


PART II



The Year in Politics: 1993 Election Profiles



The previous five chapters have examined the broad effects of the Campaign Finance Program in the 1993 elections, from increasing participation, limiting the size of contributions and expenditures, helping to “level the playing field” among candidates for municipal office through the distribution of public funds, and providing detailed public disclosure of candidates’ campaign finances. This section examines these themes in terms of the races themselves.

Chapter 6

Citywide Races:

The Vote is In — Ethics Counts

Three citywide offices are covered under the Campaign Finance Act — mayor, public advocate, and comptroller. In 1993, races for all three of these offices were highly competitive. All three incumbents lost or dropped out of the campaigns, none of which represented “politics as usual.” Financial disclosure was a central component in each race, and Board actions — whether providing campaign finance-related data to the press and public, enforcing the Program’s limits and requirements, or deciding disputes between campaigns — played an important role in each of them. Since its inception, the Program has done much to level the playing field between candidates and increase competition, and the citywide races in 1993 were a dramatic example of this.

Mayor

Primary Election. Three candidates vied for the Democratic party nomination — incumbent Mayor David N. Dinkins, CORE (Congress of Racial Equality) leader Roy Innis, and civil engineer Eric Ruano-Melendez. City Council President Andrew Stein and Herman Badillo were also in this race early in the Spring, but both candidates subsequently dropped out to pursue other offices.

Andrew Stein’s withdrawal from the mayoral race in 1993 was something extraordinary for New York City politics in and of itself. A 25-year veteran of politics, Stein had decided not to abide by the Program’s contribution and expenditure requirements. As discussed in Chapter 2, Stein accepted contributions of up to \$100,000, well over the Program’s 1993 contribution limit of \$6,500. In May of 1993, Stein announced that he would not be seeking the office of mayor and would instead run for re-election to the office of public advocate. Stein then shifted his view, stating that he would not spend any of the money he had raised for his mayoral race and that he would “voluntarily” abide by the Program’s contribution and expenditure limits.¹ Just about one month later, Stein dropped out of politics altogether. Many believed that his fund-raising strategy backfired and was an important reason for his failed mayoral campaign and ultimate exit from politics. For example, *The New York Times* wrote of Stein,

His conspicuously lavish fund-raising events left a sour taste in the mouths of recession-weary New Yorkers. Instead of celebrating the reforms of the city's system of campaign financing, he resisted them.²

This left three candidates on the ballot for the Democratic mayoral primary, and all three were participants in the Campaign Finance Program, although Melendez and Innis did not raise the minimum \$250,000 necessary to qualify to receive public funds. David Dinkins received \$6.7 million in contributions and slightly over \$1.2 million in public funds for his primary race and spent approximately \$6.7 million during his primary campaign. Innis, by contrast, raised less than \$80,000 in contributions, and spent only about \$130,000. Some of Dinkins' spending was undoubtedly in anticipation of his general election contest against Rudolph Giuliani. (By virtue of the Democratic primary, Rudolph Giuliani had a primary spending limit as well; see p. 44.) After an investigation by the Board, the Dinkins campaign conceded that its primary spending was \$160,000 in excess of the limit, and the campaign was assessed a penalty of twice that amount, \$320,000, by the Board in October of 1993. This was a signal to many observers that the Campaign Finance Board was serious in its efforts to enforce the Program's limits and requirements and to establish a truly level playing field.³

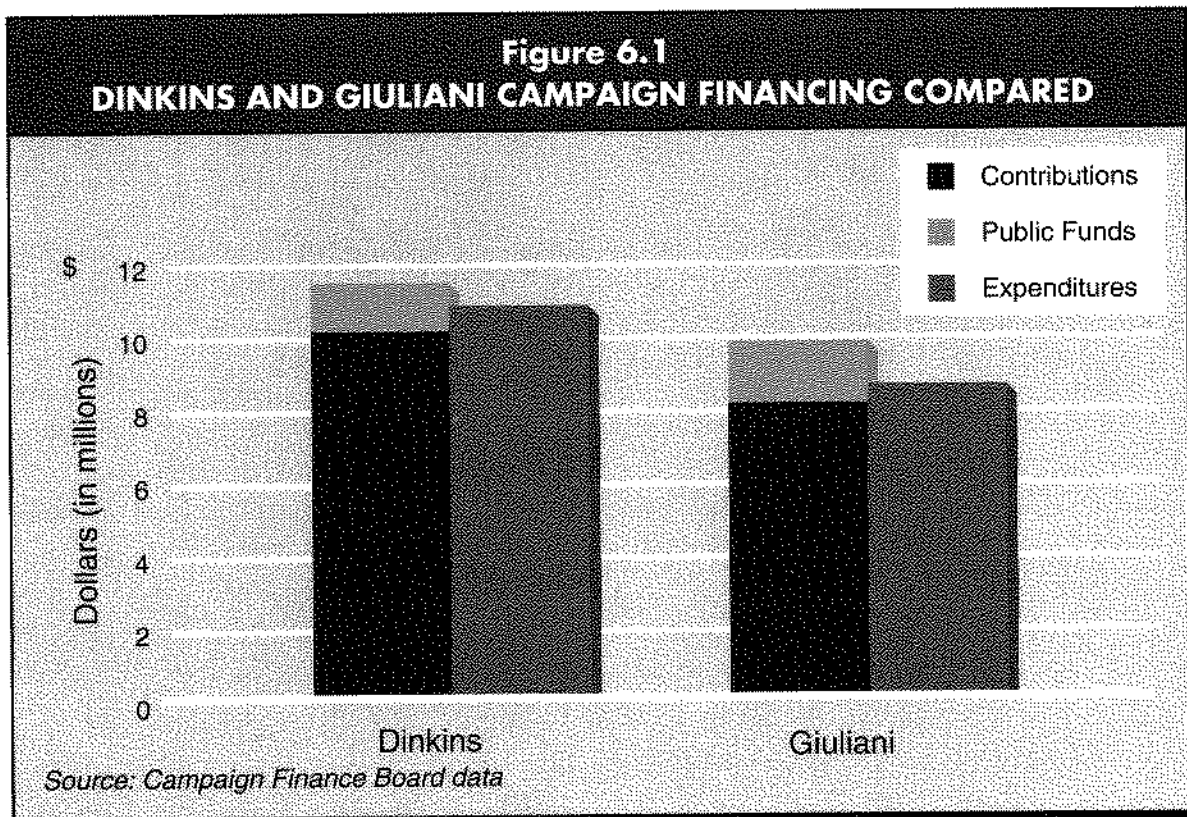
The primary race was not close — Mayor Dinkins won easily with approximately 68 percent of the vote — but Innis did receive a respectable share of the votes cast, in what many felt was a vote against Dinkins.⁴ Comparing the cost per vote received, Innis did very well indeed, spending an average of only \$1.06 per vote, compared to the \$19.99 spent by the Dinkins campaign. Both Innis' and Melendez's campaigns were pivotal in one respect — without them, neither Dinkins nor Giuliani would have been eligible for a primary spending limit, which allowed them both to have a \$4 million limit for the primary election and again for the general election, instead of a single \$4 million general election limit. The fact that Dinkins faced primary opponents also enabled him to collect over \$1 million in public funds during the primary election period, despite the fact that many viewed the Innis and Melendez campaigns as marginal. As *New York Newsday* wrote,

After Stein dropped out of the mayor's race, everybody said David N. Dinkins would have "no serious challenge" . . . One peculiarity of the City's campaign finance law could make Innis a valuable person for both Dinkins and Republican-Liberal Rudolph Giuliani to keep around.⁵

Changes in the structure of the Program's spending limits, discussed in Chapter 11, would provide all candidates, regardless of opposition on the ballot, with a separate primary election period spending limit.

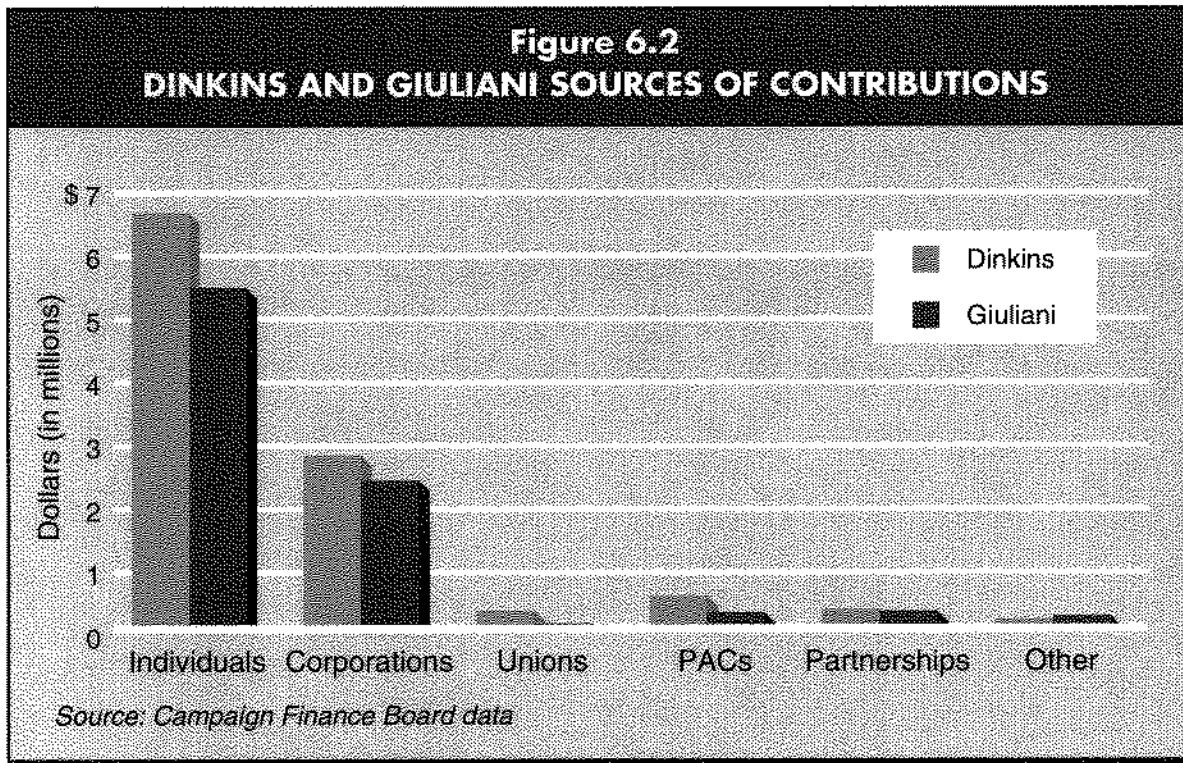
General Election. The results of the primary election for mayor were never much in doubt, but the general election race was a very close and highly competitive rematch of the 1989 mayoral contest between Democrat David Dinkins and Republican Rudolph Giuliani.

This race was of significant interest not only in New York City but around the country as well. Also in the field were Conservative/Right-to-Life candidate George Marlin and independent candidates Mary Nell Bockman and Joseph Brennan, representing the Socialist Workers Party and Libertarian Party, respectively. Both Giuliani and Dinkins were participants in the Program; the other three candidates were not. Figure 6.1 gives an overview of the two main contenders' financial data.



David Dinkins outraised and outspent his challenger, but Giuliani qualified to receive more in public matching funds. (Had the penalty against the Dinkins campaign not been assessed, Dinkins and Giuliani would have received approximately the same amount in public matching funds.) The race was very close, and Giuliani won with only 51 percent of the vote. The two campaigns' finances reflect their different bases of support.

