

1998 Annual Report



The N.J. Election Law Enforcement Commission

May, 1999



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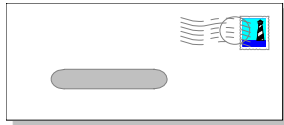


HOW TO CONTACT ELEC



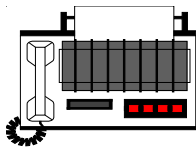
ELEC's Location
28 West State Street, 13th Fl.
Trenton, New Jersey

You may contact the Election Law Enforcement Commission by visiting our offices located at 28 West State Street, 13th Floor, Trenton, New Jersey.



ELEC
P.O. Box 185
Trenton, NJ 08625-0185

When using the United States Postal Service (regular mail), please use the following address: New Jersey Election Law Enforcement Commission, P.O. Box 185, Trenton, NJ 08625-0185



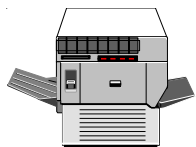
ELEC's Telephone
(609) 292-8700

If you would like to speak with a representative of the Commission, you may telephone the Commission between the hours of 9:00 a.m. till 5:00 p.m. eastern time at (609) 292-8700.



ELEC's Web Site
<http://www.state.nj.us/lps/elec/>

The Commission offers via the Internet general information about itself; a general overview of filing requirements for candidates, parties, PACs, legislative agents, and lobbyists; statistics about campaign finance and lobbying information; and reporting dates. For more information visit the Commission's web site at: <http://www.state.nj.us/lps/elec/>.



ELEC's FlashFax
(609) 292-4313

The fax-on-demand system allows the public to call from a fax machine into ELEC's FlashFax and request copies of all forms, advisory opinions, and other reports. For more information, please dial (609) 292-4313 from a fax machine.



THE COMMISSION

Ralph V. Martin, retired Superior Court Judge serving Passaic County, and now a



Ralph V. Martin
Chair

practicing attorney in Wayne, New Jersey, was appointed to fill an unexpired term on the Commission in December, 1995, and was appointed Chair in February, 1996, by Governor Christine Todd Whitman.

While a Superior Court Judge, the Chair was involved in all divisions of the Court, with most of his service occurring in the Civil Division.

A graduate of Rutgers University with a B.S. and M.S., Judge Martin earned his J.D. from Rutgers University. He was

subsequently admitted to the New Jersey and U.S. District Court and the U.S. Supreme Court.

The Chair is a member of the Passaic County and State of New Jersey Bar Associations. He has a legal interest in complex litigation and media delivery issues. Judge Martin chaired the Supreme Court Media Committee for an extensive period of time.

A veteran of the U.S. Army, he served as a Nuclear Guided Missile Officer from 1951-1955 (14th Ordnance Battalion), the Chair is married to the former Ida K. Kuiphoff. They have four sons.



THE COMMISSION continued

David Linett has completed three terms on the Commission. An attorney, he is currently President of the Bridgewater law firm of Gindin and Linett, PC.



David Linett
Vice Chair

Vice Chair Linett is a former Prosecutor of Somerset County and a former Treasurer of the National District

Attorneys Association. A past Chair of the Supreme Court's District XIII Ethics Committee, he also served as the Treasurer of the Supreme Court's Ethics Financial Committee. He is a member of the American, New Jersey State, and Somerset County Bar Associations.

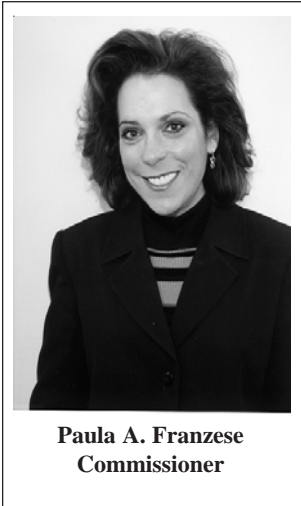
Very active in charitable and volunteer endeavors, Vice Chair Linett was named "Citizen of the Year" in 1989 by the Somerset County Chamber of Commerce. Further, he served three terms as Chair of the Board of Trustees of Alternatives, Inc. (formerly AAMH), and two terms as a Director of the Somerset

County Chamber of Commerce. Vice Chair Linett was a District Governor of Rotary International in 1991-92 and a past-president of the Somerville Rotary Club. He was twice elected to the Democratic State Committee from Somerset County.

Vice Chair Linett is a graduate of Yale University and Harvard Law School. He resides in Summit with his wife, Penny. They have five children and six grandchildren.



Paula A. Franzese is serving her first term on the Commission. Appointed in 1996 by Governor Christine Todd Whitman, Commissioner Franzese is a Professor of Law at the Seton Hall University School of Law.



**Paula A. Franzese
Commissioner**

Commissioner Franzese is the Founder and Director of the New Jersey Mentor Program, which pairs inner-city high schools with law firms, public sector law offices, and Seton Hall Law School. Existing since 1987, Mentor provides inner-city youth with the opportunity to participate in the legal system and with access to role models within the profession.

A lecturer, as well as a commentator on *Caucus: New Jersey and Court T.V.*, Commissioner Franzese serves as President of the Justice Resource Center Board of Directors in New York City.

A graduate of the Columbia University School of Law, Commissioner Franzese is a member of the New Jersey and New York bars and is admitted to practice in the U.S.

District Courts for the Southern and Eastern Districts of New York and the District of New Jersey.

A recipient of numerous awards and honors, including being named Woman of the Year by the Essex County Board of Freeholders in 1997, and the author of several publications and papers, she is married to Michael R. Rosella. The couple has two children.



THE COMMISSION continued



Lynn B. Ware
Commissioner

Lynn B. Ware, appointed to the Commission by Governor Christine Todd Whitman, is a principal of Ware Associates, a commercial real estate firm formed in 1975 to provide financing, sales, and consulting services

for private and institutional clients. Formerly vice president of the advisor to a realty trust, Commissioner Ware was responsible for investor relations, human resources, and administrative management.

Active in civic and professional service for more than 25 years, Mrs. Ware represented Burlington County on the New Jersey State Republican Committee, was president of the Burlington County Republican Women, and held numerous campaign posts including work as a coordinator of volunteers for a state legislative race and as a treasurer for municipal and continuing political committees.

The Commissioner is active in Rotary, and formerly was Assistant Governor

for Areas 4 & 5 of District 7500. Treasurer and a director of the Rotary Club of Moorestown since 1993, the Commissioner's extensive community service includes five years on the township Zoning Board (chairperson in 1989) and alternate member of the Planning Board from 1991-94.

Commissioner Ware is licensed as a New Jersey real estate salesperson and previously held a Series 7-General Securities license. She chaired a NAREIT committee which published the *Sourcebook for Shareholder Relations*.

Commissioner Ware is married to Ridgeley P. Ware. They have lived in Moorestown since 1971, and have three sons and six grandchildren.



THE COMMISSION continued

Frederick M. Herrmann, Ph.D., has been the executive director of the New Jersey Election



Frederick M. Herrmann, Ph.D.
Executive Director

Law Enforcement Commission for fifteen years. He received an A.B. (1969) from the University of Pennsylvania and an M.A. (1970) and a Ph.D. (1976) from Rutgers, The State University of New Jersey.

Dr. Herrmann is also an honor graduate of the United States Army Quartermaster School at Fort Lee, Virginia.

The author of many publications about history and government, he is a frequent speaker at various forums inside and outside of New Jersey. Dr. Herrmann has also appeared as a campaign financing and lobbying law expert on radio and television. Currently, he is the book review editor of The Guardian and on the editorial board of Public Integrity. He is also on the Board of Trustees for the Friends of the State House.

Once a teacher at Rutgers and Kean Universities as well as a staff member of the New Jersey Legislature, he has also served on the

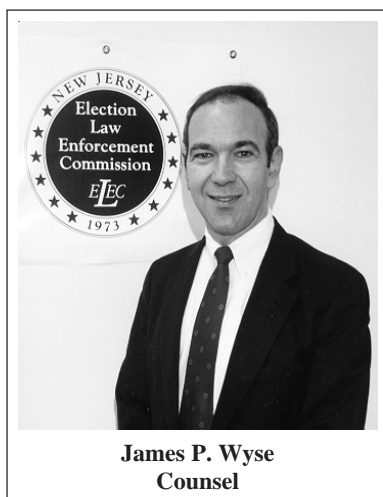
Organizational Planning and Coordinating Committee of the Council of State Governments and has been the President of the Council on Governmental Ethics Laws, an international organization, and the Chairperson of the Northeastern Regional Conference on Lobbying.

In 1993, he was the recipient of the Annual Award of the Council on Governmental Ethics Laws for his continued efforts to promote the highest level of ethical conduct among governmental officials and candidates for public office in the international arena. He has met often with dignitaries from various jurisdictions in Africa, Asia, Australia, and Europe to assist in the developing and drafting of statutes and regulations.



THE COMMISSION continued

James P. Wyse was selected to be the Commission's Counsel in 1994 and began serving in that capacity in January, 1995.



Mr. Wyse is a partner in the Morristown law firm of Schenck, Price, Smith and King, where he specializes in the areas of corporate

and commercial law, real estate, environmental law, and estate planning.

Mr. Wyse, admitted to practice in New Jersey and before the United States Court of Appeals for the Third Circuit, has argued cases in that Court and before the New Jersey Supreme Court.

As Counsel for a number of national, State, and local land trust organizations, Mr. Wyse has developed special expertise regarding conservation and agricultural easements and innovative land preservation techniques.

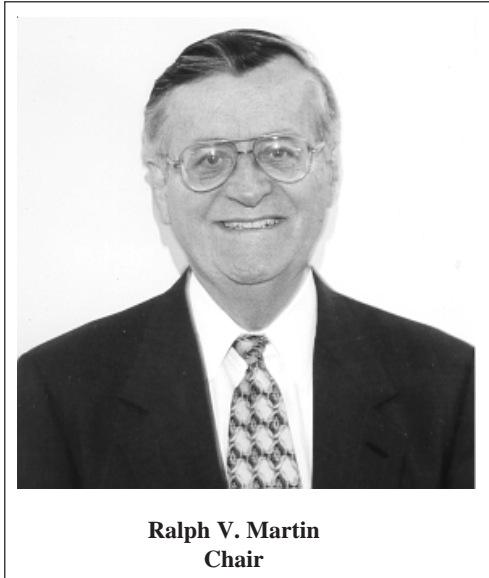
Mr. Wyse received a B.A. degree from Bucknell University and J.D. degree with honors from the Rutgers University School of Law.

Appointed General Counsel to the New Jersey Conservation Foundation, he also advises the Junior League of Morristown, the Morris Shelter, Inc., and the Dierdre O'Brien Child Advocacy Center. Married to Pamela Paxton, he serves on the Board of Trustees of the Morris Land Conservancy.



MESSAGE FROM THE CHAIR

As the third millennium approaches, the Commission is poised to embark on a cyberspace adventure that promises



Ralph V. Martin
Chair

tremendous advances in disclosing campaign finance and lobbying information.

Coming in general election 1999, all reports will be scanned into a system that will make candidate filings available on-line. From homes, libraries, offices, etc., or from the Commission's newly refurbished public room, citizens can access the financial disclosure reports of local, state, and gubernatorial candidates. Eventually, lobbying and PAC reports will be on-line as well.

Because of the Commission's investment in upgrading its automation system and procedures, its searchable data base will be much more extensive and accessible. Comprehensive data involving campaigns, political parties, and PACs will be made available to the public through the Internet. The Commission is planning to provide detailed lobbying data in the future.

Finally, electronic filing, to be made available to candidates, PACs, and parties, will ease the burden on these entities and further enhance the Commission's ability to provide information and analysis more quickly and efficiently.

After beginning this process two years ago, the Commission's high tech efforts were bolstered by a gubernatorial initiative in FY1999 that provided a special appropriation of \$1 million for the purpose of fully automating its disclosure functions. It is expected that by the legislative general election of 1999, Governor Whitman's goal of making campaign reports readily available on the internet will be fulfilled with the help of both parties in the Legislature.

Though the strides made toward automation promise changes in ELEC's operating procedures, one thing that will not



MESSAGE FROM THE CHAIR continued

change is the Commission's commitment to a high standard of personal service. This commitment was evidenced in the accomplishments recorded by the Commission in 1998.

For example, the Compliance Section, through its highly trained staff, assisted the public and the press in its expanded public room. Moreover, the staff's public education efforts provided assistance to treasurers, candidates, and lobbyists either through seminars or individualized instruction.

Certainly, these efforts paid huge dividends. The telephone and in-person assistance, in addition to educational training forums, resulted in a compliance rate of over 90 percent. Such a high compliance rate enhances disclosure, allowing the public to view reports in a timely fashion prior to election day.

The Compliance Section also served the public by responding promptly to requests for information. Last year, besides processing 22,300 reports, the section photocopied over 155,00 pages of reports.

Finally, as part of its self-appointed mission to analyze trends in campaign

financing and lobbying activity, the Commission produced numerous analytical data sheets that were made available to the press and public. Moreover, an update of an early white paper Trends in Legislative Financing: 1977-1987, which will cover the years 1987-1998, is being written by Deputy Director Jeffrey M. Brindle and will be available shortly.

