

Testimony of
Rachel Leon and Megan Quattlebaum
Common Cause/NY
Before the
New York City Campaign Finance Board
Hearing on the
2005 Elections
December 12, 2005

Common Cause/NY appreciates the opportunity to present testimony to you today. 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.

This process of evaluation and change has given the campaign finance program the strength and flexibility it needs to weather new and unexpected challenges, and we hope that our comments here today will help the Board to continue this positive tradition.

We will offer comments on a number of questions raised on your list of "Issues for Consideration," and we welcome whatever questions you may have on these or other topics.

Program Participants Facing a High-Spending Non-Participant

Common Cause/NY believes that the phenomenon of wealthy, self-funded candidates opting out of the public financing program represents perhaps the greatest challenge that the program has faced to date. The growth of this phenomenon in New York City and beyond requires us to engage in serious reflection on how a system of public financing whose mission is to level the playing field so that individuals from all walks of life can run competitive campaigns can and should respond.

The impact of high-spending, non-participant candidates is hard to quantify, but there can be no doubt that they discourage all but similarly wealthy challengers from entering the race, they dominate the airwaves and smother democratic debate and competition, they provide an incentive to challengers to opt out of the public financing program themselves, and they discourage contributions from individuals who feel that their relatively small donations no longer make a difference.

The last two Mayoral races have brought this issue into the spotlight. In 2001, Mayor Bloomberg chose not to participate in the public financing program, financed his own campaign, and outspent his opponent in the general election at a rate of more than five-to-one, setting a new record for spending on a New York City mayoral campaign. This year, he again chose not to participate in the program, and broke his previous records both in terms of total spending and in that he reportedly outspent his opponent by a rate of ten-to-one.

While we believe that the Campaign Finance Board has withstood this new challenge rather well, it is clear that the current practice of increasing matching funds for a participating candidate facing a high-spending non-participant challenger is inadequate to the task of attempting to keep the playing field level. In past testimony, Common Cause/NY has supported the concept of providing a flat block grant of public funds to such participating candidates. We recognize that this remedy is an extremely difficult one to implement both politically and practically, and we look forward to further conversation about this and other possible responses to the high-spending non-participant issue.

We would also note that while the Campaign Finance Board clearly must craft an individual policy response to this issue, wealthy, high-spending candidates ultimately also require us to debate as a nation how we will address the exploding cost of political campaigns, especially in high-price media markets like New York City. Common Cause/NY has long supported free air time for candidates to help reduce the cost of campaigns, and we welcome further public dialogue about how to address this issue.

Recent Changes Applying Disclosure Requirements and Contribution Limits to All Candidates – Participating and Non-Participating

Common Cause/NY supported the changes made by the City Council to the campaign finance program in 2004 that expanded the jurisdiction of the Campaign Finance Board to all candidates running for city office – program participants and non-participants alike. We believe that it is fair and sensible to have one set of contribution limits for all candidates, and that this legislation removed a potential incentive for candidates to opt-out of the public financing system.

We also strongly feel that extending the Board's disclosure requirements to non-participants has already proved its worth by providing the public with timely and comprehensive information by which to compare the campaign spending of all candidates for city office. During the recent mayoral election, the availability of information about spending by non-participant candidate Mayor Bloomberg gave our organization new tools with which to analyze the race and respond to questions from our members and the media.

Impact of the Board's Website and Publication of Computerized Campaign Finance Data

The Board's website and the computerized campaign finance data are invaluable tools for New Yorkers who want to obtain important information about the program and the law quickly, and has helped groups like Common Cause/NY immeasurably as we work to connect the dots between money spent on campaign contributions and policy outcomes in New York City. Having this information readily available empowers New Yorkers and helps them to understand public policy decision making in New York City on a much deeper level than they would without this resource.

Public Funds for Candidates Who Face Low-Spending Opponents

We agree with our colleagues at NYPIRG that the current law in this area is not as effective as it should be. Evidence exists that even with a law in place to require

candidates who face low-spending opponents to state their need for large sums of public funds, too much money is still going to candidates who face nominal opposition and win their elections by substantial margins.

Various proposals have been offered to address this persistent problem, and we support further examination of possible remedies to this thorny issue. We look forward to hearing other testimony presented here today concerning this issue, and we plan to present our advisory board with a list of proposed remedies so that they can vote to support a specific proposal at the conclusion of this process.

Multiple Contributions from Related Entities

As you know, Common Cause/NY and other civic organizations stridently opposed legislation passed by the New York City Council in November that subverts the authority of the Campaign Finance Board to promulgate the rules it deems necessary for the administration of the campaign finance program. Intro 564-A sets its own, inadequate measure for determining whether a contribution from two labor unions should be thought of as coming from a "single source" and therefore aggregated and counted together under the campaign finance program.

