



OCPF Reports

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

Volume 11, Number 1

Winter/Spring 2006

From the Director

Web site, e-filing get high marks again

This year will mark the third state election in which candidates and committees submit disclosure reports online, using our Electronic Filing System. Several hundred filers now use the EFS, and we're constantly tweaking it to upgrade its usability and convenience.

Once again, the effort has been recognized. OCPF has again been given high marks by a nationwide study for our electronic filing and our office website.

In the last annual report of a three-year nationwide study by the California Voter Foundation, "Grading State Disclosure," the EFS once again received an A+, good for a tie for first place.

The study cited the search features of the database as well as the "real time" availability of reports virtually as soon as they are filed.

While the grade for the EFS was unchanged, the OCPF website got a slightly higher score than the year before. While our overall ranking nationwide did not change, the study noted that OCPF's "biggest strengths are still in Electronic Filing and Online Contextual and Technical

Continued on Page 2

Statewide candidates have public financing option

Candidates for any of the six statewide elected offices will once again be eligible to receive partial public financing of their campaigns in 2006.

The Commonwealth's program of limited public financing of statewide campaigns returns after missing the last statewide election in 2002. That year, candidates were eligible to participate in the Clean Elections financing plan, which was subsequently repealed.

The limited financing program is geared solely toward candidates for the six statewide offices -- governor, lieutenant governor, attorney general,

treasure, secretary and auditor -- who agree to limit their spending to specific limits set by statute. For example, the limit for gubernatorial candidates is \$3 million: \$1.5 million for the primary and \$1.5 million for the general election.

Participation in the limited financing program is voluntary. However, all Democratic and Republi-

can candidates must notify OCPF in writing whether or not they plan to participate by June 6. Candidates not facing a primary, such as those who are not enrolled in either

Continued on Page 2

**Recent cases and opinions
Pages 3 & 4**

People's committee, bundling limits are raised again for '06-07

Two contribution limits, covering donations to people's committees and the maximum amount of any contribution that may be compiled or "bundled" by certain persons, have been raised by OCPF.

Under M.G.L. Chapter 55, Sections 1 and 10A, two figures must be adjusted for inflation every two years: the maximum an individual may contribute to a people's committee during a calendar year and the maximum amount of any contribution that may be collected, or bundled, by a regulated intermediary or conduit before certain statutory disclosure

requirements or limitations are triggered.

Using the Consumer Price Index for the Greater Boston area, OCPF increased the two figures from \$132 to \$140, effective Jan. 1, 2006.

For calendar years 2006 and 2007, therefore, a people's committee may accept up to \$132 annually from individuals. People's committees, which start as PACs, may accept contributions from individuals only.

For more information, see OCPF's Memorandum M-97-05. The document is available on OCPF's website, www.mass.gov/ocpf.

Rappaport signs agreement on violations from 2002 campaign

A former candidate for lieutenant governor has agreed to pay \$60,000 to settle charges that he violated the campaign finance law during his 2002 campaign.

James Rappaport of Concord agreed to the payment after acknowledging that his committee failed to fully disclose campaign expenditures from his personal funds, Attorney General Thomas Reilly announced recently.

The campaign finance law requires candidates for statewide office to disclose campaign receipts and expenditures through a depository account, with contributor information provided directly to OCPF by a candidate committee. Expenditures are made using special checks and disclosed in reports as they clear the account. The account activity is reported at least monthly to OCPF; the frequency increases to twice a month in the second half of an election year.

Rappaport, however, made more than \$300,000 in expenditures directly from his personal account, bypassing the depository reporting system.

The amount in the recent agreement brings the total spent by Rappaport outside of his depository account to more than \$500,000.

In a February 2003 disposition agree-

ment with OCPF, Rappaport acknowledged that he had made \$225,895 in campaign expenditures from his personal bank account between May and July 2002. In that agreement, Rappaport stated under the penalties of perjury that he did not make any other campaign expenditures outside of the depository account.

After the agreement was signed, however, OCPF identified additional campaign-related expenses that had been paid through Rappaport's personal account but not identified in the disposition agreement with OCPF. In April 2004 OCPF referred the matter to the Attorney General's office.

Further investigation by the Attorney General and OCPF identified several campaign-related expenditures made directly from Rappaport's personal bank account that were not disclosed to OCPF or the public and were not identified within the 2003 disposition agreement. The payments included \$173,354 for printing, \$68,872 for telemarketing, \$54,682 for campaign staff and \$13,047 for television advertising production.

As part of the recent settlement, Rappaport also agreed to file campaign finance reports disclosing the additional expenditures.

Public financing: Statewide program returns

From Page 1

party, must file their declarations by Aug. 29.

Any candidates failing to file these statements with OCPF will not be eligible for the ballot.

