



Minutes of the May 28, 2015, Meeting of the  
Commission on Governmental Ethics and Election Practices  
45 Memorial Circle, Augusta, Maine

Present: Walter McKee, Esq., Chair; Margaret E. Matheson, Esq.; André G. Duchette, Esq.;  
Michael T. Healy, Esq.; Hon. Richard A. Nass

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

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

The Commission considered the following items:

**1. Ratification of Minutes of April 29, 2015 Meeting**

Ms. Matheson moved to accept the minutes as written. Mr. Nass seconded. The motion passed (5-0).

**2. Audit Report and Recommended Penalties – Byron D. Watson**

Mr. Wayne stated that Byron D. Watson ran for the Maine House of Representatives in 2014 as a Maine Clean Election Act (MCEA) candidate. An audit of his campaign found that he commingled \$3,022 in MCEA funds with personal funds, withdrew \$2,183 in cash from his campaign account and did not keep required records of expenditures.

Byron Watson said he took full responsibility for his actions. He said every expenditure he made with MCEA funds was for legitimate campaign purposes. He said he opened a savings account at his credit union to use as his campaign account when he got his first MCEA payment check. In response to a question from Mr. McKee, Mr. Watson said he used a savings account rather than a checking account for his House campaign because he used the same arrangement when he ran in a municipal election. Regarding the destruction of some campaign records, he said he did not understand that he had to keep the records for three years. However, he said he was able to

go back to the vendors and recreate many of the receipts and invoices for goods and services he purchased with MCEA funds.

Mr. Dinan provided the Commission with more details about the audit process and findings regarding Mr. Watson's campaign. He said Mr. Watson did commingle a substantial amount of MCEA funds with his personal funds which is prohibited by statute. In addition, there was some evidence that Mr. Watson used small amounts of MCEA funds for personal use, though Mr. Watson denies having done so. However, Mr. Dinan said his analysis of Mr. Watson's personal account revealed it would have been in an overdraft position but for the transfers of MCEA funds into the personal account.

The Commission had an extensive discussion regarding the details of the audit report and briefly questioned Mr. Watson about his process for tracking and documenting his campaign expenditures. Mr. Dinan also clarified that his analysis did not reveal any direct correlation between the amounts of the cash withdrawals from the campaign account and specific campaign expenditures except in three instances.

Mr. McKee moved that the Commission make two findings of violation for commingling and failure to keep required records, and assess penalties totaling \$400. Mr. Healy seconded. The motion passed (5-0).

Mr. Healy said he wanted the record to be clear that the Commission's findings of violations were only for commingling campaign and personal funds and for the failure to obtain and maintain documentation of campaign expenditures. He said he did not find any evidence Mr. Watson had misused or misappropriated public funds based on the record before the Commission.

Mr. Duchette said he agreed with Mr. Healy. He said he would not be in favor of any further investigation in this matter.

### **3. Audit Report and Recommended Finding of Violation – Lisa H. Willey**

Lisa H. Willey was a 2014 candidate for Maine House of Representatives who participated in the Maine Clean Election Act program. At its last meeting, the Commission assessed a \$500 penalty against Ms. Willey for filing four campaign finance reports that failed to substantially conform to the disclosure requirements. Subsequently, an audit of her campaign found that the two expenditures in her originally filed reports were erroneous and did not occur. In a meeting with the staff directly after the last Commission meeting, Ms. Willey said she could not explain why she reported the two expenditures in her reports. In emails to the staff, she has referred to them as data entry errors.

Mr. McKee asked why the staff was not recommending additional penalties. Mr. Wayne said he thought the Commission imposed the \$500 penalty at the last meeting taking into account Ms. Willey's lack of understanding about her reporting responsibilities and her failure to take them seriously.

Mr. McKee stated that the issue before the Commission now was that the only two expenditures Ms. Willey originally reported in her reports filed with the Commission may have been falsely reported according to the audit report findings.

Mr. Duchette moved that, based on the audit report findings that two expenditures were falsely reported, the Commission assess an additional \$200 penalty. Mr. Nass seconded.

Ms. Gardiner asked whether the proposed finding of violation and penalty assessment were based on substantial misreporting resulting in a non-conforming, late-filed report or were based on false reporting. Mr. Duchette said his intention in making the motion was to find a separate violation for falsely reporting expenditures.

The Commissioners and Ms. Gardiner discussed the various statutory options upon which to base a finding of violation and penalty and the various procedural options available to the Commission in handling this matter in light of the new audit findings.

After the discussion regarding procedure, Mr. Duchette withdrew his motion.

Mr. Healy moved that the Commission issue a notice to Ms. Willey to show cause as to why she should not be found in violation of the statute by making a false statement as found in the audit report. Mr. Duchette seconded. The motion passed (5-0).

#### **4. Audit Report and Recommended Penalty – Andrew Reddy**

Mr. Wayne said Andrew Reddy was a Maine Clean Election Act candidate for the House of Representatives and was randomly selected for an audit. Mr. Wayne said Mr. Reddy moved MCEA funds into his personal account and made three campaign expenditures from his personal account. The expenditures were accurately reported and documented. The violation and recommended penalty are based on his commingling of campaign and personal funds. The Commission's past practice has been to assess a penalty of \$100 for commingling in similar cases where no other violations arose out of the commingling of funds.

Mr. Healy said he thought commingling was a serious violation and warranted a higher penalty than the \$100 penalty recommended by the staff.

Mr. Healy moved that the Commission assess a \$200 penalty for commingling. Ms. Matheson seconded. The motion passed (5-0).

#### **5. Request for Waiver of Late-Filing Penalty/Elise Baldacci**

Mr. Wayne said Elise Baldacci is a lobbyist for the Maine Credit Union League and was required to file a monthly lobbyist report on April 15th. She filed the report one day late. She registered as a lobbyist on March 25th. An email with her login credentials for the e-filing system was sent on March 31st; however, she said she did not receive that email. Ms. Baldacci did receive her user name and password on April 13th and logged into the e-filing system on April 13th and 15th and could have filed her report before the deadline.

Ms. Baldacci said she has worked as a lobbyist before but she had never completed and filed the reports herself. She said she sought assistance with filing the report from her former employer's

administrative staff, but due to an illness she was not able to work and file the report on the deadline. Ms. Baldacci reiterated that she did not receive the first email with her login credentials sent on March 31st. On April 13th, she contacted Benjamin Dyer on the Commission staff and requested that the email be resent.

Mr. McKee moved that the penalty be waived given the unique circumstances of Ms. Baldacci's situation. Mr. Nass seconded. The motion passed (5-0).

Mr. Duchette made a motion, seconded by Mr. Nass, to adjourn. The motion passed. The meeting adjourned at 10:20 a.m.

Respectfully submitted,

*/s/ Jonathan Wayne*

Jonathan Wayne, Executive Director