



*State of New Jersey  
Commission of Investigation*

**LOCAL GOVERNMENT:  
CITY OF ORANGE TOWNSHIP**

***MAY 1998***

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May 1998

Governor Christine Todd Whitman  
The President and Members of the Senate  
The Speaker and Members of the General Assembly

The State Commission of Investigation herewith formally submits, pursuant to N.J.S.A. 52:9M, a report and recommendations based on its investigation into matters involving the City of Orange Township.

Respectfully,

Leslie Z. Celentano

M. Karen Thompson

## NOTICE

The investigation on which this report is based was completed in late 1995. Before the report could be issued, the Review Committee on the State Commission of Investigation recommended the enactment of new procedures that would give persons criticized in a Commission report the right to review it prior to release and to submit a responsive statement for inclusion in it. Although not bound to do so, the Commission decided to withhold release of this report until the Legislature and the Governor had acted on that recommendation.

Final legislative action on the Review Committee's recommendations, as well as renewal of the Commission's authorization, was not taken until late June 1996. In addition to adopting the notice provision, the legislation also reduced the level of protection against suits for defamation afforded the Commission since its creation in 1969. Together, these two provisions raised concerns that the Commission could be subjected to vexatious and potentially budget-draining lawsuits, based not only on its own statements, but also perhaps on those by third parties in responsive statements. That uncertainty occasioned further delay in the release of this report, as the Commission carefully considered the complex legal and practical implications of the changes in its statute.

The reader of this report should keep in mind that, with rare exception, the facts related in this report are those that existed over two years ago. Since that time, many changes have taken place in the City of Orange Township. Most significantly, the Mayor

was defeated in a bid for reelection in May 1996, which event resulted in the resignation or removal of several other high-ranking officials, including the Fire Director. Nevertheless, the Commission believes that it is important to expose the conditions that existed under the former Orange administration so that officials and citizens throughout the state can guard against the development of similar conditions in their own municipalities.

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## **EXECUTIVE SUMMARY**

The Commission's investigation of the City of Orange Township was triggered by allegations of irregular purchasing procedures and avoidance of public bidding laws. The focus soon expanded to include the political fundraising activities of Mayor Robert L. Brown after the Commission received complaints of pressure against city employees and businesses to contribute and reprisals against those who did not. At the investigation's conclusion, 58 witnesses had testified, more than 250 individuals had been interviewed and tens of thousands of documents had been examined.

Orange is an urban community, 2.2 square miles in size, with 423 municipal employees and a current annual budget exceeding \$34 million. It operates under a mayor/council form of government, with the mayor elected independently of the seven-member legislative council. As chief executive, the mayor appoints the business administrator and all other department directors and supervises all departments, but may delegate such authority to the business administrator.

In sum, the Commission determined that the city's operations have been burdened by run-away expenses, by the creation of unnecessary positions for political cronies, by payment of unreasonably high salaries, by lax financial procedures, by the absence of purchasing controls and by violations of the public bidding laws. Regarding Mayor Brown's fundraising activities, the Commission found evidence of widespread, high-pressure tactics used by Brown and others to extract contributions from public employees and private businesses. The investigation also revealed that Brown relied on campaign contributions to cover personal expenditures and that he misreported contributions and expenses to the

New Jersey Election Law Enforcement Commission.

The Key Findings:

### **Political Pressure**

The investigation disclosed a pernicious, city-wide atmosphere of pressure to support Brown's political ambitions. In essence, this community's government was converted into a mechanism to guarantee Brown a steady stream of financial support and a significant army of campaign workers. The pressure was directed at city employees and at the local commercial community, particularly vendors doing business with the city or seeking city contracts.

To administer the pressure, a network of select officials and employees utilized computer-generated lists setting forth the names of municipal employees by department and those of individuals and companies doing business with the city or located within the city limits.

The level of expected contributions was tied to each employee's position, with more expected from directors than staff. Employees were told to borrow if necessary; some took loans for this purpose from a credit union or from co-workers. Others were reminded of their provisional status or of a recent or anticipated raise or promotion. Phrases such as "it's in your best interest" and "you must show yourself to be a team player" became the code to compel support. Numerous employees feared retaliation for talking to the Commission; several complained of attempts to influence their testimony.

Principal administrators who exerted the pressure included Mayor Brown, Fire Director John Gamba, Police Director Charles C. Cobbert, Business Administrator Thomas J. Morrison III, Chief Financial Officer John W. Kelly, and former Planning and Economic Development Director Hosea Harvey II. A number of rank-and-file employees also became instruments of compulsion. Even the mayor's wife, Donna Brown, was involved.

The pressure, at times, was exerted on a daily basis because of the number and frequency of Brown's fundraisers over the course of five political campaigns since 1988. Ticket prices ranged from \$10 to \$50 for fundraisers at a local lounge to \$1,000 for one held at Brown's home. Employees, vendors and businesses routinely received unsolicited tickets in the mail. Employees were expected to purchase one or two tickets, while directors and vendors were expected to purchase substantially more.

### **Campaign Finance/Reporting Irregularities**

The Commission found that Mayor Brown made loans to his political organizations, but reimbursed himself \$18,500 more than the total amount of those loans.

The investigation also revealed that Brown withdrew more than \$65,000 from his various political fundraising organizations, utilizing checks payable to cash or to individuals who returned the cash to him.

Moreover, substantial sums of cash contributions to Brown's political entities were not reported to the Election Law Enforcement Commission, as required by law.

### **Abuse of Office**

Mayor Brown abused the broad authority and powers of his office and converted the public trust into a private domain. At Brown's direction, the city's vehicle fleet was expanded via the assignment of cars to himself and others with attendant increases in costs for fuel, maintenance and insurance. The city did not report the taxable portion of this fringe benefit, even though the recipients were allowed to utilize the vehicles for personal purposes.

Brown provided himself with a chauffeur and dispensed favors to individuals in the form of jobs, some of questionable need, at taxpayer expense. He spent the city's money on the personal delivery of flowers, and he authorized excessive travel expenditures to conferences both in New Jersey and out of state. Brown also used municipal funds for expensive picnics, Christmas parties and annual secretaries' luncheons, at which alcoholic beverages were often served.

### **Misuse of City Property/Residency Violation**

A publicly-owned house located on property surrounding the city's reservoir in West Orange was treated by Mayor Brown as personal property. After directing its refurbishment at taxpayer expense, Brown allowed a political crony, Rudolph E. Thomas, to live there, even after he became a member of the Orange Council.

The city never issued Thomas tax forms for each year that he resided at the city-owned house. As a result, he paid no federal or state income tax on the benefit. Also, by living on a regular basis in the reservoir house and not in an apartment rented by him in Orange, Thomas violated a state law requiring that he reside in the city as a member of its Council.

### **Bidding/Purchasing Violations**

The Commission found violations and irregularities in the city's bidding and purchasing procedures. Officials failed to enforce a proper system for purchasing and provided little or no internal controls.

The city failed to solicit bids for a computer system purchased for the City Clerk's office. Further, a computer hobbyist was allowed to design and purchase the system without adequate supervision, with the result that an incomplete and unusable system was acquired containing pirated software.

The leasing of a 1993 Mercury Grand Marquis for Mayor Brown was concealed from the Council.

The hiring of a "tree consultant" at Mayor Brown's direction was incorrectly labeled a professional service, thereby circumventing the bidding laws.

## **Violations of Financial Procedures**

The Commission uncovered widespread failure to adhere to proper financial procedures dictated by statute and the Orange Municipal Code. Violations ranged from circumvention of the Council in issuing payments to routine reimbursement of employee expense vouchers that lacked receipts.

## **POLITICAL PRESSURE**

Robert L. Brown was first elected mayor of Orange in May 1988. Thereafter, he conducted campaigns for the General Assembly in the primary and general elections in 1991, for reelection as mayor in May 1992, and for the State Senate in the June 1993 primary. Brown again sought reelection as mayor in May 1996 but was defeated. To finance these campaigns, Brown held numerous fundraisers, usually at \$150 a ticket, at the Mayfair Farms; many at \$10 to \$50 a person at the Peppermint Lounge; a \$1,000-a-person fundraiser at his home for invited individuals in March 1992, and an affair in May 1993 at the Highlawn Pavilion in West Orange at \$500 or \$1,000 a person.<sup>1</sup>

Widespread improper measures were employed to obtain contributions from city employees, vendors and others doing business with the city. For Brown, the pressure paid off: These groups were largely transformed into the main base of financing for each of his campaigns after he first became mayor. Together, they accounted for more than 53 percent of his entire political war chest through June 1995. City workers contributed \$240,255 to Brown's various campaign organizations during that period - approximately 25 percent of his total campaign fund

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<sup>1</sup> Some of the attendees told the Commission that the cost was \$1,000 a person, while Mayor Brown claimed it was either \$250 or \$500, and Business Administrator Morrison stated that some were told \$250 and others \$500.

of \$956,662.<sup>2</sup> Contributions from vendors doing business with the city totaled \$363,311, or approximately 38 percent of Brown's campaign receipts. That figure climbs even higher when contributions from those dealing with the city for various permits and construction approvals are included.

In 1991, 71 percent of the staff employees of the municipal Finance Department made campaign donations to Brown and, in 1992, 80 percent of those employees contributed. City employees and vendors also accounted for 39 percent of all contributions to the Robert L. Brown Civic Association, Brown's nonpolitical fundraising organization, during its one year of existence from August 1992 to August 1993.

Of all the city employees, Mayor Brown's appointed administrators bore the heaviest financial burden in supporting his campaigns. Their donations constituted nearly one-quarter of the total employee contributions. Directors made the following contributions:

- Business Administrator Thomas J. Morrison III contributed \$19,660 between March 1988 and April 1995;<sup>3</sup>
- Former City Engineer/Director of Public Works Arlene Kemp contributed \$17,535 between November 1988 and June 1993;
- Police Director Charles C. Cobbertt contributed \$15,620 between February 1988 and April 1995;

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<sup>2</sup> The calculations are based on bank deposit records. Because numerous deposit slips, which may contain employees' and vendors' names, are missing, the figures may be higher. The actual figures may also be higher because there is evidence that not all cash contributions were deposited.

