

25th Anniversary

A Quarter Century of Tradition

1997 Annual Report

**The N.J. Election Law
Enforcement
Commission**



May, 1998



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HOW TO CONTACT ELEC



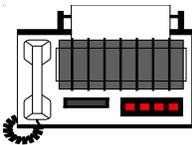
ELEC's Location
28 West State Street, 13th Fl.
Trenton, New Jersey

You may contact the Election Law Enforcement Commission by visiting our offices located at 28 West State Street, 13th Floor, Trenton, New Jersey.



ELEC
P.O. Box 185
Trenton, NJ 08625-0185

When using the United States Postal Service (regular mail), please use the following address: New Jersey Election Law Enforcement Commission, P.O. Box 185, Trenton, NJ 08625-0185



ELEC's Telephone
(609) 292-8700

If you would like to speak with a representative of the Commission, you may telephone the Commission between the hours of 9:00 a.m. till 5:00 p.m. eastern time at (609) 292-8700.



ELEC's Web Site
<http://www.state.nj.us/lps/elec/>

The Commission offers via the Internet general information about itself; a general overview of filing requirements for candidates, parties, PACs, legislative agents, and lobbyists; statistics about campaign finance and lobbying information; and reporting dates. For more information visit the Commission's web site at: <http://www.state.nj.us/lps/elec/>.



ELEC's FlashFax
(609) 292-4313

The fax-on-demand system allows the public to call from a fax machine into ELEC's FlashFax and request copies of all forms, advisory opinions, and other reports. For more information, please dial (609) 292-4313 from a fax machine.



THE COMMISSION

Ralph V. Martin, Chair

Ralph V. Martin, retired Superior Court Judge serving Passaic County, and now a practicing attorney in Wayne, New Jersey, was appointed to fill an unexpired term on the Commission in December, 1995, and was

earned his J.D. in 1958 from Rutgers University. He was subsequently admitted to the New Jersey and U.S. District Court in 1958 and to the U.S. Supreme Court in 1963.

The Chair is a member of the Passaic County and State of New Jersey Bar Associa-



From left to right: Vice Chair David Linett, Commissioner Paula A. Franzese, Chair Ralph V. Martin, and Commissioner Lynnann B. Ware

appointed Chair in February, 1996, by Governor Christine Todd Whitman.

While a Superior Court Judge, the Chair was involved in all divisions of the Court, with the bulk of his service occurring in the Civil Division.

A graduate of Rutgers University in 1951 with a B.S. and M.S., Judge Martin

has a legal interest in complex litigation and media delivery issues. Judge Martin chaired the Supreme Court Media Committee for an extensive period of time.

A veteran of the U.S. Army, he served as a Nuclear Guided Missile Officer from 1951-1955 (14th Ordnance Battalion), the Chair is married to the former Ida K. Kuiphoff. They have four sons.



David Linett, Vice Chair



David Linett has completed three terms on the Commission. An attorney, he is currently President of the Bridgewater law firm of Gindin and Linett, PC.

Vice Chair Linett is a former Prosecutor of Somerset County and a former Treasurer of the National District Attorneys Association. A past Chair of the Supreme Court's District XIII Ethics Committee, he also served as the Treasurer of the Supreme Court's Ethics Financial Committee. He is a member of the American, New Jersey State, and Somerset County Bar Associations.

Very active in charitable and volunteer endeavors, Vice Chair Linett was named "Citizen of the Year" in 1989 by the Somerset County Chamber of Commerce. Further, he served three terms as Chair of the Board of Trustees of Alternatives, Inc. (formerly AAMH), and two terms as a Director of the Somerset County Chamber of Commerce. Vice Chair Linett was a District Governor of Rotary International in 1991-92 and a past-president of the Somerville Rotary Club. He

was twice elected to the Democratic State Committee from Somerset County.

Vice Chair Linett is a graduate of Yale University and Harvard Law School. He resides in Summit with his wife, Penny. They have five children and three grandchildren.



THE COMMISSION continued

Paula A. Franzese, Commissioner



Paula A. Franzese is serving her first term on the Commission. Appointed in 1996 by Governor Christine Todd Whitman, Commissioner Franzese is a Professor of Law at the Seton Hall University School of Law.

Commissioner Franzese is the Founder and Director of the New Jersey Mentor Program, which pairs inner-city high schools with law firms, public sector law offices, and Seton Hall Law School. Existing since 1987, Mentor provides inner-city youth with the opportunity to participate in the legal system and with access to role models within the profession.

A lecturer, as well as a commentator on *Caucus: New Jersey Court T.V.*, Commissioner Franzese had served as President of the Justice Resource Center Board of Directors in New York City.

A graduate of the Columbia University School of Law, Commissioner Franzese is a member of the New Jersey and New York bars and is admitted to practice in the U.S. District Courts for the Southern and Eastern Districts of New York and the District of New Jersey.

A recipient of numerous awards and honors, including being named Woman of the Year by the Essex County Board of Freeholders in 1997, and the author of several publications and papers, she is married to Michael R. Rosella. The couple has two children.



THE COMMISSION continued

Lynnan B. Ware, Commissioner



Lynnan B. Ware, appointed to the Commission by Governor Christine Todd Whitman, is a principal of Ware Associates, a commercial real estate firm formed in 1975 to provide financing, sales, and consulting services for private

and institutional clients. Formerly vice president of the advisor to a realty trust, Commissioner Ware was responsible for investor relations, human resources, and administrative management.

Active in civic and professional service for more than 25 years, Mrs. Ware represented Burlington County on the New Jersey State Republican Committee, was president of the Burlington County Republican Women, and held numerous campaign posts including work as a coordinator of volunteers for a state legislative race and as a treasurer for municipal and continuing political committees.

The Commissioner is active in Rotary, and presently is Assistant Governor for Areas 4 & 5 of District 7500. Treasurer and a director of the Rotary Club of Moorestown since 1993, the Commissioner's extensive community service

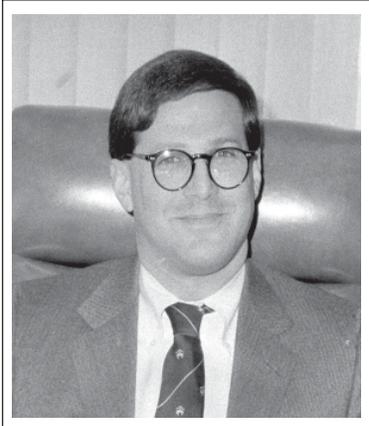
includes five years on the township Zoning Board (chairperson in 1989) and alternate member of the Planning Board from 1991-94.

Commissioner Ware is licensed as a New Jersey real estate salesperson and previously held a Series 7-General Securities license. She chaired a NAREIT committee which published the *Sourcebook for Shareholder Relations*.

Commissioner Ware is married to Ridgeley P. Ware. They have lived in Moorestown since 1971, and have three sons and five grandchildren.



**Frederick M. Herrmann, Ph.D.,
Executive Director**



Frederick M. Herrmann, Ph.D., has been the executive director of the New Jersey Election Law Enforcement Commission for over a decade. He received an A.B. (1969) from the

University of Pennsylvania and an M.A. (1970) and a Ph.D. (1976) from Rutgers, The State University of New Jersey. Dr. Herrmann is also an honor graduate of the United States Army Quartermaster School at Fort Lee, Virginia.

The author of many publications about history and government, he is a frequent speaker at various forums inside and outside of New Jersey. Currently, he is the book review editor of The Guardian, a member of the Peer Review Board of the Ethics Section of Spectrum: The Journal of State Government, and on the editorial board of Public Integrity.

Once a teacher at Rutgers and Kean Universities as well as a staff member of the New Jersey Legislature, he has also served on the Organizational Planning and Coordinating Committee of the Council of State Governments and has been the President of the Council on Governmental Ethics

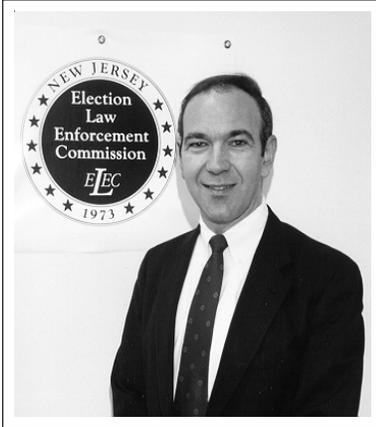
Laws, an international organization, and the Chairperson of the Northeastern Regional Conference on Lobbying.

In 1993, he was the recipient of the Annual Award of the Council on Governmental Ethics Laws for his continued efforts to promote the highest level of ethical conduct among governmental officials and candidates for public office in the international arena.



THE COMMISSION continued

James P. Wyse, Counsel



James P. Wyse was selected to be the Commission's new Counsel in 1994 and began serving in that capacity in January, 1995.

Mr. Wyse is a partner in the Morristown law firm of Schenck, Price, Smith and

King, where he specializes in the areas of corporate and commercial law, real estate, environmental law, and estate planning.

Mr. Wyse, admitted to practice in New Jersey and before the United States Court of Appeals for the Third Circuit, has argued cases in that Court and before the New Jersey Supreme Court.

As Counsel for a number of national, State, and local land trust organizations, Mr. Wyse has developed special expertise regarding conservation and agricultural easements and innovative land preservation techniques.

Mr. Wyse received a B.A. degree from Bucknell University and J.D. degree with honors from the Rutgers University School of Law.

Appointed General Counsel to the New Jersey Conservation Foundation, he also advises the Junior League of Morristown, the Morris Shelter, Inc., and the Dierdre O'Brien Child Advocacy Center. Married to Pamela Paxton, he serves on the Board of Trustees of the Morris Parks and Land Conservancy.



MESSAGE FROM THE CHAIR

The Commission made a noteworthy decision last year when it certified matching funds to a third-party candidate for governor. For the very first time a third-party candidate qualified for public money and the right to participate in two publicly sponsored debates.

Two objectives are set forth in the gubernatorial public financing statute: to help candidates of limited means run for governor and to eliminate undue influence from the process. Many believed these goals to have been fulfilled when, after lengthy deliberations, the Commission declared the Libertarian Candidate eligible to receive public funds.

Though this decision drew the most attention, it was not the only one of significance made by the Commission during the gubernatorial campaign. In a highly charged atmosphere, the Commission calmly and deliberately went about the business of determining whether the cost of a political ad to be aired by the Republican State Committee would be charged against the expenditure limit of Governor Whitman's campaign. After much

serious discussion, the Commission ruled the ad to be generic and not allocable against the governor's expenditure limit.



Ralph V. Martin, Chair

In terms of the gubernatorial public financing program, existing since 1977, this gubernatorial season brought many challenges which were managed by the Commission in its traditionally responsible manner, delivering \$16.4 million to qualifying primary and general election candidates in a

timely and effective fashion.

While the gubernatorial public financing program was certainly its most high-profile activity last year; perhaps, of even greater long range significance, was the progress it made toward upgrading its computer operations and introducing new technology. These steps are already having an impact on the Commission's ability to deliver information more quickly. Moreover, they hold the promise of not only enhancing this process even further but also of providing for the better utilization of staff resources.



MESSAGE FROM THE CHAIR continued

Greatly aided by an increase in its budget provided by the Governor and the Legislature, the Commission replaced its decade-old computer system.

In addition, significant improvements have been made in the Commission's computer operations, including the introduction of a home page and a flashfax system, both of which were further enhanced in 1997. Moreover, it is anticipated that truly monumental strides will be made in the area of automation in the coming months as the result of Governor Whitman's enlightened initiative to increase the Commission's budget by \$1 million.

It has been an exciting year for ELEC. In the area of analysis, the Commission produced a most original study in its twelfth white paper. Written by Deputy Director Jeffrey M. Brindle, this study, entitled Repartyization: The Rebirth of County Organizations, documents the strengthening of county political party committees since 1985. Moreover, the Commission produced analytical press releases on lobbying activity and legislative spending activity.

The Commission's Legal Section, issued many important advisory opinions, drafted regulatory proposals, produced 168 complaints, and kept up its usual hectic pace in 1997. The Review and Investigation

Section, an equally important arm of the Commission's enforcement team, closed 61 investigations last year.

The Compliance Section, while improving its manuals, also assisted the public with requests for information and assistance. It processed 23,815 reports, photocopied over 225,000 pages of reports, and produced important analytical press releases. A compliance rate for filers of 90 percent was also achieved.

As a renowned international leader in the field of ethics, veteran Executive Director Frederick M. Herrmann continued to do an exemplary job in leading the Commission's staff toward an automated future. His dedication and commitment to ELEC as an institution and his unwavering determination to advance the cause of governmental ethics, both in New Jersey and throughout the United States, were exemplified in his article published in the 1997 edition of Public Integrity Annual entitled "Bricks Without Straw: The Plight of Governmental Ethics Agencies in the United States."



MESSAGE FROM THE CHAIR *continued*

In so many ways, it has been a year of tremendous progress and accomplishment for the Commission as it celebrates its 25th anniversary. As Chair of the Commission, and on behalf of my fellow Commissioners, I am gratified to serve and to present this report to the Legislature. It is a matter of great pride to me that my fellow commissioners and I have been able to build on ELEC's quarter century of tradition in serving the cause of governmental ethics in New Jersey.

