

# Addendum to Item #2

(Carl Lindemann's  
93-page submission  
dated  
March 21, 2008)

# Carl Lindemann

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Jonathan Wayne, Executive Director  
Maine Commission on Governmental Ethics & Election Practices  
135 State House Station  
Augusta, Maine 04333

March 21, 2008

Dear Executive Director Wayne,

As promised in my initial response earlier this week to your letter of March 12, 2008, please include the following as the Commission moves forward in addressing my March 5, 2007 request for an investigation into the accuracy and completeness of Maine Heritage Policy Center's 1056-B filing. These include:

1. Previous documents and additional comments to support my request that the Commission determine whether it is the appropriate venue for this complaint. Also, I include a follow-up on questions raised at the Commission's last session under "other business." This is contained in a sizable (91 page) archive of materials attached.
2. Materials to support my request that, if the Commission does decide it is the appropriate venue, then the proceedings should go forward under oath. Factually inaccurate statements made by MHPC's representatives in previous testimony to the Commission raise fundamental doubts about the reliability of Mr. Billings and his client as fact-witnesses. The Commission should respond when witnesses have a demonstrable history of providing inaccurate testimony.

In my May 9, 2007 e-mail (included in pgs 49-50 of Agenda Item #5 for May 14, 2007), I show that a core claim by MHPC, that it had not expressly advocated for the Taxpayer Bill of Rights ("TABOR") ballot initiative, is not factually accurate. Mr. William Becker and MHPC attorney Dan Billings asserted this inaccurate claim on at least six occasions each. Pages 54-55 in the agenda item compare a slide from an MHPC "TABOR" presentation with a flyer from the proponent PAC. MHPC utilized the PAC's slogan in the campaign and so had expressly advocated. I also provided an additional instance where MHPC's Becker also used the campaign slogan to expressly advocate on WGAN-AM on October 30, 2006. This is of particular interest because of Becker's factually inaccurate explanation of his statement made the next day under questioning at the Commission. The transcript is found on pgs 57-60 of Agenda Item #5.

Another instance of MHPC's factually inaccurate testimony is Becker's claim also made at the October 31<sup>st</sup> 2006 meeting that his organization had not expressly advocated for LD 2075, the pre-TABOR bill before it became a ballot initiative. "We don't take any pro or con stance on any issue," he testified.

On December 8<sup>th</sup>, 2006, Executive Director Wayne received a voicemail from Commissioner Mavoureen Thompson requesting that the staff seek out legislative testimony to fact-check

Becker's statements. The staff discovered that Mr. Becker's testimony was not factually accurate, as he stated in a memo of December 8, 2006:

At the hearing, Bill Becker testified for the Maine Heritage Policy Center (MHPC). The MHPC testified in support of LD 2075 (the MHPC thanked the committee for the opportunity to testify in "full support" of the bill). When Mr. Becker signed up as the second witness, he placed a check-mark in the proponent column...

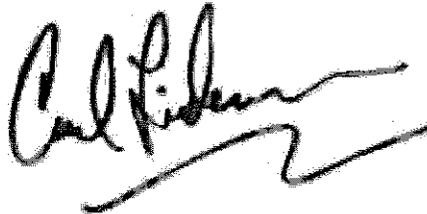
There are other examples of Mr. Billings and Mr. Becker's factual inaccuracies in testimony to the Commission. I would be happy to provide additional examples if these are insufficient to show the need for sworn testimony should the Commission decide to proceed with this follow-up complaint.

Finally, setting aside these procedural concerns for a moment, I would like to address a statement in your March 12 letter:

At that meeting, I will be suggesting to the Commission members that they decide whether to authorize the staff to initiate an investigation.

During the May 14<sup>th</sup> session last year, Commission Chair Friedman had acknowledged the "validity" of the complaint – i.e. that I had met the statutory requirement for such an investigation. So, if I understand the Commission's statutory responsibilities correctly, the question is not if this will be investigated and adjudicated, but when. Please clarify your comments in this light.

Sincerely,

A handwritten signature in black ink, appearing to read "Carl Friedman", with a long horizontal flourish extending to the right.

## 1. Issues with the Commission investigating a Commissioner

This issue should be self-evident, but a fuller explication of this is contained in the documents submitted to you on January 31, your reply, and the clarification sent on February 4. For completeness, I also include the cover letter for when these documents were forwarded directly to the Commissioners. Please include these in the packet for the agenda item.

Commissioner Marsano expressed special interest in the matter of Ms. Ginn Marvin's failure to disclose her board membership on a political committee when she candidated for the Ethics Commission. I include that archive of material here as well. Of special interest here is the telling response of the Commission and staff to these revelations.

I have also included the news report about Ms. Ginn Marvin's failure to report published in the Portland Press Herald. This is noteworthy because of Assistant Attorney General Gardiner's highly prejudicial summary conclusions later echoed by Executive Director Wayne at the July 16<sup>th</sup> meeting of the Commission:

The Maine Attorney General's Office determined that Ginn Marvin's role with the think tank does not bar her from serving on the ethics commission, because the organization does not appear to fit the legal definition of a "political committee."

Assistant Attorney General Gardiner is, in fact, the source of this statement, and can confirm that fact for the Commission if necessary. Since, I have provided the Executive Director and the Assistant Attorney General ample proof that MHPC does fit the "legal definition of a 'political committee,' and their failure to respond to that has been telling. It is interesting to note that, since, the Executive Director has attempted to narrow the definition of what constitutes a "political committee."

Again, these examples of questionable conduct underscore concerns about the Executive Director and Assistant Attorney General's neutrality in any investigation related to Commission Chair Ginn Marvin. Why is her conduct such a problem for them? It draws attention to the charge that the Commission was improperly constituted with a Commissioner serving as an officer of a political committee. If this were ever to be investigated and adjudicated, it should bring significant professional embarrassment to the Executive Director, the Assistant Attorney General, and others.

### INDEX TO MATERIALS:

1. January 31 request and ancillary documents (sent directly to Commissioners on February 7, 2008). 19 pages.
2. July 2, 2007 complaint on Commission Chair Ginn Marvin's conduct and qualifications. 38 pages.
3. July 16, 2007 Portland Press Herald report on Ginn Marvin complaint. 2 pages.
4. August 6, 2007 challenge to Assistant Attorney General's "it just sits there" doctrine. 27 pages. Pages 12-27 examines whether MHPC is a "Political Committee."

# Document Set #1:

January 31 request and ancillary documents (sent directly to Commissioners on February 7, 2008). 19 pages.

# Carl Lindemann

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February 7, 2007

Dear Commissioners Marsano, Shiah, Thompson & Youngblood:

I am contacting you directly as per the procedure for handling complaints against Commissioners set out my Executive Director Wayne in the staff's letter concerning January agenda item #5 dated January 15, 2008.

I have attached letters and e-mail documenting an exchange between myself and the Executive Director concerning the outstanding case against former Commission Chair Ginn Marvin and her political committee, the Maine Heritage Policy Center (MHPC) for failing to file a 1056-B report that is "true, correct and complete." I am requesting is that the Commission determine by formal vote whether or not the Commission is the appropriate venue for the complaint. If the Commission determines that it is inappropriate for the Commission to investigate and adjudicate a case against a fellow Commissioner, I ask that the Commission cede jurisdiction in this matter and refer it to the Attorney General to craft an appropriate process. If the Commission decides that it is appropriate, it is necessary that the reasons for such an unusual view be made explicit. The need for addressing this procedural issue now is detailed in the communications attached.

I have contacted you directly because of a failure to follow the procedure Mr. Wayne set out. He stated that "members of the Commission" were to be part of this process. Instead, Commission Chair Friedman has taken it upon himself to resolve the conflict issue concerning his predecessor unilaterally. The matter was apparently settled behind closed doors and any opinion of the Executive Director or the Assistant AG has not been expressed publicly. It is unimaginable that the Commission did not intend to cede its authority in such matters to the sole discretion of the Chair, perhaps without even informing you of these actions.

In any case I request, once again, that the Commission address this issue formally and publicly during the Commission meeting on Monday, February 11 under "other business." In addition, it would also be appropriate for the Commission to revisit the suggestion for a rule change that would automatically refer complaints made against Commissioners to outside authorities. The need to do so should be all-too-apparent now, and this could be considered alongside the other rule change now on Monday's agenda.

Sincerely,



cc Wayne, Lavin, Gardiner, Billings, and Friedman  
encl.

# Carl Lindemann

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January 31, 2008

Jonathan Wayne, Executive Director  
Maine Commission on Governmental Ethics & Election Practices  
135 State House Station  
Augusta, Maine 04333

Dear Executive Director Wayne:

I request that the Commission make a determination at its next meeting about a key procedural issue in the case pending before the Commission regarding former Commission Chair Ginn Marvin, treasurer of Maine Heritage Policy Center. This is necessitated by new information that corrects factual errors made in your earlier arguments concerning the conflict of interest surrounding her dual, conflicting role serving on the Commission while also serving as an officer of a political committee.

As I stated in my complaint of March 5:

Complicating this matter is Commissioner Jean Ginn Marvin's role as treasurer for MHPC. The treasurer has a fiduciary responsibility to see to it that the organization's 1056-B filing is 'true, correct and complete.' As such, the review necessary to fulfill the Commission's statutory duty is, of necessity, a review of her conduct.

No one has challenged the validity of this point. In fact, Ms. Ginn Marvin's response to the complaint confirmed it. After she stepped away from her role as Chair of the Commission during this agenda item at the May 14<sup>th</sup>, 2007 meeting, she remained in the room to participate as treasurer of her political committee. In fact, Ms. Ginn Marvin's responsibility as MHPC's treasurer is heightened by her position on the Ethics Commission. She had a dual duty to see to it that her political committee faithfully followed her Commission's order to file a report that is "true, correct and complete."

In addition, this case has an additional ramification for Ms. Ginn Marvin that is material to the Commission. One of the findings will be the expenditures her organization made for fundraising in the Taxpayer Bill of Rights (TABOR) ballot initiative. One anomaly in MHPC's 1056-B filing is that it shows that the political committee raised and expended funds, yet reports zero expenditures for fundraising. This is in direct contradiction to testimony from the organization's President and CEO who, when describing the TABOR initiative, exclaimed "what a better time to raise money!" Also, their fundraising solicitations and "thank you" form letter for the TABOR campaign demonstrate this unreported expenditure. The significance for Ms. Ginn Marvin is that such fundraising is specifically prohibited to Commissioners under MRSA 1 § 1002(6).

***Previous Responses to this Issue:***

During the May 14<sup>th</sup>, 2007 meeting, then-acting Chair Friedman summarily dismissed the inherent conflict of interest of having the Commission investigating and adjudicating a case about a fellow Commissioner. Commissioner Friedman stated "We've heard that before." Apparently, he was referring to your dismissal of these concerns in your letter of November 29, 2006. There, you stated that:

She (Commissioner Ginn Marvin) was a member of the MHPC board when the Governor appointed her at the suggestion of the legislative leadership, so apparently the issue was not viewed as a disqualifying conflict at the time of her appointment.

As we now know, Ms. Ginn Marvin failed to disclose her board membership on MHPC. The Governor and legislative leadership were denied the ability to properly assess her qualifications in this light. The upshot is that your reasoning on the conflict of interest issue was based on misinformation. To put this in Commission Chair Friedman's terms, the Commission has not heard any of this before.

***Evidence of the Conflict of Interest:***

That there is an irresolvable conflict of interest here should be apparent on general terms – Commissioners trying a case about a fellow Commissioner. In addition, numerous events surrounding the Commission's relationship with Ms. Ginn Marvin as well as actions taken regarding her demonstrate an irrevocable conflict of interest. Here are a few examples.

First, let's look at your dealings with Ms. Ginn Marvin:

1. By her own account made at the Commission meeting on January 19 last year, you have dutifully served as a direct report to Ms. Ginn Marvin for some two years and enjoyed a close relationship built on almost daily contact.
2. During the July 16 meeting, she personally credited you with returning her to the role of Chair after Commissioner Ketterer's departure.
3. You have made significant errors in your professional duties regarding Ms. Ginn Marvin. I have already mentioned your initial error presuming that she had been properly cleared to serve on the Commission. Then, during this case, you misstated 21-A M.R.S.A. § 1003, the standard for having the Commission launch an investigation as "...if the reasons stated for the request show sufficient grounds for believing that a violation *has occurred*." (emphasis added). This statement of the law, in a case directly calling into question the legality of actions undertaken by your boss, was fundamentally and entirely wrong. The standard for determining when the Commission should undertake an investigation is "...if the reasons stated for the request show sufficient grounds for believing that a violation *may have occurred*." (emphasis added)

4. At the July 16 meeting of the Commission, you made a summary dismissal pronouncement about the allegations challenging Commission Chair Ginn Marvin's conduct and qualifications to serve. Since, you have not substantiated or affirmed your assertion that Commission Chair Ginn Marvin was not an officer of a political committee, an automatic disqualification for service on the Commission.

Second, the episode culminating at the August 13 session with Commission Chair Friedman presiding over what was purportedly a discussion of a discussion about Commissioner Ginn Marvin's qualifications and conduct is a portrait of an agency in crisis due to a conflict of interest. How Ms. Ginn Marvin – despite my objections – participated in this “discussion” was telling. Commission Chair Friedman stated:

What we're discussing is a general rule or policy and procedure that this Commission has the authority to discuss - whoever discusses it. It's not directed to anyone at this point in time. It's just a simple, uh, dialog, so to speak among us to figure out where we're going today from here. Whether or not we're going to have a further discussion or whether or not we will not.

What was Ms. Ginn Marvin's decisive contribution to this discussion about no one in particular? She announced she was leaving the Commission, so pursuing issues of her conduct and qualifications were “a waste of time.” Her personal declaration shows Commission Chair Friedman's claim that they were “discussing... a general rule or policy and procedure” was factually inaccurate. In fact, it shows his conduct here regarding Ms. Ginn Marvin was arbitrary and capricious, abusive of his discretion, committed errors of law and was affected by bias.

This is not an exhaustive list of instances that demonstrate why it is simply not reasonable to claim that the Commission can appropriately process this case. I am happy to provide additional examples as needed. However, this should be sufficient to establish that the Commission would be acting arbitrarily and capriciously, abusing its discretion, committing errors of law and is affected by bias to insist on investigating and adjudicating Commissioner Ginn Marvin's case. Given this, whatever final determination the Commission might make here would legitimately be subject for review pursuant to Rule 80C of the Maine Rules of Civil Procedure. This is clear even prior to discussing the merits of the case.

At the May session, Commission Chair Friedman cited “agency efficiency” repeatedly as a guiding principle in his leadership. In this situation, insisting that the Commission continue to operate here with an irrevocable conflict of interest is inherently contrary to that principle. At best, it is grossly inefficient for the Commission waste its own time and that of the courts. At worst, it undermines the very purpose of the commission. As stated in MRSA 1 § 1001, the purpose of the Commission is foster “faith and confidence in the integrity of the election process” for the people of Maine. Having the Commission administer a colleague's case is corrosive to any such confidence.

Yours very truly,





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

February 1, 2008

**By E-Mail and Regular Mail**

Carl Lindemann  
PO Box 171  
Portland, ME 04112

Dear Mr. Lindemann:

Thank you for your letter of January 31, 2008. The Commission's Counsel, Assistant Director, and I have reviewed it. We are having difficulty determining what you are asking the Commission to do. This is a request for clarification.

*Complaint #1*

By way of background, you filed your first complaint with the Commission in October 2006, arguing that the Maine Heritage Policy Center (MHPC) qualified as a political action committee (PAC). On December 20, 2006, the Commission determined that the MHPC was not a PAC because it did not have as its major purpose advocating for the TABOR ballot initiative. On January 19, 2007, your counsel initiated a Rule 80C proceeding in the Maine Superior Court requesting review of the Commission's determination. My understanding of the status of that proceeding is that it has been fully briefed, and that oral argument has not been scheduled.

*Complaint #2*

Also on December 20, 2006, the Commission determined that the MHPC was required to file a financial report under 21-A M.R.S.A. § 1056-B regarding financial activity in support of TABOR. The MHPC filed the report on January 22, 2007. On March 5, 2007, you requested that the Commission investigate whether the § 1056-B report was accurate and complete. At a meeting on May 14, 2007, the Commission voted 2-1 to postpone consideration of your request until after the Maine Superior Court decided on your Rule 80C proceeding.

Because former Commission member Jean Ginn Marvin served on the board of directors of the MHPC, she has consistently recused herself from any matter relating directly to the MHPC. To my knowledge, she has not influenced the Commission's deliberations or the staff's recommendations in any way. Her term on the Commission expired in April 2007, and she participated in Commission meetings as a holdover member until August 13, 2007.

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*Your Request of Yesterday.*

In your letter of yesterday, it appears that you are asking the Commission to take some action in light of new information, but it is not clear what action you are requesting. Could you please state specifically what action you are asking the Commission to take and the reasons the Commission should take that action?

For example, if you are requesting that the Commission consider your March 5, 2007 request before the Superior Court has decided on your Rule 80C proceeding, please explain why. If you are requesting that the Commission refer some matter to a different authority, please identify the matter, the other authority, and why the Commission should take that action.

Thank you for the anticipated clarification.

Sincerely,

A handwritten signature in black ink, appearing to read "Jonathan Wayne". The signature is written in a cursive style with a large initial "J" and "W".

Jonathan Wayne  
Executive Director

cp

cc: Assistant Attorney General Phyllis Gardiner, Commission Counsel  
Daniel I. Billings, Esq.

# Carl Lindemann

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February 4, 2007

Jonathan Wayne, Executive Director  
Maine Commission on Governmental Ethics & Election Practices  
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Augusta, Maine 04333

Dear Executive Director Wayne:

Thank you for your request for clarification. My apologies for not being more explicit.

What I am requesting is that the Commission to make a formal vote to determine whether or not the Commission is the appropriate venue for the complaint I brought to it on March 5 and that was an agenda item for the May 14 session. If the Commission determines that it is inappropriate for the Commission to investigate and adjudicate a case against a fellow Commissioner, then I ask that the Commission refer it to the Attorney General to craft an appropriate process. If the Commission decides that it is appropriate, it is necessary that the reasons for such an unusual view be made explicit.

If it helps to clarify matters, I would add these additional points to my arguments and evidence detailed in my previous communication. First, I said that Commission Chair Friedman's citation of your reasons to summarily dismiss the conflict of interest issue is invalid given that your judgment on the matter was based on factually incorrect information. I would also add that your summary dismissal of the issue was improper even if you had the facts right. That there was no factual basis for the flawed reasoning simplifies matters here. In addition, the Commission itself never actually had a chance to discuss the conflict of interest as our correspondence on the matter between November 27-30, 2006 shows. I am attaching that correspondence here.

Finally, during the May 14 discussion, Mr. Friedman either did not understand or refused to accept the distinction between a typical recusal and this unusual case where the recused Commissioner remained in the room to address a complaint. At the December meeting, Mr. Friedman inaccurately recollected the facts claiming that Ms. Ginn Marvin had recused herself AND had left the room. This indicated that he now understands the significance of her remaining in the room on May 14. As such, he should also understand why it is a necessary step in processing such unusual cases to determine whether the Commission can act in any way other than referring the case.

Does this provide what you need? This is a simple matter that can be settled expeditiously at the February 11<sup>th</sup> Commission meeting.

Regarding the other items in your communication, I appreciate your update on the appeal underway, but none of this has any bearing here if the actions regarding this taken by the Commission on May 14 were not properly processed.

In addition, I do take exception to this assertion you make in your letter:

(Ms. Ginn Marvin) has consistently recused herself from any matter relating directly to the MHPC. To my knowledge, she has not influenced the Commission's deliberations or the staff's recommendations in any way.

