

Agenda

Item #4



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: October 25, 2010

Re: Request by Maine Democratic Party against the Republican State Leadership Committee PAC

The Commission staff just received a request from the Maine Democratic Party that the Commission consider whether the Republican State Leadership Committee (RSLC) has filed a campaign finance report late. This memo is intended to provide an introduction to the issues involved. The party requests that the Commission consider this matter tomorrow.

The RSLC is a national organization dedicated to electing Republicans to state offices, including legislative positions. It has a political action committee (PAC) registered in Maine.

On Saturday, October 23, it filed by fax the attached independent expenditure report (#142). The report discloses a total of \$398,970 in expenditures in five State Senate districts. The expenditures are for television advertising mostly, but also radio ads and mailings. Most of the spending (I estimate somewhere around 80% - 90%) is against the Democratic nominees, and the remaining portions are in support of the Republican nominees.

Under the Commission's rule concerning the reporting of expenditures, a filer must report an expenditure when it pays a vendor for a good or service or when it:

- places an order for a good or service,
- signs a contract for a good or service, or
- receives a good or a service.

(Chapter 1, Section 7(3)) The Commission adopted this rule to encourage prompt filing of independent expenditure reports to encourage timely payments of matching funds.

On report #142, all of the expenditure dates are Friday, October 22, 2010. The Maine Democratic Party alleges that these dates are inaccurate and the report is late. The gist of the Democratic Party's complaint is that – by Friday, October 22, 2010 -- the RSLC had already received a produced TV ad from a vendor and had received printed mailings

OFFICE LOCATED AT: 45 MEMORIAL CIRCLE, AUGUSTA, MAINE
WEBSITE: WWW.MAINE.GOV/ETHICS

PHONE: (207) 287-4179

FAX: (207) 287-6775

concerning Democratic Senate candidates. Therefore, the party argues, the dates of the expenditures (or obligations) in report 142 must be, in actuality, before October 22.

The RSLC has received a copy of the party's request by e-mail at about 3:40 p.m., but has not had an opportunity to respond. In the early afternoon today, I described the general compliance issue to the RSLC's general counsel by telephone. I am not sure what response will be available by your meeting tomorrow.

SECTION 7. EXPENDITURES

1. **Expenditures by Consultants, Employees, and Other Agents of a Political Campaign.** Each expenditure made on behalf of a candidate, political committee, or political action committee by any person, agency, firm, organization, etc., employed or retained for the purpose of organizing, directing, managing or assisting the candidate, the candidate's committee, or the political action committee must be reported separately by the candidate or committee as if made or incurred by the candidate or committee directly. The report must include the name of the third party vendor or payee to whom the expenditure was made, the date of the expenditure, and the purpose and amount of the expenditure. It is not sufficient to report only the total retainer or fee paid to the person, agency, firm, organization, etc., if that retainer or fee was used to pay third party vendors or payees for campaign-related goods and services.
2. **Expenditures by Political Action Committees.** In addition to the requirements set forth in 21-A M.R.S.A. §1060(4), the reports must contain the purpose of each expenditure and the name of each payee and creditor.
3. **Timing of Reporting Expenditures**
 - A. Placing an order with a vendor for a good or service; signing a contract for a good or service; the delivery of a good or the performance of a service by a vendor; or a promise or an agreement (including an implied one) that a payment will be made constitutes an expenditure, regardless whether any payment has been made for the good or service.
 - B. Expenditures must be reported at the earliest of the following events:
 - (1) The placement of an order for a good or service;
 - (2) The signing of a contract for a good or service;
 - (3) The delivery of a good or the performance of a service by a vendor;
 - (4) A promise or an agreement (including an implied one) that a payment will be made; or
 - (5) The making of a payment for a good or service.
 - C. At the time the duty to report an expenditure arises, the person submitting the report is required to determine the value of goods and services to be rendered (preferably through a written statement from the vendor) and to report that value as the amount of the expenditure. If the expenditure involves more than one candidate election, the report must include an allocation of the value to each of those candidate elections.

