



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

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

March 11th, 1998

Minutes of the March 11th, 1998 meeting of the Commission on Governmental Ethics and Election Practices held in the parlor of St. Paul's Center, 136 State Street, Augusta.

Present: Chairman Peter B. Webster; members Linda W. Cronkhite, Harriet P. Henry (telephonically present), G. Calvin Mackenzie, Merle R. Nelson; Commission Counsel Phyllis Gardiner; Director Marilyn Canavan.

Chairman Webster called the meeting to order at 9:05 a.m. He then read a resolution honoring Ms. Canavan who is retiring from State service. At the conclusion of the reading, Mr. Mackenzie moved, and Ms. Henry seconded that the resolution be attached to the minutes of the meeting. The motion was voted.

Next, the minutes of the February 11th, 1998 meeting were approved with one change; i.e., the inclusion of Ms. Henry's name on the list of those present, with the denotation "telephonically present" beside her name.

Counsel Gardiner then spoke briefly, clarifying a point she had made at the previous meeting concerning the Freedom of Access Law. She said that while a Commission member may participate in a meeting telephonically, a quorum of members must be physically present and voting for the arrangement to comply with the law.

Mr. Mackenzie then moved, and Ms. Cronkhite seconded, to enter into executive session to consider the request of a Legislator for an advisory opinion on a potential conflict of interest. The motion was voted. The Legislator inquired as to whether there is a legal bar to his employment as an "on-call toll collector" for the Maine Turnpike Authority while he is serving as a Representative to the Maine Legislature. There was general agreement among the members that no intrinsic conflict existed between the Legislator's outside employment and his role as Legislator. However, the Chairman emphasized that the opinion of the members was not to be construed as a blanket statement covering every situation that may arise in connection with the Legislator's duties. He therefore urged the Legislator to again seek guidance whenever specific issues arise that may pose a potential conflict of interest.

Next, the Commission reviewed the staff findings concerning Ms. Annette Hoglund's campaign finance reports. Findings showed that Ms. Hoglund had amended her 1996 general election

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



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

reports and her July semiannual report in response to a Commission directive issued in December 1997. Findings further indicated that the contribution and expenditure totals shown in the amendments were substantially larger than those shown in the original reports. Mr. William Cote was present and represented Ms. Hogleund. He asserted that Ms. Hogleund had made a good faith effort to comply with reporting requirements, having consulted with the Commission staff prior to filing her reports, and having reported all of the profits derived from beano fund-raisers staged by her campaign committee. At the conclusion of Mr. Cote's remarks, Mr. Mackenzie moved, and Ms. Cronkhite seconded, that the Commission rejects Ms. Hogleund's original reports as timely filed on the basis that they did not substantially conform to the reporting requirements. It was further moved that Ms. Hogleund be assessed the following amounts for the tardiness of the reports: \$1,000 for her pre-election report, \$1,000 for her post-election report, and \$500 for her July semiannual report. The motion was voted unanimously.

Ms. Canavan and Ms. Schink then reported on the stakeholder meeting held March 3rd, 1997. Ms. Canavan said that, by all accounts, the meeting was viewed very favorably. Ms. Schink, in turn, observed that the stakeholder group was broad-based, the participants representing a diversity of views; and that the willingness of each to share those views was key to the success of the meeting. In closing, she expressed the hope that the work of the Commission in conducting formal rule-making would be fairly straightforward once stakeholders had completed their work.

The Commission then recognized Mr. John Brautigam, a member of the group known as Maine Citizens for Clean Elections. He reported on the progress of the group's efforts to publicize the tax check-off which, he said, could bring in a substantial portion of the revenue needed for the Maine Clean Election fund.

Next, the Commission considered the request of lobbyist Philip Thibodeau (Jobs for Maine's Graduates, Inc.) for a penalty waiver. Staff findings showed that Mr. Thibodeau was late filing his January monthly disclosure report (covering the month of December); that he thereby incurred a penalty of \$100. Mr. David Wilson was present on behalf of Mr. Thibodeau. He said that Mr. Thibodeau had inadvertently overlooked filing the report; that the January ice storm had contributed significantly to the oversight; and that Mr. Thibodeau wished to convey his apologies for the lateness of the report. Thereupon, Mr. Mackenzie moved, and Ms. Cronkhite seconded, that the penalty be waived in full, the error being storm-related. The motion was voted unanimously.

The Commission then turned to Item #3 on the agenda the complaint of Mr. Matt Anson concerning the reports of the Democratic Leadership Campaign Committee. The staff reported that the complaint was nearly identical to an earlier one dismissed by the Commission; and that Mr. Anson had agreed to withdraw this latest version after discussing the allegations contained therein with the Commission staff. No action was taken except to affirm that the complaint stood withdrawn.

Next, Mr. Webster reported to the Commission on the status of the Commission's search for a new Executive Director. He said that 88 individuals had submitted applications; that he had conferred telephonically with the selection committee about the qualifications of each; that the



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

field of candidates had thence been narrowed to 10; and that the finalists would soon be interviewed. At the conclusion of Mr. Webster's remarks, members agreed to meet the following Tuesday to discuss the candidates.