Cordially,

Ralph V. Martin
Chair



COMMISSION STAFF

Executive

Frederick M. Herrmann, Ph.D., *Executive Director*
Jeffrey M. Brindle, M.A., *Deputy Director*
Gregory E. Nagy, Esq., *Legal Director*
Elbia L. Zeppetelli, *Administrative Assistant*
Steven Kimmelman, M.A., *Research Assistant*

Administration

Barbra A. Fasanella, *Director*
Donna D. Margetts, M.A. *Personnel Officer/
Lobbying Auditor*
Elaine J. Salit, *Fiscal Officer*
Debra A. Kostival, *Principal Receptionist*
Irene Comiso, *Senior Receptionist*

Compliance and Information

Evelyn Ford, Esq., *Director*
Kimberly Key, *Associate Compliance Officer*
Linda White, *Associate Compliance Officer*
Christopher Guear, M.A., *Assistant Compliance
Officer*
Amy Davis, *Assistant Compliance Officer*
Monica Triplin-Nelson, *Clerk*
Elizabeth A. Michael, *Clerk*
Maria Concepcion, *Clerk*
Erin Kasa, *Clerk*
Samira Wood, *Clerk*
Desiree DeVito, *Messenger*

Computer

Carolyn Neiman, *Systems Administrator*
Brenda A. Brickhouse, *Systems Operator*
Shirley R. Bryant, *Senior Data Entry Operator*
Nelly R. Rosario, *Associate Data Entry Operator*
Barbara Counts, *Associate Data Entry Operator*
Pamela Kinsey, *Assistant Data Entry Operator*

Legal

Nedda Gold Massar, Esq., *Deputy Legal Director*
Irene Szedlmayer, Esq., *Associate Legal Director*
Gail Shanker, Esq., *Legal Assistant*
Ruth Ford, *Legal Secretary*

Review and Investigation

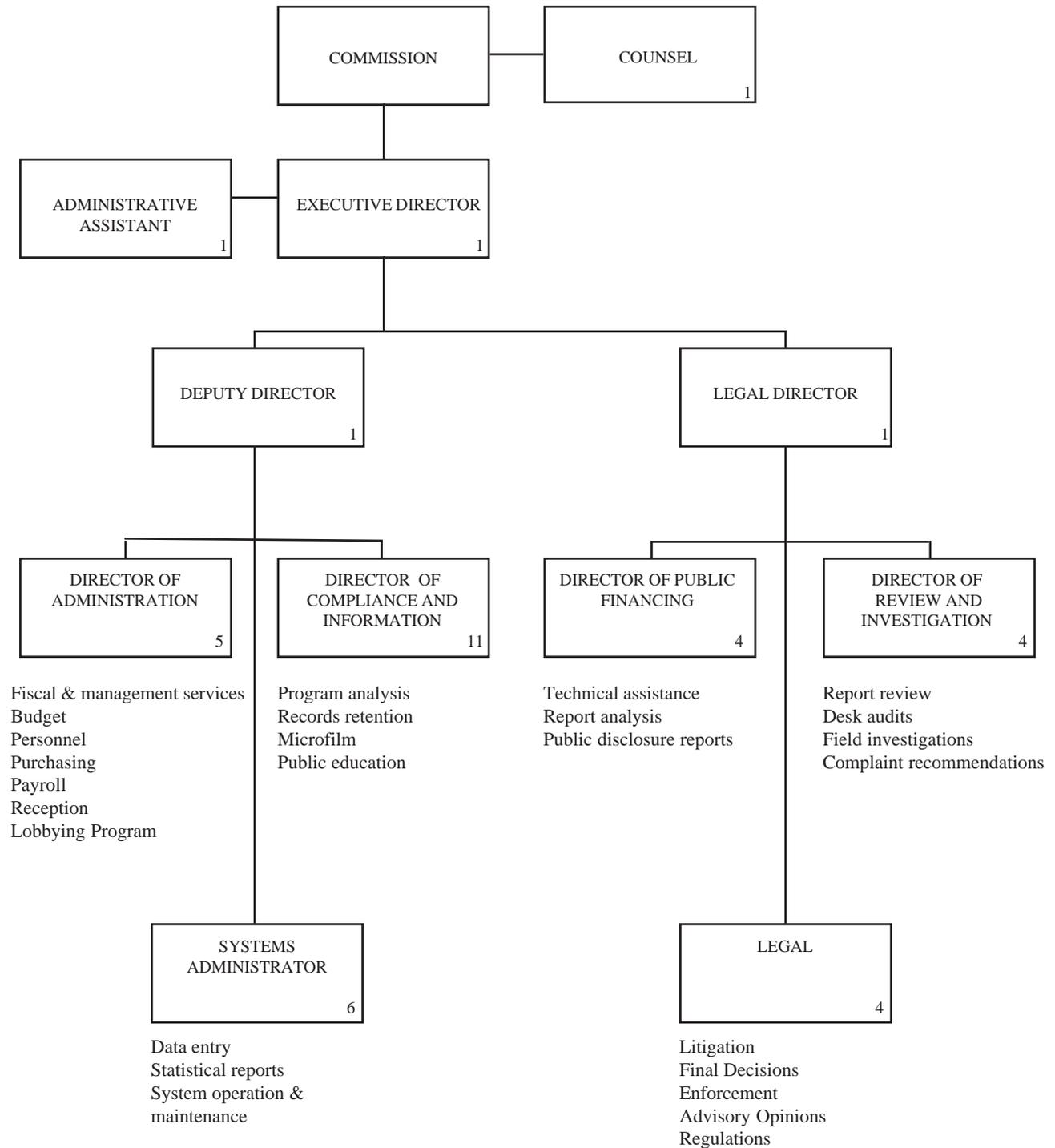
Carol Hoekje, Esq., *Director*
Shreve E. Marshall, Jr., *Associate Director*
Brett Mead, *Associate Review Officer*
Ivy Bartuswicz, *Clerk*

Gubernatorial Public Financing

Nedda Gold Massar, Esq., *Director*
Pamela Hamilton, *Analyst*
Kimberly McCubbin, *Analyst*
Harry Ravenel, *Analyst*



TABLE OF ORGANIZATION





EXECUTIVE DIRECTOR'S REMARKS

The year 1998 marks the 25th Anniversary of the New Jersey Election Law Enforcement Commission (ELEC). It is a good time to review the most critical aspect of the Commission's ability to function—modern computer technology. A disclosure agency without such a tool has been characterized by the Center for Responsive Politics as merely "a warehouse for thousands of pieces of paper." Nevertheless, there are agencies across the



Frederick M. Herrmann, Ph.D., Executive Director

United States today whose disclosure operation is no more than several filing cabinets and a table, leading one public official quoted in a National Resource Center survey to characterize them as "leaning towers of political pulp."

According to such national experts as Larry J. Sabato, Herbert E. Alexander, Kent

C. Cooper, Brooks Jackson, Thomas L. Gais, and Michael J. Malbin, one of the most important expenditures for an ethics agency responsible for handling massive amounts of data is computerization. Without a computer, it is a "practical impossibility for anyone to find" information. Agencies have to "make maximum practicable use of modern technology to aid the public in tracking donations and expenditures." They must be provided with sufficient funds and allowed adequate time by their respective governments so that computers can be installed to facilitate the entry, manipulation, and retrieval of financial data through electronic filing and remote accessing technologies. Staff resources would then be free "for educating candidates, investigating potential violations, and developing useful and timely public reports."

One of the first telephone calls that I received over a decade ago when I became Executive Director of the Commission was from a midwestern Secretary of State. In the course of a conversation about the accessibility of data, he remarked that "having 20,000 reports sitting in the office is not the same thing as having 20,000 reports available for use by the media and the public." His point clearly was that the data in the reports had to be organized so that it could be utilized. At the end of the Twentieth Century,



EXECUTIVE DIRECTOR'S REMARKS continued

vast amounts of data should be computerized to make comprehensive analysis possible and timely. In New Jersey, ELEC is continuing to move in this direction.

The Commission is a small agency with a large mission. It is responsible for the collection and disclosure of financial data from candidates, political action committees (PACs), and political party committees throughout the State. ELEC also oversees the registration of lobbyists and the disclosure of their activities and finances. The Commission administers the gubernatorial public financing program too, regulating millions of dollars of private as well as public funds. Finally, ELEC monitors the personal financial disclosure of candidates for gubernatorial and legislative office. Taken all together, the Commission is confronted with an enormous workload.

ELEC's numbers tell this story even better. Each year the Commission's staff reviews up to 25,000 reports. It handles about 13,000 public requests for information and photocopies close to 200,000 pages of information needed by the public. The Commission oversees the activities of 6,000 candidates, 600 lobbyists, 1,100 political party committees, and 300 PACs. At the same time that ELEC was afloat in this sea of paperwork, it was in danger until recently of being weighted down and drowned by an obsolete and inadequate, decade-old computer system. The data collection and disclosure functions of the

Commission have to be thoroughly automated using the latest computer technologies.

From the beginning of its existence in 1973, ELEC has always made use of computers. The first system in service from 1973 until 1984 was an out-of-house arrangement. The Commission made use of the Division of Taxation's computers during their "downtime." This unwieldy setup was replaced in 1985 with an in-house system. Within half-a-decade, it became apparent that this new system was becoming obsolete for the public's needs and that it would have to be replaced.

In 1990, I testified before the Rosenthal Commission, which was studying how to improve New Jersey's ethics laws, that I could not "emphasize too much the need for [re]computerization." It was my contention "that you really can't have disclosure without a sophisticated computer system." In 1992, ELEC called for recomputerization in a White Paper entitled Technology in the Future: Strengthening Disclosure. Two years after that, in 1994, a study requested by the Commission and produced by the Office of Telecommunications and Information Systems (OTIS) in the Department of the Treasury corroborated the findings of the White Paper. ELEC's workload, according to OTIS, had become unmanageable with its current technological resources and its obsolete computer was referred to as "expensive to



EXECUTIVE DIRECTOR'S REMARKS *continued*

maintain and even more costly to modify and repair." The Commission's Chair at that time, Owen V. McNany, ably summed up the situation for the press when he was quoted as saying "spending money for new technology will enable ELEC to save money in the future while guaranteeing that ELEC will be able to continue its mission for providing open and honest government."

All New Jerseyans can certainly take great pride in the fact that the Governor and Legislature increased the Commission's FY-98 budget by \$500,000 to assist in the creation of an up-to-date computer environment. The first step in recomputerization has been completed. The office has been rewired; a local-area, personal computer network is in place; and the software from the old system has been converted to the new one. An electronic filing and scanning system is being developed with the goal of providing the public and media with timely and convenient access through the Internet to the campaign finance reports ELEC receives. Moreover, the Commission has already created a home page containing: basic information about the agency, a contribution limits chart, campaign financing and lobbying statistics, and links to numerous related sites including searchable campaign financing and lobbying data bases. A new flashfax system allows the public and media round-the-clock access to forms, instructions, advisory opinions, complaints, final decisions, analytical press releases, and

other materials.

The Commission is more than keeping pace with the governmental ethics agencies of the other states in introducing the latest in computer technology. ELEC has always been a national leader in the governmental ethics field and will continue to be one. In a 1990 study of computerized entree to state campaign finance data, Ohio Common Cause concluded that the Commission and two other state agencies "lead the pack." The North Carolina Center for Public Policy Research reported in the same year that ELEC "does the best job of all the states in making information available to the public." Over the summer of 1996, Contributions Watch, a non-profit group that monitors campaign finance issues and reviews such factors as computerization, ranked ELEC third nationally among state agencies that keep citizens informed about political spending. As the Commission begins its next quarter century of service to the citizens of New Jersey, it will continue to strive toward enhancing its technological prowess and living up to Professor Sabato's comment to the Rosenthal Commission in 1990 that ELEC is "the most effective state ethics agency in the country."

Frederick M. Herrmann, Ph.D.