The Commission was again active in pursuing violations of disclosure laws in 1998. While litigating a number of major cases, the Commission's Legal Section issued 151 complaints, wrote six advisory opinions, and conducted several public hearings regarding the adoption of regulations.

Part and parcel of the enforcement effort, the Review and Investigation Section closed 50 investigations, all of which eventually resulted in penalty actions, many of a substantial nature.

Finally, during 1998 and into the current year, the Commission held public hearings for the purpose of developing recommendations for improving the gubernatorial public financing program, both from a statutory and a regulatory perspective.



MESSAGE FROM THE CHAIR *continued*

These recommendations are published within this report.

The dedication and enthusiasm all in New Jersey have come to expect from the Commission's Executive Director continued unabated last year. Besides providing direction to the Commission's automation efforts, Frederick M. Herrmann continued to demonstrate why he is such a highly respected and internationally-known figure in the field of governmental ethics. The Executive Director continued to speak to groups across New Jersey, serve on the Editorial Board of Public Integrity, and produce important materials such as the NORCOL Lobbying Guidebook. He has proven again why he is such an asset to the Commission and the people of New Jersey.

On a sad note, the Commission would like to acknowledge the passing of William H. Eldridge, former Chair of ELEC. Mr. Eldridge, a former elected official in Union County and a distinguished professor at Kean University, contributed greatly to the Commission and will be missed by all.

As the year 2000 rapidly approaches, the Commission is again very proud of its efforts to serve the people of New Jersey. Though moving toward a high tech future,

the Commission has continued to cling to its traditional values of service and responsiveness to the public's needs.

On behalf of the members of the New Jersey Election Law Enforcement Commission, it is with pride that I present this annual report to the Legislature.

Cordially,

Ralph V. Martin
Chair



COMMISSION STAFF

Executive

Frederick M. Herrmann, Ph.D., *Executive Director*

Jeffrey M. Brindle, M.A., *Deputy Director*

Gregory E. Nagy, Esq., *Legal Director*

Elbia L. Zeppetelli, *Administrative Assistant*

Steven Kimmelman, M.A., *Research Assistant*

Administration

Barbra A. Fasanella, *Director*

Donna D. Margetts, M.A. *Personnel Officer*

Elaine J. Salit, *Fiscal Officer*

Debra A. Kostival, *Principal Receptionist*

Irene Comiso, *Senior Receptionist*

Compliance and Information

Evelyn Ford, Esq., *Director*

Linda White, *Associate Director*

Kimberly Key, *Associate Compliance Officer*

Christopher Guear, M.A., *Assistant Compliance Officer*

Amy Davis, *Assistant Compliance Officer*

Pamela Hamilton, *Assistant Compliance Office*

Monica Triplin-Nelson, *Clerk*

Elizabeth A. Michael, *Clerk*

Maria Concepcion, *Clerk*

Erin Kasa, *Clerk*

Samira Wood, *Clerk*

Desiree DeVito, *Public Room Assistant*

Computer

Carolyn Neiman, *Director of Systems Administration*

Kim Vandegrift, *Assistant Systems Administrator*

Anthony Giancarli, *Assistant Systems Administrator*

Brenda A. Brickhouse, *Systems Operator*

Shirley R. Bryant, *Senior Data Entry Operator*

Nelly R. Rosario, *Associate Data Entry Operator*

Barbara Counts, *Associate Data Entry Operator*

Pamela Kinsey, *Assistant Data Entry Operator*

Darlene Kozlowski, *Assistant Data Entry Operator*

Helen Kelly, *Assistant Data Entry Operator*

Legal

Nedda Gold Massar, Esq., *Deputy Legal Director*

Gail Shanker, Esq., *Assistant Legal Director*

J. Scott Johnkins, *Legal Assistant*

Ruth Ford, *Legal Secretary*

Review and Investigation

Carol Hoekje, Esq., *Director*

Shreve E. Marshall, Jr., *Associate Director*

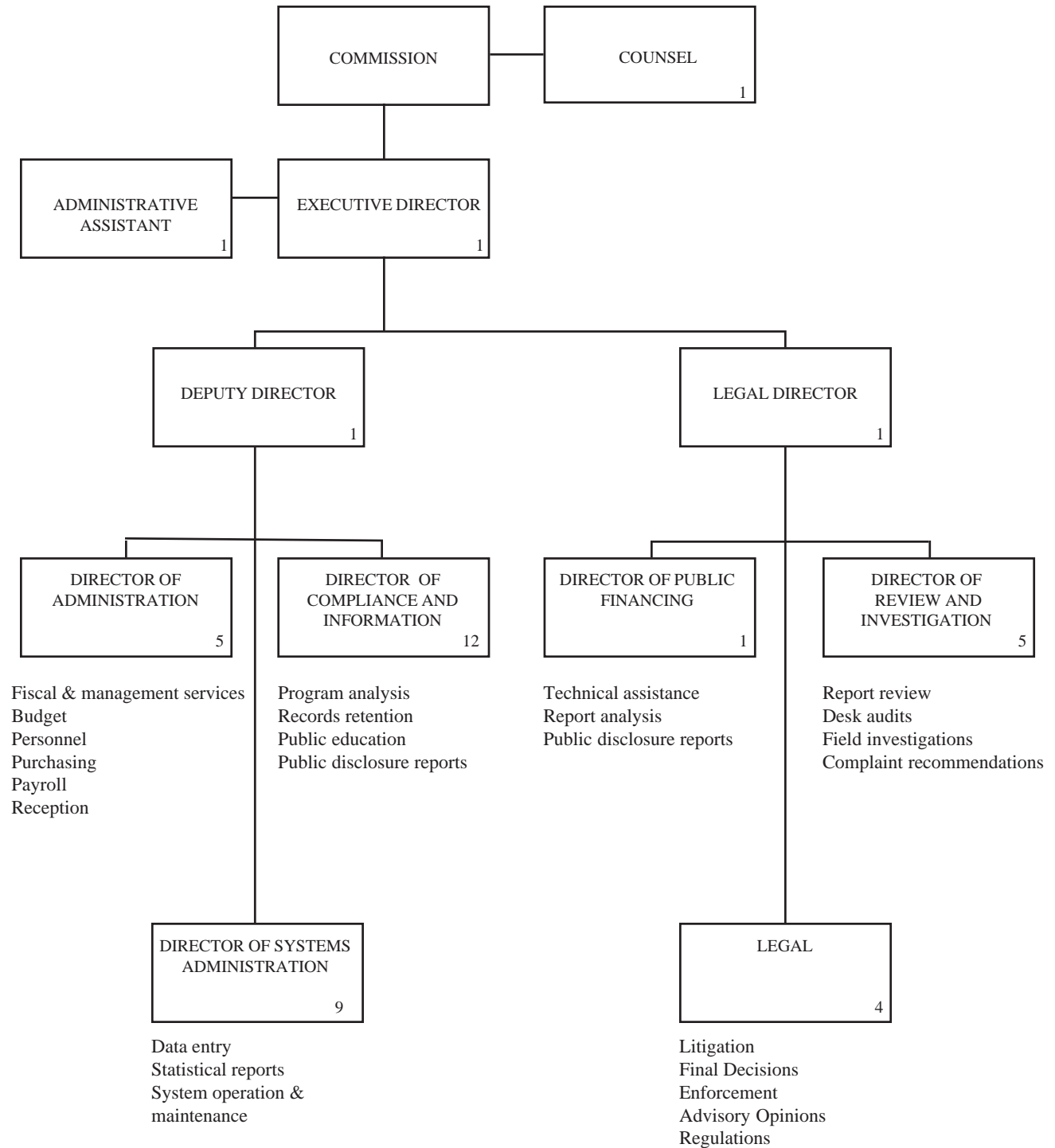
Brett Mead, *Associate Review Officer*

Harry Ravenel, *Assistant Review Officer*

Ivy Bartuswicz, *Clerk Typist*



TABLE OF ORGANIZATION





EXECUTIVE DIRECTOR'S REMARKS

As the New Jersey Election Law Enforcement Commission (ELEC) completes its first quarter century of existence and the Twentieth Century draws to a close, it would seem a good time to look back on the development of the State's disclosure laws and ahead to their future. New Jerseyans should be proud of the campaign financing and lobbying laws that have been developed

in the vanguard of reform, it must continue to progress.

ELEC was created by the Campaign Act in 1973; and, like sister agencies across the nation, was a true child of the Watergate Scandal. The Commission is an independent agency comprised of four members with no more than two coming from any single

political party.

Commissioners are appointed by the Governor with the advice and consent of the Senate and serve for three-year, staggered terms. The role of the Commission is to assure through the public disclosure of campaign financing and lobbying activity that government serves public interests not special interests. ELEC is



Frederick M. Herrmann, Ph.D., Executive Director

over the past 25 years by its Governors and Legislatures. In a key study published last year entitled The Day After Reform, Professors Michael J. Malbin and Thomas L. Gais found that the Garden State's disclosure system was the third best in the nation. Nonetheless, even though there is much of which to be pleased, there is still important work to be done. If New Jersey is to remain

responsible for campaign financial disclosure by state and local candidates, PACs, and political party committees as well as the disclosure of lobbying activities and financing. The public financing of gubernatorial elections, the personal financial disclosure of the sources of income of candidates for Governor and for the Legislature, and the labeling of campaign



EXECUTIVE DIRECTOR'S REMARKS continued

literature also fall under the Commission's extensive jurisdiction.

The early nineties saw some major changes in both the Lobbying and Campaign Financing Laws. In 1991, two highly significant changes were made to the lobbying statute. Amendments extended the Act to cover Executive Branch lobbying as well as legislative lobbying. Moreover, the infamous "Expressly Loophole" was removed so that there was no longer a disclosure exception for communications that did not expressly mention legislation or regulations. All benefit passing by lobbyists to public officials was to be out in the open for all citizens to see.

Two years later, Governor James J. Florio and the Legislature performed equally major surgery on the Campaign Act. Contribution limits were extended from covering only gubernatorial candidates to all candidates and committees. Contributors were required to disclose not only their names and home address but also their occupations and employers. Each PAC was obliged to register giving its name, type (corporation, union, trade association, or ideological group), controllers and initiators, and statement of objectives. Personal use of campaign money was banned and appropriate

uses of funds were outlined. The number of committees per candidate was restricted to no more than two and candidates were required to report in non-election as well as election years. Finally, penalties were increased and extended.

In 1998, Governor Christine Todd Whitman with the strong support of both parties in the Legislature appropriated a million dollars to ELEC for a state-of-the-art electronic disclosure system. The Governor and Legislature recognized the need to make maximum practicable use of the latest technology in tracking donations and expenditures. ELEC is currently in the process of realizing this farsighted goal. Scanning and imaging technology will allow New Jersey's citizens to review state and local candidate reports on-line at libraries, educational institutions, community centers, or even at home. Searchable databases and downloadable databases will be developed and electronic filing is also being planned. Full disclosure will be a reality not an unrealized goal.

Yet, with all these significant steps forward, there is much that needs to be done. ELEC has made many suggestions for further improving the health of the state's campaign financing and lobbying disclosure system.



EXECUTIVE DIRECTOR'S REMARKS continued

Under the Campaign Act, the contribution limits for state, county, and legislative party committees should be greatly reduced. Direct corporate and union contributions to candidates should be banned. Issue advocacy advertisements that indirectly suggest to the electorate how to vote should become reportable. Public financing of legislative as well as gubernatorial elections should be in effect.

The state's lobbying law should also be improved. Grassroots or indirect lobbying activity needs to be reported so that citizens can know when special interests solicit the public to contact legislators or other state officials for the purpose of influencing legislative or executive actions. Annual financial reporting should be done quarterly. Benefit passing should be capped at a reasonable amount.

Because the law is no better than its ability to be administered and enforced, ELEC needs to be strengthened. Commissioner terms should be lengthened from three to six years. Upon the expiration of a Commissioner's term, a replacement should be nominated or confirmed within 90 days or the Commissioner in holdover status should automatically retain the position for another term. The Chair should be selected

for a fixed term and not serve as head of the Commission at the pleasure of the Governor. ELEC needs more staff to review the accuracy of candidate and committee reports and maximum penalties in the law are still too low.

Although New Jersey's disclosure system needs improvement, it is still a system that ranks among the very best in the country. Based on the fine record of the past, New Jerseyans should be optimistic about the future of disclosure and democracy in the Garden State. ELEC has been a leader in governmental ethics for a quarter of a century. As the new millennium begins, there is every reason to believe that the Commission with the progressive support of the Governor and the Legislature will continue to build on a record that has been a model for the nation. As I mark my fifteenth year of service as executive director, I am proud to be part of this ongoing process.



