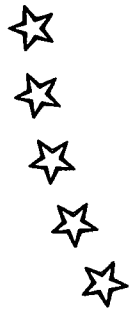


WINDOWS OF OPPORTUNITY:



Campaign Finance Reform and the New City Council



NEW YORK CITY
CAMPAIGN FINANCE BOARD



Executive Summary
July 1992

**WINDOWS
OF OPPORTUNITY**



**CAMPAIGN
FINANCE REFORM
AND THE NEW
CITY COUNCIL**

Executive Summary



NEW YORK CITY
CAMPAIGN FINANCE BOARD



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Louis B. Liggett
Eva Olga Ochmanska
Lin Zheng

Windows of Opportunity
Report Team

Hyla Pottharst Wagner
Adam J. Becker
Gavin T. Smith

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Preface

A detailed review of the New York City Campaign Finance Program and the 1991 City Council elections is presented in *Windows of Opportunity: Campaign Finance Reform and the New City Council*, a report prepared by the New York City Campaign Finance Board and submitted to the Mayor and the City Council in accordance with Section 3-713 of the Campaign Finance Act. The full report can be obtained from the New York City Campaign Finance Board, 40 Rector Street, New York, New York 10006, (212) 306-7100.

This Executive Summary contains highlights of that report and includes a summary of the recommendations made by the Board for improvements in the Campaign Finance Program and state law governing campaign financing.

Foreword

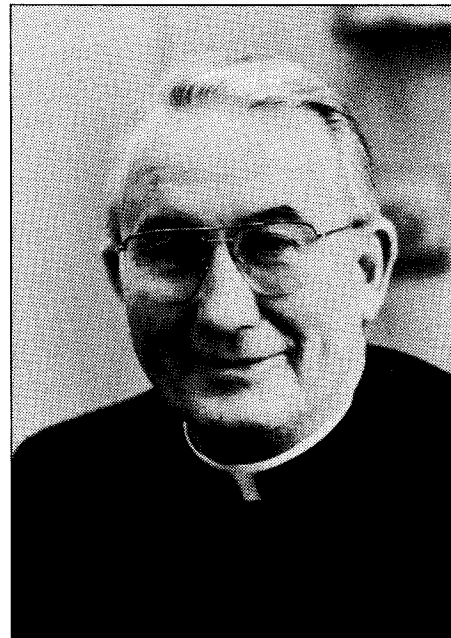
In its September 1990 report, *Dollars and Disclosure: Campaign Finance Reform in New York City*, the Campaign Finance Board reviewed the performance of the Campaign Finance Program in the 1989 New York City municipal elections, the first in which the new Program was operative. The Board concluded that in the campaigns for citywide office the Program had been a substantial success. But in the campaigns for City Council, the Program appeared to have far less impact.

The Program's limitations on contributions and expenditures had reduced the influence of wealthy contributors on the campaign, and the publication of the Voter Guide, along with the new disclosure requirements of the Program, provided much more information to the voters of New York City than they had ever had in the past. But in the City Council campaigns, the Program had only limited success in encouraging new candidates and more democratic fund raising.

A revised City Charter, approved in November 1989, mandated elections in 1991 for a new City Council, with strengthened powers and a membership expanded from 35 to 51. These elections presented a clear challenge to the Campaign Finance Board and its staff: Could the Program, successful in 1989 for citywide offices, be simplified and enhanced to promote wider participation in the electoral process and help fulfill the purpose behind the Charter changes in the City Council?

This second report of the Campaign Finance Board, *Windows of Opportunity: Campaign Finance Reform and the New City Council*, seeks to answer that question. It marshals persuasive evidence that the challenge was met, and met successfully. For example, a larger percentage of the City Council elected in 1991 (61 percent) participated in the Campaign Finance Program than was true of the City Council elected in 1989 (54 percent). A major purpose of the City Charter revisions of 1989 was to make the Council more representative of the different populations of the City, and the Campaign Finance Program played a critical role in achieving this end. Of the 21 new members elected to the Council for the first time, 12 represented minority candidates, seven were women, and four were from the Republican party. Of these 21 new Council members, 18 were participants in the Program.

Furthermore, the public funds made available to candidates who chose to participate in the Program played a bigger role in the 1991 Council elections, constituting more than one-third of the funds spent by candidates, as opposed to approximately one-fifth of the



**Joseph A. O'Hare, S.J.,
Chairman of the New York City
Campaign Finance Board**

funds spent in the 1989 Council elections. As a result, races were more competitive; more candidates entered the campaign; and the margin of victory between winners and losers narrowed significantly. The pattern of campaign contributions continued to demonstrate the more democratic trends that were obvious in the 1989 elections. For example, the number of individuals contributing to Council campaigns nearly doubled; and public funds outstripped contributions from special interest "PACs."

As the 1989 Charter Revision Commission had hoped, the new City Council is more diverse in terms of representation of minority groups and different political parties. The Campaign Finance Program, by providing candidates with the necessary resources to compete on a more even playing field, helped realize this goal of the Charter Revision Commission.

The 1991 Council elections posed new administrative problems for the Campaign Finance Board staff. The Candidate Services Unit, established after the review of the 1989 campaign, worked closely with candidates and their campaigns to explain the Program and facilitate compliance with its provisions, considerably simplified after the 1989 elections. The uncertainties of redistricting, court-ordered reruns, and changes in deadlines and residence requirements midway through the primary season complicated the staff's planning and called for increased flexibility as the rules for the election changed in mid-stream.

This need for increased flexibility was particularly pertinent to the production of the Voter Guide, which, to arrive in time for both the primary and general elections, must meet deadlines several weeks in advance of those dates. Similarly, the importance of making timely payments of public funds within the brief period of a campaign, while also confirming that such payments are justified, made necessary a prompt review of disclosure statements and decisive resolution of disputed claims.

I know I speak for the other members of the Board when I express our pride and confidence in the highly professional and non-partisan manner in which the Campaign Finance Board staff discharged their different responsibilities during an election season marked by extraordinary uncertainty and continued conflict over the very rules that would govern the elections.

The new Council represents an opportunity for government in New York City to better represent the people of the City in all their diversity, just as the Campaign Finance Program represents an opportunity for the people to participate more effectively in the development of that government. Opportunities are not guarantees, however, and the Campaign Finance Board and its staff remain committed to a continued review and reform of the Program so that it can become an ever more enlightened and effective instrument to serve the people's common good, which is, after all, the business of government.

With this in mind, the Campaign Finance Board proposed to the New York State Legislature in the spring of 1992 that state contribution limits be lowered and disclosure requirements increased to conform to those of the Program, and that these provisions be applicable for all candidates for citywide and boroughwide office, including those who do not choose to participate in the Program.

For several reasons, the spring of 1992 presented a rare opportunity for reform of New York State law governing election practices. The spotlight of the national Presidential campaign had once again drawn attention to the scandalously arcane laws that govern elections in New York State. Furthermore, the need for the Governor and the Legislature to agree on a redistricting plan provided unusual leverage to achieve long-overdue reforms. Unfortunately, the modest package of election reforms passed by the Legislature and approved by the Governor disappointed the expectations of those interested in reform. The proposals of the Campaign Finance Board were not part of this package.

It remains the hope of the Campaign Finance Board that the New York State Legislature and the Governor will revisit our proposals in the next session in Albany. At a time when public confidence in the political process has been shaken, the proven success of the New York City Campaign Finance Program should be seen as a foundation for further reforms. For those candidates who do not wish to accept public funds for their campaigns, their compliance with the Program's disclosure requirements and submission of disclosure statements to the Campaign Finance Board would provide the public with the information they need and deserve to make wise decisions on Election Day.

This report and its recommendations for changes in New York State and local law, necessary in our judgment to continue the process of electoral reform, reflect the desire of the Campaign Finance Board and its staff to open the windows of opportunity even wider.

Joseph A. O'Hare, S.J.
Chairman
New York City
Campaign Finance Board

Chapter 1:

The Campaign Finance

Program



The New York City Campaign Finance Act (the "Act") was passed in February of 1988. It is a local electoral reform designed to give greater opportunity to serious candidates for office without the need for undue reliance on large contributions. The 1991 Council elections marked the second experience in New York City under the Act's new Campaign Finance Program (the "Program") in major local elections. The Program's greatest achievements during the 1989 elections, the first ever administered under the Act, were to diminish the influence of money on and increase disclosure of candidates' campaign finances for the citywide races. The 1991 races were a test of the effectiveness of the Program at the Council level. These races bore the imprint of one of the most significant changes in New York City politics in recent history: redistricting pursuant to Charter revisions approved in 1989. Intended in large part to strengthen minority representation in local government, redistricting added 16 new seats to the 35-seat City Council. The Program, for its part, helped engender unprecedented competition among candidates for the new 51-member City Council, thus confirming the judgment of those who have hailed New York's local reform as an important model for campaign finance programs across the country.

The Program is administered by the non-partisan Campaign Finance Board (the "Board"). The Board also publishes New York City's Voter Guide, a non-partisan voter information handbook which is distributed to all registered voters in the City. Board Chairman Joseph A. O'Hare, S.J., sums up the reforms of the Program and the Voter Guide in local elections as "less money, more information, wider participation, and a better-informed electorate."

Two hundred and fifty-six prospective candidates joined the Program for the 1991 Council elections (see Appendix), and the Board disbursed over \$2.5 million in public funds to 113 candidates' campaigns. The public funds gave many of these candidates a meaningful opportu-

Campaign Finance Board Chairman Joseph A. O'Hare, S.J., sums up the Program's reforms in local elections as "less money, more information, wider participation, and a better-informed electorate."

Chapter 1

nity to run for office and wage effective campaigns. Indeed, many participants in the 1991 elections ranked the possibility of receiving public funds as the most decisive factor in their decision to join the Campaign Finance Program.

Elements of the Program

The Program covers five elective offices — mayor, City Council president, comptroller, borough president, and City Council member — and places

limits on the size of contributions a candidate may accept and on the amount he or she may spend on a campaign for these offices. Table 1 shows the limits now in effect.

To Receive Public Funds a Candidate Must:

- ▶ Join the Program and abide by its contribution and spending limits
- ▶ Be on the ballot and face opposition
- ▶ Meet the Program's threshold
- ▶ File required disclosure statements with the Board
- ▶ Make valid matching claims
- ▶ Pass the Board's audit tests

**Table 1
CAMPAIGN FINANCE PROGRAM
CONTRIBUTION AND SPENDING LIMITS**

Office	Contribution Limit (for primary and general elections combined)	Spending Limit (for each election*)
Mayor	\$ 6,500	\$ 4,000,000
City Council President	6,500	2,500,000
Comptroller	6,500	2,500,000
Borough President	5,000	900,000
City Council	3,000	105,000

*These spending limits cover the fourth year of the election cycle. The Act does not restrict what candidates may spend in the first two years of the cycle, and applies the following limits to the third year of the cycle: mayor, City Council president, and comptroller, \$180,000; borough president, \$120,000; and City Council member, \$40,000.

**Table 2
CAMPAIGN FINANCE PROGRAM
THRESHOLD AND MAXIMUM PUBLIC FUNDS**

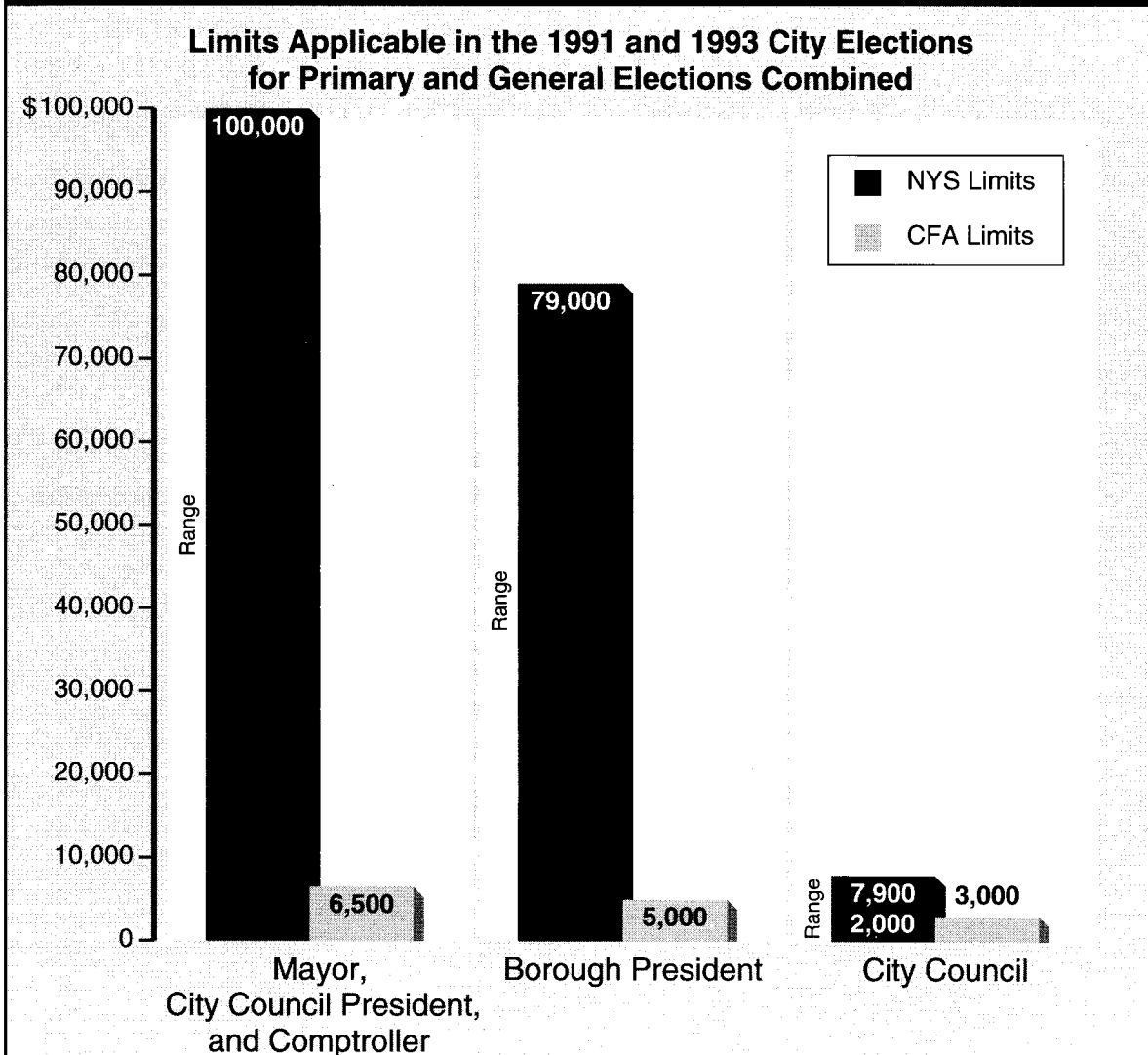
Office	Threshold		Maximum Public Funds Per Election
	Dollar Amount	Number of Contributors	
Mayor	\$ 250,000	1,000	\$ 2,000,000
City Council President	125,000	500	1,250,000
Comptroller	125,000	500	1,250,000
Borough President*			
The Bronx	24,076		
Brooklyn	46,013		
Manhattan	29,751	100	450,000
Queens	39,032		
Staten Island	10,000		
City Council	5,000	50	40,000

