

# Agenda

## Item #1

Minutes of the September 22, 2006 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 Jean Ginn Marvin; Hon. Vinton E. Cassidy; Hon. Michael P. Friedman; Hon. Andrew Ketterer; Hon. A. Mavourneen Thompson. Staff: Executive Director Jonathan Wayne; Phyllis Gardiner, Counsel.

At 9:10 A.M., Chair Ginn Marvin convened the meeting. The Commission considered the following items:

**Agenda Item #1 – Ratification of minutes of the August 23, 2006 meeting**

Mr. Ketterer moved, Ms. Thompson seconded, and the Commission voted unanimously (5-0) to adopt the minutes as printed.

**Agenda Item #2 – Request for Matching Funds Because of RGA Advertisements**

[A transcript of this item has been made available to the Commission members for their review. The transcript is available for the public on the Commission's website or upon request.]

**Agenda Item #3 – Complaint regarding House Democratic Campaign Committee Flyer for Charlie Priest**

Mr. Wayne said that Amy McKenna, Republican candidate for House of Representatives in the Brunswick area, filed a request for an inquiry into whether she deserved matching funds from a flyer distributed by the House Democrats on behalf of her opponent, Charlie Priest. Mr. Wayne said that the flyer contained express advocacy. Mr. Wayne said that the "paid for" disclosure statement on the flyer did not comply with the statute. Mr. Wayne said that the statement should have included language that the flyer was not authorized by any candidate. Mr. Wayne said that the staff recommended a finding of violation, but no penalty since the disclosure statement was corrected within 10 days.

Amy McKenna said that she was a Clean Election candidate for House District 63 in Brunswick. Ms. McKenna said that she was concerned about the lack of proper disclosure on the materials distributed by the House Democratic Campaign Committee (HDCC). Ms. McKenna said that the Commission staff recommended no penalty since the HDCC spent only a small amount of money on the flyers. Ms. McKenna said that the amount of the expense reported by the HDCC should have been \$130 rather than \$8, since staff was paid to distribute the literature.

Mr. Wayne said that the difference in the expenditure amount did alter the staff's recommendation.

Ms. McKenna said that if she had not brought the complaint, the HDCC would not have disclosed the full amount of the expenditure. Ms. McKenna said that the flyers were distributed to about 1,000 homes, or 40% of the district, over 3 days. Ms. McKenna said that the staff recommendation of no penalty was not sufficient since the \$130 amount was above the \$100 reporting threshold. Ms. McKenna questioned whether the flyer was actually distributed without the knowledge of Mr. Priest. Ms. McKenna said that John Richardson, who is the current incumbent in House district 63, is the primary fundraiser for the HDCC. Ms. McKenna said that there was a conflict when a PAC expended funds in a district where its primary fundraiser resides. Ms. McKenna said that the HDCC had \$75,000 in available resources, resulting in an unlevel playing field between candidates in her district. Ms. McKenna suggested that PACs should be required to receive authorization for expenditures from Clean Election candidates, with the amount of money spent being subtracted from the money received in Clean Election funds by the candidate being supported.

Mr. Ketterer asked Ms. McKenna what she would recommend as a resolution to her complaint. Ms. McKenna replied that she would like to receive at least the amount of money that was spent by the HDCC on behalf of Mr. Priest.

Mr. Wayne said that he requested information from the HDCC about how much was spent delivering the literature. Mr. Wayne said that he received the information from Paul Brunetti the previous day. Mr. Wayne said that Mr. Brunetti told him that the paid staff was going door-to-door for purposes other than just delivering flyers. Mr. Wayne said that the total of the staff expense plus materials was \$130. Mr. Wayne said that the staff recommendation was that the HDCC should be required to file an independent expenditure report by the next deadline and that Ms. McKenna should be paid \$130 in matching funds minus any funds left over from the primary election.

Ms. Ginn Marvin asked if Ms. McKenna was satisfied with this outcome. Ms. McKenna replied that she was only seeking fairness.

Ms. Thompson asked if the staff recommended no penalty. Mr. Wayne said that there was no penalty in the statute if an improper disclosure statement was fixed within 10 days. Ms. McKenna asked if there was a penalty for not reporting the full amount. Mr. Wayne said that the HDCC was not yet late in reporting the expenditure. Mr. Wayne said that if the total expenditure on behalf of a candidate was over \$250, then the report would have to be filed within 24 hours.

Paul Brunetti introduced himself as caucus director of the Maine House Democratic Caucus. Mr. Brunetti said that the disclosure problem was fixed immediately upon notification from the Commission. Mr. Brunetti said that in response to the initial inquiry, a cost of \$8 for the flyers

was calculated based on in-house production, which fell under the \$100 reporting requirement. Mr. Brunetti said that Mr. Wayne asked him about workers canvassing in support candidates and issue questions. Mr. Brunetti said that the HDCC provided the workers with literature to distribute as part of the canvassing and voter ID activities. Mr. Brunetti said that the \$130 amount was based on 1/5 of the workers' activities. Mr. Brunetti said that the HDCC did not yet file an initial report on the distribution of the literature, but intended to file any necessary report by the deadline.

Mr. Ketterer asked what else the canvassers were doing. Mr. Brunetti said that the canvassers were carrying literature, asking a question about what the individual considered to be important issues and asking questions about who the individual supported for state representative, state senator, and governor. Mr. Brunetti said that distributing flyers was a small percentage of the canvassers' activities, which were primarily establishing voter IDs. Mr. Brunetti said that the HDCC flyers were the only literature they were carrying.

Mr. Friedman asked if three out of the four question topics were directed in support of Mr. Priest. Mr. Brunetti said that this was not necessarily the case, since the issue question did not involve Mr. Priest. Mr. Friedman asked if the issues were state or local. Mr. Brunetti said that it was a broad question that could trigger other questions based on specific responses.

Ms. Ginn Marvin said that it appeared misleading that the HDCC would report that the flyers were printed in-house with volunteer labor when in fact paid staff delivered the flyers. Mr. Brunetti said that the Democratic Party preferred to print flyers with volunteer labor and placed a statement referring to this on the flyer. Mr. Brunetti said that they would not include the statement on future literature if the Commission members thought it was misleading.

Ms. Ginn Marvin said that three out of the five questions asked by the canvassers directly related to House candidate Mr. Priest. Ms. Ginn Marvin said that he received a letter on August 24 about the disclosure statement. Ms. Ginn Marvin said that it seems like the HDCC would never have disclosed the staff expense if not pressed for the information by Mr. Wayne. Mr. Brunetti said that the staff was working under the "slate card" exemption since the voter ID activities applied to three or more candidates. Ms. Ginn Marvin asked if distributing flyers constituted voter ID. Mr. Brunetti said that the questions asked by the canvassers were voter ID. Mr. Brunetti said that if the workers were going door-to-door only delivering literature for one candidate, it would have been reported as an independent expenditure. Ms. Ginn Marvin said that the HDCC was being misleading. Mr. Brunetti said that the HDCC intended to work within the law.

Mr. Wayne asked if Mr. Priest knew about the flyers. Mr. Brunetti said that he did not. Mr. Brunetti said that Mr. Priest called him after the fact to ask about the flyers.

Ms. Ginn Marvin asked if it was common practice for the HDCC to distribute literature on behalf of a candidate without the candidate's knowledge. Mr. Brunetti replied that it was.

Mr. Friedman moved, and Mr. Ketterer seconded, that the Commission find that the value of the material and services rendered was \$390.

Mr. Wayne said that if the Commission agreed on that amount, he recommended that the Commission require the HDCC to file an independent expenditure report, it should have been filed within 24 hours. Mr. Wayne said that the Commission staff would then calculate matching funds based on the \$390 expenditure. Mr. Wayne said that the Commission should consider how much time was spent distributing the flyer by the canvassers. Mr. Wayne said that although some of the questions they asked may have benefited Mr. Priest, they were not part of the expenditure for distributing the flyers.

Ms. Thompson asked if Mr. Wayne's recommendation was based on the Commission's rules. Mr. Wayne said that going door-to-door to identify people as supporters of Mr. Priest may not amount to a communication covered by the independent expenditure reporting requirements.

Ms. Gardiner said that the questions from the workers seemed to be asking who the individuals would support, not whether they would support Mr. Priest.

Mr. Cassidy said that it seemed like the entire amount paid to the workers would be considered the cost of distributing the flyers. Mr. Wayne said that the questions asked by the workers had value to the party, but not to Mr. Priest.

Ms. Thompson asked for a staff explanation of the definition of independent expenditure and the updated staff recommendation.

Mr. Wayne said that the staff recommended a finding that 20% of the workers' cost went toward distributing the flyers. Mr. Wayne said that the time spent asking the four questions did not seem to be part of a communication expressly advocating the election or defeat of a candidate.

Mr. Friedman said that the flyer was for one candidate only and was designed to initiate inquiry into that candidate.

Mr. Brunetti said that the flyer was given out after the voter ID questions were asked. Mr. Brunetti said that the flyer was left in the doors of people who were not home. Ms. Ginn Marvin said that in those cases, 100% of the worker's time was spent distributing the flyer.

Ms. Thompson asked how the Commission dealt with similar issues in the past. Ms. Gardiner said that she did not recall any case involving the allocation of an independent expenditure from among various door-to-door activities.

Ms. Thompson asked if verbal surveys could be considered independent expenditures. Ms. Gardiner said that it would not be an independent expenditure unless it was express advocacy.

Mr. Cassidy said that the issue was whether the workers were being paid to ask the survey questions. Mr. Friedman said that paying workers to ask general questions did not count as an independent expenditure, but in this instance it was express advocacy for Mr. Priest.

Mr. Ketterer said that he felt influenced by the improper and misleading statements on the flyer. Mr. Ketterer said that the sense of fairness in the race was muddled by these issues.

Ms. Ginn Marvin said that Mr. Brunetti was experienced and understood the process of reporting. Ms. Ginn Marvin said that there was a lack of apparent attention to detail.

The Commission voted unanimously (5-0) to find that the value of the material and services rendered was \$390.

**Agenda Item #4 – Complaint regarding Maine Democratic Party Mailing for Rep. Janet Mills**

Mr. Wayne said that John Frary, chair of the Franklin County Republican Party, raised a complaint relating to a mailer containing contact information on Rep. Janet Mills and an invitation to a community forum where Rep. Mills would be present. Mr. Wayne said that the mailings contained no express advocacy. Mr. Wayne said that Mr. Frary requested a determination on whether the Republican candidate running against Rep. Mills was entitled to matching funds as a result of the mailings. Mr. Frary said that Rep. Mills denied having any knowledge of the mailings before they were distributed. Mr. Frary disputed Mr. Mahoney's letter in which he stated that there was no political implication in the mailings. Mr. Frary said that the invitations were only sent within Rep. Mills' district. Mr. Frary said that Rep. Mills benefited from name recognition as a result of the mailings.

Mike Mahoney said that he was present on behalf of the Democratic Party and available to answer any questions.

Steven Scharf introduced himself as a resident of Portland. Mr. Scharf said that he questioned whether the party operated independently from Rep. Mills in sending out the mailings.

Mr. Mahoney said that the community forum was set up by the attorney general and Rep. Mills. Mr. Mahoney said that the forum was not put on by the Democratic Party, but the party distributed the mailing to advertise the event. Mr. Mahoney said that the mailing did not require communication with Rep. Mills.

Mr. Ketterer asked if any money was collected at the community forum. Mr. Mahoney said that he was not aware of any fundraising at the event. Mr. Mahoney said that it was a constituent service on an issue of public concern.

Ms. Ginn Marvin asked what rules govern mailings of the type sent by the Democratic Party. Mr. Wayne said that since the mailings were sent more than 21 days before the election, they would have to contain express advocacy, which they did not, to be considered independent expenditures. Mr. Wayne said that if they had been sent with the cooperation of Rep. Mills, the Commission could debate whether they should be considered as contributions to her campaign.

Ms. Ginn Marvin said that it was difficult for her to believe that Rep. Mills was not involved in the invitation to the community forum. Mr. Wayne said that Rep. Mills' letter indicated that she had no knowledge or did not cooperate with the Democratic Party with regards to the mailing. Mr. Wayne said that the letter should be given the same credibility as Senator Woodcock's claim that he had no involvement with the Republican Governors Association ads. Mr. Friedman said that it was a good policy to believe such statements if there is no contradictory evidence.

Mr. Ketterer moved, Mr. Friedman seconded, and the Commission voted unanimously (5-0) to adopt the staff recommendation and take no action.

#### **Agenda Item #5 – Complaint regarding Expenditures by Senate Candidate David Babin**

Mr. Wayne said that the Commission staff received a complaint from William Dobrowolski about advertising he saw in a community newspaper, the *West End News*, that was run by state senate candidate David Babin. Mr. Wayne said that the content of the ad related to the Taxpayer Bill of Rights. Mr. Wayne said that Mr. Dobrowolski argued that the ads were in support of TABOR rather than campaign-related ads in support of the candidate and that the ads were an improper use of Maine Clean Election Act (MCEA) funds. Mr. Wayne said that Mr. Babin responded that the ads were a legitimate use of MCEA funds.

David Babin introduced himself as the Republican candidate for state senate district 8. Mr. Babin said that all of his ads include his picture and campaign logo. Mr. Babin said that he was a strong supporter of TABOR, with this position distinguishing him from the opposing candidates. Mr. Babin said that he was known in the Portland area for being an advocate of TABOR.

Dan Billings, who said that he was representing Mr. Babin, said that the Commission's guideline on ads was reasonable. Mr. Billings said that the Commission should not try to edit the content of ads or make determinations on which issues could be highlighted by Clean Election candidates. Mr. Billings said it would be a legitimate concern if someone was running for office solely to promote a referendum. Mr. Billings said that Mr. Babin's picture and logo were prominent in the ads. Mr. Billings said that Mr. Babin ran ads on other issues that followed a

similar format. Mr. Billings said that it was not uncommon for candidates to attach themselves to prominent issues.

Steven Scharf said that he had done some work for the Babin campaign. Mr. Scharf said that he supported Mr. Babin's request that the complaint be dismissed. Mr. Scharf said that Mr. Babin had been known as a supporter of TABOR and assisted in gathering signatures for the initiative. Mr. Scharf said that Mr. Babin was in a three-way race for state senate, and the TABOR issue could have a large influence on the outcome of the election.

Mr. Ketterer moved, Mr. Cassidy seconded, and the Commission voted unanimously (5-0) to adopt the staff recommendation and take no further action.

The Commission decided to take up Item 7 out of order before returning to Item 6.

#### **Agenda Item #7 – Request for Penalty Waiver/Lynda Quinn**

Mr. Wayne said that Ms. Quinn was a write-in candidate during the primary election for Somerset County Commissioner. Mr. Wayne said that Ms. Quinn spent \$623 of her personal funds toward the primary election. Mr. Wayne said that since she was a candidate after the primary election, she should have filed campaign finance reports. Mr. Wayne said that she missed the July 25 deadline by 24 days. Mr. Wayne said that the formula in the statute resulted in a preliminary penalty amount of \$149.63. Mr. Wayne said that Ms. Quinn had no communication with the Commission office prior to the filing deadline, but she had some obligation to determine the reporting deadlines. Mr. Wayne said that the staff recommended a 50% reduction of the penalty amount.

Lynda Quinn said that she received wrong information from the party. Ms. Quinn said that she did not know she had to file finance reports until the Commission staff contacted her. Ms. Quinn said that she requested a waiver of whatever the Commission believed was fair and equitable. Ms. Quinn said that it was difficult for common people to run for office who were not aware of the rules and guidelines. Ms. Quinn said that she did not receive the necessary help from her party or from the state until she was contacted by the Commission staff. Ms. Quinn said that write-in candidates in particular could use additional guidance.

Mr. Ketterer asked if there was confusion on her certification by the Secretary of State. Ms. Quinn said there was no confusion, but when she provided the Secretary of State's office with the declaration of write-in candidacy the office's staff did not provide her with any additional information on being a candidate.

Mr. Friedman asked if she had run as a candidate previously. Ms. Quinn said that she ran as a Clean Election candidate three years before. Ms. Quinn said that she made a last-minute decision to run as a write-in candidate in the most recent primary election. Ms. Quinn said that

she was familiar with filing reports when she ran previously. Ms. Quinn said that she thought that spending her own money on her campaign exempted her from filing reports.

Ms. Thompson asked where Ms. Quinn received the paperwork to run as a write-in candidate. Ms. Quinn said that the forms were provided by the Republican Party office in Skowhegan. Ms. Quinn said that nothing provided to her contained any information about filing finance reports.

Ms. Thompson asked how a similar situation could be prevented in the future. Ms. Gardiner said that the declaration of write-in candidacy is turned into the Secretary of State's office, so it may be possible to have greater coordination between that office and the Commission staff. Mr. Wayne said that the Commission staff could check with the Secretary of State's office to see who has filed the declaration, but it was ultimately the responsibility of the write-in candidate to seek information on reporting requirements.

Mr. Friedman asked Mr. Wayne about the basis for the staff's recommended reduction of the penalty amount. Mr. Wayne said that Ms. Quinn did not have the normal interaction with the Commission staff, as candidates who file the candidate registration form receive regular information and reminders.

Mr. Ketterer said that write-in candidates are not actually candidates until they are certified by the Secretary of State's office. Mr. Ketterer said that he agreed with the staff recommendation.

Mr. Ketterer moved, Ms. Thompson seconded, and the Commission voted unanimously (5-0) to adopt the staff recommendation of a \$74.86 penalty.

Mr. Cassidy left the meeting.

#### **Agenda Item #6 – Request for Advisory Opinion from Democratic and Republican Parties**

Mr. Wayne said that the staff had a draft advisory opinion for the Commission's consideration in response to a request from Dan Riley, counsel to the State Republican Party, and Mike Mahoney, counsel to the State Democratic Party, on issues of concern to the parties.

Dan Riley said that there were unclear areas of the law relating to the Maine Clean Election Act. Mr. Riley said that he met with Commission staff and prepared the list of questions to be addressed in the advisory opinion. Mr. Riley said that the draft of the opinion was helpful and he did not have any additional comments or questions. Mr. Riley said that Mr. Mahoney shared his approval of the draft.

Ms. Gardiner asked if Mr. Riley was aware of any single-candidate PACs existing in the past. Mr. Riley said that he was only aware of the Maine for Mills PAC. Ms. Gardiner asked about

the issue of whether a contribution to a single-candidate PAC was in effect a donation to that PAC's candidate. Mr. Riley said that he was involved in the issue as counsel to the Maine for Mills PAC, but the PAC had since disbanded.

Mr. Wayne said that under the election law, an employer providing the services of employees to a candidate would be considered a contribution to the candidate. Mr. Wayne said that there was an exception for political parties paying its employees for the purpose of providing advice to a candidate for no more than 20 hours. Mr. Wayne said that employee activities other than advice were not covered by the exception. Mr. Wayne said that in reality, the party employees' services to candidates go beyond just advising.

Mr. Riley said that the advisory opinion would allow for the parties to change their activities in order to conform to the existing law. Mr. Riley said that he would be willing to work with Mr. Mahoney to encourage the parties to advocate for changes in the election law if such changes would be appropriate. Mr. Riley said that it was more difficult to comply as long as there were unclear areas in the law.

Mr. Wayne said that party employees assisting candidates should work separately from the employees involved in making independent expenditures in support of those candidates. Ms. Ginn Marvin said that it was good advice but expressed her concern that it was doubtful it could be complied with given the reality of how campaigns were run. Mr. Riley said that the advisory opinion could lead to changes in the ways in which campaigns are run.

Mr. Wayne said that he agreed with the interpretation of the law in the advisory opinion which states that a person can contribute to a PAC and specify that the contribution be used on a particular candidate's behalf without that contribution being considered a contribution to the candidate. That situation would not be "earmarking." Ms. Gardiner said that it was not considered to be a contribution to a candidate if a contributor to a PAC donated money to be spent on independent expenditures on behalf of that candidate. However, she pointed out that there may be some policy considerations resulting from the practice.

Mr. Riley said that there must be cooperation, consultation, or coordination with the candidate's campaign in order to fall under the definition of a contribution to the candidate.

Mr. Friedman asked if the Commission had the authority to provide advisory opinions. Mr. Riley responded that it was provided for under the Administrative Procedures Act. Mr. Riley said that it was not uncommon for the parties to ask state agencies for advisory opinions, but it was the first time he had requested one from the Commission. Mr. Riley said that it provided an opportunity for staff to clarify laws left unclear when passed by the legislature.

Alison Smith said that she was appearing on her own behalf. Ms. Smith said that she was involved with Maine Citizens for Clean Elections at the time that the act was being implemented

and the question of the party's role in Clean Election campaigns was raised. Ms. Smith said that she was not aware that the 20 hour limit on advice from party employees applied to each employee individually. Ms. Gardiner said that the statute could be read either way.

Ms. Thompson asked if it would be possible to get a copy of the legislative testimony. Ms. Gardiner said that there would be a record from the committee, but there may not have been any floor debate.

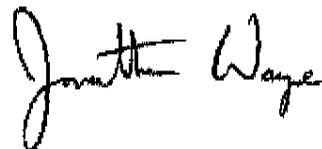
Ms. Smith said that the Commission should not allow for a loophole in which the party may provide an excessive amount of employee assistance to Clean Election campaigns. Mr. Riley said that the parties did not have enough employees available for that to be an issue.

Ms. Ginn Marvin asked that the Commission postpone discussing the remaining items on the agenda until its next meeting.

Mr. Ketterer moved, Ms. Thompson seconded, and the Commission voted unanimously (4-0) to approve the advisory opinion.

Mr. Ketterer moved, Ms. Thompson seconded, and the Commission voted unanimously (4-0) to table Items 8 and 9 until the next meeting and adjourn.

Respectfully submitted,

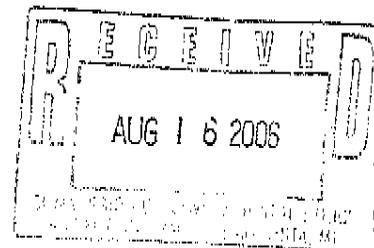


Jonathan Wayne  
Executive Director

# Agenda Item #2

**Blais for Sheriff**

PO Box 107332  
Portland, Maine 04104



Gavin O'Brien  
Candidate Registrar  
Commission on Governmental Ethics and Election Practices  
135 State House Station  
Augusta, Maine 04333

August 13, 2006

Dear Gavin,

On August 12, 2006, I received a letter from the State Ethics Commissions advising that I had failed to file the "42 day campaign finance report" for the Blais for Sheriff campaign in Cumberland County. The letter indicated that based on this failure to file, I have been assessed a fine of \$115.00 and that I have the option to file an appeal with the commission within 10 days. Subsequently, please accept this letter as my request to appeal the decision of the commission to assess the fine and to find that I have failed to file the proper report.

As you may recall, I was a write-in candidate for the office of Sheriff in Cumberland County. During the primary election period, my campaign staff and I were in contact with your office on several occasions seeking direction on issues related to write-in campaigns. You and your staff could not have been more helpful!

After the primary election, my staff and I attempted to obtain official word from the State regarding whether I had obtained the necessary amount of votes (300) to secure a place on the ballot in November. On numerous occasions, we contacted your office in an attempt to secure the official voting tabulations for my campaign. We were told that the results were not yet available. On several occasions we were referred to the Bangor Daily News for "unofficial" results. When we called the Bangor News, they said they do not track results of write-in campaigns. Your office eventually told us that the results had been forwarded to the Governors office and that we must wait until the Governor signs off on the results before they were made public.

Several weeks after the primary election, Steven Scharf, the secretary of the Cumberland County Republican Committee, informed me that he received the voting results from the State indicating that I had officially received 474 votes in the primary election.

On July 28, 2006, I sent an e-mail message to you advising that I had yet to receive correspondence from your office as to whether my campaign had been successful obtaining the required amount of votes in the primary and asking for the treasurers packet needed to file the finance reports. (See enclosure.) You apparently forwarded my inquiry to Melissa Packard, Director of Elections and Commissions, on that same day.

On August 1, 2006, I received an e-mail response from Melissa Packard. Melissa agreed that there has been a delay on behalf of the State in both notification to me that we had received the necessary votes to be placed on the November ballot and in sending the treasurers packet to my treasurer, Terry Hand. Melissa said that she notified the Ethics Commission on August 1, 2006 that I was a candidate that would be on the November ballot. (See enclosure.)

The Blais for Sheriff treasurer, Terry Hand, received the treasurer's packet on July 31, 2006 (4 days after the filing deadline). She filed the 42-day report 3 days later on August 3, 2006.

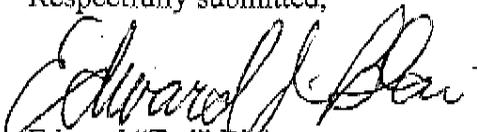
Based on the enclosed information, I believe that you would agree that my campaign was unable to file the appropriate finance reports any earlier than we did. I also suspect and understand that the fact that we were a write-in campaign contributed to the confusion surrounding this issue.

In addition, it is my understanding that the State has an obligation to notify a candidate within three days after a filing deadline if the candidate has not yet filed a finance report. Again, if the filing deadline was July 27, 2006 and I received official notification on August 12, 2006, the State was not in compliance with this requirement. (See enclosure.)

Based on the information provided in this letter and in the submitted enclosures, I respectfully request that the Commission waive any and all fines / penalties assessed to my campaign and would also request that a finding that we failed to file the 42-day finance report on time be rescinded.

Both Bill Holmes, my campaign manager, and I are career law enforcement officers. We both have a unique understanding and respect for the law. Bill and I will make ourselves available to speak with the commissioners and / or anyone else you would like us to speak with to answer any questions they may have regarding this issue.

Respectfully submitted,



Edward "Ted" Blais

Subscribed and sworn to be the above named Edward "Ted" Blais who made oath to the truth of the foregoing affidavit signed by him in my presence, this 15<sup>th</sup> day of August, 2006.



Kathleen B. Wahl, Comm. Expires 8-4-2010

Read-

<http://www.blaisforsheriff.com/MEWEBMAIL/default/lang/en/Form...>**Print | Close**

**Subject:** RE: **Date:** Fri, 4 Aug 2006 11:55:31 -0400  
**From:** O'Brien, Gavin  
**To:** Blais For Sheriff \ (Ted\)

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Thank you, I see that the report has been filed. I noticed that the in-kind contributions from William Holmes included his occupation, "communications director," but no employer is listed. Could you or your treasurer amend the report to include that information if you have it? Other than that I didn't see any issues with the report.

I think I may have asked you this before, but I just wanted to confirm that you did not spend or collect any money for your campaign before July (including signs, in-kind contributions, etc.). Thanks again.

--  
Gavin O'Brien  
Candidate Registrar  
Maine Commission on Governmental Ethics and Election Practices  
(207) 287-4709

-----Original Message-----

From: Blais For Sheriff (Ted) [mailto:blais@blaisforsheriff.com]  
Sent: Friday, August 04, 2006 11:28 AM  
To: O'Brien, Gavin  
Subject: Re:

Hello Gavin,

I have passed all the info on to my treasurer, Terry Hand. She is filing the data asap.

Thank you,

Edward (Ted) J. Blais  
P.O.Box 10732  
Portland, Maine 04104  
(207) 642-6672  
[www.blaisforsheriff.com](http://www.blaisforsheriff.com)

----- Original Message -----

From: O'Brien, Gavin [mailto:Gavin.O'Brien@maine.gov]  
To: blais@blaisforsheriff.com  
Sent: Thu, 3 Aug 2006 09:02:54 -0400  
Subject:

If you raised or spent any money on your campaign before June 2, you should file both the 6-day pre-primary and 42-day post-primary reports. If you had activity between June 2 and July 18, you only have to file the 42-day post-primary report at this time. Please also send us the registration form when you receive that in the mail.

I have attached a pdf file to this email containing instructions on how to file reports electronically. Let me know if you have any questions.

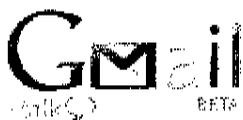
Accessing the E-Filing site:

[www.maine.gov/ethics](http://www.maine.gov/ethics) - click on "Filer Login" link on the left side of the page

User Code:   
Password: 

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Gavin O'Brien  
Candidate Registrar

Gmail - My Write-in

<http://mail.google.com/mail/?ik=c4d1d8c09f&view=pt&th=10c158f...>

Edward Blais &lt;chiefblais@gmail.com&gt;

**My Write-in**

2 messages

**Edward Blais <chiefblais@gmail.com>**

Tue, Jun 27, 2006 at 8:04 AM

To: "Flynn, Julie" &lt;julie.flynn@maine.gov&gt;

Hello Julie,

Do we have an official count to my write-in candidacy for Sheriff of Cumberland County?

PS: Dennis Hersom is Mark Dion's campaign manager.

Thanks,

TED

**Flynn, Julie <Julie.Flynn@maine.gov>**

Tue, Jun 27, 2006 at 8:56 AM

To: Edward Blais &lt;chiefblais@gmail.com&gt;

Cc: "Packard, Melissa" &lt;Melissa.Packard@maine.gov&gt;

We are proofreading the tabulation, which we intend to transmit to the Governor this Friday, June 30<sup>th</sup>. The results are not official until that occurs.

*Julie L. Flynn**Deputy Secretary of State**101 State House Station**Augusta, ME 04333-0101**Telephone: (207) 624-7734**Fax: (207) 287-5428*

[Quoted text hidden]



Edward Blais <chiefblais@gmail.com>

## candidate information

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Edward Blais <chiefblais@gmail.com>

Fri, Jul 28, 2006 at 10:27 AM

To: "Flynn, Julie" <julie.flynn@maine.gov>

Hello Julie,

This is Ted Blais, running for sheriff of Cumberland County. My campaign manager Bill Holmes told me that he got the official word that I had enough write in votes to be on the ballot in November. But I have not received anything about the official word. Plus, Terry Hand has volunteered to be my treasurer and she told me I should have a packet of treasurer info that needs to be updated immediately. I have been waiting for a packet in the mail but have not received anything yet.

Can you tell me the status of my candidacy?

Thanks,

TED BLAIS

Gmail - candidate information

http://mail.google.com/mail/?ik=c4d1d8c09f&view=pt&th=10cefc1...



Edward Blais <chiefblais@gmail.com>

## candidate information

Packard, Melissa <Melissa.Packard@maine.gov>

Tue, Aug 1, 2006 at 9:43 AM

To: chiefblais@gmail.com

Cc: "Flynn, Julie" <Julie.Flynn@maine.gov>

Dear Mr. Blais:

I apologize for the delay in informing you that you did receive enough votes to be the Republican's candidate for Cumberland County sheriff. Your name will appear on the General Election ballot.

The packet that your treasurer is waiting for will be coming from the Commission on Governmental Ethics and Election Practices. We have informed that agency that you will be a candidate for November.

The Division of Election will need you to file the Sheriff Candidate Consent Form and submit written certification from the Maine Criminal Justice Academy that you have met the training standards. I have attached the Sheriff Candidate Consent Form to this email.

Please contact me if you have additional questions.

*Melissa K. Packard*

*Director of Elections and Commissions*

*(207) 624-7650*

-----Original Message-----

**From:** Flynn, Julie

**Sent:** Friday, July 28, 2006 10:39 AM

**To:** Packard, Melissa

**Subject:** FW: candidate information

*Julie L. Flynn*

*Deputy Secretary of State*

mail - candidate information

<http://mail.google.com/mail/?ik=c4d1d8c09f&view=pt&th=10ceft1...>

*101 State House Station*

*Augusta, ME 04333-0101*

*Telephone: (207) 624-7734*

*Fax: (207) 287-5428*

[Quoted text hidden]



**Sheriff Consent Form.doc**

43K

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Edward Blais <[chiefblais@gmail.com](mailto:chiefblais@gmail.com)>

## candidate information

---

Packard, Melissa <[Melissa.Packard@maine.gov](mailto:Melissa.Packard@maine.gov)>  
To: Edward Blais <[chiefblais@gmail.com](mailto:chiefblais@gmail.com)>

Tue, Aug 8, 2006 at 5:49 PM

Dear Mr. Blais:

We will be mailing you a certificate and letter later this month. In the interim I will mail you a hard copy of the town by town results so that you can see how many votes you received from each municipality.

In addition to the Sheriff Consent form that you sent as an attachment to your email, we also need to provide written certification from the Director of the Maine Criminal Justice Academy that you meet the training qualifications.

You can mail the original documents to Division of Election, 101 State House Station, Augusta, ME 04333-0101

Melissa K. Packard  
Director of Elections and Commissions  
(207) 624-7650

-----Original Message-----

From: Edward Blais [<mailto:chiefblais@gmail.com>]

[Quoted text hidden]



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

August 7, 2006

Mr. Edward J. Blais  
17 Deer Hill North  
Standish, ME 04084

**BY CERTIFIED MAIL**

Dear Mr. Blais:

RE: Late 42-Day Post-Primary Campaign Finance Report Due 7/25/2006.

You filed a 42-Day Post-Primary campaign finance report on 8/4/2006. A penalty must be assessed for late reports based on the amount of financial activity conducted during the filing period, the number of calendar days a report is filed late, and the candidate's filing record. Based on the prescribed statutory formula, the preliminary determination of the penalty for the late filing of your report would be \$115.00. Please refer to the enclosed penalty matrix for more details on how the penalty is computed. If you agree with this preliminary determination of the amount of the penalty, you may use the enclosed billing statement to pay that penalty.

If you have a reason for filing late, you may request the Commission to make a final penalty determination. Any request for a Commission determination must be made within 10 calendar days of receipt of this notice, beginning on the day you sign its receipt. If this notice has been refused or left unclaimed at the post office, the 10-day period begins on the day the post office indicates it has given first notice of a certified letter. Upon receipt of your request for a Commission determination, we will schedule you to appear and will notify you of the date and time of the next Commission meeting. You or a person you designate may then appear personally before the Commission or you may send a written statement for the Commission's consideration. A statement must be notarized and contain a full explanation of the reason you filed late. Statements should be sent to the address shown on this letterhead. The Commission will notify you of the disposition of your case within 10 days after its determination.

**NOTE:** The Commission may waive penalties for late reports only in cases where tardiness is due to mitigating circumstances. The law defines "mitigating circumstances" as: 1) a valid emergency determined by the Commission, in the interest of the sound administration of justice, to warrant the waiver of the penalty in whole or in part; 2) an error by the Commission staff; 3) failure to receive notice of the filing deadline; or (4) other circumstances determined by the Commission that warrant mitigation of the penalty, based upon relevant evidence presented that a *bona fide* effort was made to file the report in accordance with the statutory requirements, including, but not limited to, unexplained delays in postal service.

The Maine Clean Election Act requires all revenues distributed to certified candidates from the fund to be used for campaign-related purposes. Commission guidelines regarding permissible campaign-related expenditures do not include the payment of a penalty as a permissible expenditure.

Sincerely,

Gavin O'Brien  
Candidate Registrar

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

**COMMISSION ON GOVERNMENTAL ETHICS AND ELECTION PRACTICES**

**PENALTY MATRIX FOR LATE CANDIDATE REPORT FILINGS**

**BASIS FOR PENALTIES**  
**21-A M.R.S.A. Section 1020-A(4)**

The penalty for late filing of a required report is a percentage of the total contributions or expenditures for the filing period, whichever is greater, multiplied by the number of calendar days the report is filed late, as follows:

For the first violation, 1%

For the second violation, 3%

For the third and each subsequent violation, 5%

A penalty begins to accrue at 5:00 p.m. on the day the report is due.

*Example:* The treasurer files the candidate's report two (2) days late. The candidate has not had any previous late violations this biennium. The candidate reports a total of \$2,500 in contributions and \$1,500 in expenditures for the filing period. The penalty is calculated as follows:

\$2,500	Greater amount of the total contributions received or expenditures made during the filing period
<u>X .01</u>	Percent prescribed for first violation
\$25.00	One percent of total contributions
<u>X 2</u>	Number of calendar days late
\$50.00	Total penalty

Your penalty is calculated as follows:

Contributions/Expenditures:	\$ <u>1150.00</u>
Percent prescribed:	<u>x 0.01</u>
	\$ <u>11.50</u>
Number of days late:	<u>x 10</u>
Total penalty accrued:	\$ <u>115.00</u>

Any penalty of less than \$5 is waived.

Violations accumulate on reports with filing deadlines in a 2-year period that begins on January 1st of each even-numbered year. Waiver of a penalty does not nullify the finding of a violation.

**A required report that is sent by certified or registered United States mail and postmarked at least 2 days before the deadline is not subject to penalty.**

**MAXIMUM PENALTIES**  
**21-A M.R.S.A. Section 1020-A(5)**

\$5,000 for reports required to be filed 42 days before an election (gubernatorial candidate only),  
 6 days before an election, 42 days after an election, and for 48-hour reports;

\$1,000 for semiannual reports.



Welcome to the Campaign Finance Electronic Filing System Site

[Menu](#) [Home](#) [Help](#) [Logout](#) [Change Password](#) [Admin Page](#)

Mr. Edward J. Blais

### 42-Day Post-Primary Amended Report History Campaign Year 2006

*Please select an amended report to view/print:*

- [42-Day Post-Primary](#)
- [42-Day Post-Primary](#) Filed: 8/13/2006 8:40:10 AM
- [42-Day Post-Primary](#) Filed: 8/13/2006 9:47:18 AM
- [42-Day Post-Primary](#) Filed: 8/3/2006 9:59:58 PM

[Return to Home Page](#)

Edward Blais informed me that he had not been notified by the Secretary of State that he had qualified for the general ballot as a primary write-in candidate. He did not know of our registration requirements or when he had to file finance reports. He said his only campaign activity was a fundraiser earlier in July and a purchase of t-shirts.

Harwin Abner

7/31/06

## Title 21-A, §1020-A, Failure to file on time

The State of Maine claims a copyright in its codified statutes. If you intend to republish this material, we do require that you include the following disclaimer in your publication:

*All copyrights and other rights to statutory text are reserved by the State of Maine. The text included in this publication is current to the end of the Second Special Session of the 122nd Legislature, which adjourned July 30, 2005, but is subject to change without notice. It is a version that has not been officially certified by the Secretary of State. Refer to the Maine Revised Statutes Annotated and supplements for certified text.*

The Office of the Revisor of Statutes also requests that you send us one copy of any statutory publication you may produce. Our goal is not to restrict publishing activity, but to keep track of who is publishing what, to identify any needless duplication and to preserve the State's copyright rights.

**PLEASE NOTE: The Revisor's Office CAN NOT perform research for or provide legal advice or interpretation of Maine law. If you need legal assistance, please contact a qualified attorney.**

### §1020-A. Failure to file on time

**1. Registration.** A candidate that fails to register the name of a candidate, treasurer or political committee with the commission within the time allowed by section 1013-A, subsection 1 may be assessed a forfeiture of \$10. The commission shall determine whether a registration satisfies the requirements for timely filing under section 1013-A, subsection 1. [1995, c. 483, §15 (new).]

**2. Campaign finance reports.** A campaign finance report is not timely filed unless a properly signed copy of the report, substantially conforming to the disclosure requirements of this subchapter, is received by the commission before 5 p.m. on the date it is due. Except as provided in subsection 7, the commission shall determine whether a report satisfies the requirements for timely filing. The commission may waive a penalty if the commission determines that the penalty is disproportionate to the size of the candidate's campaign, the level of experience of the candidate, treasurer or campaign staff or the harm suffered by the public from the late disclosure. The commission may waive the penalty in whole or in part if the commission determines the failure to file a timely report was due to mitigating circumstances. For purposes of this section, "mitigating circumstances" means: [2003, c. 628, Pt. A, §3 (amd).]

A. A valid emergency determined by the commission, in the interest of the sound administration of justice, to warrant the waiver of the penalty in whole or in part;

[1999, c. 729, §5 (amd).]

B. An error by the commission staff;

[1999, c. 729, §5 (amd).]

C. Failure to receive notice of the filing deadline; or

[1999, c. 729, §5 (amd).]

D. Other circumstances determined by the commission that warrant mitigation of the penalty, based upon relevant evidence presented that a bona fide effort was made to file the report in accordance with the statutory requirements, including, but not limited to, unexplained delays in postal service.

[1999, c. 729, §5 (new).]

**3. Municipal campaign finance reports.** Municipal campaign finance reports must be filed, subject to all the provisions of this subchapter, with the municipal clerk on forms prescribed by the Commission on Governmental Ethics and Election Practices. The municipal clerk shall send any notice of lateness required by subsection 6 and shall notify the commission of any late reports subject to a penalty. [1995, c. 625, Pt. B, §5 (amd).]

**4. Basis for penalties.** [2001, c. 470, §7 (amd); T. 21-A, §1020-A, sub-§4 (rp).]

**4-A. Basis for penalties.** The penalty for late filing of a report required under this subchapter, except for accelerated campaign finance reports required pursuant to section 1017, subsection 3-B, is a percentage of the total contributions or expenditures for the filing period, whichever is greater, multiplied by the number of calendar days late, as follows: [2001, c. 714, Pt. PP, §1 (new); §2 (aff).]

A. For the first violation, 1%;

[2001, c. 714, Pt. PP, §1 (new); §2 (aff).]

B. For the 2nd violation, 3%; and

[2001, c. 714, Pt. PP, §1 (new); §2 (aff).]

Text current through the 122nd Legislature, Second Special Session (July 30, 2005), document created 2005-10-01, page 1.

## Title 21-A, §1020-A, Failure to file on time

C. For the 3rd and subsequent violations, 5%.

[2001, c. 714, Pt. PP, §1 (new); §2 (aff).]

Any penalty of less than \$5 is waived. [2001, c. 714, Pt. PP, §1 (new); §2 (aff).]

Violations accumulate on reports with filing deadlines in a 2-year period that begins on January 1st of each even-numbered year. Waiver of a penalty does not nullify the finding of a violation. [2001, c. 714, Pt. PP, §1 (new); §2 (aff).]

A report required to be filed under this subchapter that is sent by certified or registered United States mail and postmarked at least 2 days before the deadline is not subject to penalty. [2001, c. 714, Pt. PP, §1 (new); §2 (aff).]

A registration or report may be provisionally filed by transmission of a facsimile copy of the duly executed report to the commission, as long as an original of the same report is received by the commission within 5 calendar days thereafter. [2001, c. 714, Pt. PP, §1 (new); §2 (aff).]

The penalty for late filing of an accelerated campaign finance report as required in section 1017, subsection 3-B may be up to but no more than 3 times the amount by which the contributions received or expenditures obligated or made by the candidate exceed the applicable Maine Clean Election Fund disbursement amount, per day of violation. The commission shall make a finding of fact establishing when the report was due prior to imposing a penalty under this subsection. A penalty for failure to file an accelerated campaign finance report must be made payable to the Maine Clean Election Fund. In assessing a penalty for failure to file an accelerated campaign finance report, the commission shall consider the existence of mitigating circumstances. For the purposes of this subsection, "mitigating circumstances" has the same meaning as in subsection 2. [2001, c. 714, Pt. PP, §1 (new); §2 (aff).]

**5. Maximum penalties.** [2001, c. 470, §8 (amd); T. 21-A, §1020-A, sub-§5 (rp).]

**5-A. Maximum penalties:** Penalties assessed under this subchapter may not exceed: [2003, c. 628, Pt. A, §4 (amd).]

A. Five thousand dollars for reports required under section 1017, subsection 2, paragraph B, C, D, E or H; section 1017, subsection 3-A, paragraph B, C, D or F; section 1017, subsection 4; and section 1019-B, subsection 3;

[2003, c. 448, §4 (amd).]

B. Five thousand dollars for state party committee reports required under section 1017-A, subsection 4-A, paragraphs A, B, C and E;

[2003, c. 628, Pt. A, §4 (amd).]

C. One thousand dollars for reports required under section 1017, subsection 2, paragraphs A and F and section 1017, subsection 3-A, paragraphs A and E;

[2003, c. 628, Pt. A, §4 (amd).]

D. Five hundred dollars for municipal, district and county committees for reports required under section 1017-A, subsection 4-B; or

[2003, c. 628, Pt. A, §4 (amd).]

E. Three times the unreported amount for reports required under section 1017, subsection 3-B, if the unreported amount is less than \$5,000 and the commission finds that the candidate in violation has established, by a preponderance of the evidence, that a bona fide effort was made to file an accurate and timely report.

[2001, c. 714, Pt. PP, §1 (new); §2 (aff).]

**6. Request for a commission determination.** Within 3 days following the filing deadline, a notice must be forwarded to a candidate and treasurer whose registration or campaign finance report is not received by 5 p.m. on the deadline date, informing them of the basis for calculating penalties under subsection 4 and providing them with an opportunity to request a commission determination. The notice must be sent by certified United States mail. Any request for a determination must be made within 10 calendar days of receipt of the commission's notice. The 10-day period during which a determination may be requested begins on the day a recipient signs for the certified mail notice of the proposed penalty. If the certified letter is refused or left unclaimed at the post office, the 10-day period begins on the day the post office indicates it has given first notice of a certified letter. A candidate or treasurer requesting a determination may either appear in person or designate a representative to appear on the candidate's or treasurer's behalf or submit a notarized written explanation of the mitigating circumstances for consideration by the commission. [RR 1995, c. 2, §38 (cor).]

**7. Final notice of penalty.** After a commission meeting, notice of the commission's final determination and the penalty, if any, imposed pursuant to this subchapter must be sent to the candidate and the treasurer. [RR 2003, c. 1, §14 (cor).]

If no determination is requested, the commission staff shall calculate the penalty as prescribed in subsection 4-A and shall mail final

## Title 21-A, §1020-A, Failure to file on time

notice of the penalty to the candidate and treasurer. A detailed summary of all notices must be provided to the commission. [RR 2003, c. 1, §14 (cor).]

**8. Failure to file report.** The commission shall notify a candidate who has failed to file a report required by this subchapter, in writing, informing the candidate of the requirement to file a report. If a candidate fails to file a report after 3 written communications from the commission, the commission shall send up to 2 more written communications by certified mail informing the candidate of the requirement to file and that the matter may be referred to the Attorney General for criminal prosecution. A candidate who fails to file a report as required by this subchapter after the commission has sent the communications required by this subsection is guilty of a Class E crime. [2003, c. 628, Pt. A, §5 (rpr).]

**8-A. Penalties for failure to file report.** The penalty for failure to file a report required under this subchapter may not exceed the maximum penalties as provided in subsection 5-A. [2003, c. 628, Pt. A, §5 (new).]

**9. List of late-filing candidates.** The commission shall prepare a list of the names of candidates who are late in filing a report required under section 1017, subsection 2, paragraph C or D or section 1017, subsection 3-A, paragraph B or C within 30 days of the date of the election and shall make that list available for public inspection. [1995, c. 483, §15 (new).]

**10. Enforcement.** The commission staff has the responsibility for collecting the full amount of any penalty and has all necessary powers to carry out this responsibility. Failure to pay the full amount of any penalty levied under this subchapter is a civil violation by the candidate, treasurer, political party or other person whose campaign finance activities are required by this subchapter to be reported. Thirty days after issuing the notice of penalty, the commission shall report to the Attorney General the name of any person who has failed to pay the full amount of any penalty. The Attorney General shall enforce the violation in a civil action to collect the full outstanding amount of the penalty. This action must be brought in the Superior Court for Kennebec County or the District Court, 7th District, Division of Southern Kennebec. [1999, c. 426, §33 (amd).]

MRSA , §T.21A, SEC.1020A/4,5 (AMD) .

IB 1995, Ch. 1, §15 (AMD) .

PL 1995, Ch. 483, §15 (NEW) .

PL 1995, Ch. 625, §B5 (AMD) .

RR 1995, Ch. 1, §10 (COR) .

RR 1995, Ch. 2, §38 (COR) .

PL 1999, Ch. 426, §32,33 (AMD) .

PL 1999, Ch. 729, §5 (AMD) .

PL 2001, Ch. 470, §11 (AFF) .

PL 2001, Ch. 470, §7,8 (AMD) .

PL 2001, Ch. 714, §PP1 (AMD) .

PL 2001, Ch. 714, §PP2 (AFF) .

PL 2003, Ch. 302, §4 (AMD) .

PL 2003, Ch. 448, §4 (AMD) .

