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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

It is gratifying to have been selected Chairman of the New Jersey Election Law Enforcement Commission by Governor Chris Christie.

As a former treasurer to numerous campaign committees I realize the importance of ELEC to the integrity of the electoral process.

The Commission has been served by outstanding individuals throughout its long history, individuals who have conducted business in a fair and non partisan manner.

It is my intention to continue this proud tradition of neutrality, integrity, and excellence as we move forward.

At this time I would like to commend Jerry Fitzgerald English, who has served as Chair of the Commission for the past six years.

Commissioner English did an exemplary job guiding the Commission during that period of time and the public thanks her.

In 1973 the Legislature created the Commission as an independent agency, in which no more than two of its four commissioners can be from the same party.

Because the Commission oversees the campaign financial aspects of the electoral process, Commissioners and staff are subject to a strict code of ethics.

For example, we are prohibited from making political contributions, cannot hold public office or an office in any political party.

Moreover, we cannot attend political events or hold one at our homes.

So in other words, to be associated with the Commission a person must subject him or herself to a similar code of ethics as that imposed upon judges. This has contributed to the sense of trust the public has had in the work of the Commission through the years.

In the years ahead, the Commission will continue to hold fast to this tradition of trust. And as it does it will continue to promote open and honest government through vigorously pursuing its mission of disclosure.

In the past year there have been many initiatives undertaken to bring important information to the public. Among the initiatives are this newsletter, a local contributor database, scanned lobbyist reports, and video press releases.

One of our goals for the near future is to provide electronic filing for lobbyists and ultimately 100 percent electronic filing for all forms and reports.

At any rate, it is the plan to keep moving forward, never ceasing to improve, and never ceasing to bring greater transparency to the process.

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## Ronald DeFilippis

### Named Chairman of the Commission

Governor Chris Christie has appointed Ronald DeFilippis as Chairman of the New Jersey Election Law Enforcement Commission.

Chairman DeFilippis replaces Jerry Fitzgerald English as Chair. Mrs. English will remain on the Commission as Commissioner.

Chairman DeFilippis is one of the few veteran campaign treasurers ever named to the Commission.

His first involvement as a campaign treasurer occurred in 1977, when former State Senator C. Robert Sarcone of Essex County asked him to serve as treasurer for his campaign in the Republican Primary for Governor. Since then, he has served as treasurer for scores of candidates throughout New Jersey for offices ranging from township council seats to U.S. Senate. From 1989 to 1995, he served as Treasurer for the Assembly Republican Majority.

Ronald J. DeFilippis is a founding partner in the firm of Mills & DeFilippis (CPAs LLP) where he currently serves as senior partner. He was appointed to the Commission in June, 2010. Mr. DeFilippis was named Chairman by Governor Chris Christie in October.

## Albert Burstein - Retires

Albert Burstein has retired from the Commission after six years of service.

During that time he served the people of New Jersey with his customary dignity and sense of fairness.

While on the Commission, he was involved in many important areas such as the promulgation of lobbying regulations and the regulation of the Clean Elections Pilot Program. Moreover, he served during two gubernatorial elections, presiding over the Gubernatorial Public Financing Program he once sponsored as a Member of the Assembly in 1974.

Former Commissioner Burstein served during the implementation of the Play-to-Play Law as well.

The Commission wishes to extend their very best for a healthy, happy, and rewarding future.

## Walter F. Timpone

### Appointed to the Commission

Walter F. Timpone was recently appointed to the Commission by Governor Chris Christie. Mr. Timpone replaces Albert Burstein as a member of the Commission.

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

While at the U.S. Attorney's Office, he led the prosecutions and convictions of nearly twenty-five public officials on charges of corruption and fraud against the public.

Commissioner Timpone also served as the first Federal Election Monitor in Passaic County. As the monitor he was assigned the task of protecting the voting rights of the County's Hispanic citizens.

The Commissioner was also appointed by the Federal Court as Ombudsman for the Department of Defense to oversee a contractor who failed to notify the government of failed parts related to the Patriot missile.

In his current position, Commissioner Timpone represents health care industry organizations, companies, institutions, and individuals. Moreover, he is an Associate General Executive Board Attorney for the LIUNA Union where he investigates, charges, and takes to hearing union members for violations of union's rules and ethics procedures.

Commissioner Timpone, who has extensive trial experience, is admitted to practice in New Jersey and New York as well as the United States Supreme Court, Federal District Courts of New Jersey and the Northern, Southern, and Eastern Districts of New York.

He has been named as a Super Lawyer in New Jersey and was listed in the Top 100 New Jersey Super Lawyers for 2009 and 2010.

## Executive Director's Thoughts Jeff Brindle

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

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

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

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

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

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

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

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

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

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

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

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

And that is exactly what happened.

