 1 and March 17. As this was an initiated bill, my approach to the LVA committee was simply to ask them at the public hearing to vote out LD 1808 "ought not to pass." It is my understanding that only 2 initiated bills since 1911 have actually gone on to be endorsed by the Legislature and almost all are rubber stamped and sent back to the people for referendum votes. This procedure does not require traditional lobbying for a bill's passage or actually to have a bill killed when there is support for passage. We actually covered both sides of the bill, as we were the proponents asking for the bill to be rejected.

I have outlined a very detailed schedule of every weekday from March 1 through March 17, including legislative session information and my schedule during those times. If the Commission chooses to do so, every one of my speaking engagements and appointments listed can be verified and confirmed. From March 1 until March 17, four of the days fell on weekends, three of the days the Legislature was not in session, five days I was not at the Legislature, and of the five

days remaining three had time logged at the statehouse and two had no lobbying time recorded. I submit that my records are accurate and legislative information can be cross checked with on line posted schedules as well. Even if the commission does not accept my point that instructions from the committee chairs to the stakeholders to discuss and report back to LVA a possible compromise on a competing measure does not fall under the rules of lobbying, then the most I could have lobbied during that time period is 3.33 hours. If the Commission were to accept my conclusion, then the lobbying hours would be less than 3.33 hours. Regardless of what position the commission was to accept, my time lobbying from March 1 until March 17 never exceeded 3.33 hours and was well under the 8 hour threshold.

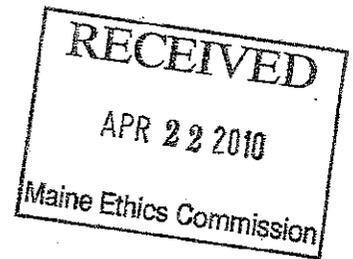
My thoughts regarding the complainant and the allegations are this. In the few days I was actually at the statehouse between March 1 and March 17, I never saw Mr. Bailey. Even on what was arguably the most important day of the session, March 11, for LD1808, the public hearing, neither Mr. Bailey nor a representative from his organization were in attendance. It also should be noted that, other than Mr. Bailey receiving emails that I was at the statehouse during March, he has never confirmed who the emails were from, what specific dates I was at the statehouse, who I was speaking to and the nature of those discussions. As lobbying rules are clear to define, being in a building where legislators could be and having direct communication with them are separate and distinct issues. There is not one credible iota of testimony from Mr. Bailey other than I was at the statehouse at various times in March. Nothing he has presented would either challenge or refute my timeline from March 1 through March 17. The Commission, or at least the complainant, has the burden of proving that I lobbied more than 8 hours before March 18 without registering, before the Commission can penalize me for noncompliance. However, as noted above, the Commission and the complainant have provided no evidence proving that I did not register as a lobbyist on time, and, thus, have failed this burden. Nevertheless, despite the Commission failing in its burden to prove its case against me, I have provided substantial and sufficient evidence to prove that I did, in fact, register as a lobbyist in a timely manner. I find it hard to believe that a bare allegation could possibly be grounds for penalty under the lobbyist disclosure law.

I have the ultimate respect for the Commission and their diligent work; however, in light of this information, I feel compelled to ask for a reconsideration of the decision and would like to schedule an appearance before the Commission in May to finally determine this issue. I have enclosed a detailed time line and schedule for March 1 through March 17, as well.

Sincerely,

Peter Martin

From the desk of
J. Peter Martin



April 13, 2010

Mr. Jonathon Wayne
Executive Director
Maine Ethics Commission
45 Memorial Circle
Augusta, Maine 04330
April 13, 2010

Dear Mr. Wayne:

I am in receipt of your correspondence asking to respond to the complaint filed by Casino No in regards to my lobbying practices. The following is my response.

Atlantic Strategies is a Maine LLC that was formed back in 2007 as a public policy company with a specific emphasis in the gaming strategy. The company was retained by Black Bear Enterprises (BBE) in the fall of 2009 to help guide the Oxford Referendum from it's inception to the November vote of 2010. Our duties include, but are not limited to Spokesperson, campaign strategy, legislative guidance, consulting and a myriad of other duties that would help insure the success of a long campaign. Compensation is in the form of a contract, to be paid at specific intervals, is not hourly and without any specific compensation directed at any one responsibility. We are not being paid by any other groups or individuals at this time. We have been paid by BBE.

My experience in Augusta within the hallways of the capital goes back to the mid 1980's when I was president of the Maine Restaurant Association and lobbied on behalf of the organization in a limited role on specific issues addressing liquor liability laws and non smoking. During the 1990's, I opened the first OTB in Maine. I lobbied as an owner for many years. During that time, I became intimately aware of the lobbying requirements of the state. Upon selling my business in 2005, I was retained to guide a tax issue and registered as a lobbyist at that time.

On several occasions in the latter part of March, I had discussed with our attorney, Dan Walker, the 8-hour limit but decided I was under the threshold and had not made a decision on registering. We discussed the issue again the day Dan Walker received the complaint notice from the Ethics Commission. I decided to register to remove any doubt, although I believed at the time I was under the requirement.

The Oxford referendum was certified by the Maine Secretary of State on or about February 17, 2010 and given the # LD 1808. No time was logged on the issue in January or February of this

year. On March 8, LD1808 had a public hearing and two subsequent work sessions. I testified at the public hearing for about 15 minutes, and answered no questions. My testimony was prepared in part by my partner, who does not lobby at all in Augusta. Two work sessions were scheduled and as you know the public is not allowed to speak at work sessions, but I was asked questions by the committee at the first work session and had about 15 minutes of direct communication with the committee. The second work session was a repeat of the first where I had another 15 minutes of direct communication. It should be noted the work sessions were lengthy on both occasions, but my direct participation was very limited.

It was decided LD1808 would possibly have a competing measure accompany the legislation to the ballot in November and would take its normal course through the Legislature for approval. I spent many hours at the Legislature during this time period monitoring the legislative progress. I attended two House Democratic caucus meetings, but did not speak at either one.