These statements are not factually accurate. Let me detail at least four examples:

1. Commissioner Ginn Marvin participated in deliberations over rescheduling the date for the MHPC case on December 12, 2006. My attorneys raised objections of the propriety of this given the conflict of interest and asked that she recuse herself and leave the room. She remained on the panel throughout this discussion of the conflict of interest. Her mere presence "influenced the Commission's deliberations."

2. At the January 19 meeting last year, Commissioner Ginn Marvin, by formal vote of the Commission, participated in discussions about proposed legislation regarding 1056-B reports. The Commission had just determined that MHPC was a regulated entity and ordered it to file such a report. In other words, MHPC enjoyed the advantage of having a seat on the Commission to help craft how it would be regulated. As it happens, the proposed legislation you offered that day, if applied retroactively, would have exempted one organization from reporting in the previous cycle – Commissioner Ginn Marvin's political committee, MHPC.

Another detail here is worth noting. During the session, you were questioned as to whether you had followed the due process of soliciting suggestions to inform the legislative proposals put forth in MRSA 1 § 1009. You stated that you had made such a solicitation. However, my FOIA after revealed that, contrary to your statements, you had not done so. It is unclear what informed your proposal that was of particular benefit to your former boss' political committee. It is reasonable to believe that she influenced your recommendation here either directly or indirectly.

3. After your *sua sponte* restoration of Commissioner Ginn Marvin to her previous role as Chair (and while you were processing my complaint that named her specifically), she presided over a case that directly related to her political committee. In fact, a political operative, likely operating as an agent for MHPC, brought the case. This complaint against Democracy Maine, *et alia*, was the fulfillment of MHPC's declared strategy to respond to its failure to report its activities in the TABOR ballot initiative (see attached letter of Nov. 30, 2006, page 2). In the interest of promoting transparency, Democracy Maine fully disclosed its finances at the meeting as it might if it were determined to be a PAC and compelled to do so. Also note that you, *sua sponte*, brought additional complaints against Democracy Maine, above and beyond those brought by the complainant.

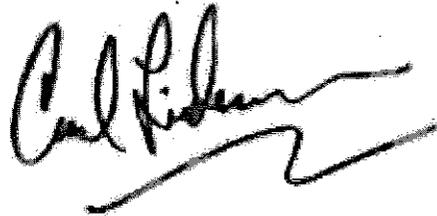
As Commission Chair Ginn Marvin presided, her political committee's attorney came forward to testify – purportedly as a private citizen. Mr. Billings put forward the suggestion that the question of whether Democracy Maine should make a PAC report should be postponed till the appeal of the Commission's final determination about MHPC was settled. He seemed oblivious to the fact that Democracy Maine had unexpectedly just provided such a report. His actions at this session are inexplicable

except when understood as part of a strategy to delay investigation and adjudication of Commission Chair Ginn Marvin's political committee. Did she "influence" these deliberations "in any way"? She presided over them.

4. Commission Chair Ginn Marvin sat<sup>ed</sup> behind me during my testimony about her and MHPC at the May 14 meeting. Do you maintain that the spectacle of Commission Chair Ginn Marvin sitting in the same field of view for her colleagues during testimony about her political committee's dubious 1056-B report did not influence the Commission's deliberations in any way? This gets to the heart of the matter – and makes clear the Legislature's wisdom in denying officers of political committees the ability to serve on the Commission.

Finally, your description of Ms. Ginn Marvin's departure from the Commission glosses over the reality. You give the impression that she happened to stay as a holdover for a few months while replacement candidates were located. There was no indication that she had any intention to leave the Commission till the news story exposing her failure to properly disclose her board membership on a political committee was published. You may recall that she expressed surprise when Assistant Attorney General Gardiner unexpectedly set in motion Ginn Marvin's removal as Chair on the day of publication. Apparently, she had reason to expect that she would be enjoying that position for an indefinite period before being ousted amidst a public scandal raising questions (still unanswered) about her conduct and qualifications as a Commissioner.

Yours Very Truly,

A handwritten signature in black ink, appearing to read "Carl P. Gardner". The signature is written in a cursive style with a long, sweeping underline.

cc Lavin, Gardiner, Billings  
encl.

# Carl Lindemann

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November 27, 2006

## BY FACSIMILE, ELECTRONIC MAIL & FIRST CLASS MAIL

Jonathan Wayne  
Executive Director  
Maine Commission on Governmental Ethics & Election Practices  
135 State House Station  
Augusta, Maine 04333

RE: Maine Heritage Policy Center/Jean Ginn Marvin

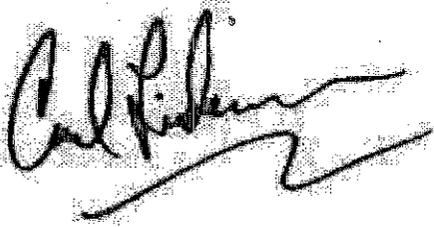
Dear Mr. Wayne,

Following the meeting of the Commission on October 31<sup>st</sup>, I was shocked to discover that Commission Chair Jean Ginn Marvin has a far more involved relationship with Maine Heritage Policy Center than was previously known to me. In addition to serving on the Board of Directors of MHPC, she currently serves as that organization's Treasurer. In light of the nature of the pending complaint against MHPC before the Board, and the new evidence presented, Ms. Ginn Marvin's testimony before the Commission will be unavoidable in the context of any reasonable investigation into MHPC's finances. Even if she is somehow not deemed by the Commission to be relevant witness, there can be no dispute about her inability to be impartial in this matter. For these reasons, Ms. Ginn Marvin must not be permitted to participate in any investigation, deliberation or decision-making by the Commission in the context of the pending complaint against the MHPC, nor can she be permitted to have access to, or be privy to, any internal discussions, investigation, documents or deliberations within the Commission about this matter.

It also plainly apparent that a simple recusal by Ms. Ginn Marvin in this case is insufficient to fully address and remedy the appearance of impropriety flowing from her position as Chair of the Commission. How can it be that Ms. Marvin is permitted to hold the position of Chair of the Commission on Governmental Ethics & Election, while contemporaneously serving as board member and treasurer of an organization whose activities are subject to regulation by the Commission? Does not this obvious conflict compel Ms. Ginn Marvin to resign her post as Chair of the Commission, or, alternatively, to immediately resign her position as Treasurer and Board Member of MHPC? I respectfully request that you and the Commission members carefully consider these questions and take the appropriate action.

Thank you for your prompt consideration of and attention to this important matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Carl Lindemann". The signature is stylized with a large initial "C" and a long, sweeping underline.

Carl Lindemann

cc: Jonathan Crasnick, Executive Director of Democracy Maine  
Daniel I. Billings, Esq., Attorney for Maine Heritage Policy Center



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

November 29, 2006

Carl Lindemann  
General Delivery  
Calais, ME 04619

Dear Mr. Lindemann:

This letter is to respond on behalf of the Ethics Commission staff to your letter of November 27 regarding Jean Ginn Marvin's participation in the complaint you have brought against the Maine Heritage Policy Center (MHPC).

As you will recall, at the October 31 meeting Ms. Ginn Marvin recused herself from participating in Agenda Item #10 because she is on the MHPC board. Her recusal was not required under the Commission's statute or rules, but she voluntarily recused herself to avoid any perception that she had a conflict of interest. She intends to recuse herself from this issue at the December 12 meeting as it relates specifically to the MHPC.

In the view of the Commission staff, Ms. Ginn Marvin's membership on the MHPC board is not a conflict of interest that would require her to step down from the Commission. She was a member of the MHPC board when the Governor appointed her at the suggestion of legislative leadership, so apparently the issue was not viewed as a disqualifying conflict at the time of her appointment. In case you did not read them before writing your November 27 letter, I have attached 1 M.R.S.A. §1002(2) and (6) which address qualifications for Commission membership and prohibited activities.

Since Maine is not a populous state and members of the Commission are appointed by political leaders, members of the Commission occasionally have had political or other affiliations that have prevented them from participating in a particular matter. The appropriate remedy is recusal from that item, not disqualification from service on the Commission altogether. Disqualification would greatly reduce the number of people who would be eligible to serve on the Commission.

I also wish to respond to some comments by you and your advisor John Branson that have been conveyed to me by news reporters, because they reflect a misunderstanding of the Commission's operations. The employees of the Commission make recommendations and gather preliminary factual information independently of the Commission members. We believe we perform our jobs as civil servants best if we do not take into consideration the political or organizational affiliations of the members. As long as we are fair and even-handed, we believe we have the members' support in making these decisions independently. If the staff's actions to date regarding your

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Carl Lindemann

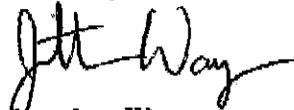
- 2 -

November 29, 2006

complaint have appeared cautious, it has been in an effort to consider valid constitutional concerns, to receive comments from other affected organizations, and to provide the best advice to the Commission about an area of the campaign finance law that is relatively new and in need of clarification. Your complaint has been and will continue to be considered in an open-minded, impartial manner by the Commission staff and members.

I will include your November 27 letter and this response in the materials that the Commission considers for the December 12 meeting. Please feel free to raise any continuing concerns with the Commission members at that time, and to telephone me at 287-4179 if you have any questions about this response.

Sincerely,



Jonathan Wayne  
Executive Director

cc: Daniel I. Billings, Esq.  
Jonathan Crasnick  
Phyllis Gardiner, Esq.  
John D. Branson, Esq.

## Title 1, §1002, Commission on Governmental Ethics and Election Practices

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### §1002. Commission on Governmental Ethics and Election Practices

#### 1. Membership.

[2001, c. 470, §1 (amd); T. 1, §1002, sub-§1, paragraph F (rp).]

**1-A. Membership.** The Commission on Governmental Ethics and Election Practices, established by Title 5, section 12004-G, subsection 33 and referred to in this chapter as the "commission," consists of 5 members appointed as follows.

A. By December 1, 2001 and as needed after that date, the appointed leader from each political party in the Senate and the appointed leader from each political party in the House of Representatives jointly shall establish and advertise a 30-day period to allow members of the public and groups and organizations to propose qualified individuals to be nominated for appointment to the commission. [2001, c. 470, §2 (new).]

B. By January 1, 2002 and as needed after that date, the appointed leader from each political party in the Senate and the appointed leader from each political party in the House of Representatives each shall present a list of 3 qualified individuals to the Governor for appointment of 4 members to the commission. The appointed leadership from each party in both bodies of the Legislature jointly shall present a list of 3 qualified individuals to the Governor for appointment of a 5th member to the commission. [2001, c. 470, §2 (new).]

C. By March 15, 2002, the Governor shall appoint the members of the commission selecting one member from each of the lists of nominees presented in accordance with paragraph A. These nominees are subject to review by the joint standing committee of the Legislature having jurisdiction over legal affairs and confirmation by the Legislature. No more than 2 commission members may be enrolled in the same party. [2001, c. 470, §2 (new).]

D. Two initial appointees are appointed for one-year terms, 2 are appointed for 2-year terms and one is appointed for a 3-year term, according to a random lot drawing under the supervision of the Secretary of State. Subsequent appointees are appointed to serve 3-year terms. A person may not serve more than 2 terms. [2001, c. 470, §2 (new).]

E. The commission members shall elect one member to serve as chair for at least a 2-year term. [2001, c. 470, §2 (new).]

F. Upon a vacancy during an unexpired term, the term must be filled as provided in this paragraph for the unexpired portion of the term only. The nominee must be appointed by the Governor from a list of 3 qualified candidates provided by the leader of the party from the body of the Legislature that suggested the appointee who created the vacancy. If the vacancy during an unexpired term was created by the commission member who was appointed from the list of candidates presented to the Governor by the leaders of each party of each body of the Legislature jointly, the nominee must be appointed from a list of 3 qualified candidates provided jointly by the leaders of each party of each body of the Legislature. Nominees appointed pursuant to this paragraph are subject to review by the joint standing committee of the Legislature having jurisdiction over election practices and legislative ethics and to confirmation by the Legislature. [2005, c. 295, §1 (amd).]

G. Upon a vacancy created by an expired term, the vacancy must be filled as provided in this paragraph. The nominee must be appointed by the Governor from a list of 3 qualified candidates provided by the leader of the party from the body of the Legislature that suggested the appointee whose term expired. When a vacancy is created by an expired term of the commission member who was appointed from the list of candidates presented to the Governor by the leaders of each party of each body of the Legislature jointly,

## Title 1, §1002, Commission on Governmental Ethics and Election Practices

the nominee must be appointed from a list of 3 qualified candidates provided jointly by the leaders of each party of each body of the Legislature. Nominees appointed pursuant to this paragraph are subject to review by the joint standing committee of the Legislature having jurisdiction over election practices and legislative ethics and to confirmation by the Legislature. [2005, c. 295, §1 (amd).]

H. For the purposes of this subsection, "political party" has the same meaning as "party" as defined by Title 21-A, section 1, subsection 28. [2001, c. 470, §2 (new).]  
[2005, c. 295, §1 (amd).]

**2. Qualifications.** The members of the commission must be persons of recognized judgment, probity and objectivity. A person may not be appointed to this commission who is a member of the Legislature or who was a member of the previous Legislature, who was a declared candidate for an elective county, state or federal office within 2 years prior to the appointment, who now holds an elective county, state or federal office, who is an officer of a political committee, party committee or political action committee or who holds a position in a political party or campaign.  
[2005, c. 271, §1 (amd).]

**3. Oath.** Each member shall, within 10 days of his appointment, take an oath of office to faithfully discharge the duties of a commissioner in the form prescribed by the Constitution. Such oath shall be subscribed to by the commissioner taking it, certified by the officer before whom it is taken and immediately filed in the Office of the Secretary of State.  
[1975, c. 621, §1 (new).]

**4. Legislative per diem.** The members of the commission are entitled to receive legislative per diem according to Title 5, chapter 379.  
[IB 1995, c. 1, §2 (amd).]

**5. Employees.** The commission shall employ an executive director and such other assistance as may be necessary to carry out its duties. The commission also shall retain a general counsel or a computer analyst as an employee of the commission, based on the staffing needs of the executive director. If the commission employs a general counsel, the general counsel may not hold any other state office or otherwise be employed by the State. The commission shall select the executive director by an affirmative vote of at least 4 commission members.  
[2003, c. 381, §1 (amd).]

**6. Prohibited activities.** A member of the commission may not engage in political fund-raising to promote the election or defeat of a candidate, passage or defeat of a ballot measure or endorse a political candidate. This prohibition does not apply to fund-raising for campaigns or endorsement of candidates at the county or municipal level or out-of-state nonfederal elections.  
[2005, c. 271, §2 (new).]

MRSA , §T.1 SEC 1002/1/F (AMD).

PL 1975, Ch. 621, §1 (NEW).

PL 1983, Ch. 812, §1 (AMD).

PL 1989, Ch. 503, §B1 (AMD).

PL 1991, Ch. 86, § (AMD).

PL 1991, Ch. 880, §1 (AMD).

IB 1995, Ch. 1, §1,2 (AMD).

PL 2001, Ch. 430, §1 (AMD).

PL 2001, Ch. 470, §1-3 (AMD).

PL 2003, Ch. 381, §1 (AMD).

PL 2005, Ch. 271, §1,2 (AMD).

PL 2005, Ch. 295, §1 (AMD).

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\*Admitted to practice in Maine, Massachusetts &  
the District of Columbia.

November 30, 2006

BY FACSIMILE, ELECTRONIC & FIRST CLASS MAIL

Jonathan Wayne  
Executive Director  
Maine Commission on Governmental Ethics & Election Practices  
135 State House Station  
Augusta, Maine 04333

**RE: Carl Lindemann/ Maine Heritage Policy Center**

Dear Executive Director Wayne:

I am writing in response to your letter to my client, Carl Lindemann dated November 29, 2006. While my client is appreciative of your initial consideration of the issues raised by Jean Ginn Marvin's continued membership on the Commission, he respectfully disagrees with your conclusion, specifically, that Ms. Ginn Marvin's continued service on the Commission does not present a conflict of interest requiring her to step down. At the outset, I note that you did not respond to one of the fundamental concerns raised in Mr. Lindemann's November 27<sup>th</sup> letter on this subject—that the pending complaint regarding the financial and campaign activities of the Maine Heritage Policy Center ("MHPC") pending before the Commission, and the new evidence recently presented, renders Ms. Ginn Marvin an extremely material witness by virtue of her position as *treasurer* and board member of the MHPC during the critical time period in question. I cannot conceive of any way to handle or investigate the current matter properly without taking Ms. Ginn Marvin's testimony, or without requesting her direct cooperation in the production of relevant financial documents in her possession, custody or control as treasurer of the investigated entity.

If the Commission decides to address and resolve this obvious conflict by not calling Ms. Ginn Marvin as a witness or subpoenaing documents in her possession, custody or control, then serious questions and concerns will unavoidably be raised in the mind of the public regarding the integrity of any investigation of the MHPC conducted by the Commission. If the Commission does what it should and subpoenas Ms. Ginn Marvin's testimony, along with documents in her possession custody and control as treasurer of MHPC, but *without* requiring Ms. Ginn Marvin to step down, then a different

## LAW OFFICE OF JOHN H. BRANSON, P.A.

Jonathan Wayne  
November 30, 2006  
Page 2

yet equally troubling impression will be created for the public with regard to the fairness and integrity of any investigation of the MHPC the Commission undertakes.

Finally, I wish to offer another compelling reason as to why Ms. Ginn Marvin's simple recusal from the pending investigation of the MHPC does not resolve the larger conflict created by her continued service on the Commission. You must be aware by now that the investigation of the MHPC in this matter will likely compel the Commission to examine the activities of other organizations to ensure their compliance with Maine law regarding campaign finance and reporting. Indeed, the MHPC has thus far made no secret that it seeks to distract and deflect attention from its own activities by suggesting to the Commission that other organizations were doing the exact same things that it was, without filing reports to the Commission. While I am not presently aware of any other organizations in Maine that have engaged in activities similar to those of the MHPC currently in question without establish a political action committee or filing the reports required under 21-A M.R.S.A. §1056-B, the MHPC has every right to ask the Commission to look into that. In the context of any and all future investigations of the activities of other organizations that flow from Mr. Lindemann's initial complaint, does Jean Ginn Marvin intend to actively preside and participate as a Commission member? Because the investigation of these other entities is such a critical aspect of the MHPC's strategy of defense in this case, and may ultimately affect the judgment of the Commission with regard to MHPC's activities, would not Ms. Ginn Marvin be required to recuse herself from all future investigation under 21-A M.R.S.A. § 1001 et seq. by virtue of her position as treasurer and board member of MHPC? Would not this be true whether or not Ms. Ginn Marvin ultimately decides to resign from her current positions with MHPC?

For the foregoing reasons, Mr. Lindemann's position is that, pursuant to 1 M.R.S.A. § 1002(2), Ms. Ginn Marvin cannot possibly serve with the required "objectivity" in the context of any investigations that the Commission may undertake in the arena of campaign finance and reporting under 21-A M.R.S.A. § 1001 et seq. Moreover, so long as Ms. Ginn Marvin remains on the Ethics Commission, the Commission will be unable to ensure, both in substance *and* appearance, a full, fair and impartial investigation of the current MHPC matter and all future matters regarding the campaign finance and reporting activities of other organizations subject to regulation by the Commission. Please understand that Mr. Lindemann's interest in this matter has now gone beyond the activities of MHPC of which he complained, in large measure owing to the very cool and unenthusiastic response to his initial complaint, and the fact that he was asked, as a precursor to any investigation by the Commission, to produce the kind of evidence that in theory could only be obtained by the Commission *as the result of* an investigation. For these reasons, Mr. Lindemann is interested not merely in ensuring that the laws are enforced in this particular case, but also that they be enforced for the benefit

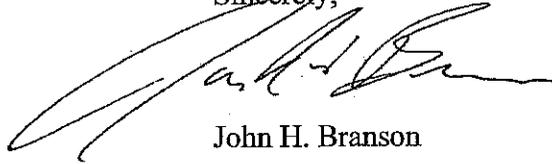
**LAW OFFICE OF JOHN H. BRANSON, P.A.**

Jonathan Wayne  
November 30, 2006  
Page 3

of the public, and the integrity of the democratic process in Maine, in years and elections yet to come.

