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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 recent general election witnessed an increasing number of candidates joining together to form joint candidates committees.

So my column this month will discuss the nuts and bolts and do's and don'ts of forming and running a joint candidates committee.

First, it is important to note that the statute places restrictions on which candidates can come together for the purposes of forming such committee.

Candidates for Senate and Assembly running in a legislative district may form a joint candidates committee as can candidates for county executive and freeholder. Also, candidates for mayor and municipal governing body may establish such a committee.

Second, contribution limits continue to apply to each candidate respectively. For example, an individual may give \$2,600 per election to a candidate for office. Therefore, in a three member joint committee, that individual would be permitted to give \$7,800 (3 x \$2,600) to the committee.

If members of a joint candidates committee also form individual candidate committees, a limit of \$2,600 per candidate is applicable to both committees.

So if Candidate Jones received \$1,300 from an individual for his candidate committee he can only receive \$1,300 from that same individual for the joint candidates committee.

In establishing a joint candidates committee, two or more candidates seeking the same elective public office must file with the Commission a certificate of organization and a form designating a bank depository. This filing must take place no later than 10 days after creating the joint committee.

Moreover, the designation of depository form must contain the following information:

1. the full name of the joint candidates committee;
2. the name, mailing resident addresses and telephone numbers of the persons appointed chair and treasurer; and

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Comments from the Chairman Ronald DeFilippis

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3. the name, mailing address and telephone number of the depository bank, the account name and number, and the names, mailing addresses and telephone numbers of persons authorized to sign checks and make transactions.

In addition, for those making contributions to the joint candidates committee, the contribution must be made out only to the designated name of the committee.

All expenditures, as well as required political identification, must be made under the designated name of the committee.

Importantly, joint candidates committee file at the same time as candidate committees do. The filing requirements with the Commission are 29 and 11-days prior to an election (primary, general, May municipal, etc.) and 20-days post-election.

As long as the committee retains money in the account it must continue to file on a quarterly basis.

For those establishing joint candidates committees further information can be obtained at [N.J.A.C. 19:25-4.1](#) et al.

Executive Director's Thoughts Jeff Brindle

Wisconsin Right to Life PAC v. Barland is another in a long line of cases stemming from the McCain/Feingold reforms of 2002.

Those reforms, formally known as the Bipartisan Campaign Reform Act (BCRA), barred independent expenditures within 30 days of a primary and 60 days of a general election.

The reforms also eliminated soft money donations to the national political parties.

Ever since McCain/Feingold was enacted, there have been a slew of legal challenges both at the federal and state levels, the latest of which is this one.

In this case, Wisconsin Right to Life challenged Wisconsin Statute 11.26 (4), which limited the amount individuals may contribute to state and local candidates, political parties, and political committees to a total of \$10,000 per calendar year.

In other words, the State of Wisconsin imposed an aggregate contribution limit on its citizens.

The Wisconsin Right to Life PAC is a political committee engaged in independent expenditures supporting or opposing the election of candidates for office in Wisconsin.

This PAC is a strictly independent expenditure committee that does not make contributions to candidates nor coordinate activities with them.

The lawsuit challenged the \$10,000 aggregate limit on contributions to groups that only engage in independent spending. It does so on the grounds that the provision is a violation of the First Amendment.

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Executive Director's Thoughts

Jeff Brindle

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Wisconsin Right to Life filed the lawsuit in the context of the 2010 general election. The group was seeking an injunction against the enforcement of the law in question but was initially denied the request by the district court.

A few months after the election, nine State Senators in Wisconsin were subjected to recall elections. As a result of the recall effort, Wisconsin Right to Life again asked the court to enjoin enforcement of 11.26 (4) so that it could collect unlimited contributions and participate in the elections.

Again, the request was denied and Wisconsin Right to Life appealed the matter to the United States Court of Appeals, Seventh Circuit.

Finding in favor of Wisconsin Right to Life, the Appeals Court based its decision on Citizens United v. FEC and stated that "Section 11.26 (4) is unconstitutional to the extent that it limits contributions to committees engaged solely in independent spending for political speech."

This decision, dealing with Wisconsin campaign finance law, echoes the decision of the ninth Circuit Court of Appeals in SpeechNow v. FEC. That decision stated that contribution limits could not be applied to "independent expenditures only committees."

So, does this latest decision endanger in any way New Jersey's campaign finance system?

The short answer is that in all probability—no. However, it is a cautionary tale. It does suggest that we should be ever vigilant in keeping up with the latest round of legal challenges to once settled campaign finance law.

New Jersey law does not contain aggregate contribution limits. And while there is a limit of \$7,200 on contributions to political committees and PACs participating in New Jersey elections, these committees are not "independent expenditure only committees."

