



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

Agenda

Meeting of November 20, 2006

9:00 a.m., Commission Offices, 242 State Street, Augusta, Maine

NEW BUSINESS

1. Request for Waiver of Late Filing Penalty/Eagle Lake Democratic Cmte

Because it raised more than \$1,500 this year, the Eagle Lake Democratic Committee was required to file a campaign finance report on July 15, 2006 covering the first half of the year. The committee filed the report 101 days late on October 26. The committee requests a waiver of the preliminary \$500 penalty because it did not receive a notice of the filing deadline from the Commission or the state party. Under 21-A M.R.S.A. §1017-A(6), the Commission is not required to send notices to the local and county party committees, and the "state party committee shall notify all county, district and municipal party committees of the same political party of the party committee reporting requirements." *Staff recommendation: the staff recommends assessing the statutory penalty of \$500.*

2. Request for Waiver of Late Filing Penalty/South Portland Democratic Cmte

Because it raised more than \$1,500 this year, the South Portland Democratic Committee was required to file a campaign finance report on July 15, 2006 covering the first half of the year. The committee filed the report 102 days late on October 27. The committee requests a waiver of the preliminary \$500 penalty because it did not receive a notice of the filing deadline. Under 21-A M.R.S.A. §1017-A(6), the Commission is not required to send notices to the local and county party committees, and the "state party committee shall notify all county, district and municipal party committees of the same political party of the party committee reporting requirements." *Staff recommendation: the staff recommends assessing the statutory penalty of \$500.*

**3. Finding of Violation for Commingling Maine Clean Election Act Funds/
Hon. Joan Bryant-Deschenes**

Joan Bryant-Deschenes is an outgoing member of the Maine House of Representatives. Her 2006 campaign was selected at random for a routine audit. The only finding in the final audit report was that she had deposited her Maine Clean Election Act funds into her personal bank account. There were no inappropriate expenditures, but the Election Law prohibits candidates from commingling campaign funds with personal funds under 21-A M.R.S.A. §1016(1) and §1125(7). *Staff recommendation: in addition to being a legal*

requirement, the staff believes depositing MCEA funds in a separate bank account promotes accurate financial reporting and record-keeping. In order to encourage accountability of public funds spent, the staff recommends that the candidate be found in violation of 21-A M.R.S.A. §1016(1) and §1125(7) and no assessment of any monetary penalty.

4. Report of Audit Findings

The staff wishes to present a summary of the “no exception” audit reports for campaigns with full compliance to date. No action is required by the Commission.

5. Proposed Statutory Changes

The staff wishes to discuss with the Commission the first of two rounds of proposed statutory changes which the Commission may wish to propose to the Legislature. Other proposed changes will be ready for the December 12 meeting.

Other

Miscellaneous as needed.

EXECUTIVE SESSION

If necessary

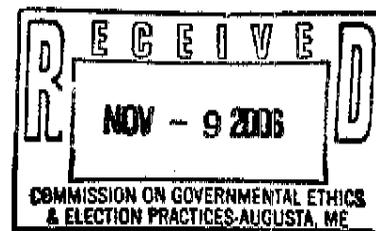
ADJOURNMENT

Agenda

Item #1

Eagle Lake Democratic Committee
David S Parent, Treasurer
P.O. Box 241
Eagle Lake, ME 04739\

November 8, 2006



Martha Demeritt
State Of Maine
Commission on Governmental Ethics
And Election Practices
135 State House Station
Augusta, ME 04333-0135

Dear Martha,

The Eagle Lake Democratic Committee is appealing the penalty assessed on October 26, 2006 due to mitigating circumstances. The committee did not receive notification to file a report until after the due date of July 15, 2006. Also, the State Democratic Party never notified the Eagle Lake Democratic Committee that a report needed to be filed. Therefore the committee feels it should not be assessed a penalty.

I will be on vacation from November 9, 2006 to November 26, 2006. The contact person for the committee will be John L Martin who can be contacted at (207) 444-5560. Thank you for your time.

Sincerely,

A handwritten signature in cursive script, appearing to read "David S Parent".

David S Parent
Treasurer



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

October 26, 2006

David Parent, Treasurer
Eagle Lake Democratic Committee
P.O. Box 241
Eagle Lake, ME 04739

Dear Mr. Parent:

Our records show that your committee's July Semi Annual Report, due on 7/17/06 was filed on 10/26/06. State law [21-A M.R.S.A. §1020-A] requires that a penalty 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 party committee's filing record. Based on the prescribed statutory formula, the preliminary determination of the penalty for the late filing of your campaign finance report would be \$500.00. 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 a final determination by the Commission on Governmental Ethics and Election Practices. Any request for a Commission determination must be made within 10 calendar days of receipt of this certified U.S. mail notice, beginning on the day you sign for receipt of this notice of the proposed penalty. If this certified letter 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 at the next scheduled Commission meeting and notify you of the date and time of that 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. If you elect to send a statement, it must be notarized and must 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.

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 personal emergency of the committee treasurer, such as a personal illness or death in the immediate family; 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.

Sincerely,

Martha Demeritt
Party Registrar

Encl: Penalty Matrix & Billing Statement

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

Eagle Lake Democratic Committee
July Semi-annual

COMMISSION ON GOVERNMENTAL ETHICS AND ELECTION PRACTICES

CONTRIBUTION/EXPENDITURE PENALTY MATRIX
LATE PARTY COMMITTEE REPORTS
21-A M.R.S.A. Section 1020-A

A campaign finance report is timely filed when a properly signed copy of the report, substantially conforming to the disclosure requirements, is received by the Commission before 5 p.m. on the date it is due. A penalty begins to accrue after 5:00 p.m. on the day the report is due. Penalties are based on 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%

DUE: 7/17/06
FILED: 10/26/06

<u>Example:</u> The treasurer files the committee's report two days late. The committee has not been charged with any previous violations. The treasurer 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 accrued

PARTY COMMITTEE NAME	
Your penalty is calculated as follows:	
Contributions/Expenditures:	\$ <u>1,728.36</u>
Percent prescribed:	x <u>1%</u>
	\$ <u>17.28</u>
Number of days late:	x <u>101</u>
Total penalty accrued:	\$ <u>1,745.28</u>
Maximum penalty:	\$ <u>500.00</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.

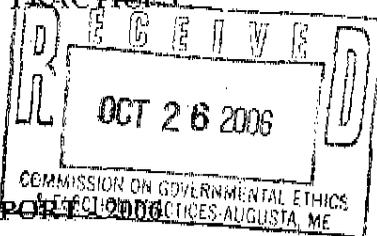
Maximum penalties:

State Party Committee: \$5,000 for election year reports and 48-hour reports
\$1,000 for non-election year semiannual reports

* Municipal, District
and County Committees: \$500 for all reports

STATE OF MAINE
COMMISSION ON GOVERNMENTAL ETHICS AND ELECTION PRACTICES

Mail: 135 State House Station, Augusta, ME 04333
Office: 242 State Street, Augusta, Maine
Tel: (207) 287-4179 Fax: (207) 287-6775
Website: www.maine.gov/ethics
Electronic Filing: http://www.maine.campaignfinance.com



MUNICIPAL, DISTRICT & COUNTY PARTY COMMITTEE REPORT

COMMITTEE IDENTIFICATION (Include full name of committee.)

