



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

Minutes of the May 14, 2007 Meeting of the
Commission on Governmental Ethics and Election Practices
Held in the Commission's Meeting Room,
PUC Building, 242 State Street, Augusta, Maine

Present: Hon. Jean Ginn Marvin, Acting Chair; Hon. Vinton Cassidy, Hon. Mavourneen Thompson;
Michael Friedman, Esq. Staff: Executive Director Jonathan Wayne; Phyllis Gardiner, Counsel.

At 9:06 A.M., Jean Ginn Marvin convened the meeting. The Commission considered the following items:

Agenda Item #1 Ratification of Minutes: January 19, February 27, and April 6, 2007 Meetings

Ms. Thompson moved, Mr. Friedman seconded, and the Commission voted unanimously (4-0) to ratify the minutes of the January 19, February 27, and April 6, 2007 meetings.

Agenda Item #2 Audit Findings/Hon. Philip A. Cressey

Mr. Wayne explained the auditing process and informed the Commission that the staff is now auditing approximately 20% of the legislative candidates participating in the MCEA. Two main documents that are requested from the candidates are: receipts and/or invoices for purchases and proof of the payment by cancelled check or bank statements. Representative Cressey, Mr. Wayne explained, wrote a check out to himself and used the cash for a payment to Staples for literature. Mr. Cressey does not have a receipt for this literature. The staff recommends finding a violation for not having a receipt, but not assessing a penalty.

The second audit finding was the purchase with MCEA funds of a flash drive for storing digital information. This would be considered campaign equipment that should be sold after the election and funds returned to the MCEA account. Representative Cressey has thrown out the flash drive. Mr.

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Wayne's recommendation is to find Rep. Cressey in violation, but not require him to pay for the flash drive since he did not understand that the flash drive could be used over again.

Representative Cressey, House District 99, addressed the Commission. He had a sample for the Commission of the literature he had printed at Staples. Rep. Cressey went on to explain that when he went to Staples to pay for the literature, he was told that he could not use a 'starter' check from his new checking account, so he went to the bank to cash a check and paid Staples with the cash. He also stated that his fax machine is very old and when he put the receipts into his fax machine to send to the Ethics Commission, he thought the copy had gone through. However, the receipt got caught inside his fax machine and he did not realize this. As for the flash drive, he thought it was like a CD and thought once it had been used, it had to be thrown out.

Mr. Friedman asked what makes this case different from other cases in the past where people have not been able to produce documentation for expenditures and the Commission has not waived the entire penalty.

Mr. Wayne explained this situation does not come before the Commission all that often. In a couple of cases from the 2004 election, the Commission required the return of funds from two candidates who could not produce back-up documentation to support the expenditures. In those cases, even though the candidates said that they used the funds for campaign-related purposes, the Commission found their explanations to lack credibility. Most candidates have been able to come up with the documentation given enough time. This case appears to be the first time a candidate simply cannot find a receipt but has a credible explanation for the expenditure.

Mr. Friedman questioned whether the fact that a candidate cannot find a receipt would be used as a defense.

Mr. Wayne said that the possibility exists. He said that this is a policy decision for the Commission to make: whether to disallow the expenditure and require the return of funds if a candidate cannot provide documentation or whether to allow the candidate to come before the Commission to explain the situation and provide any additional information and base a determination on the credibility of the explanation and the candidate.

Ms. Thompson agreed with Mr. Friedman as far as setting precedent for future occurrences where documentation ‘simply cannot be found.’ She felt there does need to be some penalty even though she understands how this could happen. The Commission needs to be accountable for the public’s money used by candidates and proof of purchases is very important. As far as the flash drive goes, Ms. Thompson saw how a mistake could be made with this type of equipment. She believes if Rep. Cressey purchased the flash drive, that would be acceptable.

Ms. Gardiner asked whether Rep. Cressey had contacted Staples himself to find out the actual price of the literature and whether he had asked Staples to give him a quote for an order similar to the order he actually got. Rep. Cressey stated he had not but that it was something he could do.

Ms. Ginn Marvin asked when he was notified that he would be audited. Rep. Cressey stated it was some time in October. He stated that he thought it was a burden to get a letter telling him that he was being audited for primary activity so close to the general election.

When asked by Ms. Ginn Marvin, Rep. Cressey stated that he had all the receipts for other expenditures except for the Staples expenditure. He said that he threw out copies of receipts but not the receipts themselves.

