



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**

**August 27<sup>th</sup>, 1992**

Minutes of the August 27<sup>th</sup>, 1992 meeting of the Commission on Governmental Ethics and Election Practices held at 10:00 AM in Room 113 of the State Office Building.

Present: Chair Robert P. McArthur; Members Robert E. Tierney, Richard L. Trafton, Paul E. Violette; Chief Deputy Attorney General Vendean Vafiades

Absent: Members Gregory G. Cyr, Joseph B. Ezhaya, Richard G. Morton

The meeting was called to order at 10:15 a.m. At the suggestion of the Chair, certain agenda items were taken out of order to accommodate those present. Otherwise, items were considered in order of their appearance on the agenda.

The first item, taken out of order, was the matter of late 6-day pre-primary political action committee (PAC) reports. Mr. Violette moved to waive penalty, as recommended, for Maine Bikers PAC, Maine Freedom Fighters PAC, and the NRA Political Victory Fund. Recommendations were based on findings that the PACs conducted no financial activity in support of candidates during the filing period and they have no previous violations. The motion passed with no discussion.

Next, out of order, the Commission considered late 6-day pre-primary reports of candidates who collected/spent between \$100 and \$999 during the filing period. These candidates had no previous violations; hence, recommendations called for a 50 percent reduction of the maximum penalty. For purposes of discussion Mr. Violette moved, and Mr. Trafton seconded, to accept staff recommendations concerning these filers:

<b>Name</b>	<b>Days late</b>	<b>Recommended penalty</b>
George Barnes	1	\$25
Henry Bernier	1	\$25
Joanne Crowley	1	\$25
Edward Dexter	1	\$25
John Marshall	5	\$125
Stavros Mendros	1	\$25

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John Michael	2	\$50
Deale Salisbury	1	\$25
Michael Seaton	2	\$50
Anthony Taylor	1	\$25
Bruce Trott	1	\$25
Joseph Watson	1	\$25
Linda White	1	\$25

The Chair then recognized Mr. Ray Poulin, who represented candidate Stavros Mendros. Mr. Poulin claimed that the candidate's report was transmitted via FAX on 5:02 of the filing deadline. It was noted that the Commission office has no record of the transaction. After some discussion of the matter, Mr. Poulin suggested that the Commission table the item so that he could obtain evidence of the transaction in the form of a telephone statement to present at the next meeting. It was then moved, seconded, and voted to amend the original motion accordingly.

Next, the Commission considered the lateness of Senate candidate John Michael's pre-primary report. Mr. Michael was present and represented himself. He explained that he was out of state on the filing deadline and thus, did not have access to records needed to complete the report. Those records, he said, consisted of only one small transaction associated with payment of a previous campaign debt. On these facts, Mr. Trafton moved to reduce the assessment to \$25. The motion was seconded and carried. Thereupon, it was voted to accept the original motion as amended.

Next, the Commission reviewed the matter of a late 48-hour report filed by Maine Teachers' Association PAC. Mr. Trafton moved, and it was seconded, to accept staff's recommendation that no penalty be imposed because the report was submitted 4 days before the election, the committee had no previous violations, and the treasurer was detained while attempting to deliver the report on the due date. Mr. Violette expressed the view that PACs should be held to a higher standard than candidates and that a modest penalty was in order. Mr. Trafton's motion was nonetheless seconded and voted 4-1, with Mr. Violette opposing.

The Commission then considered the lateness of registrations required to be filed by candidates for state and county office. Mr. Trafton moved, and it was seconded and voted, to accept staff recommendations concerning late registrants as follows:

**No penalty:**

- |                   |                       |
|-------------------|-----------------------|
| Peter Angell      | Sonia Mallar          |
| Bruce Avery       | Gary Merrill          |
| Eugene Boivin     | Peggy Pendleton       |
| Stephen Carroll   | Deborah Shaw Rice     |
| Frank Cushing III | Stephen Ridlon        |
| Kerry Flannery    | Philip Robertson Jr.  |
| Norman Fournier   | Julie-Marie Robichaud |
| Mark Glaze        | Keith Smith           |

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Stephen Hall  
Robert Hartnett  
Peter Harvey  
Patricia Hennin

Robert Smith  
Barbara Strout  
Gary Voisine  
Barbara Weymouth

**\$50 penalty:**

James Donnelly  
Marjorie Kilkelly

The next item considered was a request by Ms. Canavan for guidance in monitoring the activities of political action committees (PACs). She explained that currently, staff policy is to advise certain organizations who contribute to PACs that their activities may be governed by the PAC laws.