Thank you for your full and complete consideration of the concerns underlying Mr. Lindemann's position with regard to this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "John H. Branson", written in a cursive style.

John H. Branson

cc: Carl Lindemann  
Phyllis Gardner, Esq.  
Daniel I. Billings, Esq.  
Jonathan Crasnick

Subject: Request to Commission in January 31 Letter

Date: Tue, 5 Feb 2008 17:09:55 -0500

X-MS-Has-Attach:

X-MS-TNEF-Correlator:

Thread-Topic: Request to Commission in January 31 Letter

Thread-Index: AchoQ9WehyLGTleHQvKDW+yVKpQwpQ==

From: "Wayne, Jonathan" <Jonathan.Wayne@maine.gov>

To: "Carl Lindemann" <carl@TrueDialog.org>,

"Carl Lindemann" <carl@cyberscene.com>

Cc: "Gardiner, Phyllis" <Phyllis.Gardiner@maine.gov>,

"Lavin, Paul" <Paul.Lavin@maine.gov>,

<Dib9@aol.com>,

"Michael P. Friedman" <mfriedman@rudman-winchell.com>

X-OriginalArrivalTime: 05 Feb 2008 22:13:45.0648 (UTC) FILETIME=[5FECD300:01C86844]

X-Nonsпам: Whitelist

Thank you for your February 4 letter clarifying your January 31 request.

On March 5, 2007, the Ethics Commission received your request that the Ethics Commission investigate whether the § 1056-B report of the Maine Heritage Policy Center (MHPC) was accurate and complete. It was included in a packet of materials which the Commission members received for the May 14, 2007 meeting, along with a memo from the Commission staff. You had a full opportunity to address the Commission at the May 14, 2007 meeting to argue in favor of the request. Jean Ginn Marvin recused herself from the Commission's consideration of the item.

At the May 14, 2007 meeting, the members voted 2-1 to postpone considering the request until after the Maine Superior Court decides on your Rule 80C petition regarding the Commission's previous determination that the MHPC did not qualify as a PAC. The Commission took this action because of the inefficiency of conducting an investigation about compliance with 21-A M.R.S.A. § 1056-B when the Superior Court might take the view that the MHPC was required, instead, to make broader disclosure as a PAC.

Because the Commission has acted on your March 5, 2007 request and is awaiting a decision by the Maine Superior Court before taking the matter up again, the Commission Chair has directed me not to put your January 31, 2008 request on the agenda for the Commission's meeting on February 11, 2008. You will have an opportunity to present arguments in support of your request, including addressing any procedural issues, after the Superior Court rules and the matter is again ripe for consideration by the Commission. In the meantime, if you believe that the March 5, 2007 complaint would be properly filed with the State Attorney General's Office, that is an action that you would be at liberty to take.

# Document Set #2:

July 2, 2007 complaint on Commission  
Chair Ginn Marvin's conduct and  
qualifications. 38 pages.

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Phone 207-774-1936  
Email: [carl@truedialog.org](mailto:carl@truedialog.org)

P.O. Box 171  
Portland, Maine 04112

July 2, 2007

Dear Governor Baldacci, Senate President Edmonds and Speaker of the House Cummings,

This reports on apparent improprieties of Ethics Commission Chair Jean Ginn Marvin, a situation that requires your immediate attention and intervention to ensure the integrity of that agency and, with it, the integrity of the democratic process in the State of Maine.

Ethics Commission Chair Ginn Marvin is an officer of Maine Heritage Policy Center (MHPC), a political committee. As such, she is not qualified to serve on the Ethics Commission as per MSRA 1 § 1002 1A-2: "A person may not be appointed to this Commission...who is an officer of a political committee." Her appointment expired in April, yet she continues to serve at your pleasure.

Ethics Commission Chair Ginn Marvin's improprieties include activities specifically prohibited to commissioners as per MSRA 1 § 1002 1A-6: "A member of the commission may not engage in political fund-raising to promote the election or defeat of a candidate, passage or defeat of a ballot measure or endorse a political candidate." As MHPC's treasurer, she engaged in political fund-raising to promote the passage of a ballot measure last year. In addition, she shares in the responsibility for material false statements made by MHPC officials and their representatives to the Commission in a case brought against her organization last year. She also shares in the responsibility for MHPC's failure to fully and accurately provide information on its activities as ordered by the Commission in the final agency determination of that case. Her ties with MHPC have undermined the integrity of the Commission in an unknown number of other Commission rulings, rule makings, and legislative proposals. One such example is the Duddy-Mowes case heard before the Commission last summer where she failed to disclose her relationship with the spouse of the complainant, fellow MHPC officer Michael Duddy.

It may well be that Ethics Commission Chair Ginn Marvin would have been rejected for service on the Commission during the initial appointment process had she disclosed her role at MHPC in the Legislative Staff Questionnaire for Gubernatorial Nominees she submitted in support of her nomination in 2004. At that time she was a Director on the MHPC board. Her failure to accurately and completely fill out this standard form necessary for her own appointment to the Commission raises doubts about her ability to judge and sanction persons similarly required to fill out identical forms for filing with Ethics Commissioners.

In light of the numerous apparent or proven statutory and regulatory violations or shortcomings described above, which have substantially impaired the effectiveness and credibility of the Ethics Commission, I am requesting that you:

1.) Demand that Ethics Commission Chair Marvin, who continues to serve on the Commission, beyond the expiration of her term (because the Republican party did not nominate a replacement during the legislative term), immediately execute and file with the Governor's Office, the Ethics Commission, President of the Senate, and the Speaker of the House, and the Attorney General, an Affidavit thoroughly addressing each of the fundamental statutory "qualification-to-serve" facts brought into question by her actions or omissions.

2.) Appoint an impartial Special Counsel to:

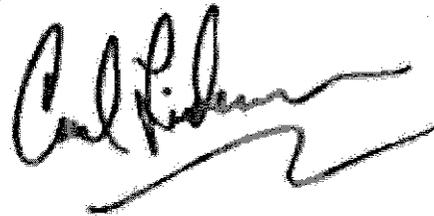
a) Conduct a preliminary investigation of issues raised by Ethics Commission Chair Ginn Marvin's conduct as described above; including, but not limited to:

- whether Ethics Commission Chair Ginn Marvin's "disqualification," and "disclosure," omissions, and/or her other actions as a member or officer of MHPC referred to above, have the potential for making some or all Commission decisions in which she participated void or voidable;
- whether Ethics Commission Chair Ginn Marvin remains "qualified" to continue serving as an Ethics Commissioner;
- whether any of Ethics Commission Chair Ginn Marvin's actions or omissions described above render her unfit to serve as an Ethics Commissioner, and whether she should be immediately removed.
- Whether further formal actions ought be taken to review, investigate, or sanction Ethics Commission Chair Ginn Marvin for those actions or omissions described above

b) Investigate and make advisory recommendations, to the Governor and the appropriate legislative body, concerning both statutory amendments and/or agency rules required to insure that Ethics Commissioners are, as mandated in Section 1002, "persons of recognized judgment, probity and objectivity," including, but not limited to,

- imposing upon Ethics Commissioners the same kind of periodic annual (or immediate) written disclosure/disqualification mandates which are required of legislators they regulate. This would help avoid the situation above.

Yours very truly,

A handwritten signature in black ink, appearing to read "Carl Lindemann", with a long horizontal flourish extending to the right.

Carl Lindemann  
Executive Director

## FACTUAL BACKGROUND & SUPPORTING DOCUMENTS

1. As a part of the processing of Ethics Commission Chair Jean Ginn Marvin's nomination for the position of Ethics Commissioner, the Legislature required that she complete a standard written "Qualifications" questionnaire. This "*Legislative Staff Questionnaire for Gubernatorial Nominees*" was filled out and signed by her on July 17, 2004. It nowhere listed any service, status, position, membership, or office held, or other factor, which might have disqualified her at that time from service on the Commission.

2. That "*Legislative Staff Questionnaire for Gubernatorial Nominees*" contained the following specific inquiry: "*Please list any organizations, businesses or corporations in which you or your spouse or children hold any office, ownership interest, stocks or bonds, and indicate the nature of your relationship.*"

In filling out her response to that specific request on July 16, 2004, Ethics Commission Chair Ginn Marvin:

- a) did not disclose that on that, on July 16, 2004, she was holding the office of "Director" of the Maine Heritage Policy Center [MHPC]; and
- b) did not "indicate the nature of [her] relationship" with Maine Heritage Policy Center.

3. That "*Legislative Staff Questionnaire*" also required a listing of "Professional Background," "Community Service Background," and "Miscellaneous" factors. In none of her responses did Ethics Commission Chair Ginn Marvin list anything having to do with her service as a Director of MHPC, or her membership in MHPC.

4. Since her execution of the above-referenced July 16, 2004 "Questionnaire," no similar form or affirmation, or written disclosure of factors affecting continuing qualification for service on the Ethics Commission, has been filed by Ethics Commission Chair Ginn Marvin, either with the Governor's Office, the Committee on Legislative and Veteran's Affairs, the Attorney General's office, or the Commission itself. [See, for example, the Section 1018 "*Updating Statement*" required of legislators by the Ethics Commission.]

*(cf. foll. pgs 3-21: Ginn Marvin 2004 application/disclosure/appointment.)*

5. Ethics Commission Chair Ginn Marvin's original status as a Director of MHPC, at the time of her July 2004 appointment, disqualified her from serving as an Ethics Commissioner. Her new appointment as Treasurer of MHPC, on December 14, 2005, also disqualified her from service as an Ethics Commissioner. The "Qualifications" portion of Section 1002(2), disqualifies from service anyone "*who is an officer of a political committee, party committee, or political action committee.*"

*(cf. pg 22*      *MHPC IRS 2003 Form 990 Board List, 4/28/2004*  
*23-24*      *MHPC Board Appointments press release, 12/14/2005*  
*25-26*      *MHPC Board Appointments press release, 1/12/2007)*

6. Ethics Commissioner Ginn Marvin, as an Officer and Treasurer of MHPC, has engaged in "prohibited activities" in violation of Section 1002(6) by engaging in "political fund-raising to promote the election or defeat of a candidate, passage or defeat of a ballot measure...."

(cf. 27-28 *MHPC Ballot Initiative Fundraising Solicitation, 08/02/2006*  
29 *Fundraising "Thank You" for Ballot Initiative, 11/6/2006*)

7. An action filed in October 2006 with the Ethics Commission asserted that MHPC was a Political Action Committee that had solicited and received contributions to be used to influence the TABOR referendum campaign. In hearing before the Commission (from which Ethics Commission Chair Ginn Marvin recused herself), an Attorney representing MHPC flatly denied to the Commission that any such contributions relating to TABOR were made or solicited. This affirmation later was proven false, by an extrinsic and conclusive document. Only after the production of that extrinsic, conclusive proof that a contribution had been received by MHPC did the Attorney for MHPC then admit to the receipt of that contribution, and to the existence of other contributions.

8. As Treasurer of MHPC at the time that its' Attorney falsely asserted to the Ethics Commission that no TABOR contributions had been solicited or received by MHPC, the Attorney's false statement must be imputed to the Treasurer/Officer of MHPC, Ethics Commission Chair Ginn Marvin.

9. In the 1056-B filing ordered in the Final Agency Determination for the above action, MHPC admitted receiving contributions to affect the TABOR campaign. As such, MHPC functioned as a "political committee," which is defined under Title 21-A, Section 1(30) as "2 or more persons associated for the purpose of promoting or defeating a candidate, party or principle."

(cf pgs 30 *MHPC 1056-B Report/Donations; January 22, 2007.*)

Statements made in the above case are also prima facie evidence that MHPC has been a "political committee" for a substantial period of time prior to October 2006.

11. On June 12, 2006, Ethics Commission Chair Ginn Marvin cast a deciding vote in a matter before the Ethics Commission involving Cape Elizabeth legislative candidates Duddy and Morow. Ethics Commission Chair Ginn Marvin "... stated that she knew both the complainant and the respondent and lives in the district, but can be unbiased in this case because she does not know either of them particularly well." What she did not disclose at that time was that Legislative Candidate Duddy was married to Michael Duddy, who at that time was serving as an Officer of MHPC alongside her. (Ginn Marvin was MHPC Treasurer; Michael Duddy was MHPC Clerk).

(cf pgs 31-36 *Ethics Commission Minutes, June 12, 2006*)

\*\*\*\*\*

JEAN GINN MARVIN  
49 Cranbrook Drive  
Cape Elizabeth, ME 04107

EXPERIENCE

1999 to Present                      Director of Sales  
Nonantum Resort  
Kennebunkport, ME

1994 to 2000                        Representative, District 25  
Maine State Legislature  
Augusta, ME

1989 to 1999                        Partner, Ginn-Marvin Real Estate  
South Portland, ME

1984 to 1989                        President, Ginn-Marvin Moving and Storage Co.  
South Portland, ME

1983 to 1984                        Director, National Account Sales  
Kimball & Brown/Allied Van Lines  
Dover, NH

1982 to 1983                        Sales Manager  
Fox & Ginn Moving and Storage Co.  
South Portland, ME

CIVIC ACTIVITIES

\*Portland Conservatory Of Music  
Board Chair                              2001 to present

\*Southern Maine Community College  
Foundation Board                        2000 to present

\*Town Councilor                         1992 to 1994

\*President, Board of Trustees         1993 to 1994

Portland Symphony Orchestra

\*President, Chamber of Commerce 1989 to 1992

\*Member, Nominating Committee 1998 to Present

Maine Medical Center

\*Co-Chairman of the Board            1988

Maine Science & Technology

## EDUCATION

### High School

Cape Elizabeth High School  
Cape Elizabeth, ME

Class of 1977

Interlochen Arts Academy  
Interlochen, MI

Class of 1978

Certificate in Trombone Performance

### College

Syracuse University  
Syracuse, NY

Class of 1982

B.A. Political Science

B.A. Policy Studies

Muskie School of Public Affairs  
University of Southern Maine  
Portland, ME

Master's Degree in Public Policy

## AWARDS

Women of Achievement Award, Portland YWCA  
John Kelly Award, National Moving & Storage Assn  
Institute for Civic Leadership  
Leadership Maine

## FAMILY

Married to Bob Marvin

Children: Adam 18, Parker 15, Colby 9

## HOBBIES

Skiing, Sailing, Reading, Walking

---

LEGISLATIVE STAFF QUESTIONNAIRE  
FOR  
GUBERNATORIAL NOMINEES

NAME: Jean Ginn Marvin

HOME ADDRESS: 49 Cranbrook Drive  
Cape Elizabeth, Maine 04107

HOME PHONE: 799-6283

BUSINESS ADDRESS: 95 Ocean Ave - PO Box 2626  
Kennebunkport, Me  
04046

BUSINESS PHONE: 967-4050

POSITION TO WHICH NOMINATED: Ethics Commission

IS THIS A REAPPOINTMENT? no

IF YES, LENGTH OF PREVIOUS SERVICE:

EDUCATIONAL BACKGROUND

High School: Cape Elizabeth High School

College: Syracuse University BA in Policy Studies BA in Political Science

Graduate Work, if any: University of Southern Maine - Masters in Public Policy

Special Training: Certificate in Conflict Resolution (USM)

Certificate in Trombone Performance - Interlochen Arts Academy

PROFESSIONAL BACKGROUND

Present Employment: Nonantum Resort

How Long? 6 years

Contact Person for Reference: Tina Hewett

Phone: 967-4050

Prior Employment: Ginn Real Estate

How Long? 12 years

Contact Person for Reference: Herb Ginn

Phone: 761-2131

PROFESSIONAL BACKGROUND (Continued):

Prior Employment: *Maine State Legislature*

How Long? *6 years*

Contact Person for Reference:

Phone:

COMMUNITY SERVICE BACKGROUND:

Civic: *Former President South Portland Chamber of Commerce*  
*Former President Portland Symphony Orchestra Board of Trustees*

Church (optional): *UCC*

Political: *Former member Cape Elizabeth Town Council*

Other:

PROFESSIONAL AND BUSINESS AFFILIATIONS AND ASSOCIATIONS:

*Maine Educational Services - Vice Chair of Board*  
*Southern Maine Community College - Foundation Board Vice Chair*  
*Portland Conservatory of Music - Board Chair*

SPECIAL RECOGNITION, HONORS OR AWARDS:

*Henri Benoit Award - Greater Portland Chamber of Commerce*  
*Women of Achievement Award - YWCA*

MISCELLANEOUS

*Graduate Alpha Class - Leadership Maine*  
*Graduate Alpha Class - Institute for Civic Leadership*

HAVE YOU EVER SERVED ON ANY OTHER STATE BOARDS OR HELD ANY OTHER APPOINTIVE OR ELECTIVE POSITION IN STATE GOVERNMENT?

*Appointed to the Chiropractic Board of Review 1990-1994*

IF YES, LIST POSITIONS AND DATES:

*Elected to the Maine House of Representatives 1994-2000*

DID YOU SEEK THIS APPOINTMENT?

*No*

IF SO, WHY:

WHAT EXPERIENCE OR EXPERTISE DO YOU FEEL YOU WOULD BRING TO THIS APPOINTMENT?

*As a legislator, I became aware of the reporting requirements, deadlines and how the system works. In my work as a member of the Appropriations Committee, I processed information, read materials independently, learned to understand statutes and was an active participant in discussions.*

DO YOU KNOW OF ANY REASON WHY ANY INDIVIDUAL OR GROUP WOULD BE OPPOSED TO YOUR NOMINATION?

*No*

IF SO, WHY?

PLEASE LIST ANY ORGANIZATIONS, BUSINESSES OR CORPORATIONS IN WHICH YOU OR YOUR SPOUSE OR CHILDREN HOLD ANY OFFICE, OWNERSHIP INTEREST, STOCKS OR BONDS, AND INDICATE THE NATURE OF YOUR RELATIONSHIP.

*attached*

ARE YOU AWARE OF ANY ACTUAL OR POTENTIAL CONFLICT OF INTEREST ARISING OUT OF THIS APPOINTMENT PURSUANT TO TITLE 5, PARAGRAPH 18, 2. A-E, AS FOLLOWS:

2. EXECUTIVE EMPLOYEE. An executive employee commits a civil violation if he personally and substantially participates in his official capacity in any proceeding in which, to his knowledge, any of the following have a direct and substantial financial interest:
  - A. Himself, his spouse or his dependent children
  - B. His partners
  - C. A person or organization with who he is negotiating or has agreed to an arrangement concerning prospective employment
  - D. An organization in which he has a direct and substantial financial interest
  - E. Any person with whom he has been associated as a partner or a fellow shareholder in a professional service corporation pursuant to Title 13, Chapter 22, during the preceding year.

IF YOU HAVE A CONFLICT, WHAT STEPS HAVE YOU TAKEN OR DO YOU PLAN TO TAKE TO DISASSOCIATE YOURSELF FROM THIS CONFLICT SITUATION?