In summary, I had direct discussions about the bill with House Minority Leader Tardy for no more than 20 minutes, Senate Minority Leader Raye for no more than 30 minutes, Senate Majority Leader Bartlett for no more than 15 minutes, Senate President Mitchell for no more than 15 minutes, Senator Plowman for approximately 60 minutes, Representative Trinward for approximately 20 minutes, Senator Sullivan for approximately 20 minutes, Representative Fitts for approximately 60 minutes, Representative Russell for approximately 30 minutes, Representative Valentino for approximately 30 minutes, Senator Hastings for approximately 30 minutes, Senator Bryant 10 minutes, Representative Jim Martin for approximately 30 minutes, Representative Sawin Millet for no more than 15 minutes, Rep Soctomah for 20 minutes, Legislative Analyst Danielle Fox for 90 minutes and probably another 60 minutes with various legislators in conversations all 5 minutes or less. I estimate my full direct lobbying time with testimony presentation at about 10.00 hours. I had forgotten about Danielle Fox and being required to submit her time.

Most of my direct lobbying took place after the first workshop on March 17, when the competing measure issues came into play, through March 26. The bill was finally voted on March 31. The competing measure issues never were debated as the majority ONTP was endorsed, essentially killing the bill. Some additional time was logged from April 1 through April 5 when the bill was finally killed.

Registering as a lobbyist on April 7 and using the 15-day rule working backwards would have suggested that I could have crossed the 8 hour threshold on March 18; however I know that not to be true and have safely estimated March 26 could have been the probable day. Using the 15-day rule again I was at least 7 days ahead of that deadline. I fully believe I have stayed within the guideline of the Maine Ethics Commission and have violated no rules or statutes.

It should be noted I saw Mr. Bailey only once at the legislature in all of 2010, and I recall that was either in January or February.

Finally, any casino issue garners considerable scrutiny as evidenced by the complaint filed. This endeavor will cost millions by the time it reaches the November vote and it would be ludicrous for me, who also serves as their spokesperson, to avoid paying a \$200 registration fee

considering what was at risk, and it makes me wonder about the real intent of the complaint by Mr. Bailey and his organization, given his past actions and that of CasinoNo!

I believe I have answered all of your questions to the best of my ability.

Sincerely,

A handwritten signature in black ink, appearing to read "Peter Martin", with a long, sweeping flourish extending to the right.

Peter Martin

cc. Mr. Daniel Walker... via e-mail



LOBBYIST REGISTRATION 2010

LOBBYIST INFORMATION	
Martin, J. Peter 8 Murray Ln. Winslow, ME 04901	Telephone: (207)861-1003 Fax: (207)877-9158 nitram54@gwi.net
CLIENT INFORMATION	
Black Bear Ent. Principal Contact: Steve Barber P.O. Box 10078 Portland, ME 04101	Telephone: (207)861-1003 Fax: stephenabarber1@gmail.com promotemaine.com
LOBBYIST ASSOCIATES	
N/A	Telephone: Fax:
COMMENCEMENT OF LOBBYING ACTIVITIES	
Date when lobbying commenced or is expected to commence: 01/01/2010	Date when lobbying first exceeded 8 hours in a calendar month: 03/26/2010
COMPENSATION	
The amount of compensation or the basis upon which the lobbyist will charge for those services.	
CONTRACT	
CLIENT'S BUSINESS DESCRIPTION, LEGISLATIVE INTERESTS, AND LEGISLATIVE COMMITTEES	
<u>General Nature of Business:</u> Wagering/gaming <u>Description of Business/Mission:</u> Casino and entertainment Oxford Maine <u>Legislative Interests:</u> wagering and gaming <u>Legislative Committees:</u> Legal and Veterans Affairs	





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

May 7, 2010

By E-Mail and Regular Mail

Mr. Peter Martin
8 Murray Lane
Winslow, Maine 04901

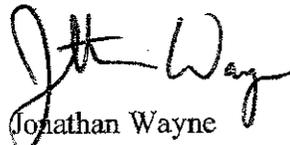
Dear Mr. Martin:

Thank you for your April 29, 2010 presentation to the members of the Maine Commission on Governmental Ethics and Election Practices in response to the complaint filed by CasinosNO. In the complaint, CasinosNO alleged that you had not registered as a lobbyist.

At the April 29 meeting, the Commissioners considered your presentation and your April 13 letter. The Commissioners determined by a vote of four to one that you failed to register for lobbying performed in March 2010, as required by 3 M.R.S.A. § 313. Commissioners McKee, Marsano, Duchette, and Matheson voted in favor of the motion, and Commissioner Youngblood voted against it.

Under 3 M.R.S.A. § 319(1) and Chapter 1, Section 4(3)(B), the penalty for failing to register on time is \$200. Please pay the penalty within 30 days of your receipt of this letter or submit a request for a waiver of the penalty due to mitigating circumstances. Any request for a waiver will be considered by the Commission at an upcoming meeting.

Sincerely,


Jonathan Wayne
Executive Director

cc: Daniel W. Walker, Esq. (by e-mail and regular mail)
Dennis Bailey, CasinosNO

CHAPTER 15
LOBBYIST DISCLOSURE PROCEDURES

3 § 311. Declaration of purpose

The Constitution of Maine guarantees the right of the people to petition their government for the redress of grievances and to freely express their opinions on legislation and issues. The Legislature reaffirms its obligation to hear the requests and opinions of all of the people, and to preserve and maintain the integrity and accessibility of the legislative process.

The Legislature recognizes that groups of citizens may choose one among them to present their views to Legislators, and, because of the amount and complexity of proposed legislation, may employ persons knowledgeable in the legislative process to present their views. Such activities are proper methods of expressing the opinion of a group of citizens.

The Legislature also recognizes that such activities must be carried out openly so that other citizens are aware of the opinions and requests made in this manner. Legislative decisions can fully reflect the will of all the people only if the opinions expressed by any citizen are known to all and debated by all, and if the representatives of groups of citizens are identified and their expenditures and activities are regularly disclosed.

Therefore, the Legislature declares that, in order to insure the full participation of all the people of the State in the legislative process, full disclosure of the identity, expenditures and activities of any persons who engage in professional lobbying is required. Such disclosure will insure the openness and integrity of the legislative process and encourage the expression of the will of all the people of the State.