Rep. Cressey reiterated that Staples would not take a starter check in response to a question from Mr. Friedman.

Rep. Cressey also informed the Commission that he did not claim any mileage during his campaign. He paid out of pocket.

Mr. Wayne provided some background regarding this type of circumstance and provided the Commission with three options. The first option was to allow a candidate who cannot provide documentation to present oral testimony, and if the testimony is believable, find the candidate in violation but not assess a penalty. Another option would be if a penalty was deemed necessary because documentation was not kept, the Commission could assess a penalty for not keeping the documents (as opposed to penalty for misusing funds). Mr. Wayne also suggested the third option to disallow the

expenditure. This has been the staff's preferred method in the past and is in line with other governmental audit and reimbursement policies, including the State's policy for employees and contractors. However, even though the MCEA program needs to be accessible, it also needs to be accountable to tax payers. He expressed concern that first time candidates may have these sorts of issues and may not be adept at keeping records. Mr. Wayne also expressed the concern he has heard from others, including Legislators, that the program may become too regulated.

Mr. Cassidy asked what the staff recommendation is. Mr. Wayne stated that there may be other cases where candidates are acting in good faith when they cannot come up with documentation. In these instances, finding a violation without a penalty may be appropriate. He said the staff recommendation for Rep. Cressey's case would be to find him in violation for not keeping receipts, and not ask for repayment for the Staples purchase in question.

Mr. Cassidy made a motion to accept the staff recommendation; Mr. Friedman seconded.

Mr. Friedman expressed concern over letting candidates off the hook, especially veteran candidates. Rep. Cressey has been through the program before. He stated that he believed Rep. Cressey's explanation, but was troubled by the message that could be sent to candidates if the Commission excuses the lack of a receipt.

Ms. Thompson cautioned against discouraging people from running for office because of the rigors of the Clean Election recordkeeping process but acknowledged that it was necessary to hold candidates accountable. Ms. Thompson feels there should be a penalty in absence of a policy which speaks to this issue directly and therefore said she would vote against the motion.

Ms. Ginn Marvin indicated that she would vote against the motion. She would suggest going back to Staples to get some sort of proof of this purchase. She cautioned the Commission not to make exceptions for people on case by case basis. It needs to be the same standard for all. Without receipts, there should be no reimbursement. As far as the flash drive, Ms. Ginn Marvin stated she understands how someone could think it was a one-time use and technology changes so quickly. Thus, she would not require repayment for the flash drive.

The motion failed by a vote of 1-3 (Mr. Cassidy in favor, all others opposed.)

Ms. Thompson asked if Rep. Cressey would be allowed to go back to Staples and get a receipt or proof of purchase.

Ms. Ginn Marvin asked Rep. Cressey if he could go back to Staples. He confirmed that he would be willing to do that.

Ms. Thompson moved and Mr. Cassidy seconded to table the matter for determination at a future meeting after Rep. Cressey has approached Staples for documentation. The motion passed (4-0).

Agenda Item #3 Complaints/Carol Grose and Susan Wasserott Campaigns

Mr. Wayne explained that these two candidates ran against each other. There are complaints by each candidate and one by Daniel Billings, Esq.

Rep. Carol Grose, House District 65, addressed the Commission and handed out some additional materials. She informed the Commission that she ran in the 2004 election. Her opponent, Fred Kahrl, is now the editor of a local paper, The Coastal Journal. She called this newspaper to get some space to write articles but he denied her space. She continued to request space and was denied. Ms. Wasserott began writing articles every week for the Coastal Journal after Rep. Grose had made several requests for space. She further learned that Ms. Wasserott's articles were 'advertorials' and was informed that 'advertorials' were costly. When Rep. Grose questioned Mr. Kahrl, he said he was giving Ms. Wasserott the space in the paper because she works at Mid-Coast Hospital. Rep. Grose was concerned since Ms. Wasserott was putting her campaign e-mail address at the bottom of the articles which put Ms. Wasserott at an advantage. Mr. Kahrl later gave Rep. Grose space for two articles. Rep. Grose felt she was the 'targeted' candidate during this campaign. Mr. Kahrl wrote an article just prior to the election which was very negative towards her. She went on with other examples of negative actions against her. Rep. Grose stated her main concern was the campaign e-mail address Ms. Wasserott put in her articles and the fact that it was free space for Ms. Wasserott. If two or more people are running, she believes they should all get the same treatment by the newspapers.