PL 2003, Ch. 628, §A3-6 (AMD) .

RR 2003, Ch. 1, §14 (COR) .

# Agenda Item #3



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

**To:** Commission Members

**From:** Vincent W. Diman, Staff Auditor 

**Date:** October 13, 2006

**Subject:** October, 2006 Candidate Audit Report Submittals

Materials submitted with the October, 2006 Commission packet include the eleven candidate audit reports listed below that were completed over the past several weeks:

<b>Candidate Name</b>	<b>District</b>	<b>Disposition</b>
Anne M. Haskell	House 117	No Exceptions
Rep. Stanley Gerzofsky	House 66	No Exceptions
Alan Casavant	House 137	No Exceptions
Kenneth W. Fredette	Senate 28	No Exceptions
Charity A. Kewish	Senate 5	No Exceptions
Mary E. Poulin	Senate 33	No Exceptions
Zachary E. Smith	House 5	No Exceptions
Rep. Judd Thompson	House 55	No Exceptions
Dean A. Cray	House 28	No Exceptions
Cynthia A. Dill	House 121	No Exceptions
Adam Scharff	House 146	No Exceptions

All the reports are submitted for the Commission's information. No additional action is required.



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

October 3, 2006

**Audit Report No. 2006-HR006**

**Candidate: Anne M. Haskell  
House District 117**

Background

Anne M. Haskell is a candidate for the Maine House of Representatives, District 117. Ms. Haskell was certified by the Commission as a Maine Clean Election Act (MCEA) candidate on February 1, 2006. MCEA candidates are required under the Act to submit reports of their receipts, expenditures, outstanding campaign debt, and equipment purchases and dispositions for specified periods during the election cycle.

Audit Scope

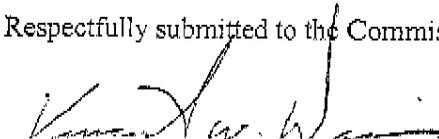
Examination of selected candidate expenditure transactions occurring between February 2 – June 1, 2006 (Six Day Pre-Primary report), and June 2 – July 18, 2006 (42 Day Post-Primary report), as recorded in the candidate's accounting records, and as reported to the Commission, to determine if the identified transactions (1) were properly approved by the candidate or her authorized representative; (2) were adequately documented as evidenced by original vendor invoices and cancelled checks or other acceptable disbursement documentation; and (3) complied in all material respects with the requirements of the Maine Clean Election Act and the Commission's rules.

The auditors examined documentation supporting 97 percent of the expenditures reported on Ms. Haskell's "Six Day" report, and 100 percent of the expenditures listed on her "42 Day" report.

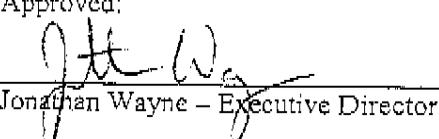
Audit Findings

No exceptions were noted.

Respectfully submitted to the Commission for information and file.

  
Vincent W. Dinan - Staff Auditor

Approved:

  
Jonathan Wayne - Executive Director



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

October 3, 2006

Audit Report No. 2006-HR009

**Candidate: Representative Stanley Gerzofsky  
House District 66**

Background

Representative Stanley Gerzofsky is a candidate for re-election to the Maine House of Representatives, District 66. Rep. Gerzofsky was certified by the Commission as an MCEA candidate on April 11, 2006. MCEA candidates are required under the Act to submit reports of their receipts, expenditures, outstanding campaign debt, and equipment purchases and dispositions for specified periods during the election cycle.

Audit Scope

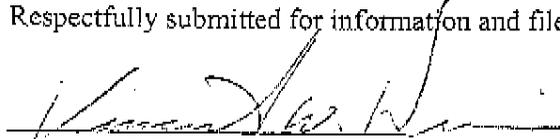
Examination of selected candidate expenditure transactions occurring between April 12 – June 1, 2006 (Six Day Pre-Primary Report), and June 2 – July 18, 2006 (42 Day Post-Primary Report), as recorded in the candidate's accounting records, and as reported to the Commission, to determine if the identified transactions (1) were properly approved by the candidate or his authorized representative; (2) were adequately documented as evidenced by original vendor invoices and cancelled checks or other acceptable disbursement documentation; and (3) complied in all material respects with the requirements of the Maine Clean Election Act and the Commission's rules.

The auditors examined documentation supporting 55 percent of the expenditures reported on Rep. Gerzofsky's "Six Day" report, and 25 percent of the expenditures listed on his "42 Day" report.

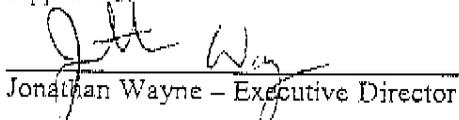
Audit Findings

No exceptions were noted.

Respectfully submitted for information and file.

  
Vincent W. Dinan - Staff Auditor

Approved:

  
Jonathan Wayne - Executive Director



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

October 3, 2006

Audit Report No. 2006-HR008

Candidate: Alan Casavant  
House District 137

Background

Mr. Alan Casavant is a candidate for the Maine House of Representatives, District 137. Mr. Casavant was certified by the Commission as an MCEA candidate on April 19, 2006. MCEA candidates are required under the Act to submit reports of their receipts, expenditures, outstanding campaign debt, and equipment purchases and dispositions for specified periods during the election cycle.

Audit Scope

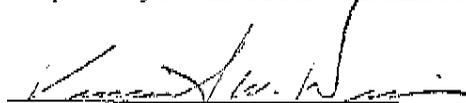
Examination of selected candidate expenditure transactions occurring between April 19 – June 1, 2006 (Six Day Pre-Primary Report), and June 2 – July 18, 2006 (42 Day Post-Primary Report), as recorded in the candidate's accounting records, and as reported to the Commission, to determine if the identified transactions (1) were properly approved by the candidate or his authorized representative; (2) were adequately documented as evidenced by original vendor invoices and cancelled checks or other acceptable disbursement documentation; and (3) complied in all material respects with the requirements of the Maine Clean Election Act and the Commission's rules.

The auditors examined documentation supporting 65 percent of the expenditures reported on Mr. Casavant's "Six Day" report, and 52 percent of the expenditures listed on his "42 Day" report.

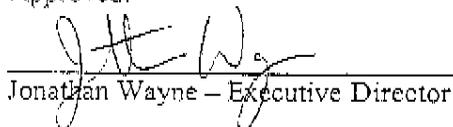
Audit Findings

No exceptions were noted.

Respectfully submitted for information and file.

  
Vincent W. Dinah - Staff Auditor

Approved:

  
Jonathan Wayne – Executive Director



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

September 14, 2006

**AUDIT REPORT NO. 2006-SEN001**

**Candidate: Kenneth W. Fredette  
Senate District 28**

Background

Kenneth W. Fredette is a candidate for the Maine State Senate, District 28. Mr. Fredette was certified by the Commission as an MCEA candidate on April 19, 2006. MCEA candidates are required under the Act to submit reports of their receipts, expenditures, outstanding campaign debt, and equipment purchases and dispositions for specified periods during the election cycle.

Audit Scope

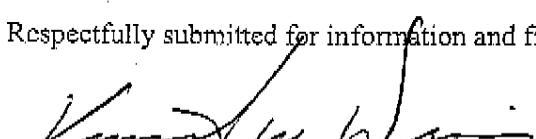
Examination of selected candidate expenditure transactions occurring between April 19 – June 1, 2006 (Six Day Pre-Primary Report), and June 2 – July 18, 2006 (42 Day Post-Primary Report), as recorded in the candidate's accounting records, and as reported to the Commission, to determine if the identified transactions (1) were properly approved by the candidate or his/her authorized representative; (2) were adequately documented as evidenced by original vendor invoices and cancelled checks or other acceptable disbursement documentation; and (3) complied in all material respects with the requirements of the Maine Clean Election Act and the Commission's rules.

The auditors examined documentation supporting 67 percent of the expenditures reported on Mr. Fredette's "Six Day" report, and 41 percent of the expenditures listed on his "42 Day" report.

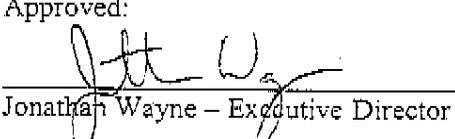
Audit Findings

No exceptions were noted.

Respectfully submitted for information and file.

  
Vincent W. Dinan - Staff Auditor

Approved:

  
Jonathan Wayne - Executive Director

Cc: Kenneth W. Fredette



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

October 10, 2006

Audit Report No. 2006-SEN004

Candidate: Charity A. Kewish  
Senate District 5

Background

Charity A. Kewish is a candidate for the Maine State Senate, District 5. Ms. Kewish was certified for funding by the Commission under the authority of the Maine Clean Election Act (MCEA) on April 24, 2006. MCEA candidates are required to submit reports of their receipts, expenditures, outstanding campaign debt, and equipment purchases and dispositions for specified periods during the election cycle.

Audit Scope

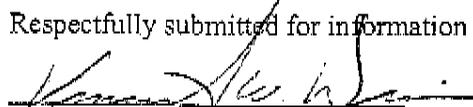
Examination of selected candidate expenditure transactions occurring between April 24 – June 1, 2006 (Six Day Pre-Primary Report), and June 2 – July 18, 2006 (42 Day Post-Primary Report), as recorded in the candidate's accounting records, and as reported to the Commission, to determine if the identified transactions (1) were properly approved by the candidate or her authorized representative; (2) were adequately documented as evidenced by original vendor invoices and cancelled checks or other acceptable disbursement documentation; and (3) complied in all material respects with the requirements of the Maine Clean Election Act and the Commission's rules.

The auditors examined documentation supporting 94 percent of the expenditures reported on Ms. Kewish's "Six Day" report, and 11 percent of the expenditures listed on her "42 Day" report.

Audit Findings

No exceptions were noted.

Respectfully submitted for information and file,

  
Vincent W. Dinan - Staff Auditor

Approved:

  
Jonathan Wayne - Executive Director



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

October 4, 2006

Audit Report No. 2006-SEN003

Candidate: Mary E. Poulin  
Senate District 33

Background

Ms. Mary E. Poulin is a candidate for the Maine State Senate, District 33. Ms. Poulin was certified by the Commission as an MCEA candidate on April 21, 2006. MCEA candidates are required under the Act to submit reports of their receipts, expenditures, outstanding campaign debt, and equipment purchases and dispositions for specified periods during the election cycle.

Audit Scope

Examination of selected candidate expenditure transactions occurring between April 19 – June 1, 2006 (Six Day Pre-Primary Report), and June 2 – July 18, 2006 (42 Day Post-Primary Report), as recorded in the candidate's accounting records, and as reported to the Commission, to determine if the identified transactions (1) were properly approved by the candidate or her authorized representative; (2) were adequately documented as evidenced by original vendor invoices and cancelled checks or other acceptable disbursement documentation; and (3) complied in all material respects with the requirements of the Maine Clean Election Act and the Commission's rules.

The auditors examined documentation supporting 72 percent of the expenditures reported on Ms. Poulin's "Six Day" report; there were no expenditures listed on her "42 Day" report.

Audit Findings

No exceptions were noted.

Respectfully submitted for information and file.

  
Vincent W. Dinan - Staff Auditor

Approved:

  
Jonathan Wayne - Executive Director



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

September 14, 2006

**AUDIT REPORT NO. 2006-HR001**

**Candidate: Zachary E. Smith  
House District 5**

Background

Zachary E. Smith is a candidate for the Maine House of Representatives, District 5. Mr. Smith was certified by the Commission as a Maine Clean Election Act (MCEA) candidate on April 21, 2006. MCEA candidates are required under the Act to submit reports of their receipts, expenditures, outstanding campaign debt, and equipment purchases and dispositions for specified periods during the election cycle.

Audit Scope

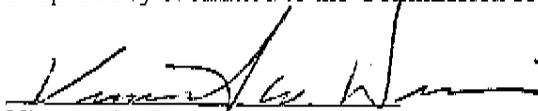
Examination of selected candidate expenditure transactions occurring between April 19 – June 1, 2006 (Six Day Pre-Primary Report), and June 2 – July 18, 2006 (42 Day Post-Primary report), as recorded in the candidate's accounting records, and as reported to the Commission, to determine if the identified transactions (1) were properly approved by the candidate or his/her authorized representative; (2) were adequately documented as evidenced by original vendor invoices and cancelled checks or other acceptable disbursement documentation; and (3) complied in all material respects with the requirements of the Maine Clean Election Act and the Commission's rules.

The auditors examined documentation supporting 97 percent of the expenditures reported on Mr. Smith's "Six Day" report, and 88 percent of the expenditures listed on his "42 Day" report.

Audit Findings

No exceptions were noted.

Respectfully submitted to the Commission for information and file.

  
Vincent W. Dinan - Staff Auditor

Approved:

  
Jonathan Wayne - Executive Director

Cc: Zachary E. Smith



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

September 14, 2006

**AUDIT REPORT NO. 2006-HR002**

**Candidate: Representative Judd Thompson  
House District 55**

Background

Representative Judd Thompson is a candidate for re-election to the Maine House of Representatives, District 55. Rep. Thompson was certified by the Commission as an MCEA candidate on April 10, 2006. MCEA candidates are required under the Act to submit reports of their receipts, expenditures, outstanding campaign debt, and equipment purchases and dispositions for specified periods during the election cycle.

Audit Scope

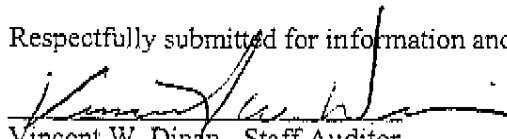
Examination of selected candidate expenditure transactions occurring between April 19 – June 1, 2006 (Six Day Pre-Primary Report), and June 2 – July 18, 2006 (42 Day Post-Primary Report), as recorded in the candidate's accounting records, and as reported to the Commission, to determine if the identified transactions (1) were properly approved by the candidate or his/her authorized representative; (2) were adequately documented as evidenced by original vendor invoices and cancelled checks or other acceptable disbursement documentation; and (3) complied in all material respects with the requirements of the Maine Clean Election Act and the Commission's rules.

The candidate reported that no expenditures were made by him during the "Six Day" period. The auditors examined documentation supporting 100 percent of the expenditures reported on Rep. Thompson's "42 Day" report.

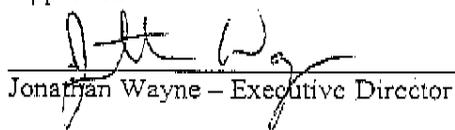
Audit Findings

No exceptions were noted.

Respectfully submitted for information and file.

  
Vincent W. Dinan - Staff Auditor

Approved:

  
Jonathan Wayne - Executive Director

Cc: Rep. Judd Thompson



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

September 14, 2006

**AUDIT REPORT NO. 2006-HR003**

**Candidate: Dean A. Cray  
House District 28**

Background

Dean A. Cray is a candidate for the Maine House of Representatives, District 28. Mr. Cray was certified by the Commission as a Maine Clean Election Act (MCEA) candidate on March 7, 2006. MCEA candidates are required under the Act to submit reports of their receipts, expenditures, outstanding campaign debt, and equipment purchases and dispositions for specified periods during the election cycle.

Audit Scope

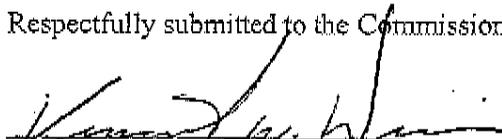
Examination of selected candidate expenditure transactions occurring between April 19 – June 1, 2006 (Six Day Pre-Primary report), and June 2 – July 18, 2006 (42 Day Post-Primary report), as recorded in the candidate's accounting records, and as reported to the Commission, to determine if the identified transactions (1) were properly approved by the candidate or his/her authorized representative; (2) were adequately documented as evidenced by original vendor invoices and cancelled checks or other acceptable disbursement documentation; and (3) complied in all material respects with the requirements of the Maine Clean Election Act and the Commission's rules.

The auditors examined documentation supporting 80 percent of the expenditures reported on Mr. Cray's "Six Day" report, and 48 percent of the expenditures listed on his "42 Day" report.

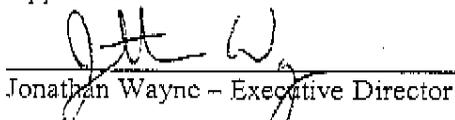
Audit Findings

No exceptions were noted.

Respectfully submitted to the Commission for information and file.

  
Vincent W. Dinan - Staff Auditor

Approved:

  
Jonathan Wayne - Executive Director

Cc: Dean A. Cray



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

September 14, 2006

Audit Report No. 2006-HR004

Candidate: Cynthia A. Dill  
House District 121

Background

Cynthia A. Dill is a candidate for the Maine House of Representatives, District 121. Ms. Dill was certified for funding by the Commission under the authority of the Maine Clean Election Act (MCEA) on April 20, 2006. MCEA candidates are required to submit reports of their receipts, expenditures, outstanding campaign debt, and equipment purchases and dispositions for specified periods during the election cycle.

Audit Scope

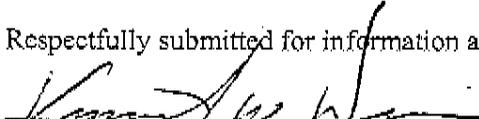
Examination of selected candidate expenditure transactions occurring between April 19 – June 1, 2006 (Six Day Pre-Primary Report), and June 2 – July 18, 2006 (42 Day Post-Primary Report), as recorded in the candidate's accounting records, and as reported to the Commission, to determine if the identified transactions (1) were properly approved by the candidate or his/her authorized representative; (2) were adequately documented as evidenced by original vendor invoices and cancelled checks or other acceptable disbursement documentation; and (3) complied in all material respects with the requirements of the Maine Clean Election Act and the Commission's rules.

The auditors examined documentation supporting 33 percent of the expenditures reported on Ms. Dill's "Six Day" report, and 87 percent of the expenditures listed on her "42 Day" report.

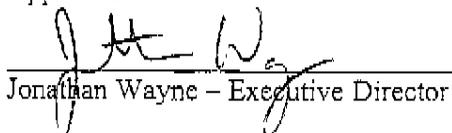
Audit Findings

No exceptions were noted.

Respectfully submitted for information and file,

  
Vincent W. Dinan - Staff Auditor

Approved:

  
Jonathan Wayne - Executive Director

Cc: Cynthia A. Dill



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

September 14, 2006

Audit Report No. 2006-HR005

**Candidate: Adam Scharff  
House District 146**

Background

Adam Scharff is a candidate for the Maine House of Representatives, District 146. Mr. Scharff was certified for funding by the Commission under the authority of the Maine Clean Election Act (MCEA) on April 28, 2006. MCEA candidates are required to submit reports of their receipts, expenditures, outstanding campaign debt, and equipment purchases and dispositions for specified periods during the election cycle.

Audit Scope

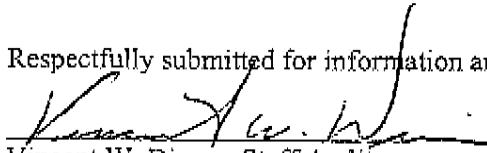
Examination of selected candidate expenditure transactions occurring between April 19 – June 1, 2006 (Six Day Pre-Primary Report), and June 2 – July 18, 2006 (42 Day Post-Primary Report), as recorded in the candidate's accounting records, and as reported to the Commission, to determine if the identified transactions (1) were properly approved by the candidate or his authorized representative; (2) were adequately documented as evidenced by original vendor invoices and cancelled checks or other acceptable disbursement documentation; and (3) complied in all material respects with the requirements of the Maine Clean Election Act and the Commission's rules.

The auditors examined documentation supporting 50 percent of the expenditures reported on Mr. Scharff's "Six Day" report, and 100 percent of the expenditures listed on his "42 Day" report.

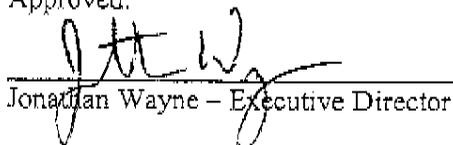
Audit Findings

No exceptions were noted.

Respectfully submitted for information and file,

  
Vincent W. Dinan - Staff Auditor

Approved:

  
Jonathan Wayne - Executive Director

Cc: Adam Scharff

# Agenda

## Item #4

**Demeritt, Martha**

---

**Subject:** Request for Investigation -- Cumberland County Democratic Committee

**Sent:** Tuesday, September 12, 2006 6:51 PM

**To:** Wayne, Jonathan

**Subject:** Request for Investigation -- Cumberland County Democratic Committee

I have just been made aware of a publication being distribution by the Cumberland County Democratic Committee called "the Cumberland Democrat." The publication is a tabloid style publication. The publication directly advocates the re-election of John Baldacci. As a result, on behalf of Woodcock for Governor, I request that you investigation the publication to determine if the publication should trigger matching funds in the Gubernatorial race under the Clean Elections Act. If matching funds are triggered, I further request that the Commission consider whether action should be taken against the Cumberland County Democratic Committee for failing to comply with the reporting requirements for independent expenditures.

A copy of the publication will be delivered to your office tomorrow or Thursday.

Dan Billings  
Counsel, Woodcock for Governor



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

September 18, 2006

Marilyn Russell, Chair  
Cumberland County Democratic Committee  
P.O. Box 1894  
Portland, ME 04104

Dear Ms. Russell,

The Maine Ethics Commission received a complaint from the Woodcock for Governor campaign that your party's recent publication *The Cumberland County Democrat* for Fall 2006 contains express advocacy. Specifically, they believe the publication directly advocates for the re-election of John Baldacci and they have asked that the Commission investigate whether matching funds are warranted for the Woodcock for Governor campaign.

Additionally, the Commission has recognized that your party has never filed a campaign finance report with our office. The purpose of this letter is to request specific answers regarding the recent publication and to determine if your party should be filing campaign finance reports with our office.

**I. The Cumberland County Democrat, Fall 2006 Edition**

Under 21-A M.R.S.A. § 1019-B an "independent expenditure" is "any expenditure made by a...party committee...other than by contribution to a candidate...for any communication that expressly advocates the election or defeat of a clearly identified candidate..."

Your publication contains express advocacy in "Marilyn's Column" on page 2 "...we cannot relax our efforts to re-elect Governor Baldacci..." and "Campaigning in Maine" on page 6 "We have to ensure that the Democratic agenda, our agenda, succeeds in November, and we have to make sure that our candidates from the school board all the way up to Governor Baldacci are elected with overwhelming numbers."

Please provide answers to the following questions:

- How many publications of the Fall 2006 edition of the *Cumberland County Democrat* were printed?
- When did the publication go to the printer?
- What was the cost of the design?
- What was the cost of the printing?
- How was the publication disseminated? If mailed, how many pieces were sent and what was the cost of the postage?

Marilyn Russell  
September 18, 2006  
Page 2

- Was this publication sent only to members of the Cumberland County Democrats or the public at large? The publication originating from the complaint was obtained in a public area of Maine Medical Center.

## II. Campaign Finance Reporting with the Maine Ethics Commission

Once a local party committee receives contributions or makes expenditures exceeding \$1,500 in a calendar year, they must file a campaign finance report with the Maine Ethics Commission on the next reporting deadline.

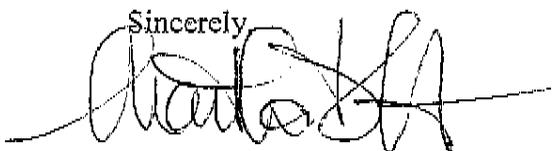
Please provide answers to the following questions:

- Has your local party committee received or spent more than \$1,500 since January 1, 2006?
- When was the threshold met?
- Has your local party committee ever met the \$1,500 threshold?

This matter is scheduled to be on the next agenda of the Commission, currently slated for October 4, 2006 at 9:00 a.m. Please provide your answers to the questions in this letter **no later than Monday, September 25, 2006**. If you have any questions, please contact me at 287-6221.

Thank you for your prompt attention to this matter.

Sincerely

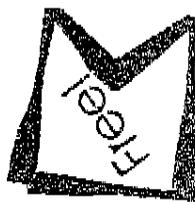


Martha Demeritt  
PAC, Party & Lobbyist Registrar

cc: Dan Billings, Esq., Woodcock for Governor



Building Bridges to the Future...



# THE CUMBERLAND COUNTY DEMOCRAT

Published by the Cumberland County Democratic Party

Volume 2, Number 3 Fall 2006

## A STUDY IN PLATFORMS AND VALUES

By Alicia Harding

The Democrats of Maine met the first week in June and adopted a platform, that while stronger than the previous one, was no model of consensus. It is hazy, rambling, contradictory and easy to ridicule. The Platform seems based on the principal that no concept should go unexplained in as much detail as the human heart can bear.

An example: "Ensure a fair workplace by guaranteeing the rights, and the ability, of all workers to form unions; bargain collectively, and strike without replacement or reprisal; keep the workplace free from health and safety hazards; discrimination, and harassment; and ensuring rules that respect employees' family obligations and other needs." That's just one item, in shatters here in the run-on sentence competition.

I wondered what to make of this ramble-on platform. For those, both within the Party and outside, who criticize the Democrats for lacking direction this could become an excellent example. The writers of this platform wanted to be sure nothing was left to chance or left out. It is and enough to seek a fair and equitable

platform reveals more fundamental differences than those of style. To use the "x" word, the Democratic Platform is one of human values, where the health of the individual is more important than the health of the corporation, quality of education is placed above efficient management, and the benefit to all of a safe environment is more important than the benefits of profit for a board of directors.

To look beyond the form itself, is to see a Republican platform that lauds private business and disparages government. It demands that government spending at all levels "...be brought under control." So far, the war in Iraq has cost Americans close to 300 billion dollars and has had negligible benefits. So much for that idea.

Looking again at the Republican platform, we can find many inconsistencies. "We believe in the power of the individual over the power of the government to make personal decisions..." Choosing a life partner is a personal decision and yet the Republican Party wants government to control that decision with a constitutional amendment restricting marriage.

The Republican platform also advocates "...adopting pro-business laws." And access to "...health care insurance..." suggesting that there is no possibility for health care but private insurance. It is indeed pro-business - pro insurance business.

## CCDC LAUNCHES LAKES REGION GO-BLUE CAMPAIGN



Governor Balacci speaking in the crowd at Poma Sebago in July.

On Sunday, July 30, Democrats from the Lakes Region and across Cumberland County spent a beautiful afternoon in Casco to launch the Cumberland County Democratic Committee's Lakes Region Go-Blue Campaign. Over 130 Democrats en-

See GO-BLUE, Page 5

## THE FUTURE OF MAINE CARE IN MAINE

By Senator Michael Brennan

The late progressive U.S. Senator Paul Wellstone said politics is not about being left right or center, it's about doing right by people. Unfortunately, it's been a high priority for the Bush administration. In fact, more people

and the high level of support for the leadership and candidates, Rep. Mark Bryant, whose district includes part of Winthrop and part of Unity, ob-

ment, Governor Balacci and the Democratic Legislature in Maine has fought against the status quo and made Maine the national leader in health care.

Under a Democratic administration, Maine has the fourth lowest rate of uninsured people in the country... AND we have the second lowest rate of uninsured children in the country. Don't think that makes a difference? Covering virtually all

Marilyn's Col  
Page 2

... we are seeing our country  
rape, and threatening to go to war in  
Iraq. Imagine what it would be like if the  
Republicans were in charge here in  
Maine!

We know what we need to do - return  
Tom Allen and Mike Michaud to Congress  
and replace Olympia Snowe, an extremist  
who voted with Bush 82 percent of the  
time, by electing Democrat Jean Hay  
Bright. It looks good for a Democratic  
takeover in Washington. Even my Re-  
publican brother in Florida called to tell  
me he will be voting for the Democratic  
U.S. Senate candidate.

Despite an anti-Republican mood in  
the nation, we cannot relax our efforts to  
re-elect Governor Baldraci and send De-  
mocrats to the Maine legislature and to  
the Cumberland County offices. Every  
campaign needs help. To find out how to  
reach your candidate, visit  
[www.cumberlandcountydemocrats.org](http://www.cumberlandcountydemocrats.org)

Learn as much as you can about TA-  
BOR. It did not work in Colorado (the  
only state that adopted TABOR) and it  
will not work here in Maine. Pro-TABOR  
leaders and Maine Republicans do not  
want to talk about the details because  
they do not want you to know just how  
bad it is. Maine, for example, has been  
able to expand Medicaid services for the  
elderly. In contrast, the Medicaid budget  
in Colorado is one of the lowest in the  
country and, as a result, services have  
been significantly cut. In addition,  
100,000 seniors in Colorado lost their help  
in paying for property taxes. Imagine  
what TABOR will do to Maine's prop-  
erty tax relief program. To find out more,  
visit [www.notabor.org](http://www.notabor.org).

\*\*\*\*\*  
Chair: Tom Foley 781-7135 [tomfoley@tdi.yahoo.com](mailto:tomfoley@tdi.yahoo.com)  
Fabronoff  
Chair: Daniel Hildebrich 781-2007 [daniel@tdi.maine-ll.com](mailto:daniel@tdi.maine-ll.com)  
Wayne Hollingsworth [wayne.hollingsworth@ing.maine-ny.net](mailto:wayne.hollingsworth@ing.maine-ny.net)  
Cochran  
Chair: Robert Skinner 830-8777 [robert@squarellave.com](mailto:robert@squarellave.com)  
Gony  
Chair: Phil Dinnat 657-5446 [pdinnat@secure.pednet](mailto:pdinnat@secure.pednet)  
Harpwell Chair:  
Suele Butcherhart 729-9920 [suele@us.com-norfolk.net](mailto:suele@us.com-norfolk.net)  
Harrison  
Chair: Sheila Rollins 383-6074 [www.wings@mcgufflink.net](http://www.wings@mcgufflink.net)  
Long Island Chair:  
Jane Murphy 766-3371 [jmurphy@home-ellersmaine.com](mailto:jmurphy@home-ellersmaine.com)  
Naples  
Chair: Laura O'Donnell 693-3173 [lodonnell@angand.com](mailto:lodonnell@angand.com)

Cochran: Cheryl Carver 652-5077 [cheryl@maine-ny.com](mailto:cheryl@maine-ny.com)  
and Kathy Turner 652-1101 [kathy@tdi.maine-ny.com](mailto:kathy@tdi.maine-ny.com)  
Seabrook  
Chair: Neil Lempe-on 885-5101 [jrobertson@tdi.maine-ny.com](mailto:jrobertson@tdi.maine-ny.com)  
[www.seabrooknj.com](http://www.seabrooknj.com)  
Schago  
Chair: Joe McAlabon 785-2670 [mcalabon@cadk.plbia.net](mailto:mcalabon@cadk.plbia.net)  
South Portland  
Chair: Richard Houtkov 799-5686 [rich@koxat.yahoo.com](mailto:rich@koxat.yahoo.com)  
[www.segillaparklandkenns.net](http://www.segillaparklandkenns.net)  
Standish  
Chair: La Hener 492-0682 [lho@tdi.maine-ny.com](mailto:lho@tdi.maine-ny.com)  
Westbrook  
Chair: Rick Goss 854-2630 [rpgoss@aol.com](mailto:rpgoss@aol.com)  
Windham  
Chair: Michael Shaughtness 892-1672 [michael@tdi.maine-ny.com](mailto:michael@tdi.maine-ny.com)  
Yarmouth Chair:  
Yvel Shankman 810-1569 [yshankman@ny.olympic.com](mailto:yshankman@ny.olympic.com)

MAINE FLAG:  
Cont. Item P.3

a flawed bill to a  
vote precisely be-  
cause they under-  
stand another real-  
ity: the American  
people support this  
long overdue change  
because it is both  
economically and  
morally the right  
thing to do. Hope-  
fully, this message  
will soon be heeded.

The Cumberland  
County Democrat is  
printed at Southern  
Maine Printing in  
Westbrook, Maine.

ANNUAL CUMBERLAND COUNTY  
DEMOCRAT PICNIC

SUNDAY, SEPT. 17 (RAIN OR SHINED) 11:00-2:00  
SOUTHERN MAINE COMMUNITY COLLEGE, S. PORTLAND

Join this fun CCDC Co-Bite event for our legislative and county candidates  
and our top of the ticket candidates - Governor Baldraci, Congressman Allen  
and US Senate Candidate Jean Hay Bright. This is a great venue to meet these  
fine folks. You will also enjoy beautiful views of Casco Bay, music, good  
food, games, excellent company and some spirited speeches. Homemade pies,  
our trademark dessert, will be a hit and you can bid on a pie to take home for  
supper. Want to support the Pie Auction? Donate two homemade pies for the  
picnic and get one free admission. If you are planning to donate pies, please  
contact Pat at [kw5216@iggaal.com](mailto:kw5216@iggaal.com). Wish to be the County Deans 1st year  
champion at Cribbage? - The tournament will start at 10:30 am. Tickets are only  
Adults \$ 12.00, Children 3-12 \$5.00, Under 3 free. To reserve your tickets, con-  
tact Marilyn Russell, CCDC Chair, at 892-2773, or email [mrsrussell@adelphia.net](mailto:mrsrussell@adelphia.net). Directions will be sent with your confirmation.

\*\*\*\*\*

### CAMPAIGNING IN MAINE

By Kate Byrne

You and I have the opportunity to make history this November. This is the first time in nearly 25 years that a Democratic governor has run for re-election with control of both chambers in the State Legislature. However, we cannot allow Democratic control to lull us into a false sense of complacency. We have to ensure that the Democratic agenda, our agenda, succeeds in November and we have to make sure that our candidates from the school board all the way up to Governor Ballbarer are elected with overwhelming numbers. It's going to take time and effort

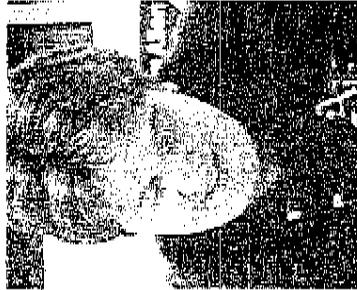
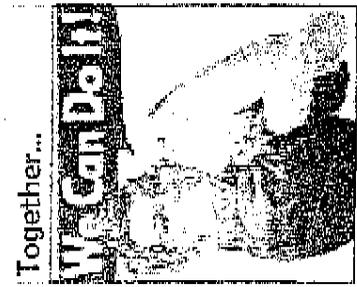
on all our parts to ensure that victory happens November 7th. We cannot let someone who embraces President Bush's far-right wing ideology take control of Maine's highest office.

In order to accomplish this, it's going to take all hands on deck. If everyone who reads this column dedicates an hour or two each week now until the election - and/or gets their friends to do so - then we will have the overwhelming people power to win elections at every level. There is much that needs to be done, and much that will be done. But only if everyone contributes to the cause.

It's not enough for us to sit around and talk about ideas this election, we must act. Many hands make light work, and that's what we're asking.

### PLATFORMS, Cont. from Page 1

The Republicans want us to believe that their programs are consistent with the intentions of the Constitution. I suggest the candidate read that document. The preamble states among the reasons for writing the constitution are to "promote the general welfare and insure domestic tranquillity." No they can be done through the and government subsidy of large businesses, but it is possible with government that cares about the lives of its citizens. In its most and rambling manner, the Democratic platform has real program and ideas to promote the general welfare of all people.



Katherine Byrne, 22  
S. Portland



Anya Trumbly, 22  
Brunswick



Ben McCall, 17  
S. Portland

ACTIVIST FILES:

P.O. Box 1894  
Portland, ME 04104  
October 4, 2006

Ms. Martha Demeritt  
PAC, Party, and Lobbyist Registrar  
Commission on Governmental Ethics and Election Practices  
133 State House Station  
Augusta, Maine 04333-0135

Dear Ms. Demeritt:

Thank you for the opportunity to comment on the request for an investigation from the campaign of Sen. Chandler Woodcock, running as the Republican candidate in the upcoming gubernatorial election. I am pleased to respond to the questions you present in your letter of September 18<sup>th</sup>, and would be happy to answer others as they arise.

As you know, all three political parties operating in Maine today have local grassroots organizations, some more active than others. Each of these organizations works to inform their members, encourage their activism, and promote their candidates for office. In the Democratic Party, in addition to municipal party organizations, almost every county has an organization.

The Cumberland County Democratic Committee ("CCDC") is the county organization operating in Cumberland County. Our work includes invigorating party members, encouraging activism, and keeping municipal party committees aware of the activities of other municipal party committees and the State organization. We do this through email "blasts," postal cards, monthly meetings, and newsletter mailings.

*The Cumberland County Democrat*, the newspaper in question, was the second in a series of mailings the CCDC has sent or is planning to send to CCDC members this year. It was never intended to be a "stand-alone" campaign mailing for any candidate and did, in fact, list every Democratic candidate running for Federal, State, or local office in Maine in the upcoming November election. It also included an article about upcoming young Democratic activists, a profile of members of the Democratic State Committee, an article about a recently completed barbecue, and an editorial piece from the Chair of the CCDC encouraging volunteerism. The newspaper is no different from the "2006 Election Edition" of *The Green Monitor* published and distributed by the Maine Green Independent Party. (That publication includes a profile of that party's Gubernatorial candidate, as well as a list of other Green Independent Party candidates, and several other articles of interest to members of that party.) The Republican Party may very well have a similar newsprint mailing that is sent to their membership; I have not seen it.

There were 3,000 copies of the newspaper in question printed. About 1,450 copies were mailed to members of the Cumberland County Democratic Committee, at a total cost of \$558.45. The balance was made available to municipal Democratic Town Committees for distribution to their membership. There was no cost for design or layout of this publication; a member did the work for us. The printing cost was \$190.00. The layout was taken to the printer on August 28<sup>th</sup>, and the paper was printed and mailed

the following week.

There were no copies of the newspaper mailed by the CCDC to anyone other than members of the organization. It is possible, of course, that a personal copy was left at Maine Medical Center by a member, or by someone from one of the local Democratic Town Committees who had obtained it through their local meeting.

With regard to campaign finance reporting questions, I must bear the responsibility for failure to understand the reporting requirements. The CCDC has received or spent more than \$1,500 since January 1<sup>st</sup>. That threshold was met on March 9, 2006. We will certainly comply with the filing requirements, and a report will be filed in time for the next reporting deadline.

I hope these comments answer the questions that you and the Commission might have with regard to *The Cumberland County Democrat*, Fall 2006 Edition. If there are further questions, please let me know; I'll be happy to address them. I can most easily be reached via email, at [bliss@usm.maine.edu](mailto:bliss@usm.maine.edu). I can also be reached during the day in my office at the University of Southern Maine (207-780-4199).

Cordially,

Lawrence Bliss



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

July 18, 2006

Honorable Larry Bliss, Treasurer  
Cumberland County Democratic Committee  
P.O. Box 1894  
Portland, ME 04104

RE: Party Campaign Finance Reporting

Dear Representative Bliss,

The purpose of this letter is to inquire whether or not your group, the Cumberland County Democratic Committee, has met the threshold for filing campaign finance reports with the Maine Ethics Commission.

In their July 2006 Semiannual report, the Yarmouth Democratic Committee reported in-kind contributions for their office space, which they share with your group. In addition to this report, your website lists activities that imply that the threshold for filing may have been met.

Any local party committee spending or receiving more than \$1,500 in a calendar year must file campaign finance reports once that threshold is met for the remainder of the year. Based on our records, your group has never filed a campaign finance report with this office.

Please contact me at your earliest convenience to discuss this matter. I have enclosed the reporting form and other materials that may be of use to you.

I look forward to hearing from you soon.

Sincerely,

A handwritten signature in black ink, appearing to read "Martha Demeritt".

Martha Demeritt  
Party Registrar

Enc.

## Title 21-A, §1019-B, Reports of independent expenditures

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### §1019-B. Reports of independent expenditures

**1. Independent expenditures; definition.** For the purposes of this section, an "independent expenditure": [2003, c. 448, §3 (new).]

\* A. Is any expenditure made by a person, party committee, political committee or political action committee, other than by contribution to a candidate or a candidate's authorized political committee, for any communication that expressly advocates the election or defeat of a clearly identified candidate; and

[2003, c. 448, §3 (new).]

B. Is presumed in races involving a candidate who is certified as a Maine Clean Election Act candidate under section 1125, subsection 5 to be any expenditure made to design, produce or disseminate a communication that names or depicts a clearly identified candidate and is disseminated during the 21 days, including election day, before a primary election; the 21 days, including election day, before a general election; or during a special election until and on election day.

[2003, c. 448, §3 (new).]

**2. Rebutting presumption.** A person presumed under this section to have made an independent expenditure may rebut the presumption by filing a signed written statement with the commission within 48 hours of making the expenditure stating that the cost was not incurred with the intent to influence the nomination, election or defeat of a candidate, supported by any additional evidence the person chooses to submit. The commission may gather any additional evidence it deems relevant and material and must determine by a preponderance of the evidence whether the cost was incurred with intent to influence the nomination, election or defeat of a candidate. [2003, c. 448, §3 (new).]

\* **3. Report required; content; rules.** A person, party committee, political committee or political action committee that makes independent expenditures aggregating in excess of \$100 during any one candidate's election shall file a report with the commission. In the case of a municipal election, a copy of the same information must be filed with the municipal clerk. [2003, c. 448, §3 (new).]

A. A report required by this subsection must be filed with the commission according to a reporting schedule that the commission shall establish by rule that takes into consideration existing campaign finance reporting requirements and matching fund provisions under chapter 14. Rules adopted pursuant to this paragraph are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

[2003, c. 448, §3 (new).]

B. A report required by this subsection must contain an itemized account of each contribution or expenditure aggregating in excess of \$100 in any one candidate's election, the date and purpose of each contribution or expenditure and the name of each payee or creditor. The report must state whether the contribution or expenditure is in support of or in opposition to the candidate and must include, under penalty of perjury, as provided in Title 17-A, section 451, a statement under oath or affirmation whether the contribution or expenditure is made in cooperation, consultation or concert with, or at the request or suggestion of, the candidate or an authorized committee or agent of the candidate.

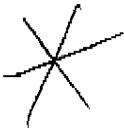
[2003, c. 448, §3 (new).]

C. A report required by this subsection must be on a form prescribed and prepared by the commission. A person filing this report may use additional pages if necessary, but the pages must be the same size as the pages of the form.

[2003, c. 448, §3 (new).]

PL 2003, Ch. 448, §3 (NEW).

9. Election. "Election" means any primary, general or special election for Governor, State Senator or State Representative. The period of a primary election begins on the day a person becomes a candidate as defined in 21-A M.R.S.A. §1(5) and ends on the date of the primary election. The period of a general election begins on the day following the previous primary election and ends on the date of the general election. The period of a special election begins on the date of proclamation of the special election and ends on the date of the special election.
10. Expenditure. "Expenditure" has the same meaning as in Title 21-A, chapter 13, subchapter II [§ 1012(3)].
11. Fund. "Fund" means the Maine Clean Election Fund established by the Act [§ 1124].
12. In-Kind Contribution. "In-kind contribution" means any gift, subscription, loan, advance or deposit of anything of value other than money made for the purpose of influencing the nomination or election of any person to political office or for the initiation, support or defeat of a ballot question.
13. Member. A "member" of a membership organization includes all persons who currently satisfy the requirements for membership in the membership organization, have affirmatively accepted the membership organization's invitation to become a member, and either:
- A. pay membership dues at least annually, of a specific amount predetermined by the membership organization; or
  - B. have some other significant financial attachment to the membership organization, such as significant investment or ownership stake in the organization; or
  - C. have a significant organizational attachment to the membership organization that includes direct participatory rights in the governance of the organization, such as the right to vote on the organization's board, budget, or policies.
- Members of a local union are considered to be members of any national or international union of which the local union is a part, of any federation with which the local, national, or international union is affiliated, and of any other unions which are members or affiliates of the federation. Other persons who have an enduring financial or organizational attachment to the membership organization are also members, including retired members or persons who pay reduced dues or other fees regularly to the membership organization.
14. Nonparticipating Candidate. "Nonparticipating candidate" has the same meaning as in the Act [§ 1122(5)].
15. Participating Candidate. "Participating candidate" has the same meaning as in the Act [§ 1122(6)].



## Title 21-A, §1017-A, Reports of contributions and expenditures by party committees

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### §1017-A. Reports of contributions and expenditures by party committees

**1. Contributions.** A party committee shall report all contributions in cash or in kind from an individual contributor that in the aggregate in a campaign total more than \$200. The party committee shall report the name, mailing address, occupation and place of business of each contributor. Contributions of \$200 or less must be reported, and these contributions may be reported as a lump sum. [1993, c. 680, Pt. C, §2 (amd).]

**2. Expenditures on behalf of candidates, others.** A party committee shall report all expenditures in cash or in kind of the committee made on behalf of a candidate, political committee, political action committee or party committee registered under this chapter. The party committee shall report: [1993, c. 715, §1 (amd).]

A. The name and address of each candidate and the identity and address of a campaign or committee;

[1991, c. 839, §23 (new); §33 (aff).]

B. The office sought by a candidate and the district that the candidate seeks to represent; and

[1991, c. 839, §23 (new); §33 (aff).]

C. The date and amount of each expenditure.

[1993, c. 715, §1 (amd).]

**3. Other expenditures.** Operational expenses and other expenditures in cash or in kind of the party committee that are not made on behalf of a candidate, committee or campaign must be reported as a separate item. The party committee shall report: [1993, c. 715, §2 (amd).]

A. The name and address of each recipient;

[1993, c. 715, §2 (new).]

B. The reason for the expenditure; and

[1993, c. 715, §2 (new).]

C. The date and amount of each expenditure.

[1993, c. 715, §2 (new).]

**4. Filing schedule.** [2003, c. 302, §2 (rp).]

**4-A. Filing schedule.** A state party committee shall file its reports according to the following schedule. [2005, c. 301, §18 (amd).]

A. Quarterly reports must be filed:

(1) On January 15th and must be complete up to January 5th;

(2) On April 10th and must be complete up to March 31st;

(3) On July 15th and must be complete up to July 5th; and

(4) On October 10th and must be complete up to September 30th.

## Title 21-A, §1017-A, Reports of contributions and expenditures by party committees

[2003, c. 302, §3 (new).]

B. General and primary election reports must be filed:

- (1) On the 6th day before the date on which the election is held and must be complete up to the 12th day before that date; and
- (2) On the 42nd day after the date on which the election is held and must be complete up to the 35th day after that date.

[2003, c. 302, §3 (new).]

C. Reports of spending to influence special elections, referenda, initiatives, bond issues or constitutional amendments must be filed:

- (1) On the 6th day before the date on which the election is held and must be complete up to the 12th day before that date; and
- (2) On the 42nd day after the date on which the election is held and must be complete up to the 35th day after that date.

[2003, c. 302, §3 (new).]

D. A state party committee that files an election report under paragraph B or C is not required to file a quarterly report under paragraph A when the deadline for that quarterly report falls within 10 days of the filing deadline established in paragraph B or C.

[2003, c. 302, §3 (new).]

E. A state party committee shall report any expenditure of \$500 or more, made after the 12th day before the election and more than 24 hours before 5:00 p.m. on the day of the election, within 24 hours of that expenditure.

[2005, c. 301, §18 (amd).]

\* **4-B. Filing schedule for municipal, district and county party committees.** Municipal, district and county party committees shall file reports according to the following schedule. [2005, c. 301, §19 (amd).]

A. Reports filed during an election year must be filed with the commission on:

- (1) July 15th and be complete as of June 30th;
- (2) October 27th and be complete as of October 22nd; and
- (3) January 15th and be complete as of December 31st.

[2003, c. 628, Pt. A, §2 (new).]

B. Reports filed during a nonelection year must be filed on:

- (1) July 15th and be complete as of June 30th; and
- (2) January 15th and be complete as of December 31st.

[2003, c. 628, Pt. A, §2 (new).]

C. Any contribution or expenditure of \$1,000 or more made after the 12th day before any election and more than 24 hours before that election must be reported within 24 hours of that contribution or expenditure.

[2005, c. 301, §19 (amd).]

**4-C. Electronic filing.** Beginning January 1, 2006, state party committees shall file each report required by this section through an electronic filing system developed by the commission. The commission may make an exception to this electronic filing requirement if a party committee submits a written request that states that the party committee lacks access to the technology or the technological ability to file reports electronically. The request for an exception must be submitted by March 1st of the election year. The commission shall grant all reasonable requests for exceptions. [2005, c. 301, §20 (new).]

