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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 Chairman Ronald DeFilippis

The mission of the New Jersey Election Law Enforcement Commission is disclosure.

Often overlooked, therefore, are the Commission's efforts in the area of enforcement.

Enforcement of the campaign finance laws not only bolsters the Commission's attempts to bring transparency to the electoral process but also reassures the public that violations of the law will not be ignored.

So, to shed some light on the enforcement side of things, this column will be devoted to providing a general overview of our investigative process.

First, the Commission is statutorily authorized to investigate potential violations, to issue subpoenas, and to call witnesses.

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Potential violations of the Campaign Contributions and Expenditures Reporting Act come to the Commission's attention in three ways:

1. a complaint from a member of the public;
2. media account; and,
3. internal review.

Following a review of an allegation by the Investigative staff, a recommendation is made to the Commission as to whether to open or close an investigation.

Any decision to pursue an investigation, or to close one, is made by the Commission in Executive Session.

When a decision is made to conduct an investigation, staff is instructed to do so following strict guidelines of confidentiality.

Upon completion of an investigation, the findings are presented to the Commission in Executive Session. The Commissioners can choose to issue a complaint, a letter of correction, or opt to take no further action.

When a complaint is issued, the respondent can waive his or her right to a hearing before the Office of Administrative Law (OAL).

In those instances, the matter will come back to the Commission for a final decision, which is rendered in Executive Session.

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Comments from the Chairman Ronald DeFilippis

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At times, when the respondent requests a hearing, the matter is tried or settled by an OAL judge.

Ultimately, the matter is returned to the Commission, wherein the Commissioners have the authority to accept the ruling of the OAL judge, modify it, or reverse it.

The decision of the Commission at this point becomes a final decision. Any respondent has the right to appeal a final decision to Superior Court.

As noted above, the Commission's policy holds that investigative matters are confidential. To this end, the Commission has put into effect a written policy regarding ex parte and public communications.

This policy maintains that when staff is confronted with questions from the press about investigative matters, staff can neither confirm nor deny their existence.

In the end, however, it is the policy to make complaints and final decisions public. These matters are posted on the website on the first and third Wednesday of every month.

The postings include findings of violations and monetary penalties. Letters of correction are also disclosed.

The Commission's website (www.elec.state.nj.us) also contains information and forms to be used in making a complaint.

Executive Director's Thoughts Jeff Brindle

[Strengthening the political party system](#)

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Nasty campaign attack ads like a recent super PAC commercial that cynically implied Republican presidential candidate Mitt Romney bears responsibility for a woman's cancer death make three things clear.

First, most remaining parts of the Bipartisan Campaign Reform Act (BCRA), or McCain-Feingold, should be repealed. Second, the political party system nationally should be strengthened. Third, independent groups that are running many of the most noxious ads should fully disclose their donors and expenditures.

Enacted in 2002, BCRA represented a good faith effort to ban unlimited contributions to the national political parties long described as "soft money." Among other provisions, BCRA imposed a pre-election "blackout" period which prevented corporate and union independent spending within 30 days of a primary and 60 days of the general election. The unintended consequence—BCRA instead was a catalyst for the rapid growth of independent spending and increasingly vicious political commercials.

In 2002, when the bill became law, independent groups spent just \$27.3 million, according to the Center for Responsive Politics. During the period following BCRA and preceding Citizens United, 2002 – 2008, independent spending grew by over 1,000 percent to \$302 million. While independent spending was growing exponentially, activity by the national parties declined and then remained flat for most of the decade after a major run-up in the 1990s.

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Executive Director's Thoughts Jeff Brindle

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During the first 18 months of the 1991-1992 election cycle, the six national party committees of the two major parties raised a combined total of \$263 million, according to Federal Election Commission figures. Soaring soft money receipts pushed that total up 174 percent to \$720 million by 2001-2002.

After McCain-Feingold banned soft money to national parties in 2002, party receipts fell and then fluctuated around \$600 million through 2010. This year, the "big six" national party committees have raised a record amount—\$792 million. But that represents just a 10 percent increase over the 2002 total at the 18-month point. Had national party receipts kept rising at the 1990s growth rate, they now would total nearly \$2 billion.