*For borough president, the threshold is equal to the number of persons living in each borough (based on the 1990 census) multiplied by two cents, or ten thousand dollars, whichever is greater.

The Program is voluntary,¹ and in return for accepting these limits, as well as stringent disclosure requirements not otherwise imposed under New York State law, a candidate may become eligible to receive public matching funds for contributions from City residents once he or she passes a minimum contribution “threshold” shown in Table 2. For the 1991 Council elections, this threshold was \$5,000 from at least 50 City residents. Individual contributions are matched dollar-for-dollar up to \$1,000. If a participant faces a high-spending non-participant, matching funds flow at a rate of two dollars for every one dollar in valid matchable contributions the candidate collects (up to the maximum permitted for the office, which in the case of the City Council is \$40,000).

New York State election law stands in sharp contrast to the Campaign Finance Act’s reforms. The state places no limits on the amount candidates can spend on their cam-

Figure 1
MAXIMUM STATE LAW CONTRIBUTION LIMITS* COMPARED WITH
CAMPAIGN FINANCE ACT LIMITS



*State contribution limits vary according to the number of registered voters in the City, borough, or district (and enrolled voters in the case of primary election limits, resulting in different contribution limits for each party primary). The lowest limit under state law is \$2,000 for the primary and general elections combined. For borough president, limits can range from \$2,000 to \$79,000; and for City Council, limits can range from \$2,000 to \$7,900.

Source: New York State Election Law and the Campaign Finance Act

The Campaign Finance Act's limits are markedly lower than state law limits for citywide and boroughwide offices.

paigns, and state contribution limits for the citywide and boroughwide offices are magnitudes higher than those applicable under the Act, as shown in Figure 1.

State contribution limits — called “lawless,”² “a disgrace,”³ “indefensible,”⁴ and “no practical limit at all”⁵ — permit an individual to contribute huge amounts of money to a candidate.⁶ Under state law, citywide candidates in 1993 (for mayor, City Council president, and comptroller) can receive as much as \$100,000 from a single contributor. Contributions of this size clearly raise the specter of undue influence, and raise the question to whom the candidate is beholden: the voters, or big contributors?

The Campaign Finance Program’s \$6,500 per contributor limit applicable to candidates for citywide offices, on the other hand, makes it unlikely that contributions from a single source will play a disproportionately large role in a campaign, and instead encourages candidates to seek a broad base of popular support. And, by matching small contributions only from individuals who reside in New York City, the Program makes the average voter’s contribution twice as valuable as contributions from organizations or non-residents.

The Board receives filings which include detailed information about contributions, spending, and intermediaries. In addition to disbursing funds based upon candidates’ filings, the Board continually monitors the candidates’ campaigns to ensure compliance. Non-participants, subject only to state law requirements, are not subjected to this routine audit. The Board conducts post-election audits of every campaign committee, requires that candidates who received public funds return any surplus, and has collected fines and initiated lawsuits against candidates who failed to file disclosure statements in a timely manner. This scrutiny by the Board has to date saved almost \$300,000 in public funds for the 1991 elections.

A cornerstone of the Board’s enforcement effort is its computerized Campaign Finance Information System (“CFIS”), which tracks information from candidates’ filings and produces a variety of reports for audit, enforcement, and public disclosure purposes. The Board periodically releases reports that examine financial activity on a candidate-by-candidate basis during the elections, providing comprehensive information on who gave what to whom, and how the candidates spent their money.

In view of the large discrepancy between the contribution limits and disclosure requirements applicable to participants and non-participants, in March of 1992, the Board proposed changes in state law that would require all candidates running for citywide and boroughwide office to abide by lower contribution limits and more stringent disclosure requirements like those contained in the Campaign Finance Act, whether or not they participate in the Program, as described in Chapter 3. Under these proposals, the Board would receive, computerize, and publish the same campaign finance information for participants and non-participants.

The 1989 Elections

In the 1989 citywide elections, the first conducted under the Program, 57 candidates joined, of whom 48 got onto the ballot. Of these, 33 ran at the Council level. A total of \$4.5

Chapter 1

million in public matching funds was disbursed to participants. In a highly contested mayoral race, five major candidates — Democrats David Dinkins, Edward Koch, Richard Ravitch, Harrison Goldin, and Republican Rudolph Giuliani — joined the Program and agreed to abide by its limits. Non-participant Ronald Lauder spent over \$13.7 million in his bid to become mayor, the vast majority of it his own money. Under Program limits, Lauder's contribution to his own campaign would have been limited to \$3,000 per election.

The Program was widely praised following its debut in the 1989 elections. Heralded by *The New York Times* as “An Electoral Example for the Country,”⁷ it successfully stemmed the flow of large campaign contributions and encouraged participants to turn increasingly to community-based fund raising. It also levelled campaign spending in citywide races that were the most competitive in decades. At the Council level, however, the results of the Program in 1989 were disappointing. Only about half of the incumbent Council members joined the Program, despite the fact that the Council had approved the Act by a vote of 24-9, and only \$500,000 in public funds was distributed to Council campaigns. A complete review of the role the Campaign Finance Program played in the 1989 elections can be found in the Board's report, *Dollars and Disclosure: Campaign Finance Reform in New York City*.

In response to recommendations proposed by the Board, based upon its review of the 1989 campaigns, the Council adopted amendments to the Act in November of 1990 that significantly simplified the Program's recordkeeping and reporting requirements and increased the availability of public funds, particularly for Council campaigns. The Campaign Finance Board modified its disclosure forms and created a single form for contributions that is now accepted by the New York City Board of Elections as well as the Campaign Finance Board. In response to suggestions from candidates, the Board established a new Candidate Services Unit to assist participants throughout the campaign in completing their disclosure statements and claiming public matching funds. The simplifications and improvements made in the Program following the 1989 elections are described in more detail in the Board's full report on the 1991 elections, *Windows of Opportunity: Campaign Finance Reform and the New City Council*.

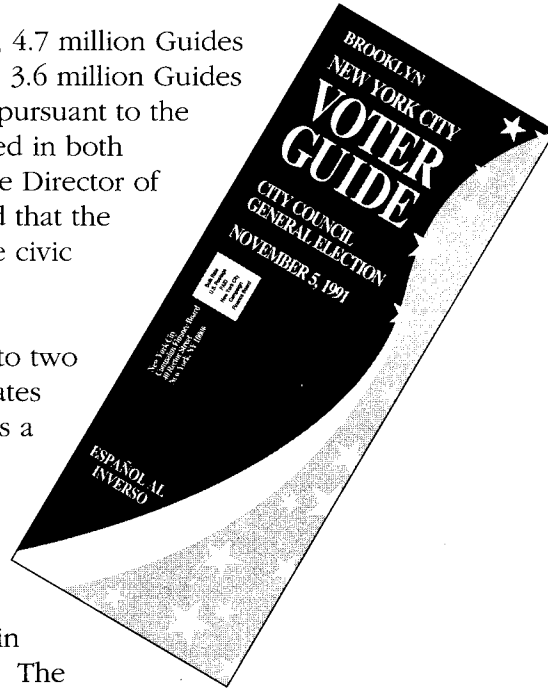
Following the 1989 elections, the Board also administered the Program for a total of 12 participants in three special elections that took place in the former 1st Council district on Staten Island, the 29th Council district in Brooklyn, and the 22nd district in Queens. A total of \$143,585 in public funds was disbursed to participants in these districts.⁸

The Voter Guide

In addition to administering the Program, the Campaign Finance Board is mandated under the City Charter to produce and distribute a non-partisan booklet containing information about municipal candidates, local ballot issues, and voting: the New York City Voter Guide. The Guide provides a forum for all candidates to present their views, whether or not they participate in the Program. The Guide is mailed to all households in New York City having at least one registered voter before both the primary and general elections. The Board must compile and produce the entire Guide twice within six weeks in order to meet

the primary and general election schedule. In 1989, 4.7 million Guides were distributed for the citywide races, and in 1991, 3.6 million Guides were distributed for the Council races. The Guide, pursuant to the requirements of the New York City Charter, is printed in both English and Spanish for all boroughs. The Executive Director of the Institute for Puerto Rican/Hispanic Elderly stated that the Guide was an important step toward “enhancing the civic participation of the Latino population.”⁹

Information in the Voter Guide is divided into two parts. The candidates’ section shows which candidates are on the ballot. Candidate profiles give candidates a page on which to present personal background information, a statement setting forth their views, and a photograph. Over three-fourths of all candidates running in the 1991 elections appeared in the Voter Guide. The second section provides general voter assistance information in plain language on topics such as where and how to vote. The Guide for each borough also contains a map showing the outlines of the Council districts. Redistricting, a federal court decision in July of 1991 that relaxed petition and residency requirements, and extremely close races that resulted in several rerun primary elections, made production of the Guide a particularly challenging project for Board staff in 1991 — and an even more crucial resource for the voting public.



Liz Abzug, a candidate in Manhattan’s 3rd Council district, stated that the Voter Guide “furthers the goal of . . . encouraging campaigns where issues and ideas rather than money provide the backbone of the campaign.”¹⁰ And it does so at a surprisingly small cost: in 1991, the Guide cost approximately 39 cents a copy — about the price of a daily newspaper.

The Campaign Finance Board

The five-member Campaign Finance Board was established to administer the Campaign Finance Program. The chair of this independent, non-partisan Board is appointed by the mayor in consultation with the speaker of the City Council. Two members are appointed by the mayor and must be enrolled in different political parties. Two members are appointed by the speaker of the City Council and must also be enrolled in different political parties.

Board members serve staggered five-year terms. They can be removed only for cause, and they, as well as all Board staff, are subject to a strict set of Ethical Guidelines, unique in New York City government, to ensure impartiality in their actions affecting candidates.¹¹ The current Board members are **Chairman Joseph A. O’Hare, S.J.**, president of Fordham University; **James I. Lewis**, assistant professor of History at the City College of New York; **Joseph Messina**, president of the not-for-profit Motor Vehicle Accident Indemni-



The New York City Campaign Finance Board (from left): James I. Lewis, Executive Director Nicole A. Gordon, Chairman Joseph A. O'Hare, S.J., Sonia Sotomayor, and Joseph Messina.

fication Corporation; and **Sonia Sotomayor**, a member of the law firm of Pavia and Harcourt, who was recently nominated for a federal judgeship. The fifth Board seat is vacant.¹²

* * *

The next chapter provides an overview of the Campaign Finance Program's role during the 1991 City Council elections.

Chapter 2:

The Campaign Finance Program and the 1991 Council Elections



he 1991 Council elections marked a watershed in New York City politics. Redistricting added 16 new seats to the City Council, fueling competitive elections that attracted a broad range of candidates. The Board's full report, *Windows of Opportunity*, provides a borough-by-borough description of these elections. Thirty-one of the 51 members of the new Council participated in the Campaign Finance

Program, as Table 3 shows.

Effects of the Program on the Council Races

More Candidates. Open seats and the opportunities presented by the Campaign Finance Program drew scores of new candidates into the political arena. In 1989, a total of 97 candidates ran for 35 seats in the Council elections, an average of 2.8 candidates per seat, while in 1991, a total of 239 candidates ran for 51 seats, an average of 4.7 per seat. Participation in the Campaign Finance Program also increased dramatically, due in part to an aggressive education campaign launched by the Board in 1990 to help generate interest in the 1991 elections and encourage participation. (See Figure 2.) Two hundred fifty-six people joined the Program for the 1991 elections, of whom 136 made it onto the ballot, as shown in the Appendix to this Executive Summary. In 1989, only 34 percent of all Council candidates participated in the Program, while in 1991, fully 57 percent were participants. Council Finance Committee Chair Herbert Berman, who joined the Program in both 1989 and 1991, stated in testimony before the Board: "I . . . want to commend you for having caused such a vast amount of people to have opted in. . . . [T]he increase in participation bodes well for the outcome of government and politics in the City of New York."¹³ The rate of participation among incumbents was, however, disappointing: of the 32 incumbents who ran for re-election, approximately half were participants, the same rate as in 1989.