Included on the agenda were several such communications to committees which had contributed to Dirigo Alliance PAC. Members generally expressed satisfaction with staff's handling of such matters, but Mr. Violette emphasized that, ultimately, such groups must decide themselves whether they are political action committees.

David Shiah was present and represented Dirigo Alliance PAC. He explained that the PAC was established in 1987, and that approximately 13 organizations each give up to \$300 annually to the committee. He said that the donations are reported as campaign contributions, even though Dirigo considers them annual dues. It was then suggested that Dirigo maintain separate records of its political and non-political activity for reporting purposes.

Next, the Chair recognized Barbara Merrill, treasurer of the Committee to Assure Maine People Equal Access to Health and Disability Coverage. Ms. Merrill asked the Commission's leniency in ruling on the lateness of the PAC's 48-hour report. She explained that the PAC made only one contribution; that they made a special effort to inform the recipient of filing requirements, but failed to file them because they were unaware of the law. Mr. Trafton then moved to assess a penalty reduction of \$250, as recommended. The motion was seconded and voted.

Next, Mr. Violette made a motion to assess Maine National Bank Federal PAC \$250 for registering 6 weeks late. The motion was seconded and carried.

The Commission then considered the lateness of candidate reports required to be filed 6-days before the primary. Referring to candidate Terrence Parker's record, Mr. Violette expressed concern about the Commission's showing leniency toward a candidate who filed 44 days late. Ms. Canavan explained that there may be legal basis for waiving the penalty of candidates who collect/spend no money; that such candidates often file late because they erroneously assume they are exempted from the requirements.



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A motion was then made and seconded to accept staff recommendations as follows:

Penalty waived because no financial activity conducted during this filing period and no previous violations:

<b>Name</b>	<b>Days late</b>	<b>Name</b>	<b>Days late</b>
Paul Binette	1	Ralph Howard*	5
James Carroll	1	John Marsh	1
Stephen Carrol	1	Gary McGrane	4
James Reed Coles	4	Kim Moxcey	1
Charles Crosby III	4	Eleanor Murphy	1
Dennis Damon	7	Mary Nelson	2
Mary K. Follis	3	Terrence Parker	44
James Gallagher	3	Boots Poliquin	2
Peter Harvey	3	Normand Roy*	1
Annette Hogleund	1	Frank Wood	1
Jill Holmes	11		

Personal report

Reduced by 80 percent of maximum \$50 per business day penalty because no previous violations and financial activity less than \$100:

<b>Name</b>	<b>Days late</b>	<b>Penalty</b>
John Dedam	4	\$40
Ronald Dorler	4	\$40
Glenith Gray	1	\$10
Frank Landford III	1	\$10
Normand Roy	1	\$10

Maximum penalty assessed because financial activity \$1,000 or more:

<b>Name</b>	<b>Days late</b>	<b>Penalty</b>
Audrey Gerry	1	\$50
Alfred Vail	1	\$50
Bradford Boutilier	1	\$50

The following special situations were then considered:

Staff findings showed that candidates Jerry Hudson and Douglas Lane failed to file both pre- and post-election reports. It was recommended that both be contacted and informed that a penalty of



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only \$100 will be assessed if they file reports within 10 days, and if no money was collected/spent; that if financial transactions were conducted, the amount collected/spent will be a consideration in assessing penalty.

Staff findings showed that candidate Mona Walker Hale submitted a complete and timely filing but failed to use the form prescribed by law. Findings further indicated that Ms. Hale has been informed, for future reference, that reports must be on prescribed forms. No penalty was assessed.

Ave Maria Dover submitted her report 24 minutes late. According to findings, newspapers carried a full account of her report the following day. It was the consensus that disclosure was not violated; hence, no penalty was assessed.