Rep. Grose said that the printing of Ms. Wasserott's articles constitutes unreported contributions to Ms. Wasserott's campaign.

Rep. Grose explained the sign issue portion of her complaint, saying the signs were very elaborate and ornate and a previous opponent, Rick Tetrev, gave them to Susan Wasserott. They were not left over wood, as was claimed by the Wasserott campaign.

Mr. Friedman asked Rep. Grose to clarify that these signs were used by Mr. Tetrev in a previous election running against Rep. Grose, his name was removed and they were repainted for Ms. Wasserott's campaign.

Rep. Grose stated that Ms. Wasserott should have paid for the articles in the paper since her campaign e-mail and website address and 'running for candidate in District 65' were printed on the articles. If they were not paid for then they should have been reported as in-kind contributions.

Susan Wasserott addressed the Commission and was represented by Daniel Billings, Esq. Mr. Billings addressed the articles published in the Coastal Journal. Mr. Billings cited the definition of expenditure, according to Maine law, "does not include any news story, or periodical....." Mr. Billings stated that the newspaper which ran these articles is not controlled by a political party or candidate, therefore it is not within jurisdiction of the Commission. It is not a contribution. Newspapers do not have to be fair, nor provide equal space.

Mr. Billings explained how the website was financed. The work on the website was initially provided by Mr. Stevenson as a volunteer. The costs for web-hosting and domain registration were reported by Ms. Wasserott and she did pay \$250 compensation to the website design service after the campaign after consulting with Commission staff. This was a voluntary service provided to the campaign and was partially compensated after the campaign. The signs were loaned by a previous candidate, which is done regularly. Candidates pass them on and just repaint with the new candidate's name.

Mr. Friedman expressed concern over the newspaper articles. He questioned whether the articles are news articles or promoting candidacy.

Ms. Susan Wasserott stated that Mr. Kahrl contacted her to write eight health and wellness articles in the summer. She was not aware of the 'bad blood' between Rep. Grose and Mr. Kahrl. Her job as a human resource provider for the hospital is educating the public and she thought this opportunity was perfectly natural. She thought putting her name and e-mail on the articles was part of the disclosure requirement and was more interested in the educational aspect than in promoting her campaign.

Mr. Friedman asked if these articles were still being published in the paper. Ms. Wasserott confirmed that they were being written by other people. She said that she was a replacement candidate and did not begin campaigning until June which is when she was asked to write the articles.

Mr. Friedman said he believes the request to write articles feels more like political rivalry.

Ms. Wasserott could understand his feelings; however, she was not aware of any of history until today, after listening to Rep. Grose. If she was, in fact, used as a pawn, Ms. Wasserott does not feel it fair to hold that against her. She believed Rep. Grose would receive equal space in the newspaper at some point. Rep. Grose was given space right before the election.

Mr. Billings stressed that the Commission should not judge editorial decisions made by newspapers. The law is broad, and the history between the parties (Rep. Grose and Mr. Kahrl) should not be held against Ms. Wasserott.

Mr. Cassidy asked what 'advertorial' means.

Jeanna Hamilton, staff reporter for the Coastal Journal, stated that an advertorial is an article given to the newspaper, sometimes paid for, to be placed in the paper. The newspaper does not take responsibility for the content of the article.

Ms. Wasserott addressed the sign issue and explained that Mr. Tetrev had used the signs for his campaign. He offered to loan the signs to Ms. Wasserott and her husband repainted them. Mr. Tetrev told Ms. Wasserott he did not buy the wood for campaign purposes, and that since his last campaign he had used the signs for his daughter's wedding. She reported that her husband had repainted the signs with used paint that was around the house.

Ms. Wasserott also informed the Commission that the web design services were provided by a volunteer. When she checked with the Commission about compensation after the election, she was told she could pay him a token amount for his help.

Mr. Billings addressed his complaint, saying the error was as a result of the advertising company who printed the disclaimer. He would suggest finding a violation, but not assessing any penalty.

Ms. Jeanna Hamilton was asked by Mr. Cassidy if the paper charges for the advertorial. Ms. Hamilton stated that some times there is a charge. She also informed the Commission that there are local professionals in the health and wellness industry who write for the newspaper from time to time and purchase space to do so.

Ms. Thompson stated she cannot see where the articles are anything other than newspaper articles, so her opinion is it would not be considered an expenditure.

