



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

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January 8th, 2003

Minutes of the January 8th, 2003, meeting of the Commission on Governmental Ethics and Election Practices held in the Commission's Meeting Room, PUC Building, 242 State Street, Augusta, Maine.

Present: Chair: Hon. Alan Harding; Members: Hon. James Donnelly, Hon. Andrew Ketterer, and Dr. Terrence J. MacTaggart; Director William C. Hain, III; Counsel Phyllis Gardiner, Esq.; and Commission Assistant Kendra Danforth.

Absent: Hon. David Ott.

At 1:06 p.m., Chair Harding convened the meeting, announcing consideration of items on the published agenda as follows:

Agenda Item #11: Maine Clean Election Fund Audit

State Auditor Gail Chase appeared with the audit team members who have been conducting an audit of the operation of the Maine Clean Election Act and Fund. She and the lead auditor gave brief, oral presentations of the team's findings and recommendations that will be included in a written report to the Commission and the Legislature. The audit was conducted as part of a random audit of State funds.

Agenda Item #5B: Richard Pelletier, Treasurer, People for a Strong Maine Economy

The Commission considered the 48-Hour Reports of Late Expenditures that were made between October 26th-28th, 2002, and due between October 28th-30th, 2002, but were not filed until between October 30th and November 1st, two (2) days late. The late filings resulted in a cumulative preliminary penalty determination of \$2,234.58 based upon the application of the statutory formula. Daniel Walker, Esq., appeared on behalf of Mr. Pelletier. Both Attorney Walker and Mr. Pelletier addressed the Commission and acknowledged that the 48-hour reports on the itemized list had been filed late. Mr. Pelletier noted, however, that many of the reports had included estimated amounts of expenditures that exceeded the actual amounts spent because the actual amounts had not been known when the reports were filed. After discussion, Mr. Ketterer moved, Dr. MacTaggart seconded, and Members voted unanimously to table final consideration of the matter to give Mr. Pelletier an opportunity to provide the actual amounts of the expenditures made and for the staff to recompute the possible penalty amount based on the more accurate figures.

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Agenda Item #6D: Chandler White

The Commission considered the 6-Day Pre-General Election Report that was due on October 30th, 2002, but not filed until December 9th, 2002, 40 days late, resulting in a preliminary penalty determination of \$998.00 based upon the application of the statutory formula. Mr. White appeared and made an oral statement to the Commission in his own behalf. The Commission considered Mr. White's letters of December 6th and 23rd, 2002, and his oral presentation. Following discussion of the relevant issues, Mr. Ketterer moved, Dr. MacTaggart seconded, and Members voted unanimously to assess a penalty of \$500.00.

Agenda Item #1: Ratification of Minutes

Mr. Donnelly moved, Mr. Ketterer seconded, and Members voted unanimously to adopt the minutes of the November 27th, 2002 meeting as submitted.

Agenda Item #2: Report of Status of Non-Filers, Late Filers, and Referrals to the Attorney General

Mr. Hain provided a written report on the status of candidates who have not filed required 2002 reports and those who have filed late reports. Counsel Gardiner presented a written report entitled, "Ethics Commission Enforcement Matters; AG Status Report – December 2002," along with a detailed, oral explanation of the items contained therein. The Commission accepted the reports as presented.

Agenda Item #3: Paul Volle, The Christian Coalition of Maine

By letter dated October 30th, 2002, Brenda Broder, Westbrook Citizens for Equal Rights, filed a formal complaint regarding Paul Volle's and/or The Christian Coalition of Maine's failure to register and report financial activities based upon various advertisements (e.g., *The American Journal*) and signs. By e-mail dated January 6th, 2003, Mr. Volle requested the Commission to table this item because he and his attorneys had not been able to arrive at a definitive plan of action due to the holidays, traveling, and health reasons. Dr. MacTaggart moved, Mr. Ketterer seconded, and Members voted unanimously to table further consideration of the matter until the next meeting.

Agenda Item #4: George A. Christie, Treasurer, Dirigo Alliance

By letter dated November 21st, 2002, Mr. Christie had notified the Commission of Dirigo Alliance PAC's offer to pay a \$1,100 outstanding penalty in installments of a minimum of \$100 per month beginning December 1st, 2002, with a goal to pay the full penalty amount by June 1st, 2002. Mr. Christie's letter had not included any supporting justification for the Commission to approve installment payments at that time. The Commission tabled final consideration of the matter pending receipt of Dirigo Alliance's statement containing sufficient bases to warrant the Commission's approval of a payment plan. Before the Commission meeting, Mr. Christie had a



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check in the full amount of the unpaid penalty balance of \$1,000 delivered to the Commission's office, rendering moot further consideration of the matter.