ELEC OVERVIEW

COMMISSIONERS

1973

Frank P. Reiche, *Chair*
Judge Sidney Goldmann, *Vice Chair*
Judge Bartholomew Sheehan, *Commissioner*
Florence P. Dwyer, *Commissioner*

1984-1986

Andrew C. Axtell, *Chair*
Alexander P. Waugh, Jr., *Vice Chair*
Justice Haydn Proctor, *Commissioner*
Owen V. McNanny III, *Commissioner*



Frank P. Reiche (left) and Senator William E. Schluter (right) at ELEC's 25th Anniversary Celebration

1974-1979

Frank P. Reiche, *Chair*
Judge Sidney Goldmann, *Vice Chair*
Josephine Margetts, *Commissioner*
Archibald S. Alexander, *Commissioner*

1987-1988

Judge Stanley G. Bedford, *Chair*
Owen V. McNanny, III, *Vice Chair*
Andrew C. Axtell, *Commissioner*
David Linett, *Commissioner*

1980-1981

Judge Sidney Goldmann, *Chair*
Josephine Margetts, *Vice Chair*
Andrew C. Axtell, *Commissioner*
M. Robert DeCotiis, *Commissioner*

1989-1990

Judge Stanley G. Bedford, *Chair*
Owen V. McNanny, III, *Vice Chair*
David Linett, *Commissioner*
S. Elliott Mayo, *Commissioner*

1982-1983

Andrew C. Axtell, *Chair*
M. Robert DeCotiis, *Vice Chair*
Justice Haydn Proctor, *Commissioner*
Alexander P. Waugh, Jr., *Commissioner*

1991-1992

Owen V. McNanny, III, *Chair*
Judge Stanley G. Bedford, *Commissioner*
David Linett, *Commissioner*



1993-1994

Owen V. McNany, III, *Chair*
William H. Eldridge, *Vice Chair*
David Linett, *Commissioner*

EXECUTIVE DIRECTORS

1973-1976 David F. Norcross
1976-1981 Lewis B. Thurston, III
1981-1984 Scott A. Weiner
1984-present Frederick M. Herrmann



David F. Norcross, Frederick M. Herrmann, and Scott A. Weiner;
three of ELEC's Executive Directors

1995

William H. Eldridge, *Chair*
Owen V. McNany, III, *Vice Chair*
David Linett, *Commissioner*
Michael Chertoff, *Commissioner*

COUNSELS

1973-1994 Edward J. Farrell
1994-present James P. Wyse

1996

Judge Ralph V. Martin, *Chair*
David Linett, *Vice Chair*
Paula A. Franzese, *Commissioner*

CONSULTANT

1973-1978, Herbert E. Alexander
1982,
1986-1988

1997-1998

Judge Ralph V. Martin, *Chair*
David Linett, *Vice Chair*
Paula A. Franzese, *Commissioner*
Lynnan B. Ware, *Commissioner*



STATUTORY HISTORY OF ELEC

- **Commission** created by P.L. 1973, c.83 (N.J.S.A. 19:44A-1 et seq.) - "The New Jersey Campaign Contributions and Expenditures Reporting Act" - effective date: April 24, 1973.
- **Gubernatorial Public Financing Program** established by P.L. 1974, c.26 (N.J.S.A. 19:44A-27 et seq.) - effective date: May 6, 1974.
- **Personal Financial Disclosure Program** established by P.L. 1981, c.129 (N.J.S.A. 19:44B-1 et seq.) - effective date: May 1, 1981.
- **Lobbying Program** established by P.L. 1981, c.150 (N.J.S.A. 52:13C-18 et seq.) - effective date: May 22, 1981.
- **Continuing Political Committee (PACs) Quarterly Reporting** established by P.L. 1983, c.579 (amendments to N.J.S.A. 19:44A-1 et seq.) - effective date: January 17, 1984.
- **Lobbying Reform** established by P.L. 1991, c.243 (amendments to N.J.S.A. 52:13C-18 et seq.) - effective date: January 1, 1992.
- **Campaign Finance Reform** established by P.L. 1993, c.65 (amendments to N.J.S.A. 19:44A-1 et seq.) - effective date: April 7, 1993.
- **Street Money Reform Law** established by P.L. 1993, c.370, (codified as N.J.S.A. 19:44A-11.7) - effective date: January 7, 1994.
- **Uniform Recall Election Law** established by P.L. 1995, c. 105, (codified as N.J.S.A. 19:27A-1 et seq.) - effective date: May 17, 1995.
- **Political Identification Law** established by P.L. 1995, c. 391, (codified as N.J.S.A. 19:44A-22.2 and 22.3) - effective date: February 1, 1996.



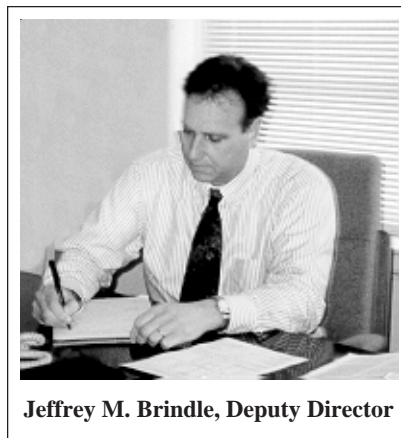
LEGISLATIVE REVIEW

During 1998, the first year of the 209th Legislature, 47 bills were introduced that, if enacted, would directly affect the laws administered by the Commission.

- ◆ 26 bills would amend the Campaign Contributions and Expenditures Reporting Act (hereafter, the Campaign Reporting Act);
- ◆ 12 bills would amend the gubernatorial public financing program or propose legislative public financing;
- ◆ 2 bills would amend the Gubernatorial Legislative Disclosure Statement Act (hereafter, the Personal Financial Disclosure Act) which requires personal financial disclosure reporting by gubernatorial and legislative candidates; and,
- ◆ 7 bills would amend the Legislative Activities Disclosure Act (hereafter, the Lobbying Disclosure Act).

In addition, 23 bills were introduced that, while not directly under ELEC's jurisdiction, would substantially impact on the Commission's responsibilities. These included bills to change the dates of primary and school elections and to prohibit contributions to candidates and committees from certain entities.

One significant bill would double maximum penalties for violations of the Campaign Reporting Act and the Personal Financial Disclosure Act. No adjustment has been made to the maximum penalty of



Jeffrey M. Brindle, Deputy Director

\$1,000 under the Personal Financial Disclosure Act since its inception in 1981. The bill would also provide an appropriation to permit hiring of additional enforcement staff. In this decade, new legislation has greatly expanded the Commission's jurisdiction. For example, a system of comprehensive contribution limits was added, as were new provisions requiring reporting of the occupation and employer of contributors. Also added were recall election reporting and political identification on campaign literature. Additional staff is necessary to meet the demands of enforcing these complex statutory areas of responsibility.



LEGISLATIVE REVIEW continued

In 1998, Governor Whitman signed a bill into law on December 24, 1998 (P.L. 1998, c. 147) changing the date of the deadline for independent candidates to file nominating petitions. The bill provides that independent candidates (that is, candidates not nominated for election in the primary election of a political party) are permitted to file nominating petitions for the general election on the date of the primary election, however political party candidates must file petitions for the primary election 54 days prior to the date of the primary election. Since the date for the filing of the personal financial disclosure statement with the Commission is linked to the date a gubernatorial or legislative candidate must file nominating petitions, the change therefore creates two different filing deadlines for personal financial disclosure statements. Political party candidates continue to be required to file a personal financial disclosure report no later than 44 days prior to the date of the primary election, but independent candidates must file no later than 10 days after the date of the primary election.

Of particular note is a bill that became law on April 13, 1999 (P.L. 1999, c. 57) that requires reporting by individuals who are “testing the waters” and raising and spending funds for that purpose. Under prior law, only

individuals who became candidates were required to report, although funds raised during the “testing” period became subject to reporting at the time that the individual became a candidate. Under the new law, an individual raising and spending funds for “testing” activity is required to file reports of contributions and expenditures.

In order to keep track of the many bills introduced that either directly or indirectly impact on the work of the Commission, the staff relies on electronic on-line legislative databases, including the New Jersey State Legislature Website, maintained by the Office of Legislative Services, to identify and track legislation. The Commission’s Executive Director is frequently called upon to provide testimony to legislative committees considering campaign finance and related legislation in order that each bill can be evaluated as to its potential impact on existing laws. The Commission provides objective, non-partisan assistance to the Legislature in its consideration of new legislation in this field.



LEGISLATIVE RECOMMENDATIONS

The Commission offers the following recommendations for new or amended legislation. The recommendations are based in part on its past experience with the Campaign Reporting Act and the other laws it is responsible for administering. However, because 1998 was the year following

interested persons. The hearings were held on February 18th at Seton Hall University Law School in Newark, on March 18th at the Burlington County Office Building in Mount Holly, and on April 22nd at the Commission's offices in Trenton. Fifteen persons offered testimony at the hearings and five individuals



Clockwise from the top: Chair Ralph V. Martin, Commissioner Paula A. Franzese, Executive Director Frederick M. Herrmann, Deputy Director Jeffrey M. Brindle, Legal Director Gregory E. Nagy, Deputy Legal Director Nedda Gold Massar, Counsel James P. Wyse, Commissioner Lynnann B. Ware, and Vice Chair David Linett

completion of the 1997 gubernatorial public financing program, the Commission conducted three public hearings at which valuable and informative comments were received from participants and other

submitted written comments. The recommendations for legislative action also include changes suggested at the conclusion of past publicly-financed gubernatorial elections. In addition, some of the



commenters' suggestions resulted in proposed amendments to the gubernatorial public financing regulations to be considered by the Commission during 1999. The Commission recommends the following:

Gubernatorial Public Financing Program

- **Eliminate the gubernatorial spending qualification threshold (\$210,000 for the 1997 primary and general elections).**

Some commenters suggested elimination of the statutory requirement that a gubernatorial candidate must spend \$210,000 in contributions by a date some two months in advance of the election. Gubernatorial candidates in 1997 were required to prove that they not only had raised \$210,000 by April 10, 1997, for the primary election and by September 2, 1997, for the general election, but also that they had spent that sum by those dates. Both dates are some two months in advance of the respective dates of the elections. There clearly is a public interest in awarding public matching funds only to viable candidates which interest is promoted by sufficiently protected by the requirement that a candidate raise and deposit the threshold amount (\$210,000 in 1997) in contributions eligible

for match by the qualification deadline. However, the requirement that the qualification amount be spent by those early dates does not effectively promote that public interest and is unduly burdensome on candidates who may need to commit spending at a date closer to the date of the election. Further, the existing statutory requirement to return to the State all unspent funds at the conclusion of a publicly-financed campaign is sufficient protection against the possibility that a campaign may apply for and receive public matching funds and then not spend them. For those reasons, the Commission suggests the spending threshold be deleted from the statute.

- **Require that publicly-financed gubernatorial candidates participate in three debates.**

At the conclusion of the 1993 gubernatorial election, the Commission recommended that the number of required debates for publicly-financed candidates be increased from two to three in the primary and general elections. This suggestion was also made by one commenter following the 1997 gubernatorial debates. The Commission reiterates this recommendation because it believes that the debate



LEGISLATIVE RECOMMENDATIONS continued

requirement ensures that candidates who might otherwise avoid debates actually appear before the public, that a third debate increases the exposure of lesser-known gubernatorial candidates to the voters, and that a third debate is a reasonable requirement for candidates who receive substantial sums of public matching funds.

- **Make October 1st the earliest date for a gubernatorial general election debate.**

In the 1997 general election, gubernatorial candidates were required to file proof of qualification to participate in public financing, which includes participation in the general election debates, no later than September 2nd, and the earliest permissible date for a 1997 general election debate was September 16th. As a result, the Commission was compelled to resolve issues surrounding a candidate's eligibility for the program in an unduly compressed period of time. By changing the earliest permissible date for a general election gubernatorial candidates' debate to October 1st, the Commission would have almost one month in which to resolve potential candidate qualification issues, and the general election debates could occur during the month of October. A similar recommendation to

change the date of the earliest primary election debate is discussed below.

- **Change the earliest date for a gubernatorial primary election debate to 44 days before the election.**

A 1997 gubernatorial primary election candidate was required to file proof of qualification to participate in public financing and the primary election debates, no later than April 10, 1997, the statutory deadline for filing nominating petitions. The earliest permissible date for a 1997 primary election debate was April 16th, the date on which the ballot is certified by the Secretary of State to the county clerks. Therefore, if a debate was conducted on the earliest permissible statutory date, the Commission might have had as few as six days to review and decide whether or not a candidate met the qualification criteria and therefore was permitted to debate. The Commission therefore reiterates its recommendation, first made in its March, 1992 report concerning the 1989 gubernatorial election cycle, that the earliest date for a primary election debate be changed from the date on which the ballot is certified by the Secretary of State to the county clerks (48 days before the election) to 44 days before the election to provide a



minimum of ten days for staff to verify the complex issues of candidate qualification.

- **Require disclosure of occupation and employer information for contributions from individuals in excess of the disclosure threshold (\$300 for 1997) on reports filed by an Inaugural event committee.**

Amendments to the Campaign Reporting Act in 1993 neglected to require that a gubernatorial Inaugural Event Committee report occupation and employer information as is required of candidates and committees filing reports pursuant to the Act. The Commission believes that the public interest will be served by disclosure of occupation and employer information relevant to Inaugural event contributors. In an advisory opinion in 1993, the Commission advised the 1994 Inaugural Committee that there was no statutory obligation on an Inaugural event committee to report the occupation and employer of an individual contributor, but urged the Committee to report the information on a voluntary basis, and the 1994 and 1998 Inaugural Committees voluntarily disclosed occupation and employer information.

