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ELEC-Tronic

AN ELECTION LAW ENFORCEMENT COMMISSION NEWSLETTER

"Furthering the Interests of an Informed Citizenry"

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Comments from the Chairman Ronald DeFilippis

It seems like a simple requirement: placing political identification statements on political advertising.

Yet, it is a requirement that is sometimes overlooked.

The law requires that candidate committees, political committees, PACs, political parties, legislative leadership committees, and groups making independent expenditures disclose their identities on their advertising.

The purpose of the law is to allow citizens to know upfront who is paying for a particular political ad, be it TV, radio, direct mail, or other forms of advertising such as web, newspaper, or digital billboard.

The disclaimer of advertising provides this valuable information to help voters evaluate the merits of the ad from the perspective of who is paying for the ad.

This in turn helps voters better assess the candidate, enabling them to make a more informed decision when they enter the voting booth.

Whenever a political ad that is printed or aired promotes the nomination, election, or defeat of any candidate, the ad is required to state the name and

business or residence address of the person or entity paying for the advertisement.

Likewise, whenever a political ad is financed to promote or defeat a public question, the ad is required to contain a disclaimer providing the name and business or residence address of the person or entity underwriting the ad.

Those subject to the disclaimer law are individuals or groups, candidate committees, joint candidate committees, continuing political committees (PACs), political party committees, political committees, and legislative leadership committees.

It should also be pointed out that the law applies to ads run or displayed in connection with school board elections and write-in candidates. This requirement is in place despite the fact that school board candidates are not required to file A-1 reports if they do not raise or spend \$4,500.

It would seem that this provision would be readily complied with, and in most instances it is. But, despite the high compliance with this law, the Commission does come across far too many entities that ignore the law or are unfamiliar with it.

This has led to the Commission penalizing those who violate the disclaimer law in a proportion way out of balance with the provision's simplicity and straightforwardness.

New Jersey's disclaimer law is a valuable tool in bringing transparency to the electoral process.

As part of the Commission's series of training sessions, staff will redouble its efforts to make sure the word gets out that entities participating in the political and electoral processes must make every effort to provide this important, upfront, information to the public.

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Executive Director's Thoughts Jeff Brindle

The Obama political campaign operation is morphing into "Organizing for Action," a non-profit issue advocacy group that intends to promote his presidential agenda.

At the opposite side of the political spectrum, a conservative group, "Americans for a Strong Defense," is running ads opposing former Republican Senator Chuck Hagel for Secretary of Defense under Obama.

For America, another conservative group, recently ran a series of negative ads against Republican Senate Minority Leader Mitch McConnell in his home state of Kentucky. It condemned his part in a compromise involving the so-called "fiscal cliff" crisis.

The same debate prompted the National Association of Realtors, American Crossroads, and National Nurses's United, among others, to deploy Super PACs to try to influence the outcome. All were also players in the 2012 federal elections.

After becoming a major influence in last year's federal elections, Super PACs and other "outside" groups now are embarking on a bold new frontier- lobbying.

The involvement of groups operating outside the normal political establishment reached new heights during last year's federal elections.

Super PACs spent \$730 million, while 501(c) and 527 non-profit groups spent another \$446 million on independent campaign spending, according to the Center for Responsive Politics. Ten years earlier, Super PACs didn't even exist, and the other types of outside groups spent just \$27 million federally, the group says.

The problem with much of their spending is that the public often had little or no idea who paid the tab.

The expansion into lobbying shouldn't be a surprise. Many of those running Super PACs and other outside groups are current or former lobbyists.

"It's part of the permanent campaign," Rick Hasen, a University of California law professor, told Roll Call in November. "Sometimes it's about issues and

sometimes it's about candidates. But you're always pushing the message."

The line between advocating for political candidates and issues became blurred due largely to federal court rulings dating to the 1970s. Now, it has become virtually non-existent.

Many groups that have long operated traditional political action committees (PACs) that abide by federal campaign contribution limits also have lobbying arms. Ordinary PACs and Super PACs both disclose their contributions and expenses. No contribution limits apply to Super PACs.

Other outside groups operate in ways where it is easier to keep their activities secret or at least more difficult to track.

By turning what are ostensibly campaign committees into lobbying entities, they are gaining more clout with less accountability.

"I think it's a way for these groups to signal what policies they're going to care about and help ensure that legislators stay in line- or risk the wrath of large spending against them in the next election," said Hasen in the previously cited Roll Call article.

