

Agenda

Item #2



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

To: Commissioners 04333-0135
From: Jonathan Wayne, Executive Director
Date: September 23, 2009
Re: Materials for Maine Leads

Thank you for your consideration of the Maine Leads investigation. I have attached a September 15, 2009 staff memo and the latest submissions from counsel for Deborah Hutton and Maine Leads, Carl Lindemann, and former Commissioner Mavourneen Thompson. On September 22, 2009, Ms. Thompson submitted a letter asking the staff to address the Commission's December 20, 2006 decision that the Maine Heritage Policy Center (MHPC) did not qualify as a political action committee (PAC).

In our September 15th memo, the staff recommended a determination that Maine Leads qualifies as a ballot question committee, not a PAC. We arrived at this recommendation after carefully applying the "major purpose" requirement in the PAC definition to the facts presented in this case. (See pages 11-15 of our September 15 memo.) We do not believe the evidence presented to date supports a conclusion that the "major purpose" of Maine Leads is to initiate or promote ballot questions.

The Commission staff completely agrees with Ms. Thompson that the Commissioners did not arrive at a consensus as to what "major purpose" means when determining on December 20, 2008 that the MHPC was not a PAC. The Commissioners did, however, receive evidence of the full range of MHPC's activities, its mission, and its public statements. We believe those were relevant considerations in 2006, and we believe they are relevant to your October 1st decision concerning Maine Leads.

That is all the Commission staff intended to convey by the passing reference to the MHPC decision on page 14 of the memo. Other than that single reference, we do not mention or rely upon your MHPC decision in our September 15 memo. Rather, our focus is on applying the plain language of the PAC definition to the facts at hand. The staff believes you have considerable discretion in interpreting the "major purpose" test, and are not locked into the Commissioners' 2006 analysis of the MHPC.

To avoid any misimpression, we have updated page 14 of the memo to delete the phrase "As noted by the Commission in addressing Maine Heritage Policy Center's status in 2006". This is language that was inserted in the memo during its final edit at the suggestion of the Commission's Counsel based on her recollection of the December 2006 decision. Because it is peripheral to the staff's analysis, we do not see any need to reconsider our overall recommendation.

Also, Maine Leads has requested that its 2008 budget be treated as a confidential investigatory record pursuant to 21-A M.R.S.A. § 1003(3-A) because it contains financial information not normally available to the public. After consulting with the Commission's counsel, we have provided those documents to you in a confidential manner. Thank you again for your consideration of this matter.

OFFICE LOCATED AT: 242 STATE STREET, AUGUSTA, MAINE

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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: September 15, 2009
Re: Staff Recommendations on Maine Leads

This memo is to provide you with an analysis and recommendations from the staff of the Commission regarding Deborah Hutton's request to investigate Maine Leads.¹ She contends that Maine Leads was required to register and to file campaign finance reports as a political action committee (PAC) because of its activities in 2007 and 2008 in support of three citizen initiatives.² Additionally, the Commission staff believes the Commission should consider in the alternative whether the organization was required to file campaign finance reports as a ballot question committee.

RELEVANT LAW

An underlying purpose of Maine's campaign finance law pertaining to PACs (Title 21-A, Chapter 13, Subchapter IV) is to provide the public with an understanding of (1) how organizations are spending money to initiate, promote, or defeat candidate elections and

¹ The analysis and recommendations in this memo are based on the information available as of September 15, 2009. The Commission staff has not read the final submissions of Maine Leads and Ms. Hutton that are expected to be submitted by September 22, 2009.

² An Act to Decrease the Automobile Excise Tax and Promote Energy Efficiency, An Act to Provide Tax Relief, and An Act to Expand Affordable Health Insurance Choices in Maine.

ballot question elections in Maine, and (2) who is funding those organizations' electoral activities. With respect to ballot questions, there are two types of filers which may be required to submit campaign finance reports to the Commission: PACs and ballot question committees.

Legal Requirement to Register and File Reports as a PAC

The Commission staff recommends applying the definition of the term PAC that applied *prior to June 30, 2008* because that is when most of the relevant financial activity occurred. The PAC definition that applied at that time (21-A M.R.S.A. § 1052(5)) contained four subparagraphs (A)(1) - (4). (The definition is attached to this memo, and is labeled “applied through 6/29/08.”) An organization could qualify as a PAC under one or more of those subparagraphs.³ In our opinion, two of those subparagraphs are most relevant to the facts of this case:

<u>§ 1052(5)(A)(3) (applied before 6/30/08)</u>	<u>§ 1052(5)(A)(4) (applied before 6/30/08)</u>
<p>Any organization, including any corporation or association, that has as its major purpose advocating the passage or defeat of a ballot question <u>and</u></p> <p>that makes expenditures other than by contribution to a political action committee, for the purpose of the initiation, promotion or defeat of any question (underscoring added)</p>	<p>Any organization, including any corporation or association, that has as its major purpose advocating the passage or defeat of a ballot question <u>and</u></p> <p>that solicits funds from members or nonmembers <u>and</u></p> <p>spends more than \$1,500 in a calendar year to initiate, advance, promote, defeat or influence in any way a candidate, campaign, political party, referendum or initiated petition, including the collection of signatures for a direct initiative, in this State (underscoring added)</p>

³ A third subparagraph (5(A)(2)) could be relevant, but it contains an undefined term “funding and transfer mechanism.” Because of the vagueness of this definition, the staff recommends against relying on it for purposes of determining whether Maine Leads was a PAC.

For the sake of completeness, I have also attached the amended PAC definition which took effect beginning on June 30, 2008 (labeled “current law”) even though we recommend against applying it in this matter.

Alternative Reporting Requirement – Ballot Question Committees

In 2000, the Legislature created an alternative reporting requirement for organizations *other than PACs* that raised or spent more than \$1,500 to initiate, promote, defeat or influence in any way a ballot question. (21-A M.R.S.A. § 1056-B) Thus, if the major purpose of an organization is *not* influencing ballot questions, it would still be required to file campaign finance reports under Section 1056-B if it received contributions or made expenditures (other than by contribution to a PAC) aggregating more than \$1,500 for the purpose of initiating or promoting a ballot question.

<i>§ 1056-B (applied before 6/30/08)</i>
Any person not defined as a political committee <ul style="list-style-type: none">• who solicits and receives contributions <u>or</u>• makes expenditures, other than by contribution to a political action committee, aggregating in excess of \$1,500 for the purpose of initiating, promoting, defeating or influencing in any way a ballot question (underscoring added)

Response to Maine Leads' Legal Argument of No Ballot Question until August 2009

In his August 25, 2009 letter, counsel for Maine Leads argues that the organization was not a PAC in 2007 and 2008 because at that time there was no ballot question:

For [the PAC] definition to apply there must be a ballot question. Through June 29, 2008, the three initiatives at issue in this investigation were not ballot questions. Under Maine's initiative process, a successful petition drive simply puts an initiated bill before the Legislature. A ballot question only comes about if the Legislature does not pass the initiated bill. ... Secretary of State Dunlap did not finalize the ballot questions concerning the initiatives to be voted on by Maine voters in November until August 6, 2009. [footnotes omitted]

The Commission staff and counsel do not agree with Mr. Billings' statutory interpretation for the reasons outlined below. In order to construe the PAC statutes in this regard, it is important to first understand the citizen initiative process (referred to as "direct initiative" in the Maine Constitution and Maine Election Law).

Direct initiative process in Maine. Every citizen initiated bill in Maine must be presented to the Legislature first, but if the Legislature declines to enact the measure exactly as worded in the petition presented by the citizens, then the proposal automatically goes to the voters for a decision at the next statewide election. The process of getting legislation passed by direct initiative (or "citizen initiative") begins with the filing of an application with the Secretary of State's office for an approved petition form, pursuant to 21-A M.R.S.A. § 901. The application is filed by a lead applicant and five other registered Maine voters, and it must be accompanied by the text of the proposed legislation. The Secretary of State has to approve the form of the petition before it is circulated, including the form of the legislation, and to draft the question that will appear on the ballot if the proponents gather enough signatures and if the Legislature declines to enact the measure

verbatim. The Secretary of State also has the responsibility to review initiative petitions after they are circulated and filed, in order to determine if the petitions contain enough valid signatures of registered Maine voters to qualify for submission to the Legislature or for the ballot.

Under the election laws in effect from September 23, 1983 until June 4, 2007, the text of the ballot question had to be printed on the petition form before it was circulated for signatures. Pursuant to a statutory amendment that took effect on June 5, 2007, the Legislature altered this sequence of events. Now, the Secretary does not draft a ballot question until after the Legislature adjourns having failed to enact the legislation proposed by initiative.

Before June 5, 2007, the pertinent part of the statute provided as follows:

The Secretary of State shall provide the ballot question to the applicant for an initiative within 10 business days after the applicant has submitted to the Secretary of State written consent to the final language of the proposed law. The question must be conspicuously displayed on the face of the petition.

Now it states, in pertinent part:

If an initiative is filed with the Secretary of State and certified pursuant to the Constitution of Maine, Article IV, Part Third, Section 18 as having a sufficient number of signatures and is not enacted without change by the Legislature at the session at which it is presented, then the Secretary of State shall propose a ballot question to be submitted for public comment as provided in section 905-A.

21-A M.R.S.A. § 901(4), as amended by P.L. 2007, c. 234, §2 (eff. June 5, 2007)

(emphasis added).

Legislative history of the PAC statutes. The first PAC statute in Maine was enacted, effective September 23, 1983, during the same session at which the Legislature amended the election laws to require that ballot questions be printed on the initiative petition forms. This first statute defined as a PAC:

A. Any separate or segregated fund established by any corporation, membership organization, cooperative or labor organization, whose purpose is to influence the outcome of an election including a candidate or question; and

B. Any person, as defined in subsection 6, which serves as a funding and transfer mechanism and by which moneys are expended to advance, promote, defeat, influence in any way, or *initiate* a candidate, campaign, political party, *referendum* or *initiated petition* in this State.

21 M.R.S.A. § 1552(7) (emphasis added), enacted by P.L. 1983, c. 365 (“An Act Regulating the Activities of Political Action Committees”), recodified in 1985 as 21-A M.R.S.A. § 1052(5)(A)(1)&(2). The term “campaign” was defined in the same enactment to mean “any course of activities for a specific purpose such as the *initiation*, promotion or defeat of a candidate or *question*” including the initiative and referendum procedures as set forth in the Constitution. 21 M.R.S.A. § 1551(1)(A)&(B), recodified in 1985 as 21-A M.R.S.A. § 1052(1). The registration requirement in this first PAC statute also provided that “every political action committee which expends or intends to expend in excess of \$50 in any calendar year to *initiate*, support, defeat or influence in any way a *campaign*, a referendum, *initiated petition*, [or] candidate ... shall register with the commission.” 21 M.R.S.A. § 1553, recodified as 21-A M.R.S.A. §1053. (Emphasis

added.) The words “initiate” and “initiation” also were employed when parts 3 and 4 of the PAC definition were later added to the statute.⁴

Thus, from the very beginning of PAC regulation in Maine, activity involving the “initiation” of a citizen initiative effort has been included in the list of activities which can trigger the obligation to register as a PAC. “Initiation” means “the act of initiating,” and a standard dictionary definition of the verb “to initiate” is “to begin, set going or originate.” The plain meaning of these PAC definitions supports a conclusion that to apply for approval to circulate a citizen initiative petition and to collect signatures on that petition constitutes beginning or originating the direct initiative process under the Maine Constitution.

The Legislature established a study committee in 2005, to address several different election law issues, including whether the PAC statutes required the reporting of moneys spent during the signature-gathering phase of a citizen initiative effort. The Commission staff testified to the study committee that the term “initiate” should be understood to

⁴ The third part of the PAC definition was added in 1983, and included:

Any person who makes expenditures other than by contribution to a political action committee, for the purpose of the *initiation*, promotion or defeat of any question;

21-A M.R.S.A. §1052(5)(A)(3), enacted by P.L. 1985, c. 614, §23. As enacted in 1991, the fourth part captured as a PAC:

Any person, including any corporation or association, who solicits funds from members or nonmembers and spends more than \$1,500 in a calendar year to *initiate*, advance, promote, defeat or influence in any way a candidate, campaign, political party, referendum or *initiated petition* in this State;

21-A M.R.S.A. §1052(5)(A)(4), enacted by P.L. 1991, c. 839, §27 (eff. April 9, 1992).

include signature gathering. Nonetheless, the study committee expressed concern that this was not totally clear under the existing statutory scheme. In its final report, issued in January 2006, the study committee unanimously recommended that the law be clarified “so that there is no ambiguity that if a group spends \$1,500 ... to support or discourage the gathering of signatures for a citizen initiative it meets the definition of a PAC and is required to submit reports.” Report of the Study Commission to Study Alternative Voting Procedures, the Citizen Initiative Process and Minor Party Ballot Access (Jan. 2006), at 13.

Based on the study group’s recommendations, the 122nd Legislature further amended the PAC statute to add the phrase “including the collection of signatures for a direct initiative” in the fourth part of the PAC definition in section 1052(5)(A), as well as in section 1053 on PAC registration, and in section 1060 describing what expenditures must be reported by PACs. (P.L. 2005, c. 575, attached) These amendments took effect on August 23, 2006.

The use of the term “ballot question” has remained in the PAC statutes since June 2007, when the Legislature amended the election laws administered by the Secretary of State⁵ to defer the drafting of ballot questions until after the Legislature has rejected an initiative. Nonetheless, the PAC statutes still refer to “initiation” of an “initiative” and also include the language that clearly defines spending on the signature-gathering phase of an initiative campaign as reportable PAC activity. Moreover, there is no indication in

⁵ The phrase “ballot question” even appears as the title for the subchapter of Maine’s Election Laws implementing the initiative and referendum process under the Constitution. See 21-A M.R.S.A. §§901-906.

the legislative history of the 2007 change to 21-A M.R.S.A. § 901(4) on drafting ballot questions, to suggest that the Legislature meant to alter interpretation of the PAC statutes that had been clarified just the year before with regard to initiative campaigns.⁶

The statutory scheme as a whole, and its legislative history, supports the conclusion that the Legislature intended the term “ballot question” in the PAC definitions to refer to an entire direct initiative or referendum campaign -- from the point at which the Secretary approves a petition for circulation, up until the vote at the statewide election where the question actually appears on the ballot. The narrower reading of the phrase “ballot question” urged by Mr. Billings as referring to an initiative campaign only at the point when an actual ballot question has been drafted by the Secretary of State, ignores the plain meaning of the words “initiate” and “initiation” in the same definition (§1052(5)(A)(3)&(4)) and would render meaningless the requirement to report expenditures for the collection of signatures on initiative petitions.

STAFF RECOMMENDATIONS

Find that Maine Leads Made Expenditures for the Purpose of Initiating or Promoting a Ballot Question

The Commission staff recommends that you make a factual finding that Maine Leads made expenditures, other than by contribution to a PAC, aggregating in excess of \$1,500 for the purpose of initiating or promoting a ballot question. Maine Leads has stated that

⁶ The legislative history makes clear that the thrust of the 2007 amendment was to require the Secretary to solicit public comment on his draft questions prior to issuing the final wording. See L.D. 176 and Comm. Amend. A to L.D. 176 (123rd Legis. 2007). The title of the enactment is “An Act to Provide Notice to the General Public about Proposed Initiative Questions.”

it “paid \$160,500 to Pioneer Group, Inc. for the collection of signatures on three initiative petitions.” (July 29, 2009 Affidavit of Roy Lenardson, at 3)

Find that Maine Leads Solicited and Received Contributions for the Purpose of Initiating or Promoting a Ballot Question

The Commission staff recommends that you also make a finding of fact that Maine Leads solicited and received contributions for the purpose of initiating or promoting a ballot question. The Commission staff believes sufficient evidence has been presented to make this finding:

- In August and September 2007, individuals including Maine Leads’ Executive Director Roy Lenardson applied to the Secretary of State to initiate proceedings in support of three citizen initiatives. Mr. Lenardson was listed as the contact person for the proponents for the excise tax initiative. Maine Leads’ communications director, Chris Cinquemani, was one of the five voters designated to receive notices of proceedings for the health care alternatives initiative.
- In August and September 2007, three PACs were formed to report financial activity in support of the three citizen initiatives. Mr. Lenardson was listed as a principal officer of The Road to a Cleaner Maine PAC, which was formed to support the excise tax initiative.
- The initial funding proposal for Maine Leads described six “main components for restoring fiscal sanity” One of the six components was “I&R Activism,” which included “Ballot initiative development,” “Signature collection strategy and training,” “PAC development and organization” and “Ballot campaign strategy.” So, ballot question activity was part of Maine Leads’ planned activities, as its founders and funders understood it.
- Maine Leads ultimately received revenue during 2007 and early 2008 from three national nonprofit organizations. (August 18, 2009 Affidavit of Roy Lenardson, at 2) Roy Lenardson testified that *he knew* that Maine Leads would use a portion of this funding to initiate or promote the ballot questions.
- With respect to the first nonprofit organization to fund Maine Leads, Mr. Lenardson testified that he had conversations with the funder in which the use of the funds to promote the ballot questions was discussed and that *the funder knew* of the possibility that some portion of the funding would be used for ballot questions.

- The budgets prepared in December 2008 demonstrate an intention to spend \$50,000 on “Referendum Support and Training.”

Based on this evidence, the Commission staff recommends that the Commission find that Maine Leads solicited and received contributions aggregating in excess of \$1,500 for the purpose of initiating or promoting a ballot question.

Major Purpose of Maine Leads

At this time, the staff does not recommend finding that the major purpose of Maine Leads is to initiate or promote ballot questions. After considering the sworn statements of the organization’s Executive Director, the organization’s funding proposal, budget, and tax return for 2007 and 2008, and relevant public policy issues, the Commission staff is not prepared to recommend that factual finding. In declining to recommend that Maine Leads’ major purpose is influencing citizen initiatives, we acknowledge that you may weigh the factual information differently than the Commission staff.

In response to a request by the Commission staff for mission statement(s) for Maine Leads, the organization provided the following:

The mission statement for Maine Leads is: “The purpose of Maine Leads is to achieve future prosperity. We empower citizens to fight for lower taxes, government transparency, and economic freedom.”

In his September 8, 2009 testimony, Roy Lenardson admitted that initiatives and referenda were part of Maine Leads’ initial mission, but he denied that it was his intention as a founder of the organization that Maine Leads would be focused on promoting citizen initiatives. Rather, he testified that the goal was to “build capacity” for

a permanent center-right organization, which would conduct outreach to like-minded organizations, including local groups, teach local citizens to be more involved, and would result in a more effective “bottom-up” organization. He testified that he hoped to obtain funding for three to five years, and then turn the organization over to others.

In contrast, counsel for Ms. Hutton has urged the Commission to conclude that Maine Leads’ major purpose was promoting the citizen initiatives. He relies on the purposes listed in the organization’s initial funding proposal, and an analysis of the organization’s activities and spending.

In making a determination as to the major purpose of an organization, the staff does not believe that the Commission must take the organization at its word regarding its major purpose. An analysis of an organization’s activities (including spending) could certainly guide the Commission’s determination of major purpose, particularly if the organization’s activities were predominantly directed at influencing an election.

Ms. Hutton argues that the major purpose of Maine Leads is evidenced by its spending. In this case, it appears that 54% of the organizations’ 2007-2008 spending was directed at the citizen initiatives. While this is significant, 54% is just barely over half and could not be construed as the predominant activity of the organization. In itself, that figure may not be sufficient to justify attributing the citizen initiatives as the major purpose of Maine Leads.

Also, we believe that that the projected 2008 budget provided by Maine Leads does not support an inference that advancing citizen initiatives was the major purpose of the organization. Mr. Billings states in his cover letter that the budget was prepared in December 2007. That budget shows projected expenditures for Program Activities totaling \$123,000. (In addition, the budget lists projected expenditures for the categories of Office Overhead and Supplies, and Staffing.) The sum of \$50,000 is allocated for the specific program of “Referendum Support and Training.” This is 32% of Maine Leads’ projected spending on Program Activities, and only 12% of the total projected spending of the organization for 2008 (\$425,700). Thus, the budget provided by Maine Leads, if authentic, weighs against a finding that promoting citizen initiatives was the major purpose of the organization.

Ms. Hutton also invites the Commission to review the amount of activity by Maine Leads before June 30, 2008⁷ that was *unrelated* to the citizen initiatives, and to weigh it against the amount of activity in support of citizen initiatives. She concludes that Maine Leads engaged in “only a modicum of activity outside of the direct initiative process.” We acknowledge that for an organization whose mission is achieving prosperity through reducing the size of government, the number of projects aimed at limiting taxation or public spending is fairly small – especially when compared to the potential impact of the Taxpayer Bill of Rights and excise tax initiatives. We anticipate that Ms. Hutton will rely on new information made available by Maine Leads’ Executive Director on

⁷ We appreciate the detailed analysis provided to date by Ms. Hutton’s counsel, but in determining major purpose of Maine Leads we do not agree that the Commission’s focus should end on June 30, 2008.

September 8 and will continue to make the strongest possible argument that Maine Leads is a PAC.

Nevertheless, we do not think that the balance of electoral to non-electoral projects is so predominant that it supports a conclusion that the citizen initiatives were the major purpose of Maine Leads, particularly when the actual spending on citizen initiatives apparently constituted 54% of the organization's spending. We have concerns that it is not sound policy to determine the major purpose of an organization based upon its activities during a period of time as short as the first 15 months of the organization's lifetime (which was the focus of our investigation) or the first nine months (as urged by Ms. Hutton). The inquiry into major purpose should be determined based on consideration of the organization's overall purpose as evidenced by all of its activities, its mission, expenditures, and public statements.

We also urge caution because of the importance of the issues of reliance on statutory language and predictability of the law. These are naturally concerns which may weigh more heavily on the Commission and its staff than on critics of Maine Leads. For an organization to be a PAC, Maine law requires that "its major purpose" be influencing elections. As long as this test remains in the PAC definition, nonprofit organizations who will consider getting involved in ballot questions in future elections should expect that the Commission will take a consistent approach in applying this standard. It is not difficult to imagine multi-purpose advocacy organizations that could devote a significant

portion of a nine- or twelve-month budget (perhaps over 50%) in future elections to a particular ballot question that they support or oppose. To conclude that Maine Leads is a PAC based on 54% of its spending and on this balance of electoral vs. non-electoral activities could draw a line that will cause uncertainty for other organizations in future elections.

Predictability for regulated entities is particularly important in the area of campaign finance law. Courts regularly remind state governments that campaign finance laws must give clear guidance to organizations whether they are covered by reporting requirements, so organizations can accurately predict whether the regulatory agency will deem them to be a political committee on the basis of engaging in certain types of political expression in elections.

Determine that Maine Leads was Required to File Campaign Finance Reports as a Ballot Question Committee

The Commission staff recommends a determination that Maine Leads violated 21-A M.R.S.A. § 1056-B by not filing campaign finance reports beginning in January 2008. Maine Leads stated that on November 5, 2007, it made a payment of \$65,000 directly to Pioneer Group, Inc. for the collection of petition signatures. Thus, it “[made] expenditures, other than by contribution to a political action committee, aggregating in excess of \$1,500 for the purpose of initiating, promoting, defeating or influencing in any way a ballot question” In addition, Maine Leads solicited and received more than \$1,500 in contributions for the purpose of influencing a ballot question.

Under 21-A M.R.S.A. § 1056-B, Maine Leads was required to file regular campaign finance reports according to the reporting schedule established by the Commission that contained

an itemized account of each contribution received and expenditure made aggregating in excess of \$100 in any election; the date of each contribution; the date and purpose of each expenditure; and the name of each contributor, payee or creditor.

Beginning in January 2008 and continuing through the signature-gathering phase for the citizen initiatives, this information should have been disclosed and available to the public, including political activists both for and against, news reporters, municipal, county, state officials whose actions will be affected by these laws, and Legislators who considered the initiated bills in 2009. As noted above, the legislative history and 2005 study report make clear that the Legislature intended this information to be public during the signature gathering phase of a direct initiative.

The Commission staff declines to recommend that the Commission determine that Maine Leads was a PAC, because we are not convinced that initiating or promoting ballot questions is the major purpose of Maine Leads. We appreciate that some observers who have not closely read the PAC definition may be surprised that an organization such as Maine Leads which provided the great majority of funding for initiating two ballot questions would not be a PAC. That is not the statutory test that the Commission must apply, however. The test focuses on the organization's major purpose.

Require Maine Leads to File Late Reports

If you agree that Maine Leads was required to file campaign finance reports as a ballot question committee, the Commission staff recommends that you order Maine Leads to file reports that were due on several deadlines beginning on January 15, 2008. We would expect that the information required to be included in the reports would be readily available to Maine Leads based on its responses to the investigation, and that the reports could be filed well before the November 3, 2009 election.

In terms of the content of the reports, Maine Leads would rely on the statutory requirement in 21-A M.R.S.A. § 1056-B, and the definitions of “contribution” and “expenditure” in 21-A M.R.S.A. § 1052. The expenditure side of this reporting seems to be fairly straightforward. The legal requirement to report contributions was less specific in the version of § 1056-B that applied before June 30, 2008. At a minimum, it appears to the Commission staff that Maine Leads should be required to disclose some of the sources of nonprofit funding it received in response to its initial funding proposal. If Maine Leads would like additional guidance from the Commission about what to include in the reports under 21-A M.R.S.A. § 1056-B, the Commission staff is prepared to provide whatever assistances you believe is appropriate.

Late-Filing Penalties

If you determine that Maine Leads violated the campaign finance laws by not filing required campaign finance reports as a ballot question committee or as a PAC, the finding of violation would trigger an automatic penalty process under 21-A M.R.S.A.

§ 1062-A(3). Pursuant to that statute, the staff would calculate preliminary penalties for each late report according to a formula in the statute. The formula takes into account the number of days the report has been filed late, the amount of contributions or expenditures which were not reported on time, and the number of reports which the committee has filed late. If you determine that Maine Leads should have filed reports beginning in January 2008, the preliminary penalty amounts would be quite large, due to the lateness of the reports and the large, unreported expenditures that Maine Leads made during the petition process. Maine Leads could request a waiver of the penalty based on mitigating circumstances listed in 21-A M.R.S.A. § 1062-A(2).

Thank you for your consideration of this memorandum.

**STATE OF MAINE
122nd LEGISLATURE
SECOND REGULAR SESSION**

**Final Report
of the
STUDY COMMISSION TO STUDY
ALTERNATIVE VOTING PROCEDURES,
THE CITIZEN INITIATIVE PROCESS AND
MINOR PARTY BALLOT ACCESS**

January 2006

Members:

**Senator Bill Diamond, Chair
Representative Sean Faircloth, Chair
Senator Kenneth T. Gagnon
Senator Debra D. Plowman
Representative David N. Ott
Representative Linda M. Valentino
Randall L. Bumps
Patrick Colwell
Julie Flynn
Ruth Lyons
Frances Smith**

Staff:

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of Qualified Political Parties which was carried over on the Appropriations Table by Senate Paper 640, should be referred back to the Joint Standing Committee on Legal and Veterans' Affairs.



- **Legislation should be enacted to require that campaign finance reports by PACs organizing citizen initiative campaigns specify expenditures made as payment to petition circulators. This legislation should also clarify that contributions received and expenditures made by a PAC during the signature gathering phase of a citizen initiative campaign must be reported when current statutory thresholds are met.** The Commission unanimously supported clarifying the law so that there is no ambiguity that if a group spends \$1500 (current trigger to report with the Commission on Governmental Ethics and Election Practices as a PAC) to support or discourage the gathering of signatures for a citizen initiative it meets the definition of a PAC and is required to submit reports. The Commission unanimously agreed that payment made by PACs to people for circulating initiative petitions should be itemized on required campaign finance reports. Those Commission members agreed that this information should be available to the public and is consistent with reporting requirements of campaigns for state office.
- **In order to better facilitate the constitutionally provided right to the initiation of law by citizen petition, the Legislature should consider an amendment to the Constitution of the State of Maine that would ensure municipal officials are afforded adequate time to verify petition signatures before they are due to the Secretary of State.** The Commission determined that for various reasons, petitions for citizen initiatives are often turned into a municipal clerk's office for signature verification too close to when they need to be submitted to the Secretary of State for certification. As a result, municipal officials find it difficult to meet their obligation to verify signatures. The commission looked at various statutory proposals to address the issue but found that they may conflict with the Constitution of the State of Maine. Thus, the Commission determined that if the Legislature deemed the issue important enough to amend the Constitution it should have that option. The Commission stated that this recommendation in no way intended to infringe upon the rights of petitioners but is intended to create a time period where municipal officials could appropriately meet its Constitutional obligation to verify signatures. The Commission's recommendation would state that signatures are due to municipal officials 10 days before required to be at the Secretary of State's office. Signatures not submitted to municipal officials by this date would be invalid. This recommendation is to be put forward as a separate bill was supported unanimously by the commission.

PUBLIC LAWS

Second Regular Session of the 122nd

CHAPTER 575 S.P. 780 - L.D. 2029

An Act To Implement the Recommendations of the Commission To Study Alternative Voting Procedures, the Citizen Initiative Process and Minor Party Ballot Access

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 21-A MRSA §903-A, sub-§3 is enacted to read:

3. Information to circulators. An applicant for a direct initiative or a people's veto referendum pursuant to section 901 shall provide to each person who will be circulating petitions a copy of the laws and rules governing the circulation of petitions for a direct initiative or people's veto as provided by the Secretary of State. The Secretary of State shall provide a copy of the laws and rules governing the circulation of petitions for a direct initiative or people's veto when an approved petition form is provided to an applicant for a direct initiative or people's veto referendum. The copy of the laws and rules provided by the Secretary of State may also include comments that may aid in the comprehension of those laws and rules.

Sec. 2. 21-A MRSA §1012, sub-§3, ¶A, as amended by PL 2003, c. 615, §1, is further amended to read:

A. Includes:

- (1) A purchase, payment, distribution, loan, advance, deposit or gift of money or anything of value made for the purpose of influencing the nomination or election of any person to political office, except that a loan of money to a candidate by a financial institution in this State made in accordance with applicable banking laws and regulations and in the ordinary course of business is not included;
- (2) A contract, promise or agreement, expressed or implied, whether or not legally enforceable, to make any expenditure;
- (3) The transfer of funds by a candidate or a political committee to another candidate or political committee; and
- (4) A payment or promise of payment to a person contracted with for the purpose of supporting or opposing any candidate, campaign, political committee, political action committee, political party, referendum or initiated petition or circulating an initiated petition; and

Sec. 3. 21-A MRSA §1052, sub-§3, ¶C, as enacted by PL 1985, c. 161, §6, is amended to read:

C. Any funds received by a political action committee ~~which~~ that are to be transferred to any candidate, committee, campaign or organization for the purpose of promoting, defeating or initiating a candidate, referendum, political party or initiative, including the collection of signatures for a direct initiative, in this State; or

Sec. 4. 21-A MRSA §1052, sub-§4, ¶A, as amended by PL 1997, c. 683, Pt. A, §12, is further amended to read:

A. Includes:

- (1) A purchase, payment, distribution, loan, advance, deposit or gift of money or anything of value, made

for the purpose of influencing the nomination or election of any person to political office; or for the initiation, support or defeat of a campaign, referendum or initiative, including the collection of signatures for a direct initiative, in this State;

- (2) A contract, promise or agreement, expressed or implied, whether or not legally enforceable, to make any expenditure for the purposes set forth in this paragraph; and
- (3) The transfer of funds by a political action committee to another candidate or political committee; and

Sec. 5. 21-A MRSA §1052, sub-§5, ¶A, as amended by PL 1999, c. 729, §6, is further amended to read:

A. Includes:

- (1) Any separate or segregated fund established by any corporation, membership organization, cooperative or labor organization whose purpose is to influence the outcome of an election, including a candidate or question;
- (2) Any person who serves as a funding and transfer mechanism and spends money to initiate, advance, promote, defeat or influence in any way a candidate, campaign, political party, referendum or initiated petition in this State;
- (3) Any organization, including any corporation or association, that has as its major purpose advocating the passage or defeat of a ballot question and that makes expenditures other than by contribution to a political action committee, for the purpose of the initiation, promotion or defeat of any question; and
- (4) Any organization, including any corporation or association, that has as its major purpose advocating the passage or defeat of a ballot question and that solicits funds from members or nonmembers and spends more than \$1,500 in a calendar year to initiate, advance, promote, defeat or influence in any way a candidate, campaign, political party, referendum or initiated petition, including the collection of signatures for a direct initiative, in this State; and

Sec. 6. 21-A MRSA §1053, first ¶, as amended by PL 1999, c. 729, §7, is further amended to read:

Every political action committee that accepts contributions, incurs obligations or makes expenditures in the aggregate in excess of \$1,500 in any single calendar year to initiate, support, defeat or influence in any way a campaign, referendum, initiated petition, including the collection of signatures for a direct initiative, candidate, political committee or another political action committee must register with the commission, within 7 days of accepting those contributions, incurring those obligations or making those expenditures, on forms prescribed by the commission. These forms must include the following information and any additional information reasonably required by the commission to monitor the activities of political action committees in this State under this subchapter:

Sec. 7. 21-A MRSA §1058, as amended by PL 1997, c. 567, §1, is further amended to read:

§1058. Reports; qualifications for filing

A political action committee that is registered with the commission or that accepts contributions or incurs obligations in an aggregate amount in excess of \$50 on any one or more campaigns for the office of Governor, for state or county office or for the support or defeat of a referendum or initiated petition shall file a report on its activities in that campaign with the commission on forms as prescribed by the commission. A political action committee organized in this State required under this section to file a report shall file the report for each filing period under section 1059. A political action committee organized outside this State shall file with the Commission on Governmental Ethics and Election Practices of this State a copy of the report that the political action committee is required to file in the state in which the political action committee is organized. The political action committee shall file the copy only if it has expended funds or received contributions or made expenditures in this State. The copy of the report must be filed in accordance with the schedule of filing in the state where it is organized. If contributions or expenditures are made relating to a municipal office or referendum, the report must be filed with the clerk in the subject municipality. ~~Any person or organization organized to oppose a question to be voted on by the electorate at referendum shall report, within 10 days following the drafting of the question by the Secretary of State and prior to the distribution of any petitions for voter signatures pursuant to chapter 11, to the commission as required in this~~

~~section and sections 1059 and 1060.~~

Sec. 8. 21-A MRSA §1060, sub-§4, as amended by PL 2005, c. 301, §27, is further amended to read:

4. Itemized expenditures. An itemization of each expenditure made to support or oppose any candidate, campaign, political committee, political action committee, political party, referendum or initiated petition, including the date, payee and purpose of the expenditure and the address of the payee. If expenditures were made to a person described in section 1012, subsection 3, paragraph A, subparagraph (4), the report must contain the name of the person; the amount spent by that person on behalf of the candidate, campaign, political committee, political action committee, political party, referendum or initiated petition, including, but not limited to, expenditures made during the signature gathering phase; the reason for the expenditure; and the date of the expenditure. The commission may specify the categories of expenditures that are to be reported to enable the commission to closely monitor the activities of political action committees;

Sec. 9. Secretary of State to report on information provided to voters regarding statewide referendum questions on ballot. By September 1, 2006, the Secretary of State using existing budgeted resources shall issue a report to the Joint Standing Committee on Legal and Veterans Affairs that examines voter awareness in other states that mail voter information pamphlets on statewide referendum questions directly to voters. The report must include suggestions for improving the way information is provided to voters regarding statewide referendum questions in this State.

Sec. 10. Commission on Governmental Ethics and Election Practices to report regarding campaign finance reports for direct initiative campaigns and public access to those reports. By September 1, 2006, the Commission on Governmental Ethics and Election Practices shall issue a report to the Joint Standing Committee on Legal and Veterans Affairs regarding campaign finance reports for direct initiative campaigns. The report must include the commission's examination of the feasibility of requiring political action committees to identify the direct initiative campaigns that the political action committees are receiving or expending money in support of or opposition to, whether voter information pamphlets or posters published by the State and publications by political action committees in support of or opposition to ballot measures should be required to include information indicating where campaign finance reports about the measure may be obtained, reducing the spending threshold that triggers reporting as a political action committee and, in the months prior to an election, increasing the frequency of reports by political action committees that have raised or spent in excess of \$40,000 on a ballot measure.

Sec. 11. Secretary of State and Commission on Governmental Ethics and Election Practices to work collaboratively on providing information about direct initiatives. By September 1, 2006, the Secretary of State and the Commission on Governmental Ethics and Election Practices shall jointly develop a plan to provide information on their respective public accessible websites directing the public to information currently published and available about direct initiative petitions and campaign finance reports filed relative to those direct initiative petitions and submit that plan to the Joint Standing Committee on Legal and Veterans Affairs.

Effective August 23, 2006.

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Contact the Office of the Revisor of Statutes

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September 22, 2009

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

RE: Maine Leads Response to Staff Recommendations

Dear Mr. Wayne:

Thank you for the opportunity to respond to the staff recommendations regarding Maine Leads. In the interest of brevity, this letter will only address issues not previously addressed in the submissions made on behalf of Maine Leads. I trust that the previous submissions will be provided to the Commission; in particular, my letter dated August 25, 2009.

APPLICABLE CONSTITUTIONAL STANDARDS

The staff recommendation contains a detailed five page analysis of the legislative history of the relevant Maine statutes to reach the conclusion that the term “ballot question” means something other than the plain meaning of the words¹. Interpreting and applying the statutes in this manner would violate the protections afforded by the United States Constitution.

The United States Supreme Court has long recognized that “a statute which either forbids or requires the doing of an act in terms so vague that men of common intelligence must necessarily guess at its meaning and differ as to its application, violates the first essential of due process of law.” Connally v. General Construction Co., 269 U.S. 385, 391, 46 S.Ct. 126, 127, 70 L.Ed. 322 (1925). See also Kolender v. Lawson, 461 U.S. 352, 357, 103 S.Ct. 1855, 1858, 75 L.Ed.2d 903 (1983). The requirement that the government afford reasonable notice of the kinds of conduct that will result in deprivations of liberty or property reflects a sense of basic fairness as well as concern for the intrinsic dignity of human beings. Whisenhunt v. Spradlin, 464 U.S. 965, 969, 104 S.Ct. 404, 407 (1983). Furthermore, the rule is instrumental to the constitutional concept of “ordered liberty.” Id. By demanding that government articulate its aims with a reasonable degree of clarity, the Due Process Clause

¹ When interpreting a statute, one must accord the words of the statute their plain, ordinary meaning. Maddocks v. Whitcomb, 2006 ME 47, ¶ 4, 896 A.2d 265, 267.

ensures that state power will be exercised only on behalf of policies reflecting a conscious choice among competing social values; reduces the danger of caprice and discrimination in the administration of the laws; and permits meaningful judicial review of state actions. See, e.g., Grayned v. City of Rockford, 408 U.S. 104, 108-109, 92 S.Ct. 2294, 2298-99, 33 L.Ed.2d 222 (1972); Giaccio v. Pennsylvania, 382 U.S. 399, 402-404, 86 S.Ct. 518, 520-21, 15 L.Ed.2d 447 (1966); Raley v. Ohio, 360 U.S. 423, 437-439, 79 S.Ct. 1257, 1265-67, 3 L.Ed.2d 1344 (1959); Joseph Burstyn, Inc. v. Wilson, 343 U.S. 495, 532, 72 S.Ct. 777, 796, 96 L.Ed. 1098 (1952) (Frankfurter, J., concurring); Cantwell v. Connecticut, 310 U.S. 296, 307-308, 60 S.Ct. 900, 904-05, 84 L.Ed. 1213 (1940); Hurtado v. California, 110 U.S. 516, 535-536, 4 S.Ct. 111, 292, 120-21, 28 L.Ed. 232 (1884). The concern with arbitrary encroachments on freedom has special force when the liberty interests at stake are fundamental, therefore, greater precision is required in laws, such as those at issue in this case, which may abridge First Amendment rights. See, e.g., Kolender v. Lawson, supra, 461 U.S., at 357 and n. 7, 103 S.Ct., at 1858 and n. 7 (1983); Parker v. Levy, 417 U.S. 733, 756, 94 S.Ct. 2547, 2561, 41 L.Ed.2d 439 (1974); Smith v. Goguen, 415 U.S. 566, 573 n. 10, 94 S.Ct. 1242, 1247 n. 10, 39 L.Ed.2d 605 (1974); Winters v. New York, 333 U.S. 507, 515, 68 S.Ct. 665, 670, 92 L.Ed. 840 (1948).

The concerns expressed by the Supreme Court in the cases cited above are illustrated well by this case. The term “ballot question” is not defined in the relevant statutes. Rather than look to the plain, ordinary meaning of the words and applying a definition which would put people of ordinary intelligence on notice of what was required by Maine law, the staff recommends that the Commission adopt a broader definition that can only be obtained by researching over 25 years of legislative history². Taking such an approach would not only violate the Constitution, it would be fundamentally unfair.

This result can be avoided by applying the narrower definition of “ballot question” suggested in my August 25, 2009 letter³.

² The staff’s analysis of the legislative history ignores the fact that older versions of the PAC definition, and the current definition in effect since June 30, 2008, include the broader term “campaign” while the definition in effect during the periods relevant to this investigation used only the term “ballot question.” While relying on legislative history, the staff recommendation ignores these significant changes in the statute.

³ The narrower definition previously suggested does not, as the Staff suggests, ignore the plain meaning of the words “initiate” and “initiation” in the statute. Those words are not included in the “major purpose” test. The words would still apply in determining what is required to be reported by an organization which has its major purpose “advocating the passage or defeat of a ballot question.” In addition, the collection of signatures for a People’s Veto would be covered by even the narrower definition suggested because the desired result of a People’s Veto petition is a “ballot question” and the ballot question for a People’s Veto is drafted at the start of the petition process.

FACTUAL ANALYSIS

If the Commission accepts the staff's flawed analysis regarding the meaning of the statutory terms to be applied to this matter, the staff's conclusions regarding contributions and expenditures necessarily follow. If the suggested narrower definition is applied, the conclusion would be the opposite.

Maine Leads is in agreement with the staff's recommendation regarding the organization's major purpose. The staff memo appropriately highlights the facts that support the conclusion that Maine Leads' major purpose was not to initiate or promote ballot questions. In particular, it is important for the Commission to recognize the policy considerations behind not basing a major purpose determination only on an organization's activities early in its existence. If significant referendum related activities by a new organization are used to define that organization as a PAC simply because the organization does not have a track record of other activities, new organizations would be forced to avoid referendum related activities to avoid being deemed to be a PAC. Such a result would have a significant impact on the First Amendment rights of such organizations. Maine Leads also agrees with the staff's comments regarding the importance of predictability for regulated entities and urges the Commission to give consideration to that concern.

Conclusion

For these reasons, and the reasons stated in my August 25, 2009 letter, Maine Leads urges the Commission to find that Maine Leads was not required to file any reports with the Commission related to its activities before August 6, 2009. I will be in attendance along with Mr. Lenardson at the Commission's October 1, 2009 meeting and look forward to the opportunity to address the Commission at that time.

Very truly yours,

electronically /s/ 9/22/09

Daniel I. Billings

McTEAGUE, HIGBEE, CASE, COHEN, WHITNEY & TOKER, P.A.

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September 22, 2009

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

Re: Maine Leads Investigation

Dear Mr. Wayne,

Thank you for the opportunity to submit this closing argument in the Commission's investigation of Maine Leads. Because the Staff's ultimate recommendation reflects the conclusion that Ms. Hutton requested from the outset of this proceeding, this letter's primary conclusion offers support for the Staff Recommendation.

SUMMARY

Ms. Hutton agrees with many of the Staff's conclusions, and with the rationales supporting those conclusions. However, because of the Staff's recommendation regarding the "major purpose test," Ms. Hutton urges a slight variation of the overall Staff Recommendation. In sum, the Commission should find that Maine Leads violated 21-A M.R.S.A. § 1056-B, and, therefore, should be compelled to disclose its original donors and penalized for late filings. In addition, because of the ambiguity of the facts and the law regarding Maine Leads' "major purpose," and the downstream consequences of establishing precedent in this area, the Commission should make no finding on application of 21-A M.R.S.A. § 1052(5)(A)(4) – a ruling that, if the earlier recommendation is accepted, would, in any event, be moot.

