Agenda Item #4

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

To: Commissioners

From: Jonathan Wayne, Executive Director
Benjamin Dyer, Candidate Registrar

Date: December 11, 2012

Re: Purchase of Stamps and Envelopes by Former Rep. James Parker

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The Maine Ethics Commission received the attached request from Joan Perkins of Veazie asking for the Commission to look into whether Rep. James Parker used Maine Clean Election Act (MCEA) funds for a purpose other than promoting his re-election to the Maine House of Representatives, District 18. Specifically, Ms. Perkins contends that Rep. Parker used MCEA funds to purchase envelopes and stamps to send the attached letter dated June 26, 2012 to 110 people who attended the annual meeting of the Veazie Sewer District (the District). According to Ms. Perkins, Rep. Parker was elected to the District at the meeting, narrowly defeating a competitor. The letter thanked the recipients for attending that meeting and shared Rep. Parker's thoughts on the management of the district. It was mailed on June 29, 2012.

Legal Requirements

A candidate may use MCEA funds only for "campaign-related purposes." (21-A M.R.S.A. §1125(6), attached). The Commission has published guidelines outlining permissible and non-permissible expenditures. Under the 2012 expenditure guidelines (attached), candidates may not use MCEA funds to promote political positions or causes other than the candidate's campaign. The Commission may assess civil penalties of up to $10,000 for violations of the MCEA. (21-A M.R.S.A. § 1127(1))

Complaint by Joan Perkins

According to Ms. Perkins' complaint, on June 20, 2012 the Veazie Sewer District held an annual meeting attended by 110 town residents. In a contested election held at the meeting, Rep. Parker won a seat on the board of trustees. Following the election, Rep. Parker obtained the names and addresses of those Veazie residents in attendance at the District meeting. He then sent a letter, dated June 26, 2012 and mailed June 29, 2012, which thanked the recipients for attending and outlined Rep. Parker's goals as a member of the District board.

The campaign finance report (*see* attached page) filed by Rep. Parker's 42 days after the primary election indicated that the candidate made two purchases on June 19, 2012:

- a $4.96 purchase of envelopes from Family Dollar, and
- a $54.00 purchase of stamps at the U.S. Postal Service.

Information from Rep. Parker

On November 9, 2012, the Commission's Executive Director invited a response from Rep. Parker. He responded by email that same day on his iPad. He and his treasurer, Joelle Parker, have responded to follow-up requests as well.

In his November 9 e-mail response, Rep. Parker states that the stamps his campaign purchased in late June were used for purposes related to his campaign:

> It is correct that I bought stamps and envelopes for my campaign for the amount stated and I bought them with a check (actually) two checks for the amounts quoted. I used these during my campaign to mail out palm cards, letters and miscellaneous information to my constituents and supporters. These checks were drawn on my "campaign account" as are all my campaign related items. This is an account with the Bangor Savings Bank. ... I am aware that this money [MCEA funds] is only for the campaign and that is how it was used.

His treasurer, Joelle Parker, provided an image of check number #126 payable to "Postmaster" from his campaign account at the Bangor Savings Bank account. The

check image shows that the check was actually written on June 27, 2012, not the date of June 19 disclosed by Rep. Parker in his campaign finance report. The treasurer has acknowledged the error in reporting the date.

Yesterday, the Commission received 64 stamps, which Rep. Parker states are the stamps purchased in June with his campaign funds which the campaign did not use. (*see* attached sample of returned stamps) The stamps are of the same variety as the one on the envelope received by Ms. Perkins.

In the November 9 e-mail, Rep. Parker writes the June 29 sewer district mailing was financed with personal funds. He identifies three specific purchases of stamps he made in the middle portion of 2012 from his personal bank account:

> Everything I mail personally including the letter which I wrote to the people who voted at the Sewer District election comes out of a checking account I have at the Machias Savings Bank. Reviewing that account I find that on April 7 I bought 100 stamps (check number 1002), on June 6 I bought 100 stamps (check number 1101), and on Aug 23 I bought 100 stamps (check number 1105). I will have the bank release information to you if you wish. This is the account thru which I purchase all my personal stamps. The envelopes ... may have come from my companies inventory but I assure you they did not come from any clean election funds.