Independent super PACs, which didn't even exist four years ago, alone raised \$318 million through June 30, according to the Center for Responsive Politics (CRP). Along with 501(c) groups that disclose neither their donors nor expenses, these "outside groups" are likely to set new records. "...[S]pending by outside groups will make up a far larger proportion of the total spent in the 2012 election than in previous cycles and will add up to, at a minimum, \$750 million," CRP predicts.

"Over the last three elections, the amount of outside spending has grown dramatically," said a recent analysis by Lee Drutman of the Sunlight Foundation. The spending has soared because these groups usually run the more scathing attack ads so candidates can concentrate on looking good to voters. "Presumably, candidates would prefer to let others do the dirty work of attacking their opponents and remain above the fray themselves. That's why these independent expenditures are becoming more popular," said Drutman.

Perhaps the most controversial commercial of the campaign so far was produced by Priorities USA Action, a Democratic Super PAC. The commercial featured ex-steel worker Joe Soptic lamenting the

loss of his wife due to the closure of his former plant. Mitt Romney's former company, Bain Capital, owned the plant at the time of its closing. FactCheck.org concluded it was "misleading on several counts" and "...strains the facts to the breaking point to imply that this tragic death is Romney's doing."

Of course, given the current "take no prisoners" campaign atmosphere, other outside groups also have sponsored ads making damaging insinuations.

For instance, a group of former U.S. military and intelligence officers, including retired Navy SEALs, recently unveiled a 22-minute video accusing Obama of reckless, politically motivated leaks about the raid that killed Osama bin Laden and other security matters. Politifact.org dismissed the ad as "mostly false," as did Peter Bergen, a CNN national security expert who has written a book about the bin Laden manhunt.

So, one of the main effects of BCRA was to weaken the political parties while empowering less accountable independent groups that often operate in secret and serve as campaign hitmen.

At least in the years before McCain-Feingold, the national parties were required to disclose their soft money donors as well as their hard money contributors and their expenditures. Many of today's groups disclose virtually nothing. They have been left free to fill the electoral landscape with a minefield of attack ads that often distort the truth, adding to the cynicism of the public toward politics and government.

One solution is simply for Congress to repeal most of what remains of BCRA except for a few worthwhile provisions, like its prohibition on fundraising on federal property. By repealing most remaining provisions of BCRA, Congress would eliminate the soft money ban on political parties as well as the coordinated expenditure restrictions that apply to political parties and candidates.

The benefit will be to strengthen the political parties, returning them to their rightful place in the electoral system, while also increasing disclosure.

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Executive Director's Thoughts Jeff Brindle

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These simple changes would redirect the flow of money to the parties and away from the more narrow interests associated with independent groups. They would strengthen a party system that represents a broad coalition of people, thereby making it more responsible than anonymous, independent groups.

There remains one more step to take to deflate the influence of independent groups. Congress should enact legislation that would require so-called social welfare 501(c) groups and 527's to register with the Federal Election Commission and disclose their donors and expenditures.

Citizens United and subsequent rulings by the Supreme Court and the lower courts have reaffirmed the right of government agencies to require disclosure by these groups. If influence can be shifted from independent groups back to parties, campaigns hopefully will be more accountable and less vicious.

In Federalist Paper Number Ten, James Madison speaks of the need to control the effect of factions. Right now in America, factions, represented by these outside groups, seem out of control. Through some common sense reforms, we can bring back some sanity and civility to the political process.

Conferences

Jeff Brindle, Executive Director of the NJ Election Law Enforcement Commission (ELEC), was a guest panelist at two recent conferences.

On Oct. 18, he addressed a well-attended seminar on "Election Law and Political Campaigns" that was sponsored by the New Jersey Institute for Continuing Legal Education (NJICLE). Brindle spoke generally about the role of enforcement at ELEC and outlined the investigative process.

"First and foremost, ELEC's mission is one of disclosure. Our enforcement efforts compliment our efforts to ensure that the campaign finance laws are complied with and that the public is afforded full disclosure of the financial activities of candidates and committees," he said.