They contribute directly to candidates and at times make in-kind contributions that are coordinated with candidate campaigns.

Groups and individuals who operate only independently are not subject in New Jersey to limits on contributions or expenditures.

They do have to file as an independent expenditure but only if their advertisements contain the magic words "vote for or against," or the equivalent thereof.

Therefore, it seems as if Wisconsin Right to Life v. Barland is not applicable to New Jersey law. It is applicable to states whose campaign finance laws impose contribution limits on independent expenditure-only committees.

Campaign finance laws nationally and at the state level are being constantly challenged on First Amendment grounds. Because New Jersey's laws are consistent with First Amendment protections and at the same time are underpinned by a solid foundation of disclosure, they should be in no danger from the fall-out from this particular decision.

“Big Six” 4th Quarter 2011 Report Analysis

The so-called “Big Six” committees of the two major political parties raised and spent more than \$15 million last year when all 120 legislative seats were up for reelection, according to their latest quarterly reports on campaign finance activity.

Reports filed by the two state parties and four Legislative Leadership Committees with the New Jersey Election Law Enforcement Commission (ELEC) show that Republican committees outraised and outspent Democratic committees even though Democrats maintained control of both legislative houses.

TABLE 1
FUNDRAISING BY “BIG SIX” COMMITTEES
JANUARY 1 THROUGH DECEMBER 30, 2011

COMMITTEE	RAISED THROUGH DECEMBER 31	SPENT THROUGH DECEMBER 31	CASH-ON-HAND ON DECEMBER 31	NET WORTH* ON DECEMBER 31
REPUBLICANS				
New Jersey Republican State Committee	\$ 5,516,265	\$ 5,152,081	\$ 539,005	\$ 407,820
Senate Republican Majority	\$ 1,147,974	\$ 1,549,022	\$ 206,321	\$ 103,986
Assembly Republican Victory	\$ 1,502,821	\$ 1,727,039	\$ 69,269	\$ 69,269
Sub Total-Republicans	\$ 8,167,060	\$ 8,428,142	\$ 814,595	\$ 581,075
DEMOCRATS				
New Jersey Democratic State Committee	\$ 3,220,781	\$ 3,113,386	\$ 101,932	\$ 63,535
Senate Democratic Majority	\$ 1,977,266	\$ 2,112,012	\$ 75,013	\$ 55,013
Democratic Assembly Campaign Committee	\$ 1,670,361	\$ 1,893,819	\$ 36,602	\$ 6,164
Sub Total-Democrats	\$ 6,868,408	\$ 7,119,217	\$ 213,547	\$ 124,712
Total-Both Parties	\$ 15,035,468	\$ 15,547,359	\$ 1,028,142	\$ 705,787

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

Compared to 2007, which was the last time all 120 legislative seats defended their seats, combined “Big Six” fundraising was down 22 percent, while spending was down 33 percent.

TABLE 2
CAMPAIGN FINANCE ACTIVITY JANUARY 1 THROUGH DECEMBER 31
2007 VERSUS 2011
COMBINED TOTALS FOR BOTH PARTIES

	RAISED THROUGH DECEMBER 31	SPENT THROUGH DECEMBER 31	CASH-ON-HAND ON DECEMBER 31	NET WORTH* ON DECEMBER 31
Both Parties Combined - 2007	\$ 19,177,657	\$ 23,367,063	\$ 377,298	\$ (521,408)
Both Parties Combined - 2011	\$ 15,035,468	\$ 15,547,359	\$ 1,028,142	\$ 705,787
Difference-Dollars	\$ (4,142,189)	\$ (7,819,704)	\$ 650,844	\$ 1,227,195
Difference-%	-22%	-33%	173%	N/A

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

While combined fundraising and spending for the "Big Six" both are down since 2007, Republican committees raised and spent more than they did four years ago. Democratic committee totals are down from that election.

TABLE 3
FUNDRAISING JANUARY 1 THROUGH DECEMBER 31
2007 VERSUS 2011
COMBINED TOTALS FOR THE "BIG SIX" COMMITTEES OF EACH PARTY

	RAISED THROUGH DECEMBER 31	SPENT THROUGH DECEMBER 31	CASH-ON-HAND ON DECEMBER 31	NET WORTH* ON DECEMBER 31
REPUBLICANS				
2007	\$ 6,405,304	\$ 7,315,208	\$ 229,550	\$ 122,166
2011	\$ 8,167,060	\$ 8,428,142	\$ 814,595	\$ 581,075
Difference-Dollars	\$ 1,761,756	\$ 1,112,934	\$ 585,045	\$ 458,909
Difference-%	28%	15%	255%	376%
DEMOCRATS				
2007	\$ 12,772,353	\$ 16,051,855	\$ 147,748	\$ (643,574)
2011	\$ 6,868,408	\$ 7,119,217	\$ 213,547	\$ 124,712
Difference-Dollars	\$ (5,903,945)	\$ (8,932,638)	\$ 65,799	\$ 768,286
Difference-%	-46%	-56%	45%	N/A

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

During the final weeks before the November 8 election and in the days after it, Democrats outraised and outspent Republicans.