4. **Advance Purchases of Goods and Services for the General Election**
 - A. Consulting services, or the design, printing or distribution of campaign literature or advertising, including the creation and broadcast of radio and television advertising, contracted or paid for prior to the primary election must be received prior to the primary election in order to be considered primary election expenditures.
 - B. If the Commission receives a complaint stating that a candidate or a committee purchased goods or services before a primary election for use in the general election, the Commission may request that the candidate or committee distinguish which of the goods and services were used in the primary election and which were used in the general election.
5. All campaign-related payments made with the personal funds or credit card of the candidate or an individual authorized by the candidate must be reported as expenditures in the reporting period during which the payment to the vendor or payee is made. The candidate must report the name of the vendor or payee to whom the payment was made, the date of the expenditure, and the purpose and amount of the expenditure. When the expenditure is reported, the candidate should indicate the person who made the payment by entering "Paid by [name of candidate or supporter]" in the remarks section of the expenditure schedule. It is not sufficient to report only the name of the candidate or authorized individual to whom reimbursement was made and the total amount of the reimbursement. If a Maine Clean Election Act candidate uses his or her personal funds to make an expenditure, the campaign must reimburse the candidate within the same reporting period.
6. Multiple expenditures for bank fees and for vehicle travel may be reported in an aggregate amount, provided that the candidate or committee identifies the time period of the expenditures in the remarks section of the report.
7. When a political action committee or party committee makes an expenditure for a communication to voters for the purpose of influencing the election of a clearly identified candidate, the amount spent to influence that candidate's election must be specified on the regularly filed campaign finance report of the committee, regardless whether the communication expressly advocates for the election or defeat of the candidate. If a single expenditure influences the election of more than one candidate, the political action committee or party committee shall itemize the amount spent per candidate.

SECTION 8. PROHIBITED COMMUNICATIONS

Commission members shall not discuss any specific case under investigation, or any case which may reasonably be expected to be the subject of investigation, as long as the matter is pending before the Commission. Members of the Commission may discuss its final determination regarding the matter with members of the press or other interested persons only after the appeal period has expired and no appeal is filed, or if an appeal is filed, only after the appellant has exhausted all administrative or judicial remedies.

TE142



RECEIVED
OCT 23 2010
Maine Commission

COMMISSION ON GOVERNMENTAL ETHICS AND ELECTION PRACTICES
Mail: 135 State House Station, Augusta, Maine 04333
Office: 45 Memorial Circle, Augusta, Maine

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

INDEPENDENT EXPENDITURE REPORT - 2010 GENERAL ELECTION

Name of Person/Committee Making Expenditure(s) Republican State Leadership Committee -
Maine PAC
Mailing Address 1800 Diagonal Road, Suite 230
City, Zip Code Alexandria, VA 22314 Telephone (571) 480-4860

The requirement to file an independent expenditure report is based on the total or aggregate amount spent per candidate for the election. When the total expenditures per candidate exceeds the threshold amount, a report must be filed by the appropriate deadline.

Please check the appropriate box for the report you are filing and complete the notarized affidavit and attached schedules.

Reports must be filed on weekends and holidays if that is when they are due by faxing the report to the Commission (287-6775). The Commission must receive the signed original report within 5 days after the fax was received.

Is this an amendment to a previously filed report? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No			Date report was filed: <u>10/23/10</u>
TOTAL INDEPENDENT EXPENDITURES OVER \$250 PER CANDIDATE			
MADE BEFORE SEPTEMBER 7, 2010:			
<input type="checkbox"/> September Summary Report	Expenditures through September 6	Due by 5:00 p.m. on September 7	
MADE ON OR AFTER SEPTEMBER 7 THROUGH OCTOBER 19, 2010:			
<input type="checkbox"/> 48-Hour Report	Within 48 hours of exceeding \$250		
TOTAL INDEPENDENT EXPENDITURES OVER \$100 PER CANDIDATE BUT NOT MORE THAN \$250			
MADE BEFORE OCTOBER 20, 2010:			
<input type="checkbox"/> October Summary Report	Expenditures through September 30	Due by 5:00 p.m. on October 12	
<input type="checkbox"/> 14-Day Pre-Election Report	Expenditures through October 19	Due by 5:00 p.m. on October 19	
TOTAL INDEPENDENT EXPENDITURES OVER \$100 PER CANDIDATE WITHIN 13 DAYS BEFORE THE ELECTION			
MADE ON OR AFTER OCTOBER 20 THROUGH NOVEMBER 2, 2010:			
<input checked="" type="checkbox"/> 24-Hour Report	Within 24 hours of exceeding \$100		