**5. Penalties.** A party committee is subject to the penalties in section 1020-A, subsection 4-A. [RR 2003, c. 1, §13 (cor).]

**6. Notice; forms.** A state party committee shall notify all county, district and municipal party committees of the same political party of the party committee reporting requirements. The party committees shall obtain the necessary forms from the commission to complete the filing requirements. [1991, c. 839, §23 (new); §33 (aff).]

**7. Exemption.** Any party committee receiving and expending less than \$1,500 in one calendar year is exempt from the reporting requirements of this section for that year. [1991, c. 839, §23 (new); §33 (aff).]

**Title 21-A, §1017-A, Reports of contributions and expenditures by party committees**

**8. Municipal elections.** When a party committee makes contributions or expenditures on behalf of a candidate for municipal office subject to this subchapter, it shall file a copy of the reports required by this section with the clerk in that candidate's municipality.

[1995, c. 483, §10 (new).]

PL 1991, Ch. 839, §23 (NEW).  
PL 1991, Ch. 839, §33 (AFF).  
PL 1993, Ch. 228, §1 (AMD).  
PL 1993, Ch. 680, §C2 (AMD).  
PL 1993, Ch. 715, §1,2 (AMD).  
PL 1995, Ch. 228, §1 (AMD).  
PL 1995, Ch. 483, §9,10 (AMD).  
RR 1995, Ch. 2, §37 (COR).  
PL 2003, Ch. 302, §2,3 (AMD).  
PL 2003, Ch. 628, §A2,B4 (AMD).  
RR 2003, Ch. 1, §13 (COR).  
PL 2005, Ch. 301, §18-20 (AMD).

# Agenda

## Item #5



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

To: Commission Members  
From: Jonathan Wayne, Executive Director  
Date: October 11, 2006  
Re: Follow-Up on Constituent Newsletter Issues

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The Ethics Commission held a public workshop on constituent newsletters on July 19, 2006. Following the testimony, Commission member Mavourneen Thompson requested that the staff consider the testimony and make recommendations. Because of the long agendas for your August and September meetings, I postponed scheduling the issue until your October 20 meeting.

#### **Complaints Received by the Commission Regarding Constituent Newsletters**

In late April 2006, Rep. Lawrence Bliss sent an e-mail to the Commission complaining of a mailing sent by Rep. Kevin Glynn that was labeled a "Constituent Outreach Newsletter". Rep. Bliss was concerned because the newsletter was received by Rep. Bliss' constituents in South Portland who lived outside Rep. Glynn's district. The newsletter was sent to households within the Senate district for which Rep. Glynn was running, including South Portland, Cape Elizabeth, and part of Scarborough. Rep. Bliss suggested that the newsletter should have been paid for with campaign funds, and should have included the "paid for" disclosure required for campaign mailings. In response to questions posed by the Commission, Rep. Glynn denied that the newsletters were campaign expenditures, stated that his past practice was to send communications to residents outside his legislative district, and that he had sought the advice of Commission staff before sending the April newsletter. At the Commission's June 22 meeting, the Commission took no action on the complaint and decided to hold a public workshop regarding constituent mailings.

Following the June meeting, the Commission received complaints regarding constituent newsletters sent by Rep. Lawrence Bliss and Sen. Phil Bartlett. These requests were considered at the July 19 meeting. The complaint against the Bartlett newsletter stated that it contained the web address of a partisan website ([www.mainesenate.org](http://www.mainesenate.org)), lacked any "disclaimer" indicating who paid for the mailing, and contained a survey that could be useful in identifying potential campaign supporters. The complaint against Rep. Bliss' newsletter stated that it lacked a disclaimer telling readers who paid for it, did not appear on Rep. Bliss' campaign finance report, and referred readers to the a partisan website ([www.housedemocrats.maine.gov](http://www.housedemocrats.maine.gov)). Sen. Bartlett and Rep. Bliss responded that the

mailings were not intended to influence the election but rather to provide constituents with information about their activities as elected representatives. The Commission voted to take no action on the requests.

### **Testimony at Public Workshop**

Following the July 19 regular meeting, the Commission received some very helpful testimony from legislative officers and others regarding constituent newsletters. I have attached the minutes of the workshop, and summarize below the testimony of Millicent MacFarland, the Clerk of the Maine House of Representatives, and Joy O'Brien, the Secretary of the Maine Senate.

Ms. MacFarland testified that the House pays for one district-wide mailing for each member for each legislative session. Members can choose to skip sending a newsletter after the first regular session, and may send two in the even-number year (the election year). The newsletters are required to be factual, cannot advocate for or against any referendum questions, and cannot criticize or question the motive of other House members. In the event of any inappropriate content, she speaks to the member or legislative aide and provides some suggestions for changes.

She stated that the House has contracts with Atkins Printing and the Bangor Letter Shop. Legislators can choose to send the mailing through another mailhouse, but the House will only make reimbursements at the contract rate. If a House member is in a contested primary, the House will only pay for a district-wide mailing if it is sent by March 1. House members with an opponent in the general election are expected to have mailings out by the day of the primary election.

The Secretary of the Senate, Joy O'Brien, stated that the Maine Senate contracts with a single mailhouse to send out all constituent newsletters at one time. This allows for greater oversight regarding when the mailings are sent and what is sent. None of the newsletters are sent before the primary, and they usually go out soon after the primary. She stated that the contents of the newsletters were partisan but not political. The Senate allows their members to communicate their political philosophy to their constituents.

The Commission also received testimony from Alison Smith of the Maine Citizens for Clean Elections; Kitty Breskin, a campaign worker from Boothby Harbor; and attorneys Daniel I. Billings and Kate Brogan.

### **Current Campaign Finance Law re: Constituent Newsletters**

The Election Law and the Commission rules do not offer any specific guidance on how to distinguish between constituent newsletters and campaign mailings. Constituent newsletters may be paid for by a number of sources: funding by the Legislature; members may use their constituent service allowance or private salaries to pay for them; and PACs may pay for constituent newsletters.

Campaign mailings, in contrast, must be paid for with campaign funds: *i.e.*, Maine Clean Election Act funds or private contributions. All expenditures of campaign funds must be disclosed in campaign finance reports. Campaign funds of privately financed candidates are subject to the \$250 contribution limit.

### **Staff Recommendations re: Changes to Campaign Finance Law and Rules**

The staff recommends not adopting any rule or statutory change distinguishing constituent newsletters from campaign mailings. Since June, the Commission has not received any more complaints alleging that purported constituent newsletters were in fact campaign communications. Also, the Commission has received few requests for advice from Legislators about proposed mailings. Since there does not appear to be significant confusion, the staff believes the Commission should not intrude on legislative functions by suggesting a rule or statutory change distinguishing campaign mailings from constituent newsletters.

With regard to the issue of large-scale mailings outside a Legislator's district, the staff views this issue as a potential problem that could arise occasionally when a Legislator is running for an office in a geographical area other than his or her current district. For example, this could happen when a member of the House of Representatives runs for the Senate or when legislative districts are redistricted due to the United States Census.

Some Legislators are accustomed to sending mailings to constituents, and may not foresee any problem with sending large-scale communications on legislative issues to residents in their "new" district. To provide these candidates with advance notice that there is a possibility that these costs could be viewed as campaign expenditures, the Commission could include the following guidance in its candidate guidebook or more formal language in its rules:

If a Legislator is running to represent a geographical area that is different from the Legislator's current district, the Legislator should be aware that a mass mailing regarding legislative issues to the "new" district could be considered a campaign expenditure. The Commission shall consider a number of factors if called upon to decide whether the mailing is a constituent communication or campaign mailing, including:

- the content of the communication;
- the timing of the communication in relation to the election; and
- the geographic distribution of the newsletter.

### **Suggestions from Commission Members re: Legislative Mailings**

Following the July public workshop, the staff received the following comments from Commission members:

- Constituent newsletters paid for with legislative funds should not be directing constituents to partisan websites.
- It would be helpful if constituent newsletters included a disclosure statement of how they were funded (*e.g.*, “Paid for by the Maine Legislature”, “Paid for by Senator Thomas Brown”)
- The Senate plan of using a single mailhouse and sending the newsletters in mid-to late-June seems preferable.
- It is understandable that constituent newsletters are partisan, but they should not be political.

The Legislature’s internal policies regarding legislative mailings to constituents are not within the jurisdiction of the Commission. So, the Commission may wish to be cautious in offering advice to Legislative leaders regarding the Legislature’s policies.

Ms. Thompson moved, Mr. Ketterer seconded, and the Commission voted unanimously (3-0) to assess a penalty of \$100 against Richard Wurfel.

**Agenda Item #1 – Ratification of Minutes of the June 22, 2006 Meeting**

Mr. Ketterer moved, Ms. Thompson seconded, and the Commission voted unanimously (3-0) to adopt the minutes of the June 22 meeting as amended.

**Public Workshop on Constituent Newsletters**

Mr. Wayne said that the Commission received complaints about newsletters sent by legislators to their constituents and neighbors. Mr. Wayne said that Mr. Ketterer suggested at the previous meeting that the Commission hold a public workshop on the issue. Mr. Wayne said that challengers complained that the newsletters unfairly aided incumbents, while the incumbents have said that the newsletters are not campaign-related. Mr. Wayne said there was also an issue where a candidate mailed newsletters outside his district and some argued it was a campaign expenditure. Mr. Wayne recommended that the Commission hear testimony and then decide whether clarifications are needed.

Millicent MacFarland introduced herself as the Clerk of the House. Ms. MacFarland said that each member of the House was allowed one district-wide mailing per legislative session. Ms. MacFarland said that it was possible for House members to choose not to send a newsletter during the first session and instead mail one up until March 1 of the second session, allowing them to send an additional mailing at the end of the second session. Ms. MacFarland said that the newsletters were funded by the House budget and administered by the Clerk's office. Ms. MacFarland said that an average of 4,200 pieces of mail are sent per district, costing around \$500 to print and \$700 to mail. Ms. MacFarland said that House members draft a newsletter or questionnaire with legislative aides. Ms. MacFarland said that the draft is sent to the Clerk's office, which reviews the newsletter. Ms. MacFarland said that the newsletters are required to be factual, cannot advocate for or against any referendum question, and cannot criticize or question

the motive of other House members. Ms. MacFarland said that in the event of inappropriate content, she would call the legislative aide who drafted the newsletter and provide suggestions for changes. Ms. MacFarland said that House members may appeal her decision to the Speaker of the House.

Ms. Thompson asked whether there were any issues of partisanship that Ms. MacFarland had encountered. Ms. MacFarland replied that while legislative aides and House members may not be happy with her decision, an agreement can usually be reached. Ms. MacFarland said that evaluating newsletters was a somewhat subjective process. Ms. MacFarland said that she tries to ensure the newsletters are fair and accurate while still getting their points across. Ms. MacFarland said that it was not appropriate in newsletters to question why House members voted the way they did. She said that the purpose of the newsletters was to present factual information to the constituents, allowing the public to make their own determinations.

Ms. Thompson asked if the minority party leadership ever disagreed with Ms. MacFarland's decision. Ms. MacFarland said that there was one occasion where a newsletter evaluated by her office strongly criticized party leadership and the legislative process. Ms. MacFarland said that the individual chose to send the newsletter out with personal funds.

Mr. Ketterer said that he was not aware that the newsletters were being reviewed by the Clerk or that House members had a right to appeal the decision. Ms. MacFarland said that the policy has been in place for over 20 years. Mr. Ketterer said that it seemed to be uniformly applied and that House members have an obligation to inform their constituents about legislative activities.

Mr. Ketterer said that a more difficult determination for the Commission would be whether a mailing outside of a legislator's district constitutes a campaign expenditure. Ms. MacFarland said that her role was to ensure that she only pay for newsletters mailed to individuals within a House member's district. Ms. MacFarland said it was difficult for mailhouses to prevent a small amount of overlap between districts. Ms. MacFarland said that when a House member's district comprises a specific town, it is easier to ensure the mail only goes to residents within that town. Ms. MacFarland said it was the policy of the House to not allow members to mail newsletters

outside their district en masse. Ms. MacFarland said that she compares the size of the mailing to the size of the district to enforce that policy. Ms. MacFarland said that it was rare that she had to investigate mailings outside the legislator's district.

Ms. Thompson asked if there had been instances of legislators sending mass mailings outside their districts. Ms. MacFarland replied that there had been some cases, including one earlier in the year. In that specific case, Ms. MacFarland said that she had difficulty contacting the mailhouse which sent the mailing and receiving the postage statements. Ms. MacFarland said that the Speaker of the House directed her to not pay the bill until she received the necessary information on the mailing. Ms. MacFarland said that the House member decided not to pay for the mailing with legislative funds.

Ms. Thompson asked what a mailhouse was and how it differed from a post office. Ms. MacFarland said that mailhouses both print and mail materials. Ms. MacFarland said that the House had contracts with Atkins Printing and Bangor Letter Shop.

Ms. Thompson said there appeared to be oversight by the Clerk over both the content of the newsletters and the mailing process. Ms. Thompson said that such information might be useful if the Commission received complaints about newsletters. Ms. MacFarland said that House members also have approached her with complaints about other members' newsletters.

Ms. Ginn Marvin asked how often Ms. MacFarland found inappropriate newsletters. Ms. MacFarland replied that there was an average of three to five problematic newsletters per session. Ms. MacFarland said that the House members did not appeal her decision in most cases.

Ms. Ginn Marvin asked if House members could choose their own mailhouse. Ms. MacFarland said they could either use Atkins Printing, with which the House has a contract, or another mailhouse of the legislator's choosing. Ms. MacFarland said that House members sometimes prefer to use their local printer and then send the materials to Atkins Printing for mailing. Ms. MacFarland said that the House will reimburse the mailhouse at the contract rate that the House

has with Atkins Printing, with the member covering anything over the contract rate with their personal funds.

Ms. Ginn Marvin asked how the use of personal funds toward newsletters might affect candidates under the Clean Election restrictions. Mr. Wayne replied that since the funds are not being used for campaign purposes, they do not have to be reported.

Ms. Ginn Marvin asked if the House had any deadlines for sending constituent newsletters. Ms. MacFarland said that House members with opponents in the primary election had a deadline of March 1. Ms. MacFarland said that even though the March 1 date fell before the deadline to register as a candidate with the Secretary of State's office, most candidates knew if they would be facing opposition in the primary. Ms. MacFarland said that exceptions were granted if candidates did not know if they would be opposed. Ms. MacFarland said that House members expecting to have an opponent in the general election were expected to have their mailings out by the day of the primary election. Ms. MacFarland said that this requirement can be difficult to enforce due to the low priority the U.S. Postal Service gives to the newsletters compared to political mail, resulting in people receiving the newsletters several weeks after the primary. Ms. MacFarland said that House members who were unopposed in the general election may mail their newsletters up until 60 days before the general election. Ms. MacFarland said that those not running for reelection must send newsletters by the primary election. Ms. MacFarland said that this deadline is due to instances of legislators including in their newsletters pictures of the candidate running for their seat.

Joy O'Brien introduced herself as the Secretary of the Senate. Ms. O'Brien said that unlike the House, Senate does not reimburse members who use their own mailhouses. Ms. O'Brien said that the Senate contracts with a mailhouse to send out all constituent newsletters at one time. Ms. O'Brien said that this system allows for greater oversight on what is being mailed and when. Ms. O'Brien said that the leadership staff meets at the end of the session to decide on a date for the mailing, working within the parameters of the mailhouse. Ms. O'Brien said that a mailing for a typical district comprises between 16,000 and 21,000 pieces and are a standard size. Ms. O'Brien said that none of the newsletters are sent out before the primary but usually go out soon

after the primary. Ms. O'Brien said it could be difficult mailing to addresses within towns split between two districts. Ms. O'Brien said that her office works with the post offices to determine who should receive which candidate's newsletter. Ms. O'Brien said that the contents of the newsletters were partisan but not political. Ms. O'Brien said that the Senate allows its members to communicate their political philosophy with their constituents via the newsletters. Ms. O'Brien said it could be difficult to distinguish between partisan content and campaign-related messages. Ms. O'Brien said that each member of the Senate was allowed 50 pieces of ordinary mail to constituents per day. Ms. O'Brien said that the Senate has, in the past, allowed Senate members to send mass mailings outside their district to address important issues. Ms. O'Brien said that in issues of redistricting, the Senate has only allowed its members to send mail to their current districts and not to the newly apportioned districts. Ms. O'Brien said that any regulation on incumbent candidates sending newsletters outside their current districts should come from the Commission rather than being part of the newsletter oversight in the legislature.

Ms. Ginn Marvin asked about partisan website addresses being included in the newsletters. Ms. O'Brien responded that the official Senate website provides links to party websites. Ms. O'Brien said that the .org website address included in some newsletters is hosted by InforME, which also hosts the official Senate website. Ms. O'Brien said that the same rules against campaign content apply to the .org site that apply to newsletters.

Ms. Ginn Marvin asked if there were any requirements for members to include a "paid for" disclosure statement on the newsletters. Ms. O'Brien replied that the Senate had no such requirement, but the parties sometimes decided on a requirement for their members.

Ms. Ginn Marvin asked whether the surveys on constituent newsletters were used for campaign purposes. Ms. O'Brien replied that the surveys were instead used to find out which matters were important to constituents.

Ms. Ginn Marvin asked if the use of a single mailhouse allows for easier Senate oversight of constituent mailings than the system used by the House. Ms. O'Brien said that the Senate uses their arrangement with the mailhouse to make sure that legislative funds are not used to pay for

mailings outside a member's district. Ms. O'Brien said the total bill was around \$165,000, but consolidating the mailings allows for greater control over the timing and destinations of the mailings. Ms. O'Brien said that the presiding officer and members of leadership have the ability to meet and change the rules governing the mailings.

Alison Smith said that she was representing Maine Citizens for Clean Elections. Ms. Smith read a statement expressing the right of the public to know who paid for and mailed campaign communications. Ms. Smith said that the determination of campaign literature relies on a purpose test, which makes mailings outside a legislator's district campaign-related. Ms. Smith said that while the Commission may wish to clarify its rules, there was a strong need for enforcement during the current election cycle. Ms. Smith said that the Commission should reconsider its lack of action against Rep. Glynn at its previous meeting.

Kitty Breskin said that she was working for the campaign of a House candidate from Boothbay Harbor. Ms. Breskin said that both her candidate and his opponent were Clean Election candidates, with the opponent able to exceed the spending restrictions by having the incumbent legislator in his district include mentions of him in his constituent newsletter. Ms. Breskin said the photograph of the incumbent and his chosen successor did not expressly advocate for his election, but did say he was working for the good of the community. Ms. Breskin said that she was not making a formal complaint to the Commission, but was concerned about the use of constituent newsletters to get around the restrictions of the Clean Election Act.

Ms. Thompson asked if it was a House newsletter. Ms. Ginn Marvin said that the newsletter was paid for with state funds.

Ms. Thompson asked if the person in the photograph was, in fact, a candidate when the newsletter was mailed. Ms. Breskin replied that he was.

Ms. Thompson asked if the Clerk of the House had any concerns about the newsletter when it came through her office. Ms. MacFarland said that the Clerk's office did not recognize that the photograph depicted a candidate for the House. Ms. MacFarland said that if she had known he

was a candidate, she would have spoken with the House Republican office, telling them that it was not allowed.

Ms. Thompson said it may be a difficult determination if the person mentioned in the newsletter decided to become a candidate after the newsletter was mailed. Ms. Thompson asked if the existing law was inadequate or if the issue was not something that could be regulated. Ms. Thompson asked if a change to the law would prevent people from running for office if they previously appeared in a constituent newsletter.

Mr. Ketterer said that it would be difficult for the Clerk to determine whether any candidates were mentioned or depicted in the newsletters, but they could require legislators to indicate this when they present the newsletters for approval. Mr. Ketterer said that many people running for office are also well-known community leaders who would be likely to appear with incumbent legislators.

Ms. Thompson asked Ms. Breskin if she had any suggested solutions. Ms. Breskin said that she was presenting the issue as a problem with the Clean Elections system, but did not have any specific suggestions.

Ms. Ginn Marvin said that the problem could likely be solved by requiring legislators to certify that no photographs of current candidates appear in their newsletters.

Dan Billings said that he represented Rep. Glynn at the previous Commission meeting and also represented the Woodcock for Governor campaign. Mr. Billings said that he received a newsletter from Rep. Hutton, which includes slogans and partisan comments. Mr. Billings said that they are political communications and do not represent objective information on the government. Mr. Billings said that it was not a workable rule to forbid mailings outside a legislator's district, being that it would be unfair to incumbents and a violation of First Amendment rights. Mr. Billings said that the purpose test was not useful since there could be many different purposes involved in a mailing. Mr. Billings said that the direct advocacy test was a more appropriate standard, objectively judging campaign materials based on whether they

directly advocate for a candidate's election or defeat. Mr. Billings said that there may be legitimate reasons for candidates to appear in a constituent newsletter. Mr. Billings said that if the purpose test was used, many press conferences given by Gov. Baldacci could have been considered to be campaign expenditures. Mr. Billings said that objective evidence such as the contents of the communications should be considered rather than the intent.

Ms. Gardiner asked Mr. Billings if he would support a recommendation to the legislature that constituent newsletters not be mailed within 21 days of an election. Mr. Billings said that under the current law, matching funds for Clean Election candidates should be triggered by any independent expenditures made within 21 days of an election, including constituent newsletters. Mr. Billings said that providing matching funds would be preferable to placing limits on when the newsletters could be mailed.

Ms. Gardiner asked if the legislature would fit the definition of "person" in the statute regarding independent expenditures. Mr. Billings replied that it could be considered a "group or organization" and fall under the definition.

Kate Brogan introduced herself as being legal counsel to the President of the Senate. Ms. Brogan expressed her concern that if the express advocacy standard was used exclusively that Clean Election candidates could spent private money to send communications that circumvented that standard. Ms. Brogan said there should be recognition that all mailings from a candidate during certain times are campaign-related. Ms. Brogan said that it was not unreasonable for the Commission to judge intent in mailings.

Mr. Wayne asked if there was confusion among legislators about what would constitute campaign-related mailings. Ms. Brogan said that legislators and voters knew campaign-related activity when they saw it.

Mr. Wayne said that the Commission could give the staff direction and change its rules after the election. Mr. Wayne said that the issues raised were whether an incumbent's mailing within his

own district should be considered a campaign expense and whether mailings outside a legislator's district should be treated as a campaign expense.

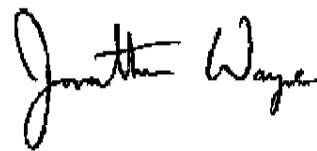
Ms. Ginn Marvin recommended that the Commission members give their feedback to Mr. Wayne and take up the issues at a future meeting.

Ms. Thompson asked that the staff summarize the complaints raised about constituent mailings and the effects of possible rule changes. Mr. Wayne agreed to present this information at the August 23 meeting.

Ms. Ginn Marvin invited members of the public to attend the next meeting on August 23 at 9 a.m.

There being no further business, Mr. Ketterer moved, Ms. Thompson seconded and the Commission unanimously voted (3-0) to adjourn.

Respectfully submitted,

A handwritten signature in black ink that reads "Jonathan Wayne". The signature is written in a cursive style with a large initial "J" and a long, sweeping underline.

Jonathan Wayne  
Executive Director

# Agenda Item #6



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

To: Commission Members and Counsel  
From: Jonathan Wayne, Executive Director  
Date: October 13, 2006  
Re: Payments of Matching Funds to Gubernatorial Candidates

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If in a single day we receive more than one independent expenditure report relating to the governor's race or a legislative district, there are two ways we can calculate how the independent expenditure reports affect matching funds: (1) in batches, or (2) individually. In the case of the gubernatorial race in particular, the staff seeks the Commission's authorization to consider independent expenditure reports in batches.

#### Calculating Independent Expenditures in Batches

The staff prefers this method – particularly in the gubernatorial race – because it achieves the public goal of keeping candidates on equal footing while conserving scarce Maine Clean Election Act funds.

#### Calculating Independent Expenditures Individually

This method is substantially more expensive – particularly in the gubernatorial race – but it allows the Commission staff to notify candidates of matching funds a few hours earlier in the day.

	Matching Funds Payments					
	Calculating IE's separately			Calculating IE's together		
	Woodcock	Merrill	LaMarche	Woodcock	Merrill	LaMarche
<b>Scenario 1</b>						
10:00 a.m. – \$30,000 in support of Baldacci	\$30,000	\$30,000	\$30,000	\$10,000	\$10,000	\$10,000
1:00 p.m. – \$20,000 against Baldacci	-----	-----	-----			
Total Payments for Scenario 2	<b>\$90,000</b>			<b>\$30,000</b>		

<b>Scenario 2</b>			
9:00 a.m. – \$20,000 in support of Baldacci	\$20,000	\$20,000	\$20,000
2:00 p.m. – \$20,000 in support of Woodcock	-----	\$20,000	\$20,000
Total Payments for Scenario 1	<b>\$100,000</b>		

<b>Scenario 2</b>		
-----	\$20,000	\$20,000
<b>\$40,000</b>		

A more detailed view of the comparison of these scenarios is contained in the following two charts.

## SCENARIO ONE

<b>CALCULATING IEs TOGETHER</b>	<b>Woodcock</b>	<b>LaMarche</b>	<b>Merrill</b>	<b>Baldacci</b>
Total Funds Received or Spent	\$400,000.00	\$400,000.00	\$400,000.00	\$400,000.00
Independent Expenditure #1 at 10:00	\$0.00	\$0.00	\$0.00	\$30,000.00
Independent Expenditure #2 at 5:00	\$0.00	\$0.00	\$0.00	(\$20,000.00)
Net Independent Expenditures for One Day	\$0.00	\$0.00	\$0.00	\$10,000.00
Base Totals for Matching Funds Calculation	\$400,000.00	\$400,000.00	\$400,000.00	\$410,000.00
Matching Funds Authorized	\$10,000.00	\$10,000.00	\$10,000.00	N/A
<b>GRAND TOTALS</b>	<b>\$410,000.00</b>	<b>\$410,000.00</b>	<b>\$410,000.00</b>	<b>\$410,000.00</b>
<b>TOTAL MATCHING FUNDS AUTHORIZED</b>	<b>\$30,000.00</b>			

<b>CALCULATING IEs SEPARATELY</b>	<b>Woodcock</b>	<b>LaMarche</b>	<b>Merrill</b>	<b>Baldacci</b>
Total Funds Before Independent Expenditures	\$400,000.00	\$400,000.00	\$400,000.00	\$400,000.00
Independent Expenditure #1 at 10:00	\$0.00	\$0.00	\$0.00	\$30,000.00
Base Totals for Matching Funds Calculation	\$400,000.00	\$400,000.00	\$400,000.00	\$430,000.00
Matching Funds Authorized	\$30,000.00	\$30,000.00	\$30,000.00	N/A
Total Funds After Independent Expenditure #1	\$430,000.00	\$430,000.00	\$430,000.00	\$430,000.00
Independent Expenditure #2 at 5:00	\$0.00	\$0.00	\$0.00	(\$20,000.00)
Base Totals for Matching Funds Calculation	\$430,000.00	\$430,000.00	\$430,000.00	\$410,000.00
Matching Funds Authorized	\$0.00	\$0.00	\$0.00	N/A
Total Funds after Independent Expenditure #2	\$430,000.00	\$430,000.00	\$430,000.00	\$410,000.00
<b>GRAND TOTALS</b>	<b>\$430,000.00</b>	<b>\$430,000.00</b>	<b>\$430,000.00</b>	<b>\$410,000.00</b>
<b>TOTAL MATCHING FUNDS AUTHORIZED</b>	<b>\$90,000.00</b>			

## SCENARIO TWO

<b>CALCULATING IEs TOGETHER</b>	<b>Woodcock</b>	<b>LaMarche</b>	<b>Merrill</b>	<b>Baldacci</b>
Total Funds Received or Spent	\$400,000.00	\$400,000.00	\$400,000.00	\$400,000.00
Total Independent Expenditures (2) for One Day	\$20,000.00	\$0.00	\$0.00	\$20,000.00
Base Totals for Matching Funds Calculation	\$420,000.00	\$400,000.00	\$400,000.00	\$420,000.00
Matching Funds Authorized	\$0.00	\$20,000.00	\$20,000.00	N/A
<b>GRAND TOTALS</b>	<b>\$420,000.00</b>	<b>\$420,000.00</b>	<b>\$420,000.00</b>	<b>\$420,000.00</b>
<b>TOTAL MATCHING FUNDS AUTHORIZED</b>	<b>\$40,000.00</b>			

<b>CALCULATING IEs SEPARATELY</b>	<b>Woodcock</b>	<b>LaMarche</b>	<b>Merrill</b>	<b>Baldacci</b>
Total Funds Before Independent Expenditures	\$400,000.00	\$400,000.00	\$400,000.00	\$400,000.00
Independent Expenditure #3 at 9:00	\$0.00	\$0.00	\$0.00	\$20,000.00
Base Totals for Matching Funds Calculation	\$400,000.00	\$400,000.00	\$400,000.00	\$420,000.00
Matching Funds Authorized	\$20,000.00	\$20,000.00	\$20,000.00	N/A
Total Funds After Independent Expenditure #1	\$420,000.00	\$420,000.00	\$420,000.00	\$420,000.00
Independent Expenditure #4 at 2:00	\$20,000.00	\$0.00	\$0.00	\$0.00
Base Totals for Matching Funds Calculation	\$440,000.00	\$420,000.00	\$420,000.00	\$420,000.00
Matching Funds Authorized	\$0.00	\$20,000.00	\$20,000.00	N/A
Total Funds after Independent Expenditure #2	\$440,000.00	\$440,000.00	\$440,000.00	\$420,000.00
<b>GRAND TOTALS</b>	<b>\$440,000.00</b>	<b>\$440,000.00</b>	<b>\$440,000.00</b>	<b>\$420,000.00</b>
<b>TOTAL MATCHING FUNDS AUTHORIZED</b>	<b>\$100,000.00</b>			

# Agenda

## Item #7

## Title 1, §1016-A, Disclosure of specific sources of income

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### §1016-A. Disclosure of specific sources of income

Each Legislator shall file a statement of specific sources of income received in the preceding calendar year with the commission by 5:00 p.m. on February 15th of each year on forms provided by the commission. Prior to the end of the first week in January of each year, the commission shall deliver a form to each Senator and member of the House of Representatives. The statement of specific sources of income filed under this subchapter must be on a form prescribed by the commission and is a public record. [2001, c. 75, §1 (amd).]

**1. Disclosure of Legislator's income.** The Legislator filing the statement shall name and give the address of each specific source of income received as follows. [1989, c. 561, §9 (new); c. 608, §1 (amd).]

A. A Legislator who is an employee of another shall name the employer and each other source of income of \$1,000 or more. [1989, c. 561, §9 (new).]

B. A Legislator who is self-employed shall state that fact and the name and address of the Legislator's business. The Legislator shall name each source of income derived from self-employment that represents more than 10% of the Legislator's gross income or \$1,000, whichever is greater, provided that if this form of disclosure is prohibited by law, rule or an established code of professional ethics, the Legislator shall only specify the principal type of economic activity from which the income is derived. With respect to all other sources of income, a self-employed Legislator shall name each source of income of \$1,000 or more. The Legislator shall also indicate major areas of economic activity and, if associated with a partnership, firm, professional association or similar business entity, the major areas of economic activity of that entity.

[1989, c. 561, §9 (new); c. 608, §1 (amd).]

C. In identifying the source of income, it shall be sufficient to identify the name and address and the principal type of economic activity of the corporation, professional association, partnership, financial institution, nonprofit organization or other entity or person directly providing the income to the Legislator.

[1989, c. 561, §9 (new); c. 608, §1 (amd).]

D. With respect to income from a law practice, it shall be sufficient for attorneys-at-law to indicate their major areas of practice and, if associated with a law firm, the major areas of practice of the firm, in such manner as the commission may require.

[1989, c. 561, §9 (new).]

**2. Campaign contributions.** Campaign contributions duly recorded as required by law shall not be considered income. [1989, c. 561, §9 (new).]

**3. Disclosure of gifts.** The Legislator shall name the specific source of each gift that the Legislator receives. [1989, c. 561, §9 (new).]

**4. Disclosure of income of immediate family.** The Legislator shall disclose the type of economic activity representing each source of income of \$1,000 or more that any member of the immediate family of the Legislator received. [1989, c. 561, §9 (new); c. 608, §2 (amd).]

**5. Disclosure of honoraria.** The Legislator shall disclose the name of each source of honoraria that the Legislator accepted. [1989, c. 561, §9 (new).]

**6. Representation before state agencies.** The Legislator shall identify each executive branch agency before which the Legislator has represented or assisted others for compensation. [1989, c. 561, §9 (new).]

## Title 1, §1016-A, Disclosure of specific sources of income

7. **Business with state agencies.** The Legislator shall identify each executive branch agency to which the Legislator or the Legislator's immediate family has sold goods or services with a value in excess of \$1,000. [1989, c. 561, §9 (new).]

PL 1989, Ch. 561, §9 (NEW).  
PL 1989, Ch. 608, §1,2 (AMD).  
PL 1989, Ch. 734, § (AMD).  
PL 2001, Ch. 75, §1 (AMD).



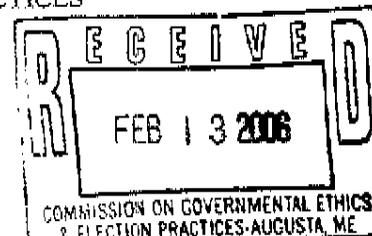
STATE OF MAINE  
COMMISSION ON GOVERNMENTAL ETHICS AND ELECTION PRACTICES

Mail: 135 State House Station, Augusta, Maine 04333-0135

Office: 242 State Street, Augusta, Maine

Tel: (207)287-4179

Website: www.maine.gov/ethics



**STATEMENT OF SOURCES OF INCOME**  
**1 M.R.S.A. §§ 1016-A et seq.**  
**COVERING THE CALENDAR YEAR**  
**JANUARY 1, 2005 THROUGH DECEMBER 31, 2005**

FULL NAME: Deborah J. Hutten

MAILING ADDRESS: 31 Carding Machine Rd

CITY: Bowdoinham ME 04

ZIP CODE: 04008

PHONE NUMBER: 6663811

Please check the appropriate box and fill in the District number.

Member of the Senate, District \_\_\_\_\_

Member of the House, District 67

**GENERAL INSTRUCTIONS**

1. Please file this statement with the Clerk of the House or the Secretary of the Senate by:  
**5:00 p.m. on February 15, 2006.**
2. The report covers you, your spouse, and your dependent children.
3. Report only specific sources of income. *Dollar amounts need not be listed.*
4. Campaign contributions duly recorded as required by law need not be reported in this statement.
5. Attach additional sheets if needed. Label attachments with your name, address, and the date.
6. **Please sign on Page 4.**
7. State law (1 M.R.S.A. § 1018) requires Legislators to file an updated statement with the Commission within 30 days of any change to the information relating to the preceding year. Additionally, the law (1 M.R.S.A. § 1016-B (2)) requires Legislators to make a supplementary statement to the Commission of any reportable liability within 30 days after it is incurred.

**PLEASE KEEP A COPY OF THIS STATEMENT FOR YOUR FILES.**

\*\*\*\*\*

Disclosure statements are made available to members of the public upon request.

Thank you for your cooperation.

**PART I. INCOME DERIVED FROM EMPLOYMENT BY ANOTHER.** Name each employer from whom you received compensation of \$1,000 or more. Specify also the principal type of economic activity of each employer.

<u>Name of Employer</u>	<u>Address</u>	<u>Principal Type of Economic Activity of Employer</u>
1. <u>MA</u>		
2.		
3.		

**PART II. INCOME DERIVED FROM SELF-EMPLOYMENT.** *(For Legislators who are self-employed.)*

A. Enter the name and address of your business, if any, and list the major areas of economic activity from which you derived income. If associated with a partnership, firm, professional association, or similar business entity, list the major areas of economic activity of that entity.

<u>Name and Address of Business Entity</u>	<u>Major Areas of Economic Activity (self)</u>	<u>Major Areas of Economic Activity (partnership, association or similar business entity)</u>
1. <u>MA</u>		
2.		
3.		

B. Name each source of income derived from self-employment that represents more than 10% of your gross income or \$1,000, whichever is greater, and specify the principal type of economic activity of the entity or person from whom you derived such income. If this form of disclosure is prohibited by law, rule, or an established code of professional ethics, specify only the principal type of economic activity of the entity or person from whom the income was derived.

<u>Name of Source</u>	<u>Address</u>	<u>Principal Type of Economic Activity of Entity or Person Who Is the Source of Income</u>
1. <u>MA</u>		
2.		
3.		

**PART III. MAJOR AREAS OF PRACTICE.** *(For Legislators who are attorneys-at-law only.)* List your major areas of practice. If associated with a law firm, list the major areas of practice of your firm.

<u>Name and Address of Firm</u>	<u>Major Areas of Practice (self)</u>	<u>Major Areas of Practice (firm)</u>
1. <u>MA</u>		
2.		
3.		

**PART IV. OTHER SOURCES OF INCOME.** Name each source of income of \$1,000 or more not listed in Parts I, II, or III of this form. Do not include gifts. If none, so state.

<u>Name of Source</u>	<u>Address</u>	<u>Kind of Income</u>
1. _____	_____	_____
2. _____	_____	_____
3. _____	_____	_____

**PART V. DISCLOSURE OF REPORTABLE LIABILITIES.** List the names of creditors for any unsecured loans of \$3,000 or more that you received during the reporting period, and list the major areas of economic activity of each creditor. Do not list loans from a relative. If none, so state.

<u>Name of Creditor</u>	<u>Address of Creditor</u>	<u>Principal Type of Economic Activity of Creditor</u>
1. <u>None</u>	_____	_____
2. _____	_____	_____
3. _____	_____	_____

**PART VI. DISCLOSURE OF GIFTS.** Name the specific source of each gift of more than \$300. Include gifts with an aggregate value of more than \$300 from a single source. If none, so state.

1. <u>None</u>	3. _____
2. _____	4. _____

**PART VII. DISCLOSURE OF HONORARIA.** List the source of any honoraria accepted for appearances or speeches related to your official duties. If none, so state.

1. <u>None</u>	3. _____
2. _____	4. _____

**PART VIII. REPRESENTATION BEFORE STATE AGENCIES.** Identify each executive branch agency before which you represented or assisted others for compensation of any amount. If none, so state.

1. <u>None</u>	3. _____
2. _____	4. _____

**PART IX. BUSINESS WITH STATE AGENCIES.** Identify each executive branch agency to which you or a member of your immediate family sold goods or services with a value in excess of \$1,000 during the reporting period. If none, so state.

1. \_\_\_\_\_ 2. \_\_\_\_\_

**PART X. INCOME RECEIVED BY MEMBERS OF IMMEDIATE FAMILY.**

List the type of economic activity representing each source of income of \$1,000 or more received by your spouse or dependent child(ren) during the reporting period and the kind of income represented. Do not include gifts. Indicate (S) beside sources of income received by spouse and (D) beside sources of income received by dependent(s).

<u>Type of Economic Activity Representing Each Source of Income Received</u>	<u>Kind of Income</u>
1. <i>Income from employment as Counsel/Director.</i>	<i>Salary</i>
2. _____	
3. _____	
4. _____	

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The intentional filing of a false statement shall be a Class E crime. If the Commission concludes that it appears that a Legislator has willfully filed a false statement, it shall refer its findings of fact to the Attorney General. If the Commission determines that a Legislator has willfully failed to file a required statement or has willfully filed a false statement, the Legislator shall be presumed to have a conflict of interest on every question and shall be precluded from voting on any question in committee or in either branch of the Legislature, and shall not attempt to influence the outcome of any question. A Legislator who willfully fails to file a required statement is subject to a civil penalty not to exceed \$1,000, payable to the State and recoverable in a civil action. (1 M.R.S.A. § 1019)

*Deborah Y. Clouth*  
\_\_\_\_\_  
Signature

*2/13/06*  
\_\_\_\_\_  
Date

# Agenda Item #8



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

To: Commission Members and Counsel

From: Jonathan Wayne, Executive Director

Date: October 22, 2006

Re: Possible Request for Transfer from the General Fund for the 2008 Elections

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Next session, the Ethics Commission may need to request an additional transfer from the General Fund to the Maine Clean Election Fund in order to make Maine Clean Election Act payments in the 2008 elections. The amount of the request will be dependent on how much in matching funds the Commission pays to candidates in the next four weeks before the general election.

If it seems necessary to request a transfer after the general election, the staff recommends asking the administration's Bureau of the Budget to consider whether to include a transfer in the 2007 budget bill for next session.

The staff requests authorization by the Commission to submit in November a request to the Bureau of the Budget (if necessary) after e-mailing the Commission members regarding the Fund's financial status.

I have attached a very hypothetical scenario based on projections of available cash and costs of the program in the 2008 elections. I do not believe you need to focus on the details, but I am providing you with the information so you understand generally how I go about making the projections. I will update these projections after the November 7 general election. Thank you for your consideration of the issue.

**Maine Clean Election Fund  
Preliminary Projected Revenues and Expenditures for FY 08, 09  
(10/3/06)**

**Revenue for Fiscal Year 2008**

Cash Balance from FY 2007	\$1,875,000
Transfer from General Fund (1/1/08)	\$2,000,000
Qualifying Contributions in 2008 (4/15/08)	\$130,000
Taxpayer Check-Off (6/30/2008)	\$215,463
Interest	\$120,923
Penalties	\$2,490
Other Income	\$150
<b>Total</b>	<b>\$4,344,026</b>

**Expenditures for Fiscal Year 2008**

Personnel	\$330,724
Other Administrative Costs (including technology)	\$45,000
Primary Election Initial Distributions	\$465,725
Primary Election Matching Funds	\$43,119
General Election Initial Distributions	\$2,974,300
<b>Total</b>	<b>\$3,858,868</b>

**Revenue for Fiscal Year 2009**

Cash Balance from FY 2008	\$485,158
Transfer from General Fund (9/1/08)	\$2,000,000
Taxpayer Check-Off (6/30/09)	\$215,463
Interest	\$51,265
Penalties	\$2,490
Other Income	\$150
<b>Total</b>	<b>\$2,754,526</b>

**Expenditures for Fiscal Year 2009**

Personnel	\$359,428
Other Administrative Costs (including technology)	\$45,000
General Election Matching Funds	\$3,233,392
<b>Total</b>	<b>\$3,637,820</b>

**Shortfall for 2008 General Election** **-\$883,294**

**Table B**  
**Preliminary Projected MCEA Payments**  
**to 2008 Legislative Candidates (10/3/06)**

Primary Election Initial Distributions (Table C)	\$465,725
Primary Election Matching Funds (double 2006 total)	\$43,119
General Election Initial Distributions (Table C)	\$2,974,300
General Election Matching Funds (Table E)	\$3,233,392
<b>Total</b>	<b>\$6,716,536</b>

**Table C**  
**Presumed Initial MCEA Distributions to 2008 Legislative Candidates**  
**(10/3/06)**

	# of 2004 Participants in Category	# of 2006 Participants in Category	<i>Projected Payments for 2008</i>		
			<i>Projected # for 2008</i>	<i>Amount of Initial Distribution</i>	<i>Total</i>
<b>Primary Election Initial Distributions</b>					
House - Contested Candidates	41	32	42	\$1,654	\$69,468
House - Uncontested Candidates	207	212	213	\$563	\$119,919
<b>Total</b>	<b>248</b>	<b>244</b>	<b>255</b>		<b>\$189,387</b>
Senate - Contested Candidates	18	9	18	\$8,521	\$153,378
Senate - Uncontested Candidates	45	56	58	\$2,120	\$122,960
<b>Total</b>	<b>63</b>	<b>65</b>	<b>76</b>		<b>\$276,338</b>
<b>Total Primary Election Initial Distributions</b>					<b>\$465,725</b>
<b>General Election Initial Distributions</b>					
House - Contested - Democrats	127	136	142	\$4,798	\$681,316
House - Contested - Republicans	103	101	111	\$4,798	\$532,578
House - Contested - Greens	15	5	10	\$4,798	\$47,980
House - Contested - Unenrolleds	5	3	7	\$4,798	\$33,586
House - Uncontested	0	3	0		0
<b>Total</b>	<b>250</b>	<b>248</b>	<b>270</b>		<b>\$1,295,460</b>
Senate - Contested - Democrats	28	32	34	\$22,090	\$751,060
Senate - Contested - Republicans	26	31	34	\$22,090	\$751,060
Senate - Contested - Greens	1	2	4	\$22,090	\$88,360
Senate - Contested - Unenrolleds	2	2	4	\$22,090	\$88,360
Senate - Uncontested	1	0	0		0
<b>Total</b>	<b>58</b>	<b>67</b>	<b>76</b>		<b>\$1,678,840</b>
<b>Total General Election Initial Distributions</b>					<b>\$2,974,300</b>

**Table D**  
**Actual Matching Funds Paid in the 2004 General Election**

	# of Candidates Receiving Matching Funds	Amount of Matching Funds Paid Each Candidate	Total Paid	Total Authorized	Total Unauthorized	Percentage Authorized
House Democrats	55	\$8,064	\$428,130	\$62,052	\$366,078	0.14
House Republicans	56	\$8,064	\$451,584	\$115,422	\$336,162	0.26
House Greens	7	\$8,064	\$56,448	\$13,137	\$43,311	0.23
House Unenrolled	3	\$8,064	\$24,192	\$7,293	\$16,899	0.30
<b>Total for House</b>	<b>121</b>		<b>\$960,354</b>	<b>\$197,904</b>	<b>\$762,450</b>	<b>0.21</b>
Senate Democrats	15	\$33,582	\$470,406	\$139,051	\$331,355	0.30
Senate Republicans	9	\$33,582	\$302,238	\$69,113	\$233,125	0.23
Senate Greens	1	\$33,582	\$33,582	\$11,590	\$21,992	0.35
Senate Unenrolled	2	\$33,582	\$67,164	\$22,308	\$44,856	0.33
<b>Total for Senate</b>	<b>27</b>		<b>\$873,390</b>	<b>\$242,062</b>	<b>\$631,328</b>	<b>0.28</b>
<b>Legislative Total</b>	<b>148</b>		<b>\$1,833,744</b>	<b>\$439,966</b>	<b>\$1,393,778</b>	<b>0.24</b>

**Table E**  
**Projected Matching Funds for 2008 Legislative Candidates**  
**(10/3/06)**

	Projected # of Candidates Receiving Matching Funds	Amount of Matching Funds Paid Each Candidate	Total Projected Payments
House Candidates	162	\$9,596	\$1,554,552
Senate Candidates	38	\$44,180	\$1,678,840
<b>Legislative Total</b>	<b>200</b>		<b>\$3,233,392</b>

# Agenda Item #9

STATE OF MAINE ETHICS COMMITTEE

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IN THE MATTER OF:

STATE AGENCY HEARING

RE: PATRICIA LaMARCHE,  
CANDIDATE FOR GOVERNOR

-----X

BEFORE:                   JEAN GINN MARVIN  
                          Chairperson  
                          Vinton E. Cassidy  
                          Michael P. Friedman  
                          Andrew Ketterer  
                          A. Mavourneen Thompson

TRANSCRIBER:           MS. HOLLY GOODMAN

I N D E X

<u>WITNESS</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>D.</u>	<u>J</u>
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E X H I B I T S

<u>PETITIONER</u>	<u>DESCRIPTION</u>	<u>I.D.</u>	<u>IN EV.</u>
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<u>RESPONDENT</u>	<u>DESCRIPTION</u>	<u>I.D.</u>	<u>IN EV.</u>
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[START TAPE LaMarche\_Appeal\_Maine\_Ethics  
pt 1]

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MS. JEAN GINN MARVIN: The second item  
that request for matching funds because of  
RGA [unintelligible], uh, do you want to talk  
about before [unintelligible]?

