

January 28, 2020

Mr. Jonathan Wayne  
Executive Director  
Maine Commission on Governmental Ethics and Election Practices  
135 State House Station  
Augusta, ME 04333

Re: Request for Investigation Into Apparent Additional Campaign Finance Violations by Sara Gideon's 2018 Campaign Committee and Gideon Leadership PAC

Dear Mr. Wayne:

Based on publicly available records, Gideon Leadership PAC apparently failed to disclose expenditures for at least six Facebook ad campaigns—many of which were published statewide in the weeks immediately prior to the 2018 election—that totaled thousands of dollars. In addition, the undisclosed expenditures appear to have funded ads that promoted Sara Gideon and therefore amount to in-kind contributions to Gideon's 2018 legislative campaign committee, which will exceed the \$400 per election contribution limit established by Me. Rev. Stat. tit. 21-A, § 1015(2). Therefore, we request that the Commission undertake an immediate investigation of this activity in accordance with Me. Rev. Stat. tit. 21-A, §§ 1003(1) and (2) and 94-270 C.M.R. ch. 1 § 4(2)(C).

### FACTS

In 2018, news reports and Facebook ad records indicate that Gideon Leadership PAC sponsored multiple Facebook advertisements promoting Sara Gideon that carried the disclaimer "Paid for by Gideon Leadership PAC." *See Exhibit A.* Yet, Gideon's state campaign committee did not report the receipt of any in-kind contribution from Gideon Leadership PAC during this time period; nor did the campaign make any disbursements to Facebook directly for any such advertising.<sup>1</sup> According to Facebook's ad library, Gideon Leadership PAC spent \$3,373 on Facebook advertising from May 2018 through July 25, 2019. During that same time period, Gideon Leadership PAC reports just \$461.55 in disbursements to Facebook. *See Exhibit B.* Indeed, Gideon Leadership PAC reports no disbursements to Facebook after July 2, 2018, yet Facebook's ad library indicates that Gideon Leadership PAC paid for six ads that ran after July 2, 2018. *See Exhibit C.* Furthermore, when Gideon Leadership PAC terminated earlier this year and zeroed out its balance, the committee's July 2019 quarterly report reflects an expenditure labeled "Commission Staff adjustment" in the amount of \$3272.80. *See Exhibit D.* Presumably the Gideon Leadership PAC had failed to report some prior expenditure of funds and therefore had to include an adjusting entry on its July 2019 termination report in order to bring its balance to \$0. This adjustment, combined with the records available on Facebook's ad library, strongly suggest that the PAC failed to report approximately \$3,300 in expenditures for Facebook advertising to promote Sara Gideon's reelection in violation of Me. Rev. Stat. tit. 21-A, §1060.

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<sup>1</sup> The filings of Gideon Leadership PAC and Sara Gideon 2018 Legislative Candidate Committee are available at: <https://mainecampaignfinance.com/#/exploreCommitteeDetail/4851> and <https://mainecampaignfinance.com/#/exploreDetails/5886/11/83/32/2018>.

Furthermore, there is reason to believe that the ads, which promoted Sara Gideon largely in the months prior to her 2018 reelection campaign, constituted excessive in-kind contributions to Sara Gideon's 2018 legislative candidate committee in violation of Me. Rev. Stat. tit. 21-A, §1015.

As detailed in Exhibits C and D, Facebook's Ad Library indicates that Gideon Leadership PAC disseminated six advertisements bearing the disclaimer "Paid for Gideon Leadership PAC" between July 2, 2018 and December 31, 2018. *See* Exhibits C and D. These archives also indicate that the PAC spent approximately \$3,373 on Facebook advertising from May 2018 through July 25, 2019. *Id.* Nevertheless, Gideon Leadership PAC does not report any corresponding disbursements to Facebook during the time period in which Facebook's archives indicate that the ads ran. *See* Exhibits C and D. Thus, the Commission needs to investigate whether the PAC violated Me. Rev. Stat. tit. 21-A, § 1060(4), which requires political action committees to itemize and report "each expenditure made to initiate or influence any campaign." In this review, the Commission needs to consider the fact that the PAC's July 2019 quarterly report in which it zeroed out its balance and terminated its activities, acknowledges that there was some unreported expenditure(s) totaling \$3272.80 therefore requiring the Commission staff to create an expenditure entry labeled "Commission Staff adjustment" in order to balance the PAC's books. *See* Exhibit D. Given that this adjustment is within approximately \$100 of the total amount that Facebook reports the PAC paid for digital advertisements but cannot be found on the PAC's disclosure reports, it is likely that this adjustment represents the amount that the PAC spent on Facebook but failed to disclose on its finance reports. In sum, it appears that Gideon Leadership PAC failed to fully disclose its activities in compliance with state law and that the public record is therefore incomplete. Given that Gideon Leadership PAC disclosed Facebook advertising purchased on behalf of state candidates *other* than Sara Gideon<sup>2</sup>, the Commission also needs to investigate whether this was an intentional omission in order to avoid reporting an impermissible in-kind contribution to Sara Gideon as described in greater detail below.

