



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

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April 8th, 1998

Minutes of the April 8th, 1998, meeting of the Commission on Governmental Ethics and Election Practices held in Room 214 (Department of Human Resources Testing Room), State Office Building, Augusta, Maine.

Present: Chairman Peter B. Webster; Members Linda W. Cronkhite, Harriet P. Henry, and G. Calvin Mackenzie; Commission Counsel Phyllis Gardiner; Lobbyist Registrar Annette Jones

Absent: Merle R. Nelson

Chairman Webster called the meeting to order at 9:05 a.m. He extended a welcome to the new Director, William C. Hain, III, and gave a review of Mr. Hain's background. Chairman Webster informed the Commission that the new Director would assume his position on April 13th, 1998; thanked Mr. Hain for attending the Commission meeting; and said the Commission looked forward to working with him in the future.

The minutes of the March 11th, 1998, meeting were then approved.

Chairman Webster suggested that Agenda Item #8 be taken out of order. Mr. Mackenzie then moved, and Ms. Henry seconded, to enter into executive session to consider the request of a Legislator for an advisory opinion on a potential conflict of interest. The motion was voted.

Upon the completion of the executive session, it was explained that the Legislator requested "clarification in order to insure that, as a Maine Legislator, [he was] operating within the most ethical guidelines." The essence of his concern was whether a conflict of interest developed when Gould Health Systems, of which the Legislator is President, entered into a contract to provide services to the State of Maine.

Mr. Mackenzie moved, and Ms. Cronkhite seconded, that the Commission find no conflict of interest, based on the application of the facts presented to the applicable legal provision. After discussion, the motion was approved unanimously. The Commission voted to go out of executive session and ratified its vote.

Next, the Commission addressed Agenda Item #1 113. William Linnell spoke on behalf of Cheaper, Safer Power Political Action Committee (PAC) regarding an appeal of assessment of

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penalties for late filing of July 1997, October 1997, and January 1998 quarterly campaign finance reports. Mr. Linnell acknowledged that the purpose of the reports is to enable voters to make an informed decision. He stated that the issue for which the PAC was formed never went to ballot and that no signatures had been obtained. He stated that it was not his desire to flaunt the letter of the law. He had registered the PAC in January 1997, filed a timely report in April 1997, but the July 1997, October 1997, and January 1998 reports were late. The PAC is a "very grassroots organization" that raised only about \$2,500. Mr. Linnell explained his personal situation occurring at the time the reports were due (i.e. he had to move from his apartment a couple of times and many of his personal effects were still in boxes). He stated the PAC applied on July 23rd, 1997 to the Secretary of State with the question to stop nuclear power. He received a late notice letter from the Commission around July 28th, 1997. On August 6th, 1997, Maine Yankee announced its decision to cease operations which made the reason for the PAC moot at that point. Mr. Linnell indicated that he had experience with a PAC when he had previously run for the Legislature. Mr. Mackenzie moved, and Ms. Cronkhite seconded, that a total civil penalty of \$500 be assessed against Cheaper, Safer Power PAC for the three late reports based on the mitigating circumstances of the "personal emergency of the treasurer." After discussion, the motion was approved unanimously.

The Commission then turned to Agenda Item #3. Mr. Richard Davies had requested that the matter of the legislation that he and Mr. Doyle proposed be postponed until the May meeting. The Commission agreed to reschedule that matter.

Next, the Commission addressed Agenda Item #4. Karin Tilberg, Esq. (Drafter) and Anne Schink (Facilitator) presented the results of the three (3) stakeholder meetings that the Commission had contracted with them to conduct for the purpose of preparing an initial draft of proposed regulations to implement the Maine Clean Election Act. Ms. Tilberg and Ms. Schink discussed the process that the stakeholders had followed. There had been good participation by stakeholders representing a broad group with a variety of perspectives from the various constituent interests affected by the Act. City clerks had voiced concerns about their role in validating signature on qualifying contributions. The stakeholders felt comfortable sharing their views on the issues discussed. While the Facilitator had not asked whether the group supported the final draft document, there was consensus within the group that the issues and their concerns had been fully aired, recognizing that decisions remained to be made by the Commission. The stakeholders preferred to submit a consensus report (with no minority report).