There was also a dramatic increase in the rate of minority participation in the Program among Council candidates on the ballot from 1989 to 1991, and in minority

**"[T]he increase in participation bodes well for the outcome of government and politics in the City of New York."
— Council member Herbert Berman**

Table 3
THE NEW COUNCIL

District	Council Member	Party
Manhattan		
1	(P) Kathryn Freed	Dem
2	(P) Antonio Pagan	Dem, Lib
3	Tom Duane	Dem, Lib
4	(P) Carolyn Maloney*	Dem, Ind
5	(P) Charles Millard	Rep, Lib
6	(P) Ronnie Eldridge*	Dem, Lib
7	(P) Stanley Michels*	Dem, Lib
8**	(P) Adam Clayton Powell IV	Dem, Lib
9	(P) C. Virginia Fields*	Dem, Lib
10	(P) Guillermo Linares	Dem
The Bronx		
11	June Eisland*	Dem, Lib
12	(P) Lawrence Warden	Dem
13	Michael DeMarco*	Dem, Con
14	(P) Israel Ruiz	Dem, Lib
15	Jose Rivera*	Dem, Lib
16	Wendell Foster*	Dem, Lib
17	Rafael Colon*	Dem, Lib
18	Lucy Cruz	Dem, Lib
Queens		
19	(P) Michael Abel	Rep, Con
20	Julia Harrison*	Dem, Lib
21	Helen Marshall	Dem, Lib
22**	(P) Peter Vallone*	Dem
23	Sheldon Leffler*	Dem, Lib
24	Morton Povman*	Dem
25	(P) John Sabini	Dem
26	Walter McCaffrey*	Dem, Rep, Lib
27	Archie Spigner*	Dem, Lib

Table 3 (cont'd)
THE NEW COUNCIL

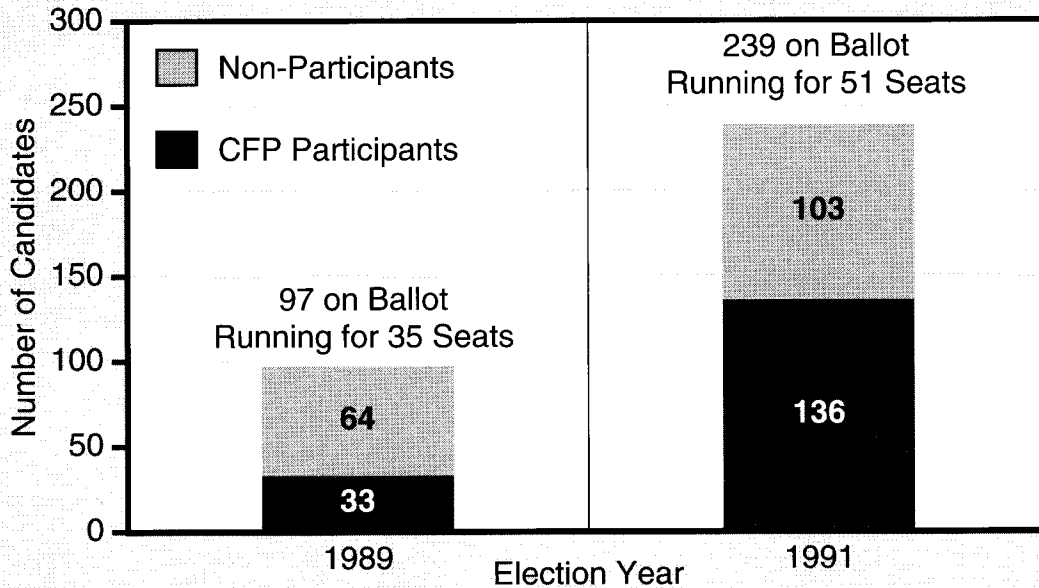
District	Council Member	Party
Queens (cont'd)		
28	(P) Thomas White, Jr.	Dem, Lib
29	(P) Karen Koslowitz*	Dem
30	(P) Thomas Ognibene	Rep, Con, RTL
31	(P) Juanita Watkins	Dem, Lib
32	Walter Ward*	Dem, Con
Brooklyn		
33	Kenneth Fisher*	Dem, Lib
34	(P) Victor Robles*	Dem, Lib
35	(P) Mary Pinkett*	Dem, Lib
36	(P) Annette Robinson	Dem, Lib
37	(P) Martin Malave-Dilan	Dem
38	(P) Joan Griffin McCabe	Dem
39	(P) Stephen DiBrienza*	Dem, Lib
40	(P) Una Clarke	Dem, Ind
41	Enoch Williams*	Dem
42	Priscilla Wooten*	Dem, Lib
43	(P) Sal Albanese*	Dem, Lib
44	Noach Dear*	Dem, Con
45	(P) Susan Alter*	Dem
46	(P) Herbert Berman*	Dem, Lib
47	Samuel Horwitz*	Dem, Lib
48	(P) Anthony Weiner	Dem
Staten Island		
49	Jerome O'Donovan*	Dem, Con
50**	(P) John Fusco	Rep, Con
51	(P) Alfred Cerullo III*	Rep, Con

(P) Indicates Campaign Finance Program Participant

* Indicates incumbent

** District covers more than one borough

Figure 2
COUNCIL CANDIDATE PARTICIPATION
IN THE CAMPAIGN FINANCE PROGRAM



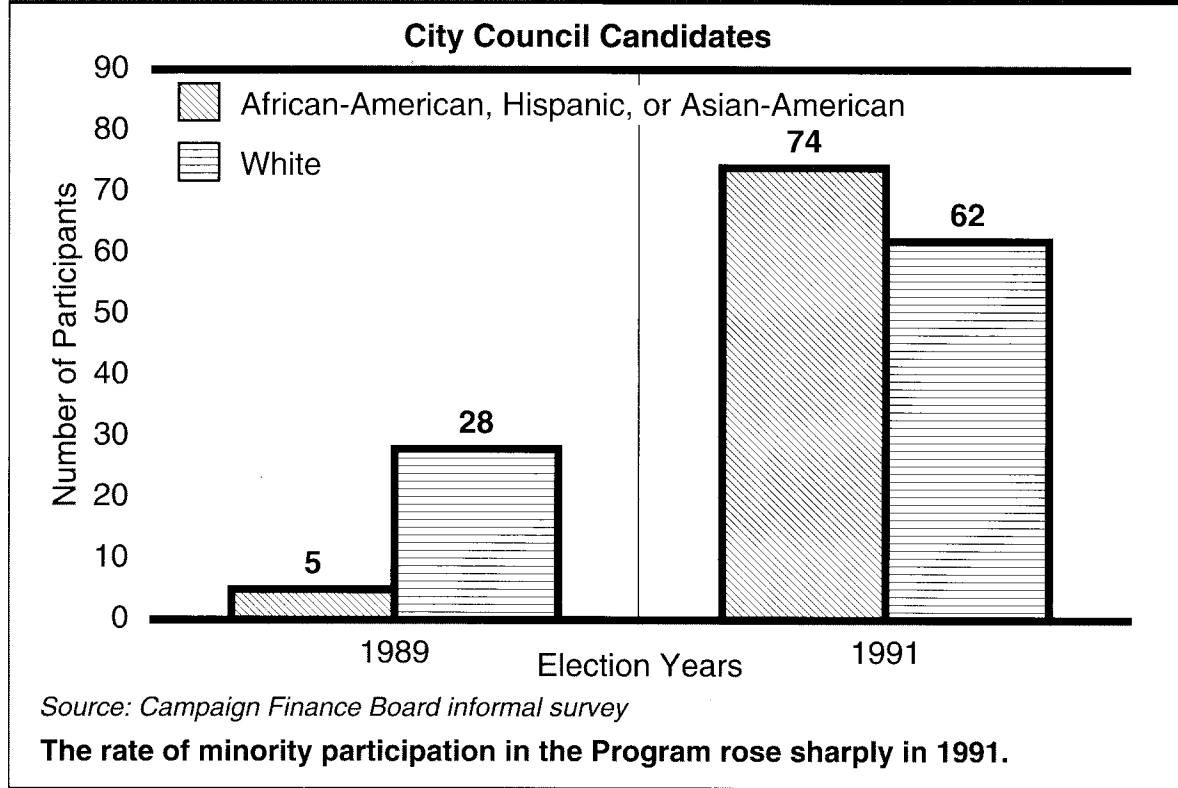
In 1991 there was a substantial increase in the total number of candidates running as well as the number of participants. In 1989, participants were only 34 percent of those on the ballot, whereas in 1991, they were 57 percent.

candidates in general, based on the results of an informal survey. (See Figure 3.) In 1989, African-Americans and Hispanics accounted for only 9 percent and 6 percent of all participants, respectively. In 1991, the percentage of minorities was sharply higher: African-Americans made up 34 percent of all participants, while Hispanics made up almost 19 percent.

Stronger Campaigns. A total of approximately \$2.5 million in public matching funds was disbursed during the 1991 elections, of which \$1.8 million was distributed for the primary.¹⁴ Public funds made up over a third of the total amount of funds available to participating candidates, giving them substantially more resources with which to make their bids for office. Many candidates cited their receipt of public funds as a crucial factor in their ability to wage a competitive campaign. Robert Miller, who mounted a strong challenge to incumbent Noach Dear in Brooklyn’s 44th district, stated that public funding “was an absolutely vital component” in his ability to conduct a credible campaign, and that without public funds “I would not have come as close as I did.”¹⁵

Two-for-one matching of contributions in districts in which a non-participant raised or spent over \$30,000 gave participants the resources needed to confront high-spending

Figure 3
MINORITY PARTICIPATION
IN THE CAMPAIGN FINANCE PROGRAM

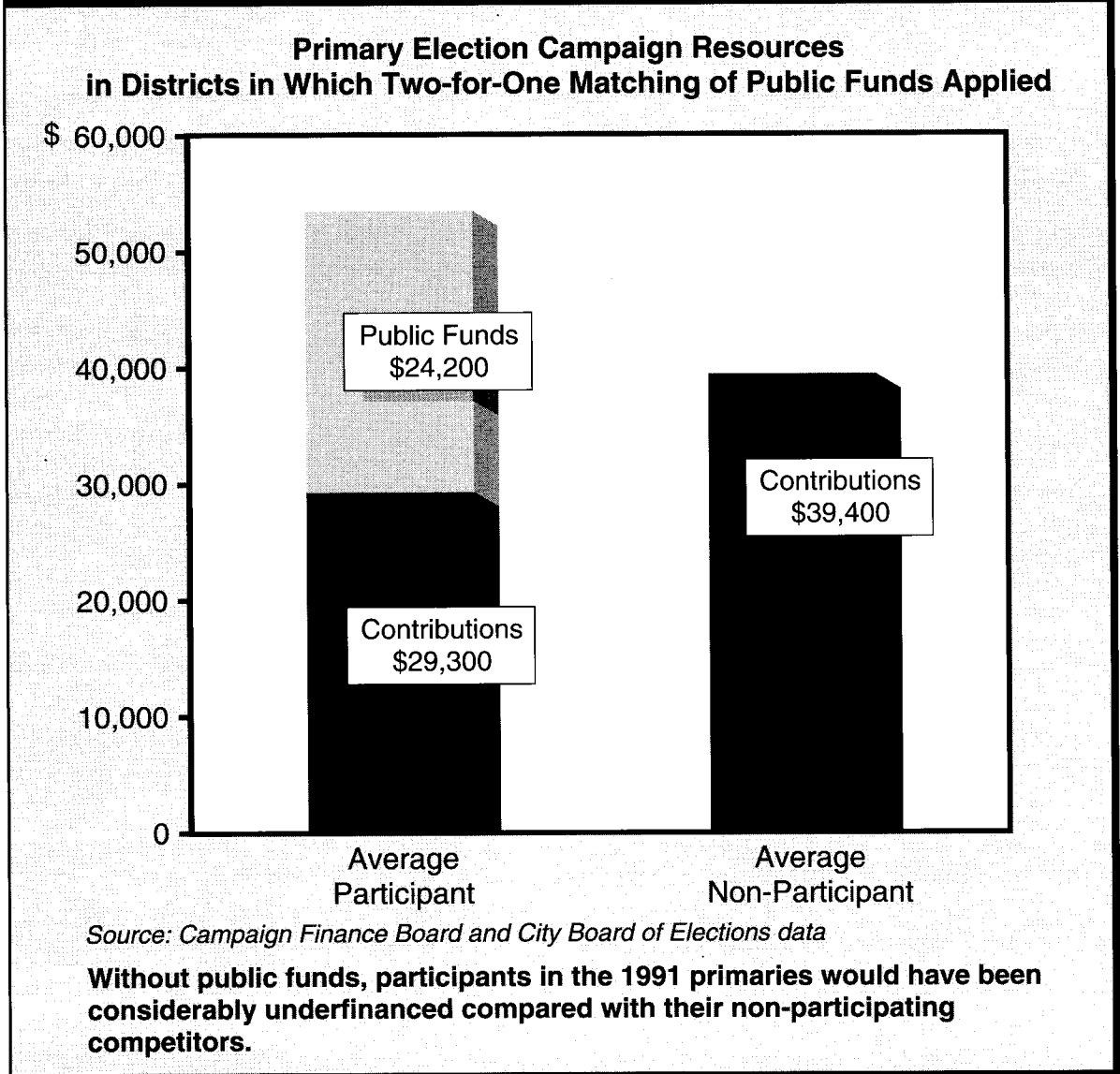


non-participants. While a participant is still limited to the same \$40,000 maximum in public funds per election, the accelerated rate allows matching dollars to flow much more rapidly, and can mean more money if the participant would not have been entitled to the maximum amount under one-for-one matching. Figure 4 shows how double matching funds increased the resources of participants facing high-spending non-participants in the 1991 Council primaries. The treasurer for Council member Antonio Pagan's campaign stated, "for us, the two-for-one matching provision was the most important and decisive provision of the Campaign Finance Program."¹⁶