Finally, Ms. Hutton urges that the Commission establish a rapid schedule for Maine Leads to provide the Commission with the required information. Maine Leads should have this information readily available, due to the extensive information it has produced up to this point, and the overall purpose served by this exercise it providing information to voters before Election Day in November.

Re: Maine Leads Investigation
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21-A M.R.S.A. § 1056-B

The "ballot question" section of the relevant law provides an adequate basis for the Commission to compel Maine Leads to disclose its original donors. The reasons provided by the Commission are well reasoned and require little additional information. Maine Leads admitted to spending money in excess of the \$1,500 threshold amount to influence the collection of signatures for the relevant ballot questions, leaving its only arguable position that there was no "ballot question" at the time. As stated in earlier letters, this is a preposterous interpretation of the law, and should not be endorsed.

As the Staff indicates, a plain reading of the statute establishes that it applies to the "entire direct initiative or referendum campaign," and not merely one portion of the campaign. To accept Maine Leads' argument on this point would be to nullify a whole constellation of provisions in Title 21-A designed to provide the public with information about the items that appear before them on the ballot. A candidate for office must report expenditures made prior to collecting enough signatures to gain access to the ballot – and the Legislature has made clear that this principle also applies to the direct initiative process.

21-A M.R.S.A. § 1052(5)(A)(4)

Ultimately, Ms. Hutton's interests are served by the above argument. However, the deliberation about Maine Leads' "major purpose" still deserves some attention. The recommendation here is that rather than accept the Staff Recommendation regarding Maine Leads' qualification as a PAC, the Commission rule that this issue is made moot by the § 1056-B decision.

In the alternative, if the Commission decides to make a finding regarding this issue, Ms. Hutton urges that the Commission find Maine Leads' "major purpose" during the relevant time period was support of the various direct initiative efforts, thus bringing Maine Leads under the umbrella of the PAC disclosure laws.

The Staff recommendation on this point should not be followed for several reasons. First, the Staff erroneously cites the figure of 54% (of total Maine Leads expenditures) provided by Ms. Hutton in a previous submission. For the relevant period of time, prior to June 30, 2008, Maine Leads spent approximately 68% of its total budget on the collection of signatures. 54% was only a floor – but 68% reflected the actual estimation of percentage expenditures. Assuming, *arguendo*, that 54% is not enough to qualify for "major purpose," Ms. Hutton submits that 68% is sufficient.

Second, the Staff asserts no authority for the proposition that even 54% of expenditures is insufficient to qualify as a "major purpose." Perhaps if the remaining 46% was devoted to one – and only one – other activity, such a split would not render either a "major purpose." However,

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Maine Leads performed no other function during that period that consumed so much of their revenue. By their own admission (see chart on page 85 of 133 of Exhibits for Roy Lenardson Testimony), no other activity for the *entire year* of 2008 involved more than 25% of Maine Leads' resources.

Third, the Staff erroneously relies on Maine Leads' projected budget to conclude that advancing citizen initiatives was the major purpose of the organization. The Staff's own report begins with the instruction that "the staff does not believe that the Commission must take the organization at its word regarding its major purpose." Ms. Hutton has consistently argued that what Maine Leads "intended" to accomplish, or what activities it budgeted for, is not relevant to this determination. If the "major purpose test" is anything accept an analysis of a group's actual activities, then it is merely an invitation for a group to paper over actions on the ground with mission statements, planning documents, and odes to "building capacity."

Finally, even by the standard established in the 2006 dispute over the Maine Heritage Policy center, Maine Leads' "major purpose" for the relevant time period should be deemed support for the various ballot questions. As described by the Staff, the overall purpose should be determined by "all of its activities, its mission, expenditures, and public statements. Prior to June 30, 2008, Maine Leads' activities included a few local issues, building the organization's infrastructure, some candidate training – and spending about \$235,000 on collecting signatures; its mission included becoming a "Factory for Citizens Initiatives;" about 68% of its expenditures were devoted to this portion of its mission; and of its three appearances in the news, one regarded the initiative process.

The notion that it is "not sound public policy to determine the major purpose of an organization based upon its activities during a period of time as short as the first 15 (or 9) months of the organization's lifetime" is, frankly, puzzling. Are organizations, then, allowed a "grace period" that exempts them from Maine law until they are sufficiently established? Of course not. Maine law is designed to shine light on those groups who decide to engage in certain types of political action. That an organization might engage in other activities in the future is of no moment.

REMEDY

Ms. Hutton urges that the Commission establish a rapid timetable for Maine Leads to disclose the donor information that is the subject of this investigation. By their own admission, it is merely three large donors that have been concealed, so obtaining this information would be a mere formality. Ms. Hutton also urges appropriate penalties for late filings, as directed by the Staff.

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CONCLUSION

Politics, of course, provides the backdrop to this dispute, and all of the parties involved have distinctly political backgrounds. However, the contentious atmosphere surrounding the campaigns brought about by Maine Leads' activities does nothing to alter the fundamental public policy at issue. Maine is not without its history of problems, but, through it all, Maine has been a national leader in the battle for strong, public-oriented campaign finance laws. One of the bedrock principles of this effort – and what is at stake here – is transparency. Ms. Hutton's simple request, from the beginning, has been only that Maine Leads be made to follow the same transparency laws as everyone else.

Thank you,



Benjamin K. Grant

BKG:cja

Wayne, Jonathan

From: Carl Lindemann [carl@cyberscene.com]
Sent: Tuesday, September 22, 2009 4:41 PM
To: Wayne, Jonathan
Subject: Public Comments for Maine Leads/Oct 1

Attachments: Lindemann - Public Comments for ME Leads 10-1-2009.pdf; Branson on Major Purpose - 2006.pdf; Lindemann - Proposed legislative changes 2008-2009.pdf



Lindemann - Public Comments fo...
Branson on Major Purpose - 200...
Lindemann - Proposed legislati...

Dear Executive Director Wayne,

As per, see attached.

I have also, for your convenience, attached the supporting documents in this e-mail. In respect for Commissioner Marsano's request, I have NOT attached these to my comments. I thought to provide them for you here should any of the Commissioners request them.

Thank you for this opportunity to provide public comment.

-CL

Carl Lindemann
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<http://www.cyberscene.com>
(512) 495-1511

"Who seeks gold
digs much earth
and finds little"

-Heracleitus

Carl Lindemann

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Maine Commission on Governmental
Ethics and Election Practices

RE: Maine Leads – October 1 Meeting

September 22, 2009

Dear Commission Chair Friedman and fellow Commissioners,

Thank you for this opportunity for public comment on this agenda item. In respect for Commissioner Marsano's request, I have kept these comments brief and have refrained from attaching supporting documentation.

I am writing this because Executive Director Wayne has cited the case I brought against Maine Heritage Policy Center in 2006 as being relevant to your current deliberations. I hope my experience here can assist the Commission.

First, the proper interpretation of the term "major purpose" in M.R.S.A. 1052 seems to be crucial here. The legal issues are not discussed in detail in the staff recommendations dated September 15, 2009. In 2006, John Branson, my attorney in the case, detailed the legislative history and explored the issues in depth. This includes "...the only reported case...found in a nationwide Westlaw search that dealt squarely with the proper contextual and temporal framework to be applied in determining whether and when a standing policy organization crosses over the line and becomes a political action committee". Executive Director Wayne has these materials for your review.

Beyond the legal issues, those who suggest assessing "major purpose" over the entirety of an organization's existence must address the practical aspects. The Commission has had ample opportunity to do this since the MHPC case, most recently when I raised the matter during the proposed statutory changes considered at the January 29, 2009 meeting. However, the Commission passed on that opportunity without comment. This can be taken as an acknowledgement that implementing this interpretation of "major purpose" is impractical. To embrace it now without regulatory mechanisms in place creates a loophole greater than the law. Executive Director Wayne has the memo I submitted then for your review.

NEED FOR ADDITIONAL INFORMATION

Whatever interpretation of major purpose the Commission may adopt, it is necessary to obtain additional information to carry out its statutory duties.

Maine Leads’ Problematic “Initial Funding Proposal”

At present, the Commission’s information about Maine Leads’ origins is inadequate. Past experience in the MHPC case is instructive. Attorney Billings presented what he claimed was an early mission statement from MHPC. This supposedly demonstrated that the entity had diverse interests from its inception. However, this early mission statement has been exposed as inauthentic.

Now, the document provided by Attorney Billings to demonstrate that Maine Leads, too, had diverse interests from its inception is likewise problematic.

In his memo to Executive Director Wayne dated August 25, 2009, Attorney Billings states that:

In my opinion, the best evidence available to determine Maine Leads major purpose is the initial funding proposal... This proposal is significant because it was not prepared as a result of this investigation... (emphasis included in original – pgs 128-129 Agenda Item #3).

However, Mr. Lenardson’s testimony shows that this “initial funding proposal” is not the original version sent to funders. It is unclear when this document was produced, and if it is substantially different from the original, authentic initial funding proposal. It is possible that Attorney Billings’ claim that this “was not prepared as a result of this investigation...” is false.

Additional research has revealed numerous anomalies surrounding this document beyond what was uncovered in Executive Director Wayne’s questioning of Mr. Lenardson. If you wish, I am happy to detail them for the Commission. In any case, there is no reason for the Commission to lend any credence to this document as far as revealing this entity’s major purpose.

As far as I know, the staff has not issued subpoenas to the recipient(s) to gather the original(s) from their files or for the hand-written “thank you” notes that Mr. Lenardson testified that he sent in response to their funding. This would seem necessary should the Commission wish to adopt an interpretation of major purpose that looks to Maine Leads’ origins.

Maine Leads as a Continuation of MHPC's 2006 Campaign

Information turned up during the investigation of Maine Leads shows close ties with MHPC. It is unclear the full extent and nature of these connections. As I testified to the Commission in July, my research shows that this information is the key to unlock the Maine Leads investigation. In brief, it is a distinct possibility that, to avoid problems it encountered in 2006, MHPC decided to spin-off those activities into a separate entity for TABOR II. Instead of creating a PAC, it appears to have created a (c)4 tax exempt entity instead - Maine Leads. Are Maine Leads' activities simply a continuation of MHPC's TABOR efforts? Answering this definitively is necessary if the Commission adopts an interpretation of major purpose that looks to the origins of an entity.

Mr. Lenardson's Compensation

There is another parallel with issues surrounding Mr. Lenardson's employment in 2006 and this case. During that TABOR campaign, Mr. Lenardson was supposedly employed at MHPC while simultaneously running the pro-TABOR PAC. Aside from the question of how he was able to find the time to carry out these dual duties, it also appears that he lacked the technical skills to carry out the task he was assigned at MHPC. It is a distinct possibility that MHPC paid Mr. Lenardson to fund his PAC activities while avoiding any reporting of those expenditures.

Now, we see a similar possibility in the current case. Mr. Lenardson testified that he did not receive compensation from Maine Leads for his work there. But it is unclear if he has received compensation for it from other sources. Such hidden funding, exposed, would possibly carry the percentage of Maine Leads' work for ballot initiatives in 2007-2008 well past the 54% cited in the staff recommendation. The Commission may wish to exercise its investigatory powers to confirm or to eliminate this possibility.

That covers the major points. If it is helpful, I can be available to answer whatever questions you may have during the October 1 meeting.

Sincerely,

A handwritten signature in black ink, appearing to read "Carl Lindemann", with a long, sweeping underline.

Wayne, Jonathan

From: A. Mavourneen Thompson [mavourneen@maine.rr.com]
Sent: Tuesday, September 22, 2009 2:53 PM
To: Wayne, Jonathan
Subject: Letter for Maine Leads October 1 meeting
Attachments: Letter for October 1 meeting.rtf

Dear Jonathan,

Please include the letter attached here in the packet for next week's meeting.

Sincerely,
Mavourneen

September 22, 2009

A. Mavourneen Thompson
344 Seashore Avenue
Peaks Island, Maine 04108

Jonathan Wayne
Executive Director,
Commission on Maine Governmental Ethics and Election
Practices

Dear Jonathan,

Please include the following comments in the packet for next week's meeting that addresses the Maine Leads case.

I am concerned about misstatements of what the Commission determined about Maine Heritage Policy Center in 2006. The September 15 2009 staff memo includes this inaccuracy and the arguments built on it. The record needs to be set straight. The staff's recommendations based on this misinformation may also require correction.

It is my recollection that the Commission did not agree to a specific interpretation of "major purpose" in determining MHPC's PAC status. This is not what Dan Billings claims in his August 25, 2009 letter:

"...a majority of the Commission agreed that a determination of an organization's major purpose should be made by looking at why the organization was formed and why the organization continues to exist."

That is not so. A majority of the Commission did not agree to this. Instead, I made a motion to gather more information utilizing the Commission's subpoena power. Commissioner Friedman shared his interpretation of "major purpose" to explain why that wasn't needed:

"Personally I think the information that we had.. uh, at least is sufficient for me to make a decision... on the narrow issues presented by this complaint... I don't

think that a single campaign...issue, even though it is a significant issue, necessarily takes away from the major purpose of the underlying organization."

We discussed his view briefly, but that is all. My motion was defeated in a 2-2 vote.

Next, Commissioner Friedman made a motion "...based upon the evidence presented to us both orally and in writing...that...we determine that MHPC does not constitute a PAC". This motion does not say it is based on any interpretation of major purpose. The motion passed 3-1.

The December 22, 2006 Agency Final Determination letter reflects this. The transcript of the meeting does show that Commission Chair Ketterer thought that this interpretation of "major purpose" might be a future subject for rulemaking.

Once again, the Commission did not arrive at the interpretation of "major purpose" as Dan Billings now claims. This undermines the arguments he makes with it:

"Following the commission's prior precedent will maintain stability and continuity in the regulation of campaign finance in Maine and respect the expectations of those who are regulated by the Commission."

There is no such precedent. If the Commission accepts this interpretation of "major purpose" now, it does not "maintain stability and continuity" or "respect the expectations" as Dan Billings argues.

Unfortunately, the September 15, 2009 staff memo incorporates this inaccurate information and the arguments drawn from it:

"As noted by the Commission in addressing Maine Heritage Policy Center's status in 2006, the inquiry into major purpose should be determined based on consideration of the organization's overall purpose as evidenced by all of its activities, its mission, expenditures, and public statements."

We also urge caution because of the importance of the issues of reliance on statutory language and predictability of the law..."

I trust that the staff will correct the misstatement of fact and reconsiders its recommendations accordingly.

#

In conclusion, the Commission is free to embrace an interpretation of "major purpose" as something determined over the life of an organization and not in an election cycle. However, this would be setting precedent, not following it.

I appreciate the opportunity to offer this information to you and my former fellow Commissioners.

Sincerely,

Mavourneen Thompson

Former Commissioner, Maine Governmental Ethics and Election Practices

STATE OF MAINE
APPLICATION FOR CITIZEN INITIATIVE

APPLICANT INFORMATION: (List the contact person for the initiative proponents.)

Name of Applicant: Ray William Lenardson, Jr
Mailing Address: 1 Snowberry Dr. Scarborough, ME 04074
Municipality of Residence: SCARBOROUGH
Home Phone: 207-283-4549 Work Phone: 207-329-0992 FAX: 207-221-1041

I hereby invoke the citizen initiative procedure provided for by the Constitution of Maine, Article IV, Part Third and governed by Title 21-A M.R.S.A. Chapter 11. Attached is a draft of the legislation for consideration under these provisions.

[Signature]
Signature of Applicant

Subscribed and sworn before me on

8-16-07

(Date)

[Signature]
(Signature of Notary Public or Agent of the Secretary of State)

Tarren R. Bragdon
(Print Name of Notary Public or Agent of the Secretary of State)

DESIGNATED VOTER INFORMATION: (List five voters, other than the applicant, to receive notices of proceedings.) Please list voter's name, as it appears on the voting list, the mailing address, telephone number, (if published), the municipality of legal residence (where registered to vote), and voter's signature.

1. Gary C Foster
P.O. Box 1253
Goos
Phone: 657-4754
Municipality of Residence: Goos
Signature: [Signature]

2. Peter A. Dufour
86 Leland Street
Portland, ME 04103
Phone: 899-2395
Municipality of Residence: Portland
Signature: [Signature]

3. DAVID S. JONES
521 BLACKSTRAP RD
FALMOUTH, ME 04105
Phone: 207-630-3455
Municipality of Residence: FALMOUTH
Signature: [Signature]

4. Richard A. Bennett
75 Bennett Lane
Oxford, Maine 04270
Phone: 207-539-9005
Municipality of Residence: Oxford
Signature: [Signature]

5. Patrice Kallach
P.O. Box 101
Yarmouth, Maine 04096
Phone: 207-674-0190
Municipality of Residence: Yarmouth
Signature: [Signature]

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2007 AUG 20 P 12 49
OFFICE OF
THE SECRETARY OF STATE

This is an update.

STATE OF MAINE

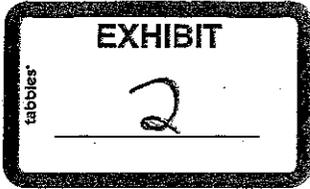
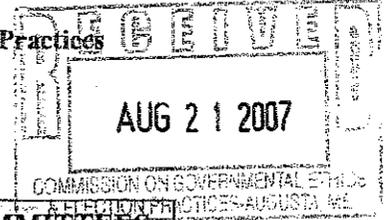
Commission on Governmental Ethics and Election Practices

135 State House Station

Augusta, Maine 04333

Tel: (207) 287-6221 Fax: (207) 287-6775

Website: www.maine.gov/ethics



REGISTRATION FOR POLITICAL ACTION COMMITTEES

A political action committee must register with the Commission within 7 days of accepting contributions, incurring obligations or making expenditures in the aggregate in excess of \$1,500 in any single calendar year to initiate, support, defeat or influence in any way a campaign, referendum, initiated petition, candidate, political committee or another political action committee (21-A M.R.S.A. §1053).

Within 10 days of a change in PAC information an amended registration form must be submitted to the Commission.
The committee must file an updated registration every election year between January 1st and March 1st.

I. COMMITTEE INFORMATION

Name of committee The Road to a Cleaner Maine Acronym _____
Mailing address P.O. Box 403 Telephone # 207-510-7631
City, State, Zip Code Augusta, ME 04332 Fax # _____
Website _____

II. IDENTIFICATION OF TREASURER AND PRINCIPAL OFFICERS OF COMMITTEE

A. Committee Treasurer: Trevor Bragdon
Mailing address PO Box 391 Telephone # 207-504-0020
City, State, Zip Code Augusta, ME 04332 E-Mail trevor.bragdon@adelphia.net

B. Principal Officers:

Name Roy Lenardson, Jr. Title Principal Officer
Mailing address 201 US Route 1, Box 185
City, State, Zip code Scarborough ME 04074 Telephone # 207-510-7631
Name _____ Title _____
Mailing address _____
City, State, Zip Code _____ Telephone # _____

C. Identify any candidates, Legislators or other individuals who are the primary fundraisers and decision makers for the committee.

Roy Lenardson None to be determined
Trevor Bragdon

III. MAILING ADDRESS (Filing notices and correspondence will be mailed to this address.)

PO Box 403
Augusta ME 04332-0403

IV. STATUS OF COMMITTEE

Is this a continuing committee? Yes _____ No ✓

V. FORM OF ORGANIZATION

A. Name the form or structure of organization; i.e., cooperative, corporation, voluntary association, partnership, etc.

_____ PAC _____

B. Date of origin/incorporation 8/20/2007

VI. STATEMENT OF SUPPORT OR OPPOSITION

Indicate whether the committee supports or opposes a candidate, political committee, referendum, initiated petition or campaign. If unknown at the time of registration, the committee must inform the Commission as soon as the committee knows this information.

Support "An Act to Decrease the Automobile Excise Tax and Promote Energy Efficiency"
 Oppose Citizen's Initiative

VII. ASSETS OF COMMITTEE

List total assets at time of registration. Include deposits, real and personal property, investments, cash, and all other available assets.

1. 0 2. _____

VIII. DEPOSITORY OF FUNDS

Name of depository BOA Account # _____

Address _____

Name of depository _____ Account # _____

Address _____

IX. CONTRIBUTIONS TO THE COMMITTEE

List the names and mailing addresses of contributors who donate in excess of \$50 each year to the committee and the amount or value of each contribution at the time of registration. Any person who makes contributions on an installment basis, the total of which exceeds \$50 in the calendar year, is considered a contributor to be identified here.

1. 0 2. _____

3. _____ 4. _____

Signature of Principal PAC Officer Tom P... Signature on file _____
Title _____ Date 8/21/2007

- (5) Any unreimbursed travel expenses incurred and paid for by a political action committee that volunteers personal services to a candidate, if the cumulative amount of these expenses does not exceed \$100 with respect to any election; and
- (6) Any communication by any political action committee member that is not made for the purpose of influencing the nomination for election, or election, of any person to state or county office.

5. Political action committee. The term "political action committee:"

A. Includes:

- (1) Any separate or segregated fund established by any corporation, membership organization, cooperative or labor organization whose purpose is to influence the outcome of an election, including a candidate or question;
- (2) Any person who serves as a funding and transfer mechanism and spends money to initiate, advance, promote, defeat or influence in any way a candidate, campaign, political party, referendum or initiated petition in this State;
- (3) Any organization, including any corporation or association, that has as its major purpose advocating the passage or defeat of a ballot question and that makes expenditures other than by contribution to a political action committee, for the purpose of the initiation, promotion or defeat of any question; and
- (4) Any organization, including any corporation or association, that has as its major purpose advocating the passage or defeat of a ballot question and that solicits funds from members or nonmembers and spends more than \$1,500 in a calendar year to initiate, advance, promote, defeat or influence in any way a candidate, campaign, political party, referendum or initiated petition, including the collection of signatures for a direct initiative, in this State; and

B. Does not include:

- (1) A candidate or a candidate's treasurer under section 1013-A, subsection 1;
- (2) A candidate's authorized political committee under section 1013-A, subsection 2; or
- (3) A party committee under section 1013-A, subsection 3.

21A § 1053. Registration

Every political action committee that accepts contributions, incurs obligations or makes expenditures in the aggregate in excess of \$1,500 in any single calendar year to initiate, support, defeat or influence in any way a campaign, referendum, initiated petition, including the collection of signatures for a direct initiative, candidate, political committee or another political action committee must register with the Commission, within 7 days of accepting those contributions, incurring those obligations or making those expenditures, on forms prescribed by the Commission. These forms must include the following information and any additional information reasonably required by the Commission to monitor the activities of political action committees in this State under this subchapter:

1. Identification of committee. The names and mailing addresses of the committee, its treasurer, its principal officers, the names of any candidates and Legislators who have a significant role in fund raising or decision-making for the committee and all individuals who are the primary fund-raisers and decision makers for the committee;

2. Form of organization. The form or structure of organization, including cooperatives, corporations, voluntary associations, partnerships or any other structure by which the committee functions. The date of origin or incorporation must also be specified; and

3. Statement of support or opposition. A statement indicating the positions of the committee, support or opposition, with respect to a candidate, political committee, referendum, initiated petition or campaign, if known at the time of registration. If a committee has no position on a candidate, campaign or issue at the time of registration, the committee must inform the Commission as soon as the committee knows this information.

Every change in information required by this section must be included in an amended registration form submitted to the Commission within 10 days of the date of the change. The committee must file an updated registration form every 2 years between January 1st and March 1st of an election year. The commission may waive the updated registration requirement for newly registered political action committees or other registered political action committees if it determines that the requirement would cause an administrative burden disproportionate to the public benefit of updated information.

At the time of registration, the political action committee shall file an initial campaign finance report disclosing all information required by section 1060.

21A § 1054. Appointment of treasurer

Any political action committee required to register under section 1053 must appoint a treasurer before registering with the commission. The treasurer shall retain, for a minimum of 4 years, all receipts, including cancelled checks, of expenditures made in support of or in opposition to a campaign, political committee, political action committee, referendum or initiated petition in this State.

21A § 1055. Publication or distribution of political communications

A political action committee that makes an expenditure to finance a communication expressly advocating the election or defeat of a candidate or that names or depicts a clearly identified candidate is subject to the requirements of section 1014.

21A § 1056. Expenditure limitations

Any committee required to register under this chapter shall comply with the following expenditure limitations.

1. Aggregate expenditures. A committee may not make contributions in support of the candidacy of one person aggregating more than \$500 in any election for a gubernatorial candidate, or \$250 in any election for any other candidate.

2. Prohibited expenditures. No committee may make any expenditure for liquor to be distributed to or consumed by voters while the polls are open on election day.

21A § 1056-A. Expenditures by political action committees

A political action committee shall report all expenditures in cash or in kind made by the committee.

21A § 1056-B. Reports of contributions and expenditures by persons

Any person not defined as a political committee who solicits and receives contributions or makes expenditures, other than by contribution to a political action committee, aggregating in excess of \$1,500 for the purpose of initiating, promoting, defeating or influencing in any way a ballot question must file a report with the Commission. In the case of a municipal election, a copy of the same information must be filed with the clerk of that municipality.

1. Filing requirements. A report required by this section must be filed with the Commission according to a reporting schedule that the Commission shall establish that takes into consideration existing campaign finance reporting schedule requirements in section 1059.

2. Content. A report must contain an itemized account of each contribution received and expenditure made aggregating in excess of \$100 in any election; the date of each contribution; the date and purpose of each expenditure; and the name of each contributor, payee or creditor. Total contributions or expenditures of less than \$500 in any election need not be itemized. The report must state whether the purpose for receiving contributions and making expenditures is in support of or in opposition to the ballot question.

3. Forms. A report required by this section must be on a form prescribed and prepared by the Commission. A person filing this report may use additional pages if necessary, but the pages must be the same size as the pages of the form.

21A § 1057. Records

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

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

- A. All expenditures made to or in behalf of a candidate, campaign or committee;
- B. The identity and address of each candidate, campaign or committee;

C. The office sought by a candidate and the district he seeks to represent, for candidates which a political action committee has made an expenditure to or in behalf of; and

D. The date of each expenditure.

2. Receipts. The treasurer of a political action committee must retain a vendor invoice or receipt stating the particular goods or services purchased for every expenditure in excess of \$50.

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

21A § 1058. Reports; qualifications for filing

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

21A § 1059. Report; filing requirements

Committees required to register under section 1053 shall file reports in compliance with this section. All reports must be filed by 11:59 p.m. on the filing deadline.

1. Contents; quarterly reports and election year reports. (REPEALED)

2. Reporting schedule. Committees shall file reports according to the following schedule.

A. Quarterly reports must be filed:

- (1) On January 15th and must be complete as of January 5th;
- (2) On April 10th and must be complete as of March 31st;

(3) On July 15th and must be complete as of July 5th; and

(4) On October 10th and must be complete as of September 30th.

B. General and primary election reports must be filed:

(1) On the 11th day before the date on which the election is held and must be complete as of the 14th day before that date; and

(2) On the 42nd day after the date on which the election is held and must be complete as of the 35th day after that date.

C. Reports of spending to influence special elections, referenda, initiatives, bond issues or constitutional amendments must be filed:

(1) On the 11th day before the date on which the election is held and must be complete as of the 14th day before that date; and

(2) On the 42nd day after the date on which the election is held and must be complete as of the 35th day after that date.

D. A committee that files an election report under paragraph B or C is not required to file a quarterly report when the deadline for that quarterly report falls within 10 days of the filing deadline established in paragraph B or C.

E. A committee shall report any expenditure of \$500 or more made after the 14th day before the election and more than 24 hours before 5:00 p.m. on the day of the election within 24 hours of that expenditure.

3. Report of expenditures made after the 11th day and more than 48 hours before any election. (REPEALED)

4. Special election reports. (REPEALED)

5. Electronic filing. Committees shall file each report required by this section through an electronic filing system developed by the Commission. The Commission may make an exception to this electronic filing requirement if a committee submits a written request that states that the committee lacks access to the technology or the technological ability to file reports electronically. The request for an exception must be submitted within 30 days of the registration of the committee. The Commission shall grant all reasonable requests for exceptions.

21A § 1060. Content of reports

The reports must contain the following information and any additional information required by the Commission to monitor the activities of political action committees:

1. Identification of candidates. The names of and offices sought by all candidates whom the committee supports, intends to support or seeks to defeat;

2. Identification of committees; parties. The names of all political committees or party committees supported in any way by the committee;

3. Identification of referendum or initiated petition. The referenda or initiated petitions that the committee supports or opposes;

4. Itemized expenditures. An itemization of each expenditure made on behalf of any candidate, campaign, political committee, political action committee and party committee or to support or oppose a referendum or initiated petition, including the date, payee and purpose of the expenditure; the name of each candidate, campaign, political committee, political action committee or party committee on whose behalf the expenditure was made; and each referendum or initiated petition supported or opposed by the expenditure. If expenditures were made to a person described in section 1012, subsection 3, paragraph A, subparagraph (4), the report must contain the name of the person; the amount spent by that person on behalf of the candidate, campaign, political committee, political action committee, party committee, referendum or initiated petition, including, but not limited to, expenditures made during the signature-gathering phase; the reason for the expenditure; and the date of the expenditure. The Commission may specify the categories of expenditures that are to be reported to enable the Commission to closely monitor the activities of political action committees;

5. Aggregate expenditures. An aggregation of expenditures and cumulative aggregation of expenditures to a candidate, campaign, political committee, political action committee, party committee, referendum or initiated petition;

6. Identification of contributions. Names, occupations, places of business and mailing addresses of contributors who have given more than \$50 to the political action committee in the reporting period and the amount and date of each contribution; and

7. Other expenditures. Operational expenses and other expenditures in cash or in kind that are not made on behalf of a candidate, committee or campaign.

21A § 1061. Dissolution of committees

Whenever any political action committee determines that it will no longer solicit or accept any contributions, incur any obligations, make any expenditures to or on behalf of any candidate, political committee, party committee or political action committee to initiate, support, defeat or influence in any way the outcome of a referendum, initiated petition or election and the committee has no outstanding loans, debts or other obligations, the committee shall file a termination report that includes all financial activity from the end date of the previous reporting period through the date of termination with the commission. If a termination report is not filed, the committee shall continue to file periodic reports as required in this chapter.

21A § 1062. Failure to file on time (REPEALED)

21A § 1062-A. Failure to file on time

1. Registration. A political action committee required to register under section 1053 that fails to do so in accordance with section 1053 or that fails to provide the information required by the Commission for registration may be assessed a forfeiture of \$250.

(6) Any communication by any political action committee member that is not made for the purpose of influencing the nomination for election, or election, of any person to state or county office.

5. Political action committee. The term "political action committee:"

A. Includes:

(1) Any separate or segregated fund established by any corporation, membership organization, cooperative or labor or other organization whose purpose is to influence the outcome of an election, including a candidate election or ballot question;

(2) **(REPEALED)**

(3) **(REPEALED)**

(4) Any organization, including any corporation or association, that has as its major purpose initiating, promoting, defeating or influencing a candidate election, campaign or ballot question and that spends more than \$1,500 in a calendar year for that purpose, including for the collection of signatures for a direct initiative or referendum in this State; and

(5) Any organization that does not have as its major purpose promoting, defeating or influencing candidate elections but that spends more than \$5,000 in a calendar year for the purpose of promoting, defeating or influencing in any way the nomination or election of any candidate to political office.

B. Does not include:

(1) A candidate or a candidate's treasurer under section 1013-A, subsection 1;

(2) A candidate's authorized political committee under section 1013-A, subsection 2; or

(3) A party committee under section 1013-A, subsection 3.

21A § 1053. Registration

Every political action committee, as defined under section 1052, subsection 5, paragraph A, subparagraph (1) or (4) that makes expenditures in the aggregate in excess of \$1,500 and every political action committee, as defined under section 1052, subsection 5, paragraph A, subparagraph (5), that makes expenditures in the aggregate in excess of \$5,000 must register with the Commission within 7 days of exceeding the applicable amount on forms prescribed by the Commission. These forms must include the following information and any additional information reasonably required by the Commission to monitor the activities of political action committees in this State under this subchapter:

1. Identification of committee. The names and mailing addresses of the committee, its treasurer, its principal officers, the names of any candidates and Legislators who have a significant role in fund raising or decision-making for the committee and all individuals who are the primary fund-raisers and decision makers for the committee;

2. Form of organization. The form or structure of organization, including cooperatives, corporations, voluntary associations, partnerships or any other structure by which the committee functions. The date of origin or incorporation must also be specified; and

3. Statement of support or opposition. A statement indicating the positions of the committee, support or opposition, with respect to a candidate, political committee, referendum, initiated petition or campaign, if known at the time of registration. If a committee has no position on a candidate, campaign or issue at the time of registration, the committee must inform the Commission as soon as the committee knows this information.

Every change in information required by this section must be included in an amended registration form submitted to the Commission within ten (10) days of the date of the change. The committee must file an updated registration form every two (2) years between January 1st and March 1st of an election year. The commission may waive the updated registration requirement for newly registered political action committees or other registered political action committees if it determines that the requirement would cause an administrative burden disproportionate to the public benefit of updated information.

At the time of registration, the political action committee shall file an initial campaign finance report disclosing all information required by section 1060.

21A § 1054. Appointment of treasurer

Any political action committee required to register under section 1053 must appoint a treasurer before registering with the commission. The treasurer shall retain, for a minimum of four (4) years, all receipts, including cancelled checks, of expenditures made in support of or in opposition to a campaign, political committee, political action committee, referendum or initiated petition in this State.

21A § 1055. Publication or distribution of political communications

A political action committee that makes an expenditure to finance a communication expressly advocating the election or defeat of a candidate or that names or depicts a clearly identified candidate is subject to the requirements of section 1014.

21A § 1056. Expenditure limitations

Any committee required to register under this chapter shall comply with the following expenditure limitations.

1. Aggregate expenditures. A committee may not make contributions in support of the candidacy of one person aggregating more than \$500 in any election for a gubernatorial candidate, or \$250 in any election for any other candidate.

2. Prohibited expenditures. No committee may make any expenditure for liquor to be distributed to or consumed by voters while the polls are open on election day.

21A § 1056-A. Expenditures by political action committees

A political action committee shall report all expenditures in cash or in kind made by the committee.

21A § 1056-B. Ballot question committees

Any person not defined as a political action committee who solicits and receives contributions or makes expenditures, other than by contribution to a political action committee, aggregating in excess of \$5,000 for the purpose of initiating, promoting, defeating or influencing in any way a ballot question must file a report with the Commission. In the case of a municipal election, a copy of the same information must be filed with the clerk of that municipality. Within seven days of receiving contributions or making expenditures that exceed \$5,000, the person shall register with the Commission as a ballot question committee. For the purposes of this section, expenditures include paid staff time spent for the purpose of influencing in any way a ballot question. The Commission must prescribe forms for the registration, and the forms must include specification of a treasurer for the committee, any other principal officers and all individuals who are the primary fund-raisers and decision makers for the committee.

1. Filing requirements. A report required by this section must be filed with the Commission according to a reporting schedule that the Commission shall establish that takes into consideration existing campaign finance reporting schedule requirements in section 1059.

2. Content. A report must contain an itemized account of each expenditure made to and contribution received from a single source aggregating in excess of \$100 in any election; the date of each contribution; the date and purpose of each expenditure; and the name and address of each contributor, payee or creditor. The filer is required to report only those contributions made to the filer for the purpose of initiating, promoting, defeating or influencing in any way a ballot question and only those expenditures made for those purposes. The definitions of "contribution" and "expenditure" in section 1052, subsections 3 and 4, respectively, apply to persons required to file ballot question reports.

2.A. Contributions. For the purposes of this section, "contribution" includes, but is not limited to:

- A. Funds that the contributor specified were given in connection with a ballot question;
- B. Funds provided in response to a solicitation that would lead the contributor to believe that the funds would be used specifically for the purpose of initiating, promoting, defeating or influencing in any way a ballot question;
- C. Funds that can reasonably be determined to have been provided by the contributor for the purpose of initiating, promoting, defeating or influencing in any way a ballot question when viewed in the context of the contribution and the recipient's activities regarding a ballot question; and
- D. Funds or transfers from the general treasury of an organization filing a ballot question report.

3. Forms. A report required by this section must be on a form prescribed and prepared by the Commission. A person filing this report may use additional pages if necessary, but the pages must be the same size as the pages of the form.

4. Records. A person filing a report required by this section shall keep records as required by this subsection for one year following the election to which the records pertain.

A. The filer shall keep a detailed account of all contributions made to the filer for the purpose of initiating, promoting, defeating or influencing in any way a ballot question and all expenditures made for those purposes.

B. The filer shall retain a vendor invoice or receipt stating the particular goods or services purchased for every expenditure in excess of \$50.

21A § 1057. Records

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

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

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

2. Receipts. The treasurer of a political action committee must retain a vendor invoice or receipt stating the particular goods or services purchased for every expenditure in excess of \$50.

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

21A § 1058. Reports; qualifications for filing

A political action committee that is required to register with the Commission shall file a report on its activities in that campaign with the Commission on forms as prescribed by the Commission. A political action committee organized in this State required under this section to file a report shall file the report for each filing period under section 1059. A political action committee organized outside this State shall file with the Commission on Governmental Ethics and Election Practices of this State a copy of the report that the political action committee is required to file in the state in which the political action committee is organized. The political action committee shall file the copy only if it has expended funds or received contributions or made expenditures in this State. The copy of the report must be filed in accordance with the schedule of filing in the state where it is organized. If contributions or expenditures are made relating to a municipal office or referendum, the report must be filed with the clerk in the subject municipality.

21A § 1059. Report; filing requirements

Committees required to register under section 1053 shall file reports in compliance with this section. All reports must be filed by 11:59 p.m. on the filing deadline, except that reports submitted to a municipal clerk must be filed by the close of business on the filing deadline.

1. Contents; quarterly reports and election year reports. (REPEALED)

2. Reporting schedule. Committees shall file reports according to the following schedule.

A. Quarterly reports must be filed:

- (1) On January 15th and must be complete as of January 5th;
- (2) On April 10th and must be complete as of March 31st;
- (3) On July 15th and must be complete as of July 5th; and
- (4) On October 10th and must be complete as of September 30th.

B. General and primary election reports must be filed:

- (1) On the 11th day before the date on which the election is held and must be complete as of the 14th day before that date; and
- (2) On the 42nd day after the date on which the election is held and must be complete as of the 35th day after that date.

C. Reports of spending to influence special elections, referenda, initiatives, bond issues or constitutional amendments must be filed:

- (1) On the 11th day before the date on which the election is held and must be complete as of the 14th day before that date; and
- (2) On the 42nd day after the date on which the election is held and must be complete as of the 35th day after that date.

D. A committee that files an election report under paragraph B or C is not required to file a quarterly report when the deadline for that quarterly report falls within ten (10) days of the filing deadline established in paragraph B or C.

E. A committee shall report any expenditure of \$500 or more made after the 14th day before the election and more than 24 hours before 5:00 p.m. on the day of the election within 24 hours of that expenditure.

3. Report of expenditures made after the 11th day and more than 48 hours before any election. (REPEALED)

4. Special election reports. (REPEALED)

5. Electronic filing. Committees shall file each report required by this section through an electronic filing system developed by the Commission. The Commission may make an exception to this electronic filing requirement if a committee submits a written request that states that the committee lacks access to the technology or the technological ability to file reports electronically. The request for an exception must be submitted within 30 days of the registration of the committee. The Commission shall grant all reasonable requests for exceptions.

21A § 1060. Content of reports

The reports must contain the following information and any additional information required by the Commission to monitor the activities of political action committees:

1. Identification of candidates. The names of and offices sought by all candidates whom the committee supports, intends to support or seeks to defeat;

2. Identification of committees; parties. The names of all political committees or party committees supported in any way by the committee;

3. Identification of referendum or initiated petition. The referenda or initiated petitions that the committee supports or opposes;

4. Itemized expenditures. An itemization of each expenditure made on behalf of any candidate, campaign, political committee, political action committee and party committee or to support or oppose a referendum or initiated petition, including the date, payee and purpose of the expenditure; the name of each candidate, campaign, political committee, political action committee or party committee on whose behalf the expenditure was made; and each referendum or initiated petition supported or opposed by the expenditure. If expenditures were made to a person described in section 1012, subsection 3, paragraph A, subparagraph (4), the report must contain the name of the person; the amount spent by that person on behalf of the candidate, campaign, political committee, political action committee, party committee, referendum or initiated petition, including, but not limited to, expenditures made during the signature-gathering phase; the reason for the expenditure; and the date of the expenditure. The Commission may specify the categories of expenditures that are to be reported to enable the Commission to closely monitor the activities of political action committees;

5. Aggregate expenditures. An aggregation of expenditures and cumulative aggregation of expenditures to a candidate, campaign, political committee, political action committee, party committee, referendum or initiated petition;

6. Identification of contributions. Names, occupations, places of business and mailing addresses of contributors who have given more than \$50 to the political action committee in the reporting period and the amount and date of each contribution, except that an organization qualifying as a political action committee under section 1052, subsection 5, paragraph A, subparagraph (5) is required to report only those contributions made to the organization for the purpose of promoting, defeating or influencing a ballot question or the nomination or election of a candidate to political office and all transfers to or funds used to support the political action committee from the general treasury of the organization; and

7. Other expenditures. Operational expenses and other expenditures in cash or in kind that are not made on behalf of a candidate, committee or campaign, except that an organization qualifying as a political action committee under section 1052, subsection 5, paragraph A, subparagraph (5) is required to report only those expenditures made for the purpose of promoting, defeating or influencing a ballot question or the nomination or election of a candidate to political office.

21A § 1061. Dissolution of committees

Whenever any political action committee determines that it will no longer solicit or accept any contributions, incur any obligations, make any expenditures to or on behalf of any candidate, political committee, party committee or political action committee to initiate, support, defeat or influence in any way the outcome of a referendum, initiated petition or election and the committee has no outstanding loans, debts or other obligations, the committee shall file a termination report that includes all financial activity from the end date of the previous reporting period through the date of termination with the commission. If a termination report is not filed, the committee shall continue to file periodic reports as required in this chapter.

21A § 1062. Failure to file on time (REPEALED)

21A § 1062-A. Failure to file on time

1. Registration. A political action committee required to register under section 1053 that fails to do so in accordance with section 1053 or that fails to provide the information required by the Commission for registration may be assessed a forfeiture of \$250.

2. Campaign finance reports. A campaign finance report is not timely filed unless a properly signed or electronically submitted copy of the report, substantially conforming to the disclosure requirements of this subchapter, is received by the Commission by 11:59 p.m. on the date it is due. Except as provided in subsection 6, the Commission shall determine whether a required report satisfies the requirements for timely filing. The Commission may waive a penalty if it is disproportionate to the level of experience of the person filing the

PLEASE NOTE: The Office of the Revisor of Statutes *cannot* perform research, provide legal advice, or interpret Maine law. For legal assistance, please contact a qualified attorney.

