

Agenda

Item #5



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

To: Commission Members

From: Jonathan Wayne, Executive Director

Date: May 22, 2008

Re: Audit of 2007 Special Election Candidate Kate Smith

Katharine M. Smith was a candidate for the Maine House of Representatives in the 2007 special election who participated in the Maine Clean Election Act (MCEA). Following the election, she submitted a check for \$1,513.83 representing the amount of MCEA funds which she had elected not to spend. On January 17, 2008, the check was returned to the Commission for insufficient funds.

Because of the bounced check, the Commission requested that the staff conduct a full audit of her campaign at the January 25, 2008 meeting. The audit disclosed that the candidate did not misuse her MCEA funds, which were spent entirely for campaign-related purposes. The candidate's campaign finance reporting was adequate, although it contained some arithmetic errors consistent with mistakes made by other candidates.

The returned check was due to two circumstances. On November 8, 2007, the Commission staff mailed Ms. Smith a letter directing her to return the amount of unspent campaign funds as shown on line 8 of Schedule F of her final campaign finance report (attached). Following this advice, she wrote a check for this amount (\$1,513.83) and submitted it to the Commission. Unfortunately, because of the arithmetic errors in her campaign finance reporting, this amount was greater than the *actual* cash balance in her campaign bank account.

The final audit report included only one finding. Ms. Smith inadvertently omitted a \$45 seed money contribution from the campaign finance report she filed on October 12, 2007. The staff recommends that the Commission find her in violation of 21-A M.R.S.A. § 1125(2-A)(C) for under-reporting her seed money contributions by \$45 and assess no financial penalty. The staff has advised the candidate that it is not necessary for her to attend the Commission's meeting on May 30, 2008.

Katherine M Smith
CANDIDATE'S FULL NAME

12-17-07

DATE SUBMITTED

SCHEDULE F
SUMMARY SECTION
(MAINE CLEAN ELECTION ACT CANDIDATES)

This page is required for all candidates except those checking the no-activity box on the cover page of the report. The cash balance on line 6 must match the campaign's reconciled bank account balance as of the last day of this reporting period.

CASH ACTIVITY

1. CASH BALANCE FROM LAST REPORT (if any)	9113.00
2. MAINE CLEAN ELECTION ACT FUNDS RECEIVED THIS PERIOD (see payment letter)	+ 2011.09 ^{error} 105
3. SALE OF CAMPAIGN PROPERTY THIS PERIOD (Schedule E, Part II)	+ 0
4. OTHER CASH RECEIPTS THIS PERIOD (interest, etc.)	+ 0
5. MINUS TOTAL EXPENDITURES THIS PERIOD (total of all Schedule B pages)	- 1558.26
6. CASH BALANCE AT CLOSE OF PERIOD (lines 1 + 2 + 3 + 4 - 5)	= 8552.74
7. CASH NOT AUTHORIZED TO SPEND (see payment letter)	7041.91
8. CASH AUTHORIZED TO SPEND (line 6 - 7)	1513.83

OTHER ACTIVITY THIS REPORTING PERIOD

9. TOTAL UNPAID DEBTS AT CLOSE OF PERIOD (total all Schedule D pages)



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AND ELECTION PRACTICES
135 STATE HOUSE STATION
AUGUSTA, MAINE
04333-0135

May 13, 2008

By E-Mail and Regular Mail

Ms. Katherine M. Smith
P.O. Box 36
Sebago, ME 04029

Dear Ms. Smith:

Thank you for reviewing the draft version of the audit report for your 2007 special election campaign. I have enclosed the final audit report for the campaign. The Commission staff conducted a standard audit of the campaign. The staff found no evidence of any misuse of Maine Clean Election Act funds.

As you are aware, the only finding in the report is the failure to report a \$45 seed money contribution in the campaign finance report you submitted to the Commission on October 12, 2007. At the next meeting of the Ethics Commission on May 30, 2008 at 9:00 a.m., the staff will recommend that the Commission find you in violation of 21-A M.R.S.A. § 1125(2-A)(C) for under-reporting your seed money contributions by \$45. The staff will recommend that the Commission not assess any monetary penalty for this violation.