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The other, uh, argument is that they're  
asking the commission to look into whether

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the RGA, uh, coordinated or consulted with

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the Woodcock campaign when they produced

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those ads. Uh, the Woodcock campaign and the

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RGA have responded to the request by saying

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that it - that it did not contain an express

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advocacy under the commissioner's ruling and

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that there was no coordination, and they

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urged the commission to look at some ads that

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have been sponsored by the Maine Democratic

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Party, uh, and whether those became express

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advocacy, or actually let me just say that

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request needs to be conditional. If the

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commission thinks that the RGA ads can

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express advocacy, then, uh, they would urge

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you to look at the Maine Democratic Party ads

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as well.

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The staff had looked at all the ads and

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there is one RGA ad and one Democratic Party

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ad that we believe could argue at most -

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could arguably be considered expressed

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advocacy and, uh, we discussed them in a memo

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that we penned sent you just two days ago,

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and we're prepared to show them to you. If

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you'd like to take a look at them, I - I sent

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you the website, uh, hoping that you'd have a chance to look at them at home, but we could also show them to you now if you'd like.

MS. GINN MARVIN: I think that we would, yes.

MR. WAYNE: It's our impression first ever audio-visual [unintelligible].

MS. GINN MARVIN: Moving right into the 2000's here.

MR. WAYNE: Okay.

MALE VOICE 2: Yes, that picked up very [unintelligible].

MALE VOICE 1: So, unfortunately, we're not going to be able to make them take up the whole screen. Uh, the RGA website and I'll go down to the second of the two RGA ads.

[MAN ON VIDEO]: The nation's highest tax burden for ten consecutive years. The eighth highest gas tax. A \$425 million structural budget gap. The Federal Reserve Bank of Boston says Maine is one of only two states in the country that experienced an economic decline in 2005. Maine needs new solutions. Chandler Woodcock's plan would

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cut unfair income taxes, reduce Maine's property tax burden, cap government spending. Tell Chandler Woodcock you support new solutions to change Maine's direction.

MALE VOICE 1: Okay. Uh, I - you - you want me to - play either of these a second time, let me know, or it may be helpful for you to take a look at them later in the meeting. The - I'm going to the Democratic Party - Maine Democratic Party website. There are four ads here. Here's the one that the staff feels might, uh, come closest to express advocacy.

[MALE ON VIDEO]: I've worked here for 25 years. We almost lost our jobs. The president was going to shut us down. Then Governor Baldacci got involved. He worked with Congress and our community leaders to save the shipyard, the same way he worked to save hundreds of jobs at Maine paper mills. In fact, under Governor Baldacci's leadership, 24,000 more Mainers are working. He saved our jobs, added new jobs, and put Mainers back to work, just like he said he

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would.

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MALE VOICE 1: Okay. So I - I don't have any other preliminary comments. If you don't have any questions, then I - the - the parties are anxious to address you.

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MR. BLAIR BOBIER: Uh, [unintelligible] wondering about would it be possible to show the first RGA ad. That's - I'm going to be addressing that, so [unintelligible].

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MALE VOICE 1: Sorry, there's a 30 second delay.

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[INAUDIBLE CONVERSATIONS]

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MS. GINN MARVIN: Right?

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MS. PAT LAMARCHE: I'm Pat LaMarche.

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MR. BLAIR BOBIER: My name is Blair Bobier. I'm the policy director for the LaMarche [unintelligible] campaign.

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MS. GINN MARVIN: Fabulous. Go ahead.

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MR. BOBIER: Thank you. Need just a moment to get organized here please.

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MS. GINN MARVIN: Sure.

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MR. BOBIER: It won't be long. Well, thank you very much for, uh, providing us the opportunity to be here today.

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[Unintelligible] the LaMarche campaign is to protect the integrity of the electoral process and the integrity of clean election laws. This is about issue advertising or so-called issue advertising appeared in Maine, and this is not merely directed at any particular individual or any particular campaign though we are using these RGA ads as a vehicle.

Uh, I want to make clear this isn't about Mr. Woodcock. He's been a - an absolute gentleman on the campaign trail and, uh, and we've enjoyed his company. He's certainly, uh, helped liven up, uh, a number of forums.

What is an issue here is whether or not these ads constitute an express advocacy, and commission's rule, Chapter 1, Section 10D, sub 2, uh, describes expressly advocate, and - but it's kind of a two part, uh, definition. One uses so-called magic words and the second part refers to communication of campaign slogans or individual words which in context can have no other reasonable

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2 meaning than to urge the election or defeat  
3 of one or more clearly identified candidates.

4 What this boils down to is R - the RGA  
5 ads, the ones that we just saw, in context do  
6 they have any other reasonable meaning than  
7 to urge Mr. Woodcock's election? Or how do  
8 we determine that context? How do we look at  
9 reasonableness? And I'd suggest there are  
10 two approaches to this. One is what would  
11 the average voter say? What does common  
12 sense say? If we showed these ads - if we  
13 grabbed some people out of Hannaford's or a  
14 tavern, Dunkin' Donuts, and we show those  
15 ads, will the people think that those ads are  
16 about issues? I don't think so. I don't  
17 think we'd find one person who would say  
18 that's an issue ad. They'd say that's about  
19 Chandler Woodcock.

20 I think that's a - a reasonable approach  
21 and, uh, and the RGA said that this is not,  
22 uh, what a reasonable person would say. It  
23 says that our campaign and the public both  
24 appear to be confused [unintelligible] it's  
25 not the standard. Uh, federal court withheld

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otherwise. So, uh, if - if we don't have that particular avenue of public opinion at our disposal, to ask people on the street or Hannaford's, what else can we - what - well, how about the press campaign.

Uh, looking at the Bangor Daily News in an editorial [unintelligible] a simple part of the complaint by green gubernatorial candidate Pat LaMarche is whether the television ad campaign by Republican Governors Association is advocating the voters elect GOP candidate Chandler Woodcock. Of course it is. End of quote, Bangor Daily News. Kennebec Journal: Would the Republican Governors Association spend an estimated \$200,000 to run this ad if Chandler Woodcock weren't running for governor? Of course not.

And they just keep coming. Uh, moving away from the editorial to the factual reporting, the Sun Journal headline, Ad Campaign Touts Woodcock. It doesn't say anything about issues. It describes this as being advertising on behalf of the Republican candidate and describes it as a biographical

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portrait of Woodcock. It also quotes - in quotes it says here, the Republican Governors Association considers Maine a top priority this year.

Portland Press Herald: Woodcock details himself priority in describing the ad. It describes it as being in support of Chandler Woodcock, uh, the ad for Mr. Woodcock, and then describing effectiveness - this is in Ad Watch - the ad is effective because it provides biographical information about Woodcock. It also provides brief, catchy, easy to understand summaries of Woodcock's priorities as a candidate, Portland Press Herald.

Uh, reviewing the second ad, Woodcock ad corrects deficit error in original. Once again, this is about Chandler Woodcock, not a mention about issues. That's current as today's news. The same Ad Watch is run in, uh, today's Kennebec Journal, Ad Watch Chandler Woodcock. A fairly unanimous opinion from the press in Maine.

Now there is, of course, a second

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approach to this. And this is to parse the

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word in a somewhat hyper-technical fashion.

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Uh, no doubt we'll do some of that here,

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probably because to some extent there are

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lawyers involved who are getting paid by the

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hour.

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Uh, there's a question as to whether or

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not there have to be so-called magic words

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involved. There's been some reference to

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that. Uh, and those are certain words that

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the court elect, uh, and I will just draw

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your attention very briefly to the Supreme

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Court's decision in the McConnell case which

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is the latest [unintelligible] at page 86.

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Uh, the presence or absence of magic words

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cannot meaningfully distinguish

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electioneering speech from a true issue ad.

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The magic words acquired in it is

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functionally meaningless. There are no magic

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words. They're not [unintelligible].

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In a footnote they go on to, uh, quote

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a, uh, political consultant who says it is

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rarely advisable to use such clumsy words as

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vote for or vote against. So even ads that

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are so - that are clearly advocacy ads don't necessarily contain the words vote for. All advertising professionals understand that the most effective advertising leave the viewer to his or own - her own conclusion without forcing it down their throats. Other political professionals in academics confirm that the use of magic words has become an anachronism.

Uh, I will also point out one example where they talk about a - an ad by someone named Bill Yellowtail. Uh, the ad talked about Bill Yellowtail, Bill Yellowtail, Bill Yellowtail, and at the very end, uh, it says call Bill Yellowtail and tell him to support family values. Extremely similar to the situation here. The Supreme Court said the notion that this advertisement was designed purely to discuss the issue of family values strains prejudice.

I want to focus on the first ad. I'm going to do that for a couple of reasons. One, the commission staff did not focus on it. Two, we believe that it's every bit as

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blatantly advocating for Chandler Woodcock as the second ad. And three, uh, because the commission staff seems to think that the second ad, the one where the words governor and Woodcock appear together is a more blatant attempt, though I believe that when you look at the first ad and realize how blatant that is, you'll, uh, be led to the same conclusion for the second ad.

So what I'd like to do in looking at the first ad is use information supplied by the RGA and apply the analysis that the commission staff used for the second ad, which they didn't do for the first one.

MS. GINN MARVIN: Excuse me. Just for -

MR. BOBIER: Yes.

MS. GINN MARVIN: - clarification.

MR. BOBIER: Yes.

MS. GINN MARVIN: When you say the first ad, you mean the second one we saw though. Right?

MR. BOBIER: Yes. Thank you.

MS. GINN MARVIN: Okay.

MR. BOBIER: I'm sorry.

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MS. GINN MARVIN: Yeah, that's all right.

MR. BOBIER: That's - it's chronologically the first ad. Uh -

MS. GINN MARVIN: Okay.

MR. BOBIER: - thank you for that clarification. Uh, for the second ad, the staff noted that one of the reasons they felt that it was expressed advocacy is that approximately half of it is unmistakably about Chandler Woodcock. Uh, the RGA in their letter which is in your packet says that these issues are much larger than any one candidate or campaign for political office.

In your packets from the RGA is an attachment B which is a script of the ad. The entire ad is about Chandler Woodcock and the RGA has annotated this for us. And each line refers specifically to Mr. Woodcock. And what they do is give you a citation to a different newspaper article that backs up what's in the ad, and each one comes from an article when Mr. Woodcock had long been the

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nominee of the Republican Party for governor.

In analyzing the second ad - the, uh, one where governor appeared - uh, the staff of the commission looked at the language that appeared and relied heavily on the fact that the ad was forward looking. That it looked to the future and that they were planning. And this is important because Mr. Woodcock is running for an office. This isn't about past accomplishments. This is about what he's going to do in the future.

Uh, and so here we have the line Chandler Woodcock's experience [unintelligible] new solutions for Maine's future. And the commission in staff's analysis future's underlined. They think that's pretty critical. A plan to lower promises, again implying future action. A promise to create a more affordable health care program. All future actions. Uh, and ends with telling Chandler Woodcock you support the new solutions that change Maine's direction.

Uh, are there other possible meanings to

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this ad other than to promote the election of Chandler Woodcock? The Supreme Court said it strains prejuidice to think so. Uh, what about the telephone? Why would you call Chandler Woodcock? He's a candidate for statewide office, and interestingly enough, uh, if anybody bothered to call - I did - you got the senate Republican office, but when I wanted to talk about things in this ad, he gave me Chandler Woodcock's campaign office phone number.

Uh, perhaps this - these ads really have nothing to do with the fact that Chandler Woodcock is running for governor as a Republican nominee. If that is the case, I would love to hear from the RGA how many other ads they have sponsored about Chandler Woodcock when he was not running for governor.

Every line in the first ad talks about Chandler Woodcock. The language is specific to the future. Every newspaper that has described it has described it as an ad for Chandler Woodcock. Some go further and

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editorialize and said of course it is.

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If we took those people from Hannaford and Dunkin' Donuts, I think they'd say the same thing. Of course it is. There is a bit of perhaps seeming ambiguity because the words vote aren't written this big across the screen. In the Furgatch case which is referenced in some of your, uh, material, the United States Court of Appeals said although the ad may be evasively written, its meaning is clear regarding to another ad. There is vagueness in Furgatch's message but no ambiguity. Do these ads advocate the election of Chandler Woodcock. Of course they do.

It is the duty and responsibility of this commission to uphold the spirit and the intent [unintelligible] letter of the clean election law. These ads clearly advocate the election of Chandler Woodcock. There is no other possible meaning to that.

MS. PAT LAMARCHE: I would like to thank the commission and commend your staff for being incredibly professional and very

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efficient through this, uh, entire, uh, ordeal [unintelligible] December 8<sup>th</sup> and it's been fantastic. Uh, I would make one request that possibly the commission would entertain the notion of meeting more often at the end of a campaign because as these issues arise, uh, waiting a month to be able to discuss them delays the opportunity to, uh, to - to address them. And, uh, just as we get into a period where - where we start filing 24 hour reports, I think the commission meeting more often, or at least being available to meet more often if a question came up, would be advisable.

MS. GINN MARVIN: We do that actually at the end of the election cycle. We are on a 24 hour basis [unintelligible] -

MS. LAMARCHE: Then I would just recommend that maybe a weekly process prior - well, maybe six weeks prior to that or anything prior to that, have these things - because the steam does -

MS. GINN MARVIN: Yes.

MS. LAMARCHE: - start to get higher and

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higher.

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MS. GINN MARVIN: Yeah. Certainly I - I

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- I'm very appreciative of what's outlined

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but [unintelligible] -

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FEMALE VOICE 1: Oh, I understand.

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FEMALE VOICE 2: - [unintelligible].

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FEMALE VOICE 1: I'm - I'm only

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suggesting that [unintelligible] an

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availability and not -

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FEMALE VOICE 2: Sure.

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FEMALE VOICE 1: - necessarily meaning -

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MS. GINN MARVIN: Yes. Absolutely.

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FEMALE VOICE 1: Thank you.

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MS. GINN MARVIN: Any questions for Ms.

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LaMarche or her attorney?

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MR. MICHAEL FRIEDMAN: I have.

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MS. GINN MARVIN: Go ahead.

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MR. FRIEDMAN: Uh, I'm the new kid on

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the block so bear with me.

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MR. BOBIER: Sure.

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MR. FRIEDMAN: With regard to the

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second, uh, ad, do you have a problem with

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the first half of that ad where it seems to

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be talking about issues, and if the ad had

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ended - if the very second ad, the first 15 seconds seem to be issue oriented. Wouldn't - would you be here? Even though, you know what I mean, put out by the RS -

MR. BOBIER: RGA.

MR. FRIEDMAN: - R - RGA, and I think everybody in this room would recognize that it's probably at least in part a campaign ad for a Republican candidate.

MR. BOBIER: So I'm not exactly sure of your question but that it was just the first tape, 15 seconds -

MR. FRIEDMAN: Yeah, where it starts -

MR. BOBIER: - [unintelligible] -

MR. FRIEDMAN: - out, you know, the nation's highest tax burden, eighth highest gas tax, structural gap of 425 million. One of two states [unintelligible], uh, that the economy that declined in 2005, uh, the Republicans can do better. Let's say that.

MR. BOBIER: Well, I'm not sure -

MR. FRIEDMAN: It's at the beginning.

MR. BOBIER: - right - right till you got to the point where the Republicans can do

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better, that's actually an issues ad. And that's what an issues ad should be. Uh, once you get to the Republicans can do better. Woodcock, Governor. Then the whole thing must be viewed in context and it's clearly expressed advocacy.

MR. FRIEDMAN: So you think just by saying the word Republican or Democrat would make it expressed advocacy?

MR. BOBIER: Well, not - not necessarily. But I think the whole point of this is looking at it through the context. These are ads that are running within the two months prior to a very heavily contested election. Uh, everyone basically knows what these ads are for. They are for funneling the money into places where they couldn't go otherwise, so the broad answer is - the - they're very clear what their purpose is.

Now if we want to get down to parsing things, I'd say before you got to the vote Republican or vote Democrat, uh, it's an issue ad. Now would it - would you say that it's specifically for Mr. Woodcock? I don't

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think you could. It just said vote  
Republican. Once you get down to show them  
pictures of Mr. Woodcock and putting in Maine  
and the word governor all in the same place,  
then the context dramatically changes as does  
the meaning.

MS. GINN MARVIN: Anybody else?

MS. A. MAVOURNEEN THOMPSON: Yes. Uh, I  
understand that the - the courts have tried  
to, uh, instruct us in, uh, following rules  
that in fact will protect free speech and,  
therefore, prior to the 21 days before the  
election, the courts have said - and please  
correct me, anyone, if I'm wrong about this -  
uh, the courts have said we have to be very  
narrow in our definition of expressed  
advocacy. Can a - can an advertisement  
influence an election without being expressly  
advocating? That's what I -

MR. BOBIER: Sure.

MS. THOMPSON: - that's -

MR. BOBIER: I -

MS. THOMPSON: From having studied this,  
this is what I think I need to

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[unintelligible].

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2 constitutional hot spot. Uh, and that's what  
3 doesn't [unintelligible] to the McConnell  
4 case which looked at the [unintelligible] to  
5 find the law, uh, says is that, uh, we're not  
6 really so worried about the constitutional -  
7 I don't want to overstate that. We're not -  
8 this year we're focusing more on, uh, how  
9 these types of ads have basically corrupted  
10 the process, and they were looking at if - if  
11 anything, the lines have been obliterated  
12 more so that they can be considered express  
13 advocacy.

14 MS. GINN MARVIN: Uh, Jonathan can I - I  
15 have a question for you then. Uh, part of  
16 this issue as far as I can tell is that then  
17 the response from Republicans, I guess, was  
18 that, uh, then the, uh, [unintelligible] also  
19 needs to apply to the, uh, [unintelligible]  
20 from Governor Baldacci so should we be  
21 looking at that at this time [unintelligible]  
22 because the [unintelligible] requested?

23 MR. WAYNE: I don't know if they want to  
24 address that. I - I think that - think  
25 that's a later [unintelligible].

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## PROCEEDINGS

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MR. BOBIER: I don't think we're, uh, prepared to address that at this time. We would be happy to if the commission would like us to do so, but we're not at this time.

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MS. GINN MARVIN: Because I - I do think, uh, we need to see that for comparison's sake because that's part of this whole issue. Am I correct?

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MR. WAYNE: Yeah.

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MS. GINN MARVIN: Yes.

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MR. WAYNE: And you've seen one of the

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four ads that the Democratic Party, uh -

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MS. GINN MARVIN: Oh, uh -

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MR. WAYNE: Yeah, again, that's the one

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that they used the most.

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MS. GINN MARVIN: Right.

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MR. WAYNE: Likely [unintelligible] we

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found it to be expressed advocacy -

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MS. GINN MARVIN: Okay.

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MR. WAYNE: - [unintelligible]. The

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[unintelligible] was not short.

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MS. GINN MARVIN: Okay. So you're fine.

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MR. WAYNE: But - but there are three

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other ads which you might check on.

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MS. GINN MARVIN: One's fine. But - but you don't want to make any comment on that point.

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MR. BOBIER: I - I - I will say in general because I'm - I'm not prepared to discuss the specifics of the ad but it's the same thing. I mean, they're in the same category. Uh, they are ads that - why else would they be running them? If you showed those to the people in Hannaford and Dunkin' Donuts, that's an ad for, uh, the incumbent who's running for reelection. I don't think there's any question about it. Now they may have been more artful in creating them, at least some of them. I - I think that the, uh, RGA ads were inartful, if that's a word.

MS. GINN MARVIN: I think we're set. Thank you very much. Anybody else want to speak on this issue?

MR. MICHAEL SAXL: I will indeed. My name is Michael Saxl, and I'm here on behalf of the Committee to Reelect Governor Baldacci. And I want to thank the ethics commission for giving us a little time this

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morning on these, uh, flaming days of summer.

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And, uh, as the campaign speaking keeps up.

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This is a critical issue before you.

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Uh, the issue of expressed advocacy is one as

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you know, uh, has been litigated at the

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Supreme Court. Uh, it's been struggled with

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in campaigns and, uh, it's really present

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before us today.

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Uh, before I get into the meat of

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expressed advocacy though, I think it would

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be worthwhile just to quickly, uh, go over

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the other parts of the law that bring us to

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this, uh, to this occasion and - and, uh, I

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think we can stipulate that, uh, that they

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are ineffective - if, in fact, this is

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expressed advocacy.

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The first issue is, uh, how do you

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report on an independent expenditure? If you

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find this to be expressed advocacy, I think

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Maine law clearly says that if your

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expenditure is over \$250, that you have an

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obligation within 24 hours to report, uh,

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that expenditure.

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And why is that important? I think

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2 Maine law states pretty clearly that that's  
3 important because of the matching funds  
4 provision in the Maine clean elections law,  
5 uh, subsection 9 of - uh, 1125, subsection 9,  
6 which says, uh, when any campaign - dot, dot,  
7 dot - in conjunction with independent  
8 expenditures reported under section 1019B  
9 exceeded the distribution amount under  
10 subsection 8, uh, the commission shall issue  
11 immediately to any opposing Maine elections  
12 backed candidate an additional amount  
13 equivalent to the reported excess.

14 So, uh, just to begin with, if this is  
15 an expressed advocacy, then it's an  
16 independent expenditure. It should have been  
17 reported within 24 hours and the results  
18 should have been the, uh, dispersion of  
19 matching funds in the Maine Clean Elections  
20 Act.

21 I'm here today for a lot of different  
22 reasons. One is because, uh, the Committee  
23 to Reelect Governor Baldacci believes in the  
24 clean election law and it believes it should  
25 work right. It believes it should level the

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## PROCEEDINGS

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playing field for all candidates, whether they're running under the judicial elections or whether they're running under clean elections that, uh, that, uh the folks - that this is designed to make sure everything works fairly.

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Uh, there are three candidates running under the clean elections law. Uh, one of them has a third party that's very interested in their elections, the Republican Governors Association. Maybe there will be others. Uh, they're enacting the election in a way that impacts the clean election law. Uh, so that's the primary reason we're here today is to make sure the clean election law works and that it's a genuine - the impact is genuinely for those people who choose not to raise money in a traditional fashion, that, uh, that it levels the playing field to the best extent possible.

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So the question then becomes, uh, what is expressed advocacy. I think the LaMarche campaign did an excellent job of introducing you to it. I think, uh, uh, Mr. Wayne and

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2 the, uh, and the staff at the ethics  
3 commission did an extraordinary job. The -  
4 we think their brief is terrific, uh, and I  
5 will draw you to page 3 of their brief where  
6 they - they go back over again and show you  
7 that section 1019D(1), uh, where they add  
8 emphasis, they say that an independent  
9 expenditure is any expenditure for any  
10 communication that expressly advocates the  
11 election or defeat of a clearly identified  
12 candidate.

13           It's our submission that the  
14 advertisement when you take it in context  
15 with page 4 of the, uh, of, uh, the  
16 commission brief under commission rule 9 - in  
17 1998, uh, section, uh, chapter 1, section  
18 10B(2), it says in the emphasis is when  
19 expressly advocate is a communication, a  
20 campaign slogan or individual words which in  
21 context - in context can have no other  
22 reasonable meaning than to urge the election  
23 or defeat of one or more clearly identified  
24 candidates.

25           And my favorite is former ethics, uh,

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commission, uh, chairwoman Canavan simply just having Canavan with an exclamation point at the end of it, uh, under the rule of the commission, uh, is adequate to meet that test.

Uh, so then we need to just turn - once we have that information, it seems to me we need to turn to what's in the ad, what's the content of the ad, why is this expressed advocacy, why the Democratic, uh, and the colleague, uh, who represents the Democratic Party will be better able to address those issues, but I'll [unintelligible] them - to them a little bit why the Democratic ad may not be, uh, considered expressed advocacy.

And in this case, uh, we like to look at - at, uh, what is kind of a plain face rule, uh, which is, uh, if this ad was run a year ago, would this -

MS. GINN MARVIN: Which ad? Which ad?

MR. SAXL: Any of them.

MS. THOMPSON: Okay.

MR. SAXL: Any ad that - that has been shown to you today or any ad that Jonathan -

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that, uh, that the chair - uh, the - the director has, uh, yet to show you, any ad that's run, would it make a sense a year ago when an election wasn't happening? For example, would it make sense for, uh, the Democratic Party to talk about Portsmouth naval shipyard during the Portsmouth naval shipyard, uh, uh, closing? Would it make sense for Senator Woodcock to be talking about Senator Woodcock for governor in the context of his - of his - of his representation as a state senator in Maine. What would make sense a year ago? That's number one.

And number two, when you take that part in context with the slogans that closed these ads, would that qualify as somebody who's expressly advocating the election for a specific office in the future? Is this about the past or is it about the future? I think that if you look at that, you think about, uh, the Woodcock for governor conclusion on this ad, uh, is exactly the same conclusion the slogan has on all the other Woodcock

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advertisements in the Woodcock campaign  
itself.

I have here for you, uh, I - I  
apologize, it's not the greatest, uh, my  
computer skills aren't that great. Uh, but,  
uh, I have, uh, [unintelligible] from both  
the Woodcock for governor campaign and the,  
uh, RGA ad where they have the construction  
in blue, Woodcock, then in red, governor.  
And, uh, showing you that it's - it's exactly  
the same kind of construction, the same kind  
of slogan, the same kind of electioneering.

And just to give you a sense of that  
this isn't, you know, just Democrats who  
forget about the - uh, uh, Republicans who  
forget about the word for. Uh, Democrats  
forget about the word for. I - when I ran as  
a candidate for the legislature and my mom  
was term limited [unintelligible] she had  
served before me, I got inherited all of her  
old lawn signs. Now why would that work for  
us? Because we didn't have Jane Saxl for  
house representative in district 120 in  
Bangor. We had Saxl, representative. So it

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worked equally well in Bangor, Maine, as it did in Portland, Maine.

But the same is true of any candidate currently. You know, Michaud for congress. It doesn't say for anywhere. Why doesn't it say for? The for is implied. You can accept that for is a part of that construction. Tom Allen, Congress. Why doesn't it say for? Same idea.

It's the same idea for Governor Baldacci as well. The - the ad speaks for itself. You don't need for. You don't need the state of Maine. You don't need, you know, 2006, the year. You want to convey the name and the office. That's what's important in that construction. The same is true for - for Senator Woodcock. This is his advertise- his campaign brochure. That's what it means.

And when you think about it in that context, it's really good to look at the, uh, at the, uh, the great package you all put together for today. If you look at page 4 of the, uh, RGA's first letter in here, and I can't tell you what [unintelligible].

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## PROCEEDINGS

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There's no separate page. Page 4 of the

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RGA's first letter. I can hand it around.

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But the RGA writes, and - and I will - I'll -

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I'll, uh, I'll pass around it, that this

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advertisement does not contain any words that

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would indicate electoral advocacy such as

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vote Woodcock for governor or Woodcock for

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governor, which would constitute expressed

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advocacy.

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The admission by the RGA that Woodcock

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for governor would be expressed advocacy -

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uh, let me hand that around in case you can't

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find it - uh, it's the same thing. Baldacci

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- governor, Allen - congress, Woodcock -

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governor, in the RGA's advertisement is

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expressed advocacy in the exact same way as

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his - as Woodcock's very own campaign

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material that says Woodcock, governor.

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The content of the ad and the context of

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the ad is - is important as well. And the -

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and then there's also well outlined in the

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commission staff's recommendations to you,

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uh, that the, uh, second half of that ad in

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particular [unintelligible] talks about the

2 future with Chandler Woodcock as governor.  
3 It doesn't talk about a past economic plan  
4 that he submitted as a legislator because  
5 there wasn't one. It doesn't talk about  
6 current action that he would take as a state  
7 senator, because as far as I know, the  
8 [unintelligible] legislature isn't in  
9 session. It is [unintelligible] in session.  
10 So when the call to Senator Woodcock is  
11 requested, uh, it's not about calling Senator  
12 Woodcock to change his vote on an important  
13 issue or to thank him for his vote on that  
14 issue that's pending before the legislature  
15 as a state senator, which would be an  
16 appropriate use of issue advocacy. It's  
17 about thinking about - prospectively about  
18 Senator Woodcock, Governor Woodcock. What is  
19 his economic plan? What is he thinking about  
20 in the future? How would he, uh, serve as  
21 the governor of the state of Maine?

22 It's all prospective. Couple that with  
23 it's not an advertisement done in what is  
24 called the Franklin Regular - is that it, the  
25 paper there? It's not, uh, targeted in the

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Franklin County area. It's targeted in Portland. It's targeted in Bangor. It's target- targeted in an area which is of much more - larger than Senator Woodcock's constituency as a state senator. So that's an important context - contextual fact as well.

Uh, taken as a whole, we believe that this can be taken as nothing but expressed advocacy. On, uh, page 20 of your commission, uh, uh, report, uh, there are two recommendations or two options for you. The first one is that you find that the RGA ad has crossed the line into expressed advocacy.

MS. GINN MARVIN: There's a [unintelligible] that page -

MR. SAXL: Oh, yes.

MS. GINN MARVIN: - but we had supplemental page 20's and -

MR. SAXL: I apologize.

MS. GINN MARVIN: So page 20 -

MR. SAXL: [Unintelligible].

[INAUDIBLE DISCUSSION]

MR. SAXL: Should we wait just a minute?

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MS. GINN MARVIN: Yes.

MR. SAXL: Okay.

MR. FRIEDMAN: And that - are you talking about both ads or just the second [unintelligible].

MR. SAXL: Our complaint is about the second ad. Uh, the first ad, uh, doesn't conclude with Woodcock, governor. There's actually - that's a very good point. It makes a sharp distinction between what the first advertisement is, taken in context, and the second one. The magic words never appear at the end of the first commercial. One wonders why the magic words don't appear at the end of the first commercial and why they do appear on the second commercial. But they do appear at the end of the second commercial, and they appear in the exact same color and the exact same, you know, layout as, uh, as the campaign brochure. So we're talking about the second one.

Uh, so on page 20, uh, we - we agree with the commission recommendation that, uh, that this ad, uh, has crossed the line into

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expressed advocacy, and we urge that you, uh,  
agree with that recommendation and that, uh,  
that the content of the ad which advocates,  
uh, for the election of Senator Woodcock in  
the future to his new office and that the  
final frame together, taken in context, is a  
clear, uh, violation of - of section, uh,  
1019B, uh, where it talks about in the  
context this can be nothing more than  
expressed advocacy.

We urge you not to, uh, uh, agree with  
option 2 and - and the biggest reason that we  
urge you not to agree with option - a  
movement of option 2 at this time is because  
we know that there are a lot of  
advertisements that are in the pipeline or  
planned mailings or - I think that defer the  
issue of expressed advocacy at this time  
would be to leave no guidance for the coming  
election year would be an open invitation  
until the 21 day period hits when there's a  
presumption or, uh, the RGA and the DGA and  
who the heck knows to come in here to  
electioneer in a way that - that, uh,

2 undermines the Maine clean elections law and  
3 the spirit of balancing the playing field,  
4 that it will impact, uh, countless other  
5 elections, that you have an opportunity right  
6 now to create as bright a line as possible  
7 into what constitutes expressed advocacy, and  
8 we think that that's supported by the, uh,  
9 the commission staff in our argument. We  
10 think that that's sup-, uh, supported by the  
11 McConnell decision which, uh, allows you to,  
12 uh, to have, uh, uh, to con- call something  
13 expressed advocacy and to have a consequence  
14 for that. And we think, uh, that this would  
15 be a great, uh, start to this election season  
16 to make sure that we have a bright line  
17 understanding of the law as it is. Thank you  
18 very much.

19 MS. GINN MARVIN: Questions for Mr.  
20 Saxl?

21 MS. THOMPSON: Yes. Uh -

22 MR. SAXL: I'll do my best.

23 MS. THOMPSON: - same question, uh, that  
24 I asked, uh, Mr. Bobier. You can have - can  
25 you have an ad that influences an election

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## PROCEEDINGS

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without it being express- expressly

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advocating?

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MR. SAXL: I think you can. I think,

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for example, uh, that you can talk about an

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issue that is important to Maine to raise the

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issue and the importance of the issue. For

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example, uh, if you really thought that the

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taxpayers' bill of rights was a great thing

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or you really thought it was a terrible

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thing, it would be a genuine, uh, discussion

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of an issue that is pending before the

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legislature and the Maine electorate to talk

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about the importance of that issue.

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As long as you didn't conclude it with,

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you know, Woodcock, governor. You know,

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Chandler Woodcock agrees with your view on

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TABOR, uh, Chandler Woodcock wants to cut

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taxes, you know. And include Woodcock,

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governor. If you did that, it would cross

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lines of express advocacy but if you just

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talked about TABOR in the context of

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[unintelligible] that would be okay.

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So just talk, for example, about choice.

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Planned Parenthood. Say they came out with a

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## PROCEEDINGS

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television advertisement that said, you know,

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it's really important to have reproductive

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health choices in the state and legal in the

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state of Maine. This is how Chandler

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Woodcock stands. This is how John Baldacci

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stands. You make the decision on - on what

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you want to do, a compare and contrast like

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that. That would be perfectly appropriate.

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But if they had come out and said the,

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uh, that they want you to vote for at the

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end, then that probably wouldn't be okay.

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MS. THOMPSON: And - and you described

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what I understand would be, uh, considered

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appropriately so issue ads.

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MR. SAXL: Right.

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MS. THOMPSON: [Unintelligible]. And -

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and had these been issue ads, we wouldn't be

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dealing with this issue.

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MR. SAXL: Exactly.

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MS. THOMPSON: But my question is could

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you have an advertisement prior to the 21

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days that - that influences an election for a

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candidate that is not expressly advocating

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for that candidate?

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## PROCEEDINGS

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MR. SAXL: I think you can. If you're talking about, uh, that candidate. Uh, that person who happens to also be a candidate, and you are not, uh, advocating for something that goes beyond the scope of their office, that that is absolutely appropriate.

So the biggest difference, uh, between the Democratic ad and the Republican ad - and again I will defer to my colleague to represent the Democratic Party, he will be much better at answering this than I am - but just to me, it seems that there's a fundamental difference between Senator Woodcock and Governor Baldacci. And it's that Governor Baldacci is the governor of the state of Maine and has a statewide responsibility. Senator Woodcock is a state senator from Franklin County and has a responsibility for that area in the state of Maine and that to talk about, uh, uh, something that is past or something that is pending or the, uh, legislature or the governor is an appropriate thing to talk about on a statewide basis. To talk about

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that or somebody who doesn't have a statewide responsibility on a statewide basis in the future is inappropriate. And I think there's a clear distinction there.

Just go back to the first rule that - that at least the way we looked at it, which is if this was run a year ago and we're talking about Governor Baldacci and Portsmouth naval shipyard, we were all hoping that Governor Baldacci would be successful in stopping the closure of Port- Portsmouth naval shipyard and to encourage him to do that is a perfectly appropriate thing. To talk about, uh, Senator Woodcock as governor in a prospective way and in a statewide responsibility a year ago, uh, when there was a pending legislature, uh, and his responsibility was only in Franklin County would not be appropriate.

MR. VINTON CASSIDY: Michael, uh, one - one question I have. When we were all in the legislature, you - you know we voted for issues pertaining to our districts, but [unintelligible] many of the bills before us

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affected the whole state. I mean, whether it was health care or education. I mean, we have a responsibility in the legislature to [unintelligible] everybody in the sense that time - most of the time really.

MR. SAXL: Absolutely. You think about, uh, uh, the state as a whole junior district. Is that right, senator?

MR. CASSIDY: Uh-huh.

MR. SAXL: So when we work together on the east and west highway, for example, uh, your interest in the east-west highway certainly was global but in particular you work with people in the Callus area. Is that right?

MR. CASSIDY: Uh-huh.

MR. SAXL: And you thought about that cross-border crossing, uh, uh, with [unintelligible], right?

MR. CASSIDY: Uh-huh.

MR. SAXL: And you thought about how that quarter and that would impact your district. And you were most im- at least - I don't - I can't speak for you, but for me,

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uh, well, for my own hometown of Bangor, my -  
my, uh, constituents in Portland might take,  
uh, umbrage to this. But, uh, what I was  
thinking about - I was thinking about the  
Bangor area, and I was thinking about how it  
would impact that slot of the state of Maine.  
Right? So when I got notes from people I  
knew in Bangor through my mom or through  
whatever, that's what was important to me.

When you got notes, the most important  
notes to you and then you would meet and  
you'd return phone calls to anybody who  
called you. Right? But when it came right  
down to it, weren't those ones that were from  
home - weren't those the important ones?

MR. CASSIDY: Well, in all honesty, in  
that issue I was opposed to that because I  
knew we couldn't afford to have to spend the

[LAUGHTER]

MR. CASSIDY: - committee.

MR. SAXL: Now the truth is out then.

MR. CASSIDY: I was so pleased to - no,  
I - I [unintelligible].

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MR. SAXL: No, no, please

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[unintelligible].

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MR. CASSIDY: I was so pleased to see

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[unintelligible].

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MR. SAXL: So - and - and you were

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opposed to that.

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MR. CASSIDY: I was.

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MR. SAXL: Right.

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MR. CASSIDY: Initially.

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MR. SAXL: And so that - you were

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opposed to it because it cost too much money

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and - and you didn't think it was going to be

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good for your district.

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MR. CASSIDY: Well, we could - our

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district couldn't afford it. The state

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couldn't afford it. But anyway -

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MR. SAXL: Well, you said your district

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couldn't afford it so that - that - I think

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that's right. I think the most important

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thing is that when you're a state senator

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your primary focus is - is that district in

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your community. I think your secondary

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concern is the statewide concerns.

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I'd think if you were running for

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2 election, you weren't going to do a public  
3 advertisement that was statewide  
4 [unintelligible] then do - and, you know,  
5 when you did your direct mail, it wasn't to  
6 everybody. It was to the people in your  
7 district.

8 MS. GINN MARVIN: Further questions?  
9 Mr. Saxl, uh, this is going to be your main  
10 interactive statement to me. He said, uh,  
11 what are the reasons you [unintelligible]  
12 Hannaford's. What other reason would they,  
13 uh, think that - if that was on television?

14 MR. SAXL: Right.

15 MS. GINN MARVIN: And in my mind both of  
16 those ads, if I ask people on the street why  
17 - why do you think this is on, I think people  
18 would say that these people are running for  
19 something. How do you react to that?

20 MR. SAXL: I think that, uh, that it is  
21 a distinction, uh, between the governor's ad  
22 and the senator's ad in the fact that the  
23 senator, uh, has, uh, has a restricted area  
24 where he currently represents. He's not up  
25 for reelection. He's not, you know, in his

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state senate district. There's no reason for him to run that ad statewide except for the fact or the idea to run that ad except for the fact that they are - that he's running for governor. I think that for Governor Baldacci the distinction can be made, uh, and again I'll defer to my - my colleague here to do a better job of it, but I think the distinction can be made that he is currently the governor, that if it was one year ago it would make sense in the context of, uh, the legislature and the actions he was taking to save those jobs at Portsmouth naval shipyard, and that, uh, and that today that makes that appropriate and no expressed advocacy.

MS. GINN MARVIN: Thank you.

MR. SAXL: Thank you.

MS. GINN MARVIN: Anybody else want to speak on this issue?

MR. MIKE MAHONEY: I'll just introduce myself and then pose a question, uh, to the chair. Mike Mahoney from Preti Flaherty representing the Maine Democratic Party. The - the bulk of my comments were going to be in

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defense of the Maine Democratic Party that -  
which I - it's not clear to me whether the  
commission wants to bifurcate this  
discussion. First talked about the RGA act  
and then talked about the Democratic Party  
act. If that's the case, it probably more  
appropriate for me to sit tight, but if not,  
I'm happy to discuss, uh, you know, make my  
statements now.

MS. PHYLLIS GARDINER: [Unintelligible]  
could be an issue but you can do it any way  
you want. If you want the focus to be  
addressing the RGA I'd personally want to  
hear from [unintelligible] speak at that  
[unintelligible] but you didn't  
[unintelligible].

MS. GINN MARVIN: Uh, yeah, see, I think  
it's all one issue.

MS. GARDINER: [Unintelligible].

MS. GINN MARVIN: Okay.

MS. GARDINER: [Unintelligible].

MS. GINN MARVIN: Think it's all one  
issue, right?

MR. MAHONEY: Okay.

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MS. GINN MARVIN: We're going to see how you [unintelligible].

MR. MAHONEY: Thank you, Madam Chair. Uh, at the outset if I may, can I just respond to two questions - two very good questions that I think, uh, that were raised by Ms. Ton- Thompson also by the chair. Uh, Commissioner Thompson, you - you asked the question of whether an ad could influence, uh, or why an ad would be put on if it weren't meant to - to influence, and - and I think all of these ads outside the 21 day window, even those that fall below the expressed advocacy standard, are - I think it'd be naïve to think otherwise - are designed to influence voters' attitudes toward the people that are focused on the ad.

But to - to take that to use the term influence and inject it into the definition of expressed advocacy, I think would be a stretch. Uh, the regulation makes very clear that expressed advocacy is the magic words or - or other words that urge, that can have no other meaning other than to urge the election

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or defeat of a candidate.

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If the legislature had intended to be - the standard to be, well, does this ad influence voter behavior, I don't think that the legislature during - during the rulemaking, this commission would have used such strong language. Urge. It - maybe it would have used, uh, promote or support or shed in a positive light. But good or bad, the commission is forced to live within the plain reading - the plain meaning of the statute in the regulations. And I think that the statute and the regulations that we're here with don't talk about whether an ad influences behavior but whether an ad expressly advocates the election, and whether that ad can have no other meaning than to urge the election or defeat. And I think those are two different standards here.

Uh, and in response to - to the chair's question, uh, regarding, uh, particularly the ad about the Maine Democratic Party that's put on by the Maine - Maine Democratic Party, could this ad have been put out for another

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reason if you asked the folks at Hannaford or

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in Dunkin' Donuts. Uh, I think it could and

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I think in this case - and I - I know it's

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been, uh, with all due respect to - to

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current and past politicians that are in the

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room here today - the notion that a

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officeholder would try to take credit for

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good things happening in the state is not

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uncommon or strange, regardless of whether

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there's no election.

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So I agree with - with, uh, Mr. Saxl

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that I don't think it would have been

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terribly strange for an ad to be put out a

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year ago touting the governor's

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accomplishments, particularly with respect to

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the shipyard and to the paper mills.

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Regardless of whether there was an election

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coming up, regardless of whether there -

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there was a - a - he was going to be running

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for reelection. Politicians take credit for

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good things that happen. Maybe they had

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something to do with them, maybe they didn't,

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but I don't think it's - I don't think folks

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in Hannaford or Dunkin' Donuts would be

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surprised to hear, oh, yeah, he's just trying to take credit for what happened. And that's an issue as such. But I do think that there is another reasonable meaning, uh, or another reasonable source or cause for that ad to run.

Let me now focus for a moment if I may on the phrase that seems to have sparked, uh, the most interest among the staff and the RGA in the Maine Democratic Party's ad that - that was shown to you. And that is the phrase - and if I'm wrong please correct me - John Baldacci, the jobs governor. And the RGA has attempted to juxtapose that with Woodcock, governor, and said that there really is no meaningful distinction between the two phrases.

Uh, not surprisingly, I - I - I strongly disagree with that. And I think when you apply the phrase John Baldacci, the jobs governor, to the standard which is communication or campaign slogans or individual words which in context can have no other reasonable meaning than to urge the

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election or defeat of one or more clearly identified candidates, I think that the only reasonable conclusion is that it does not.

And the most important aspect to that definition is in context. I mean, let's take a look at the rest of the ad - the Democratic Party's ad. The other 27, 28 seconds of that ad are focused on John Baldacci as governor, his past accomplishments in his first three and a half years in office. Every verb in that ad to my knowledge is in the past tense. He saved jobs at Portsmouth naval shipyard. He saved jobs at the paper mills. He created 20-some-odd thousand new jobs. It's all looking backward.

There is no mention of any future plan to create jobs. There's no mention of any future promise to save more jobs. Everything is focused on his accomplishments and his position on issues that occurred in the past.

And I men- as I mentioned, could it have - could it have been run a year ago? Yes, I think so because I think politicians take cred- even ones - even the most noble will

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take credit for - for, uh, accomplishments.

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MR. FRIEDMAN: Mike.

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MR. MAHONEY: Yes.

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So if you take that phrase John Baldacci is the jobs governor in context, I believe that the - that the most reasonable and the only reasonable interpretation of that is John Baldacci, he has been the jobs governor. And so the use of the phrase governor is not the office that he's seeking but instead the office that he has held. And I really believe that that is a key distinction between the Democratic Party's ad and the RGA ad.

MR. FRIEDMAN: In one of your ads and, uh, one of the Democratic Party ads, I think, [unintelligible], it - it shows Chandler Woodcock walking backward. What would be the intent of that ad other than to suggest that the Republicans if elected will take you back and the governor being forward thinking will continue on to some forward thinking program.

MR. MAHONEY: I think that is - I think that is one reasonable interpretation from

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this ad. I don't disagree with that, but if you take that ad and - and there have been a few now and I've seen umpteen drafts of these ads, uh, all with the idea of complying with the expressed advocacy standard.

Uh, one other possible scenario or - that that ad, you know, using - using the rule that we talked about earlier [unintelligible] the, uh, rule of thumb. If you took that ad out of the electoral context, could it make any sense in, uh, uh, in another - in another setting? And I think if you use the [unintelligible] - if you use this backwards theme that I think is prevalent, uh, through several ads.

There's one that talks about, I believe it's ar- it's airing about reproductive choice. And I could see a - a very reasonable scenario where there is a piece of legislation on the senate floor about to be voted on, very controversial and the Maine Democratic Party wants to mobilize the public to contact senators and pressure them to vote the way that they want them to vote on that

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particular issue.

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And - and that sort of ad sort of  
shaming Senator Woodcock for his past record  
in - in the Democratic Party's view, and -  
and letting voters know how he - how he  
stands on that issue. And - and - and  
telling them, hey, you know, this is how he's  
been on the issue. Either let him know or  
let others know and maybe we can put some  
pressure on him to change his vote. I - I  
think that ad could run in that context.

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MR. FRIEDMAN: But is it a reasonable  
interpretation of that ad also that the  
Democratic Party would like to see the defeat  
of Chandler Woodcock?

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MR. MAHONEY: It is a reasonable  
interpretation, but the standard in the rule,  
commissioner, as you know, is other than the  
expressed advocacy interpretation that you  
communicated, could there be - could there be  
another reasonable interpretation? Is it the  
interpretation you would make? I don't know.  
Is it the interpretation I would make? I  
don't know. But could there be more than one

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reasonable interpretation? My response with respect to that ad is yes, I think there could be.

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MS. GINN MARVIN: I think Commissioner Cassidy has a question?

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MR. CASSIDY: Yeah, I have a question.

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What - which senate is this bill pending?

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The state senate or the federal U.S. Senate?

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MR. MAHONEY: The - oh, you mean in hypothetical situation?

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MR. CASSIDY: Oh. Yes.

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MR. MAHONEY: It would be - it would be a state senate.

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MR. CASSIDY: But as Mr. Saxl pointed out, I doubt very much we're going to see the legislative [unintelligible] till after the election, so that's really a stretch, isn't it, to say that that could -

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MR. MAHONEY: They -

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MR. CASSIDY: - affect that issue?

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MR. MAHONEY: Well, I - you know, I

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think at this time and place, I think it is

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more unlikely but it - you know, just like

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any other ad that describes an issue. You

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know, you could say the - is it  
[unintelligible] then - then in that case,  
commissioner, any issue ad, any issue ad,  
could not be - would - would be considered  
advocacy just because the legislature  
happened to not be in session.

And I - I frankly think that that sets  
the bar very low. Then you really can't talk  
about issues at all during an election  
season, uh, without triggering matching  
funds, and I don't think - I don't think that  
that was the intent of the legislature in  
drafting this law.

MR. FRIEDMAN: See, I don't - I don't  
necessarily disagree, uh, agree with that  
because I think you can create an issue ad  
that is not expressing advocacy. When your  
ad turned personal in some fashion, I think  
that creates the problem. And, you know,  
that's why I - I mentioned when Mr. Bobier  
was up, you know, the first half of the RGA  
ad to me seemed like an issue ad. And then  
it turned personal.