Public Law
123rd Legislature
Second Regular Session
Chapter 477
S.P. 482 - L.D. 1394

An Act Regarding Campaign Finance Disclosure by Political Action Committees

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 21-A MRSA §1051, first ¶, as amended by PL 2007, c. 443, Pt. A, §26, is further amended to read:

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

Sec. 2. 21-A MRSA §1052, sub-§5, ¶A, as amended by PL 2005, c. 575, §5, is further amended to read:

A. Includes:

(1) Any separate or segregated fund established by any corporation, membership organization, cooperative or labor or other organization whose purpose is to influence the outcome of an election, including a candidate election or ballot question;

~~(2) Any person who serves as a funding and transfer mechanism and spends money to initiate, advance, promote, defeat or influence in any way a candidate, campaign, political party, referendum or initiated petition in this State;~~

~~(3) Any organization, including any corporation or association, that has as its major purpose advocating the passage or defeat of a ballot question and that makes expenditures other than by contribution to a political action committee, for the purpose of the initiation, promotion or defeat of any question; and~~

(4) Any organization, including any corporation or association, that has as its major purpose advocating the passage or defeat of a ballot question and that solicits funds from members or nonmembers initiating, promoting, defeating or influencing a candidate election, campaign or

ballot question and that spends more than \$1,500 in a calendar year to initiate, advance, promote, defeat or influence in any way a candidate, campaign, political party, referendum or initiated petition for that purpose, including for the collection of signatures for a direct initiative, or referendum in this State; and

(5) Any organization that does not have as its major purpose promoting, defeating or influencing candidate elections but that spends more than \$5,000 in a calendar year for the purpose of promoting, defeating or influencing in any way the nomination or election of any candidate to political office; and

Sec. 3. 21-A MRSA §1053, first ¶, as amended by PL 2005, c. 575, §6, is further amended to read:

Every political action committee, as defined under section 1052, subsection 5, paragraph A, subparagraph (1) or (4), that accepts contributions, incurs obligations or makes expenditures in the aggregate in excess of \$1,500 in any single calendar year to initiate, support, defeat or influence in any way a campaign, referendum, initiated petition, including the collection of signatures for a direct initiative, candidate, political committee or another political action committee and every political action committee, as defined under section 1052, subsection 5, paragraph A, subparagraph (5), that makes expenditures in the aggregate in excess of \$5,000 must register with the commission, within 7 days of accepting those contributions, incurring those obligations or making those expenditures, exceeding the applicable amount on forms prescribed by the commission. These forms must include the following information and any additional information reasonably required by the commission to monitor the activities of political action committees in this State under this subchapter:

Sec. 4. 21-A MRSA §1056-B, as enacted by PL 1999, c. 729, §8, is amended to read:

§ 1056-B. Ballot question committees

Any person not defined as a political action committee who solicits and receives contributions or makes expenditures, other than by contribution to a political action committee, aggregating in excess of \$1,500 \$5,000 for the purpose of initiating, promoting, defeating or influencing in any way a ballot question must file a report with the commission. In the case of a municipal election, a copy of the same information must be filed with the clerk of that municipality. Within 7 days of receiving contributions or making expenditures that exceed \$5,000, the person shall register with the commission as a ballot question committee. For the purposes of this section, expenditures include paid staff time spent for the purpose of influencing in any way a ballot question. The commission must prescribe forms for the registration, and the forms must include specification of a treasurer for the committee, any other principal officers and all individuals who are the primary fund-raisers and decision makers for the committee.

1. Filing requirements. A report required by this section must be filed with the commission according to a reporting schedule that the commission shall establish that takes into consideration existing campaign finance reporting schedule requirements in section 1059.

2. Content. A report must contain an itemized account of each expenditure made to and contribution received and expenditure made from a single source aggregating in excess of \$100 in any election; the date of each contribution; the date and purpose of each expenditure; and the name and

~~address of each contributor, payee or creditor. Total contributions or expenditures of less than \$500 in any election need not be itemized. The report must state whether the purpose for receiving contributions and making expenditures is in support of or in opposition to the ballot question. The filer is required to report only those contributions made to the filer for the purpose of initiating, promoting, defeating or influencing in any way a ballot question and only those expenditures made for those purposes. The definitions of "contribution" and "expenditure" in section 1052, subsections 3 and 4, respectively, apply to persons required to file ballot question reports.~~

2-A. Contributions. For the purposes of this section, "contribution" includes, but is not limited to:

- A. Funds that the contributor specified were given in connection with a ballot question;
- B. Funds provided in response to a solicitation that would lead the contributor to believe that the funds would be used specifically for the purpose of initiating, promoting, defeating or influencing in any way a ballot question;
- C. Funds that can reasonably be determined to have been provided by the contributor for the purpose of initiating, promoting, defeating or influencing in any way a ballot question when viewed in the context of the contribution and the recipient's activities regarding a ballot question; and
- D. Funds or transfers from the general treasury of an organization filing a ballot question report.

3. Forms. A report required by this section must be on a form prescribed and prepared by the commission. A person filing this report may use additional pages if necessary, but the pages must be the same size as the pages of the form.

4. Records. A person filing a report required by this section shall keep records as required by this subsection for one year following the election to which the records pertain.

- A. The filer shall keep a detailed account of all contributions made to the filer for the purpose of initiating, promoting, defeating or influencing in any way a ballot question and all expenditures made for those purposes.
- B. The filer shall retain a vendor invoice or receipt stating the particular goods or services purchased for every expenditure in excess of \$50.

Sec. 5. 21-A MRSA §1058, as amended by PL 2007, c. 443, Pt. A, §34, is further amended to read:

§ 1058. Reports; qualifications for filing

A political action committee that is ~~registered~~required to register with the commission ~~or that accepts contributions or makes expenditures and incurs obligations in an aggregate amount in excess of \$1,500 on any one or more campaigns for the office of Governor, for state or county office or for the support or defeat of a referendum or initiated petition~~ shall file a report on its activities in that campaign with the commission on forms as prescribed by the commission. A political action committee organized in this State required under this section to file a report shall file the report for each filing period under section 1059. A political action committee organized outside this State shall file with the Commission on Governmental Ethics and Election Practices of this State a copy of the report that the

political action committee is required to file in the state in which the political action committee is organized. The political action committee shall file the copy only if it has expended funds or received contributions or made expenditures in this State. The copy of the report must be filed in accordance with the schedule of filing in the state where it is organized. If contributions or expenditures are made relating to a municipal office or referendum, the report must be filed with the clerk in the subject municipality.

Sec. 6. 21-A MRSA §1060, sub-§6, as amended by PL 2007, c. 443, Pt. A, §36, is further amended to read:

6. Identification of contributions. Names, occupations, places of business and mailing addresses of contributors who have given more than \$50 to the political action committee in the reporting period and the amount and date of each contribution, except that an organization qualifying as a political action committee under section 1052, subsection 5, paragraph A, subparagraph (5) is required to report only those contributions made to the organization for the purpose of promoting, defeating or influencing a ballot question or the nomination or election of a candidate to political office and all transfers to or funds used to support the political action committee from the general treasury of the organization; and

Sec. 7. 21-A MRSA §1060, sub-§7, as enacted by PL 1991, c. 839, §31 and affected by §33, is amended to read:

7. Other expenditures. Operational expenses and other expenditures in cash or in kind that are not made on behalf of a candidate, committee or campaign, except that an organization qualifying as a political action committee under section 1052, subsection 5, paragraph A, subparagraph (5) is required to report only those expenditures made for the purpose of promoting, defeating or influencing a ballot question or the nomination or election of a candidate to political office.

Effective June 30, 2008

Original sources

Maine Leads
(incorporated 10/18/07)
Staff is
Roy Lenardson (Executive Director)
Trevor Bragdon (Grassroots Director)
Chris Cinquemani (Communications Director)

Contributed \$25,000

Contributed \$25,000

Contributed \$25,000

More Green Now PAC
(formerly The Road to a Cleaner Maine PAC)
Reported primary decision-makers and fundraisers are:
Roy Lenardson
Chris Cinquemani
Trevor Bragdon

Health Care Choices NOW PAC
(formerly Affordable Health Care Choices for Maine PAC)
Reported primary decision-makers and fundraisers are:
Trevor Bragdon
Chris Cinquemani
Joel Allumbaugh

TABOR NOW PAC
(formerly Citizens for a Prosperous Maine PAC)
Reported principal officer and treasurer are:
David Crocker
David Wiegleb

Paid \$26,230 for signatures

Paid \$22,649 for signatures

Paid \$30,296 for signatures, campaign management

Pioneer Group, Inc.
Trevor Bragdon's consulting firm

APR 24 2009

MAINE ETHICS COMMISSION

Dear Members of the Maine Ethics Commission,

I am writing today to request that the Ethics Commission conduct an investigation of the campaign activities conducted by the several overlapping groups spearheading three of the referendum questions due to appear on the November 2009 ballot.

Specifically, Maine Heritage Policy Center, Maine Leads, The Road to a Cleaner Maine PAC, Citizens for a Prosperous Maine PAC, Affordable Health Care Choices PAC, TABOR Now PAC, and More Green Now PAC have created a web of donations and personnel that violate the letter of Maine's campaign finance laws.

These are the facts that are available upon public inspection:

- 1) Maine Heritage Policy Center is a 501(c)3 organization. It's Board of Directors includes Michael Duddy and Neal Freeman. It's Board of Adjunct Fellows includes Roy Lenardson. It's Executive Director is Tarren Bragdon.
- 2) Maine Leads is a 501(c)4 organization, and is able to conduct direct advocacy. Its Board of Directors includes Michael Duddy, Neal Freeman and Roy Lenardson. Its staff includes Chris Cinquemani and Trevor Bragdon.
- 3) The Road to a Cleaner Maine PAC paid for the gathering of the signatures for the excise tax repeal referendum. It was terminated on 2/23/09. It listed no officers, and its treasurer was Anna Bragdon, wife of Tarren Bragdon.
- 4) The Road to a Cleaner Maine PAC generated \$25,072 in contributions for the effort. \$25,000 from Maine Leads and \$72.00 from Tarren Bragdon.
- 5) On the same day, 2/23/2009, More Green Now PAC was registered. It's purpose is to support the excise tax repeal legislation that The Road to a Cleaner Maine PAC got on the ballot. Its decision makers are Roy Lenardson, Chris Cinquemani, and Trevor Bragdon. Its treasurer is Anna Bragdon.
- 6) Citizens for a Prosperous Maine PAC paid for the gathering of the signatures for the TABOR II referendum. It was terminated on 2/25/2009. Its officer was David Crocker and its treasurer was Fred Wiegleb.
- 7) Citizens for a Prosperous Maine PAC generated \$42,554 in contributions. Again, \$25,000 came from Maine Leads.
- 8) On 2/18/2009, TABOR Now PAC was registered. Its purpose is to support the TABOR II legislation that Citizens for a Prosperous Maine PAC got on the ballot. Its officer is David Crocker and its treasurer is Fred Wiegleb. Its first contribution was \$222.29 from Citizens for a Prosperous Maine PAC.

9) Affordable Health Care Choices for Maine PAC paid for the gathering of signatures for the health care referendum question. It is still active and its treasurer is Chris Cinquemani and an officer is Joel Allumbaugh.

10) Affordable Health Care Choices for Maine PAC generated \$33,305 in contributions. Again, \$25,000 came from Maine Leads. \$60.00 came from Chris Cinquemani.

11) On 2/11/2009, Health Care Choices Now PAC was registered. Its purpose is to support the health care referendum question that Affordable Health Care Choices for Maine PAC got on the ballot. Its officers are Joel Allumbaugh, Chris Cinquemani and Trevor Bragdon.

12) So far in 2009 Maine Leads has been distributing leaflets and calculators at town meetings to support the TABOR and Excise Tax Referendums.

The conclusions to be drawn are obvious: a small group of people erected a web of organizations designed to gather money through charitable and other non-profit organizations, and funnel those funds to pay for signature gathering and other advocacy with the sole purpose of getting referendum questions on the ballot. The purpose is to hide the source of that money, and therefore the true interests behind these questions. Setting aside the way in which this undermines the purported "citizen's initiative" process, this scheme clearly violates Maine's campaign finance rules. Maine Leads has created three dummy PACs designed only to pass its contribution through the system without having to report the origins. The same people are in control of all of these entities. This is nothing more than a shell game designed by those at Maine Heritage Policy Center and Maine Leads to disguise political activity.

Our suggestion is that the Ethics Commission rule that by these activities, Maine Leads has qualified itself as a PAC under 21-A M.R.S.A. §1052(5), and, therefore, should have filed the required reports. Because they did not, they should be reprimanded and fined. To do otherwise would be to condone and ratify such a brazen scheme to circumvent the rigorous disclosure requirements under Maine law.

These actions are nothing short of a fraud on the system and on the citizens of Maine.

Sincerely,



Deborah Hutton
31 Carding Machine Rd.
Bowdoinham, ME
04008

MORE GREEN NOW

CLEAN AIR. LOWER TAXES.

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 WWW.MOREGREENNOW.COM

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**Decrease the
 Automobile Excise Tax
 and Promote Energy
 Efficiency**

- ENCOURAGES A STATEWIDE CONVERSATION ABOUT THE FAIRNESS OF MAINE'S EXCISE TAX
- REDUCES AUTO EXCISE TAXES BY 50 PERCENT
- SAVES MAINE TAXPAYERS \$80 MILLION EACH YEAR
- ELIMINATES THE SALES TAX ON NEW ENERGY EFFICIENT VEHICLES
- ELIMINATES THE FIRST THREE YEARS OF EXCISE TAX ON NEW ENERGY EFFICIENT VEHICLES
- PROMOTES CLEANER AIR AND GREATER FUEL EFFICIENCY

YOU CAN MAKE A DIFFERENCE

YOUR GIFT GOES A LONG WAY

- \$25** MORE GREEN NOW can print and distribute **50 bumper stickers**
- \$50** MORE GREEN NOW can order **25 lawn signs and wires**
- \$100** MORE GREEN NOW can make **2,000 phone calls** to voters across the State
- \$250** MORE GREEN NOW can air **5 radio spots** in the Portland or Bangor markets
- \$500** MORE GREEN NOW can print and insert **10,000 fliers** into a weekly newspaper
- \$1000** MORE GREEN NOW can air **20 ads** on cable TV

LOWER TAXES

YEAR	CURRENT EXCISE TAX	PROPOSED EXCISE TAX RATE	PERCENT DECREASE
1	2.40%	1.20%	50% ↓
2	1.75%	0.80%	54% ↓
3	1.35%	0.40%	70% ↓
4	1.00%	0.40%	60% ↓
5	0.65%	0.40%	39% ↓
6	0.40%	0.40%	NO CHANGE

CLEAN AIR, FUEL SAVINGS

Hybrid and Energy Efficient Vehicles

- Reduce carbon emissions by **90 percent**
- Among the **most popular cars** on the market
- Earn an average of **44 miles per gallon**
- Average **savings of \$430** in fuel costs for every 15,000 miles (@ \$2.00/gallon)

TABOR NOW

LOWER TAXES. MORE JOBS.

An Act to
Provide Tax Relief

✓ **YOU DECIDE** WHETHER POLITICIANS
CAN PASS A NEW TAX OR TAX INCREASE

✓ **YOU DECIDE** IF STATE SPENDING
SHOULD BALLOON ABOVE INFLATION
PLUS POPULATION GROWTH

✓ **YOU DECIDE** IF THE GASOLINE TAX
SHOULD INCREASE EVERY YEAR

✓ **YOU DECIDE** WHETHER YOUR
PROPERTY TAXES SHOULD GROW
FASTER THAN YOUR PAYCHECK

✓ **YOU CAN SEE** HOW YOUR TOWN OR
CITY SPENDS YOUR TAX DOLLARS
AND COMPARE YOUR TOWN'S
SPENDING TO OTHER MAINE TOWNS

YOU CAN MAKE A DIFFERENCE

YOUR GIFT GOES A LONG WAY

\$25	TABOR NOW can print and distribute 50 bumper stickers
\$50	TABOR NOW can order 25 lawn signs and wires
\$100	TABOR NOW can make 2,000 phone calls to voters across the State
\$250	TABOR NOW can air 5 radio spots in the Portland or Bangor markets
\$500	TABOR NOW can print and insert 10,000 fliers into a weekly newspaper
\$1000	TABOR NOW can air 20 ads on cable TV

Why TABOR NOW?

- **4th highest tax burden** in the nation
- State taxes increased by over **\$220 million** since 2006
- State spending spiked **6.9%** between 2006 and 2007, erasing a **\$71.4 million surplus**
- **3rd highest property taxes** in the nation
- **Ranked 47th for business climate** in the nation (Forbes Magazine)

TABOR NOW

PO BOX 464, AUGUSTA, ME 04332
WWW.TABORNOW.COM

Tax Relief is Just One Election Away!

Vote YES on November 3rd

**MARDEN, DUBORD,
BERNIER & STEVENS**

ATTORNEYS AT LAW

Daniel I. Billings, Esq.
dbillings@mardendubord.com

44 ELM STREET
P.O. BOX 708
WATERVILLE, ME 04903-0708
www.mardendubord.com

PHONE (207) 873-0186
FAX (207) 873-2245

May 11, 2009

RECEIVED

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

MAY 12 2009

MAINE ETHICS COMMISSION

RE: Hutton complaint against Maine Leads

Dear Mr. Wayne:

I am writing in response to your letter of April 27, 2009 concerning the request for an investigation of Maine Leads made by Deborah Hutton. For the reasons stated below, your request for information is premature and you have failed to comply with the laws and rules that govern the Commission's activities.

The Commission must consider Ms. Hutton's request before an investigation is begun

While your letter quotes numerous statutes that could apply to Ms. Hutton's allegations, you have failed to consider the statutes which govern the Commission's own activities, including 21-A M.R.S.A. §1003 which governs the Commission's consideration of requests for investigations:

A person may apply in writing to the commission requesting an investigation concerning the registration of a candidate, treasurer, political committee or political action committee and contributions by or to and expenditures by a person, candidate, treasurer, political committee or political action committee. The commission shall review the application and shall make the investigation if the reasons stated for the request show sufficient grounds for believing that a violation may have occurred.

By your letter, it is apparent that you have begun an investigation before the Commission has even considered whether Ms. Hutton's request shows sufficient grounds to believe that a violation may have occurred. This is inappropriate and contrary to law. An agency such as the Commission -- which demands compliance from others -- should comply with the laws that govern its own activities.

The statute requires that, as a preliminary matter, the Commission make a qualitative assessment of the request for an investigation. More than a mere allegation or potential for a

violation is required before an investigation is ordered. The Commission should only begin an investigation if the person requesting an investigation has come forward with sufficient grounds to convince the Commission that a violation may have occurred.

This determination, required by the statute, is important to protect parties from the burdens imposed by unnecessary investigations. It is also a protection from someone using the Commission to harass their political opponents¹.

I also object to the approach to the complaint that you have taken in your letter. Ms. Hutton offers no facts in her letter which, if true, would constitute a violation of Maine law. She makes unfounded allegations which your letter asks be rebutted and, in doing so, you ask for information that the Commission would not be entitled to even if Maine Leads was a political action committee. You have effectively demanded that Maine Leads prove it is not a political action committee. This turns the burden of proof on its head. Our system does not require that the accused prove their innocence – it is the burden of the one making an allegation to prove it. This is supported by the statute quoted above that requires that a person requesting an investigation come forward with information that, if true, “would show sufficient grounds for believing that a violation may have occurred.” Ms. Hutton has alleged that Maine Leads is a political action committee that has not filed with the Commission as required by Maine law. What facts has she alleged that show sufficient grounds to believe that such a violation may have occurred?

Ms. Hutton’s Request Fails to comply with Commission rules

Ms. Hutton’s request also fails to comply with Commission rules concerning requests for Commission investigations. 94-270 Chapter 1 Section 4(2)(C) requires that statements contained in requests for a Commission investigation “be made upon personal knowledge” and that statements not made upon personal knowledge must identify the source of the information which is the basis for the request so that respondents and Commission staff may adequately respond to the request. Ms. Hutton’s letter fails to meet this requirement. For example, she alleges that “in 2009 Maine Leads has been distributing leaflets and calculators at town meetings to support TABOR and Excise Tax Referendums.” Ms. Hutton does not state at what town meetings Maine Leads has made the alleged distributions or what the source is for this information upon which her allegation is based². Because Ms. Hutton’s

¹ Central to Ms. Hutton allegations are that “a small group of people erected a web of organizations” intended to circumvent Maine law. Her complaint is primarily based on guilt by association and the personal and professional relationships between various people involved in the named organizations. In considering that claim it is relevant to consider the web of associations involving Ms. Hutton: she is a former Democrat state legislator; her husband, Tim Belcher, is Executive Director of the Maine State Employee Association, an organization which is opposed to the two referendums at issue in Ms. Hutton’s complaint; and, during 2008, Ms. Hutton was a paid consultant for the Berry for Maine PAC, the leadership PAC of Rep. Seth Berry, now the House Majority Whip.

² Ms. Hutton is a resident of the Town of Bowdoinham. The Bowdoinham Town Meeting will be held on June 10, 2009. As a result, it is unlikely that Ms. Hutton’s allegation is based on her personal knowledge from her own attendance at a town meeting.

request does not comply with the requirements contained in the Commission rules, the appropriate action by Commission staff would be to seek more information from her before placing her request on the Commission's agenda.

You have failed to provide sufficient time to respond to the request for information

Your request for information is dated April 27, 2009 and was received by e-mail after 5:00 p.m. on that date. You requested that a response be provided two weeks later on May 11, 2009. Your request seeks detailed information about Maine Leads' activities and finances over an 18 month period. Your request is burdensome and can't be fully and accurately replied to within two weeks. Even if the request was made after an appropriate preliminary determination by the Commission as discussed above, two weeks is not a sufficient amount of time to properly respond to such a request.

In contrast to the process you have suggested in this matter, those served with a civil complaint are given 20 days before an answer is required to be filed with a court – and all that is required in an answer is that the factual allegations in the complaint be admitted or denied. No detailed factual response is required. Once a lawsuit is underway, parties are allowed 30 days to respond to written interrogatories or requests for documents. The Commission should provide at least 30 days to respond to detailed questions such as those contained in your April 27, 2009 letter.

A response from Maine Leads would require the disclosure of confidential information

Maine Leads is involved in a number of activities that fall outside of the Commission's jurisdiction. Maine Leads understands that consideration of all of the organization's activities may be needed to determine whether or not the organization is a political action committee. However, answering the questions contained in your April 27, 2009 letter would require the disclosure of private financial and strategic information that would not otherwise be available to the public or those, such as Ms. Hutton, who are opposed to Maine Leads' aims.

If the Commission finds that Ms. Hutton's complaint meets the requirements of 21-A M.R.S.A. §1003 and commission rules, Maine Leads requests that its submissions about its finances and non-regulated activities be kept confidential pursuant to 21-A M.R.S.A. §1003(3-A). This statute allows to be kept confidential "financial information not normally available to the public" and "information . . . that, if disclosed, would reveal sensitive political or campaign information." Your request for information about Maine Leads' activities, contributions, and expenditures falls squarely within these provisions. Though Maine Leads is willing to provide the information requested because it believes the information supports the conclusion that Maine Leads is neither a political action committee nor a ballot question committee, Maine Leads should not be required to publicly disclose private financial and operational information to defend itself against a baseless complaint. As a result, if the Commission decides to open an investigation based on Ms. Hutton's complaint, Maine Leads requests that any information provided to the Commission or Commission staff that would not

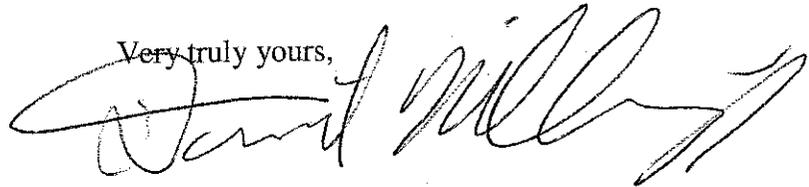
Jonathan Wayne, Executive Director
May 11, 2009
Page 4

be required to be disclosed under the statutes within the Commission's jurisdiction be kept confidential pursuant to 21-A M.R.S.A. §1003.

Conclusion

If it is decided that Ms. Hutton's complaint contains sufficient information to justify its inclusion on the agenda for the Commission's May 28th meeting, I will be in attendance at the meeting along with Roy Lenardson of Maine Leads.

Very truly yours,

A handwritten signature in black ink, appearing to read "Daniel I. Billings". The signature is fluid and cursive, with a large initial "D" and a long, sweeping tail.

Daniel I. Billings

**MARDEN, DUBORD,
BERNIER & STEVENS**

ATTORNEYS AT LAW

Daniel I. Billings, Esq.
dbillings@mardendubord.com

44 ELM STREET
P.O. BOX 708
WATERVILLE, ME 04903-0708
www.mardendubord.com

PHONE (207) 873-0186
FAX (207) 873-2245

May 20, 2009

RECEIVED

MAY 21 2009

Jonathan Wayne, Executive Director
Maine Commission on Governmental Ethics & Election Practices **MAINE ETHICS COMMISSION**
135 State House Station
Augusta, Maine 04333-0135

RE: Hutton complaint against Maine Leads

Dear Mr. Wayne:

I am in receipt of your letter of May 14, 2009. This letter will confirm that I will be in attendance at the Commission's May 28, 2009 with Roy Lenardson of Maine Leads.

I am concerned that your letter leaves the impression that Maine Leads has not responded to your request for information for merely procedural reasons. In my May 11, 2009 letter, I explained two substantive reasons for not providing responses to your detailed request for information: (1) you did not provide sufficient time to respond completely and accurately and (2) responding to your questions would require the disclosure of confidential information.

As you know, within days of receipt of your April 27, 2009 letter, both Mr. Lenardson and I offered to meet with Commission staff privately to provide answers to the questions you asked. In response to this offer you reasonably replied that you did not believe you had the authority to engage in confidential fact finding without authorization from the Commission. While I understand and accept your response, your refusal to proceed as suggested will reduce the information available to the Commission members on May 28th and could have the effect of prolonging the Commission's consideration of this matter. Due to your negative response to the offer to meet privately, I made the request on behalf of Maine Leads that its submissions about its finances and non-regulated activities be kept confidential pursuant to 21-A M.R.S.A. §1003(3-A).

Also, as you know, one of my other clients has been accused of making materials misrepresentations to the Commission. Due to the possibility of such accusations being made again in the future, it is imperative that those who are asked to respond to complaints be given sufficient time to respond so that research can be completed to ensure that responses are carefully considered and accurate. Though two weeks or less may be enough time to reply to simple questions from Commission staff, it is not enough time to respond to detailed requests like your April 27, 2009 letter.

I am surprised by your suggestion that your letter fully complies with 21-A M.R.S.A. §1003. It appears from the contents of your May 14, 2009 letter that your actual position is that 21-A M.R.S.A. §1003 does not apply to requests such as those contained in your April 27, 2009 letter. While I understand that Commission rules allow for preliminary fact finding by the Executive Director, the requests contained in your April 27, 2009 go beyond what I would consider preliminary fact finding and amount to an investigation.

Your May 14, 2009 letter does not address Ms. Hutton's failure to comply with Commission rules concerning requests for Commission investigations. One of the few factual allegations contained in Ms. Hutton's letter is that "in 2009 Maine Leads has been distributing leaflets and calculators at town meetings (plural) to support the TABOR and Excise Tax Referendums." Commission rules, and fundamental fairness, require that she list what town meetings Maine Leads is alleged to have made such distributions and the source of the information that supports her allegation. No person or entity should be expected to respond to such allegations without being provided such information. I reiterate my request that you ask Ms. Hutton to provide such detail, as required by Commission rules, before the May 28th Commission meeting.

I agree with your position that the statute does not require a person making a complaint to prove that a violation has occurred. Though the wording of the statute should be more clear, it is apparent that some showing beyond a mere allegation is necessary before an investigation is conducted. The statute also requires that the Commission "review the application" for an investigation, which suggests that the burden to make a sufficient showing is on the party requesting an investigation, not on the Commission staff or the party who would be the subject to the investigation. Though the statute is not specific as to what standard must be met, "sufficient grounds" implies that there must be some standard, apart from mere allegation. Generally, in such matters, administrative bodies may rely on such information that a reasonable person in the relevant profession or activity would rely on to base decisions. "Sufficient grounds" implies that the Commission must consider such evidence and determine whether it is more likely than not that a violation has occurred.

As a preliminary matter, I request that the Commission consider what standard is required to be met before an investigation is conducted pursuant to 21-A M.R.S.A. §1003. It is imperative that an agency that regulates activities that fall within fundamental First Amendment protections not subject parties to investigations of their constitutionally protected activities based on mere allegation or speculation. When investigations are begun by the Commission, the reputation of the party being investigated is harmed by the mere fact that an investigation is being conducted; the party being investigated may be required to disclose information that would not otherwise be publicly available; and participating in an investigation imposes costs on the party being investigated. For all these reasons, the Commission should not open an investigation without more of showing than has been made by Ms. Hutton.

In your May 14, 2009 letter, you raise specific issues regarding Trevor Bragdon. Because now more than two weeks have passed since Maine Leads was made aware of Ms.

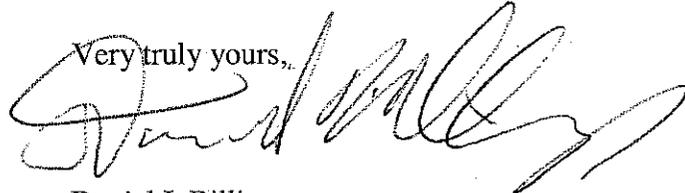
Hutton's complaint, there has been more of opportunity to consider Mr. Bragdon's work for Maine Leads and involvement in the petition gathering process.

If one reviews the filings of the political action committees ("PACs") involved in the signature gathering for the initiatives in questions¹, one will find that the PACs paid Pioneer Group, Inc. for signature collection. A review of the Secretary of State's online database of Maine corporations shows that Pioneer Group, Inc. is a Maine corporation in good standing and that Trevor Bragdon is the clerk/registered agent for the corporation. (Enclosed is a copy of the information summary from that database.) Mr. Bragdon tells me that he is the sole shareholder of the corporation.

Mr. Bragdon was a paid employee of Maine Leads only in February, March, and April of 2008 and again from December 2008 through March 2009². A majority of the signatures for the initiatives were collected in November of 2007 and June of 2008, on and around the elections held in those months³. During the periods of time when the majority of the signatures for the initiatives were collected, Mr. Bragdon was not a paid employee of Maine Leads. His paid involvement in the signature gathering process was through his company, Pioneer Group, Inc. In addition, a search of the Commission's online database reveals that Pioneer Group, Inc. received payments throughout 2008 from the Maine Senate Republican Committee, a political action committee that supported Senate Republican candidates. During most of 2008, Mr. Bragdon worked for Pioneer Group, Inc. as the corporation provided services to its client PACs. Mr. Bragdon has provided me information that indicates that he received significantly more income from Pioneer Group, Inc. than from Maine Leads during 2008⁴.

I request that this letter be provided to the Commission members as part of the information provided to them before the May 28th meeting. Thank you.

Very truly yours,



Daniel I. Billing

¹ Preliminary fact gathering by the Commission's Executive Director should include a review of the records on file with the Commission and other available public records that are relevant to the request for an investigation.

² Mr. Bragdon is not currently a paid employee of Maine Leads and has not been since April 1, 2009. It is anticipated that he will not be a paid employee of Maine Leads, because of his work on the referendum campaigns, through the November election.

³ This fact can be confirmed by a review of the petitions on file with the Secretary of State.

⁴ More detailed information concerning Mr. Bragdon's income and sources of income could be provided. Such information is information that should be confidential pursuant to 21-A M.R.S.A. §1003(3-A) and therefore is not being provided now.



MAINE

Department of the Secretary of State
Bureau of Corporations, Elections and Commissions

Corporate Name Search

Information Summary

Subscriber activity report

This record contains information from the CEC database and is accurate as of: Tue May 19 2009 14:10:54. Please print or save for your records.

Legal Name	Charter Number	Filing Type	Status
PIONEER GROUP	20080394 D	BUSINESS CORPORATION	GOOD STANDING

Filing Date	Expiration Date	Jurisdiction
09/18/2007	N/A	MAINE

Other Names (A=Assumed ; F=Former)

NONE

Clerk/Registered Agent

TREVOR BRAGDON
PO BOX 391
AUGUSTA, ME 04332 0391

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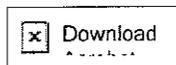
[Certified copy](#)

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MAY 21 2009

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PATRICK M. KELLY
BENJAMIN K. GRANT

PATRICK N. MCTEAGUE
OF COUNSEL

May 20, 2009

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

RE: Hutton Complaint against Maine Leads

Dear Mr. Wayne:

I am writing in response to the May 11, 2009 letter from Maine Leads and Attorney Dan Billings to the Ethics Commission. Several of Maine Leads' contentions warrant a response at this time, so that the Commission has a clear view of the exact nature of Ms. Hutton's request for an investigation. As a preliminary matter, we support your positions regarding the propriety of your initial requests to Maine Leads and feel your response on the issue comports with the relevant law. Regarding the substantive contentions, please accept the following.

Ms. Hutton's Request Offers Facts Which, If True, Constitute A Violation Of Maine Law

Maine Leads contends that Ms. Hutton's allegations would not amount to a violation of Maine law if proven true. This contention is incorrect. Provided here is a detailed recounting of the actions that violate Maine law.

On October 18, 2007, Roy Lenardson registered Maine Leads as a non-profit corporation with the Secretary of State. On November 15, 2007, Maine Leads made three large financial contributions:

- A) \$25,000 to The Road to a Cleaner Maine PAC;
- B) \$25,000 to Citizens for a Prosperous Maine PAC, and;
- C) \$25,000 to Affordable Health Care Choices for Maine PAC.

These three PACs were formed for the sole purpose of gathering sufficient signatures to force legislative action, and, ultimately, a public vote on three ballot initiatives related to taxes and health care.¹ While PACs must disclose the name and occupation of donors, a "non-profit"

¹ The PACs were terminated upon completion of the signature gathering process and replaced by three new PACs formed, presumably, to facilitate the public campaign for the initiatives' passage. The health care ballot initiative failed to garner enough signatures, but that result is not material to the question at issue here.

Re: Hutton Complaint against Maine Leads
May 20, 2009
Page 2

does not face the same requirements. However, mere legal designation as a non-profit does not automatically exempt the organization from Maine's campaign disclosure laws if the organization's actions bring it under the definition of a political action committee. 21-A M.S.R.A. §1052(5)(A)(4), the law governing the definition of a political action committee on November 15, 2007, includes in the definition of a PAC:

"Any organization . . . that has as its major purpose advocating the passage or defeat of a ballot question and that solicits funds from members or nonmembers and spends more than \$1,500 in a calendar year to initiate, advance, promote, defeat or influence in any way a . . . referendum or initiated petition, including the collection of signatures for a direct initiative[.]"

A further look at the records of the three PACs mentioned above indicates that the PACs' major purpose was to act as a conduit for Maine Leads' \$75,000. The facts are these:

In addition to the \$25,000 from Maine Leads, The Road to a Cleaner Maine PAC generated \$72.00 in contributions from additional sources. Therefore, of \$25,072 in contributions, Maine Leads was responsible for 99.7%.

In addition to the \$25,000 from Maine Leads, Citizens for a Prosperous Maine PAC generated \$16,554 in contributions from additional sources. Therefore, of \$41,554 in contributions, Maine Leads was responsible for 60.2%.

In addition to the \$25,000 from Maine Leads, Affordable Health Care Choices for Maine PAC generated \$8,200 in contributions from additional sources. Therefore, of \$33,200 in contributions, Maine Leads was responsible for 75.3%.

In sum, within one month of formation, Maine Leads contributed \$75,000 of the \$99,826 (75.1%) that ultimately funded the collection of signatures for the ballot initiatives in question. Of that total, at least \$81,704.47 was paid to an entity called "Pioneer Group Inc," for campaign consulting, signature collection and verified signatures. Without Maine Leads, neither of the ballot questions at issue here would be on the ballot this November. As such, and absent any evidence of other activities conducted by the organization, Maine Leads' "major purpose" should be deemed the collection of signatures for the direct initiatives described above.

Therefore, we contend that by the above actions, Maine Leads qualified as a PAC under Maine law. Its major purpose at the time was to collect signatures for the ballot initiatives described above, and the PACs in question appear as mere pass-through organizations created only to provide concealment for Maine Leads contributors and/or allow Maine Leads to maintain its non-profit status. 21-A M.S.R.A. § 1052(5)(A)(4) prevents this kind of pass-through.

The Commission should open an investigation to clarify the following question: Was Maine Leads' "major purpose" to "influence in any way" the collection of signatures for these direct

Re: Hutton Complaint against Maine Leads
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initiatives? Ancillary questions might include: What other activities has Maine Leads engaged in since its formation? What other activities was Maine Leads engaged in during the period in question? The \$75,000 in question was what percent of Maine Leads' overall budget for the period in question?

If it is found that Maine Leads' major purpose was, in fact, collecting signatures for the ballot initiatives at issue here, the Commission should find that Maine Leads was a political action committee and its failure to file the appropriate reports was a violation of Maine law.

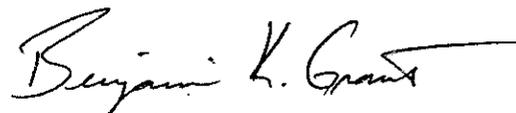
The investigation might also explore the relationship between Maine Leads and Pioneer Group Inc. Trevor Bragdon is listed as a current staff member of Maine Leads, an officer in More Green Now PAC (The Road to a Cleaner Maine PAC's successor), and the President and only listed Director of Pioneer Group Inc. Mr. Bragdon made the only individual contribution to The Road to a Cleaner Maine PAC, and listed The Pioneer Group as his employer. Certainly the nexus between the money raised into Maine Leads, staffed by Mr. Bragdon, and paid to Pioneer Group Inc, operated by Mr. Bragdon, deserves investigation, as it further implies that these organizations were mere "on-paper" distinctions. If this is found to be the case, it further supports the assertion that Maine Leads was, in fact, a political action committee for the time period in question.

Conclusion

The public policy implicated here is vital to the health of our political process. Maine has gone to great lengths to codify rigorous disclosure requirements so that every voter can access information regarding the entities and individuals financing campaigns in this State. Maine Leads has attempted an end-run around those requirements, and the Commission risks creating a blueprint for such evasion in the future if it ratifies the actions outlined above.

1 M.S.R.A. § 1001 establishes the Statement of Purpose for the Ethics Commission. In part, it states, "there is created an independent commission on governmental ethics and election practices to guard against corruption or undue influencing of the election process." Ms. Hutton submits that the actions of Maine Leads are the type of undue influence that the Legislature had in mind.

Very truly yours,



Benjamin K. Grant

BKG:cja

**MARDEN, DUBORD,
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MAY 22 2009

May 21, 2009

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

MAINE ETHICS COMMISSION

RE: Attorney Grant's Letter of May 20, 2009

Dear Mr. Wayne:

I am in receipt of Attorney Benjamin Grant's letter of May 20, 2009. Mr. Grant is correct that Ms. Hutton has made allegations of violations of law but, as outlined in my previous letters, more than mere allegations are necessary to justify the opening of an investigation. The facts that she has come forward with do not show sufficient grounds for believing that a violation may have occurred. Mr. Grant is asking the Commission to consider the facts in the negative light that Ms. Hutton places them in and to then force Maine Leads to prove that the allegations are false. Such a process turns the burden of proof on its head. Ms. Hutton is asking the Commission to engage in a new form of McCarthyism where instead of being asked by a government panel to prove that one is not a Communist, the accused will be forced to prove it is not a political action committee.

In his letter, Mr. Grant suggests that Maine Leads is a political action committee ("PAC") because it contributed the majority of the funds to three political action committees gathering signatures for three separate initiatives. Making contributions to PACs does not, on its own, turn the contributor into a PAC. It is not unusual for PACs involved in initiative campaigns to receive their funding from a small number of contributors, particularly during the signature gathering process. A good example is the school funding initiative brought forward a few years ago by the Maine Municipal Association. During the signature gathering process, the PAC funding the signature drive received \$182,094.02 in cash and in-kind contributions -- 98.21% of those contributions came from the Maine Municipal Association. In addition, the various gaming referendums in recent years are other examples of referendums where the funding for the PACs behind the referendums came from a small number of sources.

Mr. Grant quotes part of the definition of political action committee that was effect in 2007 and suggests that the three separate contributions by Maine Leads in support of three separate initiatives alone could make Maine Leads a PAC. The plain language of the statute states otherwise.

The statute quoted by Mr. Grant defines a political action committee as “Any organization . . . that has as its major purpose advocating the passage or defeat of a ballot question and that solicits funds from members or nonmembers and spends more than \$1,500 in a calendar year to initiate, advance, promote, defeat or influence in any way a . . . referendum or initiated petition, including the collection of signatures for a direct initiative, in this State.” (Emphasis added.) This definition sets up a three part test that must be passed for an organization to be defined as a political action committee. The organization must (1) have as its major purpose advocating the passage or defeat of a ballot question; (2) it must solicit funds for that purpose; and (3) it must spend more than \$1,500 in a calendar year for that purpose. If any one of three requirements is not present, the organization is not a PAC.

It is not in dispute that Maine Leads made contributions to three political action committees that were collecting signatures for three separate initiatives. Even if one is to assume, for the purpose of argument, that in 2007, the major purpose of Maine Leads was supporting the signature gathering process for the three initiatives, the statute defines as a political action committee an organization that has as its major purpose advocating the passage or defeat of a single ballot question. The statute speaks of a single ballot question and does not include in the definition organizations that have the major purpose advocating the passage or defeat of multiple ballot questions. In addition, no evidence has been presented that Maine Leads solicited funds “to initiate, advance, promote, defeat or influence in any way a . . . referendum or initiated petition, including the collection of signatures for a direct initiative, in this State.” Without evidence of such solicitation, the Commission can not conclude that Maine Leads is a political action committee.

More importantly, in 2007 when the contributions by Maine Leads were made, the PACs to which Maine Leads contributed were engaged in the signature gathering process. At that time, the signature gathering process was at the early stages and there were not yet any ballot questions for which an organization could advocate the passage or defeat. In fact, under the initiative and referendum process, initiated bills go first to the Legislature and it is only if the Legislature rejects the initiative that there will be any ballot question for which any organization may advocate the passage or defeat. If the Legislature enacts the initiated bill, which has been done, there is no ballot question. By the definition cited above, to be a political action committee, an organization must have as its major purpose “advocating the passage or defeat of a ballot question.” An organization with the major purpose of collecting signatures for an initiative is not, by definition, a political action committee.

It is also significant that the definition of political action committees that was in effect in 2007 also defined as a PAC “Any organization, including any corporation or association, that has as its major purpose advocating the passage or defeat of a ballot question and that makes expenditures other than by contribution to a political action committee, for the purpose of the initiation, promotion or defeat of any question.” (Emphasis added.) By this definition, if an organization’s only expenditures related to a ballot question were “by contribution to a political action committee,” the organization would not be a PAC. As a result, the contributions by Maine Leads to the three political action committees should not be considered grounds to believe that Maine Leads is a PAC.

Jonathan Wayne, Executive Director

May 21, 2009

Page 3

As you know, the definition of political action committee that was in effect in 2007 was amended by the Legislature, in part, because the Commission found the definition difficult to apply and administer. The definition in effect in 2007 was vague and overbroad. Due to the problems with the definitions, to avoid constitutional issues, the Commission must interpret and apply the definition narrowly.

The Commission should also consider whether Ms. Hutton's complaint is timely. The three contributions in question were made by Maine Leads in November 2007 and the contributions were reported by the three PACs in January of 2008. Ms. Hutton's complaint was filed more than 15 months after information about the Maine Leads contributions was available to the public and Commission staff. The timing of the complaint raises the question as to whether the complaint is made in good faith. It seems unlikely that it is coincidence that Ms. Hutton's complaint was filed at the same time that Maine Leads was actively lobbying and publicly campaigning against LD 1353 An Act Regarding Salary Information for Public Employees. LD 1353 was aimed at shutting down a website that includes a database containing salary information for public employees. The bill was a major priority of the Maine State Employees Association, the union of which Ms. Hutton's husband is the Executive Director.

Very truly yours,

A handwritten signature in black ink, appearing to read "Daniel I. Billing", written in a cursive style.

Daniel I. Billing

McTEAGUE, HIGBEE, CASE, COHEN, WHITNEY & TOKER, P.A.

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May 22, 2009

Jonathan Wayne, Executive Director
Maine Commission on Governmental Ethics & Election Practices
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RE: Response to Attorney Billings' Letter of May 21, 2009

Dear Mr. Wayne:

At the risk of prolonging an already extensive correspondence leading up to next week's Ethics Commission meeting, I am writing to respond to several issues raised by Dan Billings and Maine Leads in their letter of May 21, 2009.