Other panelists included attorney John Carbone of Carbone & Faasse, who served as moderator and speaker; Rutgers School of Law- Newark professor Frank Askin; attorney William Tambussi of Brown and Connery; attorney Paul Josephson of Hill Wallack; Bergen County Prosecutor John Molinelli; and Nick Acocella, editor of Politifax New Jersey.

Brindle also was a guest speaker at a September 22 conference entitled "Citizens United: Democracy for Sale" that was hosted by the League of Women Voters of New Jersey.

Brindle talked about the role of ELEC in New Jersey and the need for more disclosure by groups that participate in elections independently of candidates or parties.

He said he has held several meetings this year with legislators from both political parties advocating legislative changes that would require federal Super PACs, and non-profit groups organized under sections 527 and 501(c) of the IRS code, to disclose their contributors if they are active in New Jersey campaigns.

Brindle was joined at the dias by Susan Lederman, professor of public administration at Kean University and a former ELEC commissioner; David Earley, counsel in the Democracy Program at the Brennan Center for Justice; and league president Toni Zimmer.

County Party Committees

County party committees continued to tread water as national politics dominates New Jersey elections this year and the parties don't appear to be focusing yet on next year's gubernatorial and legislative showdown.

Preliminary numbers indicate that through three quarters, the parties together have raised nearly \$3.7 million and spent just under \$3.2 million, Jeff Brindle, Executive Director of the NJ Election Law Enforcement Commission (ELEC), announced today.

**TABLE 1
COUNTY PARTY FUNDRAISING AND SPENDING
THROUGH THIRD QUARTER 2008-2012**

YEAR	RAISED	SPENT
2008	\$ 5,534,652	\$ 5,086,016
2009	\$ 7,146,798	\$ 6,190,215
2010	\$ 4,402,872	\$ 4,288,652
2011	\$ 4,798,299	\$ 3,694,423
2012	\$ 3,662,456	\$ 3,189,326

These third quarter totals are the lowest for at least the past half decade.

There are many factors that may help explain the dropoff. Pay-to-Play restrictions are probably the biggest one since they have sharply curtailed contributions from public contractors to county parties.

Some individuals affiliated with parties appear to be creating special interest PACs as conduits to try to help county parties recoup some of this banned contractor cash. These PACs are also contributing money directly to candidates, further circumventing Pay-to-Play.

The sluggish economy also has put a damper on political fundraising. And former Gov. Jon Corzine, a previous major contributor to Democratic party committees, no longer is participating in state and local campaigns.

The numbers also are lagging because presidential and congressional campaigns are the main focus this year in New Jersey. We would expect fundraising to pick up once next year's gubernatorial and legislative elections get into full swing.

Democratic committees continued to outraise and outspend Republican committees. They also reported larger cash-on-hand reserves. Republicans reported a larger net worth, meaning cash-on-hand adjusted for debts owed to or by the committee.

**TABLE 2
SUMMARY OF CAMPAIGN FINANCE ACTIVITY BY COUNTY PARTY COMMITTEES
FROM JANUARY 1 THROUGH SEPTEMBER 30, 2012**

	RAISED	SPENT	CASH-ON-HAND	NET WORTH*
Democratic County Party Committees	\$ 2,154,287	\$ 1,984,631	\$ 1,018,433	\$ 571,718
Republican County Party Committees	\$ 1,508,169	\$ 1,204,695	\$ 555,215	\$ 952,807
Total- Both Parties	\$ 3,662,456	\$ 3,189,326	\$ 1,573,648	\$ 1,524,525

*Cash-on-hand adjusted for debts owed to or by the committee.

TABLE 3
SUMMARY OF CAMPAIGN FINANCE ACTIVITY BY COUNTY PARTY COMMITTEES
FROM JANUARY 1 THROUGH SEPTEMBER 30, 2008

	RAISED-2008	SPENT-2008	CASH-ON-HAND	NET WORTH*
Democratic County Party Committees	\$ 3,507,823	\$ 3,459,122	\$ 1,809,356	\$ 1,559,916
Republican County Party Committees	\$ 2,026,829	\$ 1,626,894	\$ 591,600	\$ 847,314
Total- Both Parties	\$ 5,534,652	\$ 5,086,016	\$ 2,400,956	\$ 2,407,230
Difference 2012 versus 2008				
Democratic County Party Committees	-39%	-43%	-44%	-63%
Republican County Party Committees	-26%	-26%	-6%	12%
Total- Both Parties	-34%	-37%	-34%	-37%

*Cash-on-hand adjusted for debts owed to or by the committee.