The next item to undergo review was a series of questions posed by the staff concerning 1 M.R.S.A. Section 1015(3) which prohibits lobbyists, lobbyist associates and their employers from making campaign contributions to Legislators during the Legislation session. In response to the questions posed, the Commission concluded as follows:

An individual who is a regular employee of a lobbyist "employer" may make a campaign contribution during the legislative session if the individual conducts no lobbying as part of his/her employment.

An individual who is a regular employee of a registered lobbyist may make a campaign contribution during the legislative session if the individual conducts no lobbying as part of his/her employment.

A person who is named as "principal officer" of an employer on the lobbyist/employer registration is subject to the prohibitions contained in I M.R.S.A. Section 1015(3).

The Director then sought guidance concerning a question posed by a candidate seeking public office. The particulars were described as follows: the candidate's employer maintains a web page; the employer periodically posts short biographical items about the company's employees on the page; the company would like to post a statement about the candidate. The statement reads as follows:

"John Smith (not the candidate's real name) is running for State Senate on the Republican ticket. He has been very active in local politics, serving on the School Board and currently as Chairman of the City Council. If successful in his bid, Mr. Smith will bring to the Senate considerable experience with issues involving natural resources, education and local government."

The staff inquired as to whether there was any legal bar to the ad being displayed on the employer's web page and, if not, whether the ad must include a statement of attribution.

In the discussion that ensued, a concern was raised as to whether the content of the proposed statement constituted express advocacy, a question deemed by counsel to be "a close call." Another concern advanced was whether a web page constitutes a "public communication," a requisite for requiring attribution under 21-A M.R.S.A. Section 1014. In the end, the Commission reached no conclusions, the law providing little guidance. Hence, the staff was directed to inform the candidate that the Commission, lacking statutory guidance, could provide no definitive answers to the questions posed, but that it strongly recommended that the candidate err on the side of disclosure.



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

Finally, the Director asked that the Commission clarify the meaning of "officials of an administrative agency" in the context of 3 M.R.S.A. Section 317(G-1). A lengthy discussion was held, but no conclusion was reached.

Next, the Commission reviewed requests for penalty waivers. Mr. Mackenzie suggested that the Commission waive any penalties accruing to reports due in January on the presumption that filers were handicapped by the ice storm. He further suggested that amnesty be granted only in cases involving first-time violators. Accordingly, a motion was made, seconded, and voted 3-0-2 to waive the penalties of the following persons:

Lobbyist Julie Rowe/Maine State Bar Association	\$100.00
Candidate Sharon Treat	\$237.00
Political Action Committee Agent Richard Trahey/ Maine State Employees Association	\$106.00
Party Committee Agents:	
Joanne Crowley/Waldo County Democratic Committee	\$396.20
Joan Kierstead/Lincoln County Democratic Committee	\$279.93

Both Mr. Webster and Ms. Henry abstained from voting on Ms. Rowe's case, both being members of the Maine State Bar Association.

Next, the Commission considered the request of lobbyist Charlotte Pease (NYLCare Health Plans of Maine, Inc.) for a penalty waiver. Findings showed that Ms. Pease had incurred a penalty of \$100 for the lateness of her January report. It was moved, seconded, and voted to levy the full penalty, Ms. Pease having filed late once before.

Ms. Nelson then addressed the Commission briefly about a newspaper article which, she asserted contained several errors and which, she observed, contradicted information contained in the minutes of the February meeting. Thereupon, the staff was directed to provide the author of the story with a copy of the minutes of the February meeting.

The Commission then reviewed the delinquent reports of three former candidates. The candidates were: Ralph Coffman, Gordon Paul, and William Perry. As part of its review, the Commission considered a communication from Mr. Paul in which he attributed the delinquency to his treasurer. Mr. Paul further claimed that he was not informed of the overdue report; but that on learning of it, he immediately conferred with his treasurer who, in turn, promised to file the report as soon as possible. Thereupon, Mr. Mackenzie moved, and Ms. Nelson seconded, to refer to the Attorney General the reports of Mr. Coffman and Mr. Perry, and to defer action on Mr. Paul's report until such time as it was filed. The motion was voted unanimously.

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



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

The next matter to undergo review was a draft policy prepared by Ms. Canavan. The draft outlined the procedures to be followed and conditions to be met by a lobbyist requesting cancellation of a registration and issuance of a refund of the lobbyist registration fee. Mr. Mackenzie moved, and Ms. Nelson seconded, that the policy be adopted by the Commission with one change: that discretion to rule on the validity of a claim be assigned to the Commission staff. The motion was voted unanimously.

Mr. Mackenzie then reported on the status of the Commission's efforts to develop software for electronic filing. He said that progress had been temporarily halted by the refusal of the Bureau of Information Services to grant the Commission permission to purchase a server; that he and Ms. Canavan would soon be meeting with the Bureau Chief to discuss the matter.

Next, the staff recommended that the Commission exercise its discretion under 21-A M.R.S.A. Section 1014, by exempting refrigerator magnets from the attribution law. A motion was made and seconded to accept the staff recommendation. The motion was voted unanimously.

The meeting was adjourned at 11:55 a.m.