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Summary Report 2010 MCEA Candidate Audits. Audits of Gubernatorial and Legislative Candidates Funded under the Provisions of the Maine Clean Election Act

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DECEMBER, 2011

**Maine Commission on Governmental Ethics
& Election Practices**

Summary Report 2010 MCEA Candidate Audits

**Audits of Gubernatorial and Legislative Candidates Funded Under
the Provisions of the Maine Clean Election Act**



**Prepared by Vincent W. Dinan, Auditor
Approved by Jonathan Wayne, Executive Director**



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INTRODUCTION

In 2010, the State of Maine Commission on Governmental Ethics and Election Practices (Commission) audited campaign contributions and expenditures of candidates who received public funding authorized by the Maine Clean Election Act (MCEA). The audits concentrated on transactions recorded in campaign finance reports submitted by the candidates during their 2010 primary and general election campaigns.

AUDIT PROGRAM OBJECTIVES

The overarching objective of the Commission's 2010 audit program was to assess candidate compliance with the terms of MCEA and the Commission's rules. Other objectives included:

- Detection and reporting violations of the MCEA.
- Identification of campaign finance and reporting requirements which create barriers to compliance by MCEA candidates.
- Reporting on emerging policy matters relative to MCEA compliance and enforcement to assist the Commission in their rule-making deliberations.

Campaign audits were also intended to assist the Commission staff in identifying and addressing training requirements for MCEA participants, their treasurers, and other campaign staff.

PROGRAM DESIGN AND SAMPLE SELECTION

The Commission's audit program was based on the principles set forth in the *Government Auditing Standards* of the U.S. Government Accountability Office, as well as other generally accepted auditing standards, with the focus on the program objectives described above. Available Commission staff resources limited the number of audits that could be undertaken within the 2010 election cycle, so legislative campaigns were selected using a statistical random sampling technique. All gubernatorial campaigns were audited due to the large disbursements of public funds to the candidates.

The Commission auditor developed an audit sample of 20 percent of the candidates for seats in both the 2010 House of Representatives and Senate races. The sample selection is delineated in the following exhibits:

- Primary Election Candidates—Exhibit I
- Candidates selected for audit – House of Representatives – Exhibit II
- Candidates selected for audit – Senate – Exhibit III

As the exhibits indicate, 50 House candidates and 14 Senate candidates were selected for audit. In addition, the Commission initiated two special purpose audits outside of the normal sample selection.

AUDIT RESULTS

The 2010 election cycle was the third since public funding became available to candidates where the Commission launched a formal, comprehensive and highly structured audit effort. In each succeeding election period, the staff has seen improved compliance among the candidates. Complete audit findings are cataloged in Exhibit IV, and are summarized in the following table. For each candidate grouping, e.g., House candidates, the table lists the types of reporting deficiencies and the number of occurrences.

Audit Findings	Gubernatorial (3)	House (51)	Senate (15)	Total Candidates (69)
No exceptions or deficiencies	1	42	13	56
Unreported Expenditures	1	4	0	5
Mis-reported Expenditures	0	3	1	4
Commingling of Funds	0	4	0	4
Incomplete Mileage Reimbursement Documentation	0	3	1	4
Use of MCEA Funds to Pay for Qualifying Period Expenses	0	3	1	4
Undocumented/Incomplete Documentation of Expenses	0	3	0	3
Failure to Return Unspent MCEA Funds Timely	0	2	1	3
Personal Use of Public Funds	0	2	0	2
False Reporting of Campaign Expenditures	0	1	1	2
Expenditures in Excess of Maximum Allowable	0	1	0	1
Referral to the Attorney General for Possible Criminal Prosecution	0	1	0	1
Late Filing of Campaign Finance Reports-substantial non-compliance	0	1	0	1
Unallowable Campaign Contributions	0	1	0	1
Submitting False Documentation	0	1	0	1
No Written Agreements with Independent Contractors	1	0	0	1
Misreported Seed Money Contributions and Expenditures	1	0	0	1

We find the 2010 audit results to be encouraging. More than 81 percent of candidates audited were found to be in full compliance with the Maine Clean Election Act and the Commission's rules. In contrast, the audits of 2006 campaigns (the latest period where data is available) showed a compliance rate of 65 percent. Our 2010 experience showed sharp reductions in violations concerning incomplete or undocumented expenditures, unreported and misreported expenditures, and in commingling of funds when compared to the 2006 audit results.

We believe the improvements in campaign record-keeping and other areas of compliance are attributable to the following factors:

Frequent, timely, and effective communication between the Commission's candidate registrars and MCEA candidates and their campaign staffs on matters of financial reporting and compliance.

Improved participation by campaign treasurers in managing campaign finances.

One-on-one training provided to candidates and campaign staffs as requested.

Thorough compliance monitoring by the Commission staff, and immediate remedial assistance provided to candidates when potential or actual violations are noted.

Improvements in the Commission's online information systems resulting in better, more effective interface between Commission personnel and MCEA candidates and their campaign staffs.