Rep. Parker's treasurer provided an image of check number 1101 drawn from his personal account at Machias Savings Bank in the amount of $45.00 payable to Postmaster.

Rep. Parker has indicated he will attend the December 19, 2012 Commission meeting to answer any questions from the Commission.

Previous Complaint Resolved by Commission Staff

Earlier this election year, Ms. Perkins filed a request for investigation of Rep. Parker for misuse of MCEA funds. In that case, Ms. Perkins alleged Rep. Parker had used MCEA funds to finance the election of a Veazie town councilor. This investigation was

concluded at the staff level after we obtained documents from the Bangor Letter Shop which verified that the printing services purchased by Rep. Parker with MCEA funds were related to his own re-election campaign. Ms. Perkins did not ask for further investigation of that matter. There has been friction between Rep. Parker and Ms. Perkins related to the Veazie Sewer District. This is the background for Rep. Parker's statement in his e-mail that Ms. Perkins' two complaints "border on harassment."

Staff Recommendation

Ms. Perkins's complaint is based on the amount and timing of the campaign's purchase of stamps. The purchase of $54.00 in stamps would cover 120 "forever stamps," which is close to the number of Veazie residents who attended the June 20 annual meeting, according to Ms. Perkins. The campaign bought the stamps on June 27, which was two days before Rep. Parker sent the sewer district mailing.

Nevertheless, a finding of violation by the Commission should be based on a certain level of proof. The Commission's statute and rules do not specify a particular burden of proof, such as a preponderance of the evidence or clear and convincing evidence. Rep. Parker has provided a credible alternative explanation, which is that he used personal funds for the sewer district mailing. He has supported his explanation with:

- an image of check number 1101 from his personal bank account at Machias Savings Bank in the amount of $45.00, and
- the return of 64 stamps, which he explains are the leftover stamps purchased with campaign funds.

The staff questions whether there is sufficient evidence offered by Ms. Perkins at this stage for the Commission to conduct any further investigation. The staff could pursue the investigation further (if the Commission is so inclined), but it may be impossible to obtain more evidence that is relevant to which set of stamps was used for the mailing.

Thank you for your consideration of this memorandum.

SCHEDULE B
EXPENDITURES

EXPENDITURE TYPES			
CNS	Campaign consultants	POL	Polling and survey research
CON	Contribution to other candidate, party, committee	POS	Postage for U.S. Mail and mail box fees
EQP	Equipment (office machines, furniture, cell phones, etc.)	PRO	Other professional services
FND	Fundraising events	PRT	Print media ads only (newspapers, magazines, etc.)
FOD	Food for campaign events, volunteers	RAD	Radio ads, production costs
LIT	Print and graphics (flyers, signs, palmcards, t-shirts, etc.)	SAL	Campaign workers' salaries and personnel costs
MHS	Mail house (all services purchased)	TRV	Travel (fuel, mileage, lodging, etc.)
OFF	Office rent, utilities, phone and internet services, supplies	TVN	TV or cable ads, production costs
OTH	Other	WEB	Website design, registration, hosting, maintenance, etc.
PHO	Phone banks, automated telephone calls		*Only these expenditure types require a remark: CNS, EQP, FND, OTH, PRO, SAL, TRV.*

DATE OF EXPENDITURE	PAYEE	REMARK	TYPE	AMOUNT
06/06/2012	BANGOR LETTER SHOP	Palm cards	LIT	$475.00
06/19/2012	FAMILY DOLLAR STORE	Purchased envelopes	MHS	$4.94
06/19/2012	UNITED STATES POST OFFICE.	Purchased stamps	MHS	$54.00
06/06/2012	MCEF	Reimburse MCEF for over payment	OTH	$2.40
			TOTAL EXPENDITURES ⇨	$536.34

2807-60775

Joan H. Perkins
1116 Chase Road
Veazie, ME 04401-6908
207.942.2609

RECEIVED
NOV 6 2012
Maine Ethics Commission

November 5, 2012

Jonathan Wayne, Executive Director
Maine Commission on Governmental Ethics and Election Practices
135 State House Station
Augusta, ME 04333-0135

Greetings Mr. Wayne;

I would like to thank you for speaking with me on Friday in such great detail, and clearly outlining your role and your responsibilities in ensuring the integrity of the Clean Elections process. I appreciate your patience, and your thoughtful responses to my inquiries.