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

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

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

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

**The above article by Jeff Brindle appeared in *NewJerseyNewsroom.com* on October 12, 2010**

## Citizens United v. FEC

After the Citizens United v. Federal Election Commission (FEC) ruling in January by the U.S. Supreme Court, there were predictions that the landmark ruling would unleash a torrent of new independent campaign spending.

The decision allowed corporations and unions to spend unlimited sums independently and found unconstitutional a 60-day "blackout" period on independent general election campaign ads that had been imposed by the Bipartisan Campaign Reform Act of 2002, best known as McCain-Feingold. At the same time, it upheld a federal ban on direct contributions by corporate and union to candidates, and came out strongly in favor of disclosure.

Shortly after, I wrote a column that made this prediction: "The decision [Citizens United] is almost certain to drive up spending in the congressional elections this fall. The freedom granted corporations and unions to spend independently in federal elections will be manifested in 13 congressional races."

So far, it hasn't turned out that way, at least not in the Garden State. There's no evidence that the ruling has had a dramatic impact yet on New Jersey races. Nationally, there is mixed evidence and the verdict remains out.

The election remains a week away, and independent spending sometimes occurs at the last minute. But the information available to date shows that independent spending in New Jersey's congressional races actually is down from two years ago.

According to data compiled by the Center for Responsive Politics, a Washington-based group that closely tracks the flow of federal campaign dollars, outside groups spent \$7.7 million in New Jersey congressional districts in 2008. That total has dropped to \$1.5 million- an 80 percent reduction.

The numbers are even smaller when you omit independent expenditures by committees controlled by parties, primarily the Democratic Congressional Campaign Committee and the National Republican Congressional Committee.

Not counting party contributions, independent groups sank \$1.5 million into 2008 campaigns. That compares to \$1.3 million this year- an 18 percent decline.

One thing that is significant- even though independent spending is down, it still is a larger percentage of overall spending in New Jersey congressional races compared to two years ago- 5.8 percent versus 5.4 percent. So candidates are depending more on outside expenditures.

If Citizens United is having a major new impact on elections, it is being felt outside of New Jersey. If you tally up independent spending in ALL 13 NEW JERSEY RACES, the total ranks behind 70 INDIVIDUAL CAMPAIGNS across the nation, according to Center for Responsive Politics data. Clearly, the most heavily targeted districts are elsewhere.

But it is more than just the January court ruling that is having an impact on congressional races. The growth in Stealth PACs actually took off after McCain-Feingold outlawed unlimited "soft money" contributions to the National Party Committees.

In 2002, when the bill became law, the Center for Responsive Politics estimated outside money at just \$27.3 million. That total grew to \$200 million in 2004, and reached a peak of \$302 million in 2008.

So far this year, the group estimates more than \$229 million has been spent on top of direct candidate spending.

The Campaign Finance Institute, another Washington-based non-profit that studies campaign finance trends, comes up with even larger totals for outside spending since it looks beyond just spending that, by law, has to be reported to the Federal Election Commission and Internal Revenue Service (IRS). It develops "best estimates" by also examining tax filings, annual reports and media interviews.

It believes outside spending surged from \$223 million in 2006 to \$397 million in 2008. So clearly the trend began well before the Citizens United case. Even so, the court case may have helped accelerated the pace of spending. Campaign Finance Institute thinks independent spending for 2010 federal races will top \$564 million.

## Citizens United v. FEC

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“Super-PACs” such as American Crossroads have suddenly emerged on the scene and, together, they are outspending the national parties.

What isn't known is whether corporations are giving more money directly to federal campaigns, or simply increasing the amounts they give to intermediaries like the Chamber of Commerce, which is spending heavily this year. “Rather than seeing new money, it is at least theoretically possible that money is simply moving from one activity to others closely related: old wine in new bottles.”

“Money that used to be spent on non-reportable (but candidate-specific) issue advertising might now be used more overtly for politics without changing the total,” it added. “We . . . cannot yet know how much of the increase stems from Citizens United.”

There is one noticeable difference this year: Republican groups are heavily outspending Democrats. In other recent elections, spending was relatively even. “. . . Democratic groups are on a path toward spending about 10 percent more than in 2008 while Republican groups seem to be up 70 percent,” said a recent analysis by the Institute.

Another clear trend has developed over several years. Far more election funding is being raised through 501(c) groups that report to the IRS and do not have to disclose their donors.

According to the Institute, 501(c) groups spent less than \$60 million in 2004 elections. Other nonprofit groups that do disclose donors to the IRS and are primarily set up for campaigns, known as 527 political committees, spent \$426 million the same year.

By 2008, spending by 501(c) groups had jumped to \$200 million- about the same as 527 committees. This shift seems to be accelerating this election season and it means voters will be even more in the dark about who specifically is bankrolling campaigns.

