



OCPF Reports

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From the Director

The next step

It's coming up on two years since the first campaign reports were received in OCPF's Electronic Filing System, and it's time for the next step in electronic disclosure.

As you can read elsewhere in this issue, OCPF is upgrading its Reporter filing software to allow filers to "sign" reports electronically, using security technology embedded in the software and the filing system.

A new version of the software for non-depository filers has already been introduced, with a version for depository filers coming soon. The filing software used by banks to file depository reports is also getting an upgrade.

The new versions will allow for easier use by candidates, committees, and banks and move us closer to our goal of paper-free filing..

The software upgrade comes just in time for the upcoming expansion of electronic filing to include political action committees starting in 2004. PACs (and party committees that exceed a certain threshold) will be able to e-file their 2003 year-end reports on a voluntary basis in January 2004. E-filing will be mandatory for the three reports due for 2004.

Legislative, statewide, and governor's council candidates will be required to file their year-end 2003 reports electronically by the deadline of January 20, 2004. These candidates will no longer be required to file an additional paper copy of their report.

OCPF is pleased that our electronic filing system has weath-

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Updated software is unveiled by OCPF

An updated version of OCPF's *Reporter* recordkeeping and filing software, has been developed and is ready for distribution to candidates and committees.

Like the earlier versions, the new software, officially *Reporter 3.05*, was developed by OCPF and incorporates comments and suggestions from users.

No changes were made in the basic functions of *Reporter*. Candidates and committees will still use it to keep track of all campaign finance activity, including receipts, expenditures and liabilities. Candidates and committees that file with OCPF will also use the software for electronic filing.

The chief new feature of the software allows a candidate or treasurer to add an electronic signature to a report, using encryption and security technology.

The other software used by candidates, *Depository Reporter*, is also being revised to allow for electronic signatures.

Since the start of electronic filing in 2002, candidates and committees that e-file

have also had to file paper copies of their reports. M.G.L. c.55, s. 18C, allows OCPF to require backup paper filing as long it is deemed necessary.

Now, with electronic filing proving to be a secure and reliable method of disclosure, OCPF is planning for

the eventual elimination of the paper filing requirement.

The new *Reporter* allows a filer to provide the attestation of a report that until now was only possible with an actual signature on a paper document.

"The new *Reporter* is big step in our progress toward full electronic disclosure. It helps move way from the paper filing requirement in the near future while still providing for security when filing online," said OCPF Director Michael Sullivan.

Candidates and committees using the earlier version of *Reporter* will not be sent a disk with the new software. Rather, they may download an automatic update from OCPF's website, www.mass.gov/ocpf. Click on "Electronic Filing."

**City candidates
file campaign
finance reports
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Study: PAC contributions reached \$2.25 million in 2001-02 cycle

Political action committees in Massachusetts made a total of \$2.25 million in contributions to state and county candidates in the 2001-2002 election cycle, according to a recent OCPF study.

The two-year total is the second highest of any election cycle since OCPF began tracking and publishing studies of total PAC activity in 1982. The cycle

featuring the highest total contributions was 1989-90 (\$2,289,158).

The figures illustrate a continued resurgence of PAC activity from a relative lull in the mid-1990s, when changes in the campaign finance law led to a decline in the number of PACs and in activity by those remaining.

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City elections are on tap in 2003

It's election season in the cities of the Commonwealth, as hundreds of candidates are making plans to run for mayor, council and school committee.

Like candidates for state office, those seeking municipal seats are required to file disclosure reports prior to the preliminary and general elections and at year-end.

Municipal reporting forms are available from local election offices or from OCPF. Municipal forms may be downloaded from OCPF Online at www.mass.gov/ocpf.

City candidates use one of two separate reporting systems. The first, and most common, is virtually identical to the non-depository system used by legislative candidates and calls for candidate and committees to file reports directly with their local election officials. This system is used by the vast majority of city candidates (as well as candidates in towns).

Reports are due eight days before each election. If there is a preliminary election anywhere in the city, all candidates must file, even those whose races are not on the ballot until November. The third, year-end report is due on Tuesday, Jan. 20.

The other form of municipal reporting is the depository system, by which financial institutions file monthly reports with OCPF on behalf of candidates. The filings increase to twice a month after July 1 of the

election year. The depository system is also used by statewide and county candidates.

The depository system is used by candidates in the state's five most populous cities – Boston, Springfield, Worcester, Lowell and Cambridge. In those cities, contenders for citywide office (mayor and councilor-at-large, but not School Committee) designate depository banks that file reports on their behalf with OCPF.