- **Modify the rounding provisions of the quadrennial cost adjustment process and examine the impact of the rounding provisions on the limits and thresholds for non-gubernatorial candidates and committees to determine whether or not further modification of the rounding process is warranted.**

In its “1997 Cost Index Report” to the Legislature, the Commission recommended modification of the statutory rounding provision which is part of the quadrennial adjustment process because it results in disproportionate adjustments of the lower limits and thresholds in the Act. The Campaign Reporting Act currently requires that if the adjusted amount of a limit or threshold is less than \$20,000 and not an exact multiple of \$100, the limit or threshold be rounded to the next higher multiple of \$100. For example, application of the 1997 campaign cost index multiplier (1.1612) to the then-existing \$200 contribution reporting threshold resulted in a product of \$232.24 (200×1.1612). The reporting threshold was required to be adjusted in 1997 to \$300, the next higher multiple of \$100. The Commission specifically recommends amendment of N.J.S.A. 19:44A-7.1 so that in those cases where application of the



LEGISLATIVE RECOMMENDATIONS continued

campaign cost index multiplier to a statutory limit of \$1,000 or less produces an increment of \$50 or less, as indicated in the example, no upward adjustment of the limit or threshold should be made.

The Commission further proposes a cumulative mechanism to ensure that limits and thresholds of \$1,000 or less are not permanently excluded from adjustment because a \$50 increment is never reached in any single quadrennial period. The Commission therefore recommends that the next quadrennial adjustment of a limit which was not adjusted in the prior cycle (because it did not exceed the \$50 increment) use as its base the unadjusted product in the immediately preceding cost index calculation. In the example above, the \$200 threshold would not have been adjusted in 1997, but would use \$232.24 as the basis for the quadrennial calculation in 2001. The present statutory method, which does not apply a cumulative approach, substantially overstates the effect of inflation over a number of years.

- **Study the effectiveness of the gubernatorial candidates' ballot statement program.**

The statutory gubernatorial ballot statement program permits all gubernatorial candidates, whether or not they are participating in the public financing program, to submit 500-word statements for inclusion on the general election sample ballots mailed to all registered voters by the 21 county clerks. Candidates submit their ballot statements to the Commission which arranges for translation of the statements into Spanish, provides the statements to the county clerks for inclusion on the sample ballots, and reimburses the clerks for costs associated with printing and mailing of the ballot statements.

The County Clerks Section of the County Officers Association of New Jersey submitted its findings concerning the ballot statement program. The County Clerks Section commented that the present ballot statement law is cumbersome, does not effectively communicate a candidate's message to voters, delivers statements that are outdated by the time they reach the voters, and involves high printing and mailing costs when there are a large number of gubernatorial candidates. The Clerks concluded that there must be a more cost-effective way to disseminate the gubernatorial candidates' messages to New Jersey voters and noted the existence of an electronic



LEGISLATIVE RECOMMENDATIONS continued

forum for candidates as preferable to the New Jersey gubernatorial ballot statements.

The Commission suggests that the Legislature undertake a study to determine whether or not the gubernatorial ballot statement program is an effective means of communicating the candidates' messages to New Jersey voters. In an effort to further disseminate the gubernatorial candidates' 500-word ballot statements to the public, the Commission will make them available on the ELEC Website for the 2001 gubernatorial election.

- **Retain the general election matching ratio at two public dollars for each private dollar raised.**

Based upon its observation that general election candidates are able to raise campaign funds in a less fragmented atmosphere than primary election candidates, the Commission recommended at the conclusion of the 1989 and 1993 public financing programs that the general election matching ratio of public-to-private dollars be reduced from two-to-one to one-to-one. The Commission is withdrawing that recommendation because it believes that if the ratio were reduced, gubernatorial candidates would be forced to

spend more time in fundraising activities at times when the existing public financing program permits them to engage in communication with voters. Further, the Commission believes that to reduce the matching ratio might have a negative effect on the public financing program statutory goal to permit candidates of limited means to seek election to the office of Governor.

- **Prohibit contributions made directly from corporations and labor unions, and permit only those contributions made through their voluntary employee political action committees.**

The Commission continues to believe that direct contributions from corporations and labor unions should be prohibited. It has become increasingly difficult to determine whether or not two corporations are sufficiently affiliated to require that their contributions be aggregated for application of candidate and committee contribution limits. Complex multinational corporations have proliferated and parent and subsidiary corporations exist in many varieties. Similar affiliation issues exist with regard to unions. Each presents the possibility that a candidate or committee may have accepted contributions from related corporations or



LEGISLATIVE RECOMMENDATIONS continued

unions that when combined are in excess of the permissible contribution limit. Prohibiting corporate and union contributions prevents the inadvertent acceptance of excessive contributions. Alternatively, if corporate and union contributions are permitted, the Commission recommends that statutory criteria be established for affiliation of corporations and unions to prevent circumvention of contribution limits.

During the gubernatorial public financing hearings conducted by the Commission in 1998, two commenters stated that out-of-state contributions should not be counted toward the public financing gubernatorial qualification threshold and not be matched with public funds. Because gubernatorial matching funds are provided from New Jersey taxpayers' money, they noted that those matching funds should be given to support only candidates with demonstrated and significant support measured by contributions from New Jersey residents. The Commission takes no position on whether or not out-of-state contributions should be counted toward the public financing qualification threshold or be matched with public funds because it regards this matter as a broad policy question beyond the more narrow focus of this report. However, the

Commission notes that if the Legislature determines to exclude out-of-state contributions, the technical criteria for determining what constitutes an out-of-state contribution must be clearly defined and sufficiently objective to permit rapid administration during the time-sensitive public financing matching fund application process, particularly as applied to corporate, union, or other associational contributors without specific New Jersey residential status.

Additional Recommendations

The following recommendations for legislative change concern the Campaign Reporting Act and the Lobbying Act and reiterate changes suggested by the Commission in the past:

- **Amend the definitions in the Campaign Reporting Act of “political committee” and “continuing political committee” to require that each receive contributions from a minimum number of contributors and make contributions to a minimum number of candidates or committees.**
- **Reduce the annual contribution limit to State political party committees**



from \$30,000 (adjusted from \$25,000 in 1997) to \$15,000 and reduce the annual contribution limit to legislative leadership committees and county political party committees from \$30,000 (adjusted from \$25,000 in 1997) to \$10,000.

- Amend the Reporting Act to define the term “national committee of a political party.” Among the contribution limits established by the 1993 amendments to the Reporting Act was the prohibition that the “national committee of a political party” contribute no more than \$50,000 annually (\$59,000 as adjusted for 1997) to the State committee of a political party. In order to monitor effectively that contribution limit, it is necessary to know precisely which entities qualify under New Jersey law as the “national committee of a political party.”
- Amend N.J.S.A. 19:44A-16d to prohibit a candidate or joint candidates from filing a Certified Statement (Form A-1 or A-2) in lieu of full campaign reports (Form R-1) if the total of contributions received in an election, including an amount carried over from a prior election, exceeds the Form A-1 or A-2 threshold.
- Amend N.J.S.A. 19:44A-11 to specify that independent expenditure reporting requirements are applicable to corporations, unions, associations, and groups as well as to individuals.
- Include an appointee to fill a vacancy for an elected office in the definition of “candidate” so that the appointee is subject to campaign and officeholding reporting requirements.
- Prohibit a political committee or continuing political committee from containing in its name the name of a candidate or officeholder because the use of the candidate’s or officeholder’s name suggests that the candidate or officeholder may be impermissibly controlling the political committee or continuing political committee.
- Require reporting of “grassroots” or “indirect” lobbying that urges the public to contact legislators of State officials for the purpose of influencing legislative or executive action.



LEGISLATIVE RECOMMENDATIONS continued

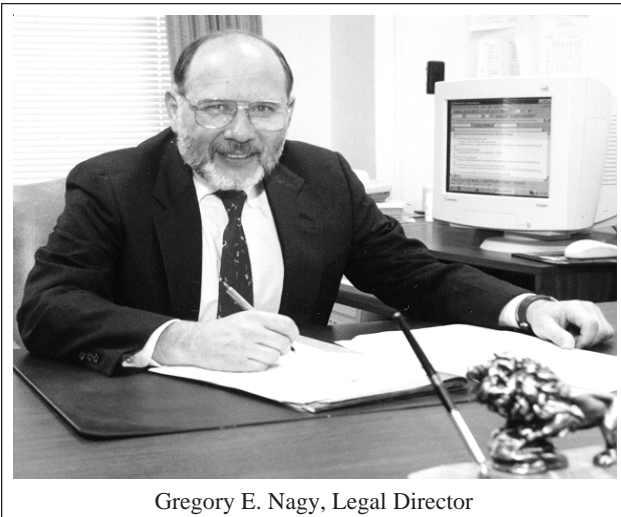
- **Cap the aggregate value of benefits in a calendar year that a legislative agent may pass to a legislator or State official for lobbying purposes.**
- **Require that lobbyists file quarterly rather than annual reports.**
- **Change the terminology of the lobbying law so that an organization or business that employs an individual to conduct lobbying activity on its behalf (currently called a “lobbyist” in the Lobbying Act) will be referred to as a “represented group,” and the individual conducting the lobbying activity (currently called a “legislative agent”) will be labeled a “lobbyist.”**
- **Amend penalty provisions in the Campaign Reporting Act, the Lobbying Act, and the Personal Financial Disclosure Act to double the amounts that may be collected.**
- **Permit the Commission to impose penalties for illegal personal use of campaign funds to equal the amount converted for personal use, or the current statutory maximum, whichever is greater.**
- **Raise the penalties in N.J.S.A. 19:44A-41 applicable to gubernatorial public financing statutes to equal those applicable to campaign reporting violations (N.J.S.A. 19:44A-22a).**
- **Create a partial public financing program for legislative elections.**
- **Lengthen Commissioner terms to six years from three years; require that upon the expiration of a Commissioner’s term, a replacement be nominated within 90 days or the Commissioner serving in holdover status shall automatically retain the position for another term; and select the Commission Chair for a fixed term.**

The Commission believes that each of these recommendations for legislative change will advance the electoral process by promoting disclosure of campaign and lobbying information to the public, enhancing the Commission’s enforcement efforts, and strengthening the Commission itself.



LEGAL SECTION

The Legal Section had a typically busy year in 1998. The Section is responsible for prosecution of all civil complaints alleging violations of the Campaign Contributions and Expenditures Reporting Act (hereafter, Campaign Reporting Act), the Lobbying Disclosure Act, and the Personal Financial



Gregory E. Nagy, Legal Director

Disclosure Act. Also, the Section is responsible for preparing Advisory Opinions in response to requests from candidates, committees, treasurers, and others and is responsible for proposing and promulgating new rules for the guidance of the regulated political and lobbying community. The work accomplished in these areas is described below. In addition, since 1998 was the year following a publicly financed gubernatorial election, the Section was heavily involved in the preparation of new rules for the

gubernatorial primary and general elections in 2001, as described in the Gubernatorial Public Financing Section of this report.

Civil Complaints

The Commission is empowered by law to bring complaints proposing civil penalties against candidates, committees, treasurers, persons making excessive contributions, lobbyists, and other individuals or entities for violations of the Campaign Reporting Act, Gubernatorial Legislative Personal Financial Disclosure Act, or Lobbying Disclosure Act. Beginning with an inventory of 110 pending litigation cases open at the end of 1998, 151 additional complaints were issued during 1998, and 155 cases were closed. One hundred and six pending litigation cases remained open at the close of the year. Monetary penalties collected during 1998 totaled \$78,047, an amount that is the second highest figure in the Commission's history.

The majority of Commission complaints are issued against candidates who do not file reports after receipt of reminder letters and other notices from the Commission. In this category were 128 complaints brought in 1998 against candidates who the Commission determined



from its records failed to file campaign reports. They included 63 1997 general election candidates, six 1998 municipal election candidates, and 59 1998 primary election candidates. Of these complaints, 44 resulted in Final Decisions as of the end of the year, and all 44 filed reports after the complaints were undertaken.

In addition to nonfiler complaints, 23 of the 151 new complaints issued in 1998 were the result of in-depth investigations conducted by the Review and Investigation Section and involved more complex violations. Among the most important of these complaints were those involving the making or receiving of excessive contributions, that is a contribution in an amount that is higher than permitted by law. Contribution limits were added to the Campaign Reporting Act in 1993, and Commission rules permit return without penalty of excessive contribution amounts within 48 hours. However, where a candidate or committee retains and uses an excessive contribution, the Commission may bring a complaint seeking enhanced monetary penalties upon a showing that the making or receipt of the excessive contribution was done “willfully and intentionally.” In order to promote application of uniform contribution limits among candidates, other

sections of the Campaign Reporting Act prohibit employers and others from reimbursing employees or other persons for making contributions and prohibit candidates from controlling any fundraising committees other than their own candidate committees.

