



OCPF Reports

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From the Director Public financing returns in 2006

Four years ago at this time, we at OCPF were entering a state election year with a new public financing plan: the Clean Elections Law, which offered public funds to candidates who agreed to observe contribution and spending limits.

A total of 10 candidates for statewide or legislative office received almost \$4.1 million through the program. In mid-2003, however, the Clean Elections Law was replaced by the financing system that had been in place for previous elections.

That program is more limited in scope, offering public funds only to candidates for statewide office, with priority given to funding the gubernatorial race first and any remaining funds to be distributed to the other five constitutional races.

The funding program distributed about \$1.7 million to 11 candidates in 1998, but has traditionally been handicapped by a shortage of funds from its sole revenue source, a voluntary \$1 checkoff on state income tax returns.

The new (old) program is in essence identical to its 1998 version, so we're going "back to the future" to get it up and running again.

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PAC contributions hit record levels in 2003-04

Political action committees in Massachusetts contributed just over \$2.4 million to state and county candidates in the 2003-04 election cycle, according to a study released recently by the Office of Campaign and Political Finance. The total is the highest amount of PAC activity ever recorded in an OCPF study.

The breakdown of contributions was \$1,022,045 in 2003 and \$1,397,259 in 2004, for a two-year total of \$2,419,304. (Contributions to candidates for mayor and councilor-at-large in the state's five largest cities – Boston, Cambridge, Lowell, Springfield and Worcester —

amounted to an additional \$103,035 in 2003 and \$64,025 in 2004, for a two-year total of \$167,060.)

The total contribution figure of just over \$2.4 million surpassed the previous record, from 1989-90, by about \$130,000. The new record was set last year despite the absence of elections for statewide offices, which usually boost contribution totals in a cycle.

Each of the two years in the most recent cycle placed in the top 10 for total annual contributions. The \$1.4 million contributed in 2004 put that

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**Year-end filing
deadline ahead
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Reporting schedule set for three special elections in House

The House of Representatives has scheduled special elections to fill three recently vacated seats.

Elections will be held on Feb. 7 in the 1st Bristol, 27th Middlesex and 2nd Worcester districts. The primary will take place on Jan. 10.

The 1st Bristol seat was vacated by the death of Rep. Michael Coppola of Foxborough. The other two seats were vacated by the resignations of incumbents Patricia Jehlen of Somerville and Brian Knuutila of Gardner. (Jehlen was elected to the state Senate in a recent special election.)

Candidates in all three upcoming special elections will file three campaign finance reports. The pre-primary report will be due on Tuesday, Jan. 3 (one day later than would normally be required due to the New Year's holiday); the pre-election report will be due on Monday, Jan. 30; and the post-election report will be due 30 days after the election, on Thursday, March 9.

The e-filed reports will be available for public inspection on OCPF's Electronic Filing System, at www.mass.gov/ocpf.

OCPF and Attorney General file suit against state Sen. Wilkerson for campaign finance violations

The Attorney General and OCPF have filed suit against state Sen. Dianne Wilkerson of Boston, charging her with numerous campaign finance violations, including more than \$26,000 in unreported contributions and more than \$18,000 in unexplained personal reimbursements.

The complaint against Wilkerson, her committee, and its former treasurer, Ajibola Osinubi, was filed Sept. 28 in Suffolk Superior Court and alleges the following violations in 2000-2001.

- \$26,935 in contributions that were deposited but not disclosed in campaign finance reports;
- \$13,503 in unreported or under-reported expenditures;
- \$20,264 in unexplained reimbursements, including \$18,277 in reimbursements to Wilkerson herself; and
- \$15,550 in “consulting fees” to four individuals, including Wilkerson’s

two sons, for which Wilkerson has been unable to provide a legitimate campaign-related purpose.

Other allegations concern \$3,200 in undisclosed contributions from six political action committees; illegal corporate contributions, improperly reported loans, improperly reported contributions from unincorporated businesses, and balance discrepancies.

OCPF referred the matter to the Attorney General in 2002, after repeated attempts to obtain explanations from Wilkerson through OCPF’s audit process. She also declined an opportunity to explain the discrepancies in a hearing. According to the complaint, once the matter was referred to the Attorney General’s Office, Wilkerson was repeatedly asked to provide evidence to explain the alleged violations, but was “unable or unwilling to provide such information.”

The complaint asks the court to

compel Wilkerson to amend her 2000 and 2001 campaign finance reports to accurately account for all alleged discrepancies. It also asks that she personally pay the Commonwealth for all contributions for which she is unable to properly disclose the contributor, and all reimbursements and expenditures for which she is unable to identify a legitimate campaign-related purpose, to pay civil penalties and investigative costs, and to be enjoined from taking further reimbursements from her campaign account.

