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2 THE CITY OF NEW YORK

3 CAMPAIGN FINANCE BOARD

4 -----X

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6 CAMPAIGN FINANCE BOARD
7 2005 POST ELECTION HEARING

7

8 -----X

9 40 Rector Street
10 New York, New York

11

12 December 12, 2005

13 10:00 a.m.

14

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17

18

19 B E F O R E:

20 CHAIRMAN FREDERICK A.O. SCHWARZ, JR.

21

22

23 PAUL BECKER, CSR, P.C.

24 222 Wellington Road

25 Mineola, New York 11501

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2 A P P E A R A N C E S:

3 Members of the Board In Attendance:

4

5 Frederick A.O. Schwarz, Jr., The Chair

6 Joseph Potasnik (not present for afternoon
7 session)

8 Katheryn C. Patterson

9 Dale Christensen

10

11 Campaign Finance Board Staff:

12

13 Nicole A. Gordon, Executive Director

14 Other CFB Staff

15

16

17 ALSO PRESENT:

18

19 The Public

20 The Press

21 Hearing Witnesses

22

23

24 Marc Russo, Court Reporter

25

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P R O C E E D I N G S

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CHAIRMAN SCHWARZ: So if we
could come to order and the people will be
joining us.

Are any of the witnesses here?

MS. GORDON: Yes. Paul Ryan is
the first witness and he's here. And then
we'll go through the list.

CHAIRMAN SCHWARZ: Well, look,
I have an opening statement which perhaps I
don't need to read to occupy the time of
people here. It's available.

What it does is, identify the
important issues; to talk at some length about
one of them which is councilmembers who are
receiving large amounts of public funds even
though they win by huge margins. And that's a
serious issue that has been looked at before
but not adequately addressed.

I think to -- there are many
other important ones, but I singled that out
at some length.

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2 And we really have to watch
3 for the challenge to incumbents to avoid the
4 appearance or reality of self-dealing through
5 legislation. That's a real concern. And the
6 Council needs to address the favoritism that the
7 law over time has come to exhibit,
8 particularly towards incumbent Council
9 members.

10 So Nicole also has a statement
11 which lays out a number of facts with respect
12 to the '05 elections. And that also is
13 available and I hope all of you who are here
14 grab a copy from outside.

15 And Andrea, are we making sure
16 when people come in they can pick up each of
17 the statements?

18 MS. LYNN: It's all outside.

19 MS. GORDON: It's all out
20 there.

21 CHAIRMAN SCHWARZ: But is
22 someone out there to hustle them or whatever?

23 MS. LYNN: Yes.

24 MS. GORDON: And just for the
25 record also, statements that are being given

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7

2 to us in writing, some people who aren't able
3 to come are giving us a written statement or
4 those of you who have written statements, we
5 will be putting those up on the web as well.

6 CHAIRMAN SCHWARZ: So the
7 first witness is Paul Ryan.

8 And any witness who has a
9 written statement if they also could give it
10 to the court reporter (indicating.)

11 And also state your name when
12 you start.

13 And I want to thank you for
14 the helpful analysis you did for the program
15 that was quite influential in our thinking and
16 help lead to the changes in the law that
17 expanded it to cover people who don't join the
18 program who are nonetheless now under New York
19 City law, subject to the disclosure
20 requirements and subject to the contribution
21 limits.

22 (Commissioner Christensen
23 joins the proceedings.)

24 CHAIRMAN SCHWARZ: So you made
25 a great contribution on that and we appreciate

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1

2 that.

3

MR. PAUL RYAN: Well, good
morning, Chairman Schwarz and Board Member
Christensen and Ms. Gordon.

6

It's a pleasure to be here
today.

8

My name is Paul Ryan. I'm
representing the Campaign Legal Center in
Washington, D.C. and it is a pleasure to be
here.

12

I have a couple of brief
points that I'm going to make and I would also
like permission to submit written comments
perhaps tomorrow; I understand this is a
two-day hearing and before the close of
business tomorrow, I'll get something to you
in writing.

19

CHAIRMAN SCHWARZ: We'll
welcome it tomorrow, we'd welcome it the next
day, too whatever's better for you.

22

MR. PAUL RYAN: Great.

23

The first thing that I -- the
first issue that I want to raise are the
contribution limits.

25

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2 I know the Campaign Finance
3 Board itself and many observers have been
4 commenting for years that the contribution
5 limits are too high.

6 I continue to believe, the
7 Campaign Legal Center continues to believe
8 that the contribution limits are too high.

9 I think that more reasonable
10 limits for a City Council, for example, would
11 be a thousand dollars per election year,
12 \$1,500 for Borough President per election year
13 and somewhere in the neighborhood of \$2,000
14 for citywide office races per election year.

15 And they would -- this would
16 mark a substantial decrease from the current
17 limits and I believe doing so would
18 dramatically reduce any appearance of
19 corruption.

20 CHAIRMAN SCHWARZ: What would
21 you make it for citywide?

22 MR. PAUL RYAN: For citywide I
23 would make it \$2,000.

24 And an issue directly related
25 to the amount of the contribution limits is

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2 one that is -- has been on the front of your
3 agenda for a good part of this year which is
4 the single source rule. I'm aware that you
5 adopted a regulation earlier this year that
6 you chose not to implement during this
7 election cycle.

8

City Council, last month,

9

adopted its own ordinance which, in my
10 opinion, creates a pretty substantial loophole
11 in the City's campaign finance laws and is a
12 marked change from more than 15 years of City
13 Council lawmaking and Campaign Finance Board
14 rulemaking to tighten and strengthen the
15 City's campaign finance laws, which are
16 regarded nationwide as among the best in the
17 country.

18

The regulation of

19

contributions for a single source is vital to
20 preventing circumvention of the contribution
21 limits rule. And the rule that was adopted
22 earlier this year by the Campaign Finance
23 Board is an infinitely reasonable
24 formalization of a long-standing practice by
25 this Board of how and when to determine that

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2 contributions are, in fact, in the single
3 source.

4 One of the major ways in which
5 the Campaign Finance Board's rule differs from
6 Federal Election Commission rules and the
7 statutes passed by Congress in the 1970s --

8 (Commissioner Patterson joins
9 the proceedings.)

10 MR. PAUL RYAN: -- dealing
11 with single source is that the Campaign
12 Finance Board's rule creates a rebuttable
13 presumption. And in this respect it's
14 significantly more lenient than the
15 long-standing federal practice.

16 Under federal law there is a
17 per se that labor organizations and any of its
18 local units are a single source for the
19 purpose of contribution limits.

20 Under federal law political
21 committees that are affiliated with
22 corporations are treated in a much similar
23 manner. Many of a corporation's subsidies
24 are -- I'm sorry, subsidiaries that form
25 political committees are considered to be of a

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2 single source or the same source as the parent
3 corporation.

4 The one thing that I might
5 suggest that this Board do in continuing to
6 consider this issue is to consider whether or
7 not similar provisions that you developed for
8 the context of labor works organizations are
9 indeed in the context of political committees
10 that may be connected to corporations.

11 I know that corporations are
12 prohibited under city law from directly
13 contributing to candidates and I'm not certain
14 whether or not there have been any or many
15 political committees formed by those who run
16 corporations for the purpose of making
17 individual contributions to candidates through
18 a P.A.C.

19 But if that is the case, I
20 think this Board and the City Council, more
21 importantly would be wise to examine the issue
22 and to aggregate contributions from any
23 corporation and its subsidiaries.

24 The Campaign Legal Center
25 strongly opposes the City Council ordinance

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2 that was adopted last month which arguably
3 creates a substantial loophole in exemption
4 for labor unions from the laws that are
5 generally applicable to all other entities
6 acting in city election campaigns.

7

8 The City Council ordinance has
9 the appearance - externally at least - of
10 being a partisan gesture that will benefit the
11 candidates of one party substantially more
12 than that of a candidate from another party.

12

13 And one of the most
14 significant reasons or arguments made in
15 support of the City Council ordinance seems to
16 be that in the absence of such an exemption
17 the voices of working men and women in the
18 city would somehow be muted.

18

19 I believe that the City's
20 Campaign Finance Program with its four-to-one
21 match for individual contributions up to \$250
22 amplifies the voices of working men and women
23 in this city - working men and women in this
24 city who belong to labor unions are -- would
25 be freed under the rule that was adopted by
this Board that has been superseded by the

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2 Council ordinance to make their own
3 contributions that are matchable.

4

In short, I think the City
5 ordinance is entirely unjustifiable and will
6 not - although it appears to have poor
7 criteria that would result in the aggregation
8 of contributions from a single source - I
9 think that those four characteristics or
10 qualifications of the law would be easily
11 circumvented.

12

The third issue that I want to
13 touch on is the issue of independent
14 expenditures and electioneering and communication
15 which, as you know, is a term of art used
16 under federal law to mean candidate-specific
17 issue ads.

18

When I was working at the
19 Center for Governmental Studies, we published
20 a report analyzing the City's laws. I
21 interviewed a number of candidates who had run
22 in city elections many of whom reported being
23 the beneficiaries of or being opposed by
24 independent expenditures predominately by
25 labor organizations, but unfortunately the

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2 State disclosure laws render these independent
3 expenditures virtually invisible.

4

I think this Board will be
5 wise to further investigate the role that any
6 independent expenditures or candidate-specific
7 issue ads may play in this election.

8

My understanding is that the
9 types of independent expenditures that may be
10 occurring here that are flying under the radar
11 are things like "Get Out The Vote," direct
12 mail from labor -- predominately labor
13 organizations.

14

Some candidates said
15 essentially that labor organizations more or
16 less ran their campaigns for office, yet when
17 I explored the Campaign Finance Disclosure
18 Reports or organizations operating at the
19 State and local level in New York, none of
20 these expenditures were reported as such.

21

So I urge this Campaign
22 Finance Board to take a closer look at this
23 issue again after this year's elections. And
24 I likewise, encourage City Council to examine
25 the issue and to act on it, some types of

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2 regulation that may be warranted in New York
3 City to deal with independent expenditures and
4 electioneering communication, be stronger
5 disclosure provisions, perhaps a trigger
6 provision for the City voluntary spending
7 limits that would either increase or eliminate
8 those spending limits in the event that large
9 independent expenditures are made in support
10 of or opposing city candidates.

11 And finally the City may
12 consider increased matching funds for
13 candidates who are not the beneficiaries of
14 independent expenditures but whose opponents
15 do benefit from such expenditures, in much the
16 same way that the City deals with
17 high-spending, non-participating candidates.

18 And finally, an issue that
19 Chairman Schwarz raised in his introductory
20 comments, I know there was some slight
21 modification for the city campaign finance
22 laws prior to this year's city election
23 dealing with candidates who may receive public
24 funds despite facing any serious opposition.

25 CHAIRMAN SCHWARZ: I think

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2 your word "slight" maybe was an exaggeration,
3 it was less than slight in my opinion.

4

MR. PAUL RYAN: Fair enough.

5

Your words, not mine.

6

CHAIRMAN SCHWARZ: Right.

7

MR. PAUL RYAN: I know that

8

essentially all a candidate needs to do is

9

sign a Statement of Need even if they are

10

facing an opponent who has raised less than a

11

fifth -- raised or spent less than a fifth of

12

the applicable spending limit.

13

So my understanding is that

14

from your introductory comments, Chairman

15

Schwarz, that you are going to take another

16

look at this issue and I would encourage you

17

to do so.

18

Those are all my comments for

19

now. And as I stated earlier, I would like

20

the opportunity to submit some written

21

testimony and I'd be happy to answer any

22

questions.

23

CHAIRMAN SCHWARZ: One thing

24

that would help either in submitting written

25

testimony or if you do it off-the-cuff, on

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2 your recommendation for lowering the
3 contribution limits, some comparative data
4 would be useful. I mean obviously we know
5 that under the New York State System the
6 donation can be in the stratosphere, but on
7 places that do regulate the size of
8 contribution, the Federal Government and the
9 State and local do, some comparative data
10 would be helpful because I think it would show
11 that New York, while being a pioneer initially
12 is now on the high side and that would be very
13 helpful.

14 MR. PAUL RYAN: Yes. I'd be
15 happy to provide that information in written
16 form. I do know off the top of my head under
17 federal law, for example, candidates for
18 Presidency can only accept contributions up to
19 two thousand dollars --

20 CHAIRMAN SCHWARZ: Yes, so
21 there are candidates in citywide offices that
22 get more than double that which seems a little
23 strange.

24 MR. PAUL RYAN: Well, to be
25 fair, the federal limit applies per election

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2 so they don't get quite more than double, but
3 they still - candidates for citywide offices
4 in New York can accept contributions larger
5 than candidates for the Presidency of the
6 United States.

7

There are some cities, the
8 City of Los Angeles, for example, has a \$500
9 per election limit on contributions to City
10 Council candidates.

11

The city of Los Angeles is
12 slightly smaller than New York City but their
13 council is substantially smaller than the
14 City. There are only fifteen council members
15 so the races tend to raise and spend a lot
16 more money than the New York City Council
17 raises, yet candidates in L.A. are limited to
18 a thousand dollars per election cycle or \$500
19 per election. And I think a thousand dollar
20 limit per election year in New York City for
21 New York for Council candidates will be quite
22 reasonable.

23

But I'd be happy to gather
24 some information on some other large cities
25 and states as well.

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2

CHAIRMAN SCHWARZ: It would
really be helpful to us if you could do that.

4

Other questions?

5

MR. CHRISTENSEN: I had a few
questions.

7

Mr. Ryan, thank you for coming
all the way up here.

9

I had a few questions relating
to your presentation.

11

One relating to the
analogizing of corporations and unions for the
purposes of campaign contributions, which is
an analogy I have a lot of problems with
because I view them as very different kinds of
entities with different purposes.

17

And I become concerned when a
focus is analogizing unions to corporations,
that that can cause restraints on the speech
of collectively organized working institutions
to deal with issues that are of concern to
them in an election.

23

Why do you think that a union
is the same thing as a corporation for the
purpose of campaign contribution?

25

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MR. PAUL RYAN: I think unions

3

have the capacity as a result of their

4

structure to generate substantial economic

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resources in the economic marketplace, and if

6

permitted to do so, transfer those resources

7

generated in the economic marketplace to the

8

political marketplace, and in doing so perhaps

9

attain an unfair advantage over individuals

10

who don't have the capacity to do so.

11

And the analogy to the

12

corporation is simply that when you have an

13

organization - a labor union, for example,

14

represents employees. And if they're

15

permitted to use their union dues, which are

16

given to them not necessarily to advance a

17

political candidate, to advocate the election

18

or defeat a political candidate, but instead

19

to, in some instances, to simply get their

20

job and hold their job, is required to pay

21

union dues in many occupations or to advance

22

issues specifically related their occupation

23

or profession when not so enforced to make

24

those union dues payment, and have very little

25

control over how those union dues are spent,

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2 which they may be spent to benefit, I think
3 there are great similarities to the
4 corporation which amasses resources --

5 MR. CHRISTENSEN: Well, I --

6 MR. PAUL RYAN: -- not related
7 to the political ideology of the organization
8 or institution.

9 MR. CHRISTENSEN: Yes. I
10 appreciate that they have, you know, common
11 characteristics in terms of their size and
12 maybe their economic power, but their purpose
13 is, it seems to me, are fundamentally very
14 different.

15 For one thing there is a
16 difference in terms of the profit and
17 motivation of the corporation. And I'm
18 concerned that if organizations that organize
19 to benefit either certain groups of people or
20 let's say issues, are we to lump all
21 environmental groups as a single source or,
22 you know, other groups like that just because
23 they have a common interest and some kind of
24 economic clout they should be limited to one
25 contribution?

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2 MR. PAUL RYAN: Well, I think
3 that we're talking about more than a common
4 interest here. And the rule that was adopted
5 by the Campaign Finance Board and the
6 long-standing practice of this Campaign
7 Finance Board and federal regulations and
8 federal statutes dealing with labor unions,
9 deal with issues of control, not issues of
10 common interest.

11 When you have a parent labor
12 organization exerting significant influence
13 over the decision-making process of the local
14 unit, we're talking about far more than that
15 common interest being shared there, to
16 distinguish between a labor organization and,
17 for example, let's lump together all
18 environmental groups 'cause they share their
19 concern for a clean environment.

20 But back to that earlier point
21 that you had raised, corporations have a
22 profit motive and a labor union's fundamental
23 purpose is to increase the pay and improve the
24 working conditions of its members. It's a
25 profit motive in many respects and I'm a

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2 strong supporter of labor organizing. And I
3 think that labor unions, I would like to see
4 them grow. They've been on the decline in
5 this country for many years but each
6 individual member of that organization can
7 make their contributions and they can speak if
8 they choose to, collectively through their
9 labor organization by making contributions to
10 labor organizations. And they're free to
11 spend as much as they want.

12 But when you have a single
13 organization or several entities controlled by
14 a single source making large campaign
15 contributions, there is a very serious threat
16 of either real and/or apparent corruption that
17 may rise. You know, I think it's something to
18 be concerned about.

19 MR. CHRISTENSEN: Well, I wish
20 we had more time to carry this discussion
21 unfortunately because I think it's a really
22 important one.

23 MS. GORDON: I'd like to ask
24 also, when you talk about increasing
25 disclosure on the subject of independent

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2 expenditures, are you talking about disclosure
3 by the campaigns or by the independent or
4 potential non-independent other entities,
5 which were you describing?

6 MR. PAUL RYAN: Well, ideally
7 the way it operates in most jurisdictions is
8 that the entity that makes the expenditure is
9 required to disclose the expenditure.

10 This Board, as you're well
11 aware, is in a slightly difficult situation
12 because of the Charter provisions that create
13 the Board and your ability or jurisdiction of
14 regulating committees that perhaps don't have
15 anything directly to do with candidates who
16 you can specifically regulate.

17 I think that's fully within
18 the jurisdiction of the City Council to adopt
19 local laws or ordinances that require
20 disclosure by any political committee that
21 makes expenditures to influence city
22 elections.

23 That would be the best
24 approach and the approach that this Board has
25 taken with regards to committees, generally

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2 requiring them to register with the Board if
3 they are to make contributions to
4 participating candidates. That's another
5 option that we'll get.

6

Perhaps that most of the
7 problems are because you have such high levels
8 of candidate participation in your program
9 but, again, I think the best solution is for the
10 City Council to say any political committee
11 active in city elections has to disclose not
12 only their contribution, but also their
13 expenditures. And in any event that those
14 expenditures influence or support or oppose
15 the electorate we need the city candidate to
16 specify which candidate is supported or
17 opposed by the expenditure.

18

CHAIRMAN SCHWARZ: Kitty, do
19 you have anything?

20

MS. PATTERSON: No.

21

CHAIRMAN SCHWARZ: So thank
22 you very much.

23

And by the way, on that
24 comparative data, it's not magic if you take
25 more than a day or two days, we really

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2 appreciate your learning on that.

3

4 MR. PAUL RYAN: I'd be happy
to provide you with that.

5

6 CHAIRMAN SCHWARZ: Okay.
Thank you.

7

Barry Popik.

8

9 MR. BARRY POPIK: Thank you
very much.

10

My name is Barry Popik.

11

12 I ran for the first time never
ran before, for Manhattan Borough President.

13

I ran on the Republican Line.

14

15 Republicans haven't won this
seat for 60 years.

16

17 As you know, we're a minority
party, very seriously a minority party in
18 Manhattan.

19

20 I didn't expect to win but I
wanted to raise certain issues.

21

22 I'm famous for solving the Big
Apple, why New York is called the Big Apple.

23

24 I presented that to the
Manhattan Borough President 15 years ago
25 without a response. That's one of the reasons

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2 why I ran.

3

I'll go through it

4

step-by-step through the process.

5

This is a race you have to

6

look at. I know you were looking at the

7

Mayor's race but you should look at the

8

Manhattan Borough President's race, all the

9

way up to its tainted end. And I believe it's

10

still not ending but I believe it's completely

11

tainted.

12

And it's because of the CFB

13

and I'll get into that in a while. I'll get

14

into the Working Families Parties case which

15

is very, very serious, goes to the heart of

16

what you do.

17

But I'll go to the beginning.

18

I -- they didn't have a

19

candidate for Republicans for Manhattan

20

Borough President, the Democrats had nine

21

candidates, because no one wins this and no one

22

wants to run to lose, but at the same time I

23

thought it was very important.

24

Mayor Bloomberg, who's a

25

Republican and we didn't have anyone and I

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2 certainly had issues with the offices so I
3 wanted to run and I did.

4 And on June 1st I decided to
5 run.

6 And then you have to make your
7 decision, are you going to participate in the
8 program, are you not going to participate in
9 the program.

10 And for me, I didn't have a
11 billion dollars so although I do have some
12 money, but I didn't have a billion dollars.

13 And I thought it would be in
14 the interest of good government to participate
15 in the program.

16 And then they said -- I said
17 how much money of my own money could you
18 spend? And they said, oh, it's about eleven
19 thousand dollars. And I go, eleven thousand
20 dollars for the entire Borough of Manhattan?
21 And they go, yeah.

22 And suppose I don't qualify
23 for matching funds and I did not qualify for
24 matching funds. I didn't receive a penny from
25 you guys. I said, why can't I spend my own

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2 money? And they go, you can't, you can't
3 spend your own money, it would be horrible if
4 I spend my own money on myself.

5 I was limited to eleven
6 thousand dollars. I couldn't spend anything.

7 What I did, I took out Big
8 Apple ads (indicating): in Our Town after New
9 Orleans was destroyed. New Orleans - the Big
10 Apple comes from New Orleans - I took out ads
11 in Our Town.

12 Again, you see a little apple
13 here.

14 And encouraging the Borough
15 President to finally respond to me, which she
16 never did, about the Big Apple and I had my
17 name on their - my website, which is a very
18 popular website which receives a million hits,
19 it's about New York City history. I'm a New York
20 City historian.

21 I couldn't put Elect Barry
22 Popik on there because that would have been
23 political. So I had my own speech, I used my
24 own money for that. I could not say I'm
25 running for Manhattan Borough President.

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2

CHAIRMAN SCHWARZ: You mean

3

the thrust of what you're concerned about is

4

that once you elect to be in the program --

5

MR. BARRY POPIK: In the

6

program --

7

CHAIRMAN SCHWARZ: -- you're

8

then subject to limitations even --

9

MR. BARRY POPICK: Which are

10

unrealistic.

11

CHAIRMAN SCHWARZ: -- even if

12

you don't succeed and then qualify?

13

MR. BARRY POPIK: Yes, and

14

completely unrealistic.

15

So that's something you have

16

to change, the ten -- the eleven thousand

17

dollar limit which is incredibly low.

18

And the second one, I can't

19

even use my own money if I don't qualify for

20

matching funds makes no sense whatsoever.

21

But they said that's the way the program is so

22

that's the way the program is.

23

Going on, seven days later we

24

have to submit candidate statements. I did

25

not have a primary obviously. I had to submit

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2 a statement for the November election in June
3 and I'm saying what about this West Side
4 stadium, I don't know what to say. It's going
5 to be decided in a month. I'm going to have
6 to do it. I can't change it and I don't know
7 what to say because I don't know what the
8 solution is and it's going to be outdated in
9 several months. And that makes no sense
10 whatsoever.

11 And I went to the Republican
12 Chairman of the Manhattan Community and said
13 well, look at the second year it makes no
14 sense for Republicans because we don't have
15 primaries. And to submit a June statement in
16 June -- reflecting November. No sense
17 whatsoever.

18 CHAIRMAN SCHWARZ: So this was
19 a statement for the --

20 MR. BARRY POPIK: General
21 election.

22 MS. GORDON: Voter Guide.

23 MR. BARRY POPIK: In November
24 for June, June 8th.

25 Second of all, the software

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2 didn't work. I used the software. It got
3 stuck in my computer. I brought my whole darn
4 computer to the Campaign Finance Board, they
5 still couldn't do it. I eventually had to
6 type out my statement right there at the
7 Campaign Finance Board with my laptop computer
8 software, was very, very bad.

9 Third thing I want to go
10 through, Video Voter Guide. I think that's
11 very, very good.

12 One thing I objected to in the
13 Video Voter Guide, I couldn't mention a name.
14 I couldn't mention another person's name.

15 MS. GORDON: Just to be clear,
16 that's not under the jurisdiction of the
17 Campaign Finance Board.

18 MR. BARRY POPIK: Okay. Well,
19 anyway, I couldn't mention Mayor Bloomberg but
20 whatever.

21 Another thing is your own
22 software. If you get over a thousand -- about
23 1,200 it's very hard to access the software.

24 I wanted to access Eva
25 Moskowitz, I wanted to access --

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MS. GORDON: You're talking
about the searchable database?

MR. BARRY POPIK: Yes, the
searchable database.

MS. GORDON: Well, over 1,200
transactions, is what you're talking about?

MR. BARRY POPIK: Yes, yes.

You can't get it. I mean I went to NYU and
went to the computer lab, I said could you
download the file I just want to read it?
They said we can't do it. I said you're a
computer guy. And I went all around the city.

I spent hundreds of hours,
could anybody help me download this database.

I went to public libraries.
You're a public library. They're a public
CFB, could you download the database, I want
to find what the names are. I couldn't do it.

MS. GORDON: Did you talk to
our staff about it?

MR. BARRY POPIK: I talked to
your staff, they gave me -- as a gift they
gave me a floppy disk. They said you could
download it. I put it in my computer. It

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2 still didn't work.

3

MS. GORDON: I wonder about
4 your computer because that's pretty routinely
5 used quite easily.

6

MR. BARRY POPIK: Went to my
7 friend's computer, it didn't work. Finally we
8 had it translated to Excel software, was very,
9 very difficult.

10

So again, the software is not
11 very good.

12

The biggest thing I want to
13 raise is real estate money.

14

Why do people -- and obviously
15 you're going to talk about union money. I do
16 agree with the good government groups, you
17 have to cut down on union money. But here
18 we're talking about the Manhattan Borough
19 President real estate money. Why do they give
20 -- who gives money -- if you look at Scott
21 Stringer, look at Eva Moskowitz you see -- you
22 don't see \$5. I have to beg for \$5.

