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July 2, 2007

Dear Governor Baldacci, Senate President Edmonds and Speaker of the House Cummings,

This reports on apparent improprieties of Ethics Commission Chair Jean Ginn Marvin, a situation that requires your immediate attention and intervention to ensure the integrity of that agency and, with it, the integrity of the democratic process in the State of Maine.

Ethics Commission Chair Ginn Marvin is an officer of Maine Heritage Policy Center (MHPC), a political committee. As such, she is not qualified to serve on the Ethics Commission as per MSRA 1 § 1002 1A-2: "A person may not be appointed to this Commission...who is an officer of a political committee." Her appointment expired in April, yet she continues to serve at your pleasure.

Ethics Commission Chair Ginn Marvin's improprieties include activities specifically prohibited to commissioners as per MSRA 1 § 1002 1A-6: "A member of the commission may not engage in political fund-raising to promote the election or defeat of a candidate, passage or defeat of a ballot measure or endorse a political candidate." As MHPC's treasurer, she engaged in political fund-raising to promote the passage of a ballot measure last year. In addition, she shares in the responsibility for material false statements made by MHPC officials and their representatives to the Commission in a case brought against her organization last year. She also shares in the responsibility for MHPC's failure to fully and accurately provide information on its activities as ordered by the Commission in the final agency determination of that case. Her ties with MHPC have undermined the integrity of the Commission in an unknown number of other Commission rulings, rule makings, and legislative proposals. One such example is the Duddy-Mowes case heard before the Commission last summer where she failed to disclose her relationship with the spouse of the complainant, fellow MHPC officer Michael Duddy.

It may well be that Ethics Commission Chair Ginn Marvin would have been rejected for service on the Commission during the initial appointment process had she disclosed her role at MHPC in the Legislative Staff Questionnaire for Gubernatorial Nominees she submitted in support of her nomination in 2004. At that time she was a Director on the MHPC board. Her failure to accurately and completely fill out this standard form necessary for her own appointment to the Commission raises doubts about her ability to judge and sanction persons similarly required to fill out identical forms for filing with Ethics Commissioners.

In light of the numerous apparent or proven statutory and regulatory violations or shortcomings described above, which have substantially impaired the effectiveness and credibility of the Ethics Commission, I am requesting that you:

1.) Demand that Ethics Commission Chair Marvin, who continues to serve on the Commission, beyond the expiration of her term (because the Republican party did not nominate a replacement during the legislative term), immediately execute and file with the Governor's Office, the Ethics Commission, President of the Senate, and the Speaker of the House, and the Attorney General, an Affidavit thoroughly addressing each of the fundamental statutory "qualification-to-serve" facts brought into question by her actions or omissions.

2.) Appoint an impartial Special Counsel to:

a) Conduct a preliminary investigation of issues raised by Ethics Commission Chair Ginn Marvin's conduct as described above; including, but not limited to:

- whether Ethics Commission Chair Ginn Marvin's "disqualification," and "disclosure," omissions, and/or her other actions as a member or officer of MHPC referred to above, have the potential for making some or all Commission decisions in which she participated void or voidable;
- whether Ethics Commission Chair Ginn Marvin remains "qualified" to continue serving as an Ethics Commissioner;
- whether any of Ethics Commission Chair Ginn Marvin's actions or omissions described above render her unfit to serve as an Ethics Commissioner, and whether she should be immediately removed.
- Whether further formal actions ought be taken to review, investigate, or sanction Ethics Commission Chair Ginn Marvin for those actions or omissions described above

b) Investigate and make advisory recommendations, to the Governor and the appropriate legislative body, concerning both statutory amendments and/or agency rules required to insure that Ethics Commissioners are, as mandated in Section 1002, "persons of recognized judgment, probity and objectivity," including, but not limited to,

- imposing upon Ethics Commissioners the same kind of periodic annual (or immediate) written disclosure/disqualification mandates which are required of legislators they regulate. This would help avoid the situation above.

Yours very truly,

A handwritten signature in black ink, appearing to read "Carl Lindemann", with a long, sweeping underline.

Carl Lindemann
Executive Director