

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

This being a legislative year, I've decided to use my columns to inform potential candidates about the whys and wherefores of campaign finance law.

So in this edition, I will discuss the permissible uses of campaign funds.

The appropriate use of campaign funds is an important issue for candidates and treasurers to understand. Any misuse of campaign funds may result in the issuance of a civil penalty. Moreover, in some instances it may constitute a violation of criminal law.

The proper disposition of campaign funds lies at the heart of maintaining the integrity of the electoral process in New Jersey.

Campaign funds may be used in six ways. Born of the 1993 campaign finance and lobbying reforms, the Legislature determined to restrict the ways by which treasurers may dispense funds raised from contributions.

According to the Campaign Contributions and Expenditures Reporting Act, contributions received by a candidate, candidate committee, joint candidates committee, or legislative leadership committees “shall be used only for the following purposes.”

1. to pay campaign expenses;
2. to make charitable contributions;
3. to pay administrative expenses related to the respective committee;
4. to contribute to another candidate committee, political committee or political party committee;
5. to repay contributors on a pro-rata basis; and
6. to pay for the ordinary and necessary expenses of holding public office.

To pay for the “ordinary and necessary expenses of holding public office” means to underwrite any expenses that promotes the responsibilities of a person holding elective office.

What is not included, however, is spending the money for the furnishings, staffing, or operations of an office related to the officeholder’s official duties.

That which is permissible, though, are campaign expenditures for such things as seminars, newsletters, and nominal purchases of get-well-gifts and memorials for constituents.

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Comments from the Chairman Ronald DeFilippis

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For a complete list of permissible uses under the ordinary and necessary language readers should consult N.J.A.C. 19:25-6.7.

One last, but critically important note: Using campaign funds for personal use or to pay the costs associated with one's legal defense in a criminal matter is strictly forbidden.

A candidate cannot, for example, use his or her campaign funds to pay the mortgage or tuition. Nor, can he or she use them to defend against a criminal charge.

In conclusion, the Legislature in 1993 had good reason to place restrictions on the uses of campaign funds. Donors make contributions to candidates because they support their candidacies for public office.

Contributors expect their donations to be used for that purpose and that purpose alone—not for personal use or for uses that do not promote the objectives of the candidate as an officeholder.

Jerry Fitzgerald English Retires

Jerry Fitzgerald English has retired from the Commission after seven years of service.

Appointed to the Commission in January 2004, Mrs. English served as Chair of the Commission from July of that year until November of 2010. She is the second-longest serving Chair in the Commission's history behind Ralph Martin (revised 9/28/17).

While leading the Commission, Mrs. English was involved with many important issues. For example, she presided over the promulgation of lobbying regulations stemming from the lobbying reforms of 2004. Moreover, Mrs. English was Chair during the implementation of pay-to-play reforms and during the administration of the two clean elections pilot programs. Finally, Mrs. English's tenure extended through two gubernatorial public financing programs and included the important decision to

not allow campaign funds to be used in criminal defense.

Long involved in service to the State of New Jersey, Mrs. English is past Commissioner of the Department of Environmental Protection, a past Commissioner of the Port Authority of New York and New Jersey, and a former State Senator.

The Commission extends its best wishes for a healthy, happy, and prosperous future.

Lawrence Weiss, Commissioner Appointed to the Commission

Lawrence Weiss became of Counsel at Dughi & Hewitt, P.C. in 2002 after serving as Superior Court Judge for 26 years. He was appointed to the Commission by Governor Chris Christie in March, 2011.

Judge Weiss was instrumental in establishing the Richard J. Hughes Inn of Court. He served on the Supreme Court's Civil Practice Committee for many years. He also served on a special committee created by Chief Justice Wilentz to develop guidelines and training for judges handling complex civil cases and on another working group studying asbestos litigation.

Judge Weiss achieved national prominence for his work in the field of environmental insurance coverage law, managing a large number of complex cases, and has lectured on a number of occasions to speak at national conferences sponsored by the American Bar Association and the National Judicial College. He was recognized at Rutgers with its Distinguished Alumnus Award in 1998.