As discussed, I am outlining in this letter my concern with the Clean Election campaign spending of Rep. James "Jim" Parker of District 18.

On June 20, 2012, Mr. Parker was elected to the Veazie Sewer District in a close and contentious election. Previously the Veazie Sewer District had elected their trustees by a show of hands, however, this election was conducted using a paper ballot. Veazie's Town Manager assisted at the meeting by providing a list of registered voters and by checking the list before ballots were issued to those in attendance. Mr. Parker was elected by a 5 vote margin (57-52) and shortly after the election, he requested, and received from the Town Office, a copy of the voter list identifying those who voters who were in attendance and requested a ballot. The voter list also includes home addresses.

Mr. Parker's Clean Election Expense statement filed July 23, 2012, includes the following expenditures:

- United State Post Office, $54.00, June 19, 2012 for stamps.
- Family Dollar Store, $4.94, June 19,2012, for envelopes.

Following the annual sewer district meeting on June 20, the voters in attendance received a letter from Mr. Parker (copy follows), in hand addressed envelopes with First Class postage (stamps). As you will see, the letter was a thank you for the community interest reflected in the attendance numbers for this meeting. I have also included a copy of the envelope in which this letter arrived.

It seems an odd coincidence that Mr. Parker purchased 110 first class stamps (cost $54.00) and envelopes on June 19, and district residents received these letters approximately one week later, following his election to the board. Is it possible that these purchases were made *after* the election had occurred and Mr. Parker obtained the voter list from the Town Manager so he was aware of the number of stamps and envelopes required for this mailing? 110 voters ($54.00 worth of first class stamps) seems like a rather small and specific subset of his District 18 constituents, and is very close to the number of voters at the meeting. In addition, it appears that professional printing or copying services were not used in generating this June mailing, or at least printing expenses were not claimed on the on-line form filed on July 23.

You should note that in 2010, my husband donated $5 to Mr. Parker's Clean Election campaign. We have supported a number of other Clean Election candidates and campaigns since then, and would like to be assured that abuse of these funds is neglible, and all expenditures made by Clean Election candidates are made in accordance with ethical guidelines and are closely monitored.

I appreciate your assistance with this inquiry, and look forward to receipt of your direct reply.

Best Regards,

Joan

Joan H. Perkins

June 26, 2012

I want to take this opportunity to thank you for attending the Veazie Sewer District's annual meeting on Wednesday the June 20. It is important that people take an interest in the issues before the District so that decisions can be made to the benefit of the users of the system.

Having moderated the Town meeting for over ten years I wish we could have as good a turnout. We had over 110 voters at the District meeting and this is good. I also wish to complement Bob Rice for his willingness to serve.

I take this responsibility seriously and would like ideas and comments for those who did not vote for me as well as those who did. By sharing your thoughts and ideas with me I will be in the best position to represent all the District customers.

As I stated at the meeting I want the District to operate openly and efficiently. At this time when we are looking at a 2 1/2 mil or greater tax increase in Town it is important we do all we can to reduce the costs of operation for the District and hopefully reduce the amount assessed the Town by the District. If this can be done it will directly reduce our property tax burden.

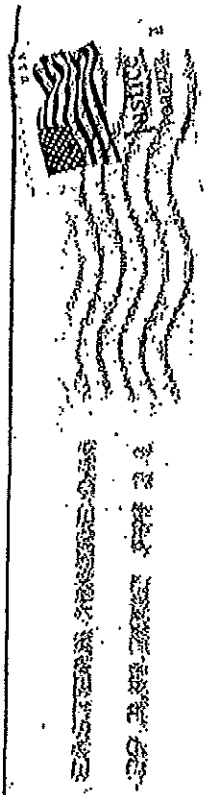
It is also important to get the District jurisdiction revised so all the users of the system can have a vote and say in the decisions made on their behalf. This process has started but has been delayed too long.