Executive Director



ELEC OVERVIEW

COMMISSIONERS

1973

Frank P. Reiche, *Chair*
Judge Sidney Goldman, *Vice Chair*
Judge Bartholomew Sheehan, *Commissioner*
Florence P. Dwyer, *Commissioner*

1974-1979

Frank P. Reiche, *Chair*
Judge Sidney Goldman, *Vice Chair*
Josephine Margetts, *Commissioner*
Archibald S. Alexander, *Commissioner*

1980-1981

Judge Sidney Goldman, *Chair*
Josephine Margetts, *Vice Chair*
Andrew C. Axtell, *Commissioner*
M. Robert DeCotiis, *Commissioner*

1982-1983

Andrew C. Axtell, *Chair*
M. Robert DeCotiis, *Vice Chair*
Justice Haydn Proctor, *Commissioner*
Alexander P. Waugh, Jr., *Commissioner*

1984-1986

Andrew C. Axtell, *Chair*
Alexander P. Waugh, Jr., *Vice Chair*
Justice Haydn Proctor, *Commissioner*
Owen V. McNanny III, *Commissioner*

1987-1988

Judge Stanley G. Bedford, *Chair*
Owen V. McNanny, III, *Vice Chair*
Andrew C. Axtell, *Commissioner*
David Linett, *Commissioner*

1989-1990

Judge Stanley G. Bedford, *Chair*
Owen V. McNanny, III, *Vice Chair*
David Linett, *Commissioner*
S. Elliott Mayo, *Commissioner*

1991-1992

Owen V. McNanny, III, *Chair*
Judge Stanley G. Bedford, *Commissioner*
David Linett, *Commissioner*

1993-1994

Owen V. McNanny, III, *Chair*
William H. Eldridge, *Vice Chair*
David Linett, *Commissioner*

1995

William H. Eldridge, *Chair*
Owen V. McNanny, III, *Vice Chair*
David Linett, *Commissioner*
Michael Chertoff, *Commissioner*

1996

Judge Ralph V. Martin, *Chair*
David Linett, *Vice Chair*
Paula A. Franzese, *Commissioner*

1997

Judge Ralph V. Martin, *Chair*
David Linett, *Vice Chair*
Paula A. Franzese, *Commissioner*
Lynnan B. Ware, *Commissioner*



ELEC OVERVIEW continued

EXECUTIVE DIRECTORS

1973-1975	David F. Norcross
1976-1981	Lewis Thurston, III
1981-1984	Scott A. Weiner
1984-present	Frederick M. Herrmann

COUNSELS

1973-1994	Edward J. Farrell
1994-present	James P. Wyse

CONSULTANT

1976-1978	Herbert E. Alexander
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STATUTORY HISTORY OF ELEC

- **Commission** created by P.L. 1973, c.83 (N.J.S.A. 19:44A-1 et seq.) - "The New Jersey Campaign Contributions and Expenditures Reporting Act" - effective date: April 24, 1973.
- **Gubernatorial Public Financing Program** established by P.L. 1974, c.26 (N.J.S.A. 19:44A-27 et seq.) - effective date: May 6, 1974.
- **Personal Financial Disclosure Program** established by P.L. 1981, c.129 (N.J.S.A. 19:44B-1 et seq.) - effective date: May 1, 1981.
- **Lobbying Program** established by P.L. 1981, c.150 (N.J.S.A. 52:13C-18 et seq.) - effective date: May 22, 1981.
- **Continuing Political Committee (PACs) Quarterly Reporting** established by P.L. 1983, c.579 (amendments to N.J.S.A. 19:44A-1 et seq.) - effective date: January 17, 1984.
- **Lobbying Reform** established by P.L. 1991, c.243 (amendments to N.J.S.A. 52:13C-18 et seq.) - effective date: January 1, 1992.
- **Campaign Finance Reform** established by P.L. 1993, c.65 (amendments to N.J.S.A. 19:44A-1 et seq.) - effective date: April 7, 1993.
- **Street Money Reform Law** established by P.L. 1993, c.370, (codified as N.J.S.A. 19:44A-11.7) - effective date: January 7, 1994.
- **Uniform Recall Election Law** established by P.L. 1995, c. 105, (codified as N.J.S.A. 19:27A-1 et seq.) - effective date: May 17, 1995.
- **Political Identification Law** established by P.L. 1995, c. 391, (codified as N.J.S.A. 19:44A-22.2 and 22.3) - effective date: February 1, 1996.



LEGISLATIVE REVIEW

Legislative Review

During its 25 years of existence, the Commission has witnessed significant expansion of its jurisdiction beyond the original mandates of the 1973 Campaign Contributions and Expenditures Reporting Act (hereafter, the Reporting Act). These major



Jeffrey M. Brindle, Deputy Director

additions include responsibility for: the Gubernatorial Public Financing program, compliance with comprehensive contribution limits applicable to all candidates and committees, filing of gubernatorial and legislative personal financial disclosure statements, lobbying registration and reporting covering both legislation and administrative agency rulemaking, continuing political committee reporting, recall election reporting, and political identification on campaign literature. Each of these areas of Commission

responsibility is a potential source of new or amendatory legislation which must be identified and monitored.

At the close of the 208th Legislature, a total of 87 bills potentially affected entities reporting to the Commission or Commission operations. Of those bills, 43 directly concerned the Reporting Act, eight concerned the Legislative Activities Disclosure Act, two related to gubernatorial and legislative personal financial disclosure requirements, one dealt with recall elections, and 33 concerned general election-related issues.

The scope of the Commission's jurisdiction is demonstrated by the bills introduced in 1997, the second year of the 208th Legislature, covering topics as diverse as the debates for publicly-financed gubernatorial candidates, political identification on literature, and changes to contribution limits imposed by the Reporting Act.

Because 1997 was a gubernatorial election year, attention was focused on the gubernatorial public financing program and the debates required of candidates receiving primary and general election public matching funds. Since the 1989 inception of the gubernatorial debate requirement, the Commission has evaluated gubernatorial debate sponsor applications with the goal of



LEGISLATIVE REVIEW continued

providing televised debates to the widest possible audience throughout New Jersey. Among the six bills introduced in 1997 amending the Reporting Act, one would formalize the Commission's concern for Statewide television coverage of the debates by requiring that a sponsor applicant submit specific written commitments for media coverage on its application to ensure that the debate will be televised throughout the State. The bill also would eliminate the statutory requirement that a debate sponsor applicant have experience, since 1976, in sponsoring televised debates among New Jersey candidates for Statewide office. This change would have the desirable effect of expanding the pool of eligible debate sponsor organizations.

A bill introduced in 1997 would amend the Reporting Act to specify that where identification of the name and address of the person or group circulating a political communication is required, it must be printed in no less than 10-point size type. This bill is intended to make political identification on campaign literature more legible to those seeking to identify the source of campaign literature.

Two bills introduced in 1997 to amend the Reporting Act concern contribution limits. One would create a single \$1,800 contribution limit to candidates, political party committees,

political committees, and continuing political committees, and would abolish the statutorily created legislative leadership committees. The other would specifically reduce the contribution limits to legislative leadership committees and increase the Commission's penalty authority.

While not directly amending any of the areas of Commission statutory authority, one bill introduced in 1997 would change the date of the primary election in 2000 to the first Tuesday in March. In its attempt to focus national attention on the New Jersey primary election, this bill would directly affect the Commission's operations, and is therefore carefully monitored.

As it has in the past, during the 209th Session of the New Jersey Legislature, Commission staff will examine and monitor relevant bills and will provide technical assistance during the legislative process.



LEGISLATIVE RECOMMENDATIONS

Legislative Recommendations

The recommendations for legislative changes which follow are based on Commission review of the Reporting Act, the Lobbying Act, and the Candidate Disclosure Act, or as a result of questions raised by members of the public and requests for advisory opinions. These inquiries often point out unclear areas of the law or raise new questions not addressed in existing statutes. Research conducted into campaign financing issues and results published in the Commission's White Paper series highlight additional areas of concern. Further, in the course of public hearings which are held during the regulation-adoption process, the Commission becomes aware of areas of the law which require clarification.

The Commission therefore recommends consideration of the following legislative changes:

Contribution Limits

- Reduce the contribution limit to the State party committees from \$25,000 per calendar year (\$30,000 as adjusted for 1997) to \$15,000 and reduce the contribution limits to legislative leadership committees and county party committees from \$25,000 (\$30,000 as adjusted for 1997) to \$10,000 as suggested in recent Commission White Papers.
- Amend the definitions in the Reporting Act of "political committee" (PC) and "continuing political committee" (CPC) to require that each receive contributions from a number of different contributors each year and that each make a number of contributions to different candidates during the year. The current definitions do not specify that a PC or CPC should have any required number of contributing persons or entities or that any number of candidates be supported in a year. These changes will prevent establishment of PCs or CPCs by one or two contributing entities for the purpose of circumventing contribution limits.
- Establish limits for contributions to PCs and CPCs from individuals, corporations, unions, associations, and groups. These contributions are currently unlimited, and the Commission believes that reasonable limits to PCs and CPCs from all types of contributors are appropriate.
- Ban contributions made directly from corporations and labor unions, and permit only those contributions made through their voluntary employee political action committees. Alternatively, if corporate and union contributions are permitted, establish statutory criteria for affiliation of corporations or unions to prevent circumvention of contribution limits.



LEGISLATIVE RECOMMENDATIONS continued

- Repeal the \$50,000 per year contribution limit applicable to a national political party committee giving to a State political party committee, or establish statutory criteria for defining a national political party committee and regulating joint fundraising and shared expenses.

Campaign Reporting

- Amend N.J.S.A. 19:44A-16d to prohibit a candidate or joint candidates from filing a Certified Statement (Form A-1 or A-2) in lieu of full campaign reports (Form R-1), if the total amount of contributions received in an election (including the amount carried over from a prior election) exceeds the Form A-1 or A-2 thresholds. The current threshold is based on the total amount of expenditures, but ignores contributions received.
- Amend N.J.S.A. 19:44-11 to specify that independent expenditure reporting requirements are applicable to corporations, unions, associations, and groups as well as individuals.
- Require an appointee to fill a vacancy for an elected office to be subject to campaign and officeholding reporting requirements by including such an appointee in the definition of candidate.
- Prohibit a political committee or continuing political committee from using the name of a candidate or officeholder in its name, which use suggests the candidate or officeholder may be illegally exercising control over the political committee or continuing political committee.

Lobbying

- Require reporting of “grassroots” or “indirect” lobbying that solicits the public to contact legislators and/or State officials for the purpose of influencing legislative or executive action.
- Place a cap on the aggregate value of benefits that a legislative agent may pass to a legislator or State official in a calendar year for lobbying purposes.
- Require quarterly rather than annual financial reporting by lobbyists.
- Change the terminology of the lobbying statutes so that an organization or enterprise that employs an individual to conduct lobbying on its behalf (currently called a “lobbyist” in the statutes) will be referred to as a “represented group,” and an individual conducting lobbying (currently called a “legislative agent”) will be a “lobbyist.”

Penalties

- Permit the Commission to impose penalties that equal the dollar amount of information



LEGISLATIVE RECOMMENDATIONS continued

which is missing or late on campaign or lobbying reports, or equal the current statutory maximums, whichever penalty amount is greater.

- Permit the Commission to impose penalties for illegal personal use of campaign funds to equal the amount converted for personal use, or the current statutory maximum, whichever is greater.
- Raise the penalties in N.J.S.A. 19:44-41 (applicable to gubernatorial public financing statutes) to equal those provided in N.J.S.A. 19:44-22a (applicable to campaign reporting generally).

Administrative

- Lengthen Commissioner terms from three to six years; require that upon the expiration of a Commissioner's term, a replacement be nominated and confirmed within 90 days, or the Commissioner serving in holdover status shall automatically retain the position for another term; and select the Chair for a fixed term. These changes are necessary because the complexity of the Reporting Act, Lobbying Act, Candidate Disclosure Act, and Commission regulations requires expertise that develops over a period of years and warrants longer terms. Further, with the current three-year Commissioner terms, the Commission might be composed

during a gubernatorial election year of members with no prior experience in administering the gubernatorial public financing program.

Public Financing

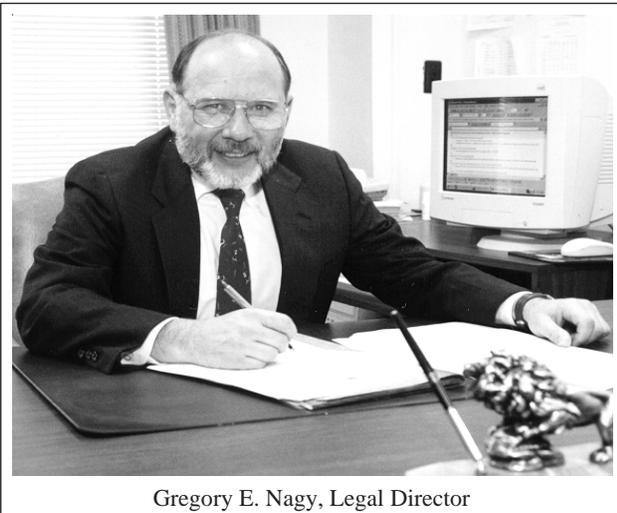
- Create a program for partial public financing of legislative elections. The Commission's experience since 1977 in publicly-financed gubernatorial elections provides a sound basis for designing and implementing such a program for legislative races.
- Implement the recommendation contained in the Commission's "1997 Cost Index Report" to modify the statutory rounding process mandated at N.J.S.A. 19:44A-7.1 for quadrennial adjustment of the limits and thresholds in the Reporting Act. The current rounding process tends to result in overly inflated figures.
- At the conclusion of public hearings in early 1998 on the 1997 gubernatorial public financing program, the Commission will consider making additional recommendations relevant to public financing.

The Commission offers these suggestions for legislative change in its constant effort to enhance disclosure of information to the New Jersey public.



LEGAL SECTION

A gubernatorial and legislative election year such as 1997 presents increased demands on the Legal Section. It must balance its responsibility for prosecution of violations of the Campaign Contributions and Expenditures Reporting Act (hereafter, the Reporting Act), the Lobbying Disclosure Act



Gregory E. Nagy, Legal Director

(hereafter, the Lobbying Act), and the Gubernatorial Legislative Disclosure Statement Act (hereafter, the Personal Financial Disclosure Act) with the demands of specialized litigation which arises during a publicly-financed gubernatorial election. Gubernatorial litigation is discussed in detail in the Gubernatorial Public Financing Section of this report. The Section must also continue to respond to requests for advisory opinions, to conduct the review and amendment process of Commission regulations, and to collect penalties imposed for violations of the law.

The addition to the Legal Section staff at the end of 1996 of a legal assistant permitted the Section to undertake projects, such as the creation of a lobbying case law library, while continuing to meet the obligations of the 1997 workload. The annotated compilation of federal and state lobbying cases is of great assistance as a research tool when the Commission considers regulatory activity or is asked to respond to advisory opinion requests.

Regulations

Rulemaking remains one of the Commission's most important tools in providing guidance and maintaining uniformity for all filing entities, and therefore the Commission continues to rely on that process heavily. Rules adopted during 1997, in chronological order, were:

- ***Prohibition against Contributions from Limited Liability Companies and Limited Liability Partnerships:*** This rule prohibits limited liability companies and limited liability partnerships from making contributions as an entity, distinguishing them from corporations which under State law are permitted to contribute to candidates and committees.