Mr. Friedman stated that is the case only if the article is a news story, commentary or editorial. He is not convinced that is what these articles fall under and asked Ms. Gardiner for her thoughts on the news article issue.

Ms. Gardiner stated that “commentary” is not defined in the statute, and it is difficult to judge what is and is not a commentary. It is clear that this is not news reporting or an official editorial, so it and more or less falls into the ‘all other’ category. However, she has not done any research on this issue as to past practice. Her sense was that the exception in section 1012(3)(B)(1) was written to be broad.

Ms. Ginn Marvin stated her local paper writes information articles like this one by Ms. Wasserott occasionally also. They are just informational.

Mr. Cassidy noted that during election time, newspapers write many articles regarding candidates both in favor and not favorable and he understands how broad the area of commentary is.

Ms. Thompson made a motion that the articles in the Coastal Journal written by Susan Wasserott do not fall under the term expenditure; Mr. Cassidy seconded.

Ms. Ginn Marvin noted that Rep. Grose won the election.

The motion passed (3-1) with Mr. Friedman opposing.

Mr. Friedman made a motion that the website and the wood reused for campaign signs are not to be considered to be contributions or expenditures; Mr. Cassidy seconded. The motion passed (4-0).

Mr. Friedman reminded the Commission of Mr. Billings's allegation regarding the lack of a disclaimer on TV ads.

Mr. Friedman acknowledged that the absence of the disclaimer was an inadvertent error; however, the public needs to know who paid for the ad. Mr. Friedman made a motion that Commission adopt the staff recommendation to find a violation but no penalty. It was seconded by Ms. Thompson. The motion passed (4-0).

Agenda Item #4 Audit Findings/Hon. S. Peter Mills

Mr. Wayne explained the staff is in the process of auditing the four Clean Election candidates for Governor. Senator Mills received \$200,000 in the primary election and had four findings in the final audit report. The first finding involved a payment made on June 2 to reimburse Senator Mills for \$722.20. He purchased 830 money orders for the qualification process out of his own pocket and this amount was to reimburse him. The reimbursement was made with Clean Election funds instead of his seed money. Also, the campaign worker who made the calculations double counted; it should have been only \$253. The staff recommends a civil penalty in the amount of \$253. The message needs to be clear and consistent to all candidates to be careful about reimbursements. The staff is sure this was totally unintentional on the part of the Mills Campaign.

Senator Peter Mills addressed the Commission and stated he did not disagree with any findings of the Commission staff and he is content with the staff recommendation.

Mr. Cassidy made a motion to adopt the staff recommendation; Mr. Friedman seconded. The motion passed (4-0).

Mr. Wayne explained that the second finding relates to cell phone use. The campaign had an agreement with the campaign manager to use his personal cell phone for campaign use and he would be reimbursed for half of the expenses. Documentation produced for this reimbursement was the personal cell phone bill which is not sufficient because there is no way to determine which calls are personal and which are campaign-related.

Senator Mills explained that he was not sure how to go about reimbursing his campaign manager for this expense. They agreed on half of the fee on the personal cell phone bill. Sen. Mills said that he would like some advice on how to deal with this issue in the future.

Mr. Dinan, staff auditor, explained that there was no written agreement between Senator Mills and the manager and no log of campaign phone calls; therefore, the documentation is incomplete. In other instances, campaigns have purchased phones for campaign use.

Mr. Billings noted that the agreement he had as counsel for the Woodcock campaign was that anything above the monthly limit for his personal plan would be reimbursed by the campaign.

Mr. Friedman moved to accept the staff recommendation that \$501.40 was for campaign-related purposes and not disallow the expenditure. This was seconded by Ms. Thompson. The motion passed (4-0).

Mr. Wayne explained the third finding which relates to car travel. The current rule states that if travel is to be reimbursed, a travel log must be kept and the reimbursement rate is 36 cents/mile. In the Mills' documentation, the reimbursement amount per mile was the amount paid for the gas, and in one case it was 41 cents/mile. Since so many candidates have not understood the rule that they are supposed to keep a log, the staff recommends no action. However, the case of reimbursing at 41 cents/mile, the staff believes the State should be reimbursed the difference for the correct amount of 36 cents/mile.

Senator Mills explained that he thought he had discretion to pay up to the federal reimbursement rate of 41 cents/mile. He went on to say that he wants to make it clear that he was not misusing public funds.

