



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

Minutes of the September 8, 2009, Meeting of the
Commission on Governmental Ethics and Election Practices
Held in the Burton M. Cross Office Building, Room 208,
111 Sewall Street, Augusta, Maine

Present: Michael Friedman, Esq., Chair; Andre Duchette, Esq.; Walter F. McKee, Esq.; Hon. Francis C. Marsano; Hon. Edward M. Youngblood. Staff: Executive Director Jonathan Wayne; Phyllis Gardiner, Counsel.

At 1:10 p.m., Chair Michael Friedman convened the meeting.

The Commission considered the following items:

Agenda Item #1. Final Adoption of Proposed Rule Amendments

Mr. Wayne explained that at a special meeting on June 15, 2009, the Commission decided to accept public comment on changes to the Commission Rules proposed by staff. Several of the proposed rule changes were in response to statutory changes made during the 2009 legislative session. On July 30, 2009, the Commission held a public hearing to receive oral comment. Written comments were accepted through August 14, 2009. The Commission staff has amended the proposed rules in response to comments received, and recommends final adoption of the amendments with the following changes:

- Removing the proposed rule regarding contributions from minors;
- Removing the proposed rule regarding the procedures for private fundraising by MCEA candidates in the event of a shortfall in the Clean Election Fund and initiating in a new rulemaking regarding this issue instead (see Agenda Item #2); and
- Additional minor changes in response to public comment.

Mr. Friedman confirmed that all changes have been provided to the public for comment.

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Mr. Wayne stated that these changes have been provided to the public on the Commission's website for approximately ten days.

Mr. Marsano commented on the changes to the rules regarding the procedures for calling meetings that he proposed and that had been incorporated into the proposed rule. His purpose in making the changes was to avoid a situation in which a person could object to a meeting because it was not properly called.

Ms. Alison Smith, co-chair of Maine Citizens for Clean Elections, expressed concern that the proposed rule regarding the required cash seed money contributions for gubernatorial candidates may result in some confusion regarding in-kind seed money contributions. She suggested including a sentence in the proposed rule stating that an individual can only make a \$100 seed money contribution whether in cash or in-kind.

Mr. Marsano asked Ms. Smith whether she thought there was a greater need for the rule or for her proposed clarification, which could mean another postponement of the final adoption of the rule.

Ms. Smith said that she thought the rule was critical and should not be postponed.

Mr. Wayne said the Legislature's intent was to require candidates collect \$40,000 in cash contributions from Maine registered voters as an additional measure of public support for getting public funding for their campaign. He said he did not believe the Legislature intended in-kind contributions to count toward this requirement. Mr. Wayne said that the staff could revise the guidance given to gubernatorial candidates to emphasize that individuals may only contribute up to \$100 in cash or in-kind.

Ms. Gardiner said rules do not answer every question that may arise over the interpretation of a statute. The proposed rule only deals with the required cash seed money contributions for gubernatorial candidates and is not intended to cover other seed money issues. She agreed that the issue Ms. Smith raised could be handled within the guidance established for candidates instead of adding language to the rules.

Mr. Marsano moved that the Commission adopt the rules as proposed by staff. Mr. McKee seconded.

The motion passed unanimously (5-0).

Agenda Item #2. Proposed New Rule-Making/Procedures for Authorizing Maine Clean Election Act Candidates to Collect Contributions in Case of a Budget Shortfall

Mr. Wayne explained that in response to testimony at the July 30, 2009 public hearing, the Commission staff proposes a substantial revision to the Commission's rule regarding the procedures for authorizing Maine Clean Election Act candidates to accept campaign contributions should there be insufficient money in the Maine Clean Election Fund. He said since the revised rule is substantially different from the rule proposed on June 15, 2009, consideration of the revised proposed rule would require an additional comment period relating to the revised rule alone. Mr. Wayne reviewed the possible dates for the notice requirements in order for the public to make written and oral comments.

Mr. Marsano expressed concern over the amount of authority given to the Commission staff with regard to matching fund distributions.

Mr. Wayne explained that currently the staff's role is to authorize and distribute matching funds to candidates based on reports filed with the Commission. The Commission would decide whether the fund was short, how much payments to candidates would be reduced as a result of that shortfall and also how much private fund raising would be allowed. He said these decisions would be discussed and determined at a public meeting held by the Commission. He said these discussions would likely take place in the spring after the primary election. He said the staff would be guided by the procedures established by the Commission.

Ms. Alison Smith said the Maine Citizens for Clean Elections would be providing comments when the criteria have been established.

Ms. Gardiner said the next step would be for the Commission to decide whether to propose this draft rule for comment and whether to accept written comments only or to hold a public hearing to receive oral comments as well as written comments.

Mr. Youngblood said a public hearing is very important when establishing any rule changes and he would not support having only written comments received.

Mr. McKee and Mr. Friedman agreed the process should include written and oral comment at a public hearing.

Mr. Wayne said a public hearing could be held at the Commission's November 19 regular meeting which would push final adoption of the rule back to January unless a special meeting was held to adopt the rule before January. Another option would be to hold a public hearing in October in addition to the regular meeting on October 1 and finally adopt the rule on November 19.

Mr. McKee moved that the Commission send the proposed rule out for public comment, written as well as oral testimony, and have the public hearing on November 19 with final adoption in January. The motion was seconded by Mr. Marsano.

The motion passed unanimously (5-0).

Agenda Item #3. Investigation of Maine Leads/Testimony of Roy Lenardson

At its May 28, 2009 meeting, the Commission directed its staff to investigate whether Maine Leads was required to register and file campaign finance reports as a political action committee or as a ballot question committee. As part of the investigation, the Commission heard testimony from Roy Lenardson, the Executive Director of Maine Leads.

At the conclusion of Mr. Lenardson's testimony, the Commission established a schedule for the submission of memoranda of the staff and the two parties. The Commission will take up this investigation again at its meeting on October 1.

The transcript of Roy Lenardson testimony is attached to these minutes. [NOTE: For the packet of materials, this transcript is attached to Agenda Item #2.]

EXECUTIVE SESSION

At 4:00 p.m., Mr. McKee made a motion to go into executive session in accordance with Section 405, subsection 6(E) of Title 1 for the purpose of discussing the compensation of an employee at the Commission. The motion was seconded by Mr. Marsano. The motion passed unanimously.

At 4:08 p.m., Mr. Duchette made a motion to come out of executive session. The motion was seconded by Mr. Marsano. The motion passed unanimously.

Mr. Marsano moved to adjourn, Mr. McKee seconded. Meeting adjourned at 4:10 p.m.

Respectfully submitted,

Jonathan Wayne, Executive Director

Attachment: Roy Lenardson Testimony

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

INDEX

W I T N E S S E S

<u>PETITIONER:</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>
R. Lenardson	9/74/90	87	86	98		

<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>			
<u>IDENTIFICATION</u>	<u>DESCRIPTION</u>	<u>I.D.</u>	<u>IN EV.</u>
1	Application for Citizen Initiative	25	
2	Registration Form	27	
3	Affidavit	30	
4	IRS Form	30	
5	Funding Proposal	34	
6	2 nd Affidavit	42	
8	Campaign Finance Report	62	
9	Summary	66	

<u>RESPONDENT:</u>			
<u>IDENTIFICATION</u>	<u>DESCRIPTION</u>	<u>I.D.</u>	<u>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

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.

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