Name Eagle Lake Democratic Committee
Street address P.O. Box 241
(official headquarters of committee)
City, zip code Eagle Lake, 04739 Telephone 444-4511

Check if address is different than previously reported

TREASURER IDENTIFICATION

Name of treasurer David Sparent
Street address P.O. Box 241 40 Pond River Rd.
City, zip code Eagle Lake Telephone 444-4511
E-mail address dsparent1999@yahoo.com

Check if address is different than previously reported

MUNICIPAL/COUNTY/DISTRICT COMMITTEE FILING PERIODS (Check applicable period below):

Due Date	Reporting Period
<input type="checkbox"/> January 17, 2006	July 1, 2005 - December 31, 2005
<input checked="" type="checkbox"/> July 15, 2006	January 1, 2006 - June 30, 2006
<input type="checkbox"/> October 27, 2006	July 1, 2006 - October 22, 2006
<input type="checkbox"/> January 16, 2007	October 23, 2006 - December 31, 2006

I CERTIFY THAT I HAVE EXAMINED THIS REPORT AND TO THE BEST OF MY KNOWLEDGE IT IS TRUE, CORRECT AND COMPLETE.

David Sparent
Treasurer's Signature

10/24/06
Date

REPORTING EXEMPTION: Any party committee receiving and expending less than \$1,500 in one calendar year is exempt from the reporting requirements for that year.

EL Democratic Comm
 Name of Party

Page 1 of 1
 (Schedule A only)

SCHEDULE A

CASH CONTRIBUTIONS RECEIVED

List the names and mailing addresses of contributors who have given more than \$200 during this reporting period. For all aggregate contributions of \$200 or less, enter the combined total in line 3. Do not include loans or in-kind contributions here.

Date received	Contributor's name, mailing address, zip code	Occupation & Employer	Amount
1/6/06	Food Products Association	Food Distribution	750.00

1. Total contributions this page only

750.00

2. Total from attached pages (Schedule A)

—

3. Aggregate contributions of \$200 or less not itemized

—

4. Total contributions this reporting period
 (Add lines 1,2 &3)

750.00

EC Democratic Comm.
Name of Party

10/24/06
Date Submitted

**SCHEDULE F
SUMMARY SECTION**

RECEIPTS

- 1. Contributions Received (Schedule A, Line 4)
- 2. Other Receipts (interest income, etc.)
- 3. Loans Received (Schedule D)
- 4. TOTAL RECEIPTS THIS PERIOD (Lines 1 + 2 + 3)

THIS PERIOD ONLY

750.00
-
-
750.00

EXPENDITURES

- 5. Contributions to or on behalf of others (Schedule B, Line 3)
- 6. Operating Expenses (Schedule B-1, Line 3)
- 7. Loan Repayments Made (Schedule D)
- 8. TOTAL EXPENDITURES THIS PERIOD (Lines 5 + 6 + 7)

THIS PERIOD ONLY

0
1728.36
0
1728.36

IN-KIND SUMMARY

- Total In-Kind Contributions this period (Schedule C)
- Total In-Kind Expenditures this period (Schedule C)

Fair Market Value Totals

0
0

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:

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).]
[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:

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).]
[1993, c. 715, §2 (amd).]

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.

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.

[2003, c. 302, §3 (new).]

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

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).]
[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.

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).]
[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).]

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

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).]

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).

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

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§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:

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).]
[2003, c. 628, Pt. A, §3 (amd).]

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:

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).]

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.

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 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.

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.

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:

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).]
[2003, c. 628, Pt. A, §4 (amd).]

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.

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

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

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, §6 (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).

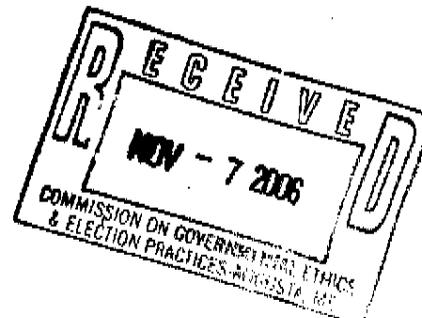
PL 2003, Ch. 302, §4 (AMD).

PL 2003, Ch. 448, §4 (AMD).

PL 2003, Ch. 628, §A3-6 (AMD).

RR 2003, Ch. 1, §14 (COR).

Agenda Item #2



November 6, 2006

State of Maine
Commission on Government Ethics and Election Practices
135 State House Station
Augusta, Maine 04333-0135

To whom it may concern:

The South Portland Democratic Committee requests a final determination by the Commission on Governmental Ethics and Election Practices. We request that the committee waive penalties for late reports for the following mitigating circumstance: failure to receive notice of the filing deadline.

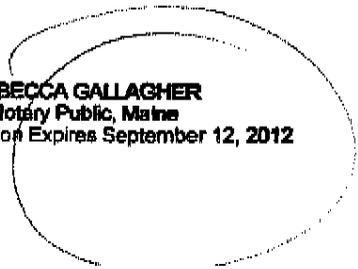
Reports were filed as soon as we were notified.

Thank you for your time and consideration.

Sincerely,

Alan Mills
Treasurer
South Portland Democratic Committee
317 Preble Street #1
South Portland, Maine 04106

REBECCA GALLAGHER
Notary Public, Maine
My Commission Expires September 12, 2012





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

October 27, 2006

Alan Mills, Treasurer
South Portland Democratic Committee
317 Preble St., #1
South Portland, ME 04106

Dear Mr. Mills:

Our records show that your committee's July Semi Annual Report, due on 7/17/06 was filed on 10/27/06. State law [21-A M.R.S.A. §1020-A] requires that a penalty 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 party committee's filing record. Based on the prescribed statutory formula, the preliminary determination of the penalty for the late filing of your campaign finance report would be \$500.00. 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 a final determination by the Commission on Governmental Ethics and Election Practices. Any request for a Commission determination must be made within 10 calendar days of receipt of this certified U.S. mail notice, beginning on the day you sign for receipt of this notice of the proposed penalty. If this certified letter 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 at the next scheduled Commission meeting and notify you of the date and time of that 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. If you elect to send a statement, it must be notarized and must 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.

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 personal emergency of the committee treasurer, such as a personal illness or death in the immediate family; 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.

Sincerely,



Martha Demeritt
Party Registrar

Encl: Penalty Matrix & Billing Statement

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

SOUTH TOWNLAND ~~PERMITS TO~~ ~~FILE~~
July Semi-annual

COMMISSION ON GOVERNMENTAL ETHICS AND ELECTION PRACTICES

CONTRIBUTION/EXPENDITURE PENALTY MATRIX
LATE PARTY COMMITTEE REPORTS
21-A M.R.S.A. Section 1020-A

A campaign finance report is timely filed when a properly signed copy of the report, substantially conforming to the disclosure requirements, is received by the Commission before 5 p.m. on the date it is due. A penalty begins to accrue after 5:00 p.m. on the day the report is due. Penalties are based on 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%

Due: 7/17/06
FILED: 10/27/06

Example: The treasurer files the committee's report two days late. The committee has not been charged with any previous violations. The treasurer 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 accrued

PARTY COMMITTEE NAME

Your penalty is calculated as follows:

Contributions/Expenditures:	\$	<u>1,975</u>
Percent prescribed:	x	<u>1%</u>
	\$	<u>19.75</u>
Number of days late:	x	<u>102</u>
Total penalty accrued:	\$	<u>2,014.50</u>
Maximum penalty:	\$	<u>500.00</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.