I CERTIFY THAT THE INFORMATION IN THIS REPORT IS TRUE, CORRECT AND COMPLETE.

Han A. Guede

Signature of PAC or Party Treasurer, or Other Authorized Person Making Expenditure(s)

10/23/10

Date



COMMISSION ON GOVERNMENTAL ETHICS AND ELECTION PRACTICES
Mail: 135 State House Station, Augusta, Maine 04333
Office: 45 Memorial Circle, Augusta, Maine

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

INDEPENDENT EXPENDITURE REPORT – 2010 GENERAL ELECTION

AFFIDAVIT

STATE OF Virginia
COUNTY OF Fairfax

I, ASLC-Maine PAC, being duly sworn, attest that I made each of the expenditures listed in the attached report independently, and not in cooperation, consultation, or concert with, or at the request or suggestion of, the candidates named in the report or the authorized committees or agents of the candidates.

[Signature]
Signature of Affiant

Sworn to before me, this 23 day of October 2010

[Signature]
(Notary Public/Attorney at Law)
My commission expires June 30 2013


Christopher J. Jackson
Notary Public
Commonwealth of Virginia
My Commission Expires June 30, 2013
Registration: 348154

Independent Expenditure Report – 2010 General Election

Page 1 of 1
(Schedule B-IE-1 only)

Schedule B-IE-1

CANDIDATE(S) SUPPORTED/OPPOSED

- Please list all candidates that were the subjects of independent expenditures.
- If more than one candidate was the subject of the expenditure, allocate the expenditure among the candidates.

Office sought by candidate (including district # or county)	Candidate's name	Indicate whether expenditure was made in support of or in opposition to the candidate	Amount expended this reporting period for each candidate
SD-15	Deb Simpson	Oppose	87,467.50
SD-15	Lois Snowe-Mello	Support	9,515.50
SD-24	Patsy Crockett	Oppose	73,321.90
SD-24	Roger Katz	Support	7,890.10
SD-25	Pamela Trinward	Oppose	70,063.50
SD-25	Thomas Martin	Support	7,655.50
SD-28	Jim Schatz	Oppose	65,387.50
SD-28	Brian Langley	Support	6,908.50
SD-32	Joe Perry	Oppose	63,851.50
SD-32	Nichi Farnham	Support	6,908.50
Total expenditures for all candidates this reporting period. <i>This amount should equal the total independent expenditures listed on Schedule B-IE-2, Line C.</i>			= 298,970.00

Independent Expenditure Report - 2010 General Election

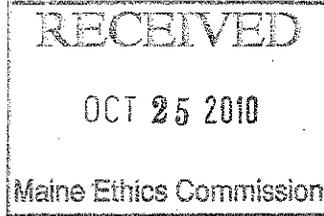
Schedule B-IE-2

PAYMENTS AND OBLIGATIONS

- Please indicate the date, payee, expenditure type, and amount of each expenditure.
- If you are reporting an agreement or obligation to make a future payment, please check (✓) the box next to the expenditure type.