23

I even thought of my
24 coworkers, I'm going to the -- I'm an
25 Administrative Law Judge for parking

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2 violations, and I go to my coworkers, could
3 you contribute to my campaign? And they go
4 \$20, that's a lot of money for that, \$5, \$20.
5 You see Manhattan Borough President you see
6 maximum, maximum \$3,850, \$3,850, a thousand
7 dollars, a thousand dollars, two thousand
8 dollars, who do you find? Real estate, real
9 estate, real estate, lawyers, over and over
10 and over again.

11 CHAIRMAN SCHWARZ: So you
12 support a ban on contributions from people
13 doing business with the City?

14 MR. BARRY POPIK: Either a ban
15 or a limitation.

16 Someone wrote in Politicker
17 last week, for the comptroller you're limited
18 to \$250. If you're doing business, you're
19 selling bonds before the State or the City,
20 you're limited in what can you do. You can't
21 go to parties, that was a complaint in the
22 Politicker. You can't give over \$250.

23 If you are a real estate
24 person -- for example, Scott Stringer needed
25 money late in the game. He wrote an editorial

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2 in favor of the Bond Act. He asked money from
3 Peter Kalikow. Gave him about \$3,000. And
4 Peter Kalikow's money was matched up \$250,
5 four-to-one. He got an extra thousand dollars
6 from you guys.

7 And first of all, he shouldn't
8 get any money because it's taken money to
9 begin with. To be matched four-to-one is
10 insane. And so it's completely insane that
11 real estate money is in the game. Huge
12 amounts of money and then it's matched at all.

13 I have problems getting money
14 at all and this is all matched four-to-one.

15 So I think that there has to
16 be a limitation certainly \$250 which would be
17 nice, but as you do with the financial in the
18 state and it's to be matched four-to-one.

19 Also I want to talk about the
20 match.

21 Carlos Manzano, for example,
22 last place. He spend \$171 per vote and a lot
23 of it was public money. I didn't spend any
24 public money. I spent about fifteen cents and
25 I came in second. I got about 42,000 votes.

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But he spent a -- if you look at the eight Democrats -- you look at Scott Stringer, they got about \$700,000 matching. Eva Moskowitz, \$700,000 from you.

Carlos Manzano, you go down the line. Even Stanley Michaels, Keith Wright, Bill Perkins, thousands and thousands and thousands of dollars.

You limit that match the results probably would have been the same. Scott Stringer admits it. Eva Moskowitz admits it, without the match the money probably will still be the same.

What did you pay for? You paid for Brian Ellner's ads saying this is my gay lover. Here's George Bush, he's bad. He could have advertised for Coca-Cola. And I don't care if he does that with his own money, say I'm Brian Ellner, this is my lover, buy Coke, I'm running for Manhattan Borough President.

He could do that with his own money. To be matched four-to-one is throwing money out the window for no reason whatsoever.

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I didn't get anything. I

couldn't spend my own money. I have to watch

Brian Ellner use your money and it's crazy.

I don't want to bring in

The New York Post editorials, I don't want to

bring in The Daily News editorials but money

is being wasted. You don't have to match it

at all.

I participated in the program

to be part of a good government program and

the match just wasted public money.

I think all the money spent in

the Manhattan Borough President's race was

wasted and a lot of the money was tainted by

real estate money. And that's the two --

those are certainly the most important things

you have to raise.

Finally, I want to get to the

Working Families Party case.

Scott Stringer in his primary

statement for the Video Voter Guide said, I am

happy to be supported by the Working Families

Party.

And that case, Working

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2 Families Party, a campaign against Eva
3 Moskowitz, none of that money was included in
4 Scott Stringer's amount and he was at the
5 maximum. And said oh, I didn't know about it.
6 Oh, these people are separate. Meanwhile they
7 endorsed him to be Manhattan Borough
8 President. He said I'm happy they endorsed
9 me.

10 That's a statement on the
11 Voter Guide and never at any time said no,
12 don't do this, I have no part of it. He never
13 said that publicly once.

14 That case is still
15 outstanding.

16 I went to the Working -- I
17 went to the CFB. I said when are you going to
18 decide this case? You're going to decide it
19 in a week, two weeks, three weeks, four weeks,
20 five weeks, six weeks, seven weeks, eight
21 weeks, nine weeks, ten weeks. It still is
22 not decided. It's three months later.

23 He is going to be -- take the
24 oath of office in saying, you know, I support
25 the laws, you know, I support the

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2 Constitution. And he -- in my opinion he's
3 completely tainted and that case is still
4 outstanding.

5

In my case it's very -- in my
6 opinion it's very clear that another party
7 influenced the primary of another party and
8 that state law was violated.

9

I had my first debate. I
10 spoke with someone who worked for Scott
11 Stringer. I wrote this to you and he was just
12 joking, he said I didn't get paid. And I just
13 talked to. Him, I said what about the Working
14 Families case? He said oh, we're destroying
15 documents right now. He admitted that to me.
16 And I didn't think that was a funny joke at
17 all.

18

And that case is still
19 outstanding and that blows everything out the
20 water. If the Working Families Party can
21 spend thousands of dollars campaigning against
22 Evan Moskowitz and on Scott Stringer's behalf,
23 that weakens your CFB regulations completely.
24 And you're going to have a --

25

And finally I looked at the
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2 good, Our Town which I paid for (indicating),
3 ads. They have a salute to Scott Stringer
4 this week.

5 Who advertises in these
6 salutes to Scot Stringer? (Indicating)
7 Glenwood Management Real Estate. They took a
8 full-page ad.

9 Now, I'm going -- after this
10 hearing I'm going to do my parking ticket
11 where I get paid a measly sum and they told me
12 you can't accept a candy cane this Christmas.
13 If a person gives them \$50, report it. And
14 here they take out thousands of dollars.

15 If this is reported to the CFB
16 and they work to contribute money to them, he
17 would be over the limit. This is over \$50.
18 Did they report this to the CFB? No. Did
19 they report it to the Conflict of Interest
20 Board? No. So what is this (indicating)?
21 What is this? Does Scott Stringer read this?
22 Of course, he posed for a photo. He was
23 interviewed for this. Who else -- who else
24 advertises here? Okay, I'll tell you who else
25 advertises here, the Durst Organization.

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Again and Durst, they're
matched four-to-one. And they give an ad
just for a good Scott Stringer. Who else
advertises here? I'll tell you who else,
well --

CHAIRMAN SCHWARZ: Look,
the --

MR. BARRY POPIK: -- Douglas
Elliman, real estate.

CHAIRMAN SCHWARZ: -- the
point -- the issue of whether or how people
doing business with the City should be
regulated is one that's before us.

We're going to come forward
with some ideas. It would be best addressed
by legislation because this is something we
can't do. But on the subject that you raised
it's one that we're interested in.

So anyway, thank you.

MR. BARRY POPIK: So I can't
stress enough, again, the matching funds were
wasted. Real estate money is coming into the
system in huge amounts and the CFB case must
be decided --

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CHAIRMAN SCHWARZ: You mean
3 the Working Families.

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MR. BARRY POPIK: Sorry, WF,
5 yeah, Working Families.

6

CHAIRMAN SCHWARZ: Just on
7 that point, I mean it was not possible for us
8 fairly to adjudicate that in the week when it
9 was raised. That being so, it's a case that
10 we want to be very careful and thoughtful
11 about.

12

MR. BARRY POPIK: I understand.

13

CHAIRMAN SCHWARZ: There's not
14 a benefit whether it's decided this week or --

15

MR. BARRY POPIK: There was a
16 benefit because I was running.

17

CHAIRMAN SCHWARZ: Had we been
18 able to decide it in that narrow window in
19 about a week, that would have been a good
20 thing but --

21

MR. BARRY POPIK: No, it
22 wasn't -- again, the entire month of October,
23 we've had the entire month of November, he's
24 going to be sworn in January 8th getting money
25 from another party and totally ruining the

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2 system.

3

4 Again, Eva Moskowitz, she's
5 going to testify tomorrow and she's not going
6 to be happy with this either.

7

8 MR. CHRISTENSEN: Mr. Popik,
9 in that regard, who's the person in the
10 Stringer Campaign who told you they were
11 destroying documents because we're doing an
12 ongoing investigation?

13

14 MR. BARRY POPIK: I e-mailed
15 it to you. I don't remember his name but I
16 can copy the e-mail and send it to you.

17

18 MR. CHRISTENSEN: Would you
19 look for that e-mail and the copy?

20

21 MR. BARRY POPIK: Yes, I sent
22 it to you.

23

24 MR. CHRISTENSEN: Thank you.

25

26 CHAIRMAN SCHWARZ: Thanks a
27 lot.

28

29 MR. BARRY POPIK: Thank you.

30

31 CHAIRMAN SCHWARZ: Okay.

32

33 Rachel Leon and Megan Quattlebaum.

34

35 MS. RACHEL LEON: Good
36 morning.

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I'm Rachel Leon.

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I'm the Executive Director of
Common Cause New York. And with me is Megan
Quattlebaum who is our Associate Director.

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We're going to split our
testimony and we'll definitely be brief.

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CHAIRMAN SCHWARZ: So you're
always worth listening to so if you need more
time.

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MS. RACHEL LEON: We really
appreciate the opportunity to present
testimony to you today.

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These post-election hearings
have been an excellent forum for evaluating
the successes and shortcomings of the Campaign
Finance Program over the years. And the
Board's willingness to engage in this type of
critical self-analysis and to make changes to
the program as new concerns and issues arise
is truly commendable.

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And I do, I always have to
start just because I spend a lot of my time in
Albany. I mean the difference between the
Campaign Finance Board and the public

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2 financing system in the City and, you know,
3 the state of affairs in Albany is night and
4 day. So it is always refreshing and the
5 statistics are always illuminating and I think
6 we should take a moment to recognize how
7 successful this program has been and continues
8 to be.

9 Particularly in that it is
10 willing to evolve and change, you know, when
11 new issues arise but, you know, this is a much
12 more robust and competitive system that allows
13 real people the chance to run for elections
14 than we experience at the state level so
15 you're doing a great job on that level.

16 (Commissioner Potasnik joined
17 the proceedings.)

18 MS. RACHEL LEON: Today we're
19 going to offer our comment on a number of
20 questions raised on your list of "Issues for
21 consideration" and we'd welcome any other
22 questions you may have.

23 In terms of program
24 participants facing a high-spending
25 non-participant, we do believe that the

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2 phenomenon of wealthy, self-funded candidates
3 opting out of the public financing program
4 represents perhaps the greatest challenge that
5 this program has faced to date.

6

7 The growth of this phenomenon
8 in New York City and beyond requires us to
9 engage in serious reflection on how a system
10 of public financing whose mission is to level the
11 playing field so that individuals from all
12 walks of life can run competitive campaigns,
13 can and should respond.

14

15 It's a little hard to
16 quantify. You guys have actually gone into
17 your statistics and your analysis as you look,
18 but certainly there's no doubt that when you
19 have a high-spending non-participant
20 candidate, it discourages all but the
21 similarly wealthy challengers from entering
22 the race. They dominate the airwaves and they
23 do smother Democratic debate and competition.

24

25 And they provide an incentive
that worries us for other challengers to opt
out of the public finance program. And they
discourage contributions from individuals who

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2 feel that their small donations will no longer
3 make a difference.

4

5 The last two Mayoral races
6 have brought this issue into the spotlight.

7

8 In 2001, Mayor Bloomberg chose
9 not to participate in the public financing
10 program. He financed his own campaign and he
11 outspent his opponent at a rate of around
12 five-to-one, setting a new record for
13 spending.

14

15 This year he again chose not
16 to participate in the program and broke his
17 previous record both in terms of total
18 spending and in that he reportedly outspent
19 his opponent by a rate of ten-to-one.

20

21 When he first ran Mayor
22 Bloomberg said he had to spend his own money
23 because he was an unknown and that he had to
24 really define himself. This time he was an
25 incumbent with a record to run and Common
Cause and several other good government groups
and I know the Campaign Finance Board, urged
him to participate in the program and, you
know, run on his record, not on his wealth.

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He did not do that and we're going to have to deal with the reality of what this situation brings.

And in past testimony we have supported the concept of providing a flat block grant of public funds when candidates face such a high-spending candidate. And I think we need to look closer at that again.

I think it really is different in the heat and the end of the race to have to continue to fund raise when you're facing such a mountain of cash and so a block grant might be a way to at least mount some advertisements against the mountain of advertising. That just may be a way to look at this closer.

We would also --

CHAIRMAN SCHWARZ: Have you given thought to what the amount of that grant should be or should it be triggered by what the other candidate is spending or what?

MS. RACHEL LEON: I mean I think there are probably different ways that you can do it. I know that Gene in his testimony later on has a more detailed

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2 proposal that I think our advisory board would
3 certainly be open to.

4 But I think the idea would
5 just be we'll give, you know, experiment with
6 different things but to sort of look at what's
7 being spent particularly in the advertising
8 arena.

9 And I think what was so
10 frustrating for us to watch as good government
11 groups this year is Mayor Bloomberg not only
12 was able to just have this incredible amount
13 of advertising, but he was able to run these
14 really positive and wonderful ads which I
15 mean a lot of times with major spending we see
16 negative ads and we see these really nasty
17 ads. But he had so much advertising out
18 there that he was able to just completely
19 frame the debate on the premises and for
20 opponents if they're only going to get one or
21 two ads, you know, they can't make that kind
22 of choice.

23 So I think we just need to
24 look at -- you'd be better than me at figuring
25 out the ratio - and we'd be open to different

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2 ones - but I think some just not that they can
3 even use a serious amount of ad spending be
4 controlled and --

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CHAIRMAN SCHWARZ: Do you have

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a reaction conceptually to the arguments that
some people have made that the contribution
limit should be double, that's one thought I
heard. And I know that personally I was
against that two years ago because I think
that it undermines the main purpose or "a"
main purpose of the bill of the law. But
nonetheless, the contribution limit now, well
as the first witness indicated, is high
comparatively for states that are regulated,
New York City is regulated, it still is about
half what it was when the Campaign Finance Act
was first passed.

19

So what conceptual reaction do

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you have to the people who are saying solve
the problem by allowing larger contributions?

22

MS. RACHEL LEON: I mean

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conceptually we don't love that idea because I
think then at the end you're going to have
candidates trying to raise money in higher

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2 levels. I mean I think we like to see the
3 statistics that your analysis show that most
4 of these donations are coming in under \$100 so
5 I think to keep with the spirit of the
6 program, one of the reasons we think about a
7 block grant is that it just might be possible
8 to not deal with that, to not have to raise
9 the limit and then open up the program to
10 criticism about voters like women that you
11 know, who we're all too familiar with.

12 And so I mean I just think
13 we'd like to keep the contribution limits low
14 and yet keep the race competitive. And, we
15 know, could be a contradictory goal and it's a
16 very difficult problem.

17 And I still think that
18 overall, you know, I think the program
19 succeeded this year. And I don't think -- you
20 know, I mean it's easy to see sort of the, you
21 know, this problem as the only problem and
22 there's many other issues we want to face.
23 But I think as a society beyond the Campaign
24 Finance Board, we have to have this debate far
25 beyond the Campaign Finance Board because it

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2 used to be that they said there were these
3 candidates that were self-financed and they
4 ran but they didn't win while increasingly
5 they're winning all across the country and at
6 all levels government and so we really need to
7 look at the ramifications of that.

8

MR. CHRISTENSEN: Ms. Leon, is
9 it fair to say that if the only method of sort
10 of resolving a high-spending non-participant
11 was to increase the contribution limits, that
12 would you still favor keeping lower
13 contribution limits rather than changing them
14 to meet that particular problem?

15

It's a hypothetical --

16

MS. RACHEL LEON: It's a
17 hypothetical.

18

MR. CHRISTENSEN: -- but I
19 think it's a way of testing what your, you
20 know, priorities in terms of policy concerns
21 are.

22

MS. RACHEL LEON: Well, I
23 think for us the first priority was to raise
24 the matching rate and to give that to the
25 candidates when they're facing these high

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2 spending. But I mean if it was the only
3 opportunity we'd certainly be open to
4 considering it but I think in general we'd
5 like to see the contribution limits going in
6 the other direction.

7 So in this sort of unusual cases
8 where there is such extreme differences in
9 funding, we'd like to have some unusual
10 solutions that maybe would avoid that.

11 CHAIRMAN SCHWARZ: Okay. And
12 you would -- on the block grant, you would
13 advocate that being paid immediately when the
14 person is in a race with someone who's a high
15 spender so they're paid quickly I would
16 assume?

17 MS. RACHEL LEON: Especially
18 at the end. I don't know if immediately it
19 could be, I mean you could do it in different
20 ways. I mean you could have one trigger. You
21 can have it triggered at different times.

22 I think at the end it is key
23 because I think when people are really
24 starting to pay attention and focus on lengthy
25 ads, is when, you know, the candidates

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2 generally speaking have run out of money when
3 they most need to be on spending money.

4 MS. GORDON: I think in a way
5 what you're saying though has more to do with
6 the amount of money that's given out rather
7 than characterized whether it's a block grant
8 or matching, in a sense the candidates get a
9 block grant day; a day after the election as
10 soon as we know who the participant is who is
11 facing a non-participant who triggers that
12 extra bonus money, that money goes out, but
13 it's calculated based on what was raised.

14 But it is a block grant in the
15 sense that a chunk of money goes
16 instantaneously.

17 So I wonder whether what
18 you're talking about is a block grant in terms
19 of the amount of money that you would give
20 based on the opponent as opposed to comparing
21 it to matching funds.

22 MS. RACHEL LEON: Yes, well,
23 no, I am trying to get away from matching
24 funds.

25 I think we did see that. I

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2 think the difference we saw this year is and I
3 know there was a number of different reasons
4 and I remember, you know, having a very
5 interesting discussion at this same table with
6 Father O'Hare about what happened with Mark
7 Green and Mayor Bloomberg. But I think for
8 Candidate Ferrer at the end he wasn't even
9 able to raise money anymore.

10 And there's a number of
11 reasons to that that go beyond the Campaign
12 Finance Program, but I think it gets harder
13 and harder to - even if you raise the matching
14 rate - to be raising when you're facing this
15 sort of mountain of money.

16 MS. GORDON: If I'm not
17 mistaken the Ferrer Campaign this time got
18 more but somebody better correct me if I'm
19 saying it wrong, it was more in the amount for
20 the general election than the Green Campaign
21 got in 2001 or am I wrong on that point?

22 STAFF MEMBER: That's true.

23 MS. GORDON: That's true.

24 STAFF MEMBER: But it's only
25 slightly because it's more than a lot more.

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MS. GORDON: Because of the
increased matching rate from five to six --

4

CHAIRMAN SCHWARZ: One could
combine a block grant along with a match and I
thought one of the attractive things about
what you said is that the person facing the
high-spending candidate has no time -- is
trapped because they -- they have to raise
money desperately and that means they have to
spend too much time trying to raise money and not
enough time doing creative things and going
out and meeting voters.

14

MS. GORDON: And they also
changed the primary date till June.

16

MS. RACHEL LEON: Yes. I mean
we're offering today -- I think that we should
just, you know, as we sort of analyze what
happened this fall compare it to, you know,
what happened the last cycle since we've had
two election cycles where we can investigate
with this and there are other cases obviously
when you have high-spending candidates.

24

CHAIRMAN SCHWARZ: Rachel, do
you have any reaction to the thing that I went

25

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2 on at great length in my opening statement
3 about the Council candidate who doesn't face
4 any significant opposition and nonetheless is
5 getting huge amounts of public funds?

6

MS. RACHEL LEON: Yes, I mean
7 I think we agree that it's a problem. I don't
8 think we've come up with our own solution.

9

I think that part of what
10 we're going to do today is listen to the
11 various proposals out there.

12

Again, you're going to hear
13 from Gene later. We've read his -- we've
14 gotten a chance to read his testimony in
15 advance so you'll hear a specific proposal for
16 him. And I think our board is going to take
17 this up in January and try to come back on that
18 one but we want to really hear from everyone
19 today.

20

So I think there are more
21 things we can do and if we can figure out some
22 things and one of them could be lowering
23 contribution limits. There are different ways
24 you can look at this but so overall there's
25 less being given out so -- but I agree that we

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2 have to look at that as well.

3 But I still think overall I
4 mean I think it's to your credit that you're
5 self-critical but overall I think this program
6 is successful and we shouldn't forget that as
7 we look at these races.

8 That was -- the only other
9 question that we were going to respond to and
10 then Megan's going to talk about pay-to-play
11 and the Voter Guide is -- and use of
12 government resources, just Intro 564-A.

13 And we just want to state
14 again, for the record as we have repeatedly in
15 recent weeks, that we stridently oppose the
16 legislation passed by the New York City
17 Council that subverts the authority of the
18 Board to promulgate the rules it deems
19 necessary for the administration of the
20 Campaign Finance Program.

21 Intro 564-A sets its own
22 inadequate measure for determining whether the
23 contribution from two labor unions should be
24 thought of as coming from a "single source"
25 and therefore aggregated and counted together

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2 under the program.

3

4 As we told the Council in
5 testimony, historically, we have supported
6 efforts by the Board to acquire contributions
7 from a single source to be totaled and counted
8 together limiting the influence of
9 corporations and organizations and increasing
10 the weight of contributions from individual
11 citizens in the election process are key
12 tenets of the program.

12

13 In general, we support
14 requirements that seek to minimize the
15 influence that groups acting under the
16 direction of a single decision-making source
17 have in city elections.

17

18 We strongly supported
19 aggregating contributions of corporations and
20 their subsidiaries and affiliates before all
21 corporate contributions were made unlawful in
22 '98.

22

23 The council members have
24 raised concerns that the Campaign Finance
25 Board rules would limit workers' ability to be
26 heard. And while their concerns about the

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2 unfairly limiting truly independent locals
3 from contributing funds in addition to those
4 that the parent organization contributes may
5 be valid, we've found that this legislation is
6 not. We supported the Mayor veto on that. We
7 hope that the Council will not override his
8 veto but we'll continue to be involved and
9 hope we can come up with some kind of
10 solution.

11 I'm going to turn it over to
12 Megan.

13 MS. MEGAN QUATTLEBAUM: Okay.
14 I'm just going to finish up by quickly talking
15 a bit about those who do business with the
16 City and contributions from them and then I'd
17 also like to make two comments on The Voter
18 Guide.

19 And I would just say Common
20 Cause New York wholeheartedly supports
21 restrictions on political contributions from
22 those who do business with the City. We
23 actually have a lot of prior testimony on this
24 issue which we'd be happy to provide you with
25 so I'm just going to talk about our feelings

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2 on contributions from these individuals in a
3 sort of general way.

4

5 But we have testimony from the
6 Campaign Finance Board Hearings held in
7 January and March, and also in November 2004
8 the hearing of the City Council. And we'd be
9 happy to provide you with all -- any or all of
10 that testimony as well.

11

12 Common Cause New York has long
13 decried the all-too-common practice of
14 pay-to-play in which campaign contributions
15 are traded for lucrative government contracts.

16

17 We believe that in a public
18 contract system driven by political
19 contributions, merit and cost-effectiveness
20 fall by the wayside, and those who really pay
21 are taxpayers who are forced to spend more for
22 lower quality services.

23

24 We believe that even in the
25 absence of actual bribes in which
26 contributions are explicitly traded for
27 government contracts, the fact that those who
28 receive City contracts are in some cases also
29 major contributors, can create an appearance

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2 of favoritism that itself erodes public
3 confidence in government.

4

I would also note that
5 generally we feel that pay-to-play is most
6 effectively and appropriately regulated when
7 legislation is passed that restricts
8 contributions from those holding or seeking
9 contracts with the City and when the penalty
10 for non-compliance with the law is placed on
11 the contractors who made the inappropriate
12 contribution.

13

That's the model that New
14 Jersey has pursued and we believe it's an
15 appropriate avenue for New York City as well.

16

I would especially note that
17 we think it's a mistake to require individual
18 candidates for City office, especially to
19 require only those who just paid in the public
20 finance program to determine whether or not
21 the contributor is doing business with the
22 City and then to reject contributions from
23 those entities or individuals.

24

CHAIRMAN SCHWARZ:

25

Unfortunately that's all we can do. So one of

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2 the -- I think if we are to do something it's
3 going to be done in a way that conduces the
4 City Council to do the better job which is to
5 pass a law.

6 MS. MEGAN QUATTLEBAUM: And we
7 certainly would agree that you-all are in a
8 spot where you've been asked to do a job that
9 we feel could more appropriately be done
10 through State Council legislation.

11 So we recognize that -- we
12 recognize that and we recognize sort of the
13 limitations of what the Board can do. It's
14 not our ideal avenue for regulating
15 pay-to-play, but we would certainly be happy
16 to work with you to make that, you know, sort
17 of as effective as it can be with the caveat
18 that we feel that the more effective way is
19 legislation.

20 So you know, even given those
21 general parameters, a number of questions
22 still exist about who to regulate and how --
23 and I would, again, refer you to some of our
24 prior testimony where we go in to some of
25 those questions in greater detail. But I

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2 don't have the analysis to speak of.

3

4 CHAIRMAN SCHWARZ: You
5 testified very effectively before and that was
6 your first testimony actually.

7

8 MS. MEGAN QUATTLEBAUM:
9 Perhaps.

10

11 MS. RACHEL LEON: We also have
12 a state pay-to-play package that we're
13 expecting to be signed in weeks so those
14 things tend to take a little long in Albany
15 but we hope to be doing this.

16

17 CHAIRMAN SCHWARZ: And The
18 Voter Guide.

19

20 MS. MEGAN QUATTLEBAUM: The
21 Voter Guide.

22

23 I would also, in a written
24 testimony we have some comments also about
25 elected officials' use of government
resources. And I would just say that a number
of incidents in this campaign, one in
particular, that mailing from Council Speaker
Gifford Miller, the mailing paid by for the
City Council that featured him prominently and
he had his voice in almost every council

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2 district in the city. And certainly
3 highlighted this problem and the need to look
4 into effective solutions and more effective
5 regulations on that issue.

6

So in the interest of brevity
7 I'm going to skip over that, but we have some
8 comments in our written testimony on that.

9

I will say about The Voter
10 Guide, once again it proved itself to be an
11 accessible and indispensable resource for
12 voters in the 2005 election.

13

We were very pleased that the
14 Board chose to conduct a survey of public
15 opinion on the guide and to make changes in
16 response.