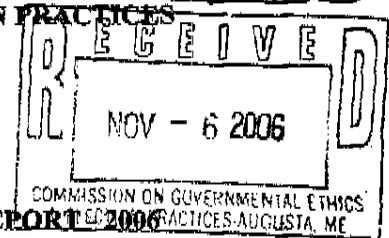
Maximum penalties:

State Party Committee: \$5,000 for election year reports and 48-hour reports
\$1,000 for non-election year semiannual reports

* Municipal, District and County Committees: \$500 for all reports

STATE OF MAINE
COMMISSION ON GOVERNMENTAL ETHICS AND ELECTION PRACTICES

Mail: 135 State House Station, Augusta, ME 04333
Office: 242 State Street, Augusta, Maine
Tel: (207) 287-4179 Fax: (207) 287-6775
Website: www.maine.gov/ethics
Electronic Filing: http://www.maine.campaignfinance.com



MUNICIPAL, DISTRICT & COUNTY PARTY COMMITTEE REPORT 2006

COMMITTEE IDENTIFICATION (Include full name of committee.)

Name South Portland Democratic Committee
Street address 14 Woodbury St
City, zip code South Portland, Me 04106 Telephone 799-5686
(official headquarters of committee)

Check if address is different than previously reported

TREASURER IDENTIFICATION

Name of treasurer Alan Mills
Street address 317 Preble St #1
City, zip code South Portland, Me 04106 Telephone 799-1633
E-mail address amills26@verizon.net

Check if address is different than previously reported

MUNICIPAL/COUNTY/DISTRICT COMMITTEE FILING PERIODS (Check applicable period below):

Due Date	Reporting Period
<input type="checkbox"/> January 17, 2006	July 1, 2005 – December 31, 2005
<input checked="" type="checkbox"/> July 15, 2006	<u>January 1, 2006 – June 30, 2006</u>
<input type="checkbox"/> October 27, 2006	July 1, 2006 – October 22, 2006
<input type="checkbox"/> January 16, 2007	October 23, 2006 – December 31, 2006

I CERTIFY THAT I HAVE EXAMINED THIS REPORT AND TO THE BEST OF MY KNOWLEDGE IT IS TRUE, CORRECT AND COMPLETE.

Alan Mills
Treasurer's Signature

10/27/06
Date

REPORTING EXEMPTION: Any party committee receiving and expending less than \$1,500 in one calendar year is exempt from the reporting requirements for that year.

South Portland Democratic Committee
Name of Party

10/27/06
Date Submitted

**SCHEDULE F
SUMMARY SECTION**

RECEIPTS

THIS PERIOD ONLY

- 1. Contributions Received (Schedule A, Line 4)
- 2. Other Receipts (interest income, etc.)
- 3. Loans Received (Schedule D)
- 4. TOTAL RECEIPTS THIS PERIOD (Lines 1 + 2 + 3)

3 1975 ^{15/} / _{XX}
4 1975 ^{15/} / _{XX}

EXPENDITURES

THIS PERIOD ONLY

- 5. Contributions to or on behalf of others (Schedule B, Line 3)
- 6. Operating Expenses (Schedule B-1, Line 3)
- 7. Loan Repayments Made (Schedule D)
- 8. TOTAL EXPENDITURES THIS PERIOD (Lines 5 + 6 + 7)

IN-KIND SUMMARY

Fair Market Value Totals

- Total In-Kind Contributions this period (Schedule C)
- Total In-Kind Expenditures this period (Schedule C)

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:

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).]
[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:

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).]
[1993, c. 715, §2 (amd).]

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.

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.

[2003, c. 302, §3 (new).]

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

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).]

[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.

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).]

[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 filing requirements. The party committees shall obtain the necessary forms from the commission to complete the filing requirements.

[1991, c. 839, §23 (new); §33 (aff).]

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

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).]

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).

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

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§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:

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).]
[2003, c. 628, Pt. A, §3 (amd).]

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:

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).]

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.

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 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.

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.

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:

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).]

[2003, c. 628, Pt. A, §4 (amd).]

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.

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

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

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, §6 (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

October 17, 2006

Representative Joan Bryant-Deschenes
House District 96
339 Pleasant Pond Road
Turner, ME 04282

Dear Rep. Bryant-Deschenes:

Enclosed please find a copy of the final audit report concerning our examination of the expenditures listed in your Six Day Pre-Primary and 42 Day Post-Primary campaign finance reports.

As you know, the report contains one adverse finding. We anticipate that the report will be presented to our Commission members at their monthly meeting in November, 2006. Jonathan Wayne, Executive Director of the Commission, will contact you prior to the meeting in order to determine if you want to appear before the Members to testify regarding the audit.

Thank you for your cooperation. Please contact me if you have any questions.

Sincerely,

Vincent W. Dinan
Commission Auditor

Enclosure

Cc: Jonathan Wayne
Paul Lavin
Sandy Thompson
Anissa Boisvert

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



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

October 17, 2006

Audit Report No. 2006-HR010

**Candidate: Representative Joan Bryant-Deschenes
House District 96**

Background

Rep. Joan Bryant-Deschenes is a candidate for re-election to the House of Representatives, District 96. Rep. Bryant-Deschenes was certified by the Commission as an MCEA candidate on April 12, 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 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 41 percent of the expenditures reported on Rep. Bryant-Deschenes' "Six Day" report. There were no expenditures listed on her "42 Day" report.

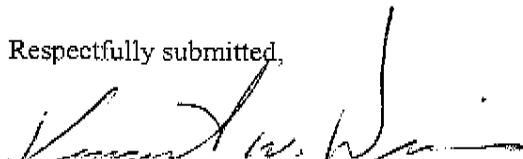
Audit Findings and Recommendations

1. The auditors found that Rep. Bryant-Deschenes did not maintain a separate campaign bank account for campaign funds received from the Commission under the authority of the Maine Clean Election Act. Instead, she deposited MCEA payments into her personal bank account, thus commingling public funds with other personal funds. The Election Law requires deposit of public funds into an account at a bank or other financial institution, and prohibits commingling with other funds. (21-A M.R.S.A. §§ 1016(1), 1125(7-A)) Rep. Bryant-Deschenes stated that she was not aware of the requirement, and upon being informed, immediately opened a campaign bank account and transferred the remaining balance of MCEA funds from her personal account into the new campaign account. *Recommendation:* the staff recommends that the Commission find Rep. Bryant-Deschenes in violation of the referenced provisions of the Election Law, with no penalty assessed.

Candidate's Comments

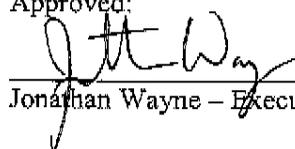
Rep. Bryant-Deschenes did not comment on the audit report.

Respectfully submitted,



Vincent W. Dinan - Staff Auditor

Approved:



Jonathan Wayne - Executive Director

Title 21-A, §1016, Records

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§1016. Records

Each treasurer shall keep detailed records of all contributions received and of each expenditure that the treasurer or candidate makes or authorizes, as provided in this section. When reporting contributions and expenditures to the commission as required by section 1017, the treasurer shall certify the completeness and accuracy of the information reported by that treasurer. [1991, c. 839, §13 (amd); §34 (aff).]

1. Segregated funds. All funds of a political committee and campaign funds of a candidate must be segregated from, and may not be commingled with, any personal funds of the candidate, treasurer or other officers, members or associates of the committee. Personal funds of the candidate used to support the candidacy must be recorded and reported to the treasurer as contributions to the political committee, or the candidate if the candidate has not authorized a political committee. [1991, c. 839, §13 (amd); §34 (aff).]

