



OCPF Reports

From the Director

A Look Back

As expected in a state election year, we had a busy 2008.

Candidates and other political committees filed more than 1,100 year-end reports on top of thousands of other campaign finance filings submitted throughout 2008.

We also upgraded our Web site, which I hope everyone finds helpful. I've heard positive feedback about our Web-based research tool — the electronic filing system. We added charts, graphs and more ways to sift through the data to get the information you want. We'll continue to improve our computer services each year to make filing reports and searching for information easier and more efficient.

As part of our ongoing efforts to improve campaign finance education, we've added in-house seminars each Wednesday, which have drawn regular visitors.

Now our focus is on 2009.

Here to Help

Many city and town clerks have municipal elections

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\$11.5 million spent on state ballot questions

Corporations, unions and organizations reported spending \$11,516,215 to support or oppose three questions on 2008's statewide ballot, according to an analysis by the Office of Campaign and Political Finance.

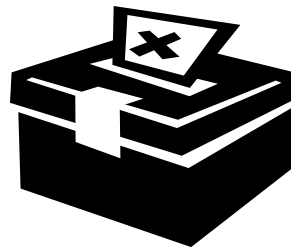
Question 1, asking voters to repeal the state income tax, generated the greatest amount of spending this election cycle at \$7,918,157.

Question 3, concerning a ban on dog racing, accounted for \$1,983,163 in spending (the total for this question includes spending by the Committee to Protect Dogs since it formed in September, 2005).

Candidates at all levels, from selectman to governor, must request occupation and employer information for donors of \$200 or more, according to the state campaign finance law.

Employer information must include the name of the

There was \$1,613,895 spent on Question 2, which asked voters to make marijuana possession a civil, not criminal, offense. The totals include in-kind contributions and expenditures that were independently made of any organized ballot question committee.



The election results favored the side that spent the most money for all three questions. The supporters of Question 2 outspent opponents 20 to 1, the most disproportionate spending comparison of the three questions. Question 1 opponents outspent supporters 15 to 1 to defeat the proposal to eliminate the state income tax. Question 3 supporters outspent opponents 2 to 1 to pass a

ban on dog racing.

Of the corporations and organizations that spent money to support or oppose ballot questions, the Massachusetts Teachers Union contributed the most, \$3,468,241, to oppose Question 1. The National Education Association of Washington, D.C., spent the second most, \$1.5 million, also to oppose Question 1. The Marijuana Policy Project spent \$1,067,756 to support Question 2.

Total spending on the 2008 ballot questions fell short of the \$16.1 million record set in 1992, when four questions were on the statewide ballot. The record for spending on a single ballot question is \$13.1 million, a mark set in 2006 concerning the sale of wine in food stores.

checking to see if the required information is included on reports.

Providing the information often requires committees to be proactive.

The first obligation of a

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Law requires occupation, employer data

company, not a vague description such as "bank" or "factory." Occupations should have specific descriptions. A bank president should be listed as such, not "banker."

OCPF auditors, who are reviewing 2008 campaign finance reports this spring, are

We're on the Web
www.mass.gov/ocpf

Personnel Update

Former OCPF intern Harleigh Billian was hired to work on special auditing projects and reception services.

Billian is a Wrentham native and graduate of Boston College with a degree in communications and history.

Campaigns and the Internet

Using the Internet and e-mail for political campaign purposes

The Internet and e-mail have become major tools for state and local candidates. So how does the campaign finance law apply?

Most of the state's campaign finance laws went through a major overhaul in the early 1970s, and parts of it date back to the 1800s, so the law does not specifically reference Internet and e-mail usage, or the use of government computers for political purposes.

But OCPF has developed regulations and advisory opinions to help candidates and committees make the shift toward 21st Century communication tools.

Certain expenditure rules are straightforward — campaigns can spend money to develop and maintain private campaign Web sites. They can collect contributions via the Internet, and can buy e-mail lists to send out information.

Campaigns can also have a Web site developed for free,

provided a volunteer wants to develop and maintain the site as a personal service on their own time — much like someone who volunteers to hold a campaign sign at a busy intersection.

Below is a list of some other rules to remember when using the Internet for campaign purposes:

Public employees are prohibited from using government computers and e-mail for campaign purposes.

Government e-mail may not be used to campaign or solicit campaign money.

A governmental entity may, for the purpose of promoting voter education and participation, provide links on its Web site to candidate or committee Web sites if equal access is provided for all other candidates or committees.