Candidates for ward or district councilor, school committee and any other elected municipal offices in these five communities will still file locally.

While candidates for many state offices now file their reports electronically, there is no e-filing requirement for city candidates. They may use OCPF's *Reporter* software for recordkeeping purposes and to generate reports, but those reports must be filed in paper.

Despite the lack of e-filing, some municipal candidates will be online. OCPF plans to post images of reports received from candidates for mayor in the three depository cities that elect their mayors directly: Boston, Springfield and Worcester. The images may be found in the "Campaign Finance Reports and Data" section of the office's web site, www.mass.gov/ocpf.

From the Director

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ered its growing pains and functions as a smooth component of the office's overall mandate. We have seen a huge upswing in the number of visitors to our website and look forward to encouraging all entities to file electronically in the future.

* * *

On another matter, 2003 is a city election year in the Commonwealth and there are many communities where vigorous competition is expected.

OCPF recently met with the Massachusetts Mayors Association and both municipal clerks associations to remind them about the many areas of the campaign finance law. We also offered to hold seminars for both public employees and candidates in local communities to ensure that everyone involved in a campaign understands the rules of the game.

As always, the office will select several communities and review the reports of their municipal candidates in early 2004.

Mike Sullivan
Director

PACs: 2001-02 cycle was one of the most active

From Page 1

About two-thirds of the 300 PACs registered with OCPF reported making at least one contribution in the most recent election cycle.

The findings of the study in brief:

- In the **rankings of the last 21 individual years**, the total PAC contribution figure of \$1,294,807 for 2002 ranks as the third highest annual total and the highest posted since the all-time high of \$1,401,299 in 1994. The 2002 contribution figure represents an increase of just over \$200,000 from the previous election year, 2000.

The contribution total for 2001, \$958,778, is the second-highest such figure for a non-election year, trailing the total of

\$961,000 posted in 1999.

- The **average contribution** was \$246 in 2001, an increase of \$18 from the year before. The average rose to \$265 in 2002, which was the highest figure since 1994, when the average was \$270. (The highest average ever recorded was \$331 in 1983; the all-time low was the \$200 recorded in 1996.)

- Statistics from 2001-2002 showed the **most common recipients** of PAC money in past cycles – candidates for the Legislature, winning candidates, Democrats and incumbents — continued to receive a substantial majority of contributions.

- Labor, business and professional interests once again accounted for the **most active PACs** in 2001-2002. Of the

Top 20 PACs for total contributions to candidates in the cycle, 16 represented labor groups such as unions, both active and retired. That is the same percentage found in the 1999-2000 cycle.

The top PAC in terms of contributions for the cycle was the Retired Public Employees PAC, which reported giving \$94,650 over two years. The committee was also the top PAC in terms of contributions in the 1999-2000 cycle, when it reported giving \$86,650.

The study may be found on OCPF's web site at www.mass.gov/ocpf. The web site also includes annual contribution totals for each PAC that was registered with OCPF in 2001-02, as well as a list of all active PACs.

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 the office 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, in OCPF's view, the case is able to be settled in an informal fashion with an educational letter 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.

Disposition Agreements

Brian Strasnick, Swampscott (4/29/03)

Strasnick, the owner, president and chief executive officer of the Willow Street Medical Center and Willow Street Medical Laboratory in Lynn, made \$11,000 in excess contributions to candidates in 2001 and 2002 by giving money to fourteen individuals, including his employees, for the purpose of allowing them to each make \$500 contributions to the committees of three candidates: Salvy Migliaccio of Lynn, James Segel of Needham, and Steven Walsh of Lynn.

In the agreement, OCPF concluded that Strasnick, by disguising the true source of numerous excess contributions, violated M.G.L. c. 55, ss. 7A and 10. To resolve the matter, Strasnick agreed to pay a total of \$16,000 to the Commonwealth in the nature of a civil forfeiture: \$11,000 upon execution of the agreement and the remaining \$5,000 no later than September 1, 2003. Strasnick also agreed to notify OCPF if he makes future contributions to any state or local candidates in 2003 or 2004 and to make all future contributions to any Massachusetts candidate or political committee, regardless of amount, only in the form of a personal check.

OCPF found no evidence of wrongdoing by Migliaccio, Segel and Walsh. The three candidates voluntarily disgorged the funds improperly contributed by Strasnick by making payments to charitable entities in the full amounts

of \$3,000 (by Migliaccio), \$5,500 (by Segel), and \$2,500 (by Walsh).