Both parties are raising and spending less money than they did four years ago, and have less cash-on-hand. Republicans did report slightly higher net worth.

Among all committees, the Passaic County Democratic Committee continues to report the highest fundraising, spending and cash-on-hand totals. Five Democratic counties have raised more than \$150,000 this year- Bergen, Camden, Gloucester, Middlesex and Passaic. Three Democratic committees reported a negative net worth- Burlington, Hudson and Monmouth.

TABLE 4
CAMPAIGN FINANCE ACTIVITY BY DEMOCRATIC COUNTY PARTY COMMITTEES
FROM JANUARY 1 THROUGH SEPTEMBER 30, 2012

DEMOCRATS	RAISED	SPENT	CASH-ON-HAND	NET WORTH
Atlantic	\$ 31,767	\$ 33,401	\$ 16,202	\$ 16,202
Bergen	\$ 241,347	\$ 246,495	\$ 2,445	\$ 160,557
Burlington	\$ 59,223	\$ 29,366	\$ 18,570	\$ (74,397)
Camden	\$ 312,126	\$ 251,859	\$ 134,934	\$ 134,934
Cape May	\$ 6,702	\$ 3,538	\$ 3,863	\$ 3,863
Cumberland**	\$ 11,170	\$ 10,961	\$ 4,306	\$ 4,306
Essex	\$ 105,290	\$ 156,903	\$ 84,541	\$ 84,541
Gloucester	\$ 350,971	\$ 157,868	\$ 213,215	\$ 133,797
Hudson	\$ 46,643	\$ 46,709	\$ 3,698	\$ (358,332)
Hunterdon	\$ 37,537	\$ 30,390	\$ 20,912	\$ 20,912
Mercer	\$ 25,043	\$ 55,479	\$ 40,550	\$ 40,550
Middlesex	\$ 195,580	\$ 278,760	\$ 26,166	\$ 26,166
Monmouth**	\$ 4,996	\$ 26,230	\$ 957	\$ (77,068)
Morris	\$ 47,835	\$ 47,270	\$ 10,778	\$ 10,778
Ocean	\$ 35,633	\$ 27,195	\$ 24,071	\$ 40,238
Passaic	\$ 458,035	\$ 400,344	\$ 301,239	\$ 301,239
Salem	\$ 14,370	\$ 15,821	\$ 52,872	\$ 52,872
Somerset	\$ 59,485	\$ 42,854	\$ 20,539	\$ 20,539
Sussex	\$ 8,811	\$ 6,845	\$ 4,961	\$ 4,961
Union	\$ 101,723	\$ 116,343	\$ 33,614	\$ 25,060
Warren	na	na	na	na
Democrats-Total	\$ 2,154,287	\$ 1,984,631	\$ 1,018,433	\$ 571,718

** Through June 30, 2012

Among Republicans, the Burlington County Republican Committee had the highest totals for fundraising, spending and net worth. Three Republican committees have raised more than \$150,000 this year- Bergen, Burlington, and Somerset. Somerset also reported the largest cash-on-hand. One Republican committee- Hunterdon- reported a negative net worth.