Both mayoral candidates raised most of their contributions from individuals (accounting for 65 percent of all Giuliani's contributions and 64 percent of Dinkins'). The Dinkins campaign however, received a greater portion of contributions from "employee organizations" such as unions and had an edge in contributions from corporations and political committees. (See Figure 6.2.)

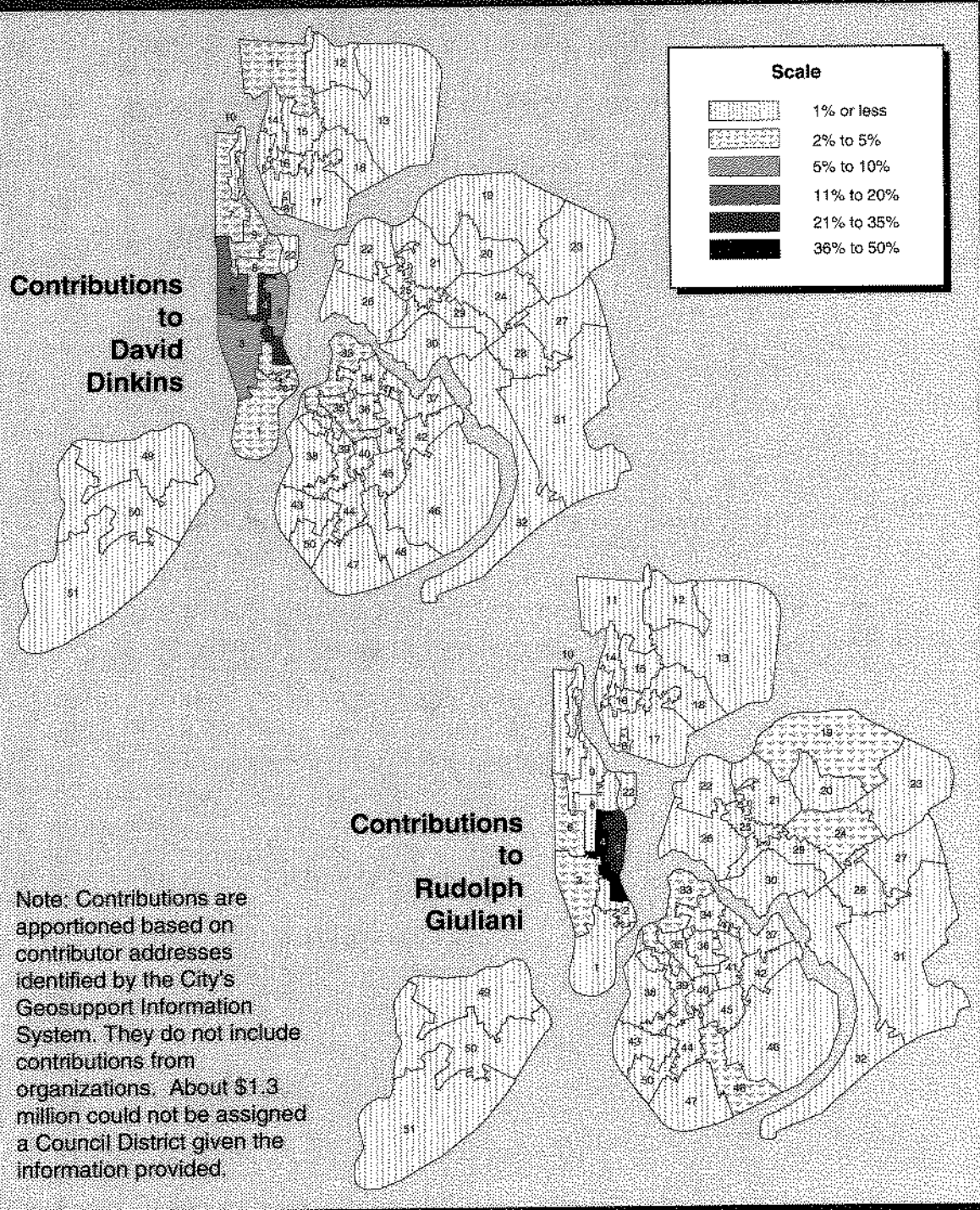


Do Voting Patterns Follow Contribution Activity? Although the sources of contributions for Dinkins and Giuliani were different, most of their money came from the same geographic areas in the City. Accordingly, candidates' sources of funds came from geographically concentrated areas that were quite different from their bases of popular support.

There are 3.2 million registered voters in the City of New York.⁶ About 1.8 million cast ballots in the 1993 elections.⁷ About 65,000 contributed money to candidates (participants or non-participants). Thus, only a very small percentage of New York voters played a financial role in the elections' results by making a contribution, and those people came from a very small region within the City. About 60 percent of Dinkins' and Giuliani's total receipts came from entities that were literally off the map (either organizational contributors or individuals outside of New York City) and did not provide votes for either candidate. Of contributions received from within New York City, people in a few districts gave a good deal more than the average. (See Figure 6.3.) In fact, about half of Dinkins' contributions from identifiable City residents came from three districts in Manhattan from which he received about seven percent of his total votes. Over sixty percent of Giuliani's contributions from identifiable City residents came from two districts from which he also received only about seven percent of his total votes. Council districts representing the remaining 93 percent of Dinkins' and Giuliani's votes gave only 51 and 39 percent of the candidates' total contributions from City residents, respectively.

Most individual contributions came from Manhattan, but candidates' bases of voter

Figure 6.3
CONTRIBUTIONS FROM INDIVIDUAL NEW YORKERS TO
DINKINS AND GIULIANI: PERCENTAGE OF TOTAL BY COUNCIL DISTRICT



support were much more evenly distributed. Both Dinkins' and Giuliani's financial support was concentrated within the same relatively small area — the 4th, 5th, and 6th Council districts, with the 4th district easily in the lead, contributing over \$1 million to each candidate. This is hardly surprising. The 4th Council district contains Manhattan's affluent Upper East Side, the 5th district borders the 4th along the East River, and the 6th extends into the Upper West Side.⁸

Official Duty or Campaign Activity? The mayoral race was marked by a number of disputes between the campaigns that were brought before the Campaign Finance Board.⁹ The first of these came early during the summer of 1993, when then-mayor Dinkins and then-Comptroller Holtzman appeared in print and televised advertisements for municipal bonds. The Giuliani, Badillo, and Hevesi campaigns argued that the appearance of these candidates in such advertisements would help the incumbents' re-election efforts.

The Giuliani and Hevesi campaigns were not alone in their objections to this kind of advertising. Both the New York Public Interest Research Group ("NYPIRG") and New York State Common Cause requested that Mayor Dinkins and Comptroller Holtzman voluntarily withdraw the advertisements. "We are troubled by their style and content in the context of an approaching election period. We urge you to review the ads and to consider the possibility of the use of some immediately recognizable figures other than yourselves, if the ad campaign continues in the coming weeks."¹⁰ These municipal bond advertisements were not the only time that this issue was raised by the Giuliani campaign. The issue was raised again in other contexts, including the MTA's "Subtalk" advertising campaign.

At the heart of this matter was the issue of incumbent advantage: how to distinguish the legitimate duties of an officeholder from actions related to his or her campaign for re-election. Many good government groups, candidates, and elected officials themselves argued for limits to government-funded communications during the election. NYPIRG and Common Cause wrote, "The issue of possible partisan use of public resources is likely to be raised again in this and future election cycles in the City. We therefore recommend that you support legislation to place appropriate restrictions on the use of government-funded mass communications during election periods and to set up an independent commission to implement such standards."¹¹ On September 13, 1993, the Board issued Determination No. 1993-1 dismissing the Giuliani and Badillo complaints, referring to a previous Advisory Opinion that stated that complaints such as these must be addressed in the first instance by other City agencies.¹² Incumbent Council member and Giuliani running mate Susan Alter introduced a bill (co-sponsored by Council members Andrew Eristoff and Kathryn Freed) in July that would have restricted Campaign Finance Program participants from appearing in advertisements on behalf of the City of New York.¹³

Throughout the course of the election, the Board received several informal complaints about incumbents mailing newsletters close to election day.

Then-Mayor-elect Giuliani also brought this issue up at the Board's post-election public hearings.

Another area . . . [that] should be looked at very carefully is the use by incumbents of government resources for political purposes. . . . We believe that the possibility of abuse could be at least reduced or eliminated if you developed a time period beyond which any appearance, particularly one paid for by the City, would be counted against a campaign. . . . [I]f there was a fixed date then everyone would know that if they were going to do advertising for promoting bonds or talking about City projects, then those advertisements really have to take place before you get into the heavy campaign season. . . . The same thing could be true of mass mailings and other communications to people at public expense. If there were a time limit set, then the mailings could be done before that time limit, then when you got into the actual campaign, the incumbents would know that they couldn't take advantage of mailings to the disadvantage of challengers.¹⁴

Calls to restrict incumbent advantage are not new. In 1989, the New York State Commission on Government Integrity (known as the Feerick Commission) published a paper, "Evening the Odds: the Need to Restrict Unfair Incumbent Advantage," that recommended, among other things, a ban during a defined pre-election period on mass mailings and other communications at the public expense, if those communications bore the name, likeness or voice of a candidate for public office.¹⁵ The Campaign Finance Board continues to support this Feerick Commission recommendation.¹⁶

The Debate Debate. One of the loudest "complaints" about the race for mayor was made by the citizens of the City of New York. Many individuals, editorial boards, and good government groups lamented the fact that there was not one public debate between the two front-runners throughout the entire election. In June 1994, the Campaign Finance Board published *The Debate Debate*, a 20-page report presenting the Board's view that the obligation to debate ought not to be tied to the acceptance of public funds and soliciting public comment on an innovative alternative developed by the Board to encourage candidates to debate. (See p. 117.)

The final outcome of the mayoral race was yet another sign that 1993 was not politics as usual in New York City: Rudolph Giuliani was elected the City's first Republican Mayor in more than 20 years.

Public Advocate

Primary Election. The primary race for the office of public advocate (formerly "City Council President") was very competitive; six candidates vied for the Democratic party nomination — Susan D. Alter (a member of the Fusion ticket and then-City Council member from Brooklyn), Mark Green (then-Commissioner of the New York City Consumer Affairs Department), Donald Halperin (State Senator), David Paterson (State Senator), Roberto Ramirez (State Assembly member), and Ronald W. Reale (President of the Transit

Patrolmen's Benevolent Association) — all of whom were Program participants. In June, a non-participant, then-City Council President Andrew Stein, was also in the race for public

Running for an Old Job That Has a New Name

— *The New York Times*¹⁷

advocate. Stein's non-participation in the Program caused participants to argue

that his past spending, intended for his bid for mayor, should be counted toward his campaign for public advocate, thus entitling opposing participants to receive public matching funds at the two-for-one rate.