3 § 312. Definitions (REPEALED)

3 § 312-A. Definitions

As used in this chapter, unless the context otherwise indicates, the following words have the following meanings.

1. Campaign fund raising activity. "Campaign fund raising activity" means any event or solicitation by letter or any other means that is held for the purpose of receiving contributions for a political party, political committee, political action committee, candidate for political office in any primary or election, any elected official or a referendum committee.

1-A. Campaign contribution. "Campaign contribution" is a contribution, as defined in Title 21-A, section 1012, subsection 2.

2. Committee. "Committee" means any committee, subcommittee, joint or select committee of the Legislature or any special committee or commission, by whatever name, established by the Legislature to make recommendations for legislative action or to develop legislation.

2-A. Commission. "Commission" means the Commission on Governmental Ethics and Election Practices as defined in Title 1, Chapter 25.

3. Communicate. "Communicate" means the act of expressing, imparting or conveying information or impressions from one person to another, by either oral or written means.

4. Compensation. "Compensation" means anything of value that is received or to be received in return for, or in connection with, services rendered or to be rendered.

4-A. Covered official. "Covered official" means an official in the executive branch, an official in the legislative branch, a constitutional officer, the Governor and the Governor's cabinet and staff.

4-B. Domestic partner. "Domestic partner" means the partner of an individual who:

A. Is a mentally competent adult, as is the individual;

B. Has been legally domiciled with the individual for at least 12 months;

C. Is not legally married to or legally separated from another individual;

D. Is the sole partner of the individual and expects to remain so; and

E. Is jointly responsible with the individual for each other's common welfare as evidenced by joint living arrangements, joint financial arrangements or joint ownership of real or personal property.

5. Employer. "Employer" means a person who agrees to reimburse for expenditures or to compensate a person who in return agrees to provide services. Employer includes any political action committee as defined in this section which communicates through or uses the services of a lobbyist to make campaign contributions or to influence in any way the political process.

6. Employment. "Employment" means an agreement to provide services in exchange for compensation or reimbursement of expenditures.

7. Expenditure. "Expenditure" means anything of value or any contract, promise or agreement to transfer anything of value, whether or not legally enforceable.

A. (REPEALED).

B. (REPEALED).

C. (REPEALED).

7-A. Immediate family. "Immediate family" means a person's spouse or domestic partner and dependent children.

7-B. Indirect lobbying. "Indirect lobbying" means to communicate with members of the general public to solicit them to communicate directly with any covered official for the purpose of influencing legislative action, other than legislation that is before the Legislature as a result of a direct initiative in accordance with the Constitution of Maine, Article IV, Part Third, Section 18, when that solicitation is made by:

A. A broadcast, cable or satellite transmission;

B. A communication delivered by print media; or

C. A letter or other written communication delivered by mail or by comparable delivery service. E-mail is not considered a letter for the purposes of this paragraph.

8. Legislative action. "Legislative action" means the drafting, introduction, consideration, modification, enactment or defeat of any bill, resolution, amendment, report, nomination or other matter by the Legislature, by either the House of Representatives or the Senate, any committee or an official in the Legislative Branch acting in his official capacity, or action of the Governor in approving or vetoing any legislative document presented to the Governor for his approval.

8-A. Legislative designee. "Legislative designee" means any employee of a state department or agency who is directed by the head of the department or agency to lobby or monitor legislation on behalf of the department or agency. "Legislative designee" includes an employee who is reasonably expected to lobby or monitor legislation on behalf of the department or agency for more than 20 hours during the session. For the purposes of this subsection, "monitoring legislation" means attending legislative hearings and sessions regarding a legislative action.

9. Lobbying. "Lobbying" means to communicate directly with any official in the legislative branch or any official in the executive branch or with a constitutional officer for the purpose of influencing any legislative action or with the Governor or the Governor's cabinet and staff for the purpose of influencing the approval or veto of a legislative action when reimbursement for expenditures or compensation is made for those activities. "Lobbying" includes the time spent to prepare and submit to the Governor, an official in the legislative branch, an official in the executive branch, a constitutional officer, or a legislative committee oral and written proposals for, or testimony or analyses concerning, a legislative action. "Lobbying" does not include time spent by any person providing information to or participating in a subcommittee, stakeholder group, task force or other work group regarding a legislative action by the appointment or at the request of the Governor, a Legislator or legislative committee, a constitutional officer, a state agency commissioner or the chair of a state board or commission.

10. Lobbyist. "Lobbyist" means any person who is specifically employed by another person for the purpose of and who engages in lobbying in excess of 8 hours in any calendar month, or any individual who, as a regular employee of another person, expends an amount of time in excess of 8 hours in any calendar month in lobbying. "Lobbyist" does not include a lobbyist associate. "Lobbyist" does not include an individual who receives no compensation for lobbying other than reimbursement for lobbying-related travel within the State and reimbursement for other out-of-pocket expenditures made by the individual for printing, postage and food and lodging connected with lobbying activities paid for by the individual. For the purposes of this subsection, "reimbursement for other out-of-pocket expenditures" does not include reimbursement for the individual's time spent lobbying that would have been otherwise compensated by an employer or in the course of the individual's employment.

10-A. Lobbyist associate. "Lobbyist associate" means an individual who:

A. Is a partner, associate or employee of a lobbyist or is a coemployee of a regular employee of another person if that regular employee is registered as a lobbyist;

B. Lobbies on behalf of the employer named on the lobbyist registration; and

C. Expends more than 8 hours in any calendar month lobbying on behalf of an employer of the lobbyist.

10-B. Media outlet. "Media outlet" means a radio or television station, a cable television system, newspapers, magazines and other published written materials.

10-C. Official in the executive branch. "Official in the executive branch" means an individual in a major policy-influencing position in a department or agency listed in section 959 or in Title 5, Chapter 71 and the Governor's cabinet and staff. As used in this chapter, "major policy-influencing position" means those positions listed in Title 5, chapter 71 and officers or employees of departments and agencies listed in section 959 and in Title 5, Chapter 71 who have policy development as a major function of their positions.