17

We feel the changes lead to
18 very positive results and that this process
19 reflected your general and highly commendable
20 willingness, as we've said, to accept comments
21 and criticism and hear solutions in response.

22

We were especially pleased as
23 an organization that supported one on the
24 ballot proposals from the State, we ultimately
25 lost, that ballot proposal was turned down but

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2 we very much appreciated the opportunity to
3 present our pro statement on the state ballot
4 proposal in the Voter Guide. We thought it was
5 very positive that the Campaign Finance Board
6 choose to include background information and
7 pro/con statements on all of the ballot
8 questions, both State and City.

9

They're incredibly complex
10 often. I think many voters are not even aware
11 that they're going to be on the ballot. So
12 it's an especially vital resource to have.

13

We got very balanced, very
14 comprehensive information on those questions
15 available to voters.

16

And, again, we really
17 appreciate the opportunity to present
18 testimony today.

19

We're happy to take any
20 additional questions but we, again, the
21 Campaign Finance Program here in New York City
22 is a national model. It's very well served by
23 this process of post-election evaluation and
24 review. And we hope it will serve as an
25 inspiration for any new public finance program

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2 for all of New York State in the coming years.

3

CHAIRMAN SCHWARZ: I don't

4

know if you were here when Paul Ryan testified

5

about the desirability of lowering

6

contribution limits and he gave some specific

7

numbers.

8

You don't need to do it now

9

but he's going to supplement that with

10

research into other states and cities that,

11

you know, I'd be very interested in your

12

reaction to -- I know you're in favor of

13

lowering the spending limit, but do you have a

14

reaction to the specific numbers that he came

15

forward with?

16

MS. RACHEL LEON: Yeah, we'd be

17

happy to look closer and that --

18

CHAIRMAN SCHWARZ: Maybe you

19

probably can do this anyway, put his

20

supplemental remarks on the web and you being

21

technologically-educated could figure out what

22

he's doing and respond to it. We'd love that.

23

MS. RACHEL LEON: Sure. We

24

would be happy to.

25

CHAIRMAN SCHWARZ: Questions?

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MR. CHRISTENSEN: Yes.

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I just wanted to reiterate

something that the Chairman mentioned because

I think in terms of our analysis of this last

election, it seems to be a persistent problem

in connection with these races where there are

funding for largely uncompetitive races and I

appreciate we're going to hear something later

on on a proposal on that.

But any of the creative

thoughts that you could give us on that would

be most appreciated because from the data it

clearly remains to be a significant problem.

MS. RACHEL LEON: Well, I

think -- I mean we look at the same thing

state-wide. I mean the advantages incumbents

have and the sort of uncompetitiveness of

races across the board I think is a real

problem. I mean some of it at the state level

we really, you know, it saves the

redistricting as well as the, you know, the

ability at the state level for incumbents to

raise huge amounts of funds.

So I think you can get

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2 creative and I think we should. I don't have
3 more specifics today but our board will be
4 reviewing that.

5

MR. CHRISTENSEN: Well,

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obviously our jurisdiction is a little
narrower, it's -- I mean although we want to
encourage competitiveness, I think our concern
is giving money to non-competitive races,
public funds in non-competitive races because
that sort of adds insult to injury and I think
we're trying to come up with some creative
proposals.

14

MS. RACHEL LEON: Yeah, and I

15

think we should.

16

I think one of the real

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strengths of the Board has been the website
and the information and just a wealth of data
that's available. So we should use that I
mean so we have that and we can then tailor it
so we can really prove that there are
uncompetitive races and then not give as
much, I think that's fine, we just have to
figure out how to do it.

25

MR. CHRISTENSEN: Thank you

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2 both very much.

3

CHAIRMAN SCHWARZ: I think the
comment I made at the bottom of page five of
my statement, it really should be of great
concern to the good government groups because
if we continue with these trends, this is a
wonderful program, but the public support for
it can diminish if they see it largely helping
incumbents and if they see as a subheading to
that, that there's a lot of public money going
to people who don't have anything remotely a
competitive race.

14

MS. RACHEL LEON: Yeah. No, I
mean I think it deserves to be looked at
really closely and maybe a combination of
lowering limits and then having some sort of
equation for competitiveness and having that a
limit on what you give out I think makes
sense.

21

CHAIRMAN SCHWARZ: Okay.
Thanks.

23

MS. RACHEL LEON: Thanks.

24

CHAIRMAN SCHWARZ: Let's see,
John Siegal is in the back there somewhere.

25

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2 You're next.

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MS. GORDON: As Common Cause

did comment on The Voter Guide, while Mr.

Siegal's coming up I'll just alert you that

we've been getting a preliminary sense from

surveys that were done on The Voter Guide

after this last election, extraordinarily

positive results. We don't have it all yet

but I just wanted to say that.

CHAIRMAN SCHWARZ: John, when

you're finished if you can give the Court

Reporter a copy.

MR. JOHN SIEGAL: Sure. I

think there's copies outside for the Board.

I'm not going to bore you by

reading through it, but hopefully for

yourselves at some point I'd appreciate it.

I'm listed on the agenda as

counsel for Anthony Weiner's Campaign and I

am, though I'm not here in that capacity

today.

And I'm engaged in perhaps a

foolish act to testify to a board about how it

operates when I've been before it so don't

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2 hold me to what I say --

3

CHAIRMAN SCHWARZ: Your

4

testimony in '01 that I read when I became

5

Chair, it was extremely helpful in helping to

6

formulate my own opinion about the issue of

7

big spending -- someone's testimony can make a

8

big --

9

MR. JOHN SIEGAL: Yeah. No, I

10

appreciate you saying that. I only say this

11

don't hold it against my client anything that

12

I say.

13

I will just briefly address

14

the issue of high spending in comments because

15

it's sort -- it's tangled although and I

16

really want to talk about how we think about

17

how the Board operates.

18

But I do think at the highest

19

level, the campaign finance system has already

20

failed.

21

It's no fault of this Board

22

but there has not been campaign finance reform

23

in two successive Mayoral elections.

24

The paramount goal of leveling

25

the playing field has been destroyed. And

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2 four years ago at this hearing, the then
3 Chairman pooh-poohed this concern, but the
4 inequity really only got worse this year.

5 Now, there's some reasons for
6 that and I don't think it has anything to do
7 with the Board, it's not the Board's fault but
8 I think that campaign finance reform finally
9 failed at the Mayoral level this year when
10 even the staunchest supporters of the system
11 and the staunchest supporters of this Board -
12 the reformers, the editorialists, the good
13 government groups - really failed to care
14 about the inequity. And essentially they saw
15 no shame in a man spending in excess of \$150
16 million to become and remain Mayor.

17 Nearly all of them endorsed
18 him. And so I think apparently it's fair to
19 say there's no longer a civic consensus that
20 candidates ought to participate in the
21 campaign finance system.

22 It's been the case - and I've
23 been involved in every citywide campaign since
24 this system started - supporting Democratic
25 candidates that the political arguments

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2 against opting out of the system were so
3 strong that it really couldn't up one another.
4 And there were candidates, in fact, who could
5 have self-financed who didn't because it was
6 unthinkable to do it, to do so. That's no
7 longer true.

8

 And those arguments have been
9 weakened frankly, anyone running next time has
10 to think seriously about whether to
11 participate or whether to opt out. And I
12 think that would -- I think, you know, I hope
13 it doesn't happen but if it should happen --
14 but I think the whole political calculus has
15 changed.

16

 At the federal level, it also
17 used to be unthinkable to opt out as an
18 incumbent till it happened once and now
19 everybody does it every election.

20

 So I think unless the system
21 is fixed and unless a new consensus forms
22 about its overriding value for the city,
23 campaign finance reform at the Mayoral level,
24 at least, may well be dead and that would be a
25 terrible shame.

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What I really want to speak

about though is the other side of the

consensus that this Board requires in order to

function, that the system requires.

It is a voluntary system and

to succeed it requires consensus by and from

the political class, from the opinion leaders,

the funders and ultimately the voting public

at large.

Despite its great success in

leveling the playing field and open access to

the political process and combating corruption

in political funding, there is no longer, I

think a city consensus that the system is

operating fairly and efficiently.

Candidates and their advisors

hate the overly legalistic compliance and

audit processes.

I know people who make their

living as election lawyers who refuse to

handle matters before the Board over the

litigations.

Political parties and labor

unions feel singled out in enforcement.

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2 Others are questioning the use of public funds
3 by incumbents without real electoral
4 opposition - campaign consultants and the
5 Mayor simply avoided the whole thing.

6 I, this summer was sitting in
7 a room with these very bright people who were
8 explaining to me at a time when it seemed
9 preposterous that Congressman Weiner - who
10 nobody had ever heard of and who was in first
11 place - was going to finish in second place
12 and was to force a runoff. And they explained
13 to me exactly how it was going to happen and
14 what was going to happen. And very bright
15 people and, in fact, played out just that way.

16 And then the meeting turned to
17 me to say, well, what are these issues that
18 we're dealing with with the Campaign Finance
19 Board? And I started in on logs that we have
20 to keep to show transfers of transactions and
21 documents that we've been asked for. And my
22 line is that we've been instructed to provide
23 that. And in this whole set of arcane things
24 that these people - and many of them who are
25 lawyers and all who have been running

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2 campaigns across the country - we're just
3 baffled by it. And a certain point, they
4 would say this, without waiving
5 attorney/client privilege, Congressman Weiner
6 turned to me and said, Siegal, you've been
7 fighting with this Board for half your adult
8 life, we're right but I don't want to fight
9 with them.

10 And what I want to talk about
11 is why there's this pervasive sense in the
12 political community that relations between the
13 Board and the staff on the one hand, and the
14 campaigns on the other hand, are fights and
15 are litigious.

16 And I will acknowledge in the
17 matters I handled and I've handled and I've
18 contributed my share of contentiousness to
19 that process so don't take anything I say is
20 saying this is all one-sided, but I don't
21 think that the Board should minimize the
22 extent of the unrest about the way it
23 operates.

24 Among the rank and file of New
25 York's political communities, there is open

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2 revolt and really endless outrage on the way
3 the campaign finance system is regulated.

4 There are real inequities in
5 the way it works and I think that they're
6 threatening to undermine all the good work
7 that the Board has done since it was created
8 in 1989.

9 I've spent a lot of time with
10 candidates and election lawyers and union
11 officials, party officials and others trying
12 to understand the true causes of the anger at
13 this Board, because the feelings are
14 widespread, really intense and often extreme
15 to the point that people are both privately
16 and publicly advocating for things that in
17 terms of fixes, legislative fixes that we
18 would really destroy this great system that
19 has been created.

20 Now, there's an irony to the
21 fact that the people who passed tax increases
22 or passed regulations, when they rent their
23 own small business and or maybe for the first
24 time in their lives regulating, start ranting
25 and raving about regulation. It's an irony,

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2 too but it really would be incorrect to
3 dismiss the complaints as just self-interested
4 statements.

5 I think there's -- the reasons
6 for some of the variance and the solutions are
7 essentially three fold:

8 First, I think there's some
9 procedural issues about the way the Board and
10 staff operates that we need to address.

11 There's a widespread belief
12 among campaigns and campaign advisors,
13 lawyers, aides, et cetera, that the CFB
14 presumes guilt and that its procedures shift
15 the burden of proof to campaigns to
16 demonstrate that they have not violated the
17 law.

18 Now, I'm not just talking
19 about presumptions in the law, some of which
20 makes sense, some of which may not, I'm
21 talking about the day-to-day interactions.

22 Nearly all candidates are just
23 trying to comply with the law and it's not
24 always easy. And it's particularly not only
25 easy for campaigns that don't have

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2 professional treasurers and lawyers, but
3 candidates at all levels I find believe that
4 the Board does not grant them good faith and
5 that they are instead, they feel suspected of
6 improper acts and political corruption, if you
7 will, when really most of them are just trying
8 to comply.

9 Nearly all interactions with
10 the staff are required to be in writing. This
11 creates an incredible paper trail.

12 In the midst of a short
13 campaign season, letter writing necessarily
14 makes things more combative and contentious
15 and litigious especially when a lawyer's
16 writing the letters on both sides. And a lot
17 of this I think is unnecessary.

18 The Board's queries to
19 campaigns are usually stated in the form of
20 accusations and not as inquiries. Most --
21 nearly all letters sent to campaigns include
22 bold (indicating) bolded warnings of impending
23 violations.

24 Now I understand the notice
25 and the due process requirements is the

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2 reasons for that but it sets a tone.

3

4 And it's true senior staff
5 routinely refuses to discuss issues with
6 campaigns and their counsel and instead insist
7 on communicating through formal processes
8 only.

8

9 The practice of requiring
10 sworn "certifications" by campaigns is posing
11 problems. It's often not clear that the
12 request requires an affidavit in response.

12

13 I, and others have submitted
14 letters explaining in full detail what
15 occurred or what the information was and yet
16 people have been cited for violations because
17 they weren't sworn.

17

18 This, too sets a litigious
19 tone. I know very serious-minded experienced
20 lawyers would have run for office who believe
21 that the CFB's practice of requiring sworn
22 statements early in the compliance process is
23 a perjury trap and they don't do it. It sets
24 a terrible tone and it's -- a lot of it is
25 unnecessary and counterproductive.

25

The confrontational culture

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2 extends to the way issues are teed up and
3 presented to the Board.

4

Many, maybe most Board
5 decisions are preceded by executive sessions.

6

During the executive session
7 the staff lawyers, who are the proponents of
8 the enforcement action recommended, are in the
9 room, but the campaigns that are the subject
10 of the matter are not in the room.

11

It's difficult to explain to
12 your client why there are judges making
13 factual determinations who are sealing the
14 room, excluding them and their lawyers and
15 meeting privately with the very same people
16 who are bringing the charges up for decision
17 in the first place.

18

So there are problems with
19 procedural changes that should be considered.
20 There are certain attitudinal changes that
21 should be worked on on both sides - more
22 communication and less confrontation would go
23 a long way.

24

After some considerable
25 efforts by several in the Weiner Campaign and

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2 at the Board, I personally found some of the
3 typical communications and process problems to
4 have been ameliorated during the course of
5 this summer and I appreciate it. And I
6 especially wanted to note the positive role
7 that Amy Loprest played in that process as we
8 were working through some tough issues.

9

But that should be the norm,
10 that should be the norm. That's the way
11 business should be done unless you get to
12 enforcement proceedings and then the
13 enforcement proceedings really need to be fair
14 processes with due process, with the evidence,
15 with an opportunity to cross-examine but most
16 business shouldn't be done that way.

17

I think the CFB ought to have
18 an enforcement bureau and that the Board
19 should have the benefit of counsel who's not
20 simultaneously an enforcement officer.

21

CHAIRMAN SCHWARZ: Just
22 articulate that one again.

23

MR. JOHN SIEGAL: Well, when a
24 matter gets to the Board we know we're dealing
25 with regulators. Before it gets to the Board

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2 we feel we're dealing prosecutors. And the
3 prosecutors are the same lawyers that advise
4 the Board on making the determinations.

5 CHAIRMAN SCHWARZ: You're --

6 MR. JOHN SIEGAL: They're in
7 the room, we're not.

8 CHAIRMAN SCHWARZ: But let me
9 just make clear what you're saying.

10 You're suggesting a model
11 where there's a wing of the Board that's
12 called the enforcement wing and then there are
13 counsel to the Board who are counsel to the
14 Board and not part of the enforcement wing?

15 MR. JOHN SIEGAL: Yes.

16 It's not for me to tell the
17 Board how to structure itself --

18 CHAIRMAN SCHWARZ: I just
19 wondered --

20 MR. JOHN SIEGAL: -- or how to
21 arrange for the staffing but what I am saying
22 is that the perception among campaigners is
23 that they are presumed guilty. That they're
24 presumed not to be acting in good faith and
25 that it's the burden of the campaign to prove

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2 that they are not violating the law. And in
3 some instances that should be the burden. But
4 I think that whole process is it's
5 contributed to by the fact that the people
6 you're dealing with are the same people
7 charged with investigating and recommending
8 violations.

9

Now, you know, I don't know,
10 maybe the Board doesn't need its own counsel,
11 there are good lawyers on the Board and, you
12 know, people know, maybe that's not the
13 solution. But there is an inherent unfairness
14 where the people who are trying to prove that
15 you did something wrong are these people in a
16 closed session when the determination is being
17 made.

18

It would also help, really
19 help both as a matter of perception and as a
20 matter of reality, if there were some people
21 on the Board and some people on the senior
22 staff who had worked in and around political
23 campaigns and know how they really operate.

24

That obviously is the point
25 about the Board composition is for others, but

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2 there's a widespread sense that just about
3 everybody will say that the CFB just doesn't
4 get it, they don't know how campaigns work.
5 They don't understand that these are
6 businesses that come together for two or three
7 months. They don't have internal systems.
8 They largely don't have professional staff.

9 There is a process in which
10 the Board and the law requires campaigns to
11 learn and to get better, but there's a sense
12 that the Board is just not practical, it just
13 doesn't understand the realities.

14 And it would help I think to
15 have people who have been involved in the
16 other side. It's not saying the industry
17 should run the regulators, but certainly most
18 regulators have people who have come out of
19 the industry in the staff and on the Board and
20 it really should.

21 Second, there seems to be
22 times where the CFB is reaching beyond the
23 purpose and intent of the Act and the Rules to
24 regulate not just campaign finance but the
25 political process itself.

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And it may be that after five election cycles there are some situations in which the law can and shouldn't be advanced in which the sense that you can always improve and you can always tinker more with the political process to make it even better at some times is overreaching and it's unnecessary.

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And there are lots of progressive reforms that have been undermined by becoming too bureaucratic, too legalistic and overreaching and I don't want to see this become one and I fear that in some ways it is.

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The whole discussion about, you know, banning contribution from people who do business before the City, which I didn't come here to talk about and I'm not sure I have fixed views, but it's a radical step that may not be necessary in the system where there's full public disclosure and limitations on contributions.

23

24

25

Nobody -- just consider that, whether -- whether -- rather the pay-to-play abuses that the Ferret Commission identified,

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2 happen to be a significant measure already
3 been solved by the very good work of this
4 system.

5

On some more mundane matters,
6 the prohibition on transferring funds from
7 non-municipal campaign committees is an
8 example, I believe, of over regulation. The
9 prohibition serves no useful campaign finance
10 regulatory purpose.

11

The Board's Audit Staff is
12 perfectly capable of determining what money
13 can and cannot lawfully be transferred.

14

The allocation rules are
15 logical. They're perfectly clear and when the
16 law permitted transfers, non-qualifying
17 contributions did not end up in the campaign
18 treasuries of participating campaigns.
19 There's just no abuse that this rule is
20 regulating.

21

The purpose and intent of the
22 Campaign Finance Act are not furthered by
23 preventing State and Federal legislators from
24 transferring qualified contributions into
25 campaign committees for municipal election

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2 campaigns.

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The rule is not required either for disclosure because the transfers are disclosed and the Board ties them to specific contributors and in specific amounts. And it's not necessary to level the playing field because the participating candidate whether he or she raise money first in State or Federal committee or even the City committee, is bound by the same contribution limits. So it really has the effect only of protecting city incumbents from political competition and it ought to be repealed.

It, I guess it's old business but the way it was enacted during this campaign cycle to the detriment of one campaign promulgated in the fact by another candidate is something that certainly should not happen. But there's just no reason for it. You guys know how to regulate this stuff and it works. There's no reason for bringing the transfers.

I also think there's really no good reason - while this is a much more

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2 complicated subject - for the CFB to take
3 enforcement action against internal political
4 organization within membership organizations.

5 Strong and active citizens'
6 group, political parties and labor unions are
7 not inconsistent with campaign finance reform.
8 And it should not be the objective of this
9 Board to regulate their internal activities.

10 There is a very widespread
11 sense among labor unions that play in
12 municipal politics and among political
13 parties, that the CFB is out to get them.
14 Whether that's true or not or whether it's an
15 overreaction or not I think the rules need
16 to be clarified and that campaign finance
17 reform, the objective of it should not be to
18 ensure that people participate in politics
19 only and solely as individuals and not as
20 members of groups where the groups have
21 traditional and appropriate collective action.

22 I'll give you an example:

23 The Weiner Campaign this year
24 was cited for a violation because a supporting
25 organization sent an e-mail fundraising

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2 solicitation to its own members, it was an
3 e-mail. There was no incremental cost at all
4 to that organization. And the solicitation
5 raised no money for the Weiner Campaign.

6 I was asked about it. I
7 inquired. I said, yes, somebody on the staff
8 requested it. That became a violation.

9 Now, this sort of thing goes
10 on all the time without drawing CFB attention.
11 It's entirely appropriate. Political clubs
12 send letters to their members saying we're
13 supporting the following campaigns.

14 Citizen groups, environmental
15 organizations send e-mails and letters to
16 their members saying we've decided that so and
17 so has a good record of the environment and
18 contribute to them or support them or vote for
19 them or volunteer for them. It goes on all
20 the time. Labor organizations do it,
21 political parties do it.

22 And it really should not be
23 charged against campaigns regardless of
24 whether they're coordinated or not.

25 This type of activity is no

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2 different than an internal e-mail within a law
3 firm or an investment bank soliciting partners
4 to meet with a candidate or to make
5 contributions, there's no difference. And the
6 Board would never and should never take action
7 against a law firm because a member of the
8 firm is asked by a campaign to raise money and
9 she sends an e-mail to her partner saying come
10 the conference room, meet with so and so and
11 make a contribution.

12 I don't see a difference.
13 But the Board's efforts in this area are
14 perceived as unfairly selective. They are
15 largely prompted by complaints made by
16 opposing campaigns. We all do it and they
17 appear to be targeting against political party
18 organizations and labor unions.

19 I just don't think - and this
20 may require changes in the rules, it may
21 require changes in the act, it may require
22 changes in state law - but the Board shouldn't
23 be in the business to the maximum extent
24 possible of trying to figure out what internal
25 organizing activities are or are not

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2 coordinated. You'll never know. You'll never
3 get both of them right and you shouldn't
4 either. I don't think you should want to be
5 there.

6

Now, that's a different story
7 than when organizers are doing voter contact
8 and voter communications outside their
9 membership. But it is going on. It's
10 perceived that it is going on widespread. The
11 rules are not clear.

12

I've talked to organizations
13 about saying, why don't you ask for an
14 advisory opinion? They say we won't because
15 they will rule against us. I suspect the
16 Board doesn't seek legislation in this area
17 because they don't want to submit this to the
18 Council. And it's the kind of thing that ends
19 up in litigation and becomes a big mess for
20 everyone.

21

Third, I think we need to
22 address problems in the post-election audit
23 process.

24

Election Day should be the end
25 of the ordeal and not just the beginning.

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Campaigns are short-term enterprises. They literally go out of business on Election Day. Offices shut nearly immediately. Staff goes on to other things. Files are boxed up and stored.

And yet audits last a long time. Sometimes they last longer than the term of office for which the campaign was intending.

The Board's auditors are very capable, very professional. It does not seem to me that they are given the resources they need during election years or in the year immediately following election year. There's no incentive to wrap up the audit process quickly in the off years.

The audit process is subject to very complicated legal oversight and I guess if I had to try to give one -- if the Board were seen as more of an audit agency and less of a lawyering agency, that be a good thing.

And I don't know how many auditors there are and I don't know how many

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2 lawyers there are. We see the lawyers, we
3 don't see the auditors. And it's true in the
4 audit process, there should be firm fixed
5 guidelines for the audit process. There
6 should be strict statutes of limitations on
7 violations of the Campaign Finance Act.

8 If campaigns don't cooperate with
9 the deadlines they should be told obviously. But
10 there should be firm fixed deadlines and if
11 the CFB can't meet them, then the matter ought
12 to be closed.

13 And if it requires resources
14 to meet them, then those resources ought to
15 allocated. If it requires action in the City
16 Council then it ought to happen. But there's
17 just no reason for the audit process to last a
18 long time.

19 There ought to be meetings
20 between the CFB and campaigns as a mandated
21 manner within one month of Election Day in
22 which the records are inventoried and reviewed
23 and assessed and the audit process starts.
24 If you don't do it within the first month,
25 people are gone. They're gone.

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There is a general guideline that preliminary audit reports ought to be finished in a year.

Number one they're not, and number two, that's way, way, way too long. The audit process ought to be finished in a year to the maximum extent feasible.

And I would urge you to present legislation to the Council that reforms this process. I think you should take that on. I think you should challenge yourselves. Because if you don't, I think the Council should mandate some changes.

I was at the Council Speaker debate and it was an amazing thing. This was a debate sponsored by Citizens Union -- okay -- in which they got up and they tried to one-up each other on denouncing the CFB.

That's yet again proof that there's a political cost of opposing the Board and the system is diminishing. And the main complaint was the audit process.

And it's just on operational things and it ought to be fixed.

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And if we could meet to talk about how to do that after the audits are over, that would be great.

Just in sum, the next election really should be tailored for the campaign reform. There will be no citywide incumbents. There really will be a new generation of leaders.

A lot of them are middle class New Yorkers, not the Manhattan elite necessarily, who don't have access to great wealth who need this system and should have the benefit of the system to run for office.

But I think if it's not fixed both at the high end that we were discussing before at the day-to-day level I think people are going to opt out. I think you're going to get a legislation you don't like. I think there's going to be more and more litigation and the consensus and the social norm that one has to play by these rules I think are becoming eroded and I hope it's useful to say so and that's why I came.

MR. POTASNIK: John, I can

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2 just react to some of the points you made.

3

4 I've been sitting on this
5 Board for some eight years and you talk about
6 the dissatisfaction of the political community
7 with the Board, I must tell you, I also hear
8 many, many problems the satisfaction of the
9 labor union with the Board because the Board's
10 protecting public funds. It gives away
11 millions of dollars.

12

13 And you said earlier there
14 should be a presumption. There is a
15 presumption that candidates who come here want
16 to comply.

17

18 And I have to tell you John,
19 from where I sit I see many candidates, too
20 many candidates who don't want to comply.

21

22 I have never seen more
23 requests made for invoices, contemporaneous
24 billing, all kinds of statements and
25 candidates just don't come forward.