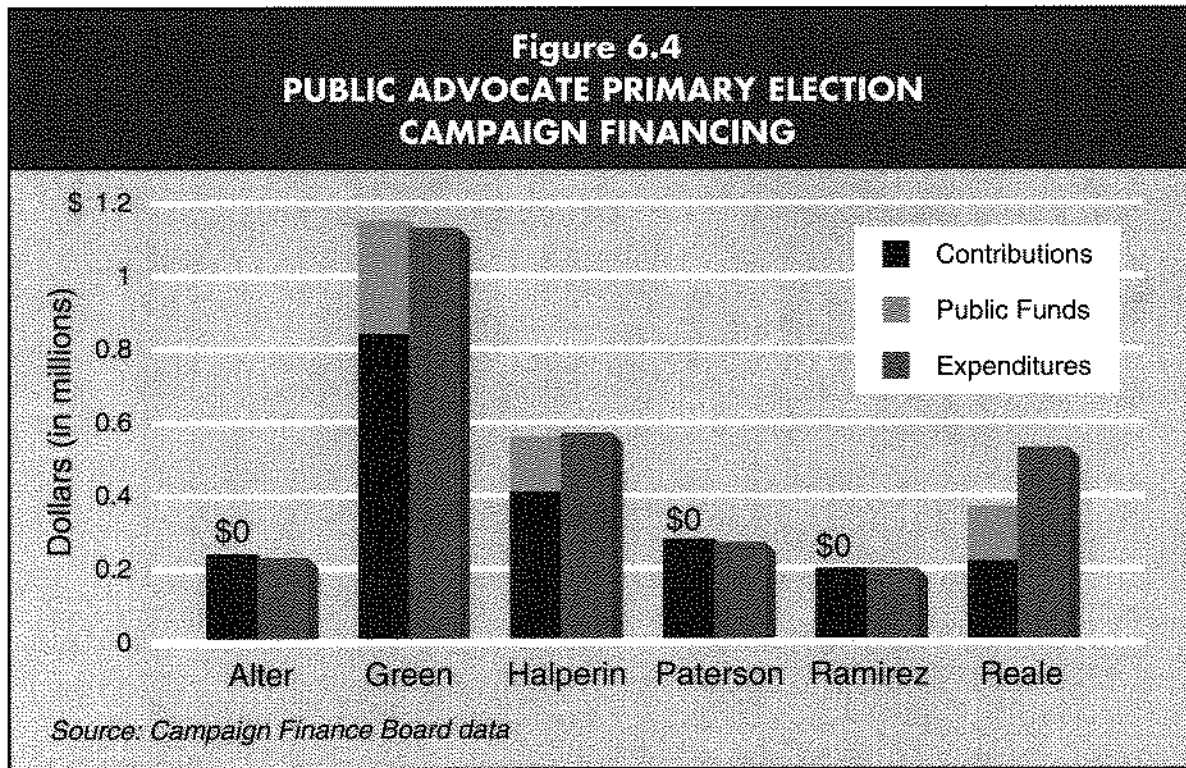
The issue became moot, however, when Andrew Stein dropped out of politics altogether in late June, so that candidates for public advocate were not eligible for the two-for-one matching rate. The Board did issue Advisory Opinion 1993-7, however, that stated

Stein, Green and the Public Dollar

— *New York Post*¹⁸

that had he run for public advocate, the Board, based upon the facts as assumed in its Opinion, would have counted Stein's financial transactions from his abandoned campaign for mayor toward his public

advocate's race.¹⁹ Mark Green won the Democratic party primary with 46 percent of the vote. Green collected slightly over \$830,000 in contributions, received about \$300,000 in public funds, and spent approximately \$1,120,000. (See Figure 6.4.) By contrast, the other



candidates receiving public funds in the primary election received only ten percent of the vote.

Although all candidates received the bulk of their contributions from individuals, there were some notable differences in their fund raising. For example, Susan Alter and

In the Race for Public Advocate, Six Is a Crowd

— *The New York Times*²⁰

Roberto Ramirez each received a relatively large portion of their contributions

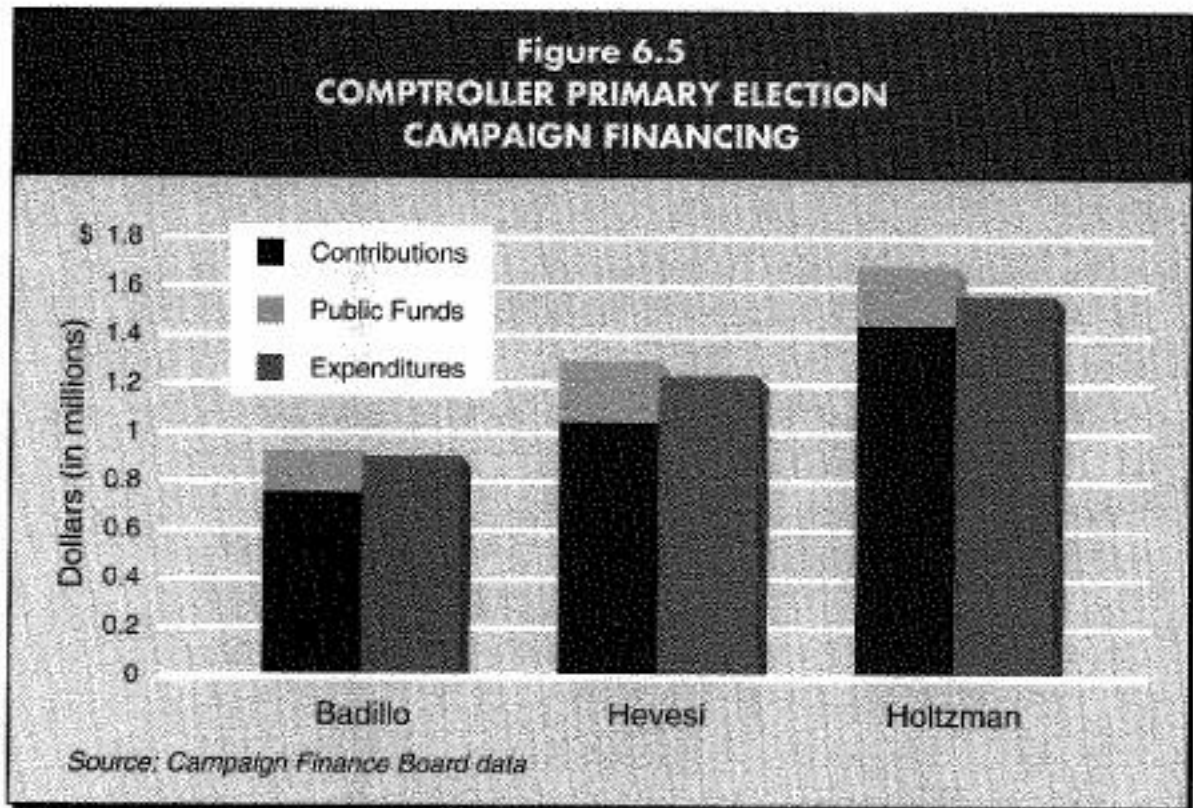
from corporations and businesses (30 percent and 35 percent respectively), while Donald Halperin received nearly 11 percent of his contributions from political committees.

General Election. Three Program participants who ran in the Democratic primary — Mark Green, Susan Alter, and Ron Reale — were rematched in the general election: Mark Green on the Democratic line, Alter on the Fusion ticket, and Ron Reale on the Conservative party line along with three other candidates, Right-to-Life candidate Marjorie Barrett Garvey, Socialist Workers candidate Al Duncan, and Libertarian Bob Falk, none of whom participated in the Program. Despite the wide field of candidates, the race was less competitive than the primary; Mark Green won easily with about 60 percent of the vote.

Comptroller Campaign

Primary and Runoff Elections. Just as the contest for mayor was extremely competitive, so too was the primary race for comptroller. Three candidates, incumbent Elizabeth Holtzman, Fusion candidate Herman Badillo, and State Assembly member Alan Hevesi, all of whom were participants in the Program, competed in the Democratic primary. In the beginning of the election season, it seemed that Comptroller Holtzman was certain to be re-elected to a second term. In a June poll, commentators found that she “held a sizeable 26-point lead over ‘Fusion’ candidate Herman Badillo,” and her favorability rating of 63 percent was the highest of all the candidates running for citywide office, “while only four percent of those polled chose Alan Hevesi, [with] 50 percent saying they never heard of him.”²¹

Deluged by questions regarding a loan her Senate campaign had received in 1992 from Fleet Bank (which was later selected as a co-manager of a City bond issued by the comptroller’s office), Holtzman’s lead had eroded by the September primary. Charges of a conflict of interest led to an investigation by the New York City Department of Investigation. The primary was an extremely competitive race, with Hevesi receiving 35 percent, Holtzman receiving 34 percent, and Badillo 31 percent of the vote (182,492, 175,267, and 159,950 votes, respectively). No one candidate had received 40 percent of the vote, and the two top vote-getters were Holtzman and Hevesi. Forced into a runoff with a candidate who once campaigned under the slogan “Alan Who?”²² Holtzman made public the Department of Investigation report on her Senate loan. Although the report concluded that Holtzman did nothing illegal, she was found to have been “grossly negligent” in her conduct.²³ Some felt



the criticisms of Holtzman were excessive.²⁴ In the runoff election on September 28, Hevesi defeated Holtzman by a two-to-one margin.

The publicity surrounding Holtzman's campaign loan led, in part, to the voluntary moratorium on campaign contributions proposed by 17 of the largest municipal bond firms in October. The Board's data collection and disclosure capabilities may also have contributed to the bond firms' willingness to take such action. (See p. 26.)

The three comptroller candidates in this primary race collected almost \$3.4 million in contributions, received a combined total of approximately \$790,000 in public funds, and made \$3.9 million in expenditures.²⁵ Elizabeth Holtzman led the other two candidates in contributions, expenditures, and public funds.

General Election. After winning the runoff election, Alan Hevesi went on to an easy victory in the general election. He again faced Fusion candidate Herman Badillo, as well as Conservative party candidate Howard Lim, Right-to-Life candidate Barbara Bollaert, Socialist Workers candidate Natalie Melissa Harris, and Libertarian candidate Vicki Kirkland. The latter four did not participate in the Program. Hevesi received 56 percent of the vote, Badillo received 42 percent, and the remaining 2 percent went to each of the four other candidates.

Conclusion

In 1993, in each of the citywide races, issues related to ethics and campaign finance were of great — even decisive — importance. In the mayoral race, the negative publicity the Dinkins campaign received after the Democratic State Committee made expenditures for advertisements that critics charged had promoted the Dinkins campaign (see p. 46) and the Board's assessment of a \$320,000 penalty against the Dinkins campaign for over-the-limit expenditures were important events in the final days of a very close election. In the race for public advocate, the incumbent Andrew Stein made a dramatic exit from politics altogether, after the rejection by the press and the public of an extravagant campaign unrestrained by Campaign Finance Program limits. And finally, in the comptroller's race, incumbent Elizabeth Holtzman went from clear front-runner status to losing in a primary runoff as a result of the controversy surrounding her Senate campaign loan from Fleet Bank.

When the vote came in, ethics and the appearance of propriety counted. At the borough and Council levels in 1993, as the next chapter will examine, the results were not as dramatic.