Mr. Friedman asked if the \$242.21 represented the amount in excess of the 36 cents/mile. Mr. Dinan confirmed that it did.

Mr. Friedman made a motion to have Senator Mills repay the \$242.21. This was seconded by Ms. Thompson. The motion passed (4-0).

Mr. Wayne said the last finding relates to public relations work done for the campaign. Bill Johnson who lives in Florida was not paid by the Mills campaign; he worked on a voluntary basis. The campaign reimbursed him for some personal expenses (food, travel, laundry). The Clean Election Act funds are not allowed to be spent on these types of personal expenses. Mr. Wayne did add that the consultant was from out of state and perhaps this would be an exception. The staff has no final recommendation.

Mr. Friedman stated that paying a volunteer does not seem right. If one volunteers, then they are not an employee. However, if someone (a volunteer) comes from out of state, a little more flexibility would be acceptable.

Mr. Cassidy agreed.

Ms. Thompson asked if any action needed to be taken. Mr. Wayne said that no action was necessary at this time. Ms. Thompson indicated she would like more feedback from the staff regarding this issue of out-of-state volunteers before she could make a determination.

Mr. Friedman suggested the Commission close out the audit and still have the staff come back with recommendations regarding this issue at a later time. He made a motion that the Commission not require reimbursement of MCEA funds and find no violation; Ms. Thompson seconded. The motion passed (4-0).

Agenda Item #5 Request for Investigation/Carl Lindemann and Maine Heritage Policy Center

Due to a conflict of interest, Ms. Ginn Marvin recused herself from the discussion of this matter. Mr. Friedman chaired this portion of the meeting.

Mr. Wayne explained that Mr. Lindemann's appeal of the Commission's determination in December as to whether Maine Heritage Policy Center should be considered a PAC is still pending. Mr. Lindemann is complaining that the 1056-B report filed in January by MHPC at the request of the Commission is not complete. MHPC has filed a response requesting the Commission decide whether this second complaint is worth considering at this time, since the appeal is still in the Court's hands.

Mr. Friedman expressed concerns as to whether this discussion has any validity at this point in time since the appeal is still pending. He asked Assistant Attorney General, Phyllis Gardiner for her thoughts on whether this is the appropriate time to consider this second complaint. Mr. Friedman reviewed the order of events and the status of the appeal.

Mr. Friedman asked whether, if the Superior Court does rule in Mr. Lindemann's favor and MHPC is a PAC, that would cause the 1056-B report filed by MHPC to be withdrawn or subsumed.

Ms. Gardiner thought it would then be subsumed, in effect, because a PAC report would be broader in terms of reporting all contributions and expenditures and thus include more than the 1056-B report.

Mr. Friedman stressed that the issue is not whether these complaints are worth pursuing; the issue here is whether the complaints should be pursued at this time. Procedurally, Mr. Friedman does not believe the complaint is ripe because the Commission has not received a final adjudication as to MHPC's status. At this point, he thinks Mr. Lindemann and Mr. Billings should be heard as to the appropriateness of addressing the issue today. Mr. Friedman thought this hearing ought to be delayed until after the court has ruled.

Mr. Cassidy asked whether MHPC would have to report retroactively if the court determined it was a PAC. Ms. Gardiner confirmed that it would. Mr. Cassidy agreed that it would be wise to wait at this point; however, he would like to hear from Mr. Lindemann and Mr. Billings on the issue of delaying the hearing on this complaint.

Ms. Thompson expressed concern with the Commission not hearing a complaint that has been filed against someone who submits a 1056-B report. She believes all complaints should be heard when they are filed regardless of what may be pending. Ms. Thompson asked what the normal procedure is when someone files a complaint against a 1056-B filer. She asked if the staff looked at the MHPC 1056-B report. Mr. Wayne said that the staff did review it. Ms. Thompson does not think this complaint should wait since there is no legal prohibition against hearing the complaint in light of the pending appeal.

Mr. Friedman stressed that this is not a normal situation since there are pending issues regarding the complaint. If this were in front of a court, the court would probably not want to take the complaint up until a final decision had been made regarding MHPC's status because it would not want to take time on an issue that may become moot because of a decision in another forum.

Mr. Cassidy stated that he would favor scheduling the complaint at a later time when the loose ends were more tied up.