11. Official in the Legislative Branch. "Official in the Legislative Branch" means a member, member-elect, candidate for or officer of the Legislature or an employee of the Legislature.

11-A. Original source. "Original source" means any person who contributes or pays \$1,000 or more in any lobbying year directly or indirectly to any employer of a lobbyist for purposes of lobbying or indirect lobbying, except that contributions of membership dues to nonprofit corporations formed under Title 13-B, under any equivalent state law or by legislative enactment are not considered contributions by an original source.

12. Person. "Person" means an individual, corporation, proprietorship, joint stock company, business trust, syndicate, association, professional association, labor union, firm, partnership, club or other organization, whether profit or nonprofit, or any municipality or quasi-municipality or group of persons acting in concert, but does not include this State or any other agency of this State.

13. Political Action Committee. "Political Action Committee" includes:

A. 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; and

B. Any person, as defined in subsection 12 which serves as a funding and transfer mechanism and by which moneys are expended to advance, promote, defeat, influence in any way, or initiate a candidate, campaign, political party, referendum or initiated petition in this State.

14. Reimbursement. "Reimbursement" means anything of value received or to be received as repayment for expenditures.

14-A. Solicit. "Solicit" means to entreat, implore, urge or ask.

15. Year. "Year" means a twelve-month period starting December 1st and ending the following November 30th.

16. Anything of value. "Anything of value" means, but is not limited to:

A. Negotiable items:

(1) Money;

(2) A bank bill or note;

- (3) A stock, bond, note or other investment interest in an entity;
- (4) A promissory note, bill of exchange, order, draft, warrant, check or bond given for the payment of money;
- (5) An honorarium or compensation for services;
- (6) The granting of a discount or rebate:
 - (a) Not extended to the public generally; or
 - (b) By a media outlet not extended equally to all candidates for the same office; and
- (7) The sale or trade of something for reasonable compensation that is not available ordinarily to a member of the public;

B. Obligations:

- (1) A contract, agreement, promise or other obligation for an advance, conveyance, forgiveness of indebtedness, deposit, distribution, loan, payment, pledge or transfer of money;
- (2) A receipt given for the payment of money or other property;
- (3) A right in action;
- (4) A promise or offer of employment; and
- (5) An interest in tangible goods or chattel;

C. Property. The retail or fair market value, whichever is greater, of:

- (1) A work of art, an antique or a collectible;
- (2) An automobile or other means of personal transportation;
- (3) Real property or an interest in real property, including title to realty, a fee simple or partial interest, present or future interest contingent or vested in realty, a leasehold interest or other beneficial interest in realty; and
- (4) Other tangible goods; and

D. Other goods or services. The retail or fair market value, whichever is greater, of:

- (1) The purchase of tickets for an event such as a reception, rally or fund-raising event;
- (2) A meal or lodging; and
- (3) Any service not extended free of charge to other members of the public.

17. State employee or state agency employee. "State employee or state agency employee" means employees of the executive branch, the judicial branch, the Department of the Attorney General, the Department of Secretary of State, the Department of the Treasurer and any employee who directly or indirectly represents an entity listed in Title 5, Chapter 379.

3 § 313. Registration of lobbyists and employers

Every employer of a lobbyist and every lobbyist and lobbyist associate who lobbies on behalf of that employer shall register jointly at the office of the Commission no later than 15 business days after commencement of lobbying and pay a registration fee of \$200 for the registration of each lobbyist and \$100 for the registration of each lobbyist associate or such other amounts as the Commission determines approximate the cost to the Commission of administering and enforcing the provisions of this chapter.

3 § 313-A. Registration of state employees or state agency employees

Within 15 business days of the convening of a regular legislative session, a department or agency shall register with the commission as described in section 316-A those officers or employees who will serve as the department's or agency's legislative designees for the session. The department or agency shall file an updated registration form later in the session containing any changes of its designees within 15 business days of the change.

1. Legislative designee. (REPEALED)

2. Lobbying requirements. (REPEALED)

An employee who is required to be registered under this section is exempt from all other requirements under the law regarding lobbyists.

3 § 314. Duration of registration

Each joint registration filed pursuant to this chapter automatically expires on the last day of the year during which the person was registered to lobby, unless as otherwise provided.

A joint registration expires if the employer notifies the Commission in writing that the lobbyist is no longer engaged by the employer to lobby. If termination occurs prior to November 30th, the notification must be given within 30 days of the termination.

If termination is effected prior to November 30th, no further reports are required, except that the lobbyist and employer are required to file an annual report pursuant to section 317, subsection 2. The filing of an annual report, signed by the lobbyist and employer, before November 30th is considered a notification of termination.

Any new registration must be filed pursuant to section 313 before any lobbying is commenced after the lobbyist's employment has been terminated.

3 § 315. Registration docket (REPEALED)

3 § 315-A. Registration docket; disclosure website

1. Registration. The Commission shall prepare and maintain a docket for the registration of lobbyist and employers of lobbyists required to register pursuant to this chapter. The registration docket and all supplementary files of information and materials filed pursuant to this chapter must be open to public inspection during the office hours of the Commission.

The docket must contain the name of the lobbyist and the person employing the lobbyist, the business address of each, the nature of the business of the person employing the lobbyist and a statement as to the compensation that the lobbyist will receive for lobbying services, or if an exact amount is not ascertainable, the basis upon which the lobbyist will charge for services. This docket must be updated on a monthly basis and arranged and indexed as follows:

- A. An alphabetical listing of those persons who have employed a lobbyist, which listing must indicate the names of all lobbyists employed by the employer; and
- B. An alphabetical listing of those persons employed as lobbyists, which listing must indicate the names of all persons by whom each lobbyist is employed.

The docket must be reestablished annually by the Commission and the docket for any year must be maintained and be available for public inspection in the office of the Commission for four (4) years from the expiration of the docket.