I would also like to revise the Charter so that election of a Trustee is at the Town meeting election so that candidate running will be known and there will be an opportunity for them to be considered prior to the vote as with other elected officials in Town.

Again I thank those who attended the meeting wether they voted for me or not. Your attendance was appreciated and important to our community.

Sincerely

Jim Parker
18 Silver Ridge
945-3520
jparker339@roadrunner.com



Parker
18 Silver Ridge
Veazie
04401

Joan & Brian Perkins
1116 Chase Road
Veazie, Maine
04401

04401+6902

Wayne, Jonathan

From: James Parker [jparker339@roadrunner.com]
Sent: Friday, November 09, 2012 3:31 PM
To: Wayne, Jonathan
Subject: Response to complaint

Jonathan:

I have read the complaint filed.

It is correct that I bought stamps and envelopes for my campaign for the amount stated and I bought them with a check (actually) two checks for the amounts quoted. I used these during my campaign to mail out palm cards, letters and miscellaneous information to my constituents and supporters. These checks were drawn on my " campaign account" as are all my campaign related items. This is an account with the Bangor Savings Bank.

I am aware that this money is only for the campaign and that is how it was used. I sent out various letters, some printed literature(actually some of my left over palm cards from 2010). This was done in an attempt to gain support from my constituents for the upcoming election. Where I was on the coast running my whale charters I felt it was important to keep my name out there and in touch with some of my supporters.

I saw nothing but an insinuation that I used these items for anything else and that insinuation has no basis and is wrong.

Every thing I mail personally including the letter which I wrote to the people who voted at the Sewer District election comes out of a checking account I have at the Machias Savings Bank. Reviewing that account I find that on April 7 I bought 100 Stamps (check number 1002) , on June 6 I bought 100 stamps (check number 1101), and on Aug 23 I bought 100 stamps (check number 1105). I will have the bank release information to you if you wish. This is the account thru which I purchase all my personal stamps . The envelopes I used come in a box of 500 and I didn't go back far enough to see where I bought them. They actually may have come from my companies inventory but I assure you they did not come from any clean election funds.

If you need a receipt for the stamps and envelopes bought with clean election money my treasurer has it. However, I don't dispute in any way that I bought them and in the amounts reported to the commission and referred to in Ms Perkins letter.

I did not seek any advise from Tyler Backus regarding this expenditure because it is my understanding that is to be used to promote my candidacy with my constituents which is how it was used. I actually may have 30 or so of the stamps left unused. The are at my place in Milbridge. If I do I will credit the fund during my final report as I will with about $50 or $ 60 dollars which went unexpended. My treasure has the actual amount which will be declare on the "after election report".

I find this complaint baseless as was Ms Perkins complaint that I used clean election to finance signs for a town council candidate. I find these two complaints border on harassment and regret it is wasting the Commissions time.

Hopefully this response is adequate. If you have additional questions please call.

Jim Parker

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

November 9, 2012

By E-Mail and Regular Mail
Hon. James W. Parker
18 Silver Ridge
Veazie, ME 04401

Dear Rep. Parker:

The Maine Ethics Commission received the attached request from Joan Perkins of Veazie asking for our office to look into whether you used Maine Clean Election Act (MCEA) funds for a purpose other than promoting your campaign for House District 18. Specifically, Ms. Perkins contends that you used MCEA funds to purchase envelopes and stamps to send the attached letter dated June 26 to 110 people who attended the annual meeting of the Veazie Sewer District. The letter thanked the recipients for attending and shared your thoughts on the management of the district.

Legal Requirements

A candidate may use (MCEA) funds only for "campaign-related purposes." (21-A M.R.S.A. §1125(6)) The Commission has published guidelines outlining permissible and non-permissible expenditures. Under the 2012 expenditure guidelines (attached), candidates may not use MCEA funds to promote political positions or causes other than the candidate's campaign. The Commission may assess civil penalties of up to $10,000 for violations of the MCEA. (21-A M.R.S.A. §1127(1))

Response Requested

Please respond in writing to the complaint by November 30. In the response, please explain

- how you used the envelopes and postage purchased on June 19; and
- did your use of the envelopes and postage promote your campaign for the Maine House of Representatives.