26

27 You talk about deadline, we're
28 the deadline on the other side. I could fill
29 this room, John with pictures of treasurers
30 missing in action, they're missing. Every

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2 time we want to hear a treasurer come forward,
3 can't be found, sick, dead. There's some kind
4 of treasurer's illness that seems to pervade
5 that political community.

6 So I hear the complaints, but,
7 you know, I also see the other side and I
8 don't think you're being fully cognizant of
9 that side.

10 I see a staff here that works
11 till seven, 8:00 at night trying very hard to
12 get candidates to comply, making the calls,
13 asking them and pursuing the information and
14 we don't get it. And there's another delay,
15 another delay because the candidate is not
16 willing to come forth with the necessary
17 information.

18 So you see it one way but I
19 have to tell you, there are some of us, I
20 think who see it the other way. It may be
21 we're both are right and we're wrong.

22 MR. JOHN SIEGAL: Couple
23 things.

24 And I said at the beginning,
25 and let me emphasize, I don't, by saying these

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2 things, mean to minimize all the good work
3 that the staff and the Board does. I'm trying
4 to speak for the views that you hear and that
5 I probably hear more of because frankly, you
6 know, the people involved are the last to know
7 because nobody's really foolish to do what I'm
8 doing which is come down here and say these
9 things when I've got matters that you're to be
10 deciding.

11 And to some degree look, I
12 respect citywide candidates, I don't represent
13 City Council candidates. I recognize that
14 there's a level of compliance and
15 professionalism which a larger campaign
16 probably has as the norm but the community
17 campaigns don't.

18 But -- and I have no doubt and
19 I participated in some of it myself, that
20 the kinds of paperwork that the Board has
21 asked for isn't there.

22 The reasons are several-fold:
23 One is that some of the paperwork requirements
24 are just unbelievable. They're just way over
25 the top and there are redundancies to them.

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2 You are trying to effect a wholesale change
3 in the political culture, you know, requiring
4 written contracts when somebody walks in and
5 does, you know, six thousand dollars of work
6 for a campaign. I mean campaigns don't
7 operate that way. They never have. You're
8 trying to make them do it but they don't.

9

But if a campaign doesn't have
10 a certain record or certain piece of paper
11 it's not because they're trying to cheat. And
12 it's not because they don't take the rules
13 seriously, it's because they're a fly-by-night
14 organization that is in business for two,
15 three months and it's hard to do.

16

And a lot of the requests that
17 come are perceived as imputing potential
18 violations because you don't have a copy of a
19 check or you don't have an invoice. It's
20 just --

21

MS. GORDON: What do you think
22 the solution when - the only reason this is
23 very important whatsoever is public funds are
24 involved, and the purpose of record keeping
25 requirements is to ensure the public that they

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2 paid a dollar and they got a dollar for, you
3 know, that was spent properly on behalf of
4 public - so what do you think the solution is
5 if the campaign doesn't have the necessary
6 documentation? Do you think that the
7 enforcement agency should just ignore it?

8 And regardless whether from
9 the point of view that the campaign is
10 innocent or not, from a regulatory point of
11 view there's not really a way either A, to
12 know that, and B, I'm not sure how
13 consequential it is. If it's a public dollar
14 how do you deal with circumstances where the
15 political culture wants to do business a
16 certain way but an audit trail requires
17 something different. What would your
18 suggestion be?

19 MR. JOHN SIEGAL: I think it
20 depends on the specifics. If you can't tell
21 where the money went, obviously that requires
22 enforcement. Obviously there should be
23 audits and I'm not saying there aren't and
24 nobody is saying that there aren't. But
25 there are redundancies in this.

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2 You have to have a check. You
3 have to have a contributor card. You have to
4 have a bank statement. Often additional stuff
5 is asked for. I don't -- you know if the
6 records aren't available you should do what
7 you have to do. But there are a lot of things
8 in which -- part of the problem is how much of
9 the audit is done beforehand and how much of
10 the audit is done afterwards. And it's just
11 clear that the Board does not have the
12 resources to do this stuff during campaigns.

13 And so you get these requests
14 in the middle of a campaign, you sort of
15 produce it. You don't know who's looking at
16 it, who's not. There isn't an interactive
17 process and all that is left to labor and it
18 should be moved forward.

19 MS. GORDON: Maybe there ought
20 to be an opportunity for you and me, not
21 necessarily just you and me, but some kind of
22 conversation to occur that's not part of any
23 audit or anything like that.

24 But I think there are a lot of
25 places here where, you know, when, for

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2 example, you feel that the communication has a
3 tone that's hard. We really work very hard to
4 try to tailor them in a way that is both
5 requires an answer and on the other hand, you
6 know, simply points out the particular
7 question or concern or whatever.

8

And there are competing
9 interests in trying to -- we have a very
10 extensive candidate services operation, as you
11 know, and then the audit process has a very
12 different direction that it's going in. And
13 maybe there are ways to find better ways to
14 communicate.

15

But as you know from the
16 campaigns you've worked on, there are a lot of
17 questions, generally questions that require
18 sometimes a lengthy process to get to the
19 bottom of it.

20

MR. JOHN SIEGAL: The process
21 is lengthier than it needs to be and a lot of
22 instances --

23

MS. GORDON: Well, 99 percent
24 of the time --

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MR. JOHN SIEGAL: -- in which
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2 I get a letter -- there are many instances in
3 which I get a letter and it includes what we
4 perceive as an accusation. And I call up and
5 I say, let me explain. And the response is,
6 send me a letter. And this is going on years
7 -- this is going on during campaigns and this
8 is going on years afterwards where the
9 explanation is perfectly obvious but we're not
10 allowed to have that dialogue unless it's in
11 writing in a formal process. And it's just
12 too much. It's just too much. When we don't
13 have things in a different ways --

14 MS. GORDON: Maybe there's
15 some context in which you and I or others like
16 us can have a conversation, I just --

17 CHAIRMAN SCHWARZ: I think --

18 MR. JOHN SIEGAL: I think
19 that's a good idea.

20 CHAIRMAN SCHWARZ: -- that's
21 an excellent idea and there could be some
22 productive conversations.

23 And Dale?

24 MR. CHRISTENSEN: Yes, I have
25 a couple of questions.

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2 On the issue of the audit
3 process, is it your perception that the delays
4 are more a consequence of limited resources
5 for the audit function that should be adjusted
6 maybe more of our resources or new resources
7 should be obtained to complete the audit
8 function earlier? Because I do agree
9 perceptually at least from my point of view
10 that's something that, you know, it's very
11 hard when you're reviewing campaigns in the
12 year 2001 in 2005. I mean it's sort of a
13 surreal aspect to it from our point of view
14 too.

15 So I think this is an issue
16 that we share an interest in, but do you think
17 it's more a question of resources or
18 unnecessary delay?

19 MR. JOHN SIEGAL: I don't --
20 and it's, you know, it's not so -- I don't
21 know. All I know is when the stories I hear
22 and the experiences I've had on when audit
23 reports come out of when issues are raised.
24 And I don't -- I would think that if you have
25 a whole phalanx of auditors and compliance

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2 people and they get to work the day after the
3 election and they're told, you know, here are
4 the deadlines, you tend to meet them. I mean,
5 you know, you give a lawyer two cases you can
6 tell him that's his year's work; he'll work
7 those two cases for a year not because there's
8 anything nefarious, just because there's no
9 deadlines. Deadlines are your friend. They
10 help you get things done.

11 I know from a campaign point
12 of view, to respond to things a year or two or
13 three years later, you know, the people who
14 know the records are gone. Even if the
15 records are well organized you have to try to
16 recreate what they are.

17 You know, I just had a
18 situation in which I was asked about
19 something, why is it like that and when I
20 researched it I realized I had asked for an
21 advisory opinion on that issue four years ago.
22 I didn't remember that.

23 So I don't know why it is, but
24 I don't -- these aren't -- even the biggest
25 campaigns aren't -- these aren't the world's

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2 biggest companies. Far bigger enterprises are
3 reviewed and audited far more quickly than
4 this. And I know campaigns are often at, you
5 know, fault for some of it and obviously you
6 can't get in a situation where a campaign's
7 delayed or run out the clock but there are no
8 deadlines on the other side and so of course
9 it takes a long time.

10 CHAIRMAN SCHWARZ: So we thank
11 you and I think Nicole's suggestion of some
12 further dialogue on some of these --

13 MR. JOHN SIEGAL: There are a
14 number of things and I would like to do that.

15 CHAIRMAN SCHWARZ: -- issues
16 would be very useful.

17 MR. JOHN SIEGAL: Thank you.

18 CHAIRMAN SCHWARZ: Okay. Henry
19 Stern is next.

20 I don't know if you saw the
21 statements that Nicole and myself --

22 MR. HENRY STERN: Yes, I did.
23 And I had the opportunity to read them while
24 John Siegal was testifying.

25 CHAIRMAN SCHWARZ: Okay.

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MR. HENRY STERN: I have a

number of -- first, I thank you for giving me
the opportunity to speak.

I'm here in the capacity as
President of New York Civic but as a former
candidate for public office before the days
when our campaigns were largely paid for by
the City.

In following up on Mr.
Siegal's testimony, I perceived a great
cultural dissidence between this committee and
the City Council. You are more sophisticated
in that you're much more professional.

The list I saw of the issues
that I think Nicole Gordon had raised, the
issues in consideration is most comprehensive
and a complete document which you deserve
great credit (indicating) for preparing and is
absolutely right.

I don't know what level of
response you've done with most of the people
involved.

I agree with Mr. Siegal that
the City Council members don't like you. And

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2 I heard them muttering and whether it's just
3 kids who don't like their parents who gave
4 them an allowance, you know, make sure they
5 spend it wisely, whether they feel a sense of
6 entitlement about public funds, after all they
7 vote themselves into the extensions of terms
8 despite the public referendum, actually
9 restricted by the Board such as yourself in
10 any way they want to spend on their campaigns.

11 So I think there's an enormous
12 sense of entitlement that these people have as
13 a result of having been elected, the vote of
14 election which is not really a court of
15 justice or really.

16 Another great injustice is
17 that the Council has the -- writes the law
18 under which you operate so at the same time
19 that you torture them they can torture you.
20 And the result is - if I compare it to Iraq -
21 but sort of a mutual grinding of the wheels
22 and lack of commiseration. And I think that I
23 don't know of any other situation where those
24 people who have directly regulated that class
25 of people, the regular class, has the power to

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2 write the regulations.

3

4 It's like if the rules of the
5 FCC were determined by the radio and TV
6 stations and it is changed by them at will.

7

8 So whatever it is you do for
9 them, they can and would do to you worse if
10 they had the nerve.

11

12 Now -- and I think that I want
13 to commend Rabbi Potasnik because he's right,
14 this is public money and you hold a fiduciary
15 duty to see to it that the money is properly
16 spent. And at the same time I know what a
17 campaign is like because I was in them.

18

19 The campaign is like a school
20 play, a lot of people get together in a short
21 period of time. They're very close. They
22 work night and day. Then the play is
23 presented to the school and it's over.

24

25 The friendships that are
26 formed and the bond and the friendships just
27 like when you go to the movies they have
28 affairs, I don't know about school play, but
29 there's a very close feeling among the
30 participants who they disperse. So this is

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2 not exactly the group that's best suited to do
3 a comprehensive financial reports.

4

I was told once probably also
5 that there was a thirteen thousand dollar
6 minimum fee that lawyers charge to handle CFB
7 matters. If that is true, approximately true,
8 that is a burden on small or local campaigns.

9

By the way, I heard - this is
10 a digression - I learned a new rule today at
11 the Columbia University Forum on the First
12 Amendment which was held this morning and I
13 want to share it because it seems relevant in
14 the case.

15

And the rule is: E-mail is
16 evidence mail.

17

People should be aware of
18 that.

19

Now, back to the Council.

20

I've gone over the spending in
21 the general election and the candidates, the
22 votes they got and the amount of money you
23 gave them. And the results are very mixed
24 because it's both good and bad to be
25 objective.

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For example, the general election, the Mayoral team, it worked well with two million dollars for Ferrer. He needed it and nobody else took any money.

For the Comptroller, that also worked well because although Bill Thompson got 91 percent of the vote, he didn't ask for any money. So that's a plus.

Now, public administration -- Public Advocate, we see some slippage.

We see Ms. Gotbaum getting 99.03 percent of the vote, nine out of every ten votes and she collected \$44,260 in public funds.

Now, that was unnecessary.

On the other side it's mitigated by the fact that she could have collected much more than she wanted and it was only her sense of restraint which limited her to \$44,000.

But one of the public (inaudible) over to her. It's our fault and her fault, she should have waived the 44 and be as pure as the comptroller was.

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2

Now in Manhattan Borough

3

President -- well, in the general election you

4

have one of the worse abuses.

5

There's a candidate named

6

Fields. Not Virginia Fields, another Fields

7

who was a candidate of the Independence Party.

8

She received 4.38 percent of the vote. It was

9

clearly a non-race.

10

Scott Stringer who was the

11

Democratic nominee after a contested primary,

12

he was the overwhelming favorite to win,

13

nobody else had a chance.

14

The Republican candidate got

15

16 percent of the vote. They had the decency

16

not to ask for any money. Whereas this

17

\$141,109 went straight to the coffers of the

18

Independence Party which, as many of you know,

19

is not a party and is not independent.

20

So that's City money down

21

the --

22

CHAIRMAN SCHWARZ: It has been

23

said, Henry about another party that you may

24

have once had some affiliation.

25

(Laughter.)

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2

MR. HENRY STERN: Well, that's

3

-- there's some truth in that in.

4

CHAIRMAN SCHWARZ: It's an

5

aside.

6

MR. HENRY STERN: No, it's

7

okay. It has merit. It's fair.

8

But we don't throw away public

9

funds, we don't run judges in situations, we

10

also -- we don't -- anyway.

11

Now, that was a -- I mean why

12

in the world would you spend \$141,000 on a

13

candidate who got four percent of the vote and

14

couldn't be expected to get more than six or

15

eight of campaign race.

16

CHAIRMAN SCHWARZ: You know

17

Henry, we have sure winner problem and the

18

sure loser problem.

19

MR. HENRY STERN: Yes, you do.

20

CHAIRMAN SCHWARZ: The sure

21

winner problem I think there are some

22

objective standards that could be applied that

23

would limit funds going to someone who has an

24

opponent who simply doesn't attract --

25

MR. HENRY STERN: That would

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2 be -- in this case it's the Betsy Gotbaum
3 case.

4

CHAIRMAN SCHWARZ: I don't
5 know an objective standard to address the sure
6 loser. And if you could think of one I'd love
7 to --

8

MR. HENRY STERN: I recognize
9 the difficulty but the sure loser is often the
10 greater abuser because the sure loser, there's
11 nothing for him to lose and either they use
12 the money for themselves to promote their law
13 practices, to promote their names and have
14 trucks around or to hire their relatives or
15 other close, interested parties and siphon the
16 money off, or they give the money to their
17 political party. And the political party uses
18 it for whatever purposes they want. So
19 the sure loser really is a dilemma.

20

There's one possibility is to
21 like the British usually when they have a
22 deposit system where you can run if you pay
23 some pounds, some sum, you can become a
24 candidate and get on the ballot, but if you
25 got less than five or some percentage of the

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2 vote, you would forfeit your deposit.

3

4 I think that if a candidate
5 gets less than five percent of the vote, they
6 should forfeit their public funds after the
7 fact and get it back from the guru or whoever
8 it's been passed along to in this case.

9

10 That's a way out to do the
11 post-election and the preelection because I
12 agree that pre-election, there is no
13 objective, perfect way to determine it.

14

15 Now, going down the offices:

16

17 The system worked well in the
18 case of the Staten Island Borough President
19 where you had a contested race even though
20 it's 58/41, even though 58 got almost six
21 times as much money as the 41 because they
22 raised more.

23

24 But that worked and that was a
25 plus that they had chance to -- the candidacy.

26

27 It worked well in the Fourth
28 District in the Rodnick Race and the Fifth
29 District Lapin/Sinberg was well-funded.

30

31 Now, in District Seven you had
32 a little slip because you had Robert Jackson

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2 the overwhelming favorite getting 88 percent
3 of the vote and \$15,000 in public funds.

4 Now, it's not a lot of money
5 but he didn't need to spend any money.

6 Maybe you ought to have a rule
7 in addition to getting less than five percent
8 the vote, you forfeit, maybe you have to
9 forfeit your spending if you get more than 85
10 percent of the vote. Because that would
11 indicate objectively that they're a sure
12 winner, because to win you only have to get 50
13 percent of the vote, plus one.

14 So if you get 85 percent of
15 the vote, in all cases if you want to parse
16 this, that's not a race. That wasn't a race,
17 that is a cake-walk though.

18 Here's one: Here's the --
19 again, a good example of the CFB is that
20 District 13 relates Peter Vacca and Trolia.
21 64 to 35 percent and each got eighty-two five,
22 the maximum and that's what's supposed to
23 happen.

24 The ones who put on much
25 better campaigns because of the matching

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2 funds.

3

4 But then you go to District 16
5 with Diana Foster. This is the most -- she
6 got 98.64 percent of the vote, that's higher
7 than body temperature, 98.6. And for doing
8 this she took \$20,625. That's \$20,000 thrown
9 away. I can't imagine she -- her opponent got
10 211 votes. She got \$15,344. That is
11 inappropriate.

12

13 A good race, Avalla Lopez. It
14 was a valid race in the 19th District. It
15 ended up 62/37 for each of them and 75 and
16 \$81,000 respectively.

17

18 We go on and there's a few
19 others.

20

21 Here's where it's egregious:

22

23 Charles Barron, 88.86 percent
24 of the vote, received \$58,577. And I
25 understand he filed a special Statement of
Need which you were gullible enough to accept.

26

27 CHAIRMAN SCHWARZ: No, we were
28 required to accept under the law.

29

30 MR. HENRY STERN: Oh, really?

31

32 CHAIRMAN SCHWARZ: We strongly

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2 opposed a continuation of that system of need
3 idea. We proposed elimination of it in
4 legislation and proposed some objective
5 standards, but those were rejected by the City
6 Council.

7 That's all laid out in my
8 statement.

9 MR. HENRY STERN: We have a
10 rule --

11 CHAIRMAN SCHWARZ: The
12 Statement of Need is a self-serving and it's
13 foolish.

14 MR. HENRY STERN: I stand
15 corrected and I'm glad you did that.

16 And I haven't been a candidate
17 for many years.

18 And when you say that was
19 rejected by the City Council, I respond by
20 citing my rule ten, the first occasion.

21 Rule ten is just ten letters,
22 I wonder why. It's applied in certain --

23 CHAIRMAN SCHWARZ: See, the
24 benefit of having all these rules Henry, it's
25 all of which you have, but you assign a

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2 different number to them this time, but by and
3 large you always --

4

MR. HENRY STERN: It's always
5 the same number. And the number of the rule
6 is based on the number of letters in the rule,
7 you see, so it's not arbitrary.

8

CHAIRMAN SCHWARZ: I see.

9

MR. HENRY STERN: Now, we had
10 a good self -- the Barron campaign. An
11 outrage and the fact that it was required by
12 law, as you say, compels me to think of a
13 great quote by Charles Dickens: "The law is a
14 ass."

15

In other words, he said "a"
16 rather than "an" for people in grammar.
17 Anyway, that's what he said.

18

That's not the same as
19 Shakespeare who said the first thing you do is
20 kill all the lawyers. That's extreme.

21

I consider myself a recovering
22 lawyer.

23

Now, here in District 43 we
24 have another good race. We have Gentile
25 versus Russo, 55/44. Each getting 82,000.

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2 And -- but we ran into this year we had not
3 only a total landslide -- not a total
4 landslide, 69 percent to 30 percent. Well,
5 that's -- I won't say that not outrageous. I
6 quoted you 89, it's right.

7

Finishing the rest, there's
8 four more:

9

We have Cebra. Cebra not only
10 won with 87.20 percent, 20, percent which is
11 more than a seven-to-one victory, but he took
12 a very large sum, \$71,000. The others just
13 give ten, 20, 30 but he received an enormous
14 amount.

15

And I understand there was
16 some nepotism involved here so it's not with
17 the CFB money and the City's money which is a
18 supplement. That's not good.

19

I do think -- I think we're
20 done.

21

So the result of this is there
22 are six or seven races in which it worked
23 fine, the system worked as it's supposed to
24 do. You have contested elections. You
25 amplified what each candidate could say and

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2 you gave the voters more information and
3 that's the way it should be.

4 On the other hand, there were,
5 just counting the arrows, there are seven
6 cases in which you were ripped off. That's
7 50/50 and I think you got to find another way.

8 Also, the seven were pretty
9 readily identifiable. It's not that these
10 looked like contested races and all of a
11 sudden one candidate became some popular in a
12 landslide, this was relatively predictable.

13 So that's a problem. The
14 issue is how to get an objective standard, as
15 you put it.

16 And my suggestion for a
17 solution is after the fact and judging by the
18 results and it might -- it could be any number
19 you appropriate but five and -- well, I think
20 80 is more appropriate than 85, 5 and 80 are
21 two standards because it's better than
22 four-to-one you're eventually going to win.

23 I have a suggestion on your --
24 on Mr. Siegal's point about having to write
25 these letters.

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2 Why don't you just have them
3 make a phone call and tape the phone call.
4 That way whatever he says is on the record and
5 it doesn't have to ask a secretary and law
6 firm sign writing a letter. It's a simple
7 direction, he should be able to do it. Well, what
8 is a model of communication,
9 telecommunications should be able to tell it
10 to without, you know, that ancient formality
11 of writing. So I would suggest you modify
12 your rule to allow that.

13 The main thing that if you go
14 back to the beginning and sort of wind up as
15 there are other speakers, is the cultural
16 dissidence between this group and the Council,
17 because I don't know how you're going to cure
18 that because you come from very different
19 backgrounds and from different levels of
20 education and you have a different sense of
21 contributing public good.

22 You see, one difference
23 between you and Council is that you, except
24 for the fact you are not paid, and they are
25 paid over \$100,000 a year to do whatever it is

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2 they do.

3

4 So that's a reason why they
5 have a primary, a personal interest in these
6 issues coming out their way as opposed to your
7 more disinterested view. Whether you're right
8 or wrong, you're not doing this for personal
9 gain and that should be noted.

10

11 So I think it's a loophole.

12

13 It may require a referendum to
14 get rid of the Council's role in setting rules
15 in which you operate. And if there's going to
16 be a referendum any way on term limits, as the
17 Mayor has promised, since the Council has
18 been without a referendum, I think that
19 referendum should include in the name of
20 reform and correcting misbehavior and
21 self-aggrandizement Council, measures reducing
22 the -- when it comes to rules in which you
23 operate.

24

25 So that concludes what I want
to say. And I hope it's useful to you.

26

27 CHAIRMAN SCHWARZ: Thanks,
28 Henry and I know you always are paying
29 attention to these issues.

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On the issue of the sure

winner, look at the details in my statement

because there is a legislative solution to

that and, you know, when people get behind you

that would be a good thing.

MR. HENRY STERN: Yes.

Someone -- there's another

issue, legislative solution to have better

than a referendum.

An issue, which I don't know

which I'd like is the egregious blows that

your body has struck at one of the candidates

who is a distant relative of one of the

members of the commission, proving

authoritatively that there's no favoritism.

It was sort of -- now when I

heard about it I said we Jews, we don't even

know that we're related because our records

don't go that far back.

CHAIRMAN SCHWARZ: Yes.

MR. HENRY STERN: But, you

know, in connection with third party campaign

and what do you do when somebody does

something or unethical or omnivorous during

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2 the midst of a campaign? If you hit them for
3 it right away you really deal with other
4 campaign and if you don't, it means he gets
5 away with it.

6 So the fact is that you have
7 enormous power to influence the elections
8 simply by what you say and do. And you have
9 to weigh carefully whether it's justified.

10 On the other hand, if somebody
11 tries to steal an election you have an
12 obligation to bring that to the attention of
13 the public. Lest, you know, you're going to
14 be successful.

15 So it's really -- I think
16 that's probably the toughest of the question
17 before you because there really is a lot of
18 discretion involved in that issue.

19 I happen to think you handled
20 it properly. And I think it's not only a
21 question of fairness to the public, but it's
22 fairness to the other candidates who didn't
23 resort to the trickling of that sort so you
24 did the right thing, painful as it may have
25 been.

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On the other hand, there's always a possibility of some future Campaign Finance Board appointed by a Mayor or Speaker less ethical than current officials who might use that power in an inappropriate way.

CHAIRMAN SCHWARZ: We're very conscience of the importance of striking when it's clear and not striking when it's not clear, and that's certainly important.

MR. HENRY STERN: I'm sure.

And now for the last thing I -- the Board is really quite good. You see from the staff work, you see from the questions, you see it from the professionalism, you see it from the commitment of the people who work there, that it's by the standard of City agencies it's really a pretty good one.

And I think that many of your critics are people who are basically not happy with your mission because of two reasons: Either that they believe that no public funds should be spent on these guys and it's all a fraud, or they feel that it should be more

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2 loosely regulated so they could get away with
3 what they want. So you are really in the
4 position of being assailed by the two sides,
5 those opposed to your agency in principle and
6 those opposed to it in practice. But you
7 persevered.

8

CHAIRMAN SCHWARZ: Thank you,

9

Henry.

10

So, let's see, Farook Samaroo

11

is here.

12

MS. GORDON: Not here.

13

CHAIRMAN SCHWARZ: Gene

14

Russianoff.

15

MR. GENE RUSSIANOFF: Good day

16

Members of the Board and the staff.

17

My name is Gene Russianoff.

18

I'm with the New York Public Interest Research

19

Group.

20

And I may not be as amusing as

21

Henry but I'll try to be brief and to the point.

22

I'd like to say just an opening

23

comment that these hearings mean a lot to us.

24

We've testified at every single post-hearing

25

by the Board and, in fact, we played a role in

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2 drafting the legislation that requires these
3 hearings, back in 1988.

4

And it seems to me that very
5 good things have come out of these hearings.
6 So the '93 hearings lead to a requirement of
7 the candidates' debate. The '97 hearings lead
8 to a requirement for a four-to-one match which
9 we think is good public policy. And this last
10 election in 2003 lead to a requirement of
11 non-participants be subject to the disclosure
12 and contribution limits.