It almost seems national campaigns have come full circle.

Most forget that it was large, secret donations to national elections in the early 1970s that led to the more than three-decade campaign finance reform effort that has been trying to maximize information about political donors for voters.

Getting back to New Jersey, independent spending also appears to be missing in three special state elections for legislative seats this November. The 5<sup>th</sup>, 14<sup>th</sup>, and 31<sup>st</sup> legislative districts are holding elections to fill State Senate and Assembly vacancies.

Candidates in these districts have reported raising \$2.1 million and spending over \$1.4 million. So far, no independent expenditures have surfaced. In 2007, a non-profit group formed a political action committee and spent \$28,247 to oppose an Assembly incumbent in the 14<sup>th</sup> district.

Despite the dearth of independent spending this year, it is likely that what is happening nationally eventually will come to New Jersey elections.

That is why last January the New Jersey Election Law Enforcement Commission proposed that 527 which now report only to the IRS be required to disclose their contributions and expenditures if they are made in the context of an election. The same logic applies to 501(c) groups that participate directly in campaigns.

At the same time that the U.S. Supreme Court, in Citizens United, found the federal ban on independent expenditures by corporations to be unconstitutional, and the blackout period restricting spending by outside groups to be equally in violation of the First Amendment, the Court did strongly endorse disclosure.

The judges on the nation's high Court seem to recognize that the public needs to be kept informed about who is behind efforts to influence the electoral process in New Jersey and elsewhere.

Certainly, citizens have a right to form organizations and participate in elections. But the voters have a right to know who is paying for those elections. Transparency is crucial to democracy.

**The above article by Jeff Brindle appeared in NewJerseyNewsroom.com on October 26, 2010**

## Todd J. Wojcik "Profile" Director of Campaign Financing

If you peruse the bulletin board in Todd Wojcik's office, two sheets of paper draw your attention: "The Pyramid of Success" by John Wooden, and "Todd's Goals for Success."

The late UCLA coaching legend and ELEC's Director of Campaign Financing share many of the same bedrock principles for life achievement, among them patience and integrity.

"Good things take time," said Wooden, who defined integrity as "purity of intention."

"Have integrity. I wouldn't want to work for someone who does not have integrity, and I expect others not to want to either," said Wojcik. "Investments of any kind, particularly in people, require patience."

Wooden's commitment to fundamental principles made him one of the great coaches of all time. Wojcik's similar dedication is one reason ELEC has developed and maintained a reputation for fairness and responsiveness.

Any government agency that deals with 5,000 to 6,000 candidates annually is going to have occasional problems. One of Wojcik's jobs is to keep such problems to a minimum.

"We're not perfect. But generally speaking, I think we do a pretty good job with customer service. At least that's what I hear," said Wojcik.

"Campaign finance law can get somewhat complicated. We try our best to clarify things we can clarify," he added.

Wojcik and his staff perform the Commission's central mission: working to ensure that political candidates and lobbyists file complete, timely reports on their activities. The group provides assistance via telephone, walk-in consultations and informational seminars. Those regulated by the Commission also receive regular reminders through the mail of their reporting obligations.

Wojcik and his staff also process the thousands of reports submitted by candidates and lobbyists and make them available either through ELEC's website or as paper copies. Wojcik and his staff provide further support to the media, academics, campaign finance lawyers, law enforcement agencies and the general public.

Wojcik acknowledged that the atmosphere in ELEC's 13<sup>th</sup> floor office suite, where the Compliance unit is located, can become hectic and pressurized at times, particularly right before an election.

His personal recipe for such times (as taken from his list): "Expect adversity. Expect the unexpected. Murphy's law will definitely take hold."

"Plan for it and don't become rattled by it. Stay calm and clear-headed. No use crying over spilled milk. Just clean it up," he said.

Wojcik started at ELEC less than 7 years ago as an Assistant Compliance Officer. He received a Bachelor of Science degree in Computer Engineering from the College of New Jersey, and was hired by ELEC after serving nine months as a computer intern at the Richard J. Hughes Justice Complex. He became Director of Campaign Financing three years ago.

While in school, Wojcik, a Bedminster native, played football, basketball and baseball. To stay active, he now jogs and plays soccer. He likes to watch a wide variety of sports on TV, along with original shows on the Discovery Channel, Comedy Central and HBO.

## Big Six Committees - Third Quarter 2010

The six top fundraising committees of the two major state parties jointly raised about \$3.1 million during the first nine months of the year while spending a combined \$2.9 million, according to the latest quarterly reports of the so-called "Big Six" committees.

"With special elections for state legislative seats in just three districts (5<sup>th</sup>, 14<sup>th</sup> and 31<sup>st</sup>), and the main political focus this year being on federal rather than state elections, fundraising is proceeding at a more relaxed pace," said Jeff Brindle, Executive Director of the New Jersey Election Law Enforcement Commission (ELEC).

