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ELEC-Tronic

AN ELECTION LAW ENFORCEMENT COMMISSION NEWSLETTER
 "Furthering the Interests of an Informed Citizenry"

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Comments from the Chair

Jerry Fitzgerald English

The General Election

The general election is now over and it is appropriate for me, on behalf of the Commission, to thank the Special Programs staff for their professionalism in administering the State's very important Gubernatorial Public Financing Program.

In 1977, in the aftermath of Watergate, New Jersey became the first state to provide a public financing program for participating gubernatorial candidates in the general election. Four years later, in 1981, the program was extended to include the primary.

The twin purposes of this model program are to eliminate undue influence from the process and to permit qualified candidates of limited means to run competitive campaigns for governor.

In both respects, this matching funds program represents one of the success stories of New Jersey government. Both throughout its history, as well as during this most recent campaign, the gubernatorial program has more than met these twin goals.

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Due Process and ELEC

With the attention given by television to jury trials of a sensational nature, the term due process is becoming more and more familiar to the public.

According to Black's Law Dictionary, due process refers to the "conduct of legal proceedings according to established rules and principles for the protection and enforcement of private rights, including notice and the right to a fair hearing before a tribunal with the power to decide the case."

While most people perceive the New Jersey Election Law Enforcement Commission (ELEC) as a disclosure agency, which of course it is, what is often overlooked is that it serves a quasi-judicial function as well.

In any given year, the Commission imposes numerous civil fines for violations of the Campaign Act and lobbying law.

When a request of an investigation is filed with the Commission the process includes the following: (1) Investigation; (2) Determination by the Commission to issue a complaint; (3) Issuance of a complaint; (4) Notice to the respondent who has the right to a hearing in the Administrative courts or to waive that right; and, (5) Final decision by the Commission.

To the point where a complaint is issued, the matter is considered confidential and staff, pursuant to the policy of the Commission and the standard practice of law enforcement agencies, is not at liberty to discuss the matter.

As part of its investigative and quasi-judicial roles, the Commission takes its due process responsibilities very seriously, protecting the rights of respondents who are targets of complaints. It does this in part by not speaking publicly about investigative matters until complaints and final decisions are issued.

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Comments from the Chair

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The General Election

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Here's how it works. In order to qualify for the program, candidates must raise and spend a statutorily required threshold amount, which is adjusted for inflation every four years. In this past election, the threshold amount was \$340,000.

Once a candidate opts to participate, agrees to take part in two debates, and meets the qualification threshold, he or she is entitled to receive two public dollars for every private dollar raised.

Of course, there are certain restrictions that apply to publicly-funded candidates. The amount they can receive in public dollars is capped and they are subject to an expenditure limit.

This year's general election program capped public matching funds at \$7.3 million and subjected participating candidates to an expenditure limit of \$10.9 million.

Moreover, in raising the necessary dollar amounts to qualify and to have private contributions matched, candidates must abide by across the board contribution limits. This year the contribution limit was \$3,400 per election.

The general election witnessed two candidates for governor who participated in the Gubernatorial Public Financing Program; Republican Governor-elect Christopher J. Christie and Independent Candidate Christopher J. Daggett. Governor Jon S. Corzine did not participate in the program.

And for the first time, the general election featured candidates for Lieutenant Governor. These candidates, selected by the gubernatorial nominees, who either participated, or otherwise were eligible to participate in the matching funds program, were required to take part in one publicly-sponsored debate.

The Gubernatorial Public Financing Program is designed to foster a climate of competitiveness in the gubernatorial election contest and to provide qualified candidates the means to get their message out to the public.

On all counts, the program again proved to be successful. Without doubt it is a very important aspect of the elections system, one that goes far toward engendering trust in our electoral process.

Therefore, again, kudo's to our very professional Special Programs staff for their thorough review of the submissions for matching funds and for the efficient manner in which the funds were distributed to candidates during the general election cycle.

Two candidates also participated in the program in the Republican primary; Governor-elect Christopher J. Christie and Candidate Steven M. Lonegan.

Due Process and ELEC

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The reason for this is clear. During the heat of a campaign, complaints are flying fast and furious between opposing candidates and campaigns. While many of the complaints prove to be with merit, many others are frivolous, or are just plain lacking in sufficient reasons to pursue the matter further.

In some instances, there is a misreading of what constitutes a violation of the campaign law accompanied by the erroneous expectation that the Commission can immediately take action.

Moreover, the Commission would not wish to inadvertently prejudice the outcome of an election, state or local.

For all of these reasons the Commission refrains from any public discussion about pending investigations until the process has been completed and they are ripe for public discussion.

Executive Director's Thoughts Jeff Brindle

Recently, several initiatives have been introduced by the Commission. None, however, would have been possible without the hard work and dedication of staff.

