



New Jersey Libertarian Party

Open Government Advocacy Project

John Paff, Chairman

P.O. Box 5424

Somerset, NJ 08875

Phone: 732-873-1251 - Fax: 908-325-0129

Email: lpsmc@pobox.com

May 31 , 2008

Catherine Navarro-Steinel, Clerk
Borough of Bergenfield
198 N Washington Ave
Bergenfield, NJ 07621

(via Fax only to 201-387-6737)

Dear Ms. Navarro-Steinel:

I write, both individually and in my capacity as Chairman of the New Jersey Libertarian Party's Open Government Advocacy Project regarding the article "Oury failed to file required disclosures, clerk says" that appeared in yesterday's Record.

The article states that you requested the Local Finance Board (LFB) to "enforce its rules regarding" the filing of Financial Disclosure Statements (FDS)¹. While I greatly appreciate your efforts, my experience shows that the FDS rules are widely ignored and that the LFB does not meaningfully enforce these rules even when it is specifically asked to do so.

For example, on November 21, 2005, I filed a complaint with the LFB against Patricia Mack, Esq. of Elizabeth, who served and may still serve as municipal prosecutor for the City of Elizabeth. My complaint was that Ms. Mack failed to fill out her 2005 FDS completely. Specifically, she did not list the local government agencies for which she worked, and the positions she held. She also did not state whether or not she received any fees, honorariums or gifts and whether or not she held interests in any businesses or real estate.

On the latter point, Section II.E of the FDS requires local officials to "list the address and a brief description of all real property in the State of New Jersey in which an interest was held." The FDS specifically informs the official that for any item where "none" is the appropriate answer, that the official "please indicate NONE in the space provided." For example, if the neither the official nor his or her family has an interest in any New Jersey real estate, the official should write "None" in Section II.E, rather than just leaving that section blank.

¹ Since I'm publicly releasing this letter, I've attached an appendix to this letter to provide some background on the Local Government Ethics Law for those who might not be familiar with it.

After a nine-month investigation, the LFB issued its "Notice of Determination" informing me that my complaint had been dismissed. A copy of my complaint, Mack's original FDS, the Notice of Determination and Mack's amended FDS are on-line at

<http://lpsmc.org/OGTF/MackWebready.pdf>

Interestingly, the LFB found that even though its own form instructs local officials to state "none" where applicable, that there is "no statutory provision requiring the word 'none' to be written in where appropriate" and that "an official's failure to write 'none' where such an indication is lacking would not require the official to amend their form, absent a specific allegation of missing information." Apparently, the LFB's instructions, which are written in bold typeface on the face of the FDS form, do not need to be followed.

More importantly, the LFB, upon receipt of my complaint, gave Ms. Mack a chance to file a "corrected form" which revealed the following information that was not listed on the original form: a) that Ms. Mack worked as a per diem prosecutor for the City of Newark, and b) owns real estate in Lopatcong Township, Warren Township. (Interestingly, Ms. Mack left the real estate question blank on her original filing.) Instead of finding that Ms. Mack was in violation for omitting this information on her original filing, the LFB invoked its "established policy" of giving her another chance to provide the missing information and, after she did that, dismissed my complaint because "it no longer [had] a reasonable factual basis."

What the LFB should have done, of course, is to have fined Ms. Mack \$100 to \$500 for her failure to properly complete her form. Such would have sent a message to all public officials that the FDS is an important tool for discovering self-dealing and conflicts of interest and cannot be trifled with. Unfortunately, the LFB, by failing to provide a meaningful enforcement mechanism, has eviscerated the Local Government Ethics Law and has done a disservice to the public.

In sum, officials can omit as much material as they wish from their FDS forms, and can not file the forms at all, without fear of penalty. In the unlikely event that someone complains, the official will be given an opportunity to amend their FDS (or to file the delinquent form) and as long as they do that, the complaint will be dismissed. Also, officials apparently don't need to completely come clean even on their amended FDS--you will note that Ms. Mack, on her amended form, does not reveal the block, lot or address of her Lopatcong property even though the FDS specifically requires that this information be provided.

Accordingly, I doubt very much that your request that the LFB enforce the Local Government Ethics Law will even be acknowledged, let alone honored.