Please include a copy of the receipt for the postage in your response.

If you did use the postage and envelopes for the mailing related to the sewer district, the Commission staff may suggest that you use personal funds to reimburse the campaign if our view, after reading your response, is that the expenditure was not sufficiently related to your campaign.

Hon. James W. Parker
18 Silver Ridge
Veazie, ME 04401

Commission's Consideration of this Matter

Under the Commission's Rules, requests for investigation are generally considered by the members of the Commission at a public meeting (unless the person filing the complaint withdraws it, based on information received by the Commission staff).

The Commission will be meeting on December 19, 2012 at 9:00 a.m. at the Commission office in Augusta. It is likely that the Commission will consider at that meeting whether your use of the envelopes and postage complied with, or violated, 21-A M.R.S.A. §1125(6) and the 2012 expenditure guidelines. Should the Commission find you in violation of the law and guidelines, it could impose a civil penalty under 21-A M.R.S.A. §1127(1).

Please respond to this request for investigation by sending a letter addressed to Walter F. McKee, Chair, Maine Ethics Commission, 135 SHS, Augusta, ME 04333. You are also welcome to respond to the request for investigation by attending the meeting and speaking to the Commissioners directly.

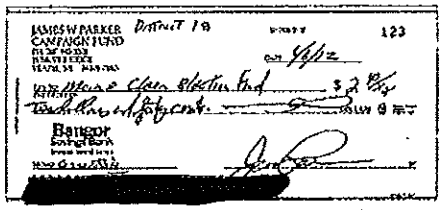
If you have any questions concerning this request, please call me at 287-4179.

Sincerely,

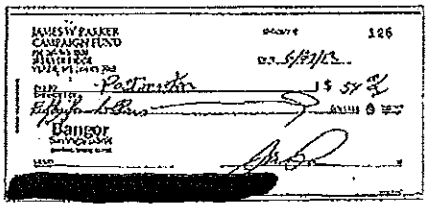
Jonathan Wayne
Executive Director

Enclosure

cc: Joan Perkins


JAMES W PARKER DISTRICT 19 123
CAMPAIGN FUND
Bangor Savings Bank
[redacted]

06/18/12 $2.40 123


JAMES W PARKER 126
CAMPAIGN FUND
Bangor Savings Bank
[redacted]