2. Report of contributions and expenditures. A person who receives a contribution or makes an expenditure for a candidate or political committee shall report the contribution or expenditure to the treasurer within 5 days of the receipt of the contribution or the making of the expenditure. A person who receives a contribution in excess of \$10 for a candidate or a political committee shall report to the treasurer the amount of the contribution, the name and address of the person making the contribution and the date on which the contribution was received. [1991, c. 839, §13 (amd); §34 (aff).]

3. Record keeping. A treasurer shall keep a detailed and exact account of:

A. All contributions made to or for the candidate or committee, including any contributions by the candidate; [1989, c. 504, §§10, 31, (amd).]

B. The name and address of every person making a contribution in excess of \$10, the date and amount of that contribution and, if a person's contributions in any report filing period aggregate more than \$50, the account must include the contributor's occupation and principal place of business, if any. If the contributor is the candidate or a member of the candidate's immediate family, the account must also state the relationship. For purposes of this paragraph, "filing period" is as provided in section 1017, subsections 2 and 3-A; [1991, c. 839, §13 (amd).]

C. All expenditures made by or on behalf of the committee or candidate; and [1985, c. 161, §6 (new).]

D. The name and address of every person to whom any expenditure is made and the date and amount of the expenditure. [1985, c. 161, §6 (new).]
[1991, c. 839, §13 (amd).]

4. Receipts preservation. A treasurer shall obtain and keep a receipted bill, stating the particulars, for every expenditure in excess of \$50 made by or on behalf of a political committee or a candidate and for any such expenditure in a lesser amount if the aggregate amount of those expenditures to the same person in any election exceeds \$50. The treasurer shall preserve all receipted bills and accounts required to be kept by this section for 2 years following the final report required to be filed for the election to which they pertain, unless otherwise ordered by the commission or a court. [1991, c. 839, §13 (amd); §34 (aff).]

PL 1985, Ch. 161, §6 (NEW).

Title 21-A, §1125, Terms of participation

5. Certification of Maine Clean Election Act candidates. Upon receipt of a final submittal of qualifying contributions by a participating candidate, the commission shall determine whether or not the candidate has:

- A. Signed and filed a declaration of intent to participate in this Act; [IB 1995, c. 1, §17 (new).]
- B. Submitted the appropriate number of valid qualifying contributions; [IB 1995, c. 1, §17 (new).]
- C. Qualified as a candidate by petition or other means; [IB 1995, c. 1, §17 (new).]
- D. Not accepted contributions, except for seed money contributions, and otherwise complied with seed money restrictions; [2003, c. 270, §1 (amd).]
- D-1. Not run for the same office as a nonparticipating candidate in a primary election in the same election year; and [2003, c. 270, §2 (new).]
- E. Otherwise met the requirements for participation in this Act. [IB 1995, c. 1, §17 (new).]

The commission shall certify a candidate complying with the requirements of this section as a Maine Clean Election Act candidate as soon as possible and no later than 3 business days after final submittal of qualifying contributions.

Upon certification, a candidate must transfer to the fund any unspent seed money contributions. A certified candidate must comply with all requirements of this Act after certification and throughout the primary and general election periods. Failure to do so is a violation of this chapter.

[2005, c. 301, §30 (amd).]

6. Restrictions on contributions and expenditures for certified candidates. After certification, a candidate must limit the candidate's campaign expenditures and obligations, including outstanding obligations, to the revenues distributed to the candidate from the fund and may not accept any contributions unless specifically authorized by the commission. Candidates may also accept and spend interest earned on bank accounts. All revenues distributed to a certified candidate from the fund must be used for campaign-related purposes. The candidate, the treasurer, the candidate's committee authorized pursuant to section 1013-A, subsection 1 or any agent of the candidate and committee may not use these revenues for any but campaign-related purposes. The commission shall publish guidelines outlining permissible campaign-related expenditures.

[2005, c. 542, §3 (amd).]

7. Timing of fund distribution. The commission shall distribute to certified candidates revenues from the fund in amounts determined under subsection 8 in the following manner.

- A. Within 3 days after certification, for candidates certified prior to March 15th of the election year, revenues from the fund must be distributed as if the candidates are in an uncontested primary election. [2001, c. 465, §4 (amd).]
- B. Within 3 days after certification, for all candidates certified between March 15th and April 15th of the election year, revenues from the fund must be distributed according to whether the candidate is in a contested or uncontested primary election. [2001, c. 465, §4 (amd).]
- B-1. For candidates in contested primary elections receiving a distribution under paragraph A, additional revenues from the fund must be distributed within 3 days of March 15th of the election year. [2001, c. 465, §4 (new).]
- C. Within 3 days after the primary election results are certified, for general election certified candidates, revenues from the fund must be distributed according to whether the candidate is in a contested or uncontested general election. [2001, c. 465, §4 (amd).]

Funds may be distributed to certified candidates under this section by any mechanism that is expeditious, ensures accountability and safeguards the integrity of the fund.

[2001, c. 465, §4 (amd).]

7-A. Deposit into account. The candidate or committee authorized pursuant to section 1013-A, subsection 1 shall deposit all revenues from the fund in a campaign account with a bank or other financial institution. The campaign funds must be segregated from, and may not be commingled with, any other funds.

[2005, c. 542, §4 (new).]

Agenda

Item #4



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

To: Commission Members

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

Date: November 13, 2006

Subject: November, 2006 Candidate Audit Report Submittals

Materials submitted with the November, 2006 Commission packet include the eight candidate audit reports listed below.

Candidate Name	District	Disposition
Rep. Joan Bryant-Deschenes	House 96	Audit Findings - CAR
Andrea Boland	House 142	No Exceptions
Donna Gilbert	House 42	No Exceptions
Deborah Gibbs	Senate 30	No Exceptions
Rep. Gary Moore	House 102	No Exceptions
Julius Erdo	House 27	No Exceptions
Joshua Reny	House 84	No Exceptions
Sen. David Hastings	Senate 13	No Exceptions

"Audit Findings – CAR" indicates that the report contains findings to be addressed by the Commission (Commission Action Required). Findings of "no exceptions" are submitted for information and file, and no additional action is required by the Commission.



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October 17, 2006

Audit Report No. 2006-HR010

**Candidate: Representative Joan Bryant-Deschenes
House District 96**

Background

Rep. Joan Bryant-Deschenes is a candidate for re-election to the House of Representatives, District 96. Rep. Bryant-Deschenes was certified by the Commission as an MCEA candidate on April 12, 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 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 41 percent of the expenditures reported on Rep. Bryant-Deschenes' "Six Day" report. There were no expenditures listed on her "42 Day" report.

Audit Findings and Recommendations

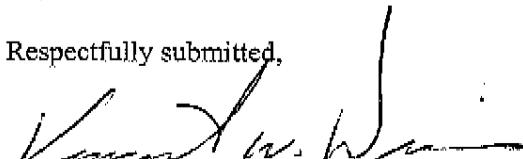
1. The auditors found that Rep. Bryant-Deschenes did not maintain a separate campaign bank account for campaign funds received from the Commission under the authority of the Maine Clean Election Act. Instead, she deposited MCEA payments into her personal bank account, thus commingling public funds with other personal funds. The Election Law requires deposit of public funds into an account at a bank or other financial institution, and prohibits commingling with other funds. (21-A M.R.S.A. §§ 1016(1), 1125(7-A)) Rep. Bryant-Deschenes stated that she was not aware of the requirement, and upon being informed, immediately opened a campaign bank account and transferred the remaining balance of MCEA funds from her personal account into the new campaign account. *Recommendation:* the staff recommends that the Commission find Rep. Bryant-Deschenes in violation of the referenced provisions of the Election Law, with no penalty assessed.