2. Disclosure website. The commission shall develop and maintain a publicly accessible website that displays:

- A. A list of all persons who have employed a lobbyist during the current year;
- B. A list of all lobbyists and lobbyist associates registered for the year;
- C. A profile of each registered lobbyist and lobbyist associate, including contact information, the name of the lobbyist's employer or employers, and if provided by the lobbyist or lobbyist associate, a photograph of the lobbyist or lobbyist associate;
- D. A profile of each person employing a lobbyist, including contact information for the employer, and a list of lobbyists and lobbyist associates engaged by the employer;
- E. For each employer, a list of all legislative actions that have been the subject of lobbying for the year, including hyperlinks to the summary page of the Legislature's publicly accessible website for each legislative document listed; and
- F. A list of officials in the executive branch as defined in section 312-A, subsection 10-C.

3 § 316. Registration forms

The Commission shall prepare and make available registration forms for the registration of lobbyists and employers required to register pursuant to section 313. These forms must include the following information:

- 1. Names.** The name of the lobbyist, a list of the lobbyist associates, the name of the person authorized by the lobbyist to sign the registration and reports for the lobbyist and the name of the person employing the lobbyist;
- 2. Business addresses.** The business address and other contact information for the lobbyist, the lobbyist associates and the person employing the lobbyist;
- 3. Date.** The date upon which lobbying commenced or was expected to commence;
- 4. Nature of business.** A description of the nature of the employer's business activity or mission or a description of the industry, trade or profession that the employer represents;

4-A. Legislative interests. The general areas of legislation that the employer is attempting to influence;

4-B. Legislative committees. The joint standing committees of the Legislature that the lobbyist expects to lobby during the year;

4-C. Website of employer. The address for the employer's publicly accessible website; and

5. Compensation. The amount of compensation that the lobbyist will receive for that lobbyist's services or, if an exact amount is unascertainable, the basis upon which the lobbyist will charge for those services.

The lobbyist must certify that the information on that form is true, correct and complete and that the employer has approved the information in the registration.

3 § 316-A. Registration forms for state employees or state agency employees

The Commission shall prepare and make available registration forms for the registration of state employees or state agency employees required to register pursuant to section 313-A. These forms must include the following information:

1. Names. The name, business address and contact information of the employee and the department or agency the employee is representing and the address for the publicly accessible website of the department or agency the employee is representing;

2. Position description. A position description;

3. Description of agency. A description of the department or agency the employee is representing, its jurisdiction and its activities; and

4. Legislative interests. The general subject areas of legislation that the department or agency is attempting to influence.

These forms must be signed by the employee and the signature serves as a certificate that the information on that form is true, correct and complete.

3 § 317. Reports

Reports required by this section must be on forms prescribed or approved by the commission. The forms must provide for a sworn statement that the persons signing the report acknowledge the truth and completeness of all the information contained therein.

1. Monthly session reports. During the period in which the Legislature is in session, every registered lobbyist shall file with the commission, no later than 11:59 p.m. on the 15th calendar day of each month, a report concerning the lobbyist's activities for the previous month regarding each employer.

Every lobbyist shall report that lobbyist's lobbying activities for each month that the Legislature is in session, even if no lobbying has been performed or compensation or reimbursement for expenses received for the month. In the case of a lobbyist representing multiple employers, if no lobbying or services in support of lobbying were performed, one

report listing each employer on whose behalf no lobbying was conducted may be submitted. The monthly report must contain the following information:

- A. The month to which the report pertains;
- B. The name and address of the lobbyist and employer;
- C. The names of the individuals who lobbied during the month;
- D. The specific dollar amount of compensation received for lobbying activities, as defined in section 312-A, subsection 9, during the month. The amount of compensation received for lobbying officials in the legislative branch, officials in the executive branch and constitutional officers must be reported separately.

In the case of a regular employee, the specific dollar amount must be computed by multiplying the number of hours devoted to the preparation of documents and research for the primary purpose of influencing legislative action and to lobbying by the employee's regular rate of pay based on a 40-hour week;

- E. The specific dollar amount of expenditures made or incurred by the lobbyist during the month that is the subject of the report for purposes of lobbying as defined in section 312-A, subject 9 for which the lobbyist has been or expects to be reimbursed. The amount of expenditures for lobbying officials in the legislative branch, officials in the executive branch and constitutional officers must be reported separately;

E-1. When expenditures for the purposes of indirect lobbying exceed \$15,000 during the month that is the subject of the report, the specific dollar amount of expenditures for indirect lobbying made or incurred during the month by a lobbyist, lobbyist associate or employer, with separate totals for expenditure categories as determined by the commission, the legislative actions that are the subject of the indirect lobbying and a general description of the intended recipients;

- F. The total amount of expenditures by the lobbyist or the employer directly to or on behalf of one or more covered officials, including members of the official's immediate family;

G. For any expenditure of money or anything of value made by the lobbyist or employer on behalf of a covered official or a member of the official's immediate family with a total retail value of \$25 or more, the name of the official or family member, the person making the expenditure and the date, amount and purpose of the expenditure;

G-1. The date, and a description of an event, a list of all officials in the legislative branch or executive branch or members of an official's immediate family in attendance and the total amount of expenditures for the event, if the total amount of the expenditures for officials and family members is \$250 or more;

- H. A list of each legislative action by Legislative Document number, specific issue, nomination or other matter in connection with which the lobbyist is engaged in lobbying;

I. A list specifically identifying each legislative action for which the lobbyist was compensated or expects to be compensated, or expended in excess of \$1,000 for lobbying activities related to those actions and a statement of the amounts compensated or expended for each; and

J. A list of all of the employer's original sources and a statement of the dollar amounts contributed or paid by the original sources to the employer. If the original source is a corporation formed under Titles 13 or 13-A, nonprofit corporation formed under Title 13-B or limited partnership under Title 31, the corporation, nonprofit organization or limited partnership, not the individual members or contributors, must be listed as the original source.

2. Annual report. Thirty days following the end of the year in which any person lobbied pursuant to section 313, the lobbyist and the lobbyist's employer shall file with the Commission a joint report that must contain the information required in subsection 1, for all lobbying activities for the year.

The reports required by subsection 1 must be signed by the person designated by the lobbyist in section 316, subsection 1. The reports required by this subsection must be signed by both the designated person and the employer.

If the date any report required by this section is due falls on a day other than a regular business day, the report is due on the first regular business day next following the due date.