13

And those are all good things.
14 Those are things that show that the program is
15 a living program and adapts to the needs of
16 the time.

17

So what I'm going to try to do is
18 talk about four of the questions. You raised
19 a million questions so I'm going to try to
20 stick to a couple of them and then I'd be
21 happy to answer questions.

22

So the first one is your
23 question five about the campaign's
24 contribution and spending limits which is at
25 the bottom of the first page.

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2 You know, for the record I
3 want to say that we strongly supported
4 requiring the non-participants to live up to
5 the contribution limits and the disclosure
6 requirements, we think they worked well. And
7 State office appraised it. We don't even
8 though if they calculated them for every
9 single office, it's a formula. And so it's
10 not a real limit. You know, I've had
11 candidates unaware of their own limits under
12 state law.

13 And we support previous --
14 recommendation or suggestions by the Board to
15 lower the contribution limit, particularly in
16 Council races. We think it's way too high and
17 those races would, in our view, be more
18 competitive.

19 The Board suggested
20 consideration of a \$250 contribution limit and
21 with the matching funds that seems an
22 appropriate way. And, in fact, if look at
23 most of the records for Council races, that's
24 what they do and so that makes sense.

25 And then perhaps --

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CHAIRMAN SCHWARZ: What should

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they do?

4

MR. GENE RUSSIANOFF: Take

5

contributions that are much lower than the

6

\$2750 that they're allowed to under your --

7

it's really not a limit of the Council

8

Members. They'd be lucky to get people to

9

give them that amount of money.

10

So if the public is going to

11

get something for the program it should get

12

really significant limits.

13

And then a couple of these

14

things, I wrote the testimony and I felt sure

15

of some of my solutions that I do hear

16

realizing what this Board has to grasp with,

17

grasp a hold of.

18

But, you know, we definitely

19

would eliminate exempt expenditures. It's

20

just too complicated and you're going to get

21

criticism from candidates that they have to

22

have these separate spending ceilings. And so

23

-- and we would increase the spending ceilings

24

in the range of seven and a half percent.

25

It's a safe harbor range.

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It's a tricky situation here

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is where some candidate who may have been an

4

incumbent, uses the petitioning system and the

5

requirements in a way to punish their

6

opponents, but I think the record doesn't show

7

that happens very often. I mean it's a certainly

8

mutually assured destruction of both

9

candidates that would do it to each other and so

10

that's the real factor that limits people's

11

expenditures, what their opponent is doing.

12

CHAIRMAN SCHWARZ: Would you

13

-- I mean do you think that's an all or

14

nothing proposal or could you imagine a more

15

narrow -- a much more narrow class of

16

examples?

17

MR. GENE RUSSIANOFF: I'm not

18

sure what you mean.

19

CHAIRMAN SCHWARZ: Well, for

20

example, if someone goes to court and

21

challenges your petitions that would be --

22

because that could be controlled by your

23

opponent.

24

MR. GENE RUSSIANOFF: Well,

25

it's certainly -- it's certainly worth

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2 considering. I guess the main point which is
3 that most cases there would be no exempt
4 expenditures so -- and that seems to be fairer
5 to you and to the candidates at the same time.

6

CHAIRMAN SCHWARZ: It
7 certainly would reduce our enforcement actions
8 because it's -- they're are constantly a burden
9 on the saddle for us.

10

MR. GENE RUSSIANOFF: And I
11 know you don't want to talk about current
12 cases but, you know, I think it would reduce
13 the number of people who are unhappy with --
14 or make claims to you about how they used
15 exempt expenditures. So I think that would be
16 good.

17

On the next one it deals with
18 this very thorny issues, number 12 of the
19 uncont -- a candidate who has only token
20 opposition and is still taking public funds.

21

I thought it was interesting
22 that Henry, you know, he said it's 50/50. I
23 had looked at the election results and I
24 didn't realize it was that close in his
25 estimation.

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That means you have a real problem because in some cases the public money really leads to a legitimate competition and some cases it's a big waste.

In the past the political system dealt with this. I remember once that the Manhattan Borough President Ruth Messinger took about \$900,000 in public money to run against, you know, some out-of-state person who was near death. And that issue was an albatross around her neck because people would say why did you take the public money? It's money that could be spent cleaning the streets or picking up garbage or protecting the public. And I don't think she had a good answer to it.

So to some extent there's a check. But having said that, the idea is that the current law which I guess this is the Board's view, the current law is ineffective.

Candidates are not shamed by having to submit a Statement of Need to the Board and in some cases did submit statements when they wanted a very large percentage point.

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2 So I have some suggestions. I
3 don't know how confident many of them -- I
4 have in them, but for the general election
5 it's possible to go back three or four
6 previous elections to see whether one party is
7 so dominated the outcome that once you have
8 the nomination of that party you're almost
9 certain to win by a very heavy margin.

10 That's an objective standard.
11 It doesn't involve the Board making some
12 determination about whether the opponent is
13 serious, it just -- you know, you look back at
14 Park Slope where I live and you see that for
15 time immemorial, whoever the Democrat is has
16 won with 80 or 90 percent of the vote. It's
17 not rocket scientist -- science for that.

18 I think it's tougher in the
19 primary. You know, I wanted -- a suggestion
20 here of keying public funds for the sure to
21 win candidate to what their opponents raise --
22 to the extent you have that now, if your
23 opponent doesn't raise the threshold you don't
24 get public matching funds. And I think that
25 happened in a race, a race or two.

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So in all candor I want to
think about it some more.

I'll look at my statement now.

But it hopefully you can
consider -- I think the standard would have to
be looser in the primaries. It's much tougher
to tell whether someone is a sure winner in
the primary.

And when looked in June like a
heavy contest starts out to be a runaway or a
candidate makes a slip and refers to some
event that in a very unpopular way and
suddenly they're in a tremendous amount of
trouble. And it's really hard to make the
determinations in advance about that. Okay.

And for the other problem of
facing a very high-spending non-participant.

You know, my view is I don't
think the one example of the Mayor spending
negates the campaign finance program. I think
that's an overreaction to, you know, very
visible development. But I still think it's
something that the Board should think about
coming to grips with.

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And this is to Chairman

3

Schwarz' comment to Rachel Leon earlier.

4

I mean we're very -- we're not

5

enamored of the idea of raising the

6

contribution limits and allowing -- I know

7

this was I think Mark Green was -- you can go

8

back to some people that doubled from them,

9

then what's level paying for if you're taking

10

large contributions from developers and people

11

doing business with City, how are they any

12

different from what's going on?

13

The solution we suggest which

14

has its problems is to make some large flat

15

grant which I think we said was about a fifth of

16

what your opponent is spending. Maybe if

17

Freddy Ferrer had a fifth of what Mike

18

Bloomberg spent, he'd have plenty of money to

19

get his message out. But putting aside what

20

you think of his candidacy and you would not

21

have to even the playing field by making it a

22

dollar-for-dollar match.

23

But I would acknowledge the

24

difficult issue is to what extent, if that was

25

so known in advance, to what extent that would

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2 have an impact on Mr. Ferrer's fundraiser, if
3 everybody knew that once Mayor Bloomberg
4 passed a certain amount, why give it to
5 candidate A when the government's already
6 giving to them?

7 So I'm acknowledging my
8 problem. But as I have to choose,
9 Commissioner Christensen, if I had to choose,
10 I would not go around raising the campaign
11 contributions. It's too much burden on the
12 candidate and it's too little return on
13 investment for the public.

14 All righty. I'll go the last
15 point.

16 CHAIRMAN SCHWARZ: On that
17 flat grant and your new idea, at least new to
18 me, if there's a flat grant the public
19 wouldn't any longer give to constituent of the
20 grant.

21 I mean can't one modulate and
22 have some, a certain size of flat grant and
23 then still an incentive to keep --

24 MR. GENE RUSSIANOFF: Well,
25 yeah, I think so, it's just an analogy. The

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2 political science difficulty of giving a large
3 grant besides the political difficulty of
4 getting legislative approval. But I agree,
5 maybe a dual-track system would keep the money
6 flowing from the private sector as well as
7 evening the playing field to an important
8 extent.

9 So I would agree.

10 On the last point, the
11 point --

12 CHAIRMAN SCHWARZ: Do you
13 think -- you know, the Council had in front of
14 it a proposed three-to-one match.

15 MR. GENE RUSSIANOFF: Yes.

16 CHAIRMAN SCHWARZ: And they
17 ended up with a six-to-one match, at least the
18 greater feeling was because they felt the
19 public wouldn't like four-to-one match.

20 Do you think the public is
21 going support and how is one going to induce
22 the public to support a large flat grant --

23 MR. GENE RUSSIANOFF: Well, I
24 answered it in part by saying something I was
25 waiting to say to the end, which is that it

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2 depends a lot on who the Speaker of the
3 Council turns out to be.

4 The last go around the Speaker
5 was a clear candidate for the Mayoral race and
6 so everything he did was tarnished by the
7 notion that he would -- that he would one day
8 benefit in, but the war chest issue that Mr.
9 Siegal talked about, that was a big issue for
10 Speaker Miller.

11 And so if the next Speaker is
12 not intending to be Mayor - and we'll find out
13 fairly soon enough, maybe - then -- then I
14 think you're in better shape. The
15 eight-to-one match was because the Mayor
16 effectively said you're trying to reward
17 yourself when you oppose me and that's bad and
18 he attacked with the media for sure.

19 But what I was going to say is
20 that contrary to some of the earlier
21 testimony, I welcome the City Council's review
22 of this law. You need a democratic body to
23 make judgements. I don't think we'd have a
24 four-to-one match if it was just left to some
25 administrative agency. And no offense to all

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2 of you who I respect, you're appointed by
3 elected officials. You're part of the process
4 and there's always ranting and raving about,
5 you know, boards making decisions.

6 In my view I've lobbied to
7 every single section post-election cycle with
8 the Council, they've behaved relatively
9 honorably within the political context.

10 Speaker Vallone was an
11 original sponsor of the law. Was a great
12 protector of the law. And I think to a large
13 extent Speaker Miller was as well.

14 And it got a validation that
15 you just can't provide. They can and so it is
16 true that, you know, you have a situation
17 where a legislative body is making suggestions
18 on rules that effect them, but that's the
19 American system.

20 And, you know, I think the FCC
21 was mentioned before. Well, who writes the
22 laws that direct what the Federal
23 Communication System is about and who lobbies
24 them.

25 So, you know, we might as well

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2 acknowledge the real world's role in this and
3 try and make the best of it and expect people
4 to behave honorably and so --

5

MR. CHRISTENSEN: Mr.

6

Russianoff, one question.

7

I mean I think that one of the

8

principal problems we face and one area that's

9

of great concern to me personally are these

10

non-competitive races and what we do as

11

stewards of public funds.

12

What do you feel is the

13

principal purpose of the Campaign Finance

14

Program? Is it to enhance competition in

15

races to level the playing field as we talked

16

about or is it more to allow access to people

17

who, you know, may have no chance of winning

18

but want to be heard in the political

19

discourse?

20

And I realize those two things

21

are not necessarily mutually exclusive, but I

22

prefer if you sort of analyze them in what you

23

think our purpose is.

24

MR. GENE RUSSIANOFF: Sure, be

25

happy to.

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2

I tend towards the latter.

3

4

My support for this law is because I believe it's given the average New Yorker, A, a better chance to participate in the political process. Whether \$50 at a church or a street fair is matched four-to-one, it's a very powerful tool.

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We've often called it the politician's lagracia law is they don't want to be dependent on the same set of interests they can reach out. And have over time allowed people of modest means to run when they would have been unable to run.

MR. CHRISTENSEN: Even if

they're a sure loser?

MR. GENE RUSSIANOFF: Well,

even if they're a sure loser, I would say that which makes the problem really hard.

You know, while Henry was talking I looked at one of the races, I think it's District 25, Helen Sears and both Helen Sears and Brian Pu-Folkes raised the maximum amount of money. And she won 65/21. But it's a district that's changing, you know, it's a

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2 district that's moving from what -- one group
3 of immigrants to a whole different group of
4 immigrants.

5 I don't know what the future
6 for either of them bears and there's term
7 limits as a factor, but, you know, I think
8 that it was money well spent even though she
9 won with what people would see as a lopsided
10 amount.

11 And his candidacy gave voice
12 from venting to a whole set of interests of
13 the community that are often ignored. And I
14 happen to know both of them and they're fine
15 people. They were good candidates.

16 And I think, you know, if they
17 were here they would say good things about the
18 program I think, so.

19 MR. CHRISTENSEN: Thank you.

20 MR. GENE RUSSIANOFF: My last
21 point is another thorny issue which is, you
22 know, limiting contributions of those doing
23 business before the City.

24 And we favor them, such that
25 limits we flirted with the idea for more than

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2 20 years and so has the City. But it's one of
3 those things that's easy to say and hard to
4 do. And I know the other day I met the three
5 graduate interns from the Campaign Finance
6 Board and, you know, I think one has to think
7 hard about it. I think a serious question is
8 if you can't get everything, is it still worth
9 doing?

10 So we agree with Common Cause,
11 you have to put the burden on the government
12 they have to debark contract. You cannot put
13 the burden on the candidate because whatever
14 complaints you've had in the past will be
15 nothing compared to having to go down a giant
16 list or computer list and check out who is
17 doing business with the City.

18 So can the City debark
19 contractors or others who made contributions?
20 And I think the answer is sort of mixed as the
21 experience that the Securities and Exchange
22 Commission has had and so I think it's worth
23 thinking about.

24 In all candor it started as
25 kind of a political ploy by the Giuliani

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2 Administration who needed to find something to
3 put on the charter ballot in 1998 and it's
4 been kicking around then because it's so hard
5 to do.

6

But I do think the public --
7 the public that we and represent is very
8 unhappy with people who have big contracts or
9 big real estate deals approved by the City who
10 are also making contributions to their
11 benefactors. So, you know, some things
12 clearly shouldn't be regulated in the area.

13

Like licenses, and the City
14 gives out thousands and thousands of licenses
15 and most of them are ministerial matters but we
16 certainly consider contractors, people with
17 land use matters before the City. And there
18 are all these issues about spouses,
19 emancipated children, there are issues about
20 the time period before they seek it, after
21 they seek it. So I don't want to pretend that
22 I think it's an easy problem to deal with, I
23 think it's hard.

24

But to me, if there's a
25 workable way of dealing with this. Jersey I think

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2 has tried its best and I think they have start
3 I think it's worth grappling with. And it's
4 got -- there has to be legislation because it
5 has to effect all candidates and it has to
6 effect the City of New York. Because, again,
7 it would be foolish to put the burden on the
8 people who come before you as candidates to do
9 this.

10 And so that's my point.

11 CHAIRMAN SCHWARZ: Thank you
12 and thank for your written material.

13 Laura, your next.

14 MS. LAURA ALTSCHULER: I'm
15 Laura Altschuler.

16 I'm speaking on behalf of the
17 League of Women Voters of the City of New
18 York.

19 And to just follow on Gene's
20 comment, we have also testified from your
21 beginning and, again, want to thank you for
22 holding the hearing on the effectiveness of
23 this year's Campaign Finance Program in such a
24 timely fashion.

25 We appreciate the improvements

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2 made this year to provide New Yorkers with
3 more of the information they need to
4 participate in the electoral process and make
5 informed choices on candidates.

6 In particular, we were pleased
7 to see that it is easier to navigate the CFB
8 website. We also believe that the Video Voter
9 Guide, which ran on channel 74, is a valuable
10 new resource.

11 The content of the 2005 Voter
12 Guide was excellent. The larger print made it
13 much easier to read. Putting the election
14 district and the assembly district on the
15 address label of the guide was inspired and
16 very helpful.

17 However, the design and the
18 format of the guide received mixed reviews.

19 While very attractive, modern,
20 slick, the size and the layout too closely
21 resembled campaign literature and lacked the
22 distinctive shape of the earlier voter guides.

23 Many people threw this voter's
24 guide away because it looked like the endless
25 stream of candidates' mailings (indicating) -

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2 and this is my little show and tell - this is
3 three weeks of what I personally received. I
4 forgot to save them all, but I thought you
5 should have a change of pace in -- from your
6 other testimony.

7 -- because it looked like the
8 endless stream of candidate's mailings which
9 stuffed our mailboxes.

10 We took an unofficial poll of
11 league volunteers and the numerous callers to
12 the Telephone Information Service and the
13 majority prefer the slim guide that was
14 printed in the previous election cycles.

15 Whichever format you use in
16 the future it might be helpful to title it:
17 "Official New York City Voter Guide," noting
18 you may take this into the voting booth.

19 The League believes
20 unequivocally in public campaign financing.
21 While a major objective of the program is to
22 make it possible for more New Yorkers to run
23 competitive races for City public office, the
24 program is intended to benefit the public more
25 than the candidate.

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Voters and taxpayers must have

confidence that the system is doing this

rather than paying for an excessive amount of

campaign literature, and to the war chests of

incumbents who have little opposition or

adding to candidates' familiar finances

through the employment of wives, husbands,

brothers, sisters, children.

The voters of the taxpayers of

New York City must see a real benefit to them

if you expect them to continue to support this

system.

While it is unlikely that we

will ever see the unlimited spending of the

2005 Mayoral campaign by an incumbent, we

believe it would be worthwhile to explore

alternatives to a never-ending multiplication

of the match from four-to-one, six, eight,

ten-to-one.

Perhaps consideration should

be given to increasing the maximum

contribution of participating Mayoral

candidate may receive when contesting a

non-participating opponent with unlimited

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funds.

The most important protection to undue influence is full disclosure so that the public knows who is supporting whom.

What may recur year after year and deserves more immediate reviewing is how to limit the ability of candidates with little or no real competition to receive a four-to-one match of City funds and retain these funds after the election.

A number of participating candidates for the City Council even turned around and assisted other candidates who had more difficulty raising funds, which means that the original contributor's financial support and the City's matching funds were not used as intended.

While it may be standard practice for candidates to contribute to each other's campaigns we do not think that this should be done using public money. Nor, do we believe that unused matching funds should be retained by candidates to use in subsequent elections for the same or another office.

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To permit a candidate to accumulate public money to run for subsequent public office defeats the very purpose of the Campaign Finance Law created to level the playing field.

In the League of Women Voters 2003 testimony before this Board, we urged you to consider barring the use of public funds to pay family members on the campaign payroll. City law strictly prohibits nepotism. The Campaign Finance Law should include the same prohibition of the use of City funds.

The suggestion has been made that the program be extended to other offices, such as District Attorney and judges. These are county and state offices and we do not believe that city matching funds should be provided to candidates for these offices. However, we do believe that it would benefit New York City voters to have information on these candidates included in the Voter Guide produced for City elections.

We are not in any way suggesting that the Campaign Finance BOARD

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2 publish additional guides in non-city election
3 years.

4

We support public financing of
5 campaigns. Our major concern is that the
6 public not lose confidence in this system and
7 see it as another give away of taxpayer money.
8 Public confidence will be retained if the
9 public can be assured that matching funds are
10 used for the purpose in which they are
11 intended and nothing more.

12

Thank you.

13

CHAIRMAN SCHWARZ: Questions,
14 Joe?

15

MR. POTASNIK: No.

16

Thank you.

17

CHAIRMAN SCHWARZ: Kitty?

18

MS. PATTERSON: No.

19

CHAIRMAN SCHWARZ: Thanks a
20 lot.

21

MS. LAURA ALTSCHULER: Thank
22 you.

23

CHAIRMAN SCHWARZ: So are
24 going to leave those or are they're just --

25

MS. LAURA ALTSCHULER: Oh, no,

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2 they're all my personal mail. I'll paper the
3 bathroom.

4

MS. GORDON: I want to note
5 for the record that the League of Women Voters
6 has been consistent both on the Campaign
7 Finance Board, the program fund on the Voter
8 guide and on debates and they've worked with
9 great success which for the Women Voters I
10 want to congratulate you on the debates that
11 you held this year and we look forward to
12 working in the future.

13

MS. LAURA ALTSCHULER: Thank
14 you.

15

Well, on the matter of debates
16 I can tell you that we never did more City
17 Council debates and also Manhattan Borough
18 President debate which was so contested and
19 there was great interest.

20

And I want to congratulate
21 particularly Manhattan Cable and Queens Cable
22 because similar to Channel 74 and The Voter
23 Guide, that they were able to repeat these
24 debates a number of times, it meant a great
25 deal. And we did hear from many of the

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2 candidates how important that was.

3

4 And in an indirect way, public
5 financing particularly from among the City
6 Council races, Channel Four -- Channel Four,
7 Council District Four in Manhattan, made a
8 huge difference. So this is where the public
9 campaign financing I think was most helpful.

9

Thank you.

10

CHAIRMAN SCHWARZ: Thanks a

11

lot.

12

13 So we have two more witnesses
14 before we break for lunch.

14

One I know is five minutes.

15

So Joan Brightharp is first.

16

17 I'm sorry, so after this
18 witness there are two more witnesses.

18

Thank you for coming.

19

20 MS. JOAN J. BRIGHTHARP: Thank
21 you having me.

21

Delighted to be here.

22

23 My name is Joan Brightharp and
24 I am a candidate in City Council District Two.

24

25 And it was my privilege to
take this opportunity to come to share with

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2 you as a candidate for the first time.

3

4 And being a new candidate I
5 find the program to be beneficial to me, as
6 well as the campaign. And I was able to get
7 matching funds but I find that resources was
8 very hard to come by because I was real busy
9 trying to, you know, run a campaign and go,
10 get out there and meet people and do all of
11 the preliminaries and trying to get a
12 threshold and matching funds. I find that was
13 a bit much for me as a new candidate running
14 for City Council.

14

15 But the program, I have to
16 say, that I strongly support the Campaign
17 Finance program because it did benefit me, as
18 well as my running for the City Council.
19 Because if I had not had the funds, matching
20 funds, I would not have been able to comply with
21 running for, or handle the success.

21

22 I believe it is a successful
23 campaign due to the fact that there was a lot
24 of negativity in the process but we managed to
25 get on the ballot.

25

But I find that it is

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2 difficult for us to waste lot of public funds
3 trying to stay on the ballots and get the
4 council and lawyers to be there to represent
5 us in terms of the laws and how it provided
6 for us so.

7

I'd like to say that I wanted
8 to be here as a new candidate to the process,
9 the due process given me the opportunity to be
10 at this hearing to know what I need to do to
11 develop my skills for the upcoming elections
12 and to know some of the details and set the
13 tone for both my upcoming experience.

14

It gave me an opportunity to
15 know that the auditing was effective. I find
16 that it allowed us to comply with all of your
17 rules and make sure that we did that timely.
18 We were able to make sure that every letter
19 and every check was in place. And I find that
20 it was a bit difficult because of the fact
21 that we didn't know any of the procedures so
22 by being a part of this program it enabled us
23 to understand that your program is, was a --
24 is and it will always be helpful to those
25 persons who take public fund and

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2 misappropriate the monies and making sure that
3 each one of us complies to your rule.

4

5 So I just wanted to be here
6 today to let you know how important the
7 program was to me. The public funds helped my
8 campaign and helped me to manage.

9

10 The C-SMART was something that
11 I was not aware how it intense that it was and
12 your dates, being on time and making sure that
13 all of my paperwork was in place.

14

15 So I just want to say to you
16 that it benefit my campaign and I just -- I
17 just want to be expressive of the negativity
18 of taking the public funds once again to --
19 away from the procedures that one needed to go
20 by to get your information out there, to reach
21 the public, to let the people in the community
22 or in my district know how important they were
23 opposed to taking funds, having it used for
24 other things that was taken away from my
25 campaign.

26

27 CHAIRMAN SCHWARZ: Okay. So
28 comments, questions?

29

30 MR. CHRISTENSEN: Thank you

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1
2 very much.

3 CHAIRMAN SCHWARZ: Thanks for
4 coming.

5 MS. JOAN J. BRIGHTHARP: Okay.

6 MS. GORDON: Can I just ask
7 you one quick question, are you saying that
8 the public funds, you found that your campaign
9 was depleted because you had to pay attention
10 to the ballot petition litigation, is that
11 what you were talking about?

12 MS. JOAN J. BRIGHTHARP: It
13 wasn't depleted, it was just monies could have
14 been used to be help in another way opposed to
15 using that some of the funds to help in that
16 area of counseling, whereas some of the
17 candidates had more of a leeway in terms of
18 knowing the procedures, the ropes, how to go
19 about starting at an early period in their
20 campaign. So it gave them the opportunity to
21 be able to be ahead of the process.

22 And when we found out about
23 the program we decided to -- well, it was
24 mandatory that we had to give you a report of
25 what we were doing and I'd like to say that

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2 I'm so glad this is over, but I'm happy that
3 you are -- had your laws in place to make sure
4 that each individual, each candidate has to
5 comply with your program to make sure that
6 public funds was not misappropriated and that
7 enabled me to know that we was on even
8 playing, you know, knowing that it was an even
9 playing ground.

10 But I find that it was
11 difficult for some of us running for the first
12 time not meeting that threshold, not being to
13 able to get the matching funds like some of
14 the other candidates so. I say to you it has
15 been a beneficial, has benefited me as a
16 candidate.

17 CHAIRMAN SCHWARZ: So thank
18 you very much.

19 MS. JOAN J. BRIGHTHARP: Thank
20 you.

21 CHAIRMAN SCHWARZ: Let's see,
22 Charles Juntikka.

23 MR. CHARLES JUNTIKKA: Good
24 afternoon.

25 I'd like to thank the Board

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2 for the opportunity to testify today.

3

4 I want to address my comments
5 to not just the Board, some people who aren't
6 present, Mayor Bloomberg, the City Council,
7 Phil DeBlasio and Dennis Rivera, and the other
8 leaders of the major unions in the city.

9

10 By way of introduction, you
11 now, from years -- I'm an attorney, a senior
12 partner of a five-party law firm that we do
13 primarily bankruptcy.

14

15 And from 1996 to the year 2002
16 my firm has -- as a formal activity of the
17 firm supported approximately 150 students,
18 either college students or high school
19 students who were graduates of Stuyvesant High
20 School, 90 percent and supporting campaign
21 finance here in the city and in Albany.

22

23 The firm pretty much gave the
24 kids carte blanche with our home resources,
25 within reason, and also coddling. Our
Internet facilities and we spent a couple of
hundred thousand dollars in supporting their
efforts.