<sup>3</sup> Morrison told the Commission that prior to his employment with Orange, he gave only "[a] couple hundred dollars a year" in political contributions.

- Chief Financial Officer John W. Kelly contributed \$8,205 between January 1990 and April 1995;
- Fire Director John Gamba contributed \$4,690 between October 1988 and April 1995, and
- Director of Community Services/Health Officer Joseph Fonzino contributed \$5,085 between October 1988 and April 1995.

The contributions of the following employees are also noteworthy:

- Recreation Director Creft Hannibal contributed \$4,490 between November 1988 and April 1995;
- Department of Public Works Superintendent Alphonse Winston contributed \$4,160 between February 1988 and April 1995;
- Tax Assessor Barbara Brown contributed \$4,720 between December 1989 and April 1995;<sup>4</sup>
- Buyer Diletta Mutascio contributed \$1,305 between February 1990 and April 1995;
- Former Press Secretary Geraldine Dillon contributed \$3,810 between February 1988 and April 1995;<sup>5</sup>
- Stephanie Cosey, Mayor Brown's secretary, contributed \$1,375 between November 1989 and April 1995,<sup>6</sup> and
- Karen Lang, secretary to Business Administrator Morrison, contributed \$2,645 between October 1988 and April 1995.

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<sup>4</sup> Barbara Brown contributed \$1,500 in April 1993 to Mayor Brown's senatorial campaign. When asked by the Commission why she contributed such an amount, she responded, "If that's what he asked for, that's what I was supporting him with."

<sup>5</sup> The figure includes \$485 contributed by Dillon's husband, Emile Dillon, who provided photography services to the City.

<sup>6</sup> Prior to her employment with Orange, Cosey had never made a political contribution.

Beyond money, city workers also constituted a primary support base for Mayor Brown's campaign activities in other ways, both during and after official working hours. Employees addressed and stuffed envelopes containing fundraising tickets; carried ticket payments from the mayor's law office to City Hall for recording; maintained records of those who were mailed tickets, who purchased tickets and how many were purchased; made out the deposit slips; deposited the monies; sat at the door at fundraisers to collect the tickets and money; accompanied the mayor on his campaign walks in neighborhoods; posted campaign signs; made telephone calls to the electorate to urge support for Brown; obtained voter registrations; drove senior citizens to the polls; and staffed the campaign headquarters.

Mayor Brown acknowledged to the Commission that his "basic core" of campaign workers was "city government."

### **Computerized Contributor Lists**

Lists of contributors and contributions bearing the names of city employees and vendors obtained from the various city departments were the mainstays of Brown's fundraisers.

There were two repositories for these lists: a City Hall computer used by Karen Lang, secretary to Business Administrator Morrison, and a laptop computer used by Fire Director Gamba. After commencement of the Commission's investigation, an attempt was made to erase from each computer the database of information related to Brown's fundraisers. Lang testified that she maintained the

contribution data in her computer at City Hall after Gamba designed and installed the database. Lang said only she and Gamba knew the password to access the database.

Gamba told the Commission he never had contribution lists in his possession and had no knowledge of Lang using her computer at City Hall for fundraisers. He denied setting up the data-base for her.

### **Concealment**

Lang told the Commission that in the beginning of 1994, soon after commencement of its investigation, the fundraising database disappeared from her computer. Lang said she reported the disappearance to Gamba:

I just said, "John, everything is off of my computer."

Q. What did he say?

A. He said, "Yeah, I know."

Gamba told the Commission he did not recall Lang telling him the database was no longer on her computer.

The Commission issued a subpoena to the Fire Department for various computers, including the laptop. Upon examining the directories and files, Commission staff found no applications or data files. The examination indicated that an attempt had been made to remove the Windows operating system and its related files, but that one or more such files remained encoded within the machine's hard

drive. These files were found to contain names, addresses, dates and monetary amounts below the heading, "MAYOR ROBERT L. BROWN BALL ADS 1991."

The Commission then sought to reconstruct the files as originally set up. After contacting the National Computer Crime Squad of the Federal Bureau of Investigation for assistance, the Commission submitted the laptop to the FBI's Computer Assistance Response Team for examination by a certified forensics expert specializing in data recovery. The FBI expert concluded that the files had been removed intentionally from the hard drive. He also found evidence indicating that the computer had been used in connection with the recording of political contributions. He was able to recover a list of names of contributors and amounts of contributions, which were then reconstructed in organized format. These findings strongly suggest a deliberate attempt to destroy evidence.

When asked about the laptop computer, Gamba first told Commission staff that had no knowledge of it. Later, Gamba testified that he had not only used the computer but also maintained control over it. Gamba denied ever using it in connection with Brown's fundraisers, either for ticket sales or ad purchases. Gamba also denied knowing of any tampering with respect to Lang's City Hall computer.

### **Creating the Pressure**

The secretary to the city's business administrator provided an account of the inside operation of the fundraising machinery. The city's former engineer/director of Public Works depicted the

pressure applied to departmental directors. The city's former Urban Enterprise Zone coordinator portrayed a concerted effort applied to local business owners, who confirmed that regular campaign contributions to Brown amounted to the price of doing business in Orange.

**KAREN LANG** was hired in November 1970 and became secretary to Business Administrator Thomas J. Morrison III upon his hiring in October 1988.

As Morrison's secretary, Lang was assigned fundraising responsibilities in addition to her City Hall duties and became an intricate part of the network that orchestrated the fundraisers. Lang worked on all of the fundraisers at Mayfair Farms until April 1995, when her responsibilities were turned over to Stephanie Cosey, the mayor's secretary. According to Lang, preparations would commence six to seven weeks prior to a function, and approximately 2,500 to 3,000 envelopes would be mailed each time.

An assembly line of people addressing and stuffing envelopes at the mayor's law office became the format for issuing tickets for each fundraiser. Lists setting out the names of city vendors, city employees, attorneys, and civic and elected officials were typically on the conference table when Lang arrived. Other witnesses confirmed the existence of the lists. At such sessions, the participants always included city employees and directors and the mayor's wife, Donna Brown. Lang testified that assignments were usually made by Gamba and Mrs. Brown.<sup>7</sup>

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<sup>7</sup> Donna Brown admitted to the Commission that she was present at such sessions, but testified she did nothing - "I was there."

In addition to stuffing and addressing envelopes, Lang testified, she was assigned by Mayor Brown and Morrison to keep track of contributions and contributors. Lang said that, at first, she maintained the data on index cards, which were taken by Brown following each fundraiser. After the first two years, Lang said her system for recording the ticket-purchase information was changed when Gamba installed a database program on her City Hall computer. At that point, Lang said, Gamba instructed her to keep the information on the computer.

Lang explained that ticket payments were routinely delivered from the mayor's law office to City Hall by a city employee, usually the security guard, during the work day. The employee was dispatched to the law office when Brown's personal legal secretary notified Cosey or Lang that payments had accumulated. Cosey and Lang, at Gamba's direction, telephoned the law office to inquire whether payments had been received. City employees also brought their ticket payments to Lang.

Lang testified that the computer database was more sophisticated than the index card system in that it enabled her to record the check amounts along with additional data reflecting which employees in each department were participating. Following every fundraiser at Mayfair Farms, Lang said, Gamba would transfer the data to a floppy disk, which he took with him.

Lang stated that while most contributions came in by check, employees routinely gave her cash payments prior to each fundraiser. At Brown's direction, Lang testified, she completed deposit slips for the checks, but gave him nearly all the cash contributions without recording them on deposit slips.

Lang recalled only one occasion when Brown instructed her to record cash contributions on a deposit slip.

Lang said that when she recorded the ticket-purchase information on index cards she did the work at her home during the evenings, but that all of “[t]he computer work was done in the [City Hall] office.” Lang testified she used her “lunch hour...to just catch up on my normal work.”

Lang testified that Gamba maintained vigilance over the database:

John Gamba would come over to my office every day, late in the afternoon...put in his disk and copy all of the information out. And I would print him out a copy, a report of everything that was in the computer for that day. But see, it would update the prior day's computer records because it would be adding the new ones, so it would update that information.

At the same time, according to Lang, Gamba asked her to make several copies of the updated list, which consisted of about 20 pages. At times, Lang said, Gamba instructed her to print out lists by department. On a daily basis, she said, Gamba would telephone her to learn the number of checks that she received and who sent them.

Lang said Gamba exhibited particularly keen interest in the lists of employees of the police and fire departments. She explained that “there was like a competition between the two departments - who would buy more tickets.” Gamba “check[ed] the list to see if more police officers bought more tickets than his firemen and vice versa.”

Lang stated that Business Administrator Morrison and Chief Financial Officer Kelly showed special interest in the ticket purchases of the city's vendors. She said Kelly would routinely inquire whether the financial institutions - banks, bond companies and insurance agencies - had sent in checks for tickets.

About four or five times prior to each fundraiser, Morrison would ask to see the list of ticket sales. Each time, Lang said, she showed him the list she had printed out the previous night for Gamba. On a regular basis, Morrison asked Lang how ticket sales were proceeding and "wanted to know if the real big contributors had sent in checks." If checks had not yet been received, Morrison telephoned them or directed Lang "to call them...to remind them that the affair was a certain date and that we had not received their checks."

Lang testified that Morrison met with department directors individually and in groups in his office regarding ticket sales. Following the meetings, directors gave Lang handwritten lists of vendors they had contacted by telephone and Lang handed the lists to Morrison.

Lang testified that she also worked on the evenings of the Mayfair Farms fundraisers, assigned there by Gamba to sell admission tickets at the front door:

Q. About how much money was collected at the door?

A. Between eight and 10,000 [dollars] an affair.

Q. And was that by cash or check?

A. Some was by cash, some was by check.

. . .  
Q. Any cash that was handed over the night of the affair, was that money recorded in your database?

A. No, I didn't record it, no.

Q. Did anyone?

A. I was the only one that was doing it.  
. . .

Q. While you were taking the money, where was John Gamba?

A. Right behind me, over my shoulder.

Q. Was he taking the cash immediately, or as it came in or at the end of the evening, did he just take all of the cash?

A. The cash, I had a cash box and I would put the cash in the cash box, and he would take the cash box. The checks and everything would be put in the cash box and he would take it.

