

ELEC-Tronic

AN ELECTION LAW ENFORCEMENT COMMISSION NEWSLETTER

"Furthering the Interests of an Informed Citizenry"

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Comments from the Chairman Ronald DeFilippis

Now that the election season is over it's time to recap financial activity undertaken by non-federal candidates and political entities.

During the course of the general election, the Commission produced several analyses of campaign financial activity involving campaigns for office in the Garden State.

These analyses included financial activity exhibited by candidates for municipal and county offices and for legislative office in three districts holding special elections.

Analyses were also produced which involved financial activity among the "big-six" committees (two state party committees and four legislative leadership committees) and the 42 county committees.

There were special elections held in the 5th, 14th, and 31st legislative districts. Altogether the twelve candidates vying for State Senate or Assembly raised \$2.6 million and spent \$2.6 million.

It was the campaign in the 14th district, traditionally a swing district including parts of Mercer and Middlesex counties, that led the way.

In the contest for State Senate, Republican State Senator Thomas Goodwin, Democratic Assemblywoman Linda Greenstein, and Independent Bruce C. MacDonald, reported receiving \$1.7 million and spending \$1.7 million.

It is interesting to note that the 14th district was included in the pilot Clean Elections Program in 2007. Compared to 2007 fundraising was up by 23 percent and spending by 59 percent.

The "big-six" committees continued to be active this year as well. In total the two state party committees raised \$3.1 million and spent \$2.9 million through the third quarter of 2010.

For the first nine months of the year, Democrats outraised Republicans \$1.7 to \$1.5 million. They also outspent the Republican committees, spending \$1.5 million versus \$1.3 million.

However, there was one difference and that occurred in the third quarter. Between July 1st thru September 30th Republicans outraised the Democratic committees, \$608,304 to \$375,411. Democrats continued to outspend Republicans during the third quarter, \$670,551 to \$551,532.

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Comments from the Chairman Ronald DeFilippis

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Finally, county party committees together raised more than \$4.4 million during the first nine months of 2010 and spent \$4.3 million.

Democratic party committees outraised and outspent their Republican counterparts. Democratic county committees raised \$2.3 million and spent \$2.6 million through September 30th. Republican county committees raised \$2.1 million and spent \$1.7 million.

The top five counties in financial activity were Bergen, Gloucester, Camden, Middlesex, and Passaic respectively.

In the coming months the Commission will continue to bring greater transparency to the process by providing up-to-date analysis of campaign financial activity in the Garden State.

Moreover, it is important to note that the public can acquire an even greater depth of information by accessing the Commission's website at www.elec.state.nj.us and keying into the Commission's database.

Detailed information involving candidates at all levels of government as well as various political party entities and PACs is available.

Walter F. Timpone Named Vice Chairman of the Commission

Members of the New Jersey Election Law Enforcement Commission have unanimously elected Commissioner Walter F. Timpone as the agency's Vice Chairman.

Timpone was appointed to the Commission in October 2010 by Governor Chris Christie.

He formerly served as Chief of Special Prosecutions for the United States Attorney's Office in Newark and is now a Partner in the Morristown law firm McElroy, Deutsch, Mulvaney & Carpenter.

The selection of Timpone upholds a long-standing tradition at the Commission where members of the opposite party hold the two top leadership spots. Ronald J. DeFilippis, a Republican who was appointed in June 2010, was named chairman by Governor Christie in October. Timpone is a Democrat. As Vice Chairman, he replaces Commissioner Amos Saunders, who served as Vice Chairman from March, 2010 to November of the same year.

The four-member Commission is comprised of two Democrats and two Republicans.

To see the new Vice Chairman's full biography, please go to: www.elec.state.nj.us/aboutelec/commissioners/wtimpone.htm

Executive Director's Thoughts Jeff Brindle

Citizens United v. FEC

The U.S. Supreme Court is being blamed for the growth in independent, outside groups.

Early in the year, in *Citizens United v. Federal Election Commission (FEC)*, the court issued a broad ruling on campaign finance.

