



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

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October 10th, 2001

Minutes of the October 10th, 2001, meeting of the Commission on Governmental Ethics and Election Practices held in the Commission (MLRB) Hearing Room, 242 State Street, Augusta, Maine.

Present: Chair Peter B. Webster; Members Hon. Michael Carpenter, Dr. Linda Cronkhite, and Hon. Harriet P. Henry; Director William C. Hain, III; Counsel Phyllis Gardiner, Esq.; and Commission Assistant Judy Parker.

Chair Webster called the meeting to order at 9:40 a.m. He noted that the Commission had not met in September, as scheduled, in deference to the tragic events of September 11th, 2001.

The Commission considered items on the published agenda as follows:

Agenda Item #6: Green Independent Party Committee; Late Party Committee Report

Mr. Hain reviewed the facts involving the late semiannual report due on July 16th, 2001 and filed on July 31st, 2001, with no previous late filings this biennium. Ms. Ruth Gabey, Treasurer for the Green Independent Party Committee, appeared before the Commission in support of her letter dated September 18th, 2001. Ms. Cronkhite moved, Judge Henry seconded, and Members voted unanimously to assess a penalty of \$500.00 for the Committee's first late reporting violation this biennium.

Agenda Item #10: Executive Session

At 9:55 a.m. Mr. Carpenter moved, Ms. Cronkhite seconded, and Members voted unanimously to go into executive session. The purpose was to discuss a possible conflict of interest involving a Legislator. The subject of such consideration is required to be kept confidential pending the completion of any investigation to determine whether a hearing shall be ordered or until the nature of any investigation becomes public knowledge. At 10:15 a.m., Ms. Cronkhite moved, Mr. Carpenter seconded, and Members voted unanimously to adjourn from executive session and return to regular session. Members unanimously ratified the motion by Mr. Carpenter and seconded by Ms. Cronkhite in executive session to dismiss the matter that had been considered.

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Agenda Item #2. Loren J. Bailey; Possible violation of 21A M.R.S.A. § 1125(6) (restrictions on expenditures)

Mr. Hain reviewed the contents of his letter dated June 25th, 2001 to Mr. Bailey detailing the outstanding issues pending before the Commission. James F. Cloutier, Esq., appeared on behalf of Mr. Bailey and addressed many of the pending issues. Ms. Alison Smith addressed the Commission on the abuse of public funds that may be suggested by the facts before the Commission. Mr. Carpenter moved, Judge Henry seconded, and Members voted unanimously to table the matter until the November meeting. Mr. Hain was instructed to meet with Attorney Cloutier and Mr. Bailey to attempt to reach agreement on each of the items detailed in the June 25th letter, and to return the results of those negotiations to the Commission for appropriate action.

The Commission recessed briefly, reconvening in five (5) minutes.

Agenda Item #3A: Honorable Richard P. Ruhlin; Possible violation of 21A M.R.S.A. § 1017 (3-B) (accelerated reporting schedule)

Following a presentation of the facts, former Senator Ruhlin addressed the Commission on his own behalf. After discussion of the facts, Judge Henry moved, Mr. Carpenter seconded, and Members voted unanimously to find that former Senator Ruhlin's 101% Report was due on October 18th, 2000, and his 12-day accelerated report was due on October 26th, 2000, and that the reporting requirements were fulfilled on October 30th, 2000 in both cases; noted a technical violation of the reporting requirements for those reports; but declined to assess a penalty based on mitigating circumstances as defined in the statute. The Commission cited the complexity of the new accelerated reporting requirements and possible confusion that may have resulted from Commission staff advice as contributing factors in their determination. The Commission further acknowledged the apparent inequality of treatment between nonparticipating and certified MCEA candidates in the computation of matching funds based upon how unspent funds carried forward from the primary to the general election are treated. Mr. Hain was instructed to investigate a resolution of the problem that would seek to eliminate that apparent inequality of treatment between privately and publicly funded candidates.

Agenda Item #4: Consideration of Maine Clean Election Fund Distributions for Gubernatorial Candidates

As a result of questions raised about the lack of MCEA funds for uncontested MCEA gubernatorial primary candidates, the Commission reexamined the previously approved distributions for those candidates. Ms. Ruth Gabey, Treasurer for the Maine Green Independent Party, addressed the Commission. The Commission also considered the August 8th, 2001 letter from Ms. Audrey Marra, Legislative Co-chair for Kennebec Greens, on the issue. Judge Henry moved, Ms. Cronkhite seconded, and Members voted unanimously to adopt an uncontested primary gubernatorial candidate initial distribution of \$41,885, representing 40% of the amount to be provided to participating candidate in a contested gubernatorial primary election.

