



OCPF Reports

Published quarterly by the Office of Campaign and Political Finance
Commonwealth of Massachusetts

Volume 10, Number 1

Spring 2005

From the Director

Fully implemented

Electronic filing of campaign disclosure reports has finally reached the culmination of its implementation. Candidates, PACs, party committees, and ballot question committees that file with OCPF should now be submitting their required reports electronically. In some cases, if the candidate or committee has not reached the applicable financial activity threshold, they may still file their reports on paper. In practice, however, the only paper filings we usually receive are from local party committees (they have a \$10,000 threshold), though many of them have opted to file their reports electronically.

Our most recent converts to electronic filing were county candidates and candidates for mayor and councilor-at-large in cities with populations greater than 100,000. This phase of the implementation has been very smooth. Our MIS staff, Al Grimes and Tracey Dano, continues to upgrade our software to make it easier for users to work with. We hope to release our next upgrade sometime this coming fall.

In other news, as we do after every state election, we are reviewing the three reports filed by legislative candidates who were on the ballot in 2004. As many

Continued on Page 2

OCPF updates advice on ballot question activity

A recently reissued interpretive bulletin provides further guidance on the issue of the use of public resources in elections, especially municipal ballot questions.

The bulletin, IB-91-01, "The Use of Governmental Resources for Political Purposes," deals with such issues as the distribution of information at public expense, public meetings, the use of government buildings and facilities for political meetings, and the role of political committees in ballot question elections, such as Proposition 2 1/2 overrides and debt exclusions.

The Supreme Judicial Court ruled in *Anderson v. City of Boston* in 1978 that the campaign finance law prohibits the use of public resources to influence

voters. The decision has its most common application in local override elections, where questions often arise over the actions of officials and the publicly funded distribution of information concerning a ballot question.

The latest revision is intended to address questions and issues raised in recent cases and seminars conducted by OCPF in numerous cities and towns, said OCPF Director Michael Sullivan.

"This is a major issue on the local level, with dozens of overrides on ballots each year," Sullivan said. "Officials, ballot question committees and the public are constantly asking us about the limits of the law in this area."

Continued on Page 2

**City candidates
file reports
Page 2**

House candidate ordered to pay back public campaign funds

A Superior Court judge has upheld OCPF's finding that a Springfield man falsified portions of his application for public funds for his 2002 legislative campaign and ordered him to pay back the money he received from the state.

Robert Collamore of Springfield had appealed OCPF's decision of September 2002, when the office decertified him under the Clean Elections program.

Judge Elizabeth Fahey reject the appeal in February, stating that OCPF's decertification was "supported by substantial evidence."

Collamore appealed Fahey's ruling to the state Appeals Court in late April.

Collamore ran unsuccessfully in the 12th Hampden District in 2002. He won the Republican primary but lost in

Continued on Page 4

Candidates in five largest cities now file their reports online

Voters in cities across the Commonwealth will go to the polls this fall to elect municipal officials, including mayor, city councilors and School Committee members.

Candidates in the vast majority of cities will file their campaign finance reports with their respective city clerks or election commissions.

Their reports are filed eight days before the preliminary and general elections as well as on Jan. 20.

Some candidates in the five largest cities, however, file their reports with OCPF, following a different schedule and reporting system.

Candidates for mayor and councilor-at-large (not district councilor or school committee) in Boston, Cambridge, Lowell, Springfield and Worcester file in the depository system, in which they designate banks to file regular reports on their behalf with OCPF. The reports are filed monthly until July, then twice a month through the end of the year.

In previous years, these candidates' reports were filed in paper form. Candidates brought contributor information forms in triplicate to their banks, which bundled them with expenditure information and forwarded the entire package to OCPF at the end of the report-

ing period.

This time, however, there's a new face to disclosure by municipal depository candidates. Instead of sending sheets of paper to OCPF, candidates and their banks are now filing their reports electronically, allowing for almost immediate display on the Electronic Filing System, which may be accessed through the "Electronic Filing" section of OCPF's web site, www.mass.gov/ocpf.

Since January, municipal depository candidates have been e-filing contributor information directly to OCPF, using the office's *Depository Reporter* software. Those who prefer not to load the software onto their computers can use the Web Reporter tool, which allows them to enter items directly onto OCPF's database.

Banks e-file expenditure information at the end of each reporting period, showing any expenditures that have cleared the depository account. Because the candidates now provide contributor and other receipt information directly to OCPF, however, banks report only the total amount deposited.

OCPF will conduct seminars in each of the five depository cities in the coming months to help candidates better understand the e-filing procedure.