In addition to the amounts identified in subsection 1 as compensation received or expenditure made for the primary purpose of lobbying, this annual report must include the total amount of compensation received by the lobbyist or the lobbying firm, or expended by the employer, except compensation received or expended for purposes not related to lobbying.

2-A. Electronic filing. Beginning January 1, 2006, a lobbyist shall file monthly session reports under subsection 1 and annual reports under subsection 2 through an electronic filing system developed by the Commission. The Commission may make an exception to this electronic filing requirement if a lobbyist submits a written request that states that the lobbyist lacks access to the technology or the technological ability to file reports electronically. The request for an exception must be submitted at least 10 days prior to the deadline for the first report that the lobbyist is required to file for the lobbying year. The Commission shall grant all reasonable requests for exceptions.

3. Facsimile copies. The Commission may, by rules adopted pursuant to the Maine Administrative Procedure Act, Title 5, chapter 375, establish procedures and fees by which facsimile copies of duly executed reports required by this section may be received and filed with the Commission.

4. Monthly non-session reports. When the Legislature is not in regular session, every registered lobbyist must either file:

A. With the lobbyist's last monthly report for that regular session a statement that the lobbyist will not engage in lobbying activities when the Legislature is not in session. The lobbyist is required to file a monthly report for lobbying activity conducted during a special session; or

B. If the lobbyist is engaged in lobbying in any of those months, a monthly report in the manner prescribed in subsection 1 even if compensation or reimbursement for expenses has not been received for the month.

STATE OF MAINE
COMMISSION ON GOVERNMENTAL ETHICS AND ELECTION PRACTICES
 135 State House Station, Augusta, Maine 04333-0135
 Tel: (207) 287-4179 Fax: (207) 287-6775
 Website: www.maine.gov/ethics

LOBBYING FAQ

The Ethics Commission staff frequently receives questions regarding what kinds of activities constitute "lobbying." Lobbying is defined by Maine statute (3 M.R.S.A. § 312-A) and generally refers to communicating directly with an official in the Legislature for the purpose of influencing legislative action, including time spent preparing and submitting oral or written proposals, testimony or analysis concerning any legislative action. It also includes communicating with the Governor for the purpose of influencing the approval or veto of a legislative action.

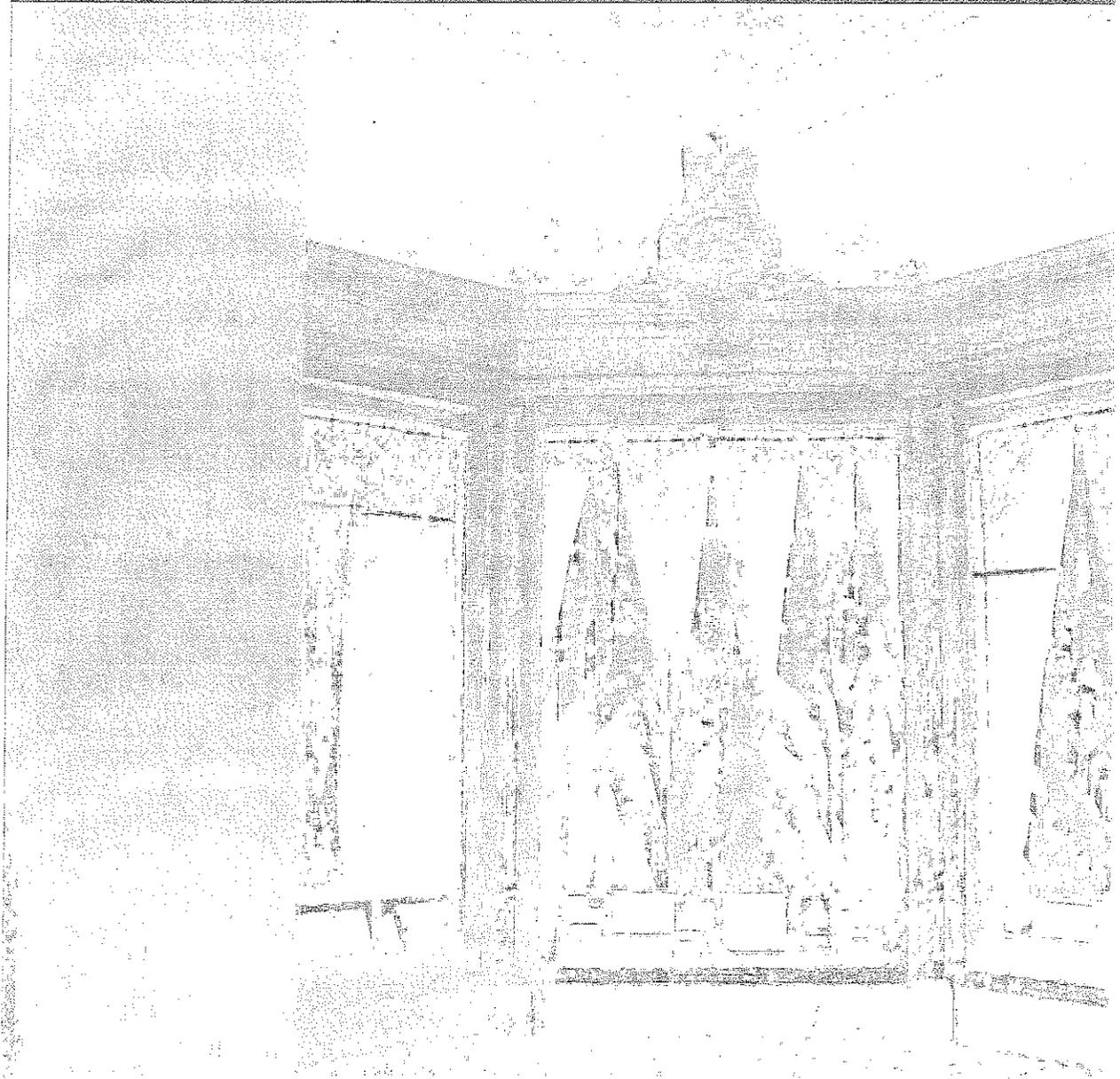
A person has to register as a lobbyist if he or she spends more than 8 hours in any calendar month engaging in lobbying and if that person is compensated by an employer for the time spent lobbying. Activities on the lobbyist's personal time do not constitute lobbying.