Expenditure Types			
LIT	Printing and graphics (flyers, signs, postcards, etc.)	PRT	Print media ads only (newspapers, magazines)
MHS	Mail house (all services purchased)	RAD	Radio ads, production costs
PHO	Phone banks, automated telephone calls	TVN	TV or cable ads, production costs
POL	Polling and research survey	WEB	Website design, registration, hosting, maintenance, etc.
POS	Postage for U.S. Mail and mail box fees	OTH	Other (include description)

Date of expenditure	Payee, address, zip code	Expenditure type	✓	Amount
10/22/10	CrossRoads Media LLC 66 Canal Center Plaza #655 Alexandria, VA 22314	TVN		240,432.74
10/22/10	CrossRoads Media LLC 66 Canal Center Plaza #555 Alexandria, VA 22314	RAD		38,308.26
10/22/10	Arena Communications 1780 W Sequoia Vista Circle Salt Lake City, UT 84104	MHS		75,678.00
10/22/10	Arena Communications 1780 W Sequoia Vista Circle Salt Lake City, UT 84104	POS		22,551.00
10/22/10	Target Point Consulting, Inc. 66 Canal Center Plaza #555 Alexandria, VA 22314	POL		22,000.00
A. Expenditures for this page =>				398,970.00
B. Total for all other Schedule B-IE-2 pages (if any) =>				0.00
C. Total independent expenditures for this reporting period (A+B). <i>This amount should equal the total amount for all candidates listed on Schedule B-IE-1.</i> =>				398,970.00



DWALKER@PRETI.COM
Daniel W. Walker, Esquire

October 25, 2010

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

**RE: Request for Investigation into the Republican State Leadership Committee-
Maine PAC**

Dear Jonathan,

On behalf of the Maine Democratic Party, I respectfully request that the Commission investigate Independent Expenditure Report 142 filed by the Republican State Leadership Committee-Maine PAC around 1 p.m. on Saturday October 23rd. The Maine Democratic Party has reason to believe that the report fails to comply with the statutory reporting requirements.

Under 21-A M.R.S.A. Section 1012(3)(A) and Commission Rule 94-270 Chapter 1, Section 7(3), an expenditure must be reported at the time of obligation regardless of whether any payment has been made for the good or service. Further, under Commission Rule 94-270 Chapter 1, Section 10(3)(B), expenditures at this point in the campaign season must be reported within 24 hours.

First, the October 23rd Report, Schedule B-IE-2, discloses television ad expenditures to Crossroads Media LLC of \$240,432.74 on October 22, 2010. However, the Maine Democratic Party has obtained documentation of a television purchase from WFVX-TV in Bangor by Crossroads Media LLC on behalf of the Republican State Leadership Committee-Maine PAC. (attached "Exhibit 1") This document established that a \$7,110 television purchase was made by Crossroads Media LLC on behalf of the Republican State Leadership Committee-Maine PAC before 11 a.m. on October 22, 2010. Because this expenditure was not reported by the Republican State Leadership Committee-Maine PAC in any other report, it is presumably a part of the television buy disclosed in the Report. At a minimum this expenditure was reported 2 hours beyond the 24 hour statutory deadline.

Second, the attached Exhibit 1 also reveals that the ad will begin airing on WFVX-TV on Monday October 25, 2010 at 7 a.m. In order for the ads to air early Monday morning, it must have been provided to the station on Friday because the station is closed over the weekend. Subsequent conversations with the station have confirmed that the ad in question was received by Friday. Given that the ads were provided on Friday, production of the ads must have begun before that date. However, the Republican State Leadership Committee-Maine PAC failed to disclose that expenditure as required under Maine law.

Third, the Report discloses mail house and postage expenditures to Arena Communications of \$75,678 and \$22,551 on October 22, 2010. The Maine Democratic Party has obtained a copy of this mailing which was received October 23, 2010 by a concerned citizen and attached herein as Exhibit 2. There is no feasible way that a mailing could be produced, printed, mailed, and delivered before 1 p.m. on October 22nd such that it could be received by mail on October 23, 2010. The Republican State Leadership Committee-Maine PAC clearly began production of this piece before October 22nd and failed to report that expenditure under Maine law.