*I would recuse myself from any vote or discussion that there was a perceived conflict of interest.*

ARE YOU OR HAVE YOU EVER BEEN A PARTY OF CIVIL OR CRIMINAL COURT LITIGATION EITHER PERSONALLY OR AS AN OFFICER OR A CORPORATION, ASSOCIATION, OR OTHER LEGAL ENTITY? DESCRIBE THE CIRCUMSTANCES OF ANY SUCH LITIGATION.

*no*



Jean Ginn Marvin – Legislative Staff Questionnaire

**Publicly Traded Stocks and Bonds owned by Children**

- Agere Systems Inc. Class A
- Agere Systems /Inc Class B
- ATT Wireless Services
- Cendant, Inc.
- Cendant, Inc.
- Citigroup Inc.
- Coca Cola Company
- Comcast Corp New Class A
- Corts Trust 8.5% Corporate
- Walt Disney Co.
- Dupont EI De Nemour & co.
- General Electric Company
- Home Depot Inc.
- Hewlett Packard Company
- Intel Corp.
- Lucent Technologies, Inc.
- Medcohealth Solutions
- Merck & Co. Inc.
- Microsoft Corp.
- Nokia Corp.
- Nortel Networks CP
- Walgreen Company
- Wal-mart Stores Inc.

**Publicly Traded Stocks and Bonds owned by Spouse**

- Amerisource Tech.
- Coca Cola Company
- Hewlett Packard Company
- Imaging Diagnostic Systems
- Microsoft Corp.
- Palm One Inc.
- Palm Source Inc.
- Vision Twenty-One Inc.

### **Publicly Traded Stocks and Bonds owned by Candidate**

- Coca Cola Company
- Dell, Inc.
- Walt Disney Co.
- Equity Residential 8.6% Preferred
- General Electric Company
- Gillette Co.
- Home Depot, Inc.
- Medcohealth Solutions
- Merck & Co. Inc.
- Microsoft Corp.
- Wal-mart Stores Inc.
- Unum Provident Corp.
- Oppenheimer Mutual Funds

### **Privately Owned Corporations:**

#### **Flash Island, Inc.**

Candidate is President

Children each have ownership interest

### **Privately Owned Partnerships:**

- **GMG Family Limited Partnership**  
Candidate, spouse & children all have ownership interests
- **Kennebec Shores Associates**  
Spouse and child have ownership interest

### **Privately Owned Limited Liability Companies:**

- **262 Payne Road, LLC**  
Children have ownership interest
  - **Midcoast Land Development, LLC**  
Children have ownership interest
-

# 121st MAINE LEGISLATURE

## NOTICE OF CONFIRMATION HEARING

### THE JOINT STANDING COMMITTEE ON LEGAL AND VETERANS AFFAIRS

Senator Kenneth T. Gagnon, Senate Chair  
Representative Joseph E. Clark, House Chair

**POSITION:** Commission on Governmental Ethics and Election Practices  
**NOMINEE:** Jean Ginn Marvin of Cape Elizabeth

**PUBLIC HEARING:** Tuesday, August 17, 2004, 9:00 am, Room 436, State House

#### POSITION DESCRIPTION:

The Commission on Governmental Ethics and Election Practices (MRSA 1 § 1002) was established to guard against corruption or undue influencing of the election process and against acts or the appearance of misconduct. The Commission consists of 5 members appointed by the Governor who are subject to review by the joint standing committee of the Legislature having jurisdiction over legal affairs and to confirmation by the Legislature. Revisions to the appointment process were made pursuant to 2001, c. 470 as follows. The appointed leader from each political party in the Senate and in the House of Representatives jointly establish and advertise a 30-day period to allow members of the public and groups and organizations to propose qualified individuals to be nominated for appointment to the commission. Appointed leaders present lists of qualified individuals to the Governor for appointment of members to the commission. The Governor appoints members from those lists and no more than 2 commission members may be enrolled in the same political party. Two initial appointees are appointed for 1-year terms, 2 for 2-year terms and one for a 3-year term. The appointee serving the 3-year term is to be selected by random lot drawing under the supervision of the Secretary of State. Subsequent appointees serve 3-year terms and may not serve more than 2 terms.

The general duties of the commission are described in MRSA 1 § 1008. Duties include investigating and making advisory recommendations to the appropriate body of any apparent violations of the ethical standards set by the Legislature; administering and investigating any violations of the requirements for campaign reports and campaign financing, including the provisions of the Maine Clean Election Act and The Maine Clean Election Fund; and to conduct, in conjunction with the Attorney General and the Chair of the Legislative Council, an ethics seminar for Legislators.

The commission administers the lobbyist disclosure laws, and provides enhanced monitoring and computerized tracking of campaign, elections and lobbying information under the commission's jurisdiction. The commission adopts rules, procedures and regulations as necessary to carry out its duties. Members of the commission are entitled to receive legislative per diem according to MRSA 5, c. 379.

**DEADLINE FOR COMMENTS:** Written comments relevant to qualifications of the nominee may be filed with the Legislative Information Office by 9 am on the day of the hearing.

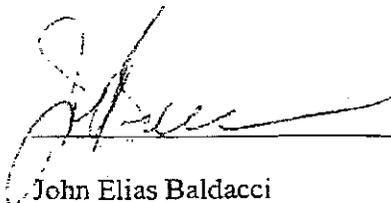
**CONTACT PERSON:** Teen Ellen Griffin, Legislative Information Office, 100 State House Station, Augusta, Maine 04333-0100; 207-287-1692; FAX 207-287-1580; TTY 207-287-6826

NOMINATIONS BY THE GOVERNOR

July 22, 2004

1. COMMISSION ON GOVERNMENTAL ETHICS AND ELECTION PRACTICES

Jean Ginn Marvin of Cape Elizabeth



---

John Elias Baldacci

## RECOMMENDED GUIDELINES FOR LEGISLATIVE CONFIRMATION HEARING

### 1. INTRODUCTORY STATEMENT BY CHAIR

“This is a Public Hearing of the Joint Standing Committee on **Legal and Veterans Affairs** for the purpose of considering the nomination by the Governor of **Jean Ginn Marvin of Cape Elizabeth** for appointment to the **Commission on Governmental Ethics and Election Practices**.

Under the Law and Joint Rules of the Legislature, this committee is required to hold this public hearing and to recommend confirmation or denial of the nominee by majority vote of the committee members present and voting. As Chairs of the committee, we will then send written notice of the Committee's recommendations to the President of the Senate.”

The Committee will hear testimony from and have an opportunity to question the Governor or his representative, the nominee and any other persons present who wish to speak for or against the nomination.

### 2. MOTION TO CONFIRM

1. “Pursuant to Title 3, Section 157 of the Maine Statutes, which requires that there be an affirmative motion to recommend confirmation of the nominee, the Chair recognizes (Committee member making motion) for the purpose of making such a motion.”
2. (Motion by Committee Member)

“I move that the Joint Standing Committee on **Legal and Veterans Affairs** recommend confirmation of **Jean Ginn Marvin of Cape Elizabeth** for appointment to the **Commission on Governmental Ethics and Election Practices**.”

### 3. TITLE OF THE POSITION AND LEGAL REQUIREMENTS FOR A NOMINEE

A copy of the statutory requirements and a job description for this position are available at the rostrum.

### 4. RECOGNIZE THE GOVERNOR OR HIS REPRESENTATIVE

1. “The Chair now recognizes (name of Governor or his representative) for the purpose of making a statement concerning this nomination.”
  2. (Statement by Governor or his representative)
  3. “The Chair would ask if any member of the Committee has questions (of the Governor or his representative) at this time.”
-

## 5. STATEMENT BY NOMINEE

1. "The Chair now recognizes **Jean Ginn Marvin** for the purpose of making a statement concerning this nomination."
2. (Statement of nominee)
3. "The Chair would ask if any member of the Committee has questions of the nominee."

## 6. STATEMENTS FROM THE FLOOR

1. "The Chair will now take comments from persons attending this hearing who wish to speak for or against this nomination.
    - A. Anyone who has a written statement but who does not wish to speak should have submitted the statement with the Committee Clerk prior to today's hearing. All such statements shall contain the name and residence of the person who prepared the statement. A copy of each written statement presented to the Committee at this hearing will be made available to the nominee prior to the Committee's vote and the nominee will have an opportunity to respond to the written comment.
    - B. Those who wish to speak in person should observe the following:
      - Please speak from the rostrum and, state your name and place of residence prior to presenting your testimony.
      - Only comments concerning the suitability of this particular nominee for this particular position will be considered in order. All other comments will be considered out of order.
      - Please remain at the podium after you complete your statement so that members of the Committee may have an opportunity to ask questions.
  2. Recognize persons wishing to testify:
    - A. First, is there anyone present who wishes to speak in favor of the nomination.
    - B. Is there anyone present who wishes to speak against the nomination.
    - C. Is there anyone else who wishes to speak on the nomination.
-

## 7. CONCLUDING STATEMENT BY THE CHAIR

1. All public comments having been taken, the Committee will now proceed as follows:
  - Review any additional written comments on the nomination that have been received by the committee. A copy of all written comments will be made available to the nominee so that he/she may have an opportunity to respond (prior to the vote of the committee).
  - Review the written report of the investigation of the partisan assistants, which has been conducted pursuant to the Joint Rules.
  - Vote on the nomination and notify the President of the Senate, pursuant to Title 3 MRSA, Section 157 and the Joint Rules. The vote must be taken within 35 days from the date of the Governor's written notice.
2. The hearing by the Joint Standing Committee on **Legal and Veterans Affairs** for **Jean Ginn Marvin of Cape Elizabeth** for appointment to the **Commission on Governmental Ethics and Election Practices** is closed.

## 8. TAKING THE VOTE

1. In accordance with the law, the Committee may not take the vote on this nomination sooner than 15 minutes after the close of the public hearing unless all committee members who are present agree. At this time, therefore, the Chair will inquire whether any member present objects to proceeding to take the vote immediately. If there is no objection:
2. "The pending question before the Committee is that the Joint Standing Committee on **Legal and Veterans Affairs** recommend to the Senate of the **121st** Maine Legislature that the nomination of **Jean Ginn Marvin of Cape Elizabeth** for appointment to the **Commission on Governmental Ethics and Election Practices** be confirmed."

"In accordance with 3 MRSA, Chapter 6, Section 157, and with the Joint Rules of the **121st** Legislature, the vote will be taken by the yeas and nays:

"A vote of yes will be in favor of recommending confirmation."

"A vote of no will be against the motion to recommend confirmation."

"Is the Committee ready for the question?"

The Committee Clerk will call the roll."

"(Number) members of the Committee having voted in the affirmative and (Number) in the negative, it is the vote of the Joint Standing Committee on **Legal and Veterans Affairs** that the nomination of **Jean Ginn Marvin of Cape Elizabeth** for appointment to the **Commission on Governmental Ethics and Election Practices** be confirmed (denied)."

Testimony of Jean Ginn Marvin

Nominee for the Commission on Governmental Ethics and Election Practices.

Joint Standing Committee on Legal Affairs

August 17, 2004

Senator Gagnon, Representative Clark, and members of the Joint Standing Committee on Legal and Veterans Affairs:

My name is Jean Ginn Marvin and I am pleased to be here today to submit for your consideration my nomination to serve on the Commission on Governmental Ethics and Election Practices.

As a former member of the Legislature, I know the first hand the importance of upholding the public's trust in our electoral process ---and I believe the Ethics Commission is a critical component of insuring that our election process is fair.

I believe that here in Maine we have been very fortunate to have elections largely free of the corruption that we hear about in other parts of the country. I view my role on the commission as three-fold. First, I believe that we should work to make sure that our election laws are current and accurately reflect the current political climate, taking into account both federal and state laws that may impact the conduct of elections here in Maine.

Second, I believe that our system of compliance and oversight should continue to focus on helping candidates and other organizations comply with our laws. While punitive action is certainly a part of the process, when warranted, I think the system in Maine has been very pro-active. I appreciate that the staff and the current commission spends a significant part of its energy on helping people to comply with Maine laws, as opposed to looking for ways to catch people doing the wrong thing. In short, I believe a commission that is committed to working with candidates, lobbyists and PAC's to improve compliance with Maine Law best serves the public.

Finally, I accept that a part of this job will be to hear complaints and review violations of Maine Law. I would like to assure you that as a former elected official I am very cognizant of the need to balance compliance with Maine Laws with that of a citizen Legislature in an era of term limits. I expect that there will be a learning curve for citizens who get involved in elections, and I would certainly look to the staff for guidance in how we can work to make sure that compliance is easy and expected.

However, as I mentioned in my opening remarks, I believe that preserving the public trust in our election process is the highest priority, and I would certainly work to make sure that Maine Laws are not ignored.

Thank you again for your consideration. I would be pleased to answer any questions you might have.



# HOUSE OF REPRESENTATIVES

2 STATE HOUSE STATION  
AUGUSTA, MAINE 04333-0002  
(207) 287-1400  
TTY: (207) 287-4469

## Janet L. McLaughlin

23 Old Colony Lane  
Cape Elizabeth, ME 04107  
Residence: (207) 799-6190  
Fax: (207) 799-6190  
E-Mail: JanetCE25@aol.com  
repjanet.mclaughlin@legislature.maine.gov

13 August 2004

To: Sen. Kenneth Gagnon, Senate chairman  
Rep. Joseph Clark, House chairman  
Members of the Joint Standing Committee on Legal & Veterans Affairs

Re: Nomination of Hon. Jean Ginn Marvin to the Commission on Governmental Ethics and Election Practices

From: Rep. Janet McLaughlin 

Please accept the following comments on behalf of this nomination.

I have known Jean for over ten years and served with her on our Town Council. In all my dealings with her, she has consistently been reasonable and even-minded. She respects the need to "follow the rules" and does not shy away from making what some may consider the difficult decisions.

Above all else, Jean is fair - which I believe is the overriding qualification for someone to this Commission.

I give this nomination my heartiest support and hope you will do so unanimously.

District 25 Part of Cape Elizabeth

Printed on recycled paper



# VOTING TALLY SHEET

For Confirmation Hearings

Confirmation of: Jan Ginn Marvin

Committee: Joint Standing Committee on Legal & Veterans Affairs

Date: August 17, 2004

Motion: confirm

Motion by: Senator Gagnon

Seconded by: Rep. Clark

	Other	
Those Voting to Confirm		
Yea	Nay	Absent    Abstain

**Senators**

1. Kenneth Gagne (CH)	✓				
2. Kenneth Lemont	✓				
3. Arthur Mayo III	✓				

**Representatives**

1. Joseph Clark (CH)	✓				
2. Kevin Glynn	✓				
3. Randy Hotham	✓				
4. Richard Brown	✓				
5. Gary Moore	✓				
6. John Patrick	✓				
7. Patricia Blanchette	✓				
8. Marilyn Canavan	✓				
9. Rodney Jennings	✓				
10. Roger Landry				✓	
<b>Totals</b>	12			1	

SENATE

KENNETH T. GAGNON, DISTRICT 14, CHAIR  
KENNETH F. LEMONT, DISTRICT 35  
ARTHUR F. MAYO III, DISTRICT 19

DANIELLE D. FOX, LEGISLATIVE ANALYST  
LUCIA NIXON, LEGISLATIVE ANALYST  
ELAINE DOAK, COMMITTEE CLERK



STATE OF MAINE

HOUSE

JOSEPH E. CLARK, MILLINOCKET, CHAIR  
JOHN L. PATRICK, RUMFORD  
PATRICIA A. BLANCHETTE, BANGOR  
MARILYN E. CANAVAN, WATERVILLE  
RODNEY C. JENNINGS, LEEDS  
ROGER A. LANDRY, SANFORD  
GARY W. MOORE, STANDISH  
KEVIN J. GLYNN, SOUTH PORTLAND  
RICHARD B. BROWN, SOUTH BERWICK  
RANDY E. HOTHAM, DIXFIELD

ONE HUNDRED AND TWENTY-FIRST LEGISLATURE  
COMMITTEE ON LEGAL AND VETERANS' AFFAIRS

August 17, 2004

The Honorable Beverly C. Daggett  
President of the Senate of Maine  
121st Maine Legislature  
State House  
Augusta, Maine 04333-0003

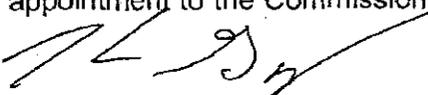
Dear Madame President:

In accordance with 3 M.R.S.A., Section 157, and with Joint Rule 505 of the 121st Maine Legislature, the Joint Standing Committee on Legal and Veterans Affairs has had under consideration the nomination of Jean Ginn Marvin of Cape Elizabeth, for appointment to the Commission on Governmental Ethics and Election Practices.

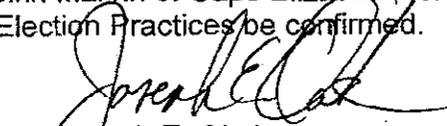
After public hearing and discussion on this nomination, the Committee proceeded to vote on the motion to recommend to the Senate that this nomination be confirmed. The Committee Clerk called the roll with the following result:

YEAS	Senators	3	Gagnon of Kennebec, Lemont of York, Mayo of Sagadahoc
	Representatives	9	Clark of Millinocket, Blanchette of Bangor, Brown of South Berwick, Canavan of Waterville, Glynn of South Portland, Hotham of Dixfield, Jennings of Leeds, Moore of Standish, Patrick of Rumford
NAYS		0	
ABSENT		1	Rep. Landry of Sanford

Twelve members of the Committee having voted in the affirmative and none in the negative, it was the vote of the Committee that the nomination of Jean Ginn Marvin of Cape Elizabeth, for appointment to the Commission on Governmental Ethics and Election Practices be confirmed.

  
Kenneth T. Gagnon  
Senate Chair

Signed,

  
Joseph E. Clark  
House Chair

**Part IV-A Reconciliation of Revenue per Audited Financial Statements with Revenue per Return**

a	Total revenue, gains, and other support per audited financial statements	a	N/A
b	Amounts included on line a but not on line 12, Form 990:		
(1)	Net unrealized gains on investments \$		
(2)	Donated services and use of facilities \$		
(3)	Recoveries of prior year grants \$		
(4)	Other (specify): \$		
	Add amounts on lines (1) through (4)	b	
c	Line a minus line b	c	
d	Amounts included on line 12, Form 990 but not on line a:		
(1)	Investment expenses not included on line 6b, Form 990 \$		
(2)	Other (specify): \$		
	Add amounts on lines (1) and (2)	d	
e	Total revenue per line 12, Form 990 (line c plus line d)	e	

**Part IV-B Reconciliation of Expenses per Audited Financial Statements with Expenses per Return**

a	Total expenses and losses per audited financial statements	a	N/A
b	Amounts included on line a but not on line 17, Form 990:		
(1)	Donated services and use of facilities \$		
(2)	Prior year adjustments reported on line 20, Form 990 \$		
(3)	Losses reported on line 20, Form 990 \$		
(4)	Other (specify): \$		
	Add amounts on lines (1) through (4)	b	
c	Line a minus line b	c	
d	Amounts included on line 17, Form 990 but not on line a:		
(1)	Investment expenses not included on line 6b, Form 990 \$		
(2)	Other (specify): \$		
	Add amounts on lines (1) and (2)	d	
e	Total expenses per line 17, Form 990 (line c plus line d)	e	

**Part V List of Officers, Directors, Trustees, and Key Employees (List each one even if not compensated)**

(A) Name and address	(B) Title and average hours per week devoted to position	(C) Compensation (If not paid, enter -0-)	(D) Contributions to employee benefit plans & deferred compensation	(E) Expense account and other allowances
W. R. JACKSON, JR. 55 BURBANK LANE YARMOUTH, ME 04096	CHAIRMAN 1 HR	0.	0.	0.
RONALD L. TROWBRIDGE, PH.D. 30 COLONIAL DRIVE DURHAM, ME 04222	PRESIDENT 1 HR	0.	0.	0.
THOMAS W. MEAD 9 LEDGEWATER DRIVE KENNEBUNK, ME 04043	TREASURER 1 HR	0.	0.	0.
WILLIAM G. BECKER, III 66 BIRCHWOOD DRIVE PORTLAND, ME 04102	SECRETARY/EXEC. DIR. 40+ HRS	67,000.	5,465.	0.
JEAN GINN MARVIN 49 CRANBROOK DRIVE CAPE ELIZABETH, ME 04107	DIRECTOR 1 HR	0.	0.	0.
MICHAEL A. DUDDY 4 CRESCENT VIEW AVENUE CAPE ELIZABETH, ME 04107	DIRECTOR 1 HR	0.	0.	0.