Though the decision strongly supported disclosure, and upheld the ban on direct contributions by corporations and unions, it did find the prohibition against independent spending by these entities unconstitutional. Now, it is said, these groups are increasing their activity in political campaigns. Thus the spate of articles decrying the growth of so-called independent, outside groups, organized under the 527 and 501(c) sections of the IRS tax code.

Michael Luo wrote in *The New York Times* how these groups have become "powerful players" in this year's federal election. He refers to a "constellation of other legal developments since 2007" but ends by saying "it is the decision in *Citizens United v. Federal Election Commission* that remains the touchstone."

Another article written recently contains the same theme. Kenneth P. Vogel, in *Politico*, speaking of outside groups, states "Operatives and donors alike say the new aggressiveness, particularly on the right, is due largely to the signal sent by the Supreme Court's ruling in January in *Citizens United v. FEC*."

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Executive Director's Thoughts

Jeff Brindle

Citizens United v. FEC

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Citizens United has certainly helped to propel the growth of outside groups. But placing the blame wholly at the doorstep of the U.S. Supreme Court is simply wrong.

These so-called stealth groups were growing in influence prior to the issuance of the landmark Citizens United decision. The Democratic congressional victories in 2006 and 2008 were aided by such independent groups as move-on.org and Emily's List.

Now the more conservative groups like American Crossroads and the Chamber of Commerce are more engaged.

In truth, proliferation of these outside groups began following the enactment of the Bi-partisan Campaign Reform Act (BCRA), better known as McCain/Feingold.

McCain/Feingold contained many provisions. Two of the most impactful of those provisions, however, were the ban on soft money to political parties and the ban on corporate and union communications within 30 days of a primary and 60 days of the general elections.

McCain/Feingold is what started the stampede toward the creation of independent, outside groups; a development that has resulted in less transparency and less accountability in the area of campaign finance.

In an article I wrote in New Jersey Reporter in January of 2003, I predicted that this might be the case. And I wasn't alone. An editorial appearing in The Wall Street Journal at the time pointed out that one of the unintended consequences of McCain/Feingold is the redirecting of soft money into "shadow committees" like "Empowerment America (Democratic)" and the "American Spirit Fund (Republican)."

And that is exactly what happened.

So what is the lesson from this. It is not that the system should never be reformed but that legislators must be very careful in crafting reforms.

It is very important to anticipate the unintended consequences of reform and to weigh the positives against the negatives in moving forward.

In the case of McCain/Feingold it would have been better to place reasonable contribution limits on soft money, require disclosure, and not close off soft money to parties completely.

A Star-Ledger editorial was right when it commented at the time "Washington's wise guys winked when the law was enacted; no way, they said, would either party let that kind of campaign grease get away so easily. Were they ever right?"

ELEC - Best Official Website

The official website of the New Jersey Election Law Enforcement Commission (ELEC) has been recognized as "Best Official New Jersey Web Site" by the Documents Association of New Jersey (DANJ).

The web address is: www.elec.state.nj.us. Members of DANJ, who are document librarians, chose the site based on its excellence in both usability and content.

"As a disclosure agency, the Commission is constantly striving to provide more and better quality information to the filing community and the public," said Carol Neiman, Director of Information Technology. "Through its website, the Commission helps keep the citizens of New Jersey an informed electorate."

ELEC's website was chosen based on several criteria:

- The site contributes to the expansion of knowledge, gives evidence of innovation in presentation, or demonstrates a creative approach in its treatment;
- The site has a relevance for New Jersey's citizens;
- The site contributes to enhancing the quality of life for New Jersey's citizens;
- The site contributes to an understanding of state or local government processes or functions;

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ELEC - Best Official Website

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- The title reflects actual contents, the site achieves its intended purpose, and the format is appropriate to the contents;
- The information available is written in a lucid style comprehensible to non-specialists;
- The site is easy to navigate and/or provides a search engine;
- The site is generally pleasant to access due to physical appearance, layout, organization, use of color, or ease of use; and
- The site makes use of electronic enhancements such as hypertext links, thumbnail graphics, etc.

DANJ has awarded a "Best Official New Jersey Web Site" award since 1998. Past winners include the New Jersey Legislature, Department of the Judiciary, and Department of Education.