Commissioner Weiss was a presiding Judge of the Union County District Court from 1978 through 1980, when he was appointed to the Superior Court. He served in both the Civil and Criminal parts and as Presiding Judge of the Criminal Part, Union County, from 1983 through 1984. His service continued in the Civil Part from 1985 until mandatory retirement in 2002, as the Acting Assignment Judge and recusal Judge for the Chancery Part.

Judge Weiss, a long-time resident of Westfield and a former town councilman, received a L.L.B. from Rutgers University School of Law and a B.S. from Rutgers University. Commissioner Weiss also served in the U.S. Air Force as a navigator.

Executive Director's Thoughts Jeff Brindle

Advocates of public financing might look to January 26 as Paul Revere day.

Along party lines, by a vote of 239-160, the House of Representatives voted to abolish the Presidential Public Financing Program.

The effort to dismantle the program is not supported in the Senate or at the White House. So the program is not in any immediate danger.

But the fact that a majority in the House voted to eliminate the program should serve as a rallying cry for defenders of public financing, whether in Washington or throughout the states.

The presidential program has existed since 1976. Until President Obama decided not to take public money in 2008, all general election candidates of both major parties participated.

Candidates and the public have benefitted from the program. The program has permitted candidates to communicate their positions to voters and has helped thwart the influence of special interests.

Twenty-five states have public financing programs. These efforts include both matching and grant programs that provide funding to candidates and parties.

New Jersey's program stands out. It is often mentioned among the best of state run public financing efforts. A pillar of the state's election process, the ninth go-around of the Gubernatorial Public Financing Program was completed in 2009.

New Jersey's matching program went into effect in 1977, on the heels of the Watergate scandal. Initially the program included only the general election. Since 1981, it has been an important part of both primary and general elections.

Sixty-seven primary and general election candidates for governor participated in the program. Over the span of 32 years, candidates received approximately \$105.6 million in public funds, all of which contributed to an atmosphere of

trust in the integrity of New Jersey's gubernatorial elections.

During the 2009 election, for instance, there were 5,223,047 registered voters in New Jersey. In the general election two candidates, now-Governor Chris Christie and independent candidate Chris Daggett, received \$8,418,866 in public funds.

The price paid for a fair and clean election was \$1.61 per voter – less than a medium cup of coffee at Dunkin Donuts.

The Campaign Contributions and Expenditure Reporting Act established the Election Law Enforcement Commission (ELEC), which would be the administrator of the Public Financing Program. It was signed into law by Governor William J. Cahill in 1973, a Republican.

Shortly thereafter, in amending the law, the gubernatorial program was enacted in 1974 under newly elected Governor Brendan T. Byrne, a Democrat.

Thus the seeds of bi-partisanship were immediately planted, with both governors contributing to the program's birth. The results also have been bi-partisan – three Democratic and three Republican candidates have won the governor's seat under the program.

The program was designed with two goals in mind: to eliminate undue influence from the gubernatorial campaigns and to permit candidates of limited means to run for the State's highest office.

Those crafting the program saw the wisdom of including a test of "candidate viability." They did so by including a qualification threshold to insure that the public's money was spent wisely.

Moreover, they created a 2/1 matching ratio of public-to-private dollars in order to insure that candidates would receive an adequate amount of money to conduct effective campaigns. The program also requires candidates to raise one third of their funds from private sources to ensure that they have wide public support.

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Executive Director's Thoughts Jeff Brindle

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And caps limiting the amount of public money dispersed per candidate insured that spending would not escalate to the point that the State budget could not underwrite its cost.

The program also includes contribution and expenditure limits. These limits, adjusted for inflation, keep the program viable and engender trust in government.

Finally, each candidate that receives public funds is required to participate in two public financing debates. This provision furthers the effort to bring about an informed electorate.

The program has met its twin goals. In the 32 years since the program began there has never been a hint of scandal or suggestion of undue influence over the candidates.