As we told the Council in testimony at the time, "Historically, we have supported efforts by the New York City Campaign Finance Board to require contributions from a single source be totaled and counted together under the campaign finance program. Limiting the influence of corporations and organizations and increasing the weight of contributions from individual citizens in the election process are key tenets of the campaign finance program.

In general, we support requirements that seek to minimize the influence that groups acting under the direction of a single decision-making source have in city elections. Indeed, we strongly supported aggregating contributions of corporations and their subsidiaries and affiliates before all corporate contributions were made unlawful in 1998."

Council Members have raised concerns that the CFB's rule would limit workers' ability to be heard. While their concerns about unfairly limiting truly independent locals from contributing funds in addition to those that the parent organization contributes may be valid, this legislation is not. We hope that this legislation will be vetoed by the Mayor, and we would welcome the opportunity to work in partnership with the Council, the Campaign Finance Board and labor unions to craft a more appropriate and effective response.

Disclosure and Contribution Limits from Those Who "Do Business" With the City

Common Cause/NY has long decried the all too common practice of pay-to-play, in which large campaign contributions are traded for lucrative government contracts. In a public contract system driven by political contributions, merit and cost-effectiveness fall by the wayside, and those who really pay are taxpayers who are forced to spend more for lower quality services. Even in the absence of actual bribes, in which political

contributions are explicitly traded for government contracts, the fact that those who receive city contracts are in some cases also major campaign contributors can create an appearance of favoritism that itself erodes public confidence in government.

Common Cause/NY wholeheartedly supports restrictions on political contributions from those seeking or holding contracts with the city. We submitted testimony at two separate hearings of the Campaign Finance Board on this topic in January and March of this year and before the City Council Committee on Governmental Operations in November, 2004, and we would be happy to make any and all of this testimony available to the Board.

Generally, we feel that pay-to-play is most effectively and appropriately regulated when legislation is passed that restricts contributions from those holding or seeking contracts with the city, and the penalty for non-compliance with the law is placed on the contractor who made the inappropriate contribution. This is the model that New Jersey has pursued, and we believe it is the appropriate avenue for New York City as well.

We feel it is a mistake to require individual candidates for city office who participate in the city's campaign finance program to determine whether or not their contributors are doing business with the city, and then to reject contributions from entities or individuals who are. This places a sizable and we think potentially unsupportable burden on individual candidates, given the number of city agencies and vendors, and we are concerned that it may have the unintended consequence of actually discouraging candidate participation in the campaign finance program.

However, even given these general parameters, a number of questions still remain about how to effectively implement and enforce this type of legislation, and we would refer you to our longer testimony for discussion of some of these issues.

Elected Officials' Use of Government Resources

Common Cause/NY, like our colleagues at NYPIRG, supports tightening current restrictions on elected officials' use of government resources and improving enforcement of these restrictions. Certainly, during the most recent election cycle, this issue was given renewed prominence by Democratic candidate for Mayor, Council Speaker Gifford Miller, when the Council sent out an over \$1 million dollar mailing that went to almost each and every Council district featuring a prominent photograph of the Speaker right before the 90-day blackout period was to begin. Expending those sorts of government resources on a mailing that many felt was blatant political promotion highlights both the problem inherent in incumbents' use of government resources during an election cycle and the difficulty in effectively restricting this practice.

Common Cause/NY would be supportive of an overall review of the guidelines and their enforcement, and in particular we would support a longer blackout period, no exemption from the deadline for budget reporting in an election year, and a prohibition on prominently featuring a photograph of or commentary from an elected official on a mailing being delivered outside his or her home district.

The Voter Guide

Once again, the Voter Guide proved itself to be an accessible and indispensable resource for voters during the 2005 election. We were pleased that the Board chose to conduct a survey of public opinion on the guide and to make changes in response. We feel these changes helped create a guide that is better organized, laid out and attractive than in years past, and this process reflected the Board's general and commendable willingness to accept comments and criticism from the public and to make changes to its programs in response.

We were especially pleased that the Board chose to include background information and pro/con statements on the questions that were going to appear on the ballot this year, including the two statewide questions. These were complex, difficult to understand proposals that many members of the public did not even know were going to appear on the ballot, and the Board played a very positive role by providing a balanced, fair source of information on these questions. Certainly, voters in New York City had access to better and more complete information than voters in other parts of the state, and we hope that the Board's guide will serve as a model for a future statewide voter guide – an idea Common Cause/NY wholeheartedly supports.

Once again, thank you for allowing us to present testimony today. The New York City Campaign Finance Program is a national model, and one that is well-served by your willingness to constantly evaluate and improve upon it. In fact, we very much hope that it might serve as an inspiration for a new public financing program for statewide races in the coming years.