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

Candidate's Comments

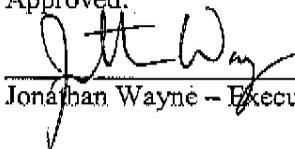
Rep. Bryant-Deschenes did not comment on the audit report.

Respectfully submitted,



Vincent W. Dinan - Staff Auditor

Approved:



Jonathan Wayne - Executive Director



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November 1, 2006

Audit Report No. 2006-HR011

**Candidate: Andrea M. Boland
House District 142**

Background

Andrea M. Boland is a candidate for the Maine House of Representatives, District 142. Ms. Boland 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 21 – 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 55 percent of the expenditures reported on Ms. Boland's "42 Day" report. There were no expenditures listed on her "Six Day" report.

Audit Findings and Recommendations

No exceptions were noted.

Respectfully submitted for information and file,

Handwritten signature of Vincent W. Dinan in black ink.

Vincent W. Dinan - Staff Auditor

Approved:

Handwritten signature of Jonathan Wayne in black ink.

Jonathan Wayne - Executive Director

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October 24, 2006

Audit Report No. 2006-HR013

**Candidate: Donna M. Gilbert
House District 42**

Background

Donna M. Gilbert is a candidate for the Maine House of Representatives, District 42. Ms. Gilbert was certified by the Commission as an MCEA candidate on April 13, 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 13 – 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 60 percent of the expenditures reported on Ms. Gilbert's "Six Day" report and 79 percent of the expenditures listed on her "42 Day" report.

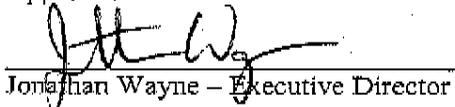
Audit Findings and Recommendations

No exceptions were noted.

Respectfully submitted for information and file.


Vincent W. Dinan - Staff Auditor

Approved:


Jonathan Wayne - Executive Director

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October 24, 2006

Audit Report No. 2006-SEN005

Candidate: Deborah L. Gibbs
Senate District 30

Background

Deborah L. Gibbs is a candidate for the Maine State Senate, District 30. Ms. Gibbs was certified by the Commission as an MCEA candidate on May 26, 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 May 26 – 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 63 percent of the expenditures reported on Ms. Gibbs' "Six Day" report and 81 percent of the expenditures listed on her "42 Day" report.

Audit Findings

No exceptions were noted.

Respectfully submitted for information and file.

Handwritten signature of Vincent W. Dinan in black ink.

Vincent W. Dinan - Staff Auditor

Approved:

Handwritten signature of Jonathan Wayne in black ink.

Jonathan Wayne Executive Director

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November 1, 2006

Audit Report No. 2006-HR014

**Candidate: Representative Gary Moore
House District 102**

Background

Rep. Gary Moore is a candidate for re-election to the Maine House of Representatives, District 102. Rep. Moore was certified by the Commission as an MCEA candidate on March 14, 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 March 14 – 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 90 percent of the expenditures reported on Rep. Moore's "Six Day" report, and 63 percent of the expenditures listed on his "42 Day" report.

Audit Findings and Recommendations

No exceptions were noted.

Respectfully submitted for information and file.

Handwritten signature of Vincent W. Dinan in black ink.

Vincent W. Dinan - Staff Auditor

Approved:

Handwritten signature of Jonathan Wayne in black ink.
Jonathan Wayne, Executive Director

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November 6, 2006

Audit Report No. 2006-HR017

Candidate: Julius L. Erdo
House District 27

Background

Julius L. Erdo is a candidate for the Maine House of Representatives, District 27. Mr. Erdo 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

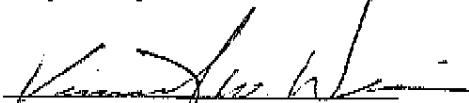
Examination of selected candidate contribution and expenditure transactions occurring in the qualifying period, and between April 21 – June 1, 2006 (Six Day Pre-Primary Report), and June 2 – July 18, 2006 (42 Day Post-Primary Report), as recorded in the candidate's accounting records, and as reported 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 47 percent of contributions, and 47 percent of expenditures reported on Mr. Erdo's "Seed Money" report, and 66 percent of the expenditures listed on his "42 Day" report. No expenditures were listed on Mr. Erdo's "Six Day" report.

Audit Findings and Recommendations

No exceptions were noted.

Respectfully submitted for information and file,


Vincent W. Dinan - Staff Auditor

Approved:


Jonathan Wayne – Executive Director

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November 6, 2006

Audit Report No. 2006-HR018

Candidate: Joshua J. Reny
House District 84

Background

Joshua J. Reny is a candidate for the Maine House of Representatives, District 84. Mr. Reny was certified by the Commission as an MCEA candidate on March 20, 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

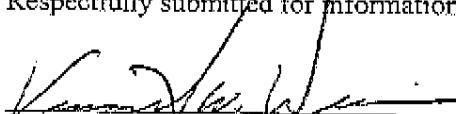
Examination of selected candidate expenditure transactions occurring between March 20 – June 1, 2006 (Six Day Pre-Primary Report), and June 2 – July 18, 2006 (42 Day Post-Primary Report), as recorded in the candidate's accounting records, and as reported to the Commission, to determine if the identified 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 95 percent of the expenditures reported on Mr. Reny's "Six Day" report, and 100 percent of the expenditures listed on his "42 Day" report.

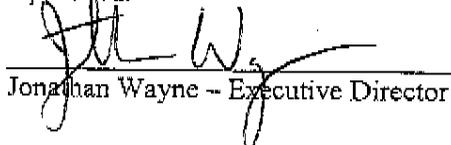
Audit Findings and Recommendations

No exceptions were noted.

Respectfully submitted for information and file,


Vincent W. Dinan - Staff Auditor

Approved:


Jonathan Wayne - Executive Director

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04333-0135

November 1, 2006

Audit Report No. 2006-SEN007

Candidate: Senator David R. Hastings
Senate District 13

Background

Senator David R. Hastings is a candidate for re-election to the Maine State Senate, District 13. Sen. Hastings 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 receipts and expenditures transactions occurring during the MCEA qualifying period (Seed Money), and 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 20 percent of the contributions received and 81 percent of the expenditures listed in Sen. Hastings' Seed Money report, and 95 percent of the expenditures listed in his "42 Day" report. There were no expenditures reported for the "Six Day" period.

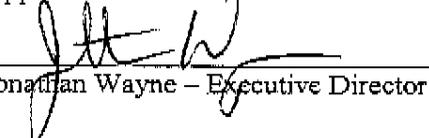
Audit Findings and Recommendations

No exceptions were noted.

Respectfully submitted for information and file,


Vincent W. Dinan - Staff Auditor

Approved:


Jonathan Wayne - Executive Director

OFFICE LOCATED AT: 242 STATE STREET, AUGUSTA, MAINE
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Agenda

Item #5



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

Date: November 13, 2006

Re: Statutory Changes for Your Consideration at November 20 Meeting

The Ethics Commission is specifically authorized to introduce legislation relating to areas within its jurisdiction. The attached proposal is the first of two rounds of statutory changes which you may wish to consider for submission to the Legislature. The staff will submit to you more changes before the December 12 meeting. The attached proposals are intended as a first draft and can be amended or omitted in the next draft.