- ***Contributions from Affiliated Corporations, Associations, or Labor Organizations:*** This rule prevents multiple entities, which are commonly owned or controlled, from making contributions that collectively exceed the applicable contribution limit for any one affiliated part. For example, one corporation owning 30 per cent or more of another corporation cannot contribute an amount to a candidate that when added to the amount of any contribution to the same candidate by the other corporation exceeds the contribution limit. Identical rules were adopted for both gubernatorial and non-gubernatorial candidates.
- ***Contributions by Minors:*** This rule requires that a political contribution from a minor under the age of 14 be attributed for reporting and contribution limit purposes to the legal guardian of that minor. A contribution from a minor 14 years old and up may be attributed to that minor if documentation is presented that the funds are derived from the minor's earned income, and the decision to contribute was the minor's.
- ***Lobbying Benefit Notification:*** Under a new law that became effective early in 1997, lobbyists and legislative agents are required to give written notice to legislators, the Governor, and certain State officials if they provide any benefit to

those persons. This rule implements those statutory requirements and specifies the information that must be provided on the notice.

- ***Use of Campaign Funds for Legal Fees:*** This rule establishes criteria for determining when a candidate may use campaign funds to pay legal fees. The need for legal services must arise directly from a campaign for elected office or from the duties of holding that office, and cannot include fees incurred in connection with a candidate's or officeholder's personal or business affairs. After proposing the rule late in 1997, the Commission adopted it on January 28, 1998.

Advisory Opinions

A candidate, lobbyist, or other person or entity regulated by the Commission may seek an advisory opinion from the Commission concerning the possible applicability of reporting or other legal requirements within the Commission's jurisdiction. The Commission provides interested persons with a form for the submission of such requests, which requests typically raise legal questions that have not been previously addressed. There were seven opinions issued in 1997, on the following subjects:



- ***Gubernatorial:*** A State political party committee asked whether or not the costs of producing and broadcasting a television advertisement prior to the 1997 general election would be in whole or part allocable against the expenditure limit of that party's gubernatorial candidate. After reviewing the advertisement, the Commission concluded that the advertisement viewed alone did not contain any "unambiguous reference" to a 1997 gubernatorial candidate, and therefore no allocation was required (Advisory Opinion No. 07-1997). In another request, the Commission held that a gubernatorial candidate could accept contributions made by use of credit card transactions, and that such credit card contributions would be approved for public matching funds provided that prescribed documentation was submitted (A.O. No. 05-1997).
- ***Political Communication Costs:*** An incumbent legislator seeking reelection in the 1997 general election asked whether or not the costs for the preparation and distribution of an article the legislator wrote which discussed the legislator's record would constitute a reportable in-kind contribution to his candidacy pursuant to the Commission's rule on political communications if it were published in the newsletter of a municipality within the

legislator's district. The Commission held that because the legislator did not place any time restriction on when the article might be circulated, it was reasonably foreseeable that it could be circulated within 90 days of the general election, and therefore the costs were subject to reporting by the legislator's candidate committee as an in-kind contribution (A.O. No. 08-1997).

- ***Contribution Limits and Prohibited Contributions:*** A mayoral candidate with unspent funds remaining from a municipal election candidacy asked whether or not the candidate could make unlimited contributions to City Council candidates who were running in a subsequent municipal runoff election. Since municipal and municipal runoff elections are separate elections for reporting and contribution limit purposes, the candidate was advised that the candidate was subject to the contribution limit applicable to one candidate committee giving to another candidate committee, that is \$5,900 per candidate in the 1997 municipal runoff election. The exception in the law permitting a candidate to make unlimited expenditures to other candidates for the same office (i.e., Mayor and City Council members are defined as the same office for this purpose) in the same election was not applicable (A.O. No. 04-1997). In



another request, an employee Political Action Committee (PAC) of a State utility asked if it were prohibited from receiving contributions from an out-of-State affiliate PAC. The prohibition against political contributions by certain regulated industries is not part of the Campaign Reporting Act, and therefore beyond the Commission's statutory jurisdiction to interpret. Therefore, the inquiry was referred to the Office of the Attorney General, which Office held that the New Jersey employee PAC was prohibited from receiving contributions from the out-of-State affiliate PAC so long as that affiliate received corporate utility funds for administrative purposes (A.O. No. 02-1997).

- ***Officeholding Use of Campaign Funds:*** A legislator asked whether or not the legislator could use campaign funds to pay for the costs of registration and lodging for the legislator's spouse and children at a national conference the legislator attended. Because the legislator's attendance was related to the legislator's officeholding duties, the legislator's reasonable expenses may be paid from campaign funds. However, the Commission held that the spousal and familial expenses were not permissible uses of the legislator's campaign funds because there was no information

presented that their attendance was related to the carrying out of the legislator's officeholding duties (Advisory Opinion No. 06-1997).

- ***Lobbying Reporting:*** A lobbyist organization employing legislative agents asked whether or not its contributions for medical insurance, Social Security, Medicare, disability insurance, and pension and life insurance must be included in calculating the amount to be reported on annual lobbying reports as wages and other compensation paid to a legislative agent. The Commission held that, with some exceptions, the amount reported as wages for Internal Revenue Service purposes was sufficient in most cases. However, voluntarily deferred compensation must be included, as well as payments for life and disability insurance when such payments exceeded \$1,000 in a calendar year for an agent (Advisory Opinion No. 01-1997).

Civil Complaints

The number of complaints issued by the Legal Section in 1997 increased by 20 percent over 1996. Beginning with an inventory of 80 pending litigation cases, 168 additional complaints were issued. One hundred and ten pending litigation cases remained open at the close of 1997. Compared



LEGAL SECTION continued

to cases prosecuted in 1996, a larger proportion of the complaints issued in 1997 were more complex cases brought as a result of in-depth investigations conducted by the Review and Investigation Section rather than as a result of examination of Commission records to identify non-filing candidates. Of the 168 complaints brought in 1997, 20 percent (33 complaints) resulted from investigations. In comparison, of the 140 complaints brought in 1996, nine percent (12 complaints) resulted from investigations.

In each case, the respondent candidate, committee, treasurer, or other entity is entitled to request a hearing on the complaint before an administrative law judge at the Office of Administrative Law (OAL) in the Department of State. In most cases, the respondents voluntarily waive their right to a hearing. The year opened with seven cases pending at the OAL. During 1997, hearing requests were received in 14 cases, and the year ended with 14 cases awaiting hearings at the OAL.

New Jersey county political party committees and their organizational treasurers were named as Respondents in five investigative complaints relevant to their financial activity in 1995. Among other allegations, the complaints charged failure to file 48-hour notices of receipt of contributions in excess of \$500, late filing of quarterly reports, and late filing of designations of

organizational treasurers and depositories. Hearing requests were received in four of these cases, and these hearings will be scheduled during 1998.

Another focus of investigative and complaint activity was the requirement established in 1993 by the Legislature that candidates and committees disclose the occupation and employer of individual contributors of more than \$200.00 (prior to January 1, 1997). An eleven-count complaint alleged that a continuing political committee (CPC) failed during 1995 to report required occupation and employer information and filed other occupation and employer information late. In a twenty-count complaint, the Commission alleged that another CPC committed the same violations over a three year period (1993-1995).

Enforcement of another key provision of the 1993 amendments to the Act resulted in seven complaints alleging the willful and intentional making or receipt of contributions in excess of the contribution limits permitted by the statute. Respondents charged with the alleged willful and intentional making of excessive contributions include a New Jersey corporation, the chairperson of a county political party committee, and a treasurer of a candidate committee. Respondents alleged to have willfully and intentionally received excessive contributions include a candidate



LEGAL SECTION continued

committee in the 1993 primary election, a candidate committee in the 1996 municipal election, and a county political party committee in 1993. At the close of the year, six excessive contribution cases were pending.

Each year the Commission routinely issues complaints against candidates who fail to file a Sworn Statement or Reports of Contributions and Expenditures in an election. Typically, the campaigns of these candidates may involve relatively small amounts of money. Nonetheless, the complaints serve the important goal of achieving statutorily-required disclosure. For example, 56 complaints were brought against candidates for failure to file a Sworn Statement or Report of Contributions and Expenditures for the 1996 primary election. Of the 52 final decisions issued by the end of 1997 in these cases, 47 (90 percent) reflected that the respondent candidates filed the required report, albeit late, in response to the complaint.

Pursuant to the Personal Financial Disclosure Act, gubernatorial and legislative candidates are required to file Personal Financial Disclosure Statements reporting personal financial information relevant to the year preceding the gubernatorial or legislative election. Ten complaints were issued against legislative candidates who failed to file the required forms during 1997. By the end of 1997, five candidates had filed Personal

Financial Disclosure Statements in response to the Commission's complaints. It is expected that most, if not all, of the remaining five will file in the near future.

The 1997 adoption of a final decision in a CPC case also illustrates how complaints serve as a compliance tool. In this case, despite having spent more than \$71,500 for the purpose of aiding candidates from 1991 through 1995, prior to the complaint the CPC had filed no reports with ELEC. On the eve of the scheduled hearing date, reports were certified as correct and filed and a settlement agreement negotiated.

The Commission considers each case in which a complaint has been issued, and the Commission prepares a Final Decision recording its findings of fact and conclusions of law. Final Decisions in 1997 found violations by candidates and committees in elections from 1994 through 1997, in reports required to be filed by continuing political committees from 1991 through 1997, and by lobbying entities in 1995 and 1996. Monetary penalties, subject to statutory maximums, may be imposed where violations are found to have occurred. The decision by a respondent to request a hearing before the OAL, rather than to waive his or her right to a hearing, does not increase the penalty which is imposed by the Commission. During 1997, penalties totaling \$48,836 were collected for violations of the



LEGAL SECTION continued

Reporting, Personal Financial Disclosure, and Lobbying Acts.

A most important preelection tool emerged for an aggrieved candidate who is running against an opponent who has accepted a contribution in an amount that exceeds the limits on campaign contributions provided in the Campaign Reporting Act. For the first time, an appellate State court reviewed and upheld provisions added to the law in 1993 permitting an aggrieved candidate to seek preelection injunctive relief in Superior Court against a political committee or continuing political committee that has directly made an excessive contribution to an opposing candidate or has conspired with another committee to make such an excessive contribution. In the case of Markwardt v. New Beginnings, et al., 304 N.J.Super. 522 (App.Div. 1997), two candidates for municipal office in the 1995 primary and general elections alleged that three defendant continuing political committees (CPCs), a joint candidates committee, and other defendants made or conspired to make excessive contributions to opposing candidates.

The trial court concluded that a corporation that funded two of the defendant CPCs exceeded the maximum campaign contribution permitted by section 11.3a of the Reporting Act (\$1,500 per candidate per election during the 1995 primary and general

elections) by funneling contributions to the joint candidates committee through two CPCs. With regard to the third CPC, the trial court concluded that the “influence of [the corporation] upon [the CPC], although not exclusive, remained sufficient to determine a violation of sections 11.3a and 22(a)(2).” The trial court enjoined the making of any expenditures by any of the defendant committees of funds originating from the corporation to the detriment of the plaintiff candidates. The judge also ordered, as suggested by the litigants, that the excessive amount of the contributions to the plaintiffs’ opposing candidates (\$10,000.00) be distributed to six named charities.

The Appellate Division affirmed the trial court opinion with regard to the two CPCs which were solely funded and controlled by the corporation and found that the corporation and the two continuing political committees had engaged in an “unlawful conspiracy” in violation of section 22(a)(2) of the Act. With regard to the third CPC, the Appellate Division concluded that the influence of the corporation on that CPC was insufficient to support the finding of a violation of section 22(a)(2). The opinion is viewed as an important vehicle for candidate-initiated enforcement of contribution limits.



LEGAL SECTION continued

Computerization

The operations of the Legal Section rely heavily upon computers for preparation of the many complaints, final decisions, regulation texts, and other documents issued each year. As the Commission completes installation of its new networked computer system, it is expected that these tasks will be performed even more efficiently. The future introduction of document scanning capability will enhance staff access to reports and correspondence, and computer enhancements are also expected to assist in the identification of violations requiring complaint action.



COMPLIANCE AND INFORMATION SECTION

During 1997, elections were held for the Governor, the Senate, and the General Assembly. Only once every four years are these elections held at the same time, creating a challenging workload and a high profile

Compliance

As a result of sweeping campaign finance reforms enacted in 1993, candidates and treasurers participating in the 1997



From left to right: Evelyn Ford, Linda White, Kim Key, Amy Davis, and Christopher Gear

filing period for both the primary and general elections. The Compliance and Information Section did an exemplary job in meeting its objectives by adhering to its priorities, implementing timesaving and cost-effective initiatives, and by applying new technologies to further the Election Law Enforcement Commission's automation and computerization goals.

legislative elections continued to need support and assistance with reporting issues. During the primary election, there were approximately 464 candidates; in the general election, there were approximately 400. Combined, over 2,200 reports were filed by these candidates and their committees during the primary and general elections. The sheer number of additional reports generated by the legislative election year necessitated that staff establish



and maintain clear priorities throughout the busy election cycles.

The Personal Financial Disclosure Statement (Form PFD-1) was required of all gubernatorial and legislative candidates. Early in 1997, the Form PFD-1 was redesigned with the use of desk-top publishing software so that the form was more effective and easier to use. The forms were reproduced at the Commission's office, saving printing time and money.