At the beginning of 1998, five excessive contribution cases were awaiting hearing. Two of these were consolidated and involved a corporation that used two respondent continuing political committees (CPCs) it had established to pass contributions to municipal candidates that in the aggregate exceeded the maximum campaign contribution permitted for the corporation. Prior to the date of the scheduled hearing, the respondent corporation, CPCs, and treasurers settled the case by paying a penalty of \$16,900, and the Commission issued a Consent Order and Final Decision. In a separate case, a municipal candidate who had received excessive contributions from the corporation also received a penalty of \$1,200. In another excessive contribution case involving a candidate, the Commission alleged the making and acceptance of an excessive contribution in the form of a \$10,000 loan by check made payable to a municipal candidate’s campaign committee in the 1993 primary election. The Commission also alleged that the candidate



failed to report contributor information pertinent to the contribution. The case was settled at a hearing when the candidate and treasurer returned the excessive contribution, filed the omitted information, and paid a penalty of \$13,565, resulting in a Consent Order and Final Decision. A settlement is pending in an excessive contribution case which concerns loans to a county political party committee from its former chairperson and additional allegations that quarterly report information on contributions and loans received was not reported. In response to the complaint, it was determined that the excessive contribution had been repaid by the county committee to the contributor, and the Respondents filed missing contribution and loan information. A settlement in this case is pending for early 1999.

Three excessive contribution cases were brought in 1998. In one of these, five municipal candidates who had formed a joint candidates committee and their campaign treasurer were charged with receipt of an excessive contribution in the 1996 general election, and after the candidates refunded the excessive amount they received a penalty of \$675. Another case involves a municipal political party committee and a corporation, and they respectively are charged with

willfully and intentionally receiving and making an excessive contribution. A hearing request was received in this case, and the matter is pending before the Office of Administrative Law. The third case concerns a candidate for State Senate in the 1997 primary election and is pending referral to the OAL for hearing.

Another important provision added to the Campaign Reporting Act along with contribution limits was the requirement that candidates and committees report the occupation and employer name and address of any individual contributing more than \$200 (raised to \$300 in 1997). In a seven-count complaint initiated in 1997, a county committee and its treasurer were charged with failing to report occupation and employer information on 1995 quarterly reports. After the committee filed most of the missing information and waived a hearing, the Commission imposed a penalty of \$1,951. Another occupation and employer information case pending from 1997 concerned a continuing political committee (CPC). The Commission alleged that during 1995 the CPC failed to report required occupation and employer information and filed other occupation and employer information late. During 1998, the CPC filed the missing information, and the case is



scheduled for hearing in early 1999. An amended seven-count Complaint which was issued in 1997 against a candidate for State Senate was settled by the close of 1998. Among other violations, this case concerned failure to provide contributor information in the 1995 general election. In response to the Complaint, the candidate filed partial

filed a portion of the missing occupation and employer information in response to the complaint and have advised that further information will be filed. This case provides a good example of the use of enforcement action to meet the Commission's goal of achieving disclosure.



information and paid the penalty of \$3,953.20, resulting in a Consent Order and Final Decision. Finally, in a complaint issued in 1998, a candidate for state Senate in the 1997 primary election was charged with failing to file occupation and employer information on 29-day and 11-day preelection reports, on the 20 day postelection report, and on 48-hour notices. The Respondent Candidate and Respondent Treasurer have

Another expansion of the jurisdiction of the Commission was the addition to the Campaign Reporting Act of provisions requiring candidates and others to place “paid for by” identification on campaign signs, literature, and other materials. For the first time, the Commission issued complaints in 1998 against candidates for failure to provide identification on campaign literature. Campaign literature which advocates the



support of a candidate for public office or defeat of an opposing candidate is required to state the name and address of the candidate, individual or entity which paid for the political communication. One case involved a \$5,000 campaign expenditure by a candidate to finance campaign flyers that promoted the defeat of opposing candidates in the 1996 municipal election without providing political identification. The second complaint involves multiple alleged violations by a municipal candidate in the 1996 general election and is pending.

At the conclusion of each case, the Commission issues a public Final Decision which sets forth findings of fact and conclusions of law specifying the violations found. Final Decisions issued in 1998 included cases involving violations by candidates and committees in elections from 1993 through 1998, and in reports required to be filed by continuing political committees from 1993 through 1997.

The Commission's goal in undertaking civil prosecutions is to obtain compliance with reporting and contribution limit requirements and to impose monetary penalties to discourage future violations. In each case, the respondent to a Commission complaint is entitled to a full plenary hearing

before an independent administrative law judge of the Office of Administrative Law (OAL) in the Department of State. In 1998, 17 cases were referred to the OAL for plenary hearings at the request of the respondents. The Commission, as the complaining party, bears the burden of proof to demonstrate that the respondent committed a violation of the Campaign Reporting Act or other applicable law. However, in most cases, it is unnecessary to conduct a full hearing because the great majority of respondents voluntarily waive their right to a hearing and admit to a violation, and the Commission imposes penalties based on the violation and the Respondent's answering affidavit.

Advisory Opinions

A candidate, treasurer, lobbyist, or other person or entity regulated by the Commission who anticipates that a future action may raise novel legal issues may seek an advisory opinion from the Commission concerning the possible applicability of reporting or other legal requirements within the Commission's jurisdiction. The Commission provides a form for the submission of such advisory opinion requests, and the form may be obtained through the Commission's Flashfax service.



A person or entity requesting an opinion must demonstrate that the person or entity has standing to raise the question, that is demonstrate that the person or entity will be affected by the outcome, and must demonstrate that the request concerns prospective, anticipated action. Advisory opinions are not provided if the requester is seeking Commission approval of past activity. The Commission reviews advisory opinion requests at its public meetings and directs the legal staff to prepare and issue its opinions. There were six opinions issued in 1998, on the following subjects:

Gubernatorial: The treasurer of a gubernatorial candidate who had received public financing was advised that the candidate was not permitted to give discretionary postelection refunds to contributors because of the State's interest in return of public and contributed funds not used for the election candidacy (Advisory Opinion No. 02-1998). In another request, the Commission held that a greeting card company could donate to the State greeting cards intended to be sent over the name of the Governor to new parents to remind them of immunization schedules for their children. Specifically, the Commission concluded that since Governor Christine Whitman is barred by the State Constitution from seeking

reelection as Governor in 2001, the cards could not be construed as political communications in a future gubernatorial election candidacy. The Commission also found that the donation of the immunization cards did not constitute a personal benefit subject to lobbying reporting by the card company (A.O. No. 03-1998).

Contribution Limits for a Special Election: The treasurer of a joint candidates committee established for two legislative candidates in the 1997 general election asked what contribution limits would be applicable for a special election ordered by the State courts for November 3, 1998, for the seat one of the candidates had been ordered to vacate after the court set aside the results of the 1997 general election. After the close of the 1997 general election, the legislative candidate anticipated a 1999 primary election campaign and transferred or "rolled over" unspent funds of the 1997 joint candidates committee (JCC) to a JCC established for the 1999 primary election for the same legislative seats. The Commission held that the 1999 primary election JCC could contribute up to \$11,800 to the candidate's 1998 special election candidate committee. Alternatively, the 1999 primary election JCC could dissolve and transfer all of its funds, but both of the candidates participating in the



1999 primary election JCC would incur contribution limit consequences for their separate 1999 primary election campaigns that would restrict contributions from any contributors who had made contributions prior to the dissolution (A.O. No. 08-1998).

Permissible Uses of Campaign Funds: The subject of permissible uses of campaign funds by elected officeholders continues to raise new fact circumstances that require application by the Commission of broad statutory criteria. In Advisory Opinion No. 04-1998, the Commission advised a State Senator, who serves as Chair of the Senate Education Committee and acting Chair of the Joint Legislative Committee on Public Schools, that the officeholder was permitted under the Campaign Reporting Act to use contributed campaign funds to pay for tuition costs for graduate courses in educational administrative practice at an accredited institution of higher learning. The opinion noted that it was limited only to courses pertinent to the officeholder's legislative duties and only effective while the Senator retained the specific committee assignments. In Advisory Opinion No. 05-1998, the Commission found that the cost of repairs for damage occurring to a rented automobile as it was being used by the candidate's

campaign manager to drive to a campaign event could be paid with campaign funds.

Candidate Control Over Public Question Committee: The treasurer of a municipal candidate's committee was advised that the candidate was permitted to undertake certain activities for a political committee formed to promote a public question. The Campaign Reporting Act prohibits a candidate from establishing, maintaining, or participating, directly or indirectly, in a political committee. One objective of the prohibition is to prevent a candidate from controlling a committee other than his or her candidate or joint candidates committee as a means for circumventing the effectiveness of contribution limits. In this case, the Commission found that the prohibition included public question political committees, but that the specific contemplated activities, which included collecting signatures on petitions to have the question placed on the ballot or handing out literature promoting the question, did not fall within the scope of the prohibition because those limited activities would not involve the candidate in the control or management of the committee (A.O. No. 06-1998).



Advisory Opinion No. 01-1998, which concerned lobbying, was not issued because the Commission found the presented question had become moot, and Advisory Opinion No. 07-1998, which involved permissible use of campaign funds, was withdrawn by the officeholder.

Regulations

Rulemaking is one of the Commission's most important tools for providing guidance and maintaining uniformity for all filing entities, and therefore the Commission continues to be very active in proposing and promulgating amendments and new rules. Rules proposed or adopted during 1998 were:

Use of Campaign Funds for Legal Fees: This rule establishes criteria for determining when a candidate may use campaign funds to pay legal fees. The need for legal services must arise directly from a campaign for elected office or from the duties of holding that office and cannot include fees incurred in connection with a candidate's or officeholder's personal or business affairs. After proposing the rule late in 1997, the Commission adopted it on January 28, 1998.

Contributions from Partnerships Prohibited: This rule restated prohibitions on partnerships, including limited liability companies and limited liability partnerships, from making any political contributions, distinguishing those entities from corporations which under State law are permitted to contribute to candidates and committees. The rule restated subsections of a more general rule on contribution limits and thus provided greater emphasis and clarity to the prohibition. Also, the rule continued the requirement that a contribution made in the form of a check from a partnership cannot be accepted unless the amount of the contribution is attributed to and reported as a contribution from a partner or partners. Therefore, for reporting and contribution limit purposes, the contribution must be attributed to individuals, not a partnership entity. Finally, the rule permitted attributions to be made to partners without the necessity of obtaining signatures from each partner individually if the contribution is made specifically to a continuing political committee established and controlled by the partners of the partnership entity. In all other cases of partnership checks being made payable to candidates or other committees, individual signatures from each partner who is contributing must be obtained. After a public hearing, the rule was adopted on



LEGAL SECTION continued

December 12, 1998.

Lobbying Benefit Reporting: Under a law that became effective in 1997, lobbyists and legislative agents are required to give written notice to legislators, the Governor, or certain State officials if they provide any benefit to those persons. Since some persons provided full reimbursement to lobbyists for benefits received upon receiving a written notice from a lobbyist, the Commission proposed a rule modifying reporting criteria in cases where full reimbursement was made for benefits totaling under \$250 in a calendar year. However, ultimately the Commission concluded it would not adopt the proposed rule based on comments it received at a public hearing.

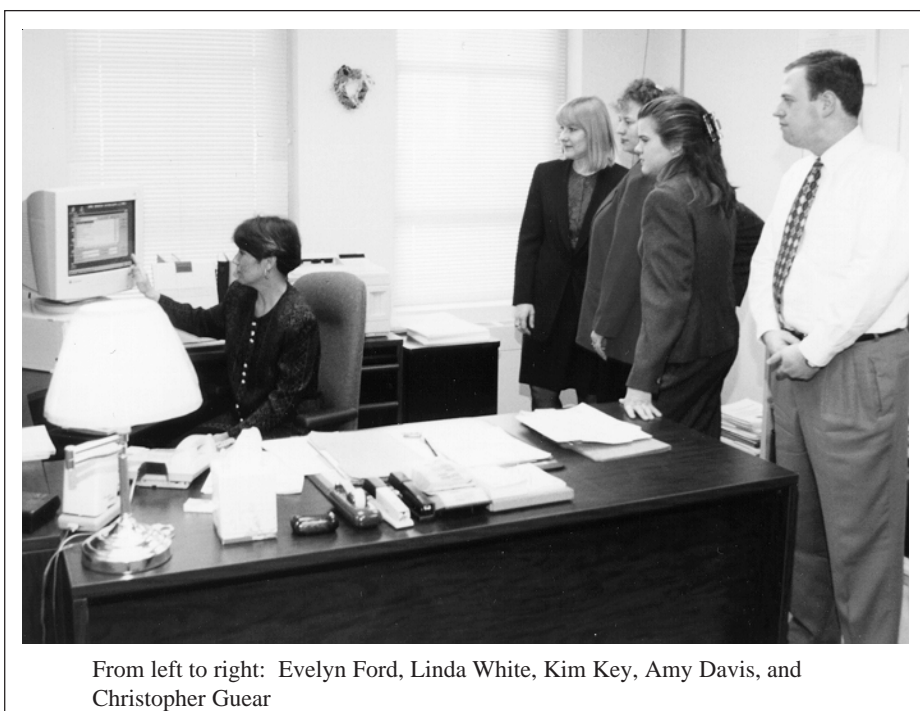


COMPLIANCE AND INFORMATION SECTION

The calendar year 1998 was a very significant year for the Compliance and Information Section. The Commission celebrated its 25th Anniversary as a disclosure agency and paused to reflect on

Compliance

In calendar year 1998, as in 1996, there were no gubernatorial or legislative races. Nevertheless, approximately 22,300



From left to right: Evelyn Ford, Linda White, Kim Key, Amy Davis, and Christopher Gear

the progress and growth experienced since its inception. But, more significantly, 1998 was the year in which the Commission set the stage for a revolutionary change in technology that will undoubtedly transform virtually every aspect of disclosure the Commission has known thus far.

reports were filed by local campaigns, PACs, and lobbyists during 1998, an increase of 2,300 reports over the 1996 total. This increase occurred despite the fact that the number of candidates, committees, and legislative agents remained about the same as the 1996 levels. It appears that the trend of these entities to file more reports continues to be on the upswing.