TOPICS FOR CONSIDERATION

We have not drafted any language on the two following issues, but they have received some comment lately and might merit discussion by you at the November 20 meeting.

Maine Clean Election Act Qualification – Candidates for Governor

Some observers have commented that the Legislature should consider raising the threshold for gubernatorial candidates of collecting 2,500 qualifying contributions from registered Maine voters. The staff would like to consider this issue and report back to you on December 12.

Also, Maine Clean Election Act candidates are permitted to collect seed money of up to \$100 from individuals in order to get their campaigns started and to collect qualifying contributions. There are no geographic or party restrictions on who may contribute seed money. Gubernatorial candidates may collect up to \$50,000 in seed money, although in 2006 most candidates collected much less.

In 2006, two gubernatorial candidates seeking to qualify for public funds collected very large portions of their seed money (67% and 47%) from out-of-state individuals. All other gubernatorial candidates collected a small portion of seed money (5% - 10%) from outside Maine.

While raising seed money from out-of-state was completely legal and ethical in 2006, the Commission staff would like to propose requiring that these funds be raised only from Maine voters. Collecting seed money – although not a requirement – functions as an indicator of financial support and a necessary step to fund a statewide effort to collect

qualifying contributions. With so much public funding at stake for gubernatorial candidates, we believe it is sensible that these funds be raised from Maine residents only. Also, if any doubts are raised that the seed money actually came from the personal funds of the reported contributors, it is easier for the Commission to verify compliance with the seed money restrictions if the contributors are Maine residents.

Leadership PACs

There has been continuing controversy regarding Maine Clean Election Act candidates who raise private funds for political action committees which they control completely or which their legislative caucus controls. The staff recommends not including legislation on this topic because this is a sensitive policy area which we hope will be addressed by the Legislature.

SPECIFIC CHANGES ATTACHED

21-A M.R.S.A. §1014 ("Paid for" Disclosure)

Under current law, communications naming clearly identified candidates (advertisements, campaign literature, automated telephone calls) generally must disclose the name and address of the person who financed the communication and whether the communication was authorized by the candidate. Subsections 2-A and 5 were inserted by the Legislature in 2005 at the request of the Commission, and the staff believes they could benefit from some further amendments:

- The proposed changes would eliminate the requirement to include the sponsor's address in radio ads when the ad is sponsored by the candidate.
- Under current law, all communications naming a clearly identified candidate that are distributed to voters in the last 21 days before an election require the disclosure. The proposed changes would increase this period to 60 days, but would create an exemption for communications that are not made for the purpose of influencing the election (e.g., commercial advertisements that mention a candidate in her personal or professional capacity; newsletters to community groups in which a candidate is mentioned).
- Under current law, automated telephone calls made at any time that name or identify a clearly identified candidate must disclose what persons paid for the call. The proposed changes would restrict this requirement to the 60 days before an election but would extend the requirement to scripted telephone calls by live callers. Voter identification research would be excluded from the requirement.

21-A M.R.S.A. §1015-A (Affiliated Contributors)

Under the current statute, two or more businesses that share common owners or officers are considered a single contributor for purposes of the \$250 or \$500 contribution limit for candidates. The proposed change would clarify that a sole proprietorship and its owner would also be considered a single contributor.

21-A M.R.S.A. §1017(4) (Reporting by Replacement Candidates)

Replacement candidates are required under current statute to file a campaign finance report 15 days after being appointed by their local party committee. The proposed change would eliminate this requirement because it seems unnecessary. Almost all 2006 replacement candidates chose to participate in the Maine Clean Election Act and file a campaign finance report about one month after being reported. Also as a result of the proposed change, privately financed replacement candidates would first report their campaign finances six days before the election, which seems satisfactory.

21-A M.R.S.A. §1019-B (Reporting of Independent Expenditures)

Under current law, any communication that is distributed to voters within the last 21 days before an election is presumed to be an independent expenditure if it merely names or depicts a clearly identified candidate and there is a Maine Clean Election Act candidate in the race. Prior to that 21-day period, an expenditure for a communication is an independent expenditure only if the communication expressly advocates the election or defeat of a candidate. Several candidates complained that they should be eligible for matching funds based on party-sponsored ads and mailings, but the Commission found that the communications did not expressly advocate for the candidates' opponents.

The proposed amendment would increase the 21-day presumption period to 60 days. As under current law, the person making the expenditure could attempt to rebut the presumption by filing a written statement that the expenditure was not made to influence the election.

This would be a significant change in the law that would impact legislative and gubernatorial candidates, as well as third-party groups (PACs and party committees) wishing to communicate messages about candidates. It is difficult to predict the consequence of this law change if enacted, because some third-parties would adjust the timing and content of their communications in response to the new law. Its consequences *could* include:

- Paying matching funds to candidates earlier;
- Increasing the amount of matching funds paid to candidates;
- Party committees and political action committees may choose to send communications for the general election in August to avoid a 60-day presumption period;
- More independent groups might characterize their candidate-related communications as educational or research-oriented in order to rebut the presumption that the communications were sent to influence the election.

The staff is in favor of this change because it would make the matching funds system that was enacted directly by Maine voters more rational and would provide greater disclosure of amounts paid to influence elections.

21-A M.R.S.A. §1020-A(8) (Requirement to Send Five Notices to Non-Filers)

The Election Law states that a candidate's failure to file a campaign finance report within 30 days of the deadline is a Class E crime. In 2004 and 2006, the Commission failed to receive campaign finance reports from a small handful of candidates, and sent multiple written requests. The possibility of referral to the Attorney General for criminal prosecution caused a few uncooperative candidates to file financial reports. The proposed change reduces the requirement to send five written notices before referral to the Attorney General to three notices by registered mail. The staff believes the proposed requirement of three notices is fair to candidates and is more reasonable for the agency.

21-A M.R.S.A. §1051 and §1058 (\$1,500 Threshold for PAC Reporting)

In 1999, the Legislature increased the fundraising and spending threshold for an organization to register as a PAC from \$50 to \$1,500. At that time, the Legislature did not change the \$50 threshold in §1058 that requires filing financial reports by PACs, and did not change the \$50 threshold in the introductory §1051. The Commission staff recommends amending these thresholds to \$1,500 for the sake of consistency. This would have no practical effect on financial reporting by PACs, because PACs are only required to file financial reports if they are registered with the Commission.

21-A M.R.S.A. §1057 (Record-keeping for PACs)

Under current law, PACs must keep "receipts" for all expenditures for four years, but those receipts may be in the form of cancelled checks which provide no documentation of the goods or services purchased. This documentation is not submitted to the Commission except if the Commission requests it. In 2006, the Commission staff occasionally requested some documentation from PACs and party committees relating to independent expenditures.

The proposed change requires PACs to keep an invoice or receipt from a vendor stating the particular goods or services purchased for every expenditure of over \$50 (similar to the requirement for candidates). With the development of publicly financed candidates, PACs are increasingly choosing to use their funds to pay third-party vendors rather than candidates. The Commission staff believes a vendor invoice or receipt is superior to a cancelled check as an audit trail that can be used to verify reported expenditures.