Indeed, the Facebook advertising records, which include the full text and video of the PAC's ads, provide reason to believe that the PAC may have made excessive contributions to Sara Gideon's 2018 legislative candidate committee in violation of Me. Rev. Stat. tit. 21-A, § 1015, which limits contributions from a PAC to candidate committee to \$400 per election. Based on a review of the advertisements on the Facebook archive at Exhibit A, the content of PAC's advertisements promoted Sara Gideon's personal qualifications and record largely in the run up to her reelection to the Legislature in 2018 and were made for the purpose of influencing the 2018 election. Under Maine law, a "contribution" is "anything of value made for the purpose of influencing the nomination or election of any person to state, county or municipal office." Me. Rev. Stat. tit. 21-A, § 1012(2)(A). Furthermore, "influence" means "to promote, support, oppose or defeat." Me. Rev. Stat. tit. 21-A, § 1012(4A). There can be no question that the advertising, which touted Gideon's biography and record in the Legislature, were designed to promote her reelection and therefore represent a contribution within the meaning of that term under Maine law. Nor can the PAC's expenditures cannot be considered an "independent

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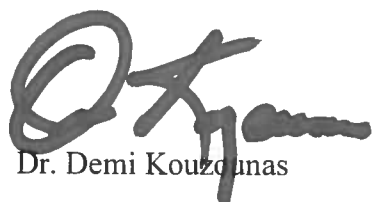
<sup>2</sup> *See* disclosures of Gideon Leadership PAC reporting expenditures for digital advertising on behalf of Jeffrey Evangelos, Walter N. Riseman, Anne B. Gass, William D. Pluecker, available at: <https://mainecampaignfinance.com/ReportOutputFiles/02/2018/e12c4628-1708-43b5-a27c-ae43bcecb630.pdf>.

expenditure” as defined by Maine law because they were authorized by Sara Gideon, at once the PAC’s principal officer and decision-maker and a candidate for reelection to the Legislature in 2018. Maine law makes clear that “any expenditure made by any person in cooperation, consultation or concert with, or at the request or suggestion of, a candidate, a candidate’s political committee or their agents is considered to be a contribution to that candidate” and is not an independent expenditure. Me. Rev. Stat. tit. 21-A, § 1015(5). As the principal officer of Gideon Leadership PAC, Sara Gideon participated in the PAC’s spending decisions at the same time she was a candidate for office. As such, there can be no doubt that the PAC’s spending on social media advertising, as authorized by Gideon, was clearly made in “cooperation with the candidate [Gideon]” and constitutes a contribution to Sara Gideon’s 2018 campaign.

Although the exact amount that Sara Gideon authorized her PAC to spend on digital advertising to promote her own candidacy for the legislature is in dispute in light of the discrepancies between Facebook’s records and the PAC’s disclosures, based on either accounting, the PAC’s expenditures for these ads were well in excess of \$400 and therefore in violation of the state’s \$400 per election contribution limit for contributions from a PAC to a candidate committee. *See* Me. Rev. Stat. tit. 21-A, § 1015. In light of these facts, the Commission needs to investigate whether the reports filed by Gideon Leadership PAC were complete and accurate and whether the advertisements that the PAC failed to disclose actually constitute contributions to Sara Gideon’s 2018 Legislative Candidate Committee in violation of the \$400 per election contribution limits.

Should the Commission determine that Gideon Leadership PAC and Sara Gideon’s 2018 candidate campaign committee violated the law, it should impose the appropriate sanctions and penalties as required by law. Thank you for your prompt review of this matter.

Sincerely,



Dr. Demi Kouzoumas