AREAS OF CONCERN

While we do not believe that election law violations among MCEA candidates are widespread, the audits we performed showed certain areas where records maintenance and campaign finance reporting practices need improvement. Campaign procedures and activities that should be strengthened include:

Contemporaneous gathering of campaign expense documentation – many candidates do not meet the letter of the law in that they do not gather and retain expenditure documents contemporaneous with the purchase of campaign goods and services. The law requires that candidates maintain expenditure documentation for three years after the election. Undocumented campaign expenditures may be disallowed by the Commission.

Retention of campaign bank statements – a key element of the Commission's audit procedure is our review of campaign bank statements, and the reconciliation of banking transactions with contributions and expenditures reported by the campaign. In the 2010 audit cycle, we found that many candidates had not retained their bank statements and therefore were required to contact their banks for replacement copies; this resulted in an unnecessary waste of time and money on the part of the candidates and the Commission staff.

Avoidance of commingling of funds – the 2010 audits identified four campaigns that commingled MCEA and personal funds. While not a common violation, we consider this matter to be serious because it means that (a) the candidates involved had more money in their campaign fund than they were authorized, or (b) They used public money for personal expenditures for part or all of their campaigns. In either case, the actions are serious violations of the election law.

CONCLUSIONS AND RECOMMENDATIONS

Results of the 2010 audit program are generally encouraging in terms of candidate compliance with the provisions of the Maine Clean Election Act and the administrative rules of the Commission. Candidate accountability and Clean Election program compliance and administration can be improved by:

Continued emphasis by the Commission on active participation in campaign financial management by designated campaign treasurers. We believe that requiring shared fiscal management responsibility between candidates and treasurers promotes better stewardship of Clean Election funds.

Identification of potential trouble areas through the Commission's compliance monitoring actions, and timely follow-up with candidates on documentation and reporting issues. In addition, the Commission staff should continue to emphasize candidate responsibility for acquiring and retaining records of financial transactions made on their behalf by third parties, e.g., media buyers.

In the area of monitoring campaign banking activities, the Commission may, in future elections, wish to consider supplementing current pre-election monitoring by requesting bank statements on a random basis to verify that the candidates have not commingled campaign and personal funds, have not used MCEA funds for personal expenditures, and have accurately reported all campaign payments.



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Exhibit I. 2010 Primary Election Audit Selection

Population:

Name	Office	District	Party	Serial No.
Blanchette, Patricia A.	House	16	Democratic	1
Osmer, William Davis	House	18	Republican	2
Hall, Darren M.	House	20	Republican	3
Emrich, Robert K.	House	25	Republican	4
Ingham, C. Dean	House	31	Republican	5
Wootten, J. Benjamin	House	37	Democratic	6
Campbell, Richard H.	House	40	Republican	7
Sheff, Peter M.	House	45	Republican	8
Cowing, Paul A.	House	45	Republican	9
Simmons, Henry B.	House	50	Republican	10
Garrett, Peter	House	54	Democratic	11
Pye, Lawrence R.	House	64	Democratic	12
Simond, Raymond	House	80	Democratic	13
McDonald, Timothy A.	House	80	Republican	14
Bragdon, Charles E.	House	120	Green Independent	15
Stewart, Clarence David	House	132	Republican	16
Peirce, William C.	House	151	Democratic	17
Smiley, Daniel L.	Senate	14	Democratic	1
Greenlaw Jr., Lawrence	Senate	28	Democratic	2
Mills, S. Peter	Governor	N/A	Republican	N/A

Candidates Selected for Audit:

Name	Office	District	Party	Serial No.
Emrich, Robert K.	House	25	Republican	4
Sheff, Peter M.	House	45	Republican	8
Bragdon, Charles E.	House	120	Green Independent	15
Smiley, Daniel L.	Senate	14	Democratic	1
Mills, S. Peter	Governor	N/A	Republican	N/A