75 Did any officer, director, trustee, or key employee receive aggregate compensation of more than \$100,000 from your organization and all related organizations, of which more than \$10,000 was provided by the related organizations?  Yes  No

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12/14/05: The Maine Heritage Policy Center Elects New Officers

**PRESS RELEASE**

## The Maine Heritage Policy Center

FOR IMMEDIATE RELEASE  
DECEMBER 14, 2005

CONTACT: JASON FORTIN  
(207) 321-2550

### The Maine Heritage Policy Center Elects New Officers

*2006 Board leadership group has strong qualifications and business experience.*

PORTLAND, ME - At their recent annual meeting, the Board of Directors of The Maine Heritage Policy Center elected officers for 2006. MHPC officers include:

- Chairman of the Board – W. R. Jackson, Jr.
- President & Chief Executive Officer – Bill Becker
- Treasurer – Hon. Jean Ginn Marvin
- Clerk – Michael A. Duddy

“The Board is excited with this new slate of officers that will lead The Maine Heritage Policy Center through a busy upcoming year,” stated Dick Jackson, Chairman of the Board. “The Center’s mission is to advance free market and conservative public policy solutions that serve to strengthen Maine’s economy in a nonpartisan fashion. Together with the support of Maine citizens, our Boards and Staff are committed to a vision of Maine where such solutions result in a stronger and more vibrant economic climate.”

“On behalf of the Board, I am confident in the management and policy leadership that will be provided by Bill Becker, who has been named president and chief executive officer,” Jackson concluded. “Under Bill’s direction, Maine will be well served by the research and analysis of The Maine Heritage Policy Center’s staff and policy experts.”

Mr. Jackson co-founded MHPC and is a retired executive from Pitt-Des Moines, Inc. Mr. Becker is also a co-founder of the Center and had served as its executive director and vice president for the past three years. Previously, he was a fundraising consultant and development director for a number of Maine nonprofits and political campaigns. Ms. Ginn Marvin is a small business owner, former legislator, and current chair of the state’s Ethics Commission. Mr. Duddy is an attorney at Kelly, Rimmel & Zimmerman.

*The Maine Heritage Policy Center is a nonprofit, nonpartisan research and educational organization based in Portland, Maine. The Center formulates and promotes conservative public policies in the areas of tax and fiscal policy, health care, and education – providing solutions that will benefit all the people of Maine. Contributions to MHPC are tax deductible to the extent allowed by law.*

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P. O. Box 7829

Portland, ME 04112  
[www.mainepolicy.org](http://www.mainepolicy.org)

**Contacts:**  
**Jason Fortin**  
**Maine Heritage Policy Center**  
**207-321-2550**  
[jfortin@mainepolicy.org](mailto:jfortin@mainepolicy.org)

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1/12/07: John Chandler Joins The Maine Heritage Policy Center Board

**PRESS RELEASE**

**The Maine Heritage Policy Center**

FOR IMMEDIATE RELEASE  
 JANUARY 12, 2007  
 (m)

CONTACT: JASON FORTIN (207) 321-2550 (o)  
 (207) 939-0038

**John Chandler Joins The Maine Heritage Policy Center Board**

*Chandler's experience as president and managing principal of Berry, Dunn, McNeil and Parker will help guide future work at the Center.*

PORTLAND, ME - At their recent annual meeting, the Board of Directors of The Maine Heritage Policy Center elected John M. Chandler, CPA to join them for a three-year term. Mr. Chandler, a Yarmouth resident, is the president and managing principal of the Portland-based accounting firm Berry, Dunn, McNeil and Parker. Previously, Mr. Chandler served on The Maine Heritage Policy Center's Board of Advisors.

"I am honored to join an organization with the quality and vibrancy of The Maine Heritage Policy Center," stated Mr. Chandler. "I look forward to adding my experience and advice to the continued growth of the organization's outstanding work."

The current Board of Directors of the Maine Heritage Policy Center is comprised of:

- Mr. W. R. Jackson, Jr., Chairman of the Board
- Mr. William G. Becker, III, President & Chief Executive Officer
- Hon. Jean Ginn Marvin, Treasurer
- Michael A. Duddy, Esq., Clerk
- Mr. John Austin
- Hon. Richard A. Bennett
- Mr. John M. Chandler

The following is Mr. Chandler's biography from the Berry, Dunn, McNeil and Parker website:

John has served as the President & Managing Principal of Berry Dunn since being elected in 1999. He has worked with forest products and telecommunications companies since first joining the Firm. John is proud to come from a timberland owning/logging family in Maine.

In addition to his responsibilities as Firm leader, John provides audit and consulting services to privately-held, family businesses throughout Northern New England. He has helped businesses chart their way through a wide range of issues, including mergers, sales, and acquisitions, with a focus on creating value for owners and shareholders.

John started his accounting career in 1987 when he came to work at Berry Dunn. John is a Certified Public Accountant and a member of the AICPA and the Maine Society of

CPAs. He also holds leadership positions on the Boards of several charitable and civic organizations.

A picture of Mr. Chandler is available at: <http://www.bdmp.com/page.asp?shorttitle=jchandler>.

*The Maine Heritage Policy Center is a 501 (c) 3 nonprofit, nonpartisan research and educational organization based in Portland, Maine. The Center formulates and promotes free market, conservative public policies in the areas of economic growth, fiscal matters, health care, and education – providing solutions that will benefit all the people of Maine. Contributions to MHPC are tax deductible to the extent allowed by law.*

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Portland, ME 04112  
<http://www.maineconomy.org>  
<http://blog.maineconomy.org>

**Contacts:**

**Jason Fortin**  
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207-321-2550  
[jfortin@maineconomy.org](mailto:jfortin@maineconomy.org)

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**From:** wbecker@mainepolicy.org [mailto:wbecker@mainepolicy.org]  
**Sent:** Wednesday, August 02, 2006 3:33 PM  
**To:** REDACTED  
**Subject:** Give a Gift to MHPC Today



August 2, 2006

Dear Friend,

What an exciting and busy time for our State. 2006 promises to be an important transitional year for the state's economy, and The Maine Heritage Policy Center (MHPC) is working every day throughout the summer to ensure future economic hope and opportunity for all Maine people.

For nearly four years, MHPC has been able to provide research and analysis on fiscal, health care, and education issues - thanks to the support of so many Maine people.

Your ongoing support has been tremendously beneficial, and is needed today more than ever as we move forward. Will you please consider a gift to our Summer Annual Fund Drive today?

This year, the Taxpayer Bill of Rights is obviously one of our top priorities. MHPC wrote the language for this bill nearly two years ago, and we have spent the last 18 months informing Maine people about the need for such a responsible and effective measure.

The Taxpayer Bill of Rights:

- Establishes annual growth targets for state and local government spending, tied to the growth in the economy
- Allows for majority voter approval for exceeding those growth targets
- Allows for majority voter approval for most tax or fee increases
- Encourages government to lower tax rates in order to match tax revenue with government spending
- Rebates money to taxpayers if government revenue exceeds voter-approved spending
- Creates budget stabilization funds at both the state and local level

The Taxpayer Bill of Rights is a reasonable and effective way for Maine to begin repairing its lagging economy. It paves the way for lower taxes and a more favorable business climate, attracting new jobs, strengthening the economy and increasing incomes.

The net result will be to expand the economic pie - securing existing jobs, while keeping young people, families, and retirees in Maine. It will also create an environment where fewer people will need to rely on government assistance programs, thus relieving at least some of the pressure on state and local government. It is, in short, smart growth for our public and private sectors.

Now more than ever, your support is needed to help us educate Maine people about the opportunity that could be found through a reasonable and effective measure. Unfortunately, there are those who are actively misleading the public and distorting the facts.

However, thanks to your support and generosity, we will continue to provide truthful and credible analysis, information, and commentary about Maine's competitive position and how we can improve it. It's great when the facts are on our side!

Please consider a gift today to support the important work of The Maine Heritage Policy Center.

You can give a gift in support of MHPC today by clicking here to make a secure donation online through our website.

Or, mail your contribution to: The Maine Heritage Policy Center; P.O. Box 7829; Portland, Maine 04112.

Thank you. We are truly grateful for your consideration and for your ongoing support.

Sincerely,

A handwritten signature in black ink that reads "Bill Becker". The signature is written in a cursive style with a large, stylized "B" at the beginning.

Bill Becker  
President & CEO  
The Maine Heritage Policy Center

*We the people of Maine...*

THE MAINE HERITAGE POLICY CENTER

November 6, 2006

www.mainepolicy.org

Mr.

REDACTED  
Denver, Colorado

P.O. Box 7829  
Portland, Maine 04112

Tel: 207.321.2550  
Fax: 207.773.4385

Dear REDACTED

On behalf of the Board of Directors, please accept my sincere thanks for your generous contribution of \$125.00 to The Maine Heritage Policy Center. We are very grateful for this donation, and will use it to advance our mission of promoting The Taxpayer Bill Of Rights, a solution that will benefit all people of Maine.

Board of Directors

Mr. John Austin  
Mr. William G. Becker, III  
Chief Executive Officer  
Hon. Richard A. Bennett  
Michael A. Duddy, Esq.  
Mr. Neal B. Freeman  
Hon. Jean Ginn Marvin  
Mr. W.R. Jackson, Jr.  
Chairman of the Board  
Mr. Thomas W. Mead  
Treasurer

As the author of The Taxpayer Bill Of Rights, we believe that this initiative provides a road map to jump-start Maine's economy. With only a few weeks until the election, we are in a fight for Maine's economic life. As you are aware, Maine has the highest property taxes and the highest state and local tax burden in the country. Our economy continues to struggle. In 2005, Maine was just one of two states to see a decline in economic activity, as reported by the Federal Reserve Bank of Boston. Louisiana, which was ravaged by hurricane Katrina, was the only other state to see a decline. It is more important than ever to educate Maine citizens about the challenges we currently face.

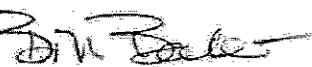
We understand that the economic pie is shrinking. A large part of the problem has been Maine's highest-in-the-nation tax burden, driven by out-of-control government spending. One way to address that problem is through an effective "Tax-and-Expenditure Limit" such as Maine's proposed The Taxpayer Bill Of Rights. Such responsible public policy encourages Maine businesses to remain in the state and grow, thus creating more Maine jobs and higher incomes for Maine workers. With Maine's per capita tax burden growing 50% faster than the rate of inflation, we must act now and work to stop Maine's spending frenzy. Since January 2003, government jobs are growing at more than twice the rate of private sector jobs. This is not an investment in Maine's future. We are digging out the facts everyday and working hard to promote this race based on facts and evidence, not emotions.

The Taxpayer Bill Of Rights is the only public policy in front of Maine voters or our legislators that is guaranteed to reduce Maine's tax burden and ensure that government does not grow faster than the people's ability to pay. It is a reasonable solution for Maine citizens and I thank you for being part of the solution in helping to solve Maine's economic challenges and for investing in Maine's future.

Thank you for joining this effort to help our leaders understand the need for genuine reforms in the way Maine operates - and for providing them with viable and proven policy solutions that will change Maine's future to one of opportunity and promise.

Please do not hesitate to contact me at 207-321-2550 with any questions or suggestions. Thank you again for your support - I look forward to seeing you at a Maine Heritage event very soon.

Yours truly,



Bill Becker  
President and Chief Executive Officer





Amended Minutes of the June 12, 2006 Meeting of the  
Commission on Governmental Ethics and Election Practices  
Held via conference call.

Present: Chair Jean Ginn Marvin; Hon. Vinton E. Cassidy; Hon. Andrew Ketterer;  
Staff: Executive Director Jonathan Wayne, Paul Lavin, Martha Demeritt;  
Commission Counsel: Phyllis Gardiner;  
Complainant: Jennifer Duddy; For the Complainant: Jane Amero.

At 2:20P.M., Chair Ginn Marvin convened the meeting. The Commission considered one item:

**Request for Consideration of Mike Mowles for Legislature Campaign Flyer**

Chair Ginn-Marvin opened the hearing by introducing the complaint by Jennifer Duddy, Republican candidate for House District 121, who believes a campaign flyer recently mailed by her primary opponent Michael Mowles is misleading. She also pointed out that Mr. Mowles has indicated to staff that this hearing was happening too soon, he would not be able to participate in the hearing, and that he needed time to appoint legal counsel. Chair Ginn-Marvin then asked Executive Director Wayne to summarize the complaint and discuss how the Commission should proceed.

Executive Director Wayne summarized the complainant's request for Commission review. A mailer was sent out recently by the Mike Mowles campaign in House District 121 which includes language of endorsement by United States Senators Olympia Snowe and Susan Collins. This endorsement language was made when Mowles ran for the Maine House of Representatives in the 2004 general election against a Democrat, not in this primary and may appear to be misleading. Section 1014-A of Title 21-A states, "A candidate may not use an endorsement unless the endorser has expressly authorized its use." There is no suggestion that these quotations were made for 2006 use.

Counsel Gardiner asked if we had obtained any statements from Senators Snowe or Collins.

Ms. Demeritt described her conversation with Steve Abbott, chief of staff for Senator Collins. Mr. Abbott orally indicated to Ms. Demeritt that Senator Collins has not endorsed any state races in Maine whatsoever in 2006. Ms. Demeritt also read an e-mail she received from Senator Snowe's campaign manager, Lucas Caron, indicating that Senator Snowe did not endorse any candidates for office in Maine during the primary.

Ms. Duddy indicated that this flyer came to her attention on June 11, 2006 when a campaign volunteer making Get Out The Vote (GOTV) calls informed her that a voter told the volunteer that Senators Snowe and Collins had endorsed Mowles. She proceeded to get several copies of this mailer from a couple of her neighbors and proceeded to advise her GOTV volunteers about it. She subsequently discovered that indeed others who had received the flyer had been misled into thinking that Maine's Senators had endorsed Mowles.

Ms. Duddy believes the critical statement is: *See what people are saying about...Mike Mowles.* This statement, she believes, is effectively perceived to be nothing short of an endorsement for his campaign. She said this flyer has compromised the entire election and should not be misconstrued. Based on Mr. Mowles' letter to the Commission staff responding to her complaint, his comments are disingenuous. Ms. Duddy believes that this was an unauthorized endorsement. She thinks the Commission should make a finding of violation of endorsement, levy a penalty and issue a press release.

Ms. Amero, a campaign volunteer for the Duddy campaign, made GOTV calls to voters she personally knew in HD 121, not cold calls. Prior to making the calls on the afternoon of June 11<sup>th</sup> she was told by Ms. Duddy about the flyer. Ms. Amero made calls to those known to her and stated "I am supporting Jennifer Duddy on June 13<sup>th</sup> and hope you would do the same." If the voters response to that statement was less than warm, she proceeded to describe the mailer and explain that the statements from Maine's Senators were not made for the 2006 primary, but instead for the 2004 general election which she personally confirmed by calling the chiefs of staff for Senators Snowe and Collins on June 11<sup>th</sup>.

Counsel Gardiner asked Ms. Amero if any of those who received the flyer had interpreted it not as an endorsement. Ms. Amero responded that her politically astute neighbor understood that it was not an endorsement for the 2006 primary, but other people who were less familiar with campaigns, even though they saw the October 2004 date may not realize it was an endorsement for that campaign only.

Counsel Gardiner asked how many voters Ms. Amero contacted thought it was an endorsement. Ms. Amero responded "at least 10, maybe a few more."

Chair Ginn-Marvin pointed out that the font for the date of the endorsements (October 2004) on the flyer appears to be substantially smaller than the rest of the text on the document.

Ms. Amero stated that she only mentioned the flyer to voters if they did not note their commitment to candidate Duddy. She also stated that to construe Senator Snowe's last sentence "I urge you to elect Mike Mowles to the Maine House of Representatives" to be anything but an endorsement is disingenuous, the endorsement is very clear. The use of a small font for the date of the quotation does not negate the endorsement.

Mr. Cassidy asked whether or not there is any precedent for this kind of complaint. Both Counsel Gardiner and Executive Director Wayne indicated that there was not to the best of their recollection.

Mr. Cassidy also asked what the penalty would be and how the law addresses this particular matter. Counsel Gardiner responded stating that §1014-A states that there could be a civil forfeiture of no more than \$200.

Mr. Ketterer asked if the respondent received notice of today's hearing. Mr. Lavin indicated that Commission staff had received a statement from Mr. Mowles, who was notified of the today's meeting as soon as he determined that there would be three Commission Member's available to hear the complaint.

Executive Director Wayne summarized the letter received from Mr. Mowles which requests that the Commission take up this matter at a later date because:

- (1) He was not supplied with a written copy of the complaint.
- (2) He was not told when the complaint was made and in what fashion.
- (3) Ample notice had not been given so that he could be properly represented before the Commission.
- (4) He wished to be represented by an attorney for this matter.
- (5) His attorney will need proper time to prepare for the hearing.

Mr. Mowles also stated in his letter that the dates of the quotations included on the flyer are clearly marked as October 2004. He believes that for these statements to be construed as an endorsement of the June 2006 primary is inaccurate. Furthermore, he states it is important to show primary voters that he has earned the trust and support of the two U.S. Senators in the past is highly relevant to this primary and the selection of a viable nominee for 2006.

Executive Director Wayne, at the urging of the chair, gave the staff interpretation of the facts. First, it is procedurally permissible to make a decision at this meeting, although it is an odd situation that the respondent has declined to be heard except for his submitted letter. Second, based on his own reading of the flyer, that although the quotes parenthetically mention October 2004, when you read the other side, with the names of other supporters on it, a sophisticated recipient will understand that these quotes were not meant for this year, but others may be misled.

While Mr. Wayne sympathizes with Ms. Duddy, he does not recommend the Commissioners send out a press release, as that would be a major departure from the Commission's previous practices. He went on to state that the members should be concerned about the appearance of a rushed decision.

Chair Ginn-Marvin said that the timing of this meeting is germane to the primary election to be held tomorrow (June 13<sup>th</sup>) and that it is the role of the Commission to take swift action for all complaints filed before an election. While a \$200 finding of violation does not change things, she believes that the Commission's duty is to act expeditiously.

Counsel Gardiner suggested that the Commission could make a preliminary or final finding on whether the flyer constitutes an endorsement and defer any decision regarding a penalty to the next regularly scheduled meeting of the Commission so that Mr. Mowles can be heard.

Mr. Ketterer stated that based on the presentation, the person who did this mailing did so recently and did it in a calculated manner so that the opposing candidate would not have the time to respond. He feels that this flyer was intended to be an endorsement. The intent was to show that the Senators were not endorsing a Republican woman. He believes that it warrants a finding of violation on the points that Executive Director Wayne mentioned. He also did not believe a press release from the Commission was necessary. If he so chooses, Mr. Mowles could file a motion to reconsider, as others have done in the past. However, Mr. Ketterer does not give great weight to Mr. Mowles' inability to appear at this hearing.