If the Commission views the proposed requirement as too burdensome, perhaps it would consider an alternative requirement that PACs must keep bank records for all expenditures and vendor invoices for larger expenditures (*e.g.*, over \$250).

21-A M.R.S.A. §§1125(5), (5-A), (12) (Qualification for MCEA Funding)

Section 1125 of the Maine Clean Election Act sets forth the required standards for approving a candidate for MCEA funding. The proposed changes would insert additional reasons for not qualifying a candidate based on serious violations and for revoking a certification after it has taken place. We anticipate that the revocation would be employed *very rarely*, but it is important authority for the Commission to have in place in cases of serious non-compliance.

3 M.R.S.A. §321 (Auditing of Lobbyists)

One major responsibility of the Commission is to receive the annual registration of lobbyists and receive their monthly and annual reports of their activities. Many lobbyists presume that the Commission has the statutory authority to investigate non-compliance with the reporting requirements, but in fact it does not. The proposed statutory change would authorize the Commission to investigate non-compliance when it is brought to the Commission's attention by requiring the lobbyist, client, or others to provide requested information or documents. Most lobbyists and clients are very cooperative in providing requested information, so it is anticipated that the subpoena authority would be used very rarely. Nevertheless, it would be helpful to encourage compliance.

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STATUTES AFFECTING CANDIDATES

21A § 1014. Publication or distribution of political statements

1. Authorized by candidate. Whenever a person makes an expenditure to finance a communication expressly advocating the election or defeat of a clearly identified candidate through broadcasting stations, newspapers, magazines, outdoor advertising facilities, publicly accessible sites on the Internet, direct mails or other similar types of general public political advertising or through flyers, handbills, bumper stickers and other nonperiodical publications, the communication, if authorized by a candidate, a candidate's authorized political committee or their agents, must clearly and conspicuously state that the communication has been so authorized and must clearly state the name and address of the person who made or financed the expenditure for the communication. The following forms of political communication do not require the name and address of the person who made or authorized the expenditure for the communication because the name or address would be so small as to be illegible or infeasible: ashtrays, badges and badge holders, balloons, campaign buttons, clothing, coasters, combs, emery boards, envelopes, erasers, glasses, key rings, letter openers, matchbooks, nail files, noisemakers, paper and plastic cups, pencils, pens, plastic tableware, 12-inch or shorter rulers, swizzle sticks, tickets to fund-raisers and similar items determined by the Commission to be too small and unnecessary for the disclosures required by this section. A communication financed by a candidate or the candidate's committee that is made through a radio station is not required to state the address of the candidate or committee that financed the communication.

2. Not authorized by candidate. If the communication described in subsection 1 is not authorized by a candidate, a candidate's authorized political committee or their agents, the communication must clearly and conspicuously state that the communication is not authorized by any candidate and state the name and address of the person who made or financed the expenditure for the communication. If the communication is in written form, the communication must contain at the bottom of the communication in 10-point bold print, Times New Roman font, the words "NOT PAID FOR OR AUTHORIZED BY ANY CANDIDATE."

2-A. Communication. If a communication Whenever a person makes an expenditure to finance a communication that names or depicts a clearly identified candidate and that is disseminated during the 24-60 days before an election through the media described in subsection 1, the communication must state the name and address of the person who made or financed the communication and a statement that the communication was or was not authorized by the candidate. The disclosure is not required if the communication was not made for the purpose of influencing the candidate's nomination for election or election.

3. Broadcasting prohibited without disclosure. No person operating a broadcasting station within this State may broadcast any communication, as described in subsections 1 and 2, without an oral or written visual announcement of the name of the person who made or financed the expenditure for the communication.

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3-A. In-kind contributions of printed materials. A candidate, political committee or political action committee shall report on the campaign finance report as a contribution to the candidate, political committee or political action committee any contributions of in-kind printed materials to be used in the support of a candidate or in the support or defeat of a cause to be voted upon at referendum. Any in-kind contributions of printed materials used or distributed by a candidate, political committee or political action committee must include the name or title of that candidate, political committee or political action committee as the authorizing agent for the printing and distribution of the in-kind contribution.

The use or distribution of in-kind printed materials contributed to a candidate, political committee or political action committee must be reported as an expenditure on the campaign finance report of that candidate, political committee or political action committee.

3-B. Newspapers. A newspaper may not publish a communication described in subsection 1 or 2 without including the disclosure required by this section. For purposes of this subsection, "newspaper" includes any printed material intended for general circulation or to be read by the general public. When necessary, a newspaper may seek the advice of the Commission regarding whether or not the communication requires the disclosure.

4. Enforcement. An expenditure, communication or broadcast made within 10 days before the election to which it relates that results in a violation of this section may result in a civil fine of no more than \$200. An expenditure, communication or broadcast made more than 10 days before the election that results in a violation of this section may result in a civil fine of no more than \$100 if the violation is not corrected within 10 days after the candidate or other person who committed the violation receives notification of the violation from the Commission. If the Commission determines that a person violated this section with the intent to misrepresent the name or address of the person who made or financed the communication, or whether the communication was or was not authorized by the candidate, the Commission may impose a fine of no more than \$5,000 against the person responsible for the communication. Enforcement and collection procedures must be in accordance with section 1020-A.

5. Automated Telephone calls. Automated telephone calls and scripted telephone communications that name a clearly identified candidate during the 60 days before an election must clearly state the name of the person who made or financed the expenditure for the communication, except for automated telephone calls paid for by the candidate that use the candidate's voice in the telephone call. Telephone calls made for the purposes of researching the views of voters are not required to include the disclosure.

21A § 1015-A. Corporate contributions

Contributions made by a for-profit or a nonprofit corporation including a parent, subsidiary, branch, division, department or local unit of a corporation, and contributions

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made by a political committee or political action committee whose contribution or expenditure activities are financed, maintained or controlled by a corporation are considered to be made by that corporation, political committee or political action committee.

1. **Single entities.** Two or more entities are treated as a single entity if the entities:
 - A. Share the majority of members of their boards of directors;
 - B. Share 2 or more officers;
 - C. Are owned or controlled by the same majority shareholder or shareholders; or
 - D. Are in a parent-subsidiary relationship.

2. **Sole proprietorships.** A sole proprietorship and its owner are treated as a single entity.

21A § 1017(4). **Reports by candidates**

4. **New candidate or nominee.** A candidate for nomination or a nominee chosen to fill a vacancy under chapter 5, subchapter III is subject to section 1013-A, subsection 1, except that the candidate shall register the name of a treasurer or political committee and all other information required in section 1013-A, subsection 1, paragraphs A and B within 7 days after the candidate's appointment or at least 6 days before the election, whichever is earlier. ~~The person required to file a report under section 1013-A, subsection 1 shall file a campaign report under this section 15 days after the candidate's appointment or 6 days before the election, whichever is earlier. The report must include all contributions received and expenditures made through the completion date. The report must be complete as of 4 days before the report is due. Subsequent reports must be filed on the schedule set forth in this section. The candidate must file all subsequent reports required under this section.~~ The Commission shall send notification of this requirement and registration and report forms to the candidate and the candidate's treasurer immediately upon notice of the candidate's and treasurer's appointments.

21A §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

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clearly identified candidate and is disseminated during the ~~21~~ 60 days, including election day, before a primary election; the ~~21~~ 60 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.

21A § 1020-A(8). Failure to file on time

. . .