"Last year, the Governor's seat and all 80 Assembly seats were up for grabs," added Brindle. "At this point last year, the Big Six together had raised twice as much from political contributors."

Even so, parties are starting to prepare for next year's elections, when all 120 seats are at stake.

For the first nine months of the year, Democrats slightly outraised Republicans- \$1.7 million to \$1.5 million. They also spent more- \$1.5 million versus \$1.3 million (See Table 1).

However, while Republicans remain in the minority in the Legislature, they now control the Governor's seat and their fundraising fortunes appear to be improving.

For the year thus far, the three GOP committees combined are showing a larger net worth (cash reserves adjusted for debts) than the three Democratic committees- \$834,300 versus \$623,487 (See Table 1).

In another sign of a shift in fundraising activity, which typically happens after power changes hands in the State Capitol, Republicans also outraised Democrats for the quarter- \$608,304 versus \$375,411 (See Table 2). Democrats outspent Republicans \$670,722 to \$551,532 during the three month period.

With next year's legislative showdown looming, all four legislative leadership committees have fundraisers scheduled for this month.

State Party Committees 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](http://www.elec.state.nj.us).

**TABLE 1  
BIG SIX FUNDRAISING ACTIVITY FOR FIRST NINE MONTHS OF 2010**

<b>PARTY</b>	<b>YEAR-TO-DATE RAISED</b>	<b>YEAR-TO-DATE SPENT</b>	<b>NET WORTH</b>
<b>REPUBLICANS</b>	SEPTEMBER 30, 2010	SEPTEMBER 30, 2010	SEPTEMBER 30, 2010
New Jersey Republican State Committee	\$ 835,868	\$ 894,070	\$ 59,721
Senate Republican Majority	\$ 273,602	\$ 225,048	\$ 560,477
Assembly Republican Victory	\$ 358,559	\$ 218,737	\$ 214,102
<b>Sub Total Republicans</b>	<b>\$ 1,468,029</b>	<b>\$ 1,337,855</b>	<b>\$ 834,300</b>
<b>DEMOCRATS</b>			
New Jersey Democratic State Committee	\$ 528,040	\$ 522,016	\$ (34,290)
Senate Democratic Majority	\$ 541,884	\$ 530,430	\$ 499,391
Democratic Assembly Campaign Committee	\$ 622,505	\$ 469,626	\$ 158,386
<b>Sub Total Democrats</b>	<b>\$ 1,692,429</b>	<b>\$ 1,522,072</b>	<b>\$ 623,487</b>
<b>Grand Total Both Parties</b>	<b>\$ 3,160,458</b>	<b>\$ 2,859,927</b>	<b>\$ 1,457,787</b>

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## Big Six Committees – Third Quarter 2010

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**TABLE 2  
BIG SIX FUNDRAISING ACTIVITY FOR THE THIRD QUARTER OF 2010**

PARTY	2010 THIRD QUARTER RAISED	2010 THIRD QUARTER SPENT
<b>REPUBLICANS</b>		
New Jersey Republican State Committee	\$ 339,315	\$ 339,021
Senate Republican Majority	\$ 172,629	\$ 152,814
Assembly Republican Victory	\$ 96,360	\$ 59,697
<b>Sub Total Republicans</b>	<b>\$ 608,304</b>	<b>\$ 551,532</b>
<b>DEMOCRATS</b>		
New Jersey Democratic State Committee	\$ 195,661	\$ 188,556
Senate Democratic Majority	\$ 151,650	\$ 396,160
Democratic Assembly Campaign Committee	\$ 28,100	\$ 86,006
<b>Sub Total Democrats</b>	<b>\$ 375,411</b>	<b>\$ 670,722</b>
<b>Grand Total Both Parties</b>	<b>\$ 983,715</b>	<b>\$ 1,222,254</b>

## DATES TO REMEMBER

2010 Reporting Dates		
GENERAL ELECTION NOVEMBER 2, 2010	PERIOD COVERED	REPORT DUE DATE
20-day post-election	10/20/10 – 11/19/10	November 22, 2010
48 Hour Notice Reports start on 10/20/10 through 11/2/10		
PACs & CAMPAIGN QUARTERLY FILERS	PERIOD COVERED	REPORT DUE DATE
4 <sup>th</sup> Quarter	10/1/10 – 12/31/10	January 18, 2011

Treasurer Training for Candidates and Committees	
Seminars are conducted at 10:00 a.m. at the Commission's offices at 28 West State Street, 8 <sup>th</sup> floor, in Trenton.	
Treasurer Training Seminars for Political Party Committees and PACs	Thursday, December 9

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