The staff coordinated its efforts with the staff of the Office of the Secretary of State, Elections Division, to establish ways to notify candidates and treasurers of their filing requirements as early as the date of the filing of the petition. First, the staff set up an informational display table at the offices of the Elections Division so that candidates and treasurers filing petitions for the 1997 elections would receive filing materials at the moment that a petition was filed. This coordinated effort was a big success and will be continued in future years. Secondly, the staff of the Computer Section of the Commission utilized the data base of the Elections Division to obtain candidate names and addresses. The Elections Division provided a preliminary set of mailing labels for use by the Commission so that reminder mailings could be immediately sent to those persons filing petitions for the primary election. Coordinated efforts between

the staff of the Elections Division and the staff of the Commission created a streamlined and efficient delivery and notification system for participants in the gubernatorial and legislative elections.

In addition to the assistance provided to legislative candidates, the Section provided significant support and assistance to all the local candidates and committees participating in the 1997 elections. In early 1997, the new "Compliance Manual for Campaign Reporting" was distributed to potential filers. This Manual embodied most of the statutory and regulatory changes which came about as a result of the 1993 campaign finance reform package, and as a result of inflationary increases to filing thresholds and contribution limits. And, to save time and money, the Commission began to distribute the Manual directly from its offices, rather than from the offices of the 21 county clerks and the 566 municipal clerks. In the past, the Commission stocked the clerks' offices with copies of the Manual; in 1997, the clerks were given request forms to distribute to those requesting a Manual. The requestor, by using fax technology, sent the request form to the Commission and was able to receive the Manual almost immediately.

A new initiative in 1997 was the creation of an "Update Sheet." This sheet, printed on contrasting paper, was inserted in



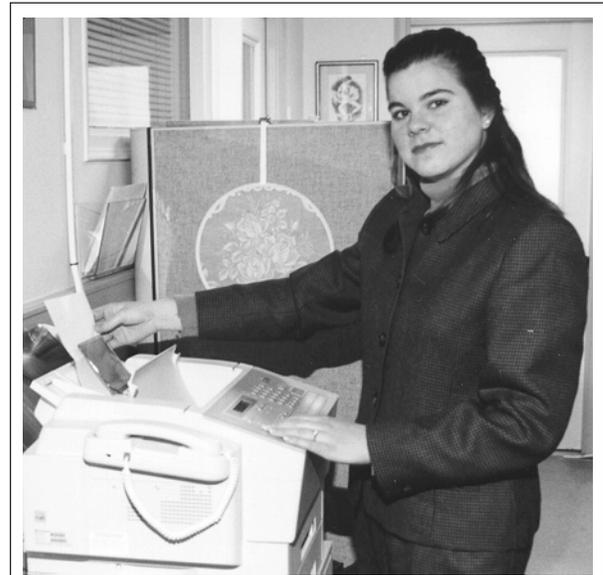
every Manual and contained information concerning filing dates, new regulations, advisory opinion information, and other information of interest to the filing community. The “Update Sheet” was an excellent compliance tool for filers and will be distributed in future years.

The Section continued to provide its direct mail program to all candidates participating in the 1997 elections. In addition to providing the Manual (which contained all reporting forms necessary to meet the filing requirements), staff provided reminder materials, and non-filer and delinquent letters. These efforts continued to yield positive results—candidate compliance with campaign reporting laws continued to be in the 90th percentile.

Another 1997 initiative was the implementation of the Commission’s “flashfax.” This addition enabled candidates to obtain documents forms, regulations, advisory opinions, and other important materials through their fax machines by calling into a directory or “menu.” The flashfax became available in the Summer of 1997 and was accessed numerous times during the remainder of 1997.

The Section began to use the Internet to assist the filing community. With more and more people using the Internet, it is anticipated

that the Commission’s web site will play an ever-increasing role in providing vital information to candidates and treasurers.



Amy Davis, Compliance Officer

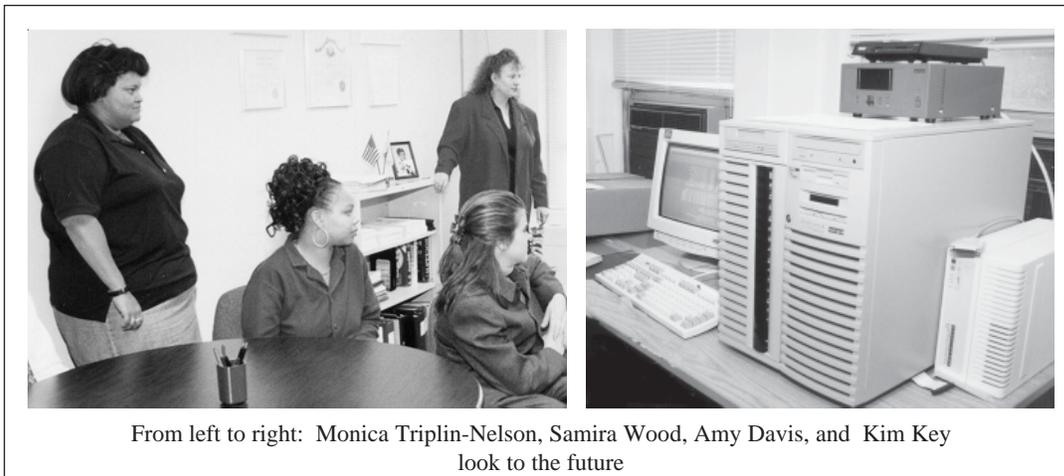
The Section also conducted four seminars to assist candidates and treasurers with campaign law compliance. All the seminars were held in Trenton and, on average, were well attended. Staff also traveled to Atlantic City to serve as consultants to members of the League of Municipalities. Each year, the number of League attendees who visit the Commission’s consulting table grows and it appears that these contacts help build relationships with the candidates and treasurers who file reports with the Commission.



For those candidates and treasurers who were unable to attend the seminars, training videotapes were made available for borrowing, free of charge, or for viewing at the Commission's offices in Trenton.

Despite the fact that 1997 was a

Committees, and Political Party Committees" was revised in early 1997 in time for the first quarterly filing date. The revised Manual contained all the new thresholds and contribution limits statutorily mandated by the inflationary cost adjustments applicable to 1997. All 1,450 treasurers received a new



gubernatorial and legislative election year, a high level of support was given to treasurers of continuing political committees (PACs), political party committees, and legislative leadership committees. At year's end, there were approximately 1,450 of these entities on file with the Commission. They are required to file quarterly reports of their activities, along with other reports in certain cases. Their treasurers received numerous reminder mailings prior to the filing dates and delinquent and non-filer letters when appropriate. The "Compliance Manual for Continuing Political Committees, Legislative Leadership

Manual in early 1997. As with the "Compliance Manual for Campaign Reporting," the Manual was produced "in-house" with the use of desktop publishing thereby saving taxpayer's money.

Disclosure by lobbyist organizations and legislative agents continued to be an area of great interest during calendar year 1997. While it appears that the actual number of registered agents in the State of New Jersey has stabilized at about 580 agents, there were almost 1,000 more lobbyist/legislative agent reports filed in calendar year 1997 than in



1996 (4,359 reports in 1997 vs. 3,364 reports in 1996). This increase shows that compliance has improved (over 90 percent of agents required to file reports do so within one month of the filing date), and more money is being spent by agents and lobbyist organizations. Legislative agents received two annual mailings from the staff: the first was sent in March and contained four blank quarterly reports of lobbying activity; and the second was sent in December and contained a newly revised series of forms necessary to report financial activity. When required, agents were sent a delinquent letter shortly after each quarterly filing date to remind them of their filing requirements.

Also, a new law was in effect for 1997 requiring legislative agents and lobbyist organizations to provide benefit notification to State officials covered by the “Legislative Activities Disclosure Act.” Registered agents received a special reminder letter in early 1997 to ensure compliance with the requirements of the new law.

Overall, the Section, consisting of 11 staff members, did an outstanding job of promoting compliance with the campaign and lobbyist disclosure laws during 1997. At year’s end, almost 25,000 reports had been processed and close to 10,000 telephone calls had been handled by the Section. Compliance with the campaign and lobbying laws is a

primary function of the Section, and providing a readily available support system through direct mail efforts, assistance by telephone and personal contact, and technological advances such as the Internet, Flash Fax, and regular fax communication enabled the staff to produce impressive compliance rates.

Information Services

The Commission has, since its inception 25 years ago in 1973, placed a high priority on public disclosure. As a result, the Commission has been viewed as one of the finest disclosure agencies in the nation. More and more New Jersey citizens have shown interest in the fundraising and spending of candidates, officeholders, political parties, and PACs. Especially in a year when the Governor and Legislature are elected, interest in the reports filed at the Commission is keen.

The expanded public records area became available in 1997. The staff designed the space to accommodate areas of interest—one entire office was devoted to the gubernatorial reports, another to legislative, and the other to PACs, parties, and lobbying. With the extra space, reports of prior gubernatorial and legislative elections were available in file drawers, much like a library. Accordingly, visitors to the Commission’s public records area could refer to a candidate’s past reports without special order. Also, a



visitor to the public records area was able to use a photocopier, with the first 50 pages of copies free of charge, in lieu of staff-made photocopies. This “self-serve” style of public disclosure, requiring no staff assistance, has the added benefit of enhancing the confidentiality of accessing public records.

Requests from the public for records retrieved with staff-assistance remained high in 1997, numbering close to 1,500 (up from 1,300 staff-assisted requests in 1996). Staff-assisted photocopies provided to the public increased to 223,000, compared to 190,000 in 1996.

The Section also published numerous press releases in 1997 announcing upcoming Commission meetings and public hearings, public disclosure dates, and analytical studies.

Interest in the activities and financial reports of legislative agents and lobbyist organizations continued to be great in 1997. Voluminous summaries of lobbying activity and compilations of lobbying reports were sent to the Governor, the Senate President, and the Speaker of the Assembly for each of the four quarters of 1997, pursuant to the “Legislative Activities Disclosure Act.” In April of 1997, a comprehensive analytical study of the data contained in the annual financial reports of legislative agents and lobbyist organizations was published. This

study focused on spending by legislative agents and lobbyists, as well as the benefits passed to State officials, and is always in high demand. The study formed the basis of several news stories and various media programs.

In October and December respectively, two comprehensive analyses of the legislative races were released in the pre and postelection settings. The analyses provided total fundraising and spending figures; spending by the parties, incumbents, challengers, winners, losers, and other such categories; and receipts and expenditures rankings. These releases were used by the television, radio, and print media in their coverage of the 1997 races and remain a popular source of information.

In keeping with the high priority placed on the disclosure of the gubernatorial and legislative reports, these reports were released to the public much more quickly in 1997 than in recent prior years. This improvement was made possible because the manner in which reports were coded and processed was streamlined—computer labels instead of handwritten codes were used, resulting in a faster, more accurate system.



Conclusion

The Compliance and Information Section is very proud of its accomplishments during 1997. The community of filers received all the materials and support necessary to file accurate reports of their activities. The citizens of New Jersey were provided with faster, more streamlined disclosure of these reports as new technologies and procedures were implemented. In these ways, the Section helped to create an electorate which had all the tools to make an informed voting decision in the important 1997 elections.



REVIEW AND INVESTIGATION SECTION

The workload of the Review and Investigation staff is growing substantially as both requests for investigations from the public and internal review of reports and filings increase. Although the gubernatorial and legislative races generate the most attention on a statewide basis, the greatest percentage of requests for investigation received from the public relate to the local governmental races

Investigations

The investigations in 1997 were characterized by increasingly complex issues, primarily involving contribution limit allegations. Personal use of candidate committee funds, reporting of independent expenditures, and political identification requirements were increasingly the subject of



From left to right: Ivy Bartuswicz, Shreve Marshall, Carol Hoekje, and Brett Mead

(primary and general, municipal and school board). More requests are also being generated by review of the reports filed by the continuing political committees and the political party committees. The Review and Investigation staff must strike a balance between responding to the growing interest in enforcement at the local level with examination of more complex issues and higher spending at the statewide level.

allegations. Investigations also continued to concern the failure to file timely campaign and quarterly report information, failure to report depository information, filing requirements as a political committee or continuing political committee (CPC), exceeding the expenditure threshold for a Form A-1 or A-2 filer, Section 9h involvement by a candidate in a political committee or



continuing political committee, and failure to adhere to the credit card reporting regulation. In addition, lobbying reporting requirements were the subject of several investigations.

In total the Review and Investigation staff closed 61 investigations, with complaint recommendations being issued in 30 of those cases. A total of 58 new investigations were opened, 46 opened as a result of requests from the public and 12 as a result of staff review.

Requests for investigation

The requests for investigation were increasingly augmented by allegations concerning political identification requirements for signs and other campaign materials. In addition, the gubernatorial election resulted in the presentation of four requests for investigation which concerned issues relevant to contribution and expenditure limits applicable to publicly-financed gubernatorial candidates.

Any person may request that the Commission undertake an investigation by submitting that request in writing to the Commission. In 1997 the staff developed and implemented a Request for Investigation form, which serves to organize and detail allegations in a useful manner. Upon receipt, the request is preliminarily reviewed for jurisdiction.

In 1997, the Commission received 151 requests for investigation. The Commission did not have jurisdiction over 19 of these requests, and five additional requests were either premature or were resolved with the complainant. One request was presented jointly by two complainants.

Considerable time and effort is devoted by the staff to gathering sufficient background information to prepare these requests for presentation to the Commission for its review. A net total of 126 requests for investigation from calendar year 1997 were presented to the Commission for a determination whether or not to open an investigation. The Commission determined to open 56 investigations as a result of those requests, but the investigations opened as a result of the fourth quarter 1997 requests were not opened until January 1998.