Exhibit II. Audit Sample Selection—House of Representatives

Name	District	Party	Status	Serial No.
Austin, Frederick	25	Democratic	Active	1
Beavers, Roberta	148	Democratic	Active	6
Berner, Seth	115	Green Independent	Active	9
Bickford, Bruce	70	Republican	Active	11
Blodgett, Anna	56	Democratic	Active	15
Burns, David	138	Republican	Active	22
Chadwick, Shelby	49	Democratic	Active	29
Chipman, Benjamin	119	Unenrolled	Active	31
Chipman, David	64	Democratic	Active	32
Chizmar, Mark	71	Republican	Active	33
Chuluda, Bruce	126	Republican	Active	34
Clark, Tyler	6	Republican	Active	36
Cowan, Horatio (Ted)	47	Republican	Active	44
Davis, Paul	26	Republican	Active	52
Driscoll, Timothy	126	Democratic	Active	60
Flaherty, Sean	127	Democratic	Active	72
Goode, Adam	15	Democratic	Active	83
Gruber, Thomas	108	Democratic	Active	85
Guisinger, Jeanne	31	Democratic	Active	87
Harlow, Denise	116	Democratic	Active	92
Haskell, Anne	117	Democratic	Active	96
Hayes, Teresea	94	Democratic	Active	98
Kemmerer, Carol	79	Republican	Active	112
Kent, Peter	65	Democratic	Active	113
Lawson, Michael	125	Republican	Active	119
LeVasseur, Daniel	129	Democratic	Active	122
Magnan, Veronica	41	Democratic	Active	131
Maloney, Maeghan	57	Democratic	Active	133
McFadden, Howard	30	Republican	Active	141
Miller, Elizabeth	52	Democratic	Active	148
Newcomb, Russell	95	Democratic	Active	154
Parker, James	18	Republican	Active	159
Perkins, Debbi	10	Republican	Active	162
Peterson, Matthew	92	Democratic	Active	163
Richard, Mark	112	Republican	Active	175
Richardson, Wesley	49	Republican	Active	177
Robinson, Yvette	89	Democratic	Active	180
Sahadi, Helen	45	Democratic	Active	186
Sanborn, Linda	130	Democratic	Active	187
Sanderson, Deborah	52	Republican	Active	188
St. Peter, Rudolph	2	Republican	Active	202
Timberlake, Jeffrey	96	Republican	Active	211

Exhibit II. Audit Sample Selection—House of Representatives (con't)

Name	District	Party	Status	Serial No.
Trinward, Pamela	77	Democratic	Withdrawn	214
Valentino, Linda	134	Democratic	Active	216
Volk, Amy	127	Republican	Active	219
Wagner, Joseph	139	Democratic	Active	220
Wing, Scott	80	Democratic	Active	228
Winsor, Tom	95	Republican	Active	230

Exhibit III. Audit Sample Selection - Senate

Name	District	Party	Status	Serial No.
Alfond, Justin	8	Democratic	Active	1
Crockett, Patsy	24	Democratic	Active	9
Farnham, Nichi	32	Republican	Active	15
Hobbins, Barry	5	Democratic	Active	23
Kase, Joel	16	Republican	Active	27
Mackey Andrews, Susan	27	Democratic	Active	31
McCormick, Earle	21	Republican	Active	37
Millett, H. Sawin	14	Republican	Active	38
Palmieri, Joseph	7	Republican	Active	40
Putman, Patrice	21	Democratic	Active	45
Rosen, Richard	31	Republican	Active	47
Schneider, Elizabeth	30	Democratic	Active	50
Simpson, Deborah	15	Democratic	Active	52
Thibodeau, Michael	23	Republican	Active	55

Exhibit IV. 2010 Summary of Audit Examinations & Reports

CANDIDATE NAME	DISTRICT	REPORT NO	No Audit Exceptions	Undocumented / Incomplete Doc. of Expenditures	Mis-reported Seed \$ Contribution & Expenses	Unreported Expenditures	Mis-reported Expenditures	Unallowable Expenditures	Commingling of Funds	Personal Use of Public Funds	Expenditures in Excess of Max. Allow	Incomplete mileage reimbursement Doc	Referred to AG for Possible Criminal Prosecution	Use of MCEA \$ to Pay for Qualifying Period Expenses	Late filing of CFR.	Unallowable Campaign Contribution	False Reporting of Campaign Expend	Failure to Return Unspent MCEA \$	Submitting False Documentation	Absence of Written Agreements with Independent Contracts
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GUBERNATORIAL Candidates

Mills, S. Peter		GV001																		X
McGowan, Patrick		GV003			X															
Mitchell, Elizabeth		GV002	X																	

SENATE Candidates

Alfond, Justin	8	2010-SEN009	X																	
Crockett, Patsy	24	2010-SEN004	X																	
Farnham, Nichi	32	2010-SEN007	X																	
Hobbins, Barry	5	2010-SEN010	X																	
Kase, Joel	16	2010-SEN011	X																	
Mackey Andrews, Susan	27	2010-SEN003	X																	

Exhibit IV. 2010 Summary of Audit Examinations & Reports

CANDIDATE NAME	DISTRICT	REPORT NO	No Audit Exceptions	Undocumented / Incomplete Doc. of Expenditures	Mis-reported Seed \$ Contribution & Expenses	Unreported Expenditures	Mis-reported Expenditures	Unallowable Expenditures	Commingling of Funds	Personal Use of Public Funds	Expenditures in Excess of Max. Allow	Incomplete mileage reimbursement Doc	Referred to AG for Possible Criminal Prosecution	Use of MCEA \$ to Pay for Qualifying Period Expenses	Late filing of CFR.	Unallowable Campaign Contributions	False Reporting of Campaign Expend	Failure to Return Unspent MCEA \$	Submitting False Documentation	Absence of Written Agreements with Independent Contracts
																				House
Wagner, Joseph	139	2010-HR016				X			X											
Wing, Scott	80	2010-HR031	X																	
Winsor, Tom	95	2010-HR012	X																	

**SUMMARY REPORT
2010 MCEA CANDIDATE AUDITS**

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