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 the report after ~~3-written~~

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~~communications from the Commission~~ receipt of this notice, 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.

STATUTES AFFECTING PACS

21A § 1051. Application

This subchapter applies to the activities of political action committees organized in and outside this State that accept contributions, incur obligations or make expenditures in an aggregate amount in excess of ~~\$50~~ \$1,500 in any one calendar year for the election of state, county or municipal officers, or for the support or defeat of any campaign, as defined in this subchapter.

This subchapter does not apply to any broadcast time concerning any referendum campaign, as defined in section 1, subsection 36, which is provided by a broadcaster in accordance with the requirements of the Federal Communications Act, United States Code, Title 47, Section 315, generally referred to as the "Fairness Doctrine."

21A § 1053. Registration [NO PROPOSED CHANGES, INCLUDED FOR YOUR REFERENCE ONLY]

Every political action committee that accepts contributions, incurs obligations or makes expenditures in the aggregate in excess of \$1,500 in any single calendar year to initiate, support, defeat or influence in any way a campaign, referendum, initiated petition, including the collection of signatures for a direct initiative, candidate, political committee or another political action committee must register with the Commission, within 7 days of accepting those contributions, incurring those obligations or making those expenditures, on forms prescribed by the Commission. . . .

21A § 1057. Records

Any political action committee that makes expenditures which aggregate in excess of \$50 to any one or more candidates, committees or campaigns in this State shall keep records as provided in this section. Records required to be kept under subsections 1, 2 and 3 shall be retained by the political action committee until 10 days after the next election following the election to which the records pertain.

1. Details of records. The treasurer of a political action committee must record a detailed account of:

A. All expenditures made to or in behalf of a candidate, campaign or committee;

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- B. The identity and address of each candidate, campaign or committee;
- C. The office sought by a candidate and the district he seeks to represent, for candidates which a political action committee has made an expenditure to or in behalf of; and
- D. The date of each expenditure.

2. Receipts. The treasurer of a political action committee must retain a ~~vendor invoice or receipt stating the particular goods or services purchased for every expenditure of \$50 or more, all receipts of expenditures made for a candidate, committee or campaign in this State. Receipts may be in the form of cancelled checks.~~

3. Record of contributions. The treasurer of a political action committee must keep a record of all contributions to the committee, by name and mailing address, of each donor and the amount and date of the contribution. This provision does not apply to contributions which do not exceed \$50 each for a general election, primary election and referendum campaign. When any donor's contributions to a political action committee exceed \$50, the record must include the aggregate amount of all contributions from that donor.

21A § 1058. Reports; qualifications for filing

A political action committee that is registered with the Commission or that accepts contributions or incurs obligations in an aggregate amount in excess of ~~\$50~~ \$1,500 on any one or more campaigns for the office of Governor, for state or county office or for the support or defeat of a referendum or initiated petition shall file a report on its activities in that campaign with the Commission on forms as prescribed by the Commission. A political action committee organized in this State required under this section to file a report shall file the report for each filing period under section 1059. A political action committee organized outside this State shall file with the Commission on Governmental Ethics and Election Practices of this State a copy of the report that the political action committee is required to file in the state in which the political action committee is organized. The political action committee shall file the copy only if it has expended funds or received contributions or made expenditures in this State. The copy of the report must be filed in accordance with the schedule of filing in the state where it is organized. If contributions or expenditures are made relating to a municipal office or referendum, the report must be filed with the clerk in the subject municipality.

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MAINE CLEAN ELECTION ACT

21A § 1125. Terms of participation

. . .

5. Certification of Maine Clean Election Act candidates. Upon receipt of a final submittal of qualifying contributions by a participating candidate, the commission shall determine whether or not the candidate has:

- A. Signed and filed a declaration of intent to participate in this Act;
- B. Submitted the appropriate number of valid qualifying contributions;
- C. Qualified as a candidate by petition or other means;
- D. Not accepted contributions, except for seed money contributions, and otherwise complied with seed money restrictions;
 - D-1. Not run for the same office as a nonparticipating candidate in a primary election in the same election year; and
 - D-2. Not been found to have made a material false statement in a report or other document submitted to the commission;
 - D-3. Not had prior requests for certification denied or certification revoked on the basis of fraud or other substantial violations of this chapter or chapter 13;
 - D-4. Not failed to pay any civil penalty assessed by the Commission under this title, except that a candidate shall have ten business days from the date of the request for certification to pay the outstanding penalty and remain eligible for certification; and
- E. Otherwise met the requirements for participation in this Act.

The commission shall certify a candidate complying with the requirements of this section as a Maine Clean Election Act candidate as soon as possible and no later than 3 business days after final submittal of qualifying contributions. The commission and its employees may take additional time if further investigation is necessary to verify compliance with the Act, provided that the commission shall notify the affected candidate regarding the anticipated schedule for conclusion of the investigation.

Upon certification, a candidate must transfer to the fund any unspent seed money contributions. A certified candidate must comply with all requirements of this Act after certification and throughout the primary and general election periods. Failure to do so is a violation of this chapter.

5-A. Revocation of Certification. The certification of a participating candidate may be revoked at any time if the Commission determines that the candidate or an agent of the candidate:

- a. did not submit the required number of valid qualifying contributions;

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- b. failed to qualify as a candidate by petition or other means;
- c. submitted any fraudulent qualifying contributions or qualifying contributions that were not made by the named contributor;
- d. did not disclose or misrepresented to a contributor the nature and purpose of the qualifying contribution or the reason for obtaining a contributor's signature on the receipt and acknowledgement form;
- e. failed to fully comply with the seed money restrictions;
- f. knowingly accepted any contributions, including any in-kind contributions, or used funds other than fund revenues distributed under this chapter to make campaign-related expenditures without the permission of the commission;
- g. knowingly made a false statement or material misrepresentation in any report or other document required to be filed under this chapter or chapter 13; or
- h. otherwise substantially violated the provisions of this chapter or chapter 13.

The determination to revoke the certification of a candidate shall be made by a vote of the members of the commission. A candidate whose certification is revoked must return all unspent funds to the commission within three days of the commission's decision and may be required to return all funds distributed to the candidate. In addition to the requirement to return funds, the candidate may be subject to a civil penalty under section 1127.

LOBBYIST DISCLOSURE LAW

3 § 321. Powers and duties of the Commission

In order to carry out the purposes of this chapter, the Commission shall have the following powers and duties.

1. Furnishing of forms. The Commission shall furnish forms to persons required to register or file reports.

2. Availability of copying facilities. The Commission shall make copying facilities available to the public during regular office hours and, notwithstanding any other provisions of law fixing the cost of such services, shall charge the actual cost of such services.

3. Filing of voluntary information. The Commission may accept and file any information voluntarily supplied that exceeds the requirements of this chapter.

4. Preservation of registrations and reports. The Commission shall preserve all registrations and reports filed pursuant to this chapter for 4 years from date of receipt and may dispose of same.

5. Acceptance or rejection of forms. The Commission may prescribe forms for all documents required or permitted to be filed with the Commission and may refuse to accept documents not filed on those forms.

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6. Refusal of filing. The Commission may refuse to accept any document that is not legible or that can not be clearly reproduced photographically.

7. Review reports for completeness. The Commission may reject reports that are incomplete.

8. Investigations. The Commission may undertake audits and investigations to determine the facts concerning the registration and reporting of lobbyists and their employers. For this purpose, the Commission may subpoena witnesses and records and take evidence under oath.