There are four ads that we looked at

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from the Democratic Party. Some seem to be issue ads. Uh, some are struggling with in terms of it seemed to be personal. Uh, but - and - and obviously when, as you said, we'd have to look at the context of the entire ad, whether there are other reasonable meanings. But those are the issues that personally I struggle with.

MR. MAHONEY: And - if I - if I may respond just briefly, commissioner. If this - if the standard were influence, then I think - I - I think you'd probably be right on. And in other context as - as the commission knows, when you're defining what is an expenditure, was it made to influence the election? And I think that's a lower standard.

And I think issue ads, even whether you mention candidates or you don't mention candidates, do influence voter attitudes, as does an ad that just says Chandler Woodcock's a super guy. He was a veteran. He was a teacher. He'll do, you know - well, not he'll do right by us but, you know, all those

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sort of nice things. Those do influence voter behavior. And if the standard is influence, then I think I - I agree with you. You're absolutely right, but the standards that we're all living with in that PACs and parties and - and other, especially outside groups have to live with is expressed advocacy urging - urging the election or defeat and I believe that these issue ads, even when it gets personal, it stops short of urging.

MR. FRIEDMAN: Well, urging has a different meaning than -

MR. MAHONEY: I - I - I -

MALE VOICE: - [unintelligible].

MR. MAHONEY: - I think they do. I think influence requires a second step by the listener or the viewer. But urging is just direct.

MS. GINN MARVIN: Do you have a question?

MR. ANDREW KETTERER: Yeah, uh, Mike, much has been, uh, we heard [unintelligible] this morning about, uh, what the person in

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2 the street would have to say. Uh, uh, what's  
3 your legal view of - of the court's employing  
4 that type of, uh, an analysis?

5 MR. MAHONEY: Uh, I - I think it is not  
6 what courts or other, uh, decision-making  
7 bodies use as their test when they're talking  
8 about the reasonable meanings. Uh, it's -  
9 this is not a popularity contest or a  
10 majority contest. With all due respect to  
11 the LaMarche campaign, I don't - and with all  
12 due respect to the meeting here, I don't  
13 think it matters what the newspapers say.  
14 And to - and to - to - to argue that that  
15 should influence this commission, uh, I  
16 disagree with that. I disagree with that.

17 I think it - it is a very strict legal  
18 standard and that is could there be another  
19 reasonable meaning. Not necessarily what I  
20 believe or you believe but could there be -  
21 could two - could two reasonable minds differ  
22 on what is the meaning? And I think so long  
23 as it's not unanimous coming out of Hannaford  
24 or Dunkin' Donuts, I think you really can  
25 make a - a strong argument that two

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reasonable minds could get [unintelligible]  
meaning of this act.

MR. KETTERER: And give me your view of,  
uh, the impact of the decision, uh, that  
could change the course here. I mean,  
people, uh, put candidates in their campaign,  
you know, [unintelligible] earlier decisions  
made by the commission, uh, decisions made by  
courts, and then they fashion something it  
seems to me that's very close to the line but  
you don't want to go over the line. To stay  
100 miles back from the line it's probably  
not very effective. I mean, the idea is  
right up against the line. You don't go over  
the line. Uh, what impact if any would you  
think it would have for the commission to  
make a ruling today that would change where  
we were at 5:00 yesterday?

MR. MAHONEY: Fifty days or 50, 51, 52  
days away from the election, I think it would  
have a tremendously disruptive impact on the  
activities that have already been planned and  
in some cases paid for by several outside  
groups. Uh, whether that should factor into

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your decision, that's - that's up to you.

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Uh, but I can tell you that other than the RGA ad that - the Woodcock dash or slash governor, I think everybody else has been - has had a fairly clear understanding of where the line is, and we've worked to be close to it without crossing it. And there's been a lot of resources that have been expended and will continue to be expended to stay at - to stay on the right side of that line.

If, as the LaMarche campaign urges, the bar is lowered, it would turn the rest of this election season on its head. This I think is a great policy to be and if there's going to be proposals perhaps coming out of the commission going forward, uh, maybe proposals to the legislature to make some - to - to sweep the statute, this may be one of them. Whether it should be an influence standard instead of an urging standard. But at this late date, commissioner, I - I really think it would - it would turn everything - everything - upside down. We're - we along the outside here are used to the world being

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a certain way. And I think we can continue -

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MR. KETTERER: Uh, [unintelligible].

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MR. MAHONEY: Yes. And we - and we can

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continue to operate that way, and I - I -

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frankly I just think the RGA in that - that

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phrase, this phrase - not - this phrase, uh,

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they just went over the line. But I don't

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think that muddies the water. I think

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everybody else has a fairly clear

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understanding of the where the line is.

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MS. GINN MARVIN: Uh, Mr. Mahoney, I'm

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just not clear on - I certainly understand

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the concept that politicians try to take

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credit for things that perhaps they had

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nothing to do with. And, uh, were that ad

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run a year ago, I would agree with your

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analysis of [unintelligible]. However, it

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seems very coincidental to me that 50 days

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before the election we're running this ad to

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remind us that a year ago in Portsmouth, uh,

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something happened.

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Uh, I think the timing is the key factor

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that makes me question what is the intent of

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this ad and I'm just wondering what your

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thoughts are on that.

MR. MAHONEY: I think if, uh, madam chair, I think if the timing were to be a predominant factor in your analysis, then every ad, every piece of mail, would arguably - very arguably - trigger matching funds because if - if - if - if all we're saying here is, well, why else would they run it. It's just because there's an election coming on. That sets the bar very low and I think you find that there would be matching funds triggered all over the place. And I can't think of any - any way that something wouldn't if it had a - a picture of any of the candidates.

You would essentially be taking that 21 day [unintelligible] standard and in- and applying it to the full campaign season. And I really believe that that's a policy decision that - that the legislature should make with input from this commission, of course. But that is a major change of course, uh, and again we're - we're late in the game here.

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2 MS. THOMPSON: Uh, so we're struggling  
3 with the issue of freedom of speech and  
4 expressed advocacy. Uh, you can obviously  
5 refuse to answer this question. You're not -  
6 the light light and I might ask for some -

7 MR. MAHONEY: I can't wait to hear it.

8 [LAUGHTER]

9 MR. MAHONEY: Is my attorney here?

10 MS. THOMPSON: I might ask you some, uh,  
11 one of your counterparts when he or she comes  
12 forward. Uh, how would - because this will  
13 what you say may have an impact on how I view  
14 the expressed advocacy or not expressed  
15 advocacy of the Baldacci campaign. The  
16 Baldacci ad that we - that we watched. Uh,  
17 how would you argue if you were going to -  
18 how would you argue that the RGA ad is not  
19 expressed advocacy?

20 MR. MAHONEY: Is not expressed advocacy?

21 MALE VOICE: You don't have to.

22 [LAUGHTER]

23 MALE VOICE: Make it good.

24 [LAUGHTER]

25 MR. MAHONEY: I think that the first ad

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that the RGA ran which I think was the one that does not include the - the phrase. I think for all the reasons I've discussed [unintelligible] it the same as the Democrats' ad. I really do. I think that the only distinguishing factor here is the phrase Woodcock, governor. There is no other reason why the word Woodcock and the word governor - no other reason why those two words would be put next to each other prominently unless you want to associate the name Woodcock with governor. And that just happens to be the office he's seeking.

MS. THOMPSON: So how about if someone who is not aware of the politician name, does not realize that Woodcock is indeed not the incumbent governor, because that argument is being used to say since Baldacci is the incumbent governor and mentioning his title in that ad is therefore saying this will influence, however, it's not expressed advocacy. It's not urging. Do you see the distinction?

MR. MAHONEY: Yeah, I - I -

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MS. THOMPSON: So the - so the - the uninformed voter, uh, and that's not a criticism -

MR. MAHONEY: Uh-huh.

MS. THOMPSON: How do they know - well, answering the question if you can -

MR. MAHONEY: Sure. Uh, I think - it - and I go back to the rule. Okay. And I hate to be a stickler but you go back to the rule and you talk about context. And Mr. Saxl made this point earlier and I touched upon it myself. In context the phrase John Baldacci, the jobs governor, because the preceding 28 seconds talks about all the things he did as governor, and so I think coming out of that ad even the uninformed voter would say he did all these things as governor so the phrase jobs governor is just a - a - an encapsulating phrase of his accomplishments. He has been the jobs governor.

I think the uninformed voter looking at Woodcock, and frankly I think the insertion of this phrase is - is meant to get at the uninformed voter who might not know that this

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## PROCEEDINGS

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wonderful person who's done all the - who has such wonderful plans going forward. Oh, and by the way, he's running for governor. You know, that - that's why it's in there to give that little tip perhaps to the uninformed voter. But - but if you look in context, the unin- even the uninformed voter looking at that Democratic Party ad in full, I believe all they can see - the conclusion that they can come to is that he has been the jobs governor.

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MR. FRIEDMAN: Does two seconds of urging, uh, trump 28 seconds of influence?

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MR. MAHONEY: Commissioner, I don't believe that there is two seconds of urging in the Democratic Party ad.

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MR. FRIEDMAN: If there were, what?

MR. MAHONEY: Uh, yeah, I do believe that if you have any - even if - and - and I think that's the case with the RGA ad that's - that - that's the greatest focus of the commission here, is that you have 28 seconds of - of puff and then - then the - the closing line I do believe that that trumps 28

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## PROCEEDINGS

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seconds of - of puff. I do. I do.

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MS. GINN MARVIN: Mr. Cassidy?

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MR. CASSIDY: Yeah, I just wanted to ask

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one question. You know, you spoke about the

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Democrat ad and - and all the things that's

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happened in the past when the governor was

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responsible for or at least took credit for,

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don't you think that that's also telling the

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uninformed voter while this person's done a

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wonderful job and - and believe you know

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he'll do a good job in the future as well

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because, you know, don't you think that's

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influence in, uh, some votes as well?

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MR. MAHONEY: Well, I think you took the

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words right out of my mouth, commissioner.

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Influence. Influence. And I think again

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going back to the earlier, uh, if - if - if

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it is true we - if we're talking about

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influencing then - then that is I think a

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different debate. But the - the statute and

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the rule in front of you does not use the

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word influence or promote or support or

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favor. It talks about urging and, uh, if

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this commission wants to take this up as a -

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before the next legislative session and - and employ the same standard that you employed for expenditures, which are any- anything of value trying to influence the elections, uh, and applied out here, that's - that's a policy discussion, but to in- inject the word influence now when the plain meaning urges is in the rule already, I think would be very disruptive.

MR. CASSIDY: So do you feel the Republican ad then urged them rather than influence them?

MR. MAHONEY: I do. I do because I think the phrase Woodcock, governor, is in substance the same as Woodcock for governor. The word for is a throwaway.

MR. CASSIDY: So -

MR. MAHONEY: And -

MR. CASSIDY: Oh, sorry.

MR. MAHONEY: I apologize.

MR. CASSIDY: I didn't mean to -

MR. MAHONEY: No, I apologize.

MR. CASSIDY: No, [unintelligible] so -  
so in other words where it says Governor

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Baldacci and you believe that's not urging them to know that he's the current governor?

MR. MAHONEY: If it was Baldacci, governor. If the Maine Democratic Party ran an ad that said that? That's a problem. Governor Baldacci. That is his identity. That is his name, and maybe that's unfair that his name includes the - the word governor. Uh, but that's been his identity for the last three and a half years, so to use the name Governor Baldacci I don't think is expressed advocacy. If we ran an ad that said Baldacci, governor, and I - and - and when you read it, I think that's how it - you imagine it being said. Woodcock, governor. Baldacci, governor. Uh, to me that's just taking out the word for. But you might as well put it in there. It doesn't make any difference.

MR. CASSIDY: Thank you.

MS. GINN MARVIN: Other questions for Mr. Mahoney, Jonathan?

MR. JONATHAN WAYNE: Uh, I've had a very hard time with this and trying to draw

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distinctions between ads. And that's why we're making a recommendation in all - in our memo is very soft. Uh, one thing that we've wrestled with is that if the - the commission were to take the view that the second RGA ad is expressed advocacy and - and one important factor in that might be the word governor in the last frame. But that the, uh, jobs governor ad is not. That creates kind of an incumbent calendar difference that is it's easier for supporters of an incumbent to say positive things about the incumbent and to get that job title in there with that, uh, candidate's name and talk about all their great accomplishments as governor or as a senator or whatever. But then when a challenger comes forward and, you know, has a positive message [unintelligible] they put that word governor in there, that, you know, then suddenly it's express advocacy and do you have any comment on that and whether it will be a bad practical decision for the commission to make to - to make that go in one direction on the RGA ad but the other

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direction on the Democratic ad?

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MR. MAHONEY: In - in response to your initial observation, uh, Jonathan, I - I - I'm - I think it would be ni- I - I think that there is a - a natural sort of, uh, I don't want to say it's an inequity but one person is the incumbent, one person is the challenger. There was a case before this commission last month, two months ago, that talked about incumbent's ability to do constituent mail to an entire senate district, and a ch- using their legislative dollars. First is in the challenge inability to do that unless they used campaign dollars. And that's an inequity. And I think frankly - you know, I - I don't think the situation is terribly different here. Uh, someone argued that if there was a - if we just got out of a tough three and a half, four year period where a lot of bad things happened, the phrase incumbent or Governor Baldacci or Governor Wayne would be a bad thing.

But frankly, seven days a week, 365 days a year, he is referred to as Governor

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Baldacci. And I - I don't think it's unfair to include that in, uh, in literature that's put out by the campaign or by third parties of the Democratic Party.

MR. FRIEDMAN: Is there a difference in saying Governor Baldacci versus the jobs governor?

MR. MAHONEY: Uh, well, Gov- Governor Baldacci is just identifying him -

MR. FRIEDMAN: Right.

MR. MAHONEY: - commissioner.

MR. FRIEDMAN: What about jobs governor?

MR. MAHONEY: The jobs governor in this case in context - in context - is a summary of his positions on the issues and his accomplishments in his cap- in his position as governor. If that ad were - if the Maine Democratic Party ad were talking about his plan for economic growth, his plan to attract new business, and the closing line was John Baldacci, the jobs governor, I think I'd be in much warmer water. I really do.

But because - because the context of this is retrospective, I think I really do

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## PROCEEDINGS

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think that that is a distinction - a meaningful distinction.

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MR. WAYNE: One - one more question. So if we just had a poster that said John Baldacci, the jobs governor, would that be urging the election? Worded, uh, John Baldacci? It would?

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MR. MAHONEY: Uh, that's a tougher case for me. Standing alone without the context. If it - if it didn't have above it saved Portsmouth naval shipyard, saved the paper mills, jobs at the paper mills. John Baldacci, the jobs governor. If it didn't have that context, I think that'd be a tougher case for me.

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MR. WAYNE: [Unintelligible] commission members who think that is urging [unintelligible] governor. The - it - the rest of the ad at the, uh, the presence of [unintelligible] and the last [unintelligible], was it undercut or it negate - the rest of the ad negate the e-urgent - the expression -

MR. MAHONEY: No, it - it puts it in

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context. And that's what the rule requires the commission to do is to look at the phrase, the word, the slogan, the communication in context and I think that the reasonable context here is the full ad.

Now there are some phrases that it doesn't matter what the other context is. If - if it - if that ad ran about Portsmouth naval shipyard and the paper mills and then in the end it says vote Baldacci, it doesn't matter what the context is. That - that phrase is too strong. It - it negates everything else. You'd be right in that - in that situation, Jonathan. But here I think the context is key, absolutely key.

MS. GINN MARVIN: Anybody else? Well, one more.

MS. THOMPSON: Uh, just again just to get information. Uh, what would you have omitted in the RGA ad so that the issue of expressed advocacy wouldn't be an issue?

MR. MAHONEY: I would have taken out the phrase - if I were counsel to the RGA, they had asked me when it was in draft form, I

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would have said you got to take that out.

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You have to take out that phrase, and if they

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asked me what could we put in there, uh,

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because he's a - uh, it would be hard. It

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would be hard to really come up with

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something that - that mentions the word

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governor when he's not governor and has no

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record as governor. You mention the word

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governor without it getting dangerously close

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to the line. It's hard. It would have been

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difficult.

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MS. GINN MARVIN: Next up? Thank you,

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Mr. Mahoney.

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MR. MAHONEY: Thank you.

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MS. THOMPSON: [Unintelligible].

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MR. MAHONEY: No, no, I just -

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MS. THOMPSON: [Unintelligible].

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MS. GINN MARVIN: Okay. We're going to

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take a five minute break. [Unintelligible]

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all part of lunch and more important.

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[END TAPE LaMarche\_Appeal\_Maine\_Ethics

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pt 1]

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[START TAPE "LAMARCHE APPEAL MAINE

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ETHICS, PT. 2"]

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[Crosstalk]

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MS. GINN MARVIN: Sir, Welcome.

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MR. SPIES: Morning. I'm Charlie Spies,

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General Counsel for the Republican Governors'

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Association, and, uh, thank you for allowing

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me dr-j--to address the Commission, and up-

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front, I want to say that over the past few

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weeks, your staff has been very professional.

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I don't necessarily agree with all their

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conclusions, but they've been very good to

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work with, so, uh, that's a pleasure. Mr.

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Maho--Let's start where we ended off, which

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is Mr. Mahoney, who was kind enough to give

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some legal advice on how to comply with the

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law. And he said that, if [Unintelligible]--

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"John Baldacci, the Jobs Governor" was on the

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screen, and it was just that, and nothing

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else in context, then that would be--He felt

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like he'd have a problem with that, and that

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that would be express advocacy. But, if it

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talked about Portsmouth and it talked about

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some other issues on the screen, then that

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would add context to it, uh, and that would

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not be express advocacy. I would note for

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2 you that the RGA's Ad--the final screen of  
3 it, "New solutions to change Maine's  
4 direction," and at the same time this s--the  
5 word, "governor" is never spoken. It's on the  
6 screen, but the fin--the closing text is  
7 saying, "Call Chandler Woodcock. Tell 'em  
8 you support new" --go--new "solutions to  
9 change Maine's direction." It's in the  
10 context of talking about tax cut, budget  
11 problems, etc. That's the RGA's ad. The  
12 context here is talking about issues. The  
13 word, "governor" is in with--as at the top of  
14 [Unintelligible] as expressly advocating for  
15 governor, and it's got context. In contrast,  
16 the Maine Democrat Party's ad ends with just,  
17 "John" Baldaccic-- "Baldacci, the Jobs  
18 Governor". No context. No . . . talking  
19 about issues, no saying, you know, "A year  
20 ago we thought it would be nice,  
21 [Unintelligible] thank him for this." The  
22 day after our ad started, th--and our ad was  
23 the first ad that didn't have the word  
24 "governor" on it--the next day they started  
25 running their ad, which says, "The Jobs

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2 Governor". That's the pri--practice in  
3 Maine, and then we followed that with our ad,  
4 which, in context, mentions the word  
5 "governor," but is talking about issues in  
6 Maine. If I just show you this  
7 [Demonstrating], you would think that I'd got  
8 frustrating on my way to the hearing today  
9 and ripped out a Baldacci yard sign. Uh,  
10 that's what it looks like. It's a little  
11 blurry, 'cause we blew it up, but it looks  
12 like a Baldacci slogan. Having said that,  
13 the past hour and a half discussion is  
14 exactly why the United States Supreme Court  
15 and the First Circuit Court of Appeals and  
16 Federal District Court in Maine have all said  
17 that you need to have a bright-line standard  
18 of what constitutes express re-advocating the  
19 election or defeat of a candidate. If you  
20 don't have a bright-line standard, and  
21 instead, you start to look to context, and  
22 start to look to other factors, then you get  
23 discussions like we heard today. The  
24 LaMarche Campaign--get--I don't disagree with  
25 most things they said about how this is, uh,

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## PROCEEDINGS

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influence in election, and how it's, you

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know, perhaps it undermines the clean

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election system. It's all--you know--He--We

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can all have our opinions on that, but that's

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not the law. And, if we have to sit around

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and have discussions about, uh, at what time

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the ad ran; and, uh, did--what wa--what are

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the other intents of it; what is the intent

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of the person running it; uh, what the

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person, and the--when the--title--what is

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meant when the title is mentioned; is he

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actually a candidate for that? If you have

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to have all those discussions--then when I

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and Mr. Mahoney are trying to approve our ads

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and comply with the law, while at the same

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time, exert our First Amendment Rights to

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Political Speech--we can't do it. We--I

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cannot judge what a reasonable person at

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Dunkin Donuts is going to say. Uh, that's

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not the legal standard. And it's not fair.

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The fundamental issue on the table is

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fairness, and fairness has three components.

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Fairless--fairness means clearly stated

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rules; fairness means not changing those

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## PROCEEDINGS

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rules in the middle of the game; and fairness

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means equally applying those rules to

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everyone that's trying to participating under

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them. Let's start with the first part of

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fairness, and that's: clearly stating the

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rules. We're fortunate in Maine, because the

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law's pretty clear on what does and doesn't

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constitute express advocacy. Up front, I

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wanted to note that the LaMarche Campaign

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mentioned McConnell v. --uh, the McConnell--

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the FEC case. In that case, the United

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States Supreme Court was examining the

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Federal Election Commission's Rules under the

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new BCRA--The Bi-Partisan Campaign Reform

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Act--and they were evaluating whether the

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Commission and legislature--whether the

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Congress has the ability to expand regulation

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of speech beyond the magic words. And the

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U.S. Supreme Court said, "Yes. Congress, as

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it sees a need, has the ability to expand

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regulation beyond magic words." Magic words

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is not the end-all-be-all test. If--We're

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not going to presume to tell them they can't

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do that. The McConnell case did not,

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2 however, strike down all of the previous case  
3 law, which said that, if express advocacy is  
4 the standard, that standard must be narrowly  
5 interpreted to words of express advocacy.  
6 That goes back to Buckley, [Unintelligible]  
7 52. Uh, if you think that this is a problem,  
8 that all these outside groups are spending  
9 all this money talking about issues and  
10 talking about candidates and that it should  
11 be regulated, there's not--with all due  
12 respect--there's not much you can legally do  
13 about it. The people that can do something  
14 about it is the legislature. They have done  
15 something about it. They expanded, they  
16 expanded the rule to cover--within 21 days of  
17 election, if you mention the candidate, then  
18 it's presumed to be, uh, covered under the  
19 Clean Election Laws. That's--They expanded  
20 that 21 days out. That avoids all of the  
21 discussion we're having here today. There's  
22 no way I could come to you with a straight  
23 face and say, "Our add," if it was done  
24 within 21 days, "doesn't have a--an intent to  
25 influence the election." It does. That's

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the intent. But that's not the legal standard we're under right now. The legislature didn't expand that beyond 21 days. We are, instead, stuck with the law. Let's examine the law. You've heard that the Statute says, "Communications that expressly advocate the election or defeat of a clearly identified candidate . . . ." I just want to note one thing in your thought process on this, and that is: Don't cut out the "election or defeat" part of that standard. And--In other words, a lot of times, in the newspapers, you're seeing a lot of, "Well, clearly the ads expressly advocate Chandler Woodcock; you know, they say he's a good person," and what else they d--you know, they talk about him; they say, "Chandler Woodcock's good." They advocate him. But the standard is not advocating a per--a clearly identified candidate; it's advocating, "the election or defeat" of a clearly identified candidate. And--So you have to look: Does it say an "elect" or "defeat"? And that's where we get the

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## PROCEEDINGS

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2 [Unintelligible] legal analysis of how to  
3 interpret [Coughing] [Inaudible]. Uh,  
4 Assistant [Unintelligible], uh, Attorney  
5 General, uh, Gardner was good enough to do a  
6 Memo on this, it's--in the year the 2000.  
7 She explained the law and laid it out, and  
8 she concluded, normally, a reviewing Court  
9 will give deference to the administrative  
10 agencies' interpretation of its own rules and  
11 the statutes it's charged with administering.  
12 But in this ca--or area, the Supreme Court,  
13 in the First Circuit, has already spoken.  
14 And the Commission has to apply the concept  
15 of express advocacy consistent with the  
16 holding of those cases. The United States  
17 Supreme Court first spoke on this in 1976 in  
18 Buckley v. Valeo, and in, uh, Massachusetts  
19 Citizens for Life in 1986 they reiterated  
20 Buckley's rationale, and this is very  
21 important, because it should guide you in how  
22 you are thinking about how narrowly to  
23 interpret the Statute. The Supreme Court  
24 said the rationale for Buckley's holding was:  
25 "The distinction between

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## PROCEEDINGS

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discussion of issues and candidates

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in advocacy of election or defeat

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of candidates may often dissolve in

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practical application. Candidates,

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especially incumbents, are

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intimately tied to public policy

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issues involving legislative

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proposals and governmental actions.

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Not only do candidates campaign on

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the basis of their positions on

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various issues, but campaigns

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themselves generate issues of

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public interest. Buckley adopted

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the express advocacy requirement to

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distinguish discussion of issues in

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candidates which are protected

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under the First Amendment from more

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pointed exhortations to vote for a

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particular person."

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That's what the Supreme Court said, but

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we're fortunate in Maine, that your Federal

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District Court has also addressed this. In

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1996, Judge Hornby in Maine Right to Life

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said,

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## PROCEEDINGS

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"What the Supreme Court did

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was draw a bright line that may err

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on the side of permitting things

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that affect the election process,

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but at all costs, avoids

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restricting in any way, discussion

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of public issues. The Court seems

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to have been quite serious in

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limiting FEC enforcement to express

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advocacy, with examples of words

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that directly fit that term. The

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advantage of this rigid approach,

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from a First Amendment point of

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view, is that it permits a speaker

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or writer to know from the outset,

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exactly what is permitted and what

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is prohibited."

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Think about that. Judge Hornby

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addressed the problem we're facing

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today. He said some things aren't

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going to be covered; the general--

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the--reasonable people may disagree

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but, "at all costs, you must avoid

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restricting, in any way, discussion

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## PROCEEDINGS

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of public issues." That's how you

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interpret express advocacy. That's

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how you interpret the standard.

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Narrowly reading the Statute to

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just cover express words of

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advocacy provides exactly the

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guidance Judge Hornby is talking

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about. Let me be clear. Mr.

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Mahoney and I both review

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advertisements and we try to comply

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with the law. I've been doing this

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a while. I--I'm not saying I can't

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make a mistake, but I will say I

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was previously Counsel of the

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Federal--to the Chairman of the

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Federal Election Commission. We

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followed--have followed the law--

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followed the development of the

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law--and in Maine, it's not a

21

difficult case because you have,

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on-point case law. If this were in

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the 9<sup>th</sup> Circuit, it would be

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different, because Furgatch

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controls in the 9<sup>th</sup> Circuit, and so

## PROCEEDINGS

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they have a little more wiggle room in terms of looking at the context they had. In the 1<sup>st</sup> Circuit, that's not the law. The law is "express words of advocacy." You look only to the words that are used. Uh, in addition, that's my view of the law. I thought we were complying with the law. In addition, the Maine Democrat Party must believe that. I realize you've put their Counsel in a difficult position here, asking him questions about ARC adds, etc., and--but, think about it. There's no way the Maine Democrat Party-- First of all, their Chairman said our first ad complied with the law. And then, they did this ad, which says, "The Jobs Governor." I-it's strains credibility to believe they think the status of the law is: You can't have the word "governor" after the wo--the candidate's name,

## PROCEEDINGS

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and that, in itself, change the law. The s--the, the understanding of the law is that it's only express words of advocacy. Finally, the staff, in their Memo to you, acknowledged that, uh, this is the first express advocacy determination for the Commission since the 2000 elections. So, tha--when you're in our position, trying to ex--use a--trying to speak and exert our First Amendment Rights, but comply with the law in Maine and with what the Commission has said, we look to what the Commission has said in the past. The last we can look at is the year 2000. In the year 2000, the Commission examined a--quite a few examples of the f--what further could not be considered express advocacy. I wanted to ba--uh, focus your attention on one of them which is, this, uh, Kevin Gwynn--

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## PROCEEDINGS

95

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er--g--I'm sorry--Kevin Glynn, uh,

3

flyer. The flyer says, "Disgrace.

4

State Representative Kevin Glynn's

5

voting record on senior issues.

6

When South Portland seniors needed

7

him, State Representative Kevin

8

Glynn turned his back on them. Our

9

Senior Citizens deserve better.

10

Don't settle for this disgrace.

11

Vote Tuesday, November 7<sup>th</sup>."

12

The Commission said this is not express

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advocacy, because it doesn't have the words-

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-it doesn't say, "Vote against Kevin

15

Glynn." It doesn't have the words of

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express advocacy. That is the standard the

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Commission has applied in the past. What

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the LaMarche Campaign is asking you to do is

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change that standard, less than 50 days

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before an election. That's not fair, and

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it's not right. The second part of

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fairness--The first part is clearly stating

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the rules; the second part is not changing

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the rules in the middle of the game. To

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rule that thot--that, uh, RGA's

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## PROCEEDINGS

96

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advertisement contains express advocacy

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would be to change the rules mid-stream.

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The basic argument the people who believe it

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contains advocacy is making, is that, uh,

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the ad is pro-Woodcock and the word,

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"governor" is in the last frame, so it must

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be voting for Woodcock for Governor. I have

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to say, if Judge Hornby were to see this 25-

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Page Brief, he would--I, I don't wanna

11

presume what he would do, but . . . This is

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exactly what he never wanted to see. Where,

13

we're talking about, uh, [Unintelligible]

14

the Commission staffed and the viewing

15

Commission staff there's a sic--uh, the ad

16

communicates a sense of urgency, and then

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there's a shift to upbeat music and bright

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colors, and then the ad lists elements of

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Woodcock's economic plan. And--but the only

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way you can think about it if you're an

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informed viewer is: In what context would

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he be able to implement his plan? And the

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only way you could implement his plan, they

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argue, (in the context of this bright happy

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music and the bright background) is if he

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## PROCEEDINGS

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were to become governor. This is reading tealeaves. The Courts have said you need to have bright lines. If you want to regulate ads that are positive with peppy music and bright backgrounds and talk ab--and mention candidates, you can do that-- "you" being the State of Maine. The Maine Legislature did do that and they did it within 21 days of an election, but that's not the standard now, outside of 21 days from an election. Uh, the linchpin in the argument that--in the argument saying that this does contain express advocacy--is, uh, that--is that it contains the word, "governor" --is that the word "governor" appears on the final screen. The first problem with that argument is that i-i-it forces you to go through--it--through contortions of saying, well, "governor" in some cases is okay, but "governor" in other cases isn't okay. And by the way, it's a 'straw-man' when they say, "Well, he's-- Governor Baldacci is the Governor, so it's respectful to refer to him that way. How else are you going to talk about him?"

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## PROCEEDINGS

98

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We're not talking about saying, "Governor

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Baldacci did this." We're talking about

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saying, "Baldacci, the Jobs Governor;

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Baldacci--the High Tax Governor" --whatever

6

you wanna say. Uh, that, that's talking

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about it in context. I don't believe that's

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express advocacy. The law is very clear.

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If you said, "Vote against Baldacci, the

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High-Tax Governor," that's totally

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different. But it doesn't have electoral

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call to action. It's gotta say bu--It's got

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to expressly advocate the election or

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defeat. In fact, our advertisement

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expressly advocates something else. It

16

advocates the Woodcock Economic Plan, and it

17

advocates that can't--that people--

18

listeners--call Chandler Woodcock and tell

19

him to stick by that economic plan. Uh,

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there has been an argument that, uh, there's

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no other possible interpretation other than:

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Vote for Chandler Woodcock. I think the

23

[Unintelligible] over the last few weeks

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strongly, uh, would contradict that. When

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we first ran our advertisement, it spurred a

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policy debate. Uh, we had Mr. Saxl, uh,  
send nasty letters to T.V. stations saying  
that he disagreed--Good letters. I'm not--  
I'd do the same thing, but--

MR. SAXL: Agreed.

[Laughter]

MS. SPIES: Sure. O--and, and one  
station manager did agree with the letter,  
and said that he believes our view that  
there's a budget gap in Maine is wrong, and  
that, in fact, because the budget surplus  
means that we shouldn't focus on the budget  
gap. There has, then, been some ad watches,  
and there's been a lot of discussion over 1--  
the past few weeks. We stand by the view  
that there's a \$425 Million budget gap in the  
State of Maine, and that Chandler Woodcock's  
policies of lowering taxes and cutting budge-  
-er--uh, cutting government spen--capping  
government spending would help solve those  
issues. And we encourage him to stick by his  
policies to solve those issues. On the other  
side of the argument, the Maine Democrat  
Party is running an ad that excerpts this ad

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## PROCEEDINGS

100

2 and responds to it, and says that Maine has a  
3 budget surplus, and so we shouldn't worry  
4 about the budget gap in the future 'cause  
5 there's surplus now. That is a legitimate  
6 policy debate. There are two sides to the  
7 issue, [Unintelligible] the policies doing  
8 the--being debated, and Godspeed--that's what  
9 Democracy's all about. But you don't pick  
10 one ad and say, "You can't talk about it,  
11 because we believe you're talking only about  
12 Chandler Woodcock's election." That's the  
13 folly of looking to the context of ads and  
14 trying to read tealeaves like this. That's  
15 why in Maine Right to Life, the Judge said  
16 you have to firmly look to the words of  
17 express advocacy. Uh, the Rule--the specific  
18 Rule that the Commission promulgated--says  
19 the context, "can have no other reasonable  
20 meaning than to urge the election or defeat  
21 of one or more clearly identified  
22 candidates." First of all, I think this ans-  
23 -whether our ad meets that standard is  
24 usually answered by the fact that in the  
25 staff recommendations it says a, "majority of

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the staff believes this." That means at least somebody on the staff doesn't believe. Now maybe that's the one unreasonable guy, but--

[Laughter]

MR. SPIES: --uh, I--You know, if one person disagrees, then it means that somebody can't disagree, and, on its own, uh, that means we need the standard. Secondly, common sense says we meet the standard of talking about issues that are important in Maine and affect a lot of different candidates and do not just affect Chandler Woodcock. And the standard isn't even just affecting Chandler Woodcock, [Coughing] [Unintelligible] in Maine the s--the standard is, uh, ". . . only reasonable meaning is to urge the election of the person." The only reasonable meaning of, "New solutions to the change Maine's direction," is not to urge Chandler Woodcock. That is a reasonable meaning, but it's not the only reasonable meaning. There are other meanings, and that's the policy argument we're talking about. I said there's three

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## PROCEEDINGS

102

2 parts to fairness. Uh, the third part is,  
3 that if you're going to have rules, you need  
4 to thinly apply them. Uh, the Commission  
5 Staff said that if you are going to find  
6 express advocacy in this, it would be--in the  
7 RGA's ad--it would be based upon three  
8 factors. The first factor is that half of  
9 the ad is about Chandler Woodcock. The  
10 second factor is that Woodcock's Economic  
11 Plan consists of future actions that Woodcock  
12 could only take as governor, and the third  
13 factor is that it uses the word "governor".  
14 Let's look as those three factors in relation  
15 to the Democrat ad. In this Baldacci ad,  
16 more than half of the ad is unmistakably  
17 about John Baldacci. It's all about him.  
18 Secondly, the references to Baldacci's  
19 efforts to save the shipyard and paper-mill  
20 jobs, and being the, quote "Jobs Governor"  
21 can only have reference to what the Maine  
22 Democrat party claims Baldacci will continue  
23 to do if he is re-elected. They made the  
24 argument that they would have--they could  
25 have run this a year ago. Sure--

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theoretically, they could have, but they didn't, and we all know that's not common sense. The only thing this is talking about is why people should re-elect Governor Baldacci, and that's because (in the context of talking about jobs) if people believe that he creates jobs, they should vote for him. In another words, if the Woodcock Economic Plan necessarily consists of future actions that he could only take if elected, and therefore, it is implied advocacy--if the [Unintelligible] view knows enough other facts about the race,--then Baldacci's past activity in saving jobs and then being called a "Jobs Governor," could only have relevance to future activity if he is re-elected. Again, this is implied advocacy if the viewer has enough other facts. We all know the Maine Democrat Party wouldn't be running if this ad if Baldacci wasn't up for re-election. The chronology began--is that we ran our first ad, they ran this ad, which says, "the Jobs Governor," and then we ran our ad which talks about issues, but also has

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the word "governor" in it. A level playing field is important. These ads are substantively the same. I believe that none of them meet these standards of express advocacy, but you cannot find that, if you're going to move beyond the words of express advocacy, if you're going to through out the past Commission precedent, if you're going to take this 2000 Memo from, uh, from your Counsel and say it's no longer relevant--if you're going to do all of that and rule that our add contains express advocacy, then I would suggest that as a matter of fairness, you need to do that for the Baldacci Campaigner, I'm sorry--the Maine Democrat Party's ad also. I'd be happy to take questions.

MS. GINN MARVIN: Thank you. Any questions?

MS. THOMPSON: Um, why did you include the word, "governor" in your ad?

MR. SPIES: Those are issues that governors deal with.

MS. THOMPSON: Was that the only reason?

MR. SPIES: I decreed it. I, I,

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honestly, I did not have a discussion, even with our creative guys about the only reasons why it's in there. I, I can't answer that.

MS. THOMPSON: Would you have anticipated that it would be considered express advocacy [Unintelligible]--

MR. SPIES: [Interposing] If the Baldacci Campaign and not--I'm sorry--I'm not doing that intentionally. If the Maine Democrat Party had not already run an ad saying, "the Jobs Governor," and we didn't understand that to be the standard in Maine--that you were a strict, "words of the Statute state"--and that's what the Courts have said--If this were in the 9<sup>th</sup> Circuit, we were in Furgatch-land in California, then I believe it would be a problem to say--if the statute, were different than it is, which it would be, probably, in California, then I think it would be a problem to say, "Governor" underneath or "the Jobs Governor". In any case, I think you could say, "Governor Baldacci did this offense." You could use his title before the name, but when you're

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using it in sort of an "after-the-fact" sense, I think in a sort of reasonable meaning context, it could be a problem, but that's not the law here, I believe.

MS. THOMPSON: If the commission finds that neither of these ads meet the bright line of express advocacy, because we're in that kind of element now of 21 days before the election, and we want to, we want to, in spirit, um, honor and support Maine Clean Elections Act's, uh, purpose of leveling pet-playing fields and so-forth--if that would be our motive in saying that neither of these are expressly advocating--is there danger in that? Do you see any, um, possible--

MR. SPIES: [Interposing] I think--

MS. THOMPSON: --uh, ne-ne-negative impact on The Maine Clean Elections Act's, um, purpose?

MR. SPIES: I think--I'm not going to presume to tell the legislature what should or shouldn't be part of the Maine Clean Election 1--Act's purpose. What I will say is, we're following the current understanding

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## PROCEEDINGS

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of law. The Maine Democratic Party is

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following the current understanding of the

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law. The SEIU just started righting a radio

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ad attacking Chandler Woodcock. Presumably

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they're following the current understanding

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of the law. I would strongly urge you not to

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change course, mid-election. If you believe

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that this does not contain express advocacy,

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but that troubles you. You think that's

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undermined--the fact that the law doesn't

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extend past 21 days undermines the purpose of

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Maine Clean Election Law, then your tool is

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to make that clear at the hearing, today, and

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send a report to the legislature and urge

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them to extend the 21 days so that Maine

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statutes are consistent with the purposes of

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the Maine Election Law, which, after the

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McConnell Decision, it's pretty clear they

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have the legal ability to do, but, should not

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be done by an administrative agency less than

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50 days before an election.

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MS. GINN MARVIN: Thank you. Anybody

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else?

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MR. KETTERER: Uh, thank you, uh,

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Charlie, for making it here today, and, um, -

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-

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MR. SPIES: I'm hoping to make it to the

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LL Bean's outlet too--

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[Laughter]

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MALE VOICE: Well, we need your out of

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state dollars, so . . .

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MALE VOICE: No.

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MALE VOICE: [Unintelligible] print this

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thing fully in your, your business trip. Um,

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No. I, I, I, uh, think, um, at least for me,

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I think, uh, hearing you [Unintelligible]

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what the legal requirements are setting sort

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of stakes for perimeters, um, I think was

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very helpful, um, because uh, y-you refer to

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it as, as, um, the perils of "reading tea

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leaves," and what's been meant by this and

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what's been meant by that. Um, you know,

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it's certainly open to discussion, so, I, I,

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I thank you for your, um, very careful legal

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analysis, of, of, where we are, and, you

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know, possible, um, possible recommendations.

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While I have you here, let me just ask you

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this. I'm wondering if you've heard the, um-

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## PROCEEDINGS

109

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-a radio ad that appears to be Angie Chandler

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in some kind of a, um, some kind of a, um--it

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must be a take off of some game function

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[Unintelligible] or something like that.

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Chandler Woodcock game, or are, are you

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familiar with them?

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MR. SPIES: [Unintelligible] I've heard

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about it. I heard it was a clever, humorous-

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MR. KETTERER: [Interposing] I, I just--

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MR. SPIES: --I haven't heard it myself.

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MR. KETTERER: I just heard on my drive

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here, this morning.

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MR. SPIES: I know it's the SEIU doing

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it, yeah.

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MR. KETTERER: I couldn't t--I couldn't-

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-I didn't hear the disclosure. I couldn't--

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actually, that's what I was trying to find

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out.

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MR. SPIES: I know.

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MALE VOICE: [Inaudible] actually.

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FEMALE VOICE: [Unintelligible]

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MALE VOICE: The union.

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MR. SPIES: Service Employee's

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## PROCEEDINGS

110

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International Union. But the important point

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about that is: other actors are already

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relying on the law as written write now,

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also. So, you change course, it's going to

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have ramifications unjust the people already

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sitting at the table.

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MR. KETTERER: Right. Well, now that

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answers the question I had for Mr. Mahoney,

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earlier, uh, before you question

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[Unintelligible] regarding your issue.

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Changing the course, today, I have

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[Inaudible] until we get to the

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[Unintelligible]. Thank you very much for

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your time. Thank you [Unintelligible].

16

MS. GINN MARVIN: Other questions?

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MR. WAYNE: Um, as you know in our memo,

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we tried to search for another reasonable

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meaning other than--

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MR. SPIES: Um-hum.

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MR. WAYNE: --"Vote for Woodcock." I'm

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wondering--Could you articulate in one or two

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sentences for the Commission what that other

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reasonable meaning would be?

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MR. SPIES: Sure. The ad is talking

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about--the full ad is talking about--cutting unfair income taxes, reducing the property taxes, and cutting government spending. And that is in response to the economy that Governor Baldacci and the policies of the Governor have created, which is, uh, \$425 Million budget surp--uh, budget gap, uh, highest taxes in the country, etc. We're [Unintelligible] the reasonable meaning of the ad is to urge Chandler Woodcock to stand up for the policies that we're move Maine forward, such as the ones we articulated right before that: [Unintelligible] to call Chandler Woodcock--that's capping government spending, reducing property tax burden, etc.

MR. WAYNE: So you're saying the, the reasonable meaning is that you wish to urge viewer should urge Chandler Woodcock--should, you know, telephone him and urge him take certain positions? Is that it?

MR. SPIES: That's expressly what the add calls on the viewer to do. So, I--j--you know, you can, not buy that; you can doubt--but I don't know how it effects--th-th-that

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## PROCEEDINGS

112

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UG call to action in the ad is, "Call

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Chandler Woodcock and tell him to stand up

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for new solutions to change Maine's

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direction." And that's in the context--

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[Loud Coughing]

7

MR. SPIES: --of having presented what

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those useful issues are--cutting unfair

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income taxes, reducing the property tax

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burden, and capping government spending--and

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those are policies that the Governor can do.

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They're also policies that Chandler stood for

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as a State Senator, so they've been in the

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dialogue and the discourse, and now they are

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what Maine's talking about.

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MR. WAYNE: Um, I wanted to ask you h-h-

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how do you get think the Commission should--

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i-i-it sounds like you're saying to the

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Commission, you can only tout as express

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advocated that have these bright-line phrases

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in it. So, what are you suggesting to the

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Commission they do with this part of their

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own rule, which the Commission adopted--which

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in context, can have no other reasonable

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meaning than to urge the election or defeat

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## PROCEEDINGS

113

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of one our [Unintelligible]. Does that

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nullify--[Unintelligible] read that out of

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the rules, because of all these Federal

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Courts' Decisions that were pre-McConnell?

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Or in that sub-part of the Rule, then it's

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valid, and it's okay for them to say that?

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MR. SPIES: In my opinion, uh, I have

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serious Constitutional concerns about the

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wor--the Rule, but the Rule, if narrowly

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tailored, can be--can survive the

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Constitutional scrutiny and can be applied.

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And, that's where all these court cases are

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very relevant where they say, "if there's any

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question in your mind, you need to tailor it

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very narrowly." You know, the courts talk

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about how, there's speech that the common

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person is going to think are election ads.

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Everything the LaMarche folks talked about--

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all these "man on the street" and newspaper

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ads--all of that, the Court said, "We

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understand that a strict rule i--reading of

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the rule--is not going to cover that; yet,

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you are mandated to do it so that you can

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provide bright lines to people who want to

1  
2 exercise their rights to free speech.

3 MR. WAYNE: So, you're saying, they  
4 could apply that phrase, as long as they do  
5 it in a narrow way?

6 MR. SPIES: Yes.

7 MR. WAYNE: And from that, you're other  
8 reasonable meaning--What's that word  
9 "governor" in there is the Federal doing  
10 [Unintelligible]?

11 [Crosstalk]

12 MR. SPIES: These are policies that only  
13 the Governor is dealing with or that the  
14 Governor has a hand in. You know, the, the  
15 theme of the ad is that--at the beginning we  
16 talked about the bad economic status of  
17 Maine. The theme is that that's Governor  
18 Baldacci's fault; and that a Governor should  
19 have different policies and different  
20 approaches to those policies.

21 MALE VOICE: An-and just one comment on  
22 [Unintelligible] the Hornby case, and  
23 [Unintelligible] applied [Unintelligible] so,  
24 [Unintelligible] wh-when Hornby made that  
25 interpretation--because, pre-McConnell, uh,

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Hornby let stand s--Part A of the Fe--of the  
FEC Rule which ours is based on, so  
[Unintelligible] Hornby gave, in my  
interpretation, you know, this is getting  
into dialogue--please tell me if I'm wrong--  
but to invalidate that other [Unintelligible]  
or--

MR. SPIES: [Interposing] Right.

MR. WAYNE: But the FE--the part of the  
FEC Rule that our Rule is based on isn't  
touched by--

MR. SPIES: Yeah, Section 112, Part A  
and Part B--

MR. WAYNE: Yeah.

MR. SPIES: And that you struck down  
Part B, but then said Part A--everything he's  
saying needs to be nar--interpreted as  
narrowly as possible, and that's why this  
language that he uses that goes back to prior  
Constitutional, you know, U.S. Supreme Court  
Decision is so important because, i-it just  
makes sense. The plots that he's laying out,  
which he says is mandated by the U.S.  
Constitution makes sense, because if you

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## PROCEEDINGS

116

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don't do that, if you don't have bright

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lines, we're going to have meetings like this

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all the time, wondering about what the

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reasonable person thinks of ads.

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MR. WAYNE: Thanks.

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MS. THOMPSON: Um, [Pause] did you

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consider, and would, would you not have

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considered rather than using the word

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"governor" --cause you weren't identifying

11

Woodcock; --

12

MR. SPIES: Huh-uh.

13

MS. THOMPSON: --he is not Governor.

14

He's a candidate for Governor.

15

MR. SPIES: Right.

16

MS. THOMPSON: But, would you have

17

considered putting "State Senator" instead of

18

"Governor" there? Was there any discussion

19

of that in terms of meeting our narrow

20

interpretation of express advocacy?

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MR. SPIES: There was discussion about,

22

these are policies that he had stood for as a

23

State Senator and now are relevant to the

24

Governor's race, but I don't think it would

25

make a lot of sense to talk about policies

1  
2 that are relevant to the Governor's race and  
3 then put the words, "State Senator" in the  
4 ad. If you're describing the candidate, its-  
5 -it would make a lot of sense to say,  
6 "Senator Woodcock has . . . blah, blah,  
7 blah," or "Governor Baldacci has . . . blank,  
8 blank, blank," but that's not--you know, if  
9 your going to do it afterwards, I wouldn't do  
10 State Senator. If you're indicating these  
11 are issues that matter in that context, we're  
12 a little beyond the State Senator context  
13 right now.