When it reaches the point where some independent groups are even supporting or opposing federal cabinet appointments, it is all the more critical for policy-makers to require timely disclosure of the financial supporters behind these organizations, as well as the groups' expenses.

Unfortunately, the response by some has been to rein in spending by outside groups through more regulation or calls for a constitutional amendment to overturn Citizens United. That 2010 Supreme Court ruling repealed a 1947 ban and permitted unlimited independent campaign spending by corporations and unions.

Citizens United led to the creation of Super PACs and accelerated the pace of outside spending. But it did not start the trend. Independent spending began surging many years before the court ruling. Much of that spending was funneled into issue advocacy advertisements that often escape disclosure even if they impact elections.

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Executive Director's Thoughts Jeff Brindle

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Even if Citizens United were overturned through the amendment process, which is highly doubtful, other loopholes would be found. They always are.

The better approach would be to embrace the high court's strong endorsement of disclosure.

In a December essay, former FEC Chairman Trevor Potter says the Supreme Court's mandate for disclosure post- Citizens United is broader than ever.

"The Supreme Court has been unusually clear in saying that the sources of funding of political advertising and other spending can constitutionally be required to be disclosed. This applies not only to the Super PACs but to c4s, c6s and other groups running campaign ads."

Richard Briffault of Columbia Law School insists greater disclosure is fair because today's so-called independent committees "are now far more clearly electoral than in the past...They are, in effect, shadow parties or campaign committees politically linked to the ballot-line parties or candidates even if they are legally independent."

Along with stronger disclosure, efforts must be made to reinvigorate political parties by trying to redirect the flow of contributions away from outside groups and back to parties. Parties may sometimes commit abuses but their fundraising activities traditionally have been subject to full disclosure. They are more accountable than most outside groups, and they can serve as a counterweight to them.

Though the influence of outside interest groups is not going away, greater accountability and disclosure, and stronger political parties, will help offset that influence in ways that will ultimately benefit the public.

The more people know who is behind these groups, the easier it is for them to decide what candidates and public policy choices to support.

Senate Bill No. 2585

At the February 21, 2013 meeting of the Senate State Government Committee, the members of the Committee voted unanimously to release Senate Bill No. 2585.

This bill would expand the current lobbying law to include lobbying at the local level.

Titled, "Local Governmental Process Activities Disclosure Act," the bill would require lobbyists (technically referred to as Governmental Affairs Agents) to disclose their activities lobbying county, municipal, school boards, and local authorities.

Attempts to influence local measures, local regulations, local governmental processes, and to provide benefits to local officials would be covered.

The Commission has pressed for this legislation for the past three years as part of its priority recommendations for reform.

Voting for the bill were Senator Samuel D. Thompson (R-12), Senator Dawn Marie Addiego (R-8), Senator Loretta Weinberg (D-37), Senator Shirley K. Turner (D-15), and Senator Jim Whelan (D-2).

During the hearing, Senator Thompson noted that ELEC's computer system was 13 years old and in need of an upgrade. He said that he continues to support funding for this purpose.

Executive Director Brindle publically thanked Senator Thompson for his continued support for funding ELEC's upgrade of its system.

Brindle also thanked the Committee for its support of the bill and Senator Weinberg for her support of ELEC's proposal throughout the years.

Annual Lobbying Reports

The Annual Reports of Lobbying Activity filed with the New Jersey Election Law Enforcement Commission (ELEC) reflect the financial activities of represented entities, governmental affairs agents, and persons or groups communicating with the general public (grassroots lobbying).

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On **Thursday, March 7, 2013, at 10:00 a.m.**, data summarizing the **Annual Reports of Lobbying Activity** for the 2012 calendar year period will be available on ELEC's website. The summary data includes, total receipts and expenditures, fees, and information on benefit passing. Copies of the annual reports also will be available at that time on ELEC's website at: www.elec.state.nj.us

Copies of 2012 Annual Lobbying Reports will also be available for review in the public records room. If you wish to photocopy a report, a photocopier is available and there will be no charge for the first 50 pages printed from the photocopier. Thereafter, the fee schedule as provided in the "Open Public Records Act" will apply.

Christopher Mistichelli "Profile"

[Director of Finance and Administration](#)

By Joe Donohue

As a former Office of Management and Budget (OMB) employee, Chris Mistichelli once had to tour state prisons to see if their roofs actually were leaking before he could okay repairs.