1. Burden of Proof

Mr. Billings continues to insist that we have insisted on an unreasonably high burden of proof from Maine Leads. Sensationalizing our request through comparison to "McCarthyism," however, does not turn our routine, ordinary request into anything more than it is. To reiterate, we have discovered and come forward with facts that, if proven, constitute a violation of Maine law. We do nothing more than relay those facts to the Commission and suggest that the Commission open an investigation and form its own conclusions. That Maine Leads might have to provide further information to the Commission about its activities hardly offends our well-worn standards regarding burdens of proof.

Despite his protests to the contrary, it is Mr. Billings, in fact, who is asking that a "normal" burden of proof be altered – namely that of a party bringing a complaint. There is simply no proceeding in which the complaining party must prove its case with its very first submission. We have shown sufficient grounds to believe that a violation occurred, but that is not really the core of Mr. Billings' argument. He has suggested that we have not proven that a violation did occur. That, of course, is for the Commission to decide, not a requirement of the complaining party.

2. Contributions to PACs

Mr. Billings believes that contributions to PACs are ordinary transactions and do not, of themselves, qualify the donating entity as a political action committee. He is correct, but this argument fails to

RE: Response to Attorney Billings' Letter of May 21, 2009
May 22, 2009
Page 2

address the relevant standard, or our contention regarding Maine Leads' donations. There is no specific activity listed in the 21-A M.S.R.A. § 1052(5)(A)(4) that proves an entity is, or is not, a PAC. Rather, the threshold question requires that we explore the "major purpose" of the entity in question, and our contention is that if the "major activity" is funding a signature collection campaign, then the entity in question comes under the definition of a PAC.

Mr. Billings' own example demonstrates this point precisely. The Maine Municipal Association (MMA) provided significant funds to the school funding initiative that appeared on the ballot several years ago. Similarly to Maine Leads and the several PACs involved in this dispute, a very high percentage of the PACs' money came from one source. However, a mere cursory investigation of the Maine Municipal Association reveals that the organization engages in many additional activities beyond support or opposition of referendum campaigns. For instance, MMA employs six attorneys and provides legal services to its members, offers a variety of workshops and conferences each year, and provides information about personnel services ranging from recruitment to labor relations. It is not apparent, on the other hand, that Maine Leads has any other major purpose – and that is precisely that point of our request.

3. Single Ballot Question vs. Multiple Ballot Questions

Mr. Billings contends that by contributing to three ballot initiative PACs, Maine Leads did not run afoul of the statute in question because the requirement speaks of a ballot question. This is an interpretation of the statute that would lead to absurd results and contravenes that purpose of Maine's campaign disclosure laws. The underlying purpose of the statutory scheme in question is to provide the public with information about the groups and individuals who support and oppose campaigns in Maine. To say that an entity can conceal its contributors because it supports multiple ballot initiatives, but an entity supporting only one ballot initiative must disclose its contributors is an absurd proposition.

4. Solicitation of Funds

Mr. Billings is correct that one element of the statute in question is the solicitation of funds to influence in any way a ballot initiative. His conclusion, however, demonstrates the very need for the investigation we have requested. That we do not possess evidence of Maine Leads' solicitation efforts is precisely the point. The other evidence indicates that Maine Leads' major activity was collecting signatures for the relevant ballot initiatives. However, because Maine Leads is a non-profit organization (on paper, at least), it does not have to disclose information about its fundraising activity. Disclosure of that information, however, may be necessary to determine whether or not Maine Leads was, in fact, operating as a political action committee.

5. Collecting Signatures

Mr. Billings contends that "[a]n organization with the major purpose of collecting signatures for an initiative is not, by definition, a political action committee" because the definition in question

RE: Response to Attorney Billings' Letter of May 21, 2009
May 22, 2009
Page 3

refers only to "advocating the passage or defeat of a ballot question." This is a classic "distinction without a difference." The entire point of collecting signatures is to qualify a question for the ballot, so to say that this process is not "advocating" for the question's passage is not credible.

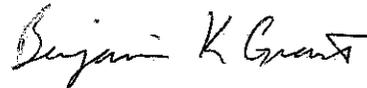
6. 21-A M.S.R.A. §1052(5)(A)(3)

Mr. Billings is correct that the definition of a PAC at the time in question included the provision that he quotes regarding contributions to PACs. However, his reading of the statute is incorrect. Subsection (3) merely covers entities who's activities are not contributions to political action committees. Maine Leads' activities in question were contributions, so the subsection does not apply. Mr. Billings has read this clause to provide an exclusion for contributions, when the language of the statute indicates otherwise. Summarized another way, subsection (3) applies to entities who influence ballot initiatives via contributions other than contributions to PACs. Subsection (4), then, applies when the major activity is monetary contribution.

7. Timeliness

Ms. Hutton's complaint is timely, as the ballot initiatives in question are schedule for appearance on the ballot this fall. The campaign activity has continued, and will increase over the course of this summer and fall. In fact, (and in response to Mr. Billings original objection to our lack of citation for the contention that Maine Leads has conducted advocacy at town meetings), Senate President Elizabeth Mitchell observed Maine Leads distributing "calculators" at a recent town meeting in Sidney, Maine. What is obvious from this fact is that the public still has an interest in being able to access information about Maine Leads, as Maine Leads continues to advocate for the ballot initiatives in question. This is an ongoing campaign, and, therefore, an ongoing problem.

Very truly yours,



Benjamin K. Grant

BKG:cja



STATE OF MAINE
COMMISSION ON GOVERNMENTAL ETHICS
AND ELECTION PRACTICES
135 STATE HOUSE STATION
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June 19, 2009

By E-Mail and Regular Mail

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REQUEST FOR INFORMATION AND DOCUMENTS

Dear Mr. Billings:

At their meeting on May 28, 2009, the members of the Maine Commission on Governmental Ethics and Election Practices directed the Commission staff to initiate an investigation regarding whether Maine Leads has violated Maine campaign finance laws by operating as an unregistered political action committee (PAC) or by not filing campaign finance reports required as a ballot question committee. This letter, and the attached subpoena, is to request information and documents from Maine Leads in connection with the investigation. The staff may have further requests for information or documents at a later time.

Purpose of Investigation

In the view of the Commission staff, the relevant time period is the October 2007 incorporation of Maine Leads to the present. During this period, the registration and reporting statutes were amended by Chapter 477 of the Public Laws of 2007. The amendments took effect on June 30, 2008.

The purpose of this investigation, as authorized by the Commission, is to determine:

- whether Maine Leads qualified as a PAC under 21-A M.R.S.A. §§ 1052(5)(A)(3) and (4) in effect before June 30, 2008;¹
- whether Maine Leads qualifies as a PAC under § 1052(5)(A)(4) in effect beginning on June 30, 2008;
- whether Maine Leads was required to file campaign finance reports under § 1056(B) in effect before and after June 30, 2008.

¹ All statutory citations in this request refer to provisions in the Maine Election Law (Title 21-A of the Maine Revised Statutes).

Factual Issues to be Considered

In the course of the investigation, the Commission staff is seeking evidence relevant to the following factual issues:

1. Was the major purpose of Maine Leads to initiate or promote a citizen initiative?
2. Has Maine Leads made expenditures, including for paid staff, to initiate or promote a citizen initiative?
3. Did Maine Leads solicit funds to initiate or promote a citizen initiative, including for the collection of petition signatures?
4. Have donors or other funders provided funds to Maine Leads for the purpose of initiating or promoting a citizen initiative, including contributions as defined by § 1056(B)(2-A)

Confidentiality of Investigation

The Maine Election Law authorizes the Commission to keep certain categories of information and records ("investigative working papers") confidential in the course of conducting an investigation. (§ 1003(3-A)) These categories include financial information not normally available to the public, and information belonging to a political action committee or ballot question committee that, if disclosed, would reveal sensitive political or campaign information. If Maine Leads would like the Commission to keep some of the information or documents in its response confidential under this provision, please designate those items and explain the basis for requesting confidentiality. The Commission will consider your request.

Request for Information

The staff of the Commission requests the following:

1. Please state the purpose for which Maine Leads was formed.
2. Provide any mission statement(s) of the organization.
3. Please describe the most significant activities of Maine Leads during the period of October 1, 2007 to December 31, 2008.
4. Provide the total expenditures of Maine Leads for the period of October 1, 2007 through December 31, 2008.
5. A. Please indicate the percentage breakdown of total expenditures by Maine Leads during this period for each activity identified in response to request #3.

- B. Please provide the percentage of staff time allocated to each activity listed in response to request #3.
6. If you believe it is relevant to the major purpose of the organization, please provide the information requested in #3, #4, and #5 for the period of January 1, 2009 to the present.
7. Please state whether Maine Leads made any expenditures since its inception to initiate or to promote a citizen initiative, including efforts to gather signatures on initiative petitions. If so, please provide the total amount of those expenditures and describe the purposes for which they were made. Please include payments to staff in the form of wages or expense reimbursements as well as any payments to independent contractors for goods or services.
8. Please provide the total revenue received by Maine Leads during the period of October 1, 2007 to December 31, 2008, and describe the nature of the sources of the revenue (e.g., individuals, corporations and other commercial sources, foundations, non-profit organizations, and any other sources).
9. Please describe how Maine Leads raised its revenues during the period of October 1, 2007 to December 31, 2008, including a description of all types of solicitations employed (e.g., personal conversations, electronic mail, letters or other written correspondence, grant applications, or other media).
10. Indicate whether, during the period of October 1, 2007 to December 31, 2008, Maine Leads received funds in the following categories which are set forth in 21-A M.R.S.A. § 1056-B(2-A) and which were included in an advisory memorandum from the Commission staff on § 1056-B reporting dated December 27, 2006:
- A. funds that the contributor specified were given in connection with a citizen initiative;
 - B. funds provided in response to a solicitation that would lead the contributor to believe that the funds would be used specifically for the purpose of initiating, promoting, defeating or influencing in any way a citizen initiative; and
 - C. funds that can reasonably be determined to have been provided by the contributor for the purpose of initiating, promoting, defeating or influencing in any way a citizen initiative when viewed in the context of the contribution and the recipient's activities regarding a citizen initiative.

If Maine Leads has received such contributions, please provide the date and amount of each contribution.

Daniel I. Billings, Esq.

Page 4

June 19, 2009

Form of Response

The Commission staff requests that a representative of Maine Leads respond to each request under oath separately and fully.

Attached Subpoena

I have attached a photocopy of a subpoena for documents that was authorized by the Chair of the Commission in accordance with Chapter 1, Section 5(1) of the Commission's Rules. *Please indicate whether you are willing to accept the subpoena on behalf of Maine Leads, or whether the Commission will need to serve the subpoena on the organization's executive director in person.*

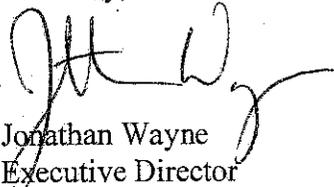
Deadline for Response

The Commission staff requests that Maine Leads provide the requested information and documents no later than 5:00 p.m. on Monday, July 20, 2009.

Objections to Requests

If Maine Leads objects to any of the requests, kindly state the objections and basis for those objections in writing no later than 5:00 p.m. on Wednesday, July 1, 2009. I will request that the Commission hold a special meeting to consider the objections.

Sincerely,



Jonathan Wayne
Executive Director

cp

cc:

By E-Mail and Regular Mail

Phyllis Gardiner, Assistant Attorney General

Benjamin K. Grant, Counsel for Deborah Hutton

STATE OF MAINE
COMMISSION ON GOVERNMENTAL ETHICS AND ELECTION PRACTICES

In Re: Maine Leads

**INVESTIGATIVE SUBPOENA
TO PRODUCE RECORDS**

To: Roy Lenardson, Executive Director
Maine Leads
12 Church Street, Suite 2
Augusta, ME 04332

YOU ARE HEREBY ORDERED, in the name of the State of Maine Commission on Governmental Ethics and Election Practices, pursuant to 21-A M.R.S.A. § 1003, to produce and permit inspection and copying of the following designated materials on or before July 20, 2009, at the offices of the Commission on Governmental Ethics and Election Practices for the State of Maine, located on the second floor of 45 Memorial Circle, Augusta, Maine, or by sending photocopies by first class U.S. mail before that date addressed to Jonathan Wayne, Executive Director, Commission on Governmental Ethics and Election Practices, 135 State House Station, Augusta, Maine 04333:

1. All solicitations for donations, grants, or other funding for Maine Leads issued by or on behalf of Maine Leads during the period of October 1, 2007 to December 31, 2008, including electronic mail, letters or other written correspondence, grant applications, or other media.
2. All correspondence sent by Maine Leads to any donor during the period of October 1, 2007 to December 31, 2008, which acknowledges Maine Leads' receipt of funds from the donor or which thanks the donor for providing funds to Maine Leads.
3. All correspondence, by letter or electronic mail, and any other documents exchanged between Maine Leads and donors to Maine Leads during the period of October 1, 2007 to December 31, 2008 in which the purpose or use of the donated funds or grant award is discussed by Maine Leads or the donor.

In responding to this subpoena, Maine Leads may redact the names and addresses of any individuals or organizations that were solicited for funds or donated funds. If solicitations were distributed by means of a form letter or email, providing a single copy of that form will be sufficient.

This subpoena is issued on behalf of the Commission on Governmental Ethics and Election Practices, in conjunction with a Commission investigation to determine whether Maine Leads has violated Maine's campaign finance laws by operating as an unregistered political action committee or by not filing campaign finance reports required as a ballot

question committee, pursuant to 21-A M.R.S.A. §1003(1) & (2). The Commission's attorney is Phyllis Gardiner, Assistant Attorney General, Office of the Attorney General, 6 State House Station, Augusta, Maine 04333-0006. She may be contacted at (207) 626-8830.

NOTICE: If you object to the subpoena, you must petition the Commission on Governmental Ethics and Election Practices to vacate or modify the subpoena before July 1, 2009. After such investigation as the Commission considers appropriate, it may grant the petition in whole or in part upon a finding that the testimony or evidence for which production is required does not relate with reasonable directness to any manner in question, or that a subpoena for the production of evidence is unreasonable or oppressive or has not been issued a reasonable period in advance of the time when the evidence is requested.

WARNING: Failure to comply with this subpoena shall be punishable as for contempt of court, pursuant to 5 M.R.S.A. § 9060(1) and Rule 66(c) of the Maine Rules of Civil Procedure.

Dated: June 19, 2009


MICHAEL P. FRIEDMAN, CHAIRMAN
Commission on Governmental Ethics
and Election Practices

Kennebec, ss:

On the _____ day of _____, 2009, I served the above-named Roy Lenardson, by delivering a true copy of this Subpoena in hand.

Signature

Print Name

Agency



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

June 22, 2009

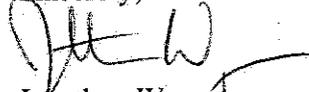
By E-Mail and Regular Mail

Daniel I. Billings, Esq.
Marden, Dubord, Bernier & Stevens
P.O. Box 708
Waterville, ME 04903-0708

Dear Mr. Billings:

In my June 19, 2009 request for information and documents (at 4, second paragraph), I inquired whether you would be willing to accept service of an investigative subpoena on behalf of your client, Maine Leads. Although you indicated you received the request, I do not believe I received a response on the question. Could you please let me know whether you will accept service? Thank you very much.

Sincerely,



Jonathan Wayne
Executive Director

cp

cc: Phyllis Gardiner, Assistant Attorney General (by e-mail and inter-office mail)



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

June 23, 2009

Daniel I. Billings, Esq.
Marden, Dubord, Bernier & Stevens
P.O. Box 708
Waterville, ME 04903-0708

Dear Mr. Billings:

Thank you for agreeing to accept service of the attached subpoena on behalf of Maine Leads. I have attached the original subpoena signed by the Commission Chair, an acceptance of service prepared by the Commission's Counsel, and a return envelope. If you would like to discuss the proposed acceptance, please call me at 287-4179. Thank you very much.

Sincerely,

A handwritten signature in black ink, appearing to read 'Jonathan Wayne', with a long horizontal flourish extending to the right.

Jonathan Wayne
Executive Director

STATE OF MAINE
COMMISSION ON GOVERNMENTAL ETHICS AND ELECTION PRACTICES

In Re: Maine Leads

**INVESTIGATIVE SUBPOENA
TO PRODUCE RECORDS**

To: Roy Lenardson, Executive Director
Maine Leads
12 Church Street, Suite 2
Augusta, ME 04332

YOU ARE HEREBY ORDERED, in the name of the State of Maine Commission on Governmental Ethics and Election Practices, pursuant to 21-A M.R.S.A. § 1003, to produce and permit inspection and copying of the following designated materials on or before July 20, 2009, at the offices of the Commission on Governmental Ethics and Election Practices for the State of Maine, located on the second floor of 45 Memorial Circle, Augusta, Maine, or by sending photocopies by first class U.S. mail before that date addressed to Jonathan Wayne, Executive Director, Commission on Governmental Ethics and Election Practices, 135 State House Station, Augusta, Maine 04333:

1. All solicitations for donations, grants, or other funding for Maine Leads issued by or on behalf of Maine Leads during the period of October 1, 2007 to December 31, 2008, including electronic mail, letters or other written correspondence, grant applications, or other media.
2. All correspondence sent by Maine Leads to any donor during the period of October 1, 2007 to December 31, 2008, which acknowledges Maine Leads' receipt of funds from the donor or which thanks the donor for providing funds to Maine Leads.
3. All correspondence, by letter or electronic mail, and any other documents exchanged between Maine Leads and donors to Maine Leads during the period of October 1, 2007 to December 31, 2008 in which the purpose or use of the donated funds or grant award is discussed by Maine Leads or the donor.

In responding to this subpoena, Maine Leads may redact the names and addresses of any individuals or organizations that were solicited for funds or donated funds. If solicitations were distributed by means of a form letter or email, providing a single copy of that form will be sufficient.

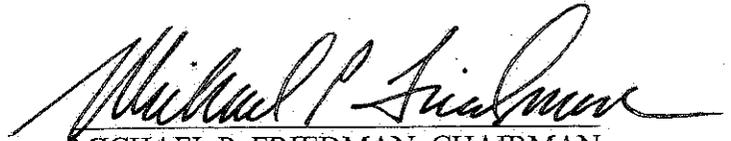
This subpoena is issued on behalf of the Commission on Governmental Ethics and Election Practices, in conjunction with a Commission investigation to determine whether Maine Leads has violated Maine's campaign finance laws by operating as an unregistered political action committee or by not filing campaign finance reports required as a ballot

question committee, pursuant to 21-A M.R.S.A. §1003(1) & (2). The Commission's attorney is Phyllis Gardiner, Assistant Attorney General, Office of the Attorney General, 6 State House Station, Augusta, Maine 04333-0006. She may be contacted at (207) 626-8830.

NOTICE: If you object to the subpoena, you must petition the Commission on Governmental Ethics and Election Practices to vacate or modify the subpoena before July 1, 2009. After such investigation as the Commission considers appropriate, it may grant the petition in whole or in part upon a finding that the testimony or evidence for which production is required does not relate with reasonable directness to any manner in question, or that a subpoena for the production of evidence is unreasonable or oppressive or has not been issued a reasonable period in advance of the time when the evidence is requested.

WARNING: Failure to comply with this subpoena shall be punishable as for contempt of court, pursuant to 5 M.R.S.A. § 9060(1) and Rule 66(c) of the Maine Rules of Civil Procedure.

Dated: June 19, 2009



MICHAEL P. FRIEDMAN, CHAIRMAN
Commission on Governmental Ethics
and Election Practices

Kennebec, ss:

On the _____ day of _____, 2009, I served the above-named Roy Lenardson, by delivering a true copy of this Subpoena in hand.

Signature

Print Name

Agency

On June _____, 2009, I accepted the service by mail/electronic mail of the attached subpoena on behalf of my client, Roy Lenardson as Executive Director of Maine Leads, (and thereby waived service by a deputy sheriff) to produce documents for inspection and copying at the offices of the Commission on Governmental Ethics and Election Practices, at 45 Memorial Circle, Augusta, Maine, on or before July 20, 2009, and do by signing below, acknowledge that my client promises to respond to the subpoena as directed.

Daniel I. Billings, Esq.

STATE OF MAINE
COMMISSION ON GOVERNMENTAL ETHICS AND ELECTION PRACTICES

In Re: Maine Leads

**INVESTIGATIVE SUBPOENA
TO PRODUCE RECORDS**

To: Roy Lenardson, Executive Director
Maine Leads
12 Church Street, Suite 2
Augusta, ME 04332

YOU ARE HEREBY ORDERED, in the name of the State of Maine Commission on Governmental Ethics and Election Practices, pursuant to 21-A M.R.S.A. § 1003, to produce and permit inspection and copying of the following designated materials on or before July 20, 2009, at the offices of the Commission on Governmental Ethics and Election Practices for the State of Maine, located on the second floor of 45 Memorial Circle, Augusta, Maine, or by sending photocopies by first class U.S. mail before that date addressed to Jonathan Wayne, Executive Director, Commission on Governmental Ethics and Election Practices, 135 State House Station, Augusta, Maine 04333:

1. All solicitations for donations, grants, or other funding for Maine Leads issued by or on behalf of Maine Leads during the period of October 1, 2007 to December 31, 2008, including electronic mail, letters or other written correspondence, grant applications, or other media.
2. All correspondence sent by Maine Leads to any donor during the period of October 1, 2007 to December 31, 2008, which acknowledges Maine Leads' receipt of funds from the donor or which thanks the donor for providing funds to Maine Leads.
3. All correspondence, by letter or electronic mail, and any other documents exchanged between Maine Leads and donors to Maine Leads during the period of October 1, 2007 to December 31, 2008 in which the purpose or use of the donated funds or grant award is discussed by Maine Leads or the donor.

In responding to this subpoena, Maine Leads may redact the names and addresses of any individuals or organizations that were solicited for funds or donated funds. If solicitations were distributed by means of a form letter or email, providing a single copy of that form will be sufficient.

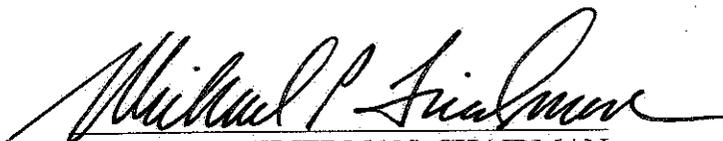
This subpoena is issued on behalf of the Commission on Governmental Ethics and Election Practices, in conjunction with a Commission investigation to determine whether Maine Leads has violated Maine's campaign finance laws by operating as an unregistered political action committee or by not filing campaign finance reports required as a ballot

question committee, pursuant to 21-A M.R.S.A. §1003(1) & (2). The Commission's attorney is Phyllis Gardiner, Assistant Attorney General, Office of the Attorney General, 6 State House Station, Augusta, Maine 04333-0006. She may be contacted at (207) 626-8830.

NOTICE: If you object to the subpoena, you must petition the Commission on Governmental Ethics and Election Practices to vacate or modify the subpoena before July 1, 2009. After such investigation as the Commission considers appropriate, it may grant the petition in whole or in part upon a finding that the testimony or evidence for which production is required does not relate with reasonable directness to any manner in question, or that a subpoena for the production of evidence is unreasonable or oppressive or has not been issued a reasonable period in advance of the time when the evidence is requested.

WARNING: Failure to comply with this subpoena shall be punishable as for contempt of court, pursuant to 5 M.R.S.A. § 9060(1) and Rule 66(c) of the Maine Rules of Civil Procedure.

Dated: June 19, 2009



MICHAEL P. FRIEDMAN, CHAIRMAN
Commission on Governmental Ethics
and Election Practices

Kennebec, ss:

On the _____ day of _____, 2009, I served the above-named Roy Lenardson, by delivering a true copy of this Subpoena in hand.

Signature

Print Name

Agency

On June 26, 2009, I accepted the service by mail/electronic mail of the attached subpoena on behalf of my client, Roy Lenardson as Executive Director of Maine Leads, (and thereby waived service by a deputy sheriff) to produce documents for inspection and copying at the offices of the Commission on Governmental Ethics and Election Practices, at 45 Memorial Circle, Augusta, Maine, on or before July 20, 2009, and do by signing below, acknowledge that my client promises to respond to the subpoena as directed.

A handwritten signature in black ink, appearing to read "Daniel I. Billings", written over a horizontal line.

Daniel I. Billings, Esq.

**MARDEN, DUBORD,
BERNIER & STEVENS**

ATTORNEYS AT LAW

Daniel I. Billings, Esq.
dbillings@mardendubord.com

44 ELM STREET
P.O. BOX 708
WATERVILLE, ME 04903-0708
www.mardendubord.com

PHONE (207) 873-0186
FAX (207) 873-2245

RECEIVED

JUL 02 2009

MAINE ETHICS COMMISSION

June 30, 2009

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

RE: Objection to subpoena issued to Maine Leads

Dear Mr. Wayne:

On behalf of my client, Maine Leads, I object, for the reasons stated below, to the subpoena dated June 19, 2009 and request that the subpoena be modified to limit its scope to communications which reference, directly or indirectly, referendum elections, candidate elections, initiatives, petition drives, or signature gathering.

As stated in the subpoena, the subpoena was issued in conjunction with a Commission investigation to determine whether Maine Leads has violated Maine's campaign finance laws by operating as an unregistered political action committee or by not filing campaign finance reports required of ballot question committees. As a result, the Commission is entitled to seek evidence by subpoena which is related to activities which, if conducted, would have brought Maine Leads into an area which is within the Commission's jurisdiction. Solicitations for donations or other communications with donors that related in any way to a regulated activity is evidence which the Commission may seek through subpoena. However, the subpoena that was issued goes well beyond seeking communications that relate to regulated activity and seeks all solicitation for donations or other communications with donors which would include communications that are in no way related to regulated activities. By issuing such a broad subpoena, the Commission is going beyond its jurisdiction and the subpoena does not therefore relate with reasonable directness to any matter in question. The scope of the subpoena should be modified to narrow its scope to communications which reference, directly or indirectly, referendum elections, candidate elections, initiatives, petition drives, or signature gathering. In doing so, the Commission would ensure that it is limiting the use of its subpoena power to seeking evidence of activities that fall within the Commission's jurisdiction.

Maine Leads may decide, voluntarily, to provide evidence of its activities that fall outside of the Commission's jurisdiction. However, the Commission, given its limited jurisdiction as described by statute, should not be using its subpoena power to compel the production of such evidence.

I will note that the scope of the investigation as described in your June 19, 2009 letter is narrower than the subpoena that accompanied the letter. Maine Leads would have no objection to providing all communications, if any exist, that fall within the scope of information under #10 on page 3 of your letter. The information sought there falls within the scope of the Commission's jurisdiction and Maine Leads does not dispute the Commission has the authority to compel the production of such information by use of a subpoena. If the subpoena is modified to limit its scope to communications as described under #10 on page 3 of your letter, Maine Leads would have no further objection to the subpoena.

The Commission should not take this letter as an attempt to delay the investigation or as indication that Maine Leads does not intend to cooperate with the investigation. Maine Leads appreciates the 30 days given to respond to your June 19th letter and has already begun to compile the information requested. However, responding to a subpoena issued by a government agency is a serious matter and I would not be serving my client properly if I did not raise the objection stated above.

Very truly yours,

A handwritten signature in black ink, appearing to read "Daniel I. Billings", written in a cursive style.

Daniel I. Billings

**MARDEN, DUBORD,
BERNIER & STEVENS**

ATTORNEYS AT LAW

Daniel I. Billings, Esq.
dbillings@mardendubord.com

44 ELM STREET
P.O. BOX 708
WATERVILLE, ME 04903-0708
www.mardendubord.com

PHONE (207) 873-0186
FAX (207) 873-2245

July 2, 2009

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

RECEIVED

JUL 07 2009

MAINE ETHICS COMMISSION

RE: Objection to subpoena issued to Maine Leads

Dear Mr. Wayne:

Since sending my letter of June 30, 2009, I have had the opportunity to consult in more detail with my client concerning communications that would be covered by the subpoena issued by the Commission. Upon further review, it appears that all communications that would be covered by the subpoena as issued would be documents that Maine Leads would wish to voluntarily produce because they support Maine Leads' position in this matter.

Though I continue to believe that the subpoena, as issued, was too broad, there does not appear to be any communications covered by the subpoena that Maine Leads does not wish to produce. As a result, it does not appear necessary for the Commission to now consider the objection that I previously made on behalf of Maine Leads. However, I would like the opportunity to reassert the objection, if necessary, when Maine Leads makes its submission to the Commission on July 20th.

Very truly yours,



Daniel I. Billings

**MARDEN, DUBORD,
BERNIER & STEVENS**

ATTORNEYS AT LAW

Daniel I. Billings, Esq.
dbillings@mardendubord.com

44 ELM STREET
P.O. BOX 708
WATERVILLE, ME 04903-0708
www.mardendubord.com

RECEIVED

JUL 27 2009

MAINE ETHICS COMMISSION

PHONE (207) 873-0186
FAX (207) 873-2245

July 24, 2009

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

RE: Request for information and documents from Maine Leads

Dear Mr. Wayne:

Enclosed you will find the following documents in response to the Commission's subpoena and request for information from Maine Leads:

1. An affidavit from Roy Lenardson, Executive Director of Maine Leads, answering the questions contained in your June 19, 2009 letter. The enclosed is unsigned because Mr. Lenardson is out of state until Monday. However, the enclosed is a final version of the affidavit. Mr. Lenardson will execute the enclosed affidavit and the original signed affidavit will be provided to you early next week.

2. A copy of a 2007 funding proposal for Maine Leads. This document is the only document that is being provided in response to the subpoena issued by the Commission. Parts of the document are referenced and incorporated by reference in Mr. Lenardson's affidavit. Maine Leads' efforts to comply with the subpoena and the reason there are no other documents are addressed at the end of Mr. Lenardson's affidavit.

3. A summary of Maine Leads activities since the organization's formation. The document is incorporated by reference in Mr. Lenardson's affidavit.

4. A copy of Maine Leads' 990-EZ which covers the period from October 1, 2007 through December 31, 2008. The document is referenced in Mr. Lenardson's affidavit. The revenue and expenditure information contained in the affidavit comes from the 990-EZ.

I believe the enclosed documents fully address the questions and requests made by the Commission. It was the intent to address the requests in a direct and straightforward manner. As we have previously discussed, I wish to have the opportunity to offer legal arguments at the appropriate time before the matter is presented to the Commission. My client and I understand that Commission staff may request additional information as a result of this submission.

Jonathan Wayne, Executive Director
July 24, 2009
Page 2

If you believe it is necessary for the Commission to consider any preliminary issues regarding this investigation at its July 30, 2009 meeting, please let me know as soon as possible. As I have previously indicated, Mr. Lenardson will be unable to attend that meeting. However, I will be in attendance and can address any procedural issues if that is necessary.

Thank you for your consideration in granting an extension to the deadline for making this submission due to my recent injury.

Very truly yours,

A handwritten signature in black ink, appearing to read "Daniel I. Billing". The signature is fluid and cursive, with a large initial "D" and a long, sweeping tail.

Daniel I. Billing

**AFFIDAVIT OF ROY LENARDSON
IN RESPONSE TO QUESTIONS FROM THE STAFF OF MAINE COMMISSION ON
GOVERNMENTAL ETHICS & ELECTION PRACTICES**

I, Roy Lenardson, Executive Director of Maine Leads, after being duly sworn, do hereby depose and say as follows:

QUESTION No. 1 Please state the purpose for which Maine Leads was formed.

ANSWER: Along with this affidavit, and in response to the subpoena issued by the Commission, I have provided a copy of the initial funding proposal for Maine Leads that describes the purpose for which Maine Leads was formed. I adopt and incorporate by reference into this affidavit the purposes for forming Maine Leads described in that document.

QUESTION No. 2 Provide any mission statement(s) of the organization.

ANSWER: The mission statement for Maine Leads is: *"The purpose of Maine Leads is to achieve future prosperity. We empower citizens to fight for lower taxes, government transparency, and economic freedom."*

QUESTION No. 3 Please describe the most significant activities of Maine Leads for the period of October 1, 2007 through December 31, 2008.

ANSWER: Attached is a summary of Maine Leads activities since the organization's formation. I adopt and incorporate by reference into this affidavit the attached summary.

QUESTION No. 4 Provide the total expenditures for Maine Leads for the period of October 1, 2007 through December 31, 2008.

ANSWER: \$445,526. See attached 990-EZ which covers the period from October 1, 2007 through December 31, 2008.

QUESTION No. 5

A. Please indicate the percentage breakdown of total expenditures by Maine Leads during the period for each activity identified in response to request #3.

ANSWER: Because our accounting was not set up to track expenditures in such a manner and because such a significant portion of the expenditures were for staff and related overhead, I can not swear to the accuracy of any such a breakdown. I refer the Commission staff to the enclosed 990-EZ; the staff breakdown provided below; and other answers provided in this affidavit as the best information by which such an estimate can be made.

B. Please provide the percentage of staff time allocated to each activity listed in response to request #3.

ANSWER: Please see breakdown below. This estimate was prepared in response to the request from Commission staff. I believe it to be accurate based on the best information available to me. However, it was prepared after the fact and therefore may not be completely accurate.

Maine Leads Breakdown of staff time by activity	Percentage of Time
Healthcare	10%
Transparency/Accountability	25%
Economy/Taxes	15%
Energy	5%
Candidate Training	15%
Testimony/Lobbying	5%
Coalition Building and Outreach	15%
Initiative Related	4%
Miscellaneous/Administrative	6%
Total	100%

QUESTION No. 6 If you believe it is relevant to the major purpose of the organization, please provide the information requested in #3, #4, and #5 for the period January 1, 2009 to the present.

ANSWER: Maine Leads activities during 2009 have been similar to the activities described in response to question #3. Most recently, Maine Leads staff has taken the lead in organizing counter-rallies in response to rallies organized in support of the President's healthcare proposals. Maine Leads has filed a 2009 Campaign Finance Report as a Ballot Question Committee that details total expenditures in support of two initiatives of \$8380.00.

QUESTION No. 7 Please state whether Maine Leads made any expenditures since its inception to initiate or to promote a citizen initiative, including efforts to gather signatures on initiative petitions. If so, please provide the total amount of those expenditures and describe the purpose for which they were made. Please include payment to staff in the form of wages of expense reimbursements as well as payments to independent contractors for goods and services.

ANSWER: Maine Leads paid \$160,500 to Pioneer Group, Inc. for the collection of signatures on three initiative petitions. In addition, we estimate that approximately 4% of staff time through December 31, 2008 was spent on initiative related activities. The total expenditures for staff wages and benefits for initiative related activities during that period are \$4948.96. Also, Maine Leads made the three contributions of \$25,000 each to three political action committees that supported signature gathering for citizen initiatives.

QUESTION No. 8 Please provide the total revenue received by Maine Leads during the period of October 1, 2007 to December 31, 2008, and describe the nature of the sources of the revenue (e.g., individuals, corporations and other commercial sources, foundations, non-profit organizations, and any other sources.)

ANSWER: \$421,187. See attached 990-EZ which covers the period from October 1, 2007 through December 31, 2008. 93% of the revenue was from national non-profit organizations as a result of the initial funding proposal in 2007 that has been provided in response to the subpoena issued by the Commission. 4% of the revenue came from donations from corporations. The total of contributions from corporations was \$12,000 and this came in two separate contributions from two different corporations. 3% of the revenue came in donations from individuals. Less than 1% of the revenue was from interest income.

QUESTION No. 9 Please describe how Maine Leads raised its revenue during the period of October 1, 2007 to December 31, 2008, including a description of all types of solicitations employed (e.g., personal conversations, electronic mail, letters or other written correspondence, grant applications, or other media).

ANSWER: 93% of the revenue was from national non-profit organizations as a result of the initial funding proposal in 2007 that has been provided in response to the subpoena issued by the Commission. All of the other contributions were received as a result of direct personal solicitations by me or other individuals involved with Maine Leads.

QUESTION No. 10 Indicate whether, during the period of October 1, 2007 to December 31, 2008, Maine Leads received funds in the following categories which are set forth in 21-A M.R.S.A. § 1056-B(2) and which were included in an advisory memorandum from the Commission staff on § 1056-B reporting dated December 27, 2006:

A. funds that the contributor specified were given in connection with a citizen initiative;

B. funds provided in response to a solicitation that would lead the contributor to believe that the funds would be used specifically for the purpose of initiating, promoting, defeating or influencing in any way a citizen initiative; and

C. funds that can reasonably be determined to have been provided by the contributor for the purpose of initiating, promoting, defeating or influencing in any way a citizen initiative when viewed in the context of the contribution and the recipient's activities regarding a citizen initiative.

If Maine Leads has received such contributions, please provide the date and amount of each contribution.

ANSWER: No contributions were received which would fall within the categories listed.

RESPONSE TO SUBPOENA TO PRODUCE RECORDS

As explained above, 93% of Maine Leads' revenue through December 31, 2008 was as a result of a 2007 funding proposal. A copy of the proposal is enclosed. Other funds were raised as a result of direct contact by me or others involved in the organization to people or corporations with which there was a prior relationship. Maine Leads has not engaged in any direct mail; e-mail; or phone solicitations to the general public. There were thank you notes sent to some of the contributors. I believe all thank you notes were handwritten. However, copies of such notes were not retained by me or the staff of Maine Leads. I remember that one individual contributor was thanked with a gift of some famous quotes in a nice frame. I and the staff of Maine Leads have made a diligent search of our files – both paper and digital – to determine the existence of any documents sought by the subpoena. I believe that the enclosed funding proposal is the only such document.

Dated:

R.W. Lenardson
Roy Lenardson

STATE OF MAINE
COUNTY OF KENNEBEC, ss.

Dated: 7-29-09

Personally appeared the above named Roy Lenardson and swore to the truth of the foregoing.

Before me,

Paul Lavin 6964
NOTARY PUBLIC Attorney-at-law
Printed Name: PAUL LAVIN
My Commission Expires: _____



Restoring Fiscal Sanity in Maine

National Tax Limitation Committee
Funding request Fiscal Year 2008: \$130,000
Maine Leads
PO Box 142
Augusta, Maine 04332
www.meleads.org

Today, the phrase *as Maine goes...* has become a chilling prospect for many folks in this country, as Maine has become an incubator for bad ideas: public funding of elections, government run health care, carbon taxes, and home to one of the nation's highest tax burdens. Our quasi-socialist State government has grown unchecked, extending its big government, high tax philosophy across the country.

It doesn't have to be that way. We have a plan to fight back and stop these damaging policies in their tracks. Maine Leads is a bold new organization actively promoting responsible fiscal policies, government accountability, and effective citizen activism. The goal of Maine Leads is simple; empower citizens and pressure government to finally create tax relief and future prosperity for Maine.

We have FIVE main components for restoring fiscal sanity through the use of a C-4 here in Maine:
(See attached for detail description)

- A SENTRY AT THE STATE HOUSE
- AN ENGINE FOR CITIZEN ACTIVISM
- A GOVERNMENT WATCHDOG
- A FACTORY OF CITIZEN INITIATIVES
- AN ARSENAL OF INFORMATION

We are ready to fight for fiscal responsibility and government accountability, but we cannot be successful without the support of individuals and organizations who share our principles of limited government. With this support behind us, we can immediately begin implementing our battle plan and holding politicians accountable.

If we work together, Maine Leads can not only build a firewall along our border to keep bad policies from spreading, but simultaneously defeat those policies within our borders to ensure that Maine will not fall victim to big government and high taxes any longer.

Attachments: Maine Leads Team
Maine Leads Plan

Maine Leads

A c-4 Proposal

Maine has become the poster child for what you can accomplish on the left with a well-funded and long-term strategic plan. Leftist groups ranging from move-on.org, the Proteus Fund, ACT Blue and dozens of environmental groups have made Maine a magnet for socialism and socialist ideas. Health care, public financing of elections and draconian environmental rules are the order of the day.

There is hope.

We can fight back. We have local, independent, committed activists who are willing to lead the fight for restoring fiscal sanity here in Maine. We have a great opportunity, as we are rapidly approaching a pendulum moment. That moment when things---having swung so far to the left---can either come back to the middle or remain stuck in the far left – for decades. We believe that with old fashion activism and hard work we can dislodge the pendulum and bring Maine back from the brink of socialism.

That's the good news.

Unfortunately, we lack the cohesion and long-term strategic thinking that can combine this talent, access and influence into a machine that can move Maine away from the brink of blue-state socialism. We have a very weak Republican party, and an almost nonexistent group of elected officials willing to fight for fiscal sanity in Maine.

We have a plan.

We need a better structure – one that will support our current efforts, but also give us the ability to increase our capacity and create a structure that provides a permanent presence in Maine's political landscape. More importantly, we need an independent group not beholden to a party or a politician -- that will focus on and fight for fiscal responsibility for the highest taxed people in the country.

Think tanks think.

We've thought about it, and we would like to move to the next stage by creating a "do tank," better known as a C-4. Limited government advocates often make their case solely through policy papers. The problem with this, however, is the disconnect that exists between forceful scholarship and a well-developed capacity for communicating and applying ideas.

We envision SIX main components for restoring fiscal sanity through the use of a C-4 or non-profit here in Maine:

1. Campaign Training and Recruitment

- a. State candidates
- b. Local candidates
- c. I&R Activists
- d. Grassroots campaign workers

Maine Leads

A c-4 Proposal

2. Grassroots Lobbying and Advocacy

- a. Bill tracking
- b. Testimony at public hearings
- c. Monitor local government activities
- d. Provide ammunition for grassroots
- e. MaineVotes

3. I&R Activism

- a. Ballot initiative development
- b. Signature collection strategy and training
- c. PAC development and organization
- d. Ballot campaign strategy

4. Local Activist Training and Outreach

- a. Grants to new and existing organizations
- b. Regional and state-wide activities to support local groups
- c. Umbrella organization with legal, development and issue advice
- d. Project grants in support of our mission

5. Communications

- a. Website – blogs, Wiki, etc...
- b. Newsletter
- c. Weekly media strategy
- d. Grassroots communication: (op-eds, letters, earned media)
- e. Paid media – issue ads, etc
- f. Mobilizing the grassroots
- g. Resource for media
- h. Clearing house for speakers and experts

6. Reinforcement for C-3 Efforts

STAFFING

- Executive Director
- Administrative Assistant
- Grassroots Director
- Communications Director
- Development Director

Executive Director

The Executive Director is responsible for the group's overall success in meeting the C-4 mission. More specifically, he or she will:

- 1) Communicate with the Board of Directors.
- 2) Hire, fire, train, and monitor staff.
- 3) Represent and explain the group and its mission to philosophical allies in the State.

Maine Leads

A c-4 Proposal

- 4) Develop support and resources for the organization.
- 5) Represent the Liberty mission to the mainstream press.
- 6) Be a registered lobbyist and participate as issues arise.
- 7) Design and implement, with the staff, specific projects that further the mission of the group.
- 8) Ensure that the organization complies with all applicable laws, codes, statutes, and reporting procedures.

Administrative Assistant

The Administrative Assistant is responsible for making sure all operations run efficiently and effectively, providing support to the Executive Director. More specifically, he or she will:

- 1) File forms and documents, and maintain all records.
- 2) Maintain a database of contacts.
- 3) Plan and organize events.
- 4) Record, delegate, and follow-up on tasks.
- 5) Order office supplies.

Grass Roots Director

The Grass Roots Director is responsible for building support for the organization's mission, and for training citizen volunteers to effectively and independently pursue parts of the C-4's overall mission. More specifically, he or she will:

1. Identify philosophically-allied groups in the State—groups of citizens upset about high taxes, encroachments on private property, etc.
- 2) Reach out to these groups by:
 - a. Scheduling appointments with opinion leaders of activist groups.
 - b. Communicating the mission of the group.
 - c. Familiarizing them with specific projects that require broad-based volunteer participation.
 - d. Recruiting volunteers.
- 3) Assemble small groups of active limited government advocates in communities throughout the State and:
 - a. Meet with them.
 - b. Collect contact information to add to state-wide database.
 - c. Offer training sessions in government accountability and transparency activism, such as filing open records requests with public school districts and local governments.
 - d. Arrange for them to be trained in online activism in order to effectively share results.
 - e. Provide information about additional accountability mechanisms.
 - f. Design programs and events that attract activists.