This memo is intended to offer consistent guidance to lobbyists and employers in determining when the 8-hour threshold has been met and what activities must be included in the lobbyist's monthly reports. The guidance is not binding -- only statutes and rules are legally enforceable -- but it reflects the Commission's interpretation of the statutes governing lobbying in Maine and may be relied upon by the Commission in considering specific complaints or questions that may arise in the future. In the past, the Commission held a broader interpretation of the law, but has decided that a narrow approach is more appropriate.

All lobbyists and employers are encouraged to read the statute carefully (3 M.R.S.A. §§ 311 + 326), in particular the definitions in §312-A, and to adhere to its provisions. If a lobbyist or employer has questions regarding disclosure procedures, they are urged to contact Commission staff at 287-4179 prior to filing a report.

Does lobbying include...	
...sitting and waiting for an opportunity to communicate with Legislators?	No. Only direct communication is considered lobbying.
...monitoring legislation?	No. Attending a hearing or work session to monitor the progress of legislation is not lobbying, as long as the lobbyist does not communicate with a Legislator.
...travel time to the State House or other event for the purpose of communicating with Legislators?	No.
...speaking to a Legislator about general issues of interest to the employer?	As long as the communication with the Legislator is not intended to influence the drafting or consideration of a specific legislative action, the communication is not considered lobbying.
...educational seminars for Legislators?	No, provided the seminar is to educate Legislators about the employer's business or general issues of interest and not specific legislation as outlined above.
...communicating with the employer regarding a specific LD?	If the communication is part of preparing a proposal, testimony, or analysis concerning a legislative action, the communication is lobbying. If it is for another purpose (e.g., reporting to the client on the progress of legislation), the communication is not lobbying.
...research for a specific LD?	Yes, if the research will be used for a proposal, testimony, or analysis concerning a legislative action. Otherwise, the research is not lobbying.
...communicating with staff of the Legislature?	Yes. If the communication deals with specific matters as outlined above.

2010 GUIDEBOOK FOR MAINE LOBBYISTS



COMMISSION ON GOVERNMENTAL ETHICS AND ELECTION PRACTICES
45 MEMORIAL CIRCLE, 2ND FLOOR
135 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0135
PHONE-207-287-4179
WWW.MAINE.GOV/ETHICS

December 2009

WHO IS A LOBBYIST ASSOCIATE?

Lobbyist Associate means an individual who:

- Is a partner, associate or employee of a lobbyist or is a co-employee of a regular employee of another person if that regular employee is registered as a lobbyist;
- Lobbies on behalf of the employer named on the lobbyist registration; and
- Expend more than 8 hours in any calendar month lobbying on behalf of an employer of the lobbyist.

WHO IS A VOLUNTEER LOBBYIST?

Lobbyist does not include an individual who receives no compensation for lobbying other than reimbursement for lobby-related travel within the State and reimbursement for other out-of-pocket expenditures made by the individual for printing, postage, and food and lodging connected with lobbying activities paid for by the individual. For the purposes of this subsection, "reimbursement for other out-of-pocket expenditures" does not include reimbursement for the individual's time spent lobbying that would have been otherwise compensated by an employer or in the course of the individual's employment. (3 M.R.S.A. § 312-A (10))

REGISTRATION

 Lobbyists must file a joint registration for each client with the Ethics Commission once they have reached 8 hours of lobbying in a calendar month. The registration form and fee must be filed no later than 15 business days after the lobbyist has lobbied more than 8 hours in a calendar month. Lobbyists can register and pay online on the Commission's website, www.maine.gov/ethics, or they can file a paper registration at the Commission's office.

REGISTRATION FEES

The registration fee for each joint lobbyist/client registration is \$200. For each lobbyist associate included in the registration, the fee is \$100.

The registration lasts for one lobbying year which begins on December 1st and ends on November 30th. All registrations expire on November 30th.

COMPLETING THE REGISTRATION FORM

The registration form includes contact information for the lobbyist and each lobbyist associate, the name of any person authorized to sign reports on the lobbyist's behalf, contact information for the lobbyist's client, the date when lobbying commenced or is expected to commence, the date on which the time spent lobbying reached 8 hours in a calendar month, the amount of compensation the lobbyist will receive or the basis of the lobbyist's compensation, a description of the nature of the client's business activity or mission or a description of the industry, trade or profession that the client represents, the areas of the client's legislative interests, and the legislative committees that the lobbyist will lobby on behalf of the client. A lobbyist may also submit a photo to be uploaded to the lobbyist's profile page on the Commission's website.

Casinos NO!

Don't Gamble Away Maine's Future

April 7, 2010

Jonathan Wayne
Executive Director
Maine Ethics Commission
45 Memorial Circle
Augusta, ME 04330

RECEIVED

APR - 8 2010

MAINE ETHICS COMMISSION

Dear Jonathan,

After talking over our discussion with the Casinos NO! board, we have decided to move forward and submit a formal complaint regarding the activities of Peter Martin, the spokesperson for Black Bear Entertainment.

It has come to our attention that Mr. Martin spent a considerable amount of time during the recent session of the Legislature working on a compromise competing measure for the Oxford County casino referendum, as well as work for the original casino proposal itself. He spoke with many legislators and worked closely with others involved in the issue. Yet, to our knowledge, Mr. Martin is not a registered lobbyist. Statehouse observers have told us that his time spent in the Legislature meeting with lawmakers must have surely exceeded eight hours per month, the amount that would require registration as a lobbyist.

We realize that in order to be considered as a lobbyist, Mr. Martin must be compensated by a client for his efforts, and we can find no record of compensation. However, this seems to raise other questions.