The latest reports from the "Big Six" committees provide further evidence of a trend seen last year- overall fundraising and spending are down from 2007. An earlier analysis showed that fundraising and spending by individual legislators last year was down 10 percent and 12 percent, respectively, compared to 2007.

Pay-to-play restrictions, which sharply limit contributions by state contractors to the two state parties and four legislative leadership PACs, are the main factor for the decline.

There are other factors as well. The economy. The fact that former Governor Jon Corzine no longer is a major contributor to Democrats. And the growing fundraising by independent groups outside the political establishment.

Independent committees, which made no expenditures in the 2007 legislative election, spent at least \$783,921 last year. The actual number is almost certainly above \$1 million since some of the groups were not required to report their spending under current campaign finance laws.

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.

Brett Mead "Profile"

Senior Review Officer

ELEC investigator Brett Mead may not have become a pilot like his father. But he still is made of "The Right Stuff."

The test pilots turned astronauts in the acclaimed 1983 film of that title- and the 1979 Tom Wolfe book on which it is based- were chosen because they displayed valor and steadiness under difficult circumstances.

ELEC investigators might not have to crack the sound barrier or fly into space. But they do handle one of the agency's toughest jobs- enforcement.

Mead, a Senior Review Officer in the Review and Investigation section, acknowledges it is not uncommon for candidates to react angrily when an agency employee contacts them about potential violations in their campaign finance reports.

"I've been called every name in the book. But I don't have any problem with candidates. I can handle it," said Mead.

Mead said he tries to calm people by reminding them that ELEC's main mission isn't to punish people, but to get them to abide by its disclosure laws for the benefit of the public. He always maintains a cordial professional demeanor.

"I really try to bring them into compliance and help them," said Mead, who has worked at ELEC more than 20 years, mostly as an investigator. "I think most people want to comply and correct potential violations."

Mead said he never thought he would end up in government after graduating from Rider University with a bachelor's degree in commerce. His father, Buzz, was a retired Pan Am pilot and real estate attorney. Mead thought he would pursue one of those careers.

He's glad he came to ELEC instead. He enjoys his challenging work and says his financial training at Rider was good preparation since he often has to plow through dozens of campaign finance reports. "There really is a lot of number-crunching," he said.

Being a longtime area resident and currently residing in South Jersey, Mead is a passionate fan of Philadelphia sports teams, including the Phillies, Eagles and Flyers.

Like most of those fans, he has endured plenty of disappointment.

"I never thought it was a big deal when I missed the Phillies World Series Championship parade in 1980," he said. "Little did I know it would take 28 years to win the next time."

"Needless to say, I went to that parade (in 2008) and loved every minute of it," he said.

In high school, he played baseball, volleyball, tennis and track. His main activity today is golf, which he often plays with his wife Karen. Another one of his favorite pastimes is to coach baseball teams that include his 9-year-old son Tyler.

Mead also has hiked large sections of the Appalachian Trail, either with his father or brother Scott. His longest stretch at one time- a 120-mile walk through Maine.

Mead said he has a love-hate relationship with hiking. "You hate it when you are on the trail. But you miss it when you are away from it," he said.

He takes inspirations from the teachings of pastor and educator Charles Swindoll. Perhaps Swindoll's most famous maxim: "Life is 10% what happens to you and 90% how you react to it."

Panel Discussion at Rutgers University

ELEC Executive Director Jeff Brindle joined three other representatives of independent state agencies on January 31 for a panel discussion before a political science class at Rutgers University. The presentation focused on the role of independent commissions and authorities.

Brindle explained that while ELEC is a small agency, its jurisdiction and responsibilities are large. It oversees campaign finance reports filed by about 5,000 to 6,000 candidates annually, regulates close to 1,000 lobbyists, serves as a clearinghouse for hundreds of reports filed by public contractors each year and, every four years, implements the Gubernatorial Public Financing Program.

Created nearly four decades ago, the agency, which is in but not of the Department of Law and Public Safety, operates independently by statute.

Joining moderator John Weingart and Brindle for the session were Jane Kelly, Vice President - Corporate Governance & Operations at the NJ School Development Authority; Anthony Marchetta, Executive Director of the NJ Housing and Mortgage Financing Agency; and Nancy Wittenberg, Executive Director of the New Jersey Pinelands Commission.