**TABLE 5
CAMPAIGN FINANCE ACTIVITY BY REPUBLICAN COUNTY PARTY COMMITTEES
FROM JANUARY 1 THROUGH SEPTEMBER 30, 2012**

REPUBLICANS	RAISED	SPENT	CASH-ON-HAND	NET WORTH
Atlantic	\$ 26,668	\$ 31,976	\$ 6,617	\$ 6,617
Bergen	\$ 192,185	\$ 147,772	\$ 63,653	\$ 63,653
Burlington	\$ 348,048	\$ 337,582	\$ 27,061	\$ 469,819
Camden	\$ 22,606	\$ 29,428	\$ 7,748	\$ 8,640
Cape May	\$ 87,440	\$ 61,789	\$ 43,938	\$ 43,938
Cumberland	\$ 73,123	\$ 48,814	\$ 31,313	\$ 31,313
Essex	\$ 22,410	\$ 13,529	\$ 13,334	\$ 13,334
Gloucester	\$ 47,084	\$ 38,674	\$ 8,688	\$ 8,688
Hudson***	na	na	na	na
Hunterdon	\$ 33,220	\$ 36,011	\$ 16,290	\$ (25,710)
Mercer	\$ 6,975	\$ 7,606	\$ 3,014	\$ 3,014
Middlesex**	\$ 36,024	\$ 18,006	\$ 37,977	\$ 37,977
Monmouth	\$ 127,177	\$ 104,422	\$ 32,802	\$ 32,802
Morris	\$ 68,301	\$ 67,743	\$ 21,444	\$ 21,444
Ocean	\$ 75,861	\$ 44,931	\$ 34,406	\$ 34,406
Passaic	na	na	\$ 592	\$ 592
Salem	\$ 27,585	\$ 43,330	\$ 5,351	\$ 5,351
Somerset	\$ 254,616	\$ 108,312	\$ 189,397	\$ 186,612
Sussex	\$ 31,279	\$ 37,852	\$ 8,021	\$ 6,748
Union*	\$ 11,611	\$ 10,887	\$ 3,068	\$ 3,068
Warren	\$ 15,956	\$ 16,031	\$ 501	\$ 501
Republicans-Total	\$ 1,508,169	\$ 1,204,695	\$ 555,215	\$ 952,807

* Through March 31, 2012

** Through June 30, 2012

*** Does not plan to raise or spend more than \$4,900 per year reporting threshold

The numbers in this analysis are based on reports filed by noon Monday, October 22, 2012. They have yet to be verified by ELEC and should be considered preliminary. The reports are available on ELEC's website at www.elec.state.nj.us. ELEC also can be accessed on Facebook (www.facebook.com/NJElectionLaw) and Twitter (www.twitter.com/elecny).

“Big Six” Committees - 3rd Quarterly Reports 2012

The so-called “Big Six” committees of the two major parties have raised slightly more than \$4 million so far this year and spent slightly less, according to reports that disclose their campaign finance activities since January 1.

Reports filed with the New Jersey Election Law Enforcement Commission by the two state parties and four Legislative Leadership committees also revealed that Republicans continue to dominate Democrats among the six committees.

TABLE 1
FUNDRAISING BY “BIG SIX” COMMITTEES - JANUARY 1 THROUGH SEPTEMBER 30, 2012

REPUBLICANS	RAISED	SPENT	CASH-ON-HAND	NET WORTH*
New Jersey Republican State Committee	\$ 2,272,125	\$ 2,441,299	\$ 369,831	\$ 304,552
Senate Republican Majority	\$ 359,717	\$ 227,733	\$ 338,305	\$ 338,305
Assembly Republican Victory	\$ 329,795	\$ 206,357	\$ 192,706	\$ 192,706
Sub Total- Republicans	\$ 2,961,637	\$ 2,875,389	\$ 900,842	\$ 835,563
DEMOCRATS				
New Jersey Democratic State Committee	\$ 479,805	\$ 424,793	\$ 156,944	\$ 133,703
Senate Democratic Majority	\$ 216,401	\$ 337,012	\$ 145,588	\$ 125,588
Democratic Assembly Campaign Committee	\$ 426,067	\$ 334,612	\$ 128,058	\$ 97,619
Sub Total- Democrats	\$ 1,122,273	\$ 1,096,417	\$ 430,590	\$ 356,910
Total- Both Parties	\$ 4,083,910	\$ 3,971,806	\$ 1,331,432	\$ 1,192,473

*Net worth is cash-on-hand adjusted for debts owed to or by committee.

The majority of fundraising and spending has been done by one committee- the Republican State Committee. Fifty-six percent of all funds raised to date by the Big Six, and 61 percent of the combined spending, has been done by the party committee. Its fortunes improved sharply after Republican Gov. Chris Christie took office in January 2010.

Compared to the same period four years earlier, combined fundraising was down 8 percent. But spending, cash-on-hand and net worth all were slightly higher. Republican totals continue to see major improvement from four years ago, while Democratic totals are down.