NOTES

- ¹ Candidates cannot "voluntarily abide" by the Program's limits if they refuse to participate and thereby fail to subject their campaigns to the Board's audit and enforcement process, as it is only through this process that a campaign's compliance with the Program's requirements can be ascertained.
- ² Editorial, "Mr. Stein Quits," *The New York Times*, July 1, 1993, A13.
- ³ See, e.g., "Campaign Finance Reform, in Action," *The New York Times*, November 7, 1993, 14.
- ⁴ See, e.g., Maurice Carroll, "Innis Gets Free Ride By Mayor," *New York Newsday*, July 20, 1993, 23.
- ⁵ Carroll, "Innis Gets Free Ride By Mayor," 23.
- ⁶ Registered voters by Council district, New York City Board of Elections, May 3, 1993.
- ⁷ Based on total votes cast for 1993 mayoral candidates in the general election.
- ⁸ A recent survey of contributions to candidates at the Federal level found that a zip code within this region of the City was also the largest source in the United States of campaign contributions to Federal campaigns. See Glenn R. Simpson, "Coughing It Up for Campaign Coiffers: Checks from 10021 Are in the Mail," *The New York Observer*, June 13, 1994, 1.
- ⁹ There were nine formal complaints submitted by mayoral campaigns.
- ¹⁰ Letter from the New York Public Interest Research Group, Inc. and New York State Common Cause to Mayor David N. Dinkins and Comptroller Elizabeth Holtzman, dated July 13, 1993, on file with the Campaign Finance Board.

Chapter 6

¹¹ Letter of New York Public Interest Research Group and New York State Common Cause, dated July 13, 1993.

¹² This Determination cited Advisory Opinion No. 1993-5, stating that "the proper use of governmental resources for public purposes is not restricted by the Campaign Finance Act, regardless whether the expenditure arguably has an impact on a political campaign. . . . The question whether government resources have been illegally or improperly used for a political campaign, or for any other private purpose, is addressed in other laws that are interpreted and enforced by other agencies, such as the Conflicts of Interest Board and the office of the District Attorney."

¹³ Intro. No. 761 (introduced in July 1993). In reference to Council newsletters which were distributed close to election time, one candidate stated, "I think specifically you have to demand that from the time nominating petitions are first allowed to be circulated . . . no reports, no City money to be used by any of the incumbents. I think that is legitimate." *Campaign Finance Board 1993 Hearings*, at 303 (testimony of City Council candidate Alexander Staber).

¹⁴ *Campaign Finance Board 1993 Hearings*, at 21-23 (testimony of Mayor-elect Rudolph Giuliani).

¹⁵ New York State Commission on Government Integrity, *Evening the Odds: The Need to Restrict Unfair Incumbent Advantage*, October 1989.

¹⁶ *Dollars and Disclosure*, 145; see p. 132.

¹⁷ Joseph P. Fried, "Running for an Old Job That Has a New Name," *The New York Times*, September 8, 1993, B8.

¹⁸ Editorial, "Stein, Green and the Public Dollar," *New York Post*, June 14, 1993, 22.

¹⁹ See Appendix J, Summary of Advisory Opinions.

²⁰ Jonathan P. Hicks, "In the Race for Public Advocate, 6 Is a Crowd," *The New York Times*, June 15, 1993, B3.

²¹ Nick Chiles, "Poll Boosts Holtzman," *New York Newsday*, June 11, 1993, 41.

²² Mireya Navarro, "'Alan Who?' Is Now Signing Autographs and Drawing Attention," *The New York Times*, September 22, 1993, B3.

²³ See Michael Powell, "Trivial Matters Become Gross," *New York Newsday*, September 15, 1993, 4.

²⁴ "Just [how did she manage] to evoke such collective contempt? It is a fair question, considering that the pack's pounding has been savagely disproportionate to misconduct that is, at least in this political culture, discouragingly routine." (Wayne Barrett, "The Tragedy of Liz Holtzman," *Village Voice*, September 29, 1993, 24-28.)

²⁵ These totals include public funds payments and contributions received, and expenditures made for the runoff election.

Chapter 7

Borough and Council Races: High Participation, Low Competition – Is It Only a Matter of Money?



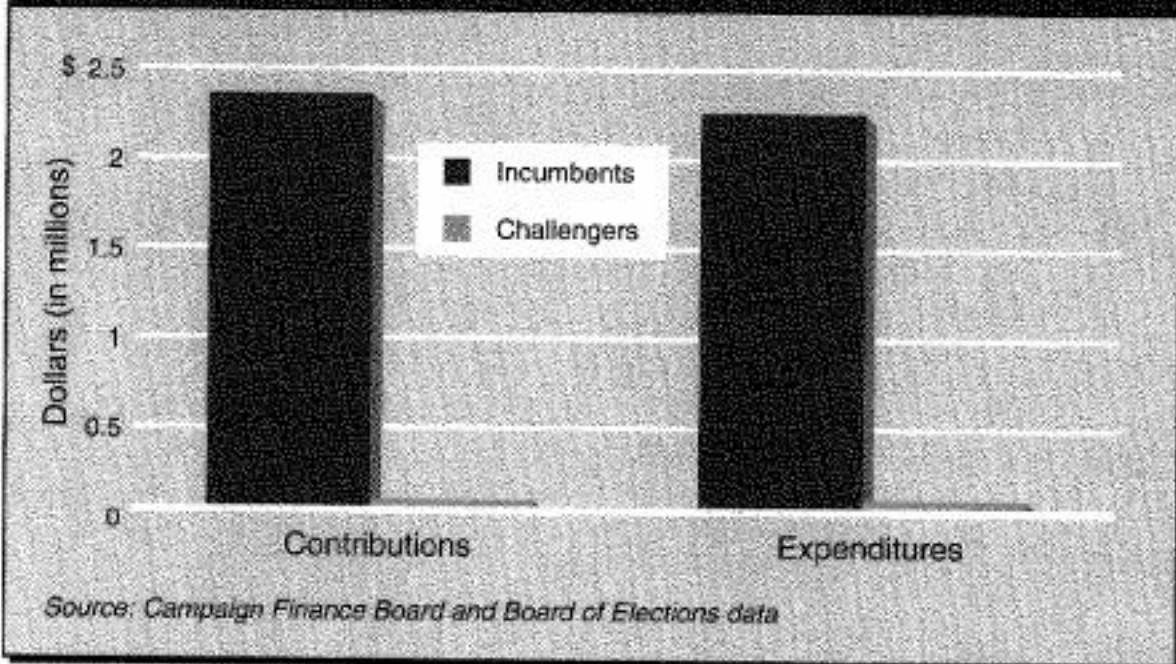
With all the interest in the 1993 citywide races, the races on the borough and Council levels were given short shrift in the popular press. All five incumbent borough presidents retained their seats. Four new City Council members were elected, two in open seats in Brooklyn where incumbents had decided not to run, and another two where incumbent City Council members lost their bids for re-election. Campaign Finance Program participation was quite high, with 50 percent of all borough president candidates in both the primary and general elections participating in the Program, 84 percent of all candidates for City Council in the primary election, and 59 percent of all City Council candidates in the general election.

Borough President

Primary and General Elections. Only one borough president, Fernando Ferrer, faced a primary challenge. He was opposed for the Democratic party line by Monica Braggs, a real-estate salesperson who did not participate in the Program. Ferrer won easily, receiving approximately 88 percent of the vote. He received about \$53,000 in public funds and spent \$819,000. The *Daily News* reported that on primary night Ferrer “deflected suggestions of overkill” in spending against candidates who had no prior public experience saying, “[t]hey breathe.”¹

In the general election for Borough President, all five incumbents successfully retained their seats, most against minimal opposition. Bronx Borough President Fernando Ferrer, Manhattan Borough President Ruth Messinger, Queens Borough President Claire Shulman, and Staten Island Borough President Guy Molinari all participated in the Program. Only Fernando Ferrer claimed and received public funds — approximately \$12,000 for the general election. As Figure 7.1 shows, total mean contributions and expenditures for an incumbent borough president were much greater than those for a challenger.

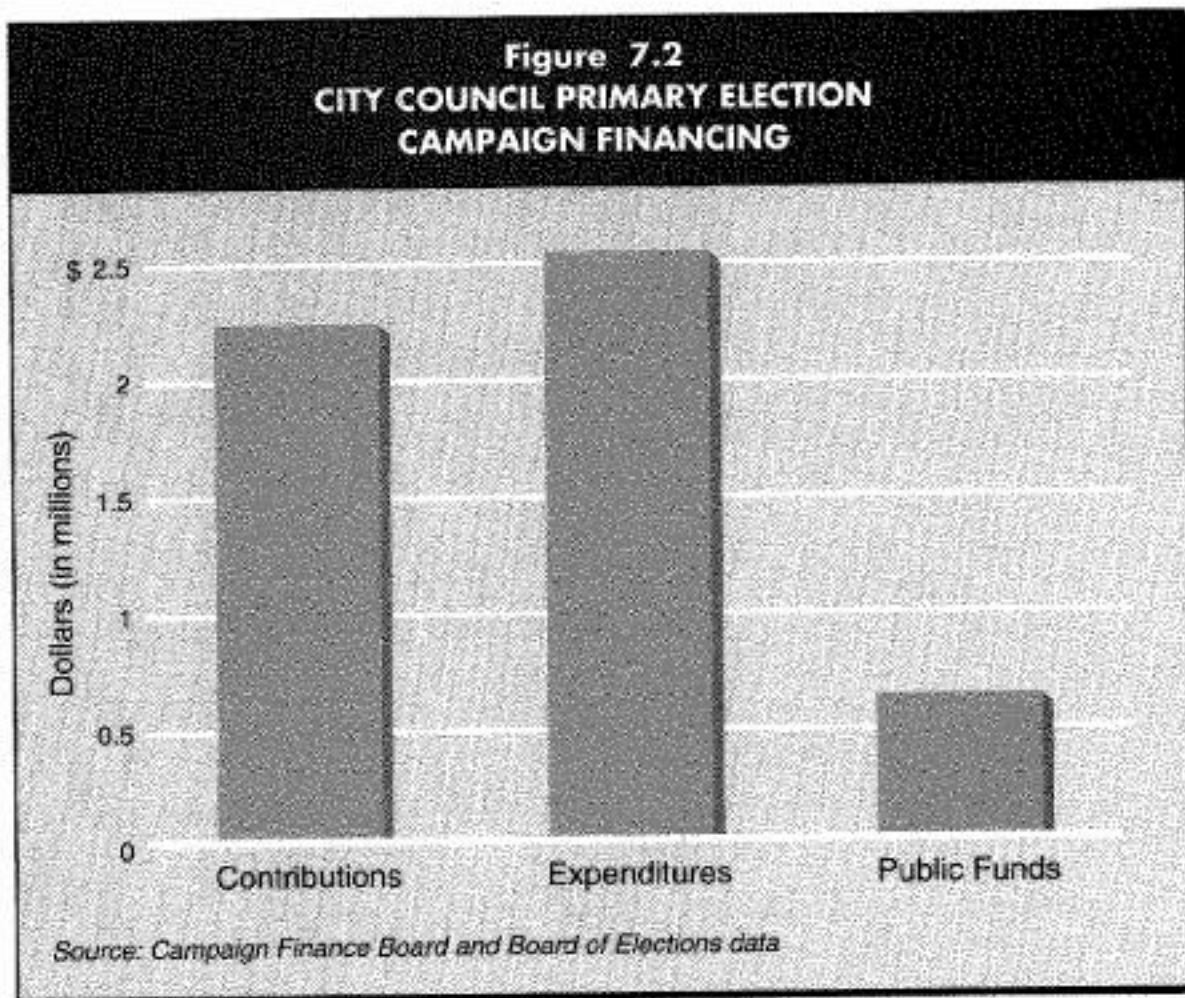
Figure 7.1
BOROUGH PRESIDENT
CONTRIBUTIONS AND SPENDING



In total, approximately \$2.3 million was spent by candidates for the office of borough president in 1993. In the Bronx, Ferrer faced two non-participating candidates, Kevin Brawley (Conservative) and Martin Richman (Republican). Brooklyn's Howard Golden, the only borough president who did not participate in the Program, faced another non-participant, John Jasilli. Ruth Messinger faced four challengers: Delco Cornett, an independent participating candidate who did not meet the Program's threshold requirement, and non-participants Michael Berns, a Conservative, Elaine Reiss, a Republican, and Ludwig Vogel, another independent. Messinger raised \$770,000, spent approximately \$840,000, and won with a large majority of the vote (76 percent). Messinger had a large block of potentially matchable contributions, but she did not apply for public funds, in contrast with her acceptance of nearly \$400,000 in public funds in 1989, for which she was criticized by some who believed she then faced minimal opposition.