07/02/12 $54.00 125

JAMES W PARKER
CONDO CHECKING
18 SILVER RIDGE RD
VEAZIE, ME 04401

1101

6/6/12 Date

Pay to the Order of Postmaster $ 45 00/21

Fifty five dollars Dollars

MACHIAS SAVINGS BANK
LONDON OFFICE

For

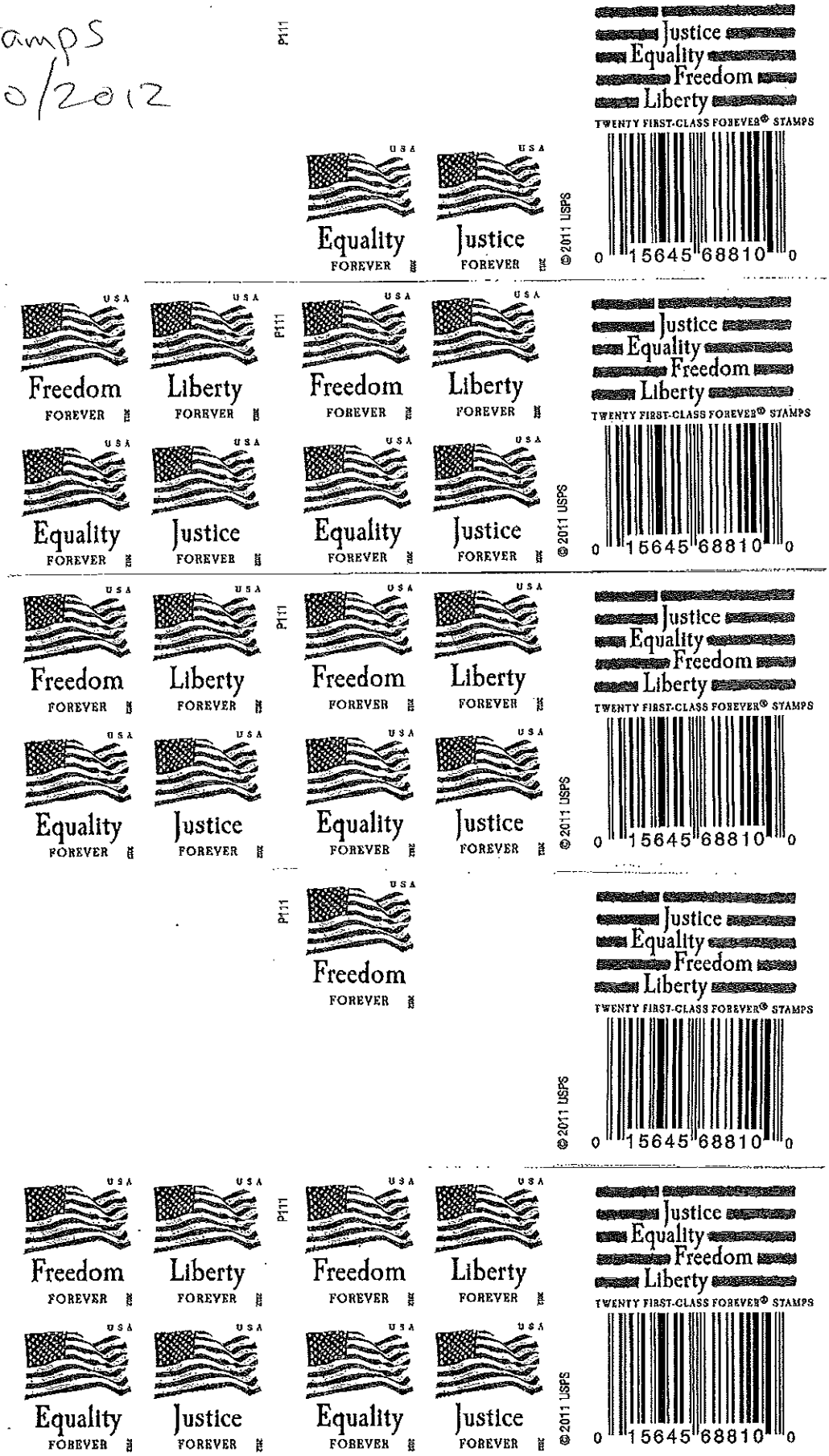
[redacted]

DDA Debits - 06/11/2012 - $45.00

For Deposit Only
USPS Fin#: [redacted]
BREWER, ME
Clerk#: 13
Account#: [redacted]
Date: 06/06/2012

DDA Debits - 06/11/2012 - $45.00

Sample of stamps
received 12/10/2012



From: joelle parker [jp0801@gmail.com]
Sent: Wednesday, December 05, 2012 1:00 PM
To: Wayne, Jonathan
Cc: Jim and Sue Parker
Subject: Re: Request for Documents and Information
Attachments: check 1101.docx

Mr. Wayne--

I have attached check #1101 from Mr. Parker's personal checking account with Machias Savings bank, this check is from June 6, 2012.

We have been unable to locate the receipt for the stamps that were purchased on June 27, 2012 for campaign mailings. Please let us know what you would like us to do about the missing receipt as it pertains to your queries. As for the date the check was written, June 27 I am assuming that is the accurate date as it is the date that appears on the check, and the date of June 19, 2012 as stated on the July 23, 2012 campaign finance report was entered with error in the report.

If you have any further questions please let me or Mr. Parker know and we will do our best to answer you as quickly as possible.

Thank you
Joelle Parker
Treasure for Representative James Parker

21-A M.R.S.A. §1125

H. Otherwise substantially violated the provisions of this chapter or chapter 13; or

I. As a gubernatorial candidate, failed to properly report seed money contributions as required by this section.

The determination to revoke the certification of a candidate must be made by a vote of the members of the commission after an opportunity for a hearing. A candidate whose certification is revoked shall return all unspent funds to the commission within 3 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. The candidate may appeal the commission's decision to revoke certification in the same manner provided in subsection 14, paragraph C.

