



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

May 28, 1999

Minutes of the May 10, 1999, meeting of the Commission on Governmental Ethics and Election Practices held in the First Floor Temporary Conference Room III, PUC Building, 242 State Street, Augusta, Maine.

Present: Chairman Peter B. Webster; Members Linda W. Cronkhite, Harriet P. Henry, and G. Calvin Mackenzie; Director William C. Hain, III; Counsel Phyllis Gardiner; and Commission Assistant Diana True.

Chairman Webster called the meeting to order at 9:10 a.m.

The Commission considered the published agenda as follows:

Agenda Item #2: The Christian Civic League of Maine (The League): The Commission continued consideration of this matter tabled from the April 14, 1999, meeting. Before the Commission was the issue of whether to impose any penalty against The League for its failure to register as a Political Action Committee (PAC) and its failure to submit campaign finance reports according to the schedule prescribed by law. Mr. Hain began with a presentation regarding the background of the matter to this point and a discussion of the staff recommendation accompanying the agenda, explaining the penalty matrix and the precedents cited.

Attorney Whiting addressed the Commission and stated his understanding that Mr. Michael Heath, the Executive Director of The League, understood that he was not supposed to solicit contributions on behalf of The League, but instead on behalf of or through the PACs ("Yes for Equal Rights" and "Ad Hoc Committee for Common Sense") established for that purpose, but that on only a very few occasions he mistakenly made solicitations in The League's name. Those occasions were "slip ups" and not intentional violations of the PAC laws.

Mr. Mackenzie inquired of Attorney Whiting about the nature of the "in-kind contributions" made by The League to the two PACs. Attorney Whiting responded that they were primarily wages, postage, photocopying, and advertising expenses. The question was also asked whether only in-kind contributions were made by The League to the PACs, which Attorney Whiting answered in the affirmative.

Counsel Gardiner explained that the law is clear that if a group solicits and spends more than \$1,500 in cash in support of a political issue it must register as a PAC, but it is not clear whether "expenditures" would include in-kind contributions and whether an entity would be a PAC only if money is received and spent to advance a position on a political question.



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The public was then afforded the opportunity to address the Commission. Ms. Christine Young inquired whether the Commission staff had compared The League campaign finance report filings with those from the two related PACs. Mr. Hain responded that that had not been done, but would be if any discrepancy was suspected or suggested. Mr. Hain then placed a telephone call to Annette Jones, Lobbyist/PAC Registrar on the Commission staff, to bring the PAC files to the hearing for examination.

Ms. Priscilla Lane inquired about the possible discrepancies in The League's bank statements, and suggested comparing the itemized sales listings previously provided by Attorney Whiting with the actual bank statements. She also inquired whether the Commission knew of a second bank account maintained by The League. Mr. Hain responded that he would try to make the comparison suggested, and the only account record is what is noted on The League's registration document.

Mr. Donald Yeskoo of Wells, Maine, a former second vice president of The League, addressed the Commission. He stated that he had resigned from his former position for moral and ethical reasons. He noted that he had been struck by the reference to "slip ups" with regard to The League's solicitations and questioned the truthfulness of those statements. He stated that The League had been involved in political issues, knew its responsibility to register, and voted in January 1996 not to register as a PAC. He noted that an audit report of The League could not account for \$1,500-\$2,500, and that he knows of situations where The League has changed its Board minutes to suit its purpose.

Mr. Yeskoo then reviewed the individual League PAC reports with the Commission and highlighted what he believed to be in excess of \$5,000 in unreported contributions based on the documents he presented for the Commission's consideration. He also noted an apparent contradiction in a statement written by Attorney Whiting that The League had never given money to Paul Volle.

Mr. Mackenzie then inquired whether Mr. Yeskoo believed the materials he was presenting to the Commission constituted evidence of bad bookkeeping or of fraud. Mr. Mackenzie asked Mr. Yeskoo if he had any evidence of The League's attempt to report erroneous information to the Ethics Commission. Mr. Yeskoo responded that he didn't know whether the information showed fraud or bad bookkeeping, but that when he had been on The League's Board of Directors, the directors had knowledge of the law regarding PACs; that a decision had been made not to register as a PAC because The League might then have been viewed by its supporters as a political organization; and that members of The League's Board had expressed their concern to the Executive Director, but they had been overridden. Mr. Yeskoo then formally presented a letter to the Commission with the documents to which he had referred attached.

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Ms. June Meres of Norridgewock then presented additional information for the Commission's consideration, suggesting that the Commission chart the information presented by herself and the others against the information contained in The League's reports. Judge Henry inquired whether Ms. Meres had an estimate of the amount of the discrepancies to which she had referred. Ms. Meres responded that her best recollection was that the amount was between \$10,000 and \$15,000.

Ms. Cronkhite asked whether The League's activities related to political outcomes, to which Attorney Whiting responded that his letter of April 26, 1999, explained the designation of money. Ms. Meres repeated her assertion that there was a pattern of discrepancies and suggested the possibility that The League had another bank account that had not been reported.

Judge Henry asked Mr. Yeskoo whether there was a difference in the amount of the discrepancy to which he referred. He responded that the documents he presented showed a discrepancy of over \$5,000 based on the fund code "PVETO."

