



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

Minutes of the September 9, 2010, Meeting of the
Commission on Governmental Ethics and Election Practices
Held at the Commission Office, 45 Memorial Circle,
2nd Floor, Augusta, Maine

Present: Walter F. McKee, Esq., Chair; André G. Duchette, Esq.; Hon. Edward M. Youngblood; Margaret E. Matheson, Esq., Michael T. Healy, Esq. Staff: Executive Director Jonathan Wayne; Phyllis Gardiner, Counsel.

1. Maine Clean Election Act Appeal by Douglas T. Stone

Douglas T. Stone is a replacement candidate for the Maine House of Representatives, District 73. On August 27, 2010, the staff of the Commission denied his application for Maine Clean Election Act funding, because he was late in submitting his qualifying materials. Mr. Stone submitted them approximately 50 - 60 minutes after the deadline of 5:00 p.m. on Wednesday, August 25, 2010, the last day of the qualifying period for replacement candidates. The candidate has appealed the staff's denial. The Commission held a formal hearing to consider Mr. Stone's appeal.

After receiving testimony and legal argument, the Commission members expressed that under 21-A M.R.S.A. § 1125(4) and Chapter 3, § 3(1) of the Commission's rules, the Commission does not have the legal authority to grant the appeal or to extend the deadline for submitting qualifying contributions after 5:00 p.m. on the last day of the qualifying period. Commissioners Matheson and Youngblood stated that Mr. Stone had not met the burden of proving that the staff determination was in error as a matter of law or was based on factual error. Mr. Healy stated that he would be voting to uphold the staff determination because the Commission does not have the authority to grant the relief requested.

The Commission determined by a vote of five to zero (5-0) to deny Mr. Stone's appeal and to uphold the staff determination.

OFFICE LOCATED AT: 45 Memorial Circle, Augusta, Maine
WEBSITE: WWW.MAINE.GOV/ETHICS

Other Business

Mr. Wayne said staff has become aware of and has reviewed a website called the Cutler Files which has information that the staff believes expressly advocates for the defeat of Eliot Cutler's gubernatorial campaign. He said the website does not have the required disclosure stating who paid for the website and that the disclosure is important in assisting voters to evaluate the content of the website. Mr. Wayne said the website also lacks a required disclosure of who authorized the website and whether it was authorized by any candidate. He said there is sufficient evidence that there is a legal violation and there could be other reporting requirements depending on how much the website cost. He said staff requests authorization to investigate this issue further. He said the staff also recently received a written request for investigation from the Cutler campaign's counsel. Mr. Wayne said the investigation would involve interviews and that the rules authorize the Commission to issue subpoenas for witness testimony, if necessary. He said the investigation may also involve the Attorney General's Office.

Mr. McKee said that he would support the investigation and that the staff could come back to the Commission if further assistance is needed.

Mr. Healy, noting there was enough preliminary evidence to justify, moved to authorize the staff to investigate this matter fully without delay. Mr. Duchette seconded.

Motion passed unanimously (5-0).

Meeting adjourned at 9:30 a.m.

Respectfully submitted,

Jonathan Wayne, Executive Director