Perhaps because the Council elections in 1991 were so active, the Board was called upon to consider application of the bonus provisions in a total of 25 races. Of these, the Board determined that the bonus should apply to 16 districts in the primary and five districts in the general election. The efficiency of the Board in making

**"I can firmly state that the matching funds made a difference in my campaign."
— Council member Una Clarke**

Figure 4
BONUS MATCHING HELPS PARTICIPANTS COMPETE



bonus determinations was impeded when information on a non-participant's financial activity was not available at the City Board of Elections because the candidate's filings were missing, incomplete, outdated, or improperly filled out, or when a non-participant failed to respond to a participant's allegations that the bonus had been triggered. This difficulty is of concern because the Board must make determinations quickly to ensure that funds to which participants are entitled are disbursed during the election. Adoption of the Board's state legislative proposals, which would require all candidates for citywide and boroughwide

The Campaign Finance Program and the 1991 Council Elections

office to file financial disclosure statements with the Campaign Finance Board, would enhance the Board's ability to make timely bonus determinations.

High-spending non-participants can cost the Program a good deal of money. Average payments to a participant in the primary who was not eligible for two-for-one matching totalled about \$12,000. By contrast, as Figure 4 shows, the average participant in a district in which two-for-one matching was in effect received over \$24,000, or twice that amount. Approximately \$500,000 more in public funds was disbursed over the course of the primary and general elections than would have been paid if non-participants had not triggered two-for-one matching.

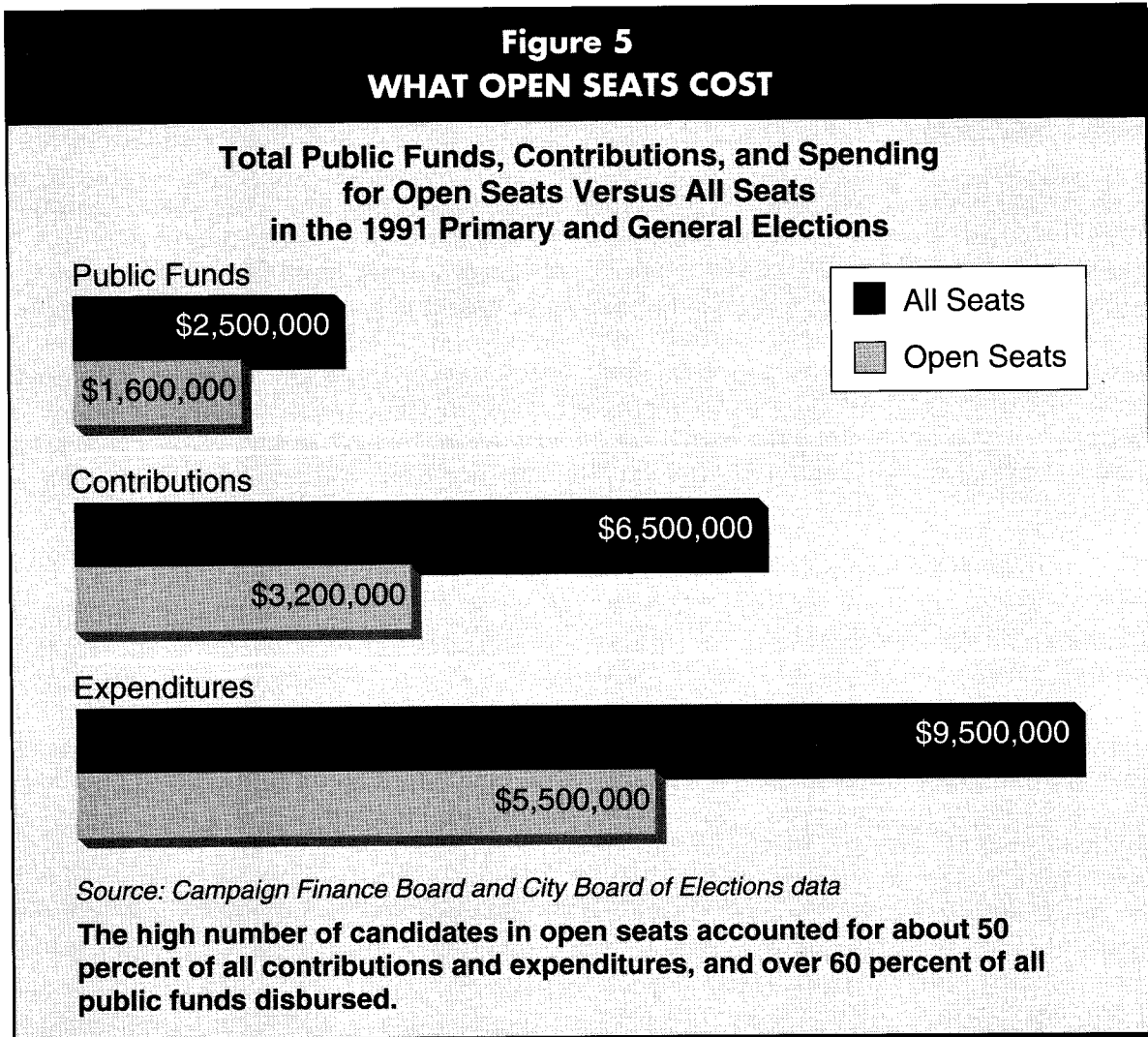
The candidates' testimony confirms that public funds were also a significant resource for minority participants. Guillermo Linares, newly elected Council member from Manhattan's 10th district and the City's first Dominican to assume local elective office, asserted that "I would not be sitting here as a Council member-elect had it not been for over \$30,000 that I was able to obtain through this Program. . . ."17 Una Clarke, the Caribbean-born Council member representing Brooklyn's 40th district, echoed this sentiment: "Without the Board's support, I would not have been able to run or to finance a campaign in a new district. . . which has a very large immigrant community and where contributions for campaigns are limited. . . . I can firmly state that the matching funds made a difference in my campaign."18

Stiffer Competition. Overall, the 1991 Council elections were much more competitive than the 1989 Council elections. In 1991, the margin of victory for winning candidates was roughly 13 percent smaller in the primary election and 10 percent smaller in the general election. Two incumbents lost in 1991, compared with one in 1989 and none in 1985.

Open seats were magnets for potential candidates. In addition to the 16 new Council seats created by redistricting, there were three districts in which incumbents decided not to run, for a total of 19 open seats. On average, participants outnumbered non-participants in the open seats by about two-to-one. Although open seats represented only 37 percent of Council districts, those running in open seats accounted for 52 percent of all candidates on the ballot, roughly half of all contributions and expenditures, and over 60 percent of all public funds disbursed, as Figure 5 shows. This is primarily a function of the large number of candidates running in open seats. The typical candidate for an open seat tended to spend slightly more than those who faced incumbents, but candidates in both kinds of seats raised on average about the same amount in contributions.

There were also more challenges to incumbent Council members during the 1991 elections than in 1989. In 1989, only 11 (or less than one-third) of the 34 incumbents running had primaries, while in 1991, 19 (or well over half) of the 32 incumbents running faced primaries. Participants appear to have mounted more effective challenges than non-participants to incumbents (whether or not the incumbent was in the Program). The margin of votes was, on average, five percent closer between incumbents and participating challengers than between incumbents and non-participating challengers in the primary election, and fully 11

percent closer in the general election. Incumbents did retain strong vote-getting power, however, and incumbency remains the strongest predictor of a candidate's electoral success, far outweighing other factors examined such as campaign fund raising, spending, or Program participation.

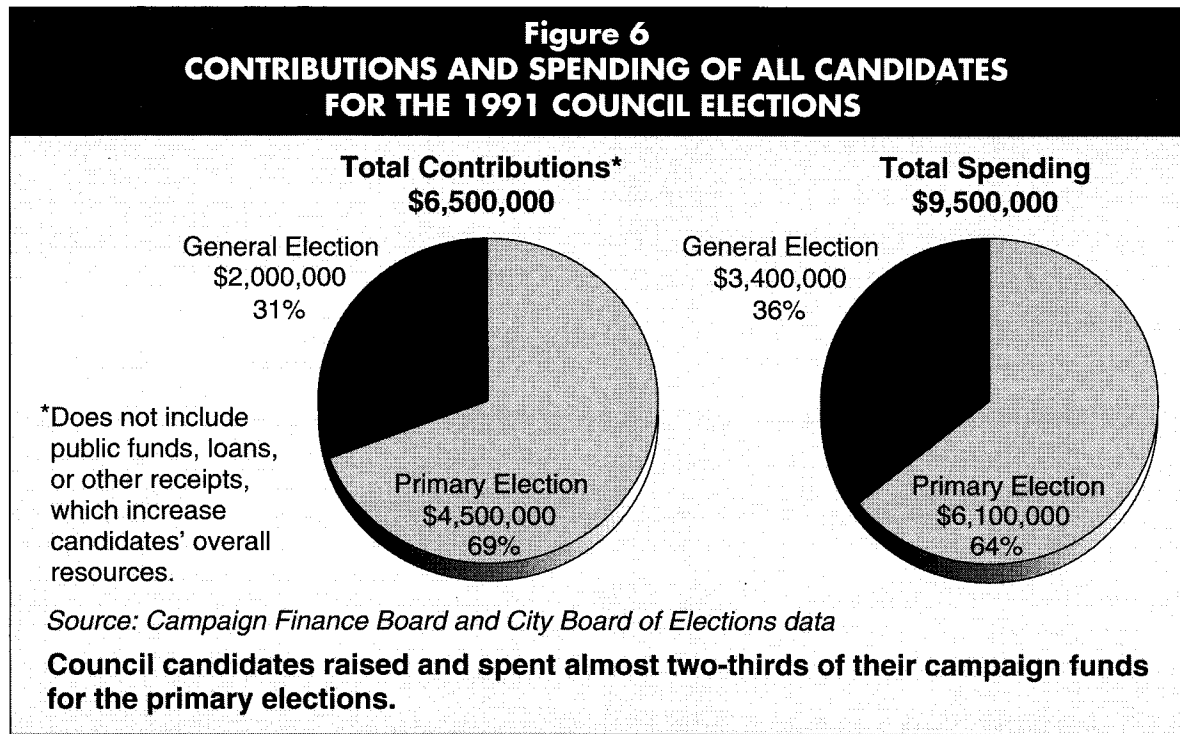


Candidates' Campaign Finances

Figure 6 shows the total contributions and spending of all Council candidates for the 1991 elections. Contributions and expenditures are far higher for the primary election than for the general election. This reflects the fact that primary elections in New York City tend to be more competitive.

The Campaign Finance Program and the 1991 Council Elections

The most costly contest in the City by far was the primary battle in Manhattan's 3rd Council district. Non-participant Tom Duane, who triggered the bonus provisions of the Act and spent \$247,000, faced participants Liz Abzug and Victor Del Mastro. These three candidates accounted for some \$400,000 in contributions and \$460,000 in expenditures, with more than half of the total of contributions and spending coming from Duane's campaign.



Contributions. The Board's Campaign Finance Information System provides extensive information on contributor activity for participants that is not readily available from state disclosure forms for non-participating candidates. As a consequence, most detailed discussions of fund raising must be limited to information available for participants. Although about 60 contributions to participants were clustered at the \$3,000 level, the vast bulk of contributions made to participants in 1991 were well below this mark. Overall, contributors gave most frequently at the \$50 and \$100 levels. Rather than giving large sums to a single candidate, the largest contributors tended to spread donations out over a wide pool of candidates. Table 4 shows the 15 top contributors for the 1991 elections. With one exception, the biggest contributors were organizations — PACs, candidate committees, and employee organizations (unions). Two political committees active in the 1991 elections, the Council Political Action Committee and the Majority Coalition, each spent about \$200,000 in these elections.

