



Minutes of the June 17, 2020, Special Meeting of the
Commission on Governmental Ethics and Election Practices
45 Memorial Circle, Augusta, Maine

Present: William A. Lee III, Esq., Chair; Meri N. Lowry; and Hon. Richard A. Nass

Staff: Jonathan Wayne, Executive Director; Phyllis Gardiner, Counsel

Commissioner Lee convened the meeting at 9:00 a.m.

The Commission considered the following items:

1. Appeal of Staff Determination on Maine Clean Election Act Funding – Misty Coolidge

Mr. Lee formally opened the hearing on the appeal of Misty Coolidge for Maine Clean Election Act funding. The hearing was conducted in accordance with the following laws and rules: the Administrative Procedure Act, 5 M.R.S. §§ 9051-9063; the Maine Clean Election Act, 21-A M.R.S. § 1125(14); and Ethics Commission Rules, Chapter 2. The appeal was filed with the Maine Ethics Commission on June 4, 2020 in accordance with 21-A M.R.S. § 1125(14)(A). Notice of the hearing was provided to the appellant and her opponent in accordance with 21-A M.R.S. § 1125(14)(B). The appellant agreed to the hearing date notwithstanding that the hearing was being held more than five days after the appeal was properly filed. Pursuant to 21-A M.R.S. § 1125(14)(B), the appellant had the burden of proving the certification decision was in error as a matter of law or was based on factual error.

Mr. Lee swore in Misty Coolidge and Emma Burke as witnesses. Mr. Lee admitted exhibits 1-5 with no objection from Ms. Coolidge.

Mr. Wayne and Ms. Coolidge made opening statements.

Mr. Wayne said Misty Coolidge was a candidate for the Maine House of Representatives. She was required to submit 60 valid qualifying contributions (QCs) to qualify for Maine Clean Election Act (MCEA) funds. Ms. Burke received Ms. Coolidge's submission and she initially found Ms. Coolidge had submitted 65 QCs. However, when Ms. Burke reviewed Ms. Coolidge's submission,

she found seven QCs were not valid: three contributors had made duplicate online contributions and four contributors were invalidated because Ms. Coolidge had not signed the circulator section of the Receipt and Acknowledgement (R&A) form. This reduced Ms. Coolidge's submission to 58 valid QCs, which was not enough to qualify her to receive MCEA funding.

Ms. Coolidge said she has run for office in the past and was familiar with the process. She said it was very difficult to collect QCs this year due to the pandemic. She said she did not realize there were three duplicate online contributions or that she had failed to sign the circulator section on the R&A form when she submitted her request for certification. She said if she had been able to participate in a quick check of her submission with Ms. Burke, as she has in the past, she would have had an opportunity to correct the missing circulator signature block on the R&A form, which would have enabled her to qualify for MCEA funding.

Mr. Wayne did not have any questions for Ms. Coolidge.

Mr. Lee and Mr. Nass directed questions to Ms. Coolidge regarding her process for collecting QCs and submitting them to the Commission.

Mr. Wayne directed questions to Ms. Burke regarding the procedure for individuals to make QCs and the procedure for candidates to submit the QCs to the Commission.

Mr. Lee and Mr. Nass directed questions to Ms. Burke regarding the process for making QCs using the Commission's online service and how she reviewed a candidate's submission of QCs.

Ms. Coolidge did not have any questions for Ms. Burke.

Ms. Coolidge and Mr. Wayne made closing arguments. Ms. Coolidge did not make a rebuttal to Mr. Wayne's closing argument.

Mr. Lee closed the evidentiary portion of the hearing.

The Commission considered the documentary evidence and oral testimony regarding the seven QCs the Commission staff determined to be invalid.

Mr. Lee made a motion to sustain the appeal and qualify Misty Coolidge as an MCEA candidate, able to receive the first level of funding as authorized by statute. Ms. Lowry seconded the motion. Motion passed 2-1, Mr. Nass opposed the motion.

