



STATE OF MAINE
COMMISSION ON GOVERNMENTAL ETHICS
AND ELECTION PRACTICES
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**Testimony of Jonathan Wayne, Executive Director of the
Commission on Governmental Ethics and Election Practices
before the Joint Standing Committee on Veterans and Legal Affairs
March 22, 2021**

Senator Luchini, Representative Caiazzo, and distinguished members of the committee: my name is Jonathan Wayne, and I am the Executive Director of the Maine Ethics Commission. Thank you for the opportunity to testify concerning **L.D. 664** on behalf of the staff of the Ethics Commission.

Candidates qualify for Maine Clean Election Act (MCEA) funding by collecting \$5 qualifying contributions and submitting them to the Commission, along with the required documentation.¹ Our two dedicated Candidate Registrars (Erin Gordon and Emma Burke) closely review each QC and its documentation. As far as we can determine, fraud is rare. Almost all candidates want to qualify “the right way.”

It does not happen every election year, but if we see evidence that a candidate or volunteer has falsely claimed collecting \$5 from someone, the Commission staff is *already required under current law* to investigate the situation. Under our “certification” statute, in order to certify that a candidate has met the qualifications to receive MCEA funding, the Commission staff must verify that the candidate has not submitted “fraudulent qualifying contributions.” 21-A M.R.S. § 1125(5)(D-5). Because we are already directed by statute to conduct an investigation and because of the time pressure to make a certification decision, the Commission staff does *not* wait

¹ Each contributor giving by check or cash must sign a Receipt and Acknowledgement form affirming that they provided \$5 from their personal funds and did not receive anything in return. The person who collected the QC must also make an affirmation by signing the R&A form. If the contributor gave \$5 in cash, they file a separate cash contribution affirmation form. Receiving two signatures by the contributor (the R&A form, plus a personal check or the signed cash QC affirmation form) greatly assists the Commission staff in verifying that the named contributor truly gave \$5 in order to assist the candidate. If the QC is by credit or debit card, the contributor is required to make the affirmation online.

for a monthly meeting of our Commission members to seek their permission to investigate. Our investigation typically includes trying to reach the people who have been listed as contributors by mail or phone to confirm whether they gave \$5. Communication is not as easy as one might expect because of unlisted phone numbers. Sometimes people are not eager to cooperate with our investigation.

Again, this is rare, but if we conclude that someone (either a candidate or a volunteer) has falsely claimed collecting a QC from someone, we are *very likely* to refer that person to the Attorney General (AG) for possible criminal prosecution. The Commission's Assistant Director and I cannot remember declining to refer one of these cases to the AG. We are authorized under 21-A M.R.S. § 1003(4) to refer violations of campaign finance reporting requirements to the AG. If we believe someone has falsely claimed receiving \$5 QCs, we would have no hesitation to refer them. Even if the person withdraws their request for MCEA funding, it is very likely we would refer them.

The Commission staff believes the procedures outlined above are effective and appropriate in addressing situations involving potential fraud. We believe L.D. 664 is unnecessary. In addition, we suggest that departments of the Maine state government should be allowed to exercise their own discretion in deciding which matters should be referred to the AG for prosecution.

Thank you for your consideration.