26

I'd like to limit my testimony

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2 today to Bill De Blasio's amendment regarding
3 union contributions. And I'd like -- I can't
4 anticipate this, but I'd like to comment on
5 John Siegal's earlier testimony.

6 By way of background on Mr. De
7 Blasio's amendment, I'd just like to give you
8 a little personal information.

9 I grew up in Detroit, almost
10 literally in the shadow of their River Rouge
11 Fort Plant, lots of pollution, still there.
12 And (inaudible) getting beaten up on that
13 bridge in Flint, my middle class upbringing
14 and my education, I dare say.

15 And I'm here to tell you that
16 I -- no one respects the unions second to me,
17 and I am against Bill De Blasio's
18 amendment. It is the first step if it won't
19 entirely by itself destroy the Campaign
20 Finance Law, and it will have maybe unintended
21 consequences of creating some very bad public
22 policy and encouraging further union
23 corruption.

24 Now in explaining this I'd
25 like to separate my testimony into two parts.

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First of all, I'd like to explain how the Bill De Blasio Amendment essentially removes campaign contribution limits from unions.

And secondly, having unlimited union contribution in the Mayoral Race and all the other races is going to create bad public policy and encourage union corruption.

Now, as far as the mechanism by which this will happen, I'd like to refer to Mr. De Blasio's Amendment.

It reads in operating language: Contributions made by different labor organizations shall not be aggregated or created this contribution from a single contributor for the purposes of the contribution limit based on three factors:

One, organizations make contributions from different checking accounts;

Two, maintain separate accounts with different signatories;

And three, do not share a majority of members of the government boards

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2 and do not share a majority of the officers of
3 those boards.

4

Now, it will be a very easy
5 practice on behalf of any union to open up
6 separate bank accounts.

7

We could do it, right? I could
8 open ten thousand if I wanted. And if I had
9 ten thousand employees they could all be
10 different signatories.

11

Those first two requirements
12 are non-requirements. It's the third one that
13 counts.

14

Now, here's what could
15 hypothetically happen:

16

Let's suppose a union like
17 1199, who is the biggest contributor to all
18 the City Council races, chose to open up a
19 thousand affiliates. There's nothing this
20 Board could do to prevent that. There's no
21 way to prevent that by anyone.

22

And let's suppose that each of
23 those affiliates had three board members or
24 officers. Two of them could be health care
25 workers who work on the fourth floor of St.

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2

Vincent's and they could call it the ICU

3

Fourth Floor or, you know, Political Action

4

Fund. Okay. And Health Care Worker Jones and

5

Smith will be two of the Board Directors.

6

The third director could be

7

Dennis Rivera.

8

You could create a thousand of

9

those affiliates but the majority of them

10

would never be the same because they'd have

11

enough union members. And Dennis Rivera would

12

have a marathon three or four days having

13

board meetings.

14

Dennis Rivera would look at

15

Jones and Smith and say I think we should

16

support Bill De Blasio for Mayor. And we

17

should give them the maximum contribution

18

limit of 2750.

19

If you did that with a

20

thousand entities that would be \$2,750,000.

21

If you did it with 10,000 entities that would

22

be \$27 million.

23

Now, you might say well, go on

24

record be far-fetched. No. Just look at

25

Washington. Any little loophole that is kept

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2 open the money flows right through it.

3

4 It will happen. I guarantee
you it will happen.

5

6 And beyond that you don't
necessarily have to go through the trouble of
7 creating new affiliates.

8

9 I will give you an example: Annabel
Palma, the Board is currently in litigation
10 with her.

11

12 She accepted contributions, I
think I have her list right here, from
13 affiliates all over the country who seemed
14 very interested in the New York City Council
15 race.

16

17 She accepted money from
something called the SEIU PEA International
18 Union from Washington, D.C. another one from
19 Boston. Another one from L.A. Another one
20 from St. Louis. Cleveland. Denver.
21 Hartford, Connecticut, to Milwaukee,
22 Forestburg, Maryland, Oakland California,
23 Harrisburg, Pennsylvania, Hartford,
24 Connecticut and Quincy, Massachusetts.

25

I think this is what she did

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2 which is clearly illegal under the existing
3 law. And I think it's an outrage and a
4 scandal that Bill De Blasio has written his
5 amendment directly after they get this person
6 off the hook.

7

I mean where is -- who -- I
8 mean what kind of ethical background would a
9 person have to write an amendment to get
10 somebody out of an ethical problem they did,
11 what is the -- what is Bill De Blasio's
12 background ethically that he would even write
13 this amendment to get somebody out of a jam
14 like this? And if they're willing to do that,
15 how can you doubt that they're willing to
16 create ten thousand affiliates or use her
17 method.

18

There are ten thousand unions
19 that are across this country for sure. I
20 don't know for sure, but it's probable more.
21 Another thing they can do completely legally
22 is they could give \$2700 to all of those
23 unions across the country and each one of
24 those people could write a check for 2700 back
25 to the New York City Mayoral race.

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25

I assure you this is going to happen. And that will destroy the campaign finance system in your city.

Again, if I could step back for a moment before I talk about implications of this, to talk about how this is so antithetical to everything the Campaign Finance Board Laws means.

Our founding fathers didn't trust a concentrated power in the King, right, so they set up checks and balances. But is television, and it came into play with all the money going to cost, is the cost to campaign just generally went up, money is great for checks and balance. Campaign finance is the answer to that problem.

But if you take one special interest, as much as I love that special interest and I owe that special interest a lot, you give unlimited power, it will create bad public policy if unions can give whatever amount of money they want, I assure you.

Now, for example, a bad public policy, New York City schools started to have

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2 problems three or four years ago for a lot of
3 different reasons, and one of them instead of
4 fixing it was progressive corruption of the
5 local school boards.

6 This was a problem for over
7 ten years and the biggest -- one of the
8 biggest obstacles to changing name was the
9 teachers union.

10 And just because of an
11 historical accident of Bloomberg being elected
12 was that we were able to overcome that and
13 change that.

14 You know, now I'm sure a union
15 member would say oh, those local school
16 boards, we need them and they would have
17 reasons for them. But let's face it, that was
18 a serious problem and they have to -- unions
19 can have unenlightened self-interest. They
20 are too close to the problem.

21 And in addition to that, in
22 addition to bad public policy, I think this
23 will encourage just outright corruption. Some
24 of it prosecutable, some of it not
25 prosecutable. And well, it's just raw

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1

2 corruption.

3

4 Once -- well, let's pose that
5 three or four people are running for the
6 Democratic nomination for the Mayoralty next
7 time and this happens: In ten, 23 million
8 goes to one candidate and to City Council
9 races there starts to be two, three million
10 dollars per City Council race thrown in by
11 1199, who hired the other unions. It will
12 become obvious that policy has completely
13 shifted away from real estate or whatever, to
14 the unions.

14

15 The amount of intense lobby
16 towards those union members will become
17 overwhelming. I mean there's already intense
18 pressure on unions right now.

18

19 You know, remember Barry
20 Feinstein, you know, he was -- he was -- the
21 Feds were after him. He was forced to resign
22 from the Teamsters Union. He was later
23 appointed by Governor Pataki to the MTA Board.

23

24 We already have intense
25 lobbying of unions. We have indictments of
DC37. Now - a few years ago - now, all of the

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2 lobby pressure, all of the white collar
3 criminals, all the actual criminals are the
4 lobby people who have bad programs are going
5 to focus on those unions.

6 And you know, maybe Dennis
7 Rivera isn't such a bad guy now but he's not
8 going to be there forever. And this law is
9 going to be there for a long time and it's a
10 very bad thing.

11 I'd like to address some
12 specific comments to Mayor Bloomberg.

13 You know Bloomberg is not
14 going to be around forever either, right, for
15 good or for bad. But there's nothing to
16 prevent the unions from calling back
17 everything he did if the City Council and the
18 new Mayor are under the thumb of the unions.

19 As far as the City Council
20 members are concerned, do they -- do you guys
21 really want this? You know, I don't have a
22 City Council member who didn't run for Borough
23 President, but not for Mayor. You know,
24 unions can only endorse one of you guys and so
25 whoever is the most slavishly in favor of that

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2 person is the person -- is the union going to
3 get it denied. Do you really want that much
4 power in the union's hands? I don't think you
5 do.

6

Bill De Blasio is running for
7 Speaker and clearly this is how he's using
8 union support. The rest in peace sign in the
9 Campaign Finance Law, that is quite a legacy
10 to lead with. If he's leading with that, what
11 kind of Speaker will he be?

12

Think this out. Don't try to
13 override the veto. You're going to go to
14 incite the enmity of every editorial page in
15 the city and every good government group in
16 the city because we are not going to forget.
17 Don't do this. Don't even try to override it.

18

As for Dennis Rivera and Brian
19 McGlaughlin and the rest of you, beware of
20 what you wish for. You know, the special
21 interest groups in the city can throw millions
22 of dollars at your lieutenants.

23

You know, the Teachers Union
24 President just a few years ago by herself,
25 unprosecutable corruption. Her salary is

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2 \$400,000. At that time the Union Teachers
3 weren't making \$37,000.

4

I mean, this is going to be a
5 disaster for the Campaign Finance Law and for
6 New York City. Maybe not next year and the
7 year but certainly after the next election.

8

And I beg Bloomberg and I
9 begged City Council and De Blasio to rethink
10 this.

11

I think Dennis Rivera and the
12 Brian McLaughlins are a lost cause. They feel
13 that they are supporting the union man and I
14 grew up in a union household and I'm telling
15 you they are wrong.

16

I don't think this is being
17 taken seriously enough. I think the editorial
18 boards have talked about this, but this is
19 going to create huge problems.

20

And that's what I have to say.

21

CHAIRMAN SCHWARZ: Well, we
22 appreciate your articulate view of -- support
23 of a view which essentially we took arguments
24 to defeat that law.

25

MR. CHRISTENSEN: Have you

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2 communicated these views to the City Council?

3 I mean --

4

5 MR. CHARLES JUNTIKKA: Well,
6 it just so happens I'm working on a case,
7 legal case with Oliver Koppell. And yes, and
8 I had some communication there.

9

10 And just, you know I'm a
11 senior partner at a small law firm and at some
12 point my partners were telling me that I was
13 bankrupting our bankruptcy firm.

14

15 And so I'd like to somewhat
16 retire from politics. But once I heard about
17 this, I felt I had to become involved again
18 but between you and me I'm tired of it.

19

20 MR. CHRISTENSEN: We were just
21 saying the well-taken words that you made
22 would be better directed frankly to the City
23 Council and the Mayor than us. We're sort of
24 powerless.

25

26 MR. CHARLES JUNTIKKA: Yes, I
27 know I'm preaching the jury here.

28

29 CHAIRMAN SCHWARZ: Your client
30 is a City Council Member and generally a very
31 responsible public figure.

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2

MR. CHARLES JUNTIKKA: Well,

3

knowing I was astounded at the --

4

We need a good talking to

5

about the dollar because it's blinding. I

6

understand how great unions are but you don't

7

want to give anybody unlimited power because,

8

you know, absolute power corrupts.

9

CHAIRMAN SCHWARZ: Okay. So

10

thank you.

11

MS. PATTERSON: Thank you.

12

CHAIRMAN SCHWARZ: Thanks.

13

We're going to recess now and

14

when do we resume?

15

STAFF MEMBER: Next is at 1:30.

16

MR. BERNARD GOETZ: Can I make

17

a statement for Jim Lescynski?

18

MS. GORDON: Oh.

19

MR. CHARLES JUNTIKKA: Oh, I

20

forgot about Mr. Siegal.

21

Oh, I'm so sorry. I'm so

22

sorry.

23

Just a few minutes.

24

I give speeches about campaign

25

finance from around the country. And one of

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1

2 the primary things I say is that Campaign
3 Finance Law is only as good as its
4 enforcement.

5

From what I heard from his
6 testimony I think you guys are doing a great
7 job and I'm not joking.

8

When I tell audiences that
9 this Board fined an incumbent Mayor hundreds
10 of thousands of dollars before the election,
11 and he lost by less than one percent, they are
12 astounded.

13

Everything he said to me
14 suggested that you guys are doing a great job
15 and that maybe we should change the shoe but
16 at that price we should keep it up.

17

And you know, we could lose
18 this law. You know Russ Feingold, you know,
19 he was elected by the State Legislature on a
20 law based like this. Within ten years the
21 incumbent, the people who got elected
22 destroyed Wisconsin law and the people who
23 benefited by it. It could happen here.

24

That's all I have to say.

25

Sorry.

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1 180

2 CHAIRMAN SCHWARZ: If you have
3 -- Russ Feingold has been a great public
4 figure, if you have some data on that
5 Wisconsin experience you could just send it to
6 us, we'd love that.

7 MR. CHRISTENSEN: Without
8 bankrupting your firm.

9 MR. CHARLES JUNTIKKA: No. I
10 can easily do that. I can get it from Mr.
11 Feinberg.

12 CHAIRMAN SCHWARZ: Thank you.
13 Okay so are you Mr.
14 Lesczynski?

15 MR. BERNARD GOETZ: No.

16 Hello, my is Bernie Goetz and
17 I'm here on behalf of Jim Lesczynski.

18 He's unable to make it.

19 Jim ran for Public Advocate
20 and was a small candidate and he didn't accept
21 campaign matching funds. He doesn't believe in
22 matching.

23 He feels that generally the
24 problem with New York elections, and there's a
25 problem that any -- the purpose of any system

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2 should be to inform the public of candidates
3 and issues and to have fair and effective
4 public access. And Jim doesn't really feel
5 that money is the answer to the problem.

6 The -- that being said, The
7 Voter Guide though did give a very fair shake
8 to the strong candidates. And The Voter Guide
9 was very progressive in some ways.

10 It's pretty clear that the
11 Board of Elections isn't going to be doing
12 much with The Voter Guide.

13 There are two things that
14 could be with The Voter Guide that would make
15 it much more effective and help to improve the
16 New York process for all candidates, including
17 small candidates.

18 One is on your website where
19 each of the candidates are described, the
20 candidates' website is given. And instead of
21 just printing the candidates' website, there
22 should be a link, a person should be able to
23 click on that where it goes to the candidates
24 website. A standard procedure on most web
25 pages is that a new page opens so the person

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2 on your website would still be on your web
3 page but he could click among the various
4 candidate web pages.

5

And then the second thing
6 which perhaps is more important has to do with
7 the format of the ballot which people voting
8 in the elections, most people agree that it's
9 a mess. The voting machines are a mess and
10 the -- just the ballots are mess.

11

I know in my case a few people
12 thought I was running on the Socialist Working
13 Parties because they were so confused.

14

So maybe there could be a
15 separate page on the Campaign Finance Board's
16 website which would just be a series of
17 thumbnails of all the candidates which are
18 going to be on the ballot.

19

I think you can do a much
20 better job than the Board of Election for
21 people then just the candidates name, possibly
22 a party, click on it.

23

I for one, for example, I feel
24 listing the candidates from left to right is
25 automatically a problem because the English

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2 Language is -- it's written from left to right
3 and they give many candidates. Like five
4 years ago I think there were ten or twelve
5 candidates for Mayor on the ballot.

6 And you're better off listing
7 them all starting from candidates who ran in
8 the left-hand column and then have the
9 candidates listed from left to right instead
10 of from top to bottom.

11 But anyway, with that
12 thumbnail page, the thumbnail page could set
13 an excellent example for the Board of
14 Elections for a better way for candidates to
15 be listed. And that could ultimately lead to a
16 better system of voting machines and a whole
17 tabulation system with voting machines.

18 If you a different system with
19 newer voting machines you could possibly
20 support having a permanent written record.

21 Anyway, it's two suggestions
22 for the web site.

23 Thanks.

24 CHAIRMAN SCHWARZ: We
25 appreciate and --

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2

MS. GORDON: On that thumbnail

3

item, is that just a question of listing

4

people alphabetically, is that what that

5

means? In words you press on --

6

MR. BERNARD GOETZ: There's

7

different ways of listing them.

8

On the Board of Elections, for

9

example, with the candidates, of course, they

10

start with Mayor. If you have a bunch

11

candidates well that will be flushed up at the

12

end and things like that.

13

But what you could do is have

14

a page with thumbnails listing the same

15

information that the Board of Elections lists

16

but in a different format.

17

Their format is terrible. And

18

probably the reasons for that is because it's

19

restricted by those antiquated voting machines

20

which hopefully will be replaced and there's

21

an election coming up this coming election in

22

the next year.

23

I'll be happy to discuss with

24

any people at the Campaign Finance Board about

25

web set up.

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2

MS. GORDON: Thank you.

3

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CHAIRMAN SCHWARZ: So we're going to adjourn and hopefully will be back in a half an hour. That's when the next witness is going to be here.

(The hearing was recessed from 12:58 p.m. to 1:49 p.m.)

CHAIRMAN SCHWARZ: So thank you for coming. Actually, you jumped over two people so that's good.

MS. CHERYL WERTZ: Oh, good.

MS. GORDON: Right on time.

CHAIRMAN SCHWARZ: Punish the others.

(Laughter.)

CHAIRMAN SCHWARZ: So if everyone could quiet down in the back and the witness will dive in.

MS. CHERYL WERTZ: Thank you to the members of the Campaign Finance Board for being present at this critical hearing today.

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2

My name is Cheryl Wertz and

3

I'm the Director of Government Access at New

4

Immigrant Community Empowerment or NICE.

5

NICE is a cross-cultural,

6

grass-roots organization in Jackson Heights,

7

Queens that uses organizing, advocacy and

8

public education to ensure that new immigrants

9

are active, informed and influential in civic,

10

governmental and public affairs.

11

Although we work with

12

individuals from all over the city, most of

13

our community members live and work in Jackson

14

Heights, Corona, Flushing, Long Island City

15

and Astoria in Queens.

16

In all of its program areas

17

NICE stresses that neighborhoods and New York

18

City generally will only be improved when

19

community members and residents get involved.

20

We, as individuals, and as

21

communities must stand up when government

22

agencies or employees make choices that

23

negatively impact our lives and neighborhoods.

24

But the reverse is equally

25

true. When government agencies do the right

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2 thing and help to ensure that all New Yorkers,
3 particularly English Language Learners, have
4 full access to the political process we must
5 recognize that positive contribution.

6

I'm here today to say thank
7 you for producing the Queens Voter Guide in
8 English, Spanish, Chinese and Korean.

9

While most US citizen
10 immigrants speak basic English, full
11 English-language competency is often an
12 elusive goal. English language classes at
13 private institutions are extremely expensive
14 and the opportunity cost of not working can be
15 very high.

16

According to the New York
17 Immigration Coalition, only five percent of
18 the need for community English language
19 classes is being met.

20

Further complicating things is
21 the fact that the language of politics and
22 campaigns are extremely nuanced and subtle.
23 Understanding words or phrases like "quality
24 of life" and "public accountability" requires
25 a significant cultural context.

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Thousands of people in New York City read the news and have sophisticated conversations about city politics in their own language. For Spanish, Korean and Chinese readers, these nuanced and culturally complex phrases from daily conversation and political news are repeated in The Voter Guide helping them to make the best choices.

Unfortunately, for hundreds of thousands of other New Yorkers, this is not the case.

For the more than 330,000 Eastern European or 200,000 South Asian individuals who have attained U.S. citizenship, there are no publicly produced, non-partisan voter education materials available in their language. They must continue to struggle to translate the language of political conversation into complex English terminology.

While I realize that the Campaign Finance Board is not required by the law to produce the Voter Guide in languages other than English, Spanish and Korean, it

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2 certainly can and should.

3

4 If New York City aims to
5 achieve full Democratic participation, The
6 Voter Guide should also be produced in
7 Russian, Polish, French, Bangladeshi, Hindi,
8 Urdu and Haitian-Creole.

9

10 In conclusion, thank you. By
11 printing the Queens Voter Guide in English,
12 Spanish, Korean and Chinese, you have upheld
13 Section 203 of the Voting Rights Act and made
14 the process of civic engagement more open and
15 inviting to hundreds of thousands of citizen
16 immigrants.

17

18 Maybe next year I'll be here
19 again to thank you for producing it in even
20 more languages.

21

22 CHAIRMAN SCHWARZ: Do you
23 know, could one push a button or telephone
24 somebody and find out what, let's say council
25 districts have X amount of Bangladeshi for
example, speakers in them?

26

27 MS. CHERYL WERTZ: That
28 information is available through the US Census
29 and could certainly be found for the year

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2 2000. And I'm assuming the Census certainly
3 produces intermittent reports as well.

4

MR. CHRISTENSEN: It's also
5 available on the Internet according to public
6 library district in New York City, because the
7 public library system has done research on the
8 ethnic composition of every district in New
9 York and they say how many Bangladeshi readers
10 there are. How many Haitian-Kreyol readers so
11 it is broken down by neighborhood.

12

MS. CHERYL WERTZ: And Bengali
13 is the fastest growing language group in New
14 York City so.

15

CHAIRMAN SCHWARZ: So since I
16 don't think we have another witness here, we
17 can talk a bit with the witnesses in front of
18 us.

19

I suppose it would have to be
20 a critical mass or else it isn't -- see we
21 can't send it to every single person, you
22 can't send eleven languages to every single
23 person in the City. But if one defines it in
24 critical mass numbers, how hard a problem
25 would it be for us to do?

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2

MS. GORDON: Well, I guess it

3

all depends on what you're -- this is one of

4

those fixed cost problems which is that no

5

matter how small the number of people in

6

another language you're reaching, the amount

7

of work in producing the Voter Guide in

8

another language is the same. I don't mean

9

this particular part, but the production part.

10

And one of the problems is

11

that our production lead time to get to the

12

voters is a certain amount of time and every

13

time you add a language to that you are adding

14

to the production time.

15

Because any time, for example,

16

if you want to put this thing together at a

17

certain time and then translate in several

18

languages, once you ever have to make a change

19

and then try to trace that change back to all

20

the different editions, you're adding a level

21

of work that's quite substantial.

22

It also adds another problem

23

that we have, that's sad to say but one of the

24

most distressing aspects of distributing the

25

Voter Guide and in particular this year, is

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2 that some voters who got Chinese and Korean
3 guides before they got their English guide
4 were incensed and called our staff and had
5 some very ugly kind of things to say.

6

And there is a bit in waste, I
7 guess, I guess is the word. We don't really
8 know who used which guides so when we have our
9 Voting Right Acts responsibility, we have to
10 cover the whole district that is covered and
11 we can't distinguish because of someone's last
12 name or any other way between who does and who
13 doesn't. So those are some challenges of the
14 additional languages.

15

MR. CHERLY WERTZ: The main
16 reason is to say that while there are
17 certainly some anti-immigrant folks in Queens
18 that are willing to call your office when they
19 get their Voter Guide in the wrong language,
20 there are also a lot of folks out there who
21 appreciate the work that you've done in terms
22 of making the guide available.

23

And in terms of the cost of
24 language translation I hereby officially offer
25 the services of NICE in any way that we can be

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2 helpful in doing translation work and also the
3 services of certain immigrant advocacy
4 community as a whole. We're certainly glad to
5 see the guide produced in more languages. And
6 if, you know, advocates can be in any way
7 helpful, we would love to do.

8

MS. GORDON: Well, thank you.

9

CHAIRMAN SCHWARZ: You've
10 raised an important issue that I think Nicole,
11 if you could, which I know you will, follow-up
12 and, you know, come up with a sense of what to
13 do and some of the list of eight languages you
14 mentioned, they may be more numerous and
15 therefore easier to deal with.

16

MS. GORDON: Is there a
17 particular order on this list?

18

MS. CHERYL WERTZ: No, this is
19 actually just merely my going though sort of
20 the larger immigrant groups that are in New
21 York City. But if you'd like a list of the
22 number of language speakers that are US
23 citizens I can certainly follow up.

24

CHAIRMAN SCHWARZ: That would
25 be great. Why don't you just send that to

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1

2 Nicole.

3

4

MS. CHERYL WERTZ: Sure. I'll
make sure to have it.

5

6

MS. GORDON: Thank you very
much for coming.

7

8

CHAIRMAN SCHWARZ: It's good
that you're here on time otherwise you would
be delayed.

9

10

MS. CHERYL WERTZ: Thank you.

11

12

CHAIRMAN SCHWARZ: George
Spitz, you were first on the list and even
though you're late I'm not going to punish you
so you can come forward.

13

14

15

MR. GEORGE N. SPITZ: Hi
everybody.

16

17

I've prepared written
testimony, but I gave the lady a copy. She's
going to hand it to you, but I'm amending it
and I'll probably amend it further in a letter
to the Board and to the Mayor.

18

19

20

21

22

I want to compliment the Board
on the excellent improvements made in the
Voters Guide.

23

24

25

MS. GORDON: Some of them

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1

2 which were your ideas.

3

MR. GEORGE N. SPITZ: What?

4

5 your ideas.

6

7 it were what?

8

MS. GORDON: Your ideas.

9

10 thank you.

11

Is this going to be taken

12

down?

13

MS. GORDON: Yes, absolutely.

14

15 going -- I'm not going to run for office again
16 but I'm writing a book and I think I'll take
17 the book with you, Nicole and put it in the
18 book.

19

(Laughter.)

20

21 an excellent Campaign Finance Board. It's one
22 of the finest government agencies I've come
23 across in 50 years. High standards, high
24 morale, courteous, honest.

25

But the Campaign Finance Board

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2 -- Campaign Finance Law does not work and it
3 won't work as long as the matching fund
4 principle is front and center.

5 They found this out in
6 Wisconsin a number of years ago. Here I
7 remember when I was running for Mayor, front
8 page story in The Times. The real estate
9 industry got together a kitty of a million
10 dollars and was going to distribute \$250,000
11 to each of the Democratic candidates for
12 Mayor.

13 We know - because I know your
14 people have been talking this - about the
15 bundling that goes on in the City Council. No -
16 Did contractors give money to Council, powers
17 that be, they get items in the budget. These
18 no-bid contracts have blown up to \$2.8 billion
19 to \$7.8 billion over the past 12 years.

20 This is the reason we have
21 such poor public services. Streets badly
22 paved. Loss of free tuition at CUNY.
23 Libraries no longer open to nine every night.
24 Where we have -- where we had a one percent
25 sales tax and no income tax before World War

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2 II, we had good services, mediocre restaurants
3 and stores and a somewhat bigoted population.