Mr. Ketterer discussed making a motion to find the endorsement in violation of §1014-A and defer the penalty until a later date.

Mr. Cassidy agreed that a flyer sent at the 11<sup>th</sup> hour was intended to mislead the voters. He also would like to deal with the penalty at a later meeting.

Mr. Ketterer made a motion that a finding of violation of §1014-A be made based on the definition of endorsement in §1014-A, that the quotations constituted endorsements, and that they were not authorized by the endorsers, and that any penalty be discussed at a later date.

The Commission voted (3-0) to find the Mowles campaign in violation of §1014-A and consider any penalties at the next meeting of the Commission on June 22<sup>nd</sup>.

Mr. Ketterer asked that the record reflect he worked with the complainant at the Attorney General's (AG) office where she was an employee and that he may have hired her. He was not willing to recuse himself because the nature of their relationship was strictly professional, that he has not been at the AG office for six years, and that he may have hired her eight or nine years ago.

Chair Ginn-Marvin also stated that she knew both the complainant and the respondent and lives in the district, but can be unbiased in this case because she does not know either of them particularly well.

The meeting adjourned at 3:05 p.m.

Respectfully submitted,

Jonathan Wayne  
Executive Director

# Document Set #3:

July 16, 2007 Portland Press Herald report  
on Ginn Marvin complaint. 2 pages.

[<< back to story >>](#)

## Portland Press Herald Maine Sunday Telegram

### Complaint targets head of ethics panel

Jean Ginn Marvin failed to disclose her role in a conservative think tank in 2004, the complaint says.

By KEVIN WACK Staff Writer

July 16, 2007

A complaint filed with Gov. John Baldacci takes the chairwoman of the state ethics commission to task for failing to disclose her role with a conservative think tank before being confirmed by the state Senate in 2004.

Jean Ginn Marvin, a former Republican lawmaker from Cape Elizabeth, did not mention her position as a director of the Maine Heritage Policy Center on a questionnaire that asked nominees to list organizations in which they held an office.

The omission was brought to light in a July 2 letter of complaint sent to Baldacci by Carl Lindemann, a former WGAN-AM radio commentator who previously had filed ethics complaints against the Maine Heritage Policy Center.

Lindemann's letter calls for the appointment of a special counsel to investigate whether Ginn Marvin should be allowed to continue serving on the Maine Commission on Governmental Ethics and Election Practices. Lindemann said he did not file a formal complaint with the ethics commission itself because the issues he raises involve a commission member.

David Farmer, a spokesman for the governor, indicated his office is unlikely to launch an investigation.

The Maine Attorney General's Office determined that Ginn Marvin's role with the think tank does not bar her from serving on the ethics commission, because the organization does not appear to fit the legal definition of a "political committee."

In an interview, Ginn Marvin said her failure to disclose her role with the Maine Heritage Policy Center was an honest mistake.

"I would have guessed that I would have disclosed that, but if I didn't, it was inadvertent," she said.

Ginn Marvin noted that she has recused herself from discussions before the ethics commission about the Portland-based think tank, which she said has grown in prominence since her 2004 confirmation hearing.

Still, several current and former lawmakers who helped to confirm Ginn Marvin said her role at the Maine Heritage Policy Center should have been disclosed and would have raised concerns.

In 2004, House Republican Leader Joseph Bruno recommended Ginn Marvin to Baldacci to fill a GOP vacancy on the ethics commission. The governor later nominated her.

Farmer said no one in his office could recall learning in 2004 that Ginn Marvin was serving on the think tank's board, despite a vetting process that includes an interview with the candidate. He said the information would have been relevant.

"It certainly would have been taken into consideration," Farmer said. "And the ethics commission, because of the nature of the job they do, it's particularly important that there's full disclosure."

After a public hearing in August 2004, the Legislature's Legal and Veterans Affairs Committee recommended Ginn Marvin's confirmation by a 12-0 vote. The Maine Senate later confirmed her.

In interviews, eight of 12 current and former members of the legislative committee, including two of five Republicans, voiced concerns about Ginn Marvin's role with the Maine Heritage Policy Center.

"If we had known, I would not have voted for her," said Kenneth Gagnon, a Democrat who is no longer in the Legislature, but who in August 2004 was the Senate chairman of the Legal and Veterans Affairs Committee.

He called for Ginn Marvin to resign from either the ethics commission or the think tank's board of directors.

Former Sen. Kenneth Lemont, R-Kittery, said he would have expected Ginn Marvin to have either resigned from the think tank's board or withdrawn her ethics commission nomination.

"It definitely would have been a concern," he said.

Founded in 2002, the Maine Heritage Policy Center was perhaps best known at the time of Ginn Marvin's confirmation hearing for its opposition to Baldacci's Dirigo health-care plan.

It also had convened a tax summit featuring anti-tax activist Grover Norquist. The group later wrote the statewide referendum known as the Taxpayer Bill of Rights, which appeared on the November 2006 ballot.

The ethics commission eventually required the think tank to disclose its TABOR-related spending in response to a complaint filed by Lindemann. Ginn Marvin recused herself from the matter.

Ginn Marvin's term on the ethics commission officially ended in April, but she continues to serve. She said she is not seeking reappointment, but she has no plans to resign from either the ethics commission or the Maine Heritage Policy Center board.

House Republican Leader Josh Tardy has not yet submitted a list of possible candidates to the Governor's Office.

Rep. John Patrick, D-Rumford, House chairman of the Legal and Veterans Affairs Committee, said he plans to take a closer look at the political ties of future ethics commission candidates.

"I think it'll actually help the committee be more diligent in asking questions in the future," he said.

Staff Writer Kevin Wack can be contacted at 791-6365 or at:

[kwack@pressherald.com](mailto:kwack@pressherald.com)

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# Document Set #4:

August 6, 2007 challenge to Assistant Attorney General's "it just sits there" doctrine. 27 pages.

Pages 12-27 examine the question of whether MHPC is a "Political Committee."

# TrueDialog.ORG

*For a more Authentic Democracy*

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Phone 207-774-1936  
Email: [info@truedialog.org](mailto:info@truedialog.org)

P.O. Box 171  
Portland, Maine 04112

August 6, 2007

Dear Commission Chair Friedman, Commissioners Cassidy, Shiah, and Thompson:

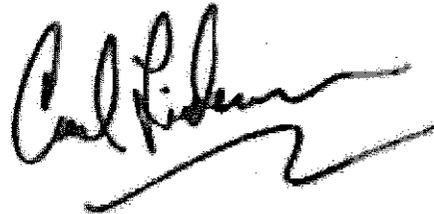
Unusual circumstances necessitate that I contact you directly regarding Commissioner Ginn Marvin's conduct and qualifications to serve.

At the last Commission meeting on July 16, Executive Director Wayne expressed highly prejudicial summary conclusions regarding his boss apparently with the cooperation of Assistant Attorney General Gardiner. They must be disqualified for their potentially biased mediation.

How should this matter be processed? Assistant Attorney General Gardiner offered her novel "It Just Sits There" doctrine where Commissioners decide for themselves if they are fit to serve and if their conduct does not violate the statutes administered by the Commission. The Commission, without formal vote, apparently accepted this. The doctrine and the adoption "process" are unacceptable. Instead, the Commission must reject this and adopt an "Above Reproach" approach by formal vote instead.

The following document compares and contrasts the "It Just Sits There" doctrine and the "Above Reproach" approach as well as the actions that must follow either of their formal adoption. I request that a discussion of these and a formal vote to choose between them and these actions be included on the August 13 agenda.

Yours very truly,



cc Wayne, Gardiner, Lavin, AG Rowe, Gov. Baldacci, Sen. Pres. Edmonds, Speaker Cummings, *et alia.*

## The Ethics Commission's Choice:

### The "It Just Sits There" doctrine vs. an "Above Reproach" Approach

On July 16, Assistant Attorney General Phyllis Gardiner offered the entirely novel "It Just Sits There" doctrine regarding Commissioner Jean Ginn Marvin:

*Just looking at the statute, title 1 section 1002, I don't see that it really is within the Commission's purview as a body to rule on the qualifications of any member or whether – the question of whether - any member is engaged in what's defined as prohibited activities under that statute....any commission member whose qualifications are challenged, or whose activities are challenged, can answer that individually as to their reasoning as to why they feel they're able to continue serving and have not engaged in prohibited activities and then it just sits there. I don't see that the remedy is with this Commission. [Assistant Attorney General Gardner, 7/16/07, Emphasis added.]*

This erroneously suggests that there is nothing for the Commission to do in this matter. It is true that if the Commission should choose to formally accept this doctrine, then it is their decision that this matter "just sits there."

However, the Commission must adopt an "above reproach" approach instead. These two principles are the foundation for this:

- a. That the conduct of Maine Ethics Commissioners needs to be beyond reproach, both in fact and in appearance.
- b. That Commissioners must be held to the highest possible standard of conduct – higher, even, than those they regulate.

Adopting this affords a very different outcome than the "It Just Sits There" doctrine. It necessitates significant actions by the Commission responding to Commissioner Ginn Marvin's failure to disclose and the subsequent challenges to her qualifications to serve as well as her conduct.

The following document compares and contrasts the difference between the "It Just Sits there" doctrine and "Above Reproach" approach applied to Ginn Marvin's:

1. pre-appointment failure to disclose her board membership on MHPC
2. engagement in "prohibited activities" as MHPC's treasurer
3. qualifications to serve on the Commission as an MHPC board member

\*\*\*

## 1. Commissioner Ginn Marvin's pre-appointment failure to disclose to the Maine Legislature her Board Membership on Maine Heritage Policy Center:

Ethics Commissioner Ginn Marvin failed to disclose the material fact of her Maine Heritage Policy Center (MHPC) Board membership in her July 17, 2004 "Qualification-to-serve-as-Regulator" Legislative Staff Questionnaire for Gubernatorial Nominees form.

On November 29, 2006, Ethics Commission Executive Director Jonathan Wayne correctly emphasized the central importance of Commissioner Ginn Marvin's disclosure of her MHPC Board membership on her July 2004 "Qualification-to-serve" form.

*...Ms. Ginn Marvin's membership on the MHPC board is not a conflict of interest that would require her to step down from the Commission. She was a member of the MHPC board when the Governor appointed her at the suggestion of the legislative leadership, so apparently the issue was not viewed as a disqualifying conflict at the time of her appointment. (response of Ethics Commission staff to Lindemann letter of Nov. 27)*

This comment by the Ethics Commission Executive Director highlights the misapprehension by many that Ms. Ginn Marvin had been appropriately "cleared" to serve, as a result of her having filled out the 2004 "Qualification-to-serve" form. In addition, it also correctly suggests that her MHPC Board membership would, in fact, have been, and continues to be, a factor potentially "disqualifying" her from participation in Ethics Commission decision-making.

In the July 16, 2007 Portland Press Herald, a news report on this matter included numerous quotes from the Governor's office and members of the Maine legislature expressing dismay at Commissioner Ginn Marvin's omission. In this, she admitted her omission and claimed that it was "inadvertent."

The omission may have been intentional or, as she claims, "inadvertent." Is her claim not subject to objective review by some regulatory body? What mandates and options were available to the Maine Ethics Commission, under common principles of administrative and ethics law, upon first learning of Commissioner Ginn Marvin's failure to disclose, some three years after she began service on the Commission?

### **A. What did the Maine Ethics Commission do?**

-- **Nothing**. The Ethics Commission "Just sat there," tacitly accepting Assistant Attorney General Gardiner's novel "It Just Sits There" doctrine.

There is the grave possibility that Ms. Ginn Marvin's appointment to the Ethics Commission was gained by intentional material misrepresentation on the "Qualification" form mandated for legislative appointment. Also, material misrepresentations made to the Commission by other MHPC officials (eg. no solicitations/donations or express advocacy for TABOR, never taking 'pro' or 'con' stances on any issue, etc.) raise fundamental doubts about whatever she asserts here. This history of offering what are at best factually inaccurate statements to the Commission should necessitate objective review. Yet, according to the novel "It Just Sits There" doctrine, the

subject of Ms. Ginn Marvin's admitted material misrepresentation must "just sit there," without further Ethics Commission action - substantive or even symbolic - or even any other "alternative" regulatory/enforcement review. Thus, Commissioner Ginn Marvin's claim of "inadvertence" is accepted without any objective review of its credibility.

## **B. What could the Maine Ethics Commission do with an "Above Reproach" approach?**

-- At the outset of the July 16 meeting, it would have announced that questions have been raised about Ginn Marvin's conduct and then voted to ask the Commissioner to recuse herself until the Commission, without her presence, addresses the allegation.

-- Require Ethics Commissioner Ginn Marvin to immediately file an attested, revised and fully completed July 14, 2004 "Qualification to Serve" form, pertaining to her interests as of July 14, 2004, since there remains the possibility that other omissions occurred, either intentional or unintentional, and suspend her from further involvement with Commission affairs until that form is filed and reviewed.

-- Recognize that the mere fact that Ginn-Marvin's July 2004 failure to disclose predated her service on the Ethics Commission does not require or suggest that the Commission should "just sit there." Because the omission undermines the legitimacy - if not the legality - of her original appointment, the opposite conclusion applies: the Commission has a heightened duty to act.

-- Recognize that her current status as an Ethics Commissioner must not be a bar to regulatory and enforcement investigation and review of her conduct. Again, the opposite conclusion applies: Maine Ethics Commissioners must be subject to the highest standards of ethical conduct and the highest standards of ethical scrutiny.

-- Recognize that truthful, written disclosure forms are the lynchpin of all Maine Ethics Commission oversight and enforcement: The entire enforcement/regulatory function is founded on the EXPECTATION that all written reporting forms WILL be filled out completely and honestly, and affirmed as true with the signature of the filer.

-- Recognize the highly symbolic "enforcement" value generated by maintaining and enforcing the highest standards of conduct for Ethics Commissioners. If Ethics Commissioner Ginn Marvin can assert that mere "inadvertence" caused her failure to disclose on that form, and that excuse is accepted without objective review and investigation, then a fundamental question of fairness arises. Others required to file written affirmed forms with the Commission, upon witnessing this special treatment which - to date - has been granted to Ethics Commissioner Ginn Marvin, might now reckon for the first time that similar claims of "inadvertent failure to disclose" on their part will now 'just sit there' at the Commission, with no real threat of enforcement sanction.

-- Consider a vote of censure, reprimand, suspension, or expulsion of Commissioner Ginn Marvin, to send a message to other filers that claims of inadvertent omission on critical forms are unacceptable - especially for an Ethics Commissioner.

-- Immediately adopt a requirement that all Commissioners file attested annual "interest disclosure" affidavits, consistent with many similar periodic filing requirements enforced by the Ethics Commission.

-- Initiate Agency Rule making to require filing of such complete annual "interest disclosure" affidavits by Ethics Commissioners.

-- Alternatively, recognize that, because Ethics Commissioner Ginn Marvin has, since April 2007, been serving as a holdover "expired-term" Ethics Commissioner, thereby avoiding review for a second-term, she should be asked by the other Commissioners to step down from such temporary service, or at least be required to immediately file a new and attested form outlining her current qualifications to serve.

-- Recognize that Ginn Marvin's failure-to-disclose may jeopardize not only her current fitness-to-serve, but also her past service, and – more importantly – may generate some claims that decisions rendered by the Ethics Commission since her appointment in 2004 may be subject to challenge, as being void or voidable.

-- Immediately move to establish a "beyond reproach" investigation and adjudication – by appointing an entirely independent person or body - to review and investigate Ethics Commissioner Ginn Marvin's relationship and offices held with MHPC, and her associated claim that her failure to disclose was "inadvertent."

### **C. Conclusion – The Inaccurate Assessment of the "It Just Sits There" doctrine.**

The above listing of options/mandates available to the Commission, to judiciously and ethically act upon Ethics Commissioner Ginn Marvin's failure to disclose on her Qualification to serve form does not pretend to be an exhaustive list. However, it does illustrate the fundamentally flawed nature of the "Just Sits There" Doctrine articulated by Assistant Attorney General Gardner. The claim that there is nothing for the Commission to do under these circumstances is simply false.

Surely no Commission statute or rule is required to allow a body to police itself in this manner, since each of these administrative/regulatory "self-policing sanctions" are commonplace at every level of government, in every legislative and administrative setting.

The point is that addressing Commissioner Ginn Marvin's pre-appointment failure to disclose her membership on MHPC's board falls within the purview of the Ethics Commission. However, circumstances demands that the Commission must immediately take formal action to cede that jurisdiction and authority to some other person or persons. Thus, the Commission should immediately act by formal vote to request that someone entirely removed from the scene (eg. the Governor, the Speaker of the House, the President of the Senate) appoint an independent Special Counsel, person or group to undertake a "beyond reproach" investigation and adjudication of Commissioner Ginn Marvin's failure to disclose and the issues subsequent to it.

\*\*\*\*

2. **Ethics Commissioner Ginn Marvin, as an Officer and Treasurer of MHPC, has engaged in “prohibited activities” in violation of MSRA 1 § 1002 1A-6 through “political fund-raising to promote the election or defeat of a candidate, passage or defeat of a ballot measure....”**

The call for an investigation addressed to the Governor and legislative leaders sent on July 2 stated that Ethics Commissioner Ginn Marvin, as Treasurer of MHPC, has engaged in “prohibited activities” in violation of MSRA 1 § 1002 1A-6 by partaking in “political fund-raising to promote the election or defeat of a candidate, passage or defeat of a ballot measure....”

Evidence that MHPC had engaged in fundraising for the Taxpayer Bill of Rights (TABOR) ballot initiative include a fundraising solicitation letter and “thank you” form letter for contributions “to advance our mission of promoting The Taxpayer Bill of Rights in Maine...” As Treasurer of the organization, Commissioner Ginn Marvin cannot reasonably claim that she did not participate in what are prohibited activities for a Commissioner. This meets the standard for the Commission to initiate an investigation as per 21-A M.R.S.A. § 1003 because it “shows sufficient grounds for believing that a violation may have occurred.”

#### **A. What did the Maine Ethics Commission do?**

-- **Nothing.** By embracing Assistant Attorney General Gardiner’s “It Just Sits There” Doctrine, Ethics Commissioners are, in effect, not subject to enforcement of MSRA 1 § 1002 1A-6.

#### **B. What could the Maine Ethics Commission do with an “Above Reproach” approach?**

Ascertaining the facts necessary to determine whether or not MHPC engaged in political fundraising for the ballot initiative is clearly within the Commission’s jurisdiction. In fact, the Commission staff has determined that there is cause for such an investigation into this matter. It is contained in the outstanding complaint regarding the accuracy and completeness of MHPC’s 1056-B report. However, the investigation and adjudication of this complaint has, for reasons which may or may not be related to the fact that the allegations directly pertain to the conduct of Commissioner Ginn Marvin, have been put on hold by the Commission.

Because of the direct relevance to a determination of Commissioner Ginn Marvin engaging in prohibited activities, an “above reproach” Commission would determine the following:

-- Announce that sufficient grounds for believing that a violation of MSRA 1 § 1002 1A-6 may have occurred and then voted to ask that Commissioner Ginn Marvin recuse herself until the allegation is addressed by the Commission without her presence.

--Immediately act by formal vote to cede jurisdiction over Ginn Marvin/MHPC’s TABOR fundraising and to request that someone entirely removed from the scene (eg. the Governor, the Speaker of the House, the President of the Senate) appoint an independent Special Counsel, person or group to undertake a “beyond reproach” investigation and adjudication.