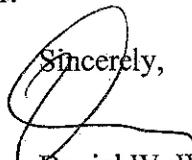
Fourth, the Report also lists a \$22,000 expenditure to Target Point Consulting, Inc. for polling made October 22, 2010. The Maine Democratic Party believes this polling was directly related to the production of the television ads because it is common practice to conduct polling during the development of political ads. Furthermore, the Maine Democratic Party has received reports of related polling conducted prior to October 22, 2010. Finally, Target Point Consulting, Inc. is the same group that conducted the polls investigated by this Commission at the request of the Maine Democratic Party. During that investigation, Target Point Consulting did not identify the client for whom they were polling. The Party believes it is highly unlikely that an out-of-state polling company would be operating for more than one client in a single election cycle and suspects that the Republican State Leadership Committee-Maine PAC was behind those polls and failed to report them as required under Maine law.

The above stated instances illustrate a willful failure by the Republican State Leadership Committee-Maine PAC to comply with Maine law. The Party suspects that reporting of these expenditures was intentionally delayed by the RSLC in the hopes that the United States Supreme Court would grant an injunction against Maine's matching funds provision in the Respect Maine PAC v. McKee case. On Friday October 22nd, the Court refused to grant this injunction. It appears that the Republican State Leadership Committee-Maine PAC waited until that decision to report these expenditures and, in so doing, willfully violated the law.

Pursuant to the foregoing reasons, the Maine Democratic Party respectfully requests that the Commission investigate the Republican State Leadership Committee-Maine PAC's failure to comply with Maine law.

Thank you for your attention to this matter.

Sincerely,



Daniel W. Walker

DWW/sbf
Enclosure



OCT22/10 10.40
 CON # 9303269 UNCF V.1
 REP MILLENNIUM SALES & MARKETING
 TO WFVX-TV
 FM ANDY HAUCK 202-955-5342 /
 OFF WASHINGTON (2 SALESPERSON FAX# 917-206-8662
 AGY CROSSROADS MEDIA LLC
 ADDR 66 CANAL CENTER PLAZA, SUITE 555 PH # 703-299-1760
 ALEXANDRIA VA 22314

BYR NOELLE RAMSEY
 ADV POLITICAL ISSUE GROU
 PDT RSLC - MAINE D-32
 FLT OCT25/10 - NOV01/10

REP ORDER COMMENT
 NEW POLITICAL ORDER
 PLESAE CONFIRM

MC LN	DAYS	TIMES	LEN	EFF DATES	CLS SEC	NPW PLA	RATE	TOT SPT
1	M-F	10-1030P	30	OCT25-OCT29	1W	1	85.00	1
		PGM=NEWS						
2	MON	10-1030P	30	NOV01	1W	1	85.00	1
		PGM=NEWS						
3	SUN	10-11A	30	OCT31	1W	2	45.00	2
		PGM=FOX NEWS SUNDAY						

TOTAL 260.00 (4)
 OCT10(3) 175.00 NOV10(1) 85.00

MARKET TOTALS \$5,200
 WFVX 5% CABL 0% UNKN 95% WABI 0% WBAN 0%
 WLBZ 0% WVII 0%

SVC- NSI BOOKS- LAST
 DEMOS- RA35+P
 *** START OF COMMENTS *****

CON CMT RSLC - MAINE 32
 *** END OF COMMENTS *****



OCT22/10 10.53
 CON # 9303270 UNCF V.1
 REP MILLENNIUM SALES & MARKETING
 TO WVII-TV
 FM ANDY HAUCK 202-955-5342 /
 OFF WASHINGTON (2 SALESPERSON FAX# 917-206-8662
 AGY CROSSROADS MEDIA LLC
 ADDR 66 CANAL CENTER PLAZA, SUITE 555 PH # 703-299-1760
 ALEXANDRIA VA 22314