14 MS. THOMPSON: So we really are talking  
15 about the, the ability of the incumbency to,  
16 um, to have a larger measure--a larger--The  
17 incumbency can have or seems to me to be able  
18 to have a, a larger--a wider scope of, um,  
19 language to use here, merely because someone  
20 is an incumbent Governor. You know, I, I'm  
21 reacting to your question earlier about  
22 incumbency.

23 MR. SPIES: May I answer that briefly?

24 MS. THOMPSON: Sure. Uh, Jonathan's  
25 question, actually.

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## PROCEEDINGS

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MR. SPIES: I, I would just say that you can avoid that problem by following the express words of advocacy. So, if you say, "Vote for" or "Chandler Woodcock for Governor," or "Vote for Baldacci for Governor," or "Baldacci for Governor," or "Woodcock for Governor," that's [Unintelligible] vote Woodcock," or "Vote Baldacci," --that's expressly advocating the voter to elect that person. That's what the Court talks about by--You know, somebody said it's a throw away word. These aren't throw-away words, they're action verbs. Court--uh, the Courts talk about action verbs and the need to exhort the viewer to do something. Uh, if you get away from that bright-line standard, then you run exactly into the problem you just suggested, which is: Once you get away from the bright-line, then you're forced to interpret: In what context is it used in? Is it fairly applied in what context it's used in? Does the law allow you to give preference to incumbents and how they're treated? And I don't know the answer

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to all those questions, because it's all, sort of a big, gray area. And that's what we try to avoid with bright lines.

MS. GINN MARVIN: [Unintelligible]. Um, Mr. Spies, when you state, "Tailor very narrowly," can you explain that a little bit more clearly, please?

MR. SPIES: Sure. If your--Uh, you've got the Statute, and then you've got the Commission, which came up with the Rule that expanded the language of the Statute, and expanded it through that last language of the Commission's Ruling. Uh, to survive Constitutional scrutiny--and this is what we go back to in Buckley. When Buckley was examining Statutes on this exact area of speech, the Court said you have to have bright-line standards, and use bright-line standards, so that actors know what is and isn't allowed and can exert their free speech rights in compliance with the law. That gets us to your current dilemma. Up through 2000 and the Memo that we saw and the Commission's Rulings in 2000--the example I gave you--the

1  
2 Commission was interpreting its rules very,  
3 very narrowly. It was saying that you have  
4 to have express words of advocacy, and they  
5 didn't go into the whole context analysis.  
6 Now, one option on the table is expanding  
7 beyond that and going into examination of  
8 lighting of the ads and coloring of the ads  
9 and sr--what a reasonable person thinks when  
10 they see lighting and coloring in ads; and  
11 that, I would suggest, personally, is folly  
12 and--I think the Courts have said it--is what  
13 you need to try to avoid.

14 MS. GINN MARVIN: So do you think the 21  
15 days has anything to do with that, um,  
16 "tailoring very narrowly"?

17 MR. SPIES: Uh, yes, I think the 21 days  
18 are very relevant, because--First of all,  
19 it's relevant, when people keep mentioning  
20 the McConnell Decision. What the McConnell  
21 Decision said, basically, is, "Nobody can  
22 challenge your 21-day rule." The legislature  
23 came up with the 21-day rule; McConnell says  
24 it's okay to put time limits on  
25 electioneering communications. This is a

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broader term than just "express advocacy communications". When--Because the legislature indicated that they wanted to capture broad speech, and not just the narrowly tailored speech within 21 days, we could assume that if the legislature wanted to cover a broad range of speech and wanted the statute to be broadly interpreted, they would have expanded that 21 days to 30 days or 60 days like the Federal standard is.

MS. GINN MARVIN: Um, and do you know who, uh--on the picture of, uh, Chandler Woodcock, do you know whose that phone number is?

MR. SPIES: It's the State Senate Office, and we expressly did not put a Campaign Office, because we didn't want it to be tied to his Campaign. We--For campaign issues, we put the State Senate Office, because these are issues that he's dealing with as a State Senator right now, so if you wanted to talk to them about this issue, call the State Senate Office. That was an intentional decision, although, I do have to

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## PROCEEDINGS

122

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state that politically--strategy-wise

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probably putting the area code on wasn't such

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a good idea.

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MALE VOICE: Yeah.

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[Laughter]

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FEMALE VOICE: [Unintelligible]

8

[Crosstalk]

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MALE VOICE: Subsequently, subsequently

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[Unintelligible].

11

MR. SPIES: Right, so . . .

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FEMALE VOICE: [Inaudible].

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MS. GINN MARVIN: Thank you very much.

14

Is there anyone else who would like to speak

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on this issue? Dan.

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[Long Pause]

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MR. DANIEL BILLINGS: I'm Dan Billings,

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I'm Counsel for the Woodcock Campaign, and

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the main reason I'm here this morning is to

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address the allegation that was made by the

21

LaMarche Campaign that, that these ads have

22

been discussed, uh, at length this morning,

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at least by the Republican Governors'

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Association were produced in cooperation or

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consult with this office [Unintelligible]

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## PROCEEDINGS

123

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Woodcock Campaign. And, um, I'm here to, to,

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to strongly deny that. Uh, Senator Woodcock

4

takes his obligation as an election candidate

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very seriously. Um, as Counsel for the

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Campaign, he has, on many occasions, um,

7

mentioned to me how important it is to him

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that we, uh, play by the rules, not just the

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letter of the law but the spirit of the law.

10

And we've made that a very, uh, important

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priority in the Campaign. Um, during

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campaigns and as also to people who support

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your Candidate and might want to help you and

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might want to do things that aren't

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appropriate and involve the campaign, and I,

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I spend a great deal of my time, um, during

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this year of saying, "Hold on, you can't do

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that. He can't be, be involved in that,"

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and, and putting, uh, clear limits on, uh,

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what we're involved in. And, um, I was quite

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comfortable that we have, um, met, quote,

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the, uh, quote the "letter and the spirit of

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the law," as far as meeting, uh, the

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obligations of Clean Elections Campaign. Um,

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i-in, in this, uh, situation, the facts are

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PROCEEDINGS

124

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quite simple. Um, Senator Woodcock's public

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campaign schedule's on our website. Uh, a

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man with a camera shows up at a couple of,

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uh, campaign events, uh, in the month of

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August; was filming the candidate while he

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was in public. Um, on one occasion, uh,

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Senator Woodcock approached the gentleman and

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introduced himself and the gentleman, uh,

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wouldn't introduce himself or say why he was

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there. Um, a few days later, the same person

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showed up. Again, [Unintelligible], the

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campaign introduced himself; the person

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wouldn't, uh, wouldn't identify himself or

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say what he was doing. Um, and, well, we

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were in public. There's nothing we could do

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about that. And we didn't know what, what

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that video was being used for. It could have

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very easily has been someone from the Maine

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Democratic Party there filming it to use in

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a, in a negative, uh, ad. So, instead the--

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[Coughing]

23

MR. BILLINGS: [unintelligible].

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MR. KETTERER: No way. No way.

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[Laughter]

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## PROCEEDINGS

125

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MR. BILLINGS: One said the--they said they simply pirated the video--

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[Loud Laughter]

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MR. BILLINGS: --that the Republican Governor's Association, uh, uh--save the cost of producing. Um, an-and it is, I think, worth noting that the, the Maine Democratic Party does have someone who's identified herself as a tracker who's following Woodcock around on the Campaign and, and keeping names of public events and that's certainly their right to do and--just as it is the Republican Governors' Association's right to, to, uh, appear in public. Um, and this idea that's been raised by the LaMarche Campaign that because the video is of high quality, uh, that it must have been, uh, it must have been posed. I mean the a--that's just ridiculous. And frankly, I take offense to, um, this kind of serious allegation being made, um, without any evidence to support it. Um, it really is offensive to me, and it's, and it's offensive to Senator Woodcock. Uh, if they had evidence that somehow we had, we had

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## PROCEEDINGS

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cooperated with it, then it would certainly be an important issue for the Campaign, um, but simply to base it on the quality of [Unintelligible], um, I think is ridiculous. Um, some of the, the broader issues that been--have been raised, um, I'm very [Unintelligible] comments have been made, um, uh, by the representatives of the LaMarche Campaign, um, it's quite frustrating to any candidate to have all of this going on outside of your control and some of it maybe helpful to you, some of it--that's meant to be helpful to you, might not be. Um, and, and, if you're a candidate that's not involved at all it, it is frustrating when you have limited resources. Um, I think it is important to remember, um, that the legislature had set the policy as it is. Um, in the last session of the legislature, uh, this Commission made a recommendation of a series of changes, uh, to the Statutes. Um, one of those changes that was recommended, uh, to the legislature was to expand the rules that are in place during 21-days before

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## PROCEEDINGS

127

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the election, and push that back to 30 days.

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That was in a Bill that came from the

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Commissions in [Coughing] Legal and Veterans

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Affairs Committee. Um, I was there so was

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John, and [Unintelligible] other people were

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[Unintelligible] Bill. I testified in favor

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of that change. Um, unfortunately, the, um,

9

uh, the Committee decided to leave it at 21

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days. And, uh, though I disagree with that

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Decision, that's their Decision to make.

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It's not mine, it's not yours, it's the

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Commission's. Um, and within the prior

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period, as, uh, the last speaker pointed out,

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it is the express advocacy, um, standard; and

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that standard was adopted by the legislature

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well before the McConnell Decision, and when

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they, when they established that and they

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used that term, and that's the term

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[Unintelligible] statute--the Statute that

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ultimately controls, I assume they were aware

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of the, the case law up to that time that put

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a very limited meaning of express advocacy.

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Uh, I think that Counsel's Memo from 2000

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does a very good job summarizing of that

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## PROCEEDINGS

128

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cases, and, and summarizing how the Courts have suggested [Unintelligible] State bodies need to apply that, uh, that Rule in a very narrow, uh, manner.

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[Coughing]

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[Inaudible] ses--suggested to you by earlier speakers, uh, would go beyond that, um, and I think if we are going to go beyond that, and I would support going beyond that, it needs to be done through, uh, legislative action, um, a-and the, uh, statutes on board. I was interested in Mr. Mahoney's comment today. Um, he conceded that if they ran an ad, that, that said, "Baldacci, Governor," that that would be problematic. I guess he didn't go as far as to say that, in itself, would be express advocacy, but that would be problematic. But it seems to me, what he's suggesting is you could say, "Baldacci" and a couple other words, "for Governor," then it's not express advocacy. Um, I, I frankly find that ridiculous. The, the other words before Governor is really more [Unintelligible] the "Jobs Governor," that's advocating, uh,

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## PROCEEDINGS

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certainly a more positive message that just referring to them as Governor. Um, I don't believe the, the Democrats' ads crossed the line into express advocacy. But where so much, um, emphasis has been put on the words, "governor" in the RGA ad, I think it's inappropriate to say, "the Democrats can use the term, "Governor," because the current Governor is a Democrat, but Republicans can't use the term "governor" because their guy's not." And I don't think--um, I don't think that's the law; and I also don't think that's fair, and I don't think it's [Unintelligible] act of having an--a level playing field. They'd basically be saying, incumbents can use the title of office, and, uh, challengers can't. And I don't think you'll find that, uh, in any prior Decisions [Unintelligible], uh, in any court cases.

And I also think it's important, when we think about fairness, to think about what the decision reviewed here today if you, um, were to adopt a Staff Recommendation, um, and again, this is just, um, this is just a

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## PROCEEDINGS

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practical concern--concern from the Campaign; it

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shouldn't influence our decision, but the,

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but the--I, I do think it's important when

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you think about their instance, is the

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LaMarche and [Unintelligible] campaigns,

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which I think have a reasonable

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[Unintelligible] this money is being spent on

9

behalf of the Republican Governors c--Republi

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can and Democratic Governors' candidates,

11

they're not getting any funding. But the,

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the other advantage would be, if you, uh,

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[Unintelligible] to others if you adopted the

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Staff Recommendation. Um, Governor Baldacci

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would be able to raise the standard an

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additional amount equal whatever the RGA's

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spent on this particular ad, before any

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matching funds were triggered for the other

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candidates. So that would be an advantage to

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the Democrats; so I think that's something to

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keep in mind. [Unintelligible] is also keep

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in mind--I mean, they spent \$350,000 this

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month, and much of it attacking Chandler

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Woodcock, and Chandler Woodcock is not

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getting any funds to respond to those

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## PROCEEDINGS

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attacks. A-and he shouldn't under the law,

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but you're talking about simply fairness and

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practical concerns, I think there's fairness

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and practical concerns that argue against

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doing you're your staff recommends. Thank

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you.

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MS. GINN MARVIN: Thank you. Any

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questions for Mr. Billings?

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[Pause]

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MR. WAYNE: Well, I, I just, um, sir,

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going back to your [Unintelligible] Memo and

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the issue of whether the Commission is

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changing it's standard, which I'm sure

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[Unintelligible] don't wanna do--Um, it--Does

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it--does the advocacy absolutely have to be

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explicit, or does the Commission have any

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leeway? If there's no--It's not explicit to

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say [Unintelligible] there's no other

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reasonable meaning, even though it's not

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explicit, there's no other reasonable

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meaning, then that this version

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[Unintelligible].

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MR. BILLINGS: I guess I'd have to see

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an example. Um, I, I think there are, um--

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## PROCEEDINGS

132

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there, there might be an example, but I think it would, it would, it would be explosive.

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Um, I mean frankly, the, the Democrats are, are running an ad now, talking about Chandler Woodcock and saying, you know, "He's wrong."

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Um, and to me, that's pretty explosive. Um, you know, they're pretty--It's pretty

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explicit that they're trying to encourage people not to vote for Chandler Woodcock.

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Um, but under the existing standards, because saying he's wrong about an issue, it doesn't fall under the express advocacy meaning, so .

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. . I, I do think it's somewhat, um, -- I-i-

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it's, it [Unintelligible] it's a factual determination. You gotta work with a

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specific ad, and I think in this one, um,

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what's been said by, um, Representatives of the Democratic Party, and I think, uh,

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frankly, implied in the Staff Memo is that

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it--the word, "governor," was not in that ad, it wouldn't be express advocacy. And to turn

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on that minor point, um, I, I don't think is reasonable. I--I--Frankly, I mean, when you

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talk about advocating, "expressly

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## PROCEEDINGS

133

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advocating," um, I think verbs are important.

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I mean that when you're telling somebody to

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do something, you know, verbs are important.

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Just the--just nouns doesn't generally get

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into um, a, a direction. Um, that's probably

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s-is the most I should [Unintelligible]

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English--

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[Laughter]

10

MR. BILLINGS: --Grammar.

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MR. FRIEDMAN: What would you think

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about an ad that is just say, hypothetically,

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run by a Democrat that shows 30 seconds of

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simply Chandler Woodcock walking backwards,

15

and at the end, simply says:

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[Unintelligible] Maine Democratic Party. No

17

words, no issues, just that. --

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MALE VOICE: [Interposing] [Inaudible].

19

MR. FRIEDMAN: What, what would be the

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meaning of that?

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MR. BILLINGS: [Unintelligible] I think

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that--I mean, I think the meaning would be a

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negative one that that candidate would be

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someone that's going to take the State

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backwards. Um, I think under the existing

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PROCEEDINGS

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express advocacy standards that, alone,

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wouldn't be express advocacy.

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[Unintelligible], um, [Unintelligible]

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because there--there's nothing that--you, you

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have to, you have to read a meaning into the,

7

um, uh, into the, uh, images that are

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presented. And I think that gets to a very

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subjective standard which the Courts are

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suggesting that you stay from--that you need

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a very a--when you talk about fundamental

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First Amendment speech, you need, you need

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very--If you're going to regulate that in any

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way, you need very specific and very clear

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standards like the standard we have in place

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21 days before the election. Whether people

17

like it or not, um, it's, it's a very clear

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standard. Um--

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MR. FRIEDMAN: [Interposing] Someone's

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got to interpret that ad, though, and we're

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interpreting the ad. Uh, the standard for u-

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-for any communication that expressly

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advocates election defeat of a clearly

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identified candidate, and if elect--Is what

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you're saying--i-is what your saying is you

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actually need words associated with some ad  
to meet this standard?

MR. BILLINGS: I mean, I think there  
could be, um, you know, th-there's, um, --I  
mean you could do it with graphics: sort of  
a checkmark, uh, beside the candidate you  
wanted. I think that would expressly  
advocate someone [Unintelligible] or  
something like that. Um, I think when  
you're--what you're talking about is just  
simply images, I think you get into a pos--  
uh, you know, you're interpreting something,  
and giving the people--Here's another subject  
I shouldn't talk about--But interpreting art,  
people look at art and come with other--uh,  
all sorts of meanings to them. I, I look at  
it and see prisher--pretty picture and see no  
meaning, um, and I, I think, um, in the ad  
you're describing, um, people would, would  
put different meanings to that.

MR. FRIEDMAN: [Unintelligible] We have  
to interpret something. [Unintelligible]  
interpret some--

MR. BILLINGS: But the standard is,

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could a reasonable person have another interpretation? And I think the ad, that, that, that you described, um, people could have different s--different reasons-- reasonable people could have different interpretations of it. And if that's the case, it's not express advocacy. You have to, you have to fall on the side of: If there's another reasonable interpretation--

MR. FRIEDMAN: [Interposing] So, if one person has one understanding, and 9,999 have the other, that one person would [Unintelligible]?

MR. BILLINGS: [Interposing] No, no. I think it comes down to whether that interpretation is reasonable or not.

MR. FRIEDMAN: Okay.

MR. BILLINGS: And that--and you know, reasonable person standards are always difficult to loo--to, uh, judge. I do think it's--the fact that apparently at least person on the staff who works with these kind of things on a daily basis and it's presumingly--is reasonable, thinks

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PROCEEDINGS

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otherwise--I--you know, I think that's

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something to take note of. And I do think

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there is a reasonable interpretation of the

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RDA ad. Chandler Woodcock is a candidate for

6

Governor. That's a fact, and I don't think

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in identifying that [Unintelligible]

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candidate for Governor makes it advocacy.

9

The State of Maine has a certain situation,

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and some of us sees it, and see it; he offers

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certain solutions to it; he's being attacked

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in the media for those solutions--

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[Unintelligible] that he wants to take the,

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take the state backwards. Call him and tell

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him to stick with those solutions. That's a

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reasonable interpretation of the ad, um, in

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my mind. Um, and I think in that case, it's

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not express advocacy, and there should be no,

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um, no [Unintelligible]. Are there other

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reasonable interpretations? Absolutely. Um,

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but, but the standard is and the Rule is, if

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there is a reasonable interpretation that

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makes it not express advocacy, that's where

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the Commission should come in.

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MS. GINN MARVIN: Other questions for

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Mr. Billings?

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MR. WAYNE: [Unintelligible] Okay. I'm getting back to whether the Commission will be changing up the Rules. Um, you know, we had a 1998 Rule that was based on the Federal Rule. We had [Unintelligible] in election 2000 where there were five or six mailers that were considered after the election, where there weren't big money decisions at stake and [Unintelligible], so, um, [Unintelligible] we haven't had any express advocacy decisions--any tough calls for the Commission in six years, and now we're here and the LaMarche Campaign has come forward and saying that it's unfair for us not to get matching funds. Is it--Is there really an established track record that, you know, the commis--it--tha--really would be changed if the Commission were to say that the 2<sup>nd</sup> RGA ad is express advocacy? Um, and let me [Unintelligible] with it.

MR. BILLINGS: Um, I think the prior decisions of the Commission and the, the Memo from the Commission's Counsel, um, both

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## PROCEEDINGS

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suggest a very narrow interpretation of

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express advocacy. And I think, um, that's

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what people assumed, um, was, was the case.

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Um, and as Mr. Spies pointed out earlier,

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it's not something I thought of until I, I

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heard it mentioned today, and part of the

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reason I never thought of it, is that I was

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not at all involved in [Unintelligible] with

10

the ideas that the Democratic Party went up

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with an ad saying "John Baldacci, the Jobs

12

Governor." No complaints about that; no

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suggestion from the Commission that that was

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a problem. They reasonably assumed also, you

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know, again, that they're reading the law

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that simply mentioning the office that

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someone's running for is not a problem. Um,

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I mean, I, I think that's a, that's a pretty

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good argument. I guess I [Unintelligible]

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thought of until today, but, um, --And again

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[Unintelligible] you just sort of assume the

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Maine Democratic party would be familiar

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with, uh, past practices, um, Commissioner

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Rules, um, well, actually, maybe not, but,

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um, um, that, uh, you know, that someone else

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## PROCEEDINGS

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would rely on: "This is what they're doing;

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we could do something similar." An-and

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again, as far as a policy point of view, I

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mean, I think the law should be changed--that

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clean election candidates should get matching

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funds for all these kind of ads--at least

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within a certain period of the election. Um,

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that would have been--that would include all

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the ads--the ones that have been discussed

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today, and the other ones that have been

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running by [Unintelligible] from a policy

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point of view, um, this--The kind of stuff

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we're talking about today, I think you have

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to talk about it because that's the law, but

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from a policy point of view, I, I don't think

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it's a reasonable rule. I don't think, where

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we're drawing lines, here makes any sense,

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but that's the law. Um, and I think the

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people who are upset about it, you know, the

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next hearing, when there's a Bill, there

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should be more people there than, you know,

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you and I and somebody from the Citizens for

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Clean Elections, uh, pointing out, uh, this,

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this, uh, this issue, 'cause I, I--Again, I'm

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sympathetic to the, to the LaMarche, um,  
LaMarche Campaign, because no one's sending  
money promoting their candidate other than  
the very limited, uh, Clean Elections funds  
that they have. I am very much less  
sympathetic to the arguments of the Baldacci  
Campaign, because they're Party is spending  
\$350,000, uh, both promoting their candidate  
and attacking Chandler Woodcock, and a lot of  
the money, frankly, was, uh,--came from  
fundraisers that John Baldacci, uh, was  
involved in. So, um, I don't think, um, I  
don't think they're being disadvantaged at  
all by this, but, the LaMarche Campaign and,  
and the Merrill [Phonetic] Campaign, I think  
they have a reasonable argument.

MS. GINN MARVIN: Dan, you, you'd  
mentioned that, um, you know, they're  
[Unintelligible]--they can't--they don't have  
[Unintelligible] spend money--I mean, why not  
the Casino people for Barbara Merrill, for  
example. I mean, isn't that just as  
possible? I mean, it's their responsibility  
to say they a, an issue that's important to

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them.

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MR. BILLINGS: [Interposing] Right.

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[Unintelligible].

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MS. GINN MARVIN: [Unintelligible] those

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people can spend money on them.

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MR. BILLINGS: Right. I mean--

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MS. GINN MARVIN: --And so I, I don't

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see that they're disadvantages.

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MR. BILLINGS: Well, the disadvantage

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is, I think that the disadvantage is that if

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you're, uh, an independent candidate or a,

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uh, or a third-party candidate, you don't

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have the natural--the infrastructure that the

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two major parties have. I mean there's no

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Green Party's Governors Association that has

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money to come in and spend, um, --Where, in

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this case, I mean, the Democrat Governor's

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Association--they're not running ads, but

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they make large contributions

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[Unintelligible] to the Maine Democratic

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Party so, um--and, again, that's legal. I

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don't know [Unintelligible] complain about

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it, but the idea--you know, some of the press

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coverage is sort of [Unintelligible] "Well,

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the RDA is [Unintelligible] here, and, and they're an outside group." Well, a lot of the money that the Democrats are spending is from an outsider's, um, --I, I, I mean, frankly, I think what's going on here is, it's fundamentally [Unintelligible]. The content of the ads, where the money's coming from--all of it is the same. Um, but when you're a, when you're a third-party candidate, it's--I mean, yeah, it's, uh, if Casino group wanted to support the, the, uh, Casino train could spend money promoting that idea. Um, I think it's less likely, and obviously it's not something that the candidate could be involved in, you know--pushing it, I mean, if that is [Unintelligible] conventions [Inaudible].

MS. GINN MARVIN: Any further questions? Thank you, Mr. Billings. Is anybody else that wants to speak on this issue?

MALE VOICE: [Off Mic]

MS. GINN MARVIN: Does anybody want to make a motion [Unintelligible] discussion.

MS. THOMPSON: Um, yeah. I, uh,

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## PROCEEDINGS

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[Unintelligible].

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MR. KETTERER: Looking for a second, I  
4 move that we, um--on Agenda Item Two--deny  
5 the request for matching funds, um, to the  
6 LaMarche Campaign, uh, based on the on the  
7 RGA, uh, advertisements. And I guess that I  
8 would add in that, and to making factual  
9 finding that none of the ads we saw, um,  
10 constitute express advocacy, and were not  
11 coordinating between campaigns and, um,  
12 groups that, uh, [Inaudible]--

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MS. GINN MARVIN: Is there a second for  
14 that?

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MR. CASSIDY: I'll second.

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MS. GINN MARVIN: There's a Motion and a  
17 second. Do you, um--Phyllis, do you have  
18 that Motion--

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MR. KETTERER: You may have a dangling  
20 parta--participle [Unintelligible]--

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[Laughter]

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MS. GINN MARVIN: We're gonna work on  
23 that [Unintelligible] sentence structure  
24 later today.

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MS. GARDINER: Uh, I have a Motion to

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deny the LaMarche Campaigns request for matching funds based on the RGA ad and to make a factual finding that none of the ads as were seen today constitute express advocacy or were coordinated with the campaigns.

MS. GINN MARVIN: Do you want to go ahead [Unintelligible] or . . . ?

MR. KETTERER: Um, sure. Uh, you know, we spend an number of hours looking at, uh, perhaps difficult and complex political and legal issues regarding where we come out on, on this request, and I think part of the problem is that the Courts, um, have staked out some territory for us about where we can go and where we can't go. That's one thing, but more importantly and apart from that, it seems to me that, um, we must, as Commission Members in our ruling, uh, have in mind, uh, the sanctity of the First Amendment. And in my view no Amendment needs to be more jealously guarded than First Amendment Rights. Um, and, political speech, um, is very important in this country, and the

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Courts have told us and the Constitution has told us, when we want to impose limitations on free speech, we must be remarkably careful in the fashion in which we do that. Um, and when state legislatures have gone on to take action, when they've been outside those boundaries, um, the Courts are quick to shut that down and say, "When you are limit, in a free society, the ability of citizens or groups to make their views known around election time or at any other time, you must be extraordinarily careful. And, um--And so the litigation of saying--which we addressed--I was a Commission Member a few years ago when we had, um, uh, people saying, uh--I forget the exact ad--but, but it's, you know, "Call Susan Collins and tell her to quit messing around with your social security." Now that was a Federal example, but th-- examples like that were given, and they were running [Unintelligible], you know, a week before the campaign and say well, "W-w-we, we, we just want you to--We just want you to call that candidate and tell them." It's

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sort of like, you can't possibility be serious. You're running this four days ahead of time. So I think we have the idea of going to the legislature and saying, "Look, instead of getting into all this folly about: who said this, who paid for this, what they meant by that, why don't we just say, "We don't care if you call implied advocacy, if you have what you implied advocacy within 30 days of the election," which I think was our proposal, which got reduced to 21 days, "we don't--W-we find that unbelievable, and so as a matter of law, we're asking the legislature to say, 'If you run what you think is an implied ad, that close in time to an elections, we're gonna tell ya, we're gonna regulate it; and you're gonna have to file with the Commission, you're gonna have to say how much money you spent on it, etc., etc.'" And that's a bright line, and the, the people who are in this room and the people that they represent are entitled to a bright line. Right now, they've got one. Um, you know, I asked, um, Mr. Mahoney and, and other

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## PROCEEDINGS

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presenters, what about if, if w-we suddenly

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say, "Well, actually, this is, um--You parked

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a little bit over the line," --um, what

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impact that would have. It would have a huge

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impact. Um, uh, the players in a political

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process have the right to have stability in

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the determination of what it is they're

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doing. And if we think that something is,

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um, clearly over the line, then I guess if

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that's the case, and we make that ruling.

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But if we're saying, "You're parking so close

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to the line, your shadow's over the line, but

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you know . . . very clever counsel; you're

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not actually over the line. We don't like

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it." Well, then, we can go to the

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legislature again and renew our effort that,

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this--that the world ought to be a different

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place, but I think before this Commission

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starts to restrict the political speech and

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First Amendment Rights for citizens who live

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her, or groups or organizations who care

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about what happens to Maine politics, whether

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they're natural citizens or groups or

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political action committees--whatever they

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are--um, I think it's a dark day. I think we're headed down a road where you do have to read the tealeaves. I don't think the Courts want us to do that. Uh, the parties are entitled to a bright line. Right now, they have one. The ads that we saw today are capable of multiple interpretations even if the vast majority of people would say, "Oh, look, this is just, this is just an ad for this candidate or an ad for that candidate." Uh, that may be true, but wh-whether discussion of legitimate issues--whether they're union issues, uh, compensation wage issues, taxations issues--What could be more fundamental in a free society than, um, discussion on those issues? And before we start restricting that, I think, um, w-we have to see some very clear abuses. We live in a state--compared to many other states--where, uh, it is very pure, and, uh, I'm happy to, to be a resident in this State, and for that reason I'd ask one of my Co-Commissioners to seriously, uh, an affirmative vote on the Pending Motion.

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MS. GINN MARVIN: [Unintelligible].

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MR. CASSIDY: Yes, uh, you know, I uh, also, I was willing to second the Motion--I, I, I think listening to all the discussion this morning, and I think Mr. Mahoney said it very well, and inste--you know, when I said this infl--obviously all these ads were meant to influence the thing, but I--you know--the election for each candidate and then so-on-and-so-forth--But I think it's the express advocacy w-which we can't find a shore on those ads and that's what you were saying, Drew, in the sense that they could be in interpreted by different people for different reasons and so-on-and-so-forth. And then the other thing that I think is important, too--you know, I, I'm not--I really think that perhaps in another, uh, election cycle, we do want to go back to the legislature and s-s--and see if we can refine some of these things, because, you know, we're always on a learning curve, and willing to, to make changes to make the whole environment better. But I think, also, uh, as was mentioned

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2 earlier, I'm sure there are tons of ads being  
3 developed right now all over the state and  
4 country for different candidates and so-on-  
5 and-so-forth, and it would really create a  
6 lot of chaos, I think, when we change that,  
7 at this point, so, for those reasons, I  
8 would--and, and the reasons, you so  
9 eloquently, uh, described--uh, you know, I, I  
10 would really like the second, and I, I agree  
11 with what I hope [Inaudible] that's brought  
12 us [Unintelligible].

13 MS. GINN MARVIN: Other thoughts?

14 MR. FRIEDMAN: [Off Mic] This is a  
15 unique experience for me because generally I-  
16 -I'm on that side of the table, although now  
17 before this Board, and I haven't had, at  
18 least, in my past, [Unintelligible] arguing  
19 points of law. It's [unintelligible]; and I  
20 found it a very, uh, in, uh--intellectual  
21 exercise. I find it a very stimulating  
22 exercise, and I want to commend everybody who  
23 actually sat down to, uh, give us their  
24 points of view. Drew spoke about the First  
25 Amendment as any Former Attorney General

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## PROCEEDINGS

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probably would. Uh, having not been a--

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attorney general, I'm not quite as concerned

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with the First Amendment issues before us. I

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don't think anybody can argue that First

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Amendment isn't extremely important, the

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touchstone for the Democracy. But really,

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what's before us, is an interpretation of a

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Statute as clarified by a Rule and further

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expanded on by court cases. And, obviously,

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we have a pecking order. Uh, the Statute

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seems to me to be quite clear. It talks

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about an expenditure for any communication

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that expressly advocates the election or

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defeat of a clearly identified candidate.

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Now I think it's, perhaps, clouded somewhat

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by the Rule, which talks about communications

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and campaign [Unintelligible] or individual

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words which, in context, could have other

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reasonable meaning than to urge the election

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or defeat of one or more clearly identified

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candidates. And the bright line that

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everybody's talked about--it can't be all

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that bright when you're arguing about it. I,

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I recognize that the attorneys like to see a

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bright line, but as fact-finders we have to look at the facts, uh, and ultimately, make a decision based upon what we do, the law to be in accordance with the Statute and with the Regulation. I don't think it's our purpose to sit here and think about whether this is constitutional or that's constitutional. The attorney's will argue in Superior Court; you have made that argument to Superior Court Judges, and they all say, "Go to the Law Court. It's not our job to interpret Constitutional issues in most instances." I think what Hornby said--Judge Hornby, and what people have relied upon, he says in the Maine Right to Life case, "What the Supreme Court did in Buckley was draw a bright line that may err on the side of committing things that affect the election process but at all costs avoids restricting, in any way, discussion of public issues." So we want to avoid a, uh, rule that restricts in any way the discussion of public issues. So I think I have to view the ads in the context of whether or not they really put forth public

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issues, or whether their natural meaning to me is stutch--is such that it urges, either the election of- or the defeat- of a clearly identified candidate. And I think we can group the RGA ad in with a couple of the Maine Democratic ads--uh, at least for discussion purposes--to me. And I think that those ads--or at least a portion of those ads--do not really discuss public issues. I think there's a way to draft those ads--to create those ads so that the public issues are really put forth on the table. I have some genuine concerns with the imagery used, and I have concerns that people seem to be less concerned about imagery than words. But in this day and age, with the way that people or candidates are marketed, imagery is as important as the words are. So for me--and knowing that in some fashion we have to have a level playing field for clean elections candidates--I think that the ads do cross it. And I think they do become, uh, those which expressly advocate the defeat or the election on the two primary candidates [Off Mic].

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MS. GINN MARVIN: Very good. Thank you.

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Okay, um, what I thought is that, um,

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when I came here today, I kinda felt that

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either the Republican Governor's ad and the

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Democratic [Unintelligible] Party ads

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[Unintelligible], both were express advocacy

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or both are not. I really felt that they

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fell into the same category. They're very

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similar in nature; they're very similar, um,

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in graphics, if you will. Um, I thought the

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attorney today did a really outstanding job

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explaining things. Um, I found it

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fascinating to kind of, um, try to understand

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the arguments from both sides, and I, I do

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think that we maybe want to go back in the

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legislature and re-visit the timing of this

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because, I, I think there's a problem with,

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um, just 21 days. But, um, that all said, I,

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I don't think there's any express advocacy

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using the standards that we've used before.

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Um, I-I just could not find that, and for

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that reason I will be voting with the Motion.

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MS. THOMPSON: Um, my sense is that I

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could be persuaded by each of the--my

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Commissioner, um, colleagues. Uh, but I think that the legislature has told us that they do not want to extend from 21 days to more days before the election of the opportunity to have a, a less narrow interpretation of express advocacy. Even though, in terms of supporting the spirit of clean elections I think a wider period of time, a longer period of time would indeed help to level the playing field. But the legislature told us, no, they're not going to extend that 21 day period so we are, need to be committed to exactly what we can see written before us. And also, however, this is very very gray because I think, one, two, three, four, probably all five of us have said, but you know we need to go back to the legislature. So we're really admitting that this a very very difficult, ambiguous gray area for us. One, maintaining level playing field and two, saying the courts determine how we look at limiting free speech, free political speech. Um, I cannot be influenced by the graphic and so forth because I think

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the law is telling us to react to the words.  
And I think notwithstanding the fact that I  
think all of us will say let's go back to the  
legislature and widen that period of time to  
weaken the express advocacy law or the  
express advocacy standard. I think I have to  
vote with, we're not seeing in the words, the  
clearest example of express advocacy as it is  
shown in the commission rules which are based  
on court cases. But I too, would say we need  
to go back to the legislature to see if we  
can strengthen the Maine Clean Elections Act.

MS. GINN MARVIN: Are we ready for a  
vote? All in favor of the motion? Opposed?  
Show the motion won.

[Inaudible]

[END TAPE "LAMARCHE APPEAL MAINE ETHICS,  
PT. 2"]

C E R T I F I C A T E

I, Debra Landt certify that the foregoing transcript of Maine Ethics Commission State Agency Hearing was prepared using standard electronic transcription equipment and is a true and accurate record of the proceedings.

Tape # LaMarche Appeal Maine Ethics pt 1

Counter #s \_\_\_\_\_ to \_\_\_\_\_

Signature\_

*Debra L. Landt*

Date October 6, 2006 /

October 10, 2006 SP \_\_\_\_\_

ERRATA SHEET FOR TRANSCRIPT OF \_\_\_\_\_

RE: \_\_\_\_\_ DATE TAKEN: \_\_\_\_\_

PAGE	LINE #	CORRECTION	REASON
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WITNESS' NAME

SUBSCRIBED AND SWORN TO THIS

\_\_\_\_\_ DAY OF \_\_\_\_\_, 200\_\_\_\_\_

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# Agenda

## Item #11



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

**ADDITIONAL MATERIALS**

**RE: Other Business**

October 20, 2006

#11

October 17, 2006

**By E-Mail and Regular Mail**

Douglas M. Smith  
Post Office Box 460  
Dover-Foxcroft, Maine 04426

Dear Mr. Smith:

As a follow-up to my letter of earlier today, this is to request further information in support of your request.

Please provide the total amount of the June 13 cash balance and funds raised after June 13 which you believe should be attributed for the primary election. It would be helpful if you could also identify the \$7,350.76 in expenditures which you believe were used for the primary election, and confirm if they were used entirely for the primary election. This information would assist the Commission in evaluating the request. Please provide the information by the end of the day Thursday. Thank you.

Sincerely,

Jonathan Wayne  
Executive Director

cc: Sharon H. Libby Jones



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

**ADDITIONAL MATERIALS****RE: Other Business**

October 20, 2006

October 17, 2006

**By E-Mail and Regular Mail**

Douglas M. Smith  
Post Office Box 460  
Dover-Foxcroft, Maine 04426

Dear Mr. Smith:

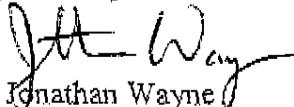
This is to respond to your letter of October 12. You have requested that your campaign's cash balance of \$4,032.57 on the June 13 primary election and some fundraising conducted after June 13 be attributed for the *primary* election rather than for the *general* election. Although you did not raise this issue, your request would have the result of reducing Sharon Libby Jones' eligibility for matching funds under the Maine Clean Election Act.

The Ethics Commission has a meeting scheduled for Friday, October 20 at 9:00 a.m. I am scheduling your request for that meeting under "other business". It is difficult to know at what time the Commission will reach your matter – probably in the 11:00 hour. This is to suggest that you or someone in your campaign participate in the meeting by telephone or in person.

Based on your amended 42-Day Accelerated Report filed by fax, the Commission staff authorized Sharon Libby Jones to spend \$2,449.43 in matching funds. The state is scheduled to send this payment tomorrow. (An employee in the state controller's office was out of the office yesterday unexpectedly and the state's payment to her was not approved). I have spoken to Ms. Libby Jones and asked her not to spend or obligate additional amounts of those funds.

The Libby Jones campaign, staff for the Senate Democratic and Republican caucuses, and any other interested individuals will be welcome to comment at the October 20 meeting. Please telephone me at 287-4179 if you have any questions.

Sincerely,



Jonathan Wayne  
Executive Director

cc: Sharon H. Libby Jones  
Senate Democratic and Republican caucus campaign staff

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



FAX REC'D  
10/12/06

October 12, 2006

Gavin O'Brian  
State of Maine  
Commission on Governmental Ethics  
and Election Practices  
135 State House Station  
Augusta, Maine 04333

Re: Reporting of Primary Operating Deficit/Cash Balance

Dear Gavin:

I am writing pursuant to the telephone conference with you, Gail Stutzman (campaign treasurer), and me this morning. The issue which Gail and I have been trying to talk through with you is the proper manner to account for and report the cash balance at the end of the primary campaign in the amount of \$4,032.57 in view of the fact that there were bills owed by the campaign for pre-primary obligations.

As you know I had a rather hotly contested primary election and near the end of the primary period the campaign decided to undertake some additional obligations that were not previously anticipated or planned on. These late undertakings gave rise to additional unpaid obligations of \$7,350.76 on June 13 with only \$4,032.57 remaining as a cash balance, all of which was obligated to pay down the primary deficit. In fact, additional fund raising was required post-primary in order to liquidate the primary deficit.

At the time Gail prepared the July 24 report she sought guidance from your office on how to report properly the cash balance and the unpaid obligations as of June 13. Our concern was that a cash balance obligated to pay primary expenses not be improperly attributed to the general election and thereby possibly trigger a State obligation for payment from the General Fund of the State of Maine for general election matching funds unrelated to the general election. The report was prepared by Gail based on her understanding of your guidance.

It now appears upon further review by your agency that the reporting of the June 13 cash balance and obligations (deficit) may be in question.

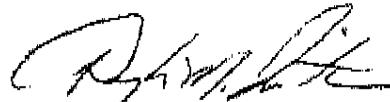
PO Box 460 • Dover-Foxcroft, ME 04426

Authorized and paid for by the candidate  
GAIL STUTZMAN, Treasurer  
PO Box 444  
Dover-Foxcroft, ME 04426

Gail and I are both anxious to have this matter cleared up, but it is my understanding that this situation may be a case of first impression for your agency that may warrant commission review. If so, please bring this issue to the commission. I think the thing that has befuddled both Gail and me is the confusion over how to report these numbers while not mixing primary reporting with general election reporting.

Your further guidance and instruction would be much appreciated.

Sincerely,



Douglas M. Smith

Authorized and paid for by the candidate, Gail Stutzman, Treasurer, PO Box 444, Dover-Foxcroft, Maine 04426



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

October 13, 2006

Ms. Sharon H. Libby Jones  
P.O. Box 1191  
Greenville, ME 04441

Dear Ms. Libby Jones:

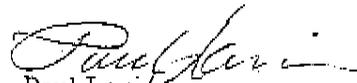
This is to notify you that the Maine Clean Election Act authorizes you to spend \$2,449.43 in matching funds (the "authorization amount"), based on your general election opponent's fundraising and expenditures as well as independent expenditures made by others. As of the date of this letter, you have been authorized to spend a total of \$22,531.43, which includes the initial distribution and any prior matching funds authorizations. The attached chart displays your Maine Clean Election Act payments for the general election plus any balance remaining from the primary election.

The Commission has requested the State to make a payment to you of \$40,164.00, which is the maximum amount of matching funds for which you may qualify for the general election. You may only spend the authorization amount.

Please be aware that you are required to return to the Commission any matching funds which you have not been authorized to spend within 2 weeks after the general election. Also after the general election, you must pay all outstanding debts and return all unspent Maine Clean Election Act funds upon filing the 42-day post-election report. Those amounts must be repaid to the Commission by check or money order payable to the Maine Clean Election Fund.

If you have any questions, please do not hesitate to contact the Commission staff at 287-4179. Thank you.

Sincerely,

  
Paul Lavin  
Assistant Director

cc: All Candidates in District 27  
Campaign Treasurer



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

**Maine Clean Election Act  
 Payments and Authorizations  
 Sharon H. Libby Jones  
 Candidate for Senate, District #27  
 as of October 13, 2006**

1. Balance from the Primary Election	\$811.95
2. Seed Money (Replacement Candidates Only)	n/a
3. Initial Distribution	\$20,082.00
4. Matching Funds Authorizations	\$2,449.43
<b>5. Total Amount Authorized to Spend</b> (lines 1+2+3+4)	<b>\$23,343.38</b>
6. Matching Funds Payment	\$40,164.00
<b>7. Total Unauthorized Amount</b> (lines 6-4)	<b>\$37,714.57</b>

late?

A mended

STATE OF MAINE  
 COMMISSION ON GOVERNMENTAL ETHICS AND ELECTION PRACTICES  
 Mail: 135 State House Station  
 Office: 242 State Street  
 Augusta, Maine 04333-0135  
 Tel: (207) 287-4179 FAX: (207) 287-6775

FAX REC'D  
 10/12/06

GENERAL ELECTION 2006  
 A GENERATED REPORT  
 FOR PRIVATELY FINANCED LEGISLATIVE CANDIDATES  
 AND THEIR COMPONENTS

PLEASE INDICATE TYPE OF REPORT	
<input checked="" type="checkbox"/> 42-DAY (Due 8/25)	<input type="checkbox"/> 21-DAY (Due 10/17)
<input type="checkbox"/> 12-DAY (Due 10/25)	<input type="checkbox"/> 101% (Due: See Reverse)
CANDIDATE INFORMATION	
Name of Candidate Douglas M Smith	Telephone Number (207) 564-8819
Mailing Address PO Box 460	Office Sought Senate
City, Zip Code Dover - Foxcroft ME 04426	District 27
Name of Opposing MGEA Candidate(s) Sharon Libby Jones	
TOTAL RECEIPTS FOR THE GENERAL ELECTION	
Cash balance on June 13, 2006:	4032.57
Total cash contributions received after June 13, 2006:	19310.00
Total value of in-kind contributions received after June 13, 2006:	0
Total loans received after June 13, 2006:	0
Total bank interest received after June 13, 2006:	.81
<b>TOTAL RECEIPTS:</b>	<b>23343.38</b>
TOTAL EXPENDITURES FOR THE GENERAL ELECTION	
Total expenditures after June 13, 2006:	17081.32
Total value of in-kind contributions received after June 13, 2006:	0
Total unpaid debts and obligations incurred after June 13, 2006:	0
<b>TOTAL EXPENDITURES:</b>	<b>17081.32</b>

I CERTIFY THAT THE INFORMATION IN THIS REPORT IS TRUE, CORRECT AND COMPLETE.

[Signature]  
 Signature of Candidate

10/12/06  
 Date

Please see instructions on reverse side.

## Matching Funds Calculations - 2006 General Election

### Senate District 27

---

Libby Jones, Sharon H.

*Democratic*

*Publicly Financed*

	Receipts	Expenditures	Greater of Totals
Cash Balance from the Primary	\$811.95	--	
MCEA Initial Distribution	\$20,082.00	--	
Subtotal	\$20,893.95	\$0.00	\$20,893.95
<b>Latest Authorization on 10/13/2006</b>	<b>\$2,449.43</b>	--	
<b>Total</b>	<b>\$23,343.38</b>	<b>\$0.00</b>	<b>\$23,343.38</b>

---

Smith, Douglas M.

*Republican*

*Privately Financed*

	Receipts	Expenditures	Greater of Totals
Cash Balance from the Primary	\$4,032.57	--	
Finance Reports	\$19,310.81	\$17,081.32	
<b>Total</b>	<b>\$23,343.38</b>	<b>\$17,081.32</b>	<b>\$23,343.38</b>

---

CHAPTER 1, SECTION 5. DISTRIBUTION OF FUNDS TO CERTIFIED CANDIDATES

3. Matching Fund Provision.

- A. General. The Commission will authorize immediately an allocation of matching funds to certified candidates in accordance with the Act when the Commission determines that the eligibility for receipt of matching funds has been triggered [§ 1125(9)].
- B. Computation and Distribution. The Commission will determine a certified candidate's allocation of matching funds, if any, in the following manner:



(1) The Commission first will add --

- (a) the sum of an opposing candidate's expenditures and obligations, or funds raised and borrowed, whichever is greater, including surplus or unspent funds carried forward from a previous primary, general, or special election to the current election; and
- (b) the sum of the independent expenditures made expressly advocating the defeat of the certified candidate or the election of the same opposing candidate.

(2) The Commission then will subtract --

- (a) the sum of the independent expenditures made expressly advocating the defeat of the same opposing candidate; and
- (b) the sum of the independent expenditures made expressly advocating the election of the certified candidate; and
- (c) the sum of any matching funds already provided to the certified candidate; and
- (d) the sum of any seed money raised in computing matching fund eligibility for a primary, general, or special election, as applicable; or any surplus or unspent funds carried forward from a previous primary election to the subsequent general election in computing matching fund eligibility for a general election.

(3) If the final computed amount is greater than the applicable distribution amount for the certified candidate, then the Commission will immediately authorize the distribution of a Matching Fund allocation to the certified candidate equal to that excess.

