



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

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

October 10th, 2002

Minutes of the October 10th, 2002, special meeting of the Commission on Governmental Ethics and Election Practices held via AT&T Teleconference Services Pursuant to 21-A M.R.S.A. §1002.

Participating: Chair: Alan Harding, Esq.; Members: Hon. James Donnelly and Dr. Terrence MacTaggart; Director William C. Hain, III, Esq.; Counsel Phyllis Gardiner, Esq.; and Commission Auditor Andrew Seaman.

At 4:07 p.m., Chair Harding convened the special telephonic meeting to consider the request of Mr. Barry Abbott, Candidate for House District 4.

Mr. Barry Abbott, Candidate, House District #4

By letter dated October 8th, 2002, Mr. Abbott requested to be placed on the agenda for the next Commission meeting to discuss the Maine Clean Election Laws in reference to matching funds, specifically Section 6(3)(B)(a), and how that provision impacts matching funds in a case of a Clean Election candidate versus a traditional candidate. Commission Auditor Andrew Seaman, on behalf of Director Hain, responded by letter dated October 9th, 2002. That letter requested Mr. Abbott to specifically detail the nature or basis of his complaint or question, cite the statutory or regulatory authority, and state the nature of the requested relief if he wanted the Commission to hold a special meeting before the next scheduled meeting on October 16th, 2002. Mr. Abbott responded by telefax letter dated October 9th, 2002, requesting a special Commission meeting within 24 hours regarding the release of matching funds based on his opponent's spending of \$9,263.00 to influence the general election.

Mr. Hain informed Members that he had communicated earlier with Mr. Abbott. Mr. Abbott had stated that he would not be available to participate in the meeting, but essentially was requesting that the Commission determine whether or not the Director's previous decision to deny eligibility to receive matching funds had been correct. Mr. Hain summarized the factual background of Mr. Abbott's letter requests, explaining the decision he had previously made to deny matching fund eligibility based upon an amendment to Mr. Abbott's opponent's report involving a loan repayment in the amount of \$4,500. That decision had been based upon the precedent of a Commission decision involving Mr. Frederic Johnson in September 2000.

The Johnson case involved the Commission's interpretation of the Maine Clean Election Act regarding the treatment of loan repayments for computing matching fund eligibility between the primary and general elections. Counsel Gardiner discussed the Johnson case and its applicability

OFFICE LOCATED AT: 242 STATE STREET, AUGUSTA, MAINE
WEBSITE: WWW.MAINE.GOV/ETHICS



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

to the facts in this case. She noted that the Commission had decided that with respect to computing matching funds, a loan repayment (expenditure) should be treated as essentially undoing the loan (contribution) rather than having it be counted as a contribution when made and an expenditure when repaid.

Mr. Harding noted that a loan repaid in the same campaign would essentially be a wash, whereas a loan made in one campaign but repaid in another would be counted as a separate contribution (loan) and expenditure (repayment). Counsel Gardiner stated that this is a case of a loan from the candidate to that candidate's campaign and its repayment to that same candidate. Mr. Hain noted the Commission's previous determination in the Johnson case was that the critical point in time was when the loan was repaid. Provided the loan was repaid before any other event triggered matching fund eligibility, the loan/repayment would be treated as a wash.

Following that discussion, Chair Harding solicited an appropriate motion. Dr. MacTaggart moved, Mr. Donnelly seconded, and Members voted unanimously (3-0) to support the decision made by staff in this matter.

There being no further business, by unanimous consent, the Commission adjourned at 4:17 p.m.

Respectfully submitted,

William C. Hain, III
Director