Q. Approximately how much cash came in at each fundraiser the night of the event?

A. I would say 50 percent of the take at the door would be cash.

Q. About how many individuals attended each of the fundraisers at Mayfair Farms?

A. Anywhere from 450 to 600.

Gamba testified that he "didn't see any" cash paid at the door during Brown's fundraisers, and he denied any role in handling any of the collected payments.

Lang testified that Morrison stated that "each director is expected to buy 10 tickets." She said he expected the "employees, like clericals...to buy one ticket at least." Employees who could not afford a ticket were expected to "make a donation." Some individuals told the Commission that the

“donation” had to be one-half of the ticket price.

In addition to buying tickets, employees were expected to purchase ads for the fundraiser advertising journals. Lang testified to the financial burden placed on employees. Several requested that she hold their checks until their bank accounts contained sufficient funds, while others, including Lang, borrowed from the credit union to pay for the tickets.

### **Attempts to Influence Testimony**

Lang related two attempts to influence her testimony - one by Mayor Brown and the other by Business Administrator Morrison. The first occurred on October 10, 1995, after Lang had been served with a subpoena to testify before the Commission. She was called into Brown’s office at City Hall:

He [Brown] asked to see the subpoena, and I brought the subpoena over there. And he looked at it and he said it was a subpoena that everyone had received....And he asked me several questions.

Q. What did he ask you?

A. ...[H]e stated that the only possible questions they would ask me are questions about...[an individual] giving me cash. And he said to me, “What are you going to testify to?” And I told him, “The truth.” And he said, “Well, what is the truth?” And I told him that. . .I gave the cash to him, the mayor or to John Gamba. And he said, “You’re not going to say that.” And I just looked at him. And he said, “You’re going to say that you put the cash on a deposit slip. And if you didn’t do it, you gave the cash to Stephanie.” And I just looked at him, and I just didn’t say anything else.

Lang also testified that five days before her appearance before the Commission, Morrison approached her and stated:

..."You have nothing to fear." He said, "You did nothing wrong."  
That was his first conversation.

On the day before her appearance, Lang said she and Cosey were at Lang's desk when Morrison  
"walked out of his office" and spoke to them. Lang related his instructions:

"You did none of the work at City Hall. You did it at his office like on  
your lunch hours or after work."

. . .

Q. When Tom Morrison referred to "his office," whose office was he  
referring to?

A. Mayor Brown's law office.

Q. What did you understand to be the work that he was referring to?

A. That tickets were sent out from that office and we did all the work  
connected to the campaign in that office.

Q. Did that include maintaining the list of contributors?

A. He didn't come right - he just said all the work. It wasn't - he didn't  
break it down what he meant.

Q. Did you understand him to mean the work that you did at your desk at  
City Hall, you were to represent that it was done from Mayor Brown's  
private law office?

A. That's what I understood, yes.

Both Brown and Morrison denied attempts to influence testimony by Lang or by anyone else.

**THOMAS V. HENDERSON** was coordinator of Orange's Urban Enterprise Zone from  
August 1989 until January 1993. He had served as coordinator for Brown's 1988 mayoral campaign.

Henderson paid cash for the tickets to the Mayfair Farms fundraisers and handed the cash to

Gamba, Morrison or Lang. He said it was typical before each fundraiser for him and other directors to be questioned by Morrison and Gamba about the progress of ticket sales - “[n]inety percent of it was during office hours.” He further testified that Morrison and Gamba also sought a list of those who had purchased tickets. Pressure was then exerted by supervisors on their employees to purchase them.

Henderson said many employees complained to him:

One of the balls always came in December just before Christmas. They expected all the employees to buy a ticket or two tickets, and they are saying, “Why at Christmastime would they put this kind of pressure on us, it is not fair. I cannot afford it.”

### **Pressure on the Business Community**

As the Urban Enterprise Zone Coordinator, Henderson developed a good working relationship with the local merchants. He witnessed - and participated in - the pressure brought upon local merchants to purchase tickets to Brown’s fundraisers:

The pressure tended to increase as time went on. I think the first mayoral ball was more of a festive, congratulatory kind of an affair. But each succeeding one tended to be centered more on how much money can we raise as a fundraiser for future campaigns...and with that the pressure continued to increase.

I know there was increased pressure upon me and my staff to approach the businesses that we do business with to see to it that each and every one had tickets, and followed up how many they needed to purchase, and did they want somebody to come and pick up the money, and et cetera. There was pressure to get the merchants to support and participate.

Henderson described the reaction of Gamba and Morrison when ticket sales were low:

“We have to push these tickets. The money is not coming in like it was.” This would not only be said to me, but we would have directors meetings. That’s the kind of message that was given. Along with that, there were individuals. You would see somebody in the hall, or you would meet downstairs about ticket sales - “this person did not buy this time, they bought last time.”

Henderson testified that lists maintained in connection with the fundraisers detailed which merchants purchased tickets and how many. He said all such data was maintained on Lang’s City Hall computer at Gamba’s direction.

Local business owners told the Commission that supporting Brown’s fundraisers became a cost of doing business in Orange. Merchants and business people operating in the city or interacting with the city in various permitting, contracting and other official approval processes became prime targets for political fundraising pressure. The Commission found questionable tactics in connection with the levying of penalties such as monetary fines by the Fire Department’s Fire Prevention Bureau and the fostering of an atmosphere in which political contributions became the catalyst to advance building and construction projects.

Morrison acknowledged that he asked Henderson to “promote ticket sales” among Orange merchants but denied ordering or pressuring him to do so. Asked if he ever received cash payments from Henderson for the sale of tickets to Mayor Brown’s fundraisers, Morrison responded, “I don’t recall.” Morrison also told the Commission that he could not recall asking Henderson for a list of individual ticket buyers or pressuring Henderson’s secretary, either directly or through Henderson, to

solicit local merchants for ticket sales.

Gamba denied pressuring Henderson to promote the sale of fundraising tickets. Gamba testified that Henderson never paid him cash for fundraising tickets, and he denied ever asking or talking with Henderson about how ticket sales were going among local merchants.

**ARLENE KEMP** served as Orange's city engineer and director of public works from October 1988 to May 1994, reporting to Business Administrator Morrison and Mayor Brown.

During her employment with Orange, Kemp received tickets to each of Brown's fundraisers either by mail or from Morrison. Kemp first received tickets in the mail "right after I got started" - "a month maybe." She purchased the two tickets, totaling \$300, and did not consider it "that big of a deal." However, "the first time that I got 10 tickets in the mail...I was very alarmed." Kemp testified that the next time she received 10 tickets, she spoke to Morrison, who "made it clear" that she had to purchase them. At Morrison's direction, Kemp said, she also attended the \$1,000-a-person fundraiser at Brown's home on March 12, 1992, and purchased three tickets for a total of \$3,000. She said Morrison also told her that the directors were expected to attend the fundraisers.

Kemp said that when she or another director complained about the cost, Morrison typically retorted:

"Well, you only have to purchase 10. You know, I had to purchase 12," or "I had to purchase 15" or something.

Commissioner Louis H. Miller questioned Kemp about any “consequence which was stated or implied if you didn’t cooperate with the program”:

THE WITNESS: That you would be gotten rid of, you would lose your influence, that there would be severe consequences.

COMMISSIONER MILLER: Is there any doubt in your mind that that loss of a contact or whatever was associated with the failure to contribute?

THE WITNESS: No.

In addition to buying tickets, Kemp occasionally purchased ads for the advertising journals that were issued in connection with some of the bigger fundraising events. She testified that she did so only when telephoned and urged to do so by Fire Director Gamba.

Kemp said that at Morrison’s request, she also participated in evening meetings at Brown’s law office to discuss the sale of tickets prior to each fundraiser. Kemp revealed what was discussed at the meetings and confirmed the existence of computer-generated contribution lists:

COMMISSIONER MILLER: Who conducted the discussions?

THE WITNESS: Well, John Gamba was in charge of the tickets really. He would have computer printouts of who had purchased tickets with like little X’s next to their names if they had purchased tickets, and how many they had purchased. And the lists were split up among all of us depending upon our sphere of influence....For instance, Jack Kelly might have a listing of banking people and accounting firms that the city had dealt with...as well as his employees, so he would know which of his employees had purchased tickets and how many they had purchased. As well as the accounting firms or...the bonding firms or things like that....I would have a list of contractors and consultants, people that I dealt with, as well as my employees that had

purchased tickets. Somebody else would have listings of the other people that they dealt with and who had purchased tickets. And these, the computer printouts, were distributed so that we would know who we had to call. And, you know, who we had to try to get more money from.

Kemp related what she understood was expected of her as a department director in terms of promoting ticket sales prior to the fundraisers:

We were supposed to make calls to people who they felt we had some sort of a connection with, whether they were consultants or contractors, in my case, and employees. We were supposed to make contact with them and ask them to purchase tickets.

Morrison said he could not recall if he asked city employees if they were going to attend Brown's fundraisers. He said he was interested in the ticket purchases only out of "general curiosity." Morrison said he never told Kemp or any other department director or employee that each was expected to purchase at least 10 tickets apiece - only that "it would be nice if she [or he] did."

### **Wielding the Pressure Within City Government**

Pressure on city employees to finance and advance Brown's political ambitions spanned the entire spectrum of city government in Orange - in the departments of Finance, Planning and Economic Development, Public Works, and in the Mayor's Office itself. City police officers and firefighters became the foot soldiers in the Brown fundraising machinery. Many employees complained of having

been recruited into the political apparatus against their will and, once there, of being forced to toe the party line or face consequences that ranged from disciplinary action to dismissal.

Nowhere was the atmosphere of pressure more intense than in the Fire Department, where Fire Director Gamba wielded it like a sword. Approximately one year after Gamba became director in November 1990, participation by firefighters in Brown's fundraisers more than quadrupled.

