

**Testimony of Nicole A. Gordon
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New York City Campaign Finance Board**

**City Council Committee on Governmental Operations
March 7, 2005**

Good afternoon, Chairman Perkins. I am Nicole Gordon, Executive Director of the New York City Campaign Finance Board. With me today are Deputy Executive Director Carole Campolo, Assistant Executive Director Amy Loprest, and General Counsel Sue Ellen Dodell. Chairman Schwarz sends his regrets. He had a long-standing commitment at another Board he chairs.

On March 10th, pursuant to the budgetary protection extended to the Campaign Finance Board by the Powers Charter Revision Commission of 1998, the CFB will submit its Fiscal Year 2006 budget to the Administration, which in turn is required to include the CFB's estimates, without change, in the Executive Budget. This extraordinary budgetary protection is intended to ensure that public funds are available to qualifying candidates in a timely fashion, and, in the words of Charter Revision Commission Chairman Peter Powers, "to insulate the Board from the political process."

Although not yet in final form, the FY 2006 budget will be consistent with that of previous citywide election years, with funding showing marked increases from the previous fiscal years for Voter Guide and New York City Election Fund categories. Additional funding will also be necessary for expenses associated with the Board's increased responsibilities under recently-passed City Council legislation, most notably the administration of disclosure and contribution limit compliance for non-participants. At the same time, the Board does not anticipate at this juncture an increase over the budget adopted for FY2002, which covered the 2001 citywide elections.

2005 Elections

The Board is preparing for the 2005 elections. For the January 18, 2005 disclosure statement deadline, the Board received 93 filings, 14 of which were received electronically over the Internet. This is the first election in which electronic filings were received over the Internet (as opposed to on disk), which we consider a terrific accomplishment.

As stated at the last hearing in November 2004, the Board has issued a new and improved Candidate Handbook, and this has been posted to the CFB website. In addition, Board literature reflects the recent legislative changes. Last month, the Board promulgated a set of rules that primarily conforms Board procedure to amendments in the Campaign Finance Act passed by the City Council in December 2004. Specifically of note, these rules address the new requirements for non-participants, changes to the matching rate, and other procedural changes.

In addition, the Board clarified its “single source” rule to spell out more clearly for candidates how presumptions for single sources, specifically in the case of limited liability partnerships and unions, can be overcome.

The Board is also conducting C-SMART training sessions for candidates and candidate committee staff members. Although candidates do not file a certification for Program participation until June, this is the first election in which all candidates, and not just Program participants, must file disclosure statements with the Campaign Finance Board. The next disclosure statement deadline is March 15, and we anticipate an even greater number of candidates will file, as more candidate committees become active and begin to raise and spend money.

I am also pleased to report that on February 10 the Board made an electronic transfer of public funds for the 2005 special election payment in the 17th Council District. This was the first payment made by electronic funds transfer, which, as it is implemented for all campaigns, will make payments to candidates much easier and more efficient. Based on the success of the special election funds transfer, the Board will prepare to apply this method for all public funds payments in the 2005 primary and general elections.

In addition to preparing for the 2005 elections, we are of course completing outstanding items from previous elections. The Board has issued 97% of its Final Audits for the 2001 election and just under 90% of its Final Audits for the 2003 election. For the 2003 election, virtually all draft audits went out by December 2004.

“Doing Business”

The Board has also been holding hearings on the subject of those who “do business” with the City who also give campaign contributions. The hearings have explored the general scope of the problem within the City as well as possible ways of addressing it. We have received testimony from Anthony Crowell, Special Counsel to the Mayor, Victor Robles, City Clerk and Clerk of the Council, Peter Vallone Sr., former Speaker of the City Council, representatives from the U.S. Securities and Exchange Commission, including former Chairman Arthur Levitt, and from various civic groups and other individuals located in New York, New Jersey, and Washington D.C. All submitted written testimony, in addition to the transcript from the January 31 hearing, is available on our website.

The Board continues to believe that legislation that focuses on those “doing business” with the City provides the best means for regulating this problem. Legislation would place the necessary administrative burden on the contributor who does business and on the City, the entity that actually awards the contracts and also has the power to suspend contracts. This is the approach taken by the U.S. Securities and Exchange Commission, by the State of New Jersey in its recent executive order, and which is

included in the model law developed by the Council on Governmental Ethics Laws. The threat of losing a multi-million dollar City contract is a far more stringent penalty than any penalties the Board might assess for violation of potential “doing business” rules. A local law may also be the best means to ensure that the restrictions enacted apply to all candidates and not just those who participate in the Campaign Finance Program. Regulating only Program participants would provide candidates with an incentive not to join the Program, thereby making Program participation “a casualty of pay-to-play.”¹

In the absence of legislation, however, the Board is exploring possible ways of addressing the problem of potential influence peddling in the City by rulemaking. The Board has been working with the Administration’s Department of Information Technology and Telecommunications (DoITT) to develop a way to make the City’s VENDEX system, which contains a listing of City contracts, searchable, available to the public, and, ultimately, compatible with the Board’s searchable database of contributions to City candidates. The online availability of certain information from the VENDEX system in the spring, although not compatible with the Board’s online, searchable database, certainly will be on its own an important first step in helping the public to learn who among those with contracts with the City is in fact making contributions to candidates and elected officials.

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I would like to end my testimony with a few comments about a recent conference I attended. As you know, states and cities throughout the country, and some nations, have looked to our law and to the New York City Campaign Finance Program for guidance in the establishment of their own campaign finance laws.

Most recently, I was asked to assist in an “emerging democracies” seminar focusing on campaign finance, which was held in Bosnia. The seminar concerned the establishment of meaningful campaign finance reform as well as the processes for enforcement and refinement of current laws and practices. Bosnia, as I am sure you are well aware, has within the last fifteen years undergone tremendous challenges, most notably the collapse of its communist government and a subsequent civil war.

With all the problems associated with an emerging democracy, the Bosnian Elections Commission nonetheless recognizes the importance of establishing an effective campaign finance law in order to strengthen its nascent democratic system. The City Council should take great pride in the fact that New York City’s campaign finance law is recognized, not only as a model for other localities within the U.S., but also for other countries.

Thank you for the opportunity to testify before you today. I would be pleased to answer any questions you may have.

¹ Craig Holman, Public Citizen. Written testimony submitted the Campaign Finance Board, 1/31/2005.