It was then moved, seconded and voted to accept staff recommendations concerning the following PACs who filed late pre-election reports. Because this is the first violation for each, a 50 percent reduction of the maximum \$250 per business day penalty was recommended:

<b>Name</b>	<b>Days late</b>	<b>Penalty</b>
CAREPAC OF MAINE	1	\$125
Citizens for Justice in the Workplace	2	\$250

The next item considered was the late 48-hour reports of candidates Daniel Boisot, Ave Maria Dover, and Harold Marden. Findings showed Mr. Boisot's report was filed 2 days late, but 6 days before the election. Lateness was due to Mr. Boisot's misunderstanding the requirements. He had no previous violations, thus no penalty was imposed.

Findings showed that Ave Maria Dover's report, due the day before the election, was filed one day late. The Commission voted to assess the maximum penalty of \$50, this being her second violation. The motion was seconded and voted.

Findings showed Mr. Marden's primary report was filed 19 business days late (several weeks after the election). Transactions included a \$2,000 contribution from the candidate and a \$1,200 expenditure. It was felt that a penalty was warranted given the lateness of the report, but that the recommended assessment of \$425 was excessive. Hence, Mr. Tierney moved to assess a penalty of \$250, or approximately one quarter of the maximum prescribed penalty. The motion was seconded and voted.

The Commission then turned to the matter of late semiannual reports. Findings showed that the report of Stephen Bost was filed 17 business days late and that he has no previous violations. It was noted that there is far less public interest in non-election year reports. On these facts, it was moved, seconded and voted to assess Mr. Bost a \$30 penalty.



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Findings showed that candidate Donald Lewis failed to submit the required semiannual filing. It was moved, seconded and voted that he be contacted and informed that a penalty of only \$30 will be assessed if he files within 10 days; otherwise, the full amount will be assessed.

Findings showed that primary candidates Brad Boutilier and Jill Holmes failed to submit the required post-election report. Additionally, findings showed that both have a history of lateness. A motion was made to assess \$220 (the full amount accrued as of the meeting) against each candidate. The motion was seconded and voted. Staff was directed to notify both Ms. Holmes and Mr. Boutilier that they will continue to accrue penalty at the rate of \$10 per business day up to a maximum of \$500, if reports are not filed.

A motion was then made to accept recommendations regarding the late post-election reports of the following candidates. The motion was seconded and voted. Where candidates collected/spent no money and had no previous violations, no penalty was assessed. Mr. Webb received a \$50 contribution:

<b>Name</b>	<b>Days late</b>	<b>Penalty</b>
Sarah Eagles	16	None
Tracy Goodridge	10	
Christopher Gurney	11	
Ronald Webb	12	\$10

Next, the Commission briefly discussed the issue of Senate and House candidates who have failed to file statements of sources of income as required by I MRSA Section 1016-C. It was noted that there is no penalty for failure to file the statement; thus no action was taken.

The next agenda item was the matter of Maine Right to Life State Committee PAC's failure to file required reports for the period covering 1983 through February 1992. Mr. Trafton moved, and Mr. Violette seconded, to accept staff recommendations calling for a penalty of \$1,500. Findings showed that the recommended penalty represents a substantial reduction from the amount accrued by the PAC during 9 years. (An estimated \$48,000 was accrued for 1984 alone.) Mr. Tierney expressed the view that the suggested penalty was excessive; however, it was generally agreed that the fine was warranted and would, in effect, send a message to other PACs of their need to be mindful of legal requirements. The motion carried 4-1, Mr. Tierney dissenting.

With respect to the foregoing matter, a question was raised as to whether Commission decisions may be appealed. Ms. Canavan responded that there is precedent for the Commission hearing such appeals, although neither law nor rule provides for it.

Next, the Commission reviewed the report submitted by the Maine Republican Party pursuant to recommendations made by the Commission at its March 27<sup>th</sup>, 1992 meeting. Mr. Tierney moved to accept the report as satisfying the Commission's request that the Maine Republican Party



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conduct an audit of its records to ensure that they had complied with prescribed contribution limitations. The motion was seconded and carried.