BYR NOELLE RAMSEY
 ADV POLITICAL ISSUE GROU
 PDT RSLC - MAINE D-32
 FLT OCT25/10 - NOV01/10

REP ORDER COMMENT
 NEW POLITICAL ORDER
 PLEASE CONFIRM

MC LN	DAYS	TIMES	LEN	EFF DATES	CLS SEC	NPW PLA	RATE	TOT SPT
1	M-SU	11-1135P	30	OCT25-OCT31	1W	4	40.00	4
	PGM=NEWS							
2	MON	11-1135P	30	NOV01	1W	1	40.00	1
	PGM=NEWS							
3	M-F	7-9A	30	OCT25-OCT29	1W	4	40.00	4
	PGM=GMA							
4	MON	7-9A	30	NOV01	1W	1	40.00	1
	PGM=GMA							
5	M-F	9-10A	30	OCT25-OCT29	1W	5	35.00	5
	PGM=REGIS							
6	MON	9-10A	30	NOV01	1W	1	35.00	1
	PGM=REGIS							
7	M-F	11A-12N	30	OCT25-OCT29	1W	4	50.00	4
	PGM=VIEW							



OCT22/10 10.53
 CON # 9303270 UNCF V.1
 REP MILLENNIUM SALES & MARKETING (CONTINUED)

MC LN	DAYS	TIMES	LEN	EFF DATES	CLS SEC	NPW PLA	RATE	TOT SPT
8	MON	11A-12N	30	NOV01	1W	1	50.00	1
	PGM=VIEW							
9	M-F	1230P-4P	30	OCT25-OCT29	1W	4	60.00	4
	PGM=SOAPS							
10	MON	1230P-4P	30	NOV01	1W	1	60.00	1
	PGM=SOAPS							
11	M-F	6-630P	30	OCT25-OCT29	1W	4	125.00	4
	PGM=NEWS							
12	MON	6-630P	30	NOV01	1W	1	125.00	1
	PGM=NEWS							
13	M-F	7-730P	30	OCT25-OCT29	1W	2	600.00	2
	PGM=WHEEL							
14	M-F	730-8P	30	OCT25-OCT29	1W	4	700.00	4
	PGM=JEOPARDY							
15	SAT	7-8P	30	OCT30	1W	1	125.00	1
	PGM=WHEEL/JEOPARDY							
16	MON	8-10P	30	NOV01	1W	1	1,200.00	1
	PGM=DWTS							

TOTAL 7110.00 (39)

OCT10(32) 5560.00 NOV10(7) 1550.00

MARKET TOTALS \$35,550
 WVII 20% CABL 0% UNKN 80% WABI 0% WBAN 0%
 WFVX 0% WLBZ 0%

OCT22/10 10.53
CON # 9303270 UNCF V.1
REP MILLENNIUM SALES & MARKETING

(CONTINUED)

SVC- NSI BOOKS- LAST
DEMOS- RA35+P

*** START OF COMMENTS *****

CON CMT RSLC - MAINE 32

*** END OF COMMENTS *****

JOE PERRY
needs to keep his hands
OUT of your pockets!!!



**Even in these hard economic times,
Joe Perry proposed a tax on heating oil.¹**

To make matters worse, Perry wanted to raise our taxes while being lambasted by the *Portland Press Herald* for Carelessness With Public Money.²