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Agenda Item #8: Baldacci for Governor Committee; Potential Contribution Limits Violations

Mr. Hain reviewed the correspondence to the Baldacci Committee regarding the possible excess contributions reported as received from corporations in possible violation of 21A M.R.S.A. §§1015 and 1015-A and the Committee's responses directly and through counsel, including their refunds of excesses that were identified. The Commission authorized Mr. Hain to continue to address questionable excess contributions as in this case, taking no action to refer matters to the Commission provided any excess contributions were returned immediately to their sources.

Agenda Item #9: Discussion of Meeting with Majority Leader Pat Colwell Regarding Chapter 470 of the Public Laws of 2001 (LD 1809)

Commissioner Carpenter briefed Members regarding the meeting with House Majority Leader Pat Colwell that had been attended personally by Commissioner Cronkhite and Mr. Hain and telephonically by Commissioners Carpenter and Henry. Mr. Carpenter noted the difference between provisions of the law that addressed the appointment process for Commission Members and provisions that impacted upon the workings of the Commission. Representative Theodore Heidrich addressed the Commission regarding his communication to his Legislative Colleagues requesting their support for a bill he had submitted to repeal all but the penalty revision provisions of Chapter 470. Members suggested an emergency bill to suspend the operation of Chapter 470's appointment process, keeping in place the existing appointment process, pending the Legislature's possible reconsideration of the issue. Members unanimously agreed to table further consideration of the matter until the November meeting pending further developments.

Agenda Item #1: Ratification of August Minutes

Members voted unanimously to approve the minutes of the August 8th, 2001 meeting as submitted.

Agenda Item #3B: Representative Randall L. Bumps; Possible violations of 21A M.R.S.A. § 1017(3-B) (accelerated reporting schedule)

Following a presentation of the facts, the Commission considered Representative Bump's correspondence regarding the filing of his campaign finance reports and his request that the Commission to consider and decide this matter in his absence. After a discussion of the facts, Mr. Carpenter moved, Judge Henry seconded, and Members voted unanimously to find that Representative Bumps' 101% Report was due on October 4th, 2000, that the reporting requirement was fulfilled on November 1st, 2000; noted a technical violation of the reporting requirements for that report; but declined to assess a penalty based on mitigating circumstances as defined in the statute. The Commission cited the complexity of the new accelerated reporting requirements and possible confusion that may have resulted from Commission staff advice as contributing factors in their determination.

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Agenda Item #5A: Elizabeth A. Beane, Lobbyist for Mainers for Medical Rights; Lobbyist Disclosure Report Filing Violations

Mr. Hain reviewed the facts regarding the late filing of Ms. Beane's June 2001 monthly lobbyist disclosure report that was due on July 16th, 2001, filed on July 31st, 2001, with no previous late filings this biennium. Mr. Carpenter moved, Ms. Cronkhite seconded, and Members voted unanimously to assess a \$50 penalty for the late filing.

Agenda Item #5B: Patricia S. Philbrook, Lobbyist for Maine State Nurses Association; Lobbyist Disclosure Report Filing Violation

Mr. Hain reviewed the facts regarding the late filing of Ms. Philbrook's June 2001 monthly lobbyist disclosure report that was due on July 16th, 2001, filed on July 19th, 2001, with two (2) previous late filings this biennium in January and April 2000. Mr. Carpenter moved, Ms. Cronkhite seconded, and Members voted unanimously to assess a \$100 penalty for the late filing.

Agenda Item #7: Non-Filing by Former Candidates of Semiannual Campaign Finance Reports

Mr. Carpenter moved, Ms. Cronkhite seconded, and Members voted unanimously to refer the following individuals to the Attorney General for appropriate enforcement action for the non-filing of campaign finance reports as required by 21A M.R.S.A. Chapter 13:

- A. Roger D. Frechette: Periods ending 12/31/00 and 6/30/01 *
 - B. Duane Belanger: Period ending 6/30/01; Final Notice sent 8/20/01 *
 - C. Michael Lewis: Period ending 6/30/01; Final Notice sent 8/20/01 *
 - D. Larry Poulin: Period ending 6/30/01; Final Notice sent 8/20/01 *
 - E. Mark Sanborn: Period ending 6/30/01; Final Notice sent 8/20/01 *
 - F. Joan Stiehler: Period ending 6/30/01; Final Notice sent 8/20/01 *
- * Previously referred to Attorney General for earlier violations

Members discussed the time and date of the next meeting and unanimously agreed to meet at 9:30 a.m. on Wednesday, November 14th, 2001.

There being no further business, on motion and unanimous vote, the Commission adjourned at 1:10 p.m.

Respectfully submitted,

William C. Hain, III
Director

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