Next, the Chair recognized Ms. Alberta Sevigny who asked permission to address the Commission concerning a complaint she had filed with the Commission. After hearing her concerns, Commission members expressed agreement that the issues discussed in Ms. Sevigny's complaint were not relevant to the Commission's jurisdiction, and it was so moved, seconded and voted.

The Commission then considered the request of Representative Mark Lawrence for an opinion as to whether he can represent his church as an attorney after having assisted that church as State Representative in a related matter; and if so, whether he can charge a fee for that representation. The Commission concluded that there would be no conflict of interest or ethical violation of I MRSA Section 1001 et seq. in Representative Lawrence's accepting such employment and assessing a fee for his services. It was so moved, seconded and voted. In arriving at its decision, the Commission reviewed the applicable sections of the Legislative Ethics Law, and a memorandum from Assistant Attorney General William Stokes.

Next, the Commission reviewed Representative Mark Lawrence's request for a ruling on whether he should keep separate records and file separate reports of financial transactions associated with his 1992 terminated House campaign and his current Senate campaign, for purposes of monitoring contribution limitations. Mr. Trafton made a motion to find that there is no legal basis for requiring unification of Mr. Lawrence's Senate and House campaigns, and Mr. Tierney seconded the motion. Mr. Violette then expressed concern that such a ruling could lead to abuse with respect to contribution limitations. At this, Mr. Trafton asked that his motion be tabled pending receipt of an Attorney General's opinion on the matter.

Next, the Commission considered a request from the Maine Chamber of Commerce for guidance concerning whether the organization constitutes a political action committee under the law; and if not, whether there are other requirements governing their political activity. According to information provided by a Chamber official, the Chamber plans to issue a report to dues-paying members only, summarizing the voting records of incumbent candidates in the area and indicating what percentage of the incumbent candidates in the area are pro-economy. They also plan to interview non-incumbent candidates and summarize those candidates' views on topics relating to the Chamber's policy position, giving them a percentage rating based on their consistency with the Chamber's policy position.

After some discussion of the matter, Mr. Trafton made the following motion: Based on the information provided in the inquiry, a Chamber of Commerce engaged in this type of activity would be a PAC under Title 21-A.11. He then emphasized that the opinion does not necessarily apply to all Chambers of Commerce. The motion carried.

Next, the Commission considered a candidate's request for guidance concerning the reporting and disclaimer laws. According to information provided by the candidate, the candidate's brother donated signs he had used in a previous election. The candidate inquired as to whether



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the signs are reportable as expenditures; and, if not, whether disclaimers must be affixed to the signs. After some discussion of the language in 21-A 1012(3)(B)(8), Mr. Trafton moved that the Commission find that the use of the signs is not reportable as an expense. Mr. Tierney seconded the motion; however, the motion failed to carry. The Commission then ruled that the signs are reportable and thus, a disclaimer is required. The motion was seconded and carried.

Next, the Commission heard staff's complaint that Representative Annette Hoglund had failed to file a completed statement of sources of income as required by 1 MRSA Section 1016-A. The Commission directed staff to advise Representative Hoglund that if the report is not submitted by October 1<sup>st</sup>, 1992, they will consider her in violation of the law; and that she will thus forfeit her ability to vote as a member of the House of Representatives; this according to 1 MRSA Section 1015 and 1 MRSA Section 1019.

Finally, the Commission considered a complaint from the Maine Democratic State Committee concerning the lateness of the report of federal candidate Linda Bean. Assistant Attorney General William Stokes expressed the view, via memorandum, that the State Commission on Governmental Ethics and Election Practices does not have authority to impose a monetary fine upon the Bean campaign for late filing of a federal report. Chief Deputy Vendean Vafiades, acting counsel for the Commission, suggested that the Commission submit a written request for a formal opinion to the Attorney General, on the question of whether the matter falls within the scope of the Commission's jurisdiction.

The date of the next meeting was set for October 30<sup>th</sup>, 1992

The meeting was adjourned at 1:10 p.m.

Respectfully submitted,

Marilyn Canavan, Director