Mr. Lindemann addressed the Commission as to whether this is the right time to hear his second complaint. His two major concerns are: 1) how to deal with a 1056-B filing when the reported expenditures far exceed contributions, and 2) the larger issue of new political public relation firms operating under the guise of public policy groups. Mr. Lindemann thought that MHPC should voluntarily disclose all its financial activity in the same way that Democracy Maine had voluntarily disclosed its financial activity on a PAC report as a part of its response to a complaint brought against it by Roy Lenardson. Mr. Lindemann said that the Commission tabled the complaint against Democracy Maine (March 9, 2007 meeting) after it had considered the complaint and thought that the same should be done in this case.

Mr. Lindemann addressed two procedural issues regarding this matter brought up in Mr. Billings' response. First, he believes that this matter is worth pursuing. The Commission has the authority to conduct an investigation if there are sufficient grounds for believing that a violation may have occurred. Mr. Lindemann said that the materials he has presented the Commission more than sufficiently state the grounds for an investigation. Second, Mr. Lindemann said that Mr. Billings asked that the complaint be

summarily dismissed. However, Mr. Lindemann stated that Mr. Billings has not provided any sworn statement to substantiate his request for a summary dismissal.

He feels that it would have been appropriate for MHPC to ask for a stay for filing the 1056-B report pending the appeal back in January; however, it did not. It accepted the Commission's determination that it had to file the report and filed one. The 1056-B filing itself is separate and apart from the appeal. For example, if there were material false statements in the report, that would be a separate violation that would not be dependent on the Superior Court's ruling. He believes the fact finding should go forward and stop short of a final determination until the court decision.

Mr. Billings addressed the Commission. He expressed concern with the amount of time his client, MHPC, has already had to put into this issue and this second complaint today will just add more time to process. If there is going to be a fact finding investigation, Mr. Billings believes it should be done once, in accordance with the court's direction. If the complaint were unrelated and a separate factual matter, it would be justified to investigate further. He agreed that the Commission has the discretion to decide how it should proceed. He noted that a similar complaint against the AARP had been tabled pending resolution of the court case. In response to Mr. Lindemann's point about the stay, Mr. Billings noted that since MHPC had decided not to appeal the Commission's earlier ruling, it had no basis to request a stay.

Ms. Thompson stated that she thought the Commission should hear the substantive issues presented in the complaint and not delay because of pending Superior Court case.

Mr. Cassidy made a motion to reschedule this complaint until after the Superior Court decision; Mr. Friedman seconded. The motion passed 2-1, Ms. Thompson opposed.

Mr. Friedman stated that the vote to delay does not cast any doubt on the validity of the complaint. The complaint is worthy of hearing, but the Commission needs to be concerned with administrative economy. The Commission will look at every aspect of the complaint when the time is right.

Ms. Ginn Marvin took the Chair at the conclusion of this item and stated that items would be taken out of order to prevent parties from having to wait longer.

Agenda Item #9 Request for Waiver of Late Filing Penalty/Richard Dort

Mr. Wayne explained that Mr. Dort is requesting a waiver of a late filing penalty for his last report, the 42-Day Post-General, due December 19, which he filed fifteen days late. Under the statutory formula, a penalty of \$1,908 would be assessed because this was Mr. Dort's third report that he filed late. He paid prior penalties with his campaign funds, which is a violation. The staff does not feel Mr. Dort's excuse for lateness is valid. However, the staff does feel the penalty should be reduced to \$300 total for all three penalties since the statutory penalty is disproportionate to the level of harm done to the public from late disclosure and the fact that he is a first time candidate. The staff also recommends that Mr. Dort be required to reimburse the Fund for the \$403.49 in previous penalties that he had paid out of his Maine Clean Election Act funds.

Mr. Cassidy asked if there were payment schedules set up for candidates. Mr. Wayne said this has been done; however, most candidates who do file late usually pay late also. The best method is to have them pay all up front.

Mr. Dort stated that he did not have a valid reason for not filing on time. He did not realize he could not use Clean Election funds to pay his penalties. He did say that he lost his job and access to the internet so one of the earlier reports was late due to that. He expressed thanks for the reduction in the penalty.

Mr. Friedman asked if the penalty were reduced, would Mr. Dort be able to pay the penalty. Mr. Dort stated he could pay with a credit card.

Mr. Friedman asked if he understood that if he did not pay the penalty, he would be referred to the Attorney General's Office for further action. Mr. Dort said he understood this.