Contribution limit investigations

Considerable effort was focused on analysis of contribution limit allegations in two investigations in which one corporate contributor had allegedly established, funded, and controlled each of two continuing political committees. Contributions by both the corporation and the CPCs to candidate committees in a number of elections were therefore alleged in the aggregate to violate the statutory limit applicable to contributions by a corporation. In these cases, the



Commission determined to approve complaint action against the corporation and the two CPCs based upon alternative theories: 1) that the corporation and the CPC which it controlled constituted a single contribution entity and violated N.J.S.A. 19:44A-22e by willfully and intentionally making an excessive contribution; or 2) that the corporation and the CPC were separate contributing “persons” who agreed, or conspired, with each other to circumvent the contribution limits, in violation of N.J.S.A. 19:44A-22a(2), the “earmarking” provisions.

In addition, the Form D-4 (Registration Statement) filed by the CPCs did not disclose such control, i.e., the names and mailing addresses of the persons having control over the affairs of the committee, and the persons who were involved in organizing the committee, as required by N.J.S.A. 19:44A-8.1a(3), and in one case the Commission also approved complaint action for failure to disclose that control. The Commission also approved complaint action against one of the candidate committees for incorrect reporting of contribution checks from the individual who signed the check, rather than the entity on whose account the check was drawn.

Personal use of campaign funds

Another investigation involved a candidate committee which had made two substantial loans to a business in which the

candidate had an ownership interest. These loans were related to the economic interest of the business, and therefore could be considered for the personal use of the candidate. N.J.S.A. 19:44A-11.2(a) and N.J.A.C. 19:25-6.5 through 6.7 provide that candidate committee funds may be used for the purpose of paying for or leasing items or services used in connection with an election campaign. However, the funds may not be used for any items that could be considered for the personal use of the candidate. The Commission approved issuance of a two-count complaint with \$6,000 in proposed penalties.

Reporting of nonexistent loans as outstanding obligations

Another investigation involved a candidate committee which reported several thousand dollars of outstanding obligations in loans which are not supported by bank records, and the making of loan repayments resulting in a substantial “overpayment.” There was also incorrect reporting of a loan as received from the candidate, rather than the maker of the loan. The Commission approved the issuance of a nine-count complaint with \$14,990 in proposed penalties against the candidate committee and its treasurers, with individual counts against the candidate for personal use and the maker of the excessive contribution, for alleged violations including personal use of candidate committee funds



and the making and receipt of excessive contributions.

Contributor and expenditure disclosure

The complete disclosure of contributor and expenditure information continues to be a high priority in investigations. Two of these investigations involved disclosure by continuing political committees on their quarterly reports. In one case, a CPC had failed to disclose complete occupation and employer information on the quarterly reports filed in the 1993 through 1996 calendar years, and the Commission approved issuance of a 31-count complaint with proposed penalties of \$8,565 (reducible by correction of omissions) for failing to report and late reporting of the contributor information required by N.J.S.A. 19:44A-8. In another case, a CPC had reported over \$50,000 in disbursements on its summary tables but had not detailed those disbursements on the appropriate schedule. The Commission approved complaint action for the late reporting of that disbursement information (received during the investigation).

Personal PAC dissolution

The Review and Investigation staff completed a project initiated in 1996 which examined whether or not all legislative candidate-controlled committees (“personal

PACs”) had dissolved by the statutory deadline (April 8, 1994) imposed by the 1993 Amendments. These Amendments limit a candidate to a candidate committee and participation in a joint candidates committee but prohibit direct or indirect control over PACs. Two complaints were recommended as a result, both relating to personal PACs of the same legislator.

One other investigation also involved the personal PAC of another candidate (non-legislative) which had attempted dissolution by making disbursements totaling more than \$46,000 to the candidate committee, but neither the PAC nor the candidate committee had correctly detailed the making or the receipt of these disbursements. That investigation resulted in the Commission approving two complaints, with proposed penalties against the personal PAC and the candidate committee of \$2,745 and \$2,300 respectively.

Lobbying reporting requirements

In another case, a legislative agent had disclosed on annual reports receipt of compensation from an “intermediary” for services rendered on behalf of companies which it named in its annual reports but for which it did not file Notices of Representation as required by the Legislative Activities Disclosure Act (the Lobbying Act). The Lobbying Act specifically mandates filing of



a Notice of Representation in addition to annual reporting of clients. The Commission approved a six-count complaint for late filing of Notices of Representation and Notices of Termination arising out of the legislative agent's representation of three companies.

Audit project

The Review and Investigation staff also continued an audit of the county political party committees, a project that is primarily aimed at correcting on-going reporting errors, but also has resulted in complaint recommendations against several county committees for violations such as failure to report the existence of an additional depository, failure to report complete occupation and employer information for contributors, and failure to file 48-hour notices with the Commission for contributions in excess of \$500 (prior to 1997) received in the period between the date of the last quarterly report and the date of an election, where the county committee is participating in an election. This last requirement is found in N.J.S.A. 19:44A-8 and N.J.A.C. 19:25-9.3 and has existed in the Reporting Act and in the regulations since 1984, except for changes increasing the threshold from over \$250 to over \$500 (and effective 1997 over \$600). In one instance, Commission records indicated that a county political party committee had failed to file 48-hour notices for 54 separate contributions totaling more than \$79,000 received between

the close of the 1995 third quarterly reporting period and the date of the 1995 general election.

Subpoenas

The Review and Investigation staff issued five subpoenas in calendar year 1997 in two investigations. Four of these were issued to financial institutions and one was issued to the respondent entity which was alleged to have a filing obligation as a political committee or continuing political committee. In most cases, pertinent bank records are voluntarily delivered.

Additional complaint recommendations

The Review and Investigation Section is also responsible for generating complaint recommendations for those candidates or filing entities that did not file campaign, quarterly, or personal financial disclosure reports with the Commission. In 1997 the Review and Investigation staff, assisted by the paralegal assigned to the Legal Section, prepared and forwarded complaint recommendations that resulted in issuance of 41 non-filer complaints for the 1996 general election, 10 for the 1997 municipal election, 74 for the 1997 primary election, and 10 for the Personal Financial Disclosure Statements.



Administrative Hearing Support

The Review and Investigation Section also assists in the preparation of cases for hearings before the Office of Administrative Law in those cases where respondents do not waive such hearings. The investigative staff prepares a chronology of the filing events that constitute the alleged violation and work with the prosecuting attorney to identify within the Commission's files the documents and to prepare the testimony necessary to present the Commission's case at the hearing. In 1997, Brett Mead appeared as the Commission's witness at an all-day hearing, and both Brett Mead and Shreve Marshall prepared for a total of three other hearings that were not held due either to settlement or abandonment by the respondents.

Other Activities

The Review and Investigation staff continues to provide technical assistance to the Compliance and Information Section in the drafting of new forms and manual updates as requested, and to provide supplemental assistance with telephone coverage and in-office contacts as necessary during various intervals during the year in responding to inquiries by candidates, treasurers, or other persons seeking information on reporting and filing requirements. Staff members also continue to provide input to the Legal Director

in the drafting of Commission regulations and the preparation of advisory opinions. Associate Director Shreve Marshall served as liaison to investigative counterparts in other state, local, and federal agencies in giving assistance in a number of investigative inquiries.

At the beginning of the year, the Section joined the office in the conversion to a new computer system which provides much greater capability for preparation of charts and other work product that assists in financial analysis and presentation of investigative reports. Section staff attended several training sessions relevant to use of new software programs. The staff has found that computer resources are invaluable tools in tracing the flow of contributions in the more complex contribution limit investigations.

As the year closed, the Section was staffed with two review officers (Shreve Marshall and Brett Mead), a director (Carol Hoekje), and a clerk (Ivy Bartuswicz), and efforts were underway to fill an additional investigative position that has been approved and funded.

In its Report to the Governor and Legislature (September 1, 1970), the Election Law Revision Commission emphasized the importance of "full disclosure requirements" as a better means to "preventing excesses and



REVIEW AND INVESTIGATION SECTION continued

abuses” in the electoral process. In its first Annual Report to the Legislature (May 1, 1974), the Commission wrote that “thorough enforcement is necessary to encourage and assure compliance with the law.” The Review and Investigation Section, formally established within the Commission in 1985, continues to uphold those principles and to work to ensure that they remain balanced with the considerations of due process that must be afforded to the subject of any investigation.



GUBERNATORIAL PUBLIC FINANCING SECTION

In creating the nation's first gubernatorial public financing program in 1974, the New Jersey Legislature expressly stated that the program was intended to allow gubernatorial candidates to conduct their campaigns free from the improper influence of unrestricted contributions and to permit

public financing to the New Jersey electoral process. For the first time in the history of the program, a third-party candidate qualified in the 1997 general election to receive matching funds and to participate in the candidates' debates.



Clockwise from the top: Chair Ralph V. Martin, Commissioner Paula A. Franzese, Executive Director Frederick M. Herrmann, Deputy Director Jeffrey M. Brindle, Legal Director Gregory E. Nagy, Deputy Legal Director Nedda Gold Massar, Counsel James P. Wyse, Commissioner Lynn B. Ware, and Vice Chair David Linett

candidates with limited financial means to seek the State's highest office. In 1997, the public financing program met both statutory goals and demonstrated the importance of

Operation of the Program

In the sixth consecutive publicly-financed gubernatorial election conducted by



the Commission, a total of \$16.3 million was distributed to candidates. In the primary election, four gubernatorial candidates qualified for the program and received \$6.6 million in matching funds, while in the general election three candidates qualified and received \$9.7 million. Notwithstanding the strict time pressures imposed by the imminence of election funding deadlines and the large volume of information and data that had to be processed, the Commission believes the program successfully served both the campaigns and the public.

In the 1997 primary election, four candidates qualified for public matching funds by raising and spending \$210,000 in campaign contributions. Three of them, incumbent Governor Christine Todd Whitman, Congressman Robert Andrews, and State Senator James McGreevey ultimately raised enough in private contributions so that they received the maximum of \$1.86 million in public matching funds. Candidate Michael Murphy received \$1,058,216.00 in matching funds. Therefore, total public funds of \$6,638,216.00 were certified by the Commission for the 1997 primary election, matching on a two-to-one basis \$3.3 million in private contributions raised by the candidates.

The maximum in public funds for the 1997 general election was \$4.6 million per candidate. Both major political party

candidates, Christine Todd Whitman and James McGreevey, qualified for receipt of the maximum by establishing that each had met the \$210,000 threshold and by agreeing to debate twice. Libertarian Party Candidate Murray Sabrin, the first third-party candidate to qualify to receive public funds in the history of the program, qualified to receive \$537,107.80 in 1997 general election matching funds. Therefore, public funds in the amount of \$9,737,107.80 were distributed for the 1997 general election, bringing the total in 1997 gubernatorial public funds deposited by the Commission for both elections to \$16,375,323.80, the most ever distributed by the Commission in the history of the program.

The chief responsibilities of the public financing staff during the 1997 primary and general elections were two-fold: to determine that each candidate was qualified to receive public funds and to verify that only eligible contributions submitted for match by each candidate were certified for match with public money.

To establish a candidate's qualification to receive public funds, the staff reviewed documents submitted by each campaign to be certain that contributions of at least \$210,000, none in excess of the \$2,100 contribution limit, had been raised and had been spent or irrevocably committed in support of the 1997 gubernatorial candidacy. Only after those



two statutory tests were met and a signed agreement to debate was received was a 1997 primary or general election candidate qualified to participate in the public financing program.



As discussed below, the qualification of the Sabrin campaign, based upon its documentation that the general election spending threshold had been met, was the subject of litigation.

Candidates who have qualified to participate in the public financing program are then required to file submissions for public matching funds with the Commission on dates established pursuant to Commission regulations. Each submission contains lists of contributions, copies of contribution checks and other documents, and schedules listing refunded contributions. Only after the public financing staff inspects all documents filed in a submission and utilizes computer-generated reports to review all contributions received by

a candidate for compliance with the statute and regulations are public funds certified by the Commission to candidates.

Each contribution in a submission is reviewed by at least two members of the public financing staff for compliance with complex statutory and regulatory requirements before it is recommended for match with public funds. The copy of the contribution check or other written instrument accompanying each contribution is examined. The full name of a contributor, his or her address, occupation and employer, and the amount and date of the check must be provided. The aggregate contributions from a single contributor over the course of the primary or general election may not exceed \$2,100. Deposit slips for all contributions are examined, and the signature of each individual contributor must be supplied. Also, each corporate contribution must be examined for evidence of any other contribution from an affiliated corporation. The purpose is to insure that no single corporate enterprise contributes more than the \$2,100 limit.

Public financing data entry staff enter each contribution into the computer data base after examination of all contributions is complete. The computerized information is then sorted by various categories and again examined by staff for possible excessive contributions or other violations. Only with



data entry of all contributor information into the data base and analysis using the Commission's specialized software can the thousands of contribution transactions occurring during a campaign be monitored so that contributions in excess of the \$2,100 limit can be identified. If a contribution is found to be ineligible for match, the campaign is advised and may correct the error at a later date and resubmit the contribution for match.

After these steps are concluded, staff determines the amount of matching funds for all eligible contributions and certifies that amount to the Department of Treasury which issues a public funds check. Depending upon proximity to the date of the election, the examination process for a submission must be completed by staff in either a one or two-week timeframe in order to meet the needs of the campaigns.