Ms. Cronkhite asked Attorney Whiting whether he knew of another account maintained by The League, and Attorney Whiting responded that he was not aware of any.

Chairman Webster then announced that, based on the new information that had been presented to the Commission, he did not believe the Commission would be comfortable attempting to reach a conclusion on the matter of assessment of a penalty without first having reviewed that information. However, since the composition of the Commission would be changed, in all likelihood, at the June meeting with the possible replacement of up to three members, it would not be fair or appropriate to delay a decision until then because the new members would not have participated in the proceedings before that date. Ms. Cronkhite then suggested the possibility of another meeting before the end of May. All members agreed to schedule a special meeting on Friday, May 21, 1999, to afford staff ample time to review the new materials, prepare an analysis thereof, and provide a recommendation for the Commission's consideration at that time.

Mr. Mackenzie then moved to assess a \$250 forfeiture against The League for its failure to register as a Political Action Committee as required by State law. Further, that the Commission staff should seek a determination of the accuracy of the reports that had been submitted by The League, and thus determine whether The League should be penalized for having submitted any false or incomplete reports. Judge Henry seconded the motion, which unanimously carried.

Mr. Mackenzie then suggested that three questions needed to be investigated in determining the accuracy of the reports that had been submitted by The League:

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- Did The Christian Civic League of Maine recognize an obligation to register as a PAC and consciously decline to do so to avoid the appearance of direct political activity?
- Are the PAC reports filed by The Christian Civic League of Maine, subsequent to the Commission's April meeting, accurate and complete?
- Was there fraud in the record-keeping or reporting of PAC activities by The Christian Civic League of Maine?

Chairman Webster then suggested that further consideration of the assessment of any penalty against The Christian Civic League of Maine be tabled until May 21, 1999. No objection was heard.

Mr. Mackenzie then inquired about the possibility of issuing a subpoena to Mr. Michael Heath, Executive Director of The League, to require his attendance on May 21. Attorney Whiting suggested that the presence of The League's bookkeeper would also be helpful. Chairman Webster then requested Attorney Whiting to commit to having Mr. Heath and The League's bookkeeper available on May 21; and, if that commitment could not be made, the Commission would subpoena both individuals. Attorney Whiting responded that he believed a subpoena would not be necessary and that both individuals would be available.

Mr. Hain then requested any participants who have additional information relevant to the matter before the Commission that has not yet been presented for the Commission's consideration to submit that information as soon as possible to give the Commission staff and members sufficient opportunity to review it before the May 21 meeting.

Chairman Webster declared a recess at 10:35, and the Commission reconvened at 10:45.

Agenda Item #1: Approval of Minutes of April 14, 1999 Meeting: Mr. Mackenzie moved, Judge Henry seconded, and the Commission voted unanimously to approve the minutes of the April 14, 1999 meeting as presented.

Agenda Item #3: Maine Clean Election Act Forms: Mr. Mackenzie moved, Ms. Cronkhite seconded, and the Commission voted unanimously to approve the Maine Clean Election Act forms as drafted.

Agenda Item #4: Electronic Filing Project Status: Mr. Hain briefed Commission members on the status of the electronic filing request for proposals. The review committee process is on hold pending review by the Bureau of Information Services (BIS) and the group preparing InforME to determine whether a "joint venture" arrangement would be capable of producing the electronic

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filing capability the Commission seeks. If that arrangement is possible, the staff may recommend that the Commission cancel the existing Request for Proposals and opt to proceed with the BIS/InforME "joint venture."

Agenda Item #5A: John Hohenwarter, Lobbyist for National Rifle Association ILA: Mr. Mackenzie moved, Judge Henry seconded, and members voted unanimously to assess the staff recommended penalty of \$100 for the late filing of the January 1999 report.

Agenda Item #5B: Cindy Lowry, Lobbyist for Sustainable Forestry Coalition: Mr. Mackenzie moved, Ms. Cronkhite seconded, and members voted unanimously to assess the staff recommended penalty of \$50 (mitigated based on previous filing record) for the late filing of the February 1999 report.

Agenda Item #6: Request for Conflict of Interest Determination: Chairman Webster stated that since the request for a formal determination had not been formally submitted in writing, and absent sufficient information upon which to base a determination, no further action would be taken.

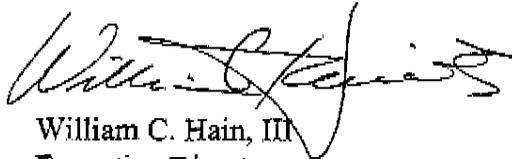
Agenda Item #7: Informational Item (Champagne/Wakefield): No action was required on the correspondence that was included for Commission member information only.

Judge Henry then expressed her appreciation to Chairman Webster and Mr. Mackenzie for their service as members of the Commission for six years and three years, respectively, both having served as members and Commission Chairmen during their tenures.

At 11:05 Mr. Mackenzie moved, Judge Henry seconded, and members voted unanimously to go into executive session to discuss the status of lawsuits challenging the Maine Clean Election Act and the lobbyist registration fees. By unanimous agreement, members went out of executive session. No actions were taken that required ratification in open session.

On motion and unanimous agreement, the Commission adjourned at 11:20 a.m.

Respectfully submitted,



William C. Hain, III
Executive Director