Support for the mayor's fundraisers and campaigns was integral to promotions and favored assignments. "Are you an 'I' or 'O'" - an "inny" or an "outy" - became a common question to distinguish between those who supported the mayor's political activities and, therefore, would be taken care of, and those who did not. An unspoken competition between the Fire Department and the Police Department in terms of turnout of support for the mayor was fostered by the department directors, and Gamba's tactics assured him preeminence. Police officers, who out-number firefighters, had contributed more to Brown's fundraisers until Gamba became director in November 1990. Thereafter, from 1991 through 1993, firefighters contributed more. Newly hired firefighters, on probation for the first year of their employment, were prime targets of the pressure. Both Brown and Gamba took advantage of their vulnerability.<sup>8</sup>

More than a dozen firefighters told the Commission of incidents in which:

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<sup>8</sup> In responses appended to this report, Brown and Gamba note that 52 firefighters signed statements denying that they were subjected to any political pressure. These statements were solicited by a private investigator hired by the Brown administration in connection with a lawsuit against the city, Brown and Gamba by former and current firefighters, and were not tested by cross-examination.

\* Demonstrating concrete political support for Brown, either through cash contributions or campaign foot-work or both, became a condition for employment and a prerequisite for promotion. In numerous instances, uncooperative firefighters were passed over on the departmental promotions list because they had not demonstrated an acceptable level of political support for Brown.

\* Newly hired firefighters were told that their duties would include a political component involving overt support for Brown. Typically, on the morning of their scheduled swearing-in, new recruits would be summoned to the mayor's office where Brown would lecture them on the importance of political loyalty. Those who later failed to heed the message, either by refusing to purchase fundraising tickets or ignoring orders to put in time at Brown campaign headquarters, were subjected to harassment in the form of trumped-up disciplinary charges.

\* Firefighters were solicited for cash donations to Brown's fundraisers while on duty in the city's central firehouse. In one instance, Fire Director Gamba took advantage of circumstances surrounding an actual fire call to have firefighters lend assistance at Brown's campaign headquarters during the 1993 primary race for State Senate.

Likewise, in the city Police Department, Police Director Charles C. Cobbett constantly espoused a theme to officers and detectives that they were not doing enough to support the mayor and that he was embarrassed by their poor showing at fundraisers in comparison to the firefighters.

As a result, Cobbertt repeatedly exhorted police personnel - both individually and in organized groups - to go to bat politically for Brown. In one instance, Cobbertt demoted two officers in an effort to coerce a greater turnout of support.

## **CAMPAIGN FINANCE AND REPORTING IRREGULARITIES**

Since 1987, Robert Brown has operated one continuing political committee, five candidate committees and one civic association. The Commission examined reports filed by Brown with the New Jersey Election Law Enforcement Commission (ELEC) and the bank account records of the entities, which the Commission obtained primarily from the banks. Brown provided few original bank records or other materials to document expenditures.

The Commission found numerous irregularities in Brown's operation of his organizations.

### **Reporting Discrepancies**

A comparison of bank deposit records with ELEC filings for the period from October 1987 to June 1995 revealed a discrepancy of \$89,601.76 - the difference between the total reported to ELEC (\$1,209,839.16) and a lesser total amount actually deposited (\$1,120,237.40). In addition, there were numerous discrepancies as to identities of contributors between the reports to ELEC and the corresponding bank deposit records.

### **Loan Irregularities**

The Commission found that Brown loaned his political entities \$33,500 from his law office account and \$500 from his personal account. He then reimbursed himself \$52,500 - \$18,500 more

than he had made in loans. In addition, after three of the loans were repaid, he nevertheless continued to report them to ELEC as outstanding on 40 amended reports. Brown claimed that \$10,000 of the \$18,500 in reimbursements represented repayment of a loan to him from City Attorney Michael Critchley.<sup>9</sup>

### **Misrepresentation of Fundraisers**

Numerous individuals told the Commission they believed their contributions to Brown, whether to his political entities or his civic organization, were for the purpose of supporting his candidacy for political office.

Contrary to this understanding, a political account, “Friends of Robert L. Brown,” financed expenses unrelated to his campaigns. These expenses included more than \$7,000, according to Brown, in connection with his civic association or with HB Galleries, an art gallery that Brown established in the basement of the building that houses his law office; more than \$7,400 on furniture for his civic association or HB Galleries; more than \$4,000 for law office equipment; \$1,250 for a used stereo set; more than \$300 in donations to non-charitable organizations; and \$400 for membership in the Berkeley Tennis Club in Orange. In addition, funds from Committee to Elect Robert L. Brown (Senate) were used to pay \$800 for artwork and The Brown Mayoral Elec financed \$500 in artwork framing.

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<sup>9</sup> This \$10,000 loan is the subject of a complaint filed by ELEC, which alleges that it constituted a contribution by Critchley in excess of the \$1,500 allowed by law.

## **Who Signed the Checks?**

Brown exercised control over all bank records and the issuance of checks related to his political and civic association accounts. Even though he was not authorized to sign checks for the Friends of Robert L. Brown account, the Commission found evidence that he signed the name of the secretary who was authorized to sign checks.

After Teal Hilliard Barth became Mayor Brown's executive secretary, she was also designated secretary of The Friends of Robert L. Brown. Although Brown characterized the organization as "a hybrid" - part political committee, part civic organization - the entity, based upon its use, constituted a continuing political committee under state election law. Barth testified that her sole function as secretary was to sign checks, which she did at Brown's direction from a checkbook that was kept at Brown's law office. Barth said she never saw the canceled checks or monthly statements and was never requested to do the reconciliations.

Barth related two incidents that caused her to become suspicious that someone was forging her signature on checks.

The first occurred when Barth discovered a piece of paper bearing signatures purporting to be hers on a table in the mayor's office. She testified that several people, including Brown, were in the office that day. Barth took the paper, which she produced for the Commission. When she asked Brown about the paper, without showing it to him, Brown professed no knowledge of it. Shortly after

finding the paper, Barth was summoned to the bank to verify her signature on a check from the Friends account. When Barth examined the check, which she took possession of, she knew that the signature was not hers.

Brown's legal secretary, Denise Overton, testified that she observed Brown sign Barth's name to Friends checks on occasion. Overton said she also saw Brown practice Barth's signature "to get it exactly the way she signed":

When he could not get the signature right, if he messed up on the signature, he would void [the check] and try it again.

Asked if there were ever any instances in which he saw Overton observe him signing Barth's name to checks, Brown testified, "That's possible. I don't remember any occasions, but it's possible."

Barth identified 61 checks, dated between April 1990 and January 1992, bearing signatures that she said were not hers. Of these checks, two were written in the total amount of \$2,000 to Denise Overton, and one for \$2,000 was written to Lance Webb, Brown's driver at the time. Both Overton and Webb testified that they cashed the checks in question at Brown's direction and gave the cash to him. Making the checks payable to these individuals, who were not the recipients of the money, resulted in inaccurate reports of expenditures to ELEC.

Shown the checks in question, Brown was asked by the Commission whether he signed Barth's name to any of them. He testified, "Some of these I could have signed. I'm not sure about all

of them, but it's possible that I could have signed some of them.”

### **Failure to Report Cash Contributions**

A deposit slip for the account of Committee to Elect Robert L. Brown, dated December 10, 1993, indicates a deposit of \$500 in cash from two named individuals, although election law at the time limited cash contributions to \$200 per person. The contributions were not listed in any report filed with ELEC.

### **Missing Cash**

The Commission found evidence that substantial amounts of cash contributions were not deposited to Brown's political accounts at all. The bank records for his six political entities disclosed cash deposits of only \$4,782. The actual figure may be slightly higher because the bank was unable to furnish nine deposit slips to explain deposits of \$1,950. Consequently, it is impossible to determine whether any portion of this amount was cash.

Overall, however, the cash figures recorded on the available deposit slips are startlingly low in light of the amounts of cash reported by numerous witnesses to have been routinely collected on the evenings of the Mayfair Farms fundraisers. For instance, Karen Lang estimated that 50 percent of the \$8,000 to \$10,000 collected at each fundraiser was in cash. Nevertheless, the only cash deposited in close proximity to the dates of the fundraisers was \$5 to the Committee to Elect Robert L. Brown (Senate) account on March 18, 1993, and \$500 deposited to the same account on December 10, 1993.

In addition, a number of witnesses who testified to purchasing fundraising tickets or ads with cash, in amounts that exceeded the reporting threshold, were not listed on any reports filed with ELEC as having made these contributions.

### **Unaccounted Cash Withdrawals**

The Commission found that Brown received a total of at least \$78,575 from checks made out to cash or to other individuals and payable through his campaign accounts.

Of that amount, Brown received a total of \$38,875 from nine checks made payable to cash from political organization accounts and cashed by his secretary, Stephanie Cosey, (\$38,000); or made payable to cash and cashed by his chauffeur (\$875). There is no documentation to support how the proceeds of these checks were spent.

Also, of the \$78,575 total, Brown received at least \$29,950 in cash through political organization checks made payable to other individuals. Although the checks contained notations on how the money was purportedly spent, Brown could produce no supporting documents.

Brown's legal secretary, Denise Overton, related that she cashed a check in the amount of \$9,750 on November 5, 1991, from the account of Committee to Elect Robert L. Brown (Assembly). Overton testified that Brown drove to a bank on that date with plans to cash a \$10,000 check. She said she returned the check to Brown after being advised by a bank teller that she would have to

complete a Currency Transaction Report, which federal law requires for cash transactions of \$10,000 and more. Overton said Brown then voided the check and wrote another for \$9,750 bearing a notation indicating election-day expenses. Overton said she then cashed the check and gave the money to Brown. The Commission examined the check register showing “VOID” written over the check number payable to Overton for \$10,000, followed by an entry for a check payable to Overton for \$9,750 for “election day expenses.”

### **Campaign Contributions/Brown’s Law Office Rent**

The Commission’s examination of the bank records established that between November 1989 and April 1994, Brown’s political entities paid \$6,625 and his civic association paid \$2,000 towards the rent for a private law office suite leased by Brown at 339 Main Street in Orange. In addition, of the \$22,050 paid for the conference room leased by the Friends of Robert L. Brown at the same location, the political entities paid for all of the rent except \$1,000, which was provided by the Robert L. Brown Civic Association. Although the political entities paid for most of the rent, testimony established that the conference room was also used in connection with Brown’s law practice, in violation of state election laws after April 7, 1993.