Fortunately for him, as the new overseer of ELEC's \$4.3 million budget, he has to walk only a few flights of stairs in the agency's downtown Trenton offices to check on the need for new purchases.

The former ELEC investigator is the agency's new Director of Finance and Administration. He replaces Steven Dodson, who has become a fiscal officer within the Office of Information Technology in the state Treasury Department.

In his new capacity, Mistichelli's duties will include overseeing the agency's budget, management services, human resources, payroll, procurement, mail, reception, and serving as the ethics officer.

While many investigations done by ELEC largely involve financial analysis, Mistichelli said he was eager to return to working with real budgets. During his time at OMB between 2001 and 2003, he helped monitor the finances of the Department of Corrections, one of the state's largest agencies, and the now-defunct Public Advocate's office.

After joining ELEC in September 2005, Mistichelli worked as an Assistant Review Officer in the Review and Investigation section. That was after working as a

criminal investigator for the Public Defender's office in Monmouth, Atlantic and Camden Counties.

He admits an investigator's job can be challenging but also rewarding, especially after completing a high profile case.

Candidates and their treasurers usually aren't happy when they learn they are under investigation and some are not cooperative. That is one reason why some cases can take months or even years to finish.

"People don't realize you have a job to do. It's nothing personal. Ultimately, we just want you to file the proper information," Mistichelli said.

Interestingly, the question investigators often get from officials isn't about what they did wrong.

"The first thing they want to know is who filed the complaint," said Mistichelli. ELEC employees cannot discuss that information even though some people who file complaints do talk about them in public.

Mistichelli earned a bachelors degree in criminal justice and sociology from Rutgers University in New Brunswick.

The South Jersey native is an avid Philadelphia Eagles, Phillies and Flyers fan. "Yes, I'm unfortunately an Eagles season ticker holder," he said, reflecting the chagrin many fans feel due to the team's long championship drought.

While he wasn't able to attend the 2005 Super Bowl where the New England Patriots defeated the Eagles, he did see the Pittsburgh Steelers defeat the Seattle Seahawks in the 2006 Super Bowl held in Detroit.

In his younger years, Mistichelli was an avid hockey and soccer player.

In his spare time now, he golfs and works on home improvements and enjoys picking vegetables at a nearby farm with his 2.5-year-old son C.J.

His wife Kristy, a finance manager, is expecting their second child.

Sometimes people walking downtown in Trenton do a double-take when they see his identical twin brother, Ryan, also a state employee.

Training Seminars

The seminars listed below will be held at the Offices of the Commission, located at 28 West State St., Trenton, NJ. Please visit ELEC's website at <http://www.elec.state.nj.us> for more information on training seminar registration.

| BUSINESS ENTITY PAY-TO-PLAY TRAINING | |
|--|------------|
| March 15, 2013 | 10:00 a.m. |
| TREASURER TRAINING FOR CANDIDATES AND JOINT CANDIDATES COMMITTEES | |
| March 11, 2013 | 10:00 a.m. |
| April 1, 2013 | 10:00 a.m. |
| April 18, 2013 | 10:00 a.m. |
| April 25, 2013 | 10:00 a.m. |
| September 10, 2013 | 10:00 a.m. |
| September 25, 2013 | 10:00 a.m. |
| September 30, 2013 | 10:00 a.m. |
| TREASURER TRAINING FOR POLITICAL PARTY COMMITTEES AND PACS | |
| March 21, 2013 | 10:00 a.m. |
| June 20, 2013 | 10:00 a.m. |
| September 16, 2013 | 10:00 a.m. |
| December 11, 2013 | 10:00 a.m. |
| R-1 ELECTRONIC FILING SOFTWARE (REFS) TRAINING | |
| March 13, 2013 | 10:00 a.m. |
| April 2, 2013 | 10:00 a.m. |
| April 24, 2013 | 10:00 a.m. |
| April 29, 2013 | 10:00 a.m. |
| July 24, 2013 | 10:00 a.m. |
| September 11, 2013 | 10:00 a.m. |
| September 19, 2013 | 10:00 a.m. |
| October 2, 2013 | 10:00 a.m. |