Publicly-financed campaigns are required to file documentation on an ongoing basis to establish that the public monies have been spent in compliance with the strict statutory list of permissible uses of public funds. If public funds are inappropriately spent, the Commission can refuse to certify additional funds to a campaign until all objections have been resolved.

Between February and July, staff concluded review of 28 separate primary

election candidate submissions for matching funds, and also examined the separate campaign reports filed by the four candidates participating in the program. Approximately



Kimberly McCubbin

10,000 contribution transactions were reviewed.

For the 1997 general election, Candidates McGreevey, Sabrin, and Whitman filed 21 separate submissions between July and November. Receipts reviewed by staff on the submissions and campaign reports totaled over 13,000 transactions. The expenditures of the primary and general election campaigns, totaling \$27.2 million, will be reviewed during 1998.

The 1997 gubernatorial elections were the second to operate with the contribution and expenditure limits, the public funds caps, and the qualifications threshold adjusted by the Commission for inflation. Pursuant to its



statutory authority, the Commission analyzed the changes in costs relevant to campaigns in New Jersey and published its results in the 1996 Cost Index Report (December, 1996). The report concluded that campaign costs had risen by 16.12 percent in the four years since the 1993 gubernatorial election. Extensive amendments to the Commission's gubernatorial regulations were therefore adopted by the end of 1996 to adjust the various limits and thresholds applicable to 1997 publicly-financed gubernatorial campaigns.

The 1997 public financing program staff consisted of a director, a computer assistant, four analysts, a secretary, and two data entry operators. With the exception of the director and secretary, all staff members are temporary staff, hired and trained for the 1997 program, and their positions end in June, 1998. The Commission has found that the use of temporary staff to manage the specialized high volume of work of the public financing program is cost-effective. The positions of director and secretary are part of the Commission's permanent complement of staff, and provide continuity for planning and operation of the program.

Candidates' Debates

In each election, a publicly-financed candidate is required, as a condition of his or her receipt of public matching funds, to agree

to participate in two debates. No primary election debates are required by the Campaign Reporting Act when only one candidate of a party qualifies to receive matching funds. No Republican primary election debates were held because the only Republican candidate to apply for and qualify to receive 1997 primary election matching funds was Governor Christine Todd Whitman.

Four applications were received from organizations or groups of organizations willing to sponsor primary election debates. As required by the statute, at its April, 1997 meeting, the Commission selected the Star-Ledger of Newark and News 12 New Jersey as the co-sponsors for one of the Democratic candidates' debates. New Jersey Network and its consortium of co-sponsor organizations (WCBS-TV, New York, KYW-TV, Philadelphia, the League of Women Voters, the Eagleton Institute, the Times of Trenton, the Record of Hackensack, the Asbury Park Press, TKR Cable Television, and TCI Cable Television) were selected to conduct the other debate. The primary election debates were held on May 7, and May 22, 1997, respectively.

Sponsors for the two general election debates were selected at the Commission's July meeting from among eight applications. The selected sponsors were the New Jersey State Chamber of Commerce and its co-sponsors (WWOR-TV UPN9, WPSG-TV



UPN57, WMGM-TV, Cable Television Network of New Jersey, New Jersey Broadcasters' Association, New Jersey Association of Chamber of Commerce Executives, Black Urban Alliance/African American Chamber of Commerce of New Jersey, Asian Indian Chamber of Commerce, Statewide Hispanic Chamber of Commerce of New Jersey, and New Jersey State League of Municipalities) and William Paterson University of New Jersey and its co-sponsor organizations (WCBS-TV, North Jersey Newspapers, and Garden State Newspapers Group). The general election debates were conducted on October 21 and 24, 1998, respectively.

Gubernatorial Litigation

Litigation concerning the 1997 gubernatorial election raised three issues which required resolution in the tightly restricted timeframe preceding the general election: compliance with the gubernatorial expenditure limit, candidate qualification to receive matching funds, and the constitutionality of a non-publicly financed candidate's exclusion from the gubernatorial candidates' debates.

Expenditure Limit Litigation

Pursuant to the Commission's public financing regulation specifically permitting preelection complaints alleging violation of the general election expenditure limit, four cases were

filed with the Commission and referred to the Office of Administrative Law (OAL) in the Department of State for adjudication on an emergent basis. In each case, an emergent determination was sought because the decision whether or not a specific expenditure should count toward a candidate's \$6.9 million expenditure limit might have a significant financial impact upon the conduct of a candidate's campaign for Governor in the 1997 general election. Quick resolution of these cases was necessary so that the candidate would know precisely what expenditures would count toward his or her expenditure limit.

Two of the four expenditure limit complaints were filed in October, 1997, and the Commission issued Orders to Show Cause in referring them to the OAL to expedite resolution of these cases. While the use of an Order to Show Cause restricted the time for filing an answer in each case, it also resulted in an accelerated hearing schedule which insured that the case would be resolved before the November 4, 1997 general election.

Each complaint contained allegations that a gubernatorial candidate failed to report expenditures for political communications which should be reported by the gubernatorial campaign and be counted toward its expenditure limit. In the first case, filed with the Commission in August, 1997, the



McGreevey campaign alleged that incumbent Governor Whitman's campaign should report and count toward its expenditure limit the costs of flyers distributed to State employees, communications circulated by the Department of Commerce, and a news release and official appearances by Governor Whitman. The Commission did not refer to the OAL allegations that the costs of the alleged political communications were contributions from a prohibited source because those allegations were beyond the statutory authority of the Campaign Reporting Act, and therefore beyond the Commission's jurisdiction

In the second case, the Whitman campaign alleged that various pieces of correspondence signed by gubernatorial candidate James McGreevey and mailed to mayors, municipal clerks, and other individuals were reportable political communications promoting the McGreevey candidacy and that the costs attributable to those communications must be counted as expenditures allocated against the McGreevey gubernatorial expenditure limit. The Whitman campaign also alleged that a letter circulated by an individual encouraging support for legislation introduced by Senator James McGreevey should count toward the McGreevey expenditure limit.

Subsequent to referral of these two cases to the OAL, the parties entered into a

settlement agreement disposing of the political communications reporting allegations.

A third case arose out of Advisory Opinion 07-1997, also discussed in the Advisory Opinion section of this report. The Commission advised the New Jersey Republican State Committee (RSC) that the costs of producing and broadcasting a television advertisement prior to the 1997 general election would not be counted against the expenditure limit of Candidate Christine Todd Whitman because the RSC television advertisement did not contain an "unambiguous reference" to a 1997 gubernatorial candidate. The McGreevey campaign argued that the RSC advertisement should be allocated toward the Whitman expenditure limit based upon the context created by the RSC television advertisement and two similar advertisements produced and aired by the Whitman gubernatorial campaign. The Commission determined that the issue of context was outside the limited scope of the specific advisory opinion request sought by the RSC.

Accordingly, the McGreevey campaign brought an expenditure limit complaint alleging that expenditures by the RSC and the Republican National State Election Committee (RNSEC) for the same campaign advertisement were coordinated communication expenditures which must be



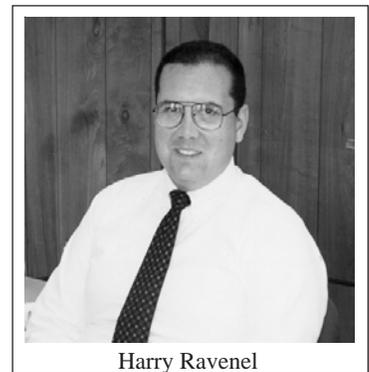
allocated against the Whitman gubernatorial expenditure limit. The complainant alleged that the context created by the RSC/RNSEC ads and the two similar Whitman campaign ads required that all costs for the ads be counted against the Whitman limit. Allegations in that complaint concerning contribution limit violations and receipt of prohibited contributions were not referred to the OAL for hearing because they did not implicate the gubernatorial expenditure limit. The Initial Decision of the Administrative Law Judge held that the advertisement, paid for and aired by the RSC and RNSEC, when viewed in the context created by the two Whitman campaign ads, did not unambiguously refer to a gubernatorial candidate. No allocation against the Whitman expenditure limit was therefore required. The Commission, by a vote of 3-1, adopted the Initial Decision.

In the fourth expenditure limit complaint, the Whitman campaign alleged that expenditures by a union for an internet web site, critical of Candidate Whitman, and various other union activities, were expenditures coordinated with the McGreevey campaign which must be counted toward the McGreevey expenditure limit. Collateral allegations in the complaint raising issues of expenditure reporting were not referred for hearing because they did not affect application of the 1997 gubernatorial expenditure limit. During the pendency of the case, a statement

was added to the union web site indicating that it was an independent expenditure and was not created with the consent or cooperation of Candidate McGreevey. Subsequent to referral of the case to the OAL, the parties entered into a settlement.

Litigation Concerning Candidate Qualification

For the first time in the history of the New Jersey public financing program, an Independent gubernatorial candidate applied to the Commission to receive public matching funds. After review of the documentation required by Commission regulations to establish a candidate's qualification to participate in the



Harry Ravenel

program, a recommendation was made to the Commission that the Sabrin campaign had not submitted documentation sufficient to prove that the campaign had spent the \$210,000 threshold amount. At issue were amounts for media advertisements reported by the campaign as "accounts payable." Public financing staff suggested that accounts payable were not funds which had been disbursed or "irrevocably" spent by the September 2, 1997 deadline, as required by Commission regulations. At the request of the Sabrin

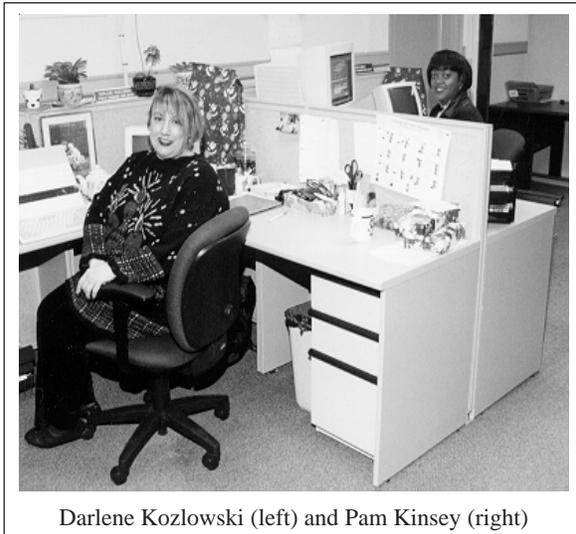


campaign at a special Commission meeting on September 9, 1997, and with the consent of the Commission, the case was referred for hearing to the OAL. Because a candidate's qualification to receive matching funds and to participate in the gubernatorial debates was at issue, an emergent hearing was conducted at the OAL on September 11, 1997.

The Administrative Law Judge concluded that the Sabrin campaign had not shown an irrevocable commitment for the media purchases. However, she concluded that relaxation of the proofs for the media expenditures was appropriate because the Sabrin campaign believed that it had made a sufficiently binding commitment to spend its funds. The Commission considered the Initial Decision in special meetings on September 15 and 19, 1997, and issued an oral decision on the September 19th finding that gubernatorial Candidate Murray Sabrin should receive public matching funds and be permitted to participate in the gubernatorial candidates' debates. A written final decision was later issued which found that the Sabrin campaign had substantially complied with the applicable regulations. However, the final decision rejected the Administrative Law Judge's conclusion that waiver of the regulatory requirement was appropriate.

Constitutional Challenge to the Debate Requirements In further litigation, an

Independent gubernatorial candidate, Michael Perrone, Jr., sued the Commission in Superior Court alleging that his exclusion from the 1997 general election gubernatorial candidates' debates was a violation of his First Amendment rights. The Commission had advised Mr. Perrone that he was not eligible to participate in the 1997 general election gubernatorial candidates' debates



Darlene Kozlowski (left) and Pam Kinsey (right)

because he had not met the statutory and regulatory criteria to qualify to receive gubernatorial public matching funds or to debate. To participate in the 1997 general election debates, a candidate was required to file with the Commission no later than September 2, 1997, proof that he or she had raised and spent on his or her gubernatorial candidacy \$210,000 in contributions of \$2,100 or less. No such proof was filed by Mr.



Perrone.

The Commission successfully argued in Superior Court that Mr. Perrone's constitutional rights had not been violated because the statutory threshold for debate participation, requiring that \$210,000 be raised and spent by September 2nd, was objective and viewpoint neutral and therefore constitutionally permissible.

Gubernatorial Information

Because each receipt transaction of a candidate participating in public financing is reviewed, coded, and entered into the Commission's computer data base by the public financing staff, information concerning the contributions received by the publicly-financed primary and general election candidates was continually made available to the public prior to the election in computerized formats. Gubernatorial contribution information, obtained from the Commission and updated on a regular basis, was placed on the Internet during 1997 by a newspaper organization. Expenditure data is reviewed and computerized in a postelection setting and will be made available during 1998.

For elections in 1997, the Campaign Reporting Act required disclosure to the public of all contributors whose aggregate contributions in either the primary or general

election exceeded \$300. With the exception of the Sabrin general election campaign, all 1997 publicly-financed candidates opted to disclose all contributors, including contributors of \$300 or less.

Dissemination of information concerning gubernatorial candidates, including contributions to and expenditures by their campaigns, is a primary function of the public financing program. During 1997, public financing staff responded to over 1,100 telephone inquiries and provided more than 35,000 pages of information to members of the public and to the press. Copies of reports filed by gubernatorial candidates, lists of contributors on computer disks, and copies of relevant statutory and regulatory materials are among the materials requested. In addition, more than 60 press releases were issued to notify the press each time candidates filed applications for public matching funds and when funds were distributed to the candidates.