- (4) The Commission will make computations promptly upon the filing of campaign finance reports and independent expenditure reports.
- (5) To prevent the abuse of the Matching Fund Provision, the Commission will not base any calculation on independent expenditures that, although containing words of express advocacy, also contain other words or phrases that have no other reasonable meaning than to contradict the express advocacy. For example, expenses related to a communication saying, "Vote for John Doe -- he's incompetent and inexperienced," will not be considered a communication in support of John Doe in the calculation of matching funds.

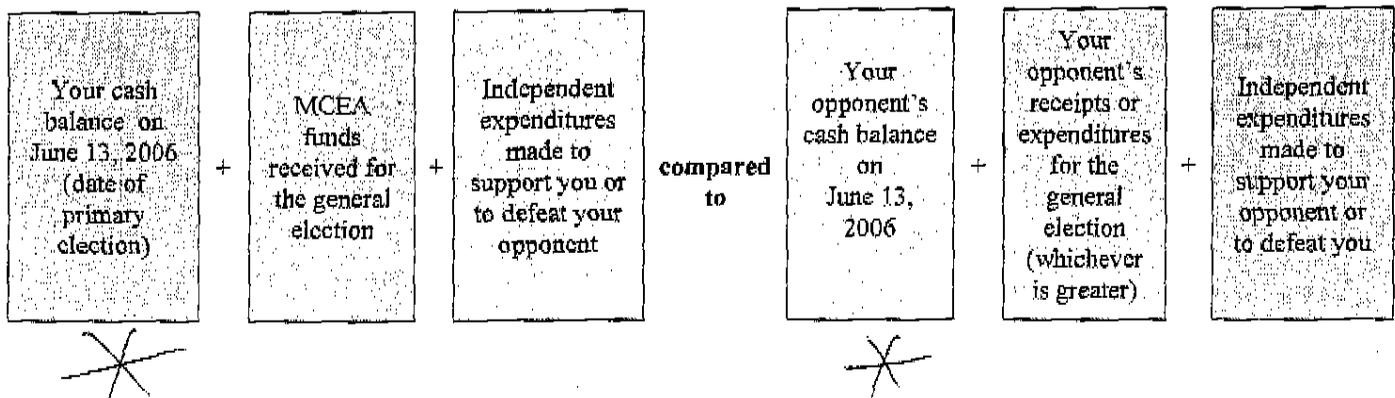
*Candidate Guidebook*

**2006 MCEA Distributions and Matching Funds**

<b>Primary Election</b>	<b>Initial Distribution</b>	<b>Maximum Matching Funds</b>	<b>Maximum Public Funds for the Election</b>
Gubernatorial candidates	\$200,000	\$400,000	\$600,000
State Representative	\$1,504	\$3,008	\$4,512
State Senate	\$7,746	\$15,492	\$23,238
<b>General Election</b>			
Gubernatorial candidates	\$400,000	\$800,000	\$1,200,000
State Representative	\$4,362	\$8,724	\$13,086
State Senate	\$20,082	\$40,164	\$60,246

**Calculation of Matching Funds**

Matching funds are paid based on a comparison of the money raised or spent by each candidate in a race, including money spent by third-parties to support or oppose the candidate. Matching funds for the 2006 general election will be based on the following formula:



**Running Against a Privately Financed Opponent**

The MCEA imposes extra reporting requirements for privately financed candidates with MCEA opponents. These extra reporting requirements allow the Commission to determine whether the MCEA opponent is entitled to receive matching funds. Privately financed candidates must file "accelerated" reports on the 42<sup>nd</sup>, 21<sup>st</sup>, and 12<sup>th</sup>

Matching funds can matter most in a race between a MCEA candidate and a privately financed opponent, because privately financed candidates can raise and spend as much money as they wish.

# Agenda

## Item #12



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

ADDITIONAL MATERIALS

RE: Other Business

October 20, 2006

#12

October 16, 2006

**By E-Mail and Regular Mail**

Reginald W. Arsenault, Jr.  
36 Meadow Street  
Mexico, ME 04257

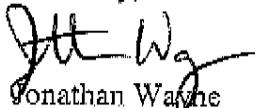
Dear Mr. Arsenault:

The Ethics Commission received the attached request from Ben Gilman of the Maine Republican Party. The request states that your campaign issued a press release falsely stating that you were endorsed by the Sportsman's Alliance of Maine and the Maine Credit Union League, and that the Commission should investigate whether the press release violates 21-A M.R.S.A. §1014-A(2). Because the request was filed within the last 28 days before the general election, the Ethics Commission is required to meet promptly under 21-A M.R.S.A. §1002 to consider the request.

This is to request that you provide a written response by fax or e-mail no later than Thursday, October 19 regarding whether you distributed a press release or any other communication (e.g., advertisement; campaign literature; palm card) claiming that you received these endorsements. In addition, please supply a copy of your press release and any other of your campaign communications that claims the endorsement.

The Commission is scheduled to meet on Friday, October 20, and will consider Mr. Gilman's request during the "other business" portion of the meeting. It is possible that the Commission will only be able to give this matter initial consideration at the meeting, and will have to continue its discussion at a later meeting. This is to request that you participate in the meeting, at least by telephone. Please call me at 287-4179 to discuss this matter. Thank you.

Sincerely,

  
Jonathan Wayne  
Executive Director

cc: Ben Gilman  
Randy Hotham

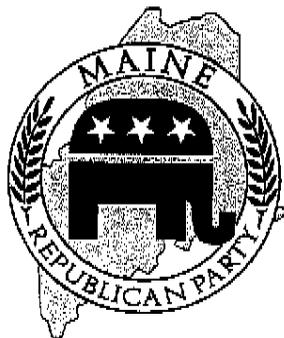
## **21-A M.R.S.A. §1014-A. Endorsements of political candidates**

**1. Definition.** For purposes of this section, "endorsement" means an expression of support for the election of a clearly identified candidate by methods including but not limited to the following: broadcasting stations, newspapers, magazines, outdoor advertising facilities, direct mails or other similar types of general public political advertising or through computer networks, flyers, handbills, bumper stickers and other nonperiodical publications.

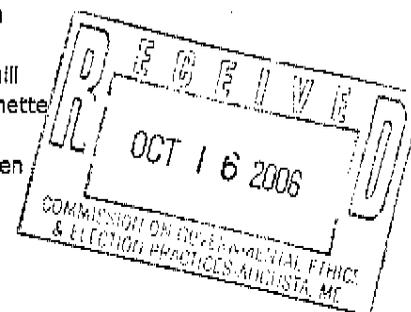
**2. Authorization.** A candidate may not use an endorsement unless the endorser has expressly authorized its use. The communication must clearly and conspicuously state that the endorsement has been authorized. If applicable, the communication must also satisfy the requirements of section 1014.

**3. Civil forfeiture.** A candidate who uses an endorsement without the authorization of the endorser violates this section and is subject to a civil forfeiture of no more than \$200.

**4. Enforcement.** The full amount of the forfeiture is due within 30 days of the Commission's determination that an endorsement has been used without the endorser's authorization. The Commission is authorized to use all necessary powers to collect the forfeiture. If the full amount of the forfeiture is not collected within the 30 days after the Commission has determined that a violation of this section has occurred, the Commission shall report to the Attorney General the name of the person who has failed to pay. The Attorney General shall enforce the violation in a civil action to collect the full outstanding amount of the forfeiture. This action must be brought in the Superior Court for the County of Kennebec or the District Court, 7th District, Division of Southern Kennebec.



State Chairman	Mark J. Ellis
Vice Chairman	Dan Schuberth
Treasurer	Phillip Roy, Jr.
Secretary	Kim E. Pettengill
National Committeeman	Peter E. Clanchette
National Committeewoman	Karen H. Raye
Executive Director	Julie Ann O'Brien



October 16, 2006

Mr. Jonatahan Wayne  
Executive Director,  
Maine Ethics Commission  
135 State House Station  
Augusta, Maine 04333

I am writing on behalf of the House Republican Caucus to respectfully request an ethics inquiry be placed into the matter concerning possible false use of endorsements pursuant to M.R.S.A. of 21 A § 1014A (2) by Mr. Reginald W. Arsenault, Jr. candidate for House District 93 in the 123<sup>rd</sup> Maine House of Representatives.

It has come to our attention that Mr. Arsenault, falsely claimed in a press release, that was submitted, and run verbatim, in the Wednesday, October 11, 2006 edition of *The Rumford Falls Times*, that he had received the endorsement of the "Sportsman's Alliance of Maine" and the Maine Credit Union League." We question the ethical permissibility of such a claim as that is not the case. Mr. Arsenault's opponent, incumbent State Representative Randy E. Hotham has actually received the formal endorsement of both of these organizations. Their formal letters of endorsement are attached for your review.

If you have any questions or concerns on this or any other matter, please do not hesitate to contact me directly. You can reach me at the office by calling 207-622-6247 or by calling 207-838-7564.

Sincerely,

Ben Gilman  
House Republican Caucus Director



# SPORTSMAN'S ALLIANCE of MAINE

205 Church Hill Road, Augusta, Maine 04330  
Telephone (207) 622-5503 Fax (207) 622-5596 E-mail: members@samcef.org

September 15, 2006

Randy Hotham  
PO Box 352  
Dixfield, ME 04224

Dear Randy,

Congratulations! The Sportsman's Alliance of Maine Political Action Committee (SAM PAC) has endorsed your candidacy for the Maine Legislature. We appreciate your interest in SAM's endorsement and the time you put into our lengthy questionnaire.

SAM PAC's grades and endorsements are based on responses to the survey, on the records of incumbents, and on our knowledge of the race and candidates. We follow a policy that favors incumbent legislators who have done a good job for the sportsmen of Maine. They always get the endorsement, even if the challenger gets a good grade from SAM.

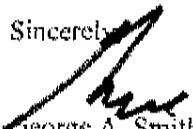
SAM PAC's Board of Directors awarded grades and discussed and voted on all endorsements at a meeting on September 10.

In addition to the endorsement, you received a grade of A.

We will publicize your endorsement in our October SAM News that goes to all members.

You have permission to use SAM PAC's endorsement in campaign literature, press releases, and other material. We would appreciate receiving a copy of any literature or news clips that mention our endorsement. Good luck!

Sincerely,

  
George A. Smith  
Executive Director

## Maine Credit Union League

Credit Union Service Center  
2 Ledgeview Drive • Westbrook, ME 04092  
Mailing Address: P.O. Box 1236 • Portland, ME 04104  
773-5671 • 1-800-442-6715 www.maine cul.org

August 29, 2006

Representative Randy E. Hotham  
PO Box 352  
Dixfield, ME 04224

Dear Representative Hotham:

Recently, the Maine Credit Union League's Governmental Affairs Committee met to review the questionnaires of candidates, as well as legislative records of current legislators to determine their level of support for credit unions.

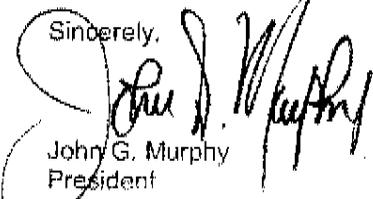
We are pleased to inform you that you are among a select group of candidates that the Committee has elected to endorse. Your past, outstanding support for credit unions was a major factor in making that endorsement. We invite you to use the endorsement of the Maine Credit Union League in your campaign materials, publications, or any other way you see fit.

We have been very proud of the interest that our credit union officials have taken in civic life over the past few years. Some have learned new ways of participating in the political process through visits to the State House on Credit Union Day, job-shadowing legislators, or actively campaigning for friends of the credit union movement who run for office.

Our credit union officials have enjoyed being involved in civic life, and have been pleased at your receptiveness in hearing from them on issues important to credit unions. We encourage them to continue the dialogue with you, and to maintain contact both during the campaign season and afterwards during the upcoming legislative session.

On behalf of the Maine Credit Union League, Maine's 72 affiliated credit unions and their over 600,000 members across the state, please accept our endorsement along with our best wishes for a successful campaign.

Sincerely,

  
John G. Murphy  
President

/kjs

  
Quincy Hentzel Germann  
Director of Governmental Affairs

gwi.net

# Reggie Arsenault announces candidacy for House District 93

WEDNESDAY, October 11, 2006



Mexico (right). Reggie Arsenault is the Democratic candidate for the 93rd Legislature in District 93.

MEXICO — Incoming Mexican representative Reggie Arsenault is the Democratic candidate for the 93rd Legislature in District 93. Arsenault's long history of public service in the region includes his current position on the Board of Health for five years. Arsenault also serves on the Northern Oxford Regional Solid Waste Board of Directors and the Mexico Planning Corp. Administration. He is also a member of the Mid-Care Board of Directors. He is a former Chairman of the Mexico Recreation Department and served on the M.S.A.D. 43 Board of Directors. Arsenault worked as a teacher in Mexican schools and as both a carpenter and a bus driver at Penn Elementary School until Penn Point

Synagogue disabled him in 1987. He has been a member of the Penn Point Support Group of Middlesex for 12 years and is currently an ill and part of the group's support. Arsenault is a Merit Award recipient and serves as a Commissioner for the Town of 45-94. Arsenault attends St. Brigid's Episcopal Church, where he has been a member for three years and a member of the vestry board for five years.

Referring to his work with people, Arsenault said that he's had to learn to accept difficult things and to focus on the positive. He uses the same philosophy in everyday life. "I look at the whole picture and try to look at both sides," said Arsenault. "It's not a car accident, you need both the positive and the negative to keep the whole thing running."

Arsenault says his experience serving the community and region and is looking forward to serving the people of Dixfield, Canton, Reno, Carleton, and Madeline in an even greater capacity. He said that the state faces some tough issues including health insurance, affordable housing, higher wages, job security, and funding for education.

Arsenault added that the state needs a government that will help the tax base, improve the overall financial situation, and bring in new jobs, but growth has to be balanced to preserve the high quality of life in the state. In the Western Mountain area, Arsenault said, we have good people, good land, we have good people, good



# Agenda

## Item #13



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

**ADDITIONAL MATERIALS****RE: Other Business**

October 20, 2006

#13

October 17, 2006

Michael Mahoney  
Preti Flaherty LLC  
PO Box 1058  
Augusta, ME 04332-1058

Anne Rand  
61 Melbourne Street  
Portland, ME 04101

Benjamin Dudley, Chair  
Maine Democratic Party  
PO Box 5258  
Augusta, ME 04332

Jane Meisenbach, Chair  
Maine Green Independent Party  
72 Fire House Road  
Harswell, ME 04079

Julie O'Brien, Chair  
Maine Republican Party  
9 Higgins Street  
Augusta, ME 04332

Benjamin Meiklejohn  
11 Exchange Street  
Portland, ME 04101

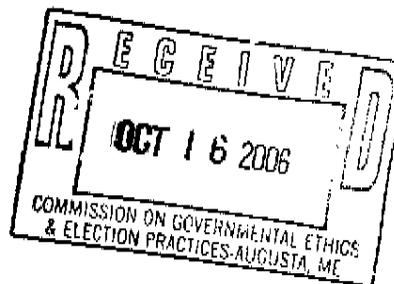
The Ethics Commission staff received the attached request for matching funds from Benjamin Meiklejohn based on a mailing in support of Anne Rand by the Maine Democratic Party. The view of the Commission staff is that in light of the Commission's decision on September 22, 2006 regarding ads in the governor's race, the mailing does not expressly advocate the election of Anne Rand. Nevertheless, the staff will ask the Commission to consider this request at its October 20 meeting under "Other Business." You are welcome to comment at the meeting.

If you have any questions, please do not hesitate to telephone me at 287-4179.  
Thank you.

Sincerely,

Jonathan Wayne  
Executive Director

cp  
Enclosure  
cc: District 120 Candidates



October 16<sup>th</sup>, 2006

Jonathan Wayne,  
Director, Ethics Commission

Dear Mr. Wayne,

I am filing an official complaint with the Ethics Commission about two district-wide mailings that were paid for by the Maine Democratic Party, which clearly indicate the express advocacy for the election of my opponent Anne Rand to the position of State Representative. The literature in question, which I have enclosed, promotes the name Anne Rand and clearly identifies the office for which she is running, State Representative, under her name. Anne is not a State Representative currently and it cannot be construed as constituency service. The attribution of State Representative with her name is clearly an express advocacy of her candidacy, without question. This association, as presented in the piece, serves no purpose other than to expressly promote her election. For what other purpose could this association possibly be made? Listing her as a State Representative, when she is not currently a Representative, serves no other purpose than to promote her election.

Since the Maine Democratic Party has not reported this expenditure, I am asking for the Commission to consider disbursement of matching funds so that I may be given equal resources to promote my candidacy.

Sincerely,

A handwritten signature in cursive script, appearing to read "Benjamin J. Meiklejohn".

Benjamin J. Meiklejohn,  
Green Independent candidate for State Representative,  
House District 120

002/003

**ANNE RAND**

*GOOD PAYING JOBS  
AND LOWER TAXES*

- Expanding property tax relief for Maine homeowners
- Targeting tax relief for the middle class, not just Bush's billionaires
- Eliminating the tax on business equipment for small businesses

**ANNE RAND**

*STRENGTHENING COMMUNITIES  
AND PROTECTING FAMILIES*

# ANNE RAND

## State Representative

### MAINE VALUES, AN INDEPENDENT VOICE

Paid for by the Maine Democratic Party, 16 Winthrop Street, Augusta, ME 04332  
This Communication is not authorized by any candidate or candidate's committee.

DESIGNED, PRINTED & MAILED IN MAINE PRINTED ON RECYCLED PAPER

Non-profit Org.  
U.S. Postage  
PAID  
Permit #504  
Augusta, ME

Tray 3 \*\*\*\*\*AUTO\*\*SCH 5-DIGIT 04101  
DOUGLAS EMERY  
or CURRENT RESIDENT  
11 EXCHANGE ST APT 3G  
PORTLAND ME 04101-5086



**RECEIVED**  
OCT 16 2006  
COMMISSION ON GOVERNMENT  
& ELECTION PRACTICES



# Anne Rand

is working to build a stronger future for Maine and is standing up for hard-working Mainers.

That is why **Anne Rand** is committed to:

- Growing good-paying jobs and building a stronger Maine economy.
- Expanding property tax relief for Mainers.
- Working to make health care affordable for Maine families.
- Dedicated to improving Maine schools and creating new opportunities.
- Practicing fiscal responsibility here in Maine - and demand it from Washington.

Non-profit Org.  
U.S. Postage  
**PAID**  
Permit #304  
Augusta, ME

Tray 4 \*\*\*\*\*AUTO\*\*3-DIGIT 041  
BENJAMIN CHIPMAN  
or CURRENT RESIDENT  
PO BOX 1254  
PORTLAND ME 04104-1254



DESIGNED, PRINTED & MAILED IN MAINE



PRINTED ON RECYCLED PAPER

*Paid for by the Maine Democratic Party, 16 Winthrop Street, Augusta, ME 04332  
This Communication is not authorized by any candidate or candidate's committee.*



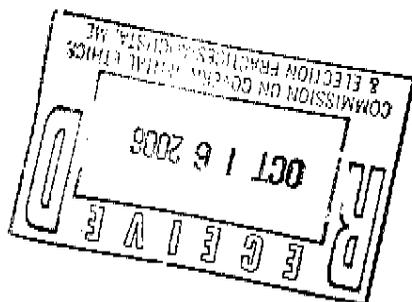
**RECEIVED**  
OCT 16 2006  
COMMISSION ON GOVERNMENTAL ETHICS  
& ELECTION PRACTICES AUGUSTA, ME

NORWAY	14 MI.
PARIS	15 MI.
DENMARK	23 MI.
NAPLES	23 MI.
SWEDEN	25 MI.
POLAND	27 MI.
MEXICO	37 MI.
PERU	49 MI.

# Anne Rand State Representative

A new direction for Maine...

**RECEIVED**  
OCT 16 2006  
COMMISSION ON GOVERNMENT & ELECTION PRACTICES



**HELLO**  
my name is

**ANNE RAND**



**Anne Rand**

**Anne Rand**  
State Representative

# Agenda

## Item #14

**ADDITIONAL MATERIALS**  
**RE: Other Business**  
**October 20, 2006**  
**OCT 17 2006**  
 STATE BOARD OF GOVERNMENT ETHICS  
 1000 COLLEGE FRENCHES AVENUE, TAUNTON, MA 01969

Memo to : Maine Commission on Governmental Ethics and Election Practices  
 From: Bruce MacDonald, Democratic Candidate for the Maine Legislature, District 61  
 Subj: Political Ad for My Opponent  
 Date: Oct. 17, 2006

#14

Dear Commission Members:

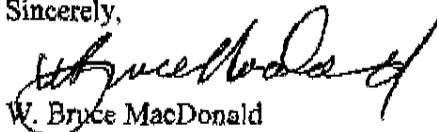
With this FAXed letter please also find a FAXed copy of an ad for my opponent, Bill Bailey, in the present campaign for a seat in the Maine House. This mailing arrived today, less than three weeks before the election. It features my opponent in bold letters and picture, intended clearly as a message to the voters to vote for my opponent. Had this been a mailing on abstract issues regarding the Maine economy, it might well have contained my picture as well. But it does not. It comes from the Republican party and is expressly intended to advocate for the election of my opponent. That's why it was sent now, with his name so prominently displayed, along with his picture.

It makes reference to "our State Government" and says it "hinders positive job growth with its policies". It says "current leadership in Augusta refuses to jump start our economy." Current leadership is obviously the Democratic Party. Bill Bailey is a Republican running for a leadership job in State Government, i.e. a seat in the Maine Legislature. The ad also says "Maine can do better..." "Bill Bailey understands that Maine needs change!"

The advocacy connection is obvious to me, and I hope it will be to you as well as you reflect on this political ad.

On this basis, I request appropriate matching funds, as soon as possible, so that my campaign can be restored to an equal footing in the Clean Elections process.

Sincerely,

  
 W. Bruce MacDonald

# Bill Bailey IS A COMMUNITY LEADER WITH A PLAN

MAINE CAN NO LONGER AFFORD  
BILL BAILEY KNOWS HOW TO  
KEEP OUR GREAT STATE  
WORKING FAMILIES  
NEEDS CHANGE

## A FOCUS ON JOBS AND THE ECONOMY

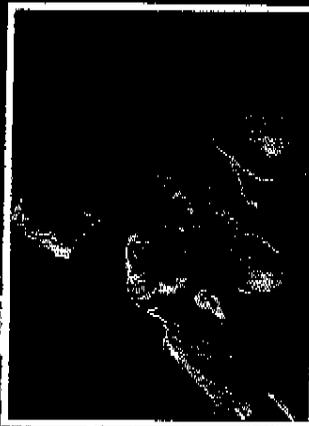
We need to create quality, high paying jobs that can establish themselves here in Maine. Job loss hinders positive job growth with our workers. Mainers are hard workers in need of jobs.

## BETTER HEALTH CARE

Our healthcare system falls short. We need better care for all Mainers dependent on government. Deregulation, and creating market competition for individuals and businesses, increase health care costs.

## MAINE NEEDS TAX RELIEF

Bill Bailey knows that tax relief will help Mainers in Maine. State government must be spending more to increase individual savings, stimulate small business growth and jobs.



Maine Republican Party  
9 Higgins Street  
Augusta, ME 04330

60\*\*\*\*\*EGRSS\*\*R001  
RESIDENT  
RURAL ROUTE BOXHOLDER  
BOOTHBAY, ME 04537

Non-Profit Org.  
U.S. POSTAGE  
PAID  
Maine Republican Party

OCT 17 2006

COMMISSION ON GOVERNMENTAL ETHICS  
& ELECTION PRACTICES-AUGUSTA, ME

Paid for and authorized by the Maine Republican Party, Phil Rok, Treasurer, 9 Higgins Street, Augusta, ME 04330.  
Not authorized by any candidate or candidate committee.

# It's Time To Put Maine Back To Work

**Maine is home to the  
hardest working people  
- anywhere.  
But the numbers show  
Maine is struggling.**

Unfortunately, the current leadership in Augusta refuses to jump on our economy. They ignore our young people who must leave the state for a better job. They stand in the way of good paying jobs, benefits and jobs that allow Maine to prosper.

**THERE IS A SOLUTION: lower taxes, reduced spending, streamlined permitting & an affordable high-tech healthcare. A BETTER ECONOMY MEANS MORE JOBS**



## Overview of Economic Performance: Maine Losing Jobs, Struggling

Maine was the only New England state - and the only state in the nation except for Hurricane Katrina victim, Louisiana - to see economic activity decline.

- Maine was the only New England state with negligible payroll job growth.
- Income growth, though respectable, was the slowest in New England.
- Maine's exports declined for the first time since 2000.

Not only was Maine the only state in the region to experience virtually no job growth, the 2005 benchmark revisions reduced the year-end job count by nearly 6,000.

Source: Federal Reserve Bank of Boston

**BUT MAINE CAN IMPROVE!**

# Bill Bailey IS A COMMUNITY LEADER WITH A PLAN

MAINE CAN DO BETTER  
BILL BAILEY FOR  
MAINE  
BIG FAMILIES  
NEEDS CH

## A FOCUS ON JOBS AND THE ECONOMY

We need to create quality, high paying jobs so we can establish themselves here in Maine. This hinders positive job growth and the quality of life. Mainers are hard workers in need of

## BETTER HEALTH CARE

Our healthcare system is in a state of crisis. We need care for all Mainers dependent on government deregulation, and creating incentives for private individuals and businesses to invest in

## MAINE NEEDS TAX RELIEF

Bill Bailey knows that tax relief will stimulate the Maine. State government will be able to spend more on increase individual savings, stimulate small business growth and



Maine Republican Party  
9 Higgins Street  
Augusta, ME 04330

Not For Sale  
U.S. POSTAGE  
PAID  
Maine Republican  
Party

60\*\*\*\*\*ECRWSS\*\*R001  
RESIDENT  
RURAL ROUTE BOXHOLDER  
BOOTHBAY, ME 04537

Paid for and authorized by the Maine Republican Party, Phil Roy, Treasurer, 9 Higgins Street, Augusta, ME 04330.  
Not authorized by any candidate or candidate committee.

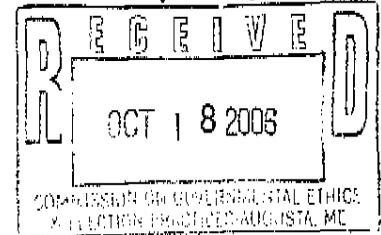
# Agenda

## Item #15

**ADDITIONAL MATERIALS****RE: Other Business**

October 20, 2006

October 16, 2006

**#15**

Mr. Jonathan Wayne  
 State of Maine  
 Commission on Governmental Ethics and Election Practices  
 135 State House Station  
 Augusta, Maine 04333-0135

Dear Jonathan:

I would like to file a campaign complaint with the Ethics Commission regarding postcard mailings in House District #43 by the Maine Democratic Party. In July 2005, I reported the first of these mailers paid for by the Maine Democratic Party promoting my opponent, an incumbent legislator, Walter Ash. A copy of that letter is included.

Since that time, the Maine Democratic Party has sent four additional mailings in this District in support of Walter Ash: one in August, one in September and two in October. The most recent were two mailings that I received on October 14, 2006. The postcards accompanied a third mailing sent by the Committee to Re-Elect Walter Ash. All three mailers arrived on the same day.

The postcards no longer appear to be information about Mr. Ash's work as a legislator. This material is being sent to promote Mr. Ash's re-election campaign. I do not know the exact costs, however, five separate mailings must cost nearly as much as the full Clean Elections budget available to me as a House candidate.

I am requesting that the Commission consider the last two postcards sent as campaign materials to trigger matched funding for me. This is due to the fact that the last three cards all arrived on the same day. One of the three cards is a re-election piece sent by Mr. Ash's campaign committee stating the election date and requesting people vote for him. A voter in District #43 receiving these three pieces all on the same day would have a difficult time distinguishing which of the three postcards are non-campaign literature.

I have included copies of the three October 14<sup>th</sup> mailings for your reference. I would appreciate yours and the Commission's response.

Thank you.

Sincerely,

  
 Jayne Crosby Giles

Candidate, House District #43

15 Tozier Street, Belfast, Maine 04915 338-4650, x2704 (work) OR 338-0711 (home)

July 17, 2006

Mr. Jonathan Wayne  
State of Maine  
Commission on Governmental Ethics and  
Election Practices  
135 State House Station  
Augusta, Maine 04333-0135

Dear Jonathan:

As follow up to our conversation this morning, I am faxing with this letter a copy of a postcard mailer that I received on Saturday, July 15, 2006. The postcard has been paid for by the Maine Democratic Party at 16 Winthrop Street, Augusta, Maine 04332. The content of the card promotes my opponent, an incumbent legislator, Walter Ash.

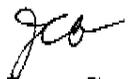
The card appears to be a campaign postcard for the benefit of Mr. Ash. The legislative session has ended and this has been mailed long after the June 13th Primary. Thus, we are into the "campaign season."

I am writing to see if this campaign expenditure has triggered any matching funds for my campaign as a Clean Elections Candidate.

I would appreciate yours and the Commission's response.

Thank you.

Sincerely,

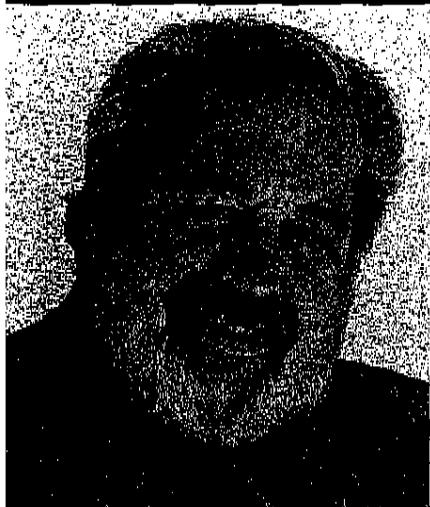


Jayne Crosby Giles  
Candidate, House District #43

15 Tozier Street, Belfast, Maine 04915  
338-4650, x2704 (work) OR 338-0711 (home)

# RE-ELECT Walter ASH

State Representative • Belfast, Belmont and Northport



- Independent voice
- Experience
- Integrity

DESIGNED, PRINTED & MAILED IN MAINE  
 PRINTED ON RECYCLED PAPER  
 The Committee To Re-Elect Walter Ash, 36 Seaport Ave, Belfast, ME  
 04915, Paula Watson, Treasurer

Dear Neighbor,  
 I have had the pleasure of representing our community for six years. I've fought to invest in education, provide affordable health care and create good paying jobs. I would appreciate your vote November 7th to continue the work I've started. Thank you for your support.

-Walter  
 838-3485  
 asktdistrict7@yahoo.com

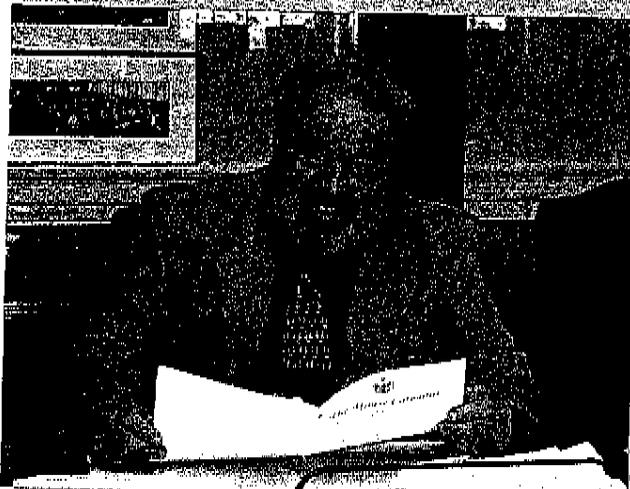
RESIDENT  
 15 TOZIER ST  
 BELFAST ME 04915-6037  
 ECRWSS-C-001  
 2  
 2

**Vote on Tuesday, November 7  
 WALTER ASH • State Representative**

PRST STD  
 US POSTAGE  
**PAID**  
 PERMIT #1  
 PORTLAND, ME

Re-elected

# ABOUT Walter ASH



Rep. Walter Ash at his desk in the House of Representatives

## Maine Native

- Lifelong Belfast resident
- Business owner - Eastside Garage
- Member, Legislature's Committee on Marine Resources
- Member, Legislature's Committee on Research, Development & the Innovation Economy
- Former member, Belfast City Council, 12 years

## In the Legislature:

- Sponsored and passed legislation to protect and inform consumers when merchants place holds on their credit and debit card accounts
- Co-sponsored legislation to combat the threat of invasive marine species that threaten Maine's ocean harvests and traditional fisheries
- Fought for increased school funding for MSAD #34 (an over \$400,000 increase for the coming school year) and faster state payments to Waldo County General Hospital

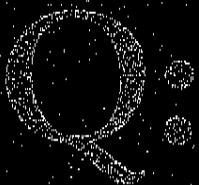
## Walter Ash is committed to:

- Creating high paying jobs
- Increasing access to quality health care
- Providing opportunity through education

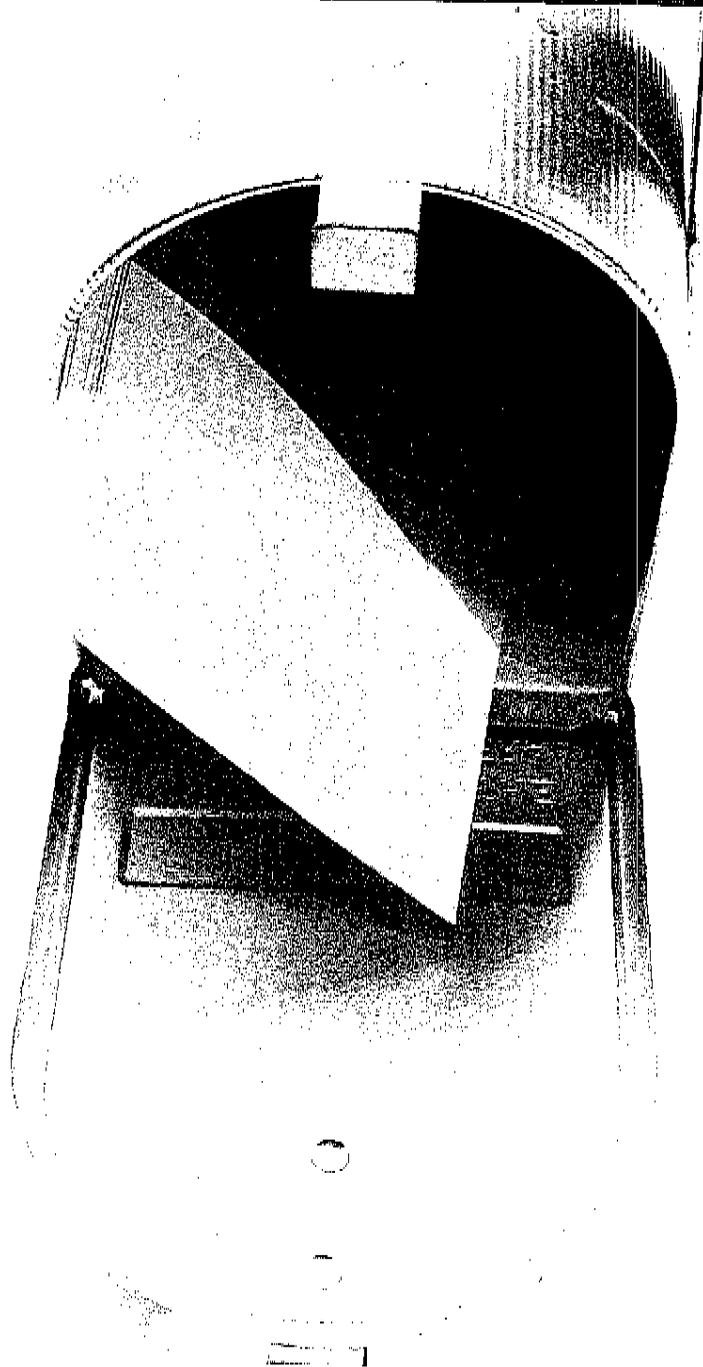
"Rep. Walter Ash deserves a great deal of credit for looking out for the little guy with his bill, An Act to Protect Consumers from Credit and Debit Card Holds." *The Republican Journal*, Thursday, January 5, 2006.



RE-ELECT **ASH** TUESDAY NOVEMBER 7



What do your mailman &  
Rep. Walter Ash  
both have in common?





**A: They deliver.**

# Rep. Walter Ash

**is working to build a stronger future for Maine and is standing up for hard-working Mainers.**

While in Augusta **Walter Ash** delivered:

- Voted to double tax refunds for Mainers hit hard by local property taxes. (Roll call #18)
- Voted to protect Maine children and communities from sex offenders by creating stricter sentences. (Roll call #330)
- Voted to increase the minimum wage for Maine workers. (Roll call #484)
- Voted to create more protections for women who have been the victim of domestic violence, and to keep guns out of their abuser's hands. (Roll call #537)

see 9/10/06 for

Non-profit Org. U.S. Postage <b>PAID</b> Permit #304 Augusta, ME
--

Tray 2 \*\*\*\*\*AUTO\*\*5-DIGIT 04915  
 LORING GILES  
 15 TOZIER ST  
 BELFAST ME 04915-6037



DESIGNED, PRINTED & MAILED IN MAINE PRINTED ON RECYCLED PAPER

*Paid for by the Maine Democratic Party, 16 Winthrop Street, Augusta, ME 04332*  
*This Communication is not authorized by any candidate or candidate's committee.*



HELLO  
my name is

REPRESENTATIVE  
WALTER ASH



As featured in the 2006 and 2007 Commission  
**Walter Ash** is a Republican member of the  
House of Representatives. He is currently serving  
in the 11th district. He is currently serving in the  
House and has served in the House for 10 years.

State Representative  
**Walter Ash**

Walter Ash, 11th District, 2006-2007

# State Representative WALTER ASH

## MAINE VALUES, AN INDEPENDENT VOICE

Paid for by the Maine Democratic Party, 16 Winthrop Street, Augusta, ME 04332  
This Communication is not authorized by any candidate or candidate's committee.

DESIGNED, PRINTED & MAILED IN MAINE  PRINTED ON RECYCLED PAPER 

Non-profit Org.  
U.S. Postage  
**PAID**  
Permit #304  
Augusta, ME

*Paid 10/18/06*

Tray 2 \*\*\*\*\*AUTO\*\*S-DIGIT 04915  
LORING GILES  
of CURRENT RESIDENT  
15 TOZIER ST  
BELFAST ME 04915-6037



**WALTER ASH**  
*GOOD-PAYING JOBS  
AND LOWER TAXES*

- Expanding property tax relief for Maine home owners
- Targeting tax relief for the middle class and small business, instead of Bush's billionaires
- Eliminating the tax on business equipment to nurture Maine's small businesses

**WALTER ASH**  
*STRENGTHENING COMMUNITIES  
AND PROTECTING FAMILIES*

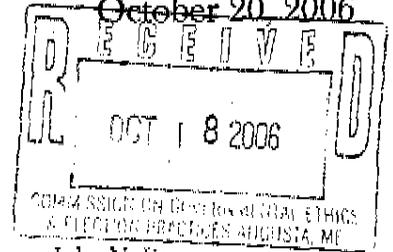
- Increasing jail sentences for sexual predators and providing real community protections
- Protecting our environment by eliminating lead and mercury
- Investing in higher education to help prepare Maine's workforce for the jobs of tomorrow

# Agenda

## Item #16

October 20, 2006

#16



October 18, 2006

John N. Frary  
Chairman, Franklin County Republican Committee  
355 Red Schoolhouse Road  
Farmington, ME 04938

Jonathan Wayne  
Executive Director  
State of Maine Commission on Governmental Ethics etc.  
135 State House Station  
Augusta, ME 04333-0135

778-6685

Dear Director Wayne,

I enclose/attach a piece of literature being handed out at the University of Maine, Farmington. He shows no disclaimer and attempts to establish its actual origin produced no clear answer.

I am, therefore, lodging a formal complaint before the Commission. This is clearly a political leaflet. Its source must be identified and the cost established with a view to matching funds for Lance Harvell. If the Janet Mills' campaign is the origin some kind of fine may be in order.

Sincerely,  
*John N. Frary*  
John N. Frary  
Chairman, Franklin County Republican Committee

## The Stances Of Lance Harvell

In a Candidate survey taken in 2006 Lance had this to say about some of Maine's number 1 issues

*Please give your opinion on the following statements about health care reform in Maine*

"Healthcare is a right" - **Disagree**

"All Maine citizens are entitled to health insurance coverage regardless of ability to pay." - **Disagree**

"The state should pay for healthcare using a taxpayer supported system such as Dirigo Health." - **Strongly Disagree**

"The state should impose price controls on doctors and hospitals to curb healthcare costs." - **Strongly Disagree**

*How would you describe your political philosophy?*

**Very Conservative**

*Which two of the following education reforms would you identify as top priorities to help control the cost of K-12 education in Maine?*

**Restrict state funding of new construction to a limited number of state approved building designs.**

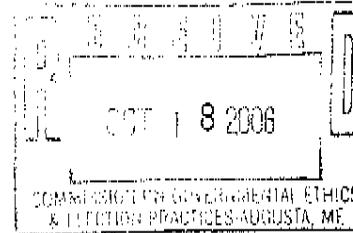
**Restrict administrative to teacher job ratios (fewer administrators per teacher)**

*Which two of the following education reforms would you identify as top priorities to improve the quality of public education?*

**Private-school vouchers**

**Require measurable results based on testing for continued state support**

Information from <http://www.mecol.org/2006%20Candidate%20Survey/2006%20Candidate%20Survey%20189%20Harvell.htm>



# ADDITIONAL MATERIALS

Commission on Governmental Ethics & Election Practices  
Commission Meeting  
October 20, 2006

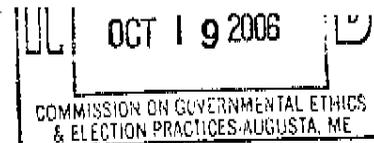
Oct 19 06 09:22a

Jennifer Plante

**ADDITIONAL MATERIALS****RE: Item #12**

October 20, 2006

Ethics Commission Response  
Complaint on Endorsements  
Claimed by Candidate Reggie Arsenault  
October 19, 2006



Jonathan Wayne  
Executive Director  
Ethics Commission

Dear Mr. Wayne,

In response to the complaint filed by Ben Gilman of the Maine Republican Party, it is true that errors were made in claiming certain endorsements on behalf of Reggie Arsenault's campaign for State District 93 Representative. We unintentionally claimed endorsements from the Maine Credit Union League and the Sportsman's Alliance of Maine.

The two organizations spoke so highly of Reggie's survey responses, that I took the letters to be endorsements in the general sense of the word.

*"We are pleased to inform you that you have been identified as a friend and supporter of credit unions. We invite you to use the fact that the Maine Credit Union League has identified you as a friend of credit unions in your campaign materials, publications, and any other way you see fit." - Maine Credit Union League.*

*"Congratulations! The Sportman's Alliance of Maine Political Action Committee (SAMPAC) has awarded our highest grade of A for your candidacy to the Maine Legislature." - Sportsman's Alliance of Maine.*

The two endorsement errors appeared in the Rumford Falls Times candidacy announcement for Reggie. To the best of my knowledge, the endorsement errors haven't appeared in any other publications or campaign materials.

The Rumford Falls Times printed a "clarification" in this week's newspaper stating that those two endorsements were given to Representative Randy Hotham.

I have prepared a letter of apology to the Rumford Falls Times for the endorsement errors and will notify the Maine Credit Union League and the Sportsman's Alliance of Maine of the mistakes.

Here is a copy of the apology for your records.

*Apology for Endorsements Mistake*

*In the interest of fair play, I need to apologize for two unintentional endorsement errors that appeared in Reggie Arsenault's candidacy announcement printed in the Rumford Falls Times recently.*

*Reggie received highly complimentary letters from both the Maine Credit Union League and the Sportsman's Alliance of Maine (SAM). Two quotes from the letters follow.*

**ADDITIONAL MATERIALS**

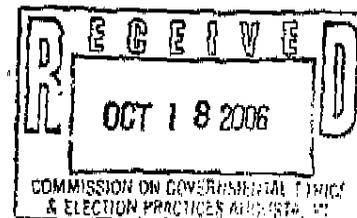
**New Business**

**October 20, 2006**

**House Democratic Campaign Committee**

FOR TO [unclear] 287-6775

**From:** House Democratic Campaign Committee [house@mainedems.org]  
**Sent:** Wednesday, October 18, 2006 6:34 PM  
**To:** 'Wayne, Jonathan'  
**Subject:** Question



Jonathan,

I am requesting clarification on the Commission's decision to provide \$2400 of matching funds to Zachery Smith as a result of a mailer sent by Alliance For Maine's Future Maine Prosperity PAC.

I do not question the PAC's endorsement of Rep. Fischer, but the value of the actual benefit to Rep. Fischer seems to be much less than the \$2400 expenditure. There are two issues.

- 1) The actual cost of the mailer sent to this district, \$2400 seems to be high at first glance for a bulk rate mail piece, and this cost may provide an unfair amount of matching funds to Mr. Smith.
- 2) The mailer in question refers the reader to the AMF website, which prominently features a link to "Legislator ratings & Records" that links directly to the Maine Economic Research Institute website that has an unfavorable rating toward Rep. Fischer, a rating that has been criticized by voters in print. Directing voters to an unfavorable rating certainly does not add full value to a piece intending to help Rep. Fischer.

I ask the staff to reconsider its decision to issue Mr. Smith the full amount. I am faxing supporting documents. 1) the piece of mail, 2) relevant letters to the editor 3) The homepage of [www.allianceformaine.org](http://www.allianceformaine.org) and 4) the homepage of Maine Economic Research Institute that appears when the "Legislator Ratings and Records" link hits.

Thanks

Paul

Paul Brunetti  
PO Box 2021  
Augusta, ME 04338  
house@mainedems.org  
(207)622-1912 ext.110  
Fax (207)622-2657

No virus found in this outgoing message.  
Checked by AVG Free Edition.  
Version: 7.1.408 / Virus Database: 268.13.5/462 - Release Date: 10/18/2006



Sent By: MAINE DEMOCRATIC PARTY;

2070222657;

Oct-18-06 8:01PM;

Page 4

0001/400

BY 10/19/06 WOL LCI IV FAX 207 784 2371



State Representative Jeremy Fischer has earned our endorsement for re-election. We are the AMF Maine Prosperity PAC, part of the Alliance for Maine's Future, a non-partisan, non-profit grassroots organization committed to holding legislators accountable for a healthy Maine economy.

Rep. Fischer's voting record on issues of importance to Maine businesses has been consistent and supportive. We urge you to re-elect Representative Fischer and to thank him for encouraging long-term private sector investment. A good record on economic issues means jobs for you and the generations to come.

In Maine, you can **Vote by Absentee Ballot anytime** up to 8:00 p.m. on election day, November 7th.

You may drop by your town or city hall and vote right then and there during their regular business hours anytime after October 1.

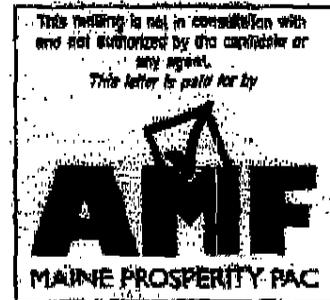
OR

- Just fill out the attached card and drop it in the mail by **October 22**
- Wait for your Absentee Ballot to be sent to your home.
- Mark your ballot, then mail it to your municipal office or drop it off.

Does your vote really matter? You bet your vote counts! Every year, dozens of elections are decided by fewer than 50 votes.

Make an informed vote by understanding where all the candidates stand on the issues and then decide who will do the best job representing you and your family's future.

For more information about jobs and the Maine economy, visit [www.allianceformaine.org](http://www.allianceformaine.org).



By Absentee Ballot attached here.

Sent By: MAINE DEMOCRATIC PARTY;

2070222657;

LETTERS TO THE NEWSPAPER can be submitted to The Star-Herald, P.O. Box 510, Presque Isle, ME 04769 or email.

PAGE FOUR A

THE STAR-HERALD

# Big city politics aren't Presque Isle's

# VIEWPOINT

To the editor:

This is in response to Mr. Green's letter titled "Candidates need to justify the pay" published in the September 13th edition of the Star-Herald, which was in response to Maine House candidate Zachary Smith's bid for the Senate race, as District 1 Representative. I am writing to you regarding the pay question. Mr. Green says that if you don't justify your salary to me, I don't want to know it. So there is no debate, and without opening under any pretense, I'll clarify my tonight support for Zachary Smith's bid for the Senate race, as District 1 Representative's seat state representative.