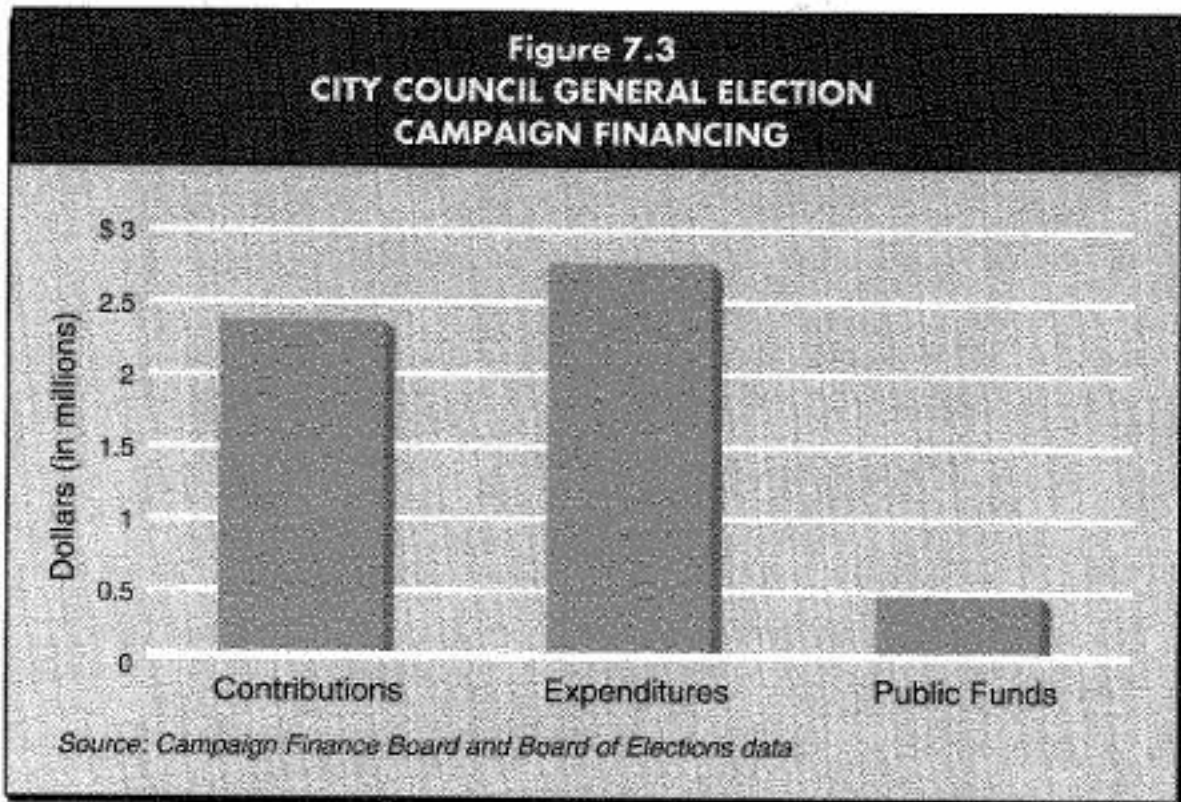
City Council

Primary and General Elections. While last fall's Council races generated less interest than the 1991 Council elections both in terms of the number of candidates running and media attention, there were several fiercely competitive contests. In 1993, Program participants made up the majority of candidates in both the primary and general elections, and, for the first time in the Program's history, a substantial majority of incumbent City



Council members were participants in the Program as well. Among incumbent Council members, 13 out of 16 running in the primary were Program participants. One incumbent lost his seat in the primary election. Altogether, City Council candidates received \$2.2 million in contributions, spent \$2.5 million, and, in addition, participating Council candidates received about \$600,000 in matching funds attributable to the primary elections. (See Figure 7.2.)

In the general election, 61 out of 104 City Council candidates were participants in the Program, as were 37 of 48 incumbents. The number of Council candidates on the ballot who were participants was unprecedented. Several incumbents who participated in the Program did not receive matching funds, as they either ran unopposed in the general election, did not request matching funds, or did not meet the threshold requirement. Overall, there was very little turn-over. Only one incumbent Council member lost his seat in the general election, and most incumbents won by relatively large margins. The much higher number of City Council races in the general election led to somewhat greater fund raising and spending than in the primary election campaigns. (See Figure 7.3.)



In focus . . . Council District 2. The 2nd Council district in Lower Manhattan was the site of a hotly contested race between first-term incumbent Antonio Pagan and the seat's former occupant, Miriam Friedlander, who had represented earlier configurations of the district for 18 years before being ousted by Pagan in the 1991 Council race by only 121 votes. Also running was Sylvia Friedman, a Housing Policy Analyst for the NYC Housing Preservation Department. Pagan enjoyed the support of City Council Speaker Peter Vallone, with Vallone's own campaign committee contributing \$1,500 to Pagan and C-PAC, the Council Political Action Committee, giving Pagan \$348.

This primary received a significant amount of media attention, with some reporters characterizing it as more of a "civil war" than a Council race.² All three candidates participated in the Program, and all three qualified for public matching funds. The two front runners, Pagan and Friedlander, each exchanged charges that the other was circulating anonymous hate leaflets throughout the Lower East Side; Pagan reportedly received death threats; posters of Friedlander were defaced. On a different level, questions regarding spending by Manhattan Borough President Ruth Messinger on behalf of the Friedlander campaign were informally brought to the attention of the Board, with Pagan's representatives asserting that Messinger was acting in cooperation with Friedlander. Messinger denied the charges, and the Board did not find a basis for taking action on the information before it. The subject of independent spending, including by candidates participating in the Campaign

Finance Program, is under ongoing review by the Board. (See p. 132.) Pagan won the primary race, receiving 48 percent of the vote compared to Friedlander's 39 percent and Friedman's 13 percent. He went on to win the general election.

In focus . . . Council District 4. The Councilmanic race in Manhattan's 4th district in the general election was one of the closest in New York City politics in 1993. In fact, it was not until weeks after the November election that a winner was finally announced, after all absentee and paper ballots had been counted by the Board of Elections. In the end, incumbent Andrew Eristoff retained his seat by a mere 201 votes over Program participant and community activist Jane Crotty. This was a replay of the special election held in February of 1993 for this seat after its previous occupant, Carolyn Maloney, was elected to the United States House of Representatives. The special election had also been a photo finish, in which Eristoff won by an even closer margin of 57 votes.

This Council district, which spans the east side of Manhattan from Peter Stuyvesant Village to the Upper East Side, saw unprecedented levels of spending. Andrew Eristoff, a non-participant, spent almost \$624,000, according to his filings with the Board of Elections, or about \$26.54 per vote in the general election. When combined with spending for the special election, Eristoff spent over \$950,000 on the seat. By contrast, Jane Crotty spent only \$228,000 in the general election, or about \$9.77 per vote. (She spent about \$159,000 in the special election.) Because her opponent was a high-spending non-participant, Crotty qualified to receive the Board's public funds at the two-for-one matching rate and had her expenditure cap removed.

Some publicly criticized Eristoff for not abiding by the Campaign Finance Act. Former Mayor Koch, quoted in campaign literature distributed by Jane Crotty, stated:

When I was Mayor, campaign financing was one of my most important initiatives in placing limitations on spending by candidates. Today, almost all of the candidates running for election are participants in this program. Jane's opponent, Andrew Eristoff, is not. By his excessive spending, now well over \$600,000, he is attempting to buy elected office. This approach to gaining public office must be rejected by the voters.³

Despite the overwhelmingly disproportionate spending by Eristoff, this race was extremely close and suggests that Eristoff's personal wealth — he loaned his campaigns \$643,000 (\$256,000 for the 1993 special election and \$387,000 for the general election) — was an important factor in his victory.

Crotty received several endorsements from the major daily newspapers, including *The New York Times*, *New York Newsday*, and the *New York Post*, some citing Eristoff's spending and non-participation in the Program as a reason for endorsing Crotty.⁴

The New York Times:

[H]e damages his cause by lavish spending and by refusing to participate in the city's campaign finance program, citing high Democratic enrollment in his district. That excuse — the same one he used in February — rings hollow in a district that often votes for Republicans.

New York Newsday:

Crotty and Eristoff competed in last spring's special election to fill the seat vacated by U.S. Rep. Carolyn Maloney. In a nailbiter, Eristoff squeezed out a 57-vote victory. Some say he bought the seat by not participating in the city's Campaign Finance Program, which awards public campaign funds to candidates who abide by the law's fund-raising and spending limits. Eristoff spent an astonishing \$343,000 for his bid — or \$72 per vote.

Eristoff says he needed lots of dough to take on the district's Democratic Party machine. That's a formidable problem but not an acceptable reason for eschewing the Campaign Finance Program once. Much less twice.⁵

In focus . . . Council District 8. Spanning upper Manhattan and part of the Bronx, this district was the site of another closely watched primary race, as incumbent Adam Clayton Powell faced what many saw as an uphill battle. This was due, in part, to many endorsements (including one from Congressman Charles Rangel) for challenger Francisco Diaz, Jr., a community board member. Powell also had some difficulty meeting the numeric component of the Program's threshold requirement (see p. 53), but did ultimately receive \$12,700 in public funds for his primary campaign. Powell won with 45 percent of the vote, beating both Diaz and a third candidate, William Del Toro, whom he had faced in a rerun primary two years before. Del Toro, like Powell, also had difficulty in meeting the Program's numeric threshold requirement, but ultimately received slightly over \$33,000 in public funds. All three candidates were Program participants.

In focus . . . Council District 14. This race in the Bronx saw incumbent Program participant Israel Ruiz recapture his seat with 88 percent of the vote. Non-participant Joseph Chiavaro and participant Agustin Alamo were also in this race. Alamo did not qualify to receive any public matching funds because he did not meet the threshold.

The threshold was problematic for incumbent Ruiz as well. According to the campaign's treasurer, Milagros Rosa, this was because the district is one of the poorest in the City. The campaign also stated that many of this district's constituents are recent immigrants who are not yet fully involved in the electoral process. These and other anecdotal accounts pose a challenge to the structure of the threshold requirement, a subject discussed in Chapter 11.

In focus. . . Council District 17. In the Bronx, incumbent Rafael Castaneira-Colon lost to Assembly member David Rosado in the primary. Castaneira-Colon was hurt by a number of allegations, including one that he did not live in the 17th Council district.⁶ Andrew Eatmon, Jr., who came in second to Rosado with 23 percent of the vote, was also in the primary race. Both Castaneira-Colon and Eatmon were Program participants; Rosado was not. A fourth candidate, Rafael Mendez, was a Program participant and qualified to receive public funds; he was later knocked off the primary ballot. Rosado went on to win the general election (against another non-participant, Luis Torres, and Rafael Mendez) and became one of four freshman Council members.