Individuals can make

credit card donations using the Internet, but committees must remember to report the processing fees assessed by the company. If a person donates \$500 and the fee is \$10, the donation is still reported as \$500 on campaign finance reports, with an expenditure of \$10 for the service.

Ballot question information may be posted on a government Web site.

Government officials are prohibited from sending e-mails from government computers or e-mail addresses advocating for or against a ballot question (such as an override).

This is a partial list. For further guidance on Internet and e-mail use, call OCPF at 617-979-8300. OCPF's bulletin on the subject, IB-04-01, is available on-line under "interpretive bulletins" in the "legal resources" section at www.mass.gov/ocpf.



Occupation, employer data sought in 2008 election audits

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committee is to ask for the information when they solicit the contribution. If the data is not provided, committees are required by law to ask for the information in writing. A copy of the communication should be

kept by the committee.

If the committee is unable to get the occupation and employer information after mailing a letter, committees should indicate "letter sent" on their campaign finance reports to show that a written attempt was

made. The committee may keep the contribution if these steps are followed.

If a donor's occupation and employer information is obtained, committees should amend previously filed campaign finance reports.

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 a wrongdoing on the part of a subject and does not require agreement by a subject.

Public Resolution Letters

CPF-08-69: William Scibelli, Longmeadow. No further action. (Solicitation in a government building); 11/6/2008. Scibelli's political committee mailed 676 invitations for a campaign kick-off and fundraising event, 25 of which were received by city or town officials at their governmental offices in East Longmeadow, Hampden, Monson, Springfield and Wilbraham. State law prohibits political fundraising in buildings used for governmental purposes. The invitations mailed by the Scibelli Committee to city and town officials were meant to be complimentary and no funds were received from individuals who received the invitations at their city or town governmental offices.

CPF-08-76: Dorenzo Towing & Recovery, Millbury. Did not comply. (Corporate contribution); 11/26/2008. A corporation, Dorenzo Towing

and Recovery, created a billboard display on the side of a bus stating "Vote Mike Moore, State Senator, Democrat. Expect MOORE ... For Your Vote" without the candidate's knowledge. The campaign finance law prohibits the use of corporate resources to support or oppose candidates. With the lettering, the bus essentially became a mobile billboard, and as such it was an item of value to the campaign. When the campaign committee learned of the bus' existence, it paid Dorenzo the standard IRS mileage rate for the vehicle's use in parades. The candidate's committee has subsequently paid the corporation an additional \$500, the estimated value of advertising by Dorenzo's use of the bus at other times. The corporation disgorged the payment to the state's general treasury because its use of the bus to support a candidate was inconsistent with campaign finance law.

CPF-07-81: Rep. Daniel Webster, Pembroke. Did not comply. (Reporting); 1/14/2009. Primarily in 2006, Webster's campaign committee did not accurately report a significant number of expenditures or accurately disclose the source of three contributions, accepted money or orders larger than \$50, did not correctly itemize liabilities, and misstated its beginning balance on its 2006 year-end report. The committee has amended the reports and agreed to take steps to ensure future accurate disclosure and compliance with the campaign finance law. The committee has made a \$1,000 payment to the state for costs incurred during the course of its review. The candidate and committee staff has also completed a training session with OCPF personnel on the use of OCPF's reporting software.

CPF-08-78: Medford Public Schools. Did not comply, no further action. (Use of public resources); 1/27/2009. The School Department reproduced and distributed copies of a "Vote No on Question 1" flyer distributed to Medford voters via students. Public resources, namely the photocopier, paper and toner, were used to reproduce these documents, and the paid time of the school staff was used to distribute the flyer to students. Governmental entities may not expend public resources to influence the outcome of a ballot question. Stand for Children, a non-profit organization located in Portland, Oregon, has provided restitution to the city in the amount of \$100.

CPF-08-90: Timothy Dwyer, Worcester. Did not comply. (Use of public resources); 1/27/2009. Dwyer, a Dedham School Department employee, used the school server to send an e-mail to union members and members of a union coalition to remind them of the date and time at which a group would hold signs in opposition to Question 1 on the state ballot. Public resources, namely the use of the school server, may not be used to distribute this information absent a negotiated collective bargaining agreement allowing such communications.