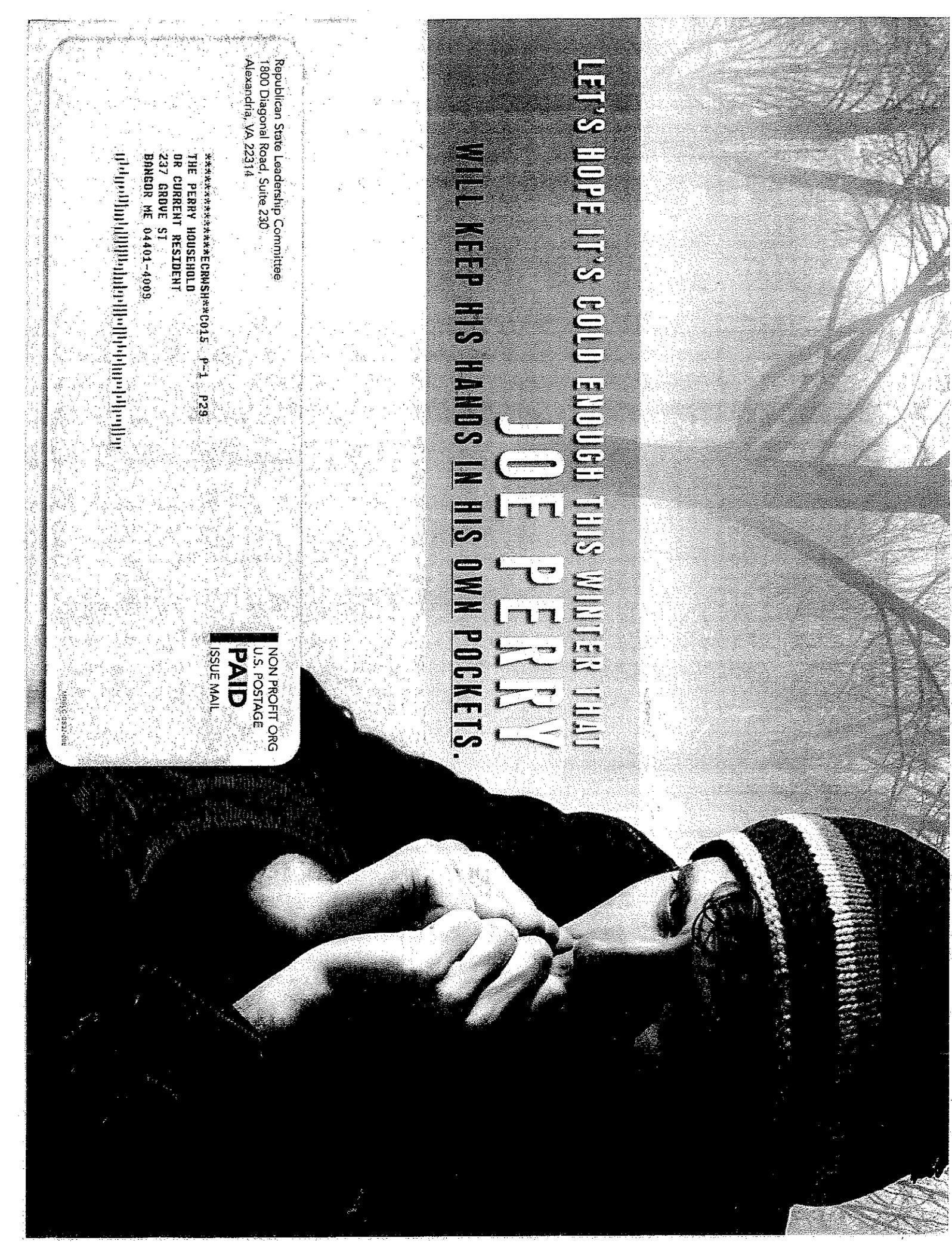
Joe Perry wanted to raise our taxes³ after he was fined for violating three provisions of the *Clean Elections Act* for mispending public funds through overdraft transfers, and mixing public and private funds together in accounts.²

ON NOVEMBER 2,

VOTE AGAINST JOE PERRY.

Paid for by the Republican State Leadership Committee-Maine PAC, 1800 Diagonal Road, Alexandria, VA 22314.
NOT PAID FOR OR AUTHORIZED BY ANY CANDIDATE





LET'S HOPE IT'S COLD ENOUGH THIS WINTER THAT
JOE PERRY
WILL KEEP HIS HANDS IN HIS OWN POCKETS.

Republican State Leadership Committee
1800 Diagonal Road, Suite 230
Alexandria, VA 22314

*****ECRM5H**C015 P-1 P29
THE PERRY HOUSEHOLD
DR CURRENT RESIDENT
237 GROVE ST
BANGOR ME 04401-4009



NON PROFIT ORG
U.S. POSTAGE
PAID
ISSUE MAIL