While all statewide candidates are eligible for funds, their chances of actually receiving any money depend on the office they are seeking. The law requires that the gubernatorial race be funded first, with any remaining money distributed evenly to participating candidates in the other five races.

Contributions received after Jan. 1, 2005, are eligible to be matched with state funds, up to a maximum of \$250 per contribution.

The source of the public funds for the program is a \$1 checkoff on state income tax forms. In recent years the checkoff has raised about \$400,000 annually; about \$1.5 million is expected to be available for distribution in 2006.

OCPF staff has been meeting with several statewide candidate committees and contacting new candidates to inform them of the program's features.

From the Director

From Page 1

Usability, and it ranks in the top five in both categories." Key to the latter online category was "the availability of resources that give the public some context when looking at campaign finance data," such as studies and summaries of trends and raw numbers.

We're proud to be ranked at the top once again. In addition to the work of our staff, I'd like to recognize the contributions of our filers and the public in using the EFS and the website. Your feedback has been immeasurable in helping us improve and expand our online presence.

* * *

The California study was a topic of conversation at the annual conference of the Council on Governmental Ethics Laws, the national group of campaign finance and ethics agencies, held in Boston in December. OCPF was a co-host of the event, along with the State Ethics Commission.

The conference was a great opportunity to interact with our counterparts across the country. Attendees expressed great satisfaction with their stay — despite the fact that the conference took place in December! I want to thank OCPF staff, who all pitched in to help make the event a success.

**Mike Sullivan
Director**

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

• **Tom Reilly Committee, Boston.** No further action (expenditures for office space); 11/9/05. Although a statewide candidate committee did not make regular monthly payments for a campaign office prior to July 2004, it made all subsequent payments on a regular monthly basis. In addition, given the amount paid during the term of the lease, it would appear that the committee did not receive an in-kind contribution for office rent.

• **Peter Arlos, Pittsfield.** No further action (public resources - distribution of information to voters); 11/10/05. A public official who was also seeking election to the City Council was advised to discontinue mailing campaign materials that bore the return address and phone numbers of the Berkshire Regional Retirement Board, his workplace. Even if the enclosed letter included a notation that it was paid for and mailed

using private funds, some recipients might believe that public funds were used.

• **Councilor Stephen Murphy, Boston.** Did not comply (failure to disclose campaign finance activity in a timely manner); 11/10/05. A depository committee did not file timely contribution reports to disclose receipts of \$19,520 or a timely itemization form for a \$7,188 reimbursement.

• **Friends of Bourne Council on Aging, Buzzards Bay.** Did not comply (failure to disclose campaign finance activity in a timely manner); 11/29/05. The organization's October 2005 newsletter addressed an override election and its consequences and appeared to encourage a yes vote. While a private organization such as the Friends may make such expenditures, the group failed to file the required disclosure of the activity eight days preceding the override.

• **Robert Collamore, Springfield.** Did not comply (failure to disclose campaign finance activity in a timely and accurate manner); 1/11/06. Based on OCPF's review of the committee's bank records, the committee's campaign finance reports contained numerous omissions and inaccuracies. For example, according to the committee's 2004 year-end report, the balance in the committee's account as of Dec. 31, 2004, was approximately \$23,000.

Based on the committee's bank records, however, the balance in the committee's bank account as of that date was only \$1,069.08. The committee was funded primarily with personal funds provided by the candidate.

• **Committee to Vote No on Question 1, Holyoke.** No reason to believe (ballot question expenditures); 1/11/06. In addition to urging a "no" vote on a municipal ballot question, a voters guide distributed by a ballot question committee included a page listing candidates who opposed the question. Because the guide did not contain an unambiguous call for electoral action relating to the candidates, it was not express advocacy as to the candidates, which would have been prohibited by Section 6B of the campaign finance law.

• **James Anziano, Springfield.** Did not comply (failure to disclose campaign finance activity in a timely and accurate manner); 1/11/06. A candidate for city council in 2005 failed to file contributor in-

formation for ten deposits totaling \$3,231, failed to provide purpose information for expenditures and wrote checks payable to cash that exceeded the legal limitation on cash expenditures.

• **Sandwich Taxpayers Association, Sandwich.** Did not comply (dissolution of ballot question committee); 1/12/06. A taxpayers association improperly formed a PAC instead of a ballot question committee before a Proposition 2 1/2 override election. Because the election had already occurred, funds remaining in the committee's account must be donated according to the residual funds clause of Section 18.

• **Councilor Marie Gosselin, Lawrence.** Did not comply (receipt of improper contributions); 1/20/06. City Council candidate's committee received \$5,105 in illegal corporate contributions. Additionally, the Committee received two \$1,000 contributions from individuals, which are limited to \$500 by law. Gosselin agreed to pay the Commonwealth a \$4,000 civil forfeiture, \$2,000 of which was suspended through January 2008, upon the condition that Gosselin complies with the campaign finance law.