Sheet Metal Workers Local Union 17, Dorchester, (5/28/03)

The agreement with the union and its people's committee, a political committee representing the labor union, concerned violations of the campaign finance law in the committee's reports in 1997-2001.

The union and political committee failed to keep adequate records of committee activity, failed to segregate committee funds from union accounts and failed to properly report committee expenditures, including contributions made to candidates. In addition, the committee failed to reimburse the union for administrative services. OCPF concluded that these accounting, recordkeeping, and reporting errors violated M.G.L. c. 55, ss. 5 and 18.

The committee took corrective steps after discussions with OCPF and has changed its bookkeeper and treasurer. In 2002, all of the committee's deposits went into the segregated account and all of the committee's campaign finance activity was conducted through the committee account. To resolve the matter, the committee paid a civil forfeiture of \$2,000 to the Commonwealth and also agreed to: (1) implement various controls on its financial activity, including hiring a certified public accountant to review reports and providing OCPF with bank statements reflecting activity through 2004, (2) correct past balance discrepancies, and (3) keep records and reimburse the union for administrative services provided.

Jose Santiago, Lawrence (5/29/03)

Santiago, a former state representative and candidate for mayor of Lawrence in 2001, entered into an agreement regarding numerous violations of the campaign finance law from 2000 through 2002, including reporting discrepancies, activity that was not disclosed in public filings, and late filing of campaign finance reports.

Among the violations cited in the agreement are more than \$20,000 in expenditures that were inaccurately disclosed, not disclosed at all or not made properly through the Committee's bank account, including: undisclosed expenditures by Santiago from his personal funds directly to vendors; contributions to the Committee that were not deposited into its bank account and instead were paid out to vendors in cash; expenditures to various individuals that were not reported as having been made to these individuals and do not coincide with the Committee's bank checks; and expenditures from the Committee's account that were not disclosed until the Committee filed amended reports in April 2003 as a result of OCPF's review.

In addition, the Committee filed all of its

2002 campaign finance reports late, and failed to report activity from January 1, 2001, to May 31, 2001. Other violations included the receipt of \$570 in contributions from business corporations; receiving an excess contribution from an individual of \$550; receiving a \$100 contribution by money order; incorrectly reporting contributions from unincorporated businesses as coming from individuals only; improperly reporting contributions from PACs and other candidates as having been received from individuals; raising at least \$200 through a raffle; and failing to report liabilities in a timely or accurate manner.

To resolve the matter, Santiago personally paid \$2,600 to the Commonwealth, including a \$1,230 civil penalty for late-filed campaign finance reports, \$870 representing the amount of improper contributions received, and \$500 in the nature of a civil forfeiture. Santiago has voluntarily dissolved his committee, but agreed to notify OCPF if he seeks office again and to provide the office with campaign bank records through 2005.

Public Resolution Letters

☞**03-09: Support Our Schools, Chelmsford.** Did Not Comply (disclosure of ballot question activity); 3/6/03. A local ballot question committee was required by M.G.L. c. 55, s. 18 to report its activity to the local election official even though the relevant question appeared on the state ballot in November.

☞**02-114: Traditional Values Coalition, Anaheim, CA.** No Reason to Believe (failure to form a ballot question committee); 4/1/03. A national lobbying organization's contributions to a Massachusetts ballot question committee appeared to be consistent with M.G.L. c. 55, s. 22. There was no evidence to suggest that the group solicited or received money specifically to make the contributions or otherwise influence the ballot question, or that the group improperly acted as a pass-through for individual donors.

☞**03-10: Acton Citizens for Tax Sense.** No Reason to Believe (commingling of funds); 4/2/03. A local ballot question committee may solicit and receive contributions made payable to its treasurer personally where the treasurer had previously opened a separate segregated account in his name to be used solely for ballot question activity.

☞**03-01: Douglas Public Schools.** No Reason to Believe (use of public resources for a political purpose); 4/7/03. A school department may provide mailing labels and access to copy machines to parents who distributed a flyer promoting an override, as long as

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Recent Cases

From Page 3

individuals who opposed the override would have been given the same labels and access to the copy machines if they had asked.

⚡03-01: **Pamela Lavallee and Paula Hill, Douglas.** Did Not Comply (ballot question activity); 4/7/03. Individuals who pooled resources to influence the vote on a ballot question should have first formed a ballot question committee and disclosed activity as required by law. In addition, a PTO failed to file a timely report of ballot question expenditures.