ELEC first went online in 1997. Its website underwent major makeovers in 1999, 2005, and 2008, and staff has continually worked to make other improvements. For instance, during the past year, the Commission, for the first time ever, made it easy for the public to use the website to search through more than \$40 million in donations made to local candidates. In another recent first, annual lobbying reports, starting with those submitted in 2009, were made available online.

In the near future, the Commission staff will be working to retool the website so the state's 1,000 lobbyists can use it to file reports electronically.

Jeff Brindle, ELEC's Executive Director, praised his staff for establishing an online presence for the agency that is accessible and provides an abundance of information about campaign finance and lobbying in New Jersey.

"I want to thank Carol Neiman, ELEC's Information Technology and Data Entry staffs for all their hard work in updating, maintaining, and improving our website," Brindle said. "For a disclosure agency such as ours, a well-functioning website is critical to achieving its mission in the Internet Age."

Senate State Government Committee Hearing Testimony November 15, 2010

By Jeff Brindle, Executive Director

Senate Bill 2379 would place a registration and filing responsibility on issue advocacy organizations that participate in electoral activity. The requirement is no more onerous than that in place for special interest PACs, political parties and political committees.

Since the passage of the Bipartisan Campaign Reform Act of 2002, also known as McCain-Feingold, there has been a rapid surge of spending by groups independently of candidates and parties. The Center for Responsive Politics recently estimated that these outside groups spent at least \$300 million in this year's federal elections, providing stark evidence that these groups have as much potential for influencing elections as more traditional organizations.

Many of these groups are "527" committees set up as tax-exempt groups under IRS guidelines with the express purpose of participating in elections. These groups disclose their donors twice annually to the IRS. Some have disclosed their activities in New Jersey under "grass-roots" lobbying regulations, which requires reports when groups communicate directly with the public over a political issue. But these reports are issued months after the election.

Unlike other candidates and political committees in New Jersey, 527 groups are not required to disclose their financial activity undertaken in the course of a political campaign. Therefore, in a unanimous, bipartisan vote in January, the Commission urged the Legislature to mandate this more timely and complete reporting within the State when 527 groups are involved in New Jersey elections.

While 527 groups initially were the primary vehicle for independent spending after McCain/Feingold, they are rapidly being supplanted by tax-exempt organizations organized under other sections of the IRS code, primarily Sections 501 (c) 4, 5 and 6.

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Senate State Government Committee Hearing Testimony November 15, 2010

By Jeff Brindle, Executive Director

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Unlike 527 groups, these groups are not required to disclose their donors to the IRS or anyone else. So the public is kept in the dark about their fundraising unless they voluntarily reveal their donors.

As a result, Center for Responsive Politics, in its November 2 analysis, found that 42 percent of the \$300 million in outside funds spent on this year's federal elections was donated through 501 (c) groups, and never disclosed.

It seems the same logic that applies to 527 groups applies to them as well. Disclosure and transparency help inoculate the political system against abuses. Informed voters always are the best voters.

Those who argue against disclosure by these groups should heed the advice of Richard Ben-Veniste, the lead Prosecutor in the Watergate investigation. In a recent interview, he noted that the campaign finance movement arose in the 1970s precisely because of the impact of secret donations on public policy decisions.

Says Ben-Veniste: "I think that sunlight is the best disinfectant."

The Commission agrees with that statement. The more informed the public is, the better the citizenry can determine whether there is even the appearance of undue influence.

This is the central reason disclosure is so important to democracy.

State of Connecticut: Elections Enforcement Commission Visits ELEC

Members of the New Jersey Election Law Enforcement Commission staff were pleased on November 18 to host a visit by four top staff members of the Connecticut State Elections Enforcement Commission.

Al Lenge, Executive Director and General Counsel, and three assistants made the 185-mile trip for a first-hand look at how their New Jersey counterpart handles electronic filing by gubernatorial candidates.

The Connecticut contingent met with Amy Davis, Compliance Director; Carol Neiman, Director of Information Technology; Anthony Giancarli, Associate Systems Administrator, and Lou Solimeo, Associate Computer Technician.