Governmental Affairs Agents- Electronic Filing Training

The staff of the New Jersey Election Law Enforcement Commission is pleased to announce training sessions on the electronic filing of the Annual Reports. To reserve a seat, please fill out the form below and fax to ELEC at (609) 633-9854.

LOBBYISTS - ELECTRONIC FILING TRAINING	
Lobbyists Training Reservation Form	
Thursday	February 2, 2012
Tuesday	February 7, 2012

Training Seminars

The seminars listed below will be held at the Election Law Enforcement Commission, 28 West State Street, 8th Floor, Trenton, New Jersey at 10:00 a.m.

To attend a seminar, you must reserve a seat. Space will be limited. Fill out the reservation form below and be sure **to circle the date you wish to attend**. Return the entire reservation form to the Commission. You may mail the form back to ELEC, PO Box 185, Trenton, NJ 08625-0185. Or, you may fax the form to ELEC at (609) 633-9854.

TREASURER TRAINING FOR CANDIDATES AND JOINT CANDIDATES COMMITTEES	
Treasurer Training Reservation Form	
Wednesday	March 14, 2012
Tuesday	April 3, 2012
Wednesday	April 11, 2012
Tuesday	April 24, 2012
Tuesday	September 11, 2012
Monday	September 24, 2012
Tuesday	October 2, 2012

TREASURER TRAINING FOR POLITICAL PARTY COMMITTEES AND PACS	
Treasurer Training Reservation Form	
Monday	March 26, 2012
Wednesday	June 27, 2012
Friday	September 28, 2012
Wednesday	December 12, 2012

R-1 ELECTRONIC FILING SOFTWARE (REFS) TRAINING	
REFS Training Reservation Form	
Wednesday	March 28, 2012
Thursday	April 12, 2012
Wednesday	April 25, 2012
Wednesday	July 25, 2012
Wednesday	September 19, 2012
Wednesday	October 3, 2012

DATES TO REMEMBER

Reporting Dates

ELECTION	48 HOUR START DATE	INCLUSION DATES	ELEC DATE
FIRE COMMISSIONER	2/5/12		2/18/2012
29-day Preelection Reporting Date		Inception of campaign* - 1/17/12	1/20/2012
11-day Preelection Reporting Date		1/18/12 - 2/4/12	2/7/2012
20-day Postelection Reporting Date		2/5/12 - 3/6/12	3/9/2012
SCHOOL BOARD	4/4/12		4/17/2012
29-day Preelection Reporting Date		Inception of campaign* - 3/16/12	3/19/2012
11-day Preelection Reporting Date		3/17/12 - 4/3/12	4/9/2012
20-day Postelection Reporting Date		4/4/12 - 5/4/12	5/7/2012
MAY MUNICIPAL (90 DAY START DATE: 2/8/12)	4/25/12		5/8/2012
29-day Preelection Reporting Date		Inception of campaign* - 4/6/12	4/9/2012
11-day Preelection Reporting Date		4/7/12 - 4/24/12	4/27/2012
20-day Postelection Reporting Date		4/25/12 - 5/25/12	5/29/2012
RUNOFF (JUNE)**	5/30/12		6/12/2012
29-day Preelection Reporting Date		No Report Required for this Period	
11-day Preelection Reporting Date		4/25/12 - 5/29/12	6/1/2012
20-day Postelection Reporting Date		5/30/12-6/29/12	7/2/2012
PRIMARY*** (90 DAY START DATE: 3/7/12)	5/23/12		6/5/2012
29-day Preelection Reporting Date		Inception of campaign* - 5/4/12	5/7/2012
11-day Preelection Reporting Date		5/5/12 - 5/22/12	5/25/2012
20-day Postelection Reporting Date		5/23/12 - 6/22/12	6/25/2012
GENERAL*** (90 DAY START DATE: 8/8/12)	10/24/12		11/6/2012
29-day Preelection Reporting Date		6/23/12 - 10/5/12	10/9/2012
11-day Preelection Reporting Date		10/6/12 - 10/23/12	10/26/2012
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, PCFRS & CAMPAIGN QUARTERLY FILERS			
1st Quarter		1/1/12 - 3/31/12	4/16/2012
2nd Quarter****		4/1/12 - 6/30/12	7/16/2012
3rd Quarter		7/1/12 - 9/30/12	10/15/2012
4th Quarter		10/1/12 - 12/31/12	1/15/2013

* Inception Date of Campaign (first time filers) or from January 1, 2012 (Quarterly filers).

** 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.

**** A second quarter report is needed by Independent General Election candidates if they started their campaign before 5/9/2012.