Sincerely,



John Paff

cc. Local Finance Board

Appendix

Background on the Financial Disclosure Statement filing requirement

The Local Government Ethics Law requires "local government officers," to annually complete and file a Financial Disclosure Statement (FDS) which publicly reveals the sources of their and their families' income and identifies real estate and businesses within which they and their families have a financial interest. A sample FDS form is on-line at


http://www.state.nj.us/dca/lgs/ethics/pdfs/fds_fill-in_form.pdf

The idea behind the FDS is to inform the public of what businesses, real estate enterprises, etc. that public officials and their immediate families own, so that conflicts of interest can be more easily discovered. According to the Local Government Ethics Law's declared purpose, "the vitality and stability of representative democracy depends upon the public's confidence in the integrity of its elected and appointed representatives [and that] whenever the public perceives a conflict between the private interests and the public duties of a government officer or employee, that confidence is imperiled." N.J.S.A. 40A:9-22.2.

In a municipality, such as Bergenfield, that has not established its own local ethics board, the Local Government Ethics Law directs the LFB to investigate any and all complaints that the law has been violated, and empowers the LFB to fine violators "not less than \$100.00 nor more than \$500.00" per violation. N.J.S.A. 40A:9-22.10.

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Oury failed to file required disclosures, clerk says

Friday, May 30, 2008

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BY MICHAEL GARTLAND

STAFF WRITER

Dennis J. Oury, a politically connected lawyer who recently became the subject of a federal investigation, filed only one financial disclosure with Bergenfield during the six years he was its borough attorney. Under state law, local government officers are required to file forms annually.

"The only disclosure filed was for the year of 2002," Borough Clerk Catherine Navarro-Steinel wrote in an e-mail. "No other years are on record due to non-compliance."

During the last two weeks, U.S. Attorney Christopher J. Christie has issued at least 14 subpoenas requesting information about Oury or about a consulting firm in which he and Bergen County Democratic Organization chief Joseph Ferriero had an interest.

Both Oury, who is counsel for the BCDO, and Ferriero have retained high-profile criminal attorneys to represent them. Bill Maer, a BCDO spokesman, said the organization would not pay their legal bills.

The consulting firm, Governmental Grants Consulting LLC, received a no-bid contract with Bergenfield in 2002 to secure state and county grants. Oury began working as borough attorney in January of that year. In financial disclosure forms submitted to Bergenfield, Paramus and Fort Lee, Oury did not mention his financial stake in the firm.

Oury did not return calls Friday, but his lawyer Gerald Krovatin has maintained he did nothing wrong.

David Spatz, the president of Governmental Grants Consulting, said it has not been active in several years.

"It was originally set up as an LLC," Spatz said this week, referring to the designation for a limited-liability corporation.

Under state law, such businesses must register with the state government to operate in New Jersey, even if they are organized in another state or country. A search conducted by The Record concluded that Governmental Grants Consulting LLC appears nowhere in state records.

The firm does have connections to a currently operating business, though.

The phone number in a Governmental Grants Consulting letterhead is the same number Spatz uses for a more recent enterprise, Community Housing and Planning Associates. That number also appears on a Hudson County Economic Development Corp. document that lists Spatz under Zoning Administration in Union City.

Spatz did not return repeated calls for comment on Friday.

Governmental Grants Consulting had a 2002 contract with Bergenfield that brought in about \$100,000 for securing about \$1.2 million in grant money for the borough. The firm also did business in Lyndhurst, where it raked in \$11,000 in fees for obtaining a \$50,000 state grant in 2003.

Oury's political connections with the Bergen County Democratic Organization have helped land him jobs in municipalities and government agencies throughout the county and the state. In Bergen County alone, his public work generated \$760,000 to \$1.1 million in annual income for his law firm in each of the three previous calendar years.

Oury has given at least \$105,000 to Democratic candidates since 1999, most of it going to the BCDO.

His failure to disclose his financial interests in the appropriate forms did not go unnoticed in Bergenfield. Last month, Navarro-Steinel requested that the state enforce its rules regarding disclosures. In a letter to the Local Finance Board, a branch of the state Department of Community Affairs, Steinel wrote, "Will your division please take corrective action on those that have not filed for years."

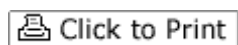
Bergenfield Mayor Timothy Driscoll said the borough has no authority to enforce the state law and would not comment on Oury's failure to comply with the law.

"We can't control the past," Driscoll added. "We can only control where we are today. That's part of the reason we ran for council — because we didn't think everything was the way we'd like to see it."

Charles Stile, Serdar Tumgoren and Peter Sampson contributed to this article.

Find this article at:

http://www.northjersey.com/news/Oury_may_have_failed_to_file_required_disclosures.html?cachebust=y&isLoggedIn=true



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