### **Tax Avoidance/The Robert L. Brown Civic Association**

Brown testified that he formed a civic association “to promote...various civic activities...” During its one year of existence from August 1992 to August 1993, the Civic Association awarded two scholarships of \$1,000 each to high school students.

From August 12, 1992, to August 12, 1993, the Robert L. Brown Civic Association received \$142,061.19 in income, but never filed federal or state income tax returns. Because the organization never sought tax-exempt status, it was required to file income tax returns.

Moreover, the association did not exist as a legal entity. It was never established as a corporation or partnership, or registered as a charity with the New Jersey Division of Consumer Affairs. Further, the association was never registered with the Office of Legalized Games of Chance, Division of Consumer Affairs, when, in December 1992, it conducted a raffle of a fur coat.

Income deposited to the Civic Association account may, in fact, have constituted personal income to Brown that he should have been required to report for tax purposes. For example, Brown spent more than \$69,000 of Civic Association monies on design, construction, artwork and frames for HB Galleries. Although HB Galleries was incorporated on November 10, 1993, as a “domestic nonprofit corporation,” there is no documentation, including inventory records, to substantiate that the artwork is owned by the corporation and not by Brown and “on loan” to the gallery. Further, the corporation never applied to the IRS or the State of New Jersey for nonprofit status.

### **Inconsistencies in Reports Filed with ELEC**

Brown repeatedly amended the 49 reports that he was required to file for his six political

entities with ELEC.<sup>10</sup> The reports filed for these entities, except Committee to Re-elect Robert L. Brown, were amended a total of 53 times. For example, the 16 reports for Friends of Robert L. Brown were amended 39 times and the nine reports for Committee to Elect-Assembly were amended four times.

The identities of contributors and the amounts of contributions repeatedly changed from amended report to amended report. In addition, the total contributions and expenditures amounts reported on particular filings frequently were not properly supported by the attached schedules. The Commission also found that contribution checks made payable to one political entity and reported as such to ELEC, were often deposited into the accounts of other political entities without being reported to ELEC as transfers of funds, contrary to state election laws.

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<sup>10</sup> In December 1994, ELEC issued a complaint against Friends of Robert L. Brown and its treasurer, Michael Critchley. On February 17, 1995, a final decision was rendered and a penalty imposed. In March 1995, ELEC issued a complaint against Friends of Robert L. Brown, a.k.a. Brown PAC, and its treasurer, Michael Critchley. An amended complaint was issued in June 1996. In September 1997, a consent order was approved for all but one count and a penalty imposed. In April 1997, ELEC issued a complaint against Brown, Critchley and Stephanie Cosey for the 1993 primary election for State Senate. In June 1997, a complaint was issued against Brown and Critchley, as treasurer, in connection with the 1996 municipal election. These two complaints and the one count from the September 1997 amended complaint are pending before the Office of Administrative Law.

## MISUSE OF CITY PROPERTY/RESIDENCY VIOLATION

The Commission examined an allegation that Rudolph E. Thomas, an Orange Council member since May 1992, was not domiciled in the city during his Council tenure and, therefore, was not qualified to hold the position. The Commission found that although Thomas maintained an apartment at 12 Canfield Street in Orange, Mayor Brown allowed him to live on a regular basis in a house on the grounds of the Orange reservoir in West Orange from at least the fall of 1990.<sup>11</sup> Consequently, Thomas failed to meet the residency requirement when he was appointed in May 1992 and elected in May 1994. At no time during this period did Thomas file a statement of dual residency.

Thomas' unrestricted occupancy of a publicly-owned house also reveals improper accounting by the city and possible tax avoidance by Thomas. A detailed review of utility records established that substantial gas, electric and telephone charges for the house were billed to the taxpayers during Thomas' residence there. Despite this financial benefit to Thomas, the city failed to issue him appropriate tax forms, thereby enabling him to avoid possible state and federal income tax liability.

Thomas, who was active in Brown's 1988 campaign for mayor, began occupying the house while still employed as a toll collector for the Garden State Parkway. Brown's largesse extended to

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<sup>11</sup> It was not until the election of a new administration that Thomas was asked to vacate the house.

his close friend and city employee Alphonse Winston, who testified that Brown allowed him to occupy the house during periods of marital strife.

In 1989, extensive renovations were undertaken at Brown's direction. Restoration of the house cost the taxpayers in excess of \$15,000 and was accomplished by city workers and outside vendors.

In an interview with Commission staff, Thomas acknowledged that he had lived at the reservoir house since 1988 pursuant to an arrangement with Mayor Brown. He asserted that the only improvement to the reservoir house, prior to his moving there, was its painting. He admitted that his furniture filled the house. Thomas stated that he used the Canfield Street apartment for "political entertaining." Despite portraying himself as the caretaker for the reservoir house, he was unable to delineate any responsibilities that he was required to perform.

## **BIDDING/PURCHASING VIOLATIONS**

The Commission, in an examination of records far more comprehensive than the sampling used in annual municipal audits, found evidence suggesting repeated violations of the Local Public Contracts Law in the course of Orange's fiscal operations during the Brown administration. The bidding threshold - the level of public expenditure at which bidding is required by state law - was ignored and proper purchasing procedures were circumvented. Further, the city failed to implement uniformly a 1984 administrative order establishing regulations for centralized purchasing.

Frequently, the city's failure to bid for purchases and contracts stemmed from a failure to heed laws designed to trigger the bidding threshold in cases where cumulative transactions in similar categories occur during the same fiscal year. Chief Financial Officer Kelly told the Commission that he understood this requirement, but placed responsibility for it elsewhere.

For every year beginning with 1990, the city's auditors made written recommendations that items purchased in excess of the statutory threshold be advertised for public bid, and that quotes be obtained for items purchased in excess of \$1,000, as required by law. In disclaiming responsibility, Kelly ignored his obligation under the Orange Municipal Code, which dictates that the finance director submit to the mayor, Council and business administrator monthly and quarterly reports that are to include "appropriate analysis, explanations and forecasts of income, expenditures and surplus in relation to the budget."

Additionally, the Commission found serious violations in the city's leasing of a vehicle for Mayor Brown and in its purchase of a computer system for the Clerk's Office.

### **The Mayor's Car**

In August 1993, a fully-equipped 1993 Mercury Grand Marquis was obtained for the mayor in a manner that lacked Council approval and contravened municipal and state purchasing procedures.

By contract dated August 6, 1993, the city, through Business Administrator Morrison, entered into a 24-month, advance-payment lease in the amount of \$9,787.52. Because the figure was under the threshold amount of \$11,100 requiring public bidding, the vehicle did not have to be bid. Three quotes were properly obtained, but following this step, purchasing procedures were ignored.

Although the voucher was signed by the business administrator, it did not bear the necessary signatures of the vendor or of Chief Financial Officer Kelly. Also lacking was a certification by the chief financial officer that public funds were available, as dictated by law. Absent such a certification, no contract may be entered into or executed.

A manually-written, or "hand," check, dated August 9, 1993, was utilized to make the advance payment under the lease. While use of a hand check under these circumstances is questionable, the payment was clearly prohibited because it never appeared on any bill list submitted to and approved by the Council. Both state law and the Orange Municipal Code mandate Council approval, by resolution,

of all payments of claims. Further, the amount was charged in the city's accounts to office supplies under Administrative Services of the Department of Administration. These actions strongly suggest an attempt to conceal from the Council the vehicle's acquisition.

### **Clerk's Office Computer System**

The acquisition of a computer system for the Clerk's Office contravened proper bidding and purchasing procedures under both the Local Public Contracts Law and the Orange Code. The Commission found that Business Administrator Morrison allowed a computer hobbyist to design and purchase the system and then failed to maintain proper supervision over the purchase. As a result, the city paid \$9,600 for a system that remains incomplete to this day and has not been utilized since its installation in the summer of 1993. Moreover, the system contains software identified by experts as having been pirated.

## **ABUSE OF OFFICE**

Mayor Brown told the Commission, "I hire everybody" who works for the city. Brown has been responsible for a number of hirings of questionable need based upon favoritism and personal benefit to himself. His largesse in providing patronage positions has not served the city's interests and has added to its financial burden.

### **The Mayor's Law Assistant**

Vera E. Carpenter, a pool attorney for the Public Defender's Office since early 1992, served as assistant city attorney from January 1992 to October 1994. She received an annual salary of \$34,650 for the part-time position and was paid an additional \$6,800 for work on personal injury cases. During approximately the same time period, Carpenter also worked on JUA/MTF insurance cases for Brown in connection with his private law practice. The city paid Carpenter; Brown did not. This raises serious questions about whether Brown placed Carpenter on the city payroll as part of an explicit or implicit arrangement for personal gain. Brown denied placing Carpenter on the city payroll for any such purpose.

In explaining his private arrangement with Carpenter, Brown described her as "like an associate" who worked on JUA/MTF cases assigned to him. In fact, Brown listed Carpenter as the "Associate handling JUA and/or MTF matters" on a questionnaire filed with the New Jersey Department of Insurance. Brown considered that providing Carpenter with free office space and

equipment for the conduct of her own law practice was fair compensation for the work she performed on JUA/MTF cases. However, Brown had rented one of his offices to another attorney at a rate of \$300 a month. If Carpenter had been required to pay the same rent to Brown, she would have met the rent by working only four hours each month on his cases, based on a calculation of \$75 an hour.<sup>12</sup> From an examination of the files in the possession of Brown and the insurance carriers, as well as interviews of present and former staff in Brown's law office, the Commission concluded that Carpenter routinely worked far more than four hours a month on the more than 54 JUA/MTF cases assigned to Brown. Indeed, the files indicate that Carpenter had significantly more contact with the carriers than did Brown himself.

Because this arrangement benefitted Brown far more than it did Carpenter, the Commission scrutinized Carpenter's duties as a city employee, and found that they were minimal.