4 Now with nice people,
5 excellent stores and restaurants, we have an
6 over eight percent sales tax and no income
7 tax, we need an honest Campaign Finance
8 Program.

9 We also -- another thing that
10 has to be done, we must implement the
11 recommendations of the Ferret Commission which
12 nobody can give money to a public official and
13 receive -- that's -- it's more complex than
14 that - and receive government contracts or
15 favor.

16 I am suggesting and I'm going
17 to write the Mayor a letter to this effect
18 because the Mayor working with this Board,
19 we've got on honest Mayor four years and there
20 hasn't been one scandal in the city under Mike
21 Bloomberg and it's a finance program but we've
22 got to face it. There hasn't been a scandal
23 for four years and here's a man who ran
24 without matching funds. He could afford to
25 but he wasn't -- now I hope that he will crack

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2 down on these no-bid contracts in the next
3 four years.

4

I know there's been hints that
5 he's going to get tougher with de Blasio and
6 Company which is what the new Council on --
7 that philosophy of constantly meddling in
8 things they shouldn't meddle in, the Campaign
9 Finance Program, and doing no oversight on the
10 contract thing or the pensions which is
11 another thing that's making the City, robbing
12 the City of its funds to provide good
13 services, restore free tuition, libraries open
14 to 9:00 every night, paving the streets
15 properly.

16

You can't do that as long as
17 this -- we have a Council that does no
18 oversight except meddle to make things tougher
19 for people that they're not incumbents running
20 for office.

21

To change the cycle from 50 to
22 70 -- during the cycle to change from 50 to 75
23 is outrageous. Was outrageous for the Council
24 to do that. Make it tougher.

25

The gerrymander district that

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2 I run in where it's a very thin from Second
3 Avenue to the River, makes it very hard to do
4 that.

5 Now, I want to make one strong
6 suggestion.

7 My petitions were challenged.
8 I wouldn't of gotten money on August 15th
9 anyway because of other things. But I could
10 not receive Campaign Finance money because the
11 person who objected to my petition, in a
12 faulty manner was able to.

13 I believe that anybody -- the
14 Campaign Finance Board could strike a blow for
15 democracy by saying anybody who challenges a
16 person's petitions won't receive money just
17 like the person who's challenged, until the
18 matter is settled.

19 They can keep you tied up to
20 the Court of Appeals. Three -- now
21 unfortunately my race, I didn't win of
22 course --

23 CHAIRMAN SCHWARZ: Just to
24 give the facts on what you just said --

25 MR. GEORGE SPITZ: -- but we

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2 had an excellent winner who abided -- who
3 leaned over backwards to see that everybody --
4 I mean Jessica Lapin, splendid young woman,
5 won the race, I had the pleasure of defending
6 her before on Channel One when was she under
7 attack.

8

We -- the three of us -- the
9 Campaign Finance Board should not cooperate
10 with the -- be in a position of cooperating
11 with candidates who challenge other people's
12 petitions.

13

CHAIRMAN SCHWARZ: Let me see
14 if I understand, did you win that litigation
15 so that --

16

MR. GEORGE N. SPITZ: What?

17

CHAIRMAN SCHWARZ: Did you win
18 that challenge? Did you defeat the
19 challengers to --

20

MR. GEORGE SPITZ: Yes, it had
21 to be -- it was very badly drawn up but it was
22 a terrible nuisance, terrible thing to do.

23

And it, you know, I was --
24 that, and getting the 75 names, I ran because
25 I wanted to raise issues like, you know, not

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2 to beat Jessica Lapin who was the organization
3 candidate and was the favorite, five -- had a
4 five beta cappa, a splendid Council Member. I
5 wanted to stop the Second Avenue Subway. I
6 wanted other reforms that I was proposing,
7 restoring free tuition, cutting no-bid
8 contracts, the ferreck.

9

I -- my website -- I mean the
10 Mayor praised me highly. It's on my web site
11 for the Video Voters Guide.

12

I believe that Video Voters
13 Guide should be interactive, by the way.
14 Candidates should be interactive.

15

I'm going prepare a letter to
16 the -- see, I believe this year, 2006 offers a
17 wonderful opportunity to this Board and to
18 Mayor Bloomberg to put forth a model which
19 they don't need this City Council -- they
20 don't need de Blasio and Company's approval to
21 do, to -- an enhanced Voters Guide
22 interactive. Every candidate within the
23 jurisdiction of the New York City Board of
24 Elections, you don't have a -- you -- to have
25 a program.

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And I've made proposals in that program, how to enhance further enhancements for the guide. Further enhancements for the Video Voters Guide.

The Mayor urges people, Schwarz, Ms. Gordon, others, to use these things. Let's see how it works. A program that would -- every candidate would be placed on an equal basis running in the five boroughs.

You don't need any approval, you need -- anymore than the Mayor did approve -- need approval for the Video Voters Guide, and you don't need that. You don't need the Council intermeddling into this because they are not bad people but you know how legislative bodies are all around America. It's -- and it's a shame.

We can have better government. We've seen the Mayor. Four years, not one scandal. It's first time really since World war II this has happened.

We have this excellent Board with excellent personnel. Mr. Chairman, Ms.

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2 Gordon and the other two, you, you.

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I propose that we try to get a program going for 2006 and make it a model program for the whole nation. The greatest program in history. And it won't involve -- won't cost much. No matching funds. No money to posters. Consultants, election law lawyers or anybody like that. The money would just go towards educating the public. Getting the information into the hands of the voters.

Thank you.

CHAIRMAN SCHWARZ: Thank you.

Any questions?

MR. CHRISTENSEN: No.

MS. PATTERSON: No.

CHAIRMAN SCHWARZ: Thank you, George very much.

MS. GORDON: Good to see you.

MR. GEORGE N. SPITZ: Okay.

CHAIRMAN SCHWARZ: Let's see, is Erlene King here?

(No response.)

CHAIRMAN SCHWARZ: Christopher Brodeur?

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2

(No response.)

3

CHAIRMAN SCHWARZ: Joyce

4

Johnson?

5

(No response.)

6

CHAIRMAN SCHWARZ: Any witness

7

here?

8

(No response.)

9

CHAIRMAN SCHWARZ: Okay.

10

We're going to have some time off until a new

11

witness comes.

12

13

(The hearing was recessed from

14

2:08 p.m. to 2:33 p.m.)

15

16

CHAIRMAN SCHWARZ: So you are

17

early and you're going to get off early too

18

because the other people are not here.

19

MR. GUS TSABAR: That's a

20

beautiful thing.

21

Thank you for allowing us the

22

opportunity.

23

I am Gus Tsabar.

24

I ran for City Council in

25

Manhattan's Second Council District in the

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2 September primaries.

3

4 Before I begin, I want to
5 quickly commend the CFB. You did your job and
6 for the most part you did it well.

7

8 I would also like to take this
9 opportunity to praise the work of Tara Smith
10 who was my campaign liaison. She took
11 seriously her responsibility of preserving the
12 public's trust and I can only hope that my
13 campaign's handling of public funds proved
14 that we did as well.

15

16 So I don't plan on waxing
17 poetic today. I'm sure many already have and
18 certainly that others will. So please allow
19 me just to cut to the chase.

20

21 Yes, there's room for
22 improvement on which I've commented in my
23 questionnaire. But in all honesty, much of it
24 is beyond your control.

25

26 We have a campaign financing
27 system that astoundingly, with the exception
28 of a single piece of paper certifying our
29 candidacies, is completely disconnected to the
30 Board of Elections and the programs that it

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2 administers.

3

4 The problem with this is that
5 no matter how you attempt to level the playing
6 field - which is a whole other discussion -
7 you will fail. As long as the Board of
8 Elections administers faulty, rather
9 undemocratic programs, like allowing campaigns
10 to litigate other campaign's petitions,
11 there's seemingly not much you can do.

12

13 But I'm here to suggest
14 otherwise. I'm here to suggest that at least
15 in the short term, instead of just requiring
16 that the Board of Elections provide you a
17 piece of paper stating that candidates have
18 qualified for the ballot, that you have them
19 -- that you have the Board of Elections add
20 another paragraph to the letter.

21

22 Have the Board of Elections
23 explain to you the details of any litigation
24 in which the candidate was involved and use
25 that as a red flag for the starting point for
26 another discussion.

27

28 Wouldn't it be good, for
29 starters, to know that candidates already used

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2 public funds to ethnically cleanse a ballot to
3 prevent qualified petitioners from their
4 chance to participate on in our democracy?
5 Where is the level playing field in that?

6 As we all know, what's legal
7 is not always right. If candidates sanction
8 such actions, I can think of no respectable
9 reason why the CFB would or should allow these
10 candidates access to the public trust. At
11 the point you've granted access, your system
12 to "level the playing field" has failed.

13 CHAIRMAN SCHWARZ: Did you
14 have petition challenges?

15 MR. GUS TSABAR: I did not. I
16 -- my campaign got much more than we needed
17 but we obviously were in a very highly
18 competitive race and faced a situation where
19 one political club that was backing the one
20 candidate knocked off several other candidates
21 off the ballot many of whom had gotten, you
22 know, two to three times the amount of
23 signatures. And frankly, at least one of the
24 campaigns that was knocked off was a small
25 campaign that just couldn't withstand more

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1

2 than a week's worth of trial financially.

3

4 So, you know, I guess simply

5

6 put, a level playing field is not just a

7

8 function of the CFB.

9

10 In short order I'll be calling

11

12 on our elected officials of the City and State

13

14 levels to push through a real comprehensive

15

16 holistic reform package so that the left hand

17

18 of the electoral process can actually know

19

20 what the right hand is doing. Otherwise all

21

22 of us are just spinning our wheels.

23

24 Thank you.

25

26 I'm happy to take any

27

28 questions you may have.

29

30 MS. GORDON: Are you suggesting

31

32 that, in fact, if someone has brought

33

34 litigation on petition challenges, there ought

35

36 to be disqualification for public funds?

37

38 MR. GUS TSABAR: I'm

39

40 suggesting that the fact that somebody has

41

42 brought litigation ought to be a point of

43

44 concern for the Board. I'm not sure of the

45

46 exact course of action, but obviously the

47

48 rules to knock people off the ballots are

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2 quite arcane.

3

4 You know, I don't know if
5 you've ever heard of the term interlineation,
6 but it's the process by which if I go out
7 there and get a candidate -- I'm sorry, a
8 resident to sign my petition and then in the
9 middle of signing my petition their pen runs
10 out and they pick up with another pen to
11 continue signing my petition, but they forget
12 to initial it or I forget to initial it, I
13 forgot what the rule is, it disqualifies the
14 signature.

15

16 Now, does that person deserve
17 -- I mean does that candidate who obtained
18 that signature deserve to be knocked off the
19 ballot? Surely not.

20

21 And so handing that candidate
22 who brought the challenge against that
23 campaign public monies is discouraging, not to
24 mention that the whole process of their
25 starting litigation against the other campaign
26 already puts to work a lot of public monies by
27 way of the Board of Election's review process
28 and the administrative cost that the Board

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2 incurs.

3

But overall it's a --

4

obviously the point here is, you know, I love

5

the CFB. It afforded me the opportunity to

6

run.

7

We can have a whole discussion

8

about the match. We can have a whole

9

discussion about all the other sensitive

10

issues that you guys outlined, but at the end

11

of the day if there's no coordination and no

12

discussion with the other part of the

13

electoral system, it's all for naught.

14

CHAIRMAN SCHWARZ: Do you have

15

any -- you focused on the petition and that

16

can be undemocratic. Petition challenges can

17

be undemocratic.

18

MR. GUS TSABAR: Sure.

19

CHAIRMAN SCHWARZ: Do you have

20

any specific cause on what remedy there could

21

be for that assurances to it?

22

MR. GUS TSABAR: Sure. Right.

23

What I proposed here is

24

actually short-term end-run around the Board

25

of Elections because, you know as well as I do

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2 that to get the Board to change anything is
3 going to take a good amount of time and a good
4 amount of political will which probably
5 doesn't exist.

6 My ultimate solution would be
7 to have the Board of Elections treat the
8 petitioning process just like you guys treat
9 the campaign finance process.

10 They should audit our
11 petitions just like you audit our filings.
12 That makes sense. That takes the street
13 fighting component out of the whole process.

14 CHAIRMAN SCHWARZ: Other
15 questions?

16 (No response.)

17 CHAIRMAN SCHWARZ: So thank
18 you for coming in.

19 MR. GUS TSABAR: Well, thank
20 you.

21 CHAIRMAN SCHWARZ: You were
22 lucky to be early.

23 MR. GUS TSABAR: Thank you for
24 having me.

25 CHAIRMAN SCHWARZ: And Mr.

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2 Laufer, you know, you can't just sit here
3 without testifying.

4

MR. LAURENCE LAUFER: I didn't
5 sign up for that.

6

(Laughter.)

7

CHAIRMAN SCHWARZ: We'll waive
8 that.

9

So whose the next witness?

10

You should have been here this morning because
11 we had a lot of witnesses. In fact, we were
12 running way behind.

13

So I think the people in the
14 audience are going to be a little frustrated
15 because there already were gaps this afternoon
16 and people are -- while this morning, as I
17 said, we had a plethora of witnesses this
18 afternoon, not to say the ones who come have
19 not been fantastic.

20

MS. PATTERSON: So who are we
21 missing?

22

23

(The hearing was recessed from
24 2:41 p.m. to 3:13 p.m.)

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1 213

2 CHAIRMAN SCHWARZ: So do we
3 have a new witness?

4 STAFF MEMBER: This is Rodney
5 Capel from the New York State Democratic
6 Committee.

7 MR. RODNEY S. CAPEL: Good
8 afternoon.

9 CHAIRMAN SCHWARZ: Tell the
10 court reporter who you are.

11 MR. RODNEY S. CAPEL: Rodney S.
12 Capel, C-A-P-E-L.

13 How's everyone?

14 VOICES: Good.

15 CHAIRMAN SCHWARZ: Thank you
16 for coming.

17 MR. RODNEY S. CAPEL: Thank
18 you. Thank you for having us.

19 CHAIRMAN SCHWARZ: So you're
20 delivering "Denny" Farrel's testimony.

21 MR. RODNEY S. CAPEL: Correct.

22 Should I just go ahead and
23 read it?

24 Good afternoon.

25 My name is Rodney Capel,

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2 Executive Director of the New York State
3 Democratic Committee.

4 Chairman Farrell is in Albany
5 today unfortunately and regrets he can't be
6 here to deliver his testimony in person.

7 I am here today to reiterate
8 the party's support for this program but to
9 also articulate the frustration Democratic
10 party members felt over CFB rules that
11 prevented us from doing more to support
12 Fernando Ferrer.

13 Regardless which candidate
14 voters supported in the last election, I think
15 if you asked them if they thought the election
16 was a fair fight, I'm quite certain an
17 overwhelming majority would say that it is
18 not.

19 The campaign finance issues
20 may not be at the forefront of voters' minds
21 when choosing a candidate, but as all of us in
22 this room know, they play a very important
23 role in the conduct and outcome of the
24 elections.

25 While the law does provide for

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2 some loosening of the program's limits and
3 additional public funds when a candidate faces
4 a well-financed opponent, the existing
5 provisions in the law are clearly not adequate
6 to come anywhere near leveling the playing
7 field when a candidate like Mike Bloomberg
8 swamps the system with his personal wealth.

9

Just consider that throughout
10 the election, the party supported our nominee
11 with aggressive earned media opportunities
12 that highlighted the Republican candidate's
13 ties to his political party and the Republican
14 President, but we were hamstrung
15 from reinforcing --

16

CHAIRMAN SCHWARZ: By the way,
17 just let me interrupt you there because I
18 think there was a misunderstanding here.

19

Denny Ferrell asked for an
20 advisory opinion and we issued one --

21

MR. RODNEY S. CAPEL: Right.

22

CHAIRMAN SCHWARZ: -- which
23 made clear the party could do these things so
24 long as they were acting independently from
25 the candidate.

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MR. RODNEY S. CAPEL: Right.

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MR. RODNEY S. CAPEL:

Nevertheless it caused a major hamstring.

CHAIRMAN SCHWARZ: Looking

ahead in what your thought the stricture says,

you're proposing, to the extent that rule is

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2 you think is overly rigid, you're proposing in
3 effect, a loosening of the rule in the
4 unusual, at least thus far, situation where
5 someone is facing a high-spending opponent?

6 MR. RODNEY S. CAPEL: Correct.
7 Particularly in the case of the last two
8 election cycles.

9 I would also probably go even
10 further and say that much like the federal
11 laws that we have to operate under which are
12 very stringent and very tough and that we
13 supported as a party for the most part, that
14 we have some opportunity to do some of the
15 organizing and get out the vote activities
16 that a normal party would be able to do that
17 are severally handicapped in the CFB
18 structure.

19 I would say we value what the
20 CFB has done to help bring equality to the
21 system and give folks an opportunity who
22 wouldn't normally have the chance to get their
23 message out and have their voices heard. But
24 it does a great deal towards bringing the
25 parties outside of the effort of elected

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2 officials and that's tough for us as a party.

3 Should I just continue with
4 the speech?

5 While some of the stringent
6 rules that govern party involvement in city
7 elections may make sense in the context of the
8 campaign where both candidates are playing by
9 the same set of rules, in an election such as
10 the one we just experienced, a re-thinking of
11 these restrictions is clearly in order.

12 This is a sentiment that has
13 also been expressed by Chairman Schwarz, and
14 in The New York Post and many others.

15 I would recommend a few
16 approaches to this problem.

17 One would be allowing the
18 parties to set up a separate account that
19 conforms to your contribution guidelines for
20 use exclusively to help candidates facing
21 high-spending, non-participating opponents.
22 These funds could be used for advertising, get
23 out the vote and whatever else may be needed
24 to help level the playing field when such
25 extreme disparity exists.

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These funds would not be used

to assist candidates who are competing against

a candidate who is abiding by the limits. The

party is required to regularly file financial

disclosure so this activity would be disclosed

to the public, though not through the CFB.

An alternative -- an

alternative approach is to more closely follow

the Federal Election laws. Under federal law,

the parties are free to spend money on

advertising, field operations and other

election-related activities as long as the

efforts are not coordinated with the

candidate.

With regard to federal law, it

should also be noted that parties are

permitted to contribute more than individuals

to nominees of the party - even when

coordinating with candidates. This is

something that the CFB should consider, not

only with respect to elections involving

high-spending candidates but for all

circumstances.

It may be tempting to ignore

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2 suggestions such as these and assume that the
3 situation we faced in the last election will
4 never happen again. But it has happened
5 twice.

6 In two consecutive elections,
7 the Campaign Finance Program was seriously
8 undermined. Most people would agree that it
9 is not realistic, nor is it fair to the
10 taxpayer to try to match with federal -- with
11 government funds the spending of a candidate
12 like Mike Bloomberg dollar-for-dollar. But we
13 must do something. Freeing the parties to
14 more aggressively support their nominee is a
15 good first step to leveling the playing field
16 without unduly burdening the taxpayer.

17 In conclusion, the New York
18 Democrats know that there is nothing
19 inconsistent about effective campaign finance
20 reform and strong, active political party
21 organizations. We support campaign finance
22 reform and we obviously support the right of
23 political parties to actively support their
24 candidates - these two principles are entirely
25 compatible.

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Thank you for your time. I
would be glad to answer any other questions.

CHAIRMAN SCHWARZ: Well, I
think you've raised on that separate account
thing, which should only apply in situations
where there's a high-spending opponent and
where the contributions are subject to the
same limitations under our law.

You've raised something that
is worthy of thought. And do other people
want to -- you know, we don't have another
witness here, but do you want to think out
loud about that, Nicole or fellow
Commissioners?

MR. CHRISTENSEN: Well, I have
one question.

How -- and this is more since
we're in a general discussion open, how would
it apply in a situation where let's say the
candidate who was self-funded was not
necessarily affiliated with the other chief
party, let's say he was just running on his
own party which is not an inconceivable
scenario.

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Would we still allow in that

instance, unlimited funding for both

Republican and Democratic State Parties? I

mean would that be consistent with what you've

thought about on this recommendation?

Because I could see a scenario

where someone might self-finance like a

Golisano and choose to run on some third party

ticket.

CHAIRMAN SCHWARZ: And your

hypothetical assumes three people in the race?

MR. CHRISTENSEN: Well, maybe

yes, maybe no. I haven't filled that out.

But I'm curious whether in a situation where

let's say it's not a Republican self-funded

candidate, or let me posit the hypothetical a

little different, what if John Corzine ran

for Mayor of New York and was self-funded,

would you be arguing that the Republican

State Party should be allowed to advance

unlimited amount of the funds to support their

candidate against him?

MR. RODNEY S. CAPEL: It would

depend on what type of activity.

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2 I think as a party we should
3 have some role that helps to get out the vote
4 and helps organize our views. Like I said in
5 the testimony, a lot of things we were not
6 able to do that we normally would have. A
7 simple something as blast e-mailing and
8 organizing rallies, and things of that nature
9 when you have to really be careful about how
10 you spent and who was involved.

11 You know, obviously we want to
12 support and protect the law, but I think the
13 parties even if it was Republican Party in
14 that case that there were abilities for them
15 to get out their own vote and not be open to
16 that as long as the other parties played all
17 by the same level and the same rule.

18 MR. CHRISTENSEN: Well, I
19 think personally this is one good, creative
20 thought in terms of dealing with the issue
21 that it's less complicated than, you know,
22 like a ten-to one-match and that kind of
23 thing.

24 MR. RODNEY S. CAPEL: Absent
25 the taking more campaign money from our

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2 taxpayers is not something we trying to go
3 for.

4

MS. PATTERSON: Could you give
5 -- I mean you raised the federal system as a
6 model but the federal system also doesn't
7 match coordination but it has broader review
8 than what you have here.

9

What kind of things do you
10 think -- if the federal rules would apply to
11 the Democratic Party in the course of this
12 Mayoral election, what additional activities
13 would you be able to do on behalf of a
14 Democratic nominee?

15

MR. RODNEY S. CAPEL: The way
16 the federal system --

17

MS. PATTERSON: The way the
18 federal system works, right.

19

MR. RODNEY S. CAPEL: -- works
20 deals more with how you have to spend as
21 opposed to how you have to make your grades.

22

So, for instance, if I was in,
23 my capacity as ED working on things that
24 related to this Mayor's race, whatever funding
25 I was receiving and whatever fundraising I was

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2 able to generate for the campaign, I would
3 have to allocate the payments or the vendors
4 or whatever it was in relation to that, by the
5 guidelines set up by the CFB or federal
6 guidelines that would restrict the ability for
7 someone to sort of drop a ton of money and
8 lobby and do whatever it is that I wanted to
9 with it.

10 MS. PATTERSON: You could have
11 done and I know you did, a general GOTV
12 operation.

13 MR. RODNEY S. CAPEL: Right,
14 you could name the candidate but you --

15 MS. PATTERSON: But you don't
16 name a candidate but you can name a party.

17 MR. RODNEY S. CAPEL: Right,
18 right.

19 MS. PATTERSON: Which goes
20 rather hard towards when there's only one
21 candidate in a citywide election, that has a
22 desirable effect.

23 MR. RODNEY S. CAPEL: Right.
24 But particularly in a case of -- now maybe New
25 York is - and I'll be open to this - is only

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2 -- it's parochial in a sense because you have
3 this great disparity of Democrats to
4 Republicans, Democrats to other parties. And
5 it was an important political maneuver for us
6 to make party an issue in this election. We
7 weren't able to sort of really push that out
8 there and with the ability of the candidate,
9 Republican candidate to spend a great of money
10 to sell themselves, was non-partisan. I mean
11 they made a very big impact in our ability to
12 get democrats the poll.

13 But it matters sometimes to
14 connect party to individuals particularly in a
15 state like New York where individuals tend to
16 dominate the political score.

17 MS. GORDON: Just to pose a
18 question back to you on the idea that's been
19 advanced here, there are people who think the
20 current contribution limits are too high for a
21 candidate. And, in fact, one of the -- and I
22 understand one of the reasons, you know, the
23 parties are not excluded separately in the law
24 from any other, as you point out, not
25 separately treated from any other individual

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2 or organization and so the contribution limit
3 is the same for parties.

4

And one of the issues that has
5 been raised in the past is that since the
6 parties have such high contribution limits
7 under state law, there are lots of ways to
8 evade a candidate contribution limit by
9 following one of the two parties that then
10 take on activities and so on.

11

And I guess my question is
12 two-fold, one is, do you see the danger in
13 sort of issuing a current contribution limit
14 or whatever limit effected by, essentially
15 saying to some people you know what, you can
16 go by giving something separate to the party
17 and particularly sometimes when we do have the
18 disparity between Democrats and Republicans,
19 are you not automatically hampering one party
20 compared to another?

21

And then a second question is
22 a little different is in the Democratic
23 party's wildest dreams in this election, if it
24 could have done something like this, raised
25 extra money, do you have any sense at all what

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2 kinds of dollars you're thinking about because
3 I have one question that remains after all the
4 innovative and creative ideas come out is
5 well, what are you getting for your -- for
6 changing the law, are you getting something
7 you need or not. And I wonder whether as a
8 campaign spends in the category that sort of
9 whether even if you had this additional
10 opportunity, what could realistically be made
11 of it?

12 MR. RODNEY S. CAPEL: The
13 first question goes back to sort of what my
14 day job entails which is raising money and how
15 you spend money. And there's obviously
16 different ways in which you're able to raise
17 money, different limits, state, city, federal.

18 But whatever that state limit
19 is still does not allow me the flexibility to
20 have the ability to spend on the federal
21 candidates the way I normally would have if it
22 was a state candidate.

23 And so as long as we're going
24 by the guidelines established by the city or
25 federal system, you know, we have to follow

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2 how we spend money as opposed to how we raise
3 it.

4

I mean it's a nuance question
5 but it's an important one because for me,
6 keeping out of trouble and keeping out of
7 those situations it's about how I manage the
8 books to allow myself to be able to spend
9 money correctly and legally for staffers, for
10 activities, events that we do and have to
11 track and a trail on the record of how that
12 came in, all falls on my federal guidelines
13 are done currently.