By contrast, the \$2.5 million in public funds provided to candidates by the Program came with no ideological or "special interest" strings attached. It not only outpaced, but also

Table 4
TOP 15 CONTRIBUTORS TO 1991 PARTICIPANTS*

Contributor	Number of Participants To Whom Contributor Gave	Total Contributed
Council Political Action Committee	22	\$ 44,779
DC 37 AFSCME	25	31,630
Friends of Andrew Stein	17	30,389
Real Estate Board PAC	19	28,900
AFSCME Local 1549 NYC Clerical Admin.	16	20,463
Social Service Employees Union	17	18,448
Local 1180 NYC Admin. Employees	17	17,590
Uniformed Firefighters Association	18	17,515
Friends of Peter Vallone	9	17,500
Transport Workers Union	20	16,890
Neighborhood Preservation PAC	12	15,726
Rangel for Congress Committee	8	13,950
Leonard Litwin	17	12,700
Local 237 IBT PAC	21	12,380
Empire State Pride Agenda PAC	13	12,000

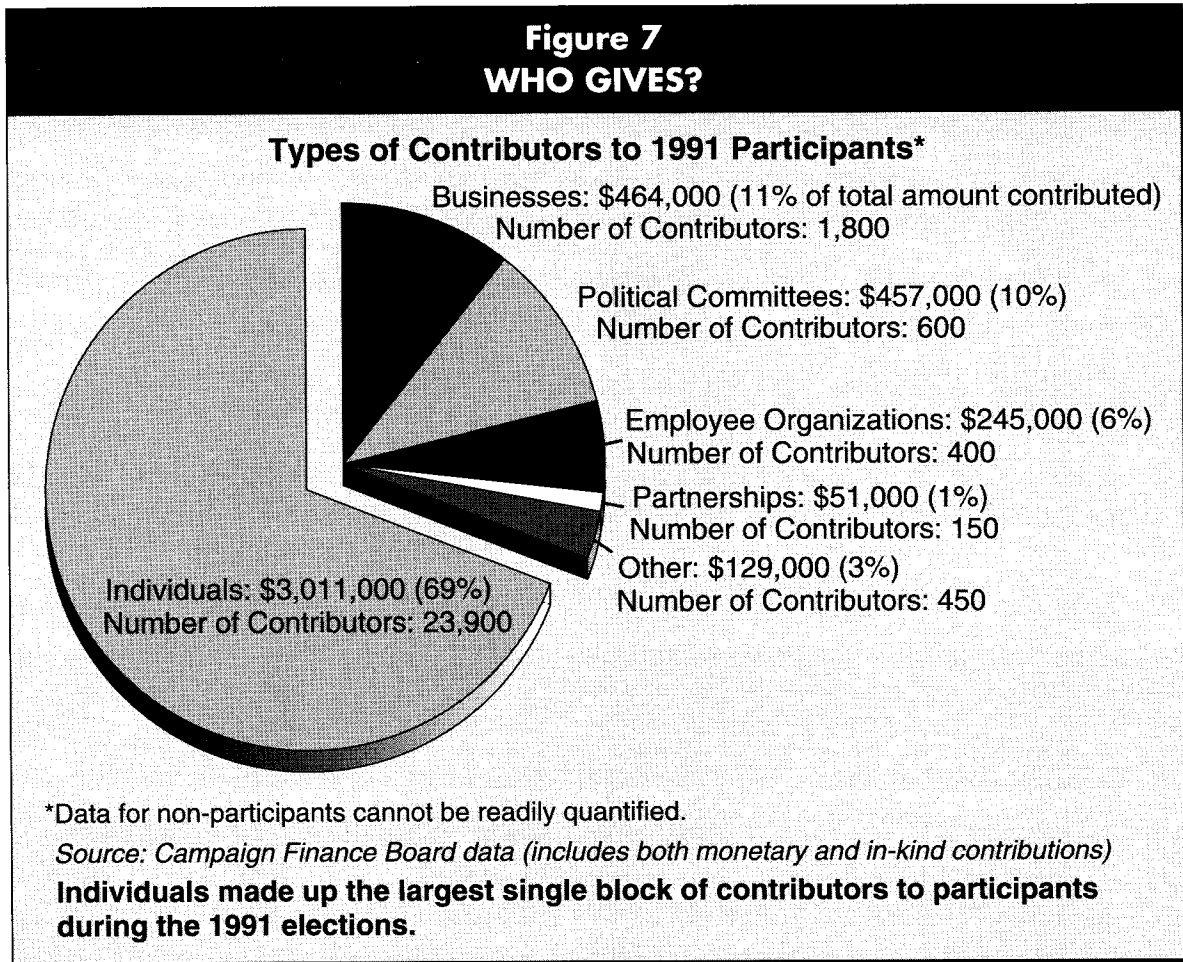
Source: Campaign Finance Board data

*Data for non-participants cannot be readily quantified.

effectively counterbalanced, special-interest giving from PACs. Indeed, after contributions from individuals, public funds constituted the next largest source of campaign revenues available to participants. Julian Palmer, Executive Director of New York State Common Cause, stated at Council hearings that "public funds are the cleanest source of campaign money."¹⁹

While contributions from organizations tend to be larger than contributions from individuals, total contributions from organizations were dwarfed by total donations from individuals, as Figure 7 shows. Compared with 1989, the number of contributors to Council participants increased substantially in 1991, and contributors generally gave smaller amounts. In 1989, a total of 14,000 contributors gave a median contribution of \$75 to Council participants. In 1991, nearly double this number of contributors, approximately 27,300, gave to Council participants, and the median amount contributed was \$50. The significant increase

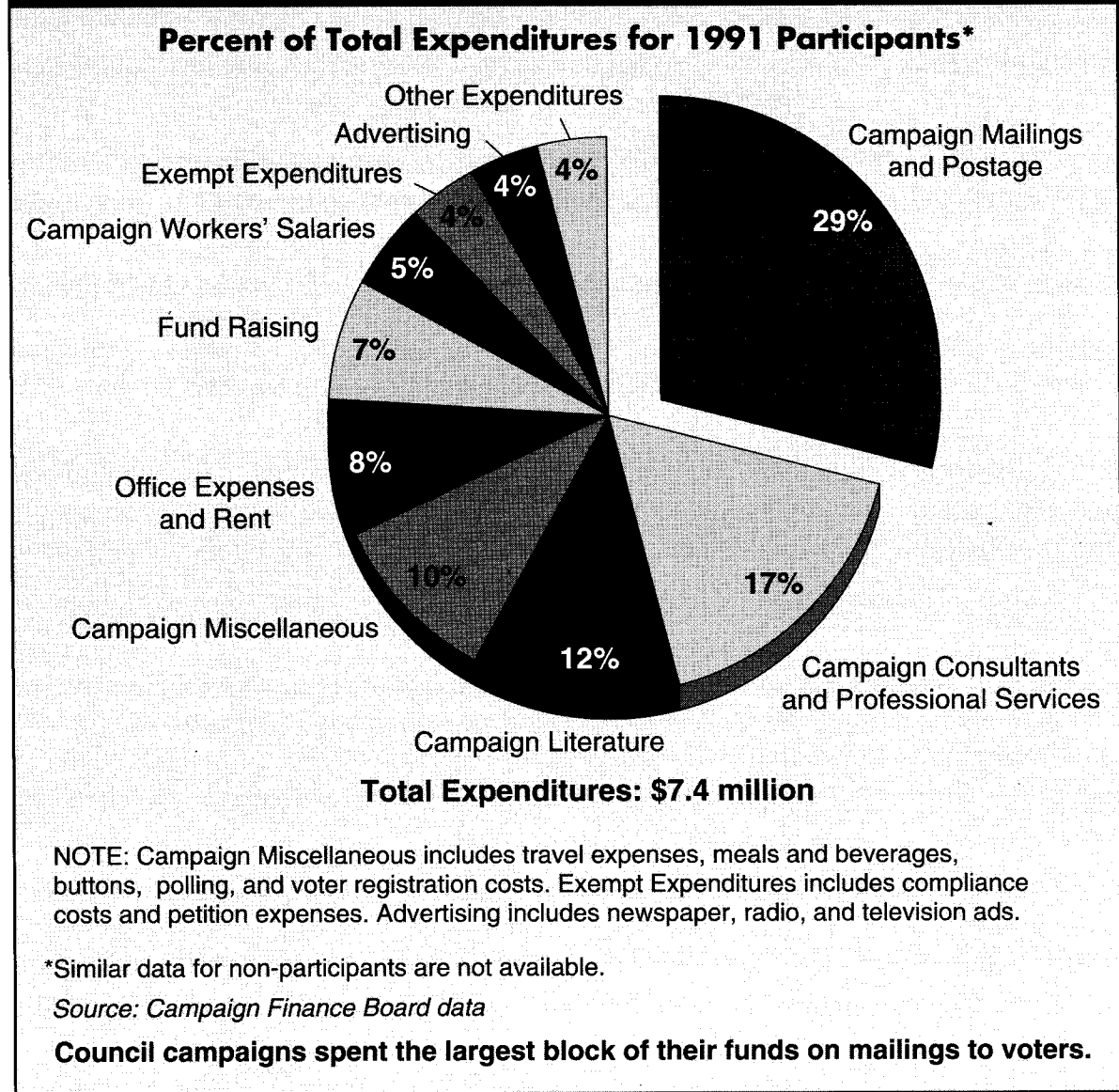
**Figure 7
WHO GIVES?**



in the number of contributors and the decrease in the median contribution amount are encouraging measures of the Program's success in broadening the base of citizens involved in the political process. The large number of candidates running in the 1991 elections and the incentive that the Program gives them to gather small contributions that can be matched by public funds appears to have promoted grass roots campaigning. For example, two new Council members, Guillermo Linares and Joan McCabe, got more contributions at the \$25 level than at any other, and about 90 percent of their contributions were at or below \$100.

Spending. Races for a seat on the City Council tend to be quite different from races at the citywide level, especially when measured by cost. Citywide candidates have to reach about 3 million registered voters, which is most readily accomplished through costly mass media, especially television. Candidates at the Council level, however, have a much smaller constituency. They rarely resort to television advertising, preferring instead to target voters directly through campaign mailings. Participants spent the biggest portion of their resources

**Figure 8
TYPES OF EXPENDITURES**



on campaign mailings and literature; other advertising accounted for only 4 percent of total expenditures. (See Figure 8.) And, not surprisingly, the organization paid the most by Council candidates in their bids for office was the United States Postal Service, as Table 5 shows.

The Program's spending limits do not appear to have been a major constraint in the vast majority of campaigns. Overall, 98 percent of all participants in the primary and 93

Table 5
TOP 15 VENDORS TO 1991 PARTICIPANTS*

Vendor	Number of Participants Paying Vendor	Total Paid
U.S. Post Office	93	\$ 812,860
Prime NY	44	190,855
Brandford Communications	9	123,985
Sheinkopf Ltd.	10	119,084
New York Telephone	80	111,577
Venture Graphics	14	101,314
Bates & Associates	2	97,437
John Houston	4	95,595
Zale Koff Graphics	51	94,593
Syndicated Graphics	28	93,597
Loma	2	68,523
Johnson Survey Research	8	61,592
Election Computer Services	35	60,952
Martin Connor	7	37,256
Multimedia Advertising	5	32,521

Source: Campaign Finance Board data

*Data for non-participants cannot be readily quantified.

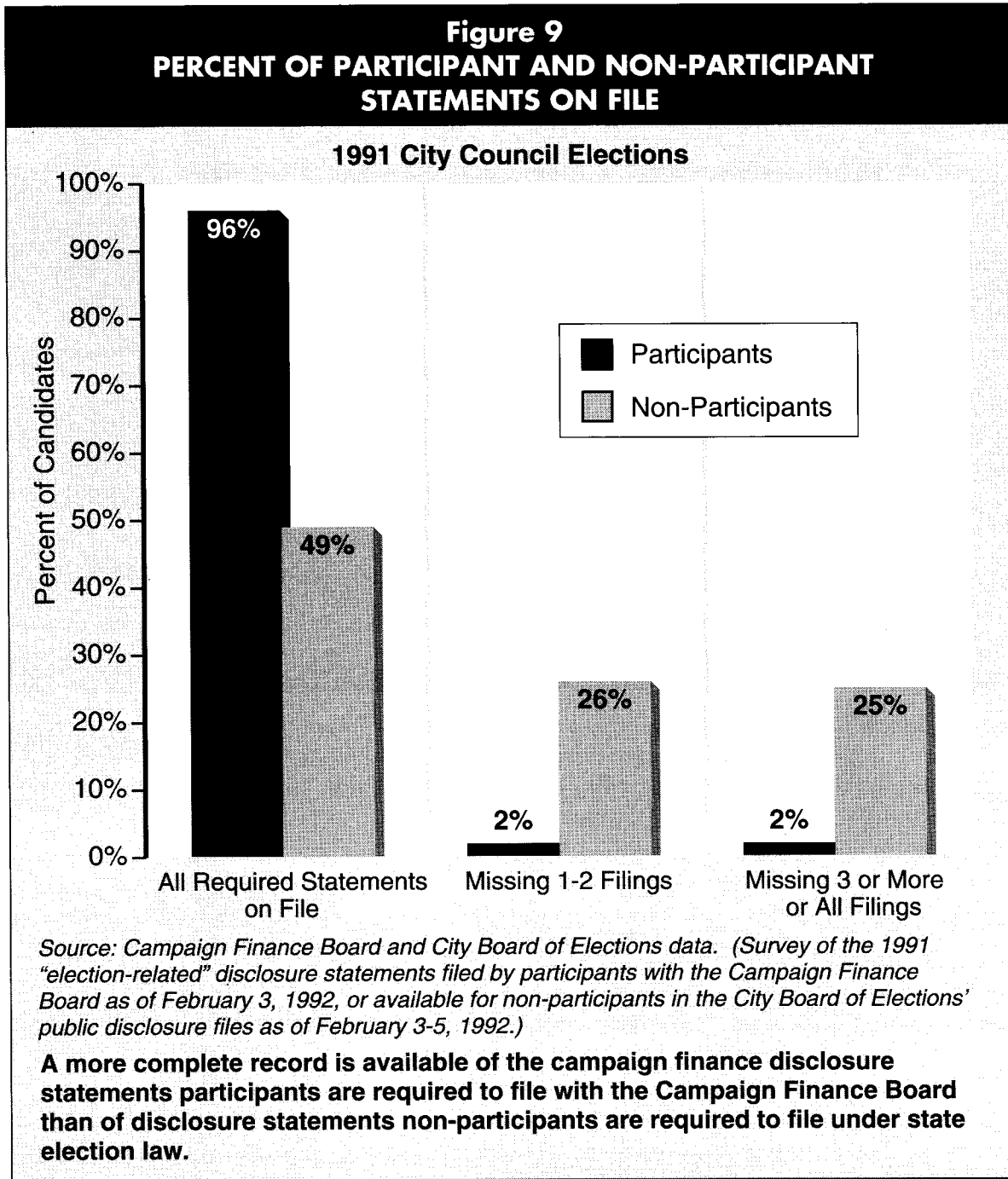
percent in the general election spent less than the Program's per election limit of \$105,000. In all but one case in which it appears that spending exceeded this amount, the limit had either been removed by a high-spending non-participant or the participant was entitled to a higher spending limit by virtue of a primary in another party in his or her district.