-- Immediately act by formal vote to cede jurisdiction of the entire March 5<sup>th</sup> complaint against Ginn Marvin/MHPC to this independent Special Counsel, person or group. Ginn Marvin's dual identity as Treasurer for MHPC makes it impossible to effectively and fairly extricate the various elements. Also, in the interest of resolving the issue expeditiously, this case should be heard immediately *in toto* rather than to simply focus on elements regarding Ginn Marvin's alleged activities. This abides by the Commission's expressed interest in "agency economy" when it voted to put this investigation on hold.

### **C. Conclusion – Premises Behind the “It Just Sits There” doctrine.**

Applying the “It Just Sits There” doctrine here instead of an “above reproach” approach reveals these premises behind this failure to act on the part of the Commission that ignores basic principles of administrative and conflict-of-interest law:

Premise No. 1: The “It Just Sits There” Doctrine must be immediately applied when any claim involving a Commissioner arises.

Premise No. 2: That pertinent Administrative law and conflict-of-interest legal precedents should be interpreted to mean that:

- a) when an allegation arises that an Ethics Regulator has engaged in prohibited acts, the only remedy is to have the Commissioner “*answer that individually as to their reasoning as to why they feel they're able to continue serving and have not engaged in prohibited activities,*” and
- b) that the other Commissioners can and should do nothing.

Premise No. 3: That Ethics Commissioners are immune from Ethics Statute regulation: Appointment to a position on the Maine Ethics Commission frees that person from the bounds of the Maine Ethics statute, and from any oversight, investigation, or enforcement by the Maine Ethics Commission.

In sum, adopting the “It Just Sits There” Doctrine redefines the Ethics Commission where it becomes something fundamentally different than what the name suggests.

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### **3. As an MHPC Board Member, Commissioner Ginn Marvin was/is disqualified to serve on the Ethics Commission.**

Section 1 § 1002(2) of Governmental Ethics Law states:

**Qualifications.** The members of the commission must be persons of recognized judgment, probity and objectivity. A person may not be appointed to this commission who is a member of the Legislature or who was a member of the previous Legislature, who was a declared candidate for an elective county, state or federal office within 2 years prior to the appointment, who now holds an elective county, state or federal office, who is

an officer of a political committee, party committee or political action committee or who holds a position in a political party or campaign.

Two independent analyses show sufficient grounds for believing that Commissioner Ginn Marvin is disqualified for service on the Commission.

**a. The governing principle is that regulated individuals and leadership of regulated entities are disqualified from service on the Commission.**

The Commission did not determine what kind of entity MHPC actually is during the case brought against the organization last Fall. At the October 31 meeting, MHPC's president, Bill Becker compared the organization to other educational or research institutions such as the Margaret Chase Center at the University of Maine or the Muskie School of Public Policy. However, the Staff Memo of December 6 disagreed with this self-assessment:

The promotional aspect of some of the MHPC's statements, however, seems to put it in a different category than the Margaret Chase Center or the Muskie School...

Whatever kind of entity MHPC is, it is not what Mr. Becker claimed – i.e. an entity not regulated by the Commission. This became explicit with the Commission's Final Determination ordering the organization to file a 1056-B report. What does MHPC's status as a regulated entity in 2006 say about 2004 when Commissioner Ginn Marvin was appointed to serve? MHPC repeatedly testified that its conduct and character in 2006 was unchanged from the founding of the organization in 2002. Therefore, it is reasonable to infer that since it was a regulated entity in 2006, it was also one in 2004.

**b. MHPC is a "political committee" so Commissioner Ginn Marvin is specifically excluded from service on the Commission.**

A "political committee" is defined under 21-A M.R.S.A. §1, sub-§30 as "2 or more persons associated for the purpose of promoting or defeating a candidate, party or principle." Since as early as the organization's founding in 2002-2003, MHPC has been and continues to be a "political committee" promoting the principle of Tax and Expenditure Limitation (TEL) laws that include ballot initiatives such as TABOR (see addenda: MHPC as a "Political Committee"). Therefore, Commissioner Ginn Marvin's service on the MHPC Board of Directors disqualifies her from service on the Commission.

**A. What did the Maine Ethics Commission do?**

-- **Nothing.**

**B. What could the Maine Ethics Commission do with an "Above Reproach" approach?**

It may be appropriate for the Commission to determine whether the standard of 21-A M.R.S.A. § 1003 is satisfied, that there are "sufficient grounds for believing that a violation may have

occurred.” Based on this, they might decide that an investigation of some kind must ensue concerning the claim that the proper disclosure would disqualify her from service.

Note, however, that a “beyond reproach” Ethics Commission held to the highest possible standard of conduct, would **lower** the legal standard of 21-A M.R.S.A. § 1003 in the case of claims of statutory violation by an Ethics Commissioner. Here, that would require investigation if there are “any grounds for believing that a violation may have occurred.” One would think that any Commissioner worthy of service and with nothing to hide would welcome any such clearance after due process. This threshold for investigation applies to all of the issues here - Ginn Marvin’s “failure to disclose”, the claim that the proper disclosure would disqualify her from service, and whether she had engaged in “prohibited activities.” It also is pertinent to concerns over whether the Commission was improperly constituted with her presence, and whether that taints determinations and rule-making during her tenure.

Because of the broad issues raised by the distinct possibility that Commissioner Ginn Marvin was not qualified to serve either as a Director on MHPC’s board in 2004 or as that board’s Treasurer since 2005, an “above reproach” Commission would carry out the following:

-- Announce that sufficient grounds for believing that a violation of Section 1 § 1002(2) may have occurred and then vote to ask that Commissioner Ginn Marvin recuse herself until the allegation is addressed by the Commission without her presence.

--Immediately act by formal vote to cede jurisdiction over investigating and adjudicating Commissioner Ginn Marvin’s possible violation of Section 1 § 1002(2) and to request that someone entirely removed from the scene (eg. the Governor, the Speaker of the House, the President of the Senate) appoint an independent Special Counsel, person or group to undertake a “beyond reproach” investigation and adjudication.

-- Recognize that the Commission may have been and continues to be improperly constituted as the result of having an unqualified Commissioner. This may generate some claims that decisions rendered by the Ethics Commission since her appointment in 2004 may be subject to challenge, as being void or voidable.

**C. Additional Concerns and Considerations: Need for Executive Director Wayne and Assistant Attorney General Gardiner to be recused from any participation in processing Ginn Marvin matter.**

Before the Commission could consider the matter during the July 16 session, Executive Director Wayne (apparently with the advice and consent of In-House-Counsel Gardner) took an unusual and unexpected action. He boldly began his remarks by expressing a prejudicial and summary conclusion that, in effect, “cleared” the question of Commissioner Ginn Marvin’s qualification-to-serve:

*Carl has raised an argument that Jean Ginn Marvin is disqualified from serving on the Commission because she’s an officer of the Maine Heritage Policy Center and that qualifies as a political committee. I’ve had a chance to talk it over with*

*Phyllis, about what her view is and we disagree with that point of view. [Executive Dir. Wayne, 7/16/07]*

The Executive Director has worked closely with Commissioner Ginn Marvin for several years during her service as Chair reporting directly to her. That, on the face of it, makes his astonishing "there's no wrongdoing and no legal issue" summary dismissal pronouncement inappropriate.

What premises lies behind this morally and procedurally bankrupt, and legally fatuous conclusion, which ignores all basic principles of administrative and conflict-of-interest law?

That - again, unlike the average citizen - when an allegation arises that an Ethics Commissioner has engaged in activity prohibited under the statute, that Commissioner is immediately entitled to specialized treatment, in the form of Ms. Ginn Marvin's immediate "clearance" by the Commission's Executive Director and the Assistant Attorney General, including apparently:

- expedited, instantaneous "process" which omits every common procedural due process element. Here, there was no "process" whatsoever proceeding Wayne's bold and summary automatic "clearance" of Commissioner Ginn Marvin on this issue.
- no investigation (other than, possibly, input from only Ms. Ginn Marvin)
- no accumulation of evidence
- no hearing (at least with advance public notice, and held in public)
- failure to isolate Ms. Ginn Marvin from any adjudication or decision-making on the claim, through a firewall, and formal recusal/removal from the entire subject
- no public comment
- no vote by the Ethics Commission, or any other body
- no written decision, and no recitation of facts found to be true, legal standard applied, or legal conclusions made.

These statements by Executive Director Wayne and Assistant Attorney General Gardiner shows that they both have entirely "pre-judged" any claim of any statutory violation by Ethics Commissioner Ginn Marvin. However, the Commission "just sat there" in response.

This explicit "pre-judging" mandates that both Executive Director Wayne and Assistant Attorney General Gardiner be recused from any further involvement or contact with any issues having anything to do with claims of qualification, ethical or statutory violation by Commissioner Ginn Marvin.

This bold and summary adjudication and clearance is especially troubling in the Executive Director's case because of what may be his pattern of biased conduct favoring Ethics Commissioner/MHPC Treasurer Ginn Marvin as pertains to charges of statutory violation.

Executive Director Wayne wrote a March 6, 2007 Memorandum to the Commission, which outlined for the Commissioners the alleged statutory standard to be applied by the Commission in judging the accuracy and completeness of a report which the Commission had previously ordered by filed by MHPC. This complaint concerns the organization's fundraising and expenditures, a subject directly within the bailiwick of Ethics Commissioner/MHPC Treasurer Ginn Marvin. In that memo, Executive Director misstated the legal standard to be applied by the

Commission. He inaccurately quoted 21-A M.R.S.A. § 1003, the standard for having the Commission launch an investigation:

...if the reasons stated for the request show sufficient grounds for believing that a violation **has occurred.**" (emphasis added) .

This statement of the law, in a case directly calling into question the legality of actions undertaken by his boss, was fundamentally and entirely wrong. The obvious standard for determining when the Commission should undertake an investigation is:

...if the reasons stated for the request show sufficient grounds for believing that a violation **may have occurred.**" (emphasis added)

These two articulations of the statutory standard which lies at the very heart of the entire statutory and regulatory framework are fundamentally different. The statute means to mandate a Commission investigation when there is merely the possibility of violation. In startling contrast, Executive Director Wayne asserted a very different standard in writing in his legal memorandum on a case that named his boss in a claim of violation. He stated that only when there is a much larger element of certainty that a violation has occurred is an investigation warranted. The gross and fundamental nature of Executive Director Wayne's written misstatement of this legal standard raises several possible inferences:

- 1) it was merely "inadvertent";
- 2) it was evidence of gross incompetence;
- 3) whether intentional or "inadvertent", the Executive Director's recitation of such a baldly false legal standard, some three years into his tenure as Executive Director, calls into question every Commission decision – to investigate or not investigate - during his entire tenure prior to that March 2007 advice to the Commission;
- 4) it was part of a pattern of conduct of providing favorable treatment to his boss, Ethics Commissioner/MHPC Treasurer Ginn Marvin

It is difficult to tell, absent more information, which of the above inferences is accurate. However, the possibility of a pattern of Executive Director Wayne's unfairly favorable conduct toward Commissioner Ginn Marvin is heightened by the subsequent "summary clearance" he offered spontaneously on July 16 described above.

The "Above Reproach" approach necessitates a specific response. This apparent pattern, alone, makes it clear that Executive Director Wayne needs to be recused and separated by a firewall. In fact, the mere fact that Executive Director Wayne served directly under Commissioner Ginn Marvin mandates this same need for his recusal/firewall separation. Likewise, Assistant Attorney General Gardiner's participation in such a "summary clearance on all charges" for Commissioner Ginn Marvin makes clear that she, too, needs to be removed from any further processing of any matters involving Commissioner Ginn Marvin.

#### **4. Conclusions and Considerations: Is the Ethics Commission Ethical?**

It is absurd for Assistant Attorney General Gardiner to maintain that all of the matters here concerning Commissioner Ginn Marvin are not “within the Commission’s purview.” In fact, much of this is well within the Commission’s jurisdiction. However, the self-evident conflict of interest involved in the Commission investigating or adjudicating any complaint involving a Commissioner makes it necessary to move the action to an appropriate venue. At the very least, the “It Just Sits There” doctrine must be repudiated if the Commission is to have any claims to “ethical” standing.

By asserting her novel “It Just Sits There” doctrine, Assistant Attorney General Gardiner has brought the Commission to a point of decision. This is an opportunity to publicly declare whether or not the Commission adheres and aspires to the highest ethical, moral and legal standards. By formally rejecting the “It Just Sits There” doctrine and also voting to carry out the appropriate actions to see to it that Commissioner Ginn Marvin’s apparent violations. This is the only way the Commission can properly carry out its mission as it:

...guards against corruption and undue influence of the election process...promptly, fairly, and efficiently...(with Commissioners that) investigate and advise on apparent violations of ethical standards.

Alternately, the Commission may wish to positively embrace the “It Just Sits There” doctrine by formal vote. If so, this should be a matter of great interest to Maine citizens and their elected representatives. Finally, the Commission may elect to tacitly accept the “It Just Sits There” doctrine by taking no formal action here whatsoever. That would be of grave concern. It might indicate that the Commission was unable to fulfill its statutory obligations and lacked the fundamental integrity necessary to even be clear about what standards it did embody.

Howsoever the Commission decides to act or to not act regarding Commissioner Ginn Marvin, it is a moment of truth.

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### **ADDENDA: MHPC as a “Political Committee”**

Is there sufficient grounds for believing that Jean Ginn Marvin is unqualified for service on the Ethics Commission? That easily accessible evidence provides sufficient grounds for believing that Maine Heritage Policy Center (MHPC) is a “political committee” exposes Assistant Attorney General Gardiner and Executive Director Wayne’s prejudicial and summary conclusion as unfounded.

The challenge to Commissioner Ginn Marvin’s qualifications to serve on the Commission on the grounds that she serves on the board of MHPC arises from 1 § 1002(2):

A person may not be appointed to this commission who is a member of the Legislature or who was a member of the previous Legislature, who was a declared candidate for an elective county, state or federal office within 2 years prior to the appointment, who now holds an elective county,

state or federal office, who is an officer of a political committee, party committee or political action committee or who holds a position in a political party or campaign.

As per 21-A MRSA §1, sub-§30. Definitions, a 'Political committee' means 2 or more persons associated for the purpose of promoting or defeating a candidate, party or principle."

### MHPC in 2003: Advocating for TEL legislation from its Inception

Easily accessible documentary evidence shows that, in a plain language understanding of the definition, MHPC is a political committee "associated for the purpose of promoting the principle" of tax and expenditure limitation laws (TELS). MHPC's Executive Director Bill Becker began promoting the principle of TELS within weeks of the organization's founding. He is explicit in an opinion piece he wrote for the Lewiston Sun Journal published on February 16, 2003:

...tax and expenditure limitations should be passed...TELS legally limit a state's ability to increase either taxes and/or expenditures. Maine's state government has chronically proven that it is unable to apply fiscal discipline to the budget process, as each of us must do with our own families or businesses. Therefore, legal limits must be placed on policymakers." (see Exhibit A)

### 2004: TELS vs. Tax Cap

In 2004, the so-called "Palesky Tax Cap" referendum was at the forefront with signatures for the ballot initiative certified on February 10. Apparently, this threatened to eclipse MHPC purpose in promoting TELS. In response, the organization held an "Emergency Tax Summit" on March 23. This was a well-publicized event featuring national anti-tax activist Grover Norquist. Rather than focus on the Palesky Tax Cap, the "summit" apparently focused on TELS, specifically Colorado's Taxpayer Bill of Rights. Two of four presentations still found on MHPC's website from the event, from Colorado's Penn Pfiffner and Dr. Barry Poulson, reflect the TEL/TABOR focus. A news report in the Lewiston Sun Journal the following day further underscores this:

In addition to a local tax cap, Norquist said Mainers should adopt a Taxpayers Bill of Rights, or TABOR, such as Colorado voters did in 1992. That measure limits state spending to the annual rate of inflation plus population growth and requires a two-thirds vote in the Legislature to approve tax increases. (see exhibit B)

Concurrent with these events, future Ethics Commission Chair Ginn Marvin is listed as a Director on the MHPC board in the organization's first annual tax filing, IRS Form 990, dated April 28, 2004. She filled out her disclosure for membership on the Ethics Commission several months later, dated on July 16, 2004. She was appointed to the Commission on August 17. Just over three weeks later, on September 10, MHPC published a press release supporting TABOR a new ballot initiative put forward by Mary Adams. Becker's advocacy here reflects his earlier advocacy in 2003:

Our state has shown itself incapable of managing its own affairs without guidelines. Tax and spending limits will provide the parameters for our state and local

governments to live within their means. (see exhibit C)

Four days later, on September 14, Grover Norquist's organization, Americans for Tax Relief, sent out a media advisory apparently to provide follow-up support for MHPC's release. Norquist is quoted in it saying "As I watch tax developments nationwide, I see that TABOR is the future." (see exhibit D)

MHPC's partnership with Adams to promote TABOR becomes even more explicit after the failure of the Palesky Tax Cap as is reported by Victoria Wallack in the Brunswick Times Record on November 22:

Today (Adams) has hooked up with a national movement called the Taxpayers Bill of Rights (TABOR) and the conservative Maine Heritage Policy Center, based in Portland. With their help she hopes to put a question on the ballot next year... (see exhibit E)

Also of interest is how these documents seem to show a close relationship that appears to be at odds with Becker's later testimony to the Ethics Commission where he claimed MHPC had operated independently of Adams (see exhibit F).

### MHPC's TEL Promotion Yesterday, Today & Tomorrow

MHPC expressly advocated for the 2006 TABOR ballot initiative. Of particular interest is the mission statement contained in a "thank you" form letter used as part of MHPC's fundraising program for the ballot initiative. In the letter signed by Becker, he states that donations will be used "to advance our mission of promoting the Taxpayer Bill of Rights...an effective 'Tax and Expenditure Limit'..." (see attached, Exhibit G)

MHPC has already signaled that it will continue its work as a political committee to promote the principle of TELs. Becker made this statement on WLOB radio on July 19, 2007:

I can fully report that we are rewriting TABOR. We're not rewriting TABOR as the Taxpayer Bill of Rights. We're rewriting a tax and expenditure limitation bill based on the fact that we wrote the last one...here's another version of the same tool. (audio available at [www.truedialog.org/audio/WLOB\\_becker\\_7\\_19\\_07.mp3](http://www.truedialog.org/audio/WLOB_becker_7_19_07.mp3))

### Conclusion:

There is sufficient reason to believe that MHPC may be properly defined as a "political committee" in a plain language reading of 21-A MRSA §1, sub-§30. The documentary evidence makes it clear that promoting the passage of TELs in Maine is a major purpose for MHPC likely going back to its founding.

# Sun Journal

## Significant changes sought in economic policies

Sunday, February 16, 2003

***Maine government has chronically proven that it is unable to apply fiscal discipline to the budget process. Legal limits must be placed on policymakers.***

We live in one of the finest places in the nation - our great state of Maine. Our magnificent and immense natural resources, our safe and varied communities, combined with the determination and grit of Maine people, makes the state a place about which books are written and movies are made.

Yet Maine is on the verge of significant population and economic decline. If we do not direct our elected (and non-elected) officials to make significant, structural changes in our long-held policies on taxes, economic development, and regulations that we place on both our people and businesses, Maine will see more closings, more layoffs, and more businesses deciding to locate their operations somewhere outside our borders. That potential end result will have a devastating effect on each of us in a very real way.

Conservatives have long held that there are certain key elements to a thriving and robust economy: lowering the tax burden, encouraging responsible free market competition among the business community and limiting the amount of unfunded and overly burdensome regulations placed upon both individuals and corporations.