14

In fact, it will probably be
15 tougher as they continue to advance the
16 courts, as I have recently learned.

17

To the second question, I
18 think there's a lot we could have done. Even
19 with the disparity in spending that could have
20 assisted our party and assisted our candidate
21 for Mayor. You know, we are a party that has
22 been built off of field activity, a party
23 that's been built off of working with our
24 leaders in districts, community leaders in
25 these areas, not being able do even do some of

1

2 the things as radio ads on black radio,
3 Latino radio ads, Latino press and black
4 press.

5

Our base for vote doesn't take
6 a lot of money to do a lot of funding in these
7 areas, just get out and vote in these
8 communities. You have a historic Hispanic
9 candidate running for office and you can't
10 even really spend money touting the name in
11 the system with the system that we're given
12 because we can't say his name, we can say
13 Democrat.

14

I mean that's -- it's a tough
15 situation obviously but it's -- in that
16 situation it was very hard for us because we
17 couldn't really tout considering that maybe
18 someone didn't know the name, didn't
19 understand the person who was running to make
20 significance of their own community in
21 relation to that. And I think that we've made
22 an impact notwithstanding all of the -- said
23 in the press saying that it was a non-election
24 anyway.

25

MS. PATTERSON: Another thing

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2 there's been obviously a lot of -- there's
3 been talk today and a lot of focus in the
4 press about Mayor Bloomberg being a
5 high-spending candidate. And I don't think
6 anybody would dispute that, yes this satisfied
7 whatever criterion you want to have for when
8 you have a high-spending candidate and the
9 money available in the Ferrer Campaign.

10 But when you're suggesting a
11 rule, you got to come up with something that
12 works in a situation where the disparity is
13 not that obvious.

14 Have you given thought to how
15 you define what is a high spending candidate
16 and if this proposal were to come in, when
17 does it kick in?

18 MR. RODNEY S. CAPEL: Right.

19 That's a good question.

20 MS. PATTERSON: I mean, you
21 know, if John -- with the Corinze/Forrester,
22 where both of them were high-spending
23 candidates, trigger, you know, a substantial
24 contributions from both the Democrat and
25 Republican parties? Or does there have to be

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2 a multiple disparity as there was here with
3 ten-to-one, four-to-one, five-to-one.

4 Where would you think the line
5 should be drawn?

6 MR. RODNEY S. CAPEL: I guess
7 I mean my -- it's unclear to me what that line
8 would be.

9 MS. PATTERSON: That troubles
10 me.

11 MR. RODNEY S. CAPEL: I mean
12 it's a good question. It's a tough question.

13 You know, I'm here sort of
14 talking about how parties can play their role
15 in city election but the aspects of what we
16 consider to be reasonable really is changing
17 now in some ways.

18 Who would have thought such a
19 level would be reached for a Mayor's race.

20 And there's a great
21 possibility that one day it might be us in the
22 Democratic party who has the candidate with
23 the financial wherewithal and do all this.

24 But I think the overall number
25 one goal of campaign finance is something that

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2 was I think our party came from the Democratic
3 leaders of our party, Ed Koch people of that
4 nature, you know, want to see that people have
5 a fair shake and there's an even playing
6 across the board.

7

I'm not smart enough to know
8 what that level of finance would be but as
9 long as there is an opportunity for all
10 participants who care about the election to
11 play a role and parties are that and should
12 play some role in that I think.

13

We feel like we're muted in
14 our ability to really assist our candidates.

15

CHAIRMAN SCHWARZ: There's
16 something that's relevant to your question in
17 the law now. If you go to a five-to-one match
18 when spending reaches a certain level and it's
19 a six-to-one match there's a higher level than
20 that.

21

Okay. So other questions?

22

(No response.)

23

CHAIRMAN SCHWARZ: Thank you
24 very much.

25

MR. RODNEY S. CAPEL: Thank

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1

2 you. Thank you for a very good election
3 cycle.

4

 We'll be in contact.

5

 CHAIRMAN SCHWARZ: We go to
6 Christmas leave and have a happy election
7 cycle.

8

 (The hearing was recessed from
9 3:33 p.m. to 4:17 p.m.)

10

11

 CHAIRMAN SCHWARZ: Okay. So
12 thank you for coming.

13

 And just tell the court
14 reporter who you are and then just go ahead
15 and say what you plan to say.

16

 MR. JOHN C. WHITEHEAD: What I
17 said just about those question involved there.

18

 My name is John C. Whitehead.

19

 I guess I'm here to testify to
20 the fact that I -- really this is a hearing
21 about the campaign finance rules and
22 regulations and things of that nature?

23

 MS. GORDON: No, how it worked
24 in the 2005 election and you obviously have
25 relevant experience; if you have some comment

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1

2 to make.

3

4

5

MR. JOHN C. WHITEHEAD: Well,
but I just had a couple of -- a couple of
major problems with it.

6

7

One is I'm going to get on the
topic of my opponent I guess I'll start there.

8

9

10

11

12

13

14

Of the fact that he was
allowed to obtain an additional \$60,000 just
by writing a simple letter citing that he was
in an uphill battle in his campaign which was
not the fact at all. And the fact of the
matter is when he wrote the letter, he had
already had money outmatched me five-to-one.

15

16

17

18

19

20

21

So I was just amazed how they
can give him an additional \$60,000 whereas,
when he wrote the letter, like I said, I had
raised eleven thousand dollars which he cited
in his letter and that was over a two-year
period that I had already spent ten thousand
of it.

22

23

24

25

And at the time he had
\$60,000. So to give him an additional 60 on
top of that was just outrageous seeing that
after my eleven thousand dollars I never

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2 raised another dime.

3

4 So it was an unfair advantage
5 for him to get the extra 60,000 'cause once I
6 seen it on the Campaign Finance website that
7 he had that additional money, I put my hands
8 in the air, you know, how could I compete? I
9 had about a thousand dollars left. So how
10 could I -- you know it's like Ferrer going up
11 against Bloomberg, how can you compete with
12 that type of money?

12

13 I'm sitting here with a
14 thousand, he's sitting here with 20 he had in
15 the bank and then an additional 60 that you
16 gave him. What was I supposed to do?

16

17 CHAIRMAN SCHWARZ: We should
18 make one thing clear, it's not our doing that
19 your opponent got the money. We believed
20 there should be a greater requirement for a
21 person in his position to get more money if
22 he's filing saying he needs the money.

22

23 MR. JOHN C. WHITEHEAD:
24 Exactly.

24

25 CHAIRMAN SCHWARZ: And the
City Council declined to pass the reforms that

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2 we have suggested.

3

4 wonder why.

5

6 good question.

7

8 know and, you know, I know I should of hired
9 somebody that was up on the new rules which
10 are in place but I didn't. But we understand
11 that the law was passed to help Gifford Miller
12 fight against the Mayor, you know, getting the
13 matching six to one instead of four to one.
14 But we had no idea of the additional programs
15 that was put inside the Campaign Finance
16 Program for people as Mr. Barron did to get an
17 additional \$60,000 just by writing a letter.
18 You know, that was absurd.

19

20 just -- we know the problem, let's just see if
21 we can make sure we have on the record your
22 specific situation.

23

24 You raised some money, about
25 11,000. You have very little of it left. And
once you heard that your opponent had gotten

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2 the extra money, you said it's not worth
3 fighting and you stopped campaigning?

4

MR. JOHN C. WHITEHEAD: Right.

5

CHAIRMAN SCHWARZ: Okay.

6

MR. JOHN C. WHITEHEAD: Never
7 went to another meeting here or anything else
8 of that nature.

9

So, you know, like I said, I
10 understand Ferrer and his place when he still
11 had to go and put that brave face up there and
12 fight but, you know, it's impossible to win.
13 And so he got an additional \$60,000 my own
14 pocket went because in the primary he had, you
15 know, he had spent a great sum of his money in
16 the primary so I said I got a chance because
17 he doesn't have more money as, you know, as I
18 didn't. But then when he got the extra
19 60,000, I didn't even make matching funds. I
20 was still fighting to get my first matching
21 funds, yet alone the second set that he got.
22 He got the total match, 82,500, the first and
23 then you gave him another 60,000, I was like
24 for what? You know, he's not running against
25 an opponent that's a big threat. I had no

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2 backing, no endorsements, no money, no
3 anything. It was just me, my family and a
4 couple of friends.

5

CHAIRMAN SCHWARZ: You were
6 the opponent in the general election?

7

MR. JOHN C. WHITEHEAD: Both,
8 primary and general. But I held a couple
9 lines. I lost the primary Democratic and I
10 kept the Republican and Conservative Line in
11 the general.

12

So I had a couple of lines so
13 I was still on there in the general, you know,
14 the strategy was if I was close in the primary
15 then I would probably pick up an extra couple
16 of votes in the general and maybe beat him
17 because the same people who voted for me in
18 the primary voted for me in the general. And
19 we always knew that was going to happen
20 because the sentiment in East New York is that
21 we wanted to be present but without the money
22 to get my name and face and everything else
23 out there, it was kind of an uphill battle.
24 And with him having the name recognition being
25 an incumbent and so outspoken as he is running

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2 for Mayor and everything else, you know, I
3 was in an uphill battle.

4

But we always knew he can't
5 raise money but we check out -- he did what he
6 needed to do.

7

CHAIRMAN SCHWARZ: So actually
8 you're -- we know the problem and you've given
9 us some good concrete examples of it.

10

You also at some point maybe
11 you would want to testify before the City
12 Council and say what your story was.

13

MR. JOHN C. WHITEHEAD:
14 Testify before the City Council that make
15 rules to benefit them who's about to overturn
16 the eight-year term limit to a twelve-year
17 term limit. You know, I wonder how good that
18 would do? You know, that's like when they
19 give themselves raises so not many people
20 going to vote no to giving themselves a raise.

21

But one thing is that a
22 solution I may want to suggest is the fact
23 that maybe somebody really should look at the
24 fact I had no money when you gave him that
25 extra 60,000. So the letter that he wrote was

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2 a complete lie and only thing you had to do
3 was look in your site and see that I had no
4 money and he already had five times more than
5 me, why would you give him more money --

6

CHAIRMAN SCHWARZ: As I told
7 you, we believed -- we wanted to get rid of
8 that letter altogether and have some objective
9 standards like how much money the opposing
10 candidate has raised.

11

MR. JOHN C. WHITEHEAD: Right.

12

That would be nice but see,
13 they know all they had to do was write a
14 letter.

15

CHAIRMAN SCHWARZ: It was two
16 weeks ago.

17

MR. JOHN WHITEHEAD: You know
18 -- matter of fact, coming here I'm a little
19 late because I had decided not to come. I said
20 you know I'm the front runner in four years, I
21 might use this to my advantage in four years
22 so why am I going to testify to give him
23 something I can use? But then I started
24 thinking about the taxpayer and it's really
25 not fair to them that the incumbents can do

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2 that and at the time that I'll be doing it,
3 someone that knows the system now would be
4 able to do it. It's not really fair, if I'm a
5 taxpayer, it's really not fair to us to
6 campaign finance be giving away money because
7 I don't know what he did in his filing because
8 I haven't been checking but whatever he did
9 with that \$60,000 trust me, it wasn't spent on
10 campaigning, okay because there was no need
11 to.

12 So there was no posters he had
13 to buy, there was no this, but none of it. So
14 I know, I have no idea what he did with that,
15 I haven't even looked.

16 CHAIRMAN SCHWARZ: Okay.
17 Kitty, do you have any --

18 MS. PATTERSON: No, I think
19 it's crystal clear.

20 CHAIRMAN SCHWARZ: Nicole do
21 you have any?

22 MS. GORDON: No, I'm okay.
23 Thank you.

24 MR. JOHN C. WHITEHEAD: So now
25 my second part is about I worked on campaigns,

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2 I helped other people get elected. And it's
3 really a two-part thing, let's start with me.

4 One problem that I have is
5 that ya'll standard with people signing their
6 donor's card. Like I said, I don't have a
7 church backing, I don't have a politician
8 backing, I have no backing. So but I just
9 know the sentiment of the community and they
10 just need to know I was out there so I'm
11 really limited on support.

12 So for me to go around and get
13 donations, I personally went around my
14 district and got donations.

15 Now, you know, I tried to
16 conform with what the system says but when I
17 get somebody's donation card and they give it
18 back to me two or three days later, I have no
19 idea who signed that card. And I was held to
20 the fact that I, you know, the signature had
21 to be theirs and understand that you want the
22 correct signature but case in point, when I
23 gave my next door neighbor a card for her and
24 her mother, she filled out the card because
25 she had her mother sign. But it was tossed

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2 out.

3

4 Now, how do I know who signs,
5 who fills out unless I sit there and I go with
6 fine tooth comb every card and say well, this
7 H it look like you might have wrote it out for
8 your mother, even though her mother signed it.
9 You know, there was no dispute that the
10 signatures didn't match, it was just that the
11 handwriting and filling out the card was the
12 same. And when I asked her she said, yeah, I
13 filled it out and my mother signed.

14 Another case in point, several
15 coworkers, ya-all scared the heck out of all
16 of my donors. I mean because I work for the
17 city, Department of Sanitation, they sent
18 Department of Investigation. You-all guys
19 came out to all of my donors, none of them are
20 politically savvy and they really don't care
21 too much about politics but they just want to
22 support me.

23 When I had Department of
24 Investigation going to their house nine, 10:00
25 at night knocking on doors with guns and
badges, they don't want nothing to do with it.

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2 I had people come to me and say listen, I know
3 I gave you the donation, Whitehead, but I told
4 them I didn't because I was scared and I
5 don't want to be involved in it.

6

That's the situation that I
7 was put in. I'm not a career politician, like
8 I said, I don't have all this backing. I got
9 friends that try to do what they can but I
10 understand a lot of people fear for their
11 jobs. And I don't blame them.

12

When they came there I said
13 don't worry about it, I'll take care of it,
14 I'll straighten it out.

15

I can't control it. When I
16 went to the mack (phonetic) I was saying to
17 the mack, most of them don't line up, that's
18 me, myself I had four signatures depends on my
19 feelings. You know, if I don't feel like
20 writing it's a line. If I know -- if I'm
21 going somewhere important and I have to, you
22 know, do a proper signature then I take the
23 time. I have four signatures and which amazed
24 me which I'm sure many of them do because on
25 my job some of us have long names and we don't

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2 like to write it out all the time.

3

4 So, you know, unfortunately it
5 hurt me but I kind of tore -- just they can't
6 tell you how to write your signature. Nobody
7 can tell you how to write your signature, and
8 when you can change it. There's no law
9 against writing your signature any way you
10 want.

10

11 And so I got caught up in the
12 signature campaign of people getting --
13 because there are co-workers of mine so their
14 ID cards are filed with the City so they
15 looked at their cards and they see that they
16 didn't match, they go to their household, your
17 signature don't match your ID card. How do I
18 know that? When I give them a card and I get
19 back, whatever you gave me is what you gave me
20 and, you know, I can't say let me see your
21 driver's license to match your signatures. So
22 I got caught for that.

22

23 I was just wondering,
24 something has to be done about that, you know
25 unless you-all are telling us that we have to
26 actually stand there and watch them fill out

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2 the card which is not the case because most
3 people that I've even dealt with never even
4 wanted to fill out the card. I was forced to
5 fill out a whole lot of cards. You know,
6 stand there and fill it out myself and just
7 say here, please just sign it.

8

 You know, because they don't
9 -- like I said, they're not into politics. My
10 supporters are not into politics and a lot of
11 them really I don't even think they went and
12 voted. And if they weren't in my district I
13 know they didn't go vote. They really don't
14 care.

15

 And so I'm put in a situ -- so
16 a person like me that's not in deep into
17 politics and trying to become a career
18 politician and not looking for that type of
19 backing like others like Mr. Barron and the
20 rest of them are, I'm in a situation where
21 what do I do? I'm trying to do the right
22 thing but I'm getting caught up in a catch 22.

23

 Prime example, I've given
24 donations where I know my signature doesn't
25 match because I just didn't feel like before I

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2 got deep into, I didn't feel like signing. So
3 I just, here you go. This is the way -- you
4 know, one ladies I was just so mad at her
5 because her signature was her last name and
6 when I went and I looked it up with her voter
7 registration card I was amazed, her signature
8 was her last name. But you threw it out.
9 And that was her signature.

10 When I looked at her voters
11 registration card it matched, but you threw it
12 out.

13 So I'm like, what do I do?
14 What do I do with these signatures? It's
15 almost impossible so it's really hard. I
16 don't know what you can do to rectify that but
17 that's the situation I came up with. I got
18 people that's scared, people -- when you come
19 to their house even if say you're here and you
20 checking up on me or whatever, I tell them all
21 this, somebody might come to your house and
22 somebody might call you or whatever. That
23 doesn't mean they're not scared when you do
24 it.

25 So I had no solution to it.

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2 Matter of fact, I threw my hands up on that
3 one. My last three filings I just brought the
4 same things from the last time because to go
5 back to these people several times that I was
6 made to do, they were tired of it and I didn't
7 blame them.

8

Because if somebody come to me
9 three, four times saying sign their name, I'm
10 wondering, you know, what is this? What is he
11 doing and that's the position I had to put
12 them it.

13

So the last time, you know, I
14 sorry, I'm sorry, Erik, but I never even gave
15 them the cards again. I said I'm not going to
16 these people again, you know, it's too much.
17 It would have been too much for me so I know
18 it's too much for them. And I'm into politics
19 and they're not.

20

So, you know, today Hillary
21 Clinton is at my union hall. Look where I'm
22 at.

23

MS. GORDON: Our problem is
24 when you get cash contributions you have
25 something that verifies that this is real and

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2 so and so I guess my question is, what do you
3 think the remedy is, what do you think the
4 reason is why people aren't willing to fill
5 the ones out, the card and what can be done
6 about that? What -- how can people be
7 persuaded that they really need to do it, and
8 they should do it right when they're handing,
9 same time they're handing the money they
10 should hand the card, not two days later,
11 three days later which is going to lead to
12 problems. But what can be done to persuade
13 them?

14 MR. JOHN C. WHITEHEAD: Well
15 -- I don't know how you persuade them. I
16 really don't know. You know I had to beg a
17 lot of times because guys were like, oh, you
18 know, I had one guy when you came to his house
19 he said that he told you that he authorized me
20 to sign his name. I'm like but I can't sign
21 your name. See I know the law, I can't sign
22 your name. You know, I'm like no. But he
23 said well, I didn't know what to tell him
24 because his girlfriend or somebody must of did
25 it. And he told them it was me thinking as

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2 long as it was me it would have been okay.

3

4 I'm like -- so I'm just -- I

5 have no clue on what to do in that situation

6 because -- it's kind of hard to put us in

7 charge of people's signatures like we're law

8 enforcement. We really have to -- if you want

9 do it right you really have to sit here and

10 watch them fill everything out.

MS. GORDON: And sign it.

11

MR. JOHN C. WHITEHEAD: And

12 it's kind of hard especially in my case like I

13 said, my coworkers, a lot of times they -- I

14 can't campaign while I work so it's either

15 after work or before work and they ready to go

16 home or either they come to work and don't

17 want to do it right then and there so I give

18 them a card and say, here, give it to me

19 later. And then I get it and it's all filled

20 out and signed.

21 So I have no solution on that

22 but it just made it kind of hard for me

23 because I had to do my cards no less than

24 three times and I'm going back to the same

25 people over and over again. I only got 175

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2 donors.

3

And then forget it, you know,

4

people that came to my fundraisers then, I

5

didn't even know I had to go find them and

6

hunt them down. That was amazing. And so

7

those people I just lost their donation

8

because I don't, you know, if somebody come

9

they bring a friend, you don't know who the

10

friend is then you got to go to this and say

11

hey, go and find your friend and it's too

12

much. And it's really too much.

13

I don't know what the solution

14

is but I'm just telling you some of the

15

problems that I encountered with this.

16

MS. GORDON: Okay.

17

CHAIRMAN SCHWARZ: Okay. So

18

thanks a lot.

19

You had experiences that were

20

helpful.

21

MR. JOHN C. WHITEHEAD: You're

22

very much welcome.

23

CHAIRMAN SCHWARZ: Are you

24

testifying? You were about to leave so you

25

were saved by Mr. Whitehead.

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MS. RENEE LOBO: Oh.

3

Hi.

4

I'm Renee Lobo.

5

I'm from District 24. And

6

this is the second time I actually

7

participated in the program in 2001 and this

8

was -- and of course, at that time they had a

9

lot of people and problems. And I think this

10

time is very much streamlined compared and

11

contrasting it from 2001.

12

And just going by the

13

consideration that you have in those issues,

14

well, it definitely gave me a chance to run as

15

a serious challenger that I did well enough on

16

some issues, but you know, it doesn't work

17

well, especially if there's matching funds.

18

However, I think CFB should

19

actually educate the people at large because a

20

lot of them don't understand what matching

21

funds really mean. Somebody said well, I paid

22

two thousand dollars does that mean the CFB is

23

going to give me eight thousand? So a lot of

24

these things so that actually cuts into your

25

fundraiser because they say well, I'm going to

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2 give you \$50 and you're going to get 200. If I
3 give you two thousand you're going to get
4 eight thousand so, you know, you're doing
5 pretty well.

6 A lot of people don't
7 understand that and you keep telling yes, you
8 get matching funds only if you get some funds.
9 Some people thought you just get funds
10 without even collecting any funds. So these
11 are the some of the issues that from the
12 matching funds I just wanted to just bring to
13 your attention.

14 So there should be more
15 outreach from the City with the constituents.

16 The other thing I was very
17 happy about was that my liaison, Tara Smith I
18 really wanted to thank her. She really
19 cooperated very well with me. Especially
20 because my campaign had a problem with
21 fraudulent ACH debits. And right now it's
22 under going to trial, and we found the person.

23 So right in the time of my
24 matching funds this came into consideration.
25 And I must say that she really cooperated very

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2 well, because we had to change the account
3 number and somehow we did get the matching
4 funds on time so I really want to thank her
5 very, very much.

6

However, like the other
7 gentleman had mentioned that coming to the
8 invalid matching paid report and I definitely
9 feel that, take pride in the fact that in 2001
10 or 2005, we ran a campaign with honest and
11 integrity. And even to the last penny I can
12 say okay, I know I have a receipt for it.

13

But sometimes when they look
14 at you with a jaundiced eye and say, well, you
15 know, this signature doesn't match, it reaches
16 a point that you feel that you have to go back
17 and back again, some people -- a person starts
18 to think maybe there's something wrong with
19 me, meaning Renee Lobo and the campaign.
20 Because well, sir, your signature doesn't
21 really look the same as last time. Can you do
22 it again? Only this time he hasn't had it the
23 first time. What do you -- let me tell you
24 that you even I, when I sign I might sign ten
25 times in a different way maybe the L is not

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2 the same way as the last time, or the O is not
3 the same. That doesn't mean it's not me.

4

5 So to keep going back to the
6 same person again and again, you know, I gave
7 it up and I didn't go again because I thought
8 let's forget about the matching funds, I'm not
9 going back to them. Because they feel that
10 they're doing you a favor by contributing to a
11 campaign. And if you keep going well, you
12 know, this doesn't look like hundreds, this
13 looks like fifty, you know, this looks like a
14 white out, that was a little too annoying for
15 me, that was that department I'm talking
16 about. The other one was perfectly fine.

17

18 Coming to expenditure limits
19 and I feel that it should not be 150,000, I
20 think it should be less. The reason I say that
21 because being the incumbent of course you've
22 got all the power of the incumbency to
23 challenge and it's fine but for a challenger
24 to keep raising that amount, because I raised
25 the max, but for one cycle so I spent 163 for
both elections as opposed to my incumbent who
raised and spent 279,000 so then there you go.

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So you have like maybe the cap
at 200 and 125,000 I think would be a lot
better for each cycle.

And also I definitely feel
that LLCs and unions and partnerships should
be included. I never raised anything with
them. Because such an interest too because
being on a committee Board I never had a lot
of time they say well, you can fine Renee Lobo
for something. And a lot of times the
incumbents do go with a special interest now
that they feel that this should be more
completely. If somebody is working with the
City, those people should not be contributors
to the campaign at all.

Coming to also those who are
non-participants and who raise a lot of money
I know there were a lot of incumbents who
raised half a million, two million, three
million dollars and I know what your policy
for that has been but I think there should be
expenditure limits on them either if you have
them or not for them. They can raise as much
as they want and they can spend as much as

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2 they want then, hey, what is one going to do.
3 And as you can see with these elections with
4 the exception of one, every incumbent came
5 back so that's shows a pattern right away.

6 Anything else that I want to
7 mention?

8 Yes, the 90-day rule for
9 incumbents that they can put out the City
10 funds and put out the mail pieces and I can
11 tell you my example here that the person I ran
12 against, the incumbent, his mail is coming
13 even after 90 days, it was 80 days. So
14 whether it was the US Post Office and say,
15 well you know, this is what happened, I
16 dropped it off ten years ago but it still
17 hasn't arrived in the district.

18 I would say start with 100
19 days so that you have 90 days for the drop off
20 so that the mail doesn't come after the 90
21 days because that's something I definitely
22 feel one should take strong consideration on
23 this.

24 Anything else that I want to
25 talk about?

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Yes, The Voter Guide was pretty good this time. It added more details and especially the TV Voter Guide. Was the incumbents from the other districts did mention that to me, you know, the word went out very well.

And besides that I don't think there's anything else I just want to say that this time the spot was really mine and really thought this was very well done because last time there was a lot of controversy somebody saying something, somebody else contradicting it. This time it was one liaison, it worked very well and I want to thank Tara Smith for that.

You very much.

CHAIRMAN SCHWARZ: Okay.
Thank you. Thanks a lot for coming.

(At 4:40 p.m., the proceeding were concluded.)

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C E R T I F I C A T E.

STATE OF NEW YORK)

: ss.

COUNTY OF NEW YORK)

I, Marc Russo, a Notary

Public within and for the State of New

York, do hereby certify that the within

is a true and accurate transcript of

the proceedings taken on December 12,

2005. I further certify that I am not

related to any of the parties to this

action by blood or marriage and that I

am in no way interested in the outcome

of this matter.

IN WITNESS

WHEREOF, I have hereunto set my hand

this 30th day of January, 2006.

MARC RUSSO

PAUL BECKER, CSR, P.C.