CPF-08-99: Friends of Stevens Memorial Library, Ashburnham. Did not comply. (Use of public resources); 1/27/2009. The Friends of Stevens Memorial Library used the Town of Ashburnham's bulk mail permit to mail a pro-override flyer to residents. Public resources, namely the use of the bulk mail permit, were used. The Friends group paid the town \$350, the cost of obtaining a bulk mail permit. In addition, the Friends filed a form

CPF 22A with the Ashburnham Town Clerk to disclose the expenditure.

CPF-08-83: James Marzilli, Arlington. Did not comply. (Reporting, occupation and employer, excess contributions); 2/3/2009. The committee's reports as initially filed did not disclose more than \$5,000 in contributions received, failed to include occupation and employer information for 88 contributors who gave \$200 or more to the Committee, did not include the specific purpose of expenditures, and did not comply with other campaign finance law requirements. In addition, the committee also received an excess contribution from an individual and two contributions from political committees not registered in Massachusetts. The committee dissolved and the candidate forgave a personal loan of \$6,000 he had made to the committee.

CPF-08-65: Mayor Konstantina Lukes, Worcester. Did not comply. (Reporting, excess and prohibited contributions); 2/5/2009. The committee did not comply with several disclosure requirements involving accurate reporting of expenditures and receipts in 2007 and 2008. The committee also received certain excess and prohibited contributions. The committee took or agreed to take corrective actions.

CPF-08-54: Alice Cheyer, Sharon. Did not comply. (Reporting); 2/6/2009. A flyer was distributed to town residents before a May 2008 town election and no disclosure was provided. The flyer's dual purpose was to

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Commonwealth of
Massachusetts



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Recent Cases and Rulings

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support certain Charter Commission candidates and oppose ballot question one to establish a Charter Commission. OCPF determined that Cheyer acted alone in the flyer's distribution, so no disclosure was required in connection with the ballot question, but an independent expenditure report should have been filed with the town clerk to disclose expenditures related to her support of certain candidates.

CPF-09-08: New England Police Benevolent Association PAC. No further action. (Disclosure); 2/6/2009. The committee filed a statement of organization on November 10, 2008, but was active prior to organizing. The committee agreed to file pre-primary and pre-election reports to disclose activity that happened prior to the organization date. The reports were subsequently filed. The committee paid a \$250 civil forfeiture to the state from the committee or general funds.

CPF-07-90: Sheriff Guy Glodis, Auburn. Did not comply. (Recordkeeping, reporting); 2/9/2008. The candidate's committee re-

ceived 34 contributions, in the total amount of \$5,770, by means of money orders in amounts over \$50. Political committees may not accept contributions over \$50 by money order. The committee also received 12 prohibited contributions from business or professional corporations in the total amount of \$2,600, and the candidate deposited six campaign contributions in the total amount of \$1,400 into his personal account. To resolve the matter, the candidate deposited \$1,400 into his committee account, the amount of the campaign contribution checks that were deposited into his personal account, and paid a civil forfeiture of \$1,000. The committee purged \$9,970, the sum of the money orders, corporate contributions and \$1,400 in contributions initially deposited into his personal account, and also paid a civil forfeiture of \$1,500. This represents less than 1 percent of the total amount raised for the period under review (2004-2008). The committee fully cooperated with OCPF during the course of its review.

Wednesday Seminars

OCPF conducts campaign finance seminars each Wednesday at 2 p.m. in room 411 at One Ashburton Place in Boston (next to the State House). Reservations are not necessary.



From the Director

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this year, in addition to override questions on the horizon, and campaign finance issues will inevitably arise.

Please call us if you need assistance. Our staff is ready to help explain the campaign finance law and reporting requirements.

We are also scheduling campaign finance seminars for the coming year, covering all campaign finance issues, including those that come up due to override elections. We have already scheduled dates for nine communities across the state, from Lawrence to Winthrop to Holyoke.

Spring Audits

OCPF's auditors have started reviewing the reports submitted by legislative incumbents in the election cycle, a six-month project. If amendments and clarifications are needed, we'll mail letters in June asking campaigns to clarify their reports.

We also review political action committee (PAC) reports, ballot question committee filings and reports by unsuccessful candidates. And we continuously audit monthly reports from "depository candidates" for offices such as governor, district attorney, sheriff and mayoral and citywide council candidates in the state's five largest cities – Boston, Cambridge, Lowell, Springfield and Worcester. All five cities have elections this year.

As always, we're here to help. Don't hesitate to call with your questions.

Michael Sullivan