5-B. Restrictions on serving as treasurer. A participating or certified candidate may not serve as a treasurer or deputy treasurer for that candidate's campaign, except that the candidate may serve as treasurer or deputy treasurer for up to 14 days after declaring an intention to qualify for campaign financing under this chapter until the candidate identifies another person to serve as treasurer.

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 fund revenues in campaign 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.

6-A. Assisting a person to become an opponent. A candidate or a person who later becomes a candidate and who is seeking certification under subsection 5, or an agent of that candidate, may not assist another person in qualifying as a candidate for the same office if such a candidacy would result in the distribution of revenues under subsections 7 and 8-A for certified candidates in a contested election.

6-B. (REPEALED)

6-C. Expenditures to the candidate or family or household members. Expenditures to the candidate or immediate family member or household member of the candidate are governed by this subsection.

A. The candidate may not use fund revenues to compensate the candidate or a sole proprietorship of the candidate for campaign-related services.

B. A candidate may not make expenditures using fund revenues to pay a member of the candidate's immediate family or household, a business entity in which the candidate or a member of the candidate's immediate family or household holds a significant proprietary or financial interest or a nonprofit entity in which the candidate or a member of the candidate's immediate family or household is a director, officer, executive director or chief financial officer, unless the expenditure is made:

COMMISSION ON GOVERNMENTAL ETHICS AND ELECTION PRACTICES
Mail: 135 State House Station, Augusta, Maine 04333
Office: 45 Memorial Circle, Augusta, Maine
Website: www.maine.gov/ethics
Phone: 207-287-4179
Fax: 207-287-6775

2012 EXPENDITURE GUIDELINES

For Maine Clean Election Act Candidates

Candidates must spend Maine Clean Election Act (MCEA) funds for campaign-related purposes and not for other purposes such as the candidate's personal benefit, party-building, or to promote another candidate's campaign.

PERMISSIBLE CAMPAIGN-RELATED EXPENDITURES

Expenditures for "campaign-related purposes" are those which are traditionally accepted as necessary to promote the election of a candidate to political office. Candidates using MCEA funds must also take into account the public nature of the funds, the underlying objectives of the MCEA, and the reasonableness of the expenditures under the circumstances. In Maine, traditional campaign expenses have included:

- Political advertising expenses
- Campaign communications such as signs, bumper stickers, T-shirts, or caps with campaign slogans, etc.
- Campaign events (e.g., invitations, food, tent or hall rental, etc.)
- Printing and mailing costs
- Office supplies
- Campaign staff expenses
- An entry fee for an event organized by a party committee, charity, or community organization or an ad in an event publication, as long as the expenditure benefits the candidate's campaign.
- Campaign travel expenses, such as fuel and tolls

PROHIBITED EXPENDITURES

Candidates may not use MCEA funds for <u>personal expenses</u>. This means candidates may not borrow from or use MCEA funds for personal or other non-campaign expenses, even if temporarily and with the intention of repaying the funds. Personal expenses are for goods and services that the candidate would otherwise purchase independently of the campaign, such as:

- Day-to-day household expenses and supplies
- Mortgage, rent, or utility payments for the candidate's personal residence, even if part of the residence is being used by the campaign
- Vehicle repair and maintenance
- Non-campaign transportation expenses
- Clothing, including attire for political functions such as business suits or shoes

Maine Clean Election Act funds may not be spent to:

- pay a consultant, vendor, or campaign staff for anything other than campaign goods or services
- compensate the candidate for services provided by the candidate
- make independent expenditures supporting or opposing any candidate, ballot question, or political committee
- assist in any way the campaign of any candidate other than the candidate for whom the funds were originally designated
- contribute to another candidate, a political committee, or a party committee other than in exchange for goods and services
- make a donation to a charity or a community organization, other than in exchange for campaign goods or services
- promote political or social positions or causes other than the candidate's campaign
- make a thank-you gift (including a gift card) to a volunteer or supporter
- pay civil penalties, fines, or forfeitures to the Commission, or defend the candidate in enforcement proceedings brought by the Commission
- assist the candidate in an election recount