Agenda Item #5A: Hon. Michael McAlevey

The Commission considered the 6-Day Pre-General Election Report that was due on October 30th, 2002, and filed on November 3rd, 2002, 4 days late, resulting in a preliminary penalty determination of \$1,929.12 based upon the application of the statutory formula. Due to a telephone request by Senator McAlevey's wife on his behalf to Mr. Hain before the meeting began requesting the matter be tabled due to Senator McAlevey's illness, Mr. Ketterer moved, Dr. MacTaggart seconded, and Members voted unanimously to table further consideration of the matter until the next meeting.

Agenda Item #6A: Fred Dolgon

The Commission considered the 6-Day Pre-General Election Report that was due October 30th, 2002, but not filed until November 1st, 2002, two (2) days late, resulting in a preliminary penalty determination of \$19.86 based upon the application of the statutory formula. After brief discussion of Mr. Dolgon's letter dated November 18th, 2002, Mr. Ketterer moved, Dr. MacTaggart seconded, and Members voted unanimously to assess a \$19.86 penalty for the late filing.

Agenda Item #6B: Calvin H. Hamblen

The Commission considered the 6-Day Pre-General Election Report that was due October 30th, 2002, but not filed until November 4th, 2002, five (5) days late, resulting in a preliminary penalty determination of \$61.15 based upon the application of the statutory formula. After brief discussion of the mitigating circumstances presented in Mr. Hamblen's letter of November 20th, 2002, Dr. MacTaggart moved, Mr. Donnelly seconded, and Members voted unanimously to assess a \$15.29 penalty for the late filing.

Agenda Item #6C: Elizabeth Dupre

The Commission considered the 6-Day Pre-General Election Report that was due October 30th, 2002, but not filed until November 15th, 2002, 16 days late, resulting in a preliminary penalty determination of \$211.20 based upon the application of the statutory formula. After brief discussion of Ms. Dupre's letter dated November 27th, 2002, Mr. Ketterer moved, Dr. MacTaggart seconded, and Members voted unanimously to assess a \$105.60 penalty for the late filing.

Agenda Item #6E: Duane Carter; Treasurer, Citizens for Responsibility

The Commission considered the 6-Day Pre-General Election Report that was due October 30th, 2002, but not filed until October 31st, 2002, one (1) day late, resulting in a preliminary penalty determination of \$62.50 based upon the application of the statutory formula. Mr. Donnelly



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recused himself from participation in the discussion and voting on this matter. After brief discussion of Mr. Carter's letter dated November 18th, 2002, Mr. Ketterer moved, Dr. MacTaggart seconded, and Members voted 3-0 (Mr. Donnelly recused) to assess a \$31.25 penalty for the late filing.

Agenda Item #7A: David Deschesne

The Commission considered the 6-Day Pre-General Election Report that was due October 30th, 2002, but not filed until November 3rd, 2002, four (4) days late, resulting in a preliminary penalty determination of \$23.12 based upon the application of the statutory formula. Mr. Deschesne did not respond to the notification of that preliminary determination. After brief discussion, Dr. MacTaggart moved, Mr. Donnelly seconded, and Members voted unanimously to assess a \$23.12 penalty for the late filing.

Agenda Item #7B: Honorable Edward Dugay

The Commission considered the 6-Day Pre-General Election Report that was due October 30th, 2002, but not filed until November 2nd, 2002, three (3) days late, resulting in a preliminary penalty determination of \$310.50 based upon the application of the statutory formula. Representative Dugay did not respond to the notification of that preliminary determination. After brief discussion, Mr. Donnelly moved, Dr. MacTaggart seconded, and Members voted unanimously to assess a \$310.50 penalty for the late filing.

Agenda Item #8A: Susan Dorr

The Commission considered Ms. Dorr's letter dated December 4th, 2002, informing that she had spent more than her Maine Clean Election Act distribution due to a miscommunication with a vendor regarding the running and payment of radio advertisements for her campaign. Members discussed the issues and, applying precedent, Dr. MacTaggart moved, Mr. Ketterer seconded, and Members voted 3-1 (Chair Harding opposed) to assess a \$211.47 penalty under the authority of 21-A M.R.S.A. §1127(1) for Ms. Dorr's violation of 21-A M.R.S.A. §1125(6) that limits a Maine Clean Election Act candidate's expenditures and obligations to the amount distributed to the candidate from the Maine Clean Election Fund.

Agenda Item #8B: Cody A. Gillis Sr.

The Commission considered Mr. Gillis' letter dated December 17th, 2002, informing that he had spent more than his Maine Clean Election Act distribution in the last week of the election cycle on postage, etc., for mailings on his behalf by the Brunswick and Cumberland County Republican Committees. Members discussed the issues. Applying precedent, Mr. Ketterer moved, Dr. MacTaggart seconded, and Members voted unanimously to assess a \$631.41 penalty under the authority of 21-A M.R.S.A. §1127(1) for Mr. Gillis' violation of 21-A M.R.S.A. §1125(6) that limits a Maine Clean Election Act candidate's expenditures and obligations to the amount distributed to the candidate from the Maine Clean Election Fund.