Updated bulletin gives ballot question advice

From Page 1

The bulletin complements the guidance contained in IB-92-02, "Activities of Public Officials in Support of or Opposition to Ballot Questions." That bulletin was also

recently revised.

Both bulletins may be accessed through the "Legal Guidance" section of OCPF's website, www.mass.gov/ocpf. Click on the "Interpretive Bulletins" heading for an index of all publications.

Online visitors may also click on the "Public Resources" heading in the "Campaign Finance Guides" section of the website.

From the Director

From Page 1

of these candidates know, we perform this auditing task in conjunction with our annual PAC crosscheck. The crosscheck entails the time-consuming step of reviewing the cancelled check of each contribution made by a PAC to ensure that the recipient cashed it and disclosed it accurately. Through an electronic crosscheck, we are also reviewing activity during 2004 by local party committees to ensure that they filed the appropriate disclosure reports.

Finally, spring means election season in towns across the Commonwealth. In many of these towns, Proposition 2 1/2 overrides or debt exclusions will appear on the ballot. Our office has been to many towns to discuss what public officials can do or say in regard to the ballot question in their town. As you can read elsewhere in this issue, we have recently updated our Interpretive Bulletin 91-01 to provide further assistance to these officials. We also encourage officials to send us drafts of any material they wish to distribute on a ballot issue so that we can provide guidance and help them avoid any mistakes in this area.

In personnel news, Sarah Hartry has joined OCPF as a staff attorney. Sarah previously worked as an assistant district attorney in Norfolk County and as an assistant Massachusetts attorney general. She replaces Barbara Petersen, who has taken a position with the state Division of Insurance.

Mike Sullivan
Director



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Recent Cases and Rulings

OCPF audits all campaign finance reports and reviews all complaints alleging violations of the campaign finance law. These audits and reviews may result in enforcement actions or rulings such as public resolution letters, disposition agreements or referral to the Office of the Attorney General for further action.

A public resolution letter may be issued in instances where OCPF found "no reason to believe" a violation occurred; where "no further action" or investigation is warranted; or where a subject "did not comply" with the law but the case is able to be settled in an informal fashion with an educational letter and/or a requirement that some corrective action be taken. A public resolution letter does not necessarily imply any wrongdoing on the part of a subject and does not require agreement by a subject.

A disposition agreement is a voluntary written agreement entered into between the subject of a review and OCPF, in which the subject agrees to take certain specific actions.

OCPF does not comment on any matter under review, nor does the office confirm or deny that it has received a specific complaint. The identity of any complainant is kept confidential. Public resolution letters and disposition agreements are matters of public record once cases are concluded.

Public Resolution Letters

- **04-79: Charles Lyons, Arlington.** Did Not Comply (political fundraising by public employee); 12/15/04. A public school superintendent violated the campaign finance law's prohibition on fundraising by public employees by co-hosting a fundraising event for a federal candidate.
- **04-69: Joseph DiRocco, Dracut.** Did Not Comply (receipt of funds raised through use of public employee's name); 12/20/04. A candidate's committee included a public employee's name on some invitations to a fundraiser. It appeared, however, that the public employee had no knowledge that his name was used.
- **04-86: Anne Manning, Peabody.**

No Reason To Believe (disclosure of independent expenditures); 12/21/04. An organization, MassEquality, distributed two mailings without consulting with the candidate being supported by the mailings. Because of this absence of consultation with the candidate, the mailings were not in-kind contributions. The mailings also fell short of "expressly advocating" the election or defeat of the candidate and the organization was therefore not required to file a Report of Independent Expenditures.

- **04-68: Garry Blank, East Sandwich.** Did Not Comply (failure to disclose liabilities in a timely manner); 12/21/04. A candidate's campaign finance report failed to disclose liabilities for bumper stickers, signs and other materials. The candidate believed that the liabilities did not need to be reported until he received an invoice, and the invoice for the materials was not received until after the end of the reporting period. Liabilities must be reported, however, as of the date when goods or services are received.

- **04-81: Katherine Clark, Melrose.** Did Not Comply (failure to disclose receipts and expenditures in a timely manner); 1/26/05. A candidate's committee made a number of errors in its pre-election campaign finance report. Most significantly, the committee did not disclose more than \$16,000 of expenditures and did not list liabilities of a similar amount in a timely manner. The committee addressed the errors and filed amendments after it was contacted by OCPF.

- **04-91: William A. Trotta, Paxton.** Did Not Comply (failure to electronically file contribution information); 1/31/05. A depository candidate's committee failed to electronically file D106 reports of contributions totaling \$23,501 until several months after such reports were due.