What about non-participants? Fear of being unable to spend a sufficient amount on a campaign should not deter most candidates from entering the Program: 93 percent of non-participant spending would have been within the Program's limits in the primary, and 100 percent in the general. There is also a risk for non-participants. In half of the districts in the 1991 elections in which spending limits were lifted, non-participants who triggered the Act's "bonus" provisions ended up being outspent by their participating opponents by virtue of the public funds provided to them through the Program.

"The fact that the staff was available, that the staff was concerned . . . was important."
— Council member **Mary Pinkett**

Disclosure

One of the most important services the Board provides to the voting public is extensive disclosure: making detailed information about participating candidates' campaign



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finances available for public scrutiny. The Board received approximately 1,000 requests from the public and press for information about participants' campaign finances during the 1991 elections, and articles using information provided by the Campaign Finance Board ran frequently in every major New York City newspaper. It is one measure of the success of the Program that information provided by the Board has become part of the media's standard coverage of elections.

One reason the Board can act as an effective information resource is simple: it gets the data it is supposed to get. As Figure 9 shows, 96 percent of the 136 Program participants filed all the required disclosure statements with the Campaign Finance Board. In contrast, fewer than half of the 103 non-participants had all the required statements on file at the City Board of Elections.²⁰ Chair of the Governmental Operations Committee Mary Pinkett stated that ". . . one of the things that [the Program] requires is that we have to be accurate" She praised the Board's Candidate Services Unit for helping participants meet the Program's disclosure requirements: "the fact that the staff was available, that the staff was concerned, [that] the staff wanted to make sure that we had the information, was important."²¹

But the roughly 10,000 pages of disclosure filings the Board accepted during the 1991 elections was essentially raw data — an important step for adequate disclosure, but only the first. The Board's computer-based Campaign Finance Information System is what translates this mass of information into intelligible reports that give the public both the details and the "big picture" of the financial underpinnings of every participant's campaign. The Board released comprehensive, computer-generated summaries of participants' financial activity three times in the 1991 races, once each just before the primary and general elections, and a post-election retrospective in March of 1992. Public disclosure reports provided extensive information on every participant, ranging from who contributed to which candidate, how much they gave, contributors' employer information, and how the candidate spent the money.

* * *

The Campaign Finance Program encouraged more candidates to run and made the 1991 City Council elections much more competitive. The next chapter describes the changes the Board recommends in the Program and state law to further strengthen campaign finance reform in the City.

Chapter 3:

Recommendations and Conclusion



The 1991 elections proved that the Campaign Finance Program had a major impact on campaigns for the City Council, as attested to by the 256 prospective candidates who joined the Program, the 113 who received a total of \$2.5 million in public funds and the competitive races in which they ran, and the 31 out of 51 members of the new Council who participated in the Program.

The Campaign Finance Board is mandated to review the Program's performance after each election cycle. The Board undertook an extensive review of the Program following the 1989 elections and recommended changes in March of 1990, many of which were adopted by the City Council in November of that year. The Board conducted a similar review of the Program following the 1991 elections. It held two days of public hearings, sent out a post-election questionnaire to all candidates (participants and non-participants), and analyzed data to assess the Program's effectiveness. To pursue further campaign finance reform in local elections, the Board is seeking changes in state law and recommends additional changes in the Program, which can be effected by local law or administrative means.

Proposals for State Law Reform

The Board's experience over the past two elections demonstrates that there are dimensions of reform of City campaign financing that cannot be fully achieved without amendments to current state law. Candidates who choose not to participate in the Campaign Finance Program avoid the Program's contribution and spending limits, detailed public disclosure requirements, and the close scrutiny and audits that apply to all Program participants whether or not they receive public funds. In March of 1992, the Board proposed state legislation that would dramatically lower contribution limits and increase public disclosure requirements for all candidates running for the offices of mayor, City Council president, comptroller, and borough president. The legislation would require all candidates running for these four local offices to abide by the same stringent campaign contribution limits and detailed financial

**"Clearly, the
\$100,000
contributions
allowed under state
law have no place
in City elections."
— Mayor David N.
Dinkins**



The Campaign Finance Board held two days of public hearings in December of 1991 at which candidates, government reform groups, and others expressed their views about the Program.

disclosure requirements set forth in New York City's Campaign Finance Act, whether or not they choose to participate in the voluntary Program of public campaign financing.²²

- **Lower Contribution Limits.** The proposed legislation would reduce the risks of undue influence and promote fair competition by eliminating the contributions of up to \$100,000 per campaign now allowed under state law for New York City candidates in 1993. (These limits are even higher than those applicable to New York gubernatorial races.) The proposals would replace current state limits with a \$6,500 limit for citywide candidates and a \$5,000 limit for boroughwide candidates, limits supported by the results of the 1989 elections, which showed that candidates can wage effective campaigns while restricted to contributions of this size.

- **Increase Disclosure.** The legislation would also require all candidates for these four City offices to file more detailed disclosure statements (including, for example, employer information and intermediary or "bundler" information) with the Campaign Finance Board and to be subject to oversight and audit by the Board. This would enable the public by virtue of the existing computer capabilities of the Board to receive the same computerized, detailed information for non-participants as is now available for participants.

Announcing his support for these proposals, Mayor David Dinkins stated:

The results of the 1989 and 1991 elections demonstrated that it is possible to run successful and effective campaigns within [the Program's] contribution limits. Clearly, the \$100,000 contributions allowed under state law have no place in City elections.²³

The proposals received bipartisan support. Corporation Counsel O. Peter Sherwood, former Corporation Counsels Victor Kovner and Peter Zimroth, Edward Koch, Rudolph Giuliani, and Dean John Feerick were among those who testified at the Board's hearings in favor of the proposed legislation.²⁴

The Board maintains its strong support for these proposals, despite the fact that New York State enacted legislation in May of 1992 that would only reduce the contribution limit for citywide candidates to \$12,000 for the primary and \$25,000 for the general election, for a total of \$37,000 per campaign. These new contribution "limits" are still among the very highest of those in any state in the country that has contribution limits, and will not take effect until 1994, after the 1993 municipal elections. Even after 1994, there will remain an overwhelming discrepancy between the contribution limits, disclosure requirements, and scrutiny to which participants and non-participants are subject.

Recommendations For Changes in the Program

Following its proposals in March 1990 for changes in the Program that primarily affected City Council candidates, the Board made further recommendations for changes affecting citywide candidates in July of 1990 that were summarized in *Dollars and Disclosure*. Some of these recommendations have not yet been acted upon. Those that have not yet been considered, as well as new proposals to improve the Program, are set forth below. Building on the improvements in the Program that have already been adopted, these recommendations are designed to continue to simplify the Program, to enhance its rewards for participants, and to make refinements based on the empirical data analyzed by the Board.

The Board makes the following recommendations concerning, among other subjects, the deadline for joining the Program, contribution limits, expenditure limits, public funds, and increasing the rewards for participants who face high-spending non-participants. (Recommendations originally made in 1990 are noted with an asterisk.)

1. **Deadline for Joining the Program.** Some who testified at the post-election hearings favored a later deadline for joining the Program. The Board recognizes that a later "opt-in" date might allow an even greater number of candidates to join the Program. The opt-in date must be early enough, however, for the Board to have time to educate participants about the requirements of the voluntary Program before the first disclosure filings are due.

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In the Board's view, it is possible that the deadline for joining the Program (currently April 30th of the election year) could be moved later. This would certainly be the case if the Board's proposed state law reform regarding disclosure (discussed above) were adopted, because the Board would have continuing jurisdiction over local candidates' filings. If, over time, a growing number of candidates were to submit disclosure reports on computer software provided by the Board, this, too, might permit a later opt-in date. The Board accordingly recommends that the deadline for joining the Program not be fixed by law, but that the law be amended to allow the Board to set the deadline by rule. This would increase the flexibility for unpredictable situations such as redistricting, or a state law change in the date of the primary, and would permit the Board to move back the opt-in deadline gradually as it becomes administratively feasible to do so.

2. **Lower Contribution Limits.*** The Board supports lowering "per campaign" contribution limits (covering both the primary and general elections) for certain offices:

	<u>Proposed</u>	<u>Current</u>
City Council President	\$ 5,000	\$ 6,500
Comptroller	5,000	6,500
Borough President	3,500	5,000

Runoff and special election limits should be set at one-half these amounts.

3. **Spending**

a. **Eliminate Separate "Third Year" Spending Limits.*** The Board recommends eliminating the separate spending limit that covers the year prior to the elections. This limit adds unnecessary complexity to the Act and is a greater benefit to incumbents because, depending on the office, they are more likely to make campaign expenditures during the third year of the election cycle, whereas most challengers do not. In addition, there is at present no spending limit that covers the first and second years of the election cycle. The Board proposes that two spending limits cover the entire four-year election cycle: a primary election spending limit covering the first three years of the election cycle and the period up until the primary, and a general election spending limit covering the day after the primary election through the day of the general election. The primary election limit would apply to all candidates whether or not they have a primary race. This change would simplify the Program and would put incumbents and challengers on a more equal footing with respect to spending limits.

b. **Increase Spending Limits.*** The Board recommends increasing the expenditure limits applicable for the primary election period and again for the general election period:

	<u>Proposed</u>	<u>Current</u>
Mayor	\$ 4,500,000	\$ 4,000,000
City Council President	3,000,000	2,500,000
Comptroller	3,000,000	2,500,000
Borough President	1,000,000	900,000
City Council	150,000	105,000

4. Public Funds

a. **Lower Threshold Levels.*** The Board recommends that the threshold amounts that candidates for each office must meet in order to become eligible to receive public funds be uniform for all boroughwide offices and set at the following levels:

	<u>Proposed</u>	<u>Current</u>
Mayor	\$ 150,000	\$ 250,000
City Council President	100,000	125,000
Comptroller	100,000	125,000
Borough President	30,000	10,000 - 46,013 (see Table 2)

In addition, the Board recommends modifying the current district residency component of the threshold to require Council candidates to raise contributions from 50 contributors in the borough in which they are running, rather than in the Council district. This will ease a burden on candidates and the Board while maintaining the purpose of requiring candidates to show that they have a significant number of local supporters.

b. **Increase Rewards for Participants Who Face High-Spending Non-Participants.*** When a participant, who is bound by the Act's contribution and spending limits, is opposed by a high-spending non-participant, the Board recommends the following additional bonuses for citywide and boroughwide offices: (a) increase the current two-for-one matching funds payment rate to three-for-one, and (b) increase the maximum amount of public funds that the participant can receive from the current one-half of the spending limit to three-quarters of the spending limit. This change would encourage maximum participation in the Program, and would give participants the added financial resources they need to compete with high-spending non-participants. A review of the 1991 data indicates that the current bonus matching formula is sufficient for City Council candidates and should be retained.

c. **Match Contributions Two-for-One up to \$500.*** The Board supports matching contributions at a two-for-one rate up to \$500 for the primary and general elections combined, instead of the current matching rate of one-for-one up to \$1,000. This change would further the Program's goal of "democratizing" fund raising by providing added financial rewards for candidates who collect smaller contributions.

d. **Increase Maximum Public Funds to Council Candidates.** Based on a review of the 1991 data, the Board recommends that the current \$40,000 maximum in public funds available for Council candidates be increased to \$50,000.