Mr. Martin is identified on Black Bear Entertainment's website as the "spokesperson" for the group behind the Oxford County casino proposal (<http://www.blackbearentertainment.com/>). He spends a considerable amount of his time traveling the state, speaking to civic groups and the news media as a representative of Black Bear Entertainment and its proposal, and appears to be its campaign manager. If he is not being directly compensated for his time or reimbursed for his expenses, does his work for the group constitute an in-kind contribution to the campaign that should be reported? If he has an agreement with Black Bear to share in the casino's ownership or profits (if it passes) in lieu of payment for his current efforts, is this an anticipated expense by the campaign that must be reported (as we understand the law, campaign expenses are to be reported at the time they are incurred, not when they are actually paid)? It seems unlikely to us that Mr. Martin is simply a volunteer with no compensation agreement with Black Bear Entertainment. (It should be noted that in prior years, Mr. Martin has registered as a paid lobbyist for "wagering/gaming issues.").

P. O. Box 4581
Portland, Maine 04112
www.casinosno.org

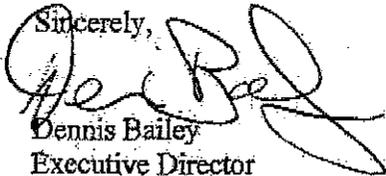
This isn't the first time Mr. Martin's legislative lobbying activities have been questioned. A 2007 article in the Portland Phoenix details Mr. Martin's activities on behalf of several gambling interests, and notes that he was not then a registered lobbyist.

(<http://thephoenix.com/Portland/Life/41439-Jackpot/?page=3#TOPCONTENT>)

We feel strongly that complete transparency and disclosure to the public should be required for all political campaigns, but particularly by individuals who hope to operate a gambling casino in Maine, in order to maintain integrity in our campaign finance laws. We urge you to examine this issue thoroughly.

Thank you.

Sincerely,



Dennis Bailey
Executive Director
CasinosNO!

May 27, 2010

Wayne, Jonathan

From: Dennis Bailey [savvypr@me.com]
Sent: Thursday, May 27, 2010 8:17 AM
To: Wayne, Jonathan
Subject: Today

Attachments: CNfrom JACKPOT.doc



CNfrom
ACKPOT.doc (35 KB)

Jonathan,

Unfortunately, I am unable to make today's meeting. Just got too much happening on my current campaign.

I know this is probably late, but I would of course object to reconsideration of the findings against Mr. Martin. On the lobbying, it appears to me that his failure to register is part of a pattern. I've enclosed a portion of a Portland Phoenix article from 2007 in which observers are quoted saying Mr. Martin was routinely at the statehouse for gambling issues, but was not a registered lobbyist on gambling issues.

On the other matter, the failure to report a \$50,000 payment to Mr. Martin is a significant oversight. The question I would ask is, who is the campaign manager? Is it Mrs. Martin? I don't prepare CasinosNO! PAC reports either. They are prepared by my bookkeeper and treasurer. But as campaign manager, I always review them before they are submitted to the state. If a \$50K payment to me was omitted, I would certainly notice it.

There just seems to be a level of either sloppiness or willful disregard for the rules at work here, which to me calls for the maximum penalties.

That's what I would have said if I'd made it up today.

Thanks.

Dennis Bailey
CasinosNO!

***from* JACKPOT**
By Lance Tapley
Portland Phoenix
June 6, 2007

Peter Martin, of Waterville, who sold John Martin's Manor to Autotote, also says he doesn't see a conflict of interest.

"Neither one of these companies overlap," he says. "There are so many checks and balances, so many layers that separate Scientific Games from the revenues," the money that flows to the Autotote OTB in Waterville.

But Martin himself reflects in miniature the connections on the corporate level that have raised questions.

The Bangor Daily News has described him as a "legislative consultant." Since selling his OTB-restaurant, he has worked as a consultant to Autotote. But he is not registered as a lobbyist for Autotote or other gambling interests; he is registered as a lobbyist for Barber Foods of Portland.

However, "You see him up there all the time" on gambling issues, claims Mike Peters, speaking of Martin's activities in the State House. He says Martin lobbied against the recently proposed increase in the state tax on Hollywood Slots — which collapsed after Penn National briefly stopped work on the new facility. The Portland Press Herald quoted Martin's opposition to the tax increase in its coverage of a State House rally held to protest it.

Welch, of the Gambling Control Board, says Martin has been to board meetings and spoken on the role of OTBs. Plus, "He sits in on bills before the Legal and Veterans Affairs Committee. . . . The last time he was there he discussed the casino in Oxford County," one of several proposed casinos for Maine.

CasinoNO!'s Dennis Bailey says, in an e-mail, "Martin told me himself that he 'helped out' on the Washington County racino," another proposed casino.

On the other hand, several legislative leaders interviewed say they have had little or no contact with Martin on gambling issues, including Senator Marraché and Representative Patrick.

Nevertheless, Martin admits he has spoken with legislators about gambling, though "I didn't specifically advise legislators on how to vote" on these matters, he says. He helped the Legal and Veterans Affairs Committee on the racino tax-increase question, he says, but only by giving the committee historic information.

Martha Demeritt, the state's registrar of lobbyists, says, referring to state law, that if someone "does things that influence [legislators or the governor's office] in some way, it would be considered lobbying. It isn't just directly telling them to vote this way or not."

Martin admits, too, he has given advice to Scientific Games's lobbyists, Severin Beliveau and his associates — advice which, since he is paid by Autotote, would seem to directly contradict his assertion that there is a separation — he accepts the word "firewall" — between the two corporate entities.

(Scientific Games's lobbyists demonstrate how well connected the company is. It used to be represented by Thomas Federle, who was Baldacci's official legal counsel for a time. Beliveau, Augusta's most prominent lobbyist, is a Baldacci friend and fundraiser who has been called "Mr. Democrat." Scientific Games has generously supported the state Democratic committee for several years. In 2006, the company gave \$5000 to the committee, which spent most of its money that year on Baldacci's re-election campaign, according to state campaign-finance reports. Baldacci, though, is a self-professed opponent of gambling.)

"I don't look at [the advice given the lobbyists] as an intrusion on the firewall," Martin says. Then, abruptly: "But other than that I don't have any more comment on it."

Scientific Games's Hodgkins says Martin's role with Autotote is to provide the company with help in managing the Waterville OTB and look into opportunities for the purchase of other OTBs in Maine. And: "From time to time he provides feedback on gambling issues of relevance to OTBs" to Beliveau.