- **04-93: Kevin Tarpley,**

Somerville. Did Not Comply (political fundraising by public employee); 2/14/05. A candidate distributed invitations to a fundraising event that reflected the name of the committee's chairman, who was a non-elected public employee. Contributions were sent to the address of the public employee. In response to OCPF's review, the committee cancelled the fundraiser and refunded \$550 in contributions. In addition, the chairman resigned from his position.

- **04-87: Parents Rights Coalition and Article 8 Alliance, Waltham.**

Did Not Comply (failure to register group as political committee); 3/16/05. A group should have organized a PAC before posting information on its website and distributing a letter to supporters that raised funds, at least in part, to influence the election of candidates.

- **04-45: Gov. Mitt Romney, Boston.** No reason to believe (use of public resources for political purposes); 4/12/05. Several issues were addressed in this ruling: (1) The Governor's press office could return media calls to inform press corps of a press availability, and the Governor could answer questions outside his State House office on a number of issues, including the recent selection of the Democratic vice presidential nominee. (2) The Governor could use public funds to travel to an event in Washington, which was not political in nature, to speak regarding matters of public policy, even if political issues were also referenced in his remarks. (3) The Governor could stop on the way to the event to make a speech at a political function in a different city since his political committee paid the additional costs associated with attending the political function. (4) The Governor's participation in a book signing was not a campaign event subject to the campaign finance law.

House candidate ordered to repay public funds

From Page 1

the November general election.

In order to become eligible for Clean Elections funding, a House candidate had to submit documentation of small contributions from 200 voters in his or her district. These qualifying contributions were verified by the signatures of each contributor on forms or cards, to be submitted by a candidate.

OCPF's ruling found that there was a "widespread pattern of falsification" in signatures that appeared on Collamore's qualifying contributor lists, including a pattern of misspelled names and forgeries and at least 15 instances where contributions had been falsified.

There was, therefore, "substantial credible evidence" that Collamore and/or his Committee falsely reported numerous qualifying contributions and that such activity was done knowingly.

In addition to being decertified, Collamore was fined \$160 for falsely reporting fifteen contributions totaling \$80. He was also ordered to pay back the \$16,200 in public money he received for his campaign under the Clean Elections law, plus interest.

In her ruling, Judge Fahey wrote that given Collamore's relationship with the campaign workers gathering the signatures and his testimony "that he exercised control and oversight of his campaign effort, OCPF could reason-

ably draw the inference that Collamore had knowledge of the filing of false reports to OCPF."

The Clean Elections program offered partial public funding to candidates who agreed to observe spending limits. The program was implemented in the 2002 election and applied to candidates for statewide office, the Legislature and the Governor's Council.

The program was discontinued with the repeal of the Clean Elections law **in 2003**. Limited public financing is now available only to candidates for statewide office, under a system that was last implemented in 1998.

Advisory Opinions

OCPF issues written advisory opinions on prospective activities. Each opinion summarized below also notes the OCPF file number and the requesting party. Copies of all advisory opinions are available from OCPF and online at www.mass.gov/ocpf.

•AO-05-01: A contribution made under a power of attorney is considered to be from the person who established and financed the account, who has authorized another to act on his or her behalf to make expenditures from the account. (Reilly Committee).

•AO-05-02: A sheriff's political committee may make expenditures to pay for legal expenses in connection with an Ethics Commission investigation involving allegations that the sheriff had inmates perform work on his residence without compensation and that corrections officers transported inmates to the sheriff's home under the guise of community service. In addition, the campaign may defray legal costs associated with a defamation action concerning such allegations. If the committee pays legal fees for a

defamation action, neither the candidate nor the committee may retain any funds awarded pursuant to a judgment obtained in such action, and must donate such proceeds to a charitable or other entity in a manner consistent with the residual funds clause. (Cousins).

•AO-05-03: If a "taxpayer association" will be soliciting or receiving contributions to support or oppose candidates, it must organize as a political action committee. However, if only one person finances the association, and the association is not representing itself to be a political action committee, it will not need to organize as a PAC. (Storella).

•AO-05-04: M.G.L. Chapter 55, Section 5A does not prohibit an elected member of town party committee from serving as treasurer of a PAC. (Tripp).

•AO-05-05: This opinion responds to a number of questions relating to the extent to which a PTO may be involved in a ballot question campaign. The opinion states that PTOs may not have teachers distribute, via student backpacks, materials prepared by a vote "yes" group. In addition, it states that allowing distribution of materials for the vote "yes" group on school grounds would require those on the other side to be given the same opportunity upon request. (Cicere)



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