• **Women's Republican Club of Winchester PAC.** Did not comply (record keeping and reporting); 2/2/06. A PAC's 2004 reports were substantially late, incurring fines of \$7,500. In addition, the 2003 and 2004 reports were incomplete and inaccurate when filed. To resolve the matter, the committee agreed to pay a penalty of \$1,000.

• **Michael Ellis, Gardner.** Did not comply (political fundraising by a public employee); 2/10/06. A legislative candidate committee listed a public employee as a member of the host committee in an advertisement for a fundraiser. The employee stated that he did not see the ads in advance and was not aware that he was in the ads prior to publication. When notified that using the employee's name in the

Continued on Page 4



Recent cases and rulings

From Page 3

ads was not consistent with the campaign finance law, the committee refunded funds that had been received to that point and also did not collect any contributions at the event.

• **Mass. Package Stores Association, Boston.** Did not comply (ballot question committee reporting); 2/17/06. An association raised funds in 2005 to influence an anticipated ballot question but did not file a statement of organization or initial campaign finance report until after the year-end report due date of Jan. 20, 2006.

• **Professional Investigators PAC, Watertown.** Did not comply (record keeping and reporting); 3/3/06. A PAC failed to respond to OCPF's repeated requests for copies of checks and also did not disclose a \$1,000 expenditure.

• **Jose Santiago, Lawrence.** Did not comply (record keeping and reporting); 3/10/06. A candidate failed to respond to OCPF inquiries in a timely or complete manner, did not file accurate reports, and

did not maintain records. The reports reflected negative ending balances. In addition, several items that were reported as expenditures were not paid because committee checks were returned due to insufficient funds in the committee's account.

• **James Walsh, Gardner.** No further action (fundraising by public employee); 3/27/06. OCPF considers a number of factors in determining whether a person who provides services to a municipality is an independent contractor, who is not bound by the Section 13 prohibition against political fundraising by public employees. Although generally an attorney with a private practice who also serves as a city solicitor may be considered an independent contractor, if a city solicitor receives retirement and insurance benefits a different conclusion may be appropriate. In this instance, the solicitor took the initiative to cease fundraising activity after the issue arose, and no further action by OCPF was necessary.

Filing deadlines for 2006 legislative candidates

Candidates for the state Senate and House of Representatives file three reports in this election year:

- **Pre-Primary report, due on Monday, Sept. 11.**

- **Pre-Election report, due on Monday, Oct. 30.**

- **Year-End report, due on Monday, Jan. 22, 2007.**

All legislative candidates with receipts or expenditures of more than \$5,000 in the two-year election cycle must file their reports electronically. Candidates who do not reach that threshold are still advised to e-file, using either OCPF's free software or the online Web Reporter tool.

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-06-01:** Campaign funds may be used to pay costs associated with a city councilor's participating in a five-day Spanish immersion program in Puerto Rico, where the district that the councilor represents has a high percentage of Spanish-speaking constituents and the councilor does not speak Spanish. The \$665 cost of the program, to be paid by the candidate's committee in this instance, included registration fees, and the cost of lodging and meals. (Ross)

• **AO-06-02:** This opinion responds to a number of questions regarding the extent to which the Green-Rainbow Party, which is currently considered a political action committee by the campaign finance law, may support a "slate" of party candidates. The committee maintains not only a state

account, but also a federal political party committee account that is governed by federal law. The opinion notes that to avoid preemption, the federal account of the committee, not the committee's state account, should be used to make expenditures that support or oppose both federal candidates and candidates for state or local office. (Melnychuk)

• **AO-06-03:** A candidate's committee which is not organized on behalf of a candidate for constitutional office may make expenditures for the candidate's membership to the University of Massachusetts Club, if the candidate would not be participating in the Club "but for the candidate's interest in it enhancing the candidate's political stature." (Cronin)

• **AO-06-04:** Where a group has raised funds, including at least one individual contribution of more than \$500, for the purpose of supporting the formation of a charter commission and to support a slate of candidates for membership in the commission, the group should form both a ballot question committee and a political action committee. (Pizer)

• **AO-06-05:** A recently dissolved ballot question committee may establish a new issues group and a ballot question committee. The opinion discusses the distinction between issues groups and ballot question committees. In addition, it discusses the extent to which these types of organizations may produce a joint marketing piece. (Valone)



Get us online

OCPF Reports is distributed to subscribers by e-mail only. To get on our electronic distribution list, send your e-mail address to newsletter@cpf.state.ma.us or call OCPF at (617) 727-8352 or (800) 462-OCPF.