Carpenter stated that she devoted only about 15 hours a week as a salaried employee of the city, depending on her trial schedule as a pool attorney with the state Public Defender's Office. According to a personnel form signed by Carpenter and dated January 6, 1992, she was required to work 20 "weekly work hours." Therefore, based upon the difference between the number of hours required of her and the number she actually worked, Carpenter deprived the city of the equivalent of 174 days of work. Further, based on the Commission's analysis of work performed by Carpenter for

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<sup>12</sup> The Department of Insurance paid Brown \$75 an hour for work performed by him or an associate.

the Public Defender's Office, Brown and the city, the bulk of her time was clearly devoted to the Public Defender's Office.

According to records, Carpenter attended only two Council meetings during the period of her employment with the city. With respect to Council resolutions, she admitted to reviewing them only after they had been prepared. On a few occasions, she also substituted for the municipal prosecutor.

Carpenter's termination from her city position coincided with the Insurance Department's suspension of JUA/MTF referrals to Brown.

### **The Mayor's Consultant**

Mayor Brown repeatedly selected Leon Bridges, an architect based in Baltimore, Md., for various city projects. At the same time, Brown contracted with Bridges to provide private consulting services for his law office and art gallery.<sup>13</sup> Between October 1991 and December 1994, Bridges received \$369,052.11 from the city and was paid \$1,500 by Brown. During that period, he contributed \$6,250 to Brown's campaigns. Brown denied that his personal payment to Bridges was related in any way to the campaign contributions or to the fact that he directed city work to Bridges.

In June 1991, Bridges was selected to determine whether code violations at the municipal court/police headquarters building could be corrected and, if so, to estimate the cost of renovations, as

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<sup>13</sup> Records subpoenaed by the Commission indicate that Bridges was the only architect hired by Brown for his law office and art gallery. Brown also engaged an interior architectural designer for the gallery and paid him \$720 with a check from his Civic Association. The Commission obtained the check from the bank, not Brown.

well as the cost of expanding the courtroom facilities. The rehabilitation project was originally estimated at \$500,000. Contrary to state law, Bridges was paid \$9,807.24 before any Council resolution authorizing his hiring was passed. Bridges provided the evaluation, but initial plans to renovate the building were abandoned in November 1991 in favor of constructing a separate complex projected at \$3,463,000.

Brown chose Bridges for the new project, despite concerns and objections expressed by Business Administrator Morrison and then-City Engineer Kemp, who had experienced delays with his small architectural firm. Kemp told the Commission that Brown was adamant about selecting Bridges and against soliciting other architects. The cost of the project rose steadily and is currently projected at \$7 million. Bridges was paid a total of \$295,651.32 between October 2, 1991, and November 18, 1994.

Bridges was also chosen by Brown in 1992 to design the bleachers and fieldhouse for Bell Stadium. The Council awarded the fieldhouse contract to Bridges by resolution dated December 1, 1992, for an amount not to exceed \$45,000. An amended resolution on July 5, 1994, authorized an increase to \$68,296. From December 14, 1992, to December 5, 1994, Bridges was paid a total of \$57,094.37.

Brown also selected Bridges in approximately December 1992 to design Umoja House, a recreation facility for youth that has not yet been constructed. Construction costs were initially set at \$1,379,500. Bridges was deeply involved in the initial design before the Council passed a resolution,

dated April 6, 1993, awarding him a contract not to exceed \$49,000. Between May 6, 1993, and October 25, 1993, Bridges was paid \$16,306.42.

The city repeatedly paid Bridges by manual check.<sup>14</sup>

During the period he was receiving fees from the city, Bridges was engaged privately by Brown to provide architectural services for the mayor's future law office and art gallery at 425 Main Street in Orange. Bridges' own files document that from July 1992 to September 1993, he met and corresponded with Brown and performed work on the project. For architectural consulting services, Brown paid Bridges only \$1,500 of the agreed-upon \$4,500. Brown denied that the partial payment was in any way related to the steering of city work to Bridges.

When first interviewed by Commission staff, Bridges stated that the services provided were "primarily on a pro bono basis." Subsequently, in an attempt to explain the discrepancy between the agreed-upon fee of \$4,500 and the \$1,500 actually paid, Bridges stated:

I don't know if there was a change in the agreement. There must have been some sort of understanding, though, if we just stopped billing.

. . .

I provide services now. If [Brown] gave me a call and asked me, "Leon, would you come up here and look at this," I would say, "Yes, I'll come up there and look at it."

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<sup>14</sup> The City's overutilization of manual checks is discussed at page 61 of this report.

Bridges stated that he was never pressured to contribute to Brown's fundraisers. However, he acknowledged receiving follow-up calls for ticket purchases.

### **The Mayor's Chauffeur**

Not only did the city provide Brown with a vehicle, but it also provided a chauffeur. From July 1988 until October 1990, when he resigned, Roger Monel was Brown's driver. Lance Webb served as his driver from December 1990 to February 1992. Marchand McReynolds chauffeured Brown for periods during 1992 and 1993, while on vacation from college.

Brown hired Monel as his "confidential aide," a full-time position at an annual salary of \$15,000. When he resigned 27 months later, his salary was \$34,500. For the period of approximately two years and three months that he worked for the city, Monel received \$74,141.42 in gross salary.

Monel told the Commission that his chauffeuring of the mayor was divided roughly in half between official business and personal business. He drove Brown to campaign functions, to state and federal courthouses in Newark and Camden in connection with his private law practice, to political functions held in the evening, to art shops or galleries in South Orange and Montclair, and to the Berkeley Tennis Club. While Brown served as co-counsel in a 22-month federal trial of reputed organized crime members, Monel usually drove Brown to the federal courthouse in Newark.

Monel testified that in a typical day, he picked up Brown in the morning and drove him to City Hall or his law office. The city-owned vehicle was kept at Brown's home. When Monel drove Brown

to a location on city business, he did not serve as an aide once there. On a rare occasion, Brown had Monel serve a proclamation - he recalled one in Newark, another in Orange - when Brown was unavailable.

Monel told the Commission that he also accompanied Brown to several conferences. The city paid Monel a total of \$3,345.20 for expenses related to his attendance at conferences between September 1988 and September 1990. The purpose of his attendance, however, is unclear.

Monel accompanied Brown on the New Jersey State Chamber of Commerce Train Ride to Washington, D.C., in January 1990; to the U.S. Conference of Mayors Convention in Chicago, Illinois, in June 1990; and to the National Conference of Black Mayors Convention in New Orleans, Louisiana, in April 1990. Monel echoed the same reason for attending each of these conferences: "The mayor wanted me to go. Anytime he traveled usually I went." Monel provided no assistance to the mayor, but attended the workshops - "If I see him, I see him. If I don't see him, I don't see him."

Brown gave the Commission the following explanation for having Monel accompany him on out-of-state trips:

Well, I mean at a lot of things you have people run errands and look after things and that kind of thing. I'm one for losing my plane tickets, my keys and my passports and everything else. So normally I travel with somebody who I can give that stuff to, so I can get back home.

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Lance Webb, whose wife told the Commission that she is Donna Brown's cousin, stated to Commission staff that he typically chauffeured Brown to Trenton, to art galleries and displays, and to frame stores. Webb ceased being Brown's driver in February 1992, when he was transferred to the Department of Public Works. Webb requested the transfer, despite the resulting salary cut of \$6,359.28, because he no longer wanted to drive the mayor around.

\* \* \* \*

Marchand McReynolds was hired as Brown's driver during college breaks. Brown hired him because his "driver had quit" and he "didn't have a driver or confidential aide." According to Brown, McReynolds did "[t]he usual gopher stuff." He was paid a total of \$12,491.78 for the summers of 1992 and 1993 and other periods in 1990 and 1993. His salary was charged first to the Recreation Department, then to the business administrator's office and finally to the mayor's office.

### **The Tree Consultant**

Harold "Skippy" Whelan, hired by Brown as the city's "tree consultant" in 1989, testified that he has known the mayor's wife since childhood and has occasionally provided services to their residence, usually free of charge. Brown did not look beyond Whelan for the position. Later, when payment of Whelan's consulting fees were delayed by Whelan's own failure to comply with proper purchasing procedures, Brown placed him on the regular city payroll. The Commission's investigation raised serious questions about whether the "consulting" work actually performed by Whelan - who

conducted himself with virtually no supervision - justified the amounts of money paid to him through a retainer and part-time salary.

As a consultant, Whelan was paid \$1,000 a month, for a total of \$42,000 from August 1989 through January 1993. During the same period, he received an additional \$6,638.72 for “other” services, such as tree pruning.

Whelan was placed on the city payroll as a part-time employee in January 1993, and through 1995 was paid an average of \$11,900 per year. Because of his continuing employee status, the taxpayers of Orange also were burdened with underwriting his Medicare and Social Security benefits.

Whelan was the city’s first “tree consultant” and reported to Arlene Kemp when she was city engineer. When Kemp was asked if Whelan performed any service that could not have been done by her department, she identified only one - the trimming of some trees in Military Park whose height surpassed that of her department’s bucket truck. According to Kemp, Whelan was not required to work a set number of hours each month. Kemp experienced difficulty in paying Whelan because although he demanded payment of his \$1,000-a-month fee, he refused to submit the requisite bills to trigger the payment process. Whelan submitted bills only a few times, but never itemized the services provided. The problem of paying Whelan was resolved finally when Brown hired him as a part-time employee with no change in duties.

Commission staff examined Whelan’s files on Orange. The only major projects undertaken by

Whelan appeared to be a survey of the city's trees, which began in 1989 and was concluded in 1991, and a 1991 survey of trees recommended for removal. Whelan's files revealed several instances where he proposed himself to do the work that he was recommending as a consultant.

Only a few handwritten records in Whelan's files established the hours of work performed: a total of 21 hours between August and December 1989 and a total of 235 hours for 12 months in 1990.

Mayor Brown told the Commission he knew Whelan through his (Brown's) wife and has paid Whelan for tree work at his residence. Brown said he hired Whelan for city work to start a tree care and planting program in Orange. He admitted that no one else was considered. Brown also acknowledged that despite Whelan's complaints about delayed receipt of consulting fees, Kemp did inform him that Whelan was not submitting the proper paperwork.