All credit goes to a staff that performs beyond all expectations and to the members of the Commission whose support has been invaluable.

It is impossible in this space to single out all staff who have made significant contributions during a brief, but arduous, election season. But know that no one's efforts and achievements have been overlooked.

Prior to Thanksgiving, we held, for the first time in memory, a press conference to introduce the local government contributor database. This initiative was praised by the media, political figures, and the public. It was made possible by the extraordinary efforts of Information Technology Director Carol Neiman and her staff; including Associate Help Desk Technician Peter Palaitis, Data Entry Supervisor Brenda Brickhouse, Assistant Data Entry Supervisor Darlene Kozlowski, and all of the Data Entry support team.

And let's not overlook the groundwork undertaken by the new Deputy Director Joseph Donohue in making the conference a success.

The Commission showed a new aggressiveness as it released snap-shot analyses of pre- and post-election campaign financial activity by Gubernatorial and Assembly candidates, the big-six committees, and county party committees.

This effort was advanced through the able assistance of Compliance Director Evelyn Ford and staff, IT Director Carol Neiman, Associate IT Director Kim Vandegrift, and Webmaster Maryanne Garcia. Further, the timely distribution of these analytical press releases is due to Administrator Elbia Zeppetelli and Executive Secretary Maureen Tilbury.

Of course, it would be remiss of me to not mention this newsletter. Its purpose is to enhance the profile of ELEC and to inform the public about happenings in campaign financing, lobbying, and pay-to-play.

Staff members Evelyn Ford, Amy Davis, Carol Neiman, and Leonard Gicas have contributed to its success by submitting timely and informative articles. But don't overlook the graphics by Elbia Zeppetelli.

Speaking of Amy Davis, Director of Special Programs, what a job she and her staff did in running the Gubernatorial Public Financing Program and in explaining pay-to-play to the public. It wasn't easy dealing with the myriad of issues stemming from the fact that for the first time New Jersey selected a Lieutenant Governor.

And, hats off to Legal Director Carol Hoekje who provided guidance to the Commission and me and simultaneously directed her excellent staff toward completing a review of ELEC's regulations and reproposing them before the sun set on them.

Also, thanks to Leonard Gicas for directing the redoubtable Review and Investigation staff as they undertook investigations into matters large and small.

Certainly, the Commission could not operate without a crackerjack administrative staff headed by Director of Finance and Administration Steve Dodson. In these difficult financial times, Senior Fiscal Officer Elaine Salit, Personnel Officer Anita Vaingankar, and he managed the budget and personnel like none other.

And last but not least, ELEC's receptionists; Debbie Kostival, Irene Comiso, and back-ups Aracelis Ocasio and Meggan Mathies, provide that personal touch that distinguishes the Commission from other departments and agencies. You will hear their helpful responses when you call.

I know I have left out accomplishments and people deserving mention: [You-Tube](#), Chair Jerry Fitzgerald English and Computer Technician Ken Colandrea; [Research](#), Research Associate Steve Kimmelman; [Training](#), Compliance staff; and [New Jersey Supreme Court](#), Legal Counsel James P. Wyse. So please forgive me for doing so.

Thanks to each and every member of the staff for a truly great job despite the difficulties presented by the uncertain economic times. And, thanks to the Commissioners for their support of our efforts.

Local Contributor Database Announced

At a recent news conference the Commission unveiled its new local contributor database. The following statement was given by Jeff Brindle, Executive Director:

Thank you for coming here today.

I know that after following the candidates on the campaign trail these months you must be exhausted.

But I believe that the initiative we are introducing today is a milestone, an important first step toward an attainable goal of making all contributions, at all levels, and including all entities, searchable through our database.

Since becoming executive director, creating a searchable database for municipal and county candidates has been a top priority of mine and the Commission.

As you know, ELEC's mission is to provide the fullest possible disclosure of campaign financial activity. This initiative brings us one-step closer to fulfilling that mission and goal.

Up to now, the Commission has provided access to contributions to State candidates, State party committees, and county party committees. This initiative, however, will not only make it easier to find out who is making contributions to municipal and county candidates but will also help to bring about a greater awareness of the significant financial activity at the local level.

Importantly, more complete disclosure of municipal and county donations will enhance enforcement of pay-to-play laws – laws that are intended to discourage undue influence by public contractors.

Think of this, more than \$5.5 million dollars was contributed during this year's primary to local candidates throughout the State.

These donations can now be sorted by contributor and analyzed electronically. This database includes 4,800 individual donations.

So, if someone receives a public contract any citizen can simply key in the persons name and a list of his or her contributions will appear.

No more hunting through a series of individual reports.

Early next year more than \$11.5 million dollars in general election funding to municipal and county candidates will be made available, all of which will be searchable for individual contributions.