Maine Leads

A c-4 Proposal

- g. Mobilize activists for letter to the editor campaigns.
- 4) Identify and assist in the for the formation of Political Action Committees where necessary.

Communications Director

The Communications Director is responsible for coordinating the C-4's messaging with the State think tank (C-3) and for promoting awareness of the C-4 organization, its mission and importance, its specific projects, and its specific findings. More specifically, he or she will:

- 1) Build awareness through the new media by:
 - a. Providing useful, politically interesting, meaningful content to existing bloggers in the State through e-mail blasts or by pitching stories to specific bloggers, etc.
 - b. Booking representatives on radio talk shows in the State.
 - c. Producing e-newsletters containing information about the group and its mission.
 - d. Providing reporters in the mainstream media with "news round-ups" that summarize what the bloggers are saying.
 - e. Providing materials to the mainstream press about big stories and/or specific projects undertaken by the group.
 - f. Establishing and maintaining contacts with mainstream media.
 - g. Finding alternative media outlets.
- 2) Collect and maintain lists of:
 - a. Names and e-mail addresses of the State's active bloggers.
 - b. Local access TV stations and hosts
 - c. The State's radio talk show hosts.
 - d. Names and e-mail addresses of politically-active individuals and groups in the State who communicate politically interesting news with their e-mail lists.
 - e. The State's mainstream media.
 - f. Alternative media outlets (like ethnic news or alternative lifestyle publications).
- 3) Provide media training to activists (i.e. how to blog or engage in other forms of online activism), and mentor and encourage these new online activists (or create a program that does so). Work with Grassroots Director to accomplish those goals.
- 4) Develop public access TV strategy
- 5) Maintain the C-4 website, including:
 - a. Graphic design.
 - b. Content.
 - c. Designing and implementing appropriate Search Engine Optimization techniques to ensure the group's website and other web-based projects rank near the top of Google search results for chosen search terms.
- 6) Coordinate annual state-wide conference

Development Director

The Development Director is responsible for the procurement of financial donations in order for the organization to carry out its goals. More specifically, he or she will:

Maine Leads

A c-4 Proposal

- 1) Develop an annual fundraising plan and timeline.
- 2) Research possible donors and foundations.
- 3) Coordinate fundraising events.
- 4) Solicit donations with telephone calls and personal meetings.
- 5) Craft fundraising proposals.
- 6) Create and manage direct mail campaigns (house and project mailings).
- 7) E-fundraise.
- 8) Create a list of the group's activities, developments, successes, and future plans that correspond to the interests of individual donors.
- 9) Provide training sessions for candidates and PACs on successful Development Efforts

Maine Leads Activities

Divided by Category

Health Care

- Advised and drafted health care policy for several candidates
- Ghost wrote Medicaid op-ed as related to the biennial budget during the 123rd Legislature
- Ghost wrote Dirigo op-ed column
- Oppose the federal government takeover of health care
 - Website development and management
 - Online petition facilitation
 - Draft and edit health care columns, letters to the editor and letters to federal delegation
- Published: *"What you're not hearing in the people's veto campaign"* (PolitickerME.com, 9/24/08)

Transparency/Accountability

- Developed launch plan for MHPC's MaineOpenGov.org website
- Designed fliers and tradeshow booth for national open government conference
- Targeted Southport selectmen for their decision not to hold school budget validation election
 - Wrote script and launched auto calls to all Southport residents
 - Activated our grassroots network to call Southport Selectmen and demand they hold the vote
- Drafted and sent press release to notify media of Southport's noncompliance on budget vote
- Created communication plan for bipartisan opposition to OPEGA funding cuts
- Ghost wrote three op-eds regarding OPEGA funding cuts
- Project management for the creation of MaineVotes.org
 - Managed programmers during development phase and website launch
 - Test and trouble shoot beta version of site
 - Created media and launch plan of site
 - Managed staff that manually populated data on site
 - Edited bill summaries and committee actions
 - Facilitated weekly project conference calls and meetings
 - Completed long term viability and cost study of site for project sponsor
- Provided accountability and transparency policy consulting to candidates and legislators
- Published: *"Revisiting term limits in Maine and beyond"* (PolitickerME.com, 12/2/08)
- Published: *"Clean elections, costly politics"* (PolitickerME.com, 10/23/08)
- Published: *"We've got questions. Do they have answers?"* (PolitickerME.com, 10/7/08)
- Published: *"Your tax dollars paid my salary"* (PolitickerME.com, 10/1/08)

Economy/Taxes

- Activated grassroots network to contact State Senator Bill Diamond regarding tax increase proposals during the 123rd Legislature
- Sent auto calls to all voters in Sen. Diamond's district encouraging him to oppose any new taxes
- Sent auto calls to all voters in Sen. Diamond's district expressing disappointment for his vote to increase taxes
- Consulted on tax policy for the Senate Republican leadership
- Ghost wrote one column on beverage tax increase
- Assisted the Maine tea parties in Bangor, Portland and Augusta

Energy

- Advised and drafted energy policy and strategy for several candidates
- Maine gas tax automatic gas tax increase interviews

Candidate/Activist Training

- Conducted three grassroots training seminars for "A Rising Tide" to more than 75 activists.
- Provided individualized candidate training to 27 candidates for Legislature
- Created district specific candidate handbooks
- Held five, day-long training sessions with approximately five candidates at each session (1/31/08, 3/6/08, 4/22/08, 5/1/08, 5/28/08). Topics which included:
 - Election law compliance
 - Communications and outreach
 - Campaign infrastructure
 - Campaign look and feel
 - Legislative priorities
 - MaineVotes.org training and tutorial
 - Issue policy discussions

Testimony/Lobbying

- LD 2178: "An Act To Increase Public Confidence in Government by Expanding Public Disclosure" (123rd Legislature)
- LD 105: "An Act To Increase the Allowable Contributions to Traditionally Funded Campaigns" (124th Legislature)
- LD 974: "An Act to Decrease the Automobile Excise Tax and Promote Energy Efficiency" (124th Legislature)
- LD 976: "An Act to Provide Tax Relief" (124th Legislature)

- LD 1353: "An Act Regarding Salary Information for Public Employees" (124th Legislature)
- LD 1288: "An Act To Reduce Income Tax Rates" (124th Legislature)
- LD 530: "Resolution, Proposing an Amendment to the Constitution of Maine to Reduce the Number of Signatures Required and Prohibit Payment for Signatures in the Citizen's Initiative Process"
- Created joint letter with Citizens in Charge, Maine Taxpayers United, and Maine Heritage Policy Center to the Legislature opposing LD 530 and LD 28 on constitutional grounds

Coalition Building and Outreach

- Maine Center Right Coalition
- Maine Taxpayers United
- Portland Taxpayers Association
- Maine Tea Party movement
- National participation in:
 - State Policy Network
 - National Taxpayers Union
 - Sam Adams Alliance
 - American Legislative Exchange Council
 - Americans for Tax Reform
 - American for Limited Government
 - Mackinac Center
 - Personal Democracy Forum
 - Heritage Resource Bank
 - American Solutions

Miscellaneous

- Published: "*Ideas for the next chair of the Maine Republican Party*" (*PolitickerME.com*, 11/20/08)
- Published: "*Oxford County casino proposal doesn't pass 'straight face test'*" (*PolitickerME.com*, 9/17/08)

Maine Leads in the News

Bills could strengthen lawmakers' ethics rules -*March 4, 2008*

http://pressherald.maintoday.com/story_pf.php?id=173399&ac=PHnws

GOP convention highlights-*May 7, 2008*

<http://www.politicker.com/maine/11680/convention-highlights>

Several Petitions Awaiting State Voters in Primary-*May 29, 2008*

<http://ellsworthmaine.com/site/index.php/2008052914782/Statehouse-News-Service/Several-Petitions-Awaiting-State-Voters-in-Primary.html>

Maine high court ruling to change petition process-*August 8, 2008*

<http://morningsentinel.mainetoday.com/news/local/5290415.html>

Activists turn in Maine initiative petitions-*November 3, 2008*

<http://www.seacoastonline.com/articles/20081103-NEWS-81103018>

Maine Leads, The Maine Heritage Policy Center Advance Three New Citizen Initiatives to Promote Economic Freedom in Maine-*November 3, 2008*

http://www.magic-city-news.com/State_18/Maine_Leads_The_Maine_Heritage_Policy_Center_Advance_Three_New_Citizen_Initiatives_to_Promote_Economic_Freedom_in_Maine10985.shtml

'09 ballot initiatives already on the table-*November 4, 2008*

<http://www.mainebiz.biz/news43694.html>

Battle simmers over auto tax-*January 24, 2009*

http://www.sunjournal.com/story/300753-3/Business/Battle_simmers_over_auto_tax/

Audio Archive on WGAN 560AM - Chris Cinquemani discusses the excise tax repeal effort-*January 24, 2009*

http://www.wgan.com/play_window.php?audioType=Episode&audioId=3373399

Maine officials OK ballot questions for taxes, public school, medical pot- *February 25, 2009*

<http://www.seacoastonline.com/articles/20090225-NEWS-902250368>

Legislators, Mainers again seek tax reform-*March 1, 2009*

<http://pressherald.mainetoday.com/story.php?id=242190&ac=PHnws>

RELEASE: Maine Leads Executive Director to Tax Committee: "Your efforts have largely failed."-*March 26, 2009*

STATEHOUSE: Vehicle taxes debated again-*March 27, 2009*

<http://morningsentinel.mainetoday.com/news/local/6121003.html>

Panel rejects car tax cut; November ballot likely-*April 8, 2009*

<http://kennebecjournal.mainetoday.com/news/local/6172257.html>

RELEASE: Bill to Hide Public Information Would Advance Agenda of Secrecy-*April 9, 2009*

Legislature to consider bill to keep employee salaries secret- *April 10, 2009*

<http://waldo.villagesoup.com/Government/story.cfm?storyID=153776>

RELEASE: Assistant Senate Democratic Leader: Government transparency "voyeuristic, sleazy"-*April 14, 2009*

Auburn Senator Shows Hypocrisy with Co-Sponsorship of Bill to Hide Public Information-*April 28, 2009*

Exception Magazine

TABOR NOW Hearing Tomorrow- *April 15, 2009*

<http://exceptionmag.com/politics/government/000686/tabor-now-hearing-tomorrow>

Bangor 'Tea Party' protest draws hundreds- *April 16, 2009*

<http://brewer.maineville.com/detail/103855.html>

RELEASE: Maine Leads Testifies in Support of TABOR NOW at Public Hearing-*April 16, 2009*

A government in shadows- *April 26, 2009*

http://www.sunjournal.com/story/314419-3/Columnist/A_government_in_shadows/

Form 990-EZ

Short Form Return of Organization Exempt From Income Tax

2008

Under section 501(c), 527, or 4947(a)(1) of the Internal Revenue Code (except black lung benefit trust or private foundation)

▶ Sponsoring organizations of donor advised funds and controlling organizations as defined in section 512(b)(13) must file Form 990. All other organizations with gross receipts less than \$1,000,000 and total assets less than \$2,500,000 at the end of the year may use this form.
▶ The organization may have to use a copy of this return to satisfy state reporting requirements.

Open to Public Inspection

Department of the Treasury
Internal Revenue Service

A For the 2008 calendar year, or tax year beginning , 2008, and ending , 20

B Check if applicable: <input type="checkbox"/> Address change <input type="checkbox"/> Name change <input checked="" type="checkbox"/> Initial return <input type="checkbox"/> Termination <input type="checkbox"/> Amended return <input type="checkbox"/> Application pending	Please use IRS label or print or type. See Specific Instructions.	C Name of organization MAINE LEADS INC	D Employer identification number 26-1247258
		Number and street (or P.O. box, if mail is not delivered to street address) Room/suite 12 CHURCH STREET SUITE 2	E Telephone number (207) 512-5378
		City or town, state or country, and ZIP + 4 AUGUSTA, ME 04332	F Group Exemption Number -- ▶

● Section 501(c)(3) organizations and 4947(a)(1) nonexempt charitable trusts must attach a completed Schedule A (Form 990 or 990-EZ).

G Accounting method: Cash Accrual
Other (specify) ▶

H Check if the organization is not required to attach Schedule B (Form 990, 990-EZ, or 990-PF).

J Organization type (check only one) - 501(c) (4) ◀ (insert no.) 4947(a)(1) or 527

K Check if the organization is not a section 509(a)(3) supporting organization and its gross receipts are normally not more than \$25,000. A return is not required, but if the organization chooses to file a return, be sure to file a complete return.

L Add lines 5b, 6b, and 7b, to line 9 to determine gross receipts; if \$1,000,000 or more, file Form 990 instead of Form 990-EZ ▶ \$ 421,187

Part I Revenue, Expenses, and Changes in Net Assets or Fund Balances (See the instructions for Part I.)

R e v e n u e	1	Contributions, gifts, grants, and similar amounts received	1	419,676
	2	Program service revenue including government fees and contracts	2	
	3	Membership dues and assessments	3	
	4	Investment income	4	1,511
	5a	Gross amount from sale of assets other than inventory	5a	
	5b	Less: cost or other basis and sales expenses	5b	
	5c	Gain or (loss) from sale of assets other than inventory (Subtract line 5b from line 5a) (attach schedule)	5c	
	6	Special events and activities (complete applicable parts of Schedule G). If any amount is from gaming, check here <input type="checkbox"/>		
	6a	Gross revenue (not including \$ of contributions reported on line 1)	6a	
	6b	Less: direct expenses other than fundraising expenses	6b	
6c	Net income or (loss) from special events and activities (Subtract line 6b from line 6a)	6c		
7a	Gross sales of inventory, less returns and allowances	7a		
7b	Less: cost of goods sold	7b		
7c	Gross profit or (loss) from sales of inventory (Subtract line 7b from line 7a)	7c		
8	Other revenue (describe ▶)	8		
9	Total revenue. Add lines 1, 2, 3, 4, 5c, 6c, 7c, and 8	9	421,187	
E x p e n s e s	10	Grants and similar amounts paid (attach schedule) STM122	10	75,000
	11	Benefits paid to or for members	11	
	12	Salaries, other compensation, and employee benefits	12	123,724
	13	Professional fees and other payments to independent contractors	13	160,710
	14	Occupancy, rent, utilities, and maintenance	14	24,291
	15	Printing, publications, postage, and shipping	15	23,407
	16	Other expenses (describe ▶ STM130)	16	38,394
	17	Total expenses. Add lines 10 through 16	17	445,526
A s s e t s	18	Excess or (deficit) for the year (Subtract line 17 from line 9)	18	(24,339)
	19	Net assets or fund balances at beginning of year (from line 27, column (A)) (must agree with end-of-year figure reported on prior year's return)	19	
	20	Other changes in net assets or fund balances (attach explanation)	20	
	21	Net assets or fund balances at end of year. Combine lines 18 through 20	21	(24,339)

Part II Balance Sheets. If Total assets on line 25, column (B) are \$2,500,000 or more, file Form 990 instead of Form 990-EZ.

(See the instructions for Part II.)

	(A) Beginning of year	(B) End of year
22	Cash, savings, and investments	22 100
23	Land and buildings	23 10,007
24	Other assets (describe ▶ STM131)	24 1,600
25	Total assets	25 11,707
26	Total liabilities (describe ▶ STM132)	26 36,046
27	Net assets or fund balances (line 27 of column (B) must agree with line 21)	27 (24,339)

Part V Other Information (Note the statement requirements in the instructions for Part VI.)

		Yes	No
33	Did the organization engage in any activity not previously reported to the IRS? If "Yes," attach a detailed description of each activity		X
34	Were any changes made to the organizing or governing documents but not reported to the IRS? If "Yes," attach a conformed copy of the changes		X
35	If the organization had income from business activities, such as those reported on lines 2, 6a, and 7a (among others), but not reported on Form 990-T, attach a statement explaining your reason for not reporting the income on Form 990-T.		
a	Did the organization have unrelated business gross income of \$1,000 or more or section 6033(e) notice, reporting, and proxy tax requirements?		X
b	If "Yes," has it filed a tax return on Form 990-T for this year?		
36	Was there a liquidation, dissolution, termination, or substantial contraction during the year? If "Yes," complete applicable parts of Schedule N		X
37 a	Enter amount of political expenditures, direct or indirect, as described in the instructions	37a	
b	Did the organization file Form 1120-POL for this year?	37b	X
38 a	Did the organization borrow from, or make any loans to, any officer, director, trustee, or key employee or were any such loans made in a prior year and still unpaid at the start of the period covered by this return?	38a	X
b	If "Yes," complete Schedule L, Part II and enter the total amount involved	38b	28,550
39	501(c)(7) organizations. Enter:		
a	Initiation fees and capital contributions included on line 9	39a	
b	Gross receipts, included on line 9, for public use of club facilities	39b	
40 a	Section 501(c)(3) organizations. Enter amount of tax imposed on the organization during the year under: section 4911; section 4912; section 4955		
b	Section 501(c)(3) and (4) organizations. Did the organization engage in any section 4958 excess benefit transaction during the year or did it become aware of an excess benefit transaction from a prior year? If "Yes," complete Schedule L, Part I	40b	X
c	Enter amount of tax imposed on organization managers or disqualified persons during the year under sections 4912, 4955, and 4958		
d	Enter amount of tax on line 40c reimbursed by the organization		
e	All organizations. At any time during the tax year, was the organization a party to a prohibited tax shelter transaction? If "Yes," complete Form 8886-T	40e	X
41	List the states with which a copy of this return is filed.		
42 a	The books are in care of <u>ROY LENARDSON</u> Telephone no. <u>207-512-5378</u> Located at <u>201 US ROUTE 1 BOX 185 SCARBOROUGH, ME</u> ZIP + 4 <u>04074</u>		
b	At any time during the calendar year, did the organization have an interest in or a signature or other authority over a financial account in a foreign country (such as a bank account, securities account, or other financial account)? If "Yes," enter the name of the foreign country: _____ See the instructions for exceptions and filing requirements for Form TD F 90-22.1, Report of Foreign Bank and Financial Accounts.	42b	X
c	At any time during the calendar year, did the organization maintain an office outside of the U.S.? If "Yes," enter the name of the foreign country: _____	42c	X
43	Section 4947(a)(1) nonexempt charitable trusts filing Form 990-EZ in lieu of Form 1041-Check here and enter the amount of tax-exempt interest received or accrued during the tax year	43	
44	Did the organization maintain any donor advised funds? If "Yes," Form 990 must be completed instead of Form 990-EZ	44	X
45	Is any related organization a controlled entity of the organization within the meaning of section 512(b)(13)? If "Yes," Form 990 must be completed instead of Form 990-EZ	45	X

Part VI Section 501(c)(3) organizations only. All section 501(c)(3) organizations must answer questions 46-49 and complete the tables for lines 50 and 51.

- 46 Did the organization engage in direct or indirect political campaign activities on behalf of or in opposition to candidates for public office?
47 Did the organization engage in lobbying activities?
48 Is the organization operating a school as described in section 170(b)(1)(A)(ii)?
49 a Did the organization make any transfers to an exempt non-charitable related organization?
b If "Yes," was the related organization(s) a section 527 organization?
50 Complete this table for the five highest compensated employees (other than officers, directors, trustees and key employees) who each received more than \$100,000 of compensation from the organization.

Table with 5 columns: (a) Name and address of each employee paid more than \$100,000; (b) Title and average hours per week devoted to position; (c) Compensation; (d) Contributions to employee benefit plans & deferred compensation; (e) Expense account and other allowances.

51 Complete this table for the five highest compensated independent contractors who each received more than \$100,000 of compensation from the organization. If there are none, enter "None."

Table with 3 columns: (a) Name and address of each independent contractor paid more than \$100,000; (b) Type of service; (c) Compensation.

Sign Here: Under penalties of perjury, I declare that I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief, it is true, correct, and complete. Declaration of preparer (other than officer) is based on all information of which preparer has any knowledge. Signature of officer: Roy Lenderson Director / Executive Director. Date: 7/11/09.

Paid Preparer's Use Only: Preparer's signature, Date, Check if self-employed, Preparer's Identifying No. (See inst.), EIN, Firm's name (or yours if self-employed), address, and ZIP + 4, Phone no.

May the IRS discuss this return with the preparer shown above? See instructions. Yes No

SCHEDULE L
(Form 990 or 990-EZ)

Department of the Treasury
Internal Revenue Service

Transactions with Interested Persons

▶ Attach to Form 990 or Form 990-EZ.
▶ To be completed by organizations that answered
"Yes" on Form 990, Part IV, line 25a, 25b, 26, 27, 28a, 28b, or 28c,
or Form 990-EZ, Part V, line 38b or 40b.

OMB No. 1545-0047

2008

Open to Public
Inspection

Name of the organization

MAINE LEADS INC

Employer identification number

26-1247258

Part I

Excess Benefit Transactions (section 501(c)(3) and section 501(c)(4) organizations only).

To be completed by organizations that answered "Yes" on Form 990, Part IV, line 25a or 25b, or Form 990-EZ, Part V, line 40b.

1	(a) Name of disqualified person	(b) Description of transaction	(c) Corrected?	
			Yes	No

2 Enter the amount of tax imposed on the organization managers or disqualified persons during the year under section 4958 ▶ \$ _____

3 Enter the amount of tax, if any, on line 2, above, reimbursed by the organization ▶ \$ _____

Part II

Loans to and/or From Interested Persons.

To be completed by organizations that answered "Yes" on Form 990, Part IV, line 26, or Form 990-EZ, Part V, line 38a.

(a) Name of interested person and purpose	(b) Loan to or from the organization?		(c) Original principal amount	(d) Balance due	(e) In default?		(f) Approved by board or committee?		(g) Written agreement?	
	To	From			Yes	No	Yes	No	Yes	No
	ROY LENARDSON STRATEGIC ADVO				X	28,550	28,550		X	X
Total				▶ \$	28,550					

Part III

Grants or Assistance Benefiting Interested Persons.

To be completed by organizations that answered "Yes" on Form 990, Part IV, line 27.

(a) Name of interested person	(b) Relationship between interested person and the organization	(c) Amount of grant or type of assistance

Part IV

Business Transactions Involving Interested Persons.

To be completed by organizations that answered "Yes" on Form 990, Part IV, line 28a, 28b, or 28c.

(a) Name of interested person	(b) Relationship between interested person and the organization	(c) Amount of transaction	(d) Description of transaction	(e) Sharing of organization's revenues?	
				Yes	No

Depreciation and Amortization (Including Information on Listed Property)

Department of the Treasury Internal Revenue Service (99)

See separate instructions.

Attach to your tax return.

Name(s) shown on return:

Business or activity to which this form relates

Identifying number

MAINE LEADS INC

FORM 990 - 1

26-1247258

Part I Election To Expense Certain Property Under Section 179

Note: If you have any listed property, complete Part V before you complete Part I.

Table with 13 rows for Part I. Columns include line numbers and descriptions of property and costs. Row 13 includes a carryover deduction to 2009.

Note: Do not use Part II or Part III below for listed property. Instead, use Part V.

Part II Special Depreciation Allowance and Other Depreciation (Do not include listed property.) (See instructions.)

Table with 3 rows for Part II. Columns include line numbers and descriptions of special depreciation allowance, section 168(f)(1) election, and other depreciation.

Part III MACRS Depreciation (Do not include listed property.) (See instructions.)

Section A

Table with 2 rows for Section A. Column 17 includes MACRS deductions for assets placed in service before 2008.

Section B - Assets Placed in Service During 2008 Tax Year Using the General Depreciation System

Table with 7 columns: (a) Classification of property, (b) Month and year placed in service, (c) Basis for depreciation, (d) Recovery period, (e) Convention, (f) Method, (g) Depreciation deduction. Includes rows for 3-year, 5-year, 7-year, 10-year, 15-year, 20-year, and 25-year property.

Section C - Assets Placed in Service During 2008 Tax Year Using the Alternative Depreciation System

Table with 7 columns: (a) Class life, (b) 12-year, (c) 40-year, (d) Recovery period, (e) Convention, (f) Method, (g) Depreciation deduction.

Part IV Summary (see instructions)

Table with 3 rows for Part IV. Column 21 includes listed property amount. Column 22 includes total amount of 735. Column 23 includes portion of basis attributable to section 263A costs.

Federal Supporting Statements

2008

Name(s) as shown on return

FEIN

FORM 990EZ, PART I, LINE 10
GRANTS AND SIMILAR AMOUNTS PAID SCHEDULE

STATEMENT #122

ACTIVITY		AMOUNT	RELATIONSHIP
POLITICAL ACTION COMMITTEE		25,000	
GRANTEE	MORE GREEN NOW PAC		
ADDRESS	PO BOX 403		
	AUGUSTA ME 043320403		
POLITICAL ACTION COMMITTEE		25,000	
GRANTEE	TABOR NOW PAC		
ADDRESS	PO BOX 464		
	AUGUSTA ME 043320464		
POLITICAL ACTION COMMITTEE		25,000	
GRANTEE	HEALTH CARE CHOICES NOW PAC		
ADDRESS	PO BOX 512		
	AUGUSTA ME 043320512		
	TOTAL	75,000	

FORM 990EZ, PART I, LINE 16
OTHER EXPENSES SCHEDULE 2

DESCRIPTION	AMOUNT
BANK SERVICE CHARGES	398
CONVENTION EXPENSE	471
DEPRECIATION EXPENSE	735
EDUCATION EXPENSE	325
INSURANCE EXPENSE	844
OFFICE EXPENSE	9,937
MISCELLANEOUS EXPENSE	2,088
GRASSROOTS ACTIVISM EXPENSE	6,799
PROMOTIONAL AND WEB SITE EXPENSE	9,580
TRAVEL AND MEETINGS EXPENSE	7,217
TOTAL	38,394

Federal Supporting Statements

2008

Name(s) as shown on return

FEIN

FORM 990EZ, PART II, LINE 24
OTHER ASSETS SCHEDULE 3

DESCRIPTION	BEGINNING OF YEAR	END OF YEAR
RENT SECURITY DEPOSIT		1,600
TOTAL		1,600

FORM 990EZ, PART II, LINE 26
OTHER LIABILITIES SCHEDULE 3

DESCRIPTION	BEGINNING OF YEAR	END OF YEAR
PAYROLL TAXES PAYABLE		7,496
LOAN PAYABLE STRATEGIC ADVOCAC		28,550
TOTAL		36,046

FORM 4562 - LINE 19B

PG01
STATEMENT # 50

BASIS	RP	CV	METHOD	DEDUCTION
1,047	5	HY	200 DB	209
1,350	5	HY	200 DB	270
TOTALS				479

Federal Supporting Statements

2008 PG01

Name(s) as shown on return

FEIN

MAINE LEADS INC

26-1247258

FORM 4562 - LINE 19I

STATEMENT # 51

<u>DATE</u>	<u>COST</u>	<u>DEDUCTION</u>
012008	3,750	92
072008	4,254	50
TOTALS		<u>142</u>



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

August 5, 2009

By E-Mail and Regular Mail

Daniel I. Billings, Esq.
Marden, Dubord, Bernier & Stevens
P.O. Box 708
Waterville, ME 04903-0708

Dear Mr. Billings:

Thank you for the information which Maine Leads provided through its Executive Director in response to requests #1 to #10 in my July 19 letter. This letter is to request further information, legal argument, and an opportunity to receive testimony from Maine Leads' Executive Director at the next meeting of the Commission.

Request for Information

The Commission staff additionally requests the following information:

11. Please describe how Maine Leads calculated the breakdown of staff time which Maine Leads provided in response to request #5(B). What information, records, or documents did Maine Leads rely on in calculating the breakdown?
12.
 - A. Please state the number of national nonprofit organizations which provided the 93% of 2007-2008 revenue referred to in Maine Leads' response to request #8.
 - B. Did these organizations receive the same initial funding proposal that was submitted to the National Tax Limitation Committee? If not, please provide copies of all funding proposals submitted to the organizations which eventually funded Maine Leads during 2007-2008. Information that may identify the funder may be redacted for the present purposes of this investigation.
 - C. Please state when those solicitations were made and the dates on which Maine Leads received grant funds from the funders.
 - D. In addition to the funding proposals, did Maine Leads make any other communications to those organizations (e.g., in face-to-face or telephone presentations) which would lead the organizations to believe that Maine Leads would use the funds received specifically to initiate or promote a citizen initiative?

OFFICE LOCATED AT: 242 STATE STREET, AUGUSTA, MAINE

WEBSITE: WWW.MAINE.GOV/ETHICS

PHONE: (207) 287-4179

FAX: (207) 287-6775

13. Please itemize by date and amount the payments totaling \$160,500 which Maine Leads made directly to Pioneer Group for collection of petition signatures.

The Commission staff requests that a representative of Maine Leads respond to each request under oath separately and fully no later than 5:00 p.m. on Wednesday, August 19, 2009. If Maine Leads objects to any of the requests, kindly state the objections and basis for those objections in the response.

Request for Legal Argument

The staff of the Commission requests that Maine Leads provide legal argument no later than Tuesday, August 25, 2009 regarding the following questions:

- whether Maine Leads qualified as a PAC under 21-A M.R.S.A. §§ 1052(5)(A)(3) and (4) in effect before June 30, 2008;¹
- whether Maine Leads qualifies as a PAC under § 1052(5)(A)(4) in effect beginning on June 30, 2008;
- whether Maine Leads was required to file campaign finance reports under § 1056(B) in effect before and after June 30, 2008; and
- whether any donations received by Maine Leads would be reportable if Maine Leads is required to file a § 1056-B report.

Counsel for Deborah Hutton is invited to provide legal argument on these topics by August 25 as well.

Request for Roy Lenardson to Provide Testimony

This is also to request (in lieu of a subpoena) that Roy Lenardson, as Executive Director of Maine Leads, attend the next Commission meeting to provide sworn testimony in response to questions from staff and Commission members concerning the issues under investigation as outlined in my letter of June 19, 2009. The meeting will be held at 9:00 a.m. on September 3, 2009 in Room 208 of the Burton M. Cross Office Building, 111 Sewall Street in Augusta. In the alternative, this meeting could be scheduled for September 8, 2009 if that were preferable for the witness. The meeting date is also contingent on the schedules of the Commission's new member and counsel.

¹ All statutory citations in this request refer to provisions in the Maine Election Law (Title 21-A of the Maine Revised Statutes).

Daniel I. Billings, Esq.

Page 3.

August 5, 2009

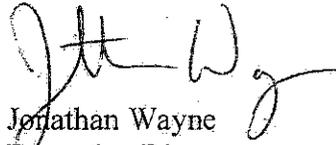
Subsequent Steps

The Commission staff will recommend to the Commissioners the following process for the investigation after the September 3, 2009 meeting:

- the Commission staff would quickly complete a memorandum summarizing factual information gathered to date and providing a legal analysis and staff recommendation to the Commissioners;
- Maine Leads and Deborah Hutton would be permitted to submit any final legal argument, including a response to the staff recommendation; and
- the Commission members would meet on October 1 or 2 to make a final determination on whether Maine Leads qualified as a political action committee or was required to file campaign finance reports under § 1056-B.

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

Sincerely,



Jonathan Wayne
Executive Director

cp

cc:

By E-Mail and Regular Mail

Phyllis Gardiner, Esq., Assistant Attorney General

Benjamin K. Grant, Esq., Counsel for Deborah Hutton



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

August 6, 2009

By E-Mail and Regular Mail

Trevor Bragdon
 Pioneer Group, Inc.
 P.O. Box 391
 Augusta, Maine 04332

REQUEST FOR INFORMATION

Dear Mr. Bragdon:

At their meeting on May 28, 2009, the members of the Maine Commission on Governmental Ethics and Election Practices directed the Commission staff to initiate an investigation regarding whether Maine Leads has violated Maine campaign finance laws by operating as an unregistered political action committee (PAC) or by not filing campaign finance reports required as a ballot question committee. This letter is to request information from Pioneer Group, Inc. in connection with the investigation.

Information Previously Received by the Commission

Payments to Pioneer Group Disclosed by PACs. In campaign finance reports filed with the Commission, three PACs disclosed payments to Pioneer Group in connection with An Act to Provide Tax Relief, An Act to Decrease the Automobile Excise Tax and Promote Energy Efficiency, and An Act to Expand Affordable Health Insurance Choices in Maine (referred to below as the “three citizen initiatives”):

The Road to a Cleaner Maine PAC		
12/28/2007	Payment for verified signatures	\$14,607.25
2/19/2008	Payment for verified signatures	\$5,741.75
6/9/2008	Payment for verified signatures	\$2,300.00
Affordable Health Care Choices for Maine PAC		
12/30/2007	Payment for verified signatures	\$17,730.15
6/9/2008	Signature collection	\$8,500.00
Citizens for a Prosperous Maine PAC		
11/1/2007	Campaign management	\$3,000.00
12/31/2007	Payment for verified signatures	\$17,325.55
6/8/2008	Signature collection	\$6,700.00
8/8/2008	Signature collection	\$3,900.00

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

Payments to Pioneer Group Disclosed by Maine Leads. In addition, in an affidavit dated July 29, 2009, Roy Lenardson disclosed that Maine Leads paid a total of \$160,500 to Pioneer Group for the collection of signatures on the three citizen initiatives. These payments have not been disclosed in campaign finance reports submitted to the Commission.

Request for Information

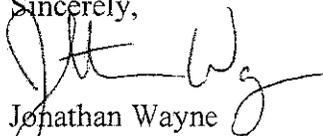
The staff of the Commission requests the following information from Pioneer Group:

1. A. Please confirm whether the disclosure of the payments by the three PACs and by Mr. Lenardson referred to above accurately states all payments which Pioneer Group received from Maine Leads and from the three PACs for purposes of gathering signatures or otherwise initiating or promoting the three citizen initiatives.
- B. If the payments disclosed are not accurate or complete, please provide an itemization of all payments which Pioneer Group received from the three PACs and from Maine Leads. Please include the payer, date, amount, and purpose for each payment.
2. Other than Maine Leads and the three PACs, did Pioneer Group receive payments from any other source aggregating in excess of \$1,500 for the purpose of gathering signatures or otherwise initiating or promoting the three citizen initiatives? If so, please identify the person or organization making the payments, and the date, amount, and purpose of each payment.

The Commission staff requests that you respond to each request under oath separately and fully no later than 5:00 p.m. on Thursday, August 20, 2009. If you or Maine Leads objects to any of the requests, kindly state the objections and basis for those objections in the response.

Please call me at 287-4179 if you have any questions.

Sincerely,


Jonathan Wayne
Executive Director

cp
cc:

By E-Mail and Regular Mail

Phyllis Gardiner, Esq., Assistant Attorney General
Daniel I. Billings, Esq., Counsel for Maine Leads
Benjamin K. Grant, Esq., Counsel for Deborah Hutton

**AFFIDAVIT OF ROY LENARDSON
IN RESPONSE TO QUESTIONS FROM THE STAFF OF MAINE COMMISSION ON
GOVERNMENTAL ETHICS & ELECTION PRACTICES**

I, Roy Lenardson, Executive Director of Maine Leads, after being duly sworn, do hereby depose and say as follows:

QUESTION No. 11 Please describe how Maine Leads calculated the breakdown of staff time which Maine Leads provided in response to request #5(B). What information, records, or documents did Maine Leads rely on in calculating the breakdown?

ANSWER: The breakdown was compiled based on a variety of information. For certain projects, there were records available detailing the amount of staff time invested in the project. For most activities, the breakdown was based on discussions with Maine Leads staff concerning the amount of time devoted to certain tasks and activities. We also reviewed deliverables prepared for certain activities and were able to estimate the time spent to complete the projects. As noted in my original answer, the estimates provided were prepared in response to the request from Commission staff. Though I believe the estimates to be accurate, the summary was prepared after the fact. Maine Leads staff did not generally keep calendars or time cards that broke down their time based on certain activities or projects. For the purposes of this investigation, I am comfortable with the estimate provided for initiative related activities. Trevor Bragdon, who was overseeing the signature gathering process, was not on the Maine Leads payroll at the times when most of the signatures were collected for the three initiatives. The work related to signature gathering was conducted by contractors and/or employees of Pioneer Group, Inc. A substantial amount of work was done by people working for Pioneer Group, Inc. to collect, mail, and sort petitions. Those collecting signatures also worked for Pioneer Group, Inc., not Maine Leads.

QUESTION No. 12

A. Please state the number of national nonprofit organizations which provided the 93% of 2007-2008 revenue referred to in Maine Leads response to request #8.

ANSWER: Three.

B. Did the organizations receive the same initial funding proposal that was submitted to the National Tax Limitations Committee? If not, please provide copies of all funding proposals submitted to the organizations which eventually funded Maine Leads during 2007-2008. Information that may identify the funder may be redacted for the present purposes of this investigation.

ANSWER: The organizations received the same initial funding proposal. The proposal came about as a result of ongoing discussions with one of the funders that was in 2007 interested in helping established state level organizations to create capacity to further the ends of lower taxes, government transparency, and economic freedom. The initial funding proposal was prepared at the suggestion of the funder and the first funder facilitated the proposal being presented to the other organizations that ultimately agreed to help fund Maine Leads.

C. Please state when the solicitations were made and the dates on which Maine Leads received grant funds from the funders.

ANSWER: The initial discussions were held with the first funder during the summer of 2007. The funding proposal was prepared and submitted in the fall of 2007. There were additional follow-up discussions into early 2008. The first grant funding was received on October 31, 2007. The next grant was received on January 15, 2008 and the last grant was received on March 13, 2008.

D. In addition to the funding proposals, did Maine Leads make any other communications to those organizations (e.g., in face-to-face or telephone presentations) which would lead the organizations to believe that Maine Leads would use the funds received specifically to initiate or promote a citizen initiative?

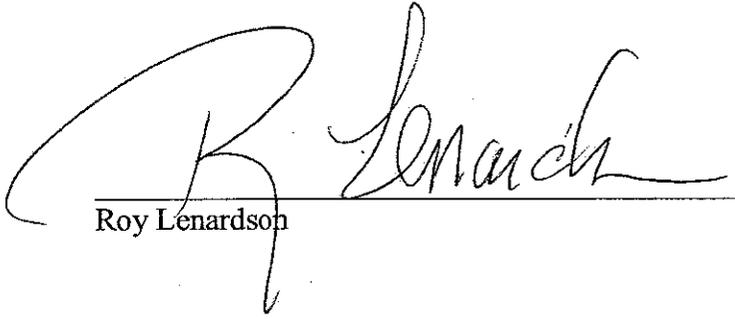
ANSWER: No.

QUESTION No. 13 Please itemize by date and amount the payments totaling \$160,500 which Maine Leads made directly to Pioneer Group for collection of petition signatures.

ANSWER: The date and amounts of the payments by Maine Leads to Pioneer Group are listed below:

11/05/2007	\$65,000.00
12/17/2007	\$12,000.00
12/27/2007	\$5,000.00
12/31/2007	\$10,000.00
01/10/2008	\$7,500.00
01/11/2008	\$3,000.00
01/17/2008	\$3,500.00
01/17/2008	\$20,000.00
03/05/2008	\$6,000.00
03/26/2008	\$6,500.00
04/11/2008	\$4,500.00
05/29/2008	\$5,000.00
06/23/2008	\$3,000.00
07/16/2008	\$2,000.00
08/05/2008	\$3,600.00
08/29/2008	\$3,900.00

Dated:



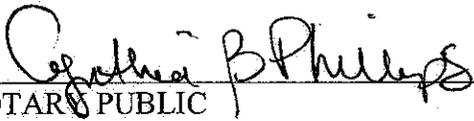
Roy Lenardson

STATE OF MAINE
COUNTY OF Kennebec, ss.

Dated: August 18, 2009

Personally appeared the above named Roy Lenardson and swore to the truth of the foregoing.

Before me,



NOTARY PUBLIC

Printed Name: CYNTHIA B. PHILLIPS

My Commission Expires: Notary Public, Maine

My Commission Expires October 7, 2011

**AFFIDAVIT OF TREVOR BRAGDON
IN RESPONSE TO QUESTIONS FROM THE STAFF OF MAINE COMMISSION ON
GOVERNMENTAL ETHICS & ELECTION PRACTICES**

I, Trevor Bragdon, of Pioneer Group, Inc., after being duly sworn, do hereby depose and say as follows:

QUESTION No. 1

A. Please confirm whether the disclosure of the payments by the three PACs and by Mr. Lenardson referred to above accurately states all payments which Pioneer Group received from Maine Leads and from the three PACs for the purposes of gathering signatures of otherwise initiating or promoting the three citizen initiatives.

ANSWER: The payments disclosed by the three PACs and by Roy Lenardson are accurate. In addition, More Green Now and TABOR Now have been billed by Pioneer Group for the final signature collection efforts. More Green Now was billed \$12,500 on March 24, 2009. More Green Now paid \$1,200 towards that bill on March 24, 2009. A balance of \$11,300 remains due and has been reported by the PAC on its campaign finance reports. TABOR Now was billed for \$13,500 on March 24, 2009. TABOR NOW paid \$2,500 on April 16, 2009. A balance of \$11,000 remains due and has been reported by the PAC on its campaign finance reports. Pioneer Group is also now being paid by TABOR NOW for campaign management. \$1500 has been paid for campaign management in June and \$2000 has been paid for campaign management for July. \$3500 has been billed for August but has not yet been paid.

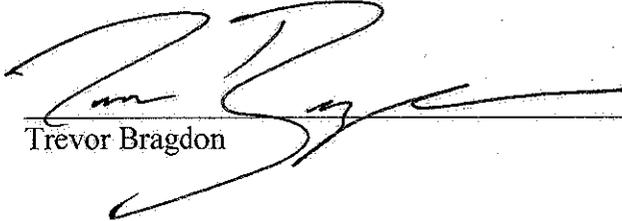
B. If the payments disclosed are not accurate or complete, please provide an itemization of all payments which Pioneer Group received from the three PACs and Maine Leads. Please include the payer, date, amount, and purpose of each payment.

ANSWER: There were no additional payments.

QUESTION No. 2 Other than Maine Leads and the three PACs, did Pioneer Group receive payments from any other source aggregating in excess of \$1,500 for the purpose of gathering signatures or otherwise initiating or promoting the three citizen initiatives? If so, please identify the person or organization making the payments, and the date, amount, and purpose of each payment.

ANSWER: Pioneer Group received no other payments from any other source related to the three citizen initiatives that are the subject of the investigation. Pioneer Group has received payments from other sources for services provided related to other citizen initiatives.

Dated:

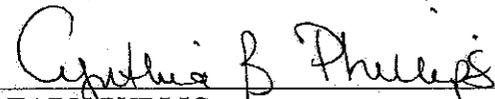

Trevor Bragdon

STATE OF MAINE
COUNTY OF Kennebec, ss.

Dated: August 18, 2009

Personally appeared the above named Trevor Bragdon and swore to the truth of the foregoing.

Before me,


NOTARY PUBLIC
Printed Name: **CYNTHIA B. PHILLIPS**
My Commission Expires: Notary Public, Maine
My Commission Expires October 7, 2011

McTEAGUE, HIGBEE, CASE, COHEN, WHITNEY & TOKER, P.A.

ATTORNEYS AT LAW
FOUR UNION PARK
P.O. BOX 5000
TOPSHAM, MAINE 04086-5000



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207-725-5581

PORTLAND
800-482-0958

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207-725-1090

WWW.ME-LAW.COM

G. WILLIAM HIGBEE
JAMES W. CASE
JEFFREY L. COHEN
WAYNE W. WHITNEY
JANMARIE TOKER
JEFFREY N. YOUNG
KEVIN M. NOONAN
JAMES G. FONGEMIE
SUZANNE L. JOHNSON
KAREN M. BILODEAU
PATRICK M. KELLY
BENJAMIN K. GRANT

PATRICK N. McTEAGUE
OF COUNSEL

RECEIVED

AUG 26 2009

MAINE ETHICS COMMISSION

August 25, 2009

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

Re: Maine Leads Investigation

Dear Mr. Wayne:

Thank you for the opportunity to submit a letter in response to Maine Leads' recent submissions.

