



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

COMMISSION ON GOVERNMENTAL ETHICS AND ELECTION PRACTICES

STATE HOUSE STATION 101
OFFICE OF THE SECRETARY OF STATE
AUGUSTA, MAINE 04333

April 26th, 1991

Minutes of the April 26th, 1991 meeting of the Commission on Governmental Ethics and Election Practices

Present: Chairman Paul K. McCann; Members Gregory G. Cyr, Joseph B. Ezhaya, Richard H. Pierce, Richard L. Trafton, Paul E. Violette; Commission Counsel William Stokes

Absent: Member Henry G. Beyer

The Chairman called the meeting to order at 10:35 a.m.

Mr. Trafton moved to take out of order items involving those waiting to be heard. First, the Commission considered the lateness of Senator Charles Pray's post-primary, pre-election, and post-election reports.

Staff noted that Mr. Pray's March 4th, 1991 amended report listed contributions of \$2,773.85 and expenditures of \$14,675.00, all of which were made during the calendar year 1990. The transactions were required to be disclosed in reports due July 24th, 1990, October 31st, 1990 and December 18th, 1990. A recommendation was made to find Senator Pray's reports not in substantial conformance and thus not timely filed. The maximum penalty was estimated at \$1990.

Staff asked the Commission's consideration of the following mitigating factors:

- 1) the substantial conformance provision is new,
- 2) Senator Pray's past filing record is good,
- 3) He ultimately disclosed all transactions.

Members were also asked to take into account the circumstances that precluded Senator Pray's disclosing the information earlier. The recommended penalty of \$500 represented a \$1440 reduction from the maximum penalty.

For purposes of discussion, Mr. Trafton moved, and Mr. Violette seconded, to accept the recommendations of staff and counsel. Senator Pray was present and represented himself. He explained that in preparing post-election reports, he found essential records missing. Upon obtaining those records from the bank, he discovered cancelled checks that reflected unreported

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transactions dating back to post-primary and pre-election filing periods, and upon being so advised, disclosed the transactions in an amended report. Senator Pray then recommended that the law be amended to require candidates to notify the Commission in writing of such omissions.

Mr. Pierce arrived at 10:45 a.m.

Mr. Cyr moved to amend the previous motion by reducing the penalty to \$250 on the basis that the March 1991 report amends a report that is less significant in terms of public disclosure. The motion was seconded by Mr. Ezhaya. Mr. Trafton and Mr. Violette then withdrew their previous motion.

In the ensuing discussion, it was noted that the discrepancy might have gone undetected had Senator Pray himself not come forward. It was also learned that the March report amended not only the post-election report, but two previous reports as well. Discussion focused additionally on the rationale for overriding staff recommendations.

Responding to a question about procedures, staff explained that recommendations were based on the following considerations:

- 1) The amount of money involved,
- 2) The effort made by the candidate to communicate the problem to the Commission,
- 3) The substantial conformance provision of the law.

She added that when a candidate loses a checkbook or is unable to produce reportable transactions, the candidate usually communicates the problem in writing before the filing deadline, and the amount involved is usually very small.

Mr. Ezhaya recommended suspending the penalty on the bases that the violation was unintentional, the transactions were ultimately disclosed, and that imposing a substantial fine would discourage candidates from making full disclosure in the future.

In the discussion that followed, it was emphasized that the law requires disclosure so that voters can learn before an election how candidates spend a substantial part of their money. Members then arrived at the consensus that some penalty should be imposed to impress upon candidates the need for meeting deadlines and keeping careful records.

Mr. Cyr reiterated his motion to assess a penalty of \$250. The motion carried 4-1 with Mr. Pierce opposing.