Brown's testimony also confirmed that Whelan defined his own responsibilities. When pressed about Whelan's duties as a \$1,000-a-month consultant, Brown answered:

I had no understanding of what he would get paid for with the consultant fee. Apparently, that was something that was worked out between him and the Public Works director.

- Q. Are you aware that he was paid for services outside of the consultant fee?
- A. As a matter of fact, no.

## THE CITY'S SPENDING HABITS

City officials in Orange have engaged in spending practices that range from imprudent to irresponsible. Highly questionable judgment was exercised by the mayor in authorizing expenditures, by the business administrator in implementing them, and by members of the Council in approving them - when, that is, they were made aware of them.

This pattern of fiscal irresponsibility has occurred against the backdrop of intense budgetary adversity. In 1990, five city employees were laid off, one provisional employee was terminated and four employees were demoted. In 1994, the fiscal squeeze resulted in the layoffs of 19 employees, the termination of nine provisionals and one demotion. In 1995, two employees were laid off and two provisionals were terminated. At the same time, yearly spending freezes were imposed from 1991 through 1995.

Meanwhile, conferences, both in New Jersey and out-of-state, were treated as junket opportunities for municipal officials and employees. Cars were provided to an array of top officials, complete with free fuel and maintenance and no restrictions on their use. Moreover, taxpayers during this period were burdened with financing annual lunches for officials and their secretaries, coffee for employees, employee picnics and Christmas parties, and delivery of gift flowers on behalf of the mayor.

The Commission's examination of the city's accounts yielded 11 categories of questionable or improper expenditures. In calculating the total expenditures for the categories listed in two through 10

below, the Commission scrutinized only the accounts related to administrative services, mayor, council, business administrator, finance and clerk - 35 of the city's more than 1,000 accounts. Therefore, it is likely that the total of questionable expenditures in each of these categories would be greater if the remaining accounts had been included in the analysis.

### **Trips, Gifts and Entertainment**

#### 1. Conferences, seminars and travel:

From July 1, 1988 through January 31, 1995, \$190,263.93 was spent for conferences and seminars, with more than \$70,000 spent in 1993 alone. A substantial number of city employees have attended the state League of Municipalities conventions in Atlantic City each year. These conventions constituted 14 percent of the total expenditure.

Two out-of-state trips are notable - one to Orlando, Florida, at a cost of \$1,751.60, and the second to Anaheim, California. Both trips were made to examine a concept advanced by Chief Financial Officer Kelly, an avid golfer, to construct a golf driving range, known as an aquarange, atop the city's reservoir in West Orange.

At his own suggestion, Kelly attended the Orlando conference from December 9 to 14, 1992 on designing and operating a golf driving range over water. Kelly made the trip "with the thought of - there was a potential of putting a driving range over the reservoir." Kelly termed the expense "a worthwhile investment," but when asked if the information could not have been obtained another way,

responded: “I don’t see - I don’t know - I wouldn’t know who have - I don’t know who I would have called to obtain that - that information.”

Kelly was accompanied on the Florida trip by a friend at no additional expense to the city. They stayed an additional two days beyond the conference. Kelly “probably played golf one day” and visited one aquarange on the other.

Kelly did not seek reimbursement for his expense of \$1,751.60 until June 1994, about 18 months after the trip. His explanation: “procrastination, combined with just forgetting about it.” The expenditure was never submitted to the Council for authorization of payment, but was paid by manual check at Kelly’s direction. Although he told the Commission that the check was later included in a list of manual checks approved by the Council, no evidence to support that contention has been found.

Kelly also traveled to Anaheim to discuss and view a driving range over a reservoir. Mayor Brown accompanied him on that trip. Kelly recalled being there “[p]robably two years ago” for “just a few days.” Because Brown had been invited to the White House for a presentation on trade just before the scheduled trip, Kelly accompanied him to Washington, D.C., and from there, they flew to California.

The Commission subpoenaed the receipts for the Anaheim trip, but the records could not be located, according to Kelly. Consequently, the Commission has been unable to determine the cost of the trip, precisely when it occurred and whether the Council approved the expenditure.

Kelly testified that the aquarange concept “just [has] not been pursued.”

## 2. Flowers:

From July 1, 1988 through April 30, 1995, \$19,344.53 was expended on flowers. Of that total, \$6,689.30 was incurred by the mayor’s office - \$4,365.40 charged to the mayor’s account and \$2,323.90 to administrative services. The latter account was charged an additional \$3,600.95, with the business administrator accounting for \$681.75. Another \$8,372.53 was attributable to the city counsel, clerk, planning board, community services, city attorney and reserves for “Other Expenditures-Physical Damage.” The invoices from florists revealed that typical occasions for the delivery of flowers were birthdays, funerals and illnesses. In November 1992, fruit baskets costing \$500 were delivered to the mayor’s office.

The majority of the \$6,689.30 incurred by the mayor’s office indicates that taxpayer-subsidized flowers became a particular personal expression for the mayor. The delivery greeting cards included the names of Brown and his wife and son. One flower arrangement, costing \$57, was delivered to Brown’s aunt in Albany, New York, for her birthday.

## 3. Meals/Alcohol

Between 1990 and 1993, \$2,661.65 was billed to the taxpayers for annual lunches for secretaries, accompanied by their supervisors. Alcoholic beverages were itemized on bills for 1991 and 1993, while the bills for the other years contained no breakdown.

Each year, the luncheon was charged to a different account: Mayor-Miscellaneous in 1990; Business Administrator-Miscellaneous in 1991; Administrative Services-Supplies in 1992, and Administrative Services-Professional Services in 1993. The Commission was told by employees that annual lunches were also held in 1988 and 1989, but the expenses were not identified as such in the six accounts examined.

4. Employee picnic:

The city paid \$3,494.20 for an employee picnic in 1992 and \$3,282 for the one in 1993.

5. Plaques/Trophies:

From July 1988 through 1995, the city paid \$100,202.57 for items such as plaques, trophies, tee-shirts and nameplates.

6. Artwork materials:

From July 1, 1988 through April 30, 1995, the city expended \$4,553.65 for frames and matting. Of this amount, \$2,693.35 was charged to the mayor's account and \$1,860.30 to Administrative Services-Supplies. In 1989, a frame was purchased for \$155 for the mayor's portrait, which itself cost \$771 to produce.

7. Employee coffee:

Between July 1988 and June 30, 1994, \$17,109.24 was spent for the purchase of coffee. Of this amount, \$9,882.86 was charged to Administrative Services-Supplies and \$7,226.38 appeared

under the accounts for Police Department, Planning, Municipal Court, City Clerk, Community Services, and Community and Economic Development.

8. Promotional/Publicity Photography:

Between July 1988 and March 31, 1995, \$70,839.68 was spent on photography. Of this figure, \$23,260.69 was incurred by the Council, Mayor, Business Administrator, Clerk, Finance Department and Administrative Services. The remaining \$47,578.99, which was charged to various departments, is understated because the figure was obtained from the vendor history records and not the accounts of the specific departments.

9. Car Phones

The city paid \$46,092.09 for car phone charges from July 1, 1988, through December 31, 1994, for the Mayor's, Business Administrator's and Administrative Services accounts.

Of the total cost, \$44,087.69 was incurred by the mayor, of which only \$1,822.52 was charged to his account, while \$41,669.28 was billed to Administrative Services-Communications, \$437.87 to Finance-Miscellaneous, and \$158 to Administrative Services-Supplies.

Although it is almost certain that at least a portion of the mayor's extensive car phone expenses were attributable to personal calls, the Commission found no instance where he reimbursed the city. Questioned by the Commission, Brown retorted that he never charged the city for telephone calls made from his home.

10. Christmas Parties:

From December 1988 through April 1995, the city spent \$36,576.66 for Christmas-related expenditures, including office parties, entertainment and decorations. Of this amount, \$23,525 was expended on employee Christmas parties, which ranged in price from \$2,000 to \$5,000 and included payment for wine. There were additional costs of between \$300 and \$700 for a DJ or live music.

11. Holiday Observances:

Between November 1988 and December 1994, \$28,571.38 for holiday observances, including parades, for Columbus Day, Easter, Halloween, St. Patrick's Day and Memorial Day.

**Assignment of City Vehicles**

At Mayor Brown's direction, city cars were assigned to him, Business Administrator Morrison, Fire Director Gamba, Police Director Cobbett, Chief Financial Officer Kelly, former City Engineer Kemp, Tax Assessor Brown, and Recreation Supervisor Hannibal. At times, a city vehicle was the only vehicle that an individual had. No restrictions were placed on use of the vehicles, which were fueled and maintained at taxpayer expense. Indeed, individuals were told that they could use the vehicles for personal reasons. No record-keeping was ever required to segregate business, personal and commuting mileage, thus making it impossible to calculate the taxable portion of the benefit. Consequently, W-2 forms were never issued, and tax liability was probably avoided.

Mayor Brown enjoyed use of a city vehicle starting in June 1989. Orange is one of only five Essex County municipalities that assign vehicles to mayors on a full-time basis. The others are Newark and East Orange, whose mayors are full-time, and West Orange and Irvington, whose mayors are part-time. Only Newark and West Orange issue W-2 statements for the value of this benefit.

Under the Orange Municipal Code, officials who reside outside the city may use assigned vehicles for commuting, as may department directors “who have an emergency responsibility.” “Emergency responsibility,” however, is not defined. As a result, the mayor has broad discretion to place his own interpretation on the term. Moreover, Mayor Brown has exceeded the dictates of the municipal code by permitting individuals to use vehicles for personal purposes apart from commuting. In addition, because there are no requirements for logs reflecting official and non-official use or for reimbursing the city for non-business use, it fell to the taxpayers to fund the fuel and maintenance costs for the personal use of city vehicles.

## COLLAPSE OF FINANCIAL PROCEDURES

An examination of the city's financial apparatus revealed lax or non-existent oversight procedures, serious deficiencies in internal controls and repeated apparent attempts to circumvent the Council on various spending matters.