This is not the first time Wilkerson has been sued for campaign finance violations. In 1998, she entered into an agreement with OCPF and the Attorney General concerning unexplained expenditures and undisclosed PAC contributions. She and her committee agreed to reimburse the committee for the expenditures in question and to pay a civil penalty of \$11,500.

PAC spending reached all-time highs in 2003-04 cycle

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year at second all-time, the only year in the top five that did not feature a statewide election. The \$1.022 million contributed in 2003 placed it ninth in the all-time list but was also the highest figure ever recorded for a year featuring no state elections at all, statewide or otherwise (not including any special elections due to legislative vacancies). All of the eight years preceding it on the list are state election (even-numbered) years.

The most recent PAC numbers cap a decade of resurgence in PAC activity since the mid-1990s, when changes in the law led to a decline in the total number of PACs and a resultant drop in activity by those committees.

The average amount of a PAC

contribution to an individual candidate in 2004 was \$265, the same amount that was recorded in the last election year, 2002. That figure is the highest in a decade, surpassed only by the amount of \$270 posted in 1994.

The number of PACs registered with OCPF remained at around 300 in the 2003-04 election cycle. A total of 211 made at least one contribution to a candidate in one or both of those two years, a proportion that is consistent with previous cycles.

Labor, business and professional groups continued to account for the top contributing PACs in the 2003-04 cycle. Of the top 20 PACs in terms of contributions, 15 represented unions or labor organizations, including firefighters, police officers, teachers, plumbers and iron workers. That is

one fewer such PAC than the total number that appeared in the top 20 for 2001-02. Another four PACs in 2003-04 represented professional or other business interests, including beer distributors, realtors, new car dealers, and optometrists. Rounding out the top 20 list was the House Democratic PAC.

The top contributing PAC for the cycle, as well as for both individual years, was the Retired Public Employees PAC, which reported giving a total of \$100,800 over two years. The PAC was also the top giver in the 2001-02 cycle. Sixteen of the PACs on the most recent top 20 also appeared on the 2001-02 list.

The study may be found in the “OCPF Studies” section of the office’s website, at www.mass.gov/ocpf.

Recent Cases and Rulings

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

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

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

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

Public Resolution Letters

- **05-10: Mass. Republican Society, Natick.** Did not comply (failure to disclose campaign finance activity in a timely and accurate manner); 7/28/05. A political action committee failed to maintain records of campaign finance activity, or accurately report contributions and expenditures, and did not sufficiently document reimbursements made to the treasurer of the PAC.
- **05-27: Jeffrey Trask, Chicopee.** Did not comply (failure to disclose campaign finance activity in a timely and accurate manner); 7/28/05. A candidate for municipal office failed to disclose in-kind contributions received (for printing services and a bulk rate mail permit for a political flyer).
- **05-42: Marjorie Decker, Cambridge.** Did not comply (failure to disclose campaign finance activity in a timely manner);

8/11/05. A municipal candidate in the depository reporting system failed to disclose information regarding contributions of \$6,400 contained in a bank deposit of Oct. 12, 2004.

• **05-44: Belchertown Land Trust.** Did not comply (failure to disclose campaign finance activity in a timely manner); 8/17/05. A land trust that made expenditures to influence a ballot question concerning the adoption of the Community Preservation Act failed to disclose the expenditure in a timely manner. Since the trust might receive public funds in the future for general purposes, it may not make ballot question expenditures.

• **05-11: Michael Brady and Robert Richardson, Seekonk.** Did not comply (public employee solicitations) 8/18/05. Brady, a municipal candidate who is also a police officer, solicited and received contributions in violation of the campaign finance law. Brady also served as treasurer for his own political committee, which is prohibited by the campaign finance law. In addition, Brady and Richardson, another municipal candidate, ran as a "team" and one of the candidates never filed a separate campaign finance report. To resolve the matter, each candidate paid a civil forfeiture of \$625. A remaining payment of \$1,250 was suspended through the next election on which the candidates' names appear on the ballot.

• **05-36: Stand for Children, Somerville.** No reason to believe (disclosure of ballot question expenditures) 9/20/05. A local affiliate of an out of state organization that raised funds as part of an effort to develop advocacy programs for children, made expenditures to support a Proposition 2 1/2 override in Lexington. The organization filed M22 reports disclosing its expenditures. Since the organization did not raise funds specifically to influence the override, however, the organization was not required to organize a ballot question committee.

• **05-39: William Cullity, Pembroke.** Did not comply (failure to disclose campaign finance activity in a timely and accurate manner); 10/17/05. A candidate for state representative failed to report four PAC contributions in 2002 totaling \$1,800. The required information has now been filed,

but only after repeated attempts by OCPF to obtain the necessary information.