To answer your question, Mr. Green, as to why someone should vote for Mr. Smith over Mr. Fischer, we'll let Fischer's record clarify as to why. Fischer likes to pretend he is for business owners and is pro-economic, but people should know that Fischer's Maine Economic Research Institute (MERI) made was a \$3 for this legislative cycle. Check out www.fischer.com for more info, but \$3 according to the MERI means "four econo-

Fischer and some of his very close friends, such as Gov. Baldacci, also felt people they have covered, especially Merriam, who's a "senior" even though, since Fischer and his friends work office, the cost of education at University of Maine at Presque Isle was going up almost 40 percent. How does that kind of spending increase in the case of education are more opportunity?"

Gov also has to wonder how Fischer did "winning Maine Now" or "Building People First" given all the problems that have gotten worse and not better. Just Fischer and his friends in education, contingent, out of health insurance, and troubles of our youth, and one of the worst economies in the country. Multiple times to give someone else a shot, because Fischer has proven just how ineffective he is. Ten years of the all the broken, failed, and undelivered promises.

Haddad and Fischer have had more than enough time to demonstrate how they run the state. Although I expect you have to give Fischer a little slack as they had to represent Presque Isle from Portland. The citizens of Presque Isle are tired of "big city politics" that don't apply here. They deserve better, and we certainly deserve a representative that actually will represent Presque Isle in person, and not on paper.

I can't speak for Mr. Green, but he's definitely not speaking for anyone else (or the party) but if he is speaking for a state party committee, maybe he's getting the wrong candidate to justify his position. I tend to wonder sometimes if it's Fischer representing Presque Isle and not Haddad or the party leaders themselves. The very same questions that are asked of Mr. Smith, should also be asked of Mr. Fischer, plus more. At least Zachary Smith is committed to solving Ansoniak County's and, more specifically, Presque Isle's problems, rather than passing more of the same tired politics that have worked for us.

Wendy Kozicki  
Democratic Party

Sent By: MAINE DEMOCRATIC PARTY;

2076222657;

FOR THE NEWSPAPER can be submitted to The Star-Herald, P.O. Box 510, Presque Isle, ME 04769 or emailed to starherald@n-public.com. Deadline is 5 p.m., Friday, OCTOBER 4, 2006

PAGE FOUR A

THE STAR-HERALD

# Presque Isle Region MEET THE POINTS

## Turning the Page

ity politics aren't Presque Isle's

Presque Isle's political scene is full of very close friends, such as Gov. Baldacci, who will people they have created "opportunities through education," even though, since Governor and Baldacci took office, the cost of education at the University of Maine at Presque Isle has gone up almost 30 percent. How does that kind of tripping increase in the cost of education in the region?

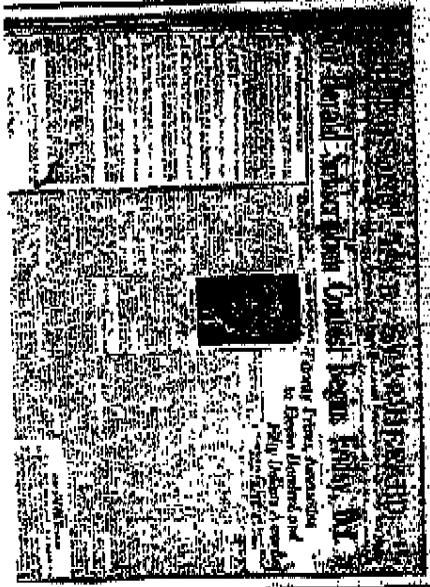
Mr. Green said some of his very close friends, such as Gov. Baldacci, who will people they have created "opportunities through education," even though, since Governor and Baldacci took office, the cost of education at the University of Maine at Presque Isle has gone up almost 30 percent. How does that kind of tripping increase in the cost of education in the region?

I can't speak for Mr. Green since he's definitely not speaking for anyone else (or himself), but if he is looking for a state party sock puppet, maybe he's asking the wrong candidate to justify his position. I tend to wonder sometimes if it's Fischer representing Presque Isle and not Baldacci or his party leaders in general. The very same arguments that are asked of Mr. Smith, should also be asked of Mr. Fischer, plus more. At least Zachary

Mr. Green, as to question, Mr. Green, as to 16 vote for Mr. Smith over let Fischer's record clarify r. I like to pretend he is not and it's pure economic, but sure that Fischer's Maine 30 Institute (MARI) ending cigarette price. Check out 9 for more info, but 53 AERI means "wants econo-

Mr. Fischer, plus more. At least Zachary Smith is commended to ask my Auntie Chantilly's and, more specifically, Presque Isle's, problems, rather than passing more of the same kind politics that have worked for us.

Wendy Koehnle



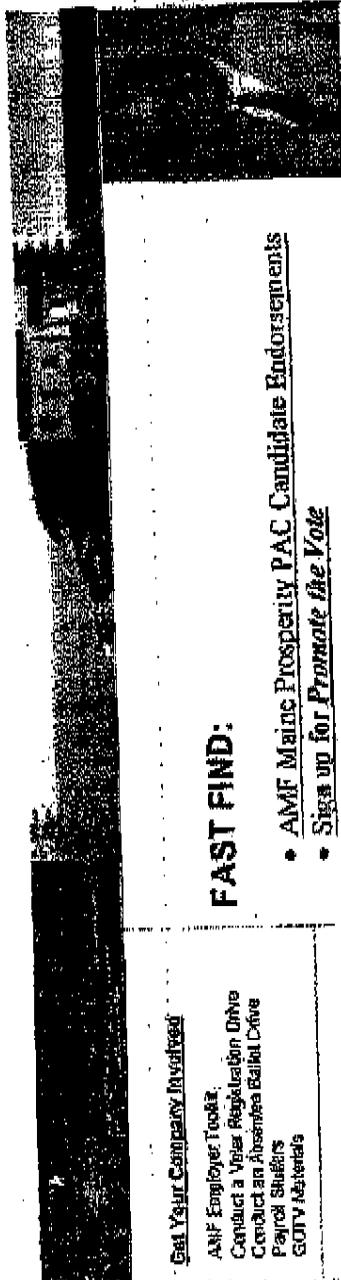
Sent By: MAINE DEMOCRATIC PARTY;

2070222657;

Oct-18-06 8:02PM;

Page 7/12

# THE ALLIANCE FOR MAINE'S FUTURE



David Chugh  
State Director  
NFIB Maine

## FAST FIND:

- [AMF Maine Prosperity PAC Candidate Endorsements](#)
- [Sign up for \*Promote the Vote\*](#)
- [Contribute](#)
- [Legislator Ratings & Records](#)
- [Who Supports AMF](#)

## Welcome!

Maine is a beautiful, clean and safe state in which to live, work and raise a family. However, Maine's economy is falling when compared to nearly every other state in the nation. That is why the Alliance for Maine's Future dedicates itself to improving the economic opportunities for all Maine people through workplace education and voter action.

It is our mission to provide Maine citizens with an understanding of the state's economic status and to awaken them to the power they possess to steer our future. A vote is a powerful tool, but only an informed vote can help bring change toward improvement.

Despite all of Maine's natural advantages, our legislature has failed where the prosperity of our people is concerned. Without an effective Legislature that will work to improve our business climate, our economy will continue to lag and adversely impact every employer and employee in Maine. *If you want to see positive change, you need to hold your legislators accountable for a healthy Maine economy.*

## Consider these Four Stubborn Facts:

1. **HIGH HEALTH CARE COSTS:** Legislative mandates make individual health care coverage for a single 50 year-old person more than twice the cost for that same person in New Hampshire (On-line)

**Get Your Campaign Involved!**  
AMF Employee Toolkit  
Conduct a Voter Registration Drive  
Conduct an Assembly Ballot Drive  
Payroll Stickers  
GOTV Materials

**Newsletters & Publications**

**Find Elected Officials**  
Search by Zip Code or By Name

**Contact Your Elected Officials**

**About AMF**

**Contact AMF**

**Links**

**Employees/Parents: Contact Website**

**Maine Prosperity PAC**  
Voting Records  
Endorsements  
Maine Prosperity Agenda  
Media on Key Races

The Alliance for Maine's Future works in translating business political interests into effective political action and overall results. AMF works with numerous business groups to help make things happen, but without question many good things happen only because AMF fills the gap between good intentions and good results.

sent By: MAINE DEMOCRATIC PARTY;

2078222657;

- estimate from Anthem.com: Maine = \$864 per month; New Hampshire = \$328 per month)
- 2. **THE WORST TAX BURDEN:** Maine's state and local tax burden has been the highest in the entire nation since 1997 according to the Tax Foundation.
- 3. **A FAILING ECONOMY:** Government and non-profit jobs in Maine increased in 2005 while we lost private sector jobs in retail, construction, manufacturing and financial services. In fact, Maine was the second worst in the nation for economic activity according to the Federal Reserve Bank of Boston. Only hurricane-struck Louisiana was worse.
- 4. **FEWER JOBS FOR YOUNG PEOPLE:** Every year, we have a net loss of more than 5,200 of our young graduates to better opportunities job opportunities (US Census Bureau / Deloitte Consulting).

Please join us in our mission to help our great state; we look forward to your input, involvement, and financial support.

With bright hopes for a prosperous future in Maine,



Rich Mark  
Chairman of the Board  
Alliance for Maine's Future

Executive VP, Corporate GM  
Hancock Lumber

**News:**

**Casino survey strikes Providence, R.I.** - Some Rhode Islanders say it's easy to see where their gambling losses have gone over the last decade... *By Mark Peters* [next](#)

Sent By: MAINE DEMOCRATIC PARTY;

2076222657;

Oct-18-06 8:02PM;

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**"No Really...  
I support a strong Maine  
economy."**



**Get the Facts.** Don't be fooled into supporting politicians who are "Economic Wolves in Sheep's Clothing." Subscribe to the **Maine Economic Research Institute's (MERI)** analyses and publications ([www.fimaine.com](http://www.fimaine.com)). Call 622-9075 or email [info@meri.org](mailto:info@meri.org) - *today.*

**Powered Information for Effective Action®**



To Subscribe to MERI click on the Wolf...

Issue Papers & Communication Tools

Dirigo Health Plan      Maine's Economy: For BETR or For Worse

Ireland's Economic Success      A Blueprint for Maine..

Maine Business Leader Survey - 2005 Senior Management Survey

2005 Small Business Entrepreneurship Council Index

122nd Legislature Committee Member Communication Tools (email tool, telephone, mailing addresses)

LEADERSHIP LINKS - (click here) - (Leadership email tools and telephone numbers)

Sent By: MAINE DEMOCRATIC PARTY;

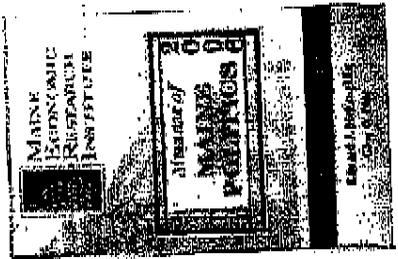
2076222657;

Oct-18-06 8:03PM;

Page 10/12

"This rating system is one of the most sophisticated, most realistic and most accurate I have seen in decades of studying interest-group ratings of legislators...the MERI system does a first-rate job." Douglas I. Hodgkin, Professor Emeritus of Political Science, Bates College

"I think it's (MERI) the best thing that has happened on behalf of the citizens of Maine in my 12 years as a legislator," Senator Richard Nass



[NEW! THE MERI REPORT & 2006 Candidate Survey - Where do the candidates stand on Maine's economy? \(click here\)](#)

[2006 MERI Roll Call - The 122nd Legislature \(click here\)](#)

[This Month's Featured Website "Promote The Vote: How you and your co-workers can get involved through the Alliance for Maine's Future."](#)

[Missed the Symposium? Click here for on-line materials.](#)

[A guide to writing effective letters to the editor](#)

[So, what about the bills that MERI uses for rating legislators?](#)

[OK, Now what do I do with this information?](#)

[Can't find your legislative district? click here for a comprehensive listing of Maine municipalities](#)

[Recent press "MERI makes no bones: Yes, it is pro-business."](#)

[SUBSCRIBE TO MERI](#)

10/19/2006 08:21 2072876775

ETHICS COMMISSION

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Sent By: MAINE DEMOCRATIC PARTY;

2076222557;

Oct-18-06 8:03PM;

Page 11/12

Key to Ratings for the 112nd Legislature

Our Subscribers understand what's missing in Augusta... accountability. It's as fundamental as tracking legislator performance on issues important to our economy.

Want to be part of the solution but can't spend the time to sort through the smoke and mirrors in Augusta? Over 300 (and growing every day!) Maine companies subscribe to our objective, nonpartisan research to cut through the talk and focus on results

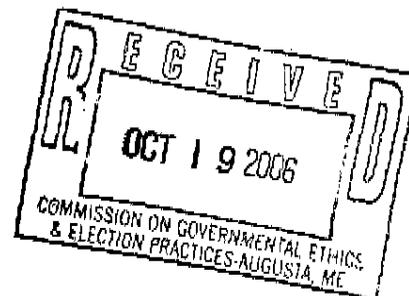
The Maine Economic Research Institute's MISSION is to "improve Maine's business environment by providing objective information to enhance economic policy making."

The Maine Economic Research Institute is an independent, private, not-for-profit corporation governed by a board of directors who are business owners, CEO's, and senior staff representing a diverse group of Maine companies. The Board and staff are focused on creating a healthy Maine economy, strong businesses and quality jobs.

Powerful Information For Effective Action

7 University Drive • Augusta, Maine 04330-9412 • (207) 622-9075 • fax - (207) 622-0371  
email: info@me-ri.org for comments on the website email: webmaster

37499



From: zachary.smith@maine.edu [mailto:zachary.smith@maine.edu]  
Sent: Thursday, October 19, 2006 12:16 PM  
To: Demeritt, Martha  
Subject: Re: House Democratic Campaign Committee Complaint

I will be having someone represent me tomorrow not sure yet who, but someone will be there. I'd also like to fax you some stuff as some of the information they include in their complaint is incomplete. I also have two points;

1. The mailer in question directly requests voters of my district to vote for Mr. Fischer, and contains language such as "We urge you to re-elect Representative Fischer."
2. The argument that the MERI is harmful by sighting articles in the local paper is neutral or irrelevant, as voters have equally published articles in local papers claiming flaws, and dismissing any relevance the MERI may have specifically to my opponent. The mailer also clearly supports Mr. Fischer's record on economic issues only further negating any reference to the MERI.

As such I don't believe the MERI reference through the website has any bearing, and the mailer clearly helps my opponent and that I should receive the full amount in matching funds of the cost of the mailer by AMF PAC.

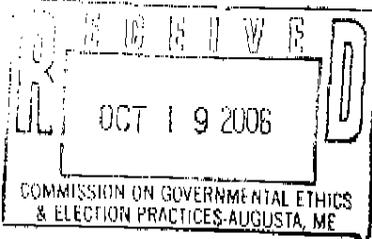
Thank you very much for contacting me, and I do appreciate the timeliness of your response. Thank you again.

Zak

Zachary Smith  
Candidate Maine House District 5  
107 Dyer St. Apt. 2  
Presque Isle, ME 04769  
(207) 227-0451  
zachary.smith@maine.edu

AMF Maine Prosperity PAC  
45 Melville Street  
Augusta, ME 04330

PRST STD  
U.S. Postage  
**PAID**  
Portland, ME  
Permit No. 477



2731\*\*\*\*\*ECRL0T\*\*C-007  
RESIDENT  
51 END ST APT 2  
PRESQUE ISLE, ME 04769-2661



**No time to vote  
for Jeremy Fischer?**

**Do it when it's  
convenient for *you*.**

**Maine Absentee Ballot Application Inside**  
**REPLY REQUESTED BY OCTOBER 22nd**

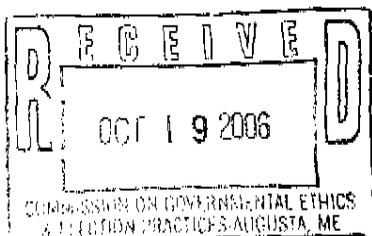


NO POSTAGE  
NECESSARY  
IF MAILED  
IN THE  
UNITED STATES

**BUSINESS REPLY MAIL**  
FIRST-CLASS MAIL PERMIT NO. 15 AUGUSTA ME  
POSTAGE WILL BE PAID BY ADDRESSEE



AMF Maine Prosperity PAC  
45 Melville St. Ste 1  
Augusta, ME 04330-9793



State Representative Jeremy Fischer has earned our endorsement for re-election. We are the AMF Maine Prosperity PAC, part of the Alliance for Maine's Future, a non-partisan, non-profit grassroots organization committed to holding legislators accountable for a healthy Maine economy.

Rep. Fischer's voting record on issues of importance to Maine businesses has been consistent and supportive. We urge you to re-elect Representative Fischer and to thank him for encouraging long-term private sector investment. A good record on economic issues means jobs for you and the generations to come.

In Maine, you can **Vote by Absentee Ballot** anytime up to 8:00 p.m. on election day, November 7th.

You may drop by your town or city hall and vote right then and there during their regular business hours anytime after October 1.

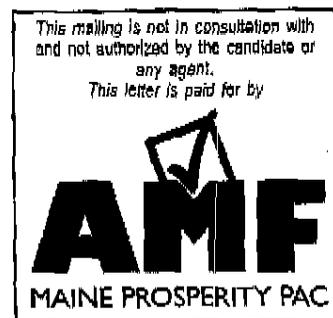
OR

- **Just fill out the attached card and drop it in the mail by October 22**
- **Wait for your Absentee Ballot to be sent to your home.**
- **Mark your ballot, then mail it to your municipal office or drop it off.**

Does *your* vote really matter? You bet your vote counts! Every year, dozens of elections are decided by fewer than 50 votes.

Make an *informed* vote by understanding where all the candidates stand on the issues and then decide who will do the best job representing *you* and *your family's* future.

For more information about jobs and the Maine economy, visit [www.allianceformaine.org](http://www.allianceformaine.org).



**Postcard Application for Absentee Ballot  
November 7, 2006, General/Referendum Election**

Maine Election Law permits any registered voter to cast an absentee ballot at any election.

Application Received  
(Date/Time)

Ballot Sent/Delivered  
(Date/Time)

Full Name of Voter \_\_\_\_\_ DOB \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_  
m m d d y y y y

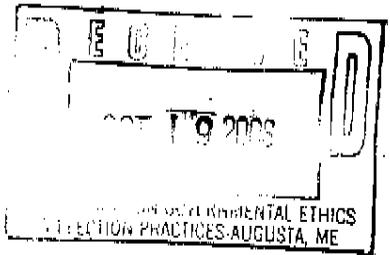
Residence Address of Voter \_\_\_\_\_ (Street Address) \_\_\_\_\_ (Municipality)

Mailing Address to which the ballot should be sent (if different from above): \_\_\_\_\_

Signature of Voter \_\_\_\_\_ Date \_\_\_\_\_

**NOTICE TO VOTERS**

• This application is for voters who want to receive and return their ballot by mail. If you need help to read and/or sign this application, or if you want your ballot to be delivered to you by a third



Page 16 October 11, 2006

# VIEWPOINTS

## Become an educated voter.

To the editor:

I fully expected one of Zachary Smith's supporters to demonize me for pointing out the lack of substance in his campaign's message (Big City Politics; SH 10/04/2006). I didn't, however, expect a bookstore owner not to understand the meaning of the word "obscure."

In my letter, I neither attempted to hide nor proclaim my support for Rep. Fischer because my letter wasn't about Rep. Fischer or his campaign. It was about Mr. Smith and his campaign. If Mr. Smith's supporters are looking for the cause of his campaign's almost electoral demeritization of political discourse (and they should be), I suggest they focus their attention away from my support for Rep. Fischer and toward the actual culprit: I'm not running for the Legislature; Mr. Smith is.

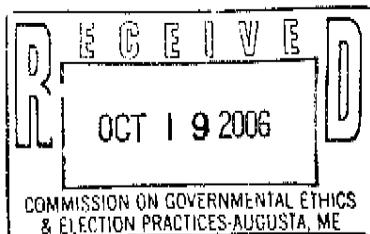
Anyone who doubts Rep. Fischer's commitment to small business and economic growth need only read any of the numerous letters written over the past four years praising him for his work in the Legislature (e.g., Gratitude to Fischer, SH 9/27/2006). Does Mr. Koenig think those people are "obscure," too?

On the subject of this, I find it interesting that not

reporting to the Legislature and Governor at least six times per year. LD 1263 passed without a vote record of support, but MERL's ratings ignore it anyway. MERL hasn't given legislators a "black mark" for supporting legislation that would, among other things, require a safety inspection of a hazardous business before it resumes operation (LD 1238). If this is the sort of public policy Mr. Koenig, Mr. Smith, and the Maine GOP wish to support, that is indeed their choice. The educated voter might wish to doubt or hear your research first. I recognized starting by asking why MERL feels that public and worker safety is best.

A closer look at MERL's report uncovers the story that contradicts the House, only one Republican scores lower than Rep. Elisei and only one Democrat scores higher. In the House, Republican scores range from 49 to 96.5; Democrat scores range from 5 to 54; the three Unsworned legislators rank 49, 51.5, and 84; and the lone Green Independent legislator stands at 8. This stunning coincidence permits one of two conclusions: All Democrats are bad and almost all Republicans are good, or MERL's flexible methodology is aimed at producing the result it wants.

Mr. Smith



# PRESQUE ISLE REGIC VIEWPOINT

LETTERS TO THE NEWSPAPER can be submitted to The Star-Herald, P.O. Box 510, Presque Isle, ME 04769 or emailed to

PAGE FOUR A

THE STAR-HERALD

## Big city politics aren't Presque Isle's

To the editor:

This is in response to Mr. Green's letter titled "Candidate needs to justify his position" published in the September 13th edition of the Star-Herald, which was in response to Maine House candidate Zachary Smith's letter regarding "State spending needing a diet."

Mr. Green your bias is obvious despite your attempt to mask it. So there is no mistake, and without operating under any pretence, I'll clarify my outright support for Zachary Smith's bid for the Statehouse, as District 5 Presque Isle's next state representative.

To answer your question, Mr. Green, as to why someone should vote for Mr. Smith over Mr. Fischer, we'll let Fischer's record clarify as to why. Fischer likes to pretend he is for business owners and is pro economic, but people should know that Fischer's Maine Economic Research Institute (MERI) rating was a 53 for this legislative cycle. Check out [www.fixmaine.com](http://www.fixmaine.com) for more info, but 53 according to the MERI means "hurts economy."

Fischer and some of his very close friends, such as Gov. Baldacci, also tell people they have created "opportunity through education," even though since Fischer and Baldacci took office, the cost of education at University of Maine at Presque Isle has gone up almost 30 percent. How does that kind of crippling increase in the cost of education create more opportunity?

One also has to wonder how Fischer aids "Moving Maine Forward" or "Putting People First," given all the problems that have gotten worse and not better since Fischer and Baldacci took office. We have the highest tax burden in the nation, outrageous cost of health insurance, an exodus of our youth, and one of the worst economies in the country. Maybe it's time to give someone else a shot, because Fischer has proven just how ineffective he is. I'm tired of the all the broken, failed, and undelivered promises.

Baldacci and Fischer have had more than enough time to demonstrate how they run the state, although I guess we have to give Fischer

a little slack as it's hard to represent Presque Isle from Portland. The citizens of Presque Isle are tired of "big city politics" that don't apply here. They deserve better, and we certainly deserve a representative that actually will represent Presque Isle in person and not on paper.

I can't speak for Mr. Green since he's definitely not speaking for anyone else (or is he?), but if he is looking for "a state party sock-puppet," maybe he's asking the wrong candidate to justify his position. I tend to wonder sometimes if it's Fischer representing Presque Isle and not Baldacci or his party leaders downstate. The very same questions that are asked of Mr. Smith, should also be asked of Mr. Fischer, plus more. At least Zachary Smith is committed to solving Aroostook County's and, more specifically, Presque Isle's, problems, rather than pursuing more of the same tired politics that haven't worked for us.

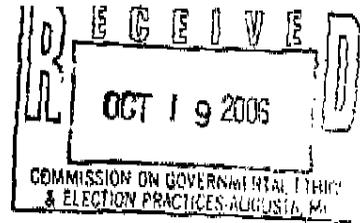
Wendy Koenig  
Presque Isle business owner



**ADDITIONAL MATERIALS**

**New Business**  
**October 20, 2006**

**AUGUR & ASSOCIATES, P.A.**  
*Law and Lobbying Firm*  
61 Winthrop Street  
Augusta, Maine 04330  
Electronic Mail: [naugur@mainelobby.com](mailto:naugur@mainelobby.com)



Telephone  
(207) 622-2990

Fax  
(207) 622-4417

**BY HAND DELIVERY AND FACSIMILE (287-6775)**

October 19, 2006

Jonathan Wayne, Executive Director  
Maine Ethics Commission  
135 State House Station  
Augusta, ME 04333

**Re: Oxford County Democrats filing of October 16<sup>th</sup>, 2006**

Dear Mr. Wayne:

On behalf of State Senate candidates Bruce Bryant and Marge Medd, I am requesting that the Commission withdraw its determination that a four-page voter information guide (the "guide") distributed by the Oxford County Democrats on September 28<sup>th</sup> and October 12<sup>th</sup>, 2006, constituted express advocacy.

The Oxford County Democrats filed an independent expenditure report with the Maine Ethics Commission on October 16<sup>th</sup>, 2006. This filing was made in conjunction with the guide that was distributed more than 21 days before the upcoming election. At that time, the Oxford County Democrats concluded that the guide did not expressly advocate the election of any one of the candidates highlighted therein. I would submit that a plain reading of the guide confirms this interpretation.

The Oxford County Democrats filed an independent expenditure report with your office on the misunderstanding that the guide constituted a violation of the slate card rule. In fact, because the guide contained no express advocacy and was distributed 21 days before the election, it was not an independent expenditure. Further, the slate card rule was inapplicable. Therefore, no filing was necessary.

The right of the Commission to determine what is or is not expressed advocacy is fully established in State law. Any organization that does not file an independent expenditures report on the belief that a document it has distributed does not contain express advocacy is trumped by the Commission's determination that such a document was expressed advocacy. In that instance, the organization is required to make the appropriate filing.

10/19/2006 12:38 2072876775

ETHICS COMMISSION

PAGE 02/02

Oct. 19. 2006 12:22PM

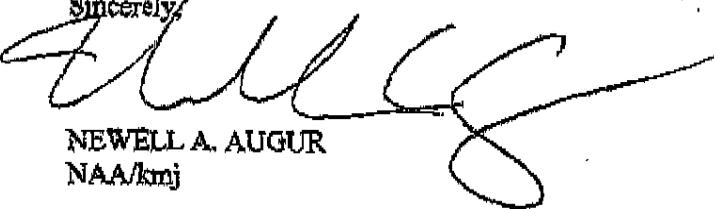
No. 0872 P. 2

Similarly, the Commission has the authority to decide that a document previously filed as an independent expenditure was, in fact, not an independent expenditure because it contained no express advocacy. The Maine Ethics statute does not prohibit a revised filing or a withdrawal of a filing along these lines. In either instance, the Commission's decision as to what constitutes express advocacy should not be based on the fact that a filing was made; rather, it should be based upon the substance and content of the document at issue.

Accordingly, Mr. Bryant and Ms. Medd respectfully request that the filing of Monday, October 16<sup>th</sup>, 2006, by the Oxford County Democrats be withdrawn and that no Maine Clean Election Act funds be disbursed to their opponents. If funds have already been spent or if collection of them is impossible, we would request that a debit be issued to their opponents for the full amount of the funds that were disbursed. In this way, any subsequent matching funds triggered by independent expenditures supporting Mr. Bryant and Ms. Medd would be offset by funds disbursed as a result of the incorrect filing of October 16<sup>th</sup>.

We appreciate the opportunity to bring this matter before the Commission and look forward to a discussion on the merits of this issue at your October 20<sup>th</sup> meeting. Please feel free to contact me if you would like any additional information.

Sincerely,



NEWELL A. AUGUR  
NAA/kmj

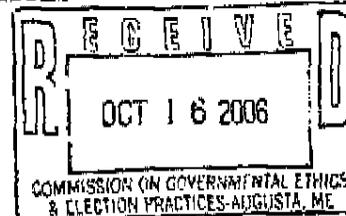
Oct. 16. 2006 3:21PM

No. 0125 P. 2

IE # 13

STATE OF MAINE  
COMMISSION ON GOVERNMENTAL ETHICS AND ELECTION PRACTICES

Mail: 135 State House Station  
Office: 242 State Street  
Augusta, Maine 04333  
Tel: (207) 287-4179 Fax: (207) 287-6775  
www.maine.gov/ethics



CAMPAIGN FINANCE REPORT  
OF 2006 INDEPENDENT EXPENDITURES

Name of Person/Committee Making Expenditure(s) Oxford County Democratic Comm  
Mailing Address P.O. Box 187  
City, Zip Code Greenwood 04253 Telephone 875-2116

INSTRUCTIONS

Complete the notarized affidavit and attached schedules. Please check the appropriate box for the report you are filing. Please see previous page for reporting requirements.

INDEPENDENT EXPENDITURES OF MORE THAN \$250 PER CANDIDATE

Independent expenditures of more than \$250 per candidate must be reported to the Commission within 24 hours of making the expenditure. Please be aware that under the Commission's Rules making an expenditure includes placing an order for a good or service or making a promise or agreement that a payment will be made.

Report of Independent Expenditure over \$250

INDEPENDENT EXPENDITURES OF MORE THAN \$100 AND UP TO \$250 PER CANDIDATE

Primary Election		General Election	
Reporting Period	Filing Deadline	Reporting Period	Filing Deadline
<input type="checkbox"/> Through June 1	June 1	<input type="checkbox"/> June 14 - July 5	July 15
<input type="checkbox"/> After June 1	Within 24 Hours	<input checked="" type="checkbox"/> July 6 - Sept. 30	October 10
		<input type="checkbox"/> October 1 - 26	October 26
		<input type="checkbox"/> After October 26	Within 24 Hours

OTHER

Amendment to Earlier Report Dated: \_\_\_\_\_  
 Other(specify): \_\_\_\_\_

I CERTIFY THAT THE INFORMATION IN THIS REPORT IS TRUE, CORRECT AND COMPLETE.

Michael H. Brooks Jr  
Signature of PAC or Party Treasurer, or  
Other Person Making Expenditure(s)

Oct 16, 2006  
Date

Oct. 16. 2006 3:20PM

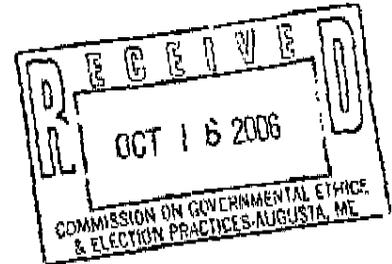
No. 0125 P. 1

**STATE OF MAINE  
COMMISSION ON GOVERNMENTAL ETHICS AND ELECTION PRACTICES**

**Mail: 135 State House Station  
Office: 242 State Street  
Augusta, Maine 04333  
Tel: (207) 287-4179 Fax: (207) 287-6775  
Web site: www.maine.gov/ethics**

**INDEPENDENT EXPENDITURES**

**AFFIDAVIT**



STATE OF Maine  
COUNTY OF Oxford

Michael K. Beaudorick, being duly sworn, attests that he/she made each of the expenditures listed in the attached report independently, and not in cooperation, consultation, or concert with, or at the request or suggestion of, the candidates named in the report or the authorized committees or agents of the candidates.

Michael K Beaudorick  
(Signature of Affiant)

Sworn to before me, this 16 day of October 2006.

Linda M. Howe  
(Notary Public/Attorney at Law)

LINDA M. HOWE  
COMMISSION EXPIRES  
AUGUST 14, 2007

10/16/2006 15:29 2072876775

ETHICS COMMISSION

PAGE 03/04

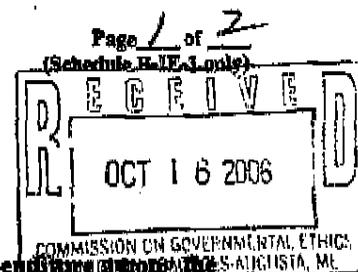
Oct. 16. 2006 3:21PM

No. 0125 P. 3

## Schedule B-IE-1

## CANDIDATE(S) SUPPORTED/OPOSED

- Please list all candidates that were the subject of independent expenditures.
- If more than one candidate was the subject of the expenditure, allocate the expenditure among the candidates.



Office sought by candidate (including district #)	Candidate's Name	Indicate whether expenditure was made in support of or in opposition to the candidate	Amount expended this reporting period for each candidate
Sen 13	Mary Medd	Support	209 <sup>25</sup>
Shuff	Wayne Ballant	"	238
House 91	Jim Carter	"	177
House 93	Reggie Alexander	"	177
House 92	John Patrice	"	177
House 98	Sheila Rollins	"	146
House 94	Terry Hayes	"	177
House 97	Yarlee Turner	"	177
Rep of Dead	Jane Rich	"	117
House 99	Kate Smith	"	117
House 96	Larry Sirois	"	117
House 100	Jim Bradley	"	238
Senate 14	Bruce Bryant	"	238
House 95	Roy Sedat	"	238
Treasurer	Mary Ann Pome	"	238
Co. Comm #3	Wade Rarley	"	238

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 Oct. 16. 2006 3:21PM

ETHICS COMMISSION

PAGE 04/04

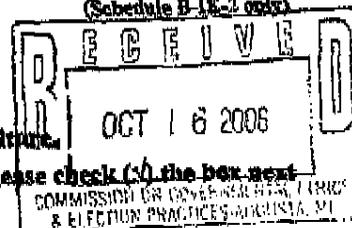
No. 0125 P. 4

Page 2 of 2  
 (Schedule B-IE-2 only)

Schedule B-IE-2

PAYMENTS AND OBLIGATIONS

- Please indicate the date, payee, expenditure type, and amount of each expenditure.
- If you are reporting an agreement or obligation to make a future payment, please check  the box next to the purpose of the expenditure.



Expenditure Types	
LIT	Campaign literature (printing and graphics)
MHS	Mail house (all services purchased)
PHO	Phone banks, automated telephone calls
POL	Polling and research survey
POS	Postage for U.S. Mail
PRT	Print media ads
RAD	Radio ads, production costs
TVN	TV or cable ads, production costs
WEB	Internet and e-mail
OTH	Other (include description)

Date of expenditure	Payee, address, zip code	Expenditure Type	<input type="checkbox"/>	Amount
9/28/06	Citizen Printer Bethel Me 04217	LIT		1508. <sup>25</sup>
9/28/06	Citizen Printer Bethel Me 04217	OTH insert		168. <sup>00</sup>
9/28/06	Sun Journal Leicester Me 04040	OTH insert		336. <sup>00</sup>
<del>9/28/06</del>	<del>Sun Journal Leicester Me 04040</del>	<del>OTH insert</del>		
9/28/06	Current Publishing Wentworth Me.	OTH insert		375. <sup>00</sup>
9/28/06	Oxford Group Norway Me 04268	OTH insert		1032. <sup>00</sup>
A. Expenditures for this page =>				3019. <sup>25</sup>
B. Total for all other Schedule B-IE-2 pages (if any) =>				0
C. Total independent expenditures for this reporting period (A+B) =>				3019. <sup>25</sup>



FRANC 02/07

ETHICS COMMISSION

305 12:16 2072876775



### John Patrick

**District 92**

*Windsor, Hartford, Danbury, Essex, Wall, Branford, W. Saybrook, New Pt., Middletown*

Interests: arts, handicrafts, tax reform, economic development and services to seniors and veterans

- Legislator since 1990. Chair of Legal and Veterans Committee. Formerly served on Labor Committee.
- High level of constituent service
- Chair, Task Force on Fair Trade
- Legislator, House of Representatives, Connecticut, Washington Development Center
- Works closely with Senator Ikejiri to bring funding to the region
- Employed at News-Pages, Past president of Local 500 and Stamford Eagles
- Married to Claire, active in St. Albanian St. John parish. Lives in Stamford
- [www.oxforddems.org/patrick](http://www.oxforddems.org/patrick)

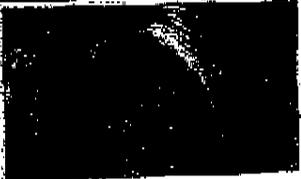


### Sheila Rollins

**District 98**

*Bridgeport, Harrison, Lovell, Elm, Sweden*

- Resident of Harrison with husband, Merrill Rollins
- Operates restaurant in Naples
- Licensed pilot; Women With Wings instructional program



### Terry Hayes

**District 94**

*Paris, Brookfield, Hartford, Storrs*

Will fight for meaningful tax reform and economic policies promoting jobs through small busi-



### Marlee Turner

**District 97**

*Storrsburg, Paris, Berlin, Brookfield, and Putnamville*

Small business development, services for seniors, healthcare for all

- Resident of Brookfield
- Former president of Hanna League of Women Voters
- Operator of several small businesses including a B&B, member of several Chambers of Commerce
- Licensed Massage Therapist
- [www.oxforddems.org/turner](http://www.oxforddems.org/turner)



### Jane Rich

**Register of Deeds**

- A popular incumbent, running unopposed
- Lives in Andover, minister of Congregational Church



### Kate Smith

**District 99**

*Firemark, plus farms in York and Canterbury Counties*

- Lives in Soboga with husband
- Cong. First child due in September
- Works as a physical therapist at Bridgton Hospital and The Cedars



### Larry Sirois

**District 96**

*Thrum, Milford and Stearns*

FBI



This fall we have a great opportunity to make things happen for our region. The current crop of incumbent Republican legislators from Oxford County has a record record - supporting large business interests and opposing issues that produce results for working people, children and seniors. This record includes taking positions:

- AGAINST funding for Road and Bridge Repair
- AGAINST critical Research & Development funding
- AGAINST unemployment benefits for part-time workers, other senior citizens
- AGAINST requiring that hazardous workplaces be safe and safe before reopening
- AGAINST requiring drug companies to disclose results of clinical trials to the public
- AGAINST a significant level of funding for Land for Maine's Future

Governor Baldacci has made emergency decisions addressing real needs of Maine people: saving jobs and creating 24,000 new ones, creating the Community College System, investing in education to lower property taxes, and taking a major step toward solving the healthcare crisis by controlling costs and extending insurance coverage to small business and individual self.

**Democrats stand for:**

- FOR fair tax reform
- FOR essential development and investment in higher education that will result in good-paying jobs
- FOR support for roads and bridges
- FOR access to our natural resources
- FOR affordable and accessible healthcare for Maine people

On the county level, Wayne Galtzer will bring sound management to the Oxford County Sheriff's Department, Mary Ann Price has a distinguished record of 20 years as County Treasurer, and Wade Easley will bring experience in budgeting and new ideas in efficiency and collaboration to the Commission.

Democrats will always put people first!

Sincerely,  
 Cathy Newell  
 Oxford County Democratic Chair



**WHICH PARTY LEADS THE WAY?**

Democrats      Republicans

	Yes	No
Creating New Jobs & building Maine's Economy	Yes	No
Investing in Maine's damaged roads & bridges	Yes	No
Providing tax relief for Maine homebuyers & renters hit hard by property taxes	Yes	No
Using the state's stock to combat health care costs and finance Maine people	Yes	No
Investing in Land for Maine's Future at a meaningful level	Yes	No
Investing Maine's Minimum Wage for working families	Yes	No



**Jim Bradley District 100**

Mecklen Falls, Oxford, English  
 Bi-partisan progress on jobs and education, fair tax reform, consumer and worker protection, and the environment:  
 • President of OACSUM, representing 100th University of Maine System Support Staff  
 • Lives in Mecklen Falls; works at TRIM's USA College  
 • And in his spare time he enjoys canoeing and fishing  
[www.jimbradley3006.org](http://www.jimbradley3006.org)

Paid for by Oxford County Democrats, Box 137, Greenwood, ME 04255, Mike Brindrich, Treasurer  
 NOT PAID FOR OR AUTHORIZED BY ANY CANDIDATE

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### Bruce Bryant

#### District 14

Central and Northern Oxford County, plus Jay

Committed to providing quality jobs through new initiatives such as the Fractionation Development Center that will use forest resources in a bio-refinery process for energy.

- Senator since 2002; served in House 1998-2002. Chair TR&W Committee, serves on AR&C Committee
- Chair, Task Forces on Unorganized Territories and on Veterans Health Services
- Chair Fish Hatcheries Commission and earlier Dairy Task Force
- Noted for bringing funding to his district; \$1.3 million for economic development
- An effective legislator; persistent in promoting, building support, and tracking bills
- Employed at New Page mill; former president of Local 900
- Lives in Dixfield with 5 daughters; enjoys outdoor recreation

[www.brucebryant.net](http://www.brucebryant.net)



### Mary Ann Prue County Treasurer

Experienced professional leadership managing \$4.8 million in taxpayer money for Oxford County since 1996

- Certified Maine Town Clerk/Treasurer, 18 years on the job as County Treasurer
- Served 24 years as Town Clerk of Hamford
- Member Maine Town Clerk/Treasurer Association, Maine County Treasurers Association
- Completed job-specific training on Governmental Accounting and Investment of Public Funds
- Resident of Rumford, mother of 3, grandmother of 6

[www.oxforddems.org](http://www.oxforddems.org)

### Democratic Values:

- ✓ Fair tax systems
- ✓ Access to Affordable Healthcare
- ✓ A Clean Environment
- ✓ Quality Education



### Roy Gedat

#### District 95

West Paris, Greenwood, Waterford

Will provide an independent and energetic voice, seeking new solutions based on Democratic values to create jobs, seek healthcare solutions, and fair tax reform.

- 18 year career directing Child Health Center, building services for children and families in the region. Served on many municipal and organizational boards
- Executive director of PASA, a statewide association for direct care health service workers
- Recently worked hard to put Down town Norway on a firm financial footing
- Lives in Norway; enjoys camping with his family; and serving his community

[www.roygedat.com](http://www.roygedat.com)



### Wade Rainey

#### County Commissioner

Amherst, Albany, Greenwood, Woodstock, West Paris, Buckfield, Hiram, Oxford, Otisfield, Paris.

The County Commission needs experience in budget preparation and tax assessing to control the budget and achieve efficiencies through regional collaboration and energy use.

- Selectman, West Paris
- Chair, 2014 Oxford County Budget Committee
- Certified Maine Assessor, experience working with area towns
- Vietnam-era Navy veteran; member Jefferson Lodge 100, Hiram chapter, Ellog-McEwan American Legion Post
- Lives in West Paris with his wife Dian. Operates several businesses at Trap Corner

[www.oxforddems.org/rainey](http://www.oxforddems.org/rainey)

- ✓ Service for Seniors and Veterans
- ✓ Access to Outdoor Recreation
- ✓ Investment in Roads and Bridges
- ✓ Making things happen for our region

## **21-A M.R.S.A. §1019-B. REPORTS OF INDEPENDENT EXPENDITURES.**

**1. Independent expenditures; definition.** For the purposes of this section, an "independent expenditure":

A. Is any expenditure made by a person, party committee, political committee or political action committee, other than by contribution to a candidate or a candidate's authorized political committee, for any communication that expressly advocates the election or defeat of a clearly identified candidate; and

B. Is presumed in races involving a candidate who is certified as a Maine Clean Election Act candidate under section 1125, subsection 5 to be any expenditure made to design, produce or disseminate a communication that names or depicts a clearly identified candidate and is disseminated during the 21 days, including election day, before a primary election; the 21 days, including election day, before a general election; or during a special election until and on election day.

**2. Rebutting presumption.** A person presumed under this section to have made an independent expenditure may rebut the presumption by filing a signed written statement with the commission within 48 hours of making the expenditure stating that the cost was not incurred with the intent to influence the nomination, election or defeat of a candidate, supported by any additional evidence the person chooses to submit. The commission may gather any additional evidence it deems relevant and material and must determine by a preponderance of the evidence whether the cost was incurred with intent to influence the nomination, election or defeat of a candidate.

**3. Report required; content; rules.** A person, party committee, political committee or political action committee that makes independent expenditures aggregating in excess of \$100 during any one candidate's election shall file a report with the commission. In the case of a municipal election, a copy of the same information must be filed with the municipal clerk.

A. A report required by this subsection must be filed with the commission according to a reporting schedule that the commission shall establish by rule that takes into consideration existing campaign finance reporting requirements and matching fund provisions under chapter 14. Rules adopted pursuant to this paragraph are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

B. A report required by this subsection must contain an itemized account of each contribution or expenditure aggregating in excess of \$100 in any one candidate's election, the date and purpose of each contribution or expenditure and the name of each payee or creditor. The report must state whether the contribution or expenditure is in support of or in opposition to the candidate and must include, under penalty of perjury, as provided in Title 17-A, section 451, a statement under oath or affirmation whether the contribution or expenditure is made in cooperation, consultation or concert with, or at the request or suggestion of, the candidate or an authorized committee or agent of the candidate.

C. A report required by this subsection must be on a form prescribed and prepared by the commission. A person filing this report may use additional pages if necessary, but the pages must be the same size as the pages of the form.

**COMMISSION RULES, CHAPTER 1, SECTION 10. REPORTS OF INDEPENDENT EXPENDITURES.**

1. **General.** Any person, party committee, political committee or political action committee that makes an independent expenditure aggregating in excess of \$100 per candidate in an election must file a report with the Commission according to this section.
2. **Definitions.** For purposes of this section, the following phrases are defined as follows:
  - A. "Clearly identified," with respect to a candidate, has the same meaning as in Title 21-A, chapter 13, subchapter II.
  - B. "Expressly advocate" means any communication that uses phrases such as "vote for the Governor," "reelect your Representative," "support the Democratic nominee," "cast your ballot for the Republican challenger for Senate District 1," "Jones for House of Representatives," "Jean Smith in 2002," "vote Pro-Life" or "vote Pro-Choice" accompanied by a listing of clearly identified candidates described as Pro-Life or Pro-Choice, "vote against Old Woody," "defeat" accompanied by a picture of one or more candidate(s), "reject the incumbent," or communications of campaign slogan(s) or individual word(s), which in context can have no other reasonable meaning than to urge the election or defeat of one or more clearly identified candidate(s), such as posters, bumper stickers, advertisements, etc. which say "Pick Berry," "Harris in 2000," "Murphy/Stevens" or "Canavan!".
  - C. "Independent expenditure" has the same meaning as in Title 21-A, section 1019-B. Any expenditure made by any person in cooperation, consultation or concert with, or at the request or suggestion of, a candidate, a candidate's political committee or their agents is considered to be a contribution to that candidate and is not an independent expenditure.

*[Subsections 3-5 omitted]*

### Matching Funds Paid to Republican Candidates Based on IE Report # 13

District	Democratic Candidate Supported	Amount Spent to Support Democratic Candidate	Primary Election Cash Balance of Democratic Candidate	Matching Funds Paid to Republican Candidates
SD 13	Medd	\$209.25	\$1,639.73	\$1,786.78 Hastings
SD 14	Bryant	\$238.00	\$1,927.00	\$2,165.00 Greaney
HD 91	Carter	\$177.00	\$236.80	\$0.00 Bessey (PF)
HD 92	Patrick	\$177.00	\$237.00	\$408.72 Smith, Paula
HD 93	Arsenault	\$177.00	\$0.00	\$0.00 Hotham
HD 94	Hayes	\$177.00	\$139.59	\$0.00 Hanley
HD 95	Gedat	\$238.00	\$0.11	\$0.00 Millett (PF)
HD 96	Sirois	\$117.00	\$184.44	\$275.20 Bryant-Deschenes
HD 97	Turner, Beth	\$177.00	\$115.82	\$0.00 Muse
HD 98	Rollins	\$146.00	\$320.02	\$17.20 Sykes
HD 99	Smith, Kate	\$117.00	\$132.72	\$249.35 Cressey
HD 100	Bradley	\$238.00	\$10.02	\$234.02 Hamper