The Commission notes the following problem areas:

**Off-line, or manual, checks, also referred to as hand checks, have been overutilized and not reported to the Council for proper approval:**

Manual checks are to be issued not as a routine practice, but in those occasional instances where payment must be expedited. A primary risk of issuing such checks on a frequent basis is that they will escape the computerized accounting system, thus clouding the accuracy of the current expenditure budget. In Orange, manual checks became routine. For example, for the three-month period from June to September 1994, a total of 923 manual checks were issued, totaling more than \$6.1 million for such regular expenses as postage, consultants' fees, garbage disposal, office machines and supplies, and telephone service.

In addition to overusing manual checks, the administration failed to report all such expenditures on bill lists for the Council's approval, contrary to repeated recommendations by the city's auditors.

As already noted in this report, the method for paying the lease for the mayor's 1993 Grand

Marquis and the purchase of a computer system for the Clerk's Office are egregious examples of the inappropriate use of manual checks and of the failure to submit those expenditures on bill lists for the Council's approval.

**Expenses have been charged to the wrong accounts:**

At the least, such a practice makes it impossible for Orange to budget properly for the following year. At worst, it can be used as a mechanism for concealing charges to avoid the notice of the Council and the public.

The following are examples of expenditures that were charged to improper accounts:

- A. \$25,233.31 in expenses related to older adults was charged not to Older Adult Services, but to the Mayor, Business Administrator and Administrative Services for years 1989 through 1991 and 1993. If the expenses had been properly charged, then Older Adult Services would have substantially exceeded its budget in all years except 1991.
- B. The Administrative Services-Office Supplies account was employed repeatedly to include expenses that belonged elsewhere. The following are but a few examples:
  - 1. \$7,481.74 was charged for a planner on behalf of the Department of Planning and Economic Development;
  - 2. \$3,000 was charged for parking meters on behalf of the Department of Public Works;
  - 3. \$9,700 was charged for the mayor's car;
  - 4. \$2,000 was charged for Christmas trees and lights on behalf of the Department of Public Works, and

5. \$4,850 was charged for a used van for the Department of Community Services.

Other examples appear in this report under **The City's Spending Habits**, at page 53.

**Funds were not routinely certified before the expenditures were made, as required by law:**

Chief Financial Officer Kelly testified that he never certifies the availability of funds on the regular bill lists, either by stamping the lists themselves or by attaching certifications. And, while the law allows availability of funds to be certified on individual purchase orders, Kelly admitted that “there may have been” instances when he failed to use even that method.

**Vouchers for purchases were routinely paid despite the absence of supporting documentation:**

Of the more than 2,124 vouchers examined by the Commission, at least 448 lacked supporting documentation. For example, there was no back-up documentation for the city's payment of \$2,650 for furniture and accessories for the mayor's office in September 1993.

In every annual report since 1988, the city's auditors have recommended “[t]hat all vouchers be properly signed and completed with supporting documentation, in the form of invoices or other appropriate information, attached.”

When Chief Financial Officer Kelly was questioned by the Commission on whether he reviews the vouchers prior to payment, he sought to disclaim responsibility:

- Q. Do you review these documents at all before payment?  
A. Rarely.

. . .

COMMISSIONER MILLER: Why do you review them rarely?

THE WITNESS: Why? Because it's not my responsibility to review those....It's only - it would be a duplication of my efforts for me to review a document that's already been reviewed by two department level people, the department director and the city administrator. And it's basically an administrative type function left by the accounts payable clerk to make sure that the signatures are on the document, that an invoice supports the total on the document, and - and prepares it for - for payment.

COMMISSIONER MILLER: So, you're saying that the buck stops somewhere else rather than with you?

THE WITNESS: That's - that's correct. Again, I'm responsible for the oversight and the audit....

Even if Kelly delegated these responsibilities to the accounts payable clerk, he was not relieved of his responsibility to assure that proper procedures were followed. Moreover, since 1988, the city's auditors have continually recommended "[t]hat vouchers be reviewed and audited internally with greater care."

**Expenses of officials and employees routinely were reimbursed under vouchers that lacked supporting documentation. Further, the city lacks written procedures governing the reimbursement of expenses.**

**Vouchers for reimbursement for attendance at conferences were paid despite obvious errors:**

For example, one voucher that was submitted by and paid to a city administrator in connection with attendance at the 1989 League of Municipalities convention in Atlantic City included a receipt for \$137.26 in food and beverage from a West Orange restaurant, dated October 4, 1989. A receipt attached to another employee's voucher contained a white-out of the number of guests, which was two, and the handwritten number of one. Further, the Commission discovered instances where the meals for spouses were included in receipts or submitted by officials for reimbursement, and paid at taxpayer expense.

**Following cash advances, typically made in connection with attendance at conferences, reconciliations with supporting documentation were routinely lacking.**

## REFERRALS AND RECOMMENDATIONS

The Commission refers the results of its investigation to the following agencies of government for review and whatever action is deemed appropriate:

- \* Office of the Attorney General
- \* Election Law Enforcement Commission
- \* Division of Taxation
- \* Division of Local Government Services
- \* United States Internal Revenue Service

The Commission makes the following recommendations:<sup>15</sup>

### **1. Soliciting political contributions:**

The Legislature should consider the broadest possible restrictions on government officials' ability to solicit political contributions from subordinates and employees or from vendors with whom they deal in their official capacities. While constitutional considerations may preclude absolute prohibitions, at minimum there should be a ban on such activities during official working hours and on government premises. Violators should be subject to criminal penalties.

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<sup>15</sup> The Commission is sending a copy of this report to every municipal government unit in New Jersey, and urging each unit to review these recommendations carefully and implement any that are applicable to it.

In addition, the City Council of Orange Township should investigate and take appropriate action against administrators and employees who exerted pressure and/or exacted reprisals in connection with demands for political campaign contributions. Contributions to political causes must not be an adjunct of employment or the price of doing business with the city. Accordingly, the Council should establish a clear, written and appropriate policy to prevent future abuses of this nature.

## **2. Municipal ethics board:**

In order to promote public confidence in the integrity of government officers and employees and to provide clear and enforceable standards of ethical conduct, the Commission recommends that the City Council establish a municipal ethics board, which would then promulgate a municipal code of ethics, pursuant to the Local Government Ethics Law, N.J.S.A. 40A:9-22.1 et seq. The code of ethics should include provisions which prohibit: the solicitation of any contributions or money by officials or employees during working hours or on municipal premises; the hindering of promotions or the enhancing of promotional opportunities for municipal employees based upon their political and/or financial support of elected officials campaigns, or lack thereof; the solicitation of any contributions or monies from city vendors or beneficiaries by officers or employees who deal directly with such vendors or beneficiaries; the expenditure of public monies on office functions, such as holiday parties, retirement parties and picnics; the personal use of municipal vehicles; and the unreimbursed personal use of city telephones.

The Code should also address appearances of impropriety, where public officials' associates benefit from their personal or professional relationship with those officials, even in the absence of a

clear quid pro quo.

**3. Questionable campaign expenditures:**

The Commission recommends that the state Election Law Enforcement Commission adopt clear, written regulations requiring that whenever campaign checks are not made payable to an entity actually providing a service, candidates must document the expenditures. The Commission's investigation revealed that numerous checks payable to cash or individuals were drawn on the accounts of several political entities, ostensibly for the purpose of paying campaign-related expenses. In many instances, however, there was no written record detailing how the proceeds were actually spent.

**4. Improper financial, bidding and purchasing procedures:**

In order to provide adequate fiscal accountability and oversight, the City Council should take immediate action to review thoroughly, revise and adhere to clear and effective written procedures and controls for purchases, submissions of vouchers for payment and proper reimbursement of employee expenses. Further, there must be strict adherence to the Local Public Contracts Law for bidding, to guidelines for obtaining quotations where bidding is not mandated, and to statutes for certifications of funds and for proper and timely enactment of Council resolutions related to expenditures.

**5. Improper public expenditures:**

The City Council should establish and adhere to clear and effective written procedures for scrutinizing the justification for expenditures before approving them, and must set a strong policy of

fiscal restraint. Specifically, expenditures of public funds for employee entertainment, including the purchase of alcoholic beverages, is not sound policy and should be eliminated. Bills for city telephone usage should be carefully reviewed and all officials and employees should reimburse the city for the cost of personal calls. In addition, approval for attendance at conferences, especially at out-of-state resorts, should be closely monitored to ensure that the city and the taxpayers will benefit from this type of expense.

#### **6. Internal control deficiencies:**

Several of the internal control deficiencies noted in this report have been called to the city administration's attention on previous occasions in its annual audits. Although federal and state regulations require that municipalities file a corrective action plan for addressing such issues when they are raised by auditors, Orange has failed to do so. Unfortunately, the state's severely understaffed Division of Local Government Services is able to address only a handful of similar delinquencies each year. While new computer technologies are expected to enhance the Division's capabilities in this area, municipal governing bodies in Orange and elsewhere should on their own insist that their executives and administrators submit and implement plans for remedial action when necessary.

As far back as its September 1992 report, "Local Government Corruption," the Commission recognized that audit recommendations often are ignored. At that time, the Commission recommended enactment of a statute requiring that any local government unit which fails to implement recommendations contained in its annual audit must publish a resolution in local newspapers stating the reasons. The Commission repeats that recommendation here.

## **7. Questionable hiring practices:**

Government positions should be created and filled only when they serve a legitimate and necessary purpose. Clearly questionable positions - such as a “tree consultant” - must be examined and modified or eliminated where appropriate. At the same time, there must be a determination of whether certain positions, such as that of “recreation supervisor,” are properly classified as full- or part-time and whether the salaries are commensurate with the responsibilities of such positions. The Council should aggressively assert its authority with respect to the employment and retention of City employees.

The Commission also recommends that existing law exempting “professional services” from public bidding be amended by the Legislature to define that term with precision. The current vagueness of the statutory language invites abuse, such as that which is evident from the present investigation and findings.

## **8. Abuse of city vehicles:**

The Commission recommends reduction of the City’s motor pool through the elimination of exclusive assignment of vehicles to officials whose duties do not require them. Individuals deemed by City Council to warrant such assignments should be required to record their business and non-business mileage, and the value of any personal use should be reported to state and federal tax authorities, as required by law.