With this information in hand, at least one suspicion we brought to the attention of the Ethics Commission is confirmed, namely that Maine Leads operated as a PAC under the definition that existed from October 1, 2007 to June 30, 2008. Whether Maine Leads ran afoul of the successor statute that applied after June 30, 2008 is a closer question.

The information provided by Maine Leads that leads to these conclusions is as follows:

1) Solicitation

Paragraph #2 of Mr. Billings' introductory letter to Maine Leads' July 24, 2009 letter indicates that the included 2007 funding proposal is the only document that Maine Leads is providing in response to the subpoena. Later, in Answer #9, Roy Lenardson states that 93% of Maine Leads' revenue for the time period in question resulted from this original funding proposal.

The funding proposal itself states on the introductory (unnumbered) page that there are "FIVE main components" of the proposed C-4 organization. One of the five components is "A Factory of Citizen Initiatives." Later in the same document, six additional components are

described that appear to comprise the actual proposed activities. Among them is "I&R Activism," which includes: a) ballot initiative development, b) signature collection strategy and training, c) PAC development and organization, and d) ballot campaign strategy.

The Commission then asked in Question #10(B) if any funds in the relevant time period were "provided in response to a solicitation that would lead the contributor to believe that the funds would be used specifically for the purpose of initiating, promoting, defeating or influencing in any way a citizen initiative." Shockingly, Mr. Lenardson answered that "no contributions were received which would fall within [this category]."

In sum, Maine Leads admits that nearly all of its revenue was generated from the one written proposal discussed here – and that proposal articulates an obvious, specific plan to engage in the initiative process – yet also maintains that no contributions were received from a contributor that was led to believe the donation would be used to influence a direct initiative. This notion defies belief. By any standard, it must be concluded that a contributor would believe that his or her funds would then be used in such a manner, since this sole solicitation was so explicit regarding Maine Leads' intention to engage in this type of activity.

Of course, the solicitation by itself contains arguably equal treatment of the five "components," so assessing actual Maine Leads activity is essential to forming a complete conclusion.

2) Total Expenditures

As discussed at length in prior submissions, the question before the Commission regarding the pre-6/30/08 period largely turns on the "major purpose test" found in 21-A M.R.S.A. § 1052(A)(4). One measure of "major purpose" is monetary expenditures. In its most recent letter, Mr. Lenardson admits in Answer #4 to \$445,526 in total Maine Leads expenditures from October 1, 2007 through December 31, 2008. Later, Mr. Lenardson admits in Answer #7 to Maine Leads paying:

- A) Pioneer Group, Inc. \$160,500 for signature collection
- B) staff and estimated \$4,948.96 for related activities during that period,
and
- C) \$75,000 to the three PACs that "supported" the signature gathering

In sum, Maine Leads admits to \$240,448.96 in expenditures that are unquestionably for the sole purpose of influencing the direct initiative process. This results in a minimum of 54% of its expenditures on this one activity, even granting the fiction that *all* expenditures occurred pre-6/30/08.¹ Obviously, Maine Leads continued to make expenditures after this date, and our back-of-the-napkin calculation, assuming ½ of the payroll, overhead, and "other" expenditures

¹ Maine Leads was not asked to break down total expenditures into segments representing the pre-6/20/08 period and the post-6/20/08 period.

occurred post-6/30/08, results in the percentage devoted to direct initiatives rising to 68% for the pre-6/30/08 time period.

We submit that any activity comprising 54%-68% of an organization's expenditures must be deemed that group's "major purpose."²

3) Maine Leads' Self-Identified Activities

Another measure of "major purpose" is the constellation of activities engaged in by the organization. Maine Leads provided a three page summary of purportedly diverse activities, divided by category. A close examination of this list, however, only serves to confirm that Maine Leads' "major purpose" during the pre-6/30/08 time period was, in fact, supporting the direct initiative campaigns at issue here. The post-6/30/08 period is a closer question.

In the "Health Care" category, Maine Leads lists five activities. Two of these activities, however, necessarily occurred post-6/30/08: "opposed federal government takeover of health care" (hyperbole aside, this presumably refers to the Obama health care initiative, first proposed this year), and published an article on 9/24/08. Two other activities occurred on undetermined dates, and one certainly occurred pre-6/30/08 (op-ed related to 123rd Legislature).

In the "Transparency/Accountability" category, Maine Leads list twelve activities. Five of these activities, however, necessarily occurred post-6/30/08: the four dated articles and the launch of MaineOpenGov.org (released 9/08 according to newspaper reports). The rest of the activities are undated.

In the "Economy/Taxes" category, Maine Leads lists six activities. One of these activities necessarily occurred post-6/30/08: the so-called "tea-parties," a contrived grass-roots phenomenon that originated earlier in 2009 to oppose President Obama. Three activities occurred pre-6/30/08 (those related to Sen. Diamond) and two activities are undated.

In the "Energy" category, Maine lists two undated activities.

In the "Candidate/Activist Training" category, Maine Leads lists 4 activities - four undated and one that occurred pre-6/30/08 (training sessions).

In the "Testimony/Lobbying" category, Maine Leads lists eight activities. Seven of these activities, however, necessarily occurred post-6/30/08 (124th Legislature), and only one (123rd Legislature) occurred pre-6/30/08.

² Without further information regarding the paid staff time devoted to the direct initiatives since June 30, 2008, it is not possible to answer with such certitude the question of violation of the new (and current) ballot question committee statutes.

In the “Coalition Building and Outreach” category, Maine Leads lists five groups. The actual “activities” are not listed or dated, though one necessarily occurred post-6/30/08 (Tea Party “movement” support).

In the “Miscellaneous” category, Maine Leads lists two articles published post-6/30/08.

In sum, an appraisal of Maine Leads’ activities limited to October 1, 2007 to June 30, 2008 reveals only a modicum of activity outside of the direct initiative process. This activity fails to outweigh the substantial monetary expenditures related above in an assessment of “major purpose.” Maine Leads testified only *once* at the Legislature, generated pressure on *one* Legislator regarding *one* issue, targeted *one* town’s selectmen, trained *some* Legislative candidates and ghost-wrote a *few* op-ed pieces. The Commission should conclude that these activities do not rise individually or collectively to the level of a “major purpose” when weighed against Maine Leads’ direct initiative expenditures.

4) Maine Leads in the News

Another possible measure of “major purpose” is review of what the public can learn about an organization through its public statements and appearances in news stories. To this end, Maine Leads provided a three page list of appearances by Maine Leads or its operatives in the Maine press. A close examination of this list, however, only serves to confirm that Maine Leads’ “major purpose” during the pre-6/30/08 time period was, in fact, supporting the direct initiative campaigns at issue here. Again, the post-6/30/08 period is a closer question.

Maine Leads lists twenty-two articles of press releases. Of these twenty-two articles, only three occurred pre-6/30/08, and one of those was about the direct initiative process (“Several petitions Awaiting State Voters...”). Nineteen of the articles occurred post-6/30/08 – and ten of these still regarded the direct initiatives.

Thus, throughout Maine Leads’ existence, it has been closely associated in the press with the direct initiative movement, both before and after Maine Leads spearheaded the signature gathering, and both before and after the reporting laws changed in 2008.

Conclusion

The story that emerges from this potpourri of information is nothing more than the unsurprising growing pains of a newly formed organization. Maine Leads submitted an ambitious proposal to national conservative funding organizations and described five ambitious components to achieve its mission:

- A Sentry at the State House
- An Engine for Citizen Activism
- A Government Watchdog
- A Factory of Citizen Initiatives

Jonathan Wayne, Executive Director
August 25, 2009
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- An Arsenal of Information

As of today Maine Leads has probably taken steps to making each of these five goals a reality. However, from October 1, 2007 to June 20, 2008, it had taken very limited steps on four of these items, and a gigantic step on the fifth. Unfortunately for Maine Leads, becoming a "Factory for Citizen Initiatives" does not merely exist as a clever description on a mission statement – it, alone among the list of proposals, implicates State election law. At minimum, by deploying approximately 68% of its expenditures on the direct initiatives at issue here, Maine Leads qualified itself as a PAC between October 1, 2007 and June 30, 2008, and should have field as such for this time period.

Very truly yours,



Benjamin K. Grant

BKG:bkg

AUG 27 2009

MAINE ETHICS COMMISSION

**MARDEN, DUBORD,
BERNIER & STEVENS**

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August 25, 2009

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

RE: Maine Leads Investigation – Legal Argument offered on behalf of Maine Leads

Dear Mr. Wayne:

Please accept this letter as legal argument offered on behalf of Maine Leads as requested in your letter dated August 5, 2009.

As a preliminary matter, I would like to thank you for the manner that the investigation has been conducted since the Commission's May meeting. Though I took issue, on behalf of my client, with the initial request for information and the limited time provided to respond, the process used since the May meeting has been excellent. My client and I very much appreciate the specific and focused requests for information and the time allowed to provide appropriate responses. Though I am sure there will be disagreements regarding the conclusions that should be reached from the information provided, I believe those involved in this proceeding and the public have been well served by the process moving forward in a careful and deliberate manner.

Each of the legal questions raised in your August 5, 2009 are addressed below.

1. Did Maine Leads qualify as a political action committee ("PAC") under 21-M.R.S.A. §§ 1052(5)(A)(3) and (4) in effect before June 30, 2008?

For the reasons stated below, Maine Leads did not qualify as a PAC under the statutory definition in effect before June 30, 2008.

The applicable definition of PAC in effect before June 30, 2008 is copied below:

Political action committee. The term "political action committee:"

A. Includes:

...

(3) Any organization, including any corporation or association, that has as its major purpose advocating the passage or defeat of a ballot question and that makes expenditures other than by contribution to a political action committee, for the purpose of the initiation, promotion or defeat of any question; and

(4) Any organization, including any corporation or association, that has as its major purpose advocating the passage or defeat of a ballot question and that solicits funds from members or nonmembers and spends more than \$1,500 in a calendar year to initiate, advance, promote, defeat or influence in any way a candidate, campaign, political party, referendum or initiated petition, including the collection of signatures for a direct initiative, in this State;

Both of these definitions focus on the "major purpose" of an organization. Though the statute does not specifically state at what point in time an organization's "major purpose" is to be judged, in the only case of which I am aware where the Commission analyzed this issue, a majority of the Commission agreed that a determination of an organization's major purpose should be made by looking at why the organization was formed and why the organization continues to exist. In describing an organization's major purpose, Commissioner Friedman described major purpose as "the underlying reason for [the] entity to be in existence" or "the overriding purpose for its being." Maine Ethics Commission, In the Matter of: Maine Heritage Policy Center, December 20, 2006 at pp. 226-227.

Though the prior interpretation of the statute is not binding on the Commission, the ~~rational for the 2006 interpretation~~ remains sound. Following the Commission's prior precedent will maintain stability and continuity in the regulation of campaign finance in Maine and respect the expectations of those who are regulated by the Commission. Another factor to consider is that the Legislature amended the PAC definition since 2006 but made no changes to the law which can be taken to indicate any disagreement with the Commission's 2006 interpretation of the statute.

Whether Maine Leads qualified as a PAC under either definition is ultimately a mixed question of fact and law. Maine Leads has presented affidavits and supporting documents which support the conclusion that the organization's major purpose was not "advocating the passage or defeat of a ballot question." Roy Lenardson will be present at the Commission's September 2, 2009 meeting and will be prepared to answer additional questions regarding the organization's major purpose. In my opinion, the best evidence available to determine Maine Leads major purpose is the initial funding proposal for Maine Leads that was prepared in

2007 and resulted in 93% of the funding that the organization received through December 30, 2008. This proposal is significant because it was not prepared as a result of this investigation and specifically describes the reasons advanced for funding the organization which were made to the entities which ultimately provided the vast majority of the funds received by Maine Leads during the period of time at issue in this investigation. The position that Maine Leads' major purpose is not "advocating the passage or defeat of a ballot question" is also supported by the many varied issues and activities that the organization has been involved in since its formation.

In analyzing an organization's major purpose, one should not focus on the percentage of an organization's resources that are used for referendum related activities during any one period of time. Such an analysis would result in many organizations being deemed PACs at certain periods of time. An emphasis should also not be put on the fact that Maine Leads expended funds for signature collection early in its existence. Placing any significance on this fact would show a bias towards existing organizations and place constitutionally questionable limitations on the ability of new organizations to become involved in referendum related activities.

Both of the definitions quoted above refer only to organizations which have the major purpose of "advocating the passage or defeat of a ballot question." For this definition to apply there must be a ballot question. Through June 29, 2008, the three initiatives at issue in this investigation were not ballot questions. Under Maine's initiative process, a successful petition drive simply puts an initiated bill before the Legislature¹. A ballot question only comes about if the Legislature does not pass the initiated bill. Under Maine law, the Secretary of State does not draft the ballot question concerning an initiative until after the Legislature adjourns. 21-A M.R.S.A. § 905-A. Secretary of State Dunlap did not finalize the ballot questions concerning the initiatives to be voted on by Maine voters in November until August 6, 2009². Because in 2007 and 2008, there existed no ballot questions concerning the three initiatives in question, "advocating the passage or defeat" of such ballot questions could not have been Maine Leads' primary purpose.

The definition contained in subsection 4 sets up a three part test under which each part of the test must be passed for an organization to be defined as a PAC. The organization must (1) have as its major purpose advocating the passage or defeat of a ballot question; (2) it must solicit funds for that purpose; and (3) it must spend more than \$1,500 in a calendar year for that purpose. If any one of three requirements is not present, the organization is not a PAC under the definition. For the reasons previously discussed, there was not ballot question for Maine Leads to advocate the passage or defeat of during 2007 and 2008. In addition, no evidence has been presented that Maine Leads solicited funds "to initiate, advance, promote, defeat or influence in any way a . . . referendum or initiated petition, including the collection

¹ Three times in the last 20 years, the Legislature has passed and the Governor signed bills initiated by petition without the bills in question ever becoming the subject of a "ballot question."

² A copy of the Secretary of State's August 6, 2009 press release announcing the final wording of the ballot questions is enclosed.

of signatures for a direct initiative, in this State.” Without evidence of such solicitation, the Commission can not conclude that Maine Leads was a political action committee under the definition contained in subsection 4.

It has been suggested that in adopting the definitions quoted above the Legislature intended to require greater reporting of expenditures related to signature gathering. While this may be true, it is the Commission’s role to enforce the law as enacted – not to read into it what some may believe was intended. For an organization to be defined as a PAC under the definitions quoted above, its major purpose must be advocating the passage or defeat of a ballot question. If there is no ballot question, by the plain language of the statute, the definition can not apply. If there is a ballot question, the third part of subsection 4 establishes that money spent to collect signatures counts towards the \$1500 threshold. The language “including the collection of signatures for a direct initiative” was not made part of the major purpose test. It was only made part of the reporting threshold that applies to those entities whose major purpose is advocating the passage or defeat of a ballot question. The language is plain and unambiguous.

2. Does Maine Leads qualify as a political action committee (“PAC”) under 21-M.R.S.A. § 1052(5)(A)(4) in effect beginning June 30, 2008?

The applicable definition of PAC in effect beginning June 30, 2008 is copied below:

Political action committee. The term “political action committee:”

A. Includes:

....

(4) Any organization, including any corporation or association, that has as its major purpose initiating, promoting, defeating or influencing a candidate election, campaign or ballot question and that spends more than \$1,500 in a calendar year for that purpose, including for the collection of signatures for a direct initiative or referendum in this State;

This definition is considerably broader than the prior definition discussed above. The definition is no longer limited to organizations whose major purpose is “advocating the passage or defeat of a ballot question.” The definition now includes initiating, promoting, defeating, or influencing a candidate election, campaign, or ballot question. The definition of campaign contained in 21-A M.R.S.A. § 1052(1) specifically includes the initiative and referendum process. As a result, an organization whose major purpose is collecting signatures for an initiative would now be a PAC.

Despite the broader definition of PAC now in effect, the major purpose of Maine Leads should be determined by considering why the organization was formed and continues to exist. For the reasons stated above, the evidence before the Commission supports the

conclusion that the major purpose for Maine Leads' existence is not any campaign or ballot question.

In applying this broader definition, the Commission should also consider that the vast majority of Maine Leads' referendum related expenditures occurred before this broader definition became law. All evidence is that Maine Leads' referendum related expenditures since June 30, 2008 have been small. The majority of the signatures for the initiatives in question were collected before June 30, 2008 and the signature gathering process was completed in November 2008. Trevor Bragdon, the person who organized the signature gathering, was not on the Maine Leads payroll between June 30, 2008 and the date that signatures were turned in to the Secretary of State. This is supported by reports on file with the Commission that establish that Mr. Bragdon's company – Pioneer Group Inc. – was paid significant sums by a candidate PAC during 2008.

3. Was Maine Leads required to file campaign finance reports under § 1056(B) in effect before and after June 30, 2008?

Though changes have been made to § 1056(B), the portions of the law that are significant to the analysis of Maine Leads' activities have remained the same throughout the period of time at issue in this investigation and are copied below:

Any person not defined as a political action committee who solicits and receives contributions or makes expenditures, other than by contribution to a political action committee, . . . for the purpose of initiating, promoting, defeating or influencing in any way a ballot question must file a report with the commission.

This section requires reporting by non-PACs of their contributions and expenditures related to ballot questions. For reporting under the statute to be required, there must be a ballot question³. This conclusion is required by the plain language of the statute. As discussed above, during the period of time that signatures are gathered on initiative petitions, there is no ballot question. A ballot question only comes into existence if an initiated bill is rejected by the Legislature. Because there was no ballot question related to the three initiatives in 2007 or 2008, no reporting was required under § 1056(B)⁴.

³ Since June 30, 2008, § 1056(B) has been entitled "Ballot question committees." This reinforces the intent of the Legislature to only require reporting under this statute when there is a ballot question.

⁴ Maine Leads filed a ballot question campaign finance report on July 15, 2009. This was done pragmatically to avoid further complaints. Maine Leads believes that no filing was required until after the Secretary of State had finalized the actual ballot questions.

4. Were there any donations received by Maine Leads that would be reportable if Maine Leads is required to file a § 1056(B) report?

No. Maine Leads received no contributions “for the purpose of initiating, promoting, defeating or influencing in any way a ballot question.” This position is supported by the affidavits and supporting information submitted by Maine Leads.

Conclusion

For these reasons, Maine Leads believes that it was not required to file any reports with the Commission related to its activities before August 6, 2009. However, through its responses to the requests for information during this investigation, Maine Leads has effectively disclosed all the information that is required to be included in a report filed pursuant to § 1056(B). As a result, Maine Leads will not object if the Commission determines that it should file reports pursuant to § 1056(B). However, Maine Leads does object to, and will contest, a determination that it is a PAC or the imposition of any financial penalty.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Daniel I. Billings".

Daniel I. Billings



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DEPARTMENT OF THE
**Secretary
of State**
STATE OF MAINE



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FOR IMMEDIATE RELEASE

August 6, 2009

CONTACT: Matt Dunlap (207)626-8400

Maine Secretary of State Matt Dunlap Releases Final Referendum Questions

AUGUSTA, Maine—After a statutory public comment period, Secretary of State Matt Dunlap finalized four referendum questions today that will appear on the ballot for voters to decide on the November 3, 2009 referendum ballot.

The four citizen initiatives were certified by Dunlap in February after staff at the State Division of Elections within the Bureau of Corporations, Elections and Commissions determined that each had met the constitutional requirement of presenting not fewer than 55,087 signatures of registered Maine voters in order to present a proposed new law to the Legislature for consideration. A fifth initiative fell short of the requirements.

With the Legislature having declined to adopt the proposals, the next step in the constitutional process is to subject them to a statewide vote in the next election, which will be held in November. The Secretary of State is charged with drafting the questions to be posed to the voters on the ballot. Maine law (Title 21-A MRSA Section 905-A) stipulates that before a ballot question is finalized the Secretary must "provide a 30-day public comment period for the purpose of receiving comments on the content and form of proposed questions to be placed on the ballot for any pending initiatives."

"We received about 65 comments from individuals and organizations. Some supported all the questions as written, and many made technical suggestions for clarification, which was very enlightening and helpful," Dunlap said. "The intent of the law was to engage the public and get their input to help us write the best possible questions, and I believe we've done just that."

Dunlap noted that several of the proposals are technically complex, and that makes the crafting of simple, easy-to-understand questions difficult. "We spent several hours on the first drafts with volunteers on the ballot clarity advisory board, the Attorney General's office, and others. The feedback from the public has led to more changes, which we hope will more closely capture the essence of the proposals and convey clearly to the voter what it will mean to vote either yes or no on these questions."

The titles of the initiated bills are listed below accompanied by the questions that will appear on the ballot:

An Act to Decrease the Automobile Excise Tax and Promote Energy Efficiency

"Do you want to cut the rate of the municipal excise tax by an average of 55% on motor vehicles less than six years old and exempt hybrid and other alternative-energy and highly fuel-efficient motor vehicles from sales tax and three years of excise tax?"

An Act to Provide Tax Relief

"Do you want to change the existing formulas that limit state and local government spending and require voter approval by referendum for spending over those limits and for increases in state taxes?"

An Act to Repeal the School District Consolidation Laws

"Do you want to repeal the 2007 law on school district consolidation and restore the laws previously in effect?"

An Act to Establish the Maine Medical Marijuana Act

"Do you want to change the medical marijuana laws to allow treatment of more medical conditions and to create a regulated system of distribution?"

Dunlap noted that the actual order in which the questions will appear on the ballot is not yet determined, as certification is underway on a People's Veto petition and another veto petition is currently circulating. The ballot order will be determined by drawing later this summer.

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STATE OF MAINE
COMMISSION ON GOVERNMENTAL ETHICS AND ELECTION PRACTICES

-----X

IN THE MATTER OF:

MAINE LEADS

TESTIMONY OF ROY LENARDSON

-----X

September 8, 2009

HELD AT: County of Kennebec
State of Maine

BEFORE: MICHAEL P. FRIEDMAN, ESQ., Chair
HONORABLE EDWARD M. YOUNGBLOOD
HONORABLE FRANCIS C. MARSANO
WALTER F. MCKEE, ESQ.
ANDRÉ G. DUCHETTE, ESQ.

COMMISSION STAFF: JONATHAN WAYNE, ESQ.,
Executive Director
PHYLLIS GARDINER, ESQ.,
Commission Counsel

APPEARANCES: ROY LENARDSON, Executive Director,
Maine Leads
DANIEL I. BILLINGS, ESQ.,
Counsel for Maine Leads
BENJAMIN K. GRANT, ESQ., Counsel for
Complainant, Hon. Deborah J. Hutton

TRANSCRIBER: CATHERINE E. LINGO

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<u>RESPONDENT:</u>			RE	RE V.		
<u>WITNESS</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>D.</u>	<u>J</u>

E X H I B I T S

<u>PETITIONER:</u>		
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<u>RESPONDENT:</u>		
<u>IDENTIFICATION</u>	<u>DESCRIPTION</u>	<u>I.D. IN EV.</u>

1 MR. MICHAEL P. FRIEDMAN: I will now proceed
2 to agenda item number three, which is investigation
3 of Maine Leads with testimony of Roy Lenardson and as
4 Chair it's my obligation to provide an opening
5 statement to advise the members of the public of the
6 purpose of this hearing and to set forth the general
7 procedure. The purpose of this hearing revolves
8 around letters written by Deborah Hutton on April
9 24th, May 20th and May 22nd requesting an investigation
10 as to whether Maine Leads qualifies as a Political
11 Action Committee based upon its financial activity in
12 2007 and 2008 regarding three citizen initiatives.
13 At the Commission meeting of May 28, 2009 we directed
14 the staff to investigate whether Maine Leads should
15 have filed as a PAC or made filings consistent with a
16 Ballot Question Committee. We asked the staff to
17 investigate. They requested information and
18 documents. Maine Leads provided the information and
19 documents in a cooperative fashion. Written argument
20 has also been provided by counsel for Ms. Hutton and
21 for Maine Leads. Staff has also provided their
22 insight with their recommended expansion of the
23 hearing to include whether, in the event that Maine
24 Leads is deemed not to be a political action
25 committee, whether it should make a filing under a

1 section under 21A, Maine Statutes revised annotated
2 Section 1056B. Given the fact that counsel for Maine
3 Leads mentioned that in its argument I assume you
4 have no objection to including that in this process
5 in the spirit of judicial economy. Now at this
6 hearing, September 8, 2009, we're going to conduct
7 this hearing in accordance with Chapter Two of the
8 Commission rules. I will rule on the evidence. I
9 also have the opportunity to regulate the course of
10 the hearing. A transcript will be prepared. The
11 witness will be sworn. As I understand it, Mr.
12 Lenardson is the only witness today. The order of
13 presentation will be the Commission staff and its
14 counsel will ask questions first. Mr. Billings will
15 then have the right to ask questions as well to
16 provide clarification and further information that
17 might be relevant to the Commission. And finally,
18 counsel for the complaining witness, Mr. Grant, will
19 have the opportunity to briefly ask questions if he
20 so desires. We will have brief redirect and recross.
21 Obviously the Commission members may ask questions at
22 any time during the proceeding and after the
23 testimony we will establish a--our closing arguments
24 schedules so that we can bring this to a decision at
25 our October 1, 2009 meeting. With that, Mr.

1 Lenardson, before I put you under oath, do you or
2 counsel have any questions about the procedure or the
3 form?

4 MR. DANIEL I. BILLINGS: The only question I
5 have is whether Mr. Lenardson would have a brief
6 chance to make some introductory remarks before he
7 responds to questions.

8 MR. FRIEDMAN: Well I can do that.

9 MR. BILLINGS: And it'd be brief.

10 MR. FRIEDMAN: Yes. Thank you. Mr.
11 Lenardson, would you raise your right hand please?
12 Do you swear that your testimony during this hearing
13 will be the truth, the whole truth and nothing but
14 the truth?

15 MR. LENARDSON: Yes, I do.

16 R O Y L E N A R D S O N, having been first
17 duly sworn, testified as follows:

18 MR. FRIEDMAN: Thank you. Mr. Wayne, would
19 you begin? Oh, I'm sorry. I did give you permission
20 to make some brief comments. So please do.

21 MR. LENARDSON: Yeah. I think—obviously it
22 will be easier if I were to answer questions. My
23 thought there were just four quick things I wanted to
24 lay out, what I hope to accomplish and we can deviate
25 from that based on your, your questions. I did want

1 to give very brief background. I know, I know some of
2 you a little bit about me. I understand my
3 qualifications were discussed at length at previous
4 meetings. So I did just want to say briefly if I may
5 a little bit about that. Just a quick brief history
6 of why we did the whole Maine Leads thing to begin
7 with, if that's appropriate. Like a two-minute
8 summary, a little bit of perspective beyond that why
9 we decided to go ahead with that and then turn it over
10 to all of your questions. I hope to be less than five
11 minutes here.

12 MR. FRIEDMAN: The floor is yours.

13 MR. LENARDSON: Okay. First of all, I want
14 to say I grew up around here. I'm from Waldoboro
15 originally and I'm a graduate of the Muskie School in-
16 which causes a lot of angst among my friends and my
17 enemies I should tell you. My first job was working
18 in the basement of the State House. I worked there
19 for seven years in the office of Policy and Legal
20 Analysis. I was your committee analyst and bill
21 drafter. I had the great pleasure of the Legal
22 Affairs Committee and the State and Local Government
23 Committee when I was there for seven years. Briefly
24 after that I jumped in to be Chief of Staff in the
25 Senate Republican Office and then beyond that I had

1 the opportunity to run some gubernatorial campaigns,
2 own a restaurant. It's a longer story than it should
3 be and helped start the Maine Heritage Policy Center
4 initially when it first got started several years ago.
5 In addition to that I had the opportunity to direct
6 the TABOR Campaign in 2006. Helped the campaign to
7 keep term limits in place and then—and also
8 importantly I was responsible for directing the Senate
9 Republic Campaigns off and on for about six years in
10 which we directed the PAC activities, fund raising
11 activities and create a professional run organization.
12 I only lay that out for you because I have been very
13 involved in the PAC process. We have professionalized
14 the PAC and I believe raised the standards much with
15 the help of my attorney, Dan Billings, in terms of
16 professionally run PACs, accountants, legal counsel, a
17 level of supervision that didn't exist before that and
18 I, I did want to sort of lay that out there that I am
19 well aware of PAC laws, am familiar with it, believe
20 in it 100% and would believe the Commission staff
21 would confirm mine and as well as Dan's 100%
22 commitment to the work that you've done and we'd like
23 to think that we've led by example in that. Just very
24 briefly about why we formed Maine Leads. I just
25 wanted to lay it out for those of you that—many of you

1 are not as politically active on the ground, is that
2 we like what we saw on the left. It's very simple.
3 We looked in amazement in 2002, 2004 and particularly
4 in 2006 to see how well orchestrated and organized the
5 left worked. I worked within the confines of the left
6 having served-worked in the Legislature for seven
7 years. I had a pretty good sense of how they worked.
8 My, my goal was in many ways to sort of emulate that
9 and begin to piece together all the disparate pieces
10 that are center right, that they'd done so well on the
11 left. So I did want to lay that out. That is why
12 Maine Leads was formed. We, we tackled this with eyes
13 wide open and really jumped into it solely based on
14 how the left was organized and mostly out of
15 admiration for the work that they've been able to do,
16 even though I, myself, disagreed with that. The
17 tactics I thought were brilliant and needed to be
18 copied, both here and I spent some time in Colorado
19 studying what they were able to accomplish in Colorado
20 with a similar strategy. That's why we did it. So I
21 think that's just important and I can answer more
22 questions about that as, as we go on. I was going to
23 talk a little bit more, if it's appropriate, what
24 we've been doing, what we're up to, unless, Mr. Wayne,
25 you think it makes more sense to sort of answer the

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1 questions as you go through but I did want to give
2 that brief opening of where it came from.

3 MR. FRIEDMAN: Thank you. I think what you
4 want to talk about will be better through the question
5 and answer process.

6 MR. LENARDSON: Okay.

7 MR. FRIEDMAN: Because I'm sure it will get
8 at your activities. Okay. Mr. Wayne?

9 DIRECT EXAMINATION

10 BY MR. JONATHAN WAYNE

11 Q: Thank you very much, Mr. Lenardson, and thank
12 you for your cooperation with the staff's investigation.
13 You've already anticipated some of our introductory
14 questions but I'll—just to be formal about it if you could
15 state your name and your current occupation.

16 A: Yep. My name is Roy Lenardson and I'm here in
17 my capacity as Executive Director of Maine Leads.

18 Q: And how long have you worked at Maine Leads?

19 A: Since its inception. I think fall of 2007.

20 Q: Do you know the month off the top of your head
21 in 2007?

22 A: Well it's sort of a window between October and
23 December when it all sort of became official.

24 Q: And have you owned your own consulting business?

25 A: Yes, I have.

1 Q: What was the name of that business?

2 A: Strategic Advocacy.

3 Q: And are you still working?

4 A: That's, that's how I make my living. My, my—I
5 volunteer. I do not take any salary or any expenses at
6 all from Maine Leads.

7 Q: This may be a little repetitive but are you—
8 would you say you're well acquainted with the campaign
9 finance laws of the State of Maine?

10 A: Yes, though they change often, my counsel keeps
11 me up-to-date.

12 Q: And could you just cite of those activities that
13 you just described earlier that have led to you being
14 familiar with the campaign finance laws?

15 A: Initially it's running and chairing several
16 campaigns, whether its taxpayer bill of rights, the term
17 limits, numerous Senate PACs, also have been involved,
18 even at the Federal level, SEC stuff as well.

19 Q: Now your testimony was that you're the Executive
20 Director of Maine Leads.

21 A: Correct.

22 Q: Are you also a member of the Board of Directors
23 of the organization?

24 A: That's correct. Yeah. I'm on both the Board
25 and the Executive Director.

1 Q: And how long have you been a Director?

2 A: They were simultaneous, the two actions.

3 Q: Forming the organization and-

4 A: [Interposing] Correct.

5 Q: --what--who are the other Directors of the
6 organization?

7 A: The Directors are Mike Duddy is an attorney in
8 Portland. Kent Lassman, who was at the time with
9 Americans Freedom Works I believe the organization in DC,
10 somebody I've been acquainted with and we have an
11 additional Board member who subsequently resigned. He's
12 out of state doing other work. Neal Freeman, he's no
13 longer on the Board.

14 Q: And are you--do you hold any officer positions
15 with Maine Leads?

16 A: Executive Director.

17 Q: How about officer positions on the Board of
18 Directors?

19 A: Oh.

20 Q: Maybe I'll be specific. Do you serve as the
21 President of Maine Leads?

22 A: Yeah. I'm the President of the Maine Leads
23 Board.

24 Q: Yes.

25 A: And the, and the Executive Director of Maine

1 Leads itself.

2 Q: Do you know whether you serve as the Treasurer
3 of Maine Leads?

4 A: Yeah, I probably do. I'm probably President and
5 Treasurer of the, of the Board.

6 Q: Okay. Thank you. How long have you held the
7 positions of being President and Treasurer of Maine Leads?

8 A: I believe those were all at the beginning of the
9 corporation or forming of the organization.

10 Q: And that'd be in the fall of 2007?

11 A: Correct.

12 Q: And has Trevor Bragdon worked as an employee of
13 Maine Leads?

14 A: Correct, yes, he has.

15 Q: During what period of time has he been an
16 employee?

17 A: I'd, I'd have to look at the exact, the exact
18 dates. I'll have to defer and get back to you on that.

19 MR. BILLINGS: You want, like, from when to
20 when and when to when? He has been on the payroll
21 and off the payroll at various times. I don't know
22 the specific dates but I could definitely provide
23 that to you later.

24 MR. WAYNE: If we need that, I will let you
25 know. Thank you. I wonder if you're being picked up

1 on the microphone. I'm—you're—thanks very much.

2 MR. BILLINGS: Yep.

3 Q: And what has Trevor Bragdon's responsibilities
4 been when he has worked for Maine Leads?

5 A: Trevor's initial responsibilities centered
6 around helping with the Grassroots Camp coordinated piece
7 of the campaign where he wanted to go out there and find
8 other like minded organizations, reach out to other
9 organizations, sort of begin this coalition that I
10 mentioned that the left had done effectively and, and
11 truthfully, it has been an all hands on deck. We all sort
12 of worked on everything together depending on what the
13 project was at the time.

14 Q: Does he have a title?

15 A: You know I think officially with the Grassroots
16 Coalition, he also helped with the initial helping me with
17 the fundraising piece that we provided for the original
18 entity. So I'd have to look up his exact title.

19 Q: Could you describe what paid responsibilities,
20 if any, he's had with respect to the, the three sort of
21 initiatives that Maine Leads has supported?

22 A: Sure. You know I would say in very early
23 initial stages if Trevor was still on the payroll, he
24 would have helped with outreach, maybe talking to
25 organizations, but my sense is the vast majority of the

1 time, again I'll provide you with exact dates that Trevor
2 has not been on the payroll at all at Maine Leads.

3 Q: So your testimony is that at times when he has
4 been most active and supportive of those sensitive
5 initiatives he hasn't been paid by Maine Leads at all?

6 A: That's correct.

7 Q: And has Chris Cinquemani been worked as an
8 employee of Maine Leads?

9 A: Yes, he does.

10 Q: Does he have a particular title?

11 A: He basically handles the communication side of
12 things for me.

13 Q: So what have his responsibilities been?

14 A: It included a lot of ad writing, preparing
15 materials for educational efforts, a lot of stuff working
16 closely with the Maine Heritage Policy Center. We have a
17 transparency website, open gov, the website development
18 and text content, everything having to do with the
19 communications piece.

20 Q: Thank you. There was a taxpayer bill of rights
21 initiative on the ballot here in Maine in 2006. Is that
22 correct?

23 A: Correct.

24 Q: In what month of 2006 was it on the statewide
25 ballot?

1 A: In November.

2 Q: Thank you.

3 A: That wasn't a trick?

4 Q: That wasn't a trick question.

5 A: Maybe that's why we lost.

6 [Laughter]

7 Q: I simply wanted to get that on the, on the
8 record.

9 A: Very good.

10 Q: So it was on the ballot for the 2006 general
11 election?

12 A: That's right and that's actually where I first
13 met Chris.

14 Q: And who wrote that initiative?

15 A: You know, I want to say the initiative was
16 written by the folks at Maine Heritage. I may have had—I
17 didn't play an active role in actually drafting or
18 crafting the legislation. It was a little more wonky than
19 I would have chosen to write but I may have been involved
20 but not, not substantively.

21 Q: And can you explain to the Commissioners what a
22 TEL is, T-E-L, that acronym?

23 A: Yeah. Actually my interest in expenditure
24 limitation started in 2001, was the first time we
25 introduced the concept into Maine. It's a tax expenditure

1 limitation, TELs, and I'd actually written some pieces on
2 it. But I started it in 2001 with a gubernatorial
3 campaign I was involved in. That's when it first arose
4 and then subsequently I'd written about it from a policy
5 perspective. Just generally I was enamored from the
6 beginning with the concept and had written about it and
7 worked with people about it for--really since 2001.

8 Q: So, just to be clear, because this was a term
9 that I learned in the course of this job.

10 A: Yeah.

11 Q: A TEL is a type of legislation. Is that correct
12 and what's the--

13 A: [Interposing] It's really a--it's like an
14 economic, I mean, for me it was an economic concept. It
15 was, it was a way of looking at the way expenditures are
16 made by Governments and what appropriate mechanisms you
17 can lay to have effective slowing down spending, if you
18 will. There's a whole range of sort of a continuum that I
19 was mostly interested in of sort of least effective to
20 most effective of how you sort of get at monitoring sort
21 of the rapid growth. I think at the time we, we had some
22 years, we had 14%, 16%, 17% increases in Government
23 spending in one year and I sort of became interested in
24 that notion of not just specific law actually but this
25 concept of what are all the different pieces and I think

1 I've written a couple papers on it of how you fit those
2 pieces together to limit Government spending and what
3 works, whether it's constitutional or statutory, whether
4 it's inflation of population or whether it's some other
5 mechanism but there's a lot of research out there on that
6 topic.

7 Q: --so would TABOR be an example of a TEL?

8 A: It would. It would probably be the better known
9 though there's many, many others actually.

10 Q: Now you mentioned you had some involvement in
11 the 2006 TABOR campaign.

12 A: Yes.

13 Q: Were you involved in planning or developing the
14 2006 TABOR initiative?

15 A: Sure.

16 Q: Well could you elaborate on what your
17 involvement was in TABOR, especially in the planning and
18 development stage?

19 A: I mean, I'm part of the big vast right wing
20 conspiracy. There's six of us, or seven of us, that works
21 on these issues in the whole State. So, yes, I was at
22 meetings, involved. Was I the guy pulling all the
23 strings? Many people would say yes. Not really but I was
24 heavily involved at every level and would continue to be
25 and very much believe in the concept and want to be as

1 helpful. So I would have been as involved as I could have
2 possibly have been.

3 Q: And at that time were you involved in or let me
4 strike that and start the question over again. Did you
5 have a role in Maine Heritage Policy Center in 2006 when
6 TABOR was being developed?

7 A: I don't remember. I think they had me on their
8 adjunct faculty. Once in a while, you know, having worked
9 in the legislative process for ten years, I would—MHP
10 would ask me to write on budget issues. I would talk
11 about things that only Peter Mills would care about,
12 unfunded actuarial liability and some of those details
13 that I dealt with heavily when I was a staffer to both the
14 Chief and staff. So I did a lot. Whatever they needed, I
15 was happy to do whether it was to write papers, ghost
16 write the papers, ghost write up, write up as, whatever I
17 could do to be helpful on anything that would help.

18 Q: And was there a PAC formed to promote TABOR in
19 the November 2006 election?

20 A: Yes.

21 Q: And do you remember what the name of that PAC
22 was? Was it the taxpayer bill of rights.com?

23 A: Taxpayer bill of rights.com, yes.

24 Q: Does that sound correct?

25 A: Yes.

1 Q: And what was your involvement with the PAC, if
2 any?

3 A: Again, as involved as I could have been. I
4 would have helped to raise money, to write stuff, I mean,
5 anything I could possibly have done, I would, I would have
6 done.

7 Q: Do you think you did raise money for the PAC?

8 A: Somewhat. Not as much as I would have liked but
9 yes.

10 Q: Were there other people who were more involved
11 in fundraising on behalf of the PAC than you?

12 A: Yeah. I mean, they, they had some outside
13 fundraisers and some folks that would help, you know. I
14 hate to confess these at public meetings but I wouldn't
15 say we were the most effectively, well-organized
16 fundraising people on the planet. We did some letters.
17 We had obviously a couple of big folks step up to the
18 plate that helped us in 2006 that, that came forward as a
19 part of a national movement on the issues generally and
20 they saw some hope here in Maine so they, they gave us
21 money. Beyond that--again, I could--if you need more
22 detail, I'm sure I could go dig all that stuff up. I
23 wouldn't say I was the linchpin to it all though.

24 Q: I don't, I don't need any more information on
25 that. Thank you. At some point in 2007, after the 2006

1 TABOR was over, did Maine Leads decide to promote some
2 citizen initiatives?

3 A: You know I—for me personally that was not what I
4 wanted to do at all actually. I wanted to take a few
5 years and learn from the left and to figure out how we
6 organize structurally in the State to begin to make a
7 difference. Some of my frustrations with what we were
8 trying to do on the right was this sort of bureaucratic
9 way of think tank, sort of DC model, go get a think tank
10 and create mischief and I thought we were missing the
11 fundamentals that the right had done—that the left had
12 done so effectively, which was organizing the troops, the
13 ground support, working with local school boards, just
14 this sort of localism that I think the left has done such
15 a great job with. So I was driven immediately and started
16 talking to people about why don't we over the next two to
17 four years build our infrastructure and sort of recapture
18 what would make the right—center right more interesting,
19 which is to reach out to local people and not to just
20 simply try to every two years pop up and point and whoever
21 is left standing is stuck dealing with the issue du jour.
22 I just thought having, you know, the thing about being in
23 the right is many of these guys viewed this as silly and
24 go get real jobs as quickly as possible and as somebody
25 who failed to learn that lesson, I found myself year after

1 year still involved and I think Dan would concur that we
2 sort of saw the trend, part of what we wanted I think to
3 accomplish, to answer your question directly, was capacity
4 building and to stop running from issue to issue or acting
5 surprised or shock or angry or blaming media bias or all
6 the silly clap-trap you hear coming out of the right and
7 just focus on doing what the left had done as well, which
8 is organizing from within—the bottom up and moving
9 forward. That was really where my heart was from the
10 beginning with Maine Leads.

11 Q: Well my intention with our testimony or our
12 examination, just so you know, is to focus next on the
13 decision to promote some citizen initiatives as I
14 understand it.

15 A: Yes.

16 Q: And later on in the testimony to get to what,
17 what was your purpose.

18 A: Sure.

19 Q: And being involved in forming Maine Leads. I
20 absolutely want to give you every opportunity to go into
21 that and what Maine Leads activities have been.

22 A: Yes.

23 Q: But is it fair to say that ultimately then that
24 was your initial plan in 2007, after the 2006 elections?
25 Ultimately, later in the process in 2007, Maine Leads did

1 decide that it was going to promote some citizen
2 initiatives.

3 A: We decided that we would--that was a part of our
4 initial mission. That we believe that the referendum
5 process could be legitimately about capacity building in
6 the long term, whether it's teaching citizens to get
7 involved locally, to have--teaching people how to get
8 signatures, how to get involved. So, you know, I thought
9 that the referendum piece was a very important part of
10 Maine Leads, which is exactly the way the left operates
11 and I thought it was important that that be one component.
12 Never was it my intention to have it be a, a referendum
13 center, that that's all we focused on. A, I have no
14 interest and B, I don't think it gets the capacity
15 building issue, which is the longer term, sort of strength
16 of the center right in what you accomplish.

17 Q: Okay. Well thank you and I do want to come back
18 to what you just talked about.

19 A: Yep.

20 Q: But I'm really trying to focus in on Maine Leads
21 activities in 2007--

22 A: [Interposing] Right.

23 Q: --in support of the--

24 A: [Interposing] Yeah.

25 Q: --citizen initiatives and find out a little bit

1 more about that.