TABLE 2
CAMPAIGN FINANCE ACTIVITIES FOR “BIG SIX” COMMITTEES THROUGH THIRD QUARTER - 2008 VS 2012

REPUBLICANS	RAISED	SPENT	CASH-ON-HAND	NET WORTH*
2008	\$ 1,194,414	\$ 839,738	\$ 584,224	\$ 480,441
2012	\$ 2,961,637	\$ 2,875,389	\$ 900,842	\$ 835,563
Difference-Dollars	\$ 1,767,223	\$ 2,035,651	\$ 316,618	\$ 355,122
Difference-%	148%	242%	54%	74%
DEMOCRATS				
2008	\$ 3,263,473	\$ 2,668,637	\$ 742,610	\$ 653,986
2012	\$ 1,122,273	\$ 1,096,417	\$ 430,590	\$ 356,910
Difference-Dollars	\$ (2,141,200)	\$ (1,572,220)	\$ (312,020)	\$ (297,076)
Difference-%	-66%	-59%	-42%	-45%
BOTH PARTIES				
2008	\$ 4,457,887	\$ 3,508,375	\$ 1,326,834	\$ 1,134,427
2012	\$ 4,083,910	\$ 3,971,806	\$ 1,331,432	\$ 1,192,473
Difference-Dollars	\$ (373,977)	\$ 463,431	\$ 4,598	\$ 58,046
Difference-%	-8%	13%	<1%	5%

*Net worth is cash-on-hand adjusted for debts owed to or by committee.

State Parties and Legislative Leadership Committees are required to report their financial activity to the Commission on a quarterly basis. The reports are available on ELEC’s website at www.elec.state.nj.us. ELEC also can be accessed on Facebook (www.facebook.com/NJElectionLaw) and Twitter (www.twitter.com/elecnj).

Training Seminars

Please provide the information requested below and return the **entire reservation form** to ELEC. Since space is limited, you must reserve a seat in order to attend. The seminars listed below will be held at the Offices of the Commission, located at 28 West State St., Trenton, NJ. Please select your choice **by circling one of the dates below**:

BUSINESS ENTITY PAY-TO-PLAY TRAINING	
Please contact the Special Programs staff for information at (609) 292-8700. Pay-To-Play Reservation Form*	
November 16, 2012 (full)	10:00 a.m.
January 25, 2013	10:00 a.m.
February 22, 2013	10:00 a.m.
March 15, 2013	10:00 a.m.
TREASURER TRAINING FOR POLITICAL PARTY COMMITTEES AND PACS	
Treasurer Training for Political Parties Reservation Form**	
December 12, 2012	10:00 a.m.

* You may mail the form back to ELEC, Special Programs Section, P.O. Box 185, Trenton, NJ 08625-0185 or you may fax the form to ELEC at (609) 292-4238. For directions, contact the Special Programs staff.

** You may mail the form back to ELEC, Compliance and Information Section, PO Box 185, Trenton, NJ 08625-0185. Or, you may fax the form to ELEC at (609) 633-9854. For directions, contact the Compliance and Information staff.

Reporting Dates

ELECTION	48 HOUR START DATE	INCLUSION DATES	FILING DATE
GENERAL** (90 DAY START DATE: 8/8/12)	10/24/12		11/6/2012
20-day Postelection Reporting Date		10/24/12 - 11/23/12	11/26/2012
RUNOFF (DECEMBER)*	11/21/12		12/4/2012
29-day Preelection Reporting Date		No Report Required for this Period	
11-day Preelection Reporting Date		10/24/12 - 11/20/12	11/23/2012
20-day Postelection Reporting Date		11/21/12 - 12/21/12	12/24/2012
PACs & CAMPAIGN QUARTERLY FILERS			
4th Quarter		10/1/12 - 12/31/12	1/15/2013

* A candidate committee or joint candidates committee that is filing in a 2012 Runoff election is not required to file a 20-day postelection report for the corresponding prior election (May Municipal or General).

** Form PFD-1 is due on April 12, 2012 for Primary Election Candidates and June 15, 2012 for Independent General Election Candidates.