In terms of permitting qualified candidates of limited means to run for the State's highest office, there is no better testament than the most recent gubernatorial election.

During the 2009 campaign, incumbent Governor Jon Corzine, who did not take public financing, spent \$27.4 million to challenger Christie's \$11.7 million.

As everyone knows, Mr. Christie is now Governor.

Other examples make the point as well. Independent Candidate Chris Daggett, in 2009, and Libertarian candidate Murray Sabrin, in 1997, both received public funds and ran credible campaigns. Public funding helped Republican Christie Whitman defeat incumbent Democrat Jim Florio in 1993. Then, it enabled Democratic Jim McGreevey to nearly defeat Whitman in 1997. So it also has made gubernatorial races competitive.

The Gubernatorial Public Financing Program is an integral part of New Jersey's electoral system and important to its integrity.

This unique program is partially supported by a tax check-off that does not add to a taxpayer's tax or reduce their refund. It is hoped that during this tax season New Jersey tax payers will continue to support this valuable program.

2010 Annual Lobbying Financial Reports

Record spending on television and radio advertising campaigns caused a large increase in spending by lobbyists during 2010, Jeff Brindle, Executive Director of the New Jersey Election Law Enforcement Commission (ELEC), announced today.

In a year when lobbying expenditures were down nationally, overall spending in New Jersey jumped to \$65.6 million- also a record high. The figure represents a 13.9 percent increase over the \$57.6 million spent a year earlier. It was the biggest year-to-year increase since 2006.

By contrast, total federal lobbying expenditures fell \$104 million- or 2.9 percent- to \$3.5 billion, according to Roll Call.

The following chart shows the five-year trend in New Jersey:

YEAR	TOTAL SPENDING ON LOBBYING	CHANGE IN %
2010	\$ 65,587,994	13.9
2009	\$ 57,565,043	3.4
2008	\$ 55,661,277	1.4
2007	\$ 54,891,382	-0.8
2006	\$ 55,321,166	91.3

Brindle said the surge in spending is not too surprising given that the governor's seat switched parties for the first time in a decade. The election of Gov. Chris Christie led to major budget cuts and many dramatic new policy initiatives.

"There were many hot button issues last year, and it obviously caused a sharp reaction," he said. The slowly improving economy could be another factor in the higher spending, he added, noting that "during the previous four years, overall lobbying spending hovered around \$55 million."

Spending on communications- primarily television, radio broadcasts and printed mailers- jumped to \$10.3 million. The previous high occurred in 2006, when a legislative showdown between the telecommunications and cable industries prompted \$6.6 million in spending on communications. Last year's total- a 69 percent increase from the year before- was three times the \$3.2 million average of the previous ten years.

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2010 Annual Lobbying Financial Reports

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The New Jersey Education Association, a union that represents nearly 204,000 active and retired school employees in the State, alone spent \$6.6 million. Another union, the New Jersey State Policemen's Benevolent Association, spent another \$121,750 on communications.

Two non-profit groups also spent significant sums on communications. Excellent Education for Everyone Inc., an advocate of charter schools, spent \$458,928. A second non-profit group, Reform Jersey Now, Inc., disclosed \$402,932 in spending.

The top ten outlays for communications were as follows:

GROUP	2010 SPENDING
NJ Education Association	\$6,611,499
Excellent Education For Everyone Inc	\$ 458,928
Exelon Corp/ Exelon Generation Co LLC	\$ 446,456
Reform Jersey Now Inc	\$ 402,932
Competitive Suppliers Coalition	\$ 348,179
NJ Credit Union League	\$ 177,048
NJ Hospital Association	\$ 136,748
NJ State Policemen's Benevolent Association Inc	\$ 121,750
AARP NJ	\$ 100,733
Health Care Institute Of NJ	\$ 99,581

Brindle said the increasingly heavy spending on communications reflects the changing nature of lobbying from an industry that once exerted its influence primarily through face-to-face meetings to one that emphasizes mass media campaigns.