Lenge was accompanied by Dianna Kulmacz, Director of Disclosure and Public Information; Beth Rotman, Director of the Citizens' Election Program; and Mann Hasen, Agency Information Technology Manager.

Like the New Jersey agency, the Connecticut Commission was created as an independent campaign finance oversight agency in the early 1970s in response to the Watergate scandal. It oversees the financing of campaigns in the Constitution State, including a program that offers public funds to candidates for statewide offices and the General Assembly.

Michelle R. Levy "Profile"

Associate Legal Director

Anyone who thinks the New Jersey Election Law Enforcement Commission is a paper tiger should speak with Michelle Levy, an associate legal director at the agency.

Part of Levy's job is to file legal complaints against candidates or treasurers who fail to follow the State's campaign finance laws.

"When you are suing somebody, that person isn't happy," said Levy.

Some scream. Some cry.

Oftentimes, it happens even when they are facing penalties of just a few hundred dollars.

"I always keep in mind- these are people and they are being sued and that's a scary thing," she said. "My goal is to answer their questions and to focus on the goal of compliance with campaign finance rules."

Levy points out that most people running for office are ordinary citizens, not professional politicians. They are not running for Governor or 120 seats in the Legislature. Instead, they take part in the thousands of local elections each year for seats on freeholder boards, town councils, school boards, and fire district boards.

"If you were to get a \$200 parking violation, you would think that's pretty high. And that's how most of our candidates feel about our fines. It hurts. For the most part, they are just average people," she said.

Imagine if they knew the average fine the past decade was more than ten times the parking ticket example- about \$2,295. The largest was \$255,000.

Many candidates who run afoul of campaign finance law are shocked to realize they face a maximum fine of up to \$6,800 for each reporting transaction if they fail to meet disclosure requirements for campaign contributions or expenses. Flagrantly refuse to report ten donations, for instance, and you could be staring at a \$68,000 penalty. Larger fines also are often accompanied by embarrassing news stories.

Levy said extreme fines rarely have to be imposed because most people want to obey the law. Many are just misinformed or careless.

"A lot of them are trying to do the right thing. They just don't know how," she said. "To talk them through the process is quite gratifying."

Levy also points out that ELEC's main mission is disclosure, not punishment. The Commission is willing to impose smaller penalties if people cooperate with the agency to correct their mistakes, she said.

"We make sure people are treated equally and fairly and ensure that we are not picking on anyone because of who they are or what party they are in."

Another of Levy's duties at ELEC is, when necessary, to write new regulations or revise existing ones. "I enjoy it tremendously. It's the most creative part of my job because I get to express the philosophical underpinnings, and discuss the positive social impact of our rules."

It isn't too surprising that Levy, a Long Island native, ended up at an anti-corruption agency like ELEC. "My first political memories are of Watergate," she said. Watergate refers to a national political scandal in the early 1970s that led to the creation of agencies like ELEC to improve disclosure of funds used to pay for political campaigns.

Before arriving at ELEC in August 2001, Levy spent three years as a staff lawyer at the State Ethics Commission in Massachusetts.

"Ethics has always been really important to me," she said. "I'm here because it is important for people to have trust in government."

Levy, who has one daughter, earned her undergraduate degree at the University of Pennsylvania in History and Sociology of Science. She earned her law degree at Boston University School of Law.

Levy admits to an "adventurous spirit" that has taken her to some exotic locales. She once rafted through Alaska for three weeks. On another trip, she visited the Galapagos Islands where she swam with sea lions. She backpacked through Europe for three months after college.

She loves to hike and mountain bike, and has even pursued riskier pursuits such as hang-gliding and zip-lining. Once she even skydived in Ocean County.

Levy said she's glad she did a "tandem" jump with an instructor. "I was enjoying freefall so much I probably wouldn't have remembered to pull the ripcord if I had been jumping solo," she said.

Seminar Training Dates

Seminars are conducted at 10:00 a.m. at the Commission's offices at 28 West State Street, 8th floor, in Trenton.