Regarding Agenda Item #5, Chairman Webster proposed that no conclusions be reached during this meeting, preferring instead for the new Director to become fully engaged in the process. Ms. Tilberg indicated that it was her intent to further revise the working draft based on the comments offered at this meeting and to offer the stakeholders another opportunity to review that product. Their comments, and those of the new Director, would then be incorporated into a final draft version to be presented to the Commission at the May meeting. Ms. Henry inquired whether the stakeholders would be invited to the next Commission meeting to discuss the final draft version to be presented at that time. Ms. Tilberg responded that she believed that stakeholders, and any other interested members of the public, should be afforded every opportunity to participate in the rulemaking process. Ms. Schink suggested the opportunity for a

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work session to accompany the formal presentation of the final draft regulations at the May meeting.

A five (5) minute recess was called at 11: 15 a.m.

Pursuant to Agenda Item #6, Mr. Mackenzie addressed the status of the electronic campaign report filing project. He indicated that the State Bureau of Information Services had voiced some displeasure with the software package that Mr. Tony Raymond of the Center for Responsive Politics had prepared. He indicated that the problem BIS seemed to be having with the project related to the issue of by whom and where the "server" for the software package would be maintained. Several options apparently exist, and additional research and coordination will be necessary to resolve those issues. Mr. Mackenzie also indicated that Mr. Kent Cooper would be leaving his position as Director of the Center for Responsive Politics. That change may impact the electronic filing project if Mr. Raymond's position with the Center changes.

The Commission then turned to Agenda Item #7. John Brautigam, Esq., represented Common Cause/Maine and offered background information regarding the National Right To Life PAC State Fund and its failure to file an independent expenditure report for Paul Young's gubernatorial primary campaign in 1994, even though it expended \$3,998 for "get-out-the-vote" telephone calls on behalf of Mr. Young.

Jared des Rosiers, Esq., of Pierce Atwood, was present on behalf of the National Right To Life PAC State fund. He stated that the failure to report the independent expenditure had not been intentional, but rather had been only an inadvertent omission in not reporting. As a matter of administrative oversight, the Committee simply had failed to report the \$3,998 expenditure.

Discussion involved the applicable provisions of law that were in effect in 1994 and presently regarding the assessment of penalties and the maximum amounts that may be levied in cases such as this. Specifically, 21-A M.R.S.A. §§ 1019 and 1059 were reviewed. Mr. Mackenzie moved, and Ms. Henry seconded, that a civil penalty of \$3,000 be assessed based on the review of the facts presented and the statutory maximum that may be assessed. The motion was approved unanimously.

With respect to Agenda Item #9, Ms. Jones informed the Commission of the failure of service of the letter dated January 21st, 1998, on Ms. Sue Stricker, an unsuccessful candidate for elective office in Maine, who failed to file a semiannual campaign finance report. The original envelope, returned to the Commission, was forwarded on March 20th, 1998, to the new Burleson, Texas address given for Ms. Stricker. However, that envelope also was returned unclaimed. Ms. Henry moved, and Mr. Mackenzie seconded, to refer the matter to the Attorney General's office for appropriate action. The motion was approved unanimously.

Agenda Item #10, addressing a letter of appeal from Gordon N. Paul dated March 5th, 1998, for waiver of a delinquent campaign finance report, was considered. Ms. Jones reported that she had received Mr. Paul's letter, but she had not yet received the delinquent report at issue. Mr.



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Mackenzie moved, and Ms. Henry seconded, to refer the matter to the Attorney General's office for appropriate action. The motion was approved unanimously.

The Commission then addressed Agenda Item #11A. Pursuant to a request by Mr. Loren Andrews, former Coordinator of Maine Citizens for Access, Safety and Independence PAC, the matter of a delinquent report and associated overdue penalties was tabled until the May Commission meeting.

The meeting was adjourned at 11:50 a.m.