During 1998, 5,400 candidates and committees participated in the major elections (school board, municipal, runoff, primary, general, and special). The Compliance and Information Section continued to refine the process of receiving candidate names from the county and municipal clerks by allowing the clerks to transmit the names using their own formats and by allowing names to be sent via facsimile. It became particularly important in 1998 to provide convenience and flexibility to the clerks, since the petition deadline for independents was moved to July and the clerks were required to send candidate names in twice instead of once. The Compliance and Information Section received the names more quickly under the streamlined process, and filing materials and outreach efforts to candidates and treasurers were delivered in a more timely fashion.

To assist candidates and treasurers to comply with “The New Jersey Campaign Contributions and Expenditures Reporting Act,” the Compliance and Information Section conducted six seminars, four of which were held in Trenton and the others in Passaic and Essex counties. The seminars continue to be very popular and are well attended by candidates and treasurers. The staff of the Compliance and Information Section also

benefited from these seminars since we were able to hear, first hand, the filing concerns and problems encountered by campaigns. In addition, the Compliance and Information Section staffed a consulting table at the annual New Jersey League of Municipalities Convention in Atlantic City. This consulting activity provided a wonderful opportunity for candidates and officeholders from around the State to discuss fundraising and filing issues.

For those candidates and treasurers who were unable to participate in one of the seminars or other outreach efforts, the Compliance and Information Section was available throughout the year to meet one-on-one with those having questions about their filing obligations. The public records room of the Commission was very busy during 1998, with many candidates and treasurers stopping by for assistance. Also, many candidates made use of the videotape lending library, opting to view the taped seminars from their own video cassette recorder.

All candidates received valuable informational materials prior to the filing dates for each election. The “Compliance Manual for Campaign Reporting,” a comprehensive guide for complying with



the Campaign Act, was mailed to each and every candidate who participated in the major elections. Each manual had an insert sheet that contained current reporting dates and other informational updates. Accordingly, every candidate was well equipped to meet the requirements of the law. And, in case a filing deadline was missed, delinquent and nonfiler letters were promptly mailed, providing swift notice to candidates so that penalties would be minimized. The compliance rate remained high during 1998, with almost 95 percent of candidates filing by election day. These figures prove that the “pre- and post” filing date outreach efforts are highly successful.

PAC treasurers were contacted numerous times throughout 1998, receiving reminder materials and reporting forms for the quarterly filing dates. With over 1,450 PACs filing reports with the Commission, treasurer compliance rates remain high for the active PACs, due in large part to the mailings and informational support of the Compliance and Information Section.

Legislative agents and lobbyist organizations were the recipients of annual notices concerning the requirements of the “Legislative Activities Disclosure Act.” Informational materials were sent to all

registered agents in early March outlining the filing dates for the upcoming four quarters and providing blank report forms for completion. A separate informational mailing was sent providing notice of the Annual Report of Financial Activity, filed in February. At the end of 1998, there were 552 registered agents, a number that has remained about the same over the last few years. However, since lobbying in New Jersey has become a highly visible activity much followed by the press and public, legislative agents have taken great precautions to assure that they are filing properly, relying heavily upon the support of the Compliance and Information staff. We are quite proud of the job done to assist legislative agents and lobbyist organizations with their filing obligations.

Not surprisingly, the ELEC Homepage began to emerge as a very popular source of “on-line” information to the candidates, treasurers, and legislative agents who file with the Commission. The Compliance and Information Section received inquiries throughout the year from those accessing information from our website. Filing dates, information concerning the Commission’s publications and upcoming events, and other valuable information was posted and updated



throughout 1998, creating an excellent and convenient resource for the users.

Overall, the Compliance and Information Section was very successful in promoting compliance with the campaign, PAC, and lobbying disclosure laws. At year's end, over 9,000 telephone calls were processed, and 22,300 reports were filed. Through the fine efforts of the Compliance and Information staff, compliance with the disclosure law remained high, thereby giving the citizens of New Jersey a wealth of information with which to be informed voters.

Information

Due to the continuing high priority placed on public disclosure, the Commission has maintained its position as one of the finest disclosure agencies in the nation. The staff of the Compliance and Information Section is always looking for new and better ways to accommodate the campaign disclosure needs of the New Jersey public. More and more New Jersey citizens are joining forces to support or oppose school bond and other local referendums, and to act as unofficial "watchdog" groups. This increase in public participation has clarified the critical need for the Commission to implement "cutting edge" technology to

provide quick access to reports filed by candidates, PACs, and lobbyists. The Compliance and Information Section spent a good portion of 1998 in transition, slowly moving from a "paper" environment to an "on-line" environment. Electronic disclosure has come of age for the Commission.

Accordingly, in 1998 the Internet became available for use in the Commission's public records room. A full-time Compliance and Information staff member was assigned to a desk physically located within the public room so that visitors would always have immediate assistance, not only with using the internet, but with obtaining copies of reports.

Since 1998 was a year in which congressional elections were held, there was great interest in the reports filed with the Federal Election Commission. The Internet station in the public room had a direct line to the data bank of the Federal Election Commission. Hence, the media, public, and other interested persons could access and print the reports filed by federal candidates and committees from the Commission's Trenton location.

The public records room staffed by the Compliance and Information Section



continued throughout 1998 to provide valuable “library-style” resources to its many visitors. Since most candidates are required to file quarterly reports for their upcoming elections, reports of prior legislative elections



Pamela Hamilton
Assistant Compliance Officer

were kept on file in drawers for easy access. By providing a self-serve photocopier, visitors were able to make copies of reports without staff assistance during business hours. Further, the public was also

permitted to use the Internet station to obtain important information from the Commission’s Homepage.

Requests from the public for reports retrieved with staff assistance remained high throughout 1998, totaling 1,284 for the year. In excess of 155,000 photocopies were provided by the staff of the Compliance and Information Section, which is a very large number when considering that there were no gubernatorial or legislative races in 1998.

The disclosure of reports of lobbyist organizations and legislative agents remained

a very popular event in 1998. The staff of the Compliance and Information Section, working together with the staff of the Computer Section, radically changed the disclosure method for the Annual Reports of Financial Activity. In the past, “hard” copy reports were placed in the public records room shortly after the reports were filed. Two months later, the data contained on the reports was published in a bound publication. In 1998, the data processing staff entered the information contained on the reports into a program allowing for the release of the information on disk, and or printouts, and released this “computerized” format at the same time that the hard copy reports were released.

Similarly popular in 1998 was the summary of lobbying activity, published quarterly by the staff of the Compliance and Information Section. This publication contains a current list of every agent registered in New Jersey, a list of represented organizations, and other important information and was sent to the Governor, the Senate President, and the Speaker of the General Assembly. The Commission continues to receive frequent requests for copies of this valuable handbook.

Since the public records room is also



the “filing headquarters” for those candidates, treasurers and legislative agents required to file reports, a special area is maintained as a help area. Updated forms, helpful “question and answer” sheets, manuals, and other filing materials are kept in large supply and are readily available. A secured receptacle is always available for those who wish to file their reports; even on the heaviest of filing days, there are no lines or waiting periods to file reports or to obtain extra forms.

Numerous press releases were done throughout the year announcing Commission meetings, filing dates, and upcoming events. These press releases served as an important reminder to the public of the ongoing work of the Commission.

Conclusion

The Commission has been touted as one of the best disclosure agencies in the entire country. In part, this reputation is due to the high priority given to providing disclosure of reports filed by candidates, committees, and lobbyists. In 1998, the Commission took its first step toward electronic disclosure, a move that promises to completely revolutionize citizen access to scanned images of filed reports, as well as

access to the Commission’s database. The staff of the Compliance and Information Section is very proud to be an integral part of this electronic disclosure era and looks forward to providing fast, “on-line” support and disclosure services to the many citizens it serves.



REVIEW AND INVESTIGATION SECTION

The investigative workload increased considerably in 1998 due to more opened investigations (32 were open as of the end of December 1997) as well as an increase in the number of more complex cases requiring prosecutorial support. The Review and Investigation staff began to look forward to use of new technology to be implemented in

concern the complex issues presented by the 1993 Amendments, including in particular allegations of contribution limit violations by alleged affiliated entities and/or entities allegedly under control of one contributor, filing obligations as a continuing political committee or political committee, reporting of occupation and employer information,



From left to right: Ivy Bartuswicz, Shreve Marshall, Carol Hoekje, and Brett Mead

calendar year 1999 in scanning and imaging, which should prove of great assistance in enhancing and streamlining the performance of the Section's functions. The Section gained one staff member, Report Examiner Harry Ravel.

The Section's investigations and the requests for investigation continued to

and personal use of campaign funds. A number of allegations concerned fact patterns that involve establishing whether or not a communication contains issue advocacy versus express election advocacy or whether or not it falls within either subsection of the regulation defining a "political communication," and therefore whether or not to require reporting of expenditures for that



communication. Allegations also continued to concern the late or non-reporting of contribution and expenditure information, failure to file campaign or quarterly reports, making of coordinated expenditures, making of independent expenditures, complying with the credit card regulation, lobbying reporting obligations, and incomplete or incorrect political identification on campaign literature.

Investigations

In 1998, the Review and Investigation staff closed 50 investigations, with complaint recommendations resulting in 29 of those cases. Forty-two new investigations were opened in 1998, twenty-nine opened as a result of requests from the public, and 13 as a result of staff review.

Occupation and employer information. The Review and Investigation Section continued its review of the reporting of occupation and employer information (employer name and address) for contributions received in excess of \$300 in the aggregate (\$200 prior to 1997). Six of the investigations concerned the reporting of this information by the two state political party committees and the four legislative leadership committees. This area is one which the Commission has identified as one of its priorities, and which the staff

began to examine more closely beginning in calendar year 1997. It is also an area of review which necessitates substantial staff resources, especially where contributor information from multiple quarterly reports of the larger political party committees must be examined. The staff's review resulted in complaint recommendations against both state political party committees and all four legislative leadership committees for the late filing, partial filing, and non-filing of occupation and employer information in calendar years 1995 and 1996. One of the complaints included additional counts from a second investigation, including one count for the late reporting of contributor information for 158 contributions totaling \$528,450 relevant to joint fundraising activity with another entity.

Other investigations concerned the reporting of occupation and employer information by candidate committees and other political party committees. In one case, a candidate for legislative office in the 1997 primary election had failed to report occupation and employer information for 81 contributors (\$116,700 in contributions) on the candidate's 29-day preelection campaign report, for eight contributors (\$12,150 in contributions) on the candidate's 11-day preelection campaign report, and for 38



contributors (\$58,650 in contributions) relevant to the candidate's 20-day postelection campaign report. The staff recommended a seven-count complaint, including also a count for receipt of an excessive contribution in the amount of \$2,500, or \$700 in excess of the limit from a corporation to a candidate committee in the 1997 primary election.

Preelection quarterly reporting obligation by candidates. Several of the investigations involved the preelection quarterly reporting obligation relevant to the 1997 primary election. For candidates who participated in the 1993 general election and intended to continue to raise and spend money for a future election, the Form R-1 was to be filed on a quarterly reporting cycle beginning April 15, 1994. In one case, a candidate for State Senate had filed nine preelection quarterly reports late, including two quarterly reports that were over two years late. The staff recommended an eleven-count complaint.

Excessive contributions. One case which resulted in a complaint recommendation for the making and the receipt of an excessive contribution involved a municipal political party committee which received an amount in excess of the \$5,900 contribution limit per

calendar year from that contributor. The staff recommended a single-count complaint against the corporate contributor and a two-count complaint against the municipal political party committee for the receipt of the excessive contribution and also for the failure to report correct contributor information relevant to the contribution, which was originally reported as from the individual who signed the corporate check.