Mr. Friedman made a motion to accept the staff recommendation to reduce Mr. Dort's total penalty to \$300 and require reimbursement of \$403.49, for a total payment of \$703.49; Mr. Cassidy seconded. The motion passed (4-0).

Agenda Item #13 Violations of Maine Clean Election Act Funds/Thomas J. Bossie

Mr. Wayne explained that Mr. Bossie received \$13,000 from the MCEA fund and spent some of the funds on personal expenses. His personal and campaign bank account records were subpoenaed by the Commission. The findings were that Mr. Bossie had 95 payments in the campaign account totaling \$2,867 that appeared to be personal in nature and were made after the election. In addition, \$1,200 was transferred from his campaign account to his personal account and was used to pay a car loan and other loans. There were other payments made for personal expenses. The violation would be for using MCEA funds for purposes that were not campaign-related. The staff recommends a penalty of \$1,250. Mr. Wayne stated that all the funds have been repaid to the Clean Election Fund, so the State has not lost any money.

The second violation is failure to return unspent campaign funds which were due back to the Commission on November 21 and December 19. The funds were finally returned two months late after repeated requests and referral to the Attorney General's Office. The recommended penalty for this violation is \$750.

A penalty of \$500 is recommended for failing to report expenditures accurately. His original December 19 report had no expenditures listed, when in fact he had made several. Finally, staff recommended a penalty of \$250 for commingling campaign funds with personal funds.

Mr. Wayne summarized there are a total of four penalties in the amount of \$2,750. Mr. Wayne also stated that Mr. Bossie has submitted a letter of apology dated May 3. Mr. Wayne advised that his goal is to keep the penalty under \$3,000 since the Clean Election Fund has been reimbursed completely and he is also concerned that when penalties are too high, it may discourage candidates from choosing to run as Clean Election candidates.

Mr. Bossie addressed the Commission. He expressed his apologies and embarrassment. He appreciates the professionalism of Sandy Thompson, his candidate registrar. He does not wish to deny the seriousness of his mistakes and would like to pay the fine and move forward.

Mr. Friedman made a motion to accept the staff recommendation and assess a penalty of \$2,750 with a credit of \$384.85 which has already been paid. This was seconded by Ms. Thompson. The motion passed (4-0).

Agenda Item #6 Presentation of Audit Reports

The audit reports were accepted as written.

Agenda Item #7 Request for Waiver of Late Filing Penalty/Jennifer Anderson

Mr. Wayne informed the Commission that Ms. Anderson, a registered lobbyist, chose not to attend the meeting today. She was one day late filing her April report due to being ill and also she had a loss of power at her home. She lives on Peaks Island and the power was out for a few days.

Ms. Thompson commented that the power outages are regular on Peaks Island.

Mr. Wayne stated that the staff recommends finding a violation of late filing but waiving the penalty, since power was out at her home.

Mr. Cassidy moved to accept the staff recommendation; Ms. Thompson seconded. The motion passed (4-0).

Agenda Item #8 Referral to Attorney General for Possible Criminal Prosecution/Kenneth Anderson

Mr. Wayne informed the Commission that this matter had been resolved.

Agenda Item #10 Referral to Attorney General for Collection of Penalty/Phillip Morris Napier

Mr. Wayne explained that Mr. Napier was a candidate for Governor. He filed his 6-Day Pre-General report one day late. The statutory penalty amount is \$32.63. When the candidate registrar called Mr. Napier and asked that he pay the penalty or request a waiver, he refused to do either. The Commission is required to refer to the Attorney General if the penalty has not been paid within 30 days.

Mr. Cassidy made a motion to refer to the Attorney General Office; Ms. Thompson seconded. The motion passed (4-0).

**Agenda Item #11 Violations of Maine Clean Election Act/Hon. Arthur H. Clement AND
Agenda Item #12 Request for Waiver of Late-Filing Penalty/ Hon. Arthur H. Clement**

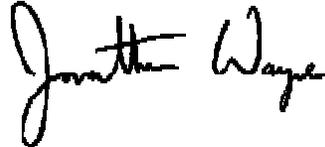
Mr. Clement did not attend the meeting.

Mr. Wayne recommended that Mr. Clement's issues be put off for one month until the next meeting since the penalties are in excess of \$2,000.

Ms. Thompson moved to postpone; Mr. Friedman seconded. The motion passed (4-0).

There being no further business, the meeting adjourned.

Respectfully submitted,

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

Jonathan Wayne
Executive Director