5. Recordkeeping and Reporting

a. **Campaign Finance Board and Board of Elections Forms Compatibility.** Following the 1989 elections, the Campaign Finance Board simplified its disclosure forms to

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reflect the new changes in the Act passed by the City Council, and to create one set of forms acceptable for filing with both the Campaign Finance Board and the City Board of Elections, so that candidates do not have to make two different disclosure filings. The Board's efforts were largely successful. The City Board of Elections agreed to accept the Board's monetary contributions schedule, the schedule in the disclosure statement that contains the most transactions by far. This benefitted numerous candidates in the 1991 elections who filed the Campaign Finance Board's monetary contributions schedule with both agencies. The Campaign Finance Board believes it is a top priority to achieve full forms compatibility between the two agencies, and will continue to work with the Board of Elections toward this goal.

b. **Computer Software for Candidates.** In response to the requests of numerous campaigns, the Board is now developing computer software to allow electronic filing of disclosure data. The Board hopes to make this software available to campaigns for the 1993 elections. Computer software would greatly simplify campaigns' recordkeeping and reporting efforts, would result in savings for the Board by reducing data entry costs, and would make it possible to publish computerized public disclosure reports even more quickly.

c. **Receipts Journals.** After the 1989 elections, the Board repealed the rule requiring candidates to keep receipts journals on an experimental basis for the 1991 elections. Based on its experience in 1991, the Board plans to repeal this rule for all offices for future elections.

d. **Matching Cash Contributions.** Because of the need to safeguard public funds and the risks presented by matching cash contributions, the Board plans to require campaigns to obtain the signature of contributors for cash contributions for which the campaign wishes to claim matching funds.

e. **Timeliness of Disclosure Statements.** Because of the short turnaround time involved in making payments to campaigns (in most cases payments are made within four business days after filings are received), the Board intends to clarify in the Program's rules that candidates expecting payment within the four-day period must, among other things, be up-to-date with all previous filings and must deliver disclosure statements due to the Board on or before the filing deadline.

6. **Administrative Penalties.*** To expedite enforcement of the Campaign Finance Act and avoid costly litigation for both candidates and the Board, the Act should be amended to give the Board the direct power to impose administrative penalties for violations.

7. **Procedures for Bonus Determinations.** The Board is in the process of determining what administrative procedures should be refined in order to ensure that all parties are fully and fairly heard in the time available before bonus determinations are made, since during an election, payment delayed is payment denied. The Board will propose new rules to govern these procedures.

8. **Public Education.** The Board will continue to attempt to increase public awareness of New York City's campaign finance reform and to highlight the importance of participation in the Program by all candidates.

9. **Voter Guide**

a. **Format.** Upon review, most features of the current Voter Guide format appear satisfactory. The Board has, however, received a number of complaints about the endorsements section of the candidate statement. Many candidates found it difficult to obtain endorsements early enough for the Voter Guide statement submission deadline. Other candidates, who gain additional endorsements after the primary election, wanted to add these to their general election statement, but the short time period for preparation of the Guide does not permit candidates to revise their statements between the primary and general elections. In addition, candidates had difficulty obtaining the necessary notarized certifications before the submission deadline from individuals and organizations endorsing them. For these reasons, the Board plans to eliminate the separate section for endorsements in the candidate statement.

The Board plans to obtain more detailed Council district maps for use in the Guide in 1993, and to describe the powers of municipal offices in greater detail. The extremely tight production schedule does not, however, permit candidates to submit different statements for the primary and general elections, as several candidates suggested at the Board's hearings.

b. **Expanding the Guide.** Numerous groups and individuals at the 1989 and 1991 hearings expressed support for expanding the Guide to include candidates for additional offices such as judges and district attorneys, and to include state ballot proposals. The Board generally favors these ideas, and is investigating the feasibility of expanding the Guide, although the short time-frame and administrative complexity of producing the Guide may prevent this. If the Board determines that expanding the Guide is feasible, it will recommend appropriate legislation.

Constraints on time and resources have prevented the Board from producing Guides for special elections, extending the Voter Guide statement submission deadline, or issuing the Guide in other languages. In both 1989 and 1991, however, the Board made candidates' statements available for reprinting to numerous foreign language publications within various districts, and it plans to continue to do so and to take any other steps it can to provide service to foreign language speakers.

10. **Debates.** Several who testified at the 1989 and 1991 hearings expressed their support for requiring Program participants to engage in mandatory debates. The Board recognizes the importance of promoting debates in the political process, but is concerned that its involvement in the administration and enforcement of a debate requirement might interfere with its ability to appear non-partisan and objective. All the decisions involved in administering debates can be interpreted as highly political: which candidates are invited to debate (*e.g.*, participants only, non-participants, minor party candidates); the number and timing of debates; the choice of sponsor and moderator; and the debate format, including length of time for candidates' responses, rebuttals, and opening and closing statements. The Board questions the desirability of a role for government in mandating or administering

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candidate debates, given the highly political nature of the decisions involved. Should the City Council pass legislation mandating debates, the legislation should specifically address the issues listed above, and such legislation should be enacted well in advance of the campaign season to ensure that the role of the agency in administering debates and the public's confidence in the debate process are not impaired by the appearance of partisan decision-making influenced by impending elections.

Issues Under Consideration

The Campaign Finance Board will make additional recommendations for improvements in the Campaign Finance Program, as appropriate, based on further analysis of the 1991 elections. Specifically, the Board expects to make recommendations concerning campaigns' reporting of surplus funds, reimbursements, and early financial activity, as well as "close-out" procedures, outstanding debt, and reducing reporting burdens on small campaigns. These subjects will be addressed through the Board's rulemaking process.

The Board continues to monitor additional campaign finance issues as they affect Program participants, including office-holder advantage, independent expenditures, political party spending, and PAC, union, and corporate contributions. These are complex issues, many of which cannot be effectively addressed by changes in the local Campaign Finance Act alone, but may require reform through other legal and political avenues.

Conclusion

In a recent address, Frederick A.O. Schwarz, Jr., Chair of the Charter Revision Commission in 1989 that brought about redistricting and the restructuring of New York City government, identified serious problems with our political system:

There is today a great malaise about politics and politicians. Voting rates are down. Cynicism is up. Special interests and well connected lobbyists increasingly dominate debate. Money swamps thought in campaigns. Ugly codewords and racial pandering seep into campaigns at the highest level. Government is no longer seen as fair, competent, or able to produce change. Attention to short-term interests at the expense of longer term values is a growing feature of our political system.²⁵

These are pervasive problems afflicting politics and government on the national, state, and local levels. Certainly no single attempt at reform will solve them. But at the local level, the Campaign Finance Program has proven to be one constructive reform that demonstrably contributes to the development of a healthier democracy in New York City.

In the 1991 Council elections, the Program greatly influenced the large number of individuals who chose to run for office, and thereby gave voters more choices among wide fields of candidates. It provided \$2.5 million in public funds to enable serious candidates,

regardless of their personal resources or access to wealthy contributors, to wage competitive campaigns. Detailed, understandable information about candidates' campaign finances was widely disseminated. And the Voter Guide published by the Board encouraged New Yorkers to go to the polls and cast an informed vote. The Program is helping to take control of local politics back from top-dollar contributors and special interests, and to return that control to the citizens of New York.

After its first implementation in the 1989 elections, the Campaign Finance Program was recognized by many observers as having successfully altered the way in which citywide and boroughwide campaigns are conducted. It was seen as less of a success at the City Council level. The 1991 elections for 51 redrawn Council seats provided a dramatic test of how well the Program could operate on the Council level. It proved to be unquestionably effective. The rate of participation by incumbents, however, continued to be disappointing.

Probably the most important challenge in 1993, when citywide, boroughwide, and Council offices are up for election, will be to maintain or increase the high rate of participation in the Program. Because participation in the Campaign Finance Program is voluntary, the extent to which the benefits of the reform promoted by the Program can be realized depends upon the numbers of serious candidates for City offices who choose to join, and upon pressure from the press and the public on candidates to do so. The New York press has consistently lauded the Program and the Board's efforts as "a giant improvement over lax state rules,"²⁶ a reform that "prevent[ed] obscene spending wars,"²⁷ and one of the City's "best and most effective experiments in real democracy."²⁸

Yet, while editorial support for the Program has been unwavering, many believe that endorsements must be more clearly tied to Program participation before more candidates are likely to respond to the demand that they commit themselves to campaign finance reform. Council member Herbert Berman stated that candidates thought "the wrath of the press would come down on those who chose not to opt in. . . . [T]here should be concern that if I don't opt in, then I am challenging the *Times*' endorsement, *Newsday*'s endorsement, the *News*', etc."²⁹ Some who testified went so far as to suggest that newspapers should make participation in the Program a litmus test for editorial endorsement.³⁰

Candidates who do not join the Program often argue that in a time of fiscal crisis, they do not want to use the public's money for campaigns. Any candidate who participates in the Program, however, may decline public money. Several participants in both the 1989 and 1991 elections who abided by the Program's requirements chose not to accept public funds, or returned unspent all the public funds they received. Choosing not to join the

"[T]he argument that [candidates] don't want public tax dollars to finance their campaigns is a smokescreen" to avoid the contribution limits and extensive disclosure required by the Program.
— Former Mayor Edward I. Koch

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Program, on the other hand, is a rejection of the meaningful contribution and spending limits, increased public disclosure, and the steps toward the greater integrity in government that the Program represents. Former Mayor Edward Koch stated that “the argument that [candidates] don’t want public tax dollars to finance their campaigns is a smokescreen” to avoid the contribution limits and extensive disclosure required by the Program, and he called candidates who make this argument “charlatans.”³¹

The Campaign Finance Program is an investment in strengthening democracy in New York City, and the amount it has actually cost has been extremely small. At its inception, the projection of the amount of public funds to be distributed to candidates in the 1989 elections

**The “dollars devoted to public campaign finance are monies well spent. . . .”
— Corporation Counsel O. Peter Sherwood**

was \$28 million. The actual amount of money distributed to candidates was about \$4.5 million. In 1991, about \$2.5 million was distributed. Former Corporation Counsel Peter Zimroth pointed out that “although public campaign financing is a highly visible municipal expenditure, it represents a negligible portion of the City’s budget.”³² Corporation Counsel O. Peter Sherwood stated at the Board’s hearings that the “dollars devoted to public campaign finance are monies well spent.”³³ Indeed, the small amount invested in the Program results in substantial savings to the extent that it helps create a climate in which the truly costly decisions in City administration, such as

those affecting land use, contracts and franchises, and taxes, can be made free of undue political influence or conflicts of interest. This monetary expenditure is also an investment in public confidence in and knowledge about the City’s leadership, promoted by the existence of the Program and the Voter Guide.

At the federal level, the cost of the persistent stalemate on campaign finance reform is readily apparent. A study prepared by Common Cause found that the savings and loans industry contributed \$11 million to members of Congress and political party committees during the 1980’s, when Congress considered but rejected tighter regulation of the industry. The savings and loans, meanwhile, were engaged in activities that led to the bailout, which is currently projected to cost the public from \$300 to \$500 billion, a tiny fraction of which would fully fund public financing of congressional elections for the foreseeable future.³⁴

* * *

Former Mayor Edward I. Koch and the City Council under the leadership of then-Vice Chairman Peter F. Vallone created a campaign finance reform program that is changing the way local campaigns are run. The public has been extremely fortunate that two administrations have supported the Program since its enactment in 1988, and that the City Council has passed amendments that significantly improved the Program. While we cannot expect fundamental and lasting reform of the City’s political process to take place overnight, the Program’s effectiveness in the 1989 and 1991 elections has already helped make the process by which City officials are elected much more open, competitive, and fair.

Recommendations and Conclusion

The 1993 elections for all citywide and boroughwide offices as well as the 51-member City Council will present the Board with its greatest challenge yet in administering the Program. The Board is committed to building on the Program's strong successes in the 1989 and 1991 elections and continuing to improve the Program for the 1993 elections.

Joseph A. O'Hare, S.J.
Chairman

James I. Lewis
Joseph Messina
Sonia Sotomayor

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NOTES

¹ Under the Supreme Court's decision in *Buckley v. Valeo*, 424 U.S. 1 (1976), any attempt to limit the amount a candidate spends constitutes an infringement of constitutionally-protected political speech except in the context of a voluntary program which confers a benefit, such as public matching funds.

² *Hearings Before the New York City Campaign Finance Board*, December 11-12, 1991, (hereafter "*Campaign Finance Board 1991 Hearings*") at 65 (testimony of Rudolph Giuliani).

³ *Ibid.*, at 282 (testimony of John D. Feerick, Dean of Fordham University School of Law and former Chair of the New York State Commission on Government Integrity).

⁴ *Ibid.*, at 156 (testimony of Neal Rosenstein of the New York Public Interest Research Group).

⁵ New York State Commission on Government Integrity, *The Midas Touch: Campaign Finance Practices of Statewide Officeholders*, June 1989, 2.

⁶ Despite recent changes in state law, unfortunately these descriptions still apply. In May of 1992, New York State adopted legislation that will limit campaign contributions for citywide candidates to \$12,000 for the primary and \$25,000 for the general election, for a total of \$37,000, effective in 1994, after the next mayoral election in 1993.

⁷ Editorial, "An Electoral Example for the Country," *The New York Times*, September 18, 1989, A18.

⁸ The candidates who joined the Program in these special elections were: in the 1st district, Annmarie Joseph and Ralph Molinari; in the 29th district, Angela Battaglia, Ted Glick, Lonnie Leavitt-Cacchione, Linda Minucci, and Irene Van Slyke; and in the 22nd district, Jack Chartier, Estelle Cooper, Karen Koslowitz (the only candidate who appeared on the ballot), and Winston Moxey.

⁹ Letter from Suleika Cabrera Drinane, Executive Director of the Institute for Puerto Rican/Hispanic Elderly, to the Campaign Finance Board, dated August 27, 1991.

¹⁰ *Campaign Finance Board 1991 Hearings*, at 40 (testimony of Liz Abzug).

¹¹ In April of 1992, the Campaign Finance Board amended its Ethical Guidelines, making them even more rigorous. The Ethical Guidelines provide, among other things, that Board members and staff shall not: serve as officers of political parties or party committees, make contributions to any candidate for City offices covered by the Program, volunteer or advise any candidate running for a covered office, or sign a designating or nominating petition for any candidate for a covered office. Board members and staff must disclose any relationship to or interest in any matter under consideration by the Board, including any current or past relationship with a candidate, and must recuse themselves from any matters in which their interest might impair the conscientious performance of their duties.

¹² At this writing, a vacancy has existed on the Board for over two years for the position previously held by the late Robert B. McKay, professor and former Dean of New York University School of Law, a mayoral appointee. The term of Board member Sonia Sotomayor, another mayoral appointee, has also technically expired, but she is continuing to serve as provided by the New York Public Officers Law.

¹³ *Campaign Finance Board 1991 Hearings*, at 248-249 (testimony of Council member Herbert Berman).

¹⁴ Participants who have surplus funds left over after the elections are required to repay the Board up to the amount of public funds they received. As of this writing, a total of \$39,000 in surplus funds has been returned to the Board for the 1991 elections.

¹⁵ *Campaign Finance Board 1991 Hearings*, at 194 (testimony of Robert Miller).

¹⁶ Response from Council member Antonio Pagan's campaign treasurer to post-election survey on file with the Campaign Finance Board.

¹⁷ *Campaign Finance Board 1991 Hearings*, at 337 (testimony of Council member Guillermo Linares).

¹⁸ *Ibid.*, at 346 (testimony of Council member Una Clarke).

¹⁹ *Hearings before the City Council Governmental Operations Committee on Intro. 441A*, October 24, 1990 (testimony of Julian Palmer).

²⁰ Campaign Finance Board staff surveyed non-participants' 1991 "election-related" disclosure statements available in the City Board of Elections public disclosure files as of February 3-5, 1992. This information was compared with "election-related" disclosure statements submitted by participants to the Campaign Finance Board as of February 3, 1992. (Candidates may have submitted additional disclosure statements after these dates.) For non-participants, the election-related filings include the 32-day pre-primary, 11-day pre-primary, 10-day post-primary, 32-day pre-general, 11-day pre-general, and 27-day post-general disclosure statements. For Campaign Finance Program participants, in addition to the above filings, the four-day pre-primary and four-day pre-general election disclosure statements (required under the Campaign Finance Act but not under state election law), were included in the survey. The total number of disclosure statements that a candidate is required to file varies, depending on whether the candidate is in the primary election or general election only, or both, and this was accounted for in conducting the survey.

²¹ *Campaign Finance Board 1991 Hearings*, at 321-322 (testimony of Council member Mary Pinkett).

²² Even under the Board's proposals, state law would continue to allow non-participants, unlike participants, to spend unlimited amounts of their own money, and to conduct campaigns without spending caps. Non-participants would not, of course, be eligible to receive public funds. They would also not be governed by the Program's rules that require that all contributions from affiliated donors be aggregated and subject to the contribution limit applicable to a single contributor.

²³ New York City Mayor David N. Dinkins, "Statement by Mayor David Dinkins Announcing his Support for Campaign Finance Board Legislation," March 20, 1992.

²⁴ The New York State Assembly passed a bill incorporating the proposed legislation in June of 1992. At this writing, the State Senate has taken no action on it.

²⁵ Frederick A.O. Schwarz, Jr., *The Constitution Outside the Courts, The 44th Benjamin N. Cardozo Lecture*, December 5, 1991, in 47 Record of the Association of the Bar of the City of New York 9 (Jan. - Feb. 1992).

²⁶ Editorial, "Strong City Council, Strong Smell," *The New York Times*, June 2, 1991, E18.

²⁷ Editorial, "A Bigger Council — and Maybe Better," *Daily News*, September 14, 1991, 8.

²⁸ Terry Golway, "The Observatory," *The New York Observer*, December 9, 1991, 5.

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²⁹ *Campaign Finance Board 1991 Hearings*, at 253-54 (testimony of Council member Herbert Berman).

³⁰ *Ibid.*, at 63, 83-84 (testimony of Edward I. Koch and Rudolph Giuliani).

³¹ *Ibid.*, at 54-55 (testimony of Edward I. Koch) and written testimony for the hearings, dated December 12, 1991.

³² Written testimony dated December 11, 1991, of Peter L. Zimroth for the Campaign Finance Board's 1991 hearings.

³³ *Campaign Finance Board 1991 Hearings*, at 34 (testimony of Corporation Counsel O. Peter Sherwood).

³⁴ New York State Common Cause, "S&L Interests Invest More than \$11 Million in Congressional Candidates and Party Committees During the 1980s; Linder Family of Ohio Provides \$800,000; President Bush Receives Six \$100,000 S&L Soft-Money Contributions, According to Common Cause Study," June 29, 1990.

Appendix

The 256 Campaign Finance Program Participants in 1991

ABEL, MICHAEL*
 ABOULAFIA, SANDY ABBY*
 ABZUG, LIZ*
 ADAM, YVETTE
 ALAMO, AGUSTIN*
 ALBANESE, SAL*
 ALI-SHARIEF, KARIEM
 ALTER, SUSAN*
 ALVAREZ, NILKA*
 ANDREWS, CARL*
 ANDREWS, EARL
 ASKA, CLAUDE*
 AVELLA JR, ANTHONY*
 BAEZ, IRIS HERSKOWITZ*
 BALDWIN-FERGUSON, IMOGENE
 BATTAGLIA, ANGELA
 BEHAR, STEVEN
 BENDER JR, SANDY
 BERMAN, HERBERT*
 BETANCOURT JR, ISMAEL*
 BISOGNO SR, GERARD*
 BLACKBURNE, ELMER*
 BLACKWELL, SAMUEL
 BOVA, JOSEPH
 BOWMAN, WILLIE*
 BOYD-FOY, MARY
 BROWN, MARILYN*
 BRYER JR, IRVINE*
 BURKE, SAMUEL
 BUTE, CLYDE
 BYRD, BEATRICE*
 CACCHIONE, LONNIE
 CADET, SERGE
 CARDILLO, ANTONIO
 CAREY, WEYMAN*
 CARROLL, WILLIAM
 CECILIO, ROBERT
 CENTORCELLI, DARIO*
 CERULLO III, ALFRED*

CHARTIER, JACK
 CHIN, MARGARET*
 CHRISTMAN, CAROLYNN*
 CLARKE, RENALDO*
 CLARKE, UNA*
 CLEMMONS, WILLIAM
 CLUNE, PATRICA
 COHEN, ADELE*
 CONTINI, JOHN
 COOPER, STEPHEN
 CORNETT, DELCO*
 D'EMIC, MATTHEW
 DAVIS, CHRISTINA
 DEBLASIO, RALPH
 DEL GIORNO, JON*
 DEL MASTRO, VICTOR*
 DEL TORO, WILLIAM*
 DENIS, NELSON*
 DIBRIENZA, STEPHEN*
 DILLON, JAMES*
 DIPINTO, MARIO
 DIXON, SAMUEL*
 DRYFOOS, ROBERT
 DUANE, JOHN
 EICHENTHAL, DAVID
 ELDRIDGE, RONNIE*
 EMMANUEL, ERNEST
 ENGLISH, ANN*
 ESPADA JR, PEDRO
 ESPADA, GEORGE*
 ESPAILLAT, ADRIANO*
 EVANS, KENNETH
 FAJARDO, ROLANDO*
 FERRIS, JOSEPH
 FIELDS, C VIRGINIA*
 FINTZ, ALAN
 FISHER, FLORENCE
 FISHER, PAMELA*
 FLYNN, MICHAEL

FOTOPOULOS, HARRY*
 FRANCE, MARY*
 FREED, KATHRYN*
 FRIEDLANDER, MIRIAM*
 FRIEDMAN, SYLVIA
 FULANI, LENORA
 FUSCO, JOHN*
 GADSEN, JAMES
 GALENO, MICHAEL*
 GARIPPA, JOAN
 GASINK, KELLIE
 GEBERT, THOMAS*
 GELB, IRVING*
 GRAHAM, BERNARD*
 GRAVES, FRANKYE
 GREEN, THEOPIA
 GREENE, DELPHIN*
 GREITZER, CAROL*
 GUMBS, MAURICE*
 GUTTMAN, LEONARD*
 HAFFEY, RICHARD
 HAZELL, GRETCHEN*
 HERNANDEZ, MAURICIO*
 HEWITT, WILLIAM
 HICKS, JAMES
 HIKIND, PINCHUS
 HILL JR, JULIAN
 HILL, VELMA
 HOARE, FRANK
 HOOD, ERNEST
 HOOKS JR, DAVID*
 HUGHES, THOMAS
 HUNTER, ROBERT*
 IORIO, JOSEPH
 JAFFE, DAVID
 JAMES, KATHERINE
 JAWIN, ANN*
 JENNINGS, ALLAN*
 KAZIMIROFF, JULIE*

*Indicates that the participant was on the ballot for the 1991 elections.

**Appendix
(Cont'd)**

KENNEY, LUCILLE	NIEVES, JAVIER*	SCHLOSSMAN, MICHAEL
KOSLOWITZ, KAREN*	NIEVES, MICHAEL	SCHMIDT, ALLEN*
KRUGER, CARL	NITZBURG, ARTHUR*	SCHORN, FRANK
KUEHL, ALEXANDER	O'CUMMINGS III, GRADY	SCHRIEBMAN, LAWRENCE
KULAK, ANDREW	O'HARA, JOHN*	SCOTT, AUGUST
LASKE, ARTHUR*	O'KEEFE, ROSEMARIE	SEARS, HELEN*
LENCE, GEORGE	OGNIBENE, THOMAS*	SEGARRA, JORGE*
LEVIN, LEW*	ORTIZ-ARROYO, ROBERTO	SEMENTILLI, EGIDIO
LEVINE, SIMON	ORTIZ, FELIX	SHELLY, PHILIP*
LEVITT, JOHN	OWENS, CHRIS	SHEPARD, PEGGY*
LIJEWSKI, LAURA	OWENS, THADDEUS	SIEGEL, MARTIN
LILLY, MARK	PABON, JULIO	SILVERGLAD, HYMAN*
LINARES, GUILLERMO*	PAGAN, ANTONIO*	SIMURO, VALERIE
LUNA, MARIA*	PERKINS, WILLIAM*	SMITH, MALCOLM*
LURIE, JEFFREY*	PERRY, NICK*	SMITH, REGINA*
MAGIDSON, ANDREW*	PERRY, RONALD*	STABILE, ALFONSO
MAHONEY, CONSTANCE*	PETROFSKY, JOHN*	STEELE, FRANK*
MALAVE-DILAN, MARTIN*	PETRONIO, FLORENCE	STERLING, LEE*
MALONEY, CAROLYN*	PINKETT, MARY*	SULLIVAN, JAMES*
MARBACH, LOIS	PIROMAN, RAFAEL	SUSSILLO, JOSEPH
MARCHANT SR, GARTH*	POWELL, ADAM*	SWEETING, MARY
MARCUS, JAY	PROCACCINI, PHILIP	TENG, FRED*
MARCUS, ROBERT	RADEMAKER, JESSIE*	THOMAS, RICHARD*
MARTINEZ, ISRAEL*	RAGUSA, PHILIP	TONEY, VAUGHAN
MARTINEZ, JUAN*	REED, PHILIP*	TRIMBOLI, STEVEN
MAVROMATIS, ARCHIE	REID, RODNEY	TRINIDAD, APOLINAR*
MAYS, LUBERTA	REISS, ELAINE*	TSANAS, JOHN*
MCCABE, JOAN*	RIVERA, JR, ANTONIO	UMLAND, JOHN*
MCCLEAN, LAWRENCE*	ROBERTS, CARL	VALLONE, PETER*
MCDONNELL, IRENE	ROBERTS, EDWARD*	VAN SLYKE, IRENE
MCKOY, EDWARD	ROBERTSON, JANICE*	VELAZQUEZ, PEDRO*
MCRAE, JOHN	ROBINSON, ANNETTE*	VISCOVICH, WILLIAM
MEEKS, GREGORY*	ROBLES, VICTOR*	WALKER, LARRY
MENDEZ, RAFAEL*	ROSEN, STEVEN*	WARD, RONALD*
MICHELS, STANLEY*	ROSS, MARGARET	WARDEN, LAWRENCE*
MILLARD, CHARLES*	ROTHERMEL, ROBERT	WATKINS, JUANITA*
MILLER, ROBERT*	RUIZ JR, ISRAEL*	WEINER, ANTHONY*
MILLER, STEFAN	RYGOR, ROBERT	WEISS, HOWARD*
MITCHELL, JAMES	SABATER, JULIO	WEUSI, JITU
MITCHELL, KEITH*	SABINI, JOHN*	WHITE JR, THOMAS*
MOICES, ISMAEL*	SALAS, EDWIN	WILLIAMS, EVELYN
MOORE, COLIN*	SANCHEZ, DESERIE*	WILLIAMS, PETER*
MOXEY, WINSTON*	SANSIVIERI, FRANK*	WILLIAMSON, GERONIMO
MULLINS, JOHN	SANTA MARIA, CARMINE	WOODS, SUSAN
MURPHY, KATHLEEN*	SARGENT, DIANE	ZAYAS, SONNY
MYATT, RENE	SAUNDERS, SHIRLEY	
NADROWSKI, LEON*	SCARBOROUGH, WILLIAM	

*Indicates that the participant was on the ballot for the 1991 elections.