Political identification. The Review and Investigation staff recommended the first complaint for a political identification violation, in a case in which campaign literature opposing a candidate in a municipal election was financed and circulated by the opposing candidate without political identification. The Commission approved a one-count complaint against the candidate for failure to include political identification on the literature. Political identification was also the subject of another complaint count approved by the Commission in a case in which one of the allegations involved a full-page newspaper advertisement advocating a vote for a City Council candidate in the 1996 general election and not bearing any political identification. The staff also recommended issuance of a letter of correction to the newspaper for failure to keep records relevant to the newspaper advertisement as is required by law.



Additional depository account information.

One of the investigations involved a mayoral candidate in both the 1993 general and 1997 primary elections who had used funds from the 1993 depository account for expenses for an inaugural fundraiser following the 1993 general election, opened an additional depository for contributions and expenditures relevant to the fundraiser, and subsequently transferred the proceeds from the inaugural depository back into the 1993 depository account. The staff recommended an 18-count complaint for failure to file campaign reports accounting for the inaugural depository account, failure to file a Form D-1 relevant to that account, and other violations including the late filing of campaign reports and possible personal use of campaign funds involving the making of disbursements to the candidate's spouse without documenting the purpose of payment and the reported making of a loan by the candidate committee to the candidate and his spouse.

Subpoenas. The Review and Investigation staff issued five subpoenas in calendar year 1998 in five investigations, all to financial institutions for records of a campaign or organizational depository.

Requests for investigation

In 1998, the Commission received 104 requests for investigation. The Commission did not have jurisdiction over 15 of these requests, and eight additional requests were either premature, resolved with the complainant, or held pending receipt of additional evidence. Considerable time and effort is devoted by the staff to gathering sufficient background information to prepare these requests for presentation to the Commission for its review. A net total of 81 requests for investigation from calendar year 1998 were presented to the Commission for a determination whether or not to open an investigation.



Harry Ravenel
Assistant Review Officer

Audit project

The Review and Investigation staff continued its audit of the county political party committees finding such errors as failure to report the existence of an additional depository, failure to report complete



occupation and employer information for contributors, and failure to file 48-hour notices with the Commission for contributions in excess of \$500 (prior to 1997) received in the period between the date of the last quarterly report and the date of an election.

Additional Complaint Recommendations

The Review and Investigation Section is also responsible for generating complaint recommendations for those candidates or filing entities that did not file campaign, quarterly, or personal financial disclosure reports with the Commission. In 1998, the Review and Investigation staff prepared and forwarded complaint recommendations that resulted in issuance of 63 non-filer complaints for the 1997 general election, six for the 1998 municipal election, and 59 for the 1998 primary election.

Administrative Hearing Support

The Review and Investigation Section also assists in the preparation of cases for hearings before the Office of Administrative Law in those cases where respondents do not waive such hearings. The investigators prepare a chronology of the filing events that constitute the alleged

violation and work with the prosecuting attorney to identify within the Commission's files the documents and to prepare the testimony necessary to present the Commission's case at the hearing. In 1998, Associate Director Shreve Marshall and Associate Review Officer Brett Mead prepared for a total of six hearings. Section Director Carol Hoekje also participated as Commission attorney in preparation for and settlement of one contested case.

Other Activities

The Review and Investigation staff participated in a number of meetings relevant to the new scanning and imaging technology to be implemented in the coming year. As part of the preparation for the implementation of the new project, the staff also prepared information about the workflow of the Section to be used by the computer technology team. The staff also attended several computer training classes, primarily in spreadsheet software, to assist in the presentation of financial data in investigations.

Associate Director Marshall conducted report review training for new and other interested staff members over two days in August 1998. Staff members also



continue to provide input to the Legal Director in the drafting of Commission regulations and the preparation of advisory opinions and technical and supplemental assistance to the Compliance and Information staff as necessary during various intervals during the year in responding to inquiries by candidates, treasurers, or other persons seeking information on reporting and filing requirements. Both Associate Director Marshall and Associate Review Officer Mead provided assistance to investigative counterparts in other state, local, and federal agencies.

As the year closed, the Section was staffed with two Assistant Election Finance Analysts (Shreve Marshall and Brett Mead), one Report Examiner (Harry Ravenel), the Director (Carol Hoekje), and a Clerk/Typist (Ivy Bartuswicz).



GUBERNATORIAL PUBLIC FINANCING SECTION

During the 1997 gubernatorial public financing program, the Commission approved distribution of a record \$16.4 million in public matching funds, \$6.6 million to four primary election candidates and \$9.8 million to three general election candidates. In 1998, the year immediately following the publicly-financed gubernatorial election cycle, the Commission audited the financial activity of the campaigns receiving public funds, examined the operation of the Gubernatorial Public Financing program, and processed data collected from gubernatorial campaigns. With the assistance of the temporary gubernatorial public financing staff through June, 1998, and then with the continuing help of members of the Commission's permanent staff, analysis and verification of the financial activity of the seven 1997 gubernatorial primary and general election campaigns began in 1998. The Director of Public Financing, who also serves the Commission as its Deputy Legal Director, is the sole permanent member of the Commission staff assigned to carry out gubernatorial public financing program tasks after the departure of the temporary staff members, who are employed for terms of 24 months or less.

Hearings

After each publicly-financed gubernatorial election, the Commission seeks comment from gubernatorial candidates, their treasurers, gubernatorial debate sponsors, other interested individuals, and the public at hearings devoted to public financing. Since the inception of New Jersey's gubernatorial public financing program with the 1977 general election, the comments received at these hearings have been invaluable to the Commission in formulating recommendations for legislative action, revising Commission regulations, and improving internal program operations and procedures.

During 1998, hearings were held on February 18th at Seton Hall University Law School in Newark, on March 18th at the Burlington County Office Building in Mount Holly, and on April 22nd at the Commission's offices in Trenton. Fifteen persons offered testimony at the hearings and five individuals submitted written comments on topics including gubernatorial debate sponsorship, the efficacy of the Gubernatorial Ballot Statement Program, and the gubernatorial expenditure qualification threshold. The recommendations for legislative change derived from the comments received at the hearings are discussed in detail in the



Legislative Recommendations Section of this report.

Comments received at the three hearings also form an important part of the Commission's review of the complex gubernatorial public financing regulations. During 1998, staff began to examine the primary and general election regulations to identify rules requiring clarification and to draft new rules. This process will culminate in 1999 with proposal of new rules and amendments in the New Jersey Register and with public hearings on the proposed changes.

Computer

Commission staff determined that the gubernatorial matching fund submission process, which involves receipt of voluminous paper reports and data entry of thousands of contribution transactions in a very short period of time, would be improved and accelerated by electronic filing technology. By receiving gubernatorial contributor information in an electronic format and uploading it to the Commission's database without the delay associated with data entry of each contribution transaction, public financing staff would require less time to process matching fund submission documents, and gubernatorial candidates

could receive matching funds more quickly. The public would also benefit from this technology because contributor information would be released more quickly to the public on the Internet. Therefore, as part of the Commission's recomputerization project, during 1998 members of public financing staff were interviewed by the vendors working on the agency-wide project to determine the scope of work necessary to introduce new technology into public financing section operations. The redesign of forms used by gubernatorial campaigns to file matching fund submissions and campaign reports and the design of electronic filing software specifically for gubernatorial candidates' public matching fund submissions have been incorporated into this agency project.

The Commission's 1997 project redesigning its software and database occurred while the Commission was processing gubernatorial general election candidates' applications for public matching funds. To avoid the possibility that problems with the new software might delay distribution of matching funds to candidates, the Commission completed the 1997 general election public funds submission process and contributor review using the existing computer software. Considerable public



financing staff time was therefore devoted during 1998 to re-entering into the new database and reviewing all contributor data from the three publicly-financed 1997 gubernatorial general election candidates. The Commission anticipates that this project will be concluded in early 1999.

As part of the agency-wide computer initiative, discussed in detail elsewhere in this report, the Director of Public Financing participates as part of the design team responsible for introduction of scanning and imaging technology and electronic disclosure in all phases of Commission operations. The team works closely with the vendors to identify Commission operations that would benefit from computerization and automation, to supervise design of proposed changes, and to test new software and functions. During 1999, the Director of Public Financing will work with the vendors to further examine the gubernatorial matching fund submission process and gubernatorial campaign reporting obligations to introduce new technology wherever possible and to test the new designs.

Independent Audits

In 1998, Commission staff prepared detailed specifications for auditing services to examine the multiple bank accounts maintained by the 1997 gubernatorial campaigns. Using the State's competitive bidding system, the Commission circulated the specifications and selected an independent auditing firm to conduct the review which is expected to be completed in early 1999. The Commission believes that such an independent review is essential to maintain confidence in the public financing program and has conducted such audits at the conclusion of publicly-financed gubernatorial elections in the past.

The auditors will examine the public funds bank account of each campaign to verify that matching funds were spent for the specific purposes permitted in the Campaign Reporting Act. These include purchase of media time, printing and mailing of campaign literature, and payment of the cost of producing material aired or displayed on radio and television and in newspapers and other periodicals. The audit will also determine whether or not each campaign observed the \$3.1 million 1997 primary election expenditure limit or the \$6.9 million expenditure limit in the 1997 general election.



Further, unlike candidates for other elected offices, a publicly-financed gubernatorial candidate is not permitted to retain funds or to transfer those funds to a future election. The Campaign Reporting Act and Commission regulations require that a publicly-financed campaign return to the State any funds remaining, up to the total of public funds which the campaign received, after all obligations are satisfied. The audit will confirm whether or not the seven 1997 publicly-financed campaigns have funds available which must be refunded to the State.

The gubernatorial audits are an important compliance tool because the publicly-financed gubernatorial campaigns know in advance that they will be subjected to in-depth review of their reports and records. Further, the auditors' observations and findings will assist the Commission by identifying potential compliance issues to be addressed or clarified in the Commission's regulations and procedures.

Inaugural Committee Information

Contributions to the gubernatorial inaugural event are capped at the statutory limit of \$500 per contributor. The Commission monitors these contributions in

reports filed by the inaugural event committee 45 days after the inaugural event and on quarterly intervals thereafter. During 1998, Commission staff reviewed and computerized more than 3,600 contributions, totaling \$1.7 million, to the Whitman 1998 inaugural event. This contribution information was reviewed by the public financing staff and is available as part of the Commission's computer database.

Review of Expenditure Information

During the period of time immediately surrounding the gubernatorial primary and general elections, the Commission's priorities are to verify that contributions are eligible for match with public funds and to provide timely contributor information to the public. After the conclusion of a publicly-financed gubernatorial election, the public financing staff begins a detailed review of the expenditure information filed on gubernatorial campaign reports. Each expenditure transaction is reviewed, coded by type of expenditure, entered into the Commission's computer database, and made available to the public. This data is useful to the public for research purposes and to future campaigns because it can be sorted by payee name, expenditure date, and expenditure type



(i.e., communication, administration, travel, etc.). During 1998, public financing staff reviewed \$11.3 million in expenditures of the four publicly-financed primary election campaigns and \$15.8 million in expenditures of the three publicly-financed general election campaigns.

The gubernatorial expenditure data forms the statistical basis of the statutorily-mandated quadrennial campaign cost index (CCI) adjustment process. The CCI is a multiplier, established by the Commission, which measures inflationary changes in the costs of campaigns and is used to adjust the complex contribution limits and disclosure thresholds applicable to gubernatorial candidates, non-gubernatorial candidates, and committees required to file under the Campaign Reporting Act. The Commission has implemented cost adjustments in 1992 and 1996, and will in December, 2000, establish the campaign cost index (CCI) reflecting the inflationary changes in the costs of New Jersey campaigns since the most recent CCI calculation in December, 1996. The gubernatorial expenditure data is the key component of the CCI which is weighted to reflect the importance of expenditures specific to campaigns, such as media costs and printing and mailing of campaign literature. Analysis of the 1997

gubernatorial campaigns' expenditure information conducted during 1998 is the foundation for calculating the CCI in December, 2000.

Final Submission

A 1997 gubernatorial general election candidate who had not received the \$4.6 million maximum in public matching funds was permitted to file applications for public matching funds until April 6, 1998. The Commission received a sixth and final matching fund submission from Libertarian Party Candidate Murray Sabrin on the April 6th deadline. This date was the latest upon which any gubernatorial candidate applied for matching funds since the inception of the program in 1977. Candidate Sabrin had received \$537,107.80 in general election matching funds as of the end of 1997. After review of his final submission in April, 1998, and after the Commission determined that additional funds were needed by the campaign to meet its 1997 general election obligations, \$52,026.22 in additional matching funds were certified to Candidate Sabrin. With the final Sabrin submission, the total of 1997 general election matching funds certified to the three participating candidates is \$9,789,134.02.



Public Information

Public interest in gubernatorial contribution and expenditure activity continues after the conclusion of a publicly-financed election. Over 190 telephone calls were received from the public, press, and academic community during 1998 concerning the gubernatorial public financing program and gubernatorial candidates, and staff provided almost 6,800 pages of information to interested individuals. Increasingly, contribution information is provided to the public on computer disks thereby dramatically reducing the costs associated with circulating paper copies of reports and computer-generated paper contributor lists. As the Commission's recomputerization efforts progress, such information will be available to the public over the Internet, providing instantaneous access to gubernatorial contribution information at no cost to the user public.