Next, the Commission considered the lateness of special election reports. Ms. Canavan reported that Commission staff departed from custom in not sending pre-deadline notices to PACs. The result was that four PAC's filed late. A reduction in the penalty was recommended because the PAC's filed promptly upon being informed, all previous reports of the PACs involved were timely filed and complete, and PAC's have come to rely upon Commission pre-deadline notifications. Amounts expended by the delinquent PAC's and recommended penalty reductions were as follows:



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Name of PAC	Amount expended	Reduction
Maine AFL-CIO COPE	\$1,300	from \$4,000 to \$200
Local 1253	\$1,000	from \$2,000 to \$100
Legislative House Campaign Fund	\$2,900	from \$2,000 to \$100
Senate Democratic Fund	\$1,100	from \$2,000 to \$100

Mr. Edward Gorham was present and represented Local 1253 and AFL-CIO COPE PACs. He invited the Commission to conduct a seminar on campaign financing at the union's Biennial Convention in November.

Mr. Trafton moved to accept staff recommendations, and Mr. Pierce seconded the motion. The motion carried unanimously.

The Commission then considered the lateness of January quarterly PAC reports. Mr. Richard Darling was present and represented 9-1-1 PAC. He said that the PAC's tardiness was unintentional, that the PAC had conducted no transactions during the filing period, and that it planned to disband very soon. A recommendation was made to reduce the penalty from \$600 to \$100 because all previous reports were in good order and filed in a timely fashion. Mr. Violette moved to accept the recommended penalty. The vote was seconded and carried unanimously.

At 11:45, a five minute break was called, after which Mr. Trafton moved, and Mr. Cyr seconded, to accept the minutes of the January 25th, 1991 meeting.

Next, the lateness of HIPAC's report was considered. Staff reported that HIPAC had made no expenditures; however, she recommended the maximum penalty of \$600 because the PAC had submitted late reports on two previous occasions.

A motion by Mr. Trafton to accept staff recommendations for HIPAC and the following late filers was accepted unanimously:

Thomas Dunn	\$250 (in addition to previous \$250)
Robin Lambert	\$20
Lloyd Trafton	\$20
Richard Romanow	\$150 (to be reduced to \$20 if a report is filed)
H. Stedman Seavey	\$150

INFORMATIONAL ITEMS

Staff then discussed pending legislation that would amend laws administered by the Commission, including L.D. 640, An Act to Amend the Election Laws Relating to Ballot Counting, and L.D. 557, An Act Concerning the Commission on Governmental Ethics and Election Practices. L.D. 640 requires the Commission to investigate charges that a person

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ineligible to serve as an election official took part in counting election ballots. The fiscal note to the bill states that any required appropriation will depend on the cumulative effect of all pending legislation affecting the Commission. L.D. 557 would prohibit appointment to the Commission anyone who is an officer of a political committee, party committee or political action committee. No fiscal note was attached to the bill. After some discussion, members agreed to discuss the latter bill with certain members of leadership.

On motion of Mr. Trafton, the Commission met in executive session to consult with Commission counsel about a complaint filed by the Attorney General's office in Kennebec District Court. At the conclusion of the meeting, Mr. Trafton again moved to meet in executive session to discuss with counsel the results of an investigation conducted by the Attorney General's office at the behest of the Commission.

After the conclusion of the closed meeting, Mr. Trafton made the following motion on recommendation of Commission Counsel:

The Commission finds that Mr. Robert McNally of Old Orchard made an expenditure to finance a communication expressly advocating the election or defeat of a clearly identified candidate in violation of Title 21-A MRSA Section 1014 and also made expenditures aggregating in excess of \$50 in an election to expressly advocate the election or defeat of a clearly identified candidate in violation of 21-A MRSA Section 1019, and recommends that appropriate maximum fines be imposed for those violations."

The motion, seconded by Mr. Cyr, carried unanimously.

The next meeting was scheduled for September 6th, 1991 at 10:30 a.m.

Mr. McCann noted that the Director's report will be mailed to members. The meeting adjourned at 12:15 p.m. on motion of Mr. Violette.

Respectfully submitted,

Marilyn Canavan, Director