Again, I want to thank everyone for coming. There is much financial activity at the local level and this effort, we hope, will go far toward the goal of making the public aware of this fact. Moreover, we hope that this initiative will contribute to a more informed electorate.

On a personal note, I would like to thank Carol Neiman, Director of Information Technology; Data Entry staff Brenda Brickhouse, Darlene Kozlowski, Nelly Rosario; and, Peter Palaitis, Associate Help Desk Technician.

All the credit goes to them for making this possible.

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N.J. Supreme Court Hears Bryant Challenge

In November, the New Jersey Supreme Court heard arguments regarding the issue of whether campaign funds can be used to defend against a criminal indictment.

The case was brought by former State Senator Wayne Bryant, who was disputing an advisory opinion issued by the Commission which prohibited such use.

According to Advisory Opinion No. 01-2008, requested by Bryant, the Commission stated that use of campaign funds to defend against a criminal indictment does not fall under the "ordinary and necessary expense" provision of the Campaign Act.

In advising the former State Senator that such use was not permissible, the Commission indicated that he could not use campaign funds to offset the legal costs in defending himself in the criminal matter.

Subsequent to the issuance of the advisory opinion, the matter was appealed to the Appellate Division of the Superior Court, where it was upheld. The New Jersey Supreme Court granted certification.

James P. Wyse, Legal Counsel to the Commission, argued on behalf of the Commission's position in the Appellate Division of the Superior Court and again before the State's Supreme Court.

The decision by the high court is pending.

Training Seminars

The Commission held six treasurer training seminars prior to the general election. The seminars were conducted in-house as well as off-site. Participating and doing an excellent job were Senior Compliance Officer Kim Key and Assistant Compliance Officers Danielle Hacker and Joseph Barish. Associate Compliance Officer Nancy Fitzpatrick conducted the electronic filing seminars.

Requesting an Advisory Opinion

Any person, committee, or entity subject to any provision of "The New Jersey Campaign Contributions and Expenditures Reporting Act" may request an advisory opinion with regard to whether or not a proposed action is permissible under the Act.

The request, submitted through the Legal Counsel of the Commission, must be in writing and contain an original signature by the individual submitting it. It must also concern a future, contemplated action, and not involve any action already undertaken. Finally, any person requesting an advisory opinion must have standing to ask the question.

In addition to issues involving the Campaign Act, the Commission, at its discretion, may accept requests for advisory opinions concerning lobbying. Regarding lobbying, the request must demonstrate that the filing or statutory requirement of the individual making the request will impact the person, governmental affairs agent, or entity.

All other requirements noted under the Campaign Act advisory opinion provisions apply to lobbying.

To request an advisory opinion, go to the Commission's website www.elec.state.nj.us and click on Legal Resources.

ELEC Directors

Jeffrey M. Brindle.....Executive Director
Joseph W. Donohue....Deputy Director
Carol L. HoekjeLegal Director
Evelyn Ford..... Compliance Director
Carol NeimanDirector of Information Technology
Amy F. Davis..... Director of Special Programs
Linda WhiteDirector of Lobbying
Leonard Gicas..... Director of Review & Investigation
Todd J. WojcikDirector of Campaign Financing
Steven M. Dodson Director of Finance & Administration

DATES TO REMEMBER

2010 REPORTING DATES	
SCHOOL BOARD ELECTION	
	DATE: APRIL 20, 2010
29-day pre-election	March 22, 2010
11-day pre-election	April 9, 2010
20-day post-election	May 10, 2010
MUNICIPAL ELECTION	
	DATE: MAY 11, 2010
29-day pre-election	April 12, 2010
11-day pre-election	April 30, 2010
*20-day post-election	June 1, 2010
RUNOFF ELECTION	
	DATE: JUNE 15, 2010
29-day pre-election	*No report required
11-day pre-election	June 4, 2010
20-day post-election	July 6, 2010
PRIMARY ELECTION	
	DATE: JUNE 8, 2010
29-day pre-election	May 10, 2010
11-day pre-election	May 28, 2010
20-day post-election	June 28, 2010
GENERAL ELECTION	
	DATE: NOVEMBER 2, 2010
29-day pre-election	October 4, 2010
11-day pre-election	October 22, 2010
20-day post-election	November 22, 2010
PACs & CAMPAIGN QUARTERLY FILERS	
1 st Quarter	April 15, 2010
2 nd Quarter	July 15, 2010
3 rd Quarter	October 15, 2010
4 th Quarter	January 18, 2011

*A candidate committee or joint candidates committee that is filing in the 2010 Runoff election is not required to file a 20-day post-election report for the 2010 Municipal election.

Late and non-filing of reports are subject to civil penalties determined by the Commissioners.