Ballot Statement Program

The public financing law requires that the Commission provide to the 21 county clerks voluntary statements prepared by the gubernatorial candidates for inclusion on the general election sample ballots. The number of gubernatorial candidates appearing on the ballot in the 1997 general election was 10. Statements, which are limited to 500 words,



were timely received from nine of the 1997 gubernatorial general election candidates. Each statement was professionally translated into Spanish, and camera-ready copy of the English and Spanish texts was delivered to the 21 county clerks.

N.J.S.A. 19:44A-37 requires that the Commission reimburse the county clerks for their costs associated with printing and mailing of the gubernatorial ballot statements as part of the sample ballots. The claims for reimbursement of ballot statement costs filed by the 21 county clerks totaled approximately \$346,000. Funds in the amount of approximately \$150,000 remained available in the Commission budget, after payment of translation and printing expenses, to reimburse the counties for their ballot-statement costs. The Commission received a supplemental appropriation in the amount of \$195,700.00 to permit full reimbursement of ballot-statement costs to the 21 county clerks.

Computerization

As discussed elsewhere in this report, the Commission undertook a major revision of its computer system during 1997. The efforts of the Public Financing Section were essential to this computer initiative. Software development first focused upon the public financing program, the most complex portion of the Commission's software, as the switch

was made from the old mainframe to the new client-server based system. As the vendor wrote the new software, public financing staff was called upon to describe the operations of the program, to review the programs being written, to create simulations to test the software, to identify errors, and finally to verify that problems were corrected. These tasks were undertaken in the difficult environment while the staff was simultaneously processing candidates' submissions for matching funds.

Work continues with the Office of Telecommunications and Information Services (OTIS) in the Department of the Treasury to design software to permit gubernatorial candidates to file contributor information electronically. This contributor information will replace the voluminous paper submissions filed by publicly-financed candidates. By uploading contributor information to the Commission's data base, costly data entry tasks will be eliminated, contributor information will be made available to the public more quickly, and processing of candidates' matching funds submissions will take less time.

Other Activity

As it has at the conclusion of past publicly-financed gubernatorial elections, the Commission held public hearings in 1998 to



elicit oral and written comments on the program. In an effort to make them accessible to all interested citizens throughout New Jersey, the three hearings were conducted on February 18th at Seton Hall Law School, Newark, on March 18th at the Burlington County Office Building, Mount Holly, and on April 22nd in Trenton. Testimony received at the hearings will be considered by the Commission in making recommendations for legislative action and proposing changes to regulations.

The public financing staff is also responsible for monitoring reports that were filed in March, 1998, by the Whitman Inaugural Committee for compliance with the \$500 inaugural contribution limit. The same review process applied to gubernatorial campaign contributions will be applied to the Inaugural data, and the contribution and expenditure information will be made available to the public during 1998 in computerized form.

During the spring of 1998, the Commission will solicit bids and select a firm to conduct independent audits of the publicly-financed gubernatorial primary and general election campaigns. These audits confirm that public matching funds have been spent by the campaigns in compliance with the strict statutory and regulatory requirements.

The Commission will use the

testimony received during the public hearings, information developed during the independent audits of the gubernatorial campaigns, and the experience of staff to evaluate the operation of the 1997 gubernatorial public financing program. This process is followed to ensure that the public financing program is responsive to the needs of the New Jersey citizens and candidates it serves.



COMPUTER SECTION

The Computer Section is basic to managing the Commission's data, as reported in the campaign, committee and lobbyist finance reports, efficiently and effectively. It is comprised of two main areas, data entry and systems operations. During 1997, both went through many changes. The data entry staff again increased by one. Systems operations was given two additional positions for programmers. Additional computer equipment and peripherals were purchased. This material included a large print server with the capability to handle larger print jobs as well as two network printers to service users.

Systems Operations

Systems operations has the responsibility for overseeing all of the Commission's computer operations. This duty not only includes overseeing the data entry area, but maintaining the hardware and software for the PRIME Information 4150 operating system, the new DEC Alpha Server 1000A installed at the end of 1996, and the Personal Computers (PC's) used by staff. The new local area network or LAN was setup and configured for PC users working off the DEC Alpha Server. Also with help from the Office of Telecommunication and Information Systems (OTIS) client/server group, the oracle data base was installed and made ready for the rewrite of the Commission's customized software.

Systems operations was extremely busy most of the year reviewing the rewrite of the Commission's customized software application. This project included all phases of the Public Finance, Campaign Finance and



Carol Neiman, Systems Administrator

Continuing Political Committee modules. The information was rewritten and the Commission's data base information went through a conversion for the new DEC Alpha Server running an oracle data base. The information is now accessible through the users' PC's on Windows 95. In addition to this type of software review, systems operations went through a lot of training to become familiar with all of the new software, hardware, and peripherals used in the new environment.

Last year, the Commission's home page was created on the Internet. Individuals



can now retrieve statistics for campaign finance and lobbying information directly from the Internet. Links were also created between the Commission's home page and various other sites of interest that used the Commission's data to create an interactive web site. These sites allow the user to search for information about campaign finance contributions as well as lobbyists and



Shirley Bryant (left) and Brenda Brickhouse (right)

legislative agents.

Systems Operations continues to provide technical support for the Commission's end users. This support includes troubleshooting hardware and software problems on the PC's and peripherals as well as the server. Systems also continues to provide as much assistance as possible to the public. The public is provided with timely data in various computer and other output formats, and staff is available to assist with

questions on how to utilize the data.

Additionally, the 1997 legislative general election statistical press release was prepared by the systems operations area. This effort included overseeing the information that was entered and producing analytical spread sheets in various formats using one of the new software programs.

Data Entry

The data entry staff was very instrumental in testing the newly revised software throughout the year. It was very important to test in an environment that simulates a production setting and the data entry staff was able to get that accomplished. In addition to the testing phase, data entry started entering all of the filed campaign and committee finance reports in both the old and new systems. This approach was the best possible way to check for accuracy in the new computer system. Data entry also assisted the temporary gubernatorial public financing data entry staff by keying in some of the gubernatorial primary and general election contributor information.

This past year saw quite a few changes in the data entry area. Operators now access the Commission's customized applications via personal computers with Windows 95. This improvement was a whole new learning experience not only for the data entry staff, but also for the entire Commission staff as



well.

Data entry also keyed all of the county party receipts and expenditures for a ten-year time period for seven of the county wide political party committees to generate statistics for the County Party White Paper published in 1997. This job was a tedious one of keying all of the individual amounts of money raised and spent into appropriate categories to be able to produce the various statistical analyses.

During 1997, the data entry staff keyed the names and addresses of candidates and committees in the senate and assembly legislative primary and general elections as well as the other various elections held throughout the year. Data entry used the forms provided from the Election Division of the Secretary of State's Office to key the legislative primary election names and addresses. This approach worked very well. Other elections held throughout the year included the school board, fire commissioner, May municipal, and June runoff as well as special elections that occurred.

Data entry staff keyed the summary financial information of receipts and expenditures for all candidates and committees in the legislative, county, and local elections. Also keyed was the financial summary statuses of State, county and local political party committees, legislative leadership committees, and special interest PACs.

Data entry is responsible for overseeing the keying of the lobbyist and legislative agent quarterly reporting program. This program keeps track of all new and terminated legislative agents and their clients, their lobbying activity, and the timeliness of



Computer Room

their filing as well as non-filers. The Commission then produces a quarterly statistical report giving the detailed information on the lobbyists and legislative agents. The annual lobbyist financial information was also keyed. This information details the amount of money spent on salaries and benefit passing as well as other forms of receipts and expenditures. The reports also indicate the boards or commissions on which legislative agents serve. Statistical spreadsheets were then prepared from the keyed information and made available in various formats.



The Future of the Commission's Computer Section

The trend in the computer industry is going from what is currently known as information management to knowledge management. The Commission will head in this direction with the new computer initiatives that the computer section would like to undertake in the near future. Also, with the hiring of two computer programmers, the computer Section will then be comprised of three areas: systems administration, production, and development. The Systems administration area will oversee all of the computer systems and operations. The data entry staff will be responsible for the production environment. The new computer programmers will have responsibility for software application development and enhancements as well as assisting with the daily computer administration.

Computer initiatives to be phased in for the future are the following:

- Electronic filing of campaign finance reports to speed the collection of data and place it in data bases that can be used for analysis.
- Searchable data bases to allow the public and media to find contributors and analyze campaign financing trends.
- Setting up a terminal in the public room for direct access to the Federal Election Commission's records.
- Scanning and imaging of campaign finance reports and their placement on the Internet.



ADMINISTRATION SECTION

During 1997, the Administration Section effectively met the ever-increasing fiscal and personnel demands of the Commission. An essential part of the agency, Administration provides all management services for the Commission.

Since ELEC is "in but not of" the Department of Law and Public Safety, the Department has no administrative responsibility or control over the Commission.



Donna D. Margetts (left), Barbra A. Fasanella (center), and Elaine J. Salit (right). Irene Comiso and Debra Kostival not shown

Managing the Budget

In FY-1998 (beginning July 1, 1997), ELEC received an annual appropriation of \$1,922,000. The Commission also received a \$630,000 continuation budget for the administration of the Gubernatorial Public Financing Program.

Monies were obligated to be used for ELEC's computer system, software enhancements, and purchasing of scanning and imaging equipment. The Commission completed its installation of the DEC Alpha Server and necessary software conversion in September, 1997. In addition, software is being designed to allow for electronic filing for gubernatorial candidates. It is hoped that this software can be modified to allow for electronic filing for legislative candidates in 1999.

ELEC has also requested that the Office of Telecommunications and Information Systems (OTIS) assist in assessing ELEC's needs for scanning and imaging equipment. As it will be a number of years before all candidates (school board and up) are able to have the ability to



file electronically, scanning hard copy reports will substantially reduce the time between receiving reports and making them available for the public. It will also greatly reduce space requirements now needed to house originals and copies of all reports. Scanning and imaging equipment can also be used to get reports out onto the internet for easy accessibility.

Other Activities

In 1997, the Commission installed a "fax on demand" system. It allows for the public to call (from a fax machine) into ELEC's flashfax system and request copies of all forms, advisory opinions, and other reports; and, within minutes, have these documents sent to their fax machines. This system has significantly reduced the need for the public to travel to the Commission or wait for forms to be sent via mail.

The Commission's new public room area has also greatly helped the accessibility of reports. File cabinets of information are clearly marked so that the public and press can obtain information quickly. Also, the convenience of a photocopier made available in one of the three public rooms has decreased the need to wait for ELEC staff to generate copies. Small requests for information can be done by the public themselves (under 50 pages, free). In addition, an FEC hookup is now available so that Federal Election reports can

also be accessed from our public room at no charge.

Looking Forward

The Commission hopes to be able to provide electronic access to parts of its data base early in 1999. Certain campaign finance data will be available on ELEC's home page on the Internet. It is being planned that candidates will be able to file "on-line" with the Commission. However, additional research must be completed and security measures must be in place before this process can be accomplished. The Commission is also currently investigating the equipment to put campaign financial reports out on the Internet. It is hoped that by the general 1999 election, this goal can be achieved.



BUDGET OVERVIEW AND EVALUATION DATA

In FY-1999, the Commission anticipates an appropriation of \$2,982,000 based on the Governor's Budget Recommendation, including an additional \$1 million for enhanced computer technology.

Comparison of Fiscal Years 1997 and 1998 Appropriations

	<u>FY-1997</u> <u>Appropriations</u>	<u>FY-1998</u> <u>Appropriations</u>
Personnel	\$1,212,000	\$1,729,000
Printing & Supplies	44,000	41,000
Travel	1,000	1,000
Telephone	25,000	24,000
Postage	26,000	24,000
Data Processing	39,000	32,000
Professional Services	40,000	37,000
Other Services	8,000	7,000
OTIS	5,000	10,000
Maintenance/Equipment	2,000	2,000
Furniture/Equipment	0	0
Commissioner Per Diem	<u>\$15,000</u>	<u>\$15,000</u>
Total Operational	\$1,417,000	\$1,922,000
Public Financing Administration	\$630,000	\$630,000
Gubernatorial Public Financing	\$5,700,00	\$8,100,000

1997 Evaluation Data

Disclosure Reports (Total)	23,815
<i>Campaign & Quarterly</i>	19,097
<i>Lobbyist</i>	1,356
<i>Personal Finance</i>	359
Photocopies	223,000
Investigations	61
Civil Prosecutions	168
Public Assistance Requests	13,138
Fine Collection	\$48,836
Lobbying Annual Fees	\$178,750



ELEC'S 25TH ANNIVERSARY

A Quarter Century of Tradition



Lynn B. Ware

Josephine S. Margetts

Florence P. Dwyer

William H. Eldridge

President John F. Kennedy, Alexander Heard (center), and Herbert E. Alexander (right)

Herbert E. Alexander and Frederick M. Herrmann



Frederick M. Herrmann and David Lipetz

Stanley G. Bedford

Michael Chertoff

Andrew C. Axell

Paula A. Franzese

Owen V. McNany, III
Distinguished Service Award
1990

Haydn Proctor

Edward Farrell, lawyer served election commission
Edward J. Farrell

Frank P. Reichle

Ralph V. Martin

Alexander P. Waugh, Jr.

The family of Edward J. Farrell acknowledges with grateful appreciation your kind expressions of sympathy.