2 A: Yeah. Well to clarify, maybe it'll be helpful,
3 is just to give you some perspective from a personal
4 perspective of what I specifically did, you know. I was--
5 obviously I felt strongly that the referendum was an
6 important piece of that. I was going to lend my support
7 and my help and to sign anything to get involved any way I
8 could but in terms of my job and the percentage of my time
9 dedicated to sort of this referendum function, I think Dan
10 and I looked at the records and would say it was less than
11 5% of the time, I mean, to the point of I never collected
12 a single signature. I never went out. It's just not my
13 thing and I would say similar to Chris, who you mentioned,
14 and Laurel also in my office would have those same types
15 of numbers. We had a lot to do on the capacity side and
16 so, you know, for all of us while it was, it was a big
17 piece of activity for us specifically in Maine Leads paid
18 to sort of create this vision of what I wanted was this
19 capacity on the right. That's not what we were doing and
20 I can't be 100% sure but I don't believe I spent one
21 minute going out knocking on doors and collecting
22 signatures.

23 Q: Okay. Thank you very much. We have--we had
24 compiled at the end of last week some exhibits that we
25 thought would be helpful to refer to.

1 A: Yep.

2 Q: And I want to state on the record that so much
3 was done and being done in preparing for this hearing
4 today at the last minute that I did not—a number of these
5 documents are well known to you or to your counsel but I
6 did not specifically identify them to your counsel prior
7 to today.

8 A: Okay.

9 Q: And no discourtesy to him was intended and I, I
10 want to know from him, as your legal advisor, if he's
11 comfortable with me referring to these documents just to
12 give the Commission members some background.

13 MR. FRIEDMAN: Well why don't you ask the
14 questions about particular documents and then if--

15 MR. BILLINGS: Yeah, Mr. Lavin provided them
16 to us before the meeting and Mr. Lenardson had a
17 chance to look at them before we started so.

18 MR. FRIEDMAN: Do you have any objection to
19 any of the exhibits?

20 MR. BILLINGS: No.

21 MR. LENARDSON: I don't.

22 MR. FRIEDMAN: Okay, great. Thank you.

23 Q: Okay. So if I could refer you to the, the
24 document that's listed as Exhibit No. 1, do you know what
25 that is?

1 A: Yeah. This is the application to get the car
2 excise tax. I don't know what you call it. The official
3 thing you file with the Secretary of State, piece of paper
4 that you want to do this.

5 Q: And is the heading at the top of the document
6 Application for Citizen Initiative?

7 A: Yes. Sorry. Yes.

8 Q: And are you listed as the contact person for the
9 initiative proponent?

10 A: Yes. That's correct. I, I said I'd be the
11 sponsor of that.

12 Q: And specific legislation was attached to this
13 form when it was submitted to the Secretary of State. Is
14 that correct?

15 A: I'm not sure.

16 Q: If you don't know, please say you don't know.

17 A: Well I know because that's the requirement but I
18 don't remember doing it.

19 Q: Who drafted the, the excise tax citizen
20 initiative?

21 A: Gosh, I'd have to—I mean I certainly was
22 involved. I'm not sure if I physically drafted, drafted
23 it or if it went through the legislative process and was
24 first proposed as a piece of legislation and we took
25 pieces from it. I don't remember, John, specific—how it

1 happened.

2 Q: Well somebody--

3 A: [Interposing] But definitely involved.

4 Q: --somebody drafted it.

5 A: Yeah.

6 Q: And it, and it was submitted to the Legislature
7 as part of the citizen initiative process. So who do you
8 think--

9 A: [Interposing] I don't remember who--if we talked
10 to some existing Legislators came up with the concept,
11 then went to the Advisor's Office had the bill drafted and
12 then whatever came out we then used later on or if we
13 didn't have a bill. Do you remember?

14 MR. BILLINGS: I don't remember
15 specifically.

16 A: Well let's put it this way. I'm entirely
17 capable of drafting it. I just don't remember if I
18 actually was the one that drafted it or if it got drafted
19 and I just fixed it or--I don't remember.

20 Q: --okay. Drawing your attention back to the
21 form, who's the--who notarized the form?

22 A: Tarren Bragdon.

23 Q: And when was this submitted to the Secretary of
24 State? There's a date stamp on it I believe.

25 A: August 20th.

1 Q: 2007?

2 A: Yes, sorry.

3 Q: At some point was a PAC formed to promote this
4 citizen initiative?

5 A: Yes. Yeah and I think—is that in the Exhibit 2?

6 Q: That's right. Thank you.

7 A: August 21st.

8 Q: Can you tell the Commission members what that
9 Exhibit 2 is?

10 A: A road to a cleaner Maine PAC, you know, just
11 from my perspective once it got started, it automatically
12 triggers probably the need to file a PAC so that you can
13 go out and do whatever it is you're going to do.

14 Q: So were you involved in, in the formation of the
15 PAC?

16 A: Oh, yeah, absolutely.

17 Q: And are you listed as a principle officer on the
18 registration form?

19 A: Yes, I am. Yep.

20 Q: Thank you. So did you recognize at that time,
21 when the PAC registered, an entity had to be created to
22 report to the Commission money raised and money spent to
23 promote the ballot question?

24 A: I'm not sure.

25 Q: What was the purpose in forming the PAC?

1 A: I think initially it was just to make sure we
2 were in compliance to have the paperwork and if it gets
3 used or not used, we can deal with that later but let's
4 just get the paperwork in and be official.

5 Q: And drawing your attention to the upper right
6 hand corner of the registration form, what's the date?

7 A: August 21st.

8 Q: 2007?

9 A: 2007.

10 Q: Thank you. So this is one citizen initiative
11 that Maine Leads decided to promote? That the excise,
12 excise tax.

13 A: They meaning once that was formed, yes.

14 MR. BILLINGS: Yeah.

15 Q: In 2007 did Maine Leads decide to promote any
16 other citizen initiatives?

17 A: Well I would-yes. Yeah. I'm just not clear if
18 you're inferring as in promote as in that becomes our
19 capacity or we support it - - involved.

20 Q: Was it one of your activities? Not whether it
21 was your central focus.

22 A: Yeah.

23 Q: The purpose for the organization. That's not
24 what I'm asking about at this point. I'm just asking did
25 you or other people associated with Maine Leads decide in

1 2007 to initiate or promote other citizen initiatives,
2 other than just this excise tax.

3 A: Well the problem I think might be timing because
4 there was no Maine Leads when I individually made this
5 decision. You know what I mean? So this happened before
6 there was a Maine, Maine Leads. That's not clear or no?

7 Q: That's fine. So how about you personally? Did
8 you decide--

9 A: [Interposing] 100% absolutely.

10 Q: --so what were the other citizen initiatives
11 that you decided to promote or initiate?

12 A: The taxpayer bill of rights, which is the Tax
13 Relief Act, and also there was a healthcare, healthcare
14 one. I can't remember what the word was but it was
15 healthcare.

16 Q: And drawing your attention back to Exhibit 2, we
17 have three PAC registrations there.

18 A: Yeah. Yeah.

19 Q: Were these other two PACs formed to promote
20 those other two citizen initiatives?

21 A: I assume, yes.

22 Q: For purposes of this investigation, has Maine
23 Leads calculated the total revenue that the organization
24 received for the period of October 1, 2007 through
25 December 31, 2008?

1 A: Was that the \$445,526 number?

2 Q: Yes and I wonder if I could take the liberty of
3 referring to a couple of exhibits here to focus your
4 attention.

5 A: Yes.

6 Q: There's an Exhibit 3, which is an affidavit you
7 provided to the Commission.

8 A: Correct.

9 Q: And there's an Exhibit 4, which is an IRS form,
10 Form 990EZ, for 2008.

11 A: Yeah.

12 Q: If I could draw your question to your attention
13 to in that affidavit, which is Exhibit 3, at the top of
14 page four, there's a response to question number eight.

15 A: Yep.

16 Q: Concerning revenue and the question that was
17 posed to you was what was the total revenue of Maine Leads
18 for the period of October 1, 2007 through December 31,
19 2008 and what was your response?

20 A: \$445,526. Do we have that wrong?

21 MR. BILLINGS: I think that was the
22 expenditure. He wants the revenue.

23 A: Oh, I'm sorry. All right. Yeah. Expenditures
24 and then the \$421,187 is the revenue.

25 Q: Right. Thank you and I'm sorry I might have

1 inadvertently misled you there.

2 A: Yeah. That's all right.

3 Q: You provided us--

4 A: [Interposing] With the two numbers.

5 Q: --yes and then looking at the first page of
6 Exhibit 4, the Form 990, on that form has Maine Leads
7 provided the total revenue for the organization and the
8 total expenditures?

9 A: To the best of my knowledge, yes.

10 Q: Okay. Thank you and, and--

11 MR. BILLINGS: [Interposing] Mr. Wayne, I'm
12 sorry. What--where is the \$445?

13 Q: --Exhibit--I'm just trying to draw your and the
14 Commissioner's attention to Exhibit 4, which is the IRS
15 tax form.

16 A: Okay.

17 Q: And on line L or actually let me--line nine it
18 appears to me that this is the total revenue of--that Maine
19 Leads received for the period of 2007/2008, which is
20 \$421,187.

21 A: Correct.

22 Q: I'm asking if that's right.

23 A: Correct.

24 Q: Okay and line 17, total expenditures, is
25 \$445,526.

1 A: Yeah.

2 Q: And that's the organization's total
3 expenditures. Is that right?

4 A: Yes.

5 Q: Thank you. Could you describe how Maine Leads
6 received its initial funding?

7 A: Yeah. I don't remember if it was August or
8 September. It was actually—it was actually post 2006 when
9 I first began to have these discussions with how do we
10 begin to, as I mentioned earlier, capitalize on the
11 lessons from the left, mostly from the Colorado model,
12 which I'm really mostly fond of but also with some of the
13 work they've done in Maine. I go to a lot of national
14 conferences, a lot of national events around the country.
15 This was not just a topic here in Maine but a topic
16 nationally of what can we learn. I mean to the point
17 where I think this whole discussion you're having has been
18 a Newsweek article and there's a lot of news on sort of
19 the Colorado model on the left. It has become something
20 that the right excessively talks about a lot of events.
21 So I was at some of these events. They began talking
22 about it. It was my sense that we had an infrastructure
23 in place of fairly competent people. A lot of, you know,
24 younger guys and gals that were interested in sort of this
25 longer term capacity that I'd like to make a play to see

1 if Maine could be one of the States that I could get these
2 national organizations to try and put their money where
3 their mouth is and begin to build capacity in the spirit
4 of this Colorado model and, and, as I said, what we were
5 able to see firsthand here in Maine, a lot of sort of me
6 individual discussions with no name or specifics but a
7 notion of what capacity looks like and I began to talk to
8 people at different events and during late September or
9 early October I had some folks on the hook that were more
10 interested in this concept and thought that Maine, among
11 other States, might be a good place to do this. I think
12 they loved the concept of a place they view as blue as
13 Maine could possibly see this experiment take hold and so
14 I started to sell this idea, capacity building on the
15 right, what it would take, what the pieces were, how you
16 do it and sort of this long term, you know, three to five
17 year scenario of how you lay that out and so my goal was
18 to get a three-year plan in front of them with the hope of
19 renewing it but I really felt like five years it would
20 take and, again, mostly from what I learned in Colorado.
21 Now it was a little different in Colorado. People wrote
22 million dollar checks and there was a lot of big business
23 that could do that on the left that we don't have but I
24 figured I'd make a play and see what I could get and it
25 really—I mean this is not egotistical. It was really just

1 me tired of every two years listening to my side complain
2 is what really motivated me.

3 Q: And let me mention, draw your attention to
4 Exhibit No. 5 and ask a related question, which is did
5 Maine Leads draft an initial funding proposal to give to
6 funders?

7 A: I wrote this. All of it.

8 Q: And is that--

9 A: [Interposing] I may have borrowed from other
10 States but I did it.

11 Q: --and is that Exhibit No. 5?

12 A: Correct.

13 Q: You're referring to?

14 A: Yes.

15 Q: And what organization is that initial funding
16 proposal addressed to?

17 A: This one here was the National Tax Limitation
18 Committee. There--were there three total organizations
19 that I reached. Actually I reached many more than three.
20 I had more informed because they were at these events and
21 these meetings but it was--it came to three that I thought
22 would listen to me for more than five minutes. So I gave
23 them my love and attention.

24 Q: And in this proposal was there a specific amount
25 that you were asking for?

1 A: You know I can't--

2 Q: [Interposing] I'm looking at the top of the
3 first page.

4 A: --yeah. You know some of this was these groups
5 talking amongst themselves and then saying well I can do--I
6 probably could do this piece of it, I could do this much.
7 No one group was willing to give me the 400 to 450 that I
8 was looking at and actually I was asking for over a
9 million, a three-year commitment, and so the groups
10 amongst themselves would call me and say well we can't do
11 this but we can do this or we can do this at this point.
12 So I would talk to them on the phone and try to come up
13 with a number and I wanted to give you guys, these are the
14 original documents and that was what that piece was, I
15 can't recall specifically why.

16 Q: Did you say that your original thought was to
17 obtain \$440,000 or \$450,000 in funding?

18 A: I think that's the initial budget. Again, I
19 should--my goal was to get 1.2 million and it was to get
20 full three-year funding with two more years on the hook.
21 I mean I wanted to be able to build capacity over a three
22 to five-year period and then turn the reins over and
23 hopefully hit a different place when I was done.

24 Q: And the 1.2 million would, would be satisfactory
25 for the five-year plan or?

1 A: No. It was more like three-and-a-half years.
2 You know, obviously maybe living larger than one would
3 need to but yes, that's what I was looking at.

4 Q: And how many national non-profit organizations
5 ultimately did give funding to Maine Leads?

6 A: You know I think there were three individual
7 entities that stepped up. You know, that's my - - .
8 There were other groups I had spoken to or had seen at
9 organizations or, you know, I had lots of conversations
10 but in terms of the money and where did it come from, it
11 was limited to three.

12 Q: In trying to get a better handle on when all
13 this happened, you earlier testified that you applied for
14 the permission to do the citizens initiative in August
15 2007 for the excise tax and you formed the PAC for the
16 excise tax initiative in August 2007, do you think your
17 discussions with these funders pre-dated those, those
18 August filings or after? Do you have any idea?

19 A: You know, first of all, I think both of them
20 pre-date each other. I had conversations about the next
21 version of the taxpayers bill of rights and an excise tax,
22 not the healthcare one, I wasn't as probably immediately
23 after the November 2006 election and I would say
24 subsequent that following year began to have-it was more a
25 part of a national dialogue, if you will, on the successes

1 of the left and why they'd been successful. So I think
2 it's fair to say that I began having conversations, not
3 specific, but general about both as quickly as the week
4 after the election in 2006. A lot of this stuff takes a
5 long time. I didn't just get one day say this or that.
6 There's a lot that led up to different conversations but
7 totally separate and sort of in my mind. I mean, in fact,
8 I'll even say that personally the referendum is, you know,
9 for me personally, is sort of an annoyance and a time suck
10 compared to what we really were hoping to do with building
11 capacity. It's, you know—it is what it is.

12 Q: You mention that there were three funders that
13 ultimately gave you—Maine Leads money. Maybe if we could
14 focus on the first of those three please.

15 A: Yeah.

16 Q: Can you give the Commission an idea of the kinds
17 of conversations or the—excuse me, the kinds of
18 communications you had with that organization to procure
19 the funding?

20 A: You know this—specifically the one you're
21 looking at now?

22 Q: Well I wasn't sure whether you could confirm or—

23 A: [Interposing] That was sort of a—one of the
24 other groups I think trying to help me sell the idea.
25 They're, you know, a big organization. They're all over

1 the country trying to help States, you know, establish
2 capacity and so I probably had the least amount of
3 conversation with this particular organization to be
4 truthful. But the other organizations there was a lot of
5 conference calls and phone call conversations mostly about
6 what you want to accomplish, what you want to do, what are
7 the long term goals, how it can be organized. I mean I
8 just sort of laid out what I thought was the vision,
9 trying to copy the Colorado model and apply it to some of
10 the stuff we saw in Maine. So hours and hours probably of
11 phone call conversations and then I actually sat down with
12 them at one point. I don't remember the exact date for
13 one of the bigger--with the lead, lead funder.

14 Q: I want to flesh out some of the information
15 you've already provided to the Commission in, in the next
16 exhibit.

17 A: Okay.

18 Q: And the next exhibit is number six, which is an
19 affidavit from you that you provided to the Commission
20 staff. It's dated August 18, 2009 and at the bottom of
21 page two, if I could focus you in on that. Your answer
22 stated the initial discussions were held with the first
23 funder during the summer of 2007. The funding proposal
24 was prepared and submitted in the fall of 2007. There
25 were additional follow-up discussions in early 2008 and

1 actually if I could focus a little bit on your previous
2 answer, you had stated that the initial funding proposal
3 came about as a result of on-going discussions with one of
4 the funders that was in 2007 interested in helping us
5 establish State level organizations to create capacity to
6 further the ends of lower taxes, Government transparency
7 and economic freedom. The initial funding proposal was
8 prepared at the suggestion of the funder and the first
9 funder facilitated the proposal being presented to the
10 other organizations that ultimately helped to fund Maine
11 Leads. So, I want to ask you about the first funder.

12 MR. LENARDSON: Yeah.

13 Q: Can you tell me the kinds of communications you
14 had with that funder?

15 A: Yeah. I would--well as best I can assign
16 percentages, is it helpful to do it that way?

17 Q: That'll be fine.

18 A: You know, maybe 75% of it was in person
19 discussions at any number of national events that I
20 attended. One-on-one in DC, Chicago and Maine.
21 Different, different events. You know not always one-on-
22 one. Some would be sitting in an audience with the whole
23 panel talking about it generally, just sort of taking
24 notes when thinking about how I would do this, you know,
25 sort of a part of that national dialogue I referred to

1 earlier and then I would say 20% phone call and then sort
2 of the 5% of here's the thing in writing, you know, what
3 do you think.

4 Q: So there was a written proposal?

5 A: Yeah, which I think you have.

6 Q: Which, which is the exhibit we looked at and
7 following the submission of the written proposal, is there
8 any kind of formal presentation you made to that funder
9 to-in support of your request?

10 A: No, I was very good. I mean, we did a good job.

11 Q: Then if I could focus on the second funder, what
12 kinds of communications did you have with that funder that
13 led to them providing you with the funding? Would you say
14 it was essentially similar?

15 A: It was similar. I don't recall the specifics.
16 So much of my energy was really in that first funder but I
17 think it's a fair assess--well I wouldn't say it was in
18 person. I would say it would be--have been either from the
19 first funder on my behalf or with a phone conversation.

20 Q: You had included it in your affidavit statement
21 that the first funder facilitated the proposal being
22 presented to the other organizations that ultimately
23 agreed to help fund Maine Leads. Can you help the
24 Commission members understand what, what did they do to -
25 - ?

1 A: Made the first phone call and said these guys
2 are good, you ought to give them some money. We like what
3 they're doing. They're building capacity. This is a part
4 of our national movement to build capacity. Again, there
5 was this sort of obsession with Colorado and what they
6 were doing and that sort of what was driving these groups
7 that helped, you know, and much of it was very well
8 intended. It was really push it back into the States, get
9 it out of this DC controlled environment and let the
10 States create capacity on their own, give them some start
11 up money, get them going but really it's to really push
12 this stuff back to the local level the way the left had
13 figured out how to do it, which is homegrown is best grown
14 when it comes to politics and I agree with it 100%.

15 Q: Exhibit No. 5, which was the initial funding
16 proposal, at the, at the footer of the second page and the
17 third page it says confidential 11/07. Could you help us
18 understand is, is-if it's dated November 2007, is-was this
19 the initial funding proposal that you provided to the
20 first funder or to one of the subsequent funders or?

21 A: I don't know what version this is. All I know
22 is I think with my limited experience in Word I think
23 every time I open and save a document I just save it at
24 that next date. I think I just sent the last one I had.
25 I don't, I don't know specifically why it says that date

1 on there.

2 Q: And--

3 A: [Interposing] You know the only thing I could
4 think of now that I say that is it's possible that when we
5 had sort of a first Board meeting or working with the
6 Board trying to get the Board together, I prepared this
7 document as we began to look at how we were going to
8 officially form and, you know, all those pieces and that's
9 the date that happened to be--it's saved on. I don't know.

10 Q: --could we run through the dates on--at the
11 bottom of page two of that affidavit? This is Exhibit No.
12 6. The dates on which you received the, the three grants
13 from the three national funders.

14 A: Yes.

15 Q: That's the last two lines on, on page two.

16 A: Yeah.

17 Q: What were those three dates?

18 A: The first grant funding was received on October
19 31, 2007. The next grant was received on January 15, 2008
20 and the last grant on March 13, 2008.

21 Q: Okay. With regard to the first funding
22 organization, is it fair to say that one of the activities
23 promoted by that funder is reducing taxes and reducing the
24 size of Government, one of its activities not necessarily
25 its purpose, one of the things that it does?

1 A: Yeah. You know it's interesting. That's a good
2 question. Perhaps but I really think that this
3 organization I worked with is interested in State and it's
4 hard to describe because it's having dealt with a lot of
5 these DC groups that are very annoying. This group was
6 actually interested in providing capacity and giving
7 resources for groups to build their own capacity and it
8 wasn't typical of like and you do it our way. It was a
9 very--it's a very different approach. I mean it's really
10 just taking what the left had done, which is allow
11 homegrown ideas, get resources to the states so that they
12 eventually can be built on their own and, you know, it
13 took Colorado four to six years to sort of change that
14 State in the direction that they wanted. So normally I
15 think I would agree with you but I actually don't think
16 this group is--that was their focus. Their focus really
17 was at the time was helping States build capacity to make
18 changes locally and so in that sense it really was quite
19 unique. Now other groups, clearly like the one you saw
20 the title, yes, limit the scope and size of Government and
21 reduce taxes. I mean basically your DC talking points on
22 the right.

23 Q: Do you know whether that particular funder has
24 provided money to support tax and expenditure limitations
25 at the State level in other States? If you don't know,

1 please answer you don't know.

2 A: I don't know for sure. I just know in this
3 round that I was involved in and the other folks that were
4 from the other States that that was none of us sort of
5 interested in that, that sort of doing that sort of piece.
6 So they were all subject to that. I couldn't speak to it
7 in total.

8 Q: Okay. Well I, I want to refer you back to
9 Exhibit 5 and I apologize that I'm jumping around a little
10 bit here. This was the initial funding proposal to the
11 National Tax Limitation Committee. Was there discussion
12 in this proposal that, that initiatives and referenda
13 would be one of the activities that Maine Leads would
14 engage in?

15 A: Yes.

16 Q: Other than this initial funding proposal, did
17 you make any other communications to that funder that
18 would indicate to that funder that the grant was going to
19 be used to promote citizen initiatives?

20 A: No and I'll tell you why. That wasn't really
21 what they were interested in and that was not their
22 understanding of how—or my understanding of how the
23 resources would be used without getting into too much
24 trouble with them.

25 Q: Now—but your testimony is that you've had a

1 number of conversations with these funders at national
2 events.

3 A: Right.

4 Q: And I, I want to make clear with the commission-

5 -

6 A: [Interposing] Right.

7 Q: --to what extent you really can remember your--

8 A: [Interposing] Yes.

9 Q: --all of these communications with these funders
10 because it sounds like some of them were informal. Is
11 your testimony that you didn't make any other
12 communication to the funder that would indicate to it that
13 you're--that the grant money was going to be used for
14 citizen initiatives?

15 A: No, I wouldn't, I wouldn't say never did that.
16 It was never sort of the intent of that. Clearly the
17 conversation could have come up. They would have known
18 what we were up to. So, yes, I'm sure at some point
19 communication may have happened. I don't remember the
20 specifics of the conversation.

21 Q: So it could have--there could have been
22 discussion that the money would have been spent on
23 initiative and referendum?

24 A: Absolutely.

25 Q: Do you remember whether there was discussion

1 that the money would be spent on citizen initiatives or
2 referenda?

3 A: On these—generally speaking, yes, I recall
4 having those conversations. I don't remember specifically
5 what date or what was said but I do recall having those—
6 absolutely having those conversations.

7 Q: Looking at the totality of those communications
8 you had with that funder, did it know of any possibility
9 that Maine Leads would be using the money it would receive
10 to promote citizen initiatives?

11 A: Yes.

12 Q: When you were communicating with that funder,
13 did you know that at least some portion of the funds that
14 you would receive from that funder or that you hoped to
15 receive from the funder, would be used to initiate or
16 promote the citizen initiatives?

17 A: Yes.

18 Q: I'd like to ask a similar question regarding the
19 second funder, the one that you're testifying that you
20 received the money from the second funder on January 15,
21 2008. Is it fair to say that one of the activities
22 promoted by that funder is reducing taxes and the size of
23 Government?

24 A: Yes.

25 Q: And to your knowledge, has that funder provided

1 money for tax and expenditure limitation legislation at
2 the State level in other States?

3 A: I couldn't—I could find out. I couldn't say for
4 certain one way or the other.

5 Q: How good is your recollection of your
6 communications with the second funder or let me put it
7 this way, did you, did you make communications to that
8 second funder directly?

9 A: My, my recollection is mostly with the initial
10 and sort of major funder. The rest of it I don't recall
11 much of the specifics and sort of look through it and see
12 if I had stuff. What—I could say they were not
13 substantive. They were not long and I don't remember the
14 specifics of the other two.

15 Q: When you applied for funding from the second
16 funder, did you know that at least some portion of the
17 funding you hoped to receive from that second funder would
18 be used to initiate or promote citizen initiatives?

19 A: At that time I didn't have it divided up in my
20 head that way at all. So I didn't think okay, we're going
21 to spend X amount helping with the referenda. I wouldn't
22 have assigned it or broken it out according to funder. I
23 had an overall budget. We clearly wanted to provide some
24 grant money initially to help these causes, sort of
25 support them, either locally referendums or State

1 referendums and that we wanted that to be part of our
2 mission but not our mission.

3 Q: You mentioned the figure of \$440,000 to
4 \$450,000.

5 A: Yeah.

6 Q: Was that embodied in a particular document, a
7 budget of planned expenditures?

8 A: Yeah. I had an initial sort of overview of the
9 budget, how I'd like to see the money used, correct.

10 Q: And do you know what the total of that budgeted
11 amount was?

12 A: I'm going to say it was 450.

13 Q: And that was in a software program? That it--
14 that you prepared that budget?

15 A: Yes.

16 Q: Do you know whether you would still or Maine
17 Leads would still possess that?

18 A: I'm sure I have it somewhere.

19 Q: If the Commission were to request that, that
20 initial budget--

21 A: [Interposing] Yeah.

22 Q: --would Maine Leads provide it to us and you may
23 want a chance to talk to your attorney about it at some
24 point.

25 A: Okay.

1 Q: But I tend to think that if the opportunity—if
2 the time permits, that would be something that the staff
3 would like to ask you for. So focusing, focusing on the
4 third funder, did you have communications directly with
5 that third funder about what the money would be used for?

6 A: I don't believe so. No, not the third funder.

7 Q: Do you, do you think that the third funder
8 received some version of the initial funding proposal, the
9 written one?

10 A: Yeah. I think that they all talk amongst
11 themselves and said let's get together and support what
12 their efforts are.

13 Q: Okay. Just try to be specific and not general.
14 The third funder do you think that it received some
15 version of this initial funding proposal that you
16 prepared?

17 A: I don't know. I didn't give it to them.

18 Q: Do you know whether the, the first funder, who
19 did some promotion on your behalf, do you know whether it
20 gave the, the funding proposal to the third funder?

21 A: I assume but I don't know that for a fact. I
22 could actually find out.

23 Q: How did you get the money from the second and
24 third funder?

25 A: Check.

1 Q: Did you have communications with them following
2 your receipt of, of those funds?

3 A: I think so. I can check on that for sure. I
4 believe I wrote—I hand wrote a note on stationery and sent
5 a thank you note, just wrote it out, said I appreciate
6 your supporting our efforts, we have big plans. I mean I
7 remember writing out something by hand on a nice piece of
8 stationery and throwing it in an envelope.

9 Q: I don't mean to belabor this but one of the, the
10 factual considerations for the Commission in determining
11 whether your organization is a PAC or is Ballot Question
12 Committee is what was the organization's purpose in
13 soliciting and receiving these funds?

14 A: Right.

15 Q: And perhaps what was the funder's purpose in
16 providing these funds to you and that's what I'm really
17 trying to understand.

18 A: Yeah.

19 Q: What are the communications that the funder
20 received and the communications that you made that would
21 indicate what the purpose was? So I understand your
22 recollection isn't clear but I want to spend a little bit
23 more time on it.

24 A: I get that and I think it's worth mentioning
25 that millions and millions of dollars flow from these

1 groups into States on both sides constantly, shockingly.
2 So, you know, Maine itself has received a million plus
3 dollar infusions from—so I want to be as specific as I, as
4 I possibly can but if the inference is that seems like a
5 lot of money for someone to give without this elaborate
6 plan, it's not.

7 Q: So with regard to the second funder, do you
8 remember any specific conversations you had with that
9 funder about what the money would be used for?

10 A: To my knowledge, it wouldn't have been any
11 different from—I would have the same conversation with
12 every group. I was making a sales pitch, which is Maine
13 doesn't have to be a blue State. We can learn from
14 lessons. I mean I would have said pretty much the same
15 pitch as—if we can build capacity in three to five years,
16 I mean I have an elevator speech and then I had a three-
17 minute speech and then I had the seven-minute closing. I
18 mean I really did practice and deliver it the same way.

19 Q: When—your testimony is you would have but I'm
20 saying did you, in fact, talk to the second funder about
21 what Maine Leads was going to do with the money?

22 A: I can't imagine not. I just don't remember
23 that.

24 Q: You don't remember?

25 A: I don't recall. Yeah, that's all I can tell

1 you. I don't remember the specifics. I remember the
2 first funder and all the specifics of it because it was
3 sort of the first. Then I don't remember subsequent phone
4 call or what exactly was said but it wouldn't have been
5 any different. I wouldn't, I wouldn't have said anything
6 different each time.

7 Q: And with regard to the second funder, did you
8 know at the time you received those funds that you would
9 be using that money for promoting citizen initiatives?

10 A: Well let's separate that out. Initially it was
11 my intent to provide grant money and seed money to any
12 citizen initiative referendum that we believed fit the
13 mission of our organization. Obviously not all of them do
14 and not all of them would get our money. There's numbers
15 of other referendum on the ballot now that we're not. So
16 that initially was something, yes. In terms of where it
17 ended up going and how much, no.

18 Q: Here's what I'm trying to understand. In August
19 2007 you, Roy Lenardson, applied to the Secretary of State
20 to start the petition process for this particular
21 referendum--

22 A: [Interposing] Yes.

23 Q: --in the excise tax.

24 A: Right.

25 Q: In August 2007 you--there's a PAC created and

1 you're the principal officer and you testified to us that
2 your understanding was you needed to form a PAC in order
3 to comply with the campaign finance laws.

4 A: Right.

5 Q: So that suggests to me some intention to conduct
6 financial activity to promote this particular citizen
7 initiative.

8 A: Right.

9 Q: So my question to you is, when you got the money
10 from the second funder, did you know that some of the
11 money from, from that funder would be used to promote
12 citizen initiatives that were already in the works?

13 A: Yeah. Did I not answer it right the first—I
14 guess I'm trying to say is in my mind with the initial
15 \$450,000 budget in the year, if we talk about that budget,
16 does that make sense? I had in my mind that a percentage
17 of that would be appropriate for our type of organization
18 to support as seed money efforts that fit within our
19 mission. I had in my mind not written in stone but up to
20 \$75,000 of grant money could be made across the board for
21 local referendum to Statewide referendum. That's all I
22 had in my mind initially. So when money came in, whether
23 it was from the first funder or the second funder or the
24 third funder, that was much thought at that time that it
25 would be a piece of what we do. That's not where it ended

1 up going but that was in my mind. That's what I had
2 budgeted and that's what I thought was reasonable.

3 Q: Okay. Thank you. Now I would like to move on
4 to the expenditures that, that Maine Leads made in order
5 to promote or initiate the citizens' initiatives. Did
6 Maine Leads make contributions to PACs to promote the
7 excise tax, healthcare and TABOR initiatives?

8 A: Correct, we did.

9 Q: Do you know what the amount was of those
10 contributions?

11 A: I thought there was initial seed money of
12 \$25,000 per PAC. Let me just make sure I have that
13 correct and in addition I believe we had subsequent
14 filings later with some 1056B with some smaller expenses
15 but that was essentially what it was.

16 Q: Do you know when you made those—when Maine Leads
17 made those, those three contributions of \$25,000 each?

18 A: I'd have to look up the exact date.

19 Q: The PACs reported receiving them on November 15,
20 2007. Does that sound consistent with what you remember?

21 A: It does sound consistent. I just don't remember
22 specifically when I said it's okay to do but yes.

23 Q: Do you know whether the PACs hired a consulting
24 firm to collect petition signatures for the citizen
25 initiatives?

1 A: Yes, I think we--yes. Yeah.

2 Q: Okay and what was that consulting firm that?

3 A: Pioneer, Pioneer Group.

4 Q: And who owns Pioneer Group?

5 A: That would be Trevor Bragdon.

6 Q: And that's--is that the same person who was
7 employed by Maine Leads?

8 A: That's correct, that's correct.

9 Q: And is he the sole owner of the Pioneer Group?

10 A: I think so.

11 Q: All right. Did Maine Leads make payments
12 directly to Pioneer Group, money that went directly from
13 Maine Leads to Pioneer Group?

14 A: Right. Yes.

15 Q: And do you know the total of those payments?

16 A: I think we made them out for you. I think it
17 was \$160,500. That was to collect--for the collection of
18 the petition signatures for the three different petitions.

19 Q: And that--just to clarify, that was \$160,500 that
20 Maine Leads paid directly to Pioneer Group and is it
21 correct to say it did not go through the PACs?

22 A: Correct. I think that was over a seven or eight
23 month period.

24 Q: I want to take you back to the--to Exhibit No. 6,
25 which is your second affidavit, dated August 18th. The

1 last page or page three of that affidavit there's an
2 itemization of the different dates and amounts--

3 A: [Interposing] Yeah.

4 Q: --of that \$160,500 total. When did Maine Leads
5 make the first of those payments?

6 A: That would be the day after the November 15th.

7 Q: 2007?

8 A: Correct.

9 Q: Okay and what was the amount of that first
10 payment?

11 A: About \$65,000.

12 Q: So given your earlier testimony that PACs had
13 been created or at least one PAC was created in August
14 2007 and the purpose of that PAC was, was to comply with
15 the campaign finance laws in terms of reporting financial
16 activity, why didn't Maine Leads contribute that \$160,500
17 to the PACs, which were set up to report financial
18 activity?

19 A: Well I can defer--we didn't think that it was a
20 ballot question that we were doing the petition
21 collections and that's the way the law was written at the
22 time so we proceeded down that path.

23 Q: Right. I appreciate that's a legal contention
24 that Maine Leads is making but you formed a PAC, that the
25 PAC duly noted that--each PAC duly noted that it received

1 \$25,000 in contributions from Maine Leads and yet Maine
2 Leads made the decision to, to handle these other payments
3 to Pioneer Group differently. Why did Maine Leads handle
4 this money differently than the contributions it made
5 directly to the PACs?

6 A: So you mean beyond the legal, legal argument?

7 Q: Yeah. I'm just asking is there a reason that
8 Maine Leads did not contribute this \$160,500 directly to
9 the PACs as a factual matter? Is there a reason that you
10 structured these activities this way?

11 A: Not as a factual matter, no. I wouldn't think
12 we needed to.

13 Q: I'm, I'm just trying to understand what the
14 rationale was here. The PACs, the three PACs, each
15 reported receiving on November 15, 2007 three
16 contributions of \$25,000 each. Now your testimony in your
17 affidavit is that in addition to those three payments that
18 were made in November 2007, that were reported by the
19 PACs, there was also \$65,000 that was given not to the
20 PACs but to Pioneer Group. Why treat the different sums
21 differently? That's what I'm trying to understand.

22 A: Well in my mind initial PACs were to go and be
23 PACs, raise money, get going, form, get organized, get
24 ready and sort of gear up for what PACs do, which is run
25 campaigns. I viewed the signature collection as a whole

1 different process. Now I will say as it went on I became
2 more reluctant to see that we were continuing to—I mean I
3 was somewhat annoyed how much it was costing to collect
4 these signatures, not really for the two but for the third
5 one, but that wasn't—that was just me personally and so it
6 got further and further so I made the decision whether,
7 and this is just about collection, do we want to get on
8 the ballot or not and so we were down this path of deeper
9 and deeper and deeper sort of moving away from what I had—
10 how I had seen those resources being used for capacity
11 issues. So this was not the path that I had in mind but
12 it was the path where we were if we were going to sort of
13 drop the ball and have failure or was I going to try to
14 step up to the plate and, you know, accept the reality if
15 we don't do this, it won't happen.

16 Q: Who hired Pioneer Group?

17 A: I did.

18 Q: Did you see any of the initial submissions that
19 Deborah Hutton made to our Commission that initiated this
20 matter? Did you have any occasion to look at those?

21 A: Yeah, yeah, I did the first time.

22 Q: In those submissions there were suggestions that
23 your organization was trying to hide the sources of the
24 funding. I don't mean to be provocative by asking this.

25 A: Yeah.

1 Q: And to conceal financial activity to promote
2 TABOR and the excise tax referendum. Because this
3 \$160,500 has never been reported publicly in a campaign
4 finance report, is there some other motivation that you'd
5 like to point to, to respond to any kind of suggestion
6 that--or to the suggestion that has been made that Maine
7 Leads was trying to conceal the, the scope of its
8 fundraising and spending?

9 A: No. Only other than to say is when we started
10 in my mind it was three \$25,000 checks, you're on your
11 own, you're going to have to raise money separately, this
12 is not our initial purpose, we began down this path
13 getting in deeper so we continued funding. So it wasn't
14 my intent to spend this much money from the beginning. I
15 mean it's not how I wanted the resources used and it has
16 had an impact, you know, on the organization.

17 Q: In your submissions to the Commission for this
18 investigation, did you include a percentage of staff time
19 that was allocated--that Maine Leads allocated to its most
20 significant activities?

21 A: I did. I believe it's in your documents,
22 Exhibit, Exhibit 3.

23 Q: That's right and--

24 A: [Interposing] Second page.

25 Q: If I can draw your attention to the first page

1 of that exhibit, that's number three, at the bottom of
2 page one there's a total, there's a total expenditures of
3 Maine Leads for the period of October 1, 2007 through
4 December 31, 2008.

5 A: Yep.

6 Q: And then on the next page, as you mentioned,
7 there's a breakdown of those total expenditures according
8 to Maine Leads different activities. Can you--

9 MR. BILLINGS: [Interposing] Excuse me.

10 That's actually a breakdown of staff time activity.

11 Q: --staff time. I'm sorry. I appreciate the
12 correction. Thank you. It's a breakdown of staff time by
13 activity. Can you tell the Commission how you prepared
14 that breakdown of staff time?

15 A: Yeah. We don't have a formal, like a billable
16 hour's system. So I asked the staff, including myself, to
17 try to go back, sort of keep track of their time to the
18 best of their recollection, what did they believe and then
19 we sort of compiled it all and then reviewed it as a
20 staff, said this looks good, this makes sense, this is
21 accurate. You know some staff members actually kept
22 excellent hours, literally every detailed hour. Not all
23 of them, like myself included, did that. But--so I feel
24 pretty good about the breakdown. I'm not exactly sure but
25 it, you know, this is sort of several hours of staff time

1 figuring it out, going through all of our records to try
2 to best comply.

3 Q: And what percentage did you arrive at for staff
4 time that was devoted to initiatives?

5 A: I think we had less than 5%, which--yeah, 4%.

6 Q: And--

7 A: [Interposing] And I think that was done, not
8 think, I know that was done sort of in, in the notion that
9 also Trevor on the staff went off the payroll. So there
10 were periods of time when he wasn't working at all on the--
11 for Maine Leads so.

12 Q: --and on the next page of the affidavit, did you
13 calculate what that total--that 4% total amounted to? This
14 is in the answer to question seven. What I'm asking about
15 is the total of staff wages and benefits.

16 A: Well I think we filed, we filed a 1056B report
17 that reflected a little over \$8,000 of staff, sort of
18 staff time, as, you know, as best we could. We didn't
19 know if we should separate them all out. I mean obviously
20 you take out each PAC, it wouldn't exceed the \$5,000
21 limit. We just aggregated anything remotely and just put
22 it all into one report.

23 Q: So the--you're referring to Exhibit No.--

24 MR. BILLIGS: Eight.

25 MR. WAYNE: Yeah.

1 A: Oh, it should be--yeah. So if you go down to--

2 Q: [Interposing] You filed--

3 A: [Interposing] --there's two things we filed. One
4 is the 1056 report. The second thing we filed was the,
5 the total expenditure for staff wages and benefits for
6 initiated related activities of the \$4,948.96.

7 Q: --so just to be clear about the time periods.
8 The \$4,948 that refers to the period of October 1, 2007.

9 A: Sorry.

10 Q: 2008.

11 A: Right.

12 Q: Is that correct?

13 A: Correct.

14 Q: And in addition you filed with the Commission
15 Exhibit No. 8.

16 A: Yes.

17 Q: Which is a campaign finance report, as a Ballot
18 Question Committee, and there you provided staff time
19 spent in 2009. Is that right?

20 A: Correct.

21 Q: And do you know the time period that's covered
22 by this report or the months that were covered by the 2009
23 report?

24 A: I thought it was January through July. Is that
25 not?

1 Q: Well I see on Schedule B for expenditures, the
2 second page, I'm seeing the months of April, May and June.
3 So I--that was leading me to conclude that this was for--
4 this covered those three months. This was not intended to
5 cover before April 2009. Do you know if that's right or?

6 A: I think it was.

7 Q: If you don't know, that's--

8 MR. BILLINGS: [Interposing] I mean I'm
9 obviously not the person offering testimony but I was
10 involved in preparing that report and I think the
11 intent was only for that quarter, that quarter. So
12 it wasn't intended to include the January, February,
13 March.

14 Q: --okay and then going back to 2007 and 2008, can
15 you identify the Maine Leads employees that performed the
16 work for which they were paid the \$4,948?

17 A: It would have been Chris Cinquemani, any piece
18 he would have done. It could have been Laura Santini-
19 Smith, her time and, and me. I think that would be the
20 bulk of it.

21 Q: And--I'm sorry.

22 A: I'd have to look. It could possibly be more.

23 Q: You're not sure whether it included Trevor
24 Bragdon?

25 A: Yeah. I don't think it would have. He wasn't

1 on the payroll.

2 Q: And I might have misunderstood your previous
3 testimony. Have you ever been compensated by Maine Leads
4 ever for any work that you performed for Maine Leads?

5 A: No, the reason I add that is I meant I was
6 reimbursed for copies at Staples, you know.

7 Q: I'm just asking about compensation.

8 A: No.

9 Q: No. But you may have been reimbursed for out-
10 of-pocket expenses?

11 A: Possibly. A bill at Staples that would be the
12 extent of it.

13 Q: Can you describe the kinds of work that Chris
14 Cinquemani and Laura Santini-Smith would have performed
15 for which they received this compensation?

16 A: It would have to have been either helping some
17 of the communications piece. Anything to do with
18 communication or the writing content or any, any type of
19 sort of something we could measure and, and sort of, you
20 know, point to as specific, specific items.

21 Q: Okay. Thank you very much. My last few
22 questions go back to the, the purpose for which Maine
23 Leads was formed.

24 A: Yep.

25 Q: And the activities of Maine Leads. Who was

1 involved in the decision to form Maine Leads as an
2 organization?