• **05-58: Massachusetts Correction Officers Federated Union, Milford.** Did not comply (political fundraising in government buildings); 10/18/05. Correctional officers union posted a notice for a political fundraiser on MCOFU bulletin boards in various correctional facilities. These postings did not comply with s. 14, which prohibits fundraising within any building or part thereof occupied for state, county or municipal purposes. The notices were removed once MCOFU was contacted. In addition, the fundraiser was cancelled.

• **05-14: Mark Chauppette, Brockton.** Did not comply (failure to disclose campaign finance activity in a timely and accurate manner); 10/27/05. A candidate initially failed to report \$5,148 in receipts and \$7,774 in expenditures in his committee's 2003 and 2004 campaign finance reports. The committee also received \$600 in contributions from two corporations, which is prohibited by Section 8. The committee filed the required amended reports before dissolving and the candidate personally refunded the corporate contributions. The candidate also was assessed a personal fine of \$800 for failing to file a campaign finance report until 80 days after the statutory due date.

• **05-54: Robert Hunter, Gill.** Did not comply (failure to disclose campaign finance activity in a timely and accurate manner); 10/29/05. A candidate for Franklin County sheriff failed to respond to OCPF's inquiries concerning missing information for contributions received in 2004 totaling \$3,581 and an excess contribution of \$500. The required information was subsequently filed after repeated attempts by OCPF to obtain the necessary information.



Year-end disclosure reports are due Jan. 20

All candidates and political committees on both the local and state level are required to file year-end campaign finance reports by the statutory deadline of Friday, Jan. 20.

The deadline applies to all candidates, including those who may not have been on the ballot in 2005 but had an open committee, campaign account balance or liabilities. Also included are any other open committees, such as PACs, people's committees and ballot question committees, regardless of their level of activity.

Because 2005 was not a state election year, the upcoming report will be the only one filed for the year by legislative candidates, PACs, people's committees and local party committees.

Candidates in the depository system, which includes statewide, county and Governor's Council candidates, state party committees and candidates for mayor and councilor-at-large in Boston, Cambridge, Lowell,

Springfield and Worcester, will file a report summarizing activity reported by their banks throughout the year, along with liabilities and in-kind contributions.

Local party committees – at the ward, town and city level – must file with OCPF only if their activity exceeds \$100 in a reporting period. Committees with activity below that level, however, may still file to bring their reports up to date.

Most local candidates file with their city or town clerks or election commissioners by the same date. The exceptions are the citywide candidates noted above, who file with OCPF.

Most candidates and committees who file with OCPF are now required to submit their reports electronically. The reports will be posted on OCPF's Electronic Filing System, which may be accessed through the office's website, www.mass.gov/ocpf.

Any report not filed by Jan. 20, either electronic or paper, is subject to a \$10 per day fine.

From the Director

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Participation is voluntary, but any candidate who fails to notify OCPF whether he or she plans to take part by the time they return nomination papers in June 2006 will be disqualified from appearing on the ballot.

We will continue to notify all statewide candidates of the features of the program, including the matching funds application process. Further details of the program will be in the next newsletter and on our website in the coming months. A report on the 1998 program may be found in the newly revised Studies section of the website at www.mass.gov/ocpf.

Mike Sullivan
Director

Advisory Opinions

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

• **AO-05-10:** Officers of a political party's city committee may serve on a scholarship award committee that selects recipients of a scholarship that is awarded by the city committee. The officers of the city committee may not, however be related to the recipient of a scholarship award. (Westfield Democratic City Committee)

• **AO-05-11:** A legislator may use campaign funds to distribute an information packet for senior citizens. Some of the packets would be distributed outside a legislator's district. Expenditures to distribute the packets would comply with OCPF's regulations since they would be similar to expenditures to distribute campaign literature or for constituent

services, and would be consistent with enhancing the candidate's political future. (Barrios)

• **AO-05-12:** Checks issued through a bank's online bill pay service to make campaign contributions for a non-depository candidate would not violate the campaign finance law and regulations. Money orders containing funds drawn directly from a campaign account, issued by that bank, and signed by an official representative of the candidate's committee, may be used to make campaign expenditures. (Jehlen Committee)

• **AO-05-13:** A candidate who teaches for

a public university as an adjunct professor, who provides services pursuant to a contract, who may be eligible for certain employment benefits, and who has an expectation that he will teach at least one course each year, is subject to Section 13, even if occasionally he has not taught a course in an academic year and has not yet received a contract to teach a particular course. He is subject to section 13 even if he forgoes compensation to which he is entitled. Therefore, he may not solicit or receive contributions and his committee may not solicit or receive contributions from his students. (Lang)



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