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Agenda Item #8C: Honorable Gary E. Sukeforth

The Commission considered Representative Sukeforth's letter of December 30th, 2002, informing the Commission of the manner in which he had handled the Maine Clean Election Fund distributions he received. He reported that he had not deposited the checks into a separate campaign account and made expenditures from that account for his campaign. Instead, he paid all of the campaign expenses from personal funds, subject to reimbursement from the MCEF checks at the conclusion of the campaign. In the interest of full disclosure of the campaign's financial activity, Chair Harding moved, Mr. Donnelly seconded, and Members voted unanimously to table further consideration of the matter until the next meeting. In the interim, Members directed Mr. Hain to have a full audit conducted of Representative Sukeforth's campaign activity and supporting records of all expenditures made to determine the accuracy of the campaign finance reports that had been filed.

Agenda Item #9A: William E. Nickerson; Treasurer, Fleet National Bank Political Action Committee

The Commission considered Mr. Nickerson's letter of November 27th, 2002, in response to the question whether there had been a possible expenditure limit violation as a result of a \$300 contribution to the Cianchette campaign in late October following a \$500 contribution earlier that month, both during the general election period. Mr. Nickerson explained that the \$300 contribution had been made for the purpose of retiring primary election campaign debt and not for the general election campaign. Following brief discussion, Mr. Donnelly moved, Mr. Ketterer seconded, and Members voted unanimously to table further consideration until the next meeting pending preparation of a legal opinion by Counsel Gardiner on the application of the *Collins vs. Commission* case to these facts.

Agenda Item #9B: Jeff Sherman; Treasurer, Libertarian Party of Maine

Mr. Hain reported confirmation of the repayment of the excess contribution by Mr. Davis Hart to the Libertarian Party, thus rendering the matter moot at this time.

Agenda Item #10A: House Republican Fund Political Action Committee

By letter dated December 17th, 2002, Representatives Joe Bruno and David Bowles, Principal Officers of the House Republican Fund PAC, requested an interpretation of 1 M.R.S.A. §1015(3)(B) regarding contributions when the Legislature is convened. After discussion, Chair Harding moved, Dr. MacTaggart seconded, and Members voted unanimously to adopt the opinion of the Attorney General dated December 18th, 1997, interpreting that statutory provision.

Agenda Item #10B: Kenneth M. Cole III, Esq., Attorney for Standish Town Council

Attorney Cole requested the Commission to review a proposed Town Order regarding the application of campaign finance reporting laws to the Town of Standish. Due to the prospective



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nature of the request and there being no issue before the Commission, Members determined that no action was required.

Agenda Item #12: Roster of Joint Standing Committee on Legal and Veterans' Affairs – 121st Legislature

This matter was presented for Commission information only. Chair Harding noted that he signed separate letters to the Senate and House Chairs of the Joint Standing Committee on Legal and Veterans' Affairs requesting an informal meeting between the Commission and the new Committee members to discuss issues of mutual interest and concern to each group.

Agenda Item #13: Legislative Proposal Ideas

Mr. Hain summarized the list of possible issues that may be presented to the 121st Legislature for consideration. He distinguished between those items the Commission can address by rulemaking, those items that other interest groups such as the Maine Citizen Leadership Fund are pursuing independently, and those items of sufficiently high priority for the Commission to propose. Members directed Mr. Hain to prepare a prioritized list and forward it to each Member.

Agenda Item #14: Other; Meeting Schedule

Dr. MacTaggart requested Members to develop a meeting schedule for future meetings so personal schedules can be arranged. Following discussion, Members agreed to set the second Wednesday of each month at 10:00 a.m. as the scheduled meeting dates, subject to the availability of a quorum and sufficient agenda items to warrant meeting. That determined, the next meeting was scheduled for 10:00 a.m. on Wednesday, February 12th, 2003.

Other; Robert W. Rand

Mr. Hain presented an e-mail letter dated January 2nd, 2003, from Robert W. Rand of Freeport, regarding a previous request Mr. Rand had submitted soliciting the Commission's assistance in determining the source of telephone calls he had received during the 2002 election campaign. The Commission previously had determined that its jurisdiction is limited to ensuring disclosure of campaign finance reporting information by candidates and organizations required to file such reports and had directed Mr. Hain to determine if the Public Utilities Commission could assist Mr. Rand. Mr. Rand's letter responded to Mr. Hain's communication that the PUC was unable to assist in this matter.

Agenda Item #15: Executive Session

At 3:55 p.m., Mr. Ketterer moved, Dr. MacTaggart seconded, and Members voted unanimously to go into executive session at Mr. Hain's request pursuant to the authority of 1 M.R.S.A. §405(6)(A) to consider Commission personnel matters. That discussion concluded at 5:00 p.m. No action was taken in executive session that required ratification in public session.



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There being no further business, by unanimous consent, the Commission adjourned at 5:01 p.m.

Respectfully submitted,

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Director

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