If you wish, you may submit a written response to the proposed finding of violation. If I receive it by May 21, 2008, I will include the response in the packet of materials that I send to the Commission members one week before the meeting. You are also welcome to comment on the proposed finding of violation by attending the meeting in person.

If you have any questions, please telephone me at 287-4179. Thank you.

Sincerely,

Jonathan Wayne
Executive Director



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

May 12, 2008

Final Audit Report No. 2007-HR001

Candidate: Katherine M. Smith

House District 99

Background

Katherine M. Smith was a candidate for the Maine House of Representatives, District 99, in the November 2007 special elections. Ms. Smith was certified by the Commission as a Maine Clean Election Act (MCEA) candidate on October 15, 2007. MCEA candidates are required under the Act to submit reports of their receipts, expenditures, outstanding campaign debt, and equipment purchases and dispositions for specified periods during the election cycle.

Audit Scope

Examination of selected candidate contribution and expenditure transactions occurring during the following campaign reporting periods:

- Seed Money
- 11-Day Pre-Election
- 42 Day Post-Election

Transactions subject to review were those recorded in the candidate's accounting records and reported to the Commission. The audit's purpose was to determine if the identified receipts and payments (1) were properly approved by the candidate or his authorized representative; (2) were adequately documented as evidenced by original vendor invoices and cancelled checks or other acceptable disbursement documentation; and (3) complied in all material respects with the requirements of the Maine Clean Election Act and the Commission's rules.

Audit Findings and Recommendations

Finding No. 1 – Unreported Seed Money Contribution. When Kate Smith filed her seed money campaign finance report on 10/12/2007, she reported receiving \$455 in seed money contributions and making \$455 in expenditures during the qualifying period. The audit disclosed that the campaign deposited \$500 in seed money in the campaign bank account on 10/09/2007. Ms. Smith did not include in her 10/12/2007 seed money report a \$45 seed money contribution. When asked about the missing \$45 contribution during the course of the audit, the candidate replied that she must have forgotten about it. The quick pace of the special election campaign and the assistance she received from others in collecting seed money contributions on her behalf may have been contributing factors in the omission of the contribution from her 10/12/2007 report. The failure to report the contribution appears to be an unintentional omission.

When making an initial MCEA payment to a candidate, the Commission subtracts the amount of unspent seed money from the payment amount. In this case, the Commission made to Ms. Smith the full payment amount of \$4,362 because the cash balance was originally reported to be zero. This caused the Commission to overpay the candidate by \$45. Nevertheless, the candidate did not benefit from the overpayment. After the election she repaid to the Commission \$1,012.83 in unspent MCEA funds, which far exceeded the \$45 overpayment.

In response to the draft version of this report, the candidate pointed out that she discussed the contribution with Candidate Registrar Sandy Thompson during the course of the audit. Nevertheless, the candidate did not disclose the contribution in her 10/12/2007 seed money report as required by the Maine Clean Election Act.

Criteria: 21-A M.R.S.A. § 1125(2-A)(C), "Upon requesting certification, a participating candidate shall file a report of all seed money contributions and expenditures. If the candidate is certified, any unspent seed money will be deducted from the amount distributed to the candidate as provided in subsection 8." Commission Rules, Chapter 3, Section 3(3), "...the Commission will deduct from the initial distribution from the Fund to a certified candidate an amount equal to the amount of unspent seed money reported by that candidate."

Recommendations: The Commission staff recommends that the Commission find the candidate and her treasurer in violation of 21-A M.R.S.A. § 1125(2-A)(C) for under-reporting her seed money contributions by \$45. The staff does not recommend a civil penalty because the reporting error seems unintentional and the candidate was not advantaged by the overpayment.