As it relates to the states, these beliefs are based upon factual data that show the competitive advantage in those states that have embraced this fundamental understanding. States such as Colorado, Florida, and our neighbor New Hampshire, have seen a significant growth in population, business development and, as a result, tax revenue.

The Maine Heritage Policy Center has emerged as a leading Maine voice for these honorable views of the conservative philosophy - and as such is once again reminding Mainers of their strong, independent and participatory Maine heritage.

MHPC is a new nonprofit, nonpartisan research and educational organization whose mission is to formulate and promote conservative public policies based on the principles of free enterprise; limited, constitutional government; individual freedom; and traditional American values - all for purpose of providing public policy solutions that benefit the people of Maine.

In the critical area of the economy, we all heard the rhetoric during the recent gubernatorial contest regarding Maine's high tax rate, and that the business community is finding it hard to live and work here. While the campaign may be over, that reality still exists.

In a 2002 study published by the Tax Institute, Maine was the last - the lowest, the bottom - of the list in terms of tax-friendly states. Maine's individual tax burden (combining a Maine resident's state, local, property, sales and excise taxes), as a percentage of personal income, was 13.6 percent - the highest in the union!

These are facts that we can no longer ignore. These types of well-publicized reports cannot and do not bode well for Maine's prospect at attracting new businesses to the state. Remember that along with those businesses come dozens or hundreds or thousands of new people to Maine who would buy houses, cars, food and, yes, pay taxes.

Mainers must be adamant in their strong opposition to any tax increases; in fact, we must push for significant, structural reform that decreases the overall tax burden on Maine's people and businesses. Such reform must include property tax caps, such as are already in place and working well in Bath. Additionally, tax and expenditure limitations should be passed, as they have been by a majority of the states. TELs legally limit a state's ability to increase either taxes and/or expenditures. Maine's state government has chronically proven that it is unable to

apply fiscal discipline to the budget process, as each of us must do with our own families or businesses. Therefore, legal limits must be placed on policymakers.

The Maine Heritage Policy Center provides objective, fair and grounded analyses of public policy issues facing the state. The need for an organization of MHPC's nature is based on the principles of balance.

Mainers need to hear all ideas that could influence and shape the course of our state. MHPC provides research and analysis with the utmost integrity, drawing on both local and national experts to offer solutions and to promote effective and responsible public policy models that already occur within Maine.

Our Maine heritage is based on grit, determination and ingenuity. Those characteristics together provide the ideal foundation for promoting positive change that will ensure a more secure future for our state.

**Bill Becker of Portland is the Executive Director of The Maine Heritage Policy Center.**

# Sun Journal

## Activist critiques Maine, gets critiqued himself

By Christopher Williams, Staff Writer  
Wednesday, March 24, 2004

PORTLAND - A national tax activist who visited Maine Tuesday endorsed a proposed 1 percent property tax cap that will go to voters later this year.

Grover Norquist, president of Americans for Tax Reform, told reporters a tax cap likely would limit government spending and lessen the need for higher taxes.

Critics say the cap would drain more than \$500 million from municipalities and cripple local services.

Norquist was keynote speaker at an "Emergency Tax Summit" at the Holiday Inn by the Bay hosted by Maine Heritage Policy Center, a conservative economic think tank.

Politicians will push any tax to the breaking point, Norquist said. By capping property taxes, voters should successfully send a message to lawmakers that rising taxes and the higher spending that triggers them are not acceptable.

"I think it does lead to permanent restraint on spending, or is likely to," he said.

The state's distinction as having the highest tax burden as a percent of income has pushed residents to the brink, he said.

"When it comes to tax and spending policies, ... Maine is not just a little bit out of whack," he said. "Maine does not have superior services than other states, just more expensive services."

In addition to a local tax cap, Norquist said Mainers should adopt a Taxpayers Bill of Rights, or TABOR, such as Colorado voters did in 1992. That measure limits state spending to the annual rate of inflation plus population growth and requires a two-thirds vote in the Legislature to approve tax increases.

Only a constitutional amendment that restricts spending will work, Norquist said. It is not enough to enact a law that sets budgetary limits and creates a rainy day fund, such as the so-called stabilization fund proposed last year by Gov. John Baldacci and passed by the Legislature. It is too easily breached, he said.

"It's not an escrow account; it's a slush fund. And it will be spent when they want to spend it."

George Christie, executive director of Maine Citizen Leadership Fund, said Norquist was a polarizing presence who showed disdain for Maine's tradition of Democrats and Republicans working together to solve the state's tax problems.

"He is one of the most radical anti-tax figures in this country with a direct line to the White House," Christie said. "We will not tolerate that kind of debate."

Christie said he and his group used satire to "make light of a very serious issue" during the conference by pulling up in a limousine dressed as millionaires in top hats, tails and fur coats while clutching cigars. Fake bills spilled from their pockets. They entered the hotel and tried to confront Norquist, but were turned away at the door to the luncheon reception.

By inviting Norquist to serve as keynote speaker, the Maine Heritage Policy Center has "declared war on bipartisanship," Christie said.

When asked about Christie's remarks, Norquist later answered that, at the federal level of government, bipartisanship has historically yielded spending increases. "I thought that the best moments of the last several years have been the clarifying partisan bickering."

Christie said tax reform in Maine should include boosting revenues to help provide property tax relief to those who need it most. It also should include protections from Medicaid cuts.

[cwilliams@sunjournal.com](mailto:cwilliams@sunjournal.com)

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**Taxpayer Bill of Rights Challenged by Governor's Office**

*This despite previous statements that supported spending limits*

**PORTLAND** – The Maine Heritage Policy Center today requested clarification on the Governor's position on controlling government spending.

Taxpayer advocate Mary Adams has submitted a proposed citizen's initiative that would limit state and local spending to the rate of inflation plus population growth. Known as a Taxpayer Bill of Rights, the initiative would also require a vote by the people to override such limits. 27 states have some sort of limitation on the growth in state spending. Spending is what has driven Maine's tax burden to epic heights with disastrous consequences.

The Bangor Daily News reported on April 28 that the Governor "said he would consider supporting a constitutional spending cap." Yet the Portland Press Herald reported today that the Governor's spokesman stated that tax and spending relief efforts "are looking to send Maine back into the Stone Age."

Bill Becker, Executive Director of the Maine Heritage Policy Center remarked that "Governor Baldacci was right when, in his January, 2003 inaugural address he noted that 'State spending is out of line with state revenues, creating a billion dollar deficit. This huge imbalance requires immediate and serious attention.'" Yet the state faces another \$1 billion deficit in the next legislative session.

"I'm not sure what changed in the Governor's office, but I would encourage the Governor to support the proposal as he did in his inaugural address," said Becker.

Maine taxpayers have had enough and are taking matters into their own hands. "There is nothing more powerful than grassroots citizens organizing to reclaim the American notion that government serves the people, and not the other way around," stated Becker. "Our state has shown itself incapable of managing its own affairs without guidelines. Tax and spending limits will provide the parameters for our state and local governments to live within their means."

Becker concluded: "By lowering our tax burden, Maine will once again be an attractive option for families and businesses thinking about moving to Maine. Our tax base will expand, providing more government revenue and a healthier economy for all Maine people. Isn't that our ultimate goal?"

###

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AMERICANS FOR TAX REFORM



# Talk Radio Alert

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FOR IMMEDIATE RELEASE  
14 SEPTEMBER 2004

CONTACT: Chris Butler  
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## INTERVIEW ALERT:

### The Tax Revolution Advances in Maine

Mainers are up in arms against taxes. They shoulder the highest tax burden in the nation, and their businesses face a tax climate that ranks 43<sup>rd</sup> out of the 50 states (The Tax Foundation, 2003).

A backlash has begun, as Mainers are demanding a less oppressive government and greater economic opportunities. A key component in that backlash is a 1% property tax cap referendum to be voted on November 2.

#### **But an even bigger revolution is coming, if some have their way: A Taxpayers Bill of Rights (TABOR)**

A Taxpayers Bill of Rights is a constitutional limit on tax and spending growth, allowing government to grow only as fast as population plus inflation. First passed in Colorado in 1992, it has become a model for budget reform and economic growth. Its successes are clear:

- Colorado passed the model TABOR amendment in 1992, requiring a vote of the people to raise taxes, limiting the growth of spending, and rebating excess funds to taxpayers.
- Colorado avoided the painful budget shortfalls experienced by Wisconsin and most other states.
- From 1995 to 2000, Colorado was #1 in the nation in Gross State Product growth.
- From 1995 to 2000, Colorado was #2 in the nation in personal income growth.
- **Since 1993, the people of Colorado received \$3.2 billion in tax rebates, because spending grew more slowly than tax revenues.**

**“As I watch tax developments nationwide, I see that TABOR is the future,”** said Grover Norquist, president of American for Tax Reform. **“The states that pass TABOR will lead the nation in growth, investment, and jobs, and those that fail to pass it will become the new Rust Belt. Maine can position itself at the vanguard of this revolution if it adopts TABOR now. Mary Adams is doing a great service to her state by promoting this idea.”**

Americans for Tax Reform is a non-partisan coalition of taxpayers and taxpayer groups who support tax simplification and oppose all federal and state tax increases. For more information or to arrange an interview please contact Jonathan Collegio at (202) 785-0266 or by email at [jcollegio@atr.org](mailto:jcollegio@atr.org).

*Harvard-educated and street-smartened by years as a Washington insider, Norquist is your show's ultimate guest to discuss the state budget crises. His bio can be found at <http://www.aitr.org/staff>. You can find more information about his organization Americans for Tax Reform at [www.aitr.org](http://www.aitr.org).*

## EXHIBIT E

### Mary Adams: Fighting for Maine taxpayers

*Victoria.Wallack@TimesRecord.Com 11/22/2004 By Victoria Wallack, Times Record Bureau*

AUGUSTA — Mary Adams has folk-hero status among some in coastal towns for her successful fight 30 years ago to repeal a state tax on property that soaked waterfront communities to help pay for education statewide.

Today she has hooked up with a national movement called the Taxpayers Bill of Rights (TABOR) and the conservative Maine Heritage Policy Center, based in Portland. With their help she hopes to put a question on the ballot next year that would limit spending at all levels of government — state, county, municipal and school district — to the rate of inflation plus population growth.

If there is money left over under that formula, 80 percent would be returned to taxpayers and the rest put into a budget stabilization fund. In fiscal emergencies, taxes could be raised above the inflation plus population rate, but it would require a two-thirds vote of the Legislature and a majority vote of the people.

While Adams said she is using some of the same people and local tax organizations that supported Carol Palesky's tax cap to gather petition signatures, she believes the spending cap could pass where the tax cap failed because it sounds less draconian.

"The Taxpayers Bill of Rights has no price tag to it. The roof's not going to fall in," Adams said, unlike the Palesky initiative where opponents convinced voters that local services would be lost because of a decline of more than \$500 million in local revenue.

Under a spending cap, Adams said, the issue isn't cutting what we have but rather slowing down the rate of growth.

"I've found people want government to prioritize. They have to. They have surprises in their own personal budgets," and have to adjust spending, she said. She calls the Taxpayers Bill of Rights proposal, "firm but gentle discipline."

"It puts the bit in the government's mouth and gives the reins to the people," she said.

#### **Viable option?**

Christopher "Kit" St. John of the progressive Maine Center for Economic Policy said the fact the Maine Heritage Policy Center is involved makes the Taxpayers Bill of Rights more viable than Palesky's initiative.

It will be "much better organized," he said, and with Heritage Policy Center's ties to national groups, "it is poised to bring in very large amounts of outside money." It also takes the focus off local service cuts and talks about state spending, which to most taxpayers is "a big black hole," even though the bulk is returned to cities and towns, he said.

"There are a lot of ways in which the TABOR proposal might have a bigger head of steam than the Palesky proposal," said St. John, who was a vocal opponent of the tax cap. "It bears close watching."

"Our argument is not with their intention at all," but rather the specifics of the TABOR proposal, said Dana Connors, president of the Maine State Chamber of Commerce, which also is proposing a tax reform package that limits spending.

Connors said it is too far-reaching in terms of limiting all fees and the growth of all state budgets, including the highway fund, which attracts huge amounts of federal matching dollars.

He also said TABOR is really a Colorado import, much like Palesky was a copy-cat of California's Proposition 13. The chamber's initiative is homegrown and customized to Maine.

Still "their intent is to do much the same," as the chamber, he said, "to lower the tax burden and focus on spending ... At the end of the day, it's pretty hard to criticize them."

#### **A Colorado invention**

The Taxpayers Bill of Rights was adopted in Colorado in 1992. Other states — including California, Tennessee and Wisconsin — have considered adopting it, although none has done so.

Colorado Gov. Bill Owens was in South Portland last Monday night as the keynote speaker at the Maine Heritage Policy Center annual dinner to promote TABOR. The same day the Denver Post in his home state reported that taxpayers there would be asked to give up their tax refund under TABOR next year to help fill a gaping state budget hole.

The governor likes to boast — and did so on talk radio in Maine on Nov. 13 — that TABOR has returned \$3.2 billion to Colorado taxpayers in the last 10 years. The problem, he said, is that Colorado voters also passed a constitutional amendment requiring the state to increase aid to K-12 education annually, and the two measures compete with one another, particularly during a recession.

Adams said it is those times of recession that worry her, when the government keeps spending despite a loss of revenue, with no money in the bank. Instead of cutting back, it raises property taxes.

"There's a whole lot of people who have been radicalized by taxes, and I don't mean that in a bad way. We're No. 1 in property taxes in the whole nation as a percentage of income," she said, adding that people are fed up.

#### **Tax reform activist**

Nearly 30 years ago, Adams, then a mother of two young children, helped lead her first taxpayer revolt against a uniform state property tax, which was levied on all cities and towns to pay for education.

The group she organized to collect signatures called themselves "Freedom Fighters" because they met in Freedom in Waldo County.

"There were a huge bunch of wonderful people from Washington County, Hancock, Lincoln and right down into York," she recalled.

In her latest battle, Adams said she is hoping for broad-based support.

"If Kit St. John's group got in touch with me to circulate petitions, I would rush to deliver them. I go where the interest is," Adams said. But she is not concerned that her effort may be tagged with the "conservative" label.

"I grew up in conservative Maine. 'Conservative' is a good word to me. My father was a businessman, a banker, and my mother was a school teacher. My father and mother didn't overspend," she said.

"There's no mystery what we're doing here," Adams said. "We're trying to slow down government so that people can pay for it, and save — just as Dad did — for years when the income is less."

## EXHIBIT F

### MHPC's Independent Research Role in TABOR

(Corrected transcript of 10/31/06 Maine Ethics Commission pgs 39-43)

COMMISSIONER MAVOUREEN THOMPSON: Yes, couple questions. Dan or Bill or both, would you say that either through staff time or research — staff research and so forth for presentations and so forth, MHPC has spent more than \$1,500 working towards the — I mean the passage of TABOR?

WILLIAM BECKER: In terms of our staff time, we've allocated it out, not towards the passage or defeat of TABOR, we've really been prior provided, we've been basically the experts on taxation and expenditure limitation laws, now in the state for well over three years. Now that's when we first issued our very, very, very first report as an organization. We wrote them [unintelligible] tax and expenditure limitation bills and then spent a number of months drafting model legislation for what it would look like in the State of Maine.

So not for the passage or defeat of TABOR, but for becoming policy experts in the field of tax and expenditure limitation laws. That's what we have done. That's what we continue to be and that's what we've done for many other press, is provide them with answers. I accept [Unintelligible] from them says what is demanded when this happens? Well what happens along those lines? Well what is the handle on that?

It's really in the context of the Maine economy and that's really in the context in which we talk about.

THOMPSON: So I think I heard an earlier speaker say that — that the Policy Center actually wrote the Tabor referendum and so forth?

BECKER: No -

THOMPSON: (Interposing) Or to what extent were you involved in that?

BECKER: All right, we wrote back in 2004 — we wrote model legislations saying okay, this was such a great idea in some other states. What would it look like in the state of Maine? And we spent about three or four months writing that, talking to experts, economists, BHCs all over the country and then put it out there as model legislation and two, it moved forward separately in two different ways, absent, separate from our organization.

One to Senator Mary Andrews of York, doing it forward in a legislature as a piece of legislation and that was actually somewhat amended before it got there and secondly, Mary Adams [Unintelligible] submitted it as a citizen's initiative and that too was amended between the revisers office the secretary of state's office before it got sent out as the Taxpayer Bill of Rights. Our role is almost a year earlier than that, drafting a model legislation to say how it would work in regards to Maine law.

THOMPSON: Did Andrews or Adams get your participation from the Center when in fact their bills were debated before the legislative committee?

BECKER: We were called to testify, by the Tax Committee primarily.

THOMPSON: And were pros and cons indicated in that? Sometimes the legislature will ask for people who are pro legislation and con.

BECKER: Yes.

THOMPSON: And either to sign up and indicate or just to take turns and so forth for the thing. Has there been a testimony?

BECKER: We represented basically the authors of the model legislation. That's the way we were represented.

THOMPSON: So you didn't — you were not like on the pro side or the con side in terms of -

BECKER: (Interposing) I think we had been perceived that we went on the pro side because wrote it. We were obviously proud of something that we had drafted two, you know, a year earlier. But we represented it as the experts, as the policy experts on that piece of the model legislation.

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*We the people of Maine...*

EXHIBIT G

THE MAINE HERITAGE POLICY CENTER

November 6, 2006

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REDACTED

Dear REDACTED

On behalf of the Board of Directors, please accept my sincere thanks for your generous contribution of \$125.00 to The Maine Heritage Policy Center. We are very grateful for this donation, and will use it to advance our mission of promoting The Taxpayer Bill Of Rights, a solution that will benefit all people of Maine.

Board of Directors

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As the author of The Taxpayer Bill Of Rights, we believe that this initiative provides a road map to jump-start Maine's economy. With only a few weeks until the election, we are in a fight for Maine's economic life. As you are aware, Maine has the highest property taxes and the highest state and local tax burden in the country. Our economy continues to struggle. In 2005, Maine was just one of two states to see a decline in economic activity, as reported by the Federal Reserve Bank of Boston. Louisiana, which was ravaged by hurricane Katrina, was the only other state to see a decline. It is more important than ever to educate Maine citizens about the challenges we currently face.

We understand that the economic pie is shrinking. A large part of the problem has been Maine's highest-in-the-nation tax burden, driven by out-of-control government spending. One way to address that problem is through an effective "Tax-and-Expenditure Limit" such as Maine's proposed The Taxpayer Bill Of Rights. Such responsible public policy encourages Maine businesses to remain in the state and grow, thus creating more Maine jobs and higher incomes for Maine workers. With Maine's per capita tax burden growing 50% faster than the rate of inflation, we must act now and work to stop Maine's spending frenzy. Since January 2003, government jobs are growing at more than twice the rate of private sector jobs. This is not an investment in Maine's future. We are digging out the facts everyday and working hard to promote this race based on facts and evidence, not emotions.

The Taxpayer Bill Of Rights is the only public policy in front of Maine voters or our legislators that is guaranteed to reduce Maine's tax burden and ensure that government does not grow faster than the people's ability to pay. It is a reasonable solution for Maine citizens and I thank you for being part of the solution in helping to solve Maine's economic challenges and for investing in Maine's future.

Thank you for joining this effort to help our leaders understand the need for genuine reforms in the way Maine operates - and for providing them with viable and proven policy solutions that will change Maine's future to one of opportunity and promise.

Please do not hesitate to contact me at 207-321-2550 with any questions or suggestions. Thank you again for your support - I look forward to seeing you at a Maine Heritage event very soon.

Yours truly,

Bill Becker  
President and Chief Executive Officer