3 A: You mean everyone or?

4 Q: Yeah. Could you identify anyone other than
5 yourself?

6 A: Yeah.

7 Q: Who was involved in the decision to form Maine
8 Leads.

9 A: Me for sure. I would say folks at Maine
10 Heritage Policy Center, any, any Board members, we would
11 have had maybe a discussion about what's going on
12 nationally.

13 Q: Board members of Maine Leads?

14 A: No, of, of Maine Heritage or employees at Maine
15 Heritage Policy. I would have talked to them about what
16 we hoped to accomplish because we wanted to work closely
17 with them. So I would have left them—we would have talked
18 to them about it. I mean I don't think I'd not talk to
19 them. I would have talked to some Legislators about the
20 concept just generally not to seek approval but to say I
21 think this is what we need for longer term for—to the
22 center right movement.

23 Q: And is Maine Leads exempt from paying Federal
24 income taxes?

25 A: Yes.

1 Q: And what form of tax exemption does Maine Leads
2 have?

3 A: Non-profit.

4 Q: But what kind of non-tax exempt, there's
5 different forms of tax exemption? Do you know which form
6 of exemption it has?

7 A: I think it comes under the C4 category for
8 Federal filing purposes.

9 Q: And did you provide a summary of Maine Leads
10 activities to the, to the Commission as part of this
11 investigation?

12 A: There should be several pages.

13 Q: This is—Exhibit 9 is that the summary you
14 provided?

15 A: Yes. Yeah. Sorry. You have it. It's in
16 Exhibit 9.

17 Q: Could you provide the Commission members with an
18 overview of what Maine Leads activities have been since it
19 was formed?

20 A: Sure. Well just looking at Exhibit 9, the
21 specifics as opposed to the general. One of the—probably—
22 obviously there's a healthcare piece but the biggest push
23 for us was the transparency and accountability, one of the
24 movements nationally and one of the movements we're
25 interested in is open-Gov. Sort of open Government.

1 Making it so the State's checkbook, if you will,
2 accessible online, how they spend their money, where it
3 goes. We, we piggyback and work very closely with Maine
4 Heritage Policy Center, which developed and created a lot
5 of that. We spent hundreds of hours back-end work
6 planning how it was going to work, what we were going to
7 do, how it was going to be executed. The other, the
8 other--and, as you can see, there's a whole list of things
9 having to do with transparency and accountability on that.
10 In addition, probably in 2007 and 2008 the biggest
11 activities we actually created in law and co-branded with
12 Maine Heritage Policy Center upgraded online bill tracking
13 website. It essentially is taking everything the
14 Legislature does and try to make it accessible to average
15 citizens, complete redesign of the site where every piece
16 of legislation, every amendment, everything was entered
17 in. It was hundreds of hours of work. Too much work
18 actually, in fact, in the end but to try to recreate a
19 more user-friendly interface with what the legislature is
20 doing day-to-day, enters all their business, their voting
21 records, everything. Completely different, different
22 website. You can see we touched on other issues, economy,
23 I mean taxes, energy, candidate-activist training. I
24 presented several national groups. I did a lot of
25 training with another organization called the Rising Tide.

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1 It's a non-partisan I guess you'd say Democrat wing
2 organization but I provide all the grassroots training for
3 them. I've done that for--on behalf of Maine Leads. You
4 can see that under candidate training. We involved some
5 testimony and lobbying. Dan, though not paid, spent I
6 think many, many hours along with Chris and others on the
7 Legal Affairs Committee working a lot of time spent here
8 on the Commission. Dan's been an integral part of ethics
9 laws and being involved in that. We spent a lot of time
10 obviously in coalition building. I mean that's where I
11 spent a lot of my time, center right taxpayer meetings,
12 all those groups that you see listed. I'm trying to think
13 of other big things. I think our biggest, sort of our
14 biggest projects were to support the work of--and on
15 transparency and open Government working hand-in-hand with
16 MHPC. I can't say enough in terms, you know, I understand
17 why the referendum thing may be sexy in terms of the media
18 how they cover it and stuff but I would say we spent 50
19 hours to 100 hours for every one hour on the referendum in
20 terms of just the two open Gov and the legislative
21 tracking website in terms of real staff time at Maine
22 Leads and what we did. So I can answer any question
23 specifically that you have and I think you have a list of
24 several pages of articles that we wrote. Again, a lot of
25 this was building capacity and behind the scenes work as

1 much as we can to support anything on the center right.

2 Q: So does Maine Leads have a single or an
3 overriding purpose for its existence?

4 A: Well in my--what I envisioned was to build
5 capacity on the right over a three to five-year window
6 that would create an infrastructure that would at least be
7 able to compete with extraordinary sort of organizational
8 efforts that are going on in the left, whether its Maine
9 can do better or some of those other organizations that
10 are organized very similarly to the way Maine Leads works.
11 I mean that--if I had to say what is my motivation, my
12 motivation was how the left was organized against us and
13 TABOR last time and how it's much bigger than just a
14 single referendum. That's the thing that struck me. That
15 they were able to come together and to work together so
16 well because they worked together all the time on lots of
17 issues of capacity building on any number of topics as
18 opposed to just fly by night every two years you get upset
19 about a referendum and then sort of the Colorado model.
20 Those were the two pieces in my mind.

21 Q: Well this is an open-ended question but one of
22 the terms of our--in the PAC definition is what's the major
23 purpose of the organization.

24 A: Right.

25 Q: The Commission has received assertions from

1 Deborah Hutton that the major purpose of the organization
2 is to promote citizen initiatives. So one of the
3 determinations that the Commission may want to make is
4 what is the organization's major purpose? Is there
5 something other than citizen initiatives that you'd like
6 to say is the major purpose of the organization?

7 A: Yeah. I mean sort of just everything I just-
8 yes. I don't-I want to do as an effective job as I can
9 explaining it but my job was or my mission was to build
10 capacity. It was to be a place where other center right
11 groups could come together and to work on ideas and
12 advance an agenda whether it's day-to-day in the
13 Legislature, whether it's working with local mayors in
14 Waterville or Biddeford. It, it really is just strictly
15 out of envy of how the left has organized and that-I can't
16 really describe it. I mean I hate to be so specific but I
17 wanted an organization that could compete with the left
18 and the referendum was the least of my priorities. I just
19 don't believe that's how you build capacity every two
20 years with some election. I think that's why you lose
21 capacity. You just burn through capacities and so, you
22 know, it's ironic to me because it's sort of the
23 antithesis of what I wanted to do was just to be another
24 PAC looking at referendum and, you know, sort of the
25 actions of the organization right now if you look at it,

1 if we were a PAC, we'd be gearing up for the campaigns and
2 all busily working and we're all off on other things right
3 now working on totally different projects. In addition to
4 the referendum, which we still believe strongly in and I
5 100% support it. I think it's an important part of
6 capacity building but it's not what Maine Leads was about.
7 Maine Leads was really designed to create capacity to
8 combat the left. I mean you almost need to look at sort
9 of at the left maybe to understand it. If you look at the
10 Maine Can Do Better website, they've got 175 non-profits.
11 Their whole page right now, everything in their website is
12 dedicated to fighting TABOR and the excise tax. I don't
13 believe for one minute that they're a PAC to fight--that's
14 all they're doing if you go to their website. That's it.
15 These 175 organizations all banding together, having
16 seminars, flying people in, I mean there's so much
17 activity it's exactly what I want to do. That's exactly
18 what I want. I believe they're doing lots of other good
19 things too but I'm also very cognizant of the fact that--
20 and they may have spent about 1.5 million dollars against
21 things I've worked in the last so I understand every
22 little penny we spend when you see such a small
23 organization against such large organizations is going to
24 seem like oh, they must be a PAC but I would just ask that
25 you sort of not be discriminated against as we're just

1 beginning and trying to build capacity and because
2 referendum came along, that somehow infers that we are
3 this PAC.

4 Q: Okay. I appreciate that concern and I'm sure
5 your counsel when he has a chance to provide legal
6 arguments if he wants to talk about other organizations.

7 A: Okay.

8 Q: He'll, he'll address that. Talking now about
9 Maine Leads present intentions.

10 A: Yes.

11 Q: Not what you're thinking back in 2007, what your
12 intentions are now, do you intend that Maine Leads will
13 continue to be active in Maine as a public policy advocacy
14 organization?

15 A: 100%. I mean more--hopefully we have plans for
16 more aggressive as far as taking the legislative process.
17 We've just begun the lobbying piece, sort of to train our
18 guys to be better at lobbying and to register and be more--
19 I mean, again, it's about capacity. So the answer is yes,
20 completely.

21 Q: On your Form 990, which covers the period ending
22 on December 31, 2008.

23 A: Yes.

24 Q: That was nine months ago.

25 A: Yeah.

1 Q: At that time you reported having a cash balance
2 of negative \$24,399.

3 A: Correct.

4 Q: So has Maine Leads engaged in fundraising in
5 2009 to continue its activities?

6 A: Well additional dollars have come in from the—
7 remember I had—it originally was a three-year proposal.
8 So additional dollars have come in. Is it as good in the
9 current economy as I would have liked? No, we have
10 serious, you know, I'm going to have to hustle here but I
11 mean we're still working towards our original goal and
12 trying to meet those but we haven't met them yet.

13 Q: And have you—do you believe you'll have
14 sufficient fundraising to be around indefinitely?

15 A: Me personally? I hope not me but yes, the
16 organization.

17 Q: The organization.

18 A: That's, that's the plan and I would say it's the
19 same as sort of what Maine Heritage Policy Center was up
20 against. Too they started off—I started there on a
21 \$200,000 budget, they're now well over a million dollars.
22 It has taken them five to seven years to get there, a
23 year. So I mean we sort of hope to be arm-in-arm with
24 those guys in that same—it takes time and we have enough
25 capacity to, to ride out this sort of economic downturn

1 but it's something we work hard on.

2 MR. WAYNE: Okay. Thank you very much.

3 That's the end of my questions and I wonder if I
4 could turn to the Commission counsel and see if she
5 has--if she wants to follow-up.

6 DIRECT EXAMINATION

7 BY MS. PHYLLIS GARDINER

8 Q: I just have a very few follow-ups. Briefly, you
9 mentioned several times the Colorado model as being an
10 example of what you wanted Maine Leads to be.

11 A: Eventually.

12 Q: Can you describe briefly what you mean by the
13 Colorado model?

14 A: Yeah. What they decide to do in, in Colorado is
15 Tim Worth and a couple of billionaires on the left,
16 Progressive, the guy who owns Progressive Insurance, some
17 technology guy, sort of saw Colorado as this red state if
18 you will, Republican State. Every Governor, both houses,
19 most Congressman, both U.S. Senators, AG, all of them were
20 sort of red, if you will, except for maybe one House
21 member. Him and three or four other guys, women and men,
22 got together and said we believe that Colorado is actually
23 not that far to the right. We just believe it's a
24 question of organization and structure and so they got
25 together and formed this entity, I can't remember the name

1 of the entity, and then spun off I'm going to say six to
2 eight additional entities subsequent to the—five or six
3 years ago all helping to build capacity on the left. So
4 they have a thing called Colorado Media Matters, which
5 looks at the press and reviews as a watchdog on the media.
6 They have a think tank. They have a C4, an action group.
7 They have recruiting and candidate entities. They have
8 six to eight different silos that they've created these
9 organizations, all with a unified message, all with
10 identical marching orders, if you will, all controlled by
11 very few people who have billions, well not in that way
12 unfortunately, with a goal of moving Colorado to where
13 they believe it rightfully belongs and they started this
14 in 2002. I can give you, it's a great article, I think it
15 was in News Magazine and I'll provide that for you to see,
16 and so essentially the result is in 2008/2009 that the
17 Governor, both Houses of Congress, I think four of the
18 five, both Houses of the State Senate, four of the five
19 Congressional Delegates and both the U.S. Senators are now
20 Democrats and it's really viewed as probably one of the
21 most effective models in creating change, real change,
22 from the grassroots. The right has done it too. Texas
23 has done it with trial lawyers. They had to sort of
24 fundamental change the way business is done in Texas but
25 that's a very similar, a very similar model. So it's this

1 capacity building. In fact, we had a guy from Texas just
2 recently here talking to us about it and that model. Does
3 that make sense?

4 Q: Yes, thank you and you keep using the term
5 capacity building and I don't want to ask you to repeat
6 what you've already described.

7 A: Right.

8 Q: But is the activities that Maine Leads has
9 actually engaged in, that you've described to the
10 Commission, which ones do you identify as being capacity
11 building activities?

12 A: The big things for me would be the open
13 Government sort of the website on watching that, the open
14 Government website with MHPC. Probably the other piece
15 would be having a presence in the Legislature, working
16 with Dan and with Chris on more of a lobbying type and
17 trying to be more actively engaged in that. Another would
18 be my and Chris' role in sort of ghost writing and
19 providing messaging and talking points and working with
20 people directly on large numbers of policy issues to help
21 folks that we philosophically agree with or, or on our own
22 or grassroots folks to do that, to work with local
23 grassroots organizations, whether it's local taxpayers
24 organizations. We now have honorary memberships on Maine
25 Taxpayers United or some of these other local tax groups,

1 to work with them, we're going to speak to them. So, I
2 mean, that would be some of it in a nutshell those pieces.

3 Q: You mentioned that you were not—you were not
4 compensated for your staff time on behalf of Maine Leads.
5 So do I understand correctly then that the dollar value
6 you recorded in your affidavit of Maine Leads staff time
7 initiatives would not reflect any value of your time? Is
8 that correct?

9 A: Yeah. I was of the understanding that wasn't—I
10 didn't need to.

11 Q: Thank you. Were you involved in forming the PAC
12 that was formed to support the TABOR initiative?

13 A: Yes.

14 Q: And were you involved in the formation of the
15 PAC to support the healthcare initiative?

16 A: I don't—no. I wasn't.

17 Q: Did you provide any advice or consultation to
18 those who did form that PAC?

19 A: No. No and I just happen to nod on that one for
20 whatever reason. I didn't. If they had asked me, I would
21 have but no one asked.

22 Q: How did you become aware that a PAC had been
23 formed for the healthcare initiative?

24 A: They just told me they were going to—they wanted
25 to form another PAC.

1 Q: Did they make a request for funding support from
2 Maine Leads?

3 A: Yes.

4 Q: Did each of the three PACs make a, a request?
5 Well I'm sorry. One of the PACs you were the principal
6 officer of so.

7 A: Yeah. You know, I'm going to say that we made a
8 decision that we would provide seed money to these
9 organizations that we supported, you know, philosophically
10 supported.

11 Q: And you identified which organizations those
12 would be yourself?

13 A: Correct.

14 Q: And when you say we made the decision, who,
15 besides yourself, was involved in making that decision for
16 Maine Leads?

17 A: You know, I would say it would be for sure me,
18 Trevor, maybe everybody on the staff. We talked about
19 what our priorities are, what we're going to do, you know.
20 I had initially, from the very beginning in my mind, said
21 I want to provide seed money to the referenda. I think
22 that's an appropriate role of our organization in capacity
23 building but I don't remember the specific let's do this
24 and this on this date and yes or no to what we vote or
25 something.

1 Q: When did you hire staff for Maine Leads?

2 A: Throughout the late fall, late 2007 or early
3 2008.

4 Q: Did you have paid staff on hand at the time that
5 you hired Pioneer Group to collect signatures?

6 A: You know I don't recall. I don't know the exact
7 date. I couldn't say which came first at that point.

8 Q: Trevor Bragdon is the owner of Pioneer Group,
9 correct?

10 A: Yes, yes.

11 Q: When you hired—you mentioned earlier that your
12 hired Pioneer Group.

13 A: Yep.

14 Q: When you hired Pioneer Group, was Trevor Bragdon
15 on the—already on the staff of Maine Leads?

16 A: I don't, I don't think we had started. This is
17 like in early November when the first—I don't believe at
18 that—I don't remember the exact dates and times. I can
19 actually follow-up on that. I don't recall if he was or
20 wasn't at that first initial. I want to be definitive. I
21 just couldn't tell you the exact date.

22 Q: When did Maine Leads hold its first Board
23 meeting?

24 A: I'll have to get back to you on that.

25 Q: Do you know?

1 A: I don't remember the exact date and time. We
2 have the records in file.

3 Q: What was the agreement that you had with Pioneer
4 Group when you, when you hired them? When—I'm saying you,
5 you acting for Maine Leads if I understand correctly.

6 A: Yep. You know initially when I laid it out my,
7 my intent was that they're going to have to sort of—we're
8 going to have to figure out a way to collect signatures at
9 no or minimal costs and that I thought and my apparently
10 naïve thinking that if you had three to five hundred
11 people on election day, who were acting as volunteers,
12 which we did. We had hundreds of people who volunteered
13 and collected the vast majority of the signatures on two
14 of the referendum. That we could do this. This could be
15 a volunteer effort. We could work with this volunteer
16 effort. So my, my sort of agreement was that you would
17 help supervise the, the volunteers but this would be a
18 massive volunteer effort and we had, you know, he had
19 training sessions and read over the law and there were
20 literally hundreds of people who collected signatures and
21 volunteered their time and we—I'm going to say 30 to 40
22 thousand signatures for two of them on one day. It was
23 all done in one day. So that was sort of my initial
24 understanding with him that this would not be a paid
25 effort. That we had to—we could build capacity and he

1 could reach out to people and they could all go and
2 happily collect signatures for free. I know it sounds
3 ridiculous that they allow that stuff.

4 Q: So did you believe—so how did you believe that
5 Pioneer Group was going to use this \$65,000 that you paid
6 them?

7 A: That would be—everything that it would take to
8 sort of undertake this one day effort that, you know, you
9 coordinate with people, you—training expenses, you know,
10 whatever it'd take to lay this whole thing out on one day.

11 Q: Did you have any written agreement with Pioneer
12 Group?

13 A: I have to—you know, I don't remember. That
14 question came up. I don't remember. I don't remember.

15 Q: So the, the payment you've already reported in
16 your affidavit. I think that payment—initial payment of
17 \$65,000 to Pioneer Group was made on November 5, 2007.

18 A: Yeah.

19 Q: And the payments of \$25,000 to each of the three
20 PACs, supporting each of the three initiatives, were
21 reported on November 15, 2007. So how did it come—and
22 then there's another payment by Maine Leads to Pioneer
23 Group beginning—on December 17th, how did it come about
24 that Maine Leads made that payment?

25 A: It became pretty obvious that sort of this dream

1 of the massive volunteer effort for three referenda at one
2 time was ridiculous. Two of them I believe it would have
3 been done and over with without any problem. We just
4 found apparently on election day having three impacted the
5 ability to collect the numbers and to staff the polling
6 places, torrential down pouring and part—I mean just a
7 number of things impacted our numbers, our projections on
8 that sort of one-day massive collection of signatures. I
9 mean, you know, to give you a sense, some of the ones
10 where we had adequate staff and volunteers and it went
11 well we were collecting 12 to 15 hundred—600 to 1,500
12 signatures out of one polling place. So just a massive
13 number of signatures based on any standard but then just
14 sort of the just the volunteer network didn't hold for the
15 whole State and we just sort of lost support and whether
16 it was location or just—we came to this realization that
17 we were just going to be short and did we want to keep on
18 pushing down this path and if so, what was it going to
19 take.

20 Q: Which election day are you referring to?

21 A: The November—on election—the November election.

22 Q: November '07?

23 A: Yeah.

24 Q: Do you recall what day that occurred on? I wish
25 I could but I don't. It's in here. Okay.

1 A: A Tuesday.

2 Q: Yeah, that's a pretty good guess. Pretty safe
3 to say.

4 A: 20 years to figure that out.

5 Q: So basically you're saying that between November
6 5th or November 15th and December 17, 2007, you determined
7 that there would be--

8 A: [Interposing] That would be the current time.
9 Correct. We had a sense of how many we had by that point.

10 Q: --how many signatures you had?

11 A: Yeah.

12 Q: So you sized up how many signatures you had by
13 December 17th and figured out that you would have to hire
14 circulators? Okay.

15 MR. LENDARDSON: And particularly with one of, one of
16 the, not really a problem with two of them but a problem
17 with a third one.

18 Q: If your original idea, as you testified earlier,
19 was that these PACs would handle their own fundraising for
20 these initiatives, how come Maine Leads made the
21 continuing payments to Pioneer Group?

22 A: There was just--I mean it's a series of things.
23 That the economy started to unfold, it's clear that the
24 capacity - - and, you now, I wish there was this magic
25 moment that I could see the end because maybe I would have

1 done things differently if I knew how deep I was getting
2 in but at the time it just seemed to have got further and
3 further along in our capacity to raise money, sort of
4 national groups, local groups, struggling to raise, I
5 mean, the economy really became a significant barrier in
6 terms of going out there and saying hey, you want to, you
7 know, give us some money and so, as you can see, sort of
8 as the dates as it dragged along, I got in deeper and
9 deeper and just sort of had to make the call do we do it
10 or not and I continued on or accept failure and so we
11 didn't and now looking back on it, I would have liked to
12 have had the knowledge of the end result for a number of
13 reasons. I would not have done, you know, I think the
14 idea of doing three is ridiculous. It's too many. I
15 think the healthcare issue was too complicated. I mean
16 there's a lot of thoughts I have on it but going in that
17 was not sort of in the plan.

18 Q: And you mentioned that you, again just filling
19 in a couple of blanks here, you mentioned that you
20 prepared the funding proposal that's included in here as
21 one of the exhibits. Did anyone else on your Board of
22 Directors—did your Board of Directors or did anyone else
23 on the staff have a hand in developing this main
24 application?

25 A: You know I think Chris wasn't on my staff but

1 he's a good proof—you know, I may have had him proofread.
2 I can't remember who looked it over but kind of made it up
3 based on my gut feeling on where we needed to go and what
4 I'd seen out there in other States and what the left had
5 done here in Maine. I just sort of blurted it out,
6 everything that came to mind and put it down on paper and
7 they liked it.

8 Q: And did, did the initial budget that you had
9 developed of, you said approximately \$450,000.

10 A: Yeah.

11 Q: Was that something that was ever presented to
12 your Board and acted on or would that have been a budget
13 that you put together on your own?

14 A: I put it together on my own and it, you know,
15 subsequently looked at it but I was essentially trying to
16 strike while the iron was hot with this national mood of
17 this, this notion of what I was selling and there were
18 people willing to buy it so.

19 Q: Thank you. That looks like Jonathan has a
20 couple of follow-ups.

21 RE-DIRECT EXAMINATION

22 BY MR. JONATHAN WAYNE

23 Q: Well I just wanted to reiterate that unless the
24 Commission members object, the Commission staff would like
25 to make a request for budgets that were created around the

1 initial funding proposals and--

2 A: [Interposing] Truthfully I thought we had sent
3 it. I have no problem with you having it.

4 Q: --so we'll get a request to you in writing
5 either in the form of a letter or a subpoena and if
6 there's any testimony that you want to provide to help the
7 Commission members understand what this says or does not
8 say about the, the purpose in soliciting these
9 contributions, I'm sure the Commission members would be
10 pleased to read that as well. Thank you.

11 A: And I guess--also I'd like to provide sort of, if
12 I can, just a one or two pages on the left in Maine and
13 the article on the Colorado. It's interesting. It gives
14 you some perspective of what we're trying to accomplish.
15 If it's helpful, I'll send it.

16 Q: Sure. Just--we'll be in touch with your counsel
17 about the timeline and the Commission members' might--

18 A: [Interposing] Yep.

19 Q: --the Chair did say it would like--the Commission
20 would like to make a decision for October 1st, so it
21 probably will be a quick turnaround. Thank you.

22 A: That's fine. We have that ready to go.

23 MR. FRIEDMAN: Before I determine whether or
24 not we need a break, let me just ask. Mr. Billings,
25 do you have any questions?

1 MR. BILLINGS: Very briefly.

2 MR. FRIEDMAN: Okay. Mr. Grant, will you
3 have any questions? Then let's take a 10-minute
4 break and we'll stop back at 3:35.

5 [BREAK]

6 MR. FRIEDMAN: And now back on the record.
7 We'll remind Mr. Lenardson, you're still under oath
8 and turn the questioning over to Mr. Billings.

9 CROSS EXAMINATION

10 BY MR. DANIEL BILLINGS

11 Q: Just a few follow-up questions in regards to the
12 things that Mr. Executive Director and counsel had asked
13 you about. Mr. Wayne had asked you about Trevor Bragdon
14 and when he was on the Maine Leads payroll.

15 A: Yeah.

16 Q: And you had said that you would have to check
17 specific documents to respond to that but can you tell me
18 in 2008 was Mr. Bragdon involved in any major other
19 activity that would have taken him off the Maine Leads
20 payroll?

21 A: Well, yeah. He took another job temporarily.
22 He went and worked for another organization. He ran the
23 Senate Republic Campaigns. They asked if they could have
24 him and he took a job with them. I don't know the exact
25 start and end dates but it was about a year of his time.

1 Q: In both today and in your affidavits you had
2 made some representations upon financial transactions and
3 dates and amounts and so forth, did you rely on financial
4 records to prepare that information?

5 A: Yeah. We just—all the questions we just—
6 whatever records we'd filed we just pulled them up and
7 copied down the numbers. Exactly. Consistent.

8 Q: Mr. Wayne asked you questions about whether you
9 had conversations with the funders about spending some of
10 the money that they might give you on referendums.

11 A: Correct.

12 Q: Did you, did you have conversations with those
13 funders on—using the money on these—any of these three
14 specific referendums that are issue in this campaign?

15 A: No and just to reiterate, they, they weren't,
16 they weren't interested in the—they were—what I was
17 selling was capacity building, the Colorado model, what
18 was going on in the left. I wasn't selling them throwing
19 money at a referendum. That's just not what they're
20 interested in. In fact, they're specifically not
21 interested in that. They believe that that's the mistake
22 the right has made by just jumping from referenda to
23 referenda without ever meeting anything—any capacity. So,
24 no, I have no doubt that they knew in 2006 that there was
25 a TABOR referendum but they certainly would not have known

1 about the other two and they could surmise that TABOR
2 would come up again but that wasn't the gist of any of our
3 conversations at all and I think it would hurt, frankly,
4 hurt our efforts because they're not interested in that.

5 Q: Thank you. That's all I have.

6 MR. FRIEDMAN: Thank you. Mr. Grant, we'll
7 let you have a few moments if you'd like to ask some
8 questions. Come right up here.

9 MR. BILLINGS: I'd just like to, to make an
10 objection for the record. I think it's clear in the
11 Commission law-Commission rules and statutes that
12 once a referendum-once an investigation is opened
13 that it's the Commission's investigation and I don't
14 think this is an adversarial process and I just think
15 we're-not that I really have any objection to Mr.
16 Grant, but I think we're creating a poor precedent to
17 allowing someone who may make a complaint to
18 participate in the actual investigation.

19 MR. FRIEDMAN: Thank you. So noted. Mr.
20 Grant, you can come up and have a brief period to ask
21 some questions if you'd like.

22 DIRECT-EXAMINATION

23 BY MR. BENJAMIN K. GRANT

24 MR. GRANT: Is this - - .

25 MR. FRIEDMAN: Yes.

1 Q: Excuse me. Good afternoon, Mr. Lenardson.

2 A: Hi.

3 Q: I'll be as brief as I can and I want to focus on
4 one particular issue here that I think has been lost.
5 There's really two issues before the Commission, even
6 though this is all about Maine Leads and their activities,
7 because of the change in the law that occurred during this
8 time period, this is about what happened prior to June 30,
9 2008 and what happened after June 30, 2008 and I think
10 we've heard a lot about what you intended to do and hope
11 to do and are motivated to do and we've heard a lot about
12 capacity, which I'll admit is a word I still don't quite
13 understand what you mean by it, but what I do understand
14 is this list of activities that you provide as Exhibit No.
15 9 and I just wanted to go through some of them and find
16 out when they occurred because I think that's a critical
17 element to the investigation because it's obvious that
18 there are a host of these that occurred after June 30,
19 2008. So I think it's important to find out what's left.
20 So what Maine Leads actually did, not what they hope to do
21 but what actually--what they did before June 30, 2008. So
22 if you'll indulge me, I'll try to go through it as quickly
23 as I can and I'll just start with the healthcare section.
24 The bottom two I'll--I would ask you to confirm that those
25 occurred after June 30, 2008, the opposition to the

1 Federal healthcare and the publishing of article on
2 September 24th.

3 A: I have a different.

4 Q: Oh, I'm looking at Exhibit No. 9.

5 A: Okay.

6 Q: Page 96 of 133.

7 A: I'm sorry. Start again.

8 Q: I just want to breakdown under each category
9 which, which activity occurred before the change in the
10 law of June 30, 2008 and which occurred after.

11 A: Yeah. When I know dates, I'll say and when I
12 don't know, I don't know.

13 Q: Yes. So when did--

14 A: [Interposing] So one and two occurred after.

15 Q: -- so when did the first three occur? When did
16 you advise and draft healthcare policy for candidates?

17 A: That probably would have started in late
18 December '07 and gone right through April to May, as late
19 as middle of May, in 2008.

20 Q: Okay and the 123rd Legislator was--that ended in
21 2008. So I assume that is before the date?

22 A: Yeah. I mean that would have--that probably
23 would--I mean, again, I can look it up. I don't know. It
24 would have been during 2008 though when the--that section.

25 Q: Okay. What about the Dirigo op-ed?

1 A: I'm guessing similar.

2 Q: Okay. Under transparency and accountability,
3 you pointed to in your previous testimony the formation of
4 Maine open Gov as one of your central functions. When was
5 that launched?

6 A: You know I think the initial planning stages
7 were pre-Maine Leads. I want to say as early as the
8 summer of 2007. This is a part of a huge national
9 project. It's not just Maine. All over the country so I
10 mean I first got wind of it in like 2006 in Nebraska and
11 Colorado. So I would say pre-Maine Leads through the
12 launch date.

13 Q: What was the launch date? That was my actual
14 question.

15 A: Gosh, I don't know the launch date. I should
16 know the launch date. I don't.

17 Q: I saw an interest in doing newspaper searches
18 that it was in September of '08. Would that sound?

19 A: That makes sense. That's about right, that's
20 about right.

21 Q: So I've launched websites before with
22 candidates. It seems to me that most of the activity
23 occurs right before the launch so.

24 A: This is—I mean, this Maine open Gov website I
25 can't even tell you how difficult it was to compile and to

1 get some of it through Freedom of Information requests,
2 some of it through using the State's data, I mean it was a
3 long process. Just the scenarios alone working with the,
4 the technology company that was going to develop it, it's
5 a pretty sophisticated website actually and it was done in
6 conjunction with the Manhattan Institute in New York and
7 it's actually rolled out, the Maine model has rolled out
8 into eight more States. I mean this is a really big, sort
9 of big part of the movement of--that we're involved in so.

10 Q: The next one is the National Open Government
11 Conference. When did that occur?

12 A: I'm going to say late spring of 2008 in Arizona.
13 I could get the specific dates, May, maybe May.

14 Q: And there's several items about the South Port
15 Select. When did that issue come up?

16 A: I have no idea. Again, that would be easy to
17 find that but it--probably in the height of whenever the
18 Legislative session would have been. So in the spring of
19 2008.

20 Q: The OPEGA funding cut? When did that happen?

21 A: That was, that was definitely early too. I
22 don't recall the date. There was a series of attempts
23 during the budget process to eliminate OPEGA that we
24 fought on a number of fronts so.

25 Q: Well the most recent long session was 2009 which

1 would have been after the date we're talking about. I'm
2 sure it was discussed then.

3 A: I just—I don't, I don't know the date. There's
4 been—I want to say it was before Senator Trahan was
5 Senator. It was quite a while ago actually.

6 Q: Okay.

7 A: At this point.

8 Q: When was Mainevotes.org launched?

9 A: Beginning back—I mean, sometime in 2008, before
10 the start of the Legislative session so and that was
11 actually more time consuming for us than open.gov because
12 we had to train other people how to do it.

13 Q: And this consulting to candidates and
14 Legislators, is that—when did that occur?

15 A: I don't know. It's a pretty—it was a day long.
16 It takes legal training and the Ethics Commission was in
17 attendance. It was a big long—there was five of them.
18 They were two days long. I don't—on-going. It was
19 before—it'd be before they were elected. So sometime
20 2008.

21 Q: And the last four items are all dated after
22 June?

23 A: Yeah.

24 Q: On the back the economy and taxes, I'll just
25 lead in by saying the last item was about the Tea Parties

1 and those occurred in 2009.

2 A: Right.

3 Q: What about the--can you just run through the
4 other ones and if you can, tell me when they occurred?

5 A: It might--you know I just don't know if they were
6 spring 2008 or spring 2009. I think that the other ones
7 are all spring 2008 because that was under the adjustments
8 to the budgets and that process. Again, I apologize. We
9 could have probably tried to get dates. We didn't do
10 that.

11 Q: All right. Skipping down to energy.

12 A: That would be the same.

13 Q: The same consulting that you referred to?

14 A: Yeah. That would have been early--late 2007 into
15 2008. Most of that spring. The next one would be the
16 same. That one has dates.

17 Q: When, when was Rising Tide? When does it occur
18 during the year?

19 A: It happens two or three times a year. It's run
20 by Ethan Strimling. You could ask Ethan.

21 Q: And when did you provide individualized
22 candidate training?

23 A: 1/31/08, 3/6/08--

24 Q: [Interposing] Oh, those do have dates.

25 A: --yeah.

1 Q: Okay. So it's the same item and when did you
2 create the District handbooks?

3 A: Before that.

4 Q: Testimony lobbying all has the relevant session.

5 A: Again I think there was some before and some
6 after.

7 Q: So the 123rd I'll grant you is before the date in
8 question.

9 A: Yeah.

10 Q: The 124th is all afterwards.

11 A: Yeah. I think most of our—we began to ramp up a
12 lobbying post.

13 Q: The 124th?

14 A: Yeah.

15 Q: And the last—actually I'm sorry. The last item
16 is creating a joint letter regarding LD530 and 28—LD's 530
17 and 28. Is that the 124th? I guess we can look it up.

18 A: I have no idea what those LD's are. I'm sorry.

19 Q: Okay.

20 A: I don't know.

21 Q: Were you involved in outreach to all these
22 groups prior to June 30, 2008?

23 A: Oh, absolutely and sort of joined as members and
24 I think the Tea Party one obviously is a newer edition but
25 the rest of those I traveled to SBN, TBU, Sam Adams, I

1 traveled through all those in 2007/2008 and 2009.

2 Q: Any other members of Maine Leads part of that
3 outreach?

4 A: Yep. Yep. Everybody actually at one or
5 another. I did more of the national stuff. They did more
6 of the local stuff.

7 Q: Under miscellaneous there are two articles.

8 A: Yep, they're dated.

9 Q: That are dated and finally on-these-all these
10 news items are dated and I went through quickly and it
11 looks like only the first one, two, three were prepared
12 before the date in question. Is that fair?

13 A: Yes.

14 MR. GRANT: Those are all the questions I
15 wanted to ask.

16 MR. FRIEDMAN: Thank you. Mr. Wayne, do you
17 have any more?

18 MR. WAYNE: No, thank you.

19 MR. FRIEDMAN: Okay. Counsel? Mr.

20 Billings?

21 RE-CROSS EXAMINATION

22 BY MR. DANIEL BILLINGS

23 Q: Just briefly in follow-up to Mr. Grant's
24 questions. Maine Leads was a new organization in 2007?

25 A: Yeah. I mean we got going around Thanksgiving,

1 you know that.

2 Q: And can you talk about some of the things you
3 and the staff had to, had to be involved in just to get up
4 and running?

5 A: I mean the logistics of starting a new
6 organization in addition to the sort of paperwork and the
7 organizational structure, we had to create our whole
8 reason for being and have Board meetings, get a Board,
9 sort of lay out what are our goals, what our are
10 objectives, what are my expectations for staff personnel,
11 employees, how are we going to treat each other. I mean
12 sort of all this—the gist of how we'd go out and sell
13 ourselves to other groups, did a lot of just meeting with
14 local groups. We're here, design, websites, I mean just a
15 lot internal to try to get a launch on the spring. We
16 wanted to launch in the spring and use sort of an
17 incubation period to get it all ready to go and come out
18 and be a part of that. So I mean everything from
19 personnel to website to getting an office set up and a
20 place to go, the Board organized, just a complete list.

21 Q: You have an office. Where is your office
22 located?

23 A: 12 Church Street, here in Augusta.

24 Q: And when did you move into that location?

25 A: Was it—January or February.

1 Q: And was that--

2 A: [Interposing] Of '08.

3 Q: --was that an existing office space that you
4 took over from some organization or did--

5 A: No. We had to redo it from scratch basically.
6 It was just an old sort of rundown Victorian I fixed up
7 and took over.

8 Q: Thank you.

9 MR. FRIEDMAN: Mr. Grant?

10 MR. GRANT: Thank you.

11 MR. FRIEDMAN: Thank you, Mr. Lenardson.

12 MR. LENARDSON: My pleasure.

13 MR. FRIEDMAN: Let's establish whether or
14 not any of the Commissioners have any questions.
15 Okay. Let's establish the schedule. We know the
16 next meeting is October 1st. I would say that we want
17 the paperwork at least a week before. So that would
18 be September 24th.

19 MR. BILLINGS: Just would you mind
20 repeating? I know you guys have it in writing but I
21 could just get going on what you want.

22 MR. LENARDSON: Actually I think it would be
23 fine if we could just get dates about when it's due
24 and then Jonathan can send us a letter in the next
25 couple of days.

1 MR. FRIEDMAN: All right. Let's shoot for
2 whatever anybody wants to file or send to the
3 Commission for consideration on its October 1st
4 hearing date has to be in by September 21st. Is that
5 a Saturday or a Sunday?

6 MR. LENARDSON: That's a Monday.

7 MR. FRIEDMAN: Perfect. September 21st.

8 MR. BILLINGS: And I'd just ask, Mr. Wayne,
9 that the list of items, you know, some of which he
10 mentioned, if you'd get that letter out to us this
11 week, I don't think there's going to be anything
12 that'll be problematic to pull together. It's not--
13 we've done--asked for time on the front because we
14 spent a lot of time going through documents and so
15 forth.

16 MR. WAYNE: Right.

17 MR. BILLINGS: But we've already done that
18 so the kind of things, the follow-up stuff, that he's
19 probably is going to ask for I don't expect will be
20 difficult to pull together.

21 MR. FRIEDMAN: Yeah and we appreciate your
22 careful cooperation as well. Okay. Mr. Marsano?

23 MR. MARSANO: I'd like to see, and I'd be
24 happy to hear from the attorneys, I'd like to see a
25 limit put on the number of pages for writing. I

1 don't know if they need to be as exhaustive as
2 sometimes the writings are on these - - writings done
3 by each. If there was some way of summarizing what
4 they think the issues are so that it could be more
5 in-capsulated. It would be very helpful to me.
6 Maybe I'm the only one who feels that way in which
7 case you can do whatever you want and the other thing
8 was, there was some question about there being, you
9 know, one day for Mr. Billings and a day for Mr.
10 Grant. It seems to me as both arguments could come
11 together. I would like it and I just wanted to make
12 that point.

13 MR. FRIEDMAN: I agree with Former Justice.
14 I think he recognizes, as we all should here, that a
15 lot of work has already been done and I don't think
16 you have to reinvent the wheel. I think a very short
17 summation would be appropriate for all of us and I
18 think you can file the same day. We just don't have
19 the time to.

20 MR. BILLINGS: And I have no objection to
21 that and I think Mr. Grant and I know what our
22 arguments are. I would--in Mr. Wayne's recent
23 memorandum he suggested that the Commission staff or
24 Commission counsel might have other legal argument.
25 I would like to be able to react to that and if we

1 could get that before, then I have no problem to a
2 reasonable page limit. I think we were both pretty
3 brief in these submissions unlike some other
4 proceedings we may have been involved in but I would
5 like an opportunity to respond to that.

6 MR. FRIEDMAN: Okay. They will—we will
7 direct the staff that if you have additional legal
8 arguments, they should know about it no later than
9 next Monday.

10 MR. WAYNE: That's fine with us.

11 MR. GRANT: You want me to make a summation
12 to the Commission. Is that right?

13 MR. WAYNE: I was planning on it if that's
14 okay.

15 MR. FRIEDMAN: But if you raise other
16 issues--

17 MR. WAYNE: [Interposing] It will be
18 included in that and that can be done by Monday.

19 MR. FRIEDMAN: --okay.

20 MR. BILLINGS: And I don't want to put too
21 much of a short deadline on Jonathan as far as how we
22 would apply the law to the facts that have been
23 found. I mean if he wants to do that after September
24 21st, that's fine. The thing I'd be most interested
25 in is he suggested he had some different take on the

1 law and what the law then in effect meant. That's
2 what I want to know and react to. I don't, I don't
3 quickly need how he would apply that law to these
4 facts. Obviously that's going to take some more time
5 and-but it's more what he or counsel thinks the law
6 is then that I'm interested in being able to react
7 to. How he applies that to the facts he can do that
8 later.

9 MR. FRIEDMAN: Well I think he has his
10 marching orders. We want no surprises. We want the
11 information disclosed as quickly as possible to give
12 both parties the opportunity to get their summations
13 in by the 21st, as well as you-as well as the
14 Commission staff. Okay?

15 MR. WAYNE: Okay. Thank you.

16 MR. FRIEDMAN: Mr. Grant, are you okay with
17 what we've said?

18 MR. GRANT: Yeah. I'm just a--I have a ten-
19 week old baby at home. I do a lot of sitting. I
20 need to stand.

21 MR. FRIEDMAN: Well you have our
22 condolences. You can stand as long as you like.

23 MR. LENARDSON: I have teenagers. I do a
24 lot of standing too so.

25 MR. FRIEDMAN: All right. Is there other

1 business?

2 MR. WAYNE: Well there was that executive
3 session matter regarding the compensation of a-one of
4 the staff. I could provide you an update on it.

5 MR. FRIEDMAN: That is right after other
6 business.

7 MR. WAYNE: Sorry.

8 MR. FRIEDMAN: On the agenda.

9 MR. WAYNE: Then I don't have any other
10 business, then.

11 MR. FRIEDMAN: Okay. We do have an
12 Executive Session issue dealing with a personnel
13 matter if someone would like to make a motion to go
14 into Executive Session.

15 MR. WALTER MCKEE: I so move.

16 MR. FRIEDMAN: Okay. Pursuant to Title One--
17 oh, you seconded? Okay. We have a motion and a
18 second. Sometimes I get ahead of myself and you'll
19 have to catch on here because you only have one more
20 hearing to do it. Title One of the Maine Statutes,
21 Statute 405(4), I move that we go into Executive
22 Session pursuant to Title One, Section 405(6)(A) to
23 discuss the compensation of an employee of the
24 Commission. We're going to ask you to vacate the
25 room. We'll invite you back though shortly.

1 MR. MARSANO: He hasn't seen the materials
2 here.

3 MR. FRIEDMAN: We need a motion to go back
4 into public session?

5 MR. ANDRE DUCHETTE: I'll make a motion to
6 go back to the public session.

7 MR. FRIEDMAN: Thank you. Is there a
8 second? Okay. All in favor? Okay. We're back in
9 the public session. Would you see if anybody wants
10 to come back in before.

11 MR. MARSANO: I didn't. I don't know if
12 anybody else did, but I didn't.

13 MR. FRIEDMAN: What? The second was
14 Francis.

15 MR. MARSANO: Got to vote.

16 MR. FRIEDMAN: Nobody's rushing in so.

17 MR. MCKEE: I move we adjourn.

18 MR. FRIEDMAN: Okay. We had a motion to
19 adjourn.

20 MR. FRANCIS C. MARSANO: Second.

21 MR. FRIEDMAN: We have a second. All in
22 favor? It is unanimous. We are adjourned until
23 October 1st.

24 [END OF HEARING]

C E R T I F I C A T E

I, Catherine E. Lingo certify that the foregoing transcript of proceedings in the matter of MAINE LEADS; TESTIMONY OF ROY LENARDSON was prepared using the required transcription equipment and is a true and accurate record of the proceedings.

Signature: Catherine E. Lingo

Date: September 11, 2009