Respectfully submitted,

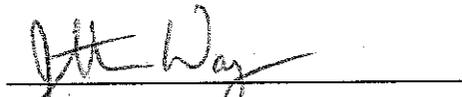


Paul Lavin

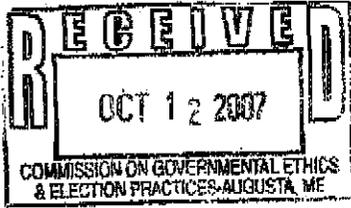


Sandy Thompson

Approved:


Jonathan Wayne - Executive Director

2008 Election Year



COMMISSION ON GOVERNMENTAL ETHICS AND ELECTION PRACTICES
Mail: 135 State House Station, Augusta, Maine 04333
Office: 242 State Street, Augusta, Maine

Website: www.maine.gov/ethics
Phone: 207-287-4179
Fax: 207-287-6775

2008 SEED MONEY CAMPAIGN FINANCE REPORT

(Please Complete ALL Entries)

Name of CANDIDATE Kate Smith
Mailing address PO Box 316
City, zip code Sebago ME 04029
Telephone number 207-415-7081 Fax _____
E-mail KateSmithforhouse@gmail.com
Office Sought State Rep District Number 99

CHECK IF CHANGED
SINCE PREVIOUS
REPORT

Name of TREASURER Greg Smith
Mailing address 50 Kimball Corner Rd
City, zip code Sebago ME 04029
Telephone number 207-787-4000 / 939-1790 Fax _____
E-mail gsmith2477@adelphia.net

CHECK IF CHANGED
SINCE PREVIOUS
REPORT

This is the first report for the candidate's 2008 campaign.

Reports were previously filed for the candidate's 2008 campaign on _____
(Please do not report transactions that were included in previous reports.)

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

Greg Smith
Treasurer's Signature

10/12/07
Date

Katherine Smith
Candidate's Signature

10-12-07
Date

Katherine Smith
CANDIDATE'S FULL NAME

Page 2 of 7
(Schedule A only)

**SCHEDULE A
CASH CONTRIBUTIONS**

- Only individuals may make seed money contributions. Contributions must be from their personal funds and not from other sources. Each contributor may give up to \$100 in seed money. Lobbyists, lobbyist associates, and their employers may not make seed money contributions during the legislative session. Members of the candidate's family may each give up to \$100 in seed money, provided the contributions are from their personal funds.
- Total seed money contributions may not exceed \$50,000 for gubernatorial candidates, \$1,500 for Senate candidates, and \$500 for House candidates.
- Itemize all cash contributions from contributors who have given you more than \$50 in seed money contributions. Both cash and in-kind contributions count toward the \$50 threshold.
- Enter the occupation and employer for every individual contributing more than \$50 in seed money. If you have requested employment information from the contributor and the contributor has not provided it, indicate "information requested" for the occupation and employer.
- For cash contributions totaling \$50 or less, enter "total of contributions \$50 or less" and the total amount on this page. Once a contributor has given you more than \$50 in seed money, you must list that contributor separately.

DATE RECEIVED	CONTRIBUTOR'S NAME, ADDRESS, ZIP	OCCUPATION	TYPE (use key code)	AMOUNT
		EMPLOYER		
9/22	Glenn Cummings 24 Nevens St. Portland, ME 04103	MEMBER OF CONGRESS USM University of Maine		\$100.00
9/22	Sean Faircloth 299 Pine Street Bangor, ME 04401	MEMBER OF CONGRESS University of Maine - Orono		\$100.00
10/2	Nevia Douglass 466 W. Auburn Rd. Auburn, ME 04210	*	info. requested	\$100.00
10/2	Janet Mills PO Box 110 Farmington, ME 04938		info requested	\$30.00
10/2	Jeanne Mattson 92 Middle Street, Hallowell, ME 04944	"		\$50.00
10/2	Kate Knox 57 Gledhill Rd Portland, ME 04103	"		\$50.00
10/2	Maria Fuentes 21 Union Street Hallowell, ME 04944	"		\$20.00
10/2	Terry Hayes P.O. Box 367 Buckfield, ME 04220	"		\$5.00

Total cash contributions (this page only) => (combined totals from all Schedule A pages must be listed on Schedule F, line 2)

~~1000~~.00
455.00

Key Codes:

- 1 = Candidate and Candidate's Spouse or Domestic Partner
- 2 = Other Individuals
- 7 = Contributors giving \$50 or less