2. Appeal of Staff Determination on Maine Clean Election Act Funding – Cynthia Soma-Hernandez

Mr. Lee formally opened the hearing on the appeal of Cynthia Soma-Hernandez for Maine Clean Election Act funding. The hearing was conducted in accordance with the following laws and rules: the Administrative Procedure Act, 5 M.R.S. §§ 9051-9063; the Maine Clean Election Act, 21-A M.R.S. § 1125(14); and Ethics Commission Rules, Chapter 2. The appeal was filed with the Maine Ethics Commission on June 10, 2020 in accordance with 21-A M.R.S. § 1125(14)(A). Notice of the hearing was provided to the appellant and her opponent in accordance with 21-A M.R.S. § 1125(14)(B). The appellant agreed to the hearing date notwithstanding that the hearing was being held more than five days after the appeal was properly filed. Pursuant to 21-A M.R.S. § 1125(14)(B), the appellant had the burden of proving the certification decision was in error as a matter of law or was based on factual error.

Mr. Lee swore in Cynthia Soma-Hernandez and Erin Gordon as witnesses. Mr. Lee admitted exhibits 1-12 with no objection from Ms. Soma-Hernandez.

Mr. Wayne made an opening statement.

Mr. Wayne said Cynthia Soma-Hernandez was a candidate for the Maine House of Representatives. She was required to submit 60 valid QCs to qualify for MCEA funds. Ms. Gordon received Ms. Soma-Hernandez's submission and she initially found Ms. Soma-Hernandez had submitted 81 QCs; an additional six QCs were found by Ms. Gordon and added to Ms. Soma-Hernandez's submission, bringing the total number of QCs submitted to 87. However, when Ms. Gordon reviewed Ms. Soma-Hernandez's submission, she found 28 QCs were not valid: two contributors made duplicate online contributions; there were two contributors with missing cash contributions forms; four contributors were invalidated because the R&A form was not an original form; and 20 of 38 contributors were invalidated due to not being verified as a registered voter. Additionally, several contributors were invalidated for multiple reasons: the signature on a money order did not match the contributor's signature on the R&A form and the four contributors on the photocopied R&A form could not be verified as registered voters. This reduced Ms. Soma-Hernandez's submission to 59 valid QCs, which was not enough to qualify her to receive MCEA funding. Mr. Wayne noted that, due to conditions caused by the pandemic, Ms. Gordon assisted Ms. Soma-Hernandez by attempting to verify the voter registration status of Ms. Soma-Hernandez's contributors, but was only able to verify 18 contributors.

Mr. Lee directed a series of questions to Ms. Soma-Hernandez regarding specific QCs the Commission staff rejected.

Mr. Nass and Ms. Gardiner each directed a question to Ms. Soma-Hernandez regarding specific rejected QCs.

Mr. Wayne directed questions to Erin Gordon, Candidate Registrar, regarding the procedure for making a QC online and how candidates entered information about contributors who gave QCs by check or cash into the online system to verify their voter registration. He also asked questions about specific QCs that were rejected.

Mr. Lee had questions for Ms. Gordon to clarify certain steps in the voter verification process.

Mr. Nass had a question for Ms. Gordon regarding the success rate for the online voter registration verification process.

Ms. Soma-Hernandez did not have any questions for Ms. Gordon.

Ms. Soma-Hernandez and Mr. Wayne made closing statements. Ms. Soma-Hernandez did not make a rebuttal to Mr. Wayne's closing argument.

Mr. Lee closed the evidentiary portion of the hearing.

The Commission considered the documentary evidence and oral testimony regarding the 28 QCs the Commission staff determined to be invalid.

Mr. Lee made a motion to affirm the decision of the Executive Director of the Maine Ethics Commission that Ms. Cynthia Soma-Hernandez did not submit 60 valid qualifying contributions to entitle her to participate in the MCEA program. Mr. Nass seconded the motion. Motion passed 3-0.

Adjournment

Mr. Nass made a motion, seconded by Ms. Lowry, to adjourn. The motion passed. The meeting adjourned at 12:30 p.m.

Respectfully submitted,

/s/ Jonathan Wayne

Jonathan Wayne, Executive Director