"The center of lobbying activity seems to be shifting away from more traditional personal lobbying to grassroots lobbying, or issue advocacy," he said. "Those in the lobbying community know that to win policy battles, it helps to have public opinion on your side."

"The increased magnitude of spending on communications, or grassroots lobbying, suggests that the advocacy explosion that began at the national level is coming to New Jersey," Brindle added.

More evidence of this shift: the practice known as "benefit passing" has become almost non-existent in the State. Last year, lobbyists spent a total of just \$7,715 on food and other gifts, and were reimbursed \$1,748 by some recipients.

The \$7,715 in benefits received is the lowest since ELEC began keeping records in 1982. The activity peaked at \$163,375 in 1992 and has steadily declined ever since. Seventy-three specific benefits were distributed by lobbyists last year at an average value of about \$79.

YEAR	TOTAL SPENDING ON BENEFIT PASSING	CHANGE IN %
2010	\$ 7,715	-20
2009	\$ 9,642	-57
2008	\$ 22,360	-29
2007	\$ 31,630	-30
2006	\$ 45,508	4

The one-time tradition of lobbyist benefit passing has all but vanished due to stricter gift restrictions enacted in 2004, annual disclosure by ELEC, and a steady stream of news accounts that has brought a public focus to the issue.

"Most public officials, to their credit are hard working, honest individuals who want to avoid even the appearance of being influenced." Moreover, our strong disclosure laws, in addition to the changing nature of lobbying, have worked to discourage lobbyists from passing benefits.

The number of lobbyist clients grew from 1,820 to 1,998- up 178, or 9.8 percent. That contrasted sharply with the loss of 181 clients between 2007 and 2009- the largest such loss of clients over a two-year period since ELEC began keeping statistics.

Despite the upsurge in business, the average number of lobbyists fell for the third straight year. The total dropped from 1,001 in 2009 to 965- a 3.6 percent reduction. The highest average ever was 1,043 in 2008.

Registered lobbyists hold about 227 appointed seats on public authorities, boards and commissions. While lobbyists are required to disclose such appointments, they are not required to reveal if their firms earn fees representing any public authorities, boards or commissions. Some do disclose this information voluntarily.

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2010 Annual Lobbying Financial Reports

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The Election Law Enforcement Commission has recommended that disclosure of lobbying by public entities become law. It also has recommended that lobbyists disclose their efforts to influence local governmental officials. Currently, only lobbying of state officials is subject to disclosure.

Towns, counties and other public agencies spent about \$900,000 on lobbyists last year, according to the annual reports of lobbyists. With the practice attracting increasing attention last year, the figure represented a 51 percent decrease from 2009, when an estimated \$1.9 million was spent by public entities to hire lobbyists.

As usual, in-house salaries remain the biggest expense, accounting for \$34.5 million, or 52 percent of all outlays.

Communications expenses showed the largest increase, rising 69 percent.

EXPENSE CATEGORY	2009	2010	CHANGE IN %
In-house salaries	\$33,222,881	\$34,472,234	3.76
Compensation to outside agents	\$13,188,592	\$15,613,132	8.4
Communications	\$ 6,127,364	\$10,335,782	69
Support personnel	\$ 2,908,242	\$ 2,753,534	-5.32
Travel and lodging	\$ 673,248	\$ 667,110	-0.91

The following 10 special interest groups reported the largest total spending last year:

GROUP	2010 SPENDING
NJ Education Association	\$6,869,256
Verizon NJ	\$ 935,252
Exelon Corp, Exelon Generation Co LLC	\$ 860,882
NJ Hospital Association	\$ 756,393
AARP NJ	\$ 723,730
Public Service Enterprise Group (PSE&G/PSE&G Power/PSE&G Service Corp)	\$ 640,272
Prudential Financial Inc	\$ 567,976
NJ Builders Association	\$ 566,325
FirstEnergy/Jersey Central Power & Light	\$ 548,586
Honeywell International Inc	\$ 512,285

The top ten multi-client lobbying firms ranked by fees included the following firms:

FIRM	2010 RECEIPTS
Princeton Public Affairs Group Inc	\$7,775,454
Public Strategies Impact LLC	\$5,836,059
Martin-Bontempo-Matacera-Bartlett-Gluckshaw	\$3,751,419
Kaufman Zita Group LLC	\$1,820,503
Gibbons PC	\$1,744,087
Capital Public Affairs Inc	\$1,682,101
Riker Danzig Scherer Hyland & Perretti LLP	\$1,485,478
Impact NJ LLC	\$1,358,717
Capital Impact Group	\$1,218,728
Porzio Governmental Affairs LLC	\$1,209,871

Summary data provided above should be considered preliminary. It reflects reports received as of 5 pm on March 2, 2011. In New Jersey, lobbyists who raise or spend more than \$2,500 are required to file a report on February 15th that reflects activity from the prior calendar year.

Full details about lobbyist activities in 2010 are available at the following website: http://www.elec.state.nj.us/publicinformation/gaa_annual.htm. Paper copies of annual reports are available upon request at ELEC, and will be available on the Commission's website later this year.

Scott M. Fagerty "Profile" [Special Programs Analyst](#)

When Scott Fagerty worked on the Princeton University campus several years ago, he was struck by the words of James Madison, one of school's most famous graduates and the inspiration for one of its political science programs.

Chiseled on the archway of one of the campus buildings is a famous quotation from America's fourth president that explains the essence of what society needs to secure liberty:

"A well-instructed people alone can be permanently a free people."

Fagerty didn't realize it at the time.

But he one day would work at the New Jersey Election Law Enforcement Commission, which attempts to live up to Madison's vision by informing citizens about how campaign dollars are spent in New Jersey elections.

Like many ELEC employees, Fagerty takes great pride in the agency's mission of disclosure.

"Here I feel there's some social or public good coming out of my work," said Fagerty, whose work for a private printing firm sometimes took him to Princeton's campus before he joined the ELEC staff in 2005.

Fagerty, who is single and grew up in Morris County, graduated from The College of New Jersey in 2002 with a bachelor's degree in political science.

"Some kids follow football. I followed politics," he said, noting that the political game can be more brutal than sports.

"In sports, you can break a bone. In politics, you can break your entire life," he said.

One past-time for Fagerty is watching classic western films. His favorite: "The Good, The Bad and The Ugly."

As an analyst in ELEC's Special Programs Section, his daily routine varies. He assists public contractors who must file annual disclosure reports under the State's "pay-to-play" laws along with fielding inquiries from the general public.

He helps candidates with questions about the State's gubernatorial financing program, and helps train and recruits temporary workers hired by ELEC to carry out the program every four years. He assists with audits made to ensure that the publicly financed candidates spend their money properly. He also participates in special projects, such as helping to edit and review a new compliance manual for candidates.

He admits candidates and others sometimes can be angry or defensive when they first contact the agency. Most people dread dealing with bureaucracies.

But unlike other public agencies, ELEC's staff has been service-oriented since its inception in the early 1970s. Fagerty and other employees try to provide close personal attention to resolve the concerns of candidates and others.

Most people want to comply with campaign finance laws but they can be frustrated and confused by them, he said. Usually, even people who are upset when they first call the agency end up calmer, he added. "You can almost hear the change in their tone of voice from angry to thankful," said Fagerty.

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	
April 4, 2011	September 12, 2011
April 20, 2011	September 27, 2011
May 3, 2011	October 3, 2011
May 18, 2011	
Treasurer Training for Political Party Committees and PACs	
June 30, 2011	December 14, 2011
September 21, 2011	
Electronic Filing Training (REFS)	
April 5, 2011	July 27, 2011
April 26, 2011	September 14, 2011
May 5, 2011	September 26, 2011
May 17, 2011	October 4, 2011

DATES TO REMEMBER

Reporting Dates

	PERIOD COVERED	REPORT DUE DATE
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		
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.

[Late and non-filing of reports are subject to civil penalties determined by the Commissioners](#)