⚡03-08: **Princeton Municipal Light Department.** Did Not Comply (use of public resources for a political purpose); 4/14/03. The utility should not have used ratepayer fees to distribute a newsletter and flyer discussing a ballot question. It was proper, however, for the utility to use public resources to hold public meetings to provide information regarding the ballot question. OCPF recommended that the utility be reimbursed for funds wrongly spent to influence the election; a ballot question committee could organize to raise funds for that purpose.

⚡03-12: **Rockport Public Schools.** Did Not Comply (use of public resources for a political purpose); 4/17/03. Even though material was distributed at public expense prior to town meeting, it encouraged people to vote at the pending town election and outlined the consequences of that vote.

⚡02-77: **James W. Segel, Needham.** No Reason to Believe (receipt of excess contributions); 4/29/03. A candidate's committee received 12 separate contributions of \$500 from an individual's personal funds. Eleven of these contributions were made in the name of other persons and therefore were made in a manner that disguised the true source of the contributions. There was no evidence to suggest that the candidate or the committee knew of this activity until OCPF brought it to their attention. (See the Strasnick disposition agreement, above.)

⚡03-14: **Michael W. Phelps, Lynn.** No Reason to Believe (political fundraising by a public employee); 5/6/03. Compensated public employees may not solicit or receive campaign contributions. The chairman of a city license commission, however, resigned his paid position prior to soliciting political contributions from local business owners, including business with matters before the commission.

⚡03-04: **Town of Danvers.** No Further Action (use of public resources for a political purpose); 5/8/03. A series of flyers distributed prior to town meeting with the town's electric bills appeared to relate primarily to town meeting rather than the subsequent election.

Although the flyers might reasonably be seen as reflecting an effort to use public resources to influence an election, there were no references to the election in the material.

⚡03-03: **Mark T. Shane, Swansea.** Did Not Comply (failure to report an independent expenditure); 5/8/03. After being contacted by OCPF, an individual who had spent over \$100 to distribute a flyer to oppose a municipal candidate disclosed such activity by filing CPF Form 18A with the town clerk.

⚡02-37: **Paul E. Caron, Springfield.** Did Not Comply (failure to report campaign activity and maintain records); 5/15/03. OCPF determined that the committee had failed to keep and maintain adequate accounts of campaign receipts and expenditures, made expenditures in support of the candidate's mayoral campaign from a non-depository campaign, and had filed inaccurate reports between 1996 and 2001. As a result, the candidate amended his committee's 2001 campaign finance report to account for a variance between reports and bank statements; filed other required reports; forgave personal loans to the committee; assumed personal responsibility for the committee's outstanding credit card debt and dissolved the committee.

⚡03-15: **James M. Leahy, Holyoke.** Did Not Comply (political fundraising by a public employee); 5/19/03. It was not appropriate for a candidate who is also a state employee to sign an invitation to a fundraiser held by his campaign committee. Once OCPF notified the candidate of the problem, he cancelled the event and disgorged funds received. The committee treasurer signed and distributed an invitation to a new event.

⚡03-13: **Wellesley Public Schools.** No Further Action (use of public resources for a political purpose); 5/22/03. Public resources were used to prepare and distribute material that provided substantive information regarding a recommended school budget that was the subject of town meeting, but also stated that the budget would be the subject of a subsequent override election. The distribution appeared to be consistent with OCPF guidelines, but should be avoided in the future if it concerns an election.

Advisory Opinions

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

⚡03-02: Even if town meeting has rejected a matter that is the subject of a proposed Proposition 2½ debt exclusion, such a determination is not equivalent to a final determination by the voters in a town election to reject a ballot question. Therefore, a ballot question committee organized to support the question is not required to dissolve and may remain in existence to support a future ballot question that is consistent with the committee's statement of purpose. (Support Our Schools Committee)

⚡03-03: This opinion responds to a number of questions relating to the extent to which a PTO may be involved in a ballot question campaign. (Beebe School ballot question committee)

Candidate, committee lists are updated


OCPF has updated its lists of candidates and committees on file with the office.

The office has generated new lists of candidates for state, county and some municipal office, political action committees and state ballot question committees.

The lists are available in hard copy from OCPF, but are also available online at the office's web site, www.mass.gov/ocpf.

To access the lists, click on "Campaign Finance Reports and Data," then on "Registered Candidates and Committees."

The lists are available in "pdf" image format.



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