In focus . . . Council District 32. This race was the only general election contest that saw an incumbent Council member lose his seat to a challenger. Walter Ward, a Council member for 25 years, was successfully challenged by Republican real-estate investor Alfonso Stabile, who won with 56 percent of the vote, compared to Ward's 44 percent. This race was one of the few in which no candidate was a Program participant. Stabile spent \$150,000 to unseat the incumbent Council member.

In focus . . . Council District 38. First-term incumbent and second-time Program participant Joan Griffin McCabe won her party's nomination for another term with 45 percent of the primary vote. This was a three-way Democratic primary race with all three candidates participating in the Program. Many saw McCabe as vulnerable in a district that was created during the Charter-mandated redistricting in 1991 to increase minority (in this district, Latino) representation. Migdalia Rivera finished in second place. She received almost \$13,000 in public funds for her primary race from the Board. Public matching funds were initially withheld from the third candidate, John Kennedy O'Hara, because of compliance problems from a previous election, but he ultimately qualified for about \$9,000 in funds. McCabe herself received about \$32,000 in public funds for both her primary and general election campaigns.

McCabe has a reputation for independence in the Council, and did not receive any support from C-PAC, the Council Political Action Committee, which gave contributions to 12 other incumbent Council members. This issue was the subject of extensive coverage in the *Village Voice* on September 7. According to the *Voice*, not only was C-PAC money withheld from McCabe, but there was an outright effort being made by the Council leadership to oust her.⁷ Media endorsements in this race were split: *The New York Times* and the *Village Voice* both endorsed Joan McCabe, while the *New York Post* and *New York Newsday* endorsed Rivera.⁸ After winning this close primary race, McCabe easily won the general election.

In Focus . . . Council District 41. This Brooklyn district saw the most competitive Democratic primary race in the 1993 Council elections, between incumbent Enoch Williams and challenger Atchudta Barkr. Barkr participated in the Program, but Williams did not. Williams won this primary by a very small margin, receiving about 52 percent of the vote compared to Barkr's 48 percent.

Because Williams was a high-spending non-participant, Barkr was eligible to receive public matching funds at the accelerated, two-for-one rate. Barkr, however, did not meet the Program's threshold requirement for the office of City Council and did not receive any public funds. Williams, on the other hand, raised slightly over \$57,000 in contributions before the primary and spent approximately \$42,000. Barkr, a union organizer, was endorsed by the *Village Voice*. "She'll take an activist approach to bringing services to this poor and underserved district."⁹ The fact that Barkr was an extremely competitive candidate who did not meet the Program's threshold requirement raises the question whether the threshold is too stringent for Council candidates, denying even some strong candidates access to public funds. (See Chapters 4 and 11.)

In the general election, Enoch Williams was challenged by Frederick Phillips II, who was also a non-participant. Williams won this general election easily, with approximately 97 percent of the vote.

Flatbush Race Anything but Flat

— *Daily News*¹⁰

In focus . . . Council District 45. In the 45th Council district, comprised of parts of Flatlands and East Flatbush in Brooklyn, a seat opened when incumbent Susan Alter entered the race for public advocate. Once again, this was a three-way Democratic primary race, with all candidates participating in the Program. Both Lloyd Henry and attorney Colin Moore received public matching funds (about \$24,000 and \$14,000 respectively), while the third candidate, Janice Robertson, did not receive public funds because of various compliance problems. Moore, a New York attorney known for his role in some high profile proceedings, came in second place in the race for this City Council district in 1991. During the 1993 primary, issues concerning the location of his residence surfaced. The Kings County Supreme Court upheld Moore's position that his residence was within the 45th district.¹¹ Lloyd Henry won the Democratic Party's nomination, paving the way for him to win the general election and to become the district's first African-American representative. Henry received endorsements from David Dinkins, Ruth Messinger, Howard Golden, *New York Newsday*, and *The New York Times*.¹²

In focus . . . Council District 47. The retirement of Council member Samuel Horwitz left three candidates competing for the Democratic Party nomination in this Brooklyn district: State Assembly member Howard Lasher, Sheldon Plotnick (the owner of a bookkeeping and financial services company, who had served on the community board, school board, and as a party leader), and attorney Joel Michaels. This was a bitter campaign between Lasher and Plotnick, which included a well-publicized feud over control of a local school board. Because non-participant Lasher's spending triggered the bonus, Program participant Sheldon Plotnick received \$40,000 in public matching funds at a two-for-one rate, and his primary spending limit was removed. At the post-election hearings held by the Board, Mr. Lasher stated that he had not joined the Program because the opt-in date was too

early. (See p. 127.) The third candidate, Joel Michaels, was also a Program participant, but he failed to meet the threshold and did not collect any public matching funds. He received only about 13 percent of the primary vote. Lasher won the primary election and went on to win the general election as well.

In focus . . . Council District 49 (North Shore, Staten Island). On Staten Island, incumbent Jerome X. O'Donovan (Democrat/Conservative), a Council member since 1982, was challenged by Republican candidate Lee Covino and Right-to-Life candidate Jerry Chase in the general election. In June of 1993, *Staten Island Advance* columnist Judy Randall noted that the GOP was hopeful that the outcome of this race would be Republican control of all "four local city seats."¹³ Some thought O'Donovan was vulnerable because they believed his representation had of late been less energetic than in earlier years of service. O'Donovan defended his accomplishments and complained that Covino, who oversees the contracting process in the Borough President's office, did not stick to the issues.¹⁴ Both O'Donovan and Covino were participants in the Program, but Chase was not. Both participants received public funds, with O'Donovan qualifying for about \$14,000 and Covino for about \$16,000. O'Donovan outraised and outspent both his challengers, his expenditures exceeding \$113,000, compared to Covino's \$41,000. O'Donovan won re-election with 56 percent of the votes, against Covino's 42 percent and Chase's two percent.

Conclusion

While the citywide races were almost universally characterized by vigorous competition, borough president and Council campaigns were, with a few notable exceptions, lackluster races. Among borough presidents, all incumbents were returned to office in heavily lopsided contests; at the Council level, only 16 incumbents faced primaries, and all but two held on to their seats. Nor were these close races; as was shown in Chapter 1, the winners took their seats by relatively wide margins.

Why is it that citywide races were, generally speaking, more competitive than races at the borough president and City Council levels?¹⁵

Having a broad-based, well-financed campaign staff is practically a prerequisite for a competitive campaign in any of the three citywide offices. Although public funds are certainly of great value to citywide candidates, the real effect of the Program at the citywide level arguably lies more with its contribution and spending limits and the disclosure the Program requires. As Chapter 2 demonstrates, big contributors do have a presence at this level, and the Program's \$6,500 limit capped what would otherwise undoubtedly have been much higher contributions. As shown in Chapter 3, by placing citywide candidates on an equal footing, the Program's spending limits may also markedly increase competition.

By contrast, the contribution limits generally have little impact on fund raising at the Council level and, while some Council races were marked by high spending candidates, some very competitive campaigns were waged by candidates with comparatively few resources. The effect of public funds is similarly mixed. Although some candidates have

testified that matching funds were crucial to their campaigns (see pp. 49-52), other candidates who did not meet the Program's threshold requirements were still able to mount viable candidacies. Compared with extremely competitive campaigns for City Council in 1991, campaigns in 1993 were much less so.

Arguably the greatest difference between 1991 and 1993 races at the City Council level was the presence of an abnormally high number of open seats due to redistricting, although the process of redistricting itself and the temporary relaxation of ballot access requirements may have also played a role.¹⁶ As noted in Chapter 1, these seats were the primary locus of competition in 1991. (Despite a higher number of primary challenges and some defeats, many incumbents won re-election with relative ease.) In 1993, by contrast, only two seats were vacant. Some would-be challengers may have been deterred by incumbents' greater resources. Taking into account both participants and non-participants, the typical (median) incumbent had about \$51,000 in contributions in 1993; the typical non-incumbent had only about \$6,000. As was demonstrated in Chapter 7, there was a similarly pronounced difference in the resources available to incumbents and challengers among borough president candidates.

While it is difficult to evaluate the specific effect of money in a given race, there is no question that campaign finances can influence the outcome of campaigns. Proposed changes in the distribution of public funds would ensure that viable candidates will have access to resources and would further democratize fund raising by making smaller contributions from individuals even more valuable. Recipients of public funds would become increasingly beholden to the people they represent.

NOTES

- ¹ Mark Mooney, "Primary Victory Cost to Ferrer: Nearly a Million," *Daily News*, September 23, 1993, 12.
 - ² See, e.g., Molly Gordy, "Uncivil War of Alphabet City Council Nomination," *New York Newsday*, September 2, 1993, 33.
 - ³ Ed Koch as quoted in Jane Crotty's campaign literature.
 - ⁴ See Editorial, "Four for the City Council," *The New York Times*, October 27, 1993, A22; Editorial, "Anoint Crotty," *New York Newsday*, October 26, 1993, 42; and Editorial, "City Council Choices," *New York Post*, October 28, 1993, 28.
 - ⁵ *Newsday* also noted that Charles Millard, another East Side Republican facing similar circumstances, had mounted successful campaigns on two occasions (once against a sitting incumbent), both times from within the constraints imposed by the Program. See *New York Newsday*, "Anoint Crotty," 42.
- It is worthy of note that the 4th district has a higher percentage of registered Republicans than the neighboring 5th district, where Republican Charles Millard retained his seat. In most other Council districts where Republicans hold seats, the percentage of registered Republicans is lower as well.

Borough and Council Races: High Participation, Low Competition

- ⁶ Editorial, "Wanna Represent NY? Live Here," *New York Newsday*, June 6, 1993, 29.
- ⁷ See Wayne Barrett, "McCabe v. Everyone," *Village Voice*, September 7, 1993, 14.
- ⁸ See "For City Council from Brooklyn," *The New York Times*, September 10, 1993, A26; "Ballot Boxing," *Village Voice*, September 14, 1993, 11; "Choices for City Council," *New York Post*, September 10, 1993, 20; and "NY Newsday's Primary Picks," *New York Newsday*, September 10, 1993.
- ⁹ *Village Voice*, "Ballot Boxing," 11.
- ¹⁰ Tim Ireland, "Flatbush Race Anything but Flat," *Daily News*, September 10, 1993, 22.
- ¹¹ See Jonathan P. Hicks, "Brooklyn Race Grabs Citywide Attention," *The New York Times*, September 4, 1993, 23.
- ¹² *New York Newsday*, "NY Newsday's Primary Picks," and *The New York Times*, "For City Council from Brooklyn," A26.
- ¹³ Judy Randall, "GOP Sees a Chance for Upstart Covino," *Staten Island Advance*, June 6, 1993, C2.
- ¹⁴ Judy Randall, "East? West? Never Rely on a Politician's Compass," *Staten Island Advance*, June 20, 1993, C2.
- ¹⁵ There were 11 Council races in the 1993 elections which, by academic standards, were competitive (*i.e.*, where the winning candidate received less than 60 percent of the total number of votes received by the top two candidates).
- ¹⁶ Pursuant to a federal court order in the context of lawsuits challenging the way district lines were drawn, candidates were given an additional week to file petitions, and the number of required signatures was drastically reduced.