Lobbying Reporting Dates

| | INCLUSION DATES | ELEC DUE DATE |
|----------------------------------|------------------------|----------------------|
| Lobbying Quarterly Filing | | |
| 1 st Quarter | 1/1/13 – 3/31/13 | 4/10/13 |
| 2 nd Quarter | 4/1/13 – 6/30/13 | 7/10/13 |
| 3 rd Quarter | 7/1/13 – 9/30/13 | 10/10/13 |
| 4 th Quarter | 10/1/13 – 12/31/13 | 1/10/14 |

Reporting Dates

| INCLUSION DATES | | REPORT DUE DATE |
|--|------------------------------------|-----------------|
| Fire Commissioner - 2/16/2013 | | |
| 29-day pre-election | Inception of campaign* - 1/15/13 | 1/18/2013 |
| 11-day pre-election | 1/16/13 - 2/2/13 | 2/5/2013 |
| 20-day post-election | 2/3/13 - 3/5/13 | 3/8/2013 |
| 48 Hour Notice Reports Start on 2/3/2013 through 2/16/2013 | | |
| School Board Election - 4/16/2013 | | |
| 29-day pre-election | Inception of campaign* - 3/15/13 | 3/18/2013 |
| 11-day pre-election | 3/16/13 - 4/2/13 | 4/5/2013 |
| 20-day post-election | 4/3/13 - 5/3/13 | 5/6/2013 |
| 48 Hour Notice Reports Start on 4/3/2013 through 4/16/2013 | | |
| School Board Candidates running in November should follow the General Election Schedule. | | |
| Municipal Election - 5/14/2013 | | |
| 29-day pre-election | Inception of campaign* - 4/12/13 | 4/15/2013 |
| 11-day pre-election | 4/13/13 - 4/30/13 | 5/3/2013 |
| **20-day post-election | 5/1/13 - 5/31/13 | 6/3/2013 |
| 48 Hour Notice Reports Start on 5/1/2013 through 5/14/2013 | | |
| 90 Day Start Date: 2/13/2013 | | |
| Runoff Election** - 6/11/2013 | | |
| 29-day pre-election | No Report Required for this Period | |
| 11-day pre-election | 4/24/13 - 5/28/13 | 5/31/2013 |
| 20-day post-election | 5/29/13-6/28/13 | 7/1/2013 |
| 48 Hour Notice Reports Start on 5/29/13 through 6/11/13 | | |
| Primary Election*** - 6/4/2013 | | |
| 29-day pre-election | Inception of campaign* - 5/3/13 | 5/6/2013 |
| 11-day pre-election | 5/4/13 - 5/21/13 | 5/24/2013 |
| 20-day post-election | 5/22/13 - 6/21/13 | 6/24/2013 |
| 48 Hour Notice Reports Start on 5/22/13 through 6/4/13 | | |
| 90 Day Start Date: 3/6/13 | | |
| General Election*** - 11/5/2013 | | |
| 29-day pre-election | 6/22/13 - 10/4/13 | 10/7/2013 |
| 11-day pre-election | 10/5/13 - 10/22/13 | 10/25/2013 |
| 20-day post-election | 10/23/13 - 11/22/13 | 11/25/2013 |
| 48 Hour Notice Reports Start on 10/23/13 through 11/5/13 | | |
| 90 Day Start Date: 8/7/13 | | |
| Runoff Election** - 12/3/2013 | | |
| 29-day pre-election | No Report Required for this Period | |
| 11-day pre-election | 10/23/13 - 11/19/13 | 11/22/2013 |
| 20-day post-election | 11/20/13 - 12/20/13 | 12/23/2013 |
| 48 Hour Notice Reports Start on 11/20/13 through 12/3/13 | | |
| PACs, PCFRs & Campaign Quarterly Filers | | |
| 1 st Quarter | 1/1/13 - 3/31/13 | 4/15/2013 |
| 2 nd Quarter | 4/1/13 - 6/30/13 | 7/15/2013 |
| 3 rd Quarter | 7/1/13 - 9/30/13 | 10/15/2013 |
| 4 th Quarter | 10/1/13 - 12/31/13 | 1/15/2014 |

* Inception Date of Campaign (first time filers) or from January 1, 2013 (Quarterly filers).

** A candidate committee or joint candidates committee that is filing in a 2013 Runoff election is not required to file a 20-day post-election report for the corresponding prior election (May Municipal or General).

*** Form PFD-1 is due on April 11, 2013 for Primary Election Candidates and June 14, 2013 for Independent General Election Candidates.

**** A second quarter report is needed by Independent General Election candidates if they started their campaign before May 7, 2013