Treasurer Training for Candidates and Joint Candidates Committees

March 23, 2011

April 4, 2011

April 20, 2011

May 3, 2011

May 18, 2011

September 12, 2011

September 27, 2011

October 3, 2011

Treasurer Training for Political Party Committees and PACs

December 9, 2010

March 30, 2011

June 30, 2011

September 21, 2011

December 14, 2011

Electronic Filing Training (REFS)

December 13, 2010

April 5, 2011

April 26, 2011

May 5, 2011

May 17, 2011

July 27, 2011

September 14, 2011

September 26, 2011

October 4, 2011

2011 Commission Meeting Schedule

The New Jersey Election Law Enforcement Commission has announced its meeting schedule for 2011. Unless otherwise indicated in the future, meetings will be held at the Commission's offices at 28 West State Street, 12th Floor, in Trenton.

January	18, 10:00 a.m.
February	15, 10:00 a.m.
March	15, 10:00 a.m.
April	26, 11:00 a.m.
May	17, 11:00 a.m.
June	21, 11:00 a.m.
July	19, 11:00 a.m.
August	16, 11:00 a.m. (if necessary)
September	20, 11:00 a.m.
October	18, 11:00 a.m.
November	15, 11:00 a.m.
December	20, 11:00 a.m.

DATES TO REMEMBER

Reporting Dates

	PERIOD COVERED	REPORT DUE DATE
FIRE COMMISSIONER - FEBRUARY 19, 2011		
29-day pre-election	Inception of campaign* - 1/18/11	1/21/2011
11-day pre-election	1/19/11 - 2/5/11	2/8/2011
20-day post-election	2/6/11 - 3/8/11	3/11/2011
48 Hour Notice Reports Start on 2/6/11 through 2/19/11		
SCHOOL BOARD ELECTION - APRIL 27, 2011		
29-day pre-election	Inception of campaign* - 3/26/11	3/29/2011
11-day pre-election	3/27/11 - 4/13/11	4/18/2011
20-day post-election	4/14/11 - 5/14/11	5/17/2011
48 Hour Notice Reports Start on 4/14/11 through 4/27/11		
MUNICIPAL ELECTION - MAY 10, 2011		
29-day pre-election	Inception of campaign* - 4/8/11	4/11/2011
11-day pre-election	4/9/11 - 4/26/11	4/29/2011
20-day post-election	4/27/11 - 5/27/11	5/31/2011
48 Hour Notice Reports Start on 4/27/11 through 5/10/11		
RUNOFF ELECTION** - JUNE 14, 2011		
29-day pre-election	No Report Required for this Period	
11-day pre-election	4/27/11 - 5/31/11	6/3/2011
20-day post-election	6/1/11-7/1/11	7/5/2011
48 Hour Notice Reports Start on 6/1/11 through 6/14/11		
PRIMARY ELECTION*** - JUNE 7, 2011		
29-day pre-election	Inception of campaign* - 5/6/11	5/9/2011
11-day pre-election	5/7/11 - 5/24/11	5/27/2011
20-day post-election	5/25/11 - 6/24/11	6/27/2011
48 Hour Notice Reports Start on 5/25/11 through 6/7/11		
GENERAL ELECTION*** - NOVEMBER 8, 2011		
29-day pre-election	6/25/11 - 10/7/11	10/11/2011
11-day pre-election	10/8/11 - 10/25/11	10/28/2011
20-day post-election	10/26/11 - 11/25/11	11/28/2011
48 Hour Notice Reports Start on 10/26/11 through 11/8/11		
PACS & CAMPAIGN QUARTERLY FILERS		
4 th Quarter	10/1/10 – 12/31/10	1/18/2011
1 st Quarter	1/1/11 - 3/31/11	4/15/2011
2 nd Quarter	4/1/11 - 6/30/11	7/15/2011
3 rd Quarter	7/1/11 - 9/30/11	10/17/2011
4 th Quarter	10/1/11 - 12/31/11	1/17/2012

* Inception Date of Campaign (first time filers) or from January 1, 2011 (Quarterly filers).

** A candidate committee or joint candidates committee that is filing in the 2011 Runoff election is not required to file a 20-day postelection report for the 2011 Municipal election.

*** Form PFD-1 is due on April 21, 2011 for Primary Election Candidates and June 17, 2011 for Independent General Election Candidates.