Looking Toward 2001

The 2001 election will mark the seventh publicly-financed gubernatorial election cycle in New Jersey. The Commission continually seeks to evaluate and improve the public financing program using not only its expertise developed in the

administration of the program but also by seeking input from the public as it did during 1998. Therefore, preparations for the 2001 publicly-financed gubernatorial election began almost as soon as the 1997 election cycle was complete. Tasks undertaken in 1998, including review of regulations, revisions to software, and review of forms prepare the Commission to be responsive to inquiries from potential candidates and the public concerning New Jersey's gubernatorial public financing program.



COMPUTER SECTION

The Computer Section is responsible for managing the campaign finance, on-going committee, and lobbying report data received by the Commission. In order to accomplish this task in an efficient and effective manner,



Carol Neiman, Director of Systems Administration

the computer section underwent many changes during the past year. These changes included adding a programming area to the computer section comprised of two programmers and a MIS technician assistant, increasing the data entry staff to six positions, and changing the role of the Director of Systems Administration.

Additionally, on July 1st the plug was pulled from the PRIME Information 4150 computer system, which for more than a decade was the mainstay of the Commission's computer needs. The DEC

Alpha Server became completely functional for most of the Commission's computer needs and was the backbone of the new network. The Commission's Home Page on the Internet saw constant updates and improvements.

In February 1998, Governor Whitman, in her budget address for fiscal year 1999, dedicated one million dollars to the Commission so that future campaign finance reports would be available on the Internet.

At the beginning of fiscal year 1999, the Commission began its scanning/imaging project that will launch the Commission to the next century in an almost paperless world. In addition, much more computer equipment was purchased, with the computer room changing from having one server to nine. Additional personal computers were purchased so that every staff member and the public rooms will have personal computers. Finally, the computer operating systems were changed so that servers are now running on Windows NT 4.0 as are the personal computer workstations.



Systems Administration

The role of the Director of Systems Administration was modified from one of responsibility for one computer system to overseeing and managing all of the activities of the Computer Section. This new role included taking an active role in deciding which computer software/hardware, additions/enhancements were to be accomplished, determining the election detail to be keyed, and overseeing reports.

Systems administration also has the responsibility for maintaining all computer systems. This activity now includes the nine WindowsNT servers, workstations for staff and public room use, and individual and network printers, peripherals, etc. associated with the computers. It also includes performing routine maintenance and upgrades and overseeing that the daily backups are accomplished so files can be restored if necessary.

Another integral part of the Director of Systems Administration position is overseeing the network, which has since been made part of the State of New Jersey's Garden State Network System. The Commission now has direct Internet access and e-mail.

The Director of Systems Administration was extremely busy again this past year as the project manager for the Commission's development of the ELEC On-Line operation. This work involves scanning/imaging, electronic filing, and Internet access for both staff and public to view campaign finance reports on-line and search the Commission's contributor database on-line. The Director of Systems Administration is also the lead person on the Commission's Computer Development Steering Committee. Again, the computer staff has been busy working with outside consultants developing the ELEC On-Line operation. In addition, it has been increasing the size of the Commission's network, making the Commission part of the State's wide area network. All of this new work also meant many hours of classroom training for key computer staff.

During 1998, Systems administration continued to provide support for Commission staff, both those with PC's and those without. Systems administration created the analytical spreadsheets from lobbyist and legislative agent annual reports. It also provided statistical data for the Commission's Home Page on the Internet. Technical support was provided to Commission end users. This support included troubleshooting hardware



and software problems on the PC's as well as the servers. In addition to providing technical support to staff, the public was provided with timely data in various computer formats. Computer section staff was always available to assist members of the public with their questions on how to utilize data.

Programming

The Commission was very fortunate to be able to hire two new staff people to the computer section and create a programming area. The first programmer was hired in April 1998 with the second person joining the staff in November 1998. With the help of these new employees, and the Computer Section's MIS Technician Assistant, the Commission has been able to keep the ELEC On-Line project running smoothly and on time.

Both programmers have been kept extremely busy. They prepare the computer requests not only for the public but also for the Commission staff by gathering data from the Commission's new Oracle Database and creating customized reports and data diskettes. The programmers have been instrumental in providing the deputy director with the statistics for the latest White Paper as well as keeping the Campaign Financing

and Lobbying Statistics on the Commission's Home Page up to date.

Once the new servers had been installed, the new programming staff immediately began functioning not only as programmers, but as network administrators. Together with the network administrator for the consulting company, the new servers were installed, tested, and made operational. The Commission has been hooked up to the wide area network where the Internet is available as well as e-mail. Programmers have been able to troubleshoot many of the Commission's software issues with our customized software and have also been working to develop new ways of using older programs. The programmers provide the Commission staff with user training as well as technical, hardware, and software support. They have been instrumental in keeping up to date with network issues, which include hardware maintenance, support and upgrading.

In the very near future, the Commission will have direct access to its Home Page on the Internet and the programming area will have the ability to change and create information, as needed. The programmers will have responsibility for overseeing in-house computer training



for staff, research and development of future software applications, and the administration of the new Filenet or imaging server.

Data Entry

As in the other areas of the Computer Section, data entry saw many changes this past year with many more changes still to come. The data area grew again this past year to six data entry operator positions, with the MIS Technician Assistant supervising the data entry projects. The MIS technician assistant has been the liaison between the programming and data entry areas and the Compliance and Information Section. The tech assistant along with two of the data entry operators assumes responsibility for coding and conducting a cursory review of the reports that are keyed in detail.

The data entry area faced many new challenges this past year as it tried to key as much detailed data as time would allow and still key the day-to-day filing statuses that are so vital to the work of the Commission. The detailed contributor information from the two State party and four legislative leadership committees was keyed for the years 1994 through 1996 and is currently available. The contributor information for the big six committees for 1997 and 1998 is

in the review process. These reports will now be keyed quarterly on an on-going basis as they are filed.



Shirley Bryant (left) and Brenda Brickhouse (right)

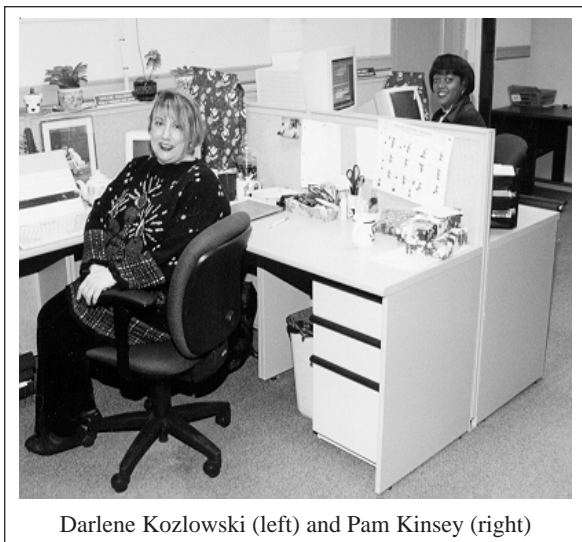
The 1997 general election legislative contributor information was keyed and is currently available.

Also keyed during the past year were the contributor information for the quarterly reports for the 1999 and 2001 primary elections. This detail information for both the 1999 and 2001 primary elections will be available by the spring of 1999.

Data also keyed names and addresses of candidates and committees from the various elections and on-going committees throughout the year. These lists are then used by the Compliance Section to send out



notices to all candidates and committees of their filing requirements.



Darlene Kozlowski (left) and Pam Kinsey (right)

Data entry also oversees the keying of the lobbyist and legislative agent quarterly reporting program. This program tracks all new and terminated legislative agents, their clients, their lobbying activity, and the timeliness of their filing as well as the non-filers. A statistical summary report giving the detailed information on the lobbyists and legislative agents is then prepared and distributed by the Commission. The annual lobbyist financial information was also keyed. Among the information detailed is the amount of money spent on salaries and benefit passing.

The Future of the Commission's Computer Section

The Commission has certainly entered the knowledge management era. By the spring of 1999, the Commission will be well on its way to testing and training staff to work in its new environment. The Commission will have several scanning stations up and running and our training sessions will be running full speed ahead. By the end of the summer 1999, when campaign finance and committee reports are received, they will be prepped, scanned, and indexed. At the same time, the reports will be made available to the public through the Internet. The public will also be able to search through the Commission's extensive contributor database through the Internet. Electronic filing will be made available through a pilot program with the software being made available either by CDrom or through the Commission's Home Page on the Internet. All of this will be made available to the public from their homes.

The Commission's data entry area will change considerably for the better. Instead of keying from paper, data will be keyed directly from the computer screen. The detailed contributor information will be available to the data entry operators with a



click of the mouse. All of these initiatives were started during 1998 with a completion date of 1999 and everything is moving right on schedule.

Computer initiatives to be phased in for the future:

- Electronic filing of reports for the State party committees, legislative leadership committees, special interest PACs, and gubernatorial public financing.
- Enhancements and rewrites of the public financing, PAC, legal, and lobbyist computer modules.
- Making the retrieved information from the searchable database downloadable.
- ICR (intelligent character recognition) and bar coding forms so that a scanned document will automatically be read into the computer system.



ADMINISTRATION SECTION

During 1998, the Administration Section effectively met the ever-increasing fiscal and personnel demands of the Commission. An essential part of the agency, Administration provides all management services for the Commission.

Since ELEC is "in but not of" the Department of Law and Public Safety, the Department has no administrative responsibility or control over the Commission.

Managing the Budget

In FY-1999 (beginning July 1, 1998), ELEC received an annual appropriation of \$1,982,000, which represents an increase of three percent (3%) from FY-1998. In addition, the Commission received a \$1,000,000 Special Purpose Appropriation for the purchase of hardware, software, and professional services relating to scanning and imaging and electronic reporting. The Commission

decided on FileNet using an Oracle Database to accomplish its overall imaging and workflow needs. This approach is consistent with the State of New Jersey's selection for these services.

Early in 1998, the Commission contracted with the consulting firm, Automated Concepts Incorporated (ACI) with the approval of the Office of Information Technology (OIT) and the Purchase Bureau to prepare a design study. This study identified what ELEC required in order to implement the Governor's initiative to have campaign finance reports



Donna D. Margetts (left), Barbra A. Fasanella (center), and Elaine J. Salit (right). Irene Comiso and Debra Kostival not shown



easily accessible from the Internet. ELEC then progressed to the Implementation Phase in September which included hardware installation, FileNet software installation, electronic filing, and the custom designed imaging and workflow system known as ELEC on-line. Easier and faster disclosure will be the ultimate result of the Governor's initiative.

Other Activities

The Commission commemorated its 25th Anniversary in 1998. It celebrated with a gathering of past and present Commissioners, Executive Directors, and others responsible for the creation of ELEC. Senator William E. Schluter who introduced S-1124, which created the ELEC in 1973, was the first speaker. Frank P. Reiche, who was the first Chairman of ELEC, was the second. This event helped to further highlight the admirable job the Commission has performed over the past 25 years.

Looking Forward

The Commission anticipates employing the services of ACI to expand its current computer capabilities to include the Continuing Political Committees,

Legislative Agents, and Gubernatorial Program. This work is expected in Spring/Summer, 1999.

The Commission is also planning to equip its public rooms with PC's so that visitors can access information quickly and easily. With the technology to scan reports into our database, visitors to ELEC seeking copies of reports will be able to print them out themselves. In addition, members of the public who cannot visit ELEC and do not have access to the Internet, will be able to receive scanned copies of reports mailed to them much faster than today. Reports will be printed directly from our database, eliminating the time consuming need to retrieve hard copies and photocopying them. Reducing the area needed to maintain photocopies will also free up needed floor space for staff and equipment.



BUDGET OVERVIEW AND EVALUATION DATA

In FY-2000, the Commission anticipates an appropriation of \$2,537,000 based on the Governor's Budget Recommendation.

Comparison of Fiscal Years 1998 and 1999 Appropriations

	<u>FY-1998</u> <u>Appropriations</u>	<u>FY-1999</u> <u>Appropriations</u>
Personnel	\$1,729,000	\$1,595,000
Printing & Supplies	41,000	41,000
Travel	1,000	1,000
Telephone	24,000	24,000
Postage	24,000	24,000
Data Processing	32,000	32,000
Professional Services	37,000	37,000
Other Services	7,000	7,000
OTIS	10,000	29,000
Maintenance/Equipment	2,000	2,000
Furniture/Equipment	0	175,000
Commissioner Per Diem	<u>\$15,000</u>	<u>\$15,000</u>
Total Operational	\$1,922,000	\$1,982,000
Public Financing Administration	\$630,000	0
Gubernatorial Public Financing	\$8,100,000	0
Special Purpose (Scanning & Imaging)	0	\$1,000,000

1998 Evaluation Data

Disclosure Reports (Total)	22,204
<i>Campaign & Quarterly</i>	17,720
<i>Lobbyist</i>	4,483
<i>Personal Finance</i>	1
Photocopies	155,157
Investigations	50
Civil Prosecutions	151
Public Assistance Requests	11,822
Fine Collection	\$78,047
Lobbying Annual Fees	\$174,825