PART III



Making It Happen: Administration, Enforcement, and Public Education



The New York City Campaign Finance Board Mission Statement

The mission of the Campaign Finance Board is to diminish the influence of private money on candidates in New York City municipal elections and to increase voter awareness of and meaningful competition among candidates. The purpose is served by the Campaign Finance Board's non-partisan administration of a voluntary Campaign Finance Program established by local law and the publication of a nonpartisan Voter Guide, mandated by the New York City Charter. The Program makes public money available to candidates who limit the size of the private contributions they accept and the expenditures they make and who make detailed public disclosure of their campaign finances; the Voter Guide provides free space to all candidates in municipal elections in a nonpartisan forum that reaches all registered voters. . . .

Chapter 8

Structure and Administration of the Campaign Finance Board

T

he effectiveness and reputation of the Campaign Finance Board depend on the impartial judgement and leadership of the Board members and the ability of the staff to carry out the Act's mandates under the Board's direction. The Board has received wide praise for the performance of its agency missions.

Campaign Finance Reform, in Action

Last week's mayoral election posed the toughest test yet for New York City's five-year-old voluntary public campaign financing system. The law's spending limits predictably gave rise to a creative search for loopholes, but on the whole the system worked remarkably well. The positive experience is a tribute to the Campaign Finance Board charged with enforcing the rules — and a timely lesson for reformers in Congress.

Both Mayor David Dinkins and Mayor-elect Rudolph Giuliani agreed to participate in the system, which provides public matching funds to municipal candidates who agree to extensive financial disclosure, limits on private contributions and an overall limit on campaign spending. The idea is to curb the influence of big contributors, and to prevent candidates from, in effect, buying City Hall.

But the limits would have been rendered meaningless had the executive director, Nicole Gordon, and the four members of the Campaign Finance Board not acted swiftly to address evasive schemes. The four are the Rev. Joseph O'Hara, the President of Fordham University who serves as chairman; James Lewis, a City College professor; Joseph Messina, an insurance executive, and Vaughn Williams, an attorney.

In the most notorious case of attempted cheat-

ing, the state Democratic Party ran a radio advertising and direct mail campaign in support of Mr. Dinkins, claiming "independence" from the candidate's campaign. The party abandoned the effort, and the Dinkins camp agreed to pay for the ads already run, in anticipation of an adverse decision by the board. The Dinkins campaign was also penalized for claiming bloated administrative expenses. Mr. Giuliani and his citywide running mates, meanwhile, were required to allocate advertising costs so that none of the candidates running on the fusion slate would unfairly subsidize another.

The campaign exposed areas where the city law needs strengthening. There should be tougher rules, for example, on use of staff and government facilities by incumbents. But the board's ability to keep candidates within the rules shames its Federal counterpart — the partisan and largely toothless Federal Election Commission.

So far, the debate over campaign finance reform in Congress has largely ignored the need to create a new enforcement mechanism — one run by qualified, independent-minded appointees authorized to respond in timely fashion to abuses that directly affect an election. As the city's experience suggests, even good legislation doesn't mean much without strong enforcement.

— *New York Times*, November 7, 1993

Chapter 8

When the Campaign Finance Board was established, care was taken to create a balance on the Board and to remove appointees from the control of the appointing authority. A subsequent Charter amendment made it clear that the Board must conduct its operations in a "nonpartisan manner." Two Board members are chosen by the Mayor and must be from different political parties. Two Board members are chosen by the Speaker of the City Council and must be from different political parties. The Chairman is appointed by the Mayor in consultation with the Speaker of the City Council. The Board members serve staggered, fixed terms, so that their seats do not become vacant at the same time, and they do not serve at the will of the appointing authority.

The Chairman of the Campaign Finance Board is Joseph A. O'Hare, S.J., a Democrat. He is the President of Fordham University. Before his appointment to the Campaign Finance Board, he served on the New York City Charter Revision Commission and the Mayor's Commission on Appointments. He was appointed to his first five-year term by Mayor Koch in 1989. He was reappointed to a second five-year term by Mayor Giuliani in 1994. Board member James I. Lewis, a Liberal, is an Assistant Professor at the City College of New York. He was appointed by the Speaker of the City Council to a one-year term in 1988, then reappointed to another five-year term in 1989, which expired in March of 1994.



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

Fact Sheet 8.1
CITATIONS RECEIVED BY THE BOARD

In 1991, Chairman O'Hare was presented with an honorary doctoral degree from the City University of New York, in part for his work on the Board.

Newspapers were not alone in praising the accomplishments of the Campaign Finance Board. In the summer of 1992, the Washington D.C.-based Center for Policy Alternatives chose the New York City Voter Guide, a nonpartisan package of information about municipal candidates, local ballot issues, and voting procedures, as one of "10 Ideas That Work for a Better Democracy," featuring it during a conference "highlighting model policies and programs from around the country which have proven effective in strengthening democracy."

On November 19, 1992, as part of its 95th anniversary dinner and awards ceremony, Citizens Union honored Chairman O'Hare for his "extraordinary contribution ... to enhancing the integrity of the City's political life," presenting him with the annual Civic Leadership Award. That same night, the New York County Lawyers' Association presented Nicole A. Gordon, the Executive Director of the Campaign Finance Board, with a Public Service Award.

In December 1992, New York State Common Cause honored the Board for its "even-handed, efficient administration" of the Campaign Finance Program and gave its "I Love an Ethical New York" Annual Leadership Award to Board members O'Hare, Lewis, Messina, and Sotomayor and Executive Director Gordon.

Chairman O'Hare will be the recipient of the 1994 COGEL award, the highest recognition given by the Council on Governmental Ethics Laws, the umbrella organization for ethics and campaign finance agencies throughout the United States and Canada.

As of this writing, he is serving without appointment to the Board. Joseph Messina, a Democrat, was also appointed by the Speaker of the City Council. He is the President of the Motor Vehicle Accident Indemnification Corporation. He was appointed to fill an unexpired term in 1988, then reappointed in 1991 to a five-year term. Vaughn Williams, a Democrat, was appointed by Mayor Dinkins in 1992 to complete an unexpired five-year term. He is a partner at the law firm of Skadden, Arps, Slate, Meagher and Flom. The fifth Board position, vacant since 1990, was filled in the summer of 1994 as this report went to press with the appointment of Bill Green, a Republican who represented New York's 15th Congressional district for nearly 15 years.

Former founding Board members include Frank Macchiarola, Robert B. McKay, and Sonia Sotomayor. Mr. Macchiarola, a former New York City schools chancellor, resigned after only a few months to become a candidate for New York City comptroller in 1988. He is currently the Dean of the Cardozo School of Law. Robert B. McKay, the former Dean of New York University Law School, served until his death in July of 1990. He had continued to serve without appointment past the expiration of his term in March of 1990. Sonia Sotomayor served on the Campaign Finance Board from 1988 until 1992 (also past her appointed term), when she was appointed a federal judge in the Southern District of New York.

Recent events have, in the eyes of many commentators, underscored the importance of insulating the appointment of Board members from the political process. The event that precipitated this concern was the sudden appointment of a new Board Chairman at the end of 1993. In what may have been his last official act as Mayor, David Dinkins notified the agency that he had appointed Thomas J. Schwarz, a partner at Skadden, Arps, Slate, Meagher and Flom, as a replacement for Father O'Hare, whose term had expired in March of that year and who had continued to serve without appointment. Many good government groups, Mayor-elect Rudolph Giuliani, and, in an unusual display of unanimity, *all* the editorial boards of the local daily newspapers, protested the manner in which the new appointment was made.⁷ *New York Newsday* wrote:

In one of his last, dubious acts of office, Mayor David Dinkins canned the widely respected chairman of the city's Campaign Finance Board, the Rev. Joseph A. O'Hare. This shabby treatment of O'Hare, who has helped make the board a model for the nation, must not stand.

To some observers, the move seemed retributive. A *Daily News* editorial asserted:

The timing — combined with a tacky fax sent to the board announcing the change — leaves no doubt as to Dinkins' intent: To punish O'Hare, whose board fined the Dinkins campaign \$320,000 for violations of spending rules.

In a letter from representatives of three good government groups, Mr. Schwarz, whose

credentials were not challenged, was urged not to accept the appointment:

A midnight replacement of Father O'Hare, if successful, would have a clear and chilling message: If an agency is independent and courageous, its leadership is going to suffer. We think it would harm the board's reputation for nonpartisanship and independence for anyone to accept an offer under these circumstances.³

One of two *New York Times* editorials about the appointment stated, "For the good of the city and to preserve the board's integrity and independence, Mr. Schwarz should step aside."⁴ Mayor Giuliani pledged to reappoint Father O'Hare to the post and to propose a more independent mechanism of selecting a Chairman. On Friday, January 7, one week after his appointment, Mr. Schwarz stepped down, and Mayor Giuliani reappointed Father O'Hare on January 10. Throughout the course of these events, Father O'Hare and the other members of the Board were repeatedly praised for their independence.



Gene Russianoff, right, senior attorney with the New York Public Interest Research Group, testified at the Board's December 1993 Public Hearings with NYPIRG Government Reform Coordinator Neal Rosenstein.

Structure of the Staff

The Campaign Finance Board administers the Campaign Finance Program and produces the Voter Guide through the efforts and close coordination of its six operating units: Administrative Services, Auditing and Accounting, Candidate Services, Communications, Legal, and Systems Administration. In the 1993 elections:

- The **Administrative Services Unit** managed the Public Fund, which held \$11.6 million for the 1993 elections. This unit prepared over 200 checks, totaling over \$6 million, for distribution to the candidates. Unused money in the Public Fund is promptly returned to the City's general funds after the election. This unit supports all the other units as they serve the candidates and the public, including preparation of candidates' forms when requested by the public and the press and supervision of

manual data entry of candidates' filings onto the Board's mainframe database, the Campaign Finance Information System ("CFIS"). Prior to the 1993 elections, Administrative Services oversaw the implementation of an optical imaging system for records storage.

- The **Auditing and Accounting Unit** monitors the finances and compliance of participating candidates and was responsible for saving the City approximately \$700,000 in ineligible matching claims made by candidates. CFIS is an integral tool in the audit process. Specific aspects of the audit program are tailored to different periods of the election cycle. *During the election*, it is designed to detect and resolve potential problems before they arise and includes a comprehensive review of backup documentation for matching claims that candidates submit to meet the Program's threshold requirements for payment. In addition, field audits during the campaign enable the Board to obtain timely information about campaigns' adherence to Program requirements. *After the election*, the Board conducts a comprehensive audit of the campaigns' financial activity which often involves visiting the campaigns' headquarters and extensive reviews of backup documentation. It has four main objectives: to ensure that the campaigns adhered to the Program's contribution and expenditure limits; to verify that financial transactions were accurately disclosed and documented; to make sure that the correct amount of public funds was received by the campaigns and, when appropriate, returned to the Board; and to ensure that the campaign maintained adequate books and records.

- The **Candidate Services Unit** ("CSU"), created after the 1989 elections in response to requests by candidates, gave guidance to the 186 prospective candidates who joined the Program for the 1993 elections. Each member of the unit assisted an average of 23 candidates. The unit conducted eleven "candidate information seminars" for the 1993 elections before the opt-in date, explaining the Program's benefits and requirements, which over 100 people attended. They also conducted eleven "compliance seminars" after the opt-in date at which representatives of about 46 campaigns were in attendance; these seminars detailed the Program's disclosure and recordkeeping requirements, contribution and spending limits, and the rules governing the distribution of matching funds. CSU also prepared a comprehensive, 125-page Candidate Handbook as a primary resource for candidates about compliance with the Program's requirements. CSU staff reviewed all the candidates' filings, processing over 900 financial disclosure statements, and over 500 amendments to disclosure statements. Of those participants responding to a survey prepared by the Board, 88 percent said that CSU staff were "helpful" or "very helpful" to them.

- The **Communications Unit** educated the public about the Program and the Voter Guide. Staff spoke at 28 community meetings throughout the five boroughs, and prepared and distributed 45 press releases and 35 press advisories containing information about the Program, the candidates, and public funds payments. For the 1993 elections, the Communications unit coordinated the release of computerized public disclosure reports, fielded over 1,600 inquiries from the public and press regarding

the Program and candidates' campaign finances, processed over 400 requests for copies of the candidates' filings, and performed electronic searches of the Board's CFIS database in response to individual requests for information. This unit was also responsible for producing the Voter Guide, an extremely challenging task, described in Chapter 10.

- During the election, the **Legal Unit** drafts advisory opinions interpreting Program requirements and addresses complaints against participating candidates alleging violations of the Campaign Finance Act or Rules of the Campaign Finance Board. The Legal staff, through its enforcement efforts, ensures compliance by participating candidates with the Campaign Finance Act and Rules of the Board. The unit also develops proposals for legislation, drafts regulations, and represents the Campaign Finance Board in legal proceedings. During the 1993 elections, the unit prepared 12 advisory opinions, followed up on 14 formal complaints resulting in seven determinations by the Board, initiated 21 lawsuits, and provided information and recommendations for the Board's assessment of civil penalties.

- The **Systems Administration Unit** coordinates the development of all information systems at the Campaign Finance Board, including CFIS and C-SMART®, the candidate reporting software package distributed by the Board. The unit distributed C-SMART® to 83 individuals; 45 participating candidates used C-SMART® to file with the Board. The unit provided on-site user assistance and training for users and operated a telephone help-line to assist campaigns in the evenings and on weekends. It was responsible for production of all computerized public disclosure reports, and provided operational support to the Legal, Audit, and Communications units during the elections.

"Reinventing Government." Part of the Campaign Finance Board's mission statement appears in the beginning of this part of the report. As the Campaign Finance Board is a young agency, it has from its inception attempted to put into practice efficiency and performance measures consistent with goals of increased productivity in government in a time of fiscal restraints.

The Board was given a unique mandate under the City Charter: lessening the influence of private money on campaigns and educating voters. The Board's management staff periodically evaluates how well the agency is meeting its mandate to ensure that administrative procedures keep in step with changing conditions.

The agency has definite deadlines by which it must produce highly visible results. For example, it must publish the Voter Guide, disburse public funds to eligible participating candidates, and publish volumes of disclosure information for the public and the press on timetables outside the agency's control and in accordance with dates set by law for the primary and general elections.

At the same time, demands on staff shift among different units at various points in

the election cycle. Campaign Finance Board staff acquired broad titles (job descriptions) that enhance the agency's ability to remain efficient in a changing environment by assigning staff based on work flow requirements. As work in one unit increases or decreases, efficiency is maintained through the re-deployment of staff among the departments. At the height of the election season, the permanent staff is supplemented by significant numbers of part-time and temporary personnel.

The Campaign Finance Board's primary clients are participating candidates, the voting public, and the press. The Board attempts to be particularly responsive to candidates' needs. The Program's disclosure requirements and reporting mechanisms are overhauled after every election in an effort to streamline the Program for future elections. To guide this process, the Board solicits input from candidates — participants and non-participants alike — in a comprehensive post-election survey and during public hearings. At the Campaign Finance Board's request, made in light of candidates' concerns, the Board of Elections agreed to accept Campaign Finance Board disclosure forms, thus reducing participating candidates' filing burdens. Indeed, a recent revision of the Board of Elections' disclosure statements was closely patterned after the Campaign Finance Board's forms. A very successful innovation, also undertaken at candidates' express requests, was the establishment of the Candidate Services Unit to assist campaigns in complying with the Program's requirements, rather than requiring candidates to work directly with the Audit or Legal units. C-SMART®, the Board's software package, was also developed at the request of participating candidates, particularly at the City Council level. It meets the needs of an increasingly technological environment by enabling candidates to file disclosure information electronically, and it substantially reduces paperwork. As Chapter 5 details, candidates' suggestions were instrumental in the development of C-SMART®, resulting in an application that meets both the Program's disclosure requirements and candidates' reporting needs. C-SMART®'s popularity is the evidence of its success: most candidates choose to use it.

The primary services the Board provides to the public and the press are disclosure and education. Over the past five years, the Board has greatly accelerated the speed at which disclosure becomes available. The Board has tried to provide the press and civic groups with information that is in the format that is easiest for them to use. The Board provides various public disclosure reports that are available on paper and in several electronic media. Campaign Finance Board data are now a staple in many nationally-recognized publications on stories related to municipal candidates and elected officials.

The Board as a Resource for Other Jurisdictions

The Campaign Finance Program remains at the forefront of local and national governmental reform.⁵ Throughout the year, the Campaign Finance Board is called upon as a resource by others studying similar types of reform (see Appendix L). For example, a presentation was recently made at neighboring Nassau county, where a charter revision commission studied the possibility of a local campaign financing system, and Board staff consulted extensively with the City of Los Angeles Ethics Commission when it was first established. As Benjamin Bycel, Executive Director of the City of Los Angeles Ethics Com-

Structure and Administration of the Campaign Finance Board

mission, stated in October of 1993, "The Los Angeles program is patterned after the successful New York City program administered by the New York City Campaign Finance Board."⁶

The existence of the Program may also have bred a new emphasis on campaign finance and ethics issues that extends beyond the reach of the Campaign Finance Act itself. The voluntary moratorium on contributions from municipal bond underwriters observed by a number of firms and now codified by an SEC rule may be partly attributable to the increased disclosure made possible by the Board. Mayor Giuliani's two transition and inaugural committees observed the Program's contribution limit despite the fact that these committees are not subject to any contribution limit whatsoever under the Act or under State law.⁷ (After the 1989 elections, David Dinkins also imposed a \$10,000 contribution limit on his transition and inaugural committee.) Karen Burstein, a former Brooklyn Family Court Judge now running for State Attorney General, said that she "will comply with the more strict New York City" rules regarding the disclosure of employer information and intermediaries, and will impose a \$2,500 contribution limit on her campaign.⁸ (Under State law, candidates for Attorney General can accept up to \$12,000 per election from a single contributor.) Republican candidate for governor George Pataki is requesting employer information from contributors on his solicitation forms.

The Board is often invited to participate in good government and ethics forums around the City and elsewhere. Board staff have been invited to Columbia University to address classes in investigative journalism in order to make students aware of the kinds of records and public information that the Board makes available. At the New School for Social Research, Board staff participated in a forum which examined the role of the Program in the 1993 elections. Board staff also chaired a New York State Bar Association Forum entitled "Term Limits: Road to Responsive Government or Inroad on Democracy?" The Board's Chairman and its Executive Director were also invited to participate in an American Bar Association-sponsored symposium on how to improve the Federal Election Commission, and Board staff have been active participants in the Council on Governmental Ethics Laws ("COGEL"), an umbrella organization for campaign finance and ethics agencies throughout the United States and Canada. The Program received extensive coverage in the recent book *Power Failure* about politics in New York City,⁹ and Board data have been used in graduate school and scholarly papers, as well as by the press, as discussed above. The work of the Board was even the subject of news coverage in Russia, where a television broadcast covering the effect of the Campaign Finance Program on the 1993 mayoral elections was seen by millions of viewers.

Evaluating Progress

The Campaign Finance Board is mandated to undertake a comprehensive review of the impact of the Program after each election and to make recommendations for changes in the law. *On the Road to Reform: Campaign Finance in the 1993 New York City Elections* is the third such publication. Following the 1989 citywide elections the Board published *Dollars and Disclosure: Campaign Finance Reform in New York City*, and after the off-year 1991 City Council elections, the Board published *Windows of Opportunity: Campaign Fi-*

Chapter 8

nance Reform and the New City Council, a comprehensive review of the Program's impact on these ground-breaking elections for the newly redistricted City Council.

Others who have evaluated the Program include Peter Vallone, the Speaker of the New York City Council:

Despite all the pundits, experts, and naysayers, this legislative body [the New York City Council] passed a law for the public financing of campaigns, . . . a model for good government everywhere.¹⁰

and Mayor Giuliani:

[The Board is] one of the real advances that has occurred in the City of New York. . . . [The Board members] have lifted the integrity of elections in New York above . . . where they are in many parts of the country. This is one of the good things that people come to New York to copy . . . as a way of organizing their elections so that the influence of money is decreased and so there is full disclosure. . . .¹¹

Conclusion

Throughout its short history, the Campaign Finance Board and its staff have continually worked to improve the Program from the point of view of both the candidates and the voting public.

The next chapters will discuss two specific aspects of the Program, compliance and enforcement and the Voter Guide, examining how each helps the Board to achieve its mandates. The final chapter sets forth the Board's recommendations for future improvements in the Program.

NOTES

¹ New York City Charter §1057.

² See Editorial, "Bloody Carpet," *New York Newsday*, January 7, 1994, 56; and "Dave's Revenge Leaves a Bitter Taste," *Daily News*, January 6, 1994, 42. See also "Mr. Dinkins' Graceless Parting Shot," *The New York Times*, January 6, 1994, A20; Editorial, "Wake up, Mr. Schwarz," *The New York Times*, January 7, 1994, A30; Editorial, "Dinkins' Dubious Finale," *New York Post*, January 6, 1994, 30; and Editorial, "Lame Duck Dinkins Dunks O'Hare," *The New York Observer*, January 10, 1994, 4.

³ Letter from the New York Public Interest Research Group, New York State Common Cause, and the New

Structure and Administration of the Campaign Finance Board

York City League of Women Voters (signed by Gene Russianoff, Andrew Greenblatt, and Mary Lou Urban) to Thomas Schwarz, dated January 3, 1994, on file with the Campaign Finance Board.

⁴ *The New York Times*, "Wake up, Mr. Schwarz," A30.

⁵ In addition to the federal presidential matching funds program, the following thirteen states currently provide some form of public financing to candidates: Florida, Hawaii, Kentucky, Maryland, Massachusetts, Michigan, Minnesota, Montana, Nebraska, New Jersey, North Carolina, Rhode Island, and Wisconsin. Two other cities have also adopted programs of public financing: Tucson, Arizona and Los Angeles, California.

⁶ See Benjamin Bycel, testimony before the California State Senate Committee on Elections and Reapportionment, October 28, 1993, 3.

⁷ From filings made by the two committees, Mayor-Elect Inc. and New York City Inaugural, Inc., with the New York City Board of Elections. In an accompanying letter, Mark McCreery, Chief Operating Officer and Comptroller of both committees, stated that "in the spirit of campaign finance reform and in light of the fact that there are no 'governing' rules for 'transition committees', [the committees] followed the rules and regulations of the NYC Campaign Finance Board in regard to contribution limits for individuals and companies."

⁸ Ian Fisher, "Gift Limits Sought for Attorney General Race," *The New York Times*, May 13, 1994, B6.

⁹ Charles Brecher, Raymond Horton. *Power Failure: New York City Politics & Policy Since 1960*. New York: Oxford University Press, 1993.

¹⁰ Peter F. Vallone, Radio Address #144, "Local Campaign Reform — A City Council Success," presented on August 11, 1